

Richard Clayton KC

Call 1977 | Silk 2002 | Recorder Deputy High Court Judge 2012

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Richard Clayton KC advises and litigates for and against public bodies on judicial review including social care, **data protection**, discrimination, local government law (eg *vires* and powers, governance issues and finance) and regulatory/disciplinary work. He is also a commercial litigator/arbitrator with particular expertise in public sector disputes; emergency injunctions like freezing and seizure orders; civil fraud, breaches of fiduciary duty, insolvency etc. His **international practice** includes Privy Council appeals and court work in the Caribbean. He has conducted over 30 Supreme Court appeals.

Richard has sat as a Deputy High Court Judge since 2012, is a Bencher at Middle Temple, was the United Kingdom's representative to the Venice Commission (the Council of Europe's advisory body on constitutional law) from 2011 to 2019 and is a former Chairman of the Constitutional and Administrative Bar Association.

Chambers & Partners describe Richard as

"one of the finest minds at the Bar... an intellectual giant who is an asset to the Bar."

"Brilliant on his feet"

"very sharp when it comes to tactics. He is very good at guiding you on what the judge is likely to be thinking, his "command of the subject is almost second to none. He is thoughtful, approachable, and very client-focused"

"affable and has a mature approach" "calm, reliable and consistent" and "has a very wide knowledge of the law."

Expertise

Offshore and International

Richard undertakes public and constitutional law, both in the Privy Council and internationally. He sits as a Deputy High Court judge and as an international arbitrator. He undertakes work in the Caribbean (Anguilla, Bahamas, Belize, Cayman, St Vincent, Trinidad, Turks & Caicos), Canada, US, Channel Islands, Gibraltar, Hong Kong and Isle of Man.

- **Offshore and international**
- **Privy Council**

- **European Court of Human Rights**

Richard is instructed in many high profile cases in Trinidad. He is currently instructed to defend a senator defamation proceeding brought by the Prime Minister and in allegedly unlawful cartel arrangement concerning several construction contracts on behalf of a former Minister.

Richard was the United Kingdom representative to Venice Commission (Council of Europe's advisory body on constitutional law) from 2011 to 2019. The Commission comprises independent experts in the field of constitutional law. Richard was a member of its Executive and Chairman of its Sub-Commission on Working Methods. He worked as a Rapporteur in Opinions concerning conscription and freedom of thought (Armenia), freedom of assembly (Russia), freedom of expression and defamation (Azerbaijan) (Italy) and judicial independence and mediation (Tajikistan), freedom of association and NGOs (Azerbaijan), (Hungary) and Romania and the rule of law crisis in Poland Malta and Slovakia.

Notable Offshore and International cases

Responsible Development to Abaco v Rt Hon Perry Christie (2021)

Privy Council grant permission to appeal to constitutional challenge to Bahamas security for costs orders in environmental cases

Boland v Chairman of Board of Inland Revenue (2022)

Privy Council- challenge to promotion system for Field Auditors

Seepeersad v AG of Trinidad (2021)

Privy Council decide important case on right to protection of law, holding that it is breached by detaining juveniles in adult prison

Haggood v AG of Anguilla (2021)

AG successfully persuades Privy Council to refuse permission to appeal to alleged contempt is a "criminal cause"

AG of Anguilla v Lake (2021) (Privy Council)

compulsory purchase compensation acting for AG

Commercial

Richard has experience of all types of complex commercial disputes. He has particular expertise in contractual issues which arise in the public sector including public procurement. Richard undertakes emergency injunction work such as freezing and seizure orders as well as arbitrations. He acts in cases concerning commercial contracts, civil fraud, breaches of directors' duties, insolvency, restitution, shareholders' rights, issues of statutory or contractual construction and public international law.

Current cases include representing a claimant in a \$US150m arbitration arising from Qatar, defending damages claim for conspiracy where a strike out/summary judgment claim is pending, acting as arbitrator in a commercial dispute between a local authority and a private sector care provider, advising in relation to a £7m claim against two banks alleged to be jointly liable with financial advisors for fraud, advising various local authorities in relation to procurement issues, representing a former Minister, an allegedly unlawful cartel arrangements concerning several construction contracts in Trinidad and acting for defendants in a conspiracy claim.

Public Law and Regulatory

Richard undertakes a wide range of advisory and litigation work (both for and against public bodies) covering community care, data protection, discrimination, environmental, healthcare, human rights, local government (e.g. vires and powers, constitutional issues and governance, elections, finance), public procurement, international work (particularly constitutional work) and regulatory/disciplinary work.

- [Administrative and Public Law](#)
- [Human Rights](#)
- [Local Government](#)

Notable Public Law and Regulatory cases

X v X (2021)

Whether balancing right to privacy against freedom of expression requires identifying parties in private law family proceedings)

R(D) v Tandridge DC (2021)

Representing council in application that claimant breached the Urgent Application procedure and is guilty of material non-disclosure.

Swale BC v Total Sprint (2021)

Defending rate claim for over £500,000

Re A (2021)

Advising combined authority on various constitutional issues

R(Hauret) v HMRC (2021)

EU challenge that loan charge legislation is a disproportionate interference with freedom of movement of capital.

R(Hannah) v Chartered Institute of Taxation (2021)

Whether the Institute is a "public body" and fairness lence to Institute's referral of his case to Taxation Disciplinary Board

R (Zeeman and Murphy) v HMRC (2020)

CA- HRA challenge to loan charge legislation as disproportionate interference with right to property

Southwark LBC v Ludgate House (2020)

CA decided that "guardianship schemes" are liable for business rates

Hollandwest v HMRC (2019)

Injunctions granted to preserve right of access to Court to clarify Supreme Court decision, OWD Ltd v HMRC (2019)

Jones v Teaching Regulation Authority (2019)

Whether Secretary of State had power to supplement his statutory procedures by using common law power

R (British Homeopathy Association v National Health Service England (2018)

Consultation challenge to terminating homeopathy treatment)

R (English Bridge Union) v Sports England (2015)

Whether Sports England acted unlawfully in refusing to recognise bridge as a sport

Significant Cases Include

X v Y (2021)

Whether balancing right to privacy against freedom of expression requires identifying parties in private family law proceedings.

Swale BC v Total Sprint (2021)

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R(D) v Tandridge DC (2021)

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Regulatory Information

Regulatory information

Richard Clayton QC is an independent self-employed barrister registered with the Bar Standards Board of England (ref. no 33858); whose practice is governed by the Code of Conduct of the Bar of England and Wales which code can be found at www.barstandardsboard.org.uk; has full professional liability insurance provided by the Bar Mutual Indemnity Fund Limited (ref BM 2930/078) (details of the worldwide cover are provided at www.barmutual.co.uk); is registered for VAT (reg. no. 397004445);

Chambers and its members are regulated by the Bars Standards Board

[Bar Standards Board – The Barristers' Register](#)

Appointments

- Deputy High Court Judge (2012)
- United Kingdom's representative to Venice Commission (Council of Europe's advisory body on constitutional law) (2011- 2019); Member of Executive and Chairman of Working Methods Sub-Commission;
- Recorder (Crown Court) (2006)
- Bencher, Middle Temple (2009);
- Visiting Professor, University College, London (2015 to date)
- Chairman, Constitutional and Administrative Bar Association (2008-2010);
- Associate Fellow, Centre for Public Law, University of Cambridge since 2001;
- Chairman, Bar Council Committee on Civil Legal Aid 2005-2012;
- Vice Chairman Bar Council Remuneration Committee 2006-2008;
- Bar Council Remuneration Committee 2005 to 2010;
- Bar Council Public Affairs Committee 2006-2007;
- Bar Council International Affairs Committee 2008-2010;
- Bar Council 2004-2007.