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## David Matthias QC - Local Government Law

David has a major local government law practice, advising and representing local authorities throughout England and Wales on issues including finance, non domestic rating and community charging, vires, contracting-out of services and partnerships with the private sector, public procurement, and the drafting of byelaws and policies. He acted for Wiltshire in a major dispute concerning the obtaining of liability orders in respect of underground cabling which involved important issues of non domestic rating and European competition law - **Vtesse Networks v North West Wiltshire [2009] EWHC 3283 (Admin)**, and for a local authority facing a multi million pound claim in a commercial arbitration from a service provider to which it has "out sourced" a major part of its social care provision (resolved in a long running confidential commercial arbitration). David acted for the local authority in **Nottingham City Council v Matthew Zain (2002) 1 WLR 607 (C.A.)**, an important test case concerning the availability of injunctive relief under section 222 Local Government Act 1972 and/or section 130 Highways Act 1980, to prevent anti social behaviour in public places. He also appeared for the local authority before the House of Lords in a major case concerning the scope of Article 8 of the ECHR in the context of possession proceedings brought by local authorities against residential occupiers, **Harrow London Borough Council v Tarik Qazi (2004) 1 AC 983. In R (on the application of S) v (1) London Borough of Lewisham (2) London Borough of Lambeth (3) London Borough of Hackney & (4) Secretary of State for the Home Department [2008] EWHC 1290 (Admin)** David appeared for Lewisham in this important case concerning the determination of responsibilities as between local authorities for the provision of services under the National Assistance Act 1948.

David acted for the Respondent local authority successfully resisting allegations of unlawfulness, misfeasance in public office and contempt of court in relation to its law enforcement functions in **R (on the application of Benjamin Banks) v Tower Hamlets LBC [2009] EWHC 242 (Admin)**. He also acted for the local authority in **Eastleigh Borough Council v Town Quay Developments [2008] EWHC 1922 (Ch)** and **[2009] EWCA Civ 1391**, a case involving issues of land law and local authority powers. In **R (on the application of Albert Court Residents' Association) v Westminster City Council [2011] EWCA Civ 430** he succeeded in a major appeal involving three parties concerning the doctrine of legitimate expectation in relation to the conduct of local authorities in the performance of their statutory powers and obligations.

David is an experienced housing law practitioner, having acted as leading junior for the local housing authority in such key decisions as **R v Newham London Borough Council ex p. Sacupima & Ors [2001] 1 WLR 563 (C.A.)** (defining "homeless" and "suitability"), and **R (on the application of Bibi and Al-Nashed) v Newham London Borough Council [2002] 1 WLR 237 (C.A.)** (concerning substantive legitimate expectation in housing decisions and administrative law generally). He appeared before the House of Lords in the major case concerning the scope of Article 8 of the ECHR in the context of possession proceedings against residential occupiers, **Harrow London Borough Council v Tarik Qazi (2004) 1 AC 983**; and for all three defendants before the Court of Appeal in the important case of **Roma Desnousse v (1) Newham London Borough Council (2) Paddington Churches Housing Association (3) Veni Properties Ltd (2006) QB 831**, concerning the applicability of the Protection From Eviction Act 1977 to the actions of local housing authorities under Part VII of the Housing Act 1996. David advises on the formulation and drafting of policy on behalf of housing authorities, for example he drafted and advised in relation to a new "Choice Based" housing allocation policy on behalf of a consortium of five West London local authorities. On 1 December 2011 he spoke at the "Social Housing: Shaping New Legislation and Case-law into a Lawful and Skilful Allocations Policy" conference, organised by the White Paper Conference Company before an audience of senior social housing lawyers and officers.

Major drafting and advisory work for local authorities has included Licensing Policies, Housing Allocation Policies, a scheme to "de-criminalise" a borough council's parking regulation, the re-drafting of a large London authority's "Scheme of Officer Delegations", and in relation to public procurement issues under the Public Contracts Regulations 2006 for a major urban regeneration project in the north of England.

Recent cases of note include:

- **R. (on the application of We Love Hackney Ltd) v London Borough of Hackney [2019] EWHC 1007 (Admin)** Acted for the local authority on its successful application for security for costs against an applicant seeking to challenge the authority for alleged breaches of the Public Sector Equality Duty under the Equality Act 2010, and successfully opposed the applicant's cross application for a Cost Capping Order.
- **London Borough of Havering v SPH Property Holdings 2 Ltd & Others - Claim No. BL-2019-001561** Acted for the local authority on these urgent applications for injunctive relief under section 214A of the Town and Country Planning Act 1990 brought before the High Court (Business and Property Courts, Property Trusts and Probate List), in order to prevent further offences under sections 210 and 211 of the Act involving the largescale felling of mature trees in breach of tree preservation orders.
- **Wyldecrest Parks v London Borough of Havering [2018] UKUT 0354 (LC)** Local authority's successful appeal to the Upper Tribunal (Lands Chamber) raising important points of law under the Caravan Sites and Control of Development Act 1960 and the Mobile Homes (Site Licensing) (England) Regulations 2014.
- **Hemming & Others v Westminster City Council [2017] UKSC 50** Setting of licence fees and recoverability of costs of enforcement by local authorities in their capacity as licensing authorities, pursuant to EU Directive 2006/123/EC ('the Services Directive'), the Provision of Services Regulations 2009 (SI 2009/2999), and Schedule 3 Local Govt. (Misc. Provisions) Act 1982.
- **R (on the application of Muir) v Wandsworth Borough Council [2017] EWHC 1947 (Admin)** Open Spaces; Local government powers; Local authority granting long lease of premises on common land to limited company; Whether facility for "public or recreational

use"; Open Spaces Act 1906; Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967.

- **Dudley Metropolitan Borough Council v Dudley Muslim Association [2014] EWCA Civ 911** Abuse of power; Legitimate expectation; Local authorities; Particulars; Detrimental reliance; Specific performance; Striking out; Permission for second appeal.
  - **R (on the application of Albert Court Residents' Association) v Westminster City Council [2011] EWCA Civ 430** Legitimate expectation in relation to the conduct of local authorities in the performance of their statutory powers and obligations.
  - **Vtesse Networks v North West Wiltshire [2010] EWHC 3283 (Admin)** acted for the local authority in a dispute concerning liability orders for several million pounds in respect of the non-domestic rates sought over several years with regard to the claimant's national network of underground fibre optic cabling. An important decision on non domestic rating, the national network of optic fibre cabling, and the lawfulness and enforcement of liability orders by local authorities.
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