

Jim Hirschmann

Year of Call: 2018

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Overview

Jim Hirschmann helps clients to navigate the law and resolve disputes. He often acts for families or for public bodies. He specialises in adult social care, child social care, education and family law. His caseload regularly concerns public law issues related to his core practice areas including judicial review proceedings and public inquiries.

Jim is hardworking, thorough, and adept at explaining complex law in straightforward terms. This is reflected in comments from solicitors such as "a huge thank you for everything you have done on this case which went far and beyond" and comments from judges about Jim's advocacy as "helpful" and "extremely clear."

Outside of busy work demands, Jim enjoys sport with a particular interest in rugby, running and hiking. He likes travelling and has an armchair interest in philosophy.

Jim is committed to protecting and respecting your privacy. Please contact him for a copy of his privacy notice which sets out the basis upon which any personal data he may collect about you, or that is provided to him, will be processed. He will provide a copy of this to you upon request.

Recommendations

"A huge thank you for everything you have done on this case which went far and beyond".

Solicitor client

"Thanks for arranging Jim to cover the hearing yesterday. He was brilliant."

Solicitor client

"Thank you so much. You have been absolutely fantastic.....You are very professional, very helpful and have guided me so well in this case."

Lay client

Academic qualifications

- University of Law, BPTC: Very Competent
- University College London, LLM Public Law: Merit

- University of Westminster, LLB European Legal Studies: First Class Honours
- Erasmus, Free University of Berlin: First Class Equivalent (Averaged ECTS Grade A)

Scholarships

- University of Law, Performance Award for top mark in the Judicial Review Module (2018)
- University of Law, Master of Moots Advocacy Scholarship (2017)
- Lincoln's Inn, Hardwicke Entrance Award (2017)

Professional bodies

- Court of Protection Bar Association (Committee Member)
- Administrative Law Bar Association (ALBA)

Expertise

Court of Protection

Jim Hirschman has a busy practice handling both health and welfare and property and affairs cases. His experience in judicial review and family has contributed to making him a thoughtful and effective advocate who helps find acceptable solutions to parties' strongly held but conflicting views.

Health and Welfare

Jim has experience in health and welfare matters. He has worked on cases concerning:

- conflicting capacity evidence, including fluctuating capacity
- forced marriage protection orders
- capacity declarations and best interests decisions including issues relating to sexual relations, marriage, care, residence, medical treatment and alcohol consumption
- where a young adult with significant health needs should be educated

He is regularly instructed by private individuals and local authorities.

Property and Affairs

In the property and affairs context, Jim has experience of cases involving:

- conflicting capacity evidence
- applications to appoint a deputy
- disputes around enduring or lasting powers of attorney
- matters complicated by the involvement of trusts, alleged dissipation of assets, extent of a deputy's authority, disputed wills and complex business and land ownership arrangements

He has been instructed by private individuals, local authorities and by the Office of the Public Guardian.

Inherent Jurisdiction of the High Court, or Safeguarding of Vulnerable Adults and Children

Jim has been regularly instructed in cases involving the inherent jurisdiction of the high court often related to issues of deprivation of liberty in cases involving a young person's drug abuse, exploitation or involvement in organised crime.

With a Master of Laws (LLM) in public law, he is well placed to consider challenges against the decisions of local authorities (including judicial reviews and claims under the Human Rights Act 1998).

Medical Treatment

Jim is willing to accept instructions surrounding medical treatment. He has experience of best interests decision concerning addiction, rehabilitation and the way in which medication should be administered.

He is often instructed by local authorities.

Notable cases include:

Re A – a complicated case culminating in a 7-day final hearing. The case necessitated live evidence and cross examination of a variety of experts including from a neurodevelopmental disability psychiatrist, an independent social worker, a hepatologist, and a psychiatrist specialising in addiction. The Local Authority's care plan was accepted at a contested final hearing despite resistance from privately represented parties.

Re B – A section 21a challenge. It was complex in the sense that P had a diagnosis of bipolar affective disorder which had historically resulted in numerous hospital admissions but there were also periods where limited interventions were required. The issue before the Court was whether P should return to live at home with a package of care or whether she should reside in a residential care home. The Local Authority's position was that P's best interests required her to be cared for in the care home. This was accepted by the Judge at a contested final hearing.

A v Z – instructed by a local authority who sought a deprivation of liberty order. The case related to a young person who had run away from her care home and suffered significant harm after becoming involved with suspected members of a county lines network. The deprivation of liberty order was granted under the inherent jurisdiction of the high court.

B v C – represented a mother in a forced marriage protection case that raised issues of capacity to marry, capacity to consent to sexual relations and the jurisdiction of the family court.

E v F – acted for the Office of the Public Guardian in a matter concerning an invalid lasting power of attorney and cross-border assets. The registration of the lasting power of attorney was duly to be cancelled.

Education

Jim Hirschmann's education law practice includes the following:

- In relation to schools and further education:
 - Representing parties where there has been a decision to exclude a pupil (or where such a decision is anticipated).
 - Acting in appeals to the SEND Tribunal, often relating to Education, Health and Care Plans. His caseload often includes discrimination claims under the Equality Act 2010.
 - Considering the law on pupil admissions.
- In higher education, Jim has experience of advising students and universities on student disciplinarys, contractual disputes and governance (including of students' unions).
- In a regulatory context he has experience of considering challenges to licensing decisions made by Ofsted.
- In a safeguarding context Jim has experience advising schools, teachers, and local authorities of their respective rights and duties.

Jim's Court of Protection and Family Law experience often intersects with Education Law and has given him considerable advocacy experience. With an LLM in Public Law Jim is particularly well placed to assist clients with administrative law disputes.

Recent notable cases:

A v B – Jim successfully persuaded an independent review panel that the decision to permanently exclude a pupil, due to gang-related violence, should be reconsidered as the school had not done enough to explore options other than expulsion.

B v C – Jim represented an international university facing a six-figure claim for breach of a franchise agreement and through written negotiations improved his client's position by over £100,000.

C v D – Jim represented a student challenging the decision to suspend him from his university and successfully mitigated the sanction imposed.

E v F – Jim represented an excluded child before a governors' review panel. The pupil had been permanently excluded for bringing a BB gun into school and discharging it. The case involved legal submissions in relation to a headteacher's discretion to depart from the school's policy. The governors ordered the pupil's reinstatement.

Administrative and Public Law

Judicial review

Jim Hirschmann is regularly instructed by claimants and defendants in judicial review claims.

His public law practice has seen him successfully challenge and defend decisions made by public bodies relating to adult social care, child social care and education law (including SEND provision, school exclusions, safeguarding and other regulatory matters including licensing by Ofsted).

Public inquiries

Jim accepts instructions on behalf of public inquiries and core participants.

He has experience acting as a second junior counsel team member for a major public inquiry. This means he has familiarity with the Inquiries Act 2005, the Inquiry Rules 2006, rule 9 drafting and complex document management utilising relativity (including delivering training).

Recent notable cases

A v B - Jim drafted judicial review grounds concerning (1) a local authority's failure to secure provision specified in an Education Health and Care Plan in breach of section 42 of the Children and Families Act 2014 (2) a school's failure to admit a pupil contrary to section 43 of the Children and Families Act 2014. The claim succeeded.

C v D - Jim successfully drafted grounds of appeal under section 204 of the Housing Act 1996 with the result that the local authority conceded the unsuitability of the property offered and made an offer afresh.

E v F - Jim drafted correspondence on behalf of his client following a local authority's failure to offer proper support to a special guardian. It resulted in an extensive training package being offered to his client and reconsideration of the financial support due.

G v H - Jim drafted summary grounds of resistance in a case concerning a local authority's failure to secure provision specified in an Education Health and Care Plan in breach of section 42 of the Children and Families Act 2014. The Claim settled on terms favourable to his client.

Family

Jim Hirschmann advises clients on public law and safeguarding issues including child social care. His background in this area is complemented by his expertise in education law and the Court of Protection. With a Master of Laws (LLM) in public law, he is well placed to advise clients in cases concerning the decisions of local authorities (including judicial reviews and claims under the Human Rights Act 1998).

Notable cases include:

B v F - acted for a local authority that sought authorisation for the deprivation of liberty in relation to a young person found in a property known for heavy drug usage, including heroin. The case involved circumstances where there was no suitable secure accommodation unit nor children's home available. The inherent jurisdiction of the High Court was invoked to protect the young person whilst attempts to secure a more suitable placement continued.

G v H - acted for the local authority in a five day fact-find hearing and up to final hearing. Significant findings were made against the parents in relation to serious non-accidental injuries suffered by the child including a lip laceration, left radial shaft fracture, an injury to the left femur and multiple bruises. The case involved consideration of ambiguous expert medical evidence. Adoption and placement orders were ultimately made.

F v M – acted for a local authority in a contested seven day final hearing involving allegations of corruption, drug abuse, domestic violence and peripheral serious organised crime. The local authority’s care plan was endorsed and the final order that they sought was made.

B v Y – instructed to act on behalf of a local authority who sought an emergency protection order. The case related to children who had been exposed to prolonged neglect. The order was granted.

Re FL (a Child): [2020] EWCA Civ 20 – as a pupil, assisted in the successful defence of a special guardianship order in favour of a maternal grandmother.

Articles

[Jim Hirschmann](#) writes about how duties to children with Special Educational Needs and Disability are often not being met and the explanation for this is often a shortage of necessary staff or placement. He provides examples from the Local Government and Social Care Ombudsman.

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[Jim Hirschmann](#) considers the remedies available where a local authority is not able to provide a suitable type of school due to a shortage of such schools.

There is a nationwide shortage of specialist schools for children and young people with special educational needs.

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Jim Hirschmann analyses *PM v Worcestershire County Council* [2022] UKUT 53 (ACC), a case in which the Tribunal (1) clarifies the approach to be taken to pre-funded places attracting element 1 and 2 funding from ESFA (2) suggests that new, contradicting evidence may justify an application to set aside a FTT decision; and (3) indicates that a former failure by an education provider to provide EHCP provision may render such a provider unsuitable.

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