

# Michael Bimmler

Call: 2019



Michael is now an Associate Member of Chambers, having relocated to Germany where he is working for the German Bar Association as a Legal Advisor. He is not currently accepting new instructions. Please contact the public law clerks in relation to any matter in which he was previously instructed.

Michael Bimmler is a specialist barrister practising in public law. He has particular expertise in prison law, education law, asylum support law, age assessments and inquests but has also acted in a variety of other public law matters.

Michael is frequently instructed as sole counsel in judicial reviews and has also appeared unled in the Court of Appeal. In addition, Michael continues to practise in various tribunals and before the Parole Board. Michael also accepts instructions in civil claims in the County Court / High Court (King's Bench Division) where there is overlap with his judicial review expertise.

Prior to being called to the Bar, Michael worked in international relations and international justice across various countries and he maintains an interest in cases with a cross-border element. He speaks German (native) and French (proficient) and is learning Turkish (lower intermediate).

Michael welcomes opportunities to deliver training on public law issues to other professionals and is an experienced public speaker and panel chair. He has been a board member of several charities and enjoys giving pro bono legal and strategic advice to non-profit organizations.

## Expertise

### Public Law

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Public law is Michael's core practice area. He is familiar with the substantive and procedural principles of judicial review and is frequently instructed to appear in the Administrative Court. Michael welcomes enquiries in all areas of public law but is particularly experienced in prison and parole law, education law and asylum support law (including age assessment disputes).

Michael is able to act in urgent matters (subject to capacity), including emergency applications for interim relief or expedition. He is always

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happy to provide advice on prospects and litigation tactics to those instructing him, including on the steps to be taken at the pre-action stage of proceedings as well as opportunities for speedy resolution out of Court.

## Notable Cases

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### R (Sneddon) v Secretary of State for Justice [2024] WLR(D) 7; [2023] EWHC 3303 (Admin)

The Secretary of State had refused a recommendation by the Parole Board that the Claimant, a life prisoner, be transferred to open prison conditions. In allowing the claim and quashing the Secretary of State's decision, the Court (Fordham J) reviewed the relevant authorities in detail and set out a list of seven key principles material to the Secretary of State's exercise of discretion. The Secretary of State has obtained permission to appeal from the Court of Appeal, which will hear the case in the course of 2024. Michael acts for the Claimant, as sole counsel in the High Court and led by Jude Bunting KC in the Court of Appeal.

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### R (Kane) v Independent Adjudicator and Secretary of State for Justice

[2024] 1 WLR 1081; [2023] EWCA Civ 842 (Court of Appeal) [2022] EWHC 1376 (Admin) (High Court) The Claimant, a prisoner, had asked an Independent Adjudicator to dismiss disciplinary charges against him on no proper consideration had been given to the referral of the charges to her. He obtained permission for judicial review from the Court of Appeal (Popplewell LJ) and was successful in the substantive hearing in the Administrative Court (Hugh Mercer QC sitting as a Deputy Judge). On appeal by the Secretary of State for Justice as Interested Party, the Court of Appeal reversed the first instance judgment. It held that prison discipline was meant to provide a simple, speedy and proportionate system of justice, with no duty on the Independent Adjudicator to inquire into a referring governor's reasoning. Michael was sole Counsel for the Claimant in the High Court and the Court of Appeal.

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### R (Somers) v Parole Board

[2024] A.C.D. 2; [2023] EWHC 2962 (Admin) (Costs Judgment) [2023] EWHC 1160 (Admin) (Substantive Judgment)/a> The Claimant was aggrieved by the Parole Board's failure to convene an oral hearing in his parole review, which was contrary to longstanding guidance by the Supreme Court. The Parole Board was neutral in the claim but following the grant of permission to apply for judicial review sought further guidance from the Court on the scenarios in which oral hearings were (not) required. The Court (Foster J) allowed the claim and set out the existence of a quasi-presumption in favour of oral hearings for post-tariff life prisoners. In a separate judgment, Her Ladyship held that it had been unreasonable for the Parole Board not to concede the case and that it was thus liable for the Claimant's case although it appeared in the case as a neutral judicial body. Michael acted for the Claimant as sole counsel in the pre-permission stage and led by Jude Bunting KC for the substantive hearing and costs submissions.

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### R (Bailey and Morris) v Secretary of State for Justice

[2023] 1 WLR 2519; [2023] EWHC 555 (Admin) (First judgment) [2023] 1 WLR 2564; [2023] 2 Cr App R 7 (Second judgment) [2023] EWHC 1438 (KB) (Third judgment) A Divisional Court (Macur LJ and Chamberlain J) held that the Secretary of State had acted unlawfully in amending the Parole Board Rules and issuing guidance to the effect that in parole reviews, prison and probation service employees and contractors could no longer express a view on whether a prisoner ought to be released from custody or transferred to open conditions. In a second judgment, the Court held that refusal by a witness to answer an oral question by the Parole Board could amount to contempt and the person instructing the witness not to answer could equally be guilty of contempt. As part of its conclusion, it held that the law of contempt applies to proceedings before the Parole Board, which it found to be a court of tribunal exercising the judicial power of the state. Any alleged contempt would have to be addressed in proceedings before the High Court. In a third judgment, having considered further evidence disclosed by the Secretary of State on how the unlawful amendment to the rules and unlawful guidance had come into existence, the Court held that it would not be in the public interest to initiate contempt proceedings in the present instance. Michael Bimmler acted for the Claimants led by Philip Rule KC.

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### R (Cusworth) v Secretary of State for Justice [2023] EWHC 1281 (Admin)

The Claimant sought judicial review of the Secretary of State's decision that he was to remain a Category A (high security) prisoner and that he was not entitled to

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an oral hearing in this regard. The Court (Dexter Dias KC sitting as a Deputy Judge) found that on the totality of the materials, the decision-maker was entitled to form the view that no oral hearing was required and he could fairly take the decision on the written materials before him. Michael acted for the Claimant.

### **R (Green) v Secretary of State for Justice (No 2) [2023] EWHC 1211 (Admin)**

The Court (Sir Ross Cranston) held that the Secretary of State had unlawfully decided to reject a recommendation by the Parole Board that the Claimant be progressed from closed to open prison conditions, because the decision-maker had failed to take into account the absence of an up-to-date psychological risk assessment ('HCR-20') which was a material consideration. Michael acted for the Claimant.

### **R (Wynne) v Secretary of State for Justice [2023] EWHC 1111 (Admin)**

The Court (Steyn J) granted this application for judicial review and found that the Secretary of State had acted irrationally when decided to refuse a Parole Board recommendation that the Claimant be transferred to open prison conditions, picking out individual aspects of the risk assessment but not giving a rational justification from the overall conclusions of the Parole Board. Michael acted for the Claimant.

### **R (Green) v Secretary of State for Justice [2023] EWHC 626 (Admin)**

The Claimant had sought judicial review of a decision by the Secretary of State that he is to remain a Category A (high security) prisoner and that no oral hearing was required in his security category review. The Court (HHJ Walden-Smith sitting as a Judge of the High Court) held that the decision-making process was not unfair or in breach of published policy in the circumstances, as no issue arose that required clarification at an oral hearing and could not be considered on the papers. Michael acted for the Claimant.

### **R (Dobson) v Secretary of State for Justice [2023] EWHC 50 (Admin)**

The Claimant was a prisoner in an open prison whose application for release on temporary licence ("ROTL") had been refused. He complained that the procedure adopted by the prison was unfair, as he had not been given the full reasons for refusal in writing, thus preventing him from making informed submissions in his internal appeal and obtaining external advice. The Court (Fordham J) held that the Claimant's procedural fairness entitlements had been violated. He resolved a number of factual disputes in the Claimant's favour and quashed the Secretary of State's decision, requiring him to consider the Claimant's application afresh. Michael acted for the Claimant.

### **R (Newton) v Parole Board [2022] EWHC 3051 (Admin)**

The Claimant sought judicial review of a decision by the Parole Board not to release from custody. The Court (Julian Knowles J) held that the Parole Board fell into error when expressly taking into account unproven (and contested) allegations against the Claimant when assessing the risk that he posed. The Parole Board's decision was quashed. Michael acted for the Claimant.

### **R (Newson) v Secretary of State for Justice [2023] A.C.D. 16; [2022] EWHC 2836 (Admin)**

Although the Parole Board had directed his release in February 2022, the Claimant (an IPP prisoner) remained in custody by November 2022 due to delays to arranging supported accommodation. The Court (Ritchie J), following an expedited rolled up hearing, held that the Claimant's imprisonment was unlawful after 1 August 2022 and in violation of Article 5 ECHR, granting judgment for damages to be assessed. Michael acted for the Claimant.

### **R (Coulter) v Secretary of State for Justice CO/1739/2022 (23 September 2022, unpublished)**

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The Secretary of State for Justice had refused an oral hearing in the context of the review of the Claimant's Category A status. The Court (HHJ Stephen Davies) held that this refusal was wrong, as fairness required a hearing to obtain the psychologists' views on a point of importance and to allow the Claimant to respond to allegations made against him. The decision was quashed and an oral hearing ordered. Michael acted for the Claimant.

#### R (Farid) v Parole Board CO/2030/2022 (9 August 2022, unpublished)

The Claimant sought expedited judicial review of a decision of the Parole Board not to order his release following his recall to custody. The Court (HHJ Bird) held that the Parole Board panel had failed to give adequate reasons for rejecting expert evidence and that an important part of its reasoning was irrational. The panel's decision was quashed and a priority re-hearing before a different panel ordered. Michael acted for the Claimant.

#### R (Ali) v Parole Board CO/3545/2021 (5 May 2022, unpublished)

The Claimant applied for judicial review of a decision of the Parole Board not to recommend his transfer to open conditions, on the grounds of a failure by the Board to comply with directions on such decisions, and of irrationality. The Court (Matthew Gullick QC) allowed the claim and quashed the decision. Michael acted for the Claimant.

#### R (Greene) v Parole Board CO/3120/2021 (8 March 2022, unpublished)

The Claimant challenged a decision of the Parole Board to conclude his parole review without a hearing. The Court (Foster J), applying *Osborn, Booth and Reilly* [2013] UKSC 61 held that fairness clearly required an oral hearing in the circumstances, quashed the Parole Board's decision and directed an oral hearing. Michael acted for the Claimant.

#### R (Farmer) v Secretary of State for Justice [2021] EWHC 3487 (Admin)

A successful challenge to a decision refusing the Claimant's downgrade from Category A to Category B, taken without an oral hearing. The Court (Steven Kovats QC) held that the decision was unfair at common law and granted a quashing order. Michael acted for the Claimant.

#### R (Pierpoint) v Parole Board for England and Wales [2021] EWHC 2705 (Admin)

A successful challenge to a refusal by the Parole Board to grant an oral hearing in a recall case. The Parole Board had failed to comply with the *Osborn* guidelines and failed to give adequate reasons. The Court (HHJ Saffman) quashed the Parole Board's decision and made a mandatory order for an oral hearing. Michael acted for the Claimant.

## Civil Liberties & Human Rights

Michael's public law work is focussed on matters involving civil liberties and human rights. He is well versed in the European Convention on Human Rights, as implemented by the Human Rights Act 1998, and both European and domestic case law interpreting its provisions. Michael frequently uses human rights grounds when acting for individuals in challenging decisions of the state and has experience in advising when these may provide an additional or novel angle for a claim.

Michael was previously a member of the Young Lawyers' Committee of the Human Rights Lawyers Association. Prior to becoming a barrister, Michael worked on serious human rights violations and international crimes around the world for [Justice Rapid Response](#)

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and he is familiar with UN and regional human rights protection mechanisms, the International Criminal Court, as well as various national transitional justice processes.

## Community Care

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Michael has particular experience in acting on behalf of asylum seekers and other immigrants on community care matters. He is frequently instructed to challenge the failure to provide suitable asylum support accommodation (or accommodation for failed asylum seekers where applicable). He is familiar with the type of evidence that must be assembled for a successful claim and is able to advise from an early stage on prospects, as well as providing further guidance as the case develops. Michael is able to draft interim relief applications, and appear at short notice hearings, with such urgency as the client's circumstances require.

Michael also has considerable experience of acting for young persons in age disputes, where local authorities deem unaccompanied asylum seekers to be adults rather than children. He has obtained permission to apply for judicial review in a number of cases and appeared in several fact-finding hearings in the Upper Tribunal (Immigration and Asylum Chamber). He is familiar with the evidential issues that routinely arise in such cases and can advise on the strength of a case, the supportive evidence that can be obtained as well as the important issue of disclosure in fact-finding proceedings. He is also able to advise on and act in challenges to local authority decisions not to re-assess age on the basis of new information.

In mental health matters, Michael has previously acted in applications for the displacement of nearest relatives and also has provided advice on the aftercare duty set out in section 117 of the Mental Health Act 1983. Michael is available for instructions in other types of community care matters subject to whether he has the requisite expertise.

## Education

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Education law forms a significant proportion of Michael's work and he is a frequent advocate in the First-tier Tribunal's Special Educational Needs and Disability jurisdiction. He accepts instructions from both parents/young persons as well as local authorities in SEN-related appeals.

Over the course of more than 100 hearings, Michael has obtained experience in all legal and factual issues that can arise, ranging from disputes on high costs placements through contested expert evidence on therapeutic and 1:1 provision to the exercise of the Tribunal's more recent power to make health and social care recommendations. Michael's experience includes complex cases turning on residential provision, post-16 provision and maintained EHCPs for Young Persons, and Education Otherwise Than In School.

Michael has also acted in disability discrimination claims heard by the First-tier Tribunal, for both parents and schools, and is able to provide early advice on the prospects of a claim, and the evidence needed in any proceedings, from either perspective.

Furthermore, Michael acts in judicial review applications related to the implementation of Education, Health and Care Plans (e.g. *R (JB) v Kingston upon Thames LBC*, settled by consent; *R (EK) v Barking and Dagenham LBC*, settled by consent).

Michael also welcomes instructions to provide advice and representation on other aspects of education law.

## Prison & Police Law

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Prison law is one of Michael's core areas of expertise. He often represents prisoners in applications for judicial review in the High

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Court against decisions made in the prison context, such as parole decisions, decisions on transfer to open conditions, recategorisation decisions, adjudication decisions, prison allocation decisions, decisions on segregation, and decisions on suitability for release on temporary licence. Michael is available to provide advice on all areas of prison law and on the merits of challenging a decision, or omission, by judicial review or other mechanism.

Aside from his High Court work, Michael also appears in a wide range of Parole Board hearings, with an emphasis on more complex cases (life / IPP prisoners detained long after tariff expiry, contested recall matters, Terrorism Act cases, cases involving detention under the Mental Health Act etc.). He is also able to advise on, and draft, applications for reconsideration and set aside applications, or submissions opposing applications.

Michael regularly provides training for other prison lawyers and is one of the co-authors of the 'Prison Law' section of the Prisons Handbook 2023.

## Inquests, Public Inquiries & Coronial Law

Michael frequently appears in inquiries in a variety of contexts, with particular experience of mental health and prison-related inquests. He has been instructed as sole counsel in several jury inquests and is familiar with both Article 2 and non-Article 2 proceedings.

He is available to provide advice at an early stage of proceedings to ensure that the rights of his clients are properly protected at Pre-Inquest Review Hearings, that relevant disclosure is given and obtained, and that all relevant evidence (including expert evidence where necessary) is before HM Coroner.

## Accreditations

- Phoenicia Scholarship, Bar European Group
- Buchanan Prize, Lincoln's Inn
- BPTC Scholarship for pro bono achievements, BPP
- Lord Brougham Scholarship, Lincoln's Inn Scholar of the Swiss Study Foundation

## Qualifications

- Bachelor of Arts in History and Politics – University of Oxford
- Master in International Affairs – Graduate Institute of International and Development Studies, Geneva
- BPTC – BPP University
- GDL – University of Law

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