

## Dan Byrne

Year of Call: 2010

dan.byrne@axiomadvocates.com  
07962235034



### Professional Career to date

Devil Masters: Mark Lindsay QC, Anthony Graham, Q.C.

2017- to date: Ad-Hoc Advocate Depute: to Serious and Organised Crime Division, Crown Office.

2013 - to date: Preferred Counsel: Equality and Human Rights Commission

2012 - to date: Appointed Standing Junior to The Scottish Government

2010: Called to Bar

---

2006-2009: Solicitor, Drummond Miller LLP

2004-2006: Trainee Solicitor, Drummond Miller LLP

### Education & Professional Qualifications

LLB (Hons) 1999-2003 The University of Edinburgh

Dip LP 2004 The University of Edinburgh

### Areas of Expertise

- Public Law, Judicial Review and Human Rights
- EU
- International
- Competition and Public Procurement
- Planning

### Professional Experience

Dan practices in Public and Commercial Law.

**In the field of public law** he acts equally for respondents and petitioners.

He has been instructed in challenges to Scottish legislation in the Supreme Court (*AB v The Lord Advocate, Clan Child Law intervening 2017 SLT 401*) and in opposing applications to the ECtHR on Articles 3, 5, 6, 7, 8, 9 and 10 (*Gough v United Kingdom (2015) 61 E.H.R.R. 8*).

His cases have taken him to the Supreme Court on five occasions to date, predominantly in public law, Immigration, human rights and civil liberties.

**In the field of commercial law**, he advises on commercial contracts, public procurement law and where commercial interests intersect with public law.

Chambers 2017 quotes include:

*"...One of the most intelligent advocates at the Bar..."*

*"He is excellent with clients, easy-going and able to deal with very complex work..."*

*"You know he'll make a good job of any instruction; he's got good judgement and can formulate arguments excellently." He clearly knows what he's doing and he's a real pleasure to work with."*

He is (1) standing junior to the Scottish Government (2) preferred counsel to the Equality and Human Rights Commission and (3) the part time Advocate Depute to the Serious and Organised Crime Department, Specialist Casework, dealing with the proceeds of crime in the High Court of Justiciary.

He is ranked in Immigration, Public Law and Civil Liberties and Human Rights in Chambers and Partners 2017.

## **Recent Cases**

### **European Court of Human Rights**

*Gough v United Kingdom* (2015) 61 E.H.R.R. 8

(Acted for successful respondent (written procedure) public nudity as a form of expression and private life, lawfulness of detention, right to a fair trial, breach of the peace, torture (articles 3,5,6,7,8,9,10)

### **Supreme Court**

*AB v The Lord Advocate, Clan Child Law intervening* 2017 SLT 401

(Acted for intervener, held that s39(2)(a)(i) of Sexual Offences Scotland Act 2009 is incompatible with article 8; Human Rights, article 8, quality of law, in accordance with the law, compatibility of Scottish legislation, acted as junior for intervener)

*IA (Iran) v Secretary of State for the Home Department* [2014] UKSC6 [2014] 1 WLR 384

(UK Supreme Court; meaning and significance of UNHCR's refugee recognition process in domestic procedure; UNHCR intervening)

*N v Advocate General* 2014 1 WLR 2064; [2014] UKSC 30

(Acted for successful respondent. UK Supreme Court. Expert evidence. The lawfulness of the Government's use of anonymous "expert" reports provided by a Swedish language analysis company and the scope of guidance by a specialist tribunal)

*A v BBC (Secretary of State for the Home Department Intervening)* [2014] 2 WLR 1243; [2014] UKSC 25

(Acted for successful respondent. UK Supreme Court. art 10 ECHR rights of the press and Art 3 ECHR rights of the individual, reporting restrictions and correct standard of proof required to establish an art. 3 claim necessary to defeat art. 10 rights)

*Malik and Sadovska v The Advocate General for Scotland* (judgment pending) (EU Law; spouses; sham marriages)

### **Court of Session**

*HMA v Younas* [2018] CSOH 9; 2018 SLT 227

Acted for successful Crown (appeal pending). Powers of an enforcement administrator; whether concluded missives constitutes an interest in property which a party is entitled to retain or recover for the purposes of variation of an administrator's statutory powers under the Proceeds of Crime Act 2002.

*Wang v Scottish Ministers* 2017 SLT 1256

Acted for successful respondent. Whether the Court can entertain amendment before permission where the Court of Session Act 1988 precludes 'proceedings' anterior to the determination of permission.

HMA v Colin Coates [2017] HCJ 89

High Court of Justiciary. Acted for successful Crown. Proceeds of crime; benefit from criminal conduct; extortion.

*Campbell v Scottish Ministers; Sedexo Limited; Tasco Services Ltd; and G4S Care and Justice Services UK Ltd 2017 CSOH 35*

Acted for successful respondent, with senior counsel. Whether Scottish Ministers liable for alleged convention violations of third party contracting parties.

Beggs v Scottish Ministers 2018 SLT 199

Acted for successful respondent. Prison rules, rationality.

Beggs Scottish Ministers [2017] CSIH 62

Acted for successful respondent. Inner House. Meaning of new judicial review provisions on reclaiming and appealing; whether court had a discretion under s27D of the Court of Session Act 1988.

SA Bangladesh 2017 SLT 1245

Under appeal and cross appeal\*. Meaning of statute and rules bearing on children; application of the Eba test post permission.

(\*correct as at 25th May 2018).

SK Iraq v Secretary of State for the Home Department 2017 CSOH 3

Acted with senior for successful petitioner. Certification. Iraq, country conditions.

*Beggs v Scottish Ministers; 2016 SLT 789*

Successfully resisted any remedy being given to petitioner. Outer House. Prison law, correspondence, just satisfaction, remedy, declarator, courts discretion.

*Beggs for Judicial Review, 2016 CSOH 61*

(Acted for successful respondent. Prison discipline, common law prescribed procedures, fairness, article 6 ECHR)

*Penman for judicial review, 2015 SLT 597*

(Acted for successful respondent. Outer House, prison law, natural justice, discretionary remedies in judicial review, practical purpose)

*Quisongo, for judicial review, CSOH [2016] 135,*

(Acted for successful respondent. Housing policy and law, judicial review, delay and acquiescence)

*The John Muir Trust v Scottish Ministers, [2016] CSIH 61 (first division)*

(Acted for successful respondent. Windfarms, planning, Protective Expenses Orders, EU law, judicial review)

*Loch Hill Wind Farm for Appeal, [2015] CSIH 37*

(Acted for successful respondent. Wind farms, structure plan, visual impact, statutory appeal, planning)

*The John Muir Trust for a Protective Expenses Order [2014] CSOH 172A*

(Acted for successful respondent who resisted a PEO)

*Sadovska and Malik, Appeals, 2016 CSIH 51 (First Division)\**

(EU free movement rights, marriages of convenience, common law requirements of fairness -

particularly in terms of interrupting wedding ceremonies and interviews)

*Scottish Ministers v Mental Health Tribunal and JMM* [2012] CSIH 18  
(Acted for JMM where an appeal taken against the MHT was refused. Inner House. Mental health law and interpretation of the 2003 act)

*MC, petitioner* [2016] CSOH 7  
(Acted for successful petitioner, judicial review, article 8)

*EMM and CNM petitioners*, [2016] CSOH 51  
(acted for successful petitioners, judicial review, child refugees)

*Nadine Ahmed Ali* [2015] CSOH 115A  
(Acted for successful petitioner, judicial review, human rights, evidence)

*Upreti* [2015] CSIH 45  
(Inner House, best interests of the child)

*Graeme Donaldson v The Scottish Legal Aid Board* [2014] CSIH 31; 2014 SC 689; 2014 SLT 459  
(acted for successful respondent, applications for legal aid to the ECtHR whether falling within the legal aid regulations and whether required to render vindication of rights effective)

*AY, petitioner* [2014] CSOH 91  
(Judicial Review, second appeals test, human rights)

*HY* [2014] CSOH 72  
(Judicial Review, human rights)

*QE, petitioner* [2014] CSOH 53  
(Judicial review, human rights)

*AD, Petitioner* [2013] CSOH 38  
(Acted for the successful petitioner- judicial review, credibility analysis flawed, human rights)

*ASM v Secretary of State* [2013] CSIH 74  
(Inner House, sex offenders, human rights)

*AS for Judicial Review* [2013] CSOH 82  
(Acted for successful petitioner, Judicial Review, the status of respondent's letters in judicial review outside of the legislative framework regulating a decision making process)

*Khan for Judicial Review of a decision of the Upper Tribunal* [2013] CSOH 84  
(Outer House. Judicial Review of the Upper Tribunal and the meaning and scope of regulation 21 "proportionality" in the European Economic Area Regulations 2006)

*A.D. for Judicial Review* [2013] CSOH 38  
(Outer House. human Rights/Immigration)

*British Broadcasting Corporation Apps*, 2013 SLT 324  
(see Supreme Court above) Inner House. application by The BBC for variation or revocation of an order made under s.11 of the Contempt of Court Act 1981 in relation to the petition of A for Judicial Review, question of what standard of proof required to establish article 3 rights established in the face of the art 10 rights of the press, see appeal to Supreme Court)

*KP and MRK, appeal* [2012] CSIH 70  
(Acted for successful appellant. Inner House. internal relocation in refugee law)

*KP and MRK in the application for leave to appeal* [2012] CSIH 38  
(Acted for successful appellant. Inner House. The vires of rules of court introducing a second appeals test to statutory appeals)

*Petition of SJL for Judicial Review* [2012] CSOH 93

(Acted for successful petitioner, judicial review, meaning of false in an administrative application, whether requires applicant's knowledge or agents falsehood sufficient)

*AAQ for Judicial Review* [2012] CSOH  
(Acted for successful petitioner, Judicial review/human rights)

*MSK, petitioner*, [2012] CSOH 179  
(Refugee convention, interpretation)

*BMAS for Judicial Review* [2011] CSOH 128  
(Acted for successful petitioner, judicial review/human rights, torture)

*AJ v A Decision of the Upper Tribunal* [2011] CSIH 49; 2012 SLT 162  
(Acted for successful appellant, leave to appeal, appeal, the standard of proof for establishing allegations of forgery in a human rights context)

*LO for Judicial Review* [2011] CSOH 106  
(Acted for the successful petitioner, judicial review, human rights/evidence of torture/Istanbul Protocol/standard of proof)

*KM for Judicial Review* [2011] CSOH 48  
(Human Rights, fresh evidence)

*VH v Secretary of State for the Home Department for judicial review* [2011] CSOH 152  
(Acted for successful petitioner, Human Rights, fresh evidence)

*MO for Judicial Review* [2010] CSOH 170  
(Acted for successful petitioner, Human Rights/fresh medical evidence of torture/scarring)

*NM for Judicial Review* [2010] CSOH 146  
(Human Rights/fresh evidence)

### **Reported Tribunal Decisions**

*SM Domicile of Choice, Scots Law* [2008] UKAIT 00092, SA (s82 (2)(d))

*Interpretation and Effect* [2007] UKAIT 00083

*KA & Others (Public Finds: housing)* [2007] UKAIT 00081  
(led by senior counsel)

### **Advocates Courts & Tribunals**

ECTHR; Supreme Court; Inner House, Court of Session; Outer House, Court of Session, Sheriff Appeal Court; Sheriff Court; The Upper Tribunal; The First-tier Tribunal; Mental Health Tribunal; Employment Tribunal.

### **Advocates Appointments & Memberships**

2017 - to date: Ad-Hoc Advocate Depute: To The Serious and Organised Crime Division/Proceeds of Crime Unit.

2013 - to date: Preferred Counsel, Equalities and Human Rights Commission

2012 - to date: Standing Junior Counsel to The Scottish Government

### **Directories**

He is ranked band 1 for Immigration, band 2 for public law and band 3 for Civil Liberties and Human Rights in Chambers and Partners 2017.

### **Chambers UK 2017**

"...One of the most intelligent advocates at the Bar..."

*"He is excellent with clients, easy-going and able to deal with very complex work..."*

*"You know he'll make a good job of any instruction; he's got good judgement and can formulate arguments excellently." "He clearly knows what he's doing and he's a real pleasure to work with."*