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Donald Broatch



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PROFILE

Donald is a qualified mediator: he is a Member of the Society of Mediators, and a Registered Mediator with the Civil Mediation Council.

He has extensive experience of a wide variety of civil disputes over 5O years as a Barrister. He has specialised in Administrative Law and Housing. He has appeared in the House of Lords and the European Court of Justice. He was instructed both by Public Bodies and by individuals. He is a seasoned negotiator.

Donald has developed the soft skills necessary for mediation and is able to listen to and maintain the confidence of parties. He is able to use these skills, and his experience, to assist in finding a settlement. He is only too well aware of the risks, expense, uncertainly and stress of litigation, and is well placed to steer the parties though a process which seeks to avoid these.

Donald practices mainly in administrative law and housing. He has very extensive advocacy experience, particularly at appellate level. He has appeared in a large number of high-profile cases, including in the European Court of Justice and in the House of Lords.

Donald also has a substantial advisory practice. He is instructed both for and against applicants for judicial review, tenants and other individual litigants. He is instructed by a number local authorities for whom he regularly acts in cases of significance. He can also accept instructions directly from individuals, in suitable cases.

Donald Broatch has lectured on topics arising from his specialist areas of practice, including the European Convention on Human Rights, judicial review, and homelessness. He has recently given a lecture at Central Law Training on public law defences and conducted a seminar for local authority and social housing lawyers on the Public Sector Equality Duty in the Equality Act 2010.

EXPERTISE

Public law; judicial review; social housing and related topics, including homelessness and allocations; employment; human rights

FURTHER INFO

Directories

Legal 500 lawyer.

Qualifications

Ll.B & Ll. M – London University
Harmsworth Scholar (Middle Temple)

Important Cases

R (Yekini) v Southwark LBC [2014] EWHC 2096 (Admin).
Represented the Authority: significant case concerning housing and its financing for Zambrano carers. Appeal to Court of Appeal pending.

Huzrat v Hounslow LBC [2014] HLR 70
Successfully represented Authority in resisting application of “best interests of child” and ZH Tanzania to relation to Housing Act Part VII decisions. Application to appeal to Supreme Court pending.

Pryce v Southwark LBC [2013] 1WLR 996
Represented Authority in appeal concerning eligibility of Zambrano carer and associated questions.

Dharmaraj v Hounslow LBC [2011] HLR 18 (Court of Appeal)
Successfully represented Authority in resisting challenge based on wording of appeal notification in a decision under Sec 202 of the Housing Act 1996.

De-Winter Heald v Brent LBC [2010] 1 WLR 990
Appeared for the successful Local Authority in three conjoined appeal in which the Court of Appeal confirmed the lawfulness of contracting out reviews under Sec 202 of the Housing Act 1996, and dismissed challenges alleging appearance of bias on the part of the decision-maker.

Novitskaya v Brent LBC & Sec of State [2010] HLR 21
Represented a Local Authority in the Court of Appeal in appeal about the time limits for Housing Benefit claims etc.

Wilson v Ashford BC [2011] Env LR D1 (Admin Court)
Represented landlord in appeal by Case Stated in relation the costs awarded to Local Authority in respect of abandoned appeal to the Crown Court. Inconsistency between Sec 109 MCA and Crown Court Rules.

Ugiagbe v Southwark LBC [2009] HLR 35 (Court of Appeal)
Represented Authority in appeal concerning intentional homelessness. Applicant unaware of her right to remain in property until possession order but failed to follow advice, which would have prevented her homelessness. Court of Appeal considers whether such conduct was "in good faith."

Law Society v Salsbury [2009] 1 WLR 1286
Solicitors Disciplinary proceedings
Represented solicitor in appeal to Court of Appeal by the Law Society challenging the result of a successful appeal to the Administrative Court. Principles touching the striking-off of solicitors reviewed.

Moroney v Anglo European College of Chiropractic [2009] ELR111, CA [2009] EWCA Civ 1560
Public law: education
Represented college of University in the High Court and Court of Appeal in resisting claim by former student alleging miss-application of examination rules and like complainants

Hallam Peel & Co v Southwark LBC [2009] 2 Costs LR 269
Housing; wasted costs
Represented Authority in the Court of Appeal, in appeal by solicitors against wasted costs order made in the County Court, arising from the last minute introduction of a fresh point

R (Faarah) v LB Southwark [2009] HLR 12 (Court of Appeal)
Housing allocations
Challenge to Local Authority allocations policy and its application

R (Yazar) v LB Southwark [2008] EWHC 515 (Admin), [2008] All ER (D) 273
Housing; allocations policy
Appeared for Authority in challenge to its allocations policy. Have represented authorities in a series of such challenges. Have advised authorities in relation to re-drafting their allocations policies

Osei v Southwark [2008] HLR 15 (Court of Appeal)
Housing – homelessness
Intentional homelessness; giving up of accommodation abroad to move family to UK. Authority's decision upheld.

Slater v Lewisham [2006] HLR 37 (Court of Appeal)
Subject/areas of law Housing homelessness
Establishes the correct approach to s.193(7F)Housing Act 1996

Evans v Secretary of State [2005] All ER (EC) 763 European Court of Justice
European Union – Compensation For Victims Of Untraced Drivers
Challenge to the compliance of the UK's Motor Insurers Bureau scheme with relevant EEA obligations.

Paragon Finance v Pender [2005] 1 WLR 3412 (Court of Appeal)
Mortgage interest rate challenges; assignee's title to sue
Appeared for borrowers in appeal against possession order on the basis that the mortgage lender, by virtue of securitisation arrangements in respect of the mortgage had no title to sue or was in breach of an implied term not to vary interest rates capriciously, or on grounds that the mortgage was an extortionate credit bargain.

Southwark LBC v Mills [2001] AC 1, House of Lords
Landlord And Tenant – Housing – Local Government – Nuisance – Real Property
This case settled important points in housing and landlord and tenant law, whether the covenant of quiet enjoyment and the tort of nuisance may be enlisted to compel landlords to install soundproofing. The case has particular significance for social landlords and their tenants

Luck v Tower Hamlets LBC [2003] EWCA Civ 52 (Court of Appeal)
Contracts – Human Rights – Local Government – Torts
Appeared for excluded contractor in claim against Authority for breach of obligations under the Public Services Contracts Regulations 1993 SI 1993/3328 and for misfeasance in public office.

Paragon Finance v Nash [2002] 1 WLR 685, Court of Appeal
Challenge to mortgage interest rates
Appeared for borrowers in challenges to secondary lender's interest rates. This case establishes that

commercial mortgage lenders were under a duty not to vary interest rates dishonestly, capriciously or Wednesbury unreasonably.

DPP v Ara [2002] 1 WLR 815, Divisional Court
Judicial Review – Police Law
Leading case on judicial review of police cautions

Other recent matters

Allocations Policies –Local Authorities
Housing
Have advised a number of Local Authorities in relation to allocations and on the contents of policies

Housing – demolition and redevelopment
Housing
Advised an Authority in relation to obtaining possession from tenants under Ground 10/10A Housing Act 1985, home loss payments and associated topics

Housing Homelessness; EEA nationals
Housing EEA law
Advised a number of Authorities on the eligibility of EEA nationals

Housing Homelessness
Advised an Authority at to its powers and duties in relation to the storage of the property of homeless applicants under Part VII of the Housing Act 1996.
Successfully appeared for an Authority in a Sec 204 appeal based on alleged non-compliance with Sec 49 A of the Disability Discrimination Act 1995.

Homelessness Audit
Housing Homelessness.
Conducted audit of Local Authority homelessness files to ensure compliance with the relevant statutory duties.

Housing
Advised an Authority as to the relationship between Part VII of Housing Act 1996, and its powers and duties under the Children Act 1989. Acted for the Authority in related JR proceedings.
Advised and acted for a number of Authorities in seeking possession of premises occupied or formerly occupied under service tenancies.

Local Authority
Advised an Authority as to its bye-law making powers in relation to car parks and clamping.

Estate Agents – prohibition orders
Licensing/disciplinary proceedings Estate Agent Act 1979
Represented a firm of Estate Agents in appeal against order under the Estate Agents Act 1979 prohibiting them from carrying on business.

Private Hire Drivers – Licensing proceedings.
Licensing appeal proceedings; Private Hire Vehicles (London) Act 1998
Represented London “Mini Cab” drivers and Private hire firm in a series of appeals against decisions of The Mobile Carriage Office of Transport for London to withdraw licences.

Mediation

Donald Broatch has represented clients at mediations on a number of occasions.

Articles and Publications

Donald has annotated Acts of Parliament for the Sweet & Maxwell Current Law Statutes series, including the Identity Cards Act 2006.

Professional Memberships

He is a member of the Administrative Law Bar Association, Social Housing Lawyers Association, Human Rights Lawyers Association, and London Common Law and Commercial Bar Association

Pro Bono and Charity Activities

Donald is sensitive to the needs of the under-privileged and vulnerable. He has worked at a Neighbourhood Law Centre. He is a member of the civil liberties organisations: Justice, Liberty, and Lawyers for Liberty.

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