

# Mathew Gullick KC

**Year of Call:** 2003

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## Overview

Mathew Gullick KC is an experienced High Court and appellate advocate. He has appeared in more than 30 substantive appeals in the Court of Appeal and the UK Supreme Court, most recently in the leading holiday pay case of **Harpur Trust v Brazel** [2022] UKSC 21, [2022] ICR 1380. He has also had significant involvement in highly complex and long-running matters, including Public Inquiry and Group Litigation experience, and appeared in the Grand Chamber of the European Court of Human Rights in **Nealon & Hallam v United Kingdom** (Judgment 11th June 2024). He is Head of the Costs group.

Mathew's litigation practice is focused on public law and employment. He has appeared in the Court of Appeal, the Administrative Court and the Upper Tribunal on a wide range of public law matters. In the employment context, he acts for both claimants and respondents (public, private and third sector) across the field of employment law in the Employment Tribunals and the courts.

Mathew has extensive experience of advising and appearing on jurisdictional, procedural and costs issues in all types of civil litigation, including in relation to many of the more obscure provisions of the applicable legislation and rules. Several of his cases are cited as precedents in the leading textbooks on civil procedure. He has been involved in numerous high value costs matters, including multi-million pound costs claims in group litigation, and has twice been instructed as specialist costs Counsel to make post-judgment submissions on costs to panels of the UK Supreme Court.

Mathew is a member of the Chartered Institute of Arbitrators (MCIArb). From September 2018 to September 2024, he served a six-year fixed term as a Deputy High Court Judge, assigned to the King's Bench Division. He was additionally authorised to sit as a judge of the Administrative Court and in the Employment Appeal Tribunal (EAT), and undertook a wide range of interlocutory, trial and appellate work in these judicial roles.

Prior to taking Silk in March 2021, Mathew was for 13 years a member of the Attorney-General's panels of junior Counsel to the Crown in civil matters, including five years on the London A Panel. From July 2015 to November 2018, he was part of the Counsel team instructed by the UK Government in the Kenyan Emergency Group Litigation (KEGL), in which more than 40,000 individuals unsuccessfully brought claims in the High Court arising from their experiences during the 'Mau Mau' Emergency in the 1950s. The KEGL was one of the longest-running trials in English legal history, sitting in court for 230 days between the start of the trial in May 2016 and its conclusion in November 2018. The case involved wide-ranging and complex issues including in relation to jurisdiction, limitation, constitutional law, tort (negligence, vicarious liability and common design), evidence and civil procedure.

From January to December 2020, he was instructed by Ofsted on several of the Investigations conducted by the Independent Inquiry into Child Sexual Abuse (IICSA), including those into Child Sexual Exploitation by Organised Networks and into Effective Leadership of Child Protection in which Ofsted was a Core Participant.

Mathew has been nominated for the Bar Pro Bono Award three times, on the second occasion receiving a special commendation from the judging panel. He is a member of the Advocate (formerly Bar Pro Bono Unit) panel of case reviewers,

and has worked as a volunteer for the charity Bridging the Bar since its foundation in 2020. In July 2024, Mathew was elected as a Bencher (member of the governing body) of Gray's Inn.

Outside the courtroom, Mathew has represented the Bar of England & Wales at four Lawyers' Cricket World Cups (2007-2016).

#### **Reported Cases Include:**

**R (on the applications of ADL & Others) v Secretary of State for the Home Department** [2024] EWHC 994 (Admin), [2024] 4 WLR 63 – leading case on the lawfulness of using electronic monitoring as a condition of immigration bail, including the retention and use of GPS trail data by the Home Office.

**Harpur Trust v Brazel** [2022] UKSC 21, [2022] ICR 1380 – workers on permanent contracts who performed work for only part of the year (e.g. during academic terms) were entitled to the full 5.6 weeks' paid holiday under the Working Time Regulations 1998, which could not be reduced on a pro-rata basis.

**SC (paras A398-399D: 'foreign criminal': procedure)** [2020] UKUT 187 (IAC), [2020] Imm AR 1121 – approach to human rights claim raised in response to deportation decision by foreign national whose criminal offence was committed abroad.

**R (on the application of Jalloh) v Secretary of State for the Home Department** [2020] UKSC 4, [2021] AC 262 – a requirement to abide by an overnight home curfew, enforced by electronic tagging, constituted an imprisonment of the claimant for the purpose of the tort of false imprisonment.

**R (on the applications of Nealon and Hallam) v Secretary of State for Justice** [2019] UKSC 2, [2020] AC 279 – Article 6.2 ECHR not applicable to decisions to refuse award under statutory compensation scheme for miscarriages of justice; scheme would not breach Article 6.2 even if applicable.

**Kimathi & Others v Foreign and Commonwealth Office** [2017] EWHC 3379 (QB), [2018] 4 WLR 48 – Article 9 of the Bill of Rights prevents reports of Parliamentary debates being used as evidence of the truth of the extraneous facts referred to by Members of Parliament in those debates.

**Mahmud (s.85 NIAA 2002 - 'new matters')** [2017] UKUT 488 (IAC), [2018] Imm AR 264 – a decision of the Upper Tribunal which gives guidance on the correct approach to considering a 'new matter' in statutory appeals, under s.85 of the Nationality, Immigration and Asylum Act 2002 (as amended).

**Kimathi & Others v Foreign and Commonwealth Office** [2016] EWHC 3005 (QB), [2017] 1 WLR 1081 – CPR 3.9 could not be used to validate a claim which was a nullity because the claimant was dead when the claim was brought in his name.

#### **Publications**

Contributor to "Millington and Sutherland Williams on the Proceeds of Crime" (Fourth Edition, 2013, Fifth Edition, 2018, and Sixth Edition 2023) (Oxford University Press)

"Recusal of Judges in Civil Litigation", Thomson Reuters Practical Law, February 2022

"Corner House Revisited: The Law Governing Protective Costs Orders", Judicial Review March 2009, [2009] JR 43

"Cutting Back on Custody", New Law Journal 11th February 2005, (2005) 155 NLJ 220

"The Criminal Justice Act 2003: Sentencing and Early Release of Fixed-Term Prisoners", Criminal Law Review August 2004, [2004] Crim LR 653

"Political Donations and Political Expenditure by Companies: The Authorisation and Disclosure Requirements of the Companies Act 1985", Business Law Review March 2003, (2003) 24 Bus LR 48

"Sentencing and the Home Detention Curfew Scheme", Criminal Law Review May 2002, [2002] Crim LR 391

Mathew also assisted with the Third Edition (2004), Fourth Edition (2006) and Fifth Edition (2009) of "Understanding the

## Commercial

Mathew Gullick KC is a member of the Chartered Institute of Arbitrators (MCIArb) and accepts appointments as an Arbitrator. He has considerable experience at the highest level as an advocate and, more recently, as a judge.

Mathew has appeared as counsel in more than 30 full appeals to the Court of Appeal of England & Wales, and six times in the United Kingdom Supreme Court. More details of his work as an advocate are set out in his separate specialist profiles.

In 2018, Mathew was appointed as a part-time Deputy Judge of the High Court of England & Wales for a fixed term of six years. He was assigned to the Queen’s (now King’s) Bench Division, and was also authorised to sit in two specialist jurisdictions: the Administrative Court and the Employment Appeal Tribunal. He remains one of the youngest Deputy High Court Judges ever appointed.

In these roles, Mathew undertook a wide range of interlocutory, trial and appellate work involving many different areas of law. His cases often involved Leading Counsel appearing before him as advocates, sometimes on both sides. Several of his decisions feature in the specialist law reports. Examples of judgments given as a Deputy High Court Judge include:

**Pepe’s Piri Piri Ltd v Junaid & Others [2019] EWHC 2097 (QB):** judgment following two week commercial trial involving allegations of conspiracy to injure by unlawful means, unlawful interference with business and procuring a breach of contract, including consideration of expert forensic accounting evidence.

**Goknur v Aytaccli [2020] EWHC 2542 (QB), [2020] Costs LR 1973:** application for non-party costs order against a company director alleged to be the ‘real party’ in a commercial dispute. Decision upheld by the Court of Appeal: [2021] EWCA Civ 1037, [2021] 4 WLR 101.

**R (on the application of Imam) v Croydon LBC [2021] EWHC 739 (Admin), [2021] HLR 44:** whether to grant a mandatory order against a local housing authority in breach of its duty to provide suitable accommodation to the claimant. Decision appealed to the UK Supreme Court: [2023] UKSC 45, [2023] 3 WLR 1178 – now the leading case on the principles applicable to granting mandatory orders.

**Parker v McClaren [2021] EWHC 2828 (QB):** judgment on liability in a negligence claim arising from catastrophic injuries suffered in a road traffic collision, involving complex expert accident reconstruction evidence.

**Moore Stephens LLP v Parr (UKEAT/0238/20):** whether the demotion of an equity partner to salaried partner was conduct “extending over a period” or a one-off act, for the purpose of the statutory time limit applying to a discrimination claim. Decision upheld by the Court of Appeal [2022] EWCA Civ 24, [2022] ICR 672.

**Stuewe v Health & Care Professions Council [2021] EWHC 3362 (Admin):** whether the circumstances were sufficiently exceptional to justify extending the fixed statutory time limit for filing an appeal in professional disciplinary proceedings. Decision upheld by the Court of Appeal: [2022] EWCA Civ 1605, [2023] 4 WLR 7.

**Brown v McGregor (Unreported, King’s Bench Division, 3rd March 2023):** judgment refusing the claimant’s application for an injunction to prevent the defendant, a world champion mixed martial artist, appearing in “The Ultimate Fighter” (Season 31) television series in the USA.

**Charalambous v National Bank of Greece [2023] EAT 75, [2023] ICR 1192:** whether the claimant’s dismissal was unfair because the decision-maker did not hold a meeting with her before reaching the decision to dismiss.

**Bugden v Royal Mail Group Ltd [2024] EAT 80, [2024] ICR D39:** an Employment Tribunal should have considered redeployment as a potential alternative to dismissal when deciding whether the claimant’s dismissal was within the range of reasonable responses open to the employer for the purposes of an unfair dismissal claim.

## Academic qualifications

- MA (Oxon)
- Dip Law (City)

## Scholarships

- Mould Senior Scholarship (Gray's Inn, 2003)
- Phillips Senior Award (Gray's Inn, 2003)
- Birkenhead Junior Award (Gray's Inn, 2002)
- The Lee Essay Prize (Gray's Inn, 2003)
- First Prize, The Graham Turnbull Memorial International Human Rights Essay Competition (Law Society, 2003)
- First Prize, The Times Law Awards (2002)
- The City University Prize for Public Law (2002)

## Professional qualifications & appointments

- Judge of the Upper Tribunal, Administrative Appeals Chamber
- Judge of the Employment Appeal Tribunal
- Recorder
- Bencher of Gray's Inn
- Member, Chartered Institute of Arbitrators (MCIArb)

## Professional bodies

- Constitutional and Administrative Law Bar Association (ALBA)
- Employment Law Bar Association (ELBA)
- Employment Lawyers Association (ELA)
- London Common Law and Commercial Bar Association (LCLCBA)
- Proceeds of Crime Lawyers Association (POCLA)
- Industrial Law Society (ILS)
- Statute Law Society