clerks@blackstonechambers.com
+44 (0)20 7583 1770

# Tom Lowenthal



Year of call: **2017**
Degree: **BA Jurisprudence with Law Studies in Europe, BCL**

Tom has a developing practice in line with Chambers' core practice areas, working both as sole counsel or as part of a counsel team.

He has been instructed in high profile and complex litigation, including acting for the claimant in Wilson v Commissioner of the Metropolitan Police (concerning police officers who deceived women into sexual relationships); for Privacy International in R (HM) v Secretary of State for the Home Department (concerning the Border Force's unlawful practice of seizing mobile phones and extracting personal data from individuals arriving at Dover in small boats); and for the Serious Fraud Office in ENRC v SFO (an 11-week trial which was one of The Lawyer's Top 20 Cases for 2021, concerning allegations made against the SFO of inducement of breach of contract and misfeasance in public office).

Prior to coming to Blackstone, Tom completed a DPhil, specialising in education law, human rights law, and privatisation; and was a Lecturer in Law at St Peters' College, Oxford (teaching EU and administrative law). Tom retains his interest and accepts instructions in all these areas.

## EXPERIENCE

### Civil Liberties & Human Rights

Tom accepts instructions in all areas of human rights law.

Tom has experience of acting for both claimants and defendants in Human Rights Act 1998 claims. He also has substantial experience with applications to the European Court of Human Rights, having been instructed by domestic, European and international clients on applications.

Tom has a particular interest in children's rights and education, which was his area of academic specialism before coming to practice at the bar.

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# Cases

## Annington Property Limited v Secretary of State for Housing, Communities, and Local Government

Tom acted for the claimant in the above claim, led by Monica Carss-Frisk KC and Jason Pobjoy KC, challenging the compatibility of the Leasehold and Freehold Reform Act 2024 with the ECHR in both domestic courts and the ECtHR.

## R (Tax Returned Ltd) v Committee of Advertising Practice

Tom acted for the defendant regulator in this Human Rights Act 1998 claim arising from the referral of certain of the claimant's adverts to the social media platform hosting them (led by Catherine Callaghan KC and Ivan Hare KC).

## Advising an NGO on the Genocide Convention

Tom was instructed to advise an NGO on the application of and duties arising under the Genocide Convention in the context of the conduct of Israeli forces in Gaza.

## Abu Zubaydah v Foreign and Commonwealth Office & Ors

Tom was instructed (led by Ben Jaffey KC) in this claim brought against the UK Government by a Guantanamo Bay inmate alleging that the UK Government had been complicit in his torture by the US Central Intelligence Agency.

## Advice on Decision not to Prosecute

Advising a potential claimant on a proposed judicial review of a decision by a police force to take no further action in respect of allegations of rape.

## Associated Newspapers v UK

Tom acted (led by Jessica Boyd KC) for the applicant in this application to the European Court of Human Rights, concerning compatibility with Article 10 ECHR of the recoverability of success fees in defamation actions.

## [Applicant] v Switzerland

Tom was instructed in this ECtHR application, concerning fair trial guarantees and the presumption of innocence.

## Gordon v Russia

Tom was instructed (with Tim Otty KC and Drew Holiner) by the applicant in this application to the ECtHR, arising from various sanctions imposed on a Ukrainian journalist and businessman by Russian courts for comments he made in a television interview criticising Russia's full-scale invasion of Ukraine.

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## Google v Russia

Tom was instructed (with Tim Otty KC, Charlotte Kilroy KC, Jason Pobjoy KC, and George Molyneaux) by Google in this application to the ECtHR, which related to fines imposed by the Russian courts in respect of videos hosted on the applicants' YouTube platform.

## Acting for Asylum Seekers in the British Indian Ocean Territory

Tom was instructed as part of a large team on behalf of Tamil individuals claiming asylum, bringing a claim for judicial review of decisions of the Territory Government to reject their asylum claims.

## Advice on Convention Compatibility of Bill

Advising (at bill stage) on the compatibility of the Water (Special Measures) Act 2025 with the ECHR.

## Advising the Government of an Overseas Territory

Instructed as sole counsel to advise the Government of an Overseas Territory as to the constitutionality of a proposed law.

## Advice on Rent Control

Advising an interested party on the ECHR compatibility of the introduction of certain rent controls (Led by Tom de la Mare QC).

## Advice on a Public Body's Statutory Powers

Advising a public body (led by Javan Herberg QC) on the statutory powers which it exercises, and its obligation to act compatibility with Art. 10 ECHR under the Human Rights Act 1998.

## R (HM) v Secretary of State for the Home Department

Acted for Privacy International (led by Ben Jaffey QC) in a judicial review claim challenging the Defendant's operation of a blanket policy to seize, retain and extract data from the mobile phones of migrants arriving by small boat.

## A Matter arising from the Evacuation of Kabul

Advised (led by Shaheed Fatima QC and Gayatri Sarathy) an individual whose family were trapped in Kabul during the fall of the city to the Taliban, and assisted in the making of representations on that individual's behalf to the FCDO

## Re: The Opposition to an Undemocratic Regime

Acted pro bono (led by Tim Otty QC) for elements of the opposition to a totalitarian regime in a foreign state, advising on international law and sanctions issues.

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### Wilson v Commissioner of Police

IPT/11/167/H

Acting (led by Charlotte Kilroy QC and Isabel Buchanan) pro bono in a Human Rights Act claim brought in the Investigatory Powers Tribunal by a woman deceived into a long-term sexual relationship by an undercover police officer. The IPT found for the claimant, holding that there had been a “formidable list of Convention violations” and “disturbing and lamentable failings at the most fundamental levels”, making a substantial award of damages.

### A Children's Rights and Data Protection Matter

Advising a children's charity in respect of a potential submission to the Information Commissioner, concerning the Age Appropriate Design Code and the use of children's personal data by mobile phone applications.

## Public & Regulatory

Tom accepts instructions in all areas of public and regulatory law, including human rights claims, data protection, civil actions against public authorities, inquiries, immigration, judicial review, procurement, overseas territories, aviation and education. He been instructed on judicial review claims, statutory appeals, and regulatory appeals to the Competition and Markets Authority. He also has substantial experience of Inquiries, having been instructed since early 2022 to act in the Undercover Policing Inquiry. Tom also has particular experience of and interest in advertising law, and is regularly instructed by both the regulators and advertisers.

Prior to coming to the bar, Tom taught administrative law at the University of Oxford.

## Cases

### Undercover Policing Inquiry

Tom has been instructed since early 2022 to act for women deceived into sexual relationships by undercover police officers, led by Charlotte Kilroy KC.

### Advising a Regulator on the Publication of Data

Advising a public authority on the lawfulness of a proposal to publish data on the performance of certain entities within its regulatory domain.

### R (Tax Returned Ltd) v Committee of Advertising Practice

Tom acted for the defendant regulator in this Human Rights Act 1998 claim arising from the referral of certain of the claimant’s adverts to the social media platform hosting them (led by Catherine Callaghan KC and Ivan Hare KC).

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## Advice on Food Advertising

Advising on the prohibition on the advertising of less healthy foods.

## R (Northumbrian Water) v Ofwat

[2024] EWCA Civ 842

Tom acted for Ofwat in this judicial review challenging a decision by Ofwat under its price control framework, led by Kieron Beal KC.

## Wessex Fertility Limited v (1) University of Southampton NHS Trust, (2) HFEA

[2024] EWHC 587 (Fam)

Tom acted for the Human Fertilisation and Embryology Authority (led by Ravi Mehta) in this claim seeking declarations that an egg donor could be contacted for the purposes of asking her to participate in genetic testing to assist in the medical treatment of an individual conceived from one of her eggs.

## R (BGMA) v Secretary of State for Health

[2023] EWHC 1725 (Admin)

Tom was instructed by the claimant (led by Tom Hickman KC) in this judicial review of the Secretary of State's decision as to with which representative organisation of the pharmaceutical industry to negotiate price controls.

## Fatah v Secretary of State for the Home Department

Tom successful represented the appellant in both the FTT and UT in these proceedings appealing against a deportation decision.

## Advice on AI

Advising a regulator on the use of AI technology by entities which it regulates.

## Corporation of Hamilton v Attorney General of Bermuda

Tom represented the appellant, the Corporation of Hamilton, in this appeal to the Privy Council challenging as unconstitutional steps taken by the Government of Bermuda (including the proposed abolition of local elections) to curtail the municipality's independence (led by Sir Jeffrey Jowell KC).

## Transport in Nood v Transport for London

Tom was instructed for TfL in these judicial review and restitution proceedings arising from penalty charge notices issued under the ULEZ scheme to overseas hauliers (led by Ben Jaffey KC).

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### Advising on an ASA Investigation

Tom was instructed to advise an advertiser on an investigation which it was facing from the Advertising Standards Authority.

### Advising a Road Charging Authority

Tom has been repeatedly instructed to advise a road charging authority on various issues arising under its charging schemes.

### Advising on Various Matters Relating to the Development of Future Aviation Technologies

Advising on diverse regulatory issues arising from the development of future aviation technologies, as well as the regulatory implications of Brexit for aviation.

### Advising an Overseas Territory Government

Tom was instructed to advise a British Overseas Territory Government on the constitutionality of proposed legislation.

### R (Aldi Stores) v Advertising Standards Authority

Acted for the ASA, led by Catherine Callaghan QC, successfully resisting an application for permission to bring a judicial review of a ruling that a competitor's advert was not misleading.

## Education

Tom has a particular interest in children's rights and education, which was his area of academic specialism before coming to practice at the bar.

Tom has developed experience advising parents and students when things go wrong in their (children's) education. Tom understands how distressing such circumstances can be, and the importance of managing them with sensitivity and pragmatism.

## Cases

### R (UKCAB) v Pearson Ltd

Tom was instructed (led by Iain Steel) for the defendant examination board in these judicial review proceedings challenging findings of malpractice it had made against the claimant.

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### Advising an Examination Board on its Obligations under the Equality Act 2010

Tom was instructed to advise an examination board in relation to its duty to make reasonable adjustments for candidates with disabilities.

### Advising a University Student subject to Disciplinary Measures

Tom was instructed to advise a student facing disciplinary measures for Instagram posts made in the context of the war in Gaza.

### Advising a University Student subject to Disciplinary Measures

Tom was instructed to advise a student facing disciplinary measures for alleged sexual misconduct, including advising on an OIA complaint and proposed judicial review and contractual claims.

### Advising an Overseas Territory Government on Student Finance

Tom was instructed to advise a British Overseas Territory Government on the entitlement of British Overseas Territories Citizens to “home fees” at English higher education providers.

### [Parent] v [School]

Tom represented a school in a disability discrimination claim in the SEND Tribunal arising from the school’s mobile phone policy.

### [Parent] v [School]

Tom represented a school in a disability discrimination claim in the SEND Tribunal arising from the management of a pupil’s behaviour.

### [Teacher] v [School], [Headteacher]]

Tom was instructed by the National Association of Head Teachers to draft the ET3 for a union member who was accused by a teacher of harassment.

### [Parents] vs [A Private School]

Acted as sole counsel, advising in respect of a potential judicial review concerning alleged errors in the calculation of their child’s centre assessed grades for the purposes of the award of GCSEs during the Covid-19 pandemic.

### [A Student] v [A University]

Advised a student client and her parents about potential recourse and/or appeal from a decision of their university to require the client to suspend their studies for academic reasons (led by Gemma White QC).

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### Advising on a student disciplinary policy

Acted (led by Gemma White QC) for constituent colleges of a Russell Group university, advising on their non-academic disciplinary procedure, with particular focus on their approach to dealing with allegations of sexual misconduct.

### A Children's Rights and Data Protection Matter

Advising a children's charity in respect of a potential submission to the Information Commissioner, concerning the Age Appropriate Design Code and the use of children's personal data by mobile phone applications.

### [A Parent] v [Her Child's School]

Advised pro bono and as sole counsel on the prospects of an Equality Act challenge being brought to a decision to exclude a child, allegedly because of her race.

## Discrimination

Tom accepts instructions in Equality Act 2010 claims across the spectrum of such claims, including matters relating to service provision, public functions, and education.

### Cases

### Advising an Examination Board on its Obligations under the Equality Act 2010

Tom was instructed to advise an examination board in relation to its duty to make reasonable adjustments for candidates with disabilities.

### Advising on Duties to make Reasonable Adjustments

Advising on a proposed claim against a service provider for a failure to make reasonable adjustments.

### Advising on Duties Under the Equality Act 2010 in relation to Support Animals

Tom was instructed to advise a service provider on a claim threatened by an individual whose support animal had been refused access to the provider’s premises. He was also asked to advise more generally on the approach which should be taken in such cases.

### Speid v Sainsburys Supermarkets

Tom was instructed by the defendant in this disability discrimination claim arising from a request by the defendant that the claimant wear a mask in its stores during the Covid-19 pandemic. The claim was dismissed.

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### [Proposed Claimant] v [Service Provider]
Tom was instructed by the defendant in this harassment claim arising from comments allegedly made by a delivery driver.

### [A Prospective Claimant] v [Broadcaster]
Advising (as sole counsel) a broadcaster on a threatened judicial review and Equality Act claim.

### [Teacher] v [School], [Headteacher]]
Tom was instructed by the National Association of Head Teachers to draft the ET3 for a union member who was accused by a teacher of harassment.

### Advising on a student disciplinary policy
Acted (led by Gemma White QC) for constituent colleges of a Russell Group university, advising on their non-academic disciplinary procedure, with particular focus on their approach to dealing with allegations of sexual misconduct.

### [A Parent] v [Her Child's School]
Advised pro bono and as sole counsel on the prospects of an Equality Act challenge being brought to a decision to exclude a child, allegedly because of her race.

## Environment

Tom accepts instructions in all areas of environmental law. He has particular experience of advising on the implications of tackling the climate emergency for the aviation sector.

## Cases

### R (Nobel Oil) v NTSA
Tom was instructed by the NSTA in this complex series of judicial reviews arising from advice given by the NSTA in the context of decommissioning oil assets in the North Sea.

### Advising an NGO in Relation to a Potential Judicial Review
Tom is instructed by a potential NGO claimant in a proposed claim relating to renewable energy resources.

### Advice on Vehicle Emissions
Advising on the legal regime for the testing of vehicle emissions post-Brexit.

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### Advice on Marine Conservation Issues

Tom is instructed (along with Ravi Mehta) in an ongoing matter relating to marine conservation issues.

### The Estate of Ella Adoo-Kissi-Debrah v DEFRA

Tom was instructed for the claimant in this Human Rights Act 1998 claim arising from the illness and premature death of Ella Adoo-Kissi-Debrah, and which included alleged breaches of Articles 2, 3 and 8 ECHR.

### Advice on Ivory Act 2018

Tom was instructed (along with Ravi Mehta) to advise a public body on the implications of the Ivory Act 2018.

### Advising on Various Matters Relating to the Development of Future Aviation Technologies

Advising on diverse regulatory issues arising from the development of future aviation technologies, as well as the regulatory implications of Brexit for aviation.

## Financial Services & Banking

Tom has a developing practice in financial services. He has acted for corporates, individuals, markets, and the FCA; and has experience before the FCA Regulatory Decisions Committee, Upper Tribunal, and Administrative Court. He also has experience, as sole counsel, advising on disputes arising in respect of societies registered under the Cooperative and Community Benefit Societies Act 2014.

## Cases

### Ongoing FCA Enforcement Case

Tom is instructed by the FCA (led by Andrew George QC, Harry Adamson and Ajay Ratan) in regulatory proceedings against certain authorised persons for breaches of COLL rules.

### Advising a Bank

Advising a bank on the consequences of and the merits of any judicial review challenge to a decision of the Financial Ombudsman Service.

### Advising An Exchange

Tom was legal advisor (with Simon Pritchard) to an internal disciplinary panel constituted within an exchange to hear allegations of market abuse made against a trader.

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### Raitzin v FCA [2023] UKUT 00133 (TCC)

Representing (with Ban Jaffey KC) the applicant in a reference to the Upper Tribunal against an FCA Decision Notice.

### Advice on Money Laundering Regulations

Advising a financial services business on the application of the Money Laundering Regulations in the face of an investigation from HMRC.

### Advising a Market

Advising a market on certain aspects of its non-financial misconduct policies.

### Advice on FSMA Regulated Activities

Advising on "claims management activities" under the Regulated Activities Order.

### R (Promethean Finance Limited) v FCA

Representing the FCA (led by Mark Fell KC) in a judicial review claim brought by a firm to challenge the Consumer Credit (Debt Packager Remuneration from Debt Solution Providers) Instrument 2023. Tom appeared unled at the renewed oral permission hearing.

## Tax

Tom accepts instructions in all areas of tax law. He has an EU law background and particular experience in VAT law.

## Cases

### Colaingrove Ltd v HMRC

[2024] UKFTT 490

Tom was instructed for the taxpayer, led by Kieron Beal KC, in this application for additional interest under (now-repealed) provisions of the Value Added Tax Act 1994.

### Realreed Ltd v HMRC

[2023] UKFTT 1042

Tom was instructed for the taxpayer, led by Kieron Beal KC, in this appeal, which concerned the VAT treatment of the letting of apartments.

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### Chelsea Cloisters Management v HMRC

[2025] UKFTT 205 (TC)

Tom was instructed for the taxpayer, led by Kieron Beal KC, in this appeal, which raised issues of the Tribunal's jurisdiction to determine whether HMRC was bound by an extra-statutory concession, as well as issues of the direction and characterisation of the supply of property management services.

### Advising on Direct and Indirect Tax

Tom is instructed (led by Sam Grodzinski KC) in an ongoing matter relating to direct and indirect tax issues arising from alleged labour supply fraud.

## EU Law

Tom accepts instructions in all areas of EU law. He has particular experience of EU law as it applies to the aviation sector. Prior to joining Blackstone, Tom was a Lecturer in EU law at St Peter's College, Oxford.

### Cases

### Advice on the provision of Gambling Services in the EU

Tom has been instructed on an ongoing basis to advise a gambling company on its rights under EU law when providing gambling services in multiple member states with differing regulatory regimes. Tom has advised on CJEU preliminary references, as well as engaged with the European Commission.

## Employment

Tom accepts instructions in all areas of employment law. He has experience both of Employment Tribunal claims, and High Court employee competition work. He has particular experience of conducting independent investigations.

### Cases

### Gale v High Commission of Eswatini

Tom successfully represented the claimant in these proceedings, which involved a preliminary hearing to determine an objection on grounds of state immunity.

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### Black v Imagination & Ors

Tom represented (led by Craig Rajgopaul KC) the former CEO of Imagination Technologies in his whistleblowing claim in relation to his high profile dismissal – widely reported in the press - which followed allegations he made relating to national security concerns about a proposed boardroom coup by appointees of the Chinese Government.

### Advice on Restrictive Covenants

Advising on the enforceability of restrictive covenants in a share purchase agreement and contract of employment (led by Nick de Marco KC).

### An Internal Investigation Into Allegations of Bullying at Work

Tom conducted an internal investigation for a financial services firm in relation to allegations that an individual was being bullied by their line manager.

### An Internal Investigation Into Allegations of Inappropriate Activities on a Work Night Out

Tom conducted an internal investigation for a financial services firm in relation to allegations that, while on a night out with colleagues, a manager took his direct reports to an inappropriate adult entertainment venue.

### Advice in relation to An Investigation

Tom was instructed (led by Kate Gallafent KC) to provide advice in relation to an internal investigation conducted by a public body.

### Alliance v (1) Tran (2) Primus

Acting (led by Diya Sen Gupta QC) for the claimants in this claim brought by a medical insurance provider against a former employee and his new employer. The claimants allege that the former employee stole away valuable confidential information, and claim against him for breach of contract, breach of confidence, and breach of the database right. The claimants allege against the employer defendant that these breaches of duty were induced by them, and that they, too, are in breach of confidence and breach of the database right.

### [Teacher] v [School], [Headteacher]]

Tom was instructed by the National Association of Head Teachers to draft the ET3 for a union member who was accused by a teacher of harassment.

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## Competition

Tom accepts instructions in relation to, and has experience of, regulatory appeals to the CMA involving complex economic analysis.

### Cases

#### H7 Heathrow Airport Licence modification appeals (CMA 2023)

Tom was instructed by the CAA (led by George Peretz KC and Ravi Metha) in relation to an appeal under s. 25 of the Civil Aviation Act 2012, with Heathrow Airport Ltd alleging that the CAA had set the price cap too low, and the airlines alleging that the CAA had set the price cap too high. The CMA held that the CAA was not wrong in most of the decisions that were appealed.

#### Financial resilience appeal (Utilita v Ofgem, CMA 2023)

Tom was instructed by Utilita in this appeal against the decision of Ofgem to introduce a common minimum capital requirement for energy suppliers.

#### Advice on Potential CMA Appeal

Tom was instructed (led by Tom Hickman KC) to advise on a potential appeal to the CMA in connection with the electricity market.

## Commercial

Tom accepts instructions in all areas of commercial law, and has particular experience in aspects of commercial law touching on media and entertainment.

### Cases

#### Advice on a Distribution Agreement

Advising on a dispute which had arisen under a Distribution Agreement between the producer and international distributor of a television show.

#### Dunn v Parsons

Tom acted for the Defendant in this claim seeking declarations, an account, and delivery up of artwork by Banksy alleged to be co-owned with the Claimant.

#### Halpin v Willett

Acting for the claimant in a claim brought to enforce the rules of a social club registered under the Cooperative and Community Benefit Societies Act 2014, and challenge a purported election of officers of that club.

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## A Dispute over Film Rights

Tom (led by Tom Hickman QC) was instructed to draft an opinion in a matter arising from a dispute before the courts in a different European country, where arguments of English law had been raised. The matter involved questions of contract, intellectual property, assignment and priority.

## Advice on Strike Out Application

Advising on an application to strike out commercial proceedings for want of prosecution and/or Jameel abuse.

## Eurasian Natural Resources Corporation Ltd v Director of the Serious Fraud Office

[2022] EWHC 1138 (Comm)

Acting for the Director of the SFO in defence of a $93m+ claim for alleged misfeasance in public office and inducement of breach of contract/fiduciary duty. The matter was one of The Lawyer's Top 20 Cases for 2021, and there was an 11-week trial in the spring/summer of that year (with Simon Colton QC and others).

## A Claim for Unpaid Invoices Under a Collaboration Agreement

Tom has drafted particulars of claim and advised on behalf of a well known-influencer in a dispute arising from unpaid invoices for engaging with certain products on their social media channels.

## Re: [A School Old Members Association]

Advising a school's unincorporated old members' association about the distribution of assets in accordance with the association's rules.

## Adare Finance DAC v Yellowstone Capital Management SA

[2021] EWHC 1680 (Comm), [2021] EWHC 2406 (Comm)

Assisting Robert Weekes QC, acting for a judgment creditor in an application for cross-examination of the debtor pursuant to CPR Part 71.

## A Dispute Over Repairs to a Classic Car

Acted for the defendant in a claim for price and counterclaim for defects arising from the allegedly inadequate repair of a classic car.

## Secure Systems v Vindex

Acted for the claimant as sole counsel in this construction matter. The claimant alleged that it is entitled to certain moneys under an introducer agreement, which the defendant refused to pay over on the ground that there is no such entitlement.

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# ACHIEVEMENTS

## Education

- BA Jurisprudence with Law Studies in Europe (German Law)
- BCL
- BPTC, City Law School (Outstanding)

Prizes

- Oxford Law Faculty Graduate Assistance Fund Award (2016, rewarded 2017)
- Middle Temple Certificate of Honour (2016)
- Ralph Chiles CBE Award for Comparative Human Rights Law (2015)
- Middle Temple Queen Mother's Scholarship (2015)
- Trinity FLAC Human Rights Award (2015)
- Martin Wronker Prize for Administrative Law (2014)
- AV Dicey Prize in Law (2014)
- Brackenbury Scholarship (2011, re-awarded 2012)

Mooting/Public Speaking

- Coach of the Oxford ELSA Moot Team and Oxford Price Moot Team
- Assessing undergraduates for Oxford University's first-year advocacy and legal research programme
- Judging undergraduate intercollegiate mooting competitions
- LSE LGBT Moot: runner-up
- Shearman and Sterling Moot: winner
- Oxford Public Law Moot: runner-up
- 7KBW Commercial Law Moot: Oralist's Prize
- Part of the team representing the UK at the European Youth Parliament

## Publications

T. Lowenthal, The Role of Dignity in Human Rights Theory: Constituent or Teleological? Trinity College Law Review, (2015) 18 TCLR 56

T. Lowenthal, "Essop v Home Office: Proving Indirect Discrimination" (OxHRH Blog, 6 April 2017)

T. Lowenthal, "Drafting guiding principles on state obligations concerning private schools: Lessons and strategic considerations from a rights perspective", (World Education Blog, 22 January 2018)

VAT registration number: 356 4265 85

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