

### **THE ILLEGALITY DOCTRINE REVISITED: Stoffel & Co v Grondona**

*Michael Pooles QC*

This article considers the case of *Stoffel & Co v Grondona* [2020] UKSC 42 and its application of the *Patel v Mirza* [2016] UKSC 42 principles in relation to the defence of illegality. It explores the role of public policy in such cases, suggests that the application of public policy in *Grondona* and *Henderson v Dorset Healthcare University NHS Foundation Trust* [2020] UKSC 43 is potentially inconsistent, and concludes that predicting the outcome of public policy-based decision-making is likely to precipitate a new body of authority.

### **Henderson v Dorset Healthcare University NHS Foundation Trust**

*James Goudkamp*

In *Henderson v Dorset Healthcare University NHS Foundation Trust* the Supreme Court clarified the relationship between the policy-based test regarding the defence of illegality that the Court had endorsed in *Patel v Mirza* and the causation-based approach that the House of Lords had elaborated in *Gray v Thames Trains Ltd*. *Henderson* confirms that the latter approach is *Patel*-compliant and, as such, remains good law. *Henderson* also provides important guidance as to when and how the *Patel* test is to be applied. Ultimately, it suggests that the *Patel* test is far less important than had widely been thought and that it has a role only in novel cases.