

## Morag Ross QC

Year of Call: 2003 Year of Silk: 2016

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### Professional Career to date

Devil Masters: David Johnston QC, Robert Milligan QC, Jamie Gilchrist QC.

2016: Silk

2013: Ad hoc Advocate Depute

2008-2016: Standing Junior to the Scottish Government

2003: Year of call

2002-2003: Lord Reid Scholarship

1999-2002: Assistant Solicitor, Anderson Strathern

1997-1999: Trainee Solicitor, Anderson Strathern

1997-2000 and 2002-2003: Tutor in Public Law, University of Edinburgh (part time)

### Education & Professional Qualifications

Dip LP, University of Edinburgh (1996-97)

LLB, , University of Edinburgh (1994-96)

BA (Hons) (Philosophy, Politics and Economics) University of Oxford (1990-93)

Notary Public.

### Areas of Expertise

- Public Law, Judicial Review and Human Rights
- Commercial Contracts
- Commercial Property
- Competition and Public Procurement
- EU
- International

### Professional Experience

Morag Ross called to the bar in 2003 and took silk in 2016. She is a graduate of the Universities of Oxford and Edinburgh. Her practice is predominantly in public law, including human rights and civil liberties. She has experience in a wide range of public law work and is instructed by both petitioners and respondents. She regularly represents and provides advice to public authorities in judicial review and statutory appeal proceedings. She also has a substantial practice in EU law and has significant experience in public procurement and State aid. She has extensive experience of providing advice in public procurement and related matters, both in contentious and non-contentious settings. Morag was recently instructed for the additional parties in the *Wightman* litigation before the Court of Justice of the European Union which established that it is possible for a Member State unilaterally to revoke a withdrawal notice served under Article 50 TFEU. She was also instructed for the petitioners in the litigation challenging legislation relating to minimum unit pricing for alcohol in the Court of Justice of the European Union and in the Supreme Court. Morag has a particular interest in freedom of information

and has represented the Scottish Information Commissioner in a number of cases, including in the Supreme Court.

From 2008 to 2016, she served as Standing Junior Counsel to the Scottish Government and was instructed in a range of complex and high profile cases, including litigation involving assisted suicide and human rights.

In addition to her public law practice, Morag has experience of the Commercial Court and is regularly instructed on behalf of major commercial interests in contractual and other disputes.

Morag has acted in several wills and trust matters. She has been instructed as a reporter to the court in relation to certain *cy près* schemes concerning public trusts administered by a local authority, and in a number of complex contentious executry matters.

In January 2019, Morag was appointed as Advocate Member of the Judicial Appointments Board for Scotland.

## **Recent Cases**

### **Public law**

*Re Gallagher's Application for Judicial Review* [2019] UKSC 3 (disclosure of criminal convictions and Article 8 ECHR – written submissions for intervener providing Supreme Court with explanation of position in Scotland)

*Wightman v Secretary of State for Exiting the European Union* (C-621/18) EU:C:2018:999; [2018] 3 W.L.R. 1965 (establishing that the United Kingdom may unilaterally revoke its withdrawal notice under Article 50 TFEU)

*SPUC Pro-Life Scotland Ltd v Scottish Ministers* 2018 SLT 1033 (judicial review – decision of Scottish Ministers to allow early medical abortion at home)

*U v Glasgow City Council* 2017 SLT 1109 (action for declarator of age – age as an aspect of private life for purposes of Article 8 ECHR)

*AB v HM Advocate* 2017 SC (UKSC) 101 (child sex offences, ‘reasonable belief’ defence and Article 8 ECHR)

*Scotch Whisky Association and others v Lord Advocate* (C-333/14) [2016] 2 CMLR 27 (CJEU) and 2018 SC (UKSC) 94 (Supreme Court) (minimum unit pricing for alcohol and compatibility of legislation with EU law)

*Anderson Strathern v Scottish Legal Complaints Commission* [2016] CSIH 71 (statutory interpretation - hybrid complaints)

*Price v Scottish Legal Complaints Commission* [2016] CSIH 53

*C v Gordonstoun Schools Ltd* 2016 SLT 587 (disability discrimination in relation to ADHD and boarding school)

*Gibson v Scottish Ministers* 2016 SLT 675 (planning - protective expenses orders)

*McCreight v Scottish Ministers* [2016] CSOH 40 (judicial review - compensation in respect of wrongful conviction)

*Glenmorrie Wind Farm Ltd v Scottish Ministers* [2016] CSOH 34 (judicial review - planning - wind farms)

*Angus Growers Ltd v Scottish Ministers* 2016 SLT 529 (EU law - liability for Francovich damages)

*Hands v Scottish Ministers* [2016] CSOH 9 (judicial review - prisons - supervision requirements)

*Ross v Lord Advocate* 2015 SLT 617 (Outer House) and [2016] CSIH 12 (Inner House) (assisted suicide and decisions to prosecute)

*J & E Shepherd v Letley* 2016 SLT 31 (Court of five judges - Sheriff Court procedure - instructed as amicus curiae)

*Welsh v Scottish Information Commissioner* 2015 SLT 397 (freedom of information)

*Matthews v Scottish Legal Complaints Commission* [2015] CSIH 68

*Hillhead Community Council v City of Glasgow Council* 2015 SLT 239 (protective expenses orders)

*South Lanarkshire Council v Scottish Information Commissioner* 2013 SLT 799 (Supreme Court: data protection and proportionality)

*Scotch Whisky Association and others v Lord Advocate* 2013 SLT 776 (legality of Alcohol (Minimum Pricing) (Scotland) Act 2012 under European law)

*Scotch Whisky Association and others v Lord Advocate* [2012] CSOH 156 (public interest intervention)

*Comhairle nan Eilean Siar v Scottish Ministers* 2013 SLT 687 (schools closures)

*Hogg v Scottish Ministers* 2013 SLT 717 (prisoner transfer agreements)

*Common Services Agency v Scottish Information Commissioner* 2008 SC (HL) 184 (data protection - whether data "held" and whether "personal data")

*Infant and Dietetic Foods Association Ltd and others v Scottish Ministers* [2009] Eu LR 14; 2008 SLT 723 (whether Regulations ultra vires – implementation of Directive)

*D v Glasgow City Council* 2008 SC 117 (placing request - jurisdiction of Additional Support Needs Tribunal for Scotland)

*Scottish Ministers v Scottish Information Commissioner* 2007 SC 330 (freedom of information - exemptions and ministerial powers and duties)

*Argyll and Bute Council v Scottish Public Services Ombudsman* 2008 SC 115 (judicial review of SPSO - decision relating to free personal care for the elderly)

*A v Scottish Ministers* 2008 SLT 412 (application of Sex Offenders Act 2002 to a young person - Articles 8 and 14 ECHR)

### **Public procurement**

*Johnson and Johnson Medical Ltd t/a Depuy Synthes Ltd v Greater Glasgow Health Board* [2016] CSOH 12

*Nationwide Gritting Services Ltd v Scottish Ministers* [2013] CSOH 119 (contract award without publication of notice - time bar)

*Farrans (Construction) Ltd v Glasgow City Council* 2013 GWD 8-168 (agency - dormant companies - title to sue)

*Glasgow Rent Deposit and Support Scheme v Glasgow City Council* [2012] CSOH 199 (interim orders)

*Elekta Ltd v Common Services Agency* 2011 SLT 815 (whether tender requirements discriminatory - interim orders)

*Sidey Ltd v Clackmannanshire Council* 2010 SLT 481 (below threshold contract - Directive and Regulations)

### **Commercial law**

*Scottish Lion Co Ltd v Goodrich Corporation* 2011 SC 534 (recovery of documents - confidentiality, privilege and waiver)

*Brown v Rysaffe Trustee Company (CI) Ltd* [2011] CSOH 26 (construction of contract - designation as trustees)

*Green Island Organics Ltd v QBE Insurance (Europe) Ltd* [2011] CSOH 15 (interpretation of insurance contract)

### **Wills and Trusts**

*Stewart and others v Franks and others* [2013] CSOH 63 (reduction - capacity)

*Turner v Turner* 2012 SLT 877 (ademption - summary trial)

### **Advocates Courts & Tribunals**

Court of Justice of the European Union; Supreme Court; House of Lords; Court of Session (Inner and Outer House); High Court of Justiciary; Sheriff Court; Scottish Land Court; Lands Tribunal for Scotland.

### **Advocates Appointments & Memberships**

2019: Member, Judicial Appointments Board for Scotland

2016: Silk

2013: Ad hoc Advocate Depute

2013: Judicial Commission Convener, General Assembly of the Church of Scotland

2008-2016: Standing Junior to the Scottish Government.

### **Directories**

Recommended in Chambers UK in Administrative and Public Law, Civil Liberties and Human Rights, Public Procurement, Commercial Dispute Resolution, and Professional Discipline

Recommended in Legal 500