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5 Essex Court
Temple, London
EC4Y 9AH

T: 020 7410 2000
E: clerks@5essexcourt.co.uk
W: 5essexcourt.co.uk



Robert Talalay
Call: 2010



Bobby specialises in the areas of police law, public law, human rights and civil liberties, malfeasance claims, prison law, information law, inquests, personal injury claims, employment law and professional misconduct. He accepts instructions in all of Chambers' main practice areas.

Bobby's recent cases include: a successful appeal to the Court of Appeal concerning civil restraint orders, a successful contested judicial review on behalf of the prison service concerning re-categorisation of prisoners, a six-week art.2 inquest (led by Jason Beer QC), a judicial review on post-conviction disclosure, an appeal in the EAT in a claim for unfair dismissal and maternity discrimination, a jury trial for the Metropolitan Police in a claim for false imprisonment, a multi-track trial for false imprisonment and unlawful processing of data, and counsel for the Ministry of Justice in an inquest into the death of a prisoner. Bobby also undertakes advisory work and recently assisted the Home Office in settling their statutory guidance on conduct, efficiency and effectiveness in the police force.

Bobby also regularly provides lectures of a range of topics including, recently: vetting, claims for stress at work, and police misconduct.

Bobby was appointed to the Attorney General's C Panel of Counsel in February 2017.

Recommendations

"Always goes above and beyond when providing advice, whether in conference or at trial. He has picked up on things that others haven't, and is up to date on the current case law. His work is detailed and accurate." (Police Law)

Chambers UK 2020

"Really well liked, unflappable and delivers great results at trial." (Police Law)

Chambers UK 2020

"A skilful and determined advocate." (Police Law)

Legal 500 2020

"One of the most capable and impressive juniors in the field. Technically and tactically superb." (Police Law)

Chambers UK 2019

"He's prompt and the quality of his advice and pleadings are always top notch." (Police Law)

Chambers UK 2019

'Excellent on his feet dealing with difficult questions from the bench.' (Police Law - Defendant)

Legal 500 2019

Police Law

Bobby's practice embraces all areas of civil, public and employment law relevant to policing. He acts in all types of case involving the police including judicial review, data protection claims, arrest, detention, misfeasance and malicious prosecution claims, claims for breaches of the ECHR (including claims concerning investigations (art.2 and 3), detention (art.5), and the right to privacy) freedom of information appeals, internal misconduct proceedings, inquests, discrimination, personal injury, employment, and police involvement in family cases.

Bobby also provides training on diverse matters including police misconduct, internal staff discipline and employment law.

Bobby regularly appears in fast-track and multi-track trials, judicial reviews, complex and high-profile misconduct proceedings, and inquests. His recent cases include:

Chief Constable of Avon and Somerset v Gray [2019] EWCA Civ 1675 – Counsel for the Chief Constable in the Court of Appeal. The case concerning the correct interpretation of the fees regime in the Civil Proceedings Fees Order 2008 for those subject to a civil restraint order seeking permission to issue a claim and the appropriate restrictions on vexatious litigants' right to access to justice.

Inquests touching upon the death of Christine Lee and Lucy Lee – Junior Counsel for the Chief Constable of Surrey in an art.2 inquest. Following the murders by John Lowe of Christine and Lucy Lee in 2014, and after multiple investigations by the state into the actions of Surrey Police and a murder trial in which Lowe was convicted, the Senior Coroner for Surrey heard these inquests into the deaths of Christine and Lucy Lee over five weeks, focusing on an examination of the assessment by Surrey Police of the risk posed by Lowe, with particular scrutiny of firearms licensing systems and decisions.

Privacy International v (1) ICO and (2) the Commissioner of Police of the Metropolis – Counsel for the police in a high-profile FOIA appeal where the police Neither Confirmed Nor Denied possession of the information requested, relying on s.23, s.24 and s.31 exemptions. Judgment from the FTT is pending.

R (Khan) v Chief Constable of Devon and Cornwall Police – Counsel for the Defendant in a judicial review concerning the principles in *R. (Nunn) v Chief Constable of Suffolk [2015] A.C. 225* and post-conviction disclosure by the police. Permission was refused on the papers and in oral renewal and the decision on appeal is pending from the Court of Appeal

The Chief Constable v S & Ors (FGM) [2016] EWFC B75 – Counsel for the Applicant Chief Constable in proceedings in the Family Division of the High Court for a Female Genital Mutilation Protection Order, in which the court set out the applicable threshold for risk which needs to be met in these matters being a 'real possibility' or a 'real and evidentially established risk' of FGM.

Boxill v (1) Commissioner of Police of the Metropolis; (2) Serco Ltd – Counsel for the Metropolitan Police in a jury trial in a claim for false imprisonment, directly and by procurement.

Public / Administrative

Bobby regularly appears in the Administrative Court and accepts instructions in all areas of public law. He has particular experience in claims around data retention and disclosure by public authorities, challenges to investigative decisions and decisions on whether to prosecute, and in defending judicial reviews of cautions administered by the police. Bobby also has significant experience dealing with vexatious litigants. Bobby is currently a junior member of the government's counsel team in the Cyprus Emergency Litigation. His recent cases

include:

Chief Constable of Avon and Somerset v Gray [2019] EWCA Civ 1675– Counsel for the Chief Constable in the Court of Appeal. The case concerning the correct interpretation of the fees regime in the Civil Proceedings Fees Order 2008 for those subject to a civil restraint order seeking permission to issue a claim and the appropriate restrictions on vexatious litigants' right to access to justice.

R (Ryle) v Secretary of State for Justice [2019] EWHC 3031 (Admin) – Counsel for the Secretary of State for Justice in a claim concerning the factors that a prison governor could properly consider as part of a decision to re-categorise a prisoner upwards, and particularly the relevance of pending confiscation proceedings.

R (R) v The National Police Chiefs' Council & Anor [2017] EWHC 2586 (Admin) – Junior counsel (led by Jason Beer QC) for the NPCC in a challenge under art.8 to both the NPCC's policy on retention of criminal record data and the legislation on disclosure of criminal records. The case also concerned national vetting policy.

R (P & G) v Secretary of State for the Home Department [2017] 2 Cr. App. R. 12 – Junior counsel for the Chief Constable of Surrey (led by Anne Studd QC) in both the High Court and the Court of Appeal concerning a challenge to the administering of a reprimand for sexual offending and the legality of the scheme of retention and disclosure under the relevant guidance, the Police Act 1997 and the Rehabilitation of Offenders Act 1974 obliging the Chief Constable to disclose the reprimand.

Chief Constable of Avon and Somerset v Gray [2016] EWHC 2998 (QB) – Counsel for the Chief Constable in this leading case on applications to extend General Civil Restraint Orders.

R (Manser) v Commissioner of Police of the Metropolis [2015] EWHC 3642 (Admin) – Counsel for the Commissioner in resisting a claim for judicial review of a caution. The claim concerned the amount of evidence the police are required to provide and whether a caution can be offered for a lesser offence than that for which a person is arrested.

Human Rights

Bobby represents and advises public bodies in all matters relating to human rights. He has particular expertise in

- Right to life issues, both directly at the hands of the state and in respect of the negative obligations on the state, in both civil proceedings and inquests (art.2)
- Allegations of torture of detainees (arts.3 and 8)
- Freedom of religion, especially in prison (art.9)
- **Zenati** claims (art.5)
- Data retention and disclosure (art.8)
- Misuse of private information and data protection (art.8)
- Disability discrimination and articles 8 and 14
- A1P1 claims

For case details, see experience under Public Law.

Personal Injury

Bobby undertakes court and written work in a broad range of personal injury matters, including employers' liability claims, slipping and tripping, RTAs, and incidents involving animals.

Bobby is developing a particular interest and expertise in stress at work claims and regularly advises and provides training on the same.

Bobby is currently instructed in several high value stress at work claims and complex pain syndrome claims.

Information Law

Bobby has significant experience in dealing with all matters of information law and data protection. He has appeared in judicial reviews on the legality of data retention, trials for claims made under the DPA, injunction applications to prevent disclosure, and appeals to the First Tier Tribunal. He also regularly advises on matters of information law, including recently claims for breaches of the DPA and claims for misuse of private information.

Bobby's recent cases include:

Privacy International v (1) ICO and (2) the Commissioner of Police of the Metropolis – Counsel for the police in a high-profile FOIA appeal where the police Neither Confirmed Nor Denied possession of the information requested, relying on s.23, s.24 and s.31 exemptions. Judgment from the FTT is pending.

R (R) v The National Police Chiefs' Council & Anor [2017] EWHC 2586 (Admin) – Junior counsel (led by Jason Beer QC) for the NPCC in a challenge under art.8 to both the NPCC's policy on retention of criminal record data and the legislation on disclosure of criminal records. The case also concerned national vetting policy.

R (P & G) v Secretary of State for the Home Department [2017] 2 Cr. App. R. 12 – Junior counsel for the Chief Constable of Surrey (led by Anne Studd QC) in both the High Court and the Court of Appeal concerning a challenge to the administering of a reprimand for sexual offending and the legality of the scheme of retention and disclosure under the relevant guidance, the Police Act 1997 and the Rehabilitation of Offenders Act 1974 obliging the Chief Constable to disclose the reprimand.

Inquests

Bobby is regularly instructed to represent public bodies at inquests, often concerning deaths in custody, road traffic incidents, and deaths after police contact.

Bobby also frequently represents the Ministry of Justice in inquests involving suicide in prison.

Regulatory

Bobby frequently appears at professional disciplinary tribunals. His recent cases include:

Re A/Insp. French – Presenting counsel for the Appropriate Authority in a high profile IPCC led investigation around the death of James Herbert.

Re PS Treasure – Presenting counsel for the Appropriate Authority in a two-week police discipline where a sergeant was dismissed for failing to respond to a stabbing incident, bullying, and using racist and homophobic language.

Employment

Bobby is regularly instructed in a wide range of employment matters in both the ET and the EAT. He has experience defending claims for discrimination and whistle blowing and successfully defended a constabulary in the largest tribunal proceedings in its history. Bobby has also represented both Claimants and Respondents in the ET and EAT, and has experience of drafting advices and pleadings in all employment matters.

Bobby's recent cases include a trial for constructive dismissal, an appeal in the EAT against a finding that the Appellant had been fairly dismissed, and successfully obtaining permission from the EAT to appeal on various grounds including perversity.

Parker v BC Softwear Ltd (UKEAT/0213/17/BA) – Counsel for the Appellant in the Employment Appeal Tribunal. The appeal concerned what behaviour constituted a breach of the implied term of trust and confidence and also the fairness of finding that an employee had been dishonest by preferring one person's account over another's absent a wider investigation.

Smart Medical Clinics Ltd v Naraine (UKEAT/0233/17/DM) – Counsel for the Appellant in the Employment Appeal Tribunal. The appeal concerned the law surrounding a finding of automatically unfair dismissal for maternity where the Tribunal had not rejected the employer's evidence that the dismissal was for conduct.