



“5 Essex Court’s barristers are at the cutting edge of everything”

*Chambers UK*

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**Alan Payne QC**  
Call: 1996 Silk: 2019



Alan is recognised as a leading junior. His practice focuses on areas of public law, human rights (domestic and international), immigration and asylum, inquests, inquiries, and claims against the police and other public bodies.

Alan acts for variety of clients including police forces, prison services, local authorities and government departments. He routinely appears in the High Court and the Court of Appeal, has also appeared on a number of occasions in the Supreme Court. He is described as “a pugnacious opponent” and “a man of no compromise but who is straight as a die” whom “the courts like and respect”. His clients value his “broad public law knowledge” and commend him for being “reliable, hard-working, and straightforward in his dealings” (Chambers UK).

Current and recent examples of his work acting for the SSHD include:

***Kamoka v Security Service, FCO, Home office*** - a public misfeasance damages claim.

***AB v Secretary of State for the Home Department [2018] EWCA Civ 383*** – whether a person has to remain within the UK in order to be granted refugee status.

***Corbiere & Ors v Ke Xu (Defendant) & Secretary of State for the Home Department (Intervener) [2018] EWHC 112 (Ch)*** – whether Article 6 ECHR required that an order be made restraining the defendant to the civil proceedings from leaving the UK until the end of the proceedings.

***FE v YE (Respondent) & Secretary of State for the Home Department (Intervener) [2018] 2 WLR 200*** – whether a claim for asylum made by an abducted child prevented their return under the Hague Convention.

***MM & Ors v Secretary of State for the Home Department [2017] UKSC 10*** – whether the income requirements imposed by the Immigration Rules were lawful.

***Supawan v Secretary of State for the Home Department [2017] EWHC 2918*** – whether a person who works at a takeaway restaurant can qualify as a chef for the purpose of the Shortage Occupation List.

Alan is Junior Counsel to The Crown Panel of Counsel for Government work – A Panel.

## Recommendations

"A very able advocate. He is dogged and fierce in his litigation, but is a likeable opponent and the courts have a lot of respect for him." (Immigration)  
*Chambers UK 2020*

"He has a good grasp of the feel of a case and really knows his way around immigration law." (Immigration)  
*Chambers UK 2020*

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"A very impressive silk." (Police Law)  
*Legal 500 2020*

"Insightful, concise and 100% accurate in terms of the law and tactical approach. He is really flexible, good on paper and always contactable." (Police Law)  
*Chambers UK 2019*

"Very accessible senior junior who is customer-focused and easy to use." (Police Law)  
*Chambers UK 2019*

'He represents forces in civil cases and inquests.' (Police Law - Defendant)  
*Legal 500 2019*

"He is skilful and conscientious." (Immigration)  
*Chambers UK 2018*

"He is a very pugnacious opponent, produces quality written work and is always clear in his courtroom presentations." (Immigration)  
*Chambers UK 2017*

"He's frustratingly good." (Immigration)  
*Chambers UK 2017*

"He is a man of no compromise but is straight as a die. The courts like and respect him." (Immigration)  
*Chambers UK 2016*

"He has significant experience representing public authorities in immigration cases." (Immigration)  
*Legal 500 2015*

"He is reliable, hard-working, and straightforward in his dealings." (Immigration)  
*Chambers UK 2015*

"His Practice is complemented by broad public law expertise" (Immigration)  
*Legal 500 2014*

"He's very bright and is involved in a ton of cases" (Immigration)  
*Chambers UK 2014*

"An excellent legal brain and a very capable advocate." "Gives a lot of attention to detail, and is very approachable and great technically." (Police Law)  
*Chambers UK 2020*

## Public / Administrative

Alan has extensive experience in the field of public law demonstrated by the following examples of his cases:

***AB v Secretary of State for the Home Department [2018] EWCA Civ 383*** – whether a person has to remain within the UK in order to be granted refugee status.

***Corbiere & Ors v Ke Xu (Defendant) & Secretary of State for the Home Department [2017] EWHC 3364*** – whether the deportation of a person who had robbed a bank of valuable algorithms breached the banks human

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rights.

***Imam v Secretary of State for the Home Department [2017] EWHC 2917*** – whether a person who works at a takeaway restaurant can qualify as a chef for the purpose of the Shortage Occupation List.

***MM & Ors v Secretary of State for the Home Department [2017] UKSC 10*** – whether the income requirements imposed by the Immigration Rules were lawful.

***Secretary of State for the Home Department v SS (Congo) and 5 ors [2016] 1 All ER 706*** – the correct approach to determining Article 8 applications by family members who did not meet the requirements of the Immigration Rules.

***TTM v Secretary of State for the Home Department [2016] EWHC Civ 646*** – whether the decision to revoke the licence of an educational college was lawful.

***AH (Algeria) v Secretary of State for the Home Department [2015] EWCA Civ 1003*** – whether a serious criminal could through subsequent good behaviour avoid being excluded from protection under the Refugee Convention.

***Grenville College London and Birmingham College London v Secretary of State for the Home Department [2014] EWHC 1065*** – revocation of multiple licences of educational colleges.

***Biruk Habte & Ors v. SSHD [2013] EWHC 3295*** - whether under Regulation 343/2003 art.16(1) the UK was able to return an illegal entry to first Member State without carrying out an full investigation.

***MC (Guinea) & Ors v. SSHD [2013] EWCA 922*** – the Court of Appeal gave guidance as to the correct approach to staying cases in circumstances where an appellate judgment was awaited.

***AB (Sudan v SSHD [2013] EWCA 921*** - the Court of Appeal refused to grant a stay in a category of judicial reviews pending judgment of the Supreme Court on a linked issue.

***AR (Iran)) v SSHD [2013] EWCA 778*** – it was not open to individual asylum seekers to challenge decisions taken by Member States under Directive 2005/85

***AH (Algeria) v SSHD [2012] EWCA Civ 395***- the Court of Appeal gave guidance as to the meaning of the words “serious crime” for the purposes of the Convention relating to the Status of Refugees 1951 (United Nations) art.1F.

## Human Rights

Alan has significant experience in this area with notable expertise in immigration, asylum and deportation related matters. Notable examples of his work include:

***MM (Zimbabwe) v Secretary of State for the Home Department [2017] EWCA Civ 797*** – whether a criminal with a serious medical condition could be deported to a country where he might not have access to medication needed to treat his condition (and thus pose a risk of further crimes).

***BL (Jamaica) v Secretary of State for the Home Department [2016] EWCA Civ 357*** – whether the public interest in deporting a criminal was outweighed by the interests of his children.

***Secretary of State for the Home Department v SS (Congo) and 5 ors [2016] 1 All ER 706*** – the correct approach to determining Article 8 applications by family members who did not meet the requirements of the

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Immigration Rules.

***Drammeh v Secretary of State for the Home Department [2015] EWHC 2754*** – whether the immigration detention of person on hunger strike was unlawful after his health had significantly deteriorated.

***Tabrizagh & 5 Ors v Secretary of State for the Home Department [2014] EWHC 1914*** – multiple claims brought by asylum seekers trying to establish an entitlement to an in-country right of appeal on human rights grounds against their removal to Italy.

***MB & Ors v SSHD [2013] EWHC 123*** - the Court held that asylum seekers could be lawfully returned to Malta.

***EM (Eritrea) v SSHD [2012] EWCA Civ 395*** – the Court of Appeal confirmed that individuals could only challenge their transfers to other Member States on Article 3 ECHR if they could establish systemic deficiencies in the receiving state.

***ED (Ghana) v SSHD [2012] EWCA Civ 39*** - a person present who had been convicted of various offences, was unable to rely on the test in ***Maslov v Austria (1638/03) [2007] 1 F.C.R. 707***, where his presence in the UK was and had been unlawful.

## Inquests

Alan regularly acts in inquests for the Coroner, and for local authorities, police, prison service and other state bodies. He recently acted for the Coroner in a 3 week inquest involving complex issues surrounding cause of death and causation involving medical experts from multiple disciplines. In addition, he is currently acting for a Coroner in an application for a new Inquest.

Alan represented the Security Services in the high profile **Inquest into the death of Diana, Princess of Wales and Mr Dodi Al Fayed**.

Alan has also acted in a number of judicial review relating to Inquests and funding for inquests. Examples include:

***Kent County Council v HM Coroner for Kent (Defendant) & Mr and Mrs Barry (Interested Parties) [2012] EWHC 2768*** - a successful challenge was made of the Coroner's decision that Article 2 was engaged.

***Sumaiya Patel v Lord Chancellor & Assistant Deputy Coroner for Inner West London [2010] EWHC 2220*** - court held that the widow of one of the bombers responsible for the bombings in London on July 7, 2005 failed to show that there was a significant wider public interest in her having exceptional funding for legal representation at the inquest into the deaths caused by the bombings.

## Public Inquiries

Alan has acted in a number of high profile inquiries and cases including:

**Independent Inquiry into Child Sexual Abuse (IICSA)** - represented a number of police forces in two separate modules. The first related to police investigations undertaken into Cyril Smith. The second relating to investigations into child abuse at Ampleforth.

**Azelle Rodney Inquiry** - Alan acted on behalf of the MPS in the 3 month inquiry into the death of a person shot by the police.

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***E7 (an officer of the MPS) v Chairman of the Inquiry into the death of Azelle Rodney and various interested parties [2014] EWHC 452*** - Divisional Court rejected a challenge to the Chairman's report and provided guidance as to how the lawfulness of multiple shots should be assessed.

***MPS v Chairman of the Inquiry [2012] EWHC 2783*** - Divisional Court concluded that the chairman of a public inquiry had been entitled to find that there should be limited disclosure to the legal team of an interested party of material in relation to which the police sought a restriction order in the public interest. Disclosure was "necessary" for determination of the restriction order application within the meaning of the Inquiry Rules 2006 r.12(4)(a).

## Police Law

Alan acts on behalf of the police in Inquiries, challenges to warrants, claims of assault, false imprisonment, Malicious Prosecution, misfeasance and employment matters.

Recent cases include:

***Durrant v Chief Constable of Avon & Somerset Constabulary [2017] EWCA Civ 1624*** – award of damages for discriminatory conduct during arrest.

***R (on the application of XY) v (1) Crown Court, (2) Chief Constable of Northumbria (3) DPP [2017] EWHC 52*** - whether it had been lawful to identify an informant in order to proceed with a trial despite the risk of harm he might face as a result of being identified.

***Durrant v Chief Constable of Avon & Constabulary [2017] EWCA Civ 1624*** – the Court of Appeal allowed in part an appeal against the High Court's decision to reject a claims of discrimination.

***Mouncher & ors v Chief Constable of South Wales Police [2016] EWHC 1367*** - 3 month trial of claims by 14 former police officers of malicious prosecution, misfeasance and false imprisonment.

***Daniels & Ors v Chief Constable of South Wales [2015] EWCA Civ 680*** - whether a Chief Constable was immune from suit in respect of decisions to start and continue prosecutions.

***Durrant v Chief Constable of Avon & Constabulary [2013] EWCA Civ 1624***: - the Court of Appeal gave guidance as to the non-compliance with CPR in line with the judgment in ***Mitchell v News Group Newspapers Ltd [2013] EWCA Civ 1537, [2014] 1 W.L.R.***

***Desmond v Chief Constable of Nottinghamshire [2011] EWCA Civ 3*** - a chief constable responding to a request for information to be included in an enhanced criminal record certificate under the Police Act 1997 s.115(7) did not owe a duty of care to the person applying for the certificate

***Barry George v. Metropolitan Police Service [2010] EWHC 324***- challenge brought by the Claimant to the lawfulness of the decisions of the Panels, chaired by the MPS, to include him in the Multi-Agency Public Protection Arrangements (MAPPA) scheme. The Claimant was unsuccessful in his claim that his inclusion in MAPPA was (i) unlawful and/or (ii) unduly intrusive amounting to an infringement of his Article 8 rights, on the grounds that they are disproportionate to the aim pursued in imposing them

***Coker v IPCC & MPS & Wood [2010] EWHC 3625*** - the High Court held that the Independent Police Complaints Commission was entitled to revise its decisions as to what, if any, recommendations as to disciplinary action should be brought against a police officer.

## Employment

Alan has acted in a number of employment cases for the DWP, SOCA the Home Office and Foreign Office. In addition to standard unfair/constructive dismissal cases, and discrimination cases, Alan has recently acted in:

- A case involving a challenge to the lawfulness of pre-employment checks which involve consideration of the immigration history of the potential employee.
- A case involving a challenge to the lawfulness of the national security requirement that those who have access to sensitive material need to have British nationality;
- A test case brought against SOCA by interpreters (who unsuccessfully sought to argue that they were employed as opposed to self-employed);
- Pensions cases involving complex transfer provisions between the MET and SOCA.

In addition Alan regularly provides high level advice on TUPE issues, and has acted in a number of cases focusing on post termination restraints (both obtaining and resisting injunctions).

Noteworthy cases include acting on behalf of the Respondent in:

- Chelsea F. C. in the case involving the dismissal of Mark Bosnich;
- Fulham F.C. in the case brought by Jean Tigana (employment tribunal/EAT).

Alan helped draft the employees' handbook for Chelsea F.C.

He is also the co-author of the Employment Tribunals Handbook (5th edition 2017) published by BloomsburyProfessional.

## Personal Injury

Alan has extensive experience advising, principally Government Departments, on a broad range of personal injury matters ranging from stress at work claims involving injuries arising from the Iraq war, or from detention in Guantanamo.

## Commercial

Commercial disputes involving breach of directors fiduciary duties/trust, arbitrations (contractual disputes involving the outsourced provision of detention centres, removal of failed asylum seekers etc.), contractual disputes involving penalty clauses, enforceability of guarantees, restraints of trade, undue influence, and disputes involving sales of goods and services.

## Information Law

Alan has broad experience in Information Law and acted for the Home Office in proceedings involving the misuse of unlawfully obtained trading algorithms by a foreign criminal: **Corbiere Ltd v Xu; R (Corbiere Ltd) v Secretary of State for the Home Department**.

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## Healthcare

**Alan was made a QC in 2019 having been recognised for many years as a leading junior. His practice focuses on areas of public law, human rights (domestic and international), immigration and asylum, inquests, inquiries, and claims against the police and other public bodies.**

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