



## William Irwin

Call 2010

✉ [wirwin@tgchambers.com](mailto:wirwin@tgchambers.com)

☎ +44 (0)20 7583 1315

William Irwin has a public law practice with particular expertise in immigration, civil liberties, and human trafficking.

He represents clients in complex inquests. He has a civil law practice representing government departments and private clients in claims relating to prisons, deaths in custody, detention, and personal injury claims where fraud is suspected.

## Expertise

### Public Law

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William is regularly instructed in judicial review matters. He has particular experience of cases relating to human trafficking, detention powers and challenges to management of prisoners.

### Notable Public Law cases

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R (MN & IXU) v Secretary of State for the Home Department [2020] EWCA Civ 1746; [2021] H.R.L.R. 2

Two linked appeals against decisions of the Administrative Court regarding human trafficking. William Irwin represented the Secretary of State, led by Sir James Eadie QC. William represented the Secretary of State at first instance in both cases, in MN's case led by Gwion Lewis of Landmark Chambers and in IXU without a leader.

The case principally concerned the standard of proof to be applied by the Secretary of State in cases concerning human trafficking. The process for identifying trafficking victims involves two decisions – the reasonable grounds (RGs) decision and the conclusive grounds (CGs) decision. The RGs decision is made on a low standard of proof; a person is entitled to a positive RGs decision if the Secretary of State suspects but cannot prove that that person is a victim of trafficking. The CGs decision is made on the balance of probabilities.

The Appellants (with whom the Interveners agreed) contended that it was unlawful to apply the civil standard of proof at the CGs stage. The Appellants and Interveners said that relevant international instruments – in particular the Council of Europe Convention on Action against Trafficking in Human Beings (ECAT), the EU Trafficking Directive (2011/36/EU) and Article 4 ECHR.

The Court dismissed the Appellants' challenge to the lawfulness of the standard of proof.

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R (PMG) v Secretary of State for Justice (2021)

The Claimant, a senior member of a serious organized criminal gang, was released on licence from a lengthy sentence for GBH. She challenged the management of her licence conditions by her offender manager (probation officer).

The Claimant was subject to a standard licence condition which provided that the Claimant could only live at an address which had been approved by her offender manager. The Claimant wished to live with her daughter, K. Her offender manager declined to approve that address because the Claimant posed an indirect threat to her daughter; the Claimant's involvement in organized crime gave rise to that threat.

The Claimant sought permission to challenge the offender manager's decision. The Claimant claimed that the offender manager's decision unlawfully placed too much weight on the Claimant's denial of guilt. She also claimed that the decision was erroneous because there was no recent evidence of the Claimant being involved in organized crime.

Permission to seek judicial review was refused.

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R (JK) v Secretary of State for the Home Department [2020] EWHC 3303 (Admin)

The Claimant obtained an interim injunction requiring the Secretary of State to release him from immigration detention within seven days of the order.

The Claimant was a foreign national offender (a Ugandan national) and the subject of a deportation order. He had been granted accommodation in principle under section 95 of the Immigration and Asylum Act 1999, but the pressure on accommodation supplies as a result of COVID-19 meant that there was a substantial delay in providing accommodation to the Claimant. In a reserved judgment the court granted interim relief.

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R (CN) v Secretary of State for the Home Department, [2020] 11 WLUK 431

The Claimant sought declaratory relief from the Court that she was entitled to a British passport. William Irwin represented the Secretary of State.

The Claimant was a child who sought to renew her British passport. HM Passport Office declined to issue a new passport on the grounds that there were reasons to believe that she was not, in fact, entitled to a passport because of questions about her father's immigration status.

By the date of the hearing before Eady J, the Secretary of State had agreed to reconsider the challenged decision. The Claimant maintained her claim for declaratory relief that she was entitled to a British passport and that she was a British citizen.

The court dismissed the claim, holding that in the circumstances it was not appropriate to grant declaratory relief.

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R(LH) v Secretary of State for the Home Department, [2019] EWHC 3457 (Admin)

The Claimant challenged the Secretary of State's decision not to recognize him as a victim of human trafficking. William Irwin represented the Secretary of State. The Court allowed the challenge on the basis that the Secretary of State had not placed appropriate weight on new expert evidence.

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R(DS) v Secretary of State for the Home Department [2019] EWHC 3046 (Admin); [2020] Imm. A.R. 409

The Claimant challenged the Secretary of State's policy regarding reconsideration of decisions about whether a person was or was not a victim of human trafficking. William Irwin represented the Secretary of State.

The Claimant was the subject of a negative trafficking decision by the Secretary of State. She wanted the Secretary of State to reconsider that decision on the basis of fresh material. The Secretary of State relied upon her policy which provided that any fresh consideration of a person's trafficking status would only be made if a first responder referred the case for reconsideration. The Court held that the Secretary of State's policy fettered her discretion.

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## Immigration

William is regularly instructed in complex immigration law cases.

### Notable Immigration cases

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Saliu v Entry Clearance Officer [2021] EWCA Civ 1847

Instructed by the Secretary of State. The case concerned the impact of delayed decision making on the analysis of Article 8 ECHR in an entry clearance case.

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R (Costea) v Secretary of State for the Home Department [2021] EWHC 1685 (Admin)

Instructed by the Secretary of State, led by Robin Tam QC. The Court considered whether a Deportation Liability Notice (DLN) issued by the Secretary of State to an EEA national was a "measure" or a "decision" for the purposes of the Citizens' Directive.



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AU (Bangladesh) v Secretary of State for the Home Department [2020] EWCA Civ 338; [2020] 1 W.L.R. 1562

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The issue in this case was how the relationship between a foster child and a foster family should be treated for the purposes of deciding whether the foster child had established a family life within the meaning of Article 8 ECHR. William Irwin represented the Secretary of State.

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Akinyemi v Secretary of State for the Home Department [2019] EWCA Civ 2098; [2020] 1 W.L.R. 1843; [2020] 3 All E.R. 857

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The Court of Appeal considered the proper approach to assessing the strength of the public interest in deporting a foreign national offender against his private article 8 ECHR interests. William Irwin represented the Secretary of State.

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CI (Nigeria) v Secretary of State for the Home Department, [2019] EWCA Civ 2027; [2020] Imm. A.R. 503

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The Court of Appeal gave guidance to the proper approach to deciding whether there were “very compelling circumstances” not to deport a foreign national offender – the test in section 117C of the Nationality, Immigration and Asylum Act 2002. William Irwin represented the Secretary of State.

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Secretary of State for the Home Department v Aibangbee [2019] EWCA Civ 339, [2019] 1 W.L.R. 4747

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The Court considered the Immigration (European Economic Area) Regulations 2006 reg.8 and held that an extended family member was only entitled to a permanent residence card after a period of five years from the issue of a residence card, even if they could prove that they had resided legally with a Union citizen in the host Member State for a continuous period of five years in a durable relationship. William Irwin represented the Secretary of State.

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R (Shehu) v Secretary of State for the Home Department (Citizens Directive: no suspensive appeals) IJR [2016] UKUT 287 (IAC)

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The Tribunal (UTJ Freeman) held that the redress procedure required by articles 31 and 35 of the Citizens Directive does not make it necessary to treat EEA appeals of any kind as suspensive, since arrangements can be made, on the conditions set out in article 31.4, for allowing the subject to submit his defence in person, which is reason enough for declining to treat the decision of the Court of Appeal in Ahmed [2016] EWCA Civ 303 as per incuriam for not dealing with article 35.

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## Inquests

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William is regularly instructed for families and other interested parties in inquests. He is also instructed as counsel to inquests and advises coroners on challenges to their decisions.

The following are illustrations of William's experience.

## **Notable Inquests cases**

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### **Inquest into the death of Janet Scott**

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Ms Scott was murdered by her ex-partner Simon Mellors (SM). William Irwin represented the National Probation Service (NPS), part of the Ministry of Justice. At the time he killed Mrs Scott, SM was on life licence after he murdered a previous partner. As a result, SM was subject of supervision by NPS. The inquest found that there were multiple failures by the probation officer charged with supervising SM; and that those failures were causative of Mrs Scott's death. That probation officer was separately represented at the inquest. The inquest did not accept that any systemic failures by the NPS were causative of Mrs Scott's death, though the coroner did find that the NPS team responsible for managing SM was overworked at the time of Mrs Scott's murder.

### **Inquest into the death of Sean McCann**

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The deceased was a prisoner being held at a privately-run prison. He hanged himself whilst being held in the prison's segregation unit.

William Irwin, instructed by Kingsley Napley solicitors, represented a manager at the prison (equivalent to a governor-grade in a public sector prison).

The deceased was the subject of an ACCT plan at the time he died. There were issues about whether there had been adequate monitoring of him and/or communication between officers responsible for his care.

The jury returned a conclusion of accident contributed to by neglect. Their narrative focussed on systemic failings by the prison.

## **Personal Injury**

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William is regularly instructed in complex personal injury and other civil law claims. Often these are cases linked to his areas of public law expertise, including claims by prisoners arising from alleged mistreatment in prison or claims for false imprisonment by immigration detainees. William also advises the Ministry of Defence in claims by military personnel.

The following are illustrations of William's experience.

## **Notable Personal Injury cases**

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### **Zenith Insurance Plc v LPS Solicitors Ltd [2020] EWHC 1260 (QB)**

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A claim for a Norwich Pharmacal order or pre-action disclosure in a civil fraud case.

William Irwin represented an insurer in a claim for a Norwich Pharmacal order and/or pre-action disclosure against a firm of solicitors. The respondent solicitors had acted for three claimants in personal-injury claims which the insurer had settled pre-action and then discovered were fraudulent.

The insurer had obtained an order for disclosure from the solicitor but considered that it was likely that there was further relevant material held by the solicitor. The court dismissed the application, holding that the insurer had not proved that there was further relevant material held by the solicitor.

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### Sian Edlington v Ministry of Justice

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The Claimant was a prison officer who was taken hostage by an inmate whilst working at HMP Woodhill. She claimed £350,000 in damages for psychiatric injury. William Irwin represented the Ministry of Justice.

The Claimant was taken hostage in an office on one of the prison wings. The prisoner who took her hostage threatened the Claimant with an improvised weapon and told her that he had cut the telephone wires from the office.

The case came to trial at Central London County Court with liability, causation and quantum remaining in issue.

HHJ Saunders dismissed the claim, holding that the Claimant had failed to prove that the prison had mismanaged the risk posed by the prisoner who had taken her hostage.

## Appointments

- Attorney General's B Panel – London (2020)

## Education

- BVC, City Law School
- GDL, City Law School
- MA History (First Class), Jesus College, Cambridge

## Memberships

- ALBA
- PIBA
- PNBA