



# Michael Etienne

YEAR OF CALL: 2012



Michael qualified to practise in 2018. Michael has a broad public law and human rights practice encompassing actions against the state in various forms but with a focus on cases involving detaining authorities, particularly police forces and prisons.

He is frequently instructed on cases that give rise to issues of systemic discrimination, whether in the detention context or in his education law work.

He takes an active interest in issues of diversity and inclusion in the legal profession. As such, he is a member of the Steering Committees for the Black Barristers Network, the Black Men in Law Network and the recently launched "Bridging the Bar".

He won the 'Future Leader: Diversity and Inclusion' Award in the Chambers Awards 2020 and was shortlisted in the 'Young Pro Bono Barrister of the Year' category in the Advocate Pro Bono Awards 2020.

"A confident barrister who has all the makings of a very good trial advocate. He is thoughtful and excellent with clients."

CHAMBERS UK, 2022 (POLICE LAW, UP AND COMING)

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"Michael Etienne was nominated for Young Pro Bono Barrister of the Year for his outstanding work with Just for Kids Law. We were particularly impressed by his commitment to these clients who did not have the resources to challenge decisions for themselves. Michael consistently exceeded expectations, going above and beyond for the young person's case."

BAR PRO BONO AWARDS 2020

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

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You can also contact Michael directly:

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## ACTIONS AGAINST THE STATE

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Michael has a particular focus on actions against the police and other detaining authorities in all of their forms; especially claims involving alleged breaches of the Human Rights Act 1998 and the Equality Act 2010. With that in mind, he has been an active member of the Police Action Lawyers Group (PALG) for several years.

He has acted in a number of successful settlements in actions against the state. Recent examples include the settlement of civil claims for several women prisoners at the same prison who alleged that they had been subjected to unlawful strip-search (instructed by Maria O'Connell (Scott Moncrieff & Associates Ltd). Instructed by Chez Cotton of Matthew Gold & Co. Ltd. Solicitors) He has also advised in the successful settlement of a novel HRA claim on behalf of the close family members in arising from the psychological harm caused by learning of the alleged abuse of a relative in a mental health setting. All settlements were without admissions of liability.

In the summer of 2020, he, led by Leslie Thomas QC and instructed by Lochlinn Parker– (ITN Solicitors), was part of the legal team that secured a concession from the Metropolitan Police that the “Million People March” on London was a lawful gathering by a “political body” within the scope of the relevant iteration of the Covid Regulations. Further details can be found [here](#).

## **INQUESTS AND INQUIRIES**

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As part of his actions against the state practice, Michael accepts instructions in inquests and inquiries, typically representing bereaved families. He is also an active member of the Inquest Lawyers Group (ILG) and currently sits on the Group’s steering committee.

Michael was a member of the external legal team, acting for the Equality and Human Rights Commission (EHRC) in its project “Following Grenfell”, examining the human rights implications following the tragic fire on 14 June 2017, during Phase 1 of the Grenfell Tower Inquiry.

He is currently instructed in the private inquiry being conducted by the Rt Hon Dame Linda Dobbs into fraud at the now collapsed HBoS Reading.

## **NOTABLE CASES**

### **The Dame Linda Dobbs Review**

Michael is a member of the junior counsel team assisting Dame Linda Dobbs to conduct an independent review into the collapse of the Reading Branch of the Halifax Bank of Scotland, which led to the conviction of a number of Bank personnel for fraud and kindred offences in 2017.

See further here: <http://dobbsreview.com/>

### **Inquest touching upon the death of Neville McNair**

Representing the family of Neville McNair at this 6-day inquest following his death at HMP Lewes.

The jury concluded that Mr McNair died a drug-related death following an unintentional heroin overdose. The Coroner went on to accept my submissions that a Regulation 28 report was called for.

She issued a report with a view to ensuring greater familiarity with and provision of Naloxone – an emergency treatment for opiate overdose.

Michael was instructed for the family by Stephenson LLP.

### **Inquest touching upon the death of Joshua Blackham**

At an early PIRH, Michael persuaded the Senior Coroner for Berkshire that Article 2 ECHR was engaged in the circumstances of Joshua's self-inflicted death. This was in the face of firm opposition on by Surrey Police, who instructed Queens Counsel to oppose the submission in writing and orally at two PIRHs. That opposition was echoed on behalf of the one separately represented police officer.

Following that decision, an application for public funding was granted, which enabled Joshua's family to instruct both senior junior counsel and their solicitor to represent them at the 5-day inquest that followed.

The inquest resulted in a critical narrative from the jury and a Regulation 28 Report being issued by the Coroner.

Michael was instructed for the family by Saunders Law and remained a part of the legal team at the inquest.

## **EDUCATION LAW**

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Michael appears regularly in the First-Tier Tribunal in education cases, in cases concerning Special Educational Needs provision and disability discrimination claims.

He has extensive experience in challenging decisions to permanently exclude children from school and has a particular concern about the implications of these decisions for the vulnerability of those who face exclusion. He is frequently instructed on behalf of pupils and parents, often acting pro bono with organisations such as Just for Kids Law (JFKL). In doing so, he has secured reconsideration and reinstatement of pupils, on a number of occasions.

His recent successes include settling a disability discrimination claim for a pupil with complex behavioural needs who was excluded as a result of behaviour during a "meltdown". It had been alleged that the permanent exclusion was disproportionate within the meaning of s.15 EqA 2010. The claim was settled without any admission of liability.

## **PRISON LAW**

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Michael has a rapidly growing practice in Prison Law. He appears in both adjudications and parole boards, on

behalf of prisoners, where he has already enjoyed success.

## **NOTABLE CASES**

### ***R (on the application of Colin Gill) v Parole Board and Secretary of State for Justice (Interested Party)***

Successful judicial review of a refusal to grant an oral hearing of an application for parole. Materially, Mr Gill had been convicted of murder at the age of 17 years old. He came to be sentenced as an adult. He had demonstrated exceptional progress in custody, including an early transfer to open conditions. However, he was transferred back to closed conditions for several months. That was successfully challenged by his solicitors.

The Parole Board concluded, that this meant that because he had not been able to complete essential parts of his sentence plan, he had no prospect of release, so fairness did not require the grant of an oral hearing.

The Administrative Court disagreed, upholding the principle that the requirements of fairness were not limited to or by an assessment of the prospects of the application for parole being successful.

Michael was instructed by Reece Thomas Watson.

### ***R (on the application of Michael Bennett) v Parole Board and Secretary of State for Justice (Interested Party) [2019] EWHC 2746 (Admin); [2019] A.C.D. 139***

Mr Bennett was a determinate sentence prisoner recalled to custody some months before the expiration of his sentence.

He was recalled in circumstances where he had relapsed into alcohol misuse and was demonstrating behaviours which probation services acknowledged raised concerns about his mental health.

Mr Bennett's case was that he should not have been recalled and challenged a number of the facts alleged against him.

Despite making his case clear on the papers and despite the Board making passing reference to the test in the well-known case of Osborn, Mr Bennett was refused an oral hearing on the erroneous basis that there was no scope for significant mitigation.

The Court found that fairness clearly required the grant of an oral hearing. That was particularly so given that the impact of his mental health issues would be an important part of any proper decision by the Parole Board.

The Court had previously accepted that the application for judicial review should be heard urgently. In granting relief to the Claimant, it also ordered the Parole Board to hear the substantive application for parole urgently. This was so the case could be heard before the expiration of Mr Bennett's custodial sentence. In doing so, the Court rejected submissions in opposition to this relief from the Parole Board – who had, until then remained neutral on all aspects of the claim for judicial review.

Michael was instructed by Reece Thomas Watson.

## **MENTAL HEALTH LAW**

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Michael has represented individuals challenging decisions to section them under the Mental Health Act 1983 before the Mental Health Tribunal. Prior to coming to the Bar, he was permitted to do this work as a member of the Law Society's Mental Health Accreditation Scheme. He has secured a number of positive outcomes for his clients, ranging from variations to conditions on discharge into the community to discharge from section altogether.

His clients have included those affected by the criminal, as well as civil provisions of the 1983 Act. This also includes individuals who have been detained in medium and high secure conditions.

## **COURT OF PROTECTION**

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Michael accepts instructions in Court of Protection matters. He has recently represented a relative in a contentious cause concerning contact arrangements with P, obtaining a final Order that reduced some of the restrictions which had been imposed by a care home.

He has also drafted successful submissions in support of an application for costs against a Local Authority whose conduct of proceedings in respect of P had been unreasonable in a number of respects.

## **YOUTH JUSTICE & CHILD RIGHTS**

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Michael has extensive experience of representing children and young people, particularly in the context of education, exclusion and, where appropriate, related discrimination claims. He also has a particular concern for cases involving the use of force against children and young people, typically in the policing context.

## BACKGROUND

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Before coming to the Bar, Michael developed extensive experience in the public law and human rights field. As the Sir Peter Duffy Scholar of Lincoln's Inn, he completed a Stage at the European Court of Human Rights, in 2012. He was a paralegal at Deighton Pierce Glynn and Bindmans LLP. From there he became an Advice and Information Officer at Liberty, responsible for co-ordinating their public legal advice service. He has subsequently been elected to Liberty's Policy Council and Executive Board.

## PUBLICATIONS

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["School Exclusions and the Pandemic: the irresistible case for change", Justice Matters – Essays from the pandemic, Legal Action Group, 2020.](#)

[Policing during the pandemic: an insight into racism in the UK, Open Democracy, 2020](#)

## AWARDS

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Cassel Scholar, Lincoln's Inn

Sir Peter Duffy Scholar, Lincoln's Inn

## EDUCATION

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- Bar Professional Training Course
- Law (LLB) honours

## PROFESSIONAL MEMBERSHIP

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- Black Barristers Network
- Black Men in Law Network
- Bridging the Bar
- Human Rights Lawyers Association

- **Inquest Lawyers Group (ILG)**
- **Justice**
- **Liberty – Executive Committee, Policy Council**
- **Police Action Lawyers Group (PALG)**

## LANGUAGES

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French - Conversational

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