

John Walsh



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Profile

He appears before the High Court and Court of Appeal and has had an impressive success rate before the Court of Justice of the European Union.

He takes cases on public access and undertakes work on a CFA basis as well as legal aid and privately funded cases.

John practises in immigration and asylum law, appearing frequently before the Immigration and Asylum Chamber of the Upper Tribunal and First-Tier Tribunal in all areas of immigration law, including refugee, human rights, family, EEA, student, points-based system, and deportation cases. He also represents in other public law areas such as education (especially those with an EU law element) and prison law cases.

John is recommended by Chambers and Partners: 'A seasoned immigration barrister, he routinely undertakes public access work as well as legal aid and privately funded matters. He has notable experience of advising on family-related immigration and unlawful detention cases. He draws on his EU and prison law expertise to offer a finely tuned service. Excellent knowledge of EU free movement law. He stands out as an engaging advocate'.

What the directories say

"He has a really good sense of justice and knows the courts well. He brings a wealth of knowledge to his cases." - Chambers and Partners 2023

"He is fantastic, his advocacy is second to none, and judges are really enthralled by him. He has good relationships with everyone." - Chambers and Partners 2022

Education

BA (Hons)

LLB (Hons)

MA (Hons. London)

MA (Hons. Dublin)

Related practice areas

Immigration

Anti-Trafficking

Education

Immigration Detention Group

European Law

A particular and long-standing expertise John has is in the area of European Union law. He is co-author of the leading textbook on EU freedom of movement: *Freedom of movement of Persons in the Enlarged European Union* (Sweet and Maxwell). He succeeded in persuading the Court of Justice that the proposed deportation of a third country national, and wife of a British national who carried out some business across EU borders, was contrary to EU law: *C-60/00 Carpenter [2002] I.N.L.R.439*. He succeeded in the landmark case of *C-37/98 Savas* which held that a standstill clause in an Agreement between the EU and Turkey had direct effect with the result that immigration rules in place when the UK became a member of the EEC are the applicable rules when assessing if Turkish business people can enter or remain in the UK. In *C-186/10 Oguz [2012] 1 W.L.R. 709*, the Court of Justice accepted the submission that the developing abuse principle in EU law did not restrict the application of the standstill clause. In *Temiz v Secretary of State for the Home Department [2016] UKUT 00026 (IAC)* he succeeded in getting the Court to quash a decision of the Home Office to refuse a Turkish businessman leave to remain in the UK. He gives seminars to lawyers and others on the potential impact of Brexit. He co-authored the leading textbook '*Free Movement of Persons in the Enlarged European Union*', Sweet and Maxwell, 2edn.

In the domestic courts he has argued successfully that the Home Office breached its duty of fairness and EU law by construing immigration rules in such a way as to restrict the freedom of Turkish business people to do business in the UK: *KA (Turkey) v Secretary of State for the Home Department* [2012] EWCA Civ 1183. He sought to defend, in the Court of Appeal, the favourable decision of the Administrative Court that to remove a young Nigerian woman who had lived in the UK since she was fourteen years of age was unlawful as contrary to the Immigration Rules: *R (on the application of Akpan)* [2015] EWCA Civ 1266; [2015] EWHC 331

Other noteworthy cases are Case T-318/01 Othman, Court of First Instance of the Court of Justice, involving a challenge to the freezing of funds in respect of terrorist suspects and *SA (Divorced Women) Bangladesh CG* [2011] UKUT 00254 on divorced women and their children in Bangladesh. He recently represented before the Court of Appeal the interests of a woman who was liable to deportation: *SC (Zimbabwe) v SSHD* [2018] EWCA Civ 929.

John has been consulted in many cases in the Family Courts for advice on the immigration status of children which were the subject of care proceedings. The Courts often required an opinion on the likely long-term immigration status of children in the UK. He is a member of the Family Law Bar Association.

Another feature of his practice are unlawful detention cases in the County Court and High Court. He won significant damages in the County Court for a client who had been detained for an unreasonable period of time while the Home Office sought to remove him to Algeria. He succeeded in the High Court in winning damages for a woman and her children who were detained with a view to their removal from the UK: *N v SSHD* [2012] All ER (D) 187.

John succeeded in the Administrative Tribunal in getting the Tribunal to quash a decision of the Independent Safeguarding Authority (the predecessor to the Disclosure and Barring Service) in respect of a person whose name was put on the child barring list due to a conviction: *SR v Disclosure and Barring Service* [2013] 0103 (AAC).

Immigration Asylum and Personal

Family Courts

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Prison Law and Criminal Justice

John represents prisoners before parole boards including lifers.

In *Weszka v Ministry of Justice [2012] EWHC 287*, John represented in a case in the Administrative Court that concerned the decision of a Parole Board refusing to order the release of a prisoner, sentenced to life imprisonment. The Administrative Court accepted the argument that fairness demanded that the Parole Board should have adjourned the hearing for the prisoner to consider police evidence adduced at a late stage and for his representative to take instructions on it.

Administrative and Public Law

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John represents clients before education tribunals including representing local authorities.

Public and Planning Inquiries

John drafted investigation files and Rule 9 requests in respect of Core Participants in Public inquiries. He has represented community groups in Planning Inquiries/appeals.