



## JONATHAN MITCHELL QC



### Year of Call

1979

### Year of Silk

1992

### Devil Masters

Christopher Haddow QC

Sheriff James Farrell

### LinkedIn Profile



## Practice Profile

Jonathan has a wide civil practice, predominantly in all areas of public and human rights law and in complex family law issues; special interests include information law and international jurisdiction questions. In addition to his court appearances, he has an active opinion practice.

Jonathan has acted in over 200 reported cases and thousands of unreported ones in the Court of Session, the Sheriff Court, the EAT and employment tribunals, and the Upper Tribunal. He has appeared 16 times in the House of Lords/UK Supreme Court.

Chambers UK have for many years rated him as a Band 1 silk for Administrative & Public Law, for Civil Liberties and Human Rights, and for Family Law. Chambers, 2018 edition, says 'Esteemed human rights silk with particularly significant experience in appellate proceedings. His broad-based expertise is often engaged on difficult cases, with a large amount of his work concerning cross-border issues. He has a very good knowledge of judicial reviews in Scotland, and is excellent for cases that can turn on points of procedure. He is very good at tactically thinking through a case and driving it forward.' (Human Rights). 'Maintains a broad focus on public law issues and is extremely well versed in high-value divorce cases in addition to other family matters. He is well prepared, very helpful and very persuasive in court: Clients are very impressed with him.' (Family Law). 'Frequently involved in controversial and precedent-setting litigation before the administrative and appellate courts. He is particularly experienced in cases involving human rights, information, political and constitutional law. He is very good at tactically thinking a case through and driving it forward. He is massively knowledgeable when it comes to public law. (Administrative and Public Law)

Previous editions gave similar praise: for example, in 2015, 'He has a certain gravitas and presence in court. He is experienced, and with that comes confidence that you can rely on him in high-profile cases. He is a class act, with a very wide range' (Administrative and Public Law); 'Commands great respect for his civil liberties practice, which focuses on family and employment law, and commercial cases with a pronounced human rights element. He has particular experience in appellate matters. He is an elegant, concise and forceful advocate. He has a fierce intellect, is easy to get along with and is highly communicative.' (Civil Liberties and Human Rights) 'He really thinks outside the box. He

provides very creative solutions." (Family/Matrimonial)

Legal500 has classed him as a leading silk (Band 1) for many years in Civil Liberties and Public Law, in Commercial Litigation, and in Family Law. Legal500 2017 edition says: 'He can find a path through seemingly impossible situations' and 'He has a dizzying intellect.'

## Education & Professional Career to Date

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BA Hons (PPE, Oxford); LLB (Edinburgh)

## Appointments

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- Temporary sheriff (1988–1996)
- Deputy Social Security Commissioner (1994–2002)
- Member of the Equality and Human Rights Commission panel of counsel

## Selected Cases

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- **Armstrong and Others v Glasgow City Council, [2017] CSIH 56**  
Successful challenge to council's Job Evaluation Scheme
- **M.A. v Advocate General, [2017] CSIH 46**  
Discrimination in criminal injuries scheme (now on appeal to UKSC)
- **McDonald v McDonald, [2017] UKSC 52**  
Pensions and financial provision in divorce
- **McCann v State Hospitals Board for Scotland, [2017] UKSC 31**  
Smoking ban in the State Hospital
- **Cumbria County Council for the nobile officium, [2016] CSIH 92**  
Exercise of the nobile officium in cross-border cases
- **Morrison v Carmichael, [2015] ECIH 71**  
Challenge to election of MP on basis of false statements in course of election
- **Mirza v Salim, 2014 SLT 875**  
Successful appeal in Inner House as to damages for wrongful use of interdict
- **Glasgow City Council v Unison, 2014 SLT 716**  
Successful appeal in Inner House as to local government responsibility for sex discrimination by ALEOs
- **IA v Home Secretary, 2014 SC (UKSC) 105**  
Supreme Court case establishing that a greater weight should be given to the decisions and methodology of the UNHCR in asylum cases.
- **Fox & Partners v Lord Chancellor [2013] EqLR 956 (OH)**  
Judicial review of the introduction of Employment Tribunal fees regime
- **Stewart v Stewart's Trs 2013 CSOH 63**

Lengthy proof on challenge to will on grounds of incapacity, followed by successful motion for expenses on agent and client scale

- **Davies v Scottish Commission for the Regulation of Care 2013 SC (UKSC) 186**  
Successful appeal in Inner House and Supreme Court on transitional provisions as to care regulation
- **RM v Scottish Ministers 2013 SC (UKSC) 139**  
Successful judicial review appeal to Supreme Court; a constitutional milestone in declaring Government's duty to lay regulations before Parliament
- **Eba Petitioner 2012 SC (UKSC) 1**  
Successful appeal in Inner House and Supreme Court, leading case on ambit of judicial review of tribunals

## Areas of Practice

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- Commercial
- Employment, Discrimination and Harassment
- Family
- Media Law, Privacy and Defamation
- Property
- Public Law

## Publications & Seminars

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Eviction and Rent Arrears, 1995

Many seminars and conferences, including the Scottish Public Law Group, the Family Law Association, the Four Jurisdictions annual conference, and the Glasgow Bar Association.

He has been invited to give evidence to Parliament on a number of occasions

<http://www.jonathanmitchell.info>

<https://twitter.com/jjmitchell>

## Directories

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A Band 1 silk in Chambers and Partners UK Bar Guide and in The Legal 500 for many years.

"Jonathan has the ability to simplify seemingly intractable problems. His performance in court is masterful. On a day-to-day basis he is well organised and always responds promptly and thoughtfully to instructing agents."

## Additional Information

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Ongoing work (in November 2017) is wide-ranging, from ongoing mass litigation on equal pay issues to high value divorce actions, human rights and discrimination cases such as an upcoming appeal to the Supreme Court on discrimination in criminal injuries compensation, and cross-border jurisdiction issues following the decision in Cumbria CC. He acts regularly for the Equality and Human Rights Commission. He has acted as Commissioner in a number of 'dawn raids', and as an expert witness on Scots Law questions in litigations in Germany, France, Portugal, and the United States.