



# Caroline Stone

**Year of Call:** 2005

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## Overview

***A highly-experienced barrister: dedicated and incisive with an excellent 'bedside manner'***

Caroline Stone's practice focuses on public law with a particular expertise in national security litigation and a developing practice in education law. She also has significant experience of employment cases.

Caroline is an accomplished advocate and acts on behalf of a diverse range of clients, including individuals, companies and a variety of public authorities. She is frequently instructed in complex matters raising issues of public importance, including human rights challenges, and has appeared before the Court of Appeal and High Court, in addition to various specialist Tribunals and the County Court. She is a member of the Attorney General's B Panel of Junior Counsel to the Crown, having previously been appointed to the C Panel.

Notable cases include:

- **In the matter of Russian sanctions** - advice regarding Ukraine-related designations and closed material procedures under the Sanctions and Anti-Money Laundering Act 2018.
- **R (Sarkandi, Nabipour and Ors) v Secretary of State for Foreign and Commonwealth Affairs** [2015] EWCA Civ 687, [2016] 3 All E.R. 837 - the leading appellate authority on s.6 of the Justice and Security Act 2013 and the use of 'closed material' in civil proceedings.
- **Z, Y, U, W, BB, PP and G v Secretary of State for the Home Department** [2015] EWCA Civ 9 - protracted litigation regarding the continued feasibility of HMG's Deportation with Assurances policy (proposed deportations of suspected terrorists to Algeria).
- **In the matter of an Academy** - advising the Department for Education in a high-profile case concerning the potential termination of an Academy's funding as a result of poor governance and failure to comply with the Independent School Standards (in particular, provisions relating to safeguarding and the need to promote community cohesion, including concerns about extremism and radicalisation).

Caroline is a founding and Assistant Editor of and contributor to the leading practitioner's textbook *National Security: Law, Practice and Procedure* (Oxford University Press, March 2021).

Caroline's meticulous attention to detail, tenacity, pragmatic advice and personable approach are among her key strengths. These skills are of particular value in the protracted, multi-party (claimant and/or defendant) cases in which she is often instructed, especially those involving substantial documentation.

Complementing her domestic practice in public law and human rights, Caroline also has extensive experience of international law and foreign jurisdictions. Whilst working at the War Crimes Chamber of the State Court of Bosnia and Herzegovina (Sarajevo) prior to joining 3PB, Caroline's caseload included Bosnia's first genocide trial relating to a massacre at Srebrenica. In 2012, she was a Judicial Assistant to the Appeals Chamber of the Special Court for Sierra Leone (based in The Hague), dealing with appeals arising from the conviction of Charles Taylor, former President of Liberia. In late 2011, as a Pegasus Scholar, Caroline undertook a 2-month secondment at the Legal Resources Centre, Cape Town, one of South Africa's pre-eminent public-interest law clinics.

In 2009, Caroline was nominated for a Bar Pro Bono Award for her involvement in **R (Compton) v Wiltshire Primary Care Trust** [2008] EWCA Civ 749, 1 WLR 1436 (a leading Court of Appeal authority on protective costs orders, the predecessor to cost-capping orders), for which she and her co-Counsel received a special commendation from the judging panel.

In her downtime, Caroline has a passion for singing and photography.

## Academic qualifications

- MA (Hons) (Law), Downing College, Cambridge University
- Bar Vocational Course, BPP Law School (Very Competent, 9th in year of 300)

## Scholarships

- Pegasus Scholarship (South Africa, 2011)
- Chrystal Macmillan Prize (Middle Temple) in recognition of BVC results (2005)
- Queen Mother's Scholar (Major BVC Scholarship, Middle Temple) (2004)

## Professional qualifications & appointments

- Attorney-General's Junior Counsel to the Crown (B Panel)
- Assistant Editor, *National Security: Law, Practice and Procedure* (Oxford University Press, March 2021)

## Professional bodies

- Constitutional and Administrative Law Bar Association (ALBA)
- Human Rights Lawyers' Association
- Education Law Association (ELAS)

# Expertise

## Public and Regulatory

Caroline has a broad public law practice, encompassing judicial review, statutory appeals, hearings before quasi-judicial bodies (e.g. regulatory panels) and civil matters with a public law element.

As an experienced member of the Attorney General's Panel of Junior Counsel to the Crown in civil matters (since 2011), she is regularly instructed by a variety of central government departments and agencies, including the Foreign, Commonwealth & Development Office, the Home Office, the Ministry of Defence and Ofsted.

Caroline's ability to present complex legislative and policy frameworks in a clear, intelligible fashion particularly lends itself to this area of law; so too, her aptitude for identifying and advising on novel points of law. Having observed public law cases from both sides of the spectrum, Caroline is alive to the unique challenges of litigating both for and against public authorities, in particular the need for timely advice which takes into account both wider policy implications and the unknown variables often associated with such cases.

### Other public law experience

Prior to being called to the Bar, Caroline gained extensive experience of public law and human rights issues whilst working at the pioneering legal charity, the Public Law Project ('PLP'). As a Legal Intern (2005), she advised on diverse matters including the powers of the DVLA; support for 'looked after' children; and challenging the decision of an NHS Primary Care Trust regarding the provision of elective plastic surgery.

In 2006, Caroline worked as a researcher on the *The Dynamics of Judicial Review Litigation*, a Nuffield Foundation-sponsored study into the mechanics of judicial review, in particular the permission stage, undertaken by the Human Rights Centre at the University of Essex and PLP. As part of this research, Caroline interviewed dozens of solicitors – working for central and local government, leading private firms and NGOs – about specific judicial review applications covering all the core areas of public law.

### International Law and Human Rights

Caroline's work in various foreign jurisdictions complements her domestic public law and human rights practice.

**Appeals Chamber, Special Court for Sierra Leone, The Hague** (2012) – as a Judicial Assistant (P3), Caroline worked on the preliminary appellate proceedings arising from the conviction of Charles Taylor, former President of Liberia, for his role as an accessory to war crimes and crimes against humanity in neighbouring Sierra Leone. This work involved complex legal research, drafting and case-analysis.

**Visiting Pegasus Scholar, Legal Resources Centre, Cape Town** (Autumn 2011) – a privileged opportunity to work at the 'coal face' of public interest law in South Africa, encompassing a variety of public law and constitutional challenges. Caroline's work ranged from assisting with asylum seeker and refugee appeals to advising on the constitutionality of proposed legislation which purported to restrict access to sensitive state information and criminalise 'whistle-blowing' in the security sector.

**War Crimes Chamber, State Court of Bosnia and Herzegovina, Sarajevo** (2007) – as a Judicial Assistant, Caroline drafted procedural and substantive decisions, including a major judgment in a case involving crimes against humanity (*Tanasković*, X-KRŽ-05/165) and a procedural decision concerning the legitimate use of pre-trial confessions as evidence and the scope of the right to silence. Caroline's caseload included Bosnia's first domestic trial for genocide relating to the murder of over 1000 individuals at the Kravica Farming Cooperative warehouse near Srebrenica.

### Published Articles

- "The South African 'Secrecy Bill': taking stock", Constitutionally Speaking, 8 June 2012 and UK Human Rights Blog (abridged version), 24 June 2012

- “*Corner House Revisited: The Law Governing Protective Costs Orders*”, [2009] JR 43

## National Security, Counter-Terrorism and International Relations

Caroline is a specialist in national security litigation, including cases with an international relations dimension. She is frequently instructed by various central government departments in complex and sensitive matters across the range of such cases. In addition to in-depth knowledge of the subject-matter, Caroline brings to this field an aptitude for mastering technical detail and distilling key points from vast swathes of information; a responsive approach, necessary to tackle the rapid developments or unexpected occurrences which frequently arise in such litigation (whether legal, factual or policy-related); and an ability to work collaboratively and effectively with the range of clients often involved. Caroline’s background in international law and foreign jurisdictions has also proved invaluable to her practice in this area.

Caroline’s experience encompasses:

- **Immigration measures** taken on national security grounds, including deportations (and ‘deportation with assurances’), deprivations (*Al Jedda v SSHD*) and exclusions.
- **SIAC immigration bail:**
  - Resisting the grant of bail and making applications to revoke bail (involving consideration of Arts. 5 and 8 ECHR)
  - Variation of bail conditions
  - Advisory work regarding the scope of SIAC’s bail powers
- **Civil damages claims**, e.g. arising from allegations of misfeasance in public office or false imprisonment.
- **Financial sanctions and travel bans** (UK, UN and EU sanctions regimes).
- Removal of individuals’ passports in the exercise of the **royal prerogative** to prevent travel (typically to ISIL-controlled territory) for terrorist-related purposes, e.g. *XH v SSHD*; *TH v SSHD*; *AS v SSHD*; *KCM and Ors v SSHD*.
- **Terrorism Prevention Investigation Measures** (‘TPIMs’), e.g. *SSHD v JM & Ors* (s.9 review relating to TPIM notices served against three members of Al-Muhajiroun).
- **Inquests** involving issues of national security concern and sensitive material.
- **Procedural matters**, for example:
  - Anonymity applications
  - Testimonial immunity of non-parties
  - *W & Ors* reverse confidentiality order
  - Complex disclosure issues (raising Art. 6 ECHR issues)
- **Executive action taken in the education sphere** due to concerns about radicalisation and extremism, e.g. termination of government funding (please see Caroline’s [Education profile](#) for further details).

Cases of note include:

### **O3 v Secretary of State for the Home Department**

A complex deportation and asylum appeal before SIAC (consideration of Arts. 3 and 8 ECHR) (sole junior, led by Jonathan Glasson QC).

*Bail*: [2019] UKSIAC SC\_147\_2018: successfully resisting O3’s application for bail despite his detention for over 2 years at the date of the hearing.

### **Khaled, Abdulrahim, Maftah and Ors v The Security Service and Ors**

Tortious claims for misfeasance in public office and conspiracy to injure in relation to sanctions measures imposed by the UN 1267 Committee, pursuant to the claimants’ nominations by the UK as individuals associated with Al Qaida (alleged reliance by the UK on torture-tainted detainee evidence) (led by Rory Phillips QC and, later, Kate Grange QC).

These claims form part of a broader action – *Kamoka and Ors v The Security Service and Ors* (12+ claimants) – and are linked to the *Bel Haj* litigation (allegations of collusion in the extraordinary rendition and mistreatment of a senior LIFG commander).

**R (Khaled) v Secretary of State for Foreign and Commonwealth Affairs; R (Maftah) v Secretary of State for Foreign and Commonwealth Affairs** – associated judicial reviews by which the claimants sought to challenge various decisions of the Foreign Secretary and others related to their designation (led by Kate Grange QC).

**R (Secretary of State for the Home Department) v Special Immigration Appeals Commission**

Judicial review of SIAC’s decision not to amend the terms of a *W & Ors* reverse confidentiality order to enable HMG personnel to access material served in previous SIAC proceedings (sole junior, led by Robin Tam QC).

**Z, Y, U, W, BB, PP and G v Secretary of State for the Home Department** – protracted litigation regarding the continued feasibility of HMG’s Deportation with Assurances policy (proposed deportations of suspected terrorists to Algeria) (latterly as senior junior, led by Robert Palmer).

*Court of Appeal*, [2015] EWCA Civ 9: correct legal test to be applied when considering a breach of Art.3 ECHR on return to a non-Convention State (e.g. regarding prison conditions).

*SIAC*, remitted appeal, 18 April 2016: legality of the DWA arrangements (including informal verification methods), in particular in light of ‘reverse-closed’ evidence submitted by the appellants.

**R (Sarkandi, Napibour and Ors) v Secretary of State for Foreign and Commonwealth Affairs** [2015] EWCA Civ 687, [2016] 3 All E.R. 837; [2014] EWHC 2359 (Admin) – the leading appellate authority on s.6 of the Justice and Security Act 2013 and the use of ‘closed material’ in civil proceedings.

The underlying judicial review related to the Foreign Secretary’s decision to propose five individuals alleged to be senior members of the Islamic Republic of Iran Shipping Lines for EU sanctions (interplay between domestic and EU processes leading to the imposition and annulment of sanctions).

**Inquests related to the Stalker-Sampson Inquiry (McKerr and Ors)**

Advising as to disclosure obligations (including re. LPP) in ‘legacy’ inquests relating to the controversial deaths of nine individuals in Northern Ireland during The Troubles and associated allegations of a ‘shoot-to-kill’ policy on the part of the British Army and Royal Ulster Constabulary.

**L1 v Secretary of State for the Home Department**

Statutory review and appeal by an individual deprived of British nationality and subsequently excluded from the UK (whether the decision to wait until the appellant was outside the country to deprive him of his citizenship was an abuse of process) (latterly as sole junior led by Jonathan Glasson QC).

**Al Rawi & Ors v The Security Service & Ors**

Multi-party civil litigation arising from the detention of individuals at Guantanamo Bay and Coalition facilities, raising complicated issues of disclosure and international human rights and humanitarian law. This work was undertaken, in part, during a six-month secondment to the Foreign and Commonwealth Office.

**Publications and lectures**

Caroline is a founding and Assistant Editor of the forthcoming practitioner’s textbook *National Security: Law, Practice and Procedure* (Oxford University Press, early 2021).

In addition to her editorial role, Caroline authored/co-authored:

- Chapter 4 – Powers of the Security and Intelligence Agencies  
(Topics covered by this chapter include the interception of legally-privileged communications under the Investigatory Powers Act 2016)
- Chapter 7 – Executive Measures and Civil Proceedings: Common Evidential and Procedural Issues  
(Topics covered by this chapter include costs in cases involving closed proceedings and anonymity and reporting restrictions)
- Chapter 14 – Civil Proceedings: General  
(CMPs under the JSA 2013; Public Interest Immunity; jurisdictional bars, including state immunity and justiciability)

Caroline regularly provides training to civil servants regarding civil litigation in the national security sphere, covering both substantive and procedural issues.

## Administrative and Public Law

Administrative and Public Law cases of note include:

### **Inquests related to the Stalker-Sampson Inquiry (McKerr and Ors)**

Advising as to disclosure obligations (including re. LPP) in 'legacy' inquests relating to the controversial deaths of nine individuals in Northern Ireland during The Troubles and associated allegations of a 'shoot-to-kill' policy on the part of the British Army and Royal Ulster Constabulary.

### **In the matter of an Academy**

Advising the Department for Education in a high-profile case concerning the potential termination of an Academy's funding as a result of poor governance and failure to comply with the Independent School Standards (in particular, provisions relating to safeguarding and the need to promote community cohesion, including concerns about extremism and radicalisation).

### **Syed & Ors v Secretary of State for the Home Department** [2014] EWCA Civ 196 (sole junior)

Interpretation of the Immigration Rules: (i) whether ACCA's Professional Level Qualification was a "UK recognised bachelor or postgraduate degree" qualifying for the award of points under the Tier 1 (Post Study) work route; (ii) role of UK NARIC in assessing the level of non-degree qualifications obtained in the UK.

### **Cattrell v Secretary of State for Work and Pensions** [2011] EWCA Civ 572 (sole junior)

Successfully resisting an appeal by the Secretary of State challenging the award of Incapacity Benefit, in exceptional circumstances, to an individual who had severe allergy (interpretation of the *Social Security (Incapacity for Work) (General) Regulations 1995*).

### **R (Compton) v Wiltshire Primary Care Trust**

[2009] EWHC 1824 (Admin), [2010] P.T.S.R. (C.S.) 5

Judicial review of a PCT's decisions regarding the closure of hospital facilities. Key issues included (i) the lawfulness of the consultation process and (ii) the principles governing the apparent bias of advisors to public authorities.

[2008] EWCA Civ 749, 1 W.L.R. 1436 (assisted during pupillage)

One of the leading Court of Appeal authorities on protective costs orders, the predecessor to cost-capping orders: guidance on (i) the criteria and procedure for making and setting aside protective costs orders and (ii) the scope of the "general public importance" test.

### **SFO v Lexi Holdings Plc (In administration)** [2008] EWCA Crim 1443, [2009] Q.B. 376

Drafting submissions for this crucial Court of Appeal case determining the scope of the amended 'legislative steer' contained in the Proceeds of Crime Act 2002.

Other examples of Caroline's work in this field include:

- Advising as to the legality of a European Arrest Warrant issued against an individual residing in Cyprus (interpretation of the *Child Abduction Act 1984*).
- Advising former police officers in relation to challenging decisions taken by the Police Medical Appeal Board (receipt of injury awards/pensions).
- Representing a Councillor accused of breaching the Code of Conduct before his local Standards Committee and thereafter appealing to the First Tier Tribunal (allegations of bullying and breaching provisions regarding respect for others; whether actions undertaken in Councillor's "official capacity").
- Advising on and/or appearing in judicial reviews and other public law matters on behalf of HMRC and the former UK Border Agency, e.g. arising from condemnation hearings or other enforcement action.

- In her early years of practice, Caroline gained significant experience of asset forfeiture law, including civil recovery and restraint proceedings. Cases included advising the former Serious Organised Crime Agency as to the merits of pursuing civil recovery following a failed prosecution in relation to a £6 million fraud.

Please see Caroline's [National Security profile](#) for further details of her judicial review, public law and human rights expertise.

### Public Inquiries

Though she has yet to gain direct experience of Public Inquiry work, Caroline has had cause to consider Inquiry materials in the course of her national security cases, e.g. the Stalker/Sampson Inquiry (deaths in Northern Ireland during The Troubles) and the Detainee Inquiry, led by Sir Peter Gibson. She also has significant experience of protracted, multi-party litigation, usually involving multiple government departments and invariably requiring management of significant disclosure exercises.

Caroline is keen to further develop her interest in Public Inquiries and welcomes new instructions in this area.

### Articles

[Legislating in the Time of Corona](#) – 3PB Education Newsletter, September 2020

## Professional Discipline and Regulatory Law

Caroline's notable regulatory cases include:

### **JC v OFSTED** [2011] UKFTT 449

Successfully resisting an appeal against temporary suspension from the register of childminders (safeguarding concerns, including allegations of assault; relevance of concurrent police investigation considered).

### **General Medical Council v Dr A**

Instructed as a junior in a 6-week prosecution of a consultant before the GMC's Fitness to Practise Panel (charges of dishonesty and financial misfeasance relating to fertility treatment).

### **In the matter of a Councillor**

Representing a Councillor accused of breaching the Code of Conduct before his local Standards Committee and thereafter appealing to the First Tier Tribunal (allegations of bullying and breaching provisions regarding respect for others; whether actions undertaken in Councillor's "official capacity").

In addition to a proven track record in public law, Caroline brings to this area significant experience of disciplinary processes/issues from her employment practice and an understanding of the persuasive advocacy required to ensure the best result for her clients. She is keen to further develop her interest in this field.

## Education

In the course of her public law practice, Caroline has undertaken a range of education-related cases. She is particularly keen to specialise further in Education law and brings to this area not only a wealth of relevant experience from other areas of her practice (e.g. disciplinary issues, discrimination claims and contractual disputes), but also a down-to-earth, considered approach which is particularly well-suited to the sensitive issues and high stakes often at play in education cases.

Caroline's education-related experience to date includes:

- School admissions  
(clerking Admission Appeal Panels, including provision of legal advice regarding disability discrimination)

- School exclusions
  - Representing a school before an Exclusion Appeal Panel (under the previous regime)
  - Providing training to local authorities and Independent Review Panel members on legislative changes
- Judicial review
- Legal action in respect of Ofsted reports (schools)
- Appeals against suspension of registration by Ofsted (Early Years and Child Care providers)
- Governance issues in Academies
- Safeguarding
- Prosecutions for non-attendance (under s.444 of the Education Act 1996)

Whilst at PLP, Caroline's education-related work included:

- Advising on the lawfulness of a University's disciplinary scheme
- Advising a teacher about a potential judicial review in relation to a CRB certificate (which disclosed that the teacher had been the victim of a crime)
- Advice regarding a potential judicial review of a decision to close the (then) last all-male state school in Hackney

Cases of note include:

#### **R (Dawatul Islam UK and Eire) v OFSTED**

Successfully resisting a school's application to judicially review an unfavourable progress monitoring inspection report (breach of the Independent School Standards; consideration of the Prevent Duty).

Findings challenged included those relating to the quality of education, the 'spiritual, moral, social and cultural' development of pupils, the welfare of students, leadership and Schedule 10 of the Equality Act 2010.

#### **In the matter of an Academy**

The case concerned the potential termination of an Academy's funding as a result of poor governance and failure to comply with the *Independent School Standards* (in particular, provisions relating to safeguarding and the need to promote community cohesion, including concerns about extremism and radicalisation).

#### **JC v OFSTED [2011] UKFTT 449**

Successfully resisting an appeal against temporary suspension from the register of childminders (safeguarding concerns, including allegations of assault; relevance of concurrent police investigation considered).

In addition to the matters listed above, Caroline particularly welcomes new instructions in the following areas:

- SEND appeals
- Independent Review Panels
- Internal academic appeals
- Fitness to Practice hearings (student and Teaching Regulation Agency)
- Disciplinary and grievance procedures
- The intersection between national security and education law
- Higher education cases

Please see Caroline's [Public and Regulatory profile](#) for details of other relevant experience.

#### **Articles**

[SEND provision beyond 24 September 2020 – a brewing storm?](#) – 3PB Education Newsletter, September 2020

[Legislating in the Time of Corona](#) – 3PB Education Newsletter, September 2020



# Employment and discrimination

Caroline has significant experience of both advisory work and advocacy in employment law matters. Her cases range from preliminary hearings to substantive multi-day trials, representing the full spectrum of the labour market – from cleaners to hedge fund employees; care home providers to public authority employers (e.g. the Ministry of Justice, DWP and FC&DO). Caroline's meticulous attention to detail ensures she is always fully conversant with the finer details of her client's work environment – of particular assistance in relation to industries which are heavily regulated or more technical in nature.

Caroline has also advised on the merits of appealing decisions to the Employment Appeal Tribunal.

Caroline has experience of:

- Unfair dismissal – including constructive unfair dismissal, gross misconduct and the reasonableness of selection criteria for redundancy
- Employment status
- TUPE
- Unlawful deduction of wages (including bonus schemes)
- Breach of contract claims
- Whistleblowing: public interest disclosures relating to health and safety
- All forms of discrimination claims, including indirect discrimination
- Equal Pay Act claims

Cases of interest include:

Acting on behalf of the (former) UK Border Agency in successfully defending a claim for discrimination 'arising from disability' brought under the (then) novel provisions of s.15 of the Equality Act 2010 (consideration of the necessary causal link between the impugned conduct and the disability relied upon).

Successfully arguing that a school groundsman who had accounted for his own tax and national insurance for over 20 years, had a considerable degree of autonomy in the manner in which work was completed and undertook similar jobs elsewhere as a contractor, was nonetheless an 'employee' for the purposes of an unfair dismissal claim.

Advising as to whether a Civil Service injury benefit scheme (Ministry of Defence) was indirectly discriminatory on the grounds of age.

Advising whether termination of employment in order to prevent a local authority employee accessing his pension amounted to age discrimination.

Persuading a Tribunal that despite technical difficulties with its website having prevented a prison governor from submitting his claim online on the final day of the limitation period, it was nevertheless reasonably practicable for him to have presented his claim in time (consideration of (then) new procedural Rules and the validity of incorrectly-submitted applications)

Caroline represents both Claimants and Respondents, providing valuable insight into the complexities of the workplace environment and the underlying factors which drive and shape employment litigation. She is alert to the commercial realities which often call for the pragmatic resolution of a case.

## Articles

Legislating in the time of Corona

Caroline Stone examines the Administrative Court's recent decision in R (Amber Shaw (a child, by her mother and litigation friend Deanne Shaw) and ABC (a child, by his mother and litigation friend XYZ) in which two disabled children with EHC plans challenged decisions made by the Secretary of State for Education regarding SEND provision during the height of the

pandemic.

[View Article](#)

SEND provision beyond 24 September 2020 – a brewing storm?

Caroline Stone examines the forthcoming changes to the SEND Regulations 2014.

[View Article](#)