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Mark Thomas

Call: 2006



Mark specialises in police law, inquests, public/administrative law and employment claims. He is recognised as a leading junior in the Legal 500 and acts for police forces as well as a range of clients in both the public and private sectors. His practice includes cases which are commercially or politically sensitive, often involving issues of public interest immunity or media coverage.

Clients say that Mark provides “an energetic and positive presence”, is “thoroughly well prepared” and has “a reassuring and positive manner with witnesses”.

Prior to becoming a barrister, Mark worked for several international investment banks. This business experience enables him to bring clear commercial acumen to his advice and advocacy.

Mark has served a judicial intern to at the Federal Court of Australia, to the former Chief Justice of Australia.

He is a member of the Welsh Government’s A Panel of Counsel for public, employment and personal injury law.

## Recommendations

‘He handles Court of Appeal matters, unled, for forces.’ (Police Law - Defendant)  
*Legal 500 2019*

## Police Law

Mark acted for the Metropolitan Police in ***DSD & NBV v Commissioner of Police of the Metropolis*** [2015] EWCA Civ 646 and has since acted in scores of breach of Article 3 claims. He remains a go-to junior in cases involving alleged breaches of Article 3 ECHR.

Recent and current cases include civil actions (including claims for misfeasance, wrongful arrest and false imprisonment, personal injury and employment claims), judicial reviews, inquests and inquiries.

He has huge experience in defending civil actions and judicial reviews and is regularly instructed to appear against leading counsel in courts up to and including the Court of Appeal.

Mark also has considerable experience acting for police forces where officers are alleged to have sexually assaulted colleagues or members of the public.

Recent Police Law cases:

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**Kenyon v Chief Constable of Hertfordshire Police** – Claim for assault and battery following arrest which allegedly caused serious physical and psychiatric injuries, where the Chief Constable is relying upon a s329 CJA 2003 defence.

**Bell v Chief Constable Nottinghamshire** – High Court claim for wrongful arrest and false imprisonment following the arrest of a serving police officer for misconduct in public office.

**Kandamwala v Chief Constable of Cambridgeshire** [2017] EWCA Civ 391 – Acted for the Chief Constable before the Court of Appeal, defeating necessity to arrest and fair trial grounds.

**MLIA & CLEL v Chief Constable of Hampshire** [2017] EWHC 292 (QB) – Acted for the Chief Constable in defending a claim for breach of the Article 3 investigative duty. Led by Dijen Basu QC.

**Anjasmoro v Chief Constable of Northumbria Police** – A claim for false imprisonment and breach of the Article 4 investigative duty where the Chief Constable provided detention facilities for a UKBA operation.

**Marsh v Chief Constable of Cambridgeshire** – Defence of a claim for false imprisonment and assault following the tasing of and arrest of a pub landlord.

**Johnson v Commissioner of Police of the Metropolis** – A claim for personal injuries by an officer who suffered chemical burns as a result of CS spray exposure training.

**DSD & NBV v Commissioner of Police of the Metropolis [2015] EWCA Civ 646** – Led by Jeremy Johnson QC in claim concerning the scope of the investigative duty of the police under Article 3. Acted in the subsequent appeal to the Court of Appeal.

**Majchrzak v West Midlands Police** – Acted for the Chief Constable in defending a high value claim for assault and unlawful arrest of a foreign national subject to a European arrest warrant.

## Regulatory

Mark undertakes a wide range of work under the Police Conduct Regulations on behalf of the Appropriate Authority at misconduct hearings and Police Tribunal Appeals.

Mark is particularly experienced at advising on with complex abuse of process arguments in regulatory proceedings.

Recent cases include:

**PC S. E. (Surrey Police)** – allegations that the officer failed to properly investigate an allegation of assault against members of the LGBTQ community.

**PC D. F. (Surrey Police)** – allegations that the officer had been violent and aggressive to officers of another force whilst on an off duty night out.

**PC H. (Kent Police)** – allegations that he had used his position as an officer to start sexual relationships whilst investigating crime reports.

**PC T. (Metropolitan Police)** – relating to allegations that the officer had had an inappropriate relationship with a suspect whilst she had been conducting an investigation into his actions.

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**PC H. (West Midlands Police)** – relating to allegations that the officer had assaulted an arrested suspect.

## Inquests

Mark has extensive and wide-ranging inquest experience. He regularly appears in Article 2 inquests before juries on behalf of Chief Constables, care homes, care agencies, insurers and individual clinicians.

He is sought after by clients for his proactive, hands-on approach and reassuring manner with witnesses. He provides early advices as to the risks of coronial proceedings and how best to manage the inquest process.

**Re Douglas Oak (Dec'd)** (representing Dorset Police) – an Article 2 jury inquest following the death of a man suffering from Acute Behavioural Disorder, which is examining the response of the police and ambulance service.

**Re Suleyman Yalcin (Dec'd)** (representing the Metropolitan Police) – an Article 2 jury inquest following the death of a pedestrian following a collision with a police van travelling on an emergency response.

**Re Ryan Mason (Dec'd)** (representing a care and housing charity) – an Article 2 jury inquest following the death of a young man suffering from epilepsy. Includes issues of correct deployment of assistive technology within a care environment.

**Re Maylyn Couperthwaite (Dec'd)** (representing Greater Manchester Police) – an Article 2 jury inquest following the killing of Miss Couperthwaite by her neighbour, which examined the management and assessment of risk posed by the neighbour.

**Re Jane Penny (Dec'd)** (representing the London Borough of Southwark) - inquest following a death in a fire in local authority housing.

**Re Shola Abiona (Dec'd)** (representing a carer) – inquest following the death of a young man suffering severe disabilities who died when his tracheostomy became dislodged and was not reinserted. Included detailed examination of issues surrounding tracheostomy care.

**Re Louisa Mendes (Dec'd)** (representing Warwickshire Police) – an Article 2 jury inquest following a 12-hour delay to dispatch police resources to a vulnerable woman who had alleged she was being assaulted. Led by Anne Studd QC.

**Re Harbhajan Kaur (Dec'd)** (representing the City of London Police) – a jury inquest following the collision of a police motorcycle with a member of the public.

**Re Chi Van Nguyen (Dec'd)** (representing Commissioner of Police of the Metropolis) – inquest following a chase of suspect by police officers.

**Re Simon Burgess (Dec'd)** (representing Hampshire Constabulary) – a jury inquest following a rescue/recovery operation of a collapsed man in boating lake, particularly addressing issues of primacy between the emergency services.

**Re Benjamin Tate (Dec'd)** (representing West Mercia Constabulary) – an Article 2 jury inquest following the death of a Royal Marine whilst receiving specialised motorcycle training at high-speeds.

## Public / Administrative

Mark was appointed to the Welsh Government's 'A' Panel of Counsel in 2017 and is instructed to provide advice and representation in public law, employment and personal injury cases.

Mark has a busy practice acting for police forces and other public bodies in administrative law proceedings.

Recent and ongoing cases include:

***R (on the application of E) v Commissioner of Police of the Metropolis*** [2018] EWHC 2729 (Admin) – Defending a claim challenging disclosures in an Enhanced Criminal Record Certificate

***R (on the application of Holman Fenwick Willan) v Commissioner of City of London Police and Police Service of Scotland*** – Acting for the City of London Police in judicial review and related Part 7 proceedings in a claim for trespass following the execution of a warrant in London by Police Scotland

***London Borough of Southwark v Persons Unknown*** – instructed on behalf of the London Borough of Southwark Borough in various applications for possession orders.

***R (on the application of Scardfield) v Police Medical Appeals Board & Hampshire Police Authority*** [2013] EWHC 3822 (Admin) – Successfully defended the Chief Constable in Judicial Review proceedings relating to correct definition of disabled under Police Pension Regulations.

He is regularly instructed by local authorities for both court work and to advise in-house, Mark has a thorough understanding of education law and the law relating to adult social care. He has acted for Local Authorities and Academies in SENDIST claims, particularly relating to exclusion appeals and reasonable adjustment claims. He has also clerked admissions appeals on behalf of Local Authorities. Mark has also defended a number of employment claims on behalf of schools and has provided schools with advice and representation in breach of contract claims against suppliers.

## Employment

Mark advises on all aspects of employment law, regularly appearing in Employment Tribunals and the Employment Appeal Tribunal.

Mark acts for numerous police forces, public bodies and charities in discrimination claims. Claims encompass in particular, disability, race, sex, age and protected disclosures (whistle-blowing).

He also has an established commercial employment practice and acts for a number of national retailers and other blue-chip companies at Tribunal, having acted for, among others, John Lewis, Dixons Carphone Warehouse, Harrods and Sodexo.

## Personal Injury

Mark has a busy Personal Injury practice in the High Court and County Court.

He regularly advises public bodies on complex high value claims and is well regarded for his commercial, cost effective, approach to personal injury litigation.

Mark is instructed by Claimants and Defendants in personal injury claims arising from road traffic accidents, occupiers' liability, manual handling and other work place accidents.

He has acted in a large number of claims following workplace training accidents and has also advised in numerous

brain injury cases.

## Information Law

Mark is a specialist in information law. He routinely acts for clients in cases with complex information law issues. Mark's advisory work includes reviews of multiple data sharing agreements between public bodies and the structure and implementation of the regime of police certificates which are issued to over 120,000 people annually.

Recent and ongoing cases include:

***R (on the application of E) v Commissioner of Police of the Metropolis*** [2018] EWHC 2729 (Admin) – Defending a challenge to disclosures in on Enhanced Criminal Record Certificate.

***R (on the application of Khashaba) V Chief Constable of Lancashire Police*** – Claim for Judicial Review where the Claimant sought the removal of an harassment warning notice from the PNC.

***R (on the application of Chima) v Chief Constable of Lancashire Police*** - Claim for Judicial Review where Claimant sought removal from the PNC of information relating to multiple arrests.

## Education

Mark has a longstanding interest and expertise in education law. He has been retained by a large Local Authority as in-house counsel advising schools in relation to all aspects of education law and is particularly experienced at providing advice directly to headteachers and governors.

Mark has advised and represented Local Authorities, individual schools, NHS Clinical Commissioners and parents. Examples of his education law practice include:

- Advising and representing Local Authorities in relation to challenges to the delivery of provision in a Statement of Special Education Needs;
- Advising in relation to professional disciplinary matters;
- Advising in relation to exclusions
- Advising schools in relation to educational appeals and clerking appeal hearings;
- Representing schools at Employment Tribunals;
- Advising in relation to governance and funding;
- Providing tactical advice in commercial disputes relating to education providers;
- Bringing and defending personal injury claims arising in an educational setting; and
- Providing emergency advice in relation to safeguarding issues;
- Advising the Welsh Government in relation to statutory provisions concerning training schemes;
- Providing information law advice to alumni organisations.

Mark has spent almost 10 years as a trustee to several charities and trusts in the educational field and has extensively advised extensively in relation to alumni development, marketing, governance, charity law.