



AIDAN O'NEILL QC (SCOT) QC

MAIN AREAS OF PRACTICE:

Competition and Regulation
Discrimination and Equality
Education Law
Election
Employment Law
Environmental Law and Natural
Resources
EU Law
Human Rights
Immigration, Asylum and Free
Movement
Public and Private International
Law
Public Law
Sports Law

Called to the Bar 1987 (Scot)
1996 (English)
Appointed to Silk 1999 (Scot)
2017 (English)

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Alison Scanes, Senior Practice
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Aidan O'Neill QC (Scot) QC is dual-qualified. He is a barrister in practice in England and Wales, and a leading member of the Scottish bar. He has a wide ranging commercial/public law practice both north and south of the border. He is a specialist in EU law, human rights and constitutional law. His expert legal advice is regularly sought, particularly on the impact of EU law on other areas of UK law, including on charity law, employment law, environmental law, equality law, private international law, public procurement, and trade law. He has argued cases as senior counsel before the UK Supreme Court, the Judicial Committee of the Privy Council, the House of Lords, the Court of Justice of the European Union, and the European Court of Human Rights. With almost 20 appearances as senior counsel before the UKSC/HL/JCPC he is one of the Bar's most experienced pleaders before the UK's top courts. In addition he appears regularly in the Court of Appeal of England and Wales, the Administrative Court, the Court of Session (Inner and Outer House) and the Employment Appeal Tribunal. Aidan is an A-Panel member of the Equality and Human Rights Commission's Panel of Preferred Counsel.

Aidan is also a widely published legal author with three legal text books to his name to date - EU for UK Lawyers (2nd edition, 2011), Judicial Review in Scotland: a practitioner's guide (1999) and Decisions of the European Court of Justice and their constitutional implications (1994) - as well as numerous academic articles. He is the founder, editor and a contributor to the blog EUtopia law.

PROFESSIONAL QUALIFICATIONS

English Bar

February 2017 – Appointed Queen's Counsel (QC) in England and Wales
December 2010 - Member, Matrix Chambers, Gray's Inn, London

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DIRECTORIES' RECOMMENDATIONS

HERE'S WHAT THEY SAY:

Chambers & Partners 2016 notes that Aidan 'knows more about European Union Law than anyone else and he is incredibly creative with his ideas'. "A heavy hitter, he produces spectacular written notes that show he's learning and he is never second bested on them."

Chambers & Partners 2015 reiterates that "the Supreme Court is his natural forum – he can more than hold his own in that environment and is clearly well-respected there." "His advocacy skills are tremendous, he is intellectually impressive and he is prepared to take on extremely difficult and notorious work."

Legal 500 2015 notes that "he has an excellent grasp of cutting-edge issues" and "The other side are always extremely intimidated by his knowledge of the law."

Legal 500 2012 observed that "the 'fantastic' Aidan O'Neill QC is 'perceptive and thorough, with a good understanding of clients' needs' and that 'the Supreme Court is his natural environment'".

September 2000 - Associate, Matrix Chambers, Gray's Inn, London
July 1996 - Called to the Bar of England and Wales

Scottish Bar

July 1999 - Appointed Queen's Counsel (QC) in Scotland
1997 -1999 - Standing Junior Counsel to the Scottish Office Education and Industry Department
July 1987 - Called to the Scottish Bar

SOME RECENT DECIDED CASES

Cases raising issues of EU law

Aidan O'Neill is described as "a leading EU lawyer" (Chambers Guide, 2013 edition). His EU for UK Lawyers (Hart Publishing Second edition, 2011) has been called a "compelling text", "readable and user-friendly", "lively and insightful", and "a comprehensive and substantial work giving an overall view of the application of European Union law at the national level" which constitutes "an essential reference book for every legal practitioner in the UK" and is "the most comprehensive English guide to EU law." The Chambers Guide (2013 edition) notes of him that "he has a strong interest in the inter-relationship between EU, domestic and human rights laws and enjoys an enviable reputation" while the Chambers Guide (2014 edition) states that he is an authority on EU law, noted for his expertise in EU law and human rights and that "he is a serious academic lawyer. He knows every case that has anything to do with his field. He always comes up with new ideas and is a great pleasure to work with" and is described as "extraordinarily able, and has astonishing depth and breadth of knowledge." The Chambers Guide (2015 edition) notes of him that "he attracts considerable praise for his skillful advocacy and intellectual approach to novel legal issues, especially where there is a pronounced inter-relationship of EU and domestic law." The Legal 500 (2013 and 2014 editions) ranks the "highly rated" Aidan O'Neill as "an authority in EU law" at the London Bar.

In addition to the cases set out below Aidan O'Neill over the years had a number of cases involving pharmaceutical regulatory issues – concerning the attempts by pharmaceutical companies to have their new products approved for general use by the NHS. All of the cases thus far have settled before trial. The work is of particular interest in its combination of need for a good technical understanding of the processes of pharmaceutical production and promotion as well as requiring a thorough grasp of what is a complex web of interlocking regulatory regimes, heavily influenced by issues of EU law.

2014 Case C-333/14 Scotch Whisky Association and others v. Scottish Ministers re minimum alcohol pricing [2015] ECR I-nyr; [2014] CSIH 38; [2013] CSOH 70 - compatibility of the Alcohol (Minimum Pricing) (Scotland) Act 2012 with Article 34 TFEU on the free movement of goods and/or the Common Agricultural Policy

2014 Janah v. Libya/Benkharbouche v. Sudan [2014] EWCA Civ nyr (whether principles of EU law and the Charter of Fundamental Rights could be prayed in aid to established jurisdiction and right to a substantive remedy in employment dispute claims which were otherwise barred by State immunity under national legislation

2014 Nationwide Gritting Services v. Scottish Ministers [2014] CSIH nyr, [2015] CSIH nyr, [2014] CSOH 151, [2014] CSOH 41 - public procurement

damages claim for loss of a chance to bid for a series of public contracts which were not advertised on grounds of public emergency

2014 R (Sandiford) v. Foreign and Commonwealth Office [2014] UKSC 44; [2013] EWCA Civ 581; [2013] EWHC 168 (Admin) - whether the FCO had duties at common law under the ECHR (and, before the EWCA, under EU Charter of Fundamental Rights to provide funding for legal representation of British nationals facing death penalty abroad

2014 R. (Teshome) v Secretary of State for Justice [2014] EWHC 1468 (Admin) - EU citizen's claim to voting rights in European Parliamentary elections even while imprisoned in UK

2013 R. (Chester) v Secretary of State for Justice/McGeoch v. Lord President of the Council [2013] UKSC 63; [2011] CSIH 67; [2011] CSOH 65 - Judicial Review of the compatibility with the petitioner's EU law citizenship rights of the decision to refuse the a convicted prisoner's application to be included on the Electoral Register for local government elections and separately for elections to the European Parliament

2013 Cairn Energy plc v. Greenpeace International [2013] CSOH 50 - interdict action against peaceful direct protest action successfully defended on behalf of Greenpeace International inter alia on the basis of fundamental rights to freedom of expression, of assembly, and of conscientious objection under and in terms of the EU Charter

Planning and environmental law

Aidan O'Neill also specialises in planning and environmental issue which have an EU law element. Recent cases include:

2014 McGregor v. Renfrewshire Council [2014] CSIH nyr (Judicial review of the Convention compatibility of the planning appeal/review structure in respect of decisions concerning against local developments)

2012 Walton (formerly Roadsense) v. Scottish Ministers [2012] UKSC 44 - EU law and the Aarhus Convention in relation to duties of strategic environmental assessment, public consultation and statutory title of "persons aggrieved" to object to road schemes on environmental grounds

2011 Fraser v. Scottish Ministers [2012] CSOH 131, 2011 SCLR 686, OH (reliance on the EU Charter of Fundamental Rights in the context of a planning appeal)

2010 Forbes v. Aberdeenshire Council and another [2010] Env LR 36, OH (reliance on the Environmental Impact Assessment Directive 85/653/EC and the Aarhus Convention to establish title and interest and seek interim remedies in a case raising environmental law and planning law issues)

Public law

Aidan O'Neill also has a very strong practice in public law and judicial review. The Chambers Guide ranks him as a leading counsel in administrative and public law both at the London Bar and at the Scottish Bar, stating that (2012 edition): "Instructing solicitors single out Aidan O'Neill QC as an 'incredibly hard worker'" and (2013 edition) of me that "he is recognised for displaying 'a phenomenal knowledge and understanding' when handling cases". The 2014 edition says that "he is absolutely determined in his cases and extremely thorough in his research". The Chambers 2015 edition says: "His advocacy skills are tremendous, he is intellectually impressive and he is prepared to take on extremely complex and difficult work"; that "he is very knowledgeable – he does a lot of public law work across a very broad range and knows it inside out".

2014 Moohan and others v. Scottish Government [2014] UKSC nyr; [2014] CSIH 56; [2014] CSOH 199 - judicial review of the Scottish Independence Referendum (Franchise) Act 2013 for its exclusion of convicted prisoners in the independence referendum franchise

2014 Donaldson v. Scottish Legal Aid Board [2014] CSIH 31 - whether legal advice and assistance extended to the making of applications to the European Court of Human Rights

2013 Khakh v. Independent Safeguarding Authority [2013] EWCA Civ 1341; [2012] UKUT 424 (AAC) - scope of the jurisdiction of the Upper Tribunal in appeals against decision of the Independent Safeguarding Authority not to remove an individual automatically placed on barred lists after conviction of a relevant offence

2013 McGeoch v. Scottish Legal Aid Board [2013] CSOH 6 - duties of the legal aid board under to grant legal aid to allow vindication of an effective remedy in national court for claims relating to breach of substantive EU law rights

2012 Biggins v. Criminal Injuries Compensation Authority [2012] UKUT 286; Ferrie v. CICA [2012] UKUT 287 - private international law and scope of the jurisdiction of the Upper Tribunal in judicial review of decisions of the Criminal Injuries Compensation Authority

2011 M v. Scottish Legal Aid Board [2011] CSOH 134 - on the interplay and distinction between "Advice and Assistance" and "ABWOR - Assistance by way of representation" in legal aid regulations

2011 AXA General Insurance v. Lord Advocate [2011] UKSC 46; [2011] CSIH 31; [2010] CSOH 2 - judicial review of the validity and Convention compatibility of the Damages (Asbestos-related conditions) (Scotland) Act 2009

2011 R. (Cart) v Upper Tribunal [2011] UKSC 28 and Eba v. Advocate General for Scotland [2011] UKSC 29 - on the susceptibility of decisions of the Upper Tribunal to judicial review in Scotland and in England and Wales

2011 N v. City of Edinburgh Council [2011] CSIH 13 - appeal to the Inner House of the Court of Session against decision of the Additional Support Needs Tribunal for Scotland reversing the refusal by the local authority of a placing request made in respect of a severely autistic child

Human rights law

The Chambers Guide rate Aidan O'Neill as a leading counsel at the London Bar and the Scottish Bar in civil liberties and human rights stating (2012 edition) that "a big name in both London and Edinburgh, he is a man who amazes solicitors both with his output and his in-depth knowledge of the ECHR" and (2013 edition) noting that "the 'extremely talented' Aidan O'Neill QC is dual-qualified to practise in Scotland and England, and is widely recognised as one of the leaders of the Scottish Bar". Chambers 2014 edition says of me that "he commands considerable admiration for his handling of complex and significant human rights matters" with solicitors describing him as "a first-rate individual in this area of the law" with "an extremely impressive track record of tackling new and interesting issues, he is amongst the very best of human rights practitioners". The Chambers 2015 Guide says that "he is extremely hard working and incredibly diligent, as well as being prepared to pursue novel arguments" and that "He's a great person to have on matters of constitutional and human rights law. There's very little he doesn't know in these areas." The Legal 500 (2011 edition) says that he has "astonishing breadth of knowledge and a bravery to argue cutting edge points". And The Legal 500 (2013 edition) ranks me a leading silk at both the

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Scottish Bar and the London Bar The Legal 500 (2014 edition) confirms that he has “a strong human rights practice” with its 2012 edition describing the “highly regarded Aidan O'Neill QC as ‘unrivalled in his depth and breadth of knowledge in the civil liberties field’.”

2014 Firth and others v. United Kingdom [2014] ECtHR 47784/09 (Fourth Section, 12 August 2014) - just satisfaction damages and the disenfranchisement of convicted prisoners from elections to the European Parliament

2014 Shahid v. Scottish Prison Service [2014] CSIH 18 - Article 3 ECHR and prolonged segregation in solitary confinement of convicted prisoner for own protection

2013 Animal Defenders International v. United Kingdom (2013) 57 EHRR 21 (Grand Chamber, 22 April 2013) - whether the ban on paid “political” broadcast advertising was compatible with right to free expression under Article 10 ECHR

2013 J and E v Lord Advocate [2013] CSOH 27 - on the Convention rights of mothers to participate and be legally represented in court hearings for emergency child protection orders

2010 Cadder v. Her Majesty's Advocate [2010] UKSC 43 - on the Convention right to have a solicitor present during a police interview while in police detention

2010 R (JF and Thompson) v. Minister of Justice [2010] UKSC 17 - Article 8 ECHR right to privacy and its compatibility with the imposition of indefinite period of notification on the sex offenders register without provision for review on sex offender

2010 Greens v. United Kingdom (2011) 53 EHRR 21 (Fourth Section, 23 November 2010) - on the Convention right of prisoners to vote in general and municipal elections

Case involving Religion and law

The Chamber 2015 Guide notes that Aidan O'Neill has “additional expertise in discrimination and religious freedom.”

2014 Christian Institute and others v. Lord Advocate [2014] CSOH nyr - judicial review on whether or not the “named person service” provisions in Part 4 of the Children and Young People (Scotland) Act 2014 are within the legislative competence of the Scottish Parliament

2014 St. Margaret's Children and Family Care Society v. Office of the Scottish Charity Regulator SCAP App 02/13 (Scottish Charity Appeal Panel, 31 January 2014) - whether religiously based adoption society could be required to amend its published guidance to ensure no discrimination on grounds of religion and belief or sexual orientation in respect of prospective adoptive parents

2013 Bulls v. Preddy and Hall [2013] UKSC 73 - whether Christian guest house owners could, on grounds of religious conviction, lawfully refuse a double-bedded room to a couple in a civil partnership

2013 London Christian Radio v. Radio Advertising Clearance Centre and Secretary of State for Culture, Media and Sport [2013] EWCA Civ 1495 - whether the ban on political advertising extended to an advertisement seeking information about claims of marginalization of Christians in the workplace

Sports law

Aidan O'Neill also has a niche practice in the area of sports law. Recent cases include:

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2014 Tonev/Celtic FC v. Scottish Football Association [2014] SFA Appellate Tribunal nyr – appeal against a determination of the SFA disciplinary tribunal making a finding of misconduct in use of racist abuse by one player against another and with consequent imposition of sanction of match suspension

2012 Rangers FC v. Scottish Football Association [2012] CSOH 95, 2012 SLT 1156 (judicial review of vires of imposition by SFA Disciplinary Panel of sanction of one year transfer ban on players in respect of a finding that the club had brought the game of association football into disrepute)

Employment law cases

The Chambers Guide 2012 lists Aidan O'Neill as a leading counsel in Scotland for employment matters, noting that "although perhaps best known for his stellar human rights work Aidan O'Neill QC has a significant employment law practice. He is a 'fantastic lawyer' who is particularly strong when dealing with employment cases that have a human rights element."

2014 Dhunna v. Creditsights Ltd. [2014] EWCA Civ 1238 - jurisdiction of UK Employment Tribunal to hear unfair dismissal claim of individual employee with working based in Dubai

2014 University College Union v. University of Stirling [2014] CSIH 5 - definition of collective redundancy and consultation requirements under and in terms of Trade Union and Labour Relations (Consolidation) Act 1992 in relation to the coming to an end of fixed term contracts on the "effluxion of time"

2012 Cusick v. Strathclyde Joint Police Board [2012] CSIH 75 - failure of police civilian employee to volunteer information about family members to assist police inquiries as the basis for dismissal from employment

2012 Ravat v. Halliburton Manufacturing & Services Ltd. [2012] UKSC 1; [2010] CSIH 52 - whether a UK employment tribunal had jurisdiction to adjudicate on an unfair dismissal claim from an oil industry employee working outside the EU

2012 Central Manchester NHS Trust v. Browne [2012] Eq. LR 318, EAT - sufficiency of proof in a race discrimination and victimisation claims

2010 Russell and others v. Transocean plc (No. 2) [2010] CSIH 82 - oil workers' entitlement to paid annual leave under and in terms of the EU Working Time Directive following the decision of the Employment Tribunal (S/104056/04) that the Working Time Regulations 1998 apply to offshore work performed in the United Kingdom sector of the continental shelf

UNIVERSITY EDUCATION

2012 LL.D University of Edinburgh (Doctoral degree awarded on the basis of published books and articles)

1991-92 LL.M. European University Institute, Florence (Masters' degree in Comparative, International and European law)

1983-1985 LL.M. (Hons.) (First Class) University of Sydney, Australia (Masters' degree in legal and moral philosophy)

1982-1983 Diploma in Legal Practice University of Edinburgh

1978-1982 LL.B. (Hons.) (First Class) University of Edinburgh

APPOINTMENTS

2009-2013 Chairman of the Edinburgh Centre for Constitutional Law and Honorary Fellow in the School of Law, University of Edinburgh

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2009 & 2010 Visiting lecturer and course leader in "Human Rights law in Practice", Diploma in Legal Practice at Edinburgh Law School

Sep 2007 Visiting Professor in the Woodrow Wilson School of Public and International Affairs, and Senior Research -Jun 2008 Scholar and Fellow in the Program in Law and Public Affairs, Princeton University, NJ, USA.

FOREIGN LANGUAGES

French (good - written and spoken)

Italian (good - written and spoken)

German (fair- written only)

Aidan accepts instructions under the Bar Council Standard Contractual Terms, details of which can be found on our website under Code of Conduct.