



GARDEN COURT CHAMBERS

Stephen Simblet KC

YEAR OF CALL: 1991 | YEAR OF SILK: 2020



Stephen is Joint Head of Garden Court Chambers.

Stephen's practice focuses on individual rights in four discrete areas. These are civil claims against the police and public authorities; inquests; mental health and Court of Protection; public law/judicial review. He was one of the lead advocates representing bereaved families in the Hillsborough Inquests and has appeared as advocate in a number of public inquiries.

"Stephen is amazing on his feet, with a fantastic grasp of case law and tactics. His written work is excellent."

CHAMBERS UK, 2024 (POLICE LAW)

"Stephen is awesome, a powerhouse of passion and tenacity. His written work is top-drawer and advocacy second to none."

"A very strong advocate."

CHAMBERS UK, 2024 (CIVIL LIBERTIES & HUMAN RIGHTS)

"Stephen is a fearless advocate with case law at his finger tips. If I need someone tough for trial, he is my first port of call."

CHAMBERS UK, 2023

"Stephen is a very thorough and brilliant advocate, who has a way of putting bereaved families at ease during what can be a very stressful and often traumatic inquest hearing."

LEGAL 500, 2022 (INQUESTS & INQUIRIES, TIER 1)

"Stephen is an amazing barrister who is passionate, committed and brilliant at what he does."

CHAMBERS UK, 2022 (CIVIL LIBERTIES & HUMAN RIGHTS)

If you would like to get in touch with Stephen please contact the clerking team:

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CLAIMS AGAINST THE POLICE AND PUBLIC AUTHORITIES

Stephen specialises in claims for false imprisonment, assault, malicious prosecution and misfeasance in public office against the police, prison authorities and psychiatric hospitals. Stephen is highly experienced in trials in this area, and conducts many High Court and County Court trials in these types of claim every year, as well as advising in countless others that settle on favourable terms. He has appeared in many of the leading appellate decisions in this area.

He is probably one of the most experienced lawyers in the country in this sort of litigation and is ranked highly in the Chambers UK Bar Guide in this area.

Stephen was involved in some of the first damages claims under the Human Rights Act 1998. He was the lead advocate in a case before the European Court of Human Rights concerning forcible entry by the police, in a decision important enough to be reported in the European Human Rights Reports.

Stephen's legal knowledge and skill at pleading meant he was commissioned to write the section on Malicious Prosecution for the latest edition of [Atkin's Court Forms](#).

NOTABLE CASES

Past notable cases can be viewed below. [Click here to see a list of recent notable cases](#).

Keegan v Chief Constable of Merseyside Police [2003] 1 WLR 2187 (appeal raising ambit of tort of malicious procurement of search warrant in circumstances where no human rights claim could be brought. Resulted in successful Strasbourg claim)

R (application of Wilkinson) v Chief Constable of Merseyside Police [2004] 1 Pol LR 189 (quashing a police force's refusal to conduct an investigation into a complaint)

R (application of Clare) v Independent Police Complaints Commission [2005] 1 Pol LR 185 (upholding the complainant's right to have an investigation by establishing that IPCC is permitted to withdraw a dispensation from requirement to investigate complaint)

Chief Constable of Merseyside v Ali Daar [2005] EWCA 1774, [2005] 1 Pol LR 376 (preventing police striking out claim against police on basis that claimant had received an ASBO)

Paul v Chief Constable of Humberside Police [2004] EWCA Civ 308, [2004] 1 Pol LR 179 (successful appeal establishing that claims for damages against the police will often depend on inferences being drawn against police evidence)

Scott v Chief Constable of South Yorkshire Police [2006] 1 Pol LR 86 (failing to obtain a re-trial on basis of non-disclosure of police non-compliance with PCA complaints investigation)

Keegan v United Kingdom [2007] 44 EHRR 33 (obtaining compensation from European Court of Human Rights for breach of ECHR Article 8 and Article 13 following police search)

Shields v Chief of Merseyside [2010] EWCA (Civ) 1281 (failing to invalidate ruling that arrest of a child had been lawful when the detaining officer had not been aware of the original reason for arrest)

Minio-Paluello v Commissioner of Police of the Metropolis [2011] EWHC 3411 (QB)(not an appeal, but a successful claim for damages heard in the High Court for assault upon a demonstrator whose arm was broken by a police officer)

Daniels and Gillard v Chief Constable of South Wales Police [2015] EWCA Civ 680 (successfully fending off an appeal to the Court of Appeal in an important case about immunity from suit and claims for misfeasance in public office. A three-month trial in the High Court took place later that year.)

Mouncher & Ors v South Wales Police[2016] EWHC 1367 (QB) (A complex claim in the High Court involving several claimants, all former police officers, who allege false imprisonment, malicious prosecution and misfeasance in public office.)

Vian & Ors v Commissioner of Police [2017] EWHC 273 (QB) (High Court claim for malicious prosecution and misfeasance in public office damages arising out of the prosecution of people alleged to be involved in the killing of Daniel Morgan in 1987. There have been a number of criminal trials and allegations of police corruption covered in the media, as well as an independent inquiry.)

Rees & Ors v Commissioner of Police for the Metropolis[2018] EWCA Civ 1587 (Successful appeal of *Vian & Ors v Commissioner of Police* [2017] EWHC 273. Stephen's client won a malicious prosecution claim against police over Daniel Morgan murder as the decision of the trial judge was reversed.)

Rees & Ors v Commissioner of Police of the Metropolis[2019] EWHC 2339 (QB) (Damages awarded following the judgment in *Rees & Ors v Commissioner of Police for the Metropolis* [2018] EWCA Civ 1587. Leading case on damages for malicious prosecution.)

Krok and Others v Chief Constable of Norfolk [2023] EWHC 2541 (KB) (Succeeding in contested application for leave to bring proceedings under section 139 Mental Health Act 1983 and that claimant should have the costs of the application due to police's failure to consent.)

Kieran Upadrasta V Commissioner of City of London Police [2023] EWHC 1853 (KB) (This was a contested application to the High Court for leave to bring proceedings where the police removed a man from his home during the Covid pandemic and took him to hospital under compulsory powers under the Mental Health Act 1983. Stephen established that leave should be given.)

Bell v Commissioner of Police of the Metropolis [2024] EWHC 379

(Successfully establishing that the police had acted negligently and in breach of positive duties under the Article 8 ECHR in facilitating the abduction of a child by one of his parents.)

INQUESTS AND INQUIRIES

Stephen is a specialist in inquests into deaths in police and prison custody and into deaths in hospital, having represented families at inquests for many years. He represents families in several inquests each year and has represented in many controversial inquests, including several deaths involving police restraint.

He was lead advocate for a group of families in the Hillsborough inquests. His questioning of police officers about the inadequate emergency police response to the unfolding disaster at Hillsborough was regularly reported in national media, as was his questioning of Kenny Dalglish. He, along with the other family legal teams from the Hillsborough Inquests, was a recipient of Legal Aid Lawyer of the Year 2016.

Stephen was also instructed on behalf of survivors of child sexual abuse in three phases of the Independent Inquiry into Child Sexual Abuse, appearing in the “Nottinghamshire Councils” phase, the “Accountability and Reparations” phase and the “Lambeth Council” phase. This public inquiry is one of the biggest ever.

Stephen has sat as an Assistant Coroner.

NOTABLE CASES

UK Covid-19 Inquiry [Ongoing] - Stephen is representing Covid Airborne Transmission Association (CATA) in Module 3: Impact of Covid-19 pandemic on healthcare systems in the four nations of the UK.

Inquest into the death of Kelvin Igweani [2023] Inquest into the police shooting of a man with mental health difficulties. Stephen represented the family of the deceased man.

Krok and Others v Chief Constable of Norfolk [2023] EWHC 2541 (KB) Stephen represented family members of a man who died following restraint by the police at an inquest in Norwich Coroner’s Court, and now in their civil claim. The citation supplied is for a judgment from the High Court in a case concerning their obtaining leave to bring proceedings against the police in respect of serious failures in the manner of the police restraint that caused his death. The High Court decision is likely to be regarded as one of the leading cases in the grant of leave in such cases.

R (on the application of Ginn) v HM Senior Coroner for Inner London [2022] EWHC 28 (Admin), [2022] ACD 37 Successful judicial review of a coroner's failure properly to direct an inquest jury about shortcomings in the deceased's care and treatment when in prison. Leading Sarah Hemingway.

Judicial review involving inquests

R v HM Coroner for Swansea ex parte Chief Constable of South Wales [2000] 164 JP 191 Judicial review where an inquest jury's verdict of neglect following death in custody was challenged. The new inquest returned a verdict incorporating neglect.

R v HM Coroner for Coventry ex parte Chief Constable of Staffordshire [2000] 164 JP 665 Successfully upholding an inquest jury's verdict of neglect following death in custody.

R (Dawson) v HM Coroner for Kingston-u-Hull [2001] 1 WLR 132 Appearing for deceased's family successfully upholding unlawful killing verdict.

R (on application of Scott) v HM Coroner for Inner West London [2001] 165 JP 417, (2001) 61 BMLR 222 Obtaining a new inquest where a psychiatric patient detained in prison had been allowed to hang himself and the issue of "neglect" had not been considered. The new inquest ordered returned a verdict incorporating "neglect".

R (on application of Cash) v HM Coroner for Northamptonshire [2007] 4 All ER 903 Successful application for judicial review of coroner's failure to leave verdict of unlawful killing and failure to leave narrative verdict, resulting in a fresh inquest being ordered.

R (Humberstone) v Legal Services Commission [2010] EWCA Civ 1479, [2010] 1 Inquest LR 221 Successful judicial review of the Legal Services Commission's refusal to fund the mother of the deceased at an inquest, succeeding both at first instance and on appeal. This case also deals with systems duties under Article 2 ECHR.

R (Mack) v HM Coroner for Birmingham [2011] EWCA Civ 712 Succeeding before Court of Appeal in obtaining an order for a fresh inquest where a coroner had not called sufficient witnesses properly to inquire into a death in hospital from clostridium difficile.

MENTAL HEALTH LAW

Stephen conducts complex hearings before what used to be called the Mental Health Review Tribunal, along with associated judicial review and habeas corpus. These hearings involve restricted patients and those with so-called "dangerous severe personality disorder" in Rampton, Broadmoor and other special hospitals. He is also an expert in damages claims arising out of psychiatric detention. He is an editor of the Community Care Law Reports. Since taking silk, he has represented a number of agencies intervening in important cases, including Mind (the Mental Health charity) and the Northern Ireland Human Rights Commission.

His interest and expertise in mental health law has also led him into difficult Court of Protection cases referred to below.

NOTABLE CASES

Derbyshire Healthcare NHS Foundation Trust v Secretary of State for Health And Social Care (Rev1) [2023] EWHC 3182 (Admin) 14 Dec 2023 - Stephen represented a patient affected by an application for a declaration that would have removed the requirement that examinations for the purpose of renewing orders for detention and compulsory treatment, under the Mental Health Act, be conducted face to face. The patient (PQR) successfully opposed the claim, and as a result, his community treatment order (which we argued had lapsed, as the hospital had carried out the examination by telephone) was discharged. Leading Ollie Persey.

Krok and Others v Chief Constable of Norfolk [2023] EWHC 2541 (KB) Succeeding in contested application for leave to bring proceedings under section 139 Mental Health Act 1983 and that claimant should have the costs of the application due to police's failure to consent.

Kieran Upadrasta V Commissioner of City of London Police [2023] EWHC 1853 (KB) This was a contested application to the High Court for leave to bring proceedings where the police removed a man from his home during the Covid pandemic and took him to hospital under compulsory powers under the Mental Health Act 1983. Stephen established that leave should be given.

DD v Sussex Partnership NHS Trust [2022] UKUT 166 (AAC) Successfully intervening on behalf of Mind in an appeal against a First Tier Tribunal's decision that it did not have jurisdiction to hear an appeal when a patient's status had changed.

Past notable cases can be viewed below.

Re Briscoe [1998] COD 402 Successful habeas corpus application in relation to improperly detained psychiatric patient.

R (on application of C) v Mental Health Review Tribunal [2002] 1 WLR 176 Overturning a practice by which patients had to wait excessive times for a Mental Health Review Tribunal hearing.

R (application of T) v Mental Health Review Tribunal [2002] 1 MHLR 275 Upholding the right of a victim of an offence to receive some information about the discharge plans of a patient. This case later became the basis for a statutory right to receive such information.

R (application of CS) v Mental Health Review Tribunal [2004] 1 MHLR 355 Concerning the powers of the Mental Health Review Tribunal in relation to discharge of patients on long-term leave of absence.

R (application SSG) v Liverpool City Council [2002] 5 Community Care LR 639 Successfully brought proceedings enabling same sex cohabitants to be treated the same as heterosexual couples for the purposes of being recognized as nearest relative under the Mental Health Act.

R (X) v Mental Health Review Tribunal [2003] 1 MHLR 299 (failing to establish unlawful unfairness in Mental Health Review Tribunal proceedings where the Tribunal called further evidence after closing submissions)

R (application of MM) v Secretary of State for the Home Department [2007] 1 MHLR 304 (failure in Court of Appeal case concerning Home Secretary's powers to recall conditionally-discharged patients to hospital. Soon afterwards, the patient was absolutely discharged and removed from the Home Secretary's control)

BB v Cygnet Health Care [2008] EWHC 1259 (Admin) (successful habeas corpus application where social worker not completed necessary consultation before compulsory admission of patient to hospital)

GD v Managers of Edgware Hospital [2008] 1 MHLR 282 (successful habeas corpus application where social worker not completed necessary consultation before compulsory admission of patient to hospital)

M v Managers of Queen Mary's Hospital [2008] 1 MHLR 303 Failing to establish that a patient had not been lawfully examined - subsequently (unsuccessfully) appealed with Roger Pezzani as advocate.

R (application IT) v Secretary of State for Justice [2008] EWHC 1717 (Admin) [2008] 1 MHLR 290 Successful challenge to Secretary of State's powers to recall a conditionally discharged patient, with subsequent damages hearing - compensation amount settled.

BB (Upper Tribunal, Administrative Appeals) [2009] UKUT 157 (AAC) Successful appeal from Mental Health Review Tribunal based on inadequacy of reasons for refusing discharge, overturning the inadequate

tribunal decision.

LC v DHIC and Secretary of State for Justice [2010] UKUT 319 (AAC), [2010] 1 MHLR 337 Successful appeal against decision of Tribunal to reverse decision to discharge patient when there had been no change in his condition.

RM v St Andrew's Healthcare[2010] UKUT 119, (Upper Tribunal, Administrative Appeals) [2010] 1 MHLR 176 Obtaining disclosure to a detained patient of the fact that he was being covertly medicated while in hospital, as part of the obligations of procedural fairness in Mental Health Review Tribunal hearings. This case featured in the preface to Jones as the most significant recent mental health case of that year.

RN v CC [2011] (Upper Tribunal) Successful appeal against Tribunal's decision where it announced at the start that it would not make a CTO recommendation, in breach of right to a fair hearing.

re MS [2013] UKUT 92 (AAC) (Upper Tribunal) Successful appeal against a decision by tribunal that had set out wrong statutory test in application for patient's discharge from section 3 admission.

A Health and Social Care Trust v Mr O and Mr R[2020] NIFam 23 High Court of Northern Ireland. Intervening on behalf of Northern Ireland Human Rights Commission in case concerning conditionally discharged patients.

R (WA (Palestinian Territories) v Secretary of State for the Home Department [2021] EWCA Civ 12 Intervened on behalf of Mind in a case concerning a vulnerable man refusing food in a case about the extent of Article 2 and Article 8 duties on state agencies.

S v Elysium Healthcare & Secretary of State for Justice[2021] UKUT 186 (AAC) (29 July 2021) The Mental Health Review Tribunal for Wales erred in law in finding that it lacked jurisdiction to determine a restricted patient's application once he had become a different type of restricted patient. The tribunal retained jurisdiction and was required to determine the patient's application. The individual became a different type of restricted patient as a result of the Court of Appeal quashing a sentence of imprisonment for public protection.

ADMINISTRATIVE AND PUBLIC LAW

Stephen's judicial review work is primarily within the substantive areas of mental health, prisoners' rights, coroners' inquests, police claims and proceedings involving ASBOs. He also has wide experience in judicial review arising out of criminal proceedings, education law and community care problems, as well as cases

involving the rights of Gypsies and Travellers. Stephen has pursued a number of successful applications for habeas corpus.

NOTABLE CASES

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Judicial review/ habeas corpus, including in criminal proceedings and ASBOs

R v Crown Court at Maidstone ex parte Schulz [1993] COD 182 (while still a pupil, successfully obtaining judicial review of custody time limits extension)

R v Highgate Justices ex parte Riley [1996] COD 12 (quashing a summary trial due to a magistrate's intervention displaying bias)

R (application of P) v Barking Youth Court [2002] 2 Cr. App. R 19 (overturning a finding that a young defendant was fit to plead and stand trial)

R (application D) v Camberwell Green Youth Court [2005] 1 WLR 393 (House of Lords case involving challenge to the special measures directions and use of video evidence in trials of young defendants)

R (application D) v Sheffield Youth Court [2003] 167 JP 159 (successfully challenging committal decisions by youth courts of committal of children for crown court trial)

R (application of C) v Sunderland Youth Court [2004] 1 Cr App R (S) 76 (successfully quashing ASBO made against a child)

R (application of Mills) v Birmingham Magistrates' Court [2005] EWHC Admin 2732 (successfully quashing an ASBO made following a shoplifting conviction and in which also costs ordered against the CPS)

Gibson, Kelly and Bailey v Secretary of State for Justice [2008] 3 WLR 1044 (failing to procure release of prisoner affected by the drafting errors in the legislation relating to early release from prison)

R (V) v Redbridge Magistrates' Court & DPP (2009) (quashing the conviction of a mentally vulnerable man who had been convicted and imprisoned despite being unfit to plead)

R (Hussein and Rahman) v Secretary of State [2018] EWHC 213 (Admin) (assisting in successful judicial review of conditions of detention in Immigration Detention Centres).

Other significant cases

Malik v Selfridges [1998] ICR 268 (appeal where employer had refused to comply with an order for reinstatement and tribunal ordered additional compensation)

Farah v Home Office [Times LR 26/1/2000] (successfully appealed the striking out of a claim against Home Office relating to Somali family being detained and stranded abroad due to incorrect information about their immigration status being given by Home Office to airline)

M (a child) v Ministry of Justice [2009] EWCA (Civ) 419 (getting stuck with one of the first cases on the consequences of bringing a claim for breach of Convention rights under the Human Rights Act 1998 and failing to persuade the court that section 7 (5) ought to be interpreted flexibly in favour of claimants)

COURT OF PROTECTION

Stephen's interest and expertise in mental health law has led him into difficult Court of Protection cases, particularly involving contested allegations of physical or financial abuse, or where several of the parties suffer from mental illness or difficulty.

NOTABLE CASES

PB v RB and Another [2013] EWCOP B41 (appellate point about meaning of "prohibit" in context of Court of Protection).

Re M [2018] EWCOP 4 (Successful High Court appeal where a circuit judge had unfairly determined issues relating to residence for a person without capacity)

AB v HT & Others [2018] EWCOP 2 (High Court case in which obtained recognition of the relationship of an Islamic spouse in complex proceedings about the best interests of a woman without capacity)

PROTEST RIGHTS

Stephen represented protestors in several cases involving court injunctions taken out by commercial organisations against protestors. He has been involved in several High Court cases involving such injunctions, including cases where the injunction proceedings were dropped, or injunctions refused as a result of the defendant's opposition. He is at the centre of some of the cases involving opposition to fracking.

NOTABLE CASES

Injunctions against protesters heard in the higher courts

***Shell UK v Persons Unknown* [2023]** EWHC 1229 (KB) These are injunction proceedings concerning protest against oil companies. Stephen represented protestors wishing to make submissions as to the scope of an injunction, but not be joined as defendants, using the court's powers under CPR Part 40.9.

***North Warwickshire BC v Baldwin and others* [2023]** EWHC 1719 Opposing an injunction against protestors at an oil refinery.

***HS2 and Secretary of State for Transport v Persons Unknown* [2022]** (QB) BHM 000044 Claimants were seeking to expand the scope of their injunctions, relating to the development of HS2, significantly. However, Stephen persuaded the court that no such extension was required, and the matter eventually resolved as an agreed order. Stephen acted for one of the protestors opposing the extension of the injunction.

***Thurrock Council v Adams and others* [2022]** EWHC 1324 (QB) This is a wide-ranging injunction restricting protest rights in Essex. Stephen acted for one of the protestors.

***INEOS v Persons Unknown* [2022]** EWHC 684 (Ch) Applying to strike out the claim, since there had been no actions for over three years. The remaining injunctions were discharged and they were required to pay the Defendant's costs by way of a costs sanction to punish the way in which they have failed to pursue their claim properly.

***UKOG v Persons Unknown* [2021]** EWHC 599 (Ch) This case involved acting for protestors who were affected by the unacceptable width of an injunction sought by an energy exploration company. We persuaded the judge that the injunction could only be maintained against named individuals and had to be cut back so that lawful acts were not affected.

***Boyd and others v INEOS* [2019]** [4 WLR 100](#) Successful appeal in Court of Appeal overturning draconian injunctions preventing protests against INEOS fracking activities.

***UKCOG v Persons Unknown* [2018]** EWHC 2252 (Ch) Proceedings in the High Court against fracking protestors.

***INEOS Upstream v Persons Unknown* [2017]** EWHC 2945 (Ch) Arguing against an injunction being granted against protestors against fracking: expected in the Court of Appeal later.

University of Oxford v Broughton[2008] EWHC 75 Successfully resisting use of harassment injunction to prevent peaceful protest at university ceremonies.

Heathrow Airport and others v Garman and others [2007] EWHC 1957 (QB) Preventing wide-ranging injunction that would have allowed arrest of anyone opposed to airport expansion.

EDO MBM Technology and others v Axworthy and others [2005] EWHC 837 (QB) Establishing that it is necessary for someone seeking injunction against unincorporated association to identify those whom it proceeds against.

COVID-19

Stephen Simblet KC is an expert in inquests and inquiries, in claims against the police and public authorities, in the law affecting the mentally disordered and vulnerable and in restrictions on protests.

He has represented the families of the bereaved and the victims of abuse in many complex and difficult inquiries, including taking a leading role in the Hillsborough Inquests and in the important phases of the Independent Inquiry into Child Sexual Abuse. The requirements of Article 2 and Article 3 ECHR in the conduct of inquiries and inquests is central to his work. His inquest experience includes representing those who have died in psychiatric care, and looking at care plans and measures to keep people safe. During the pandemic, he has been involved in some important challenges to the way proceedings involving psychiatric patients are handled, including the policy of refusing patients the right to be examined by the tribunal medical member, which was effectively abolished without any Parliamentary approval for administrative reasons.

He has also published articles in the legal press on the importance of in- person court proceedings in ensuring the accountability of the court and judiciary for decisions and the involvement of the parties affected.

Stephen has also taken a leading role in important High Court cases involving restrictions on protestors' rights and the importance of Article 10/Article 11 ECHR in protecting the right to demonstrate. He has spoken about the challenges of the Coronavirus Act 2020 and the Police, Crime, Sentencing and Courts Bill 2021.

BACKGROUND

Stephen qualified for the Bar after completing a postgraduate degree in European Community and employment law in Italy, where he lived for over a year. He has reasonably fluent conversational Italian.

In addition to conducting training in mental health law, police actions and inquests, Stephen is a frequent contributor to *Legal Action*, *Solicitors' Journal* and other periodicals. Stephen has also made programmes for Legal Network Television and has appeared as a legal expert on inquests on Sunrise TV.

Stephen is interested in alternative energy projects, such as solar and wind power applications. His belief in hope over experience results in his active support of Nottingham Forest FC. He also plays the violin (badly) in an amateur classical orchestra and plays mandolin in various Balkan music groups. Stephen has overcome his prejudice that skiing is for posh people and is now a regular skier.

PUBLICATIONS

Stephen is a frequent contributor to *Legal Action*, *Solicitors' Journal* and other periodicals. Past articles include principles for obtaining compensation for police negligence, the role of the nearest relative under the Mental Health Act 1983, and developments on the case-law relating to neglect verdicts at coroners' inquests.

He also had an article on police anonymity at inquests published in the *Mail on Sunday*. He is an editor of the *Community Care Law Reports*, specialising in mental health cases.

In June 2019 he published a comment piece on *GN and CN v Poole Borough Council* [2019] UKSC 25, '[For once, a bad case does not make bad law](#)'.

EDUCATION

MA (Cantab)

LLM (European University Institute, Florence)

PROFESSIONAL MEMBERSHIP

INQUEST Lawyers' Group

Police Actions Lawyers' Group

Administrative Law Bar Association

LANGUAGES

Italian

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