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## Christian J Howells

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### Practice Overview

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Christian Howells' practice is primarily focused in the areas of healthcare professional regulation, administrative law and inquests.

He has extensive experience in the higher courts, regularly appearing in the Administrative Court, Civil Division of the Court of Appeal and has been granted permission to appeal to the Supreme Court. He is often instructed at the appeal stage to conduct advocacy or to advise on merits.

His healthcare professional regulation practice is mainly focused on nurses and midwives. He is experienced in complex, multi-handed misconduct cases including assault on vulnerable adults, allegations of a sexual nature, drug errors contributing to death, neglect contributing to death, theft of drugs, dishonesty and systemic management failure.

His administrative law practice includes local government, planning, education, immigration and community care. He often raises points of Welsh law and interpretation. His experience includes local government funding challenges, library closures, school closures, student discipline, residential planning and change of use, immigration, human rights and local authority duties under the Social Services and Well-being (Wales) Act 2014.

Christian is consistently instructed in high profile and complex inquests. He has significant experience of article 2 ECHR compliant inquests involving allegations of systemic failure by organs of the state and breaches of the operational duty to protect life.

His practice also includes personal injury / clinical negligence. His personal injury practice is increasingly defendant, employers' liability focussed.

He is regularly instructed in right to manage and enfranchisement litigation in the Residential Property Tribunal in Wales and the Upper Tribunal.

#### Notable and Reported cases

- IT (Jamaica) v SSHD [2017] 1 WLR 240

The CA held that in order for a foreign criminal to bring themselves within the exception to deportation contained in s117C (that the effect of deportation on a British citizen child would be 'unduly harsh') the foreign criminal had to establish 'very compelling circumstances' to outweigh the public interest in deportation. Permission to appeal has been granted by the Supreme Court.



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- Gurung v SSHD [2016] EWCA Civ 358

The CA held that it was not unfair for the Tribunal to assess an article 8 ECHR claim by reference to the facts as at the date of a second decision to refuse entry clearance, in circumstances where the first decision was set-aside as unlawful and the delay in the interim had served to weaken the article 8 claim.

- R (Kristina Wray) v HM Deputy Coroner for Pembrokeshire [2016] EWHC (settled)

A judicial review against the Coroner's refusal to hold an article 2 ECHR compliant inquest was compromised in light of a subsequent ruling that allowed all relevant lines of enquiry to be pursued during the inquest, together with relevant expert evidence on systemic failure in social services and causation.

- R (Tilley) v Vale of Glamorgan Council [2016] EWHC 2272

The Admin Court dismissed a challenge to a decision to implement community libraries on the grounds that the reliance upon the viability report by the Cabinet was irrational, the report contained insufficient information, that the proposals would not enable the Council to provide a comprehensive and efficient library service, due regard had not been paid to equality considerations and the best interests of the child had not been treated as a primary consideration.

- R (Tilley) v Vale of Glamorgan Council [2015] EWHC 3194 (Admin).

Judicial review of Council's decision to implement community-led libraries or close them in the alternative. Challenge to consultation on grounds of unfairness. Decision taken without due regard to the duty to provide a comprehensive and efficient library service; s7 Public Museums and Libraries Act 1964 or the public sector equality duty; s149 Equality Act 2010. Permission to appeal to the Court of Appeal granted.

- Torfaen County Borough Council v Maughan and persons unknown.

Christian successfully obtained an area wide injunction to prevent gypsy encampments from being established on World Heritage land where there was an extensive history of such encampments causing public nuisance. Application made under s222 of the Local Government Act 1972 and based on nuisance and environmental protection rather than planning legislation, as the encampments continually relocated prior to the expiry of the relevant period for planning enforcement.

- Inquest into the death of DB.

Argument that the failure by numerous agencies, including social services, to ensure that a "looked after" child was referred for mental health treatment in light of threats to commit suicide amounted to a breach of article 2 ECHR.

- Inquest into the death of Daniel Foss.

Christian represented the family of the deceased. The Coroner found that the road layout of the Kingsway, Swansea, which consisted of a contra-flow metro system, was counter-intuitive and encouraged pedestrians to walk into the bus lane before checking both directions. Further, the Coroner found that the speed of the bus, close to 30mph, the speed limit of the road, was also a contributory factor. This inquest was extensively reported in the national press.

- St Stephens Mansions RTM Co Ltd v Fairhold NW Ltd [2014] UKUT 541 (LC).



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Christian successfully argued on appeal that in order for part of a building to be “self contained” within the meaning of s72(4) of the Commonhold and Leasehold Reform Act 2002 (the Right to Manage legislation), works that altered the conduits by which services were provided were permissible, subject only to the requirement that a significant disruption was not caused to the other parts of the building.

- R (On the application of Gurung) v Secretary of State for the Home Department [2013] EWCA Civ 8; [2013] 1 WLR 2546.

Court of Appeal held that the historic injustice caused to Gurkha veterans, namely that they were deprived of the opportunity to settle in the UK upon discharge from the British Army, was a strong reason for holding that it was proportionate to allow their adult dependent children to join them now under article 8 ECHR.

Further, the Home Secretary’s written policy which dealt with settlement applications from the adult children of Gurkha veterans was not arbitrary or unclear so as to be not in accordance with the law. The use of the term “exceptional circumstances” was not uncertain.

- KR (Nepal) v Secretary of State for the Home Department [2013] EWCA Civ (Settled).

Upper Tribunal announced oral decision at the end of the hearing only to change in later in the written determination. Permission granted on the grounds that such action amounted to procedural impropriety.

- UG (Nepal) (2012) EWCA Civ 48; The Times, March 20, 2012.

Whether the policy for settlement of the adult of children of Gurkha veterans was sufficiently precise to permit of only one outcome on the particular facts. Further, successfully argued that a period of separation of eight months did not split the family unit.

- AR (Nepal) [2011] EWCA Civ 1439.

Successfully argued that the appellant could rely upon post-decision evidence that he now satisfied the 10 year long residence rule to form an additional ground of appeal to be determined by the Tribunal.

## Appointments

- Attorney General's regional civil panel B
- Welsh Government Panel of Approved Junior Counsel B

## Memberships

- Association of Regulatory and Disciplinary Lawyers
- Administrative Law Bar Association
- Immigration Law Practitioners' Association (Corporate)
- The Wales Public Law and Human Rights Association (corporate)