

# USING THE HUMAN RIGHTS ACT IN PRACTICE

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## THE ROLE OF THE SPECIAL ADVOCATE

- SIAC
- CONTROL ORDERS
- OTHER TRIBUNALS
- TRAINING
- MEETING THE CLIENT
- OPEN AND CLOSED MATERIAL
- DISCLOSURE SUBMISSIONS
- SUBSTANTIVE HEARINGS

# THE ROLE OF THE SPECIAL ADVOCATE

## Cases on the right to a fair trial under Article 6:

- **SECRETARY OF STATE FOR THE HOME DEPARTMENT v (1) MB (2) AF**

[2007] UKHL 46

- **SECRETARY OF STATE FOR THE HOME DEPARTMENT v (1) AF (2) AM (3) AN (4) AE**

[2008] EWCA Civ 1148

## **EXAMPLE: A PRISONERS' RIGHTS CASE**

### **FACTS:**

- **A blind, wheelchair bound prisoner complains of his treatment in prison**
- **Lack of motorised wheelchair**
- **Lack of disabled cell**
- **Long periods of solitary confinement**
- **Long periods in healthcare wing as no where else to accommodate him**

# EXAMPLE: A PRISONERS' RIGHTS CASE



## **GROUNDINGS OF CHALLENGE:**

- Prison Service Policies
- Equivalence of healthcare
- Treatment of disabled prisoners
- Allocation of disabled cells
- Participation in prison life
- Disability Discrimination Act 1995/2005
- Positive equality duties
- Intervention by EHRC
- Human Rights
- Article 3 - prohibition of inhuman and degrading treatment
- Article 8 - right to respect for private life
- Article 14 - prohibition of discrimination

## INQUESTS

- **R (ON THE APPLICATION OF MIDDLETON) v HM CORONER FOR THE WESTERN DISTRICT OF SOMERSET & ANOR**

[2004] UKHL 10

- **VAN COLLE v CHIEF CONSTABLE OF HERTFORDSHIRE**

[2007] EWCA Civ 325

- Pre-inquest submissions on jury and Article 2
- Submissions on verdict: Middleton narrative verdicts
- Judicial Review of Coroners' decisions

## PROFESSIONAL DISCIPLINARY HEARINGS

- **BRIGHT SELVADURAI SELVARAJAN v GENERAL MEDICAL COUNCIL**

(2008) LS Law Medical 193

- Delay in prosecution under Article 6 relevant to sanction

- **SUDESH MADAN v GENERAL MEDICAL COUNCIL**

(2001) Lloyd's Rep Med 539

Interim Orders and Article 6

## PROFESSIONAL DISCIPLINARY HEARINGS

- **R (on the application of) (1) SARAH JOHNSON (2) LYNETTE MAGGS) v PROFESSIONAL CONDUCT COMMITTEE OF THE NURSING & MIDWIFERY COUNCIL**

[2008] EWHC 885 (Admin)

Right to have facilities for preparing a defence under Article 6(3)(b)

- **BRIGHT SELVADURAI SELVARAJAN v GENERAL MEDICAL COUNCIL**

(2008) LS Law Medical 193

Delay in prosecution under Article 6 relevant to sanction

- **COUNCIL FOR OR THE REGULATION OF HEALTHCARE PROFESSIONALS v (1) GENERAL MEDICAL COUNCIL (2) GURPINDER SALUJA**

(2007) 2 All ER 905

Entrapment and Article 8