

ALBA mooting competition 2023

Instructions to candidates

1. The competition is open to current law students, including LLB, GDL, LPC/SQE and BPTC/BTC/BPC students, and also to those who have completed the BPTC/BTC/BPC but not yet secured pupillage.
2. Entries must be from a team of two mooters. It is a speed moot with three stages.

Stage one: Paper sift

3. Teams are asked to submit a written application for permission to appeal to the Supreme Court, on behalf of the challenger Ms Eveleigh, from the judgment of the Court of Appeal in *R (Eveleigh) v Secretary of State for Work and Pensions* [2023] EWCA Civ 810. The case concerns the law of consultation.
4. Participants must assume that the Court of Appeal had considered and allowed the Secretary of State's Ground 2, holding that the *Gunning* criteria do not apply to voluntary consultations, on the basis that a voluntary consultation should not be subject to the same procedural rigour as a consultation which a public authority is legally obliged to conduct.
5. Permission to appeal is to be sought on two grounds:
 - (i) Ground 1: That the Court of Appeal was wrong (in §§82-90 and §§95-96 of its judgment) to conclude that the *Gunning* criteria did not apply to the UK Disability Survey because of the nature of the exercise.
 - (ii) Ground 2: That the Court of Appeal was wrong to conclude that the *Gunning* criteria do not apply to voluntary consultations.
6. You should assume for present purposes that all procedural requirements (as to time limits etc) are satisfied and do not need to be addressed.
7. The application should take the form of a stand-alone document of no more than 5 pages of 12-point type, at least 1.5 line spacing, setting out the reasons why the Court of Appeal was wrong, and why the appeal should be allowed, on the two issues (on the assumed basis set out at paragraph 4 above).
8. Applications should be submitted by email to Richard Honey KC at richard.honey@ftbchambers.co.uk by **5.00pm on Monday 6 November 2023**.
9. Applications will be marked on the papers by members of the ALBA Committee who will draw up a shortlist of candidates for the mooting competition, and a reserve list.

10. The outcome will be notified by email by **Monday 20 November 2023**. We regret that we will not be able to provide feedback to candidates who are unsuccessful at this stage.

Stage two: Oral presentation in the Supreme Court, First Round

11. Six shortlisted teams will be invited to participate in the moot competition, which will take place at the Supreme Court of the United Kingdom in Parliament Square on **Tuesday 12 December 2023** from 5pm.
12. Teams should come prepared to argue either side of the appeal on the two identified grounds in the Supreme Court. They should submit a short skeleton argument (no more than four sides of A4) for the Respondent by **5.00pm on Monday 4 December 2023**. When presenting the case for the Appellant they should use their written application for permission to appeal submitted at Stage 1.
13. There will be three full judges for this occasion: Sir Nicholas Green (Green LJ), Dame Nathalie Lieven (Lieven J), and Christopher Vajda KC (former UK judge at the Court of Justice of the European Communities). The judges will be assisted by three KC members of the ALBA committee in the first round.
14. There will be six teams in the first round, split into three moots. Each moot will be judged by one full judge sitting with a silk. Judges will flip a coin in order to decide who will argue which side. Each team will be given 15 minutes to present or respond to the appeal (as the case may be), and each team member should present or respond to one of the grounds of appeal. Teams should decide for themselves how to divide up the time. Teams should be prepared to deal with some judicial intervention in the course of argument.
15. Shortlisted candidates will be provided with a link to a tabbed PDF of the authorities bundle and may not refer to any other case authorities. A list of the approved authorities is below. The judges will be provided with a copy of the authorities bundles and candidates should bring their own copy for their use during the moot: they may use electronic or paper authorities bundles as they wish.
16. The winner of each moot will be decided by the judges in their absolute discretion, who will also award a score out of five to each team for quality of written argument, oral advocacy presentation and style, legal analysis and response to judicial intervention. Judges will provide brief oral feedback to all teams, time allowing.

Stage three: Oral presentation in the Supreme Court, Final

17. The first-round judges will meet to discuss the candidates, and the two highest scoring teams will go through to the final.
18. For the final, teams will have 15 minutes to present, or, as the case may be, respond, to the appeal.

19. The winning team will be selected in the absolute discretion of the judges on the basis of the quality of written argument, oral advocacy presentation and style, legal analysis and response to judicial intervention.
20. The prizes are:
 - For the winning team: £1000
 - For the 2nd-placed team: £500The four members of the winning and 2nd-placed team will each be entitled to a free place at the ALBA summer conference 2024 in Cambridge.

List of permitted authorities:

In addition to the judgment of the Court of Appeal in *Eveleigh*, and the High Court judgment ([2022] EWHC 105 (Admin)):

1. *R v Brent LBC ex p Gunning* 84 LGR 168
2. *R v North and East Devon Health Authority ex p Coughlan* [2001] QB 213
3. *R (Moseley) v Haringey LBC* [2014] 1 WLR 3947
4. *R (Plantagenet Alliance) v Secretary of State for Justice* [2015] 3 All ER 261
5. *R (Association of Personal Injury Lawyers) v Secretary of State for Justice* [2013] EWHC 1358 (Admin)

12 October 2023