

Scott Blair



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Ranked Tier 1 for Licensing in the latest edition of The Legal 500 (2017), Scott Blair is **'highly regarded in environmental and licensing matters'**. The 2016 edition described Scott as having **'an encyclopaedic knowledge of licensing laws and jurisprudence'** and the 2015 edition hailed him as **'A leading licensing advocate'**. Previous editions highlighted his **'great depth of knowledge'**, and described his work as **'diligent and timeous'**.

Biography

Scott has had a long standing interest in public law, having graduated with a First Class Honours Degree in Public Law in 1991. He worked as a solicitor in private practice before calling in 2000 alongside of which he found the time to tutor public law at Glasgow University and to publish a textbook on administrative law. Since coming to the Bar, Scott has developed a public law practice. He covers a wide range of public law issues with particular emphasis on all aspects of licensing law, public and business/professional regulation including the alleged negligence of public officials and local authorities, general local government law, education, social work and mental health law, human rights and local authority land use including public rights of access to land and common good law, taxation, the administrative law aspects of crofting and agricultural law. He has been instructed in cases in the European Court of Human Rights, Supreme Court, House of Lords, Judicial Committee of the Privy Council, both the Inner and Outer House of the Court of Session, the High Court of Justiciary at first instance and on appeal, the Sheriff Court and before various tribunals, licensing boards and local authority regulatory committees. His public law and human rights expertise has been recognised in his appointment as panel counsel to the Equality and Human Rights Commission.

He has been listed in Legal 500 for his work in licensing law for a number of years and has substantial experience in acting in all aspects of licensing law including liquor, civic government, betting and gaming, transport licensing (including PSV and HGV work), firearms and miscellaneous licensing matters such as caravan site licensing. Scott has considerable experience of HMO licensing and private landlord registration appeals.

Scott has appeared in the majority of the appeals and judicial reviews decided under the Licensing (Scotland) Act 2005.

Scott handles licensing hearings as well as appeals and judicial reviews. He has a strong local authority following but also acts for the trade, including national names. Scott is a regular speaker or chairman at licensing law and training events and has contributed to licensing law literature both north and south of the border. Scott has been a member of the Licensing Law Sub Committee of the Law Society of Scotland from 2007 to date.

Apart from his public law practice Scott has acted in matters arising from the winding up of estates, interpretation of wills and leases.

Scott is also the holder of a number of judicial appointments.

Scott has been instructed in cases in the European Court of Human Rights, Supreme Court, House of Lords, Judicial Committee of the Privy Council, both the Inner and Outer House of the Court of Session, the High Court of Justiciary at first instance and on appeal, the Sheriff Court and before various tribunals, licensing boards and local authority regulatory committees, public inquiries.

Recent Seminars/Events:

Numerous seminars and conferences organised by CLT, LSA, Law Society of Scotland, Faculty of Advocates on public law topics including judicial review, licensing law, human rights. This year Scott chaired the CLT licensing law conference at the Scots Law series in May 2013. He was the sole speaker at the CLT Human Rights course in January 2013 and the LSA Mental Health Law update in June 2013. He was co-speaker at the Royal Faculty of Procurators in Glasgow Private Client Conference in June 2013 where he spoke on Care Home Fees and Avoidance Issues.

Personal interests and hobbies:

Military history, painting model soldiers, cycling, horse-riding, music, cooking, French.

Appointments

Equality and Human Rights Commission Approved Counsel (A-Panel), 2011 to date
Judge of the First Tier Tribunal (Asylum and Immigration Chamber), 2006 to date
Legal Member of the Mental Health Tribunal for Scotland, 2007 to date

Memberships

Member Licensing Law Sub Committee of the Law Society of Scotland, 2007 to date.
Member of Institute of Licensing
Member of the Bar Planning, Local Government and Environmental Law Group
Member of UKELA
Member of the Crofting Law Group
Member of Association of Lawyers for Animal Welfare
External Examiner in Public Administration, Human Rights and Media Law, Degree and Diploma in Legal Practice 2011 to date
Tutor and sometime lecturer in administrative law, University of Glasgow, 1991 to 2005

Publications

Scots Administrative Law: Cases and Materials (W Green/ Sweet & Maxwell, 1999)
A Practical Guide to Human Rights in Scotland, The Hon. Lord Reed (ed) (W Green/ Sweet and Maxwell, 2001), (chapter on public law and human rights)
Scottish Human Rights Service, The Hon. Lord Reed and Prof. A Miller (eds), (looseleaf, W Green/ Sweet and Maxwell), (chapter on constitutional and administrative law)
Numerous articles on licensing law, human rights and public law in Scots Law Times, Scottish Licensing Law & Practice, Civil Practice Bulletin, Scottish Human Rights Journal, Scottish Constitutional and Administrative Law & Practice, Scottish Parliament Law Review
Online Guide to the Licensing (Scotland) Act 2005

Recent Articles and Events

Recovery of Social Care Costs by Local Authorities - Weaving a Tangled Web?
Buzzworks v South Ayrshire and Tesco v Glasgow - the Implications for Overprovision
Care Home Fees - Avoidance and Anti-Avoidance Issues

Capacity, Consent and the Provision of Care - An Analysis of Recent & Relevant Caselaw
Licensing - Minimum Pricing and Other Statutory Controls
Liquor Licensing Caselaw in Scotland - A Review of Emerging Themes & Issues
Judicial Review - Scope and Grounds
Common Good and the Law
Licensing (Scotland) Act 2005
IHT Meets the ECHR
Judicial Review of Community Care Decisions - An Overview of the Caselaw
Article 8 ECHR An Overview Of Recent Decisions (2006)
Taking A Case To Strasbourg Aspects Of Practice And Procedure In The European Court Of Human Rights
Licensing, Local Authority Objections And Compatibility With The ECHR
Should Licensees Be Obligated To Seek Out Better Information From Objectors?
Video Evidence - A Fuzzy Picture

Recent Cases

European Court of Human Rights:

E and others v. United Kingdom (2003) 36 EHRR 31 (local government law-duties of social work - professional negligence-human rights-established breaches of Articles 3 and 13 arising from negligent failure of social workers to protect children from sexual abuse). **Supreme Court:**

Davies and Mowat v. Scottish Commission for Regulation of Care [2013] UKSC 12 (constitutional and administrative law-business regulation-effect of transitional provisions on ongoing appeals against decision to close nursery). **House of Lords:**

Helow v. Advocate General for Scotland and Lord Advocate [2008] UKHL 62 (constitutional law-asylum appeal and whether decision of judge in refusing petition for statutory review of refusal of that appeal flawed for alleged bias arising from membership of association objectionable to the appellant). **Judicial Committee of the Privy Council:**

R v. HM Advocate and Advocate General for Scotland, 2003 SC (PC) 21 (constitutional law and human rights-breach of reasonable time requirement under Article 6 ECHR led to dismissal of prosecution due to Scotland Act 1998 and also defined scope of many key provisions of that Act).
Flynn and others v. HM Advocate, 2004 SC (PC) 1 (constitutional law-human rights and sentencing-established that existing life prisoners should not be prejudiced by the imposition of mandatory punishment parts). **Inner House:**

Smith v. North Lanarkshire Licensing Board, 2005 SLT 544 (licensing law- successful appeal against suspension of licence).

Cannell v. Scottish Ministers, 2003 SLT (planning and human rights).

Koca v. Secretary of State for the Home Department, 2005 SLT 838 (administrative law -tribunal hearing-immigration appeal hearing held to be unfair).

Wright v. Scottish Ministers, 2005 SLT 613 (administrative law-extradition and human rights).

Torabi v. Secretary of State for the Home Department 2006 SC 567 (administrative law-decision to return woman to Iran to face prosecution and possible execution by stoning for alleged adultery legally flawed).

Dumfries and Galloway Council v. Scottish Information Commissioner 2008 SC 327 (local government law-freedom of information-request for exempt information).

Donaldson v Renfrewshire Council [2011] CSIH 66 (licensing law-successful appeal against the decision to refuse renewal of a late hours catering licence as an exception to policy).

Freddy Williams Ltd v. William Hill (Scotland) and North Ayrshire Licensing Board 2013 SC 62

(licensing law-Gambling Act 2005-competency of appeal against grant of gambling premises licence).
Thomas Coyle v. Glasgow City Council [2012] CSIH 33 (licensing law-housing law-successful defence of appeal against refusal of licence for landlord of home in multiple occupation).
Anderson v. Glasgow City Council, 10 October 2012 (licensing law-Inner House procedural judge decision that time limits for appeal under the 1982 Act mandatory and cannot be waived).
Pairc Crofters and Pairc Renewables v. Scottish Ministers, 2013 SLT 308 (crofting law-whether right to buy legislation breached human rights of landowner).
Lidl (UK) GmbH v. City of Glasgow Licensing Board [2013] CSIH 25 (licensing law-suspension of premises licence for failure of test purchase). **Outer House:**

Catscratch Ltd (No2) v. City of Glasgow Licensing Board, 2002 SLT 503 (licensing law-human rights-fair hearing and peaceful possession rights under ECHR applied to licensing boards)
Spirit Group plc and Mitchells and Butlers Limited v. City of Aberdeen Licensing Board, 2005 SLT 13 (licensing law-attempt to impose minimum pricing on sale of alcohol unlawful);
London and Edinburgh Inns Ltd v. North Ayrshire Licensing Board, 2004 SLT 848 (licensing law-consideration of effect of transfer of licence);
Phipps v. Royal College of Surgeons of Edinburgh, 2005 CSOH 78 (administrative law-professional regulation and administrative law-decision to remove professional accreditation of surgeon unreasonable);
Beggs v. Scottish Ministers, 2004 SLT 755 (constitutional and administrative law-Crown proceedings-prison transfer- interim declarator against the Crown competent notwithstanding Crown Proceedings Act 1947);
Khairandish v. Secretary of State for the Home Department, 2003 SLT 1358 (administrative law-asylum-international treaties and legitimate expectation)
Buzzworks Leisure Limited v South Ayrshire Board and J.D. Wetherspoon Plc [2011] CSOH 146 (licensing law -successful judicial review challenge to decision to grant provisional premises licence to J.D. Wetherspoon).
Greene King plc v Stirling Licensing Board and J.D. Wetherspoon Plc, 2 May 2013 (licensing law-judicial review of decision to grant premises licence-bias)
City of Edinburgh Council, Petitioners (Re Inch Park), 9 April 2011 (local government law-common good-petition to alienate park and playing fields by way of lease)
Spring Radio Cars Ltd v Glasgow City Council, 2013 SLT 491 (licensing law-taxi licensing-whether policy on not licensing type of car as private hire because of possible confusion with taxi breached statute and EU law)

Sheriff Court:

Shafiq v. North Lanarkshire Licensing Board, 2009 GWD 16-265 (licensing law- failure of police test purchase - refusal of premises licence application on crime prevention grounds - decision of Board reversed on appeal).
O'Rea v. Hagan, 2001 SLT (Sh Ct) 30 (local government law-education and human rights-prosecution of parent of alleged truant did not breach ECHR).
BP Express Shopping Ltd v. West Fife Divisional Licensing Board [2007] 37 SLLP 29 (licensing law-licensing-test purchasing under Licensing (Scotland) Act 2005).
Alldays Stores Ltd v. Central Fife Licensing Board [2007] 37 SLLP 34 (licensing law-test purchasing under Licensing (Scotland) Act 2005).
Anderson v. Glasgow City Council, 10 May 2010 (licensing law-private hire licensing-meaning of incorrect material fact).
Kaya v. City of Glasgow Licensing Board, 10 July 2010 (licensing law-hearing for interim recall of suspension of premises licence-successful opposition).
Scally and McGurk v. Glasgow City Council, 11 May 2011 (licensing law-successful defence of appeals against refusal to renew street trading licences on grounds of location).
Kenmare v. Glasgow City Council, 6 June 2012 (licensing law-successful defence of policy control over snack vans near schools).
Donald v. City of Edinburgh Council, 6 May 2011 (licensing law successful appeal against refusal of grant of taxi licence on ground that policy limit on number of licences reached by allocation of plates to those on a waiting list - Sheriff holding that the waiting list was illegal);
Lidl GmbH v City of Glasgow Licensing Board, 4 November 2011 (licensing law- defence of decision of

Board to suspend premises licence following upon single test purchase failure).

Drinkcafe Ltd v. City of Glasgow Licensing Board, 2011 SLT (Sh Ct) 50 (licensing law-successful defence of Board policy on differential closing hours).

SM v. Duffy and Mental Health Tribunal for Scotland, 14 November 2012 (local government law-duties of Mental Health Officer-application to remove Named Person-successful defence of appeal against decision to remove).

Tesco Stores Ltd v. City of Glasgow Licensing Board, 2013 SLT (Sh Ct) 75 (licensing law-successful defence of overprovision decision on off sales application).

BM Taverns Ltd v. Perth & Kinross Licensing Board, 19 October 2012, (licensing law-successful defence of appeal against refusal to vary premises licence conditions).

Black v. Dundee City Licensing Board, 6 February 2013, (licensing law-successful appeal against refusal to vary licensed hours).

The Highland Council v The School Closure Review Panel [2016] SC POR 12 - the first appeal of a decision made by the Panel under the Schools (Consultation) (Scotland) Act 2010.