

Alexander Line

Year of Call: 2009

Direct Access: Yes

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Alex specialises in the areas of **employment** and **education** law. He has extensive employment and discrimination law experience, having practised in these areas throughout his career at the Bar. He has a broad range of experience in education law matters, with particular expertise in the law relating to special educational needs. He is also well placed to assist with **public law** cases affecting these and associated areas. Alex has a busy advisory and advocacy practice, regularly appearing in the Employment Tribunal, County Court and the First-Tier Tribunal. He also has High Court, Employment Appeal Tribunal, Upper Tribunal, and Court of Appeal experience. He has been appointed to the Attorney General's panel of counsel to the Crown (B Panel) and the Equality and Human Rights Commission's panel of counsel (B Panel).

Areas of Expertise

Employment & Discrimination

Alex has significant experience of representing both employers and employees relating to a broad range of sectors in Employment Tribunal proceedings, ranging from providing strategic advice, attending preliminary hearings, through to undertaking complex multi-week trials. He has experience of appearing before the Employment Appeal Tribunal and the Court of Appeal in employment cases. His other main area of practice is education law; therefore he has a particularly strong understanding of the schools and higher education sectors. He also regularly acts in cases involving the public sector.

In the case of *J v K & Another* [2019] EWCA Civ 5, which concerned the EAT's discretion to consider an out of time appeal brought by a disabled litigant, Underhill LJ described Alex's written submissions as "*exemplary*" and his oral submissions as "*of high quality*".

Alex's recent EAT experience includes:

- *Amaryllis Ltd v McLeod and others* UKEAT/0273/15/RN: Alex appeared before Mrs Justice Slade DBE in an appeal concerning the construction of regulation 3(1)(b)(i) of the Transfer of Undertakings (Protection from Employment) Regulations 2006.
- *Sole (Vale) v Jagers* UKEAT/0218/16/DA; UKEAT/0218/16/DA: having represented the claimant, a director of a

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charitable organisation, in a complex whistleblowing and unfair dismissal trial, Alex continued to represent him in the EAT (on issues concerning *Polkey* and costs), appearing before Her Honour Judge Eady QC (as she then was), and against a leading employment silk.

- *Leicester City Council v Patel* [2022] EAT 109: Alex appeared before Mrs Justice Eady DBE, in an appeal concerning the construction of rules 12 and 13 of the Employment Tribunal's rules of procedure.
- *Ministry of Justice v McGrandle* [2022] EAT 126: Alex appeared before HHJ Shanks in a successful appeal to a decision by the Tribunal to reconsider, under rule 70, a decision dismissing a claim following a significant delay.
- *Choudhury v London Borough of Southwark* (unreported, 2022): Alex appeared before HHJ Barklem in a perversity and reasons appeal. The appeal was successfully resisted by the local authority who Alex represented.
- *Ministry of Justice v Dodds* [2023] EAT 31: Alex appeared in the EAT, led by Andrew Allen KC, in a successful appeal against a Tribunal's decision that a group of Circuit Judges had been subjected to part-time worker discrimination (see further below).

A significant aspect of Alex's recent employment law experience arises from representing the Lord Chancellor and Ministry of Justice in complex group litigation typically brought under the Part-time Worker (Prevention of Less Favourable Treatment) Regulations 2000 and the Part-time Worker Directive by fee-paid judicial office holders, relating to their pay and pension conditions. Examples of such work include:

- Acting as junior counsel to **Andrew Allen KC** of Outer Temple (and before him Charles Bourne QC of 11KBW, now a High Court Judge) in *Dodds v Ministry of Justice and Lord Chancellor*, a case brought by a group of Circuit Judges, represented by Robin Allen KC, who are authorised to sit in the High Court pursuant to s.9(1) of the Senior Courts Act 1981. They established that they are part-time workers in relation to their High Court sittings. This decision was appealed on several grounds. The EAT upheld the appeal, accepting that the tribunal's decision was fundamentally in error (*Ministry of Justice v Dodds* [2023] EAT 31).
- Acting as junior counsel to **Andrew Allen KC** in ongoing proceedings, awaiting hearing, brought by a group of Circuit Judges who claim they were treated less favourably because their pensions were transferred between schemes when they ceased being Recorders and were appointed as salaried Circuit Judges.
- Acting as sole counsel in a claim brought by a group of fee-paid judges in the First-tier Tribunal (Special Educational Needs and Disability) in relation to pay arrangements for reading and writing up time in that jurisdiction.
- Acting as sole counsel in relation to just and equitable time extension, including one case (*McGrandle*, mentioned above) which resulted in a successful EAT appeal for the Respondent.
- Working with leading counsel on various and complex items of advisory work relating to the pay and pension conditions for judges, engaging complex issues of employment and public law.

Other examples of Alex's employment work include:

- Representing the Secretary of State for Justice in a multi-day direct discrimination claim concerning the conduct of a prison officer towards prisoners, and disciplinary action taken against her arising from this.
- Representing a school in a preliminary hearing concerning whether evidence of a discussion should be treated as inadmissible because it was covered by the without prejudice rule.
- Representing an employer in an employee status case, establishing that an agency worker was not an employee of the end user.
- Obtaining an award for an enhanced contractual redundancy payment for an employee who was found to have been made redundant because of a business relocation.
- Attending a preliminary hearing to determine whether a service provision change had occurred affecting multiple employees, and appearing in the EAT in an appeal arising from this case on the question of whether the Tribunal had

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erred in its application of TUPE.

- Representing a claimant in a complex two week trial against a leading employment Silk in a claim concerning protected disclosures raised by a managing director.
- Attending a preliminary hearing to determine the question of disability status and thereafter appearing in the EAT following an appeal against the Tribunal's findings.
- Attending a multi-day trial to determine whether an employee had been subject to discrimination arising from disability, and whether the employer had failed in its duty to make reasonable adjustments.
- Attendance at a three day trial concerning an employee with learning difficulties in a claim for unfair dismissal, wrongful dismissal and disability discrimination.
- Advising a local authority in relation to its payment arrangements for term-time only teaching staff, in particular as to whether the arrangements amounted to less favourable treatment under the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000.
- Representing a respondent in a multi-day trial relating to pregnancy-related discrimination and detriment under Maternity and Parental Leave etc Regulations 1999.

Education

Alex has significant experience of education law, and has been ranked in both Chambers and Partners and Legal 500 for several years in relation to this area. His work encompasses the full spectrum of education law, including: special educational needs, admissions, exclusions, safeguarding, discrimination, civil and public law claims concerning schools, colleges and universities. He acts for individuals, local authorities, and education institutions alike.

Special educational needs

Having represented parents, young people and local authorities in many statutory appeals before the First-tier Tribunal (Special Educational Needs and Disability) under the Children and Families Act 2014 (and, before that, the Education Act 1996), Alex is a highly experienced tribunal advocate. He is adept at providing pragmatic strategic advice in complex SEND litigation. He also has a depth of experience in the area of disability discrimination within the First-tier Tribunal's jurisdiction (and of discrimination law generally, arising from his employment practice).

Recent examples of Alex's SEND work in the Upper Tribunal include:

- *PD and AD v Stockton-on-Tees Borough Council* (SEN) [2019] UKUT 57 (AAC): An appeal which gives guidance as to the meaning of section 9 of the Education Act 1996 and section 39 of the Children and Families Act 2014 in the context of school transport.
- *TC and BW v London Borough of Islington* [2021] UKUT 196 (AAC): appeal concerning procedural fairness in the context of remote hearings, and the extent of the duty on a tribunal to make accommodations for disabled litigants.
- *JL (by EA) v Somerset County Council* [2021] UKUT (AAC): appeal concerning a local authority's discretion to continue maintaining an EHC Plan beyond a young person's 25th birthday.
- *AM and IM v Surrey County Council* (2022, unreported): Alex successfully established that the tribunal had misdirected itself in its interpretation of expert evidence, and on its consideration of the impact of transport arrangements between home and school on the appropriateness of the school placement. Following a subsequent judicial review claim concerning the same parties under sections 17 and 20 of the Children Act 1989, Alex's clients were then able to obtain agreement from the local authority to send their child to the residential school which they had sought to achieve in the First-tier Tribunal (without the need for a remitted hearing following their success in

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the Upper Tribunal).

- *Westminster City Council v (1) FTT (HESC) (SENDIST) (2) A* [2023] UKUT 117 (AAC): a judicial review of a tribunal's review decision. The decision clarifies some important points of practice and procedure in relation to the conduct of reviews in the first-tier Tribunal (HESC), and challenges to review decisions.
- *Governing Body of T School v AA and RR* (2023): appeal concerning a school exclusion. The decision of the Upper Tribunal confirms the approach that should be taken by Tribunal when considering if a discrimination claim relating to an exclusion is in or out of time (affecting the Tribunal's jurisdiction to determine it). It also deals with the approach taken to the justification defence under s.15(1)(b) of the Equality Act 2010.
- *Hampshire County Council v C* (2023): ongoing appeal concerning the responsibility of local authorities to maintain the EHCPs of children of armed services personnel who are deployed abroad. Awaiting a decision following a contested hearing.

Alex frequently appears in the First-tier Tribunal SEND, instructed on cases concerning the full range of appeals concerning EHC Plans, and disability discrimination claims within the Tribunal's jurisdiction. He is often instructed in high complexity matters. Recent examples of his work in the First-tier Tribunal include:

- Representing a local authority in a difficult case involving a young person with autism and a PDA profile, which required three hearings, resulting in a tribunal decision of 69 pages.
- Representing a young person in proceedings before the First-tier and Upper Tribunal in a complex case concerning whether an unregulated institution could be specified in an EHC Plan. The appeal was settled prior to a hearing.
- Representing a local authority in a case where a parent sought an ABA programme to be implemented in a mainstream school. Alex successfully persuaded the tribunal that ABA was not required, and that attendance at a mainstream school was incompatible with the efficient education of others (generally regarded as a very difficult test to meet). An appeal was made to the Upper Tribunal which was subsequently withdrawn.
- Representing the parents of child with autism, and helping them achieve a 38 week residential placement.

Exclusions

Alex is highly experienced in the area of school exclusions, appearing in the leading cases in recent years:

- He acted for the Claimant in *R (CR) v Independent Review Panel for London Borough of Lambeth* [2014] EWHC 2461 (Admin), the first reported decision concerning a judicial review of an IRP decision, in relation to which guidance was given by Collins J in relation to the DfE's statutory guidance for school exclusions.
- He represented the governing body of a school in *R (A Parent) v (1) Governing Body of XWZ School and (2) Borough of XYZ* [2022] EWHC 1146 (Admin), which concerned a challenge to a governing body's decision to uphold a school exclusion following a recommendation by an IRP to reconsider.

Alex is very well placed to act and advise in exclusion cases where there is an overlap with discrimination, SEN, and public law duties. He has experience of appearing before school governing bodies in internal review or appeal hearings (in the maintained, academy and independent school sectors), and before Independent Review Panels. He has appeared in numerous claims for disability discrimination, acting for parents and governing bodies, in hearings before the First-tier Tribunal (SEND).

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Admissions

Alex has significant experience of school admissions, having previously acted as a clerk to Independent Appeal Panels when a very junior barrister. He is currently instructed in *R (Sharp) v (1) Office for the Schools Adjudicator (2) Impact Multi Academy Trust (3) London Borough of Bromley* [2023] EWHC 1242 (Admin), a judicial review claim in relation to which the DfE intervened, concerning a challenge to the OSA's decision which had the effect of requiring a school to increase its Published Admission Number to admit additional children, arising from alleged misrepresentations made to parents that primary schools would act as a feeder to a secondary school. The High Court's decision establishes important principles in relation to the remit of the OSA when considering the fairness of admissions arrangements.

Higher education

Alex is well placed to act for students and institutions in legal disputes arising in the higher education sector. Recent examples of his work include:

- Representing a student in a claim for breach of contract and negligence against a university, resulting in a multi-day trial before a Circuit Judge.
- Representing a student in a judicial review claim against a decision of the Office of the Independent Adjudicator for Higher Education.
- Advising a university as to the legality of its disciplinary and complaint procedures in relation to a case where a PhD student had been sexually harassed and assaulted by a supervisor.
- Providing advice to a university as to the content of its code of conduct for students and disciplinary procedure for non-academic offences.
- Advising in a complex claim in which personal injury damages are sought following allegations that a senior member of academic staff sexually assaulted a student.
- Acting in numerous claims made by students against universities raising allegations of breach of contract, negligence, discrimination and harassment.
- Acting and advising in employment tribunal proceedings involving teachers, academics, schools, colleges and universities.
- Representing students in internal proceedings before universities, for example academic misconduct hearings.
- Advising a group of students in respect of a misrepresentation, breach of contract and negligence claim concerning a university course which was terminated prior to its completion.
- Representing a further education college at a hearing in the High Court to strike out a claim for civil harassment and defamation.

Judicial review

Alex's general experience in education law makes him well placed to act in claims which engage directly, or cross over with, education issues:

- As set out above, he has acted in public law claims concerning school admissions and exclusions.
- He has experience of judicial reviews concerning alleged failures to maintain EHC Plans, contrary to section 42(2) of the Children and Families Act 2014.
- He has successfully represented local authorities in judicial review claims brought by schools wishing to challenge

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their specification in an EHC Plan; and in challenges concerning the duty to consult with parents prior to the issuing of a final amended EHC Plan.

- He has experience of claims where children and young people with SEN have concurrent care duties owed to them. For example, he acted for the Claimant in *R (JF) v London Borough of Merton* [2017] EWHC 1519, a successful under the Care Act 2014 to a local authority's attempt to move a young person with autism away from a highly specialist residential setting. More recently, he acted in *R (IY) v London Borough of Barking and Dagenham (2022)*, which concerned a local authority's duty, following a tribunal recommendation, to convert the content of Section H of a young person's EHC Plan into a care plan pursuant to the Care Act 2014 (settled before hearing).
- He has acted in judicial reviews concerning breaches of sections 17 and 20 of the Children Act 1989, and provided advice to local authorities regarding their duties in these areas.
- He has acted in judicial reviews concerning the Office for the Independent Adjudicator for Higher Education, and the Office for the Schools Adjudicator.

Public Law

Alex's public law work is focused principally on the areas of education, community care, health, and mental capacity. He has significant experience of judicial review litigation, including:

- Representing a local authority as an interested party in claim brought by a child against a school that had refused to admit her notwithstanding that it was named in her EHC Plan.
- Representing a young man with severe needs arising from a diagnosis of autism in a challenge against a local authority's decision to move him from his care home to a supported living environment. There are linked court of protection proceedings, but Alex's involvement focusses on a judicial review challenge.
- Representing a student in a claim concerning the procedural fairness of internal academic misconduct proceedings within a university. Upon the student obtaining permission to proceed at an oral permission hearing, the university conceded the claim.
- Providing advice and drafting a response for a government department in respect of a claim concerning the treatment of fee-paid judicial office holders during the Covid-19 pandemic.
- Representing the claimant in the first ever judicial review challenge against an Independent Review Panel decision (*R (CR) v Independent Review Panel of London Borough of Lambeth* [2014] EWHC 2461 (Admin)).
- Representing a governing body in a challenge to a reconsideration of a school exclusion following an IRP decision: *R (A Parent) v (1) Governing Body of XWZ School and (2) Borough of XYZ* [2022] EWHC 1146 (Admin).
- Representing a local authority in a judicial review concerning the Office for Schools Adjudicator's powers: *R (Sharp) v Office of Schools Adjudicator & Others* [2023] EWHC 1242 (Admin).
- Advising a school in respect of a judicial review claim against a local authority in relation to the high number of SEN students being admitted to it through EHC Plans.
- Representing a local authority in a judicial review claim brought by a school, challenging the decision to specify it in section I of a child's EHC Plan.
- Representing a claimant in a claim under section 19 of the Education Act 1996 and Article 2 of Protocol 1 ECHR, in relation to a local authority's failure to provide home education.
- Drafting a response to a pre-action protocol letter on behalf of a further education college, in response to which the claimant did not pursue her claims.
- Representing the claimant in a successful challenge to an assessment of needs under the Care Act 2014, and decision to move the claimant to a different care home (*R (JF) v London Borough of Merton* [2017] EWHC 1519)).
- Representing the claimant in a claim against a grammar school in respect of its admission procedure.

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- Representing a student in proceedings against a decision of the Office of the Independent Adjudicator for Higher Education.
- Advising in respect of any unlawful exclusion 'off-rolling' judicial review against two schools and a local authority.

Court of Protection

Alex has experience in the court of protection concerning health and welfare and property and affairs jurisdictions. He has received instructions from the Official Solicitor, local authorities, family members, health bodies, and the Public Guardian. He has experience of cases involving decisions relating to care, residence and contact; appointment and removal of deputies; medical treatment decisions; deprivation of liberty challenges; and human rights.

Examples of Alex's work include:

- Representing the Public Guardian in proceedings, including at final hearing, against a deputy involving serious allegations of financial and physical abuse.
- Representing an NHS Trust in proceedings concerning the appropriate care and intervention required for an individual who had been discharged from detention under the Mental Health Act 1983.
- Representing individuals and local authorities in proceedings under section 21A of the Mental Capacity Act 2005.

Memberships

- Attorney General's Panel of Counsel to the Crown (B Panel) (September 2022 to August 2027)
- Attorney General's Panel of Counsel to the Crown (C Panel) (September 2019 to September 2022)
- Equality and Human Rights Commission Panel of Counsel (B Panel)
- [Employment Lawyers Association](#)
- [Education Lawyers Association](#)

Awards

- Bedingfield Scholarship, Gray's Inn
- Reid Scholarship, Gray's Inn

Recommendations

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