



Matthew Wyard

Year of Call: 2014

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Overview

Matthew Wyard specialises in public law, regulatory law and human rights, predominantly in the education, health, life sciences and social care sectors. He has appeared in courts/tribunals of all levels up to and including the Court of Appeal.

He believes that both individuals and organisations operating within his specialist sectors expect expert legal advice by default and seeks to add value, offering realistic fees that reflect the importance of the work to the client not simply the amount of hours it takes to complete, and by providing exceptional client care, practical, outcome orientated advice and extra-curricular input where requested.

He joined chambers in 2020, having spent his first few years of practice as an employed barrister in the public law department of a national law firm where he built a broad public law practice.

He is happy to accept instructions on all public law matters, including for urgent and out of hours applications.

He has significant experience of court-based and advisory work for claimants and local authorities in education matters, individuals and institutions in Court of Protection disputes as well as the entire range of community care instructions, details of which can be found in his specialist profiles below.

Unusually, he is one of very few barristers who are expert in both English and Welsh education and social care law and can advise on the proposed changes in 2021 to the Welsh special education needs (SEN) system.

Matthew is a member of the Attorney General's Junior Junior panel and the Welsh Government's public law scheme. He is regularly instructed to prepare Summary Grounds of Resistance in judicial review proceedings on behalf of the Home Office and has been instructed as junior counsel by the Secretary of State for Justice in employment proceedings.

Having spent seven years working within law firms, regularly instructing counsel himself, Matthew understands what instructing solicitors want from their counsel. In particular, adding value by offering a unique perspective on the litigation process. Matthew contributes more to the overall litigation process as, for instance, when settling Grounds for Judicial Review, he typically completes the claim form as well to ensure consistency across the two documents. He is also happy to assist with the preparation of evidence, disclosure exercises and advising on bundle formatting.

Outside of Chambers, Matthew is non-executive director of a music and media business, Thinkspace Education giving him a thorough understanding of the business needs of public authorities, as well as practical experience of ensuring compliance with public law requirements. He also sits as a Chairman of the Valuation Tribunal for England hearing banding and ratings appeals.

Publications

Alongside a busy barrister's practice, Matthew is a widely published legal author acting as a contributing editor to Clarke Hall and Morrison on Children and a regular contributor to Lexis PSL, providing updates on the law to the legal profession. He has also been published in The Times Higher Education, the Education Law Monitor and the Solicitors Journal. Matthew is currently writing for the forthcoming, inaugural edition of the new Education Law Handbook.

Other publications produced by Matthew Wyard include: Student wins fitness to practise appeal over comments posted on social media (Ngole v University of Sheffield); Tribunals should avoid involvement in appeals of their own decisions (SG v Denbighshire County Council and MB); Universities don't fear the OIA. It would be better if they did; Are negotiation skills for lawyers underestimated?; Challenging university disciplinary decisions – JR or complaint to OIA? (R (on the application of Zahid) v University of Manchester); Tackling Inequality - under 16s and the education system; Tackling Inequality - higher education; Head teacher's duty to disclose relationship to safeguard pupils; A Matter of Consent: Sexual assaults on campus; Waiting at the School Gates - Resolving Persistent Truancy; Inflexible Policies; Children and Families Act 2014; and featured in The Guardian's This is oppression: gagging orders used to muzzle teachers.

Matthew is also a prolific author on LinkedIn including recently publishing 'The Court's approach to the Public Sector Equality Duty, an update and advice for public sector decision makers and claimant lawyers' and 'Do unincorporated associations have capacity to bring judicial review proceedings and statutory challenges?'.

Academic qualifications

- 2014: Called to the Bar (Lincoln's Inn)
- 2012 – 2013: Postgraduate Diploma in Law, City Law School
- 2008 – 2012: LL.B (Hons)(SW) Law, University of Surrey

Scholarships

- Erasmus Scholarship
- Blackstone Chambers BPTC Mooting Competition, Semi finalist, 2013

Professional qualifications & appointments

- Chair of the Valuation Tribunal for England
- Member of the Welsh Government Public Law Scheme
- Member of the Attorney General's Junior Junior Panel
- Bar Professional Training Course, City Law School, 2012 – 2013

Professional bodies

- Lincoln's Inn, Member

Expertise

Public and Regulatory

Matthew Wyard's public law practice – and specifically his judicial review expertise – focuses on the complementary areas of education, health and community care. He has also developed a particular interest in the use of public law remedies within family proceedings (see Matthew's family law profile for more information).

Having spent significant time practising in Wales, he is familiar with, and happy to advise upon, the relevant legislation across both jurisdictions. Having spent time working in a commercial chambers in Mauritius, Matthew is also happy to consider international instructions relating to his areas of practice.

Health/Life sciences

Matthew is an expert in the health and life sciences matters and disputes, with particular experience in judicial review and Court of Protection proceedings including serious medical treatment issues.

Recent healthcare/pharmaceutical matters include:

- **Re: KM** – Providing pro bono advice on the application of the EU Tobacco Products Directive;
- **Re: V** – Advising upon, settling and drafting the settlement agreement in a dispute between the directors of, and consultants for, an international pharmaceutical company as to the apportionment of liability between the company and consultants upon the consultants' retirement;
- **MM v Cardiff and Vale University Health Board** – judicial review of a health board's decision to refuse to provide adequate nursing care at the claimant's home thereby preventing him from visiting his mother
- **JW v Merthyr Tydfil County Borough Council** – challenge to the legality of the local authority's decision not to fund rental costs under section 117 aftercare

Matthew is building a life sciences based advisory practice and has a particular interest in the medicinal cannabis/CBD industries.

Recent cases in the Court of Protection include:

- **Re: JC** – Representing a family member in a long running section 21A challenge concerning allegations of risk of harm to P and whether he should return to live with his family
- **Re: JDC** – Representing a family member in a section 16 challenge concerning whether P should have unsupervised contact with his parents
- **Re: HC** – Representing P in a section 21A challenge regarding the restrictiveness of placement in a care home setting
- **Re: CEM** – Acting for P in a matter concerning end of life arrangements
- **Re: J** – advising on restrictions and best interests in relation to serious medical treatment concerning a dental operation

Alongside welfare matters, Matthew has a developing practice in the property and affairs jurisdiction of the Court of Protection with a particular interest in contested deputyship applications and advisory matters.

He is also happy to provide training on the new Liberty Protection Safeguards, as well as the recent guidance on litigating in serious medical treatment cases.

Education

Within the education sector, Matthew has experience in acting before the Teachers Regulation Authority on behalf of teachers who are accused of wrongdoing. Additionally, he has experience of advising on, drafting and representing clients in a range of education law related judicial review challenges, in particular:

- **CP v Surrey County Council** – Represented the claimant in an urgent out of hours injunction application and at a substantive application in the Administrative Court concerning the right of accommodation pursuant to section 20 of the Children Act 1989. He also drafted the Grounds of Judicial Review;
- **JPF v Office of the Independent Adjudicator for Higher Education** – Drafted Grounds of Judicial Review regarding the legality of the higher education sector ombudsman’s decision to dismiss the Claimant’s complaint;
- **DB v Kings College London** – challenge to a university’s termination of a medical student;
- **DB v London Borough of Richmond upon Thames** – challenge pursuant to section 42 of the Children and Families Act 2014 for failing to maintain an Education, Health and Care Plan;
- **MG v Hertfordshire County Council** – challenge to the legality of the local authority refusing to finalise an Education, Health and Care Plan in accordance with an order of the First Tier Tribunal;
- **MG v CT Independent Review Panel** – judicial review challenge to an IRP’s decision to uphold a permanent exclusion decision;
- **AM v Cardiff City Council** – judicial review against the legality of a local authority’s statutory assessment process; and
- **G v Newport City Council** – challenge to a local authority’s failure to maintain a Statement of Special Educational Needs pending the outcome of a cease to maintain appeal to SENTW.

Whilst in-house, he was part of the team working on a number of reported, high profile education cases including:

- **DJ v Welsh Ministers & Ors** [2018] EWHC 2735 (Admin)
- **Thilakawardhana v Office of the Independent Adjudicator for Higher Education** [2018] EWCA Civ 13
- **Zahid v University of Manchester & Ors** [2017] EWHC 188 (Admin)
- **DS v Wolverhampton City Council** [2017] EWHC 1660 (Admin)

Community Care

Community care is a particular area of interest for Matthew who has been involved in a number of judicial review challenges concerning the same:

- **AA v Newport City Council** – a challenge to the legality of the local authority’s withdrawal and subsequent request for repayment of direct payments
- **LT v Merthyr Tydfil County Borough Council** – a challenge to the local authority’s breach of section 37 of the Social Services and Well-being (Wales) Act 2014
- **CJ v Powys County Council** – advice and pre action correspondence concerning the local authority’s failure to assist with an application for a Disabled Funding Grant
- **Re: AM** – advice on reduce liability for care home fees through the efficient structuring of an estate
- **TL v Newport City Council** – a challenge against a failure to maintain support outlined in a Care and Support Plan
- **Re: TG** – advising on liability for a surviving relative to pay care home fees for a deceased family member
- **TL v Ceredigion Council** – judicial review challenge to the local authority’s failure to provide adequate care and support provision

Commercial matters

Matthew Wyard's interest in corporate work was sparked when he spent six months working as a legal assistant to Urmilla Boolell SC at a top tier commercial chambers in Mauritius.

His public law practise means that he is perfectly placed to advise on the use of public law remedies and challenges to advance commercial interests.

He also maintains an active interest in all areas, with a particular focus on non-contentious drafting within his specialist sectors of education, health and community care, but also in the media field following his appointment as a non-executive director of a music school.

Matthew is familiar with and has experience advising on and drafting a wide range of commercial documentation including:

- Joint Venture Agreements;
- Asset Purchase Agreements;
- Terms and Conditions of Business;
- Student contracts;
- Debt policies;
- Payment plans and financial agreements;
- Paid contribution agreements;
- Unpaid contribution agreements;
- Various forms of licences;
- A variety of intellectual property agreements;
- Contracts of employment; and
- Appraisal forms.

Publications

3PB's specialist public law barrister Matthew Wyard has reviewed the draft Curriculum and Assessment (Wales) bill. The bill was introduced to the Senedd on 6 July 2020 without prior public consultation.

[View Publication](#)

3PB's Public and Regulatory Law barrister Matthew Wyard has reviewed the law regulating novel food products in the UK.

[View Publication](#)

3PB's Public and Regulatory Law barrister Matthew Wyard has provided an update on UK tobacco law in light of Article 7 of the EU Tobacco Productive Directive.

[View Publication](#)

3PB's Public and Regulatory barrister Matthew Wyard has provided an overview of the MHRA's Market Authorisation process for bringing new products to market in the UK. Designed for the pharmaceutical industry and those advising them, this article looks at the different types of authorisation available and the process for approving medicines in the UK.

[View Publication](#)

Education law barrister, Matthew Wyard examines the impact of the Coronavirus Bill on the independent education sector.

[View Publication](#)

Education and public law barrister Matthew Wyard and Paul Wyard of Sinclairslaw review Nottinghamshire CC v SF and another, a case in which the Court of Appeal held that the First-Tier Tribunal had correctly construed the meaning of 'necessary' in section 37(1) of the Children and Families Act 2014 (CFA 2014) in finding that it was necessary for special educational provision to be made for a child in accordance with an EHC Plan – even though the school had identified and made provisions for the child's needs and the child was making progress at school.

This article was first published by LexisPSL on 9 March 2020.

[View Publication](#)

Matthew Wyard analyses Re: ACC &Ors [2020] EWCOP 9, a case concerning the conflicts of interests that may arise where property and affairs deputies instruct a firm with which they are associated to carry out instructions for P, or to conduct litigation on P's behalf.

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Education

Matthew Wyard has practised in the field of education law for 8 years and is happy to represent any party in educational disputes. He is currently writing for the forthcoming, inaugural edition of the new Education Law Handbook and, has previously been published in The Times Higher Education, the Education Law Monitor and the Solicitors Journal.

A busy education law barrister, examples of Matthew's caseload in education is set out below:

Special Educational Needs

Matthew is one of only a handful of barristers who has an understanding of, and experience in, both the English and Welsh special educational needs systems. He has appeared in over 80 appeals/claims representing all parties in all types of appeal before SENDIST and SENTW. Additionally, Matthew has appeared in the Upper Tribunal and in judicial review challenges arising out of the special educational needs system.

Most recently, Matthew was instructed as junior counsel in the Court of Appeal for the Respondents in Nottinghamshire County Council v SF & GD concerning the interpretation of "necessary" under section 37 of the Children and Families Act 2014.

He is an expert on the new special education needs system planned in Wales for 2021 and is undertaking training for Schools on the changes and demands of the new law.

Having worked in house he also has experience attending annual reviews, dispute resolution meetings and mediations.

Admissions/exclusions

Judicial review challenges to legality of decisions made by Admissions Authorities, Independent Review Panels (England) and Independent Appeal Panels (Wales) are Matthew's main area of focus in admissions and exclusion matters. That being said, Matthew is more than happy to assist at all stages of the admissions and exclusions processes.

Civil claims

Having spent his first few years working in-house in the public law and commercial litigation departments of a national public law firm, Matthew is well placed to advise from the outset on all forms of civil litigation in the education sector. He has a particular interest in claims brought by students against higher education institutions and has been involved in a variety of such claims to date including:

- **Re: GY** – claim for breach of contract and/or negligence against the country’s leading higher education institution for a failure to remove the student from a PhD course when it became clear she could not succeed.
- **Re: MK** – claim for negligence against a medical school for how it conducted a fitness to practise process, resulting in a six figure settlement for lost earnings.
- **Re: AS** – claim for breach of contract against a London college for failing to appropriately deal with bullying.
- **Re: B** – defending a claim for fees in lieu of notice brought by a prestigious independent school.
- **Re: JH** – defending a claim for unpaid university fees.
- **Re: CN** – claim against an independent school for breach of contract and breach of the Equality Act 2010 in how it handled the exclusion of a child resulting in a five figure settlement.

Matthew is happy to be instructed as early as possible in all civil matters in order to assist manage expectations and develop the initial case strategy.

Education judicial review challenges

Matthew has depth of experience in education public law challenges. These have included :

- **Re: AT** – Advising on the grounds of challenge to an Academy’s procedure for conducting a managed move which successfully settled at the pre action stage
- **Re: DR** – Advising on the merits of bringing a judicial review claim against a London Borough for maintaining a policy on not placing children below 16 in children’s homes.
- **DJ v The Welsh Ministers & Ors [2018] EWHC 2735 (Admin)** – a challenge to the Welsh Ministers Guidance on post 16 education
- **Thilakawardhana v OIA [2018] EWCA Civ 13** – application for permission to appeal to the Court of Appeal and the substantive appeal
- **Zahid v University of Manchester [2017] EWHC 188 (Admin)** – leading authority on the relationship between the courts and the OIA
- **DS v Wolverhampton City Council [2017] EWHC 1660 (Admin)** – considering the application of s19 Education Act 1996
- **AC v OIA (unreported)** – considering the legality of the OIA’s rules

For more information please see his public law expertise section of his CV.

Governance/employment issues

Matthew has experience advising schools and higher education institutions on a wide range of governance and employment issues including information law obligations. Additionally, he has drafted and advised upon various policies, procedures and contractual documentation (see Matthew’s public & regulatory CV).

Publications

3PB's specialist public law barrister Matthew Wyard has reviewed the draft Curriculum and Assessment (Wales) bill. The bill was introduced to the Senedd on 6 July 2020 without prior public consultation.

[View Publication](#)

Matthew Wyard and Alice de Coverley have produced a guide to remote hearings in SENDIST including practical top tips for both practitioners and witnesses. They cover topics from using technology to adapting your approach to this new style of hearing.

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Matthew Wyard considers the meaning of "reasonable endeavours" in public and private law following the modification of the LA's duty to secure special educational provision specified in an EHC Plan under section 42 to a reasonable endeavours duty, and the likely approach of the Administrative Court to applications to enforce provision in Section F via judicial review.

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Family

Matthew Wyard accepts instructions to represent and advise on family law issues in circumstances in which the Family Court is unable to assist. He has a particular expertise in the use of judicial review proceedings in this context, particular insofar as it concerns the rights of children. Additionally, he is a contributing editor to Clarke Hall and Morrison on Children.

He brings a working knowledge of Family Court Practice and Procedure to all such matters having undertaken part of his pupillage with a leading family law silk.

The types of family law related cases Matthew has been involved in include:

- **Re G** – successfully defended a local authority's application to discharge the court's wardship jurisdiction over an internationally abducted child in the Family Division;
- **Re: CP** – seeking an interim injunction in the Administrative Court to secure emergency accommodation pursuant to section 20 of the Children Act 1989;
- **Re: C** – advising on the use of public law remedies to secure appropriate educational provision and social care provision pursuant to section 17 of the Children Act 1989;
- **Re: H** – advising on a Special Guardianship support package and the use of judicial review to challenge the same.

He is always happy to have an initial chat with any family law solicitors looking to understand how public law proceedings can be utilised to assist their clients with problems for which Family Court proceedings are not appropriate.

Publications

Matthew Wyard analyses Re: ACC &Ors [2020] EWCOP 9, a case concerning the conflicts of interests that may arise where property and affairs deputies instruct a firm with which they are associated to carry out instructions for P, or to conduct litigation on P's behalf.

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