



# PUMP COURT

## CHAMBERS

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# Contents

Inquests & Inquiries .....	1
Selected Cases .....	2
Administrative & Public Law .....	3
Selected Cases .....	3
Data Protection .....	4
Selected Cases .....	4
Property Law .....	6
Family Finance .....	6
Employment .....	7
Qualifications .....	8
Professional associations .....	8
Professional activities .....	8
Outside Interests .....	8



## PAUL MERTENS

"A junior with depth of experience in inquiry work."

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Call: 2010

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Paul Mertens has a busy practice, encompassing civil, family and public law. Paul has successfully represented parties in a wide range of courts and tribunals, including claims in the King's Bench, Chancery and Family Divisions of the High Court.

Paul's background in company secretarial and in-house legal work has given him a strong commercial insight and he prides himself on providing pragmatic commercial advice to his clients.

Before joining chambers, Paul worked at the Chartered Institute of Personnel and Development (CIPD) and he maintains an interest in and advises on professional disciplinary complaints and data protection. He is Pump Court Chambers' Data Protection Officer and has provided training on the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 to a range of organisations, including government departments and public inquiries / statutory reviews.

Since joining the Bar, Paul has been instructed in a number of cases by the Government Legal Department. In 2018, he was appointed to the Attorney General's Panel of Special Advocates and in 2020 he was appointed to the London B Panel of Junior Counsel to the Crown.

## Inquests & Inquiries

Paul is joint-Head of Pump Court Chambers' Inquests and Inquiries team and has been involved in many of the most prominent public inquiries of recent years. He has significant experience of working for Inquiry counsel teams and has also represented core participants. Paul has a specialist interest in information rights (data protection, freedom of information, breach of confidence / privacy / Article 8) and has provided expert advice and training in these areas to government departments and a number of Inquiries / Reviews.

## Selected Cases

### UK Covid-19 Inquiry

Paul is currently instructed to represent the Department of Transport in this major statutory public Inquiry (led by Jonathan Glasson KC).

### The Lampard Inquiry

Having originally been instructed during the non-statutory phase, Paul is now instructed as counsel to this major statutory public inquiry, which is investigating the circumstances surrounding the deaths of mental health inpatients under the care of NHS Trusts in Essex between January 2000 and December 2023.

### Post Office Horizon IT Inquiry

Paul is currently instructed on behalf of UK Government Investments (UKGI), a core participant in this statutory public Inquiry.

### Magnox Inquiry

Instructed by the Inquiry to advise on matters related to the closing down of the Inquiry and the creation of the Inquiry record.

### Daniel Morgan Independent Panel

Instructed by the Home Office to advise on matters concerning the publication of the Panel's Report.

### Infected Blood Inquiry

Paul represented three witnesses in this major public inquiry, dealing with issues relating to the trusts and schemes that were set up to provide assistance to those who were infected or affected by the receipt of infected blood products in the 1970s and 1980s.

### Independent Inquiry into Child Sexual Abuse

Between 2019 and 2021, Paul was instructed as Junior Counsel to the Inquiry involved in the investigation into institutional responses to allegations of child sexual abuse involving the late Lord Janner of Braunstone Q.C.

### Windrush Lessons Learned Review

In 2019, Paul provided advice to the Windrush Lessons Learned Review on matters relating to data protection / the

General Data Protection Regulation (GDPR).

### The Independent Medicines and Medical Devices Safety Review

In December 2018, Paul was appointed as a Data Protection/Information law expert to this Review

### The Undercover Policing Inquiry

From 2016-2018, Paul was part of a small team of junior counsel to the Undercover Policing Inquiry.

### The Iraq Inquiry

In 2015, Paul was instructed by the Cabinet Office to assist with the Maxwellisation of a prominent witness's response to the Iraq Inquiry.

## Administrative & Public Law

Paul has significant experience of government litigation, particularly in the areas of national security or where other public-interest sensitivities may arise (diplomatic relations, intelligence, Cabinet decision-making and collective responsibility). In 2018, he was appointed to the Attorney General's Panel of Special Advocates, which authorises him to represent parties in closed proceedings. In 2020, he was also appointed as a member of the London B Panel of Junior Counsel to the Crown.

## Selected Cases

### Kamoka v Security Services [2019] (QB) (Jay J)

Acted as a Special Advocate in claims for damages arising out of the UK's alleged involvement in the extraordinary rendition and / or torture and inhuman and degrading treatment of Libyans under the Gaddafi regime (led by Angus McCullough KC and Tom Forster KC).

### (1) Hoareau (2) Bancoult v Secretary of State for Foreign and Commonwealth Affairs [2019] EWHC 221 (Admin) (Singh LJ and Carr J)

Appointed by the Divisional Court to act a Public Interest Immunity Advocate in a claim for judicial review of the decision not to resettle the Chagossian people on the Chagos Islands (led by Angus McCullough KC).

### Re R (Closed Material Procedure: Evidence) [2018] EWHC 2687 (Fam) (Cobb J)

Acted as a Special Advocate for the Guardian in the closed elements of care proceedings.

**(1) B (2) ND v Secretary of State for the Home Department [2018] EWHC 2651 (Admin) (Nicol J)**

Acted as a Special Advocate on behalf of the first claimant, in judicial review proceedings relating to the removal of the claimants' passports under the Royal Prerogative (led by Helen Mountfield KC).

**Bank Mellat v HM Treasury**

Paul was instructed on behalf of the Foreign & Commonwealth Office to assist with disclosure in relation to a claim for damages arising from sanctions and financial restrictions made in respect of an Iranian bank.

**Tchenguiz v SFO**

Paul was instructed on behalf of the Serious Fraud Office in its defense of a claim for misfeasance in public office, wrongful arrest, false imprisonment, trespass and violation of Article 8. He was later retained by Slaughter and May to draft witness statements on behalf of the Case Manager and Principal Case Investigator.

**Noise-Induced Hearing Loss Claims**

In 2015, Paul was instructed on behalf of the Ministry of Defence to assist with disclosure in relation to claims for Noise-Induced Hearing Loss (NIHL) arising from military service in Iraq and Afghanistan.

## Data Protection

Paul is an expert in data protection and other information / privacy rights and has been instructed in a number of such claims, including on behalf of the government. He is regularly asked to advise, both in writing and in conference, and has previously audited an organisation's compliance with data protection regulations. As such, he is well placed to assist clients in identifying and adapting to these statutory requirements in the most efficient and business-focused manner.

Paul is Pump Court Chambers' Data Protection Officer and has provided in-house training / seminars on data protection to solicitors, organisations and government departments / public inquiries.

## Selected Cases

**(1) SC (2) LC (3) LAC v Stockbridge Surgery [2023] (Winchester County Court)**

Successfully represented three claimants in a claim for misuse of private information, breach of confidence and

breach of Article 8 ECHR, securing substantial general damages in each case. The claim concerned an unauthorised disclosure of private medical information and gave rise to issues of vicarious liability.

**Greenwood v (1) Information Commissioner (2) The Department of Health and Social Care EA/2022/0030 (First Tier-Tribunal (General Regulatory Chamber) Information Rights)**

Successfully represented the Second Respondent in this Freedom of Information Act 2000 appeal, in which it was held that the Second Respondent had correctly applied the 'commercial interests' exemption in s.43(2) FOIA 2000, in respect of a request for disclosure of the identities of those companies and individuals who had unsuccessfully made bids to supply PPE during the Covid-19 pandemic, having been referred through the high-priority lane.

**DT v The Home Office [2022] (Central London County Court)**

Successfully defending a claim for breach of the data security obligation in Article 5(1)(f) of the GDPR, for misuse of private information and for breach of privacy. The case gave rise to interesting issues concerning the scope of vicarious liability for an employee's misuse of personal data, following the Supreme Court's decision in *WM Morrisons plc v Various Claimants* [2020] UKSC 12.

**Strain v (1) Manchester Metropolitan University (2) CIPD (3) Jackson [2022] (Manchester County Court)**

Successfully obtaining summary judgment for the Second Defendant in a claim for harassment, breach of the GDPR / DPA 2018, misuse of private information and breach of confidence. The case gave rise to important issues concerning the scope of the 'witness immunity' rule and the exemption that applies to processing for the exercise of legal rights under DPA 2018, Sch. 2 para. 5(3)(a)-(c).

**Hobbs v Ministry of Justice [2022] (Brentford County Court)**

Defending a claim for breach of the GDPR / DPA 2018. Successfully argued that the information concerned was not 'personal data' within the meaning of Art.4(1) GDPR, by reference to the CJEU decision in *YS v Minister voor Immigratie, Integratie en Asiel* (C141/12) [2015] 1 WLR 609. Also successfully argued that the impugned processing was 'lawful', 'fair' and 'accurate' for 'law enforcement purposes' within the meaning of the EU Law Enforcement Directive 2016/680, as implemented by ss.31, 35, 38 of the DPA 2018.

**A (A Child) v B [2020] (QBD)**

Defending a claim brought on behalf of a child claimant for breach of the GDPR / DPA 2018, breach of confidence, misuse of private information and breach of Article 8. The case gives rise to issues of vicarious liability and to potential issues concerning the quantification of any damages awarded, including for 'loss of control' of personal data pursuant to *Lloyd v Google LLC* [2019] EWCA Civ 1599.

### X v Y Ltd and others [2020] (Central London County Court)

Advising on and defending a claim for breach of the GDPR / DPA 2018. The case raised issues of jurisdiction, the scope of a data subject's 'consent' under GDPR Article 6(1) and the 'right to be forgotten' under GDPR Article 17.

### The Independent Medicines and Medical Devices Safety Review

In December 2018, Paul was appointed as a Data Protection/Information law expert to this non-statutory Review. Over a period of 18 months, Paul provided advice on a range of legal issues, including data protection, freedom of information, privacy rights, patient confidentiality and associated national health legislation.

## Property Law

Paul has significant experience of dealing with disputes concerning leasehold and freehold properties. Recent work has included a case concerning the acquisition of an easement by prescription, a High Court claim involving constructive trusts over two properties in which he appeared for the successful applicant, and a claim involving alleged trusts over eight properties in Wiltshire, which he successfully defeated.

Paul has also frequently appeared in the First Tier Tribunal (Property Chamber) where he has successfully represented clients in cases concerning repairs, poor maintenance and the recoverability and reasonableness of service charges. In the County Court, Paul has represented both landlords and tenants in claims for breach of covenant, including service charge and rent arrears and in claims for forfeiture and possession.

Paul is a member of the Property Bar Association and edits the Landlord and Tenant division of Butterworths Civil Court Precedents, a practitioner text providing commentary and guidance on drafting pleadings in a range of property matters.

Paul finds the crossover between his property work and his family finance practice engaging. He is frequently instructed in cohabitation claims under the Trusts of Land and Appointment of Trustees Act 1996 and he is well positioned to advise such clients about their potential claims when required.

## Family Finance

Paul is frequently instructed in financial remedies proceedings and has appeared in a number of final hearings. He prides himself on trying to achieve the best possible outcome for his clients.



During his time in practice, Paul has developed a particular expertise in cases involving alleged issues of conduct. For example, in 2017, he appeared in a four-day final hearing relating to a marriage in which the husband had been sent to prison for rape of a minor.

Paul has also secured a number of successful results in applications for maintenance pending suit / interim maintenance and for legal services orders, with associated orders for costs.

Paul enjoys the cross-over between his family finance and property work and is regularly instructed in cohabitation claims under the Trusts of Land and Appointment of Trustees Act 1996.

In 2021, Paul was appointed as a Deputy District Judge and is authorised to sit in both the civil jurisdiction and the Financial Remedies Court.

## Employment

Paul has a keen interest in employment law and professional discipline and is a member of the Employment Law Bar Association and Employment Lawyers Association.

Paul welcomes instructions from both claimants and respondents across the spectrum of employment law issues, including claims for unfair dismissal (including redundancy), whistleblowing, discrimination and harassment under the Equality Act. He has appeared in a number of multi-day trials, including a seven-day trial in the Central London Employment Tribunal and a four-day trial in Manchester Employment Tribunal in which Employment Judge Wade described the quality of his advocacy as “excellent”.

Before coming to the Bar, Paul worked for the Chartered Institute of Personnel and Development (CIPD), the chartered body for human resources professionals, and gained significant experience of a wide range of employment and professional disciplinary issues. Since joining chambers, Paul has been retained by the CIPD as a Legal Advisor to its Investigation Panels.

Paul’s previous employment has also given him experience of drafting company policies, particularly in the areas of social media and data protection. Paul invites instructions in any area of drafting that would be of assistance. Paul has also previously audited an organisation’s compliance with data protection regulations and is well placed to assist clients identify and adapt to these statutory requirements in the most efficient and business-focused manner.

## Qualifications

- BVC (Outstanding)
- GDL (Distinction)
- MA, University College London
- BA, King's College London
- LLB (Hons) – 1st Class

## Professional associations

- Employment Law Bar Association
- Employment Lawyers Association
- Personal Injuries Bar Association
- Property Bar Association

## Professional activities

- Deputy District Judge (2021)
- London B Panel of Counsel to the Crown (2020)
- Attorney-General's Panel of Special Advocates (2018)
- Bar Standards Board's CPD Expert Panel (2015)
- Independent Member of the Appeal Panel for the Anglo-European School
- Certificate of Honour (Middle Temple 2010) – Prize for outstanding BVC results.
- The Lady Templeman-Master Singhvi Memorial Fellowship – (Middle Temple 2010) – Overseas fellowship, awarded to a single member of the Inn each year. Paul gave lectures on ADR at the National Law University, Jodhpur, India.
- Harmsworth Scholarship (Middle Temple 2009) – Major BVC Scholar

## Outside Interests

Paul is interested in film history and enjoys watching and reading about classic films. Paul also takes great pleasure in developing his children's interest in his two main passions: winter sports and Welsh rugby!