

## Donnchadh Greene



Call: 2018

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### Profile

Donnchadh also practises in education law, data protection law and regularly advises bodies and individuals on their rights and obligations under the Equality Act 2010 and data protection legislation.

### What Clients Say

*"It was a pleasure to work with Donnchadh. He was prompt in responding to any questions I had, kept me updated throughout, took the time to explain things to me where necessary and he is also very personable. He is knowledgeable and clearly committed... I look forward to instructing Donnchadh again in the future."*

### Background

Donnchadh practises in public law, encompassing human rights and discrimination, with a particular focus on community care law and migrants' rights. He also acts in claims challenging the unlawful use of immigration detention powers.

Alongside his public law practice, Donnchadh regularly acts in social welfare cases resisting anti-social behaviour injunctions and in committal proceedings. He has particular experience

in representing clients who lack capacity and those who are otherwise vulnerable. He also undertakes work in education law and has acted and advised in judicial review challenges as well as appearing before the FTT.

Donnchadh has appeared both led and unled in the High Court and has worked across all stages of judicial review proceedings in relation to asylum support, support under the Children Act 1989, age assessments and unlawful detention claims. Donnchadh is happy to be instructed in urgent judicial review claims and has particular expertise in representing unaccompanied asylum-seeking children, migrants who face destitution and retrospective challenges for care leavers and seeking interim relief.

Donnchadh advises and acts for NGOs in strategic litigation cases. He recently acted for Pregnant then Screwed in their judicial review of the Government's self-employed income support scheme **R (The Motherhood Plan) v HM Treasury** [2021] EWHC 309 (Admin) (which has been heard by the Court of Appeal and is awaiting judgment). He was also instructed by **Just for Kids Law** in their challenge to the extension of the custody time limits, which led to the exemption of children from the new time limits.

Before coming to the Bar, Donnchadh worked and volunteered with a broad range of NGOs such as the benefit and debt relief charity Z2K and the UK Lesbian and Gay Immigration Group. His experience with the Anti Trafficking and Labour Exploitation Unit and The Unity Project place him suitably well to advise and act on behalf of migrants and victims of trafficking who face discrimination and are excluded from state support.

In addition, he worked in the legal team at Liberty as an Advice and Information Officer advising on a broad range of issues including discrimination, data rights and actions against the police. At Liberty, he ran a project providing advice to migrants in detention and developed a comprehensive "Know Your Rights" guide to stop and search.

## **Education**

LLB Law with French Law, Queen Mary, University of London - 1st Class Honours

Certificat Supérieur en Droit Français et Droit Européen, Université Paris II Panthéon-Assas - Mention

Bar Professional Training Course, BPP University – Very Competent

## **Related practice areas**

Community Care and Health

Education

Housing, Social Welfare and Property

Inquests and Public Inquiries  
Data Protection and Information Law  
Actions Against the Police and Public Authorities  
Children's Rights Group  
Discrimination  
Administrative & Public Law  
Immigration  
Immigration Detention Group  
Anti-Trafficking

## Community Care and Health

Donnchadh has particular experience and interest in securing the rights of migrants in the community care context, including those who lack regularised immigration status, their children, and those subject to deportation proceedings.

Donnchadh has acted in numerous claims securing asylum support accommodation during the pandemic. Donnchadh was instructed, alongside Daniel Clarke and led by Simon Cox, in a **challenge to the Secretary of State's decision to commence evictions for refused asylum seekers during the Covid-19 pandemic.**

Following the legal challenge, **the Home Office withdrew its policy** and agreed to accommodate refused asylum seekers **until the end of the Government's Roadmap out of lockdown.**

He also has experience in advising on accommodation duties under paragraph 9 of Schedule 10 Immigration Act 2016 and difficulties that arise when securing accommodation for those who require accommodation to be approved by Probation services or the Police.

Donnchadh regularly acts in challenges to age disputes on behalf of unaccompanied asylum-seeking children and arising issues relating to support entitlement under the Children Act 1989 both in the High Court and in the Upper Tribunal. Examples include:

- **R (NG, AL and KM) v London Borough of Hillingdon** [2020] EWHC 2847 (Admin): claim challenging the failure to provide three unaccompanied asylum-seeking children in age-appropriate accommodation under ss.17 and 20 Children Act 1989. The local authority sought to argue that they did not "require" accommodation as there were adequate facilities in the hotel accommodation. Mrs Justice Lang DBE ruled that it was arguable that Hillingdon Borough Council were seeking to side-step their duties owed to

the three children in what would be a “significant departure” from statutory guidance and case law.

- **R (BNB) v Kent County Council** [2020] EWHC 587(Admin) challenged the failure of two local authorities to provide the unaccompanied asylum-seeking child claimant with s.20 Children Act 1989 accommodation following the child’s dispersal to Napier Barracks. HHJ Walden-Smith ordered that Hillingdon Borough Council accommodate the claimant and held that they could not rely on their unlawful act that led to the dispersal.

He also has experience in advising on leaving care duties under s.23C Children Act 1989 and retrospective ‘looked after’ children challenges.

## Administrative and Public Law

Donnchadh is regularly instructed in judicial review matters in a wide range of areas of law including community care law, education law and prison law. He has appeared both led and unled in the High Court and has worked across all stages of judicial review proceedings and has appeared as junior counsel in the Court of Appeal. Donnchadh can advise on procedural matters and can advise at an early stage of proceedings on tactics and interim relief.

Donnchadh has recently been instructed by NGOs and claimants in relation to public law challenges flowing from the Government’s response to the Covid-19 pandemic. Examples include:

- **R (The Motherhood Plan) v HM Treasury** [2021] EWHC 309 (Admin) (led by Jude Bunting with Clare Duffy) challenging the failure to exempt a self-employed woman’s maternity leave from the calculation of their self-employed support grant as discriminatory and unlawful on the grounds of pregnancy and sex under Article 14 and Article 1 Protocol 1 European Convention on Human Rights (ECHR) and in breach of the public sector equality duty under the Equality Act 2010. (Appeal heard on 13 July 2021, judgment reserved)
- **R (Just for Kids Law) v Secretary of State for Justice** (CO/4581/2020) challenging the lawfulness of the extension of the custody time limits, on the grounds that the failure to exclude children from the extension of custody time limits was unlawful and irrational; in breach of Article 5 and Article 14 ECHR as the Ministry of Justice acknowledged it would disproportionately impact black or ethnic minority children; breached the Public

Sector Equality Duty; and, the duty to consult the Children's Commissioner given the significant change of policy and its implication for prolonged deprivation of liberty in respect of children on remand. Following issue of the claim for judicial review, the Ministry of Justice agreed to introduce a new statutory instrument to exclude children from the extended custody time limit.

Donnchadh was also instructed on behalf of Liberty, led by Caoilfhionn Gallagher QC, to intervene in the Court of Appeal in **Archer v Commissioner of Police of the Metropolis** (heard on 12 May 2021, judgment reserved) which sought to argue that detention in a child's own interests is incompatible with Article 5 ECHR.

## Discrimination Law

Discrimination law interacts with all of Donnchadh's work. Donnchadh has a particular interest in the intersection of discrimination law and public law and recently acted as junior counsel in the Court of Appeal in **R (The Motherhood Plan) v HM Treasury**, a challenge to the Government's self-employed income support scheme on the grounds that the scheme discriminated against women who had taken a period of maternity leave.

Donnchadh regularly advises individuals and organisations on their rights and obligations under the Equality Act 2010. Donnchadh has a broad experience in advising organisations on trans people's access to single-sex spaces, including in the school context.

Donnchadh was instructed as junior counsel on an inquiry into a University organisation's equality and access policies, advising on compliance with the Equality Act 2010 and providing a detailed reporting on the same.

## Unlawful Detention

Donnchadh acts in claims challenging the unlawful use of detention powers under the Immigration Acts and related damages claims, particularly in the High Court. He is happy to advise at an early stage of proceedings and undertake urgent instructions, where appropriate.

Donnchadh also represents individuals in applications for bail before the First-tier Tribunal giving him a well-rounded view of the issues that arise in immigration detention centres. He has delivered training on effective bail applications for immigration practitioners. He regularly accepts pro bono instructions from Bail for Immigration Detainees. His advocacy experience

in the First-tier Tribunal is complemented by his High Court work in unlawful detention claims.

## Social Welfare

Donnchadh acts for individuals resisting anti-social behaviour injunctions and in related committal proceedings. He has experience in advising in all stages of injunction proceedings including expert instructions and costs. He has experience in representing clients who lack capacity and those who are otherwise vulnerable.

Donnchadh acts in cases involving discrimination and issues arising from a failure to comply with the public sector equality duty.

In addition, Donnchadh has a particular interest in procedural issues that arise from the increasing use of without notice injunctions to sanction the actions of vulnerable individuals who frequently lack capacity. Donnchadh is happy to advise on civil claims against the police arising these circumstances.

## Education

Donnchadh is regularly instructed on challenges to EHCPs and has assisted in all aspects of education law including advising on public law challenges and related private law issues.

He is licenced under the Direct Access Scheme and can accept instructions directly in appropriate cases.

## Actions Against Public Authorities

Alongside his unlawful detention work, Donnchadh has assisted with claims against the police and damages claims against local authorities arising out of delays in issuing care proceedings and failures to protect children at risk of harm.

Donnchadh has a particular interest in data protection claims and privacy concerns and advised regularly on these issues whilst at Liberty. He has assisted in misuse of private information claims against the police and has been instructed to advise and assist on data protection complaints.