

# Government launches independent review of the Human Rights Act

- expert panel will examine how the Human Rights Act (HRA) is operating 20 years on
- review expected to report its recommendations in Summer 2021

The review will be led by former Court of Appeal Judge, Sir Peter Gross, and will consider if the HRA needs updating after 2 decades of being in force.

It will take a fresh look at the Act – how it operates and protects human rights – to ensure it continues to meet the needs of the society it serves.

Specifically, the review will consider:

- The relationship between the domestic courts and the European Court of Human Rights (ECtHR). This includes how the duty to ‘take into account’ of ECtHR case law has been applied in practice, and whether dialogue between our domestic courts and the ECtHR works effectively and if there is room for improvement.
- The impact of the HRA on the relationship between the judiciary, executive and Parliament, and whether domestic courts are being unduly drawn into areas of policy.
- The implications of the way in which the Human Rights Act applies outside the territory of the UK and whether there is a case for change.

The Lord Chancellor, Robert Buckland QC MP, said:

Human rights are deeply rooted in our constitution and the UK has a proud tradition of upholding and promoting them at home and abroad.

After 20 years of operation, the time is right to consider whether the Human Rights Act is still working effectively.

I am grateful to Sir Peter Gross and his esteemed panel for undertaking this timely and important piece of work and look forward to his findings.

Chair of the Panel, Sir Peter Gross, said:

I am delighted to chair the Independent Human Rights Act Review.

I will undertake this role with a panel selected on the basis of its members’ wealth of experience coming from a variety of senior legal and academic backgrounds.

The Act constitutes a most important part of our legal framework;

IHRAR will entail an independent process of careful reflection to consider its workings, together with whether and, if so, what, reforms might be justified.

The UK remains committed to the European Convention on Human Rights. The review is limited to looking at the structural framework of the Human Rights Act, rather than the rights themselves.

The panel members have been selected based on their wealth of experience, comprising senior legal figures and academics. The panel includes:

- Sir Peter Gross – Panel Chair
- Simon Davis
- Alan Bates
- Professor Maria Cahill
- Lisa Giovannetti QC
- Sir Stephen Laws QC
- Professor Tom Mullen
- Baroness O’Loan

## **Notes to editors**

A short profile of each panel member below:

### **Sir Peter Gross (chair):**

Sir Peter Gross is a retired Lord Justice and has an eminent legal career spanning over 40 years. He was called to the Bar in 1977 and became a Queen’s Counsel in 1992. In July 2010, he became a Lord Justice of Appeal, and was appointed to the Privy Council in 2011. He became Deputy Senior Presiding Judge in October 2011, and was Senior Presiding Judge for England and Wales from January 2013 to December 2015. He later was appointed Lead Judge for International Relations in January 2018. On retirement from the Court of Appeal, Sir Peter was appointed President of the Slynn Foundation in November 2019, dedicated to advancing the Rule of Law internationally.

### **Simon Davis**

Simon Davis was a partner in the global law firm Clifford Chance for 26 years, specialising in the resolution of disputes, and is now a consultant. He is ranked consistently in the top tier of practitioners by the Legal 500 and Chambers & Partners directories. In 2014 Simon conducted an Inquiry into the briefing of the press by the FCA of information in its 2014/15 business plan (“the Davis Review”). He is a former President of the London Solicitors Litigation Association and was President of the Law Society of England and Wales until October 2020. Simon is deputy chair of Governors at Birkbeck College.

### **Alan Bates**

Alan was Called to the Bar in 2003 and specialises in EU law – and now in the new area of EU relations law (i.e. the law governing the relationship between

the United Kingdom and the EU). He holds appointment to the Attorney General's 'A' Panel of Counsel to the Crown and has represented the UK in many cases in the EU Court of Justice. He has also represented the European Commission.

Prior to the entry into force of the HRA, Alan worked on a Law Commission audit of the HRA compatibility of the English law of bail and helped draft associated guidance for judges. In 2004-05 he served as Judicial Assistant to the then Senior Law Lord, Lord Bingham. Alan has contributed to two leading textbooks on EU law and is co-editor of the EU Relations Law resource site (eurelationslaw.com). He is actively involved in promoting diversity and social mobility at the Bar, and previously served on the Bar Standards Board's Education & Training Committee and Middle Temple's Hall Committee.

### **Professor Maria Cahill**

Professor Maria Cahill is a Professor of Law at University College Cork. She is a graduate of Trinity College, Dublin (LLB) and the European University Institute (LLM, PhD). She lectured at the National University of Ireland, Galway, before joining the Faculty of Law at University College Cork in August 2008, where she teaches Constitutional Law, Advanced Legal Reasoning, Advanced Constitutional Law and Research Methods for PhD researchers. Professor Cahill was a Visiting Fellow at the Institute of European and Comparative Law at the University of Oxford in 2015 and a Kathleen Fitzpatrick Visiting Fellow at the Centre for Comparative Constitutional Studies at the University of Melbourne in 2019.

Her research is focussed on constitutional law, and uses doctrinal, theoretical and comparative perspectives to examine concepts such as amendability, constituent power, subsidiarity, rights, and the relationship between domestic and international law. Her work has been published, inter alia, in the International Journal of Constitutional Law, the Cambridge Law Journal, the American Journal of Jurisprudence, the German Law Journal and the University of Queensland Law Journal, and her research on the European Convention on Human Rights Act 2003 has been quoted with approval by judges of the Irish courts.

### **Lisa Giovannetti QC**

Lisa Giovannetti has a broad public law practice, with a particular focus on human rights, asylum, immigration and cases concerning national security issues. She advises and represents a wide range of clients, including Government Departments and agencies, public bodies and private individuals. Prior to taking silk in 2011, Lisa was a member of the "A" Panel of Junior Counsel to the Crown. She has extensive experience of advocacy before courts and tribunals at all levels, including the Court of Appeal and Supreme Court, and has represented the UK before the Grand Chamber of the European Court of Human Rights. Lisa is Consultant Editor of Detention Under the Immigration Acts: Law and Practice (OUP) and co-author of the chapter: National Security in Family Law Proceedings in OUP's forthcoming National Security: Law and Practice. She regularly lectures on topics related to her areas of expertise.

## **Sir Stephen Laws QC**

Sir Stephen Laws KCB QC(Hon) is a Senior Research Fellow with Policy Exchange's Judicial Power Project. Following a career as a legislative drafter in the Parliamentary Counsel Office (which he joined from the Home Office in 1976), he was the First Parliamentary Counsel 2006-12. As such, he was the Permanent Secretary in the Cabinet Office with responsibility for the Parliamentary Counsel Office and the offices of the Government's Parliamentary Business Managers, and so, in particular, for the drafting of all Government Bills presented to Parliament and generally for the advice given to Government about the management and technical handling of its legislative programme and about related constitutional issues.

He was a member of the McKay Commission on the consequences of devolution for the House of Commons and subsequently a member of the advisory panel for Lord Strathclyde's review of secondary legislation and the primacy of the House of Commons. He is also a Senior Associate Research Fellow at the Institute of Advanced Legal Studies and an Honorary Fellow of the University of Kent Law School.

## **Professor Tom Mullen**

Tom Mullen is Professor of Law at the University of Glasgow. His research and teaching interests include constitutional law, human rights law, administrative law and housing law, and he has written and/or edited numerous books, reports and articles on these subjects. He has carried out, along with various colleagues, research funded by Scottish Homes, the Scottish Office, the Scottish Executive, the Scottish Parliament, the Leverhulme Trust, Joseph Rowntree Foundation and Consumer Focus into topics including administrative justice, judicial review, human rights legislation, tenancy rights, and housing and anti-social behaviour.

He has acted as expert adviser to the House of Commons Scottish Affairs Committee and is currently expert adviser to the Scottish Parliament Finance and Constitution Committee. He has also been a member of the Expert Group advising the Advocate General for Scotland on possible changes to the Scotland Act 1998 relating to devolution issues (2010), a member of the Steering Group for Professor Neil Walkers' Report to the Scottish Government on Final Appellate Jurisdiction in the Scottish Legal System (2009/10), and a member of the Administrative Justice Steering Group chaired by Lord Philip (2008-2009) which published Administrative Justice in Scotland –the Way Forward.

## **Baroness Nuala O'Loan**

Baroness Nuala O'Loan DBE is a qualified solicitor and has been a Member of the House of Lords since 2009. She was a member of Parliament's Joint Committee on Human Rights, of the Delegated Powers and Regulatory Reform Committee and of the Secondary Legislation Scrutiny Committee of the House of Lords.

She was the Police Ombudsman for Northern Ireland from 1999-2007. She chaired

a Formal Investigation into Human Rights in England and Wales for the Equality and Human Rights Commission in 2009, and conducted a review in 2010, for the UK Home Office, of allegations of abuse contained in a document entitled "Outsourcing Abuse" which was presented to the Home Office. Baroness Nuala O'Loan has produced more than 100 articles and other publications on law, policing, faith and other issues. In the course of her work she has acted in an advisory capacity to government agencies responsible for policing and police accountability across the world.