

## Richard Gordon KC

YEAR OF CALL: 1972 YEAR OF SILK: 1994

*"My first choice counsel for challenging issues, he is immensely approachable and makes such a technical area of law understandable. The way he responds to questioning from judges is just brilliant."*

Chambers & Partners 2016

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## Practice Overview

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Richard Gordon is widely recognised as one of the leading silks in Administrative and Public Law, Constitutional Law, EU Law and Human Rights/Civil Liberties. Increasingly, his work encompasses public law issues arising in competition, commercial regulatory and energy cases. He acts in international jurisdictions at the highest level as well as in the UK. He has also recently co-authored Sanctions Law (Hart Publishing 2019) an area of law that complements the different areas of his practice.

Much of his work is at appellate level and he makes frequent appearances in the Supreme Court. But he also acts at first instance in cases (whether involving public law or not) engaging important or complex points of law.

Some of Richard's recent cases/advisory work encompasses 4 appearances in the Supreme Court over the past 12 months including a successful appearance in the Electoral Commission's first intervention in a constitutional challenge; advising a prominent group in Northern Ireland on the compatibility of the protocol in the draft EU Withdrawal Agreement with the Belfast Agreement; advising Facebook on the seizure of papers by the Digital Media and Sports Select Committee of the House of Commons; successfully representing the Climate Change Committee in an environmental judicial review challenge to the Government's decision not to amend its carbon emissions targets, appearing in an important case in the Court of Appeal about the susceptibility to judicial review of a 'skilled person' under the Financial Services and Markets Act, a challenge to the assisted dying laws and the Charlie Gard case which reached the Supreme Court and created a widespread debate across the country. He has recently been instructed in a judicial review case in Hong Kong for the Department of Justice involving a challenge to the Hong Kong laws which prohibit same sex marriage.

Throughout his career Richard has won landmark victories in cases that have changed the law. He

acted successfully in the Supreme Court for the Government of Wales in the high-profile case brought by Gina Miller to challenge the triggering of Brexit by the Executive rather than by Parliament. Also in the Supreme Court he won an important case involving the deprivation of liberty of persons lacking capacity which overturned three different judgments of the Court of Appeal. He won the Bournemouth Case in the European Court of Human Rights which led to amendments to the Mental Capacity Act and in Coughlan he secured a Court of Appeal judgment that brought in the doctrine of substantive legitimate expectation. He has won victories in Europe over the illegality of NHS waiting lists (*Watts v UK*), legal protection for wild birds under the Birds Directive (the RSPB Case), and the need for environmental impact assessments for old planning permissions (*Wells v UK*).

Richard has acted for Claimants and Defendants in public law, EU and fundamental rights cases spanning all areas whether in the field of energy law, environmental law, commercial, pharma regulation, sanctions, procurement, telecommunications, pensions and numerous others. He possesses considerable constitutional expertise and specialises in advising clients (such as the BBC, the Financial Conduct Authority and the Comptroller and Auditor General) on appearances before select committees and disclosure issues. He was also appointed as a special adviser to an inquiry by the Public Administration Select Committee into civil service impartiality.

He is a specialist on issues relating to Brexit. Aside from being instructed in Miller, following the EU referendum, he co-advised the IP Federation on whether Great Britain could continue to participate in the Unified Patent Court after Brexit. The advice was shared with the UK Government and later published. His co-authored paper for the Constitution Society on The Immediate Legal Consequences of Brexit (which was published before the 2016 referendum) was used by the Government immediately after the referendum. He has co-authored three other papers on Brexit for the Constitution Society on (respectively) the legislative options, the negotiating process and the continuing jurisdiction of the CJEU under the draft agreement. Richard has been commissioned by Oxford University Press to co-author a book on the EU (Withdrawal) Act. He also appeared before the House of Lords Constitution Committee alongside Lord Neuberger in November 2017 to give evidence about the Withdrawal Bill prior to its enactment.

He holds and has held a number of visiting senior academic appointments including a Visiting Professorship at University College London and has authored several works on public and constitutional law, civil liberties and EU law. He co-authored the 2<sup>nd</sup> edition of *EU Law in Judicial Review* (OUP).

He acts for a very wide range of clients that include individuals, large public bodies, local authorities, and corporations. Richard is a trustee of a newly established Foundation for the promotion of the rule of law in Africa and a Member of the Advisory Board of the Constitution Society.

Richard was CEDR accredited as a Mediator in 2015.

## Examples of Public Law Cases involving Commercial Regulation

- Electricity Settlements Case (advised the Electricity Settlements Company over the consequences of the overruling by an EU Court in November 2018 of a Commission decision approving a notifiable state aid which has thrown the electricity capacity market into disarray).
- AES Kilroot (advised in a Northern Ireland case involving potential litigation over conditions of withdrawal following unsuccessful auction bid).
- SSE Generation v. Ofgem (National Grid intervening) (successfully resisting a major energy appeal to the Competition and Markets Authority against a decision of Ofgem based on an EU Directive).
- UK Power Networks v Ofgem (successful judicial review on behalf of UK power for unlawfully determining an electricity dispute between UK Power and Wilmott Dixon).
- UK Power v. Ofgem (successful judicial review on behalf of UK Power resulting in quashing of decision on electricity supply by Ofgem).
- Cayman Water Company v. Cayman Water Authority and Another (successful defence on behalf of the Cayman Water Authority in judicial review proceedings before the Cayman Grand Court: the application was dismissed).
- R (Leyton Orient) v. Olympic Park Legacy Company (successful defence on behalf of Olympic Park Legacy Company in judicial review proceedings brought by Leyton Orient of the Company's procurement exercise for the Olympic Stadium 'legacy': the application was dismissed).
- Western Power v. Ofgem (currently representing UK Power as an interested party in judicial review proceedings brought by Western Power against a regulatory decision by Ofgem on the losses incentive mechanism for electricity distribution).
- R (Heathrow Hydrant) v. Heathrow Airport Limited (currently instructed in a judicial review against Heathrow Airport of ground-handling regulations).
- NERL v. DfT (advised the Civil Aviation Authority in respect of a threatened judicial review over pensions calculations by the DfT/CAA).
- Environment Agency v WEEE Light (successful defence of WEEE Light against test case criminal prosecution by the Environment Agency: the case was dismissed in the Crown Court at a preliminary hearing).
- R (Scottish Power) v Electricity Markets Authority (successful defence of National Grid as interested party in a judicial review claim brought by Scottish Power against the regulator).
- R (Rockware Glass) v Chester CC (successful judicial review of grant of environmental discharge consents to rival glass manufacturer: decision quashed).
- R (National Grid Transco) v Environment Agency (successful judicial review in a leapfrog appeal to the House of Lords against a regulatory decision of the Environment Agency in respect of successor liability for contaminated land).
- R -v- Financial Services Commissioner ex p. X and Others (acting successfully for the

Financial Services Commissioner in Gibraltar on appeal in a judicial review challenge to regulatory disclosure).

- R (Exoteric Gas Solutions) -v- Transco 2003 (acting successfully for Transco on a challenge brought against the Secretary of State relating to alleged monopoly abuse by Transco).
- R -v- Securities and Futures Authority, ex p. Fleurose (successful defence of SFA in a challenge by an arbitrage trader to the fairness of the FSA disciplinary procedures).
- Yukos -v- FSA , London Stock Exchange & Rosneft (successfully resisting on behalf of the London Stock Exchange Yukos' application for permission to apply for judicial review of. IPO of the Rosneft group of companies )
- Needler Financial Services v. Taber (successfully defending Mr Taber on damages claim in the Chancery Division flowing from building society demutualisation – important test case for the FSA Ombudsman under the then new test case procedure).

### **Examples of Public Law Cases involving Human Rights and Civil Liberties**

- MK v Hong Kong Special Administrative Region (acting in a challenge in Hong Kong to the laws which prohibit same-sex marriage).
- In the Matter of D (major case in the Supreme Court concerning the exercise of parental rights over 16-17 year old children and whether those rights included deprivation of liberty).
- Welsh Ministers v. PJ (Supreme Court case involving the legality of community treatment orders to deprive a patient of their liberty).
- An NHS Trust v. Y (landmark case in the Supreme Court involving the issue of whether pvs patients were liable to be deprived of clinically assisted nutrition and hydration by the agreement of their relatives and the treating clinicians).
- R (Conway) v. Secretary of State for Justice (acted at first instance in major challenge to the assisted dying laws).
- Re Charlie Gard (case about the right to life of a child suffering from a disease which the UK clinicians thought was untreatable but where alternative treatment was offered in the USA),
- P&Q v Surrey CC and P v Cheshire West (successful appearance before the Supreme Court in landmark cases involving deprivation of liberty and incapacity: three rulings of the Court of Appeal in different cases overturned).
- Recovery of Medical Costs for Asbestos Diseases (Wales) Bill (acting for National Assembly of Wales in first reference to the Supreme Court raising issues of compatibility between the Bill and Article 1 Protocol1 ECHR).
- Ubamaka v Secretary for Justice (major victory on point of principle in the Court of Final Appeal in Hong Kong resulting in ruling that those subject to deportation laws are, as far as their core fundamental rights are concerned, protected).
- Norris v. Secretary of State (successful extradition appeal on behalf of Mr Norris raising issues under Article 7 ECHR in establishing the absence of any crime in price fixing prior to the Enterprise Act)
- Belfast CC v Misbehavin' Limited (successfully acting for Belfast City Council in the House of Lords in a sex establishment licensing appeal raising ECHR issues)
- R (Sacker) -v- HM Coroner for West Yorkshire February (acting successfully for Claimant in

- appeal before the House of Lords relating to the right to life under Article 2 ECHR).
- Dobson v. Thames Water Utilities Ltd (successful appeal in Human Rights Act damages claims for nuisance: Article 8 ECHR issues)
  - G v E (successfully represented the Official Solicitor in a major case in the Court of Appeal involving issues on incapacity and Article 5 ECHR under the Mental Capacity Act 2005)
  - TTM v. London Borough of Hackney (successfully acting for a detained patient in an important case in the Court of Appeal involving the relationship between Article 5 ECHR and habeas corpus)
  - Wilson -v- First County Trust (successfully acted for a number of insurance companies under the auspices of the Association of British Insurers in major human rights challenge in the House of Lords to commercial consumer legislation).
  - R (Munjaz) -v- Secretary of State (successful challenge on behalf of MIND in the House of Lords to seclusion in mental hospitals).
  - Peck -v- United Kingdom (successful Strasbourg challenge for breach of privacy under Article 8 ECHR relating to use of CCTV).
  - Roche v. UK (successful Strasbourg challenge to ex-serviceman's inability to claim for damages: breach of Article 8 ECHR).
  - Instructed to advise over human rights issues being raised before the Icelandic Courts in respect of the Emergency Legislation over Insolvency.
  - HL v UK (successful Strasbourg challenge to detention of incapacitated mental patient: this case laid the foundation of the Mental Capacity Act 2007).
  - Glass -v- United Kingdom (acted successfully in a Strasbourg challenge over 'do not resuscitate' procedures in a UK hospital)
  - Roth GmbH -v- Secretary of State for Food, Environment and Rural Affairs (Successful challenge to the S/S 'clandestines' policy as being in breach of Article 1 Protocol 1 and Article 6 ECHR)
  - R v N&E Devon Health Authority, ex p. Coughlan (successful appearance in the Court of Appeal with landmark judgment on substantive legitimate expectation and the delimitation between health and social care: Article 8 ECHR issues engaged).

## **Examples of Public Law Cases/Advisory Work in Other Discrete Areas**

### **Energy and Natural resources**

- Electricity Settlements Case (advised the Electricity Settlements Company over the consequences of the overruling by an EU Court in November 2018 of a Commission decision approving a notifiable state aid which has thrown the electricity capacity market into disarray).
- AES Kilroot (advised in a Northern Ireland case involving potential litigation over conditions of withdrawal following unsuccessful auction bid).
- SSE Generation v. Ofgem (National Grid intervening) (successfully resisting a major energy appeal to the Competition and Markets Authority against a decision of Ofgem based on an EU Directive).

- UK Power Networks v Ofgem (successful judicial review on behalf of UK power for unlawfully determining an electricity dispute between UK Power and Wilmott Dixon).
- *R (Western Power Distribution Ltd.) v. Gas & Electricity Markets Authority* (potentially important application for judicial review by Western Power under the Electricity Directive: acting for UK Power as an interested party).
- UK Power v. Ofgem (successful judicial review on behalf of UK Power resulting in quashing of decision on electricity supply by Ofgem).
- Western Power v. Ofgem (currently representing UK Power as an interested party in judicial review proceedings brought by Western Power against a regulatory decision by Ofgem on the losses incentive mechanism for electricity distribution).
- *R (Heathrow Hydrant) v. Heathrow Airport Limited* (currently instructed in a judicial review against Heathrow Airport of ground-handling regulations).
- *R (Scottish Power) v Electricity Markets Authority* (successful defence of National Grid as interested party in a judicial review claim brought by Scottish Power against the regulator).
- *R (National Grid Transco) v Environment Agency* (successful judicial review in a leapfrog appeal to the House of Lords against a regulatory decision of the Environment Agency in respect of successor liability for contaminated land).
- *R (Exoteric Gas Solutions) -v- Transco 2003* (acting successfully for Transco on a challenge brought against the Secretary of State relating to alleged monopoly abuse by Transco).
- Currently advising UK Power on Price Control Issues

## Environment

- *R (Plan B Earth and Others) v. Secretary of State for Business Energy and Industrial Strategy* (challenge to Secretary of State's policy on carbon emissions reduction successfully resisted).
- *Seiont, Gwyrfai and Llyfni Anglers Society v. Natural Resources Wales* (successfully resisted environmental challenge based on an erroneous interpretation of the Environmental Liability Directive).
- *Forager Ltd v Natural England* (advised on a challenge to environmental civil sanctions).
- *Bimini Bay Coalition Limited v Prime Minister of the Bahamas* (successful defence of developers in resisting interim injunction in judicial review proceedings in the Privy Council).
- *Environment Agency v WEEE* (successful defence against test case environmental prosecution).
- *Wells v UK* (successful environmental challenge before the CJEU on failure to obtain an environmental impact assessment for old mining permissions).
- *RSPB v UK* (successful environmental challenge before the CJEU for breach of the Birds Directive)
- Hong Kong Link Road Project (Advising in respect of major environmental dredging project in Hong Kong on whether environmental impact assessment is binding as to location of elements of the project).
- Climate Change Opinion for the Climate Change Committee on Carbon Emissions by the UK.

- R (Prokopp) -v- LB of Tower Hamlets (successful defence of challenge to planning decision of LB of Tower Hamlets in respect of the East London Railway Extension). R v North Yorkshire County Council, ex. Brown and Cartwright (successful defence in the House of Lords of quashing of Council decision in the Court of Appeal because of a failure to obtain an environmental impact assessment).

### **Offshore and Foreign Jurisdictions (including the Strasbourg and Luxembourg Courts)**

- MK v Hong Kong Special Administrative Region (acting in a challenge in Hong Kong to the laws which prohibit same-sex marriage).
- STM v Financial Services Commissioner (instructed in a financial services judicial review in Gibraltar).
- Larsen v. Comptroller of Taxes (several appearances in Jersey (being led by a Jersey advocate) in a case involving tax information exchange agreements).
- Ubamaka v Secretary for Justice (major victory on point of principle in the Court of Final Appeal in Hong Kong resulting in ruling that those subject to deportation laws are, as far as their core fundamental rights are concerned, protected).
- Cayman Water Company v. Cayman Water Authority and Another (successful defence on behalf of the Cayman Water Authority in judicial review proceedings before the Cayman Grand Court: the application was dismissed).
- R -v- Financial Services Commissioner ex p. X and Others (acting successfully for the Financial Services Commissioner in the Court of Appeal of Gibraltar on appeal in a judicial review challenge to regulatory disclosure).
- Engaged in advising in cases in Jersey and in Strasbourg on demands made under Tax Information Exchange Agreements (ongoing).
- R (Watts) -v- Secretary of State for Health (successfully challenged NHS waiting lists in the Court of Justice of the EU).
- Wells v UK (successful environmental challenge before the Court of Justice of the European Union on failure to obtain an environmental impact assessment for old mining permissions).
- RSPB v UK (successful environmental challenge before the Court of Justice of the European Union for breach of the Birds Directive)
- Peck -v- United Kingdom (successful Strasbourg challenge for breach of privacy under Article 8 ECHR relating to use of CCTV).
- Roche v. UK (successful Strasbourg challenge to ex-serviceman's inability to claim for damages: breach of Article 8 ECHR).
- HL v UK (successful Strasbourg challenge to detention of incapacitated mental patient: this case laid the foundation of the Mental Capacity Act 2007).
- Glass -v- United Kingdom (acted successfully in a Strasbourg challenge over 'do not resuscitate' procedures in a UK hospital)
- Teixeira v London Borough of Lambeth (2010) (success in the European Court of Justice in Luxembourg on right of residence under EU law for parent caring for child of migrant worker)
- Rowse v Secretary for the Civil Service (major judicial review in Hong Kong successfully

acting for civil servant disciplined for failing to oversee the budget for the Harborfest – a range of natural justice issues including unlawful delegation, unfair process and failure to allow legal representation: decision quashed)

- Has appeared in three telecommunications judicial review cases in Hong Kong.
- Has appeared in other cases in the Hong Kong Court including before the Court of Final Appeal in a case on the privilege against self incrimination.
- Hong Kong Link Road Project (Advising in respect of major environmental dredging project in Hong Kong on whether environmental impact assessment is binding as to location of elements of the project).
- Advised Hong Kong housing corporation on new IDO - in successful judicial review defence)

## **Constitutional Law**

- Advising a prominent group in Northern Ireland on the compatibility of the Northern Ireland Protocol in the draft EU Withdrawal Agreement with the Belfast Agreement.
- R v Mackinlay (successful intervention by the Electoral Commission in the Supreme Court on the proper interpretation of electoral law).
- R (Good Law Project) v Electoral Commission (represented the Electoral Commission in a judicial review challenge brought to aspects of the Commission's interpretation of provisions of electoral expenses law).
- Re Confidence and Supply Agreement (advising the Welsh Government on a potential judicial review of aspects of the Confidence and Supply Agreement following the 2017 General Election).
- R (Miller) v Secretary of State for Exiting the European Union (successfully appeared for the Government of Wales in landmark challenge to the attempt by the Executive to trigger Article 50 without Parliamentary authority).
- Re Unified Patent Court (advising on behalf of the IP Federation on the consequences of Brexit for the UK's continued participation in the Unified Patent Court)
- R (Wheeler) v Office of the Prime Minister and Home Secretary (major constitutional EU challenge to the Government's proposed opt-in to the European Arrest Warrant scheme).
- Re the Rt. Hon Iain Duncan Smith M.P. (acted successfully on behalf of Iain Duncan Smith - former Leader of the Conservative opposition) in the Mawer Inquiry).
- Acted successfully for Lord Rennard over his recent suspension from the Liberal-Democrat Party: the case was eventually dealt with through mediation.
- Acted as independent legal adviser to the Minister for Justice on fundamental rights.
- Appointed as Special Adviser to the Public Administration Select Committee.
- Advice given over appearances before Select Committees (clients include the BBC, Financial Conduct Authority, Bank, and Comptroller and Auditor-General).
- Acted for the President of Fiji in judicial review challenge to the legality of his appointment of the Prime Minister.
- Advice given to Lord Foster over constitutional issues.

## **Health and Social Care**



- In the Matter of D (major case in the Supreme Court concerning the exercise of parental rights over 16-17 year old children and whether those rights included deprivation of liberty).
- Welsh Ministers v. PJ (Supreme Court case involving the legality of community treatment orders to deprive a patient of their liberty).
- An NHS Trust v. Y (landmark case in the Supreme Court involving the issue of whether pvs patients were liable to be deprived of clinically assisted nutrition and hydration by the agreement of their relatives and the treating clinicians)
- R (Conway) v. Secretary of State for Justice (acted at first instance in major challenge to the assisted dying laws).
- Re Charlie Gard (case about the right to life of a child suffering from a disease which the UK clinicians thought was untreatable but where alternative treatment was offered in the USA),
- R v N&E Devon Health Authority, ex p., Coughlan (successfully acted for Pamela Coughlan in ground breaking case over the borderline between health and social care).
- R (Grogan) v. Bexley NHS Trust (successful post Coughlan claim relating to liability of NHS to fund continuing health care).
- R (Watts) v UK (successful challenge in the EU Court of Justice to the legality of NHS waiting lists)
- Currently instructed in a major judicial review claim in Wales on behalf of 23 local authorities where the liability of all the health authorities and local authorities in Wales is being challenged.
- R (Schofield) v Secretary of State for Health (successful judicial review challenge to GP's pensions restrictions).
- P&Q v Surrey CC and P v Cheshire West (successful appearance before the Supreme Court in landmark cases involving deprivation of liberty and incapacity: three rulings of the Court of Appeal in different cases overturned).
- Barry v Gloucester County Council (major House of Lords case on resource allocation issues over community care provision).
- HL v UK (successful Strasbourg challenge to detention of incapacitated mental patient: this case laid the foundation of the Mental Capacity Act 2007).
- Glass -v- United Kingdom (acted successfully in a Strasbourg challenge over 'do not resuscitate' procedures in a UK hospital)
- Recovery of Medical Costs for Asbestos Diseases (Wales) Bill (acting for National Assembly of Wales in first reference to the Supreme Court raising issues of compatibility between the Bill and Article 1 Protocol 1 ECHR) Major written advice given to the Equality and Human Rights Commission as part of its high profile investigation into the Home Care system in England and Wales

### **Examples of Public Law Work in Other Areas**

- Have advised and/or represented three major energy companies in energy-related matters.
- Instructed successfully for the Olympic Park Legacy Company in both Olympic legacy judicial review cases brought by (respectively) Tottenham Hotspur and Leyton Orient which involved major procurement and state aid issues.

- Acted for Pressbof over the Press Charter in a case which raised important media issues under Article 10 ECHR.
- Has advised on the legality of sanctions regulations and appeared in cases before the English Courts involving sanctions.
- Has acted in/advised on a number of cases involving pharma regulation.
- Has acted in a number of extradition judicial review cases including two cases (Mucelli and Norris) in the House of Lords.
- Has acted in cases involving the interplay between public international law and judicial review.
- Acts regularly for and against local authorities.
- Currently acting for major internet corporations over privacy issues.
- Has advised on and acted in a number of telecommunications disputes in the UK and Hong Kong.

## Competition

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### Examples of EU Law cases and advisory work

- Electricity Settlements Case (advised the Electricity Settlements Company over the consequences of the overruling by an EU Court in November 2018 of a Commission decision approving a notifiable state aid which has thrown the electricity capacity market into disarray).
- AES Kilroot (advised in a Northern Ireland case involving potential litigation over conditions of withdrawal following unsuccessful auction bid).
- SSE Generation v. Ofgem (National Grid intervening) (successfully resisting a major energy appeal to the Competition and Markets Authority against a decision of Ofgem based on an EU Directive).
- *R (Western Power Distribution Ltd.) v. Gas & Electricity Markets Authority* (potentially important application for judicial review by Western Power under the Electricity Directive: acting for UK Power as an interested party).
- UK Power v. Ofgem (successful judicial review on behalf of UK Power resulting in quashing of decision on electricity supply by Ofgem: EU Electricity Directive at the centre of the judicial review).
- *R (Wheeler) v Office of the Prime Minister and Home Secretary* (major constitutional EU challenge to the Government's proposed opt-in to the European Arrest Warrant scheme).
- *R (Lymington) River Association Limited v Secretary of State for Communities and Local Government* (judicial review engaging environmental EU issues relating to European site designations and proper construction of Article 6(3) of the Habitats Directive).
- *Accord Healthcare Limited v Secretary of State for the Home Department* (judicial review challenge of the Secretary of State's refusal to grant licences to import controlled pharmaceutical products – compromise reached after proceedings launched: free movement provisions under Articles 30 and 36 engaged).

- NERL v DfT (defending the CAA successfully on a threatened judicial review of pensions calculations under EU Regulations – claim compromised without proceedings being launched).
- R (Heathrow Hydrant) v. Heathrow Airport Limited (currently instructed in judicial review challenge against HAL for alleged violation of EU Directive 96/67 on ground handling).
- Roth GMBH -v- Secretary of State for Food, Environment and Rural Affairs 2002 (Successful challenge to the S/S clandestines policy: free movement provisions of the EU Treaty engaged) R (Countryside Alliance) v AG (instructed by the Countryside Alliance in the hunting ban case in all courts: EU free movement issues engaged).
- Teixeira v London Borough of Lambeth (2010) (success in Luxembourg on right of residence under EU law for parent caring for child of migrant worker)
- Watts v United Kingdom (successful challenge in the European Court of Justice to NHS waiting lists founded on violation of free movement of services)
- Norbrook Laboratories v Veterinary Medicines Directorate (important EU case in Northern Ireland on effect of EU Directive on veterinary medicines)
- Wells v UK (successful challenge to planning decision without environmental impact assessment before the Court of Justice of the EU)
- RSPB v UK (successful environmental challenge before the CJEU for breach of the Birds Directive)
- Barry v London Borough of Southwark (successfully acted in the Court of Appeal for Appellant in challenge to free movement of workers ruling)
- Pryce v London Borough of Southwark (acted successfully for the Appellant in the Court of Appeal in a post Zambrano free movement of workers challenge) R (Phillip Morris) v Secretary of State (acted for Philip Morris in the challenge brought by a number of tobacco companies to the point of sale display ban decision)
- R v North Yorkshire County Council, ex. Brown and Cartwright (successful defence in the House of Lords of quashing of Council decision in the Court of Appeal because of a failure to obtain an environmental impact assessment in breach of EU Directive).

## Competition Cases

- UK Power Networks v Ofgem (successful judicial review of Ofgem determination)
- AES Kilroot (advising energy companies on potential challenge to withdrawal conditions following unsuccessful auction bid).
- Groupe Eurotunnel SA v CMA (major case before the CAT involving a judicial review challenge to a merger decision on a remitted hearing before the CMA).
- UK Power v Ofgem (successful major judicial review involving competition issues under the EU access to electricity Directive)
- Western Power v Ofgem (currently instructed in judicial review to Ofgem's ruling over the loss incentive mechanism scheme in electricity distribution: acting for competitor to main Claimant)
- CMA Market Investigation into the Private Motor Insurance Market (acted successfully for credit hire company in persuading the CMA to do a U-turn and reverse its provisional

findings as to substance and remedy).

- Virgin Media and B Sky v. Competition Commission and Secretary of State (media plurality case; successfully acted for Virgin Media in CAT and (in substantive result) the Court of Appeal).
- Tobacco Litigation for OFT (advising the OFT following the litigation in the CAT and in the judicial review proceedings instituted thereafter).
- Dairy Litigation for OFT (advising the OFT in its litigation in the CAT).
- TVB v Communications Authority (Advising) Competition Hong Kong (advising TVB in a competition judicial review in Hong Kong)
- OFCOM's Dispute Resolution Guidelines (advising BT on OFCOM's dispute resolution guidelines).
- Hanson and Lafarge v. Competition Commission (instructed on behalf of Hanson in competition judicial review in the CAT).
- Has advised the Competition Commission on bias issues.

## Qualifications & Further Information

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### Degree

- MA Oxon
- LLM London

### Career

- Visiting Professor of Law in the Faculty of Laws, University College, London (1994 - )
- Honorary Professor in the Faculty of Law, University of Hong Kong (2011 - )
- Honorary Visiting Professor at The Chinese University of Hong Kong (2008 - 2011)
- Visiting Senior Fellow at Auckland University & Melbourne University (2008)
- Special Advocate (2004 -2010)
- Bencher of the Middle Temple (2003)
- Recorder of the Crown Court since 2001
- Executive Committee Administrative Law Bar Association 1991-2000
- Christ Church, Oxford 1967-1970 (Open St. Cyres Scholar in Modern History).
- Richard Gordon KC is in Category 1 of the Administrative Law Section of Chambers & Partners Directory and The Legal 500. He also starred in those directories for his expertise in Human Rights, EU/Competition and environmental law.
- Appointed to the Competition Commission of Hong Kong's Panel of External Senior Counsel 2017

## Publications

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- Sanctions Law (2019)
- Hotel California: The continuing jurisdiction of the CJEU
- Negotiating Brexit: The Legal Landscape (Constitution Society 2017)
- Brexit The Legislative Options (Constitution Society 2016)
- Brexit: The immediate legal consequences (Constitution Society 2016).
- EU Law in Judicial Review 2014 (2<sup>nd</sup> ed)
- Judicial Review in Hong Kong 2014 (2<sup>nd</sup> ed)
- (OUP/Constitution Society 2014)
- (Constitution Society 2013)
- (Constitution Society 2012)
- Repairing British Politics - A Blueprint for Constitutional Change (Hart Publishing, 2010)
- Judicial Review in Hong Kong (Lexis Nexis 2009)
- EC Law in Judicial Review (OUP, 2007)
- Contributor to Building the UK's New Supreme Court - National and Comparative Perspectives (OUP, 2004)
- Judicial Review in the New Millennium (Sweet & Maxwell 2003: ed and contr)
- The Strasbourg Case Law - Leading Cases from the EHRR (Sweet & Maxwell, 2001)
- Consultant Editor 'UK Human Rights Reports' (Sweet & Maxwell, 2000 - )
- Editor in Chief: Crown Office Digest
- The Human Rights Act 1998 and Judicial Review (Cavendish Publications, 2000: co-auth)
- Human Rights in the United Kingdom (OUP, 1997: co-ed)
- Local Authority Powers (Monitor Press, 1996)
- Judicial Review and Crown Office Practice (Sweet & Maxwell, 1999: ed)
- Judicial Review: Law and Procedure (Sweet & Maxwell, 2nd ed 1996)

## Talks and Articles

Given to Attorney-General's chambers in Singapore

## Directory Quotes

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- "A barrister with excellent strategic skills who is a calming force when it comes to clients." (Chambers & Partners Global 2020)
- "One of the leaders of the Bar in administrative law." (Legal 500 2020)
- "A class act." (Legal 500 2020)

- "He has a track record of energy-related EU work." (Legal 500 2020)
- "An accomplished, standout silk." (Legal 500 2020)
- "Just brilliant – an extremely strong advocate." (Legal 500 2020)
- "Incisive and a man with tremendous common sense." "An absolute joy to work with." (Chambers & Partners 2019)
- "He is very knowledgeable and really creative." (Chambers & Partners 2019)
- "Gordon has a real feel for the case, which is very helpful. He steers the client to do the right thing." (Chambers & Partners UK & Global 2019)
- "He has a wonderfully rigorous mind and has a range of niche practice areas." (Legal 500 2018-19)
- "Clear, concise, authoritative, persuasive and imaginative." (Legal 500 2018-19)
- "Clarity of thought and management of arguments." (Legal 500 2018-19)
- "Difficult to beat as an imaginative and extremely agile lawyer, able to unlock the most difficult problems and present them with tremendous clarity and conviction." (Legal 500 2018-19)
- "Extremely wide knowledge in this field. He provides innovative and flexible advice on complex legal issues at very short notice. Very easy to work with." "A sharp legal mind, who has authoritative and persuasive advocacy skills and an appreciation for commerciality and focus on the 'big picture' issues." (Chambers & Partners 2018)
- "Richard is a leading expert in the field." "An extremely good barrister." (Chambers & Partners 2018)
- "Well-respected advocate and expert in his field. He has a good focus on the detail." (Chambers & Partners 2018)
- "Authoritative and imaginative; he has literally no weaknesses." (Legal 500 2017)
- "A clear expert." (Legal 500 2017)
- "He is clear, concise and cuts straight to the chase." (Legal 500 2017)
- "Exceptionally gifted and a great person to work with." (Legal 500 2017)
- "He demonstrates excellent advocacy skills, careful preparation of arguments and a real skill in reading the court." (Legal 500 2017)
- "He is what you're looking for in a leader because he gives real strategic direction to a case." (Chambers & Partners 2017)
- "He's really excellent on human rights law." "He is a top-notch public lawyer." (Chambers and Partners 2017)
- "Extremely wide knowledge in this field. Provides innovative and flexible advice on complex legal issues at very short notice. Very easy to work with." "Hugely experienced, great manner and also very commercially astute." (Chambers and Partners 2017)
- "An expert in the area with unparalleled knowledge." (Legal 500 2016)
- "Very good, particularly for judicial reviews." (Legal 500 2016)
- "He has a stellar reputation." (Legal 500 2016)
- "He is very persuasive and can read a court very well." (Legal 500 2016)
- "My first choice counsel for challenging issues, he is immensely approachable and makes such a technical area of law understandable. The way he responds to questioning from

judges is just brilliant." (Chambers and Partners 2016)

- "A tremendously well-known administrative and public law specialist, especially in terms of judicial review and human rights issues. He's excellent at explaining difficult concepts, has a great manner and is extremely authoritative." (Chambers and Partners 2016)
- "He is one of the Official Solicitor's favourite silks. He is often in the big cases and is very good." (Chambers and Partners 2016)
- "'A hugely protean lawyer,' whose diverse international public law practice takes in environmental cases." (Chambers and Partners 2016)
- "He is a very good academic lawyer who's knowledgeable in terms of legal issues and problems." (Chambers and Partners 2016)
- "Highly skilled at getting to the nub of the issues in judicial review." (The Legal 500 2015)
- "Knowledgeable and effective." (The Legal 500 2015)
- "He has a fantastic grasp of, and experience in, judicial reviews." (The Legal 500 2015)
- "Particular expertise in environment issues in Hong Kong." (The Legal 500 2015)
- "He is highly inventive, and can find an argument where some others can't." "With him you get the right answer and the best advice - you know where you are, both with him and the case." (Chambers & Partners 2015)
- "He is quick to respond and collaborative, and his drafting is of the highest quality." "He has definitely got the ear of the court, and if you are instructing him, they will listen to what you have to say." (Chambers & Partners 2015)
- "Meticulous in his preparation and authoritative in his advice." (The Legal 500 2014)
- "Very strong on the judicial review aspects of competition cases." (The Legal 500 2014)
- "Advises on the public law aspects of environmental law and is very knowledgeable in this area." (The Legal 500 2014)
- "Imaginative and very bright, with a string of important cases at the highest level." (The Legal 500 2014)
- "provides innovative and flexible advice on complex legal issues at very short notice." "He shows complete mastery in cases before the Court of Appeal and the Supreme Court." (Chambers & Partners 2014)
- "One of the first ports of call for anything involving human rights." (Chambers & Partners 2014)
- "He is pretty hot. He is a very good lawyer and when he is acting as an advocate he knows how far to go and how not to overdo it." (Chambers & Partners 2014)
- "the 'imaginative and innovative' Richard Gordon KC" (The Legal 500 2013)
- "the 'accessible and inclusive' Richard Gordon KC is noted for his 'imaginative approach to identifying civil liberties and human rights points'" (The Legal 500 2013)
- "Richard Gordon KC is 'extremely knowledgeable' and 'an outstanding advocate'." (The Legal 500 2013)
- "'high up on the list for commercial judicial review issues," and is a favourite of elite City solicitors as he gives "clear, unequivocal advice." (Chambers & Partners 2013)
- "'a strikingly accessible lawyer who thinks very widely around all sorts of public law issues." He has international judicial review experience" (Chambers & Partners 2013)

- "imaginative and innovative and always looking for the best angle to defend or probe a case" (Legal 500 2012)
- "unanimously considered by those who instruct him to be 'outstanding.'" (Chambers & Partners 2012)
- "pre-eminent public law silk Richard Gordon KC is a first port of call for cases involving constitutional, administrative, public and civil liberties law. "He has an incredibly creative legal mind" and is "accessible and always open to discuss things," enthuse sources." (Chambers & Partners 2012)
- "The highly regarded Richard Gordon KC is described as 'the human rights barrister par excellence'." (Legal 500 2011)
- 'encyclopaedic knowledge of public law matters' (Legal 500 2010)
- 'a pre-eminent public law practitioner with deep knowledge of the environment sector' (Chambers & Partners 2011)