

# Mathew Gullick KC

**Year of Call:** 2003

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## Overview

Mathew Gullick KC is an experienced High Court and appellate advocate. He has appeared in more than 30 substantive appeals in the Court of Appeal and the UK Supreme Court, most recently in the leading holiday pay case of **Harpur Trust v Brazel [2022] UKSC 21, [2022] ICR 1380**. He has also had significant involvement in highly complex and long-running matters, including Public Inquiry and Group Litigation experience.

Mathew's practice is focused on public law and employment, but he is also instructed both on costs issues and on procedural points across the entire spectrum of civil litigation. Additionally, he undertakes asset forfeiture work (including on human rights issues) and is a contributor to one of the leading practitioner textbooks in the field. As well as appearing in Courts and Tribunals, he also acts as a representative in mediations.

Prior to taking Silk in March 2021, Mathew was for 13 years a member of the Attorney-General's panels of junior Counsel to the Crown in civil matters, including five years on the London A Panel. From July 2015 to November 2018, he was part of the Counsel team instructed by the UK Government in the Kenyan Emergency Group Litigation (KEGL), in which more than 40,000 individuals unsuccessfully brought claims in the High Court arising from their experiences during the 'Mau Mau' Emergency in the 1950s. The KEGL was one of the longest-running trials in English legal history, sitting in court for 230 days between the start of the trial in May 2016 and its conclusion in November 2018. The case involved wide-ranging and complex issues including in relation to jurisdiction, limitation, constitutional law, tort (negligence, vicarious liability and common design), evidence and civil procedure.

From January to December 2020, he was instructed by Ofsted on several of the Investigations conducted by the Independent Inquiry into Child Sexual Abuse (IICSA), including those into Child Sexual Exploitation by Organised Networks and into Effective Leadership of Child Protection in which Ofsted was a Core Participant.

Mathew appears in the Court of Appeal, the Administrative Court and the Upper Tribunal on a wide range of public law matters. In the employment context, he acts for both claimants and respondents (public, private and third sector) across the field of employment law in the Employment Tribunals and the courts. More generally, he has extensive experience of advising and appearing on jurisdictional and procedural issues, including in relation to many of the more obscure provisions of procedural legislation and rules. Several of his cases are cited as precedents in the leading textbooks on civil procedure.

Mathew is also instructed on costs issues in all types of civil litigation. He has been instructed on numerous high value costs matters, including multi-million pound costs claims in group litigation. He has twice been instructed, as specialist costs Counsel, to make post-judgment written submissions on costs to the UK Supreme Court and has also conducted two multi-day detailed assessments of costs in the UK Supreme Court. Mathew's work in this field has included both King's Bench and Chancery matters as well as Tribunal proceedings. His costs practice has also, for example, seen him successfully making and opposing applications for protective costs orders in the Administrative Court, and successfully opposing applications for non-party costs orders against legal expenses insurers.

Mathew has been nominated for the Bar Pro Bono Award three times, on the second occasion receiving a special commendation from the judging panel. Outside the courtroom, he has represented the Bar of England & Wales at four Lawyers' Cricket World Cups (2007–2016).

#### **Reported Cases Include:**

**Harpur Trust v Brazel** [2022] UKSC 21, [2022] ICR 1380 – workers on permanent contracts who perform work for only part of the year (e.g. during academic terms) are entitled to the full 5.6 weeks' paid holiday under the Working Time Regulations 1998, which cannot be reduced on a pro-rata basis.

**SC (paras A398–399D: 'foreign criminal': procedure)** [2020] UKUT 187 (IAC), [2020] Imm AR 1121 – approach to human rights claim raised in response to deportation decision by foreign national whose criminal offence was committed abroad.

**R (on the application of Jalloh) v Secretary of State for the Home Department** [2020] UKSC 4, [2021] AC 262 – a requirement to abide by an overnight home curfew, enforced by electronic tagging, constituted an imprisonment of the claimant for the purpose of the tort of false imprisonment.

**R (on the applications of Nealon and Hallam) v Secretary of State for Justice** [2019] UKSC 2, [2020] AC 279 – Article 6.2 ECHR not applicable to decisions to refuse award under statutory compensation scheme for miscarriages of justice; scheme would not breach Article 6.2 even if applicable.

**Kimathi & Others v Foreign and Commonwealth Office** [2017] EWHC 3379 (QB), [2018] 4 WLR 48 – Article 9 of the Bill of Rights prevents reports of Parliamentary debates being used as evidence of the truth of the extraneous facts referred to by Members of Parliament in those debates.

**Mahmud (s.85 NIAA 2002 – 'new matters')** [2017] UKUT 488 (IAC), [2018] Imm AR 264 – a decision of the Upper Tribunal which gives guidance on the correct approach to considering a 'new matter' in statutory appeals, under s.85 of the Nationality, Immigration and Asylum Act 2002 (as amended).

**Kimathi & Others v Foreign and Commonwealth Office** [2016] EWHC 3005 (QB), [2017] 1 WLR 1081 – CPR 3.9 could not be used to validate a claim which was a nullity because the claimant was dead when the claim was brought in his name.

#### **Publications**

Contributor to "Millington and Sutherland Williams on the Proceeds of Crime" (Fourth Edition, 2013, Fifth Edition, 2018, and Sixth Edition 2023) (Oxford University Press)

"Recusal of Judges in Civil Litigation", Thomson Reuters Practical Law, February 2022

"Corner House Revisited: The Law Governing Protective Costs Orders", Judicial Review March 2009, [2009] JR 43

"Cutting Back on Custody", New Law Journal 11th February 2005, (2005) 155 NLJ 220

"The Criminal Justice Act 2003: Sentencing and Early Release of Fixed-Term Prisoners", Criminal Law Review August 2004, [2004] Crim LR 653

"Political Donations and Political Expenditure by Companies: The Authorisation and Disclosure Requirements of the Companies Act 1985", Business Law Review March 2003, (2003) 24 Bus LR 48

"Sentencing and the Home Detention Curfew Scheme", Criminal Law Review May 2002, [2002] Crim LR 391

Mathew also assisted with the Third Edition (2004), Fourth Edition (2006) and Fifth Edition (2009) of "Understanding the Law" by His Honour Geoffrey Rivlin QC (Oxford University Press)

## **Academic qualifications**

- MA (Oxon)

- Dip Law (City)

## **Scholarships**

- Mould Senior Scholarship (Gray's Inn, 2003)
- Phillips Senior Award (Gray's Inn, 2003)
- Birkenhead Junior Award (Gray's Inn, 2002)
- The Lee Essay Prize (Gray's Inn, 2003)
- First Prize, The Graham Turnbull Memorial International Human Rights Essay Competition (Law Society, 2003)
- First Prize, The Times Law Awards (2002)
- The City University Prize for Public Law (2002)

## **Professional qualifications & appointments**

- Deputy High Court Judge, King's Bench Division
- Additional Judge of the Employment Appeal Tribunal and of the Upper Tribunal, Immigration and Asylum Chamber
- Deputy Judge of the Upper Tribunal, Administrative Appeals Chamber
- Recorder

## **Professional bodies**

- Constitutional and Administrative Law Bar Association (ALBA)
- Employment Law Bar Association (ELBA)
- Employment Lawyers Association (ELA)
- London Common Law and Commercial Bar Association (LCLCBA)
- Proceeds of Crime Lawyers Association (POCLA)