

Inconsistency

**How will inconsistency of treatment as irrationality work in practice?
What will sway a court?**

No general principle of equal treatment

- Gallaher Group Ltd & Ors, R (on the application of) v The Competition and Markets Authority [2018] UKSC 25
URL: <https://www.bailii.org/uk/cases/UKSC/2018/25.html>
- Gallaher Group Ltd & Anor & Anor v Competition and Markets Authority [2016] EWCA Civ 719
URL: <https://www.bailii.org/ew/cases/EWCA/Civ/2016/719.html>
- Matadeen and Others v. M.G.C. Pointu and Others (Mauritius) [1998] UKPC 9
URL: <https://www.bailii.org/uk/cases/UKPC/1998/9.html>

Irrationality

- Middlebrook Mushrooms Ltd, R (on the application of) v Agricultural Wages Board Of England & Wales [2004] EWHC 1447 (Admin)
URL: <https://www.bailii.org/ew/cases/EWHC/Admin/2004/1447.html>

“Conspicuously unfair “ - “abuse of power”

- Begbie, R (on the application of) v Department Of Education & Employment [1999] EWCA Civ 2100
URL: <https://www.bailii.org/ew/cases/EWCA/Civ/1999/2100.html>

What will sway the court?

Factors that court will consider:

- Is there any objective justification for inconsistent treatment?
- Level of unfairness
- Important not to fetter the decisionmaker’s discretion
- Is there a policy?