

regulatory and disciplinary law



Chambers & Partners 2008 places 39 Essex Street in the first rank of Professional Discipline chambers, stating:

“This set has built its professional discipline practice from the foundations of a well-established public law practice. Known to take on mainstream disciplinary cases, the set often handles challenges from the BMA, MDU and GDC, and also specialises in social care work. Clients have forged good relations with clerks at the set, and comment that ‘this set offers barristers of varying experience and can always be relied upon to deliver the goods’.”

Recent decades have seen a remorseless increase in the regulation of professions and businesses. With regulation comes discipline, and the need to uphold high professional standards and hence public confidence in the regulated organisation.

The traditional deference to the trusted professional who knows best has disappeared. The patient, the client and the customer have become empowered. Lay involvement has become an important part of the disciplinary process across the regulated sector, and this is set to increase.

Old systems of self-regulation have disappeared as a result of well-publicised scandals, and increased public awareness. In this changed environment, both regulators and the regulated require sound and user-friendly legal advice and advocacy. 39 Essex Street can offer this across the entire spectrum: indeed, it is now probably the most broadly-based major set of chambers in London. Members of Chambers can provide specialist advice in every principal area of regulatory law.

*“This set offers barristers of varying experience and can always be relied upon to deliver the goods.”* Chambers & Partners 2008



## Areas of Work

### Medical

Members of 39 Essex Street have wide experience of appearing in disciplinary tribunals across the entire medical sphere, including:

- General Medical Council
- General Dental Council
- Royal Pharmaceutical Society of Great Britain
- Royal College of Veterinary Surgeons
- General Chiropractic Council
- General Optical Council
- Nursing and Midwifery Council.

Members of Chambers appear for regulators and individuals in disciplinary hearings relating to conduct, health and interim orders and other issues, as well as in appeals to the High Court and the Privy Council and in judicial review challenges in this area. Our barristers also carry out advisory work for the bodies listed above and others including the Council for Healthcare Regulatory Excellence and the Privy Council. Some members of Chambers have experience of sitting as Chairpersons of disciplinary tribunals in the medical field. 39 Essex Street is particularly well placed to offer specialists who combine a thorough knowledge of public law and human rights principles with well honed advocacy skills, both being vital in this area of work.

### Significant Cases

- *Selvarajan v General Medical Council* [2008] EWHC 182 (Admin); (2008) LS Law Medical 193
- *R (Gwynn) v General Medical Council* [2007] EWHC 3145 (Admin); (2008) LS Law Medical 112
- *Council for the Regulation of Health Care Professionals v General Medical Council and Saluja* [2006] EWHC (Admin) 2784; (2006) 92 BMLR 153; [2007] 1 WLR 3094
- *R (Singapore Medical Council) v General Medical Council and Simon Shorvon* [2006] EWHC (Admin) 3277
- *Giele (Henricus) v General Medical Council* [2005] EWHC 2143 (Admin); [2006] 1 WLR 942
- *Pam Smith v North Eastern Derbyshire PCT and Secretary of State for Health* [2006] 1 WLR 3315
- *R (Rogers) v Swindon NHS PCT and Secretary of State for Health* [2006] 1 WLR 2649
- *R (Burke) v General Medical Council and Others* [2005] 2 WLR 1132
- *Black v Royal Pharmaceutical Society of Great Britain* [2005] EWHC (Admin) 2819
- *Council for the Regulation of Health Care Professionals v General Dental Council and Fleischmann*, [2005] EWHC 87 (Admin)
- *Council for the Regulation of Health Care Professionals v General Medical Council and Basiouny* [2005] EWHC 68 (Admin)
- *Council for the Regulation of Healthcare Professionals v Health Professions Council and Jellett* [2005] EWHC (Admin) 93
- *Council for the Regulation of Healthcare Professionals v General Medical Council and Dr Rajeshwar* [2005] EWHC (Admin) 2973
- *Council for the Regulation of Healthcare Professionals v General Medical Council v Solanke* [2004] 1 WLR 2432

# Top Ranked in Professional Discipline

Chambers & Partners 2008

39 Essex Street Regulatory and Disciplinary Law

## Legal

Members of 39 Essex Street regularly appear in the Solicitors Disciplinary Tribunal, and in challenges to interventions by the Law Society. Before those stages are reached, there is an extensive in-house decision making process, and members of Chambers have wide experience of advising and drafting representations to Adjudicators and Adjudication Panels of the Law Society. Several of our barristers have appeared as advocates at disciplinary hearings held by the Bar Council.

Intervention into a solicitor's practice is usually a terminal event for the solicitor concerned. Advice and assistance in negotiations with the Law Society at an earlier stage can be the best, sometimes the only means, by which the solicitor can stave off disaster. Our barristers can provide such advice and assistance.

### Significant Cases

#### Interventions

- *Sheikh v The Law Society* [2006] EWCA 1577
- *Sritharan v The Law Society* [2005] 1 WLR 2708
- *Preedy and Okoronkwo v The Law Society* [2004] EWHC 2709 (Ch)
- *Harvey v The Law Society* [2003] EWHC 535 (Ch)
- *Pine v The Law Society* [2002] 1 WLR 2189

#### Disciplinary Cases

- *Bryant and Bench v The Law Society* [2007] EWHC 3043 (Admin)
- *Donkin v The Law Society* [2007] EWHC 414 (Admin)
- *The Law Society v Adcock and Mocroft* [2006] EWHC 3212 (Admin)
- *The Law Society v Wheeler and Stephens* [2005] EWHC 1602 (Admin)
- *Bultitude v The Law Society* [2004] EWCA Civ 1853
- *Elliott v Solicitors Disciplinary Tribunal* [2004] EWHC 1176 (Admin)

## Social Care and Education

The impact of the Care Standards Act 2000 upon the social care sector continues to be dramatic. The barristers at 39 Essex Street are in a unique position to be able to advise, assist and represent those in the sector. They have long experience of advising the General Social Care Council, as well as appearing before the Registration and Conduct Committees of the Council and in the Care Standards Tribunal. They are also able to draw upon their expertise in other regulatory fields, in particular that of the medical professions, to provide a service tailored to the particular requirements of the individual, company or body.

Members of 39 Essex Street have long appeared in high profile education law cases, in both the private and public arenas. In the regulatory field, a particular speciality has been cases involving the oversight of the higher education sector. Our barristers also have considerable expertise in other aspects of the regulation of education, for instance through acting for OFSTED and appearing as clerks to independent appeals panels against decisions at both primary and secondary school level.

### Significant Cases

#### Social Care

- *Joseph v Commission for Social Care Inspection (CST)* [2007] 1052 EA; [2007] 1116 EA
- *Brooklyn House Ltd v Commission for Social Care Inspection* [2006] 91 BMLR 22
- *Jones v Commission for Social Care Inspection* [2005] 1 WLR 2461
- *Decisions of the Care Standards Tribunal including Convey v GSCC* [2006] 758.SW; *Bankole v GSCC* [2006] 0715.SW; *Adu-Darko v GSCC* [2006] 0663.SW; *CR v GSCC* [2006] 0626.SW; *MM v GSCC* [2006] 649.SW; *NJ v Secretary of State for Health* [2006] 727.PVA [2006]728.PC



#### Education

- R (Varma) v Duke of Kent [2004] ELR 616
- R (Wandsworth LBC) v Schools Adjudicator [2004] ELR 274
- R (Jemchi) v Visitor of Brunel University [2003] ELR 125
- R (McNally) v Secretary of State for Education and Employment [2002] ICR 15
- R (Persaud) v Cambridge University [2001] ELR 480

## Financial Services

The regulatory framework of financial services gives those who believe that they have suffered loss in consequence of the failings of their financial advisers the opportunity to seek redress from the FSA rather than embarking upon litigation.

Members of 39 Essex Street have extensive experience in advising on all aspects of such claims and drafting representations to the FSA.

They have also appeared before disciplinary committees of the ICAEW and the British Insurance Brokers Association and have advised on whether it is appropriate to seek an injunction to prevent such proceedings going ahead during the currency of litigation relating to the same subject matter.

The team's experience of litigation in this field overlaps with Regulatory work because many claims are based on a failure to comply with the regulations in addition to common law negligence.

## Broadcasting, Communications and the Media

The broadcasting, communications and media sector has experienced a dramatic growth in size and regulatory complexity in the last decade. Members of 39 Essex Street have extensive experience in advising on all aspects of the regulation of the sector, including drafting representations to OFCOM.

The team also has considerable experience relating to the regulation of cross-border satellite broadcasting within the European Union. Since 2005, 39 Essex Street has advised broadcasting organisations in Eire, Sweden, Luxembourg and the United Kingdom on the regulation of cross-border broadcasting.

## Sport

Members of 39 Essex Street have experience at the highest level as advisors, advocates and tribunal panel members in all the principal sectors of sports regulatory and disciplinary work in this jurisdiction, at the Court of Arbitration for Sport in Lausanne, and in ad hoc international tribunals.

The team's experience includes doping infringements, eligibility, selection and discrimination issues, and rules and conduct infringements.

### Tribunals

- Court of Arbitration for Sport – Lausanne (various)
- Court of Arbitration for Sport – Oceania/Pacific (various)
- Sports Law Dispute Resolution Panel (various)
- British Olympic Appeals Tribunal
- Football League Disciplinary Commission
- World Snooker Disciplinary Hearing Board
- Horse Racing Authority
- Australian Jockey Club.



## Environmental

In recent years there has been a significant increase in the scope and complexity of regulations covering all aspects of the environment. Members of Chambers regularly advise and represent clients and regulators in such areas as those governed by the environmental permitting regulations, emissions trading, corporate environmental governance and due diligence. Clients include government departments, regulatory authorities, local authorities, major companies and utilities, trade bodies and interest groups.

## Miscellaneous

The regulatory systems set up by Parliament and the professions are now so extensive that not all can be included under convenient headings. Further examples of relevant practice areas are:

- Transport and Health & Safety – appearances at the Public Inquiries into the Southall and Ladbroke Grove train crashes, and the prosecution arising out of the Hatfield train crash; advisory work in connection with road, air and railway regulation
- Buildings and Housing – appearances at the Disciplinary Panel of the Royal Institute of Chartered Surveyors; advising on the regulation of housing associations
- Local Government Standards – advising and training numerous local and parish authorities on implementing and interpreting the Codes of Conduct; conducting Standards Boards investigations into member conduct; conducting ad hoc investigations for local authorities into allegations of maladministration
- Licensing – appearances at local licensing committee meetings; advising on gaming and alcohol licences
- Public Inquiries – representing clients in various Public Inquiries including the Bristol Royal Infirmary Inquiry, the Ayling and Kerr/Haslam Inquiries, the Hutton Inquiry, the Hillsborough Inquiry and the BSE Inquiry.

## Training and Seminars

Members of Chambers frequently speak at conferences and also in the academic context.

39 Essex Street is accredited by the Law Society as a course provider. Members of Chambers, at every level, hold regular seminars and workshops in Chambers or at clients' offices as part of their continuing education programme.

*“phenomenal strength, depth and breadth”*

Chambers & Partners 2008

39 Essex Street Regulatory and Disciplinary Law

## Chambers

The members of 39 Essex Street possess a wide range of expertise, both as advocates and advisers. Our diverse client base includes government departments and agencies, utilities, NGOs, insurance companies, professional indemnity insurers, local authorities, trade unions, public and private companies, educational bodies, health authorities and trusts, and individual litigants. Members also undertake pro bono work and act for public interest organisations. Instructions are accepted through direct professional access from recognised organisations and overseas lawyers.

For more information please contact

**Chambers Director**

Michael Meeson  
+44 (0)20 7832 1186  
michael.meeson@39essex.com

**Director of Clerking**

David Barnes  
+44 (0)20 7832 1115  
david.barnes@39essex.com

**Senior Clerk**

Alastair Davidson  
+44 (0)20 7832 1181  
alastair.davidson@39essex.com

**Practice Manager**

Sheraton Doyle  
+44 (0)20 7832 1144  
sheraton.doyle@39essex.com

**Practice Manager**

Ben Sundborg  
+44 (0)20 7832 1179  
ben.sundborg@39essex.com

# ThirtyNine

ESSEX STREET

39 Essex Street London WC2R 3AT  
tel +44 (0)20 7832 1111 fax +44 (0)20 7353 3978  
email [clerks@39essex.com](mailto:clerks@39essex.com) dx London/Chancery Lane 298  
[www.39essex.com](http://www.39essex.com)

Chambers Director Michael Meeson  
Director of Clerking David Barnes  
Senior Clerk Alastair Davidson  
Practice Manager Sheraton Doyle  
Practice Manager Ben Sundborg

We are committed to upholding the Bar Councils Equal Opportunities Policy, with regard to service provision and apply its principles rigorously to the recruitment of members, pupils and staff.