



# Marc Willers QC

YEAR OF CALL: 1987, 1992 (IRELAND) | YEAR OF SILK: 2014



<https://www.gardencourtchambers.co.uk/assets/images/resize/original/1924.png>



Marc Willers QC specialises in the following areas: planning and environmental law; public and administrative law; civil liberties, human rights and discrimination; and Gypsy, Traveller and Roma law. He is recommended in the Chambers UK Bar Guide 2019<sup>●</sup> and Legal 500 2019<sup>●</sup> in planning law and civil liberties.

Marc won the Legal Aid Lawyer of the Year Award in 2011. He is a member of the Irish Bar, and a qualified mediator and a member of the Equality and Human Rights Commission's A-list Panel of Counsel. He is registered with the Bar Council for public access work and assists private clients in all the areas of his expertise.

On 30 May 2019, Marc was named Times Lawyer of the Week after an application by Bromley Council for an injunction prohibiting camping on 171 open spaces and car parks in the borough was refused by the High Court following a legal challenge by London Gypsies & Travellers (intervening) represented pro bono by Marc Willers QC and Tessa Buchanan.<sup>●</sup>

"Leading counsel on the law on Gypsies and Traveller communities."

LEGAL 500, 2020 (CIVIL LIBERTIES AND HUMAN RIGHTS)

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"Extremely approachable with a great client manner."

LEGAL 500, 2020 (PLANNING)

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"Excellent for claimant judicial review work, he is extremely approachable and has a great client manner."

LEGAL 500, 2020 (ENVIRONMENT)

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"One of the best international silks in the market at the moment."

LEGAL 500 2019

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"He's the first point of call for any Gypsy or Traveller planning matters - he's extremely knowledgeable and an exceptional advocate."

CHAMBERS UK BAR GUIDE 2018

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If you would like to get in touch with Marc please contact the clerking team:

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## ADMINISTRATIVE AND PUBLIC LAW

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Marc has extensive experience and expertise in public and administrative law.

Examples of his casework in this field include his representation of: the residents of the Fred Wigg Tower in Leytonstone when they challenged the Government's decision to place a high velocity missile system on the roof of their tower block as part of the air defence plan for the 2012 Olympic Games; the young offender claimants who challenged the government's decision to close Ashfield Young Offenders Institute; and the Irish

Traveller residents of Dale Farm in their widely publicised judicial review of Basildon Council's decision to evict them from their site.

Marc also undertakes work concerning planning and environmental law, human rights and discrimination and the rights of Gypsies, Roma and Travellers.

## NOTABLE CASES

### **Frackman v SSCLG and Cuadrilla** (2018) EWCA Civ 9

This was an appeal against the decision of *Dove J* - (2017) EWHC 808 (Admin) - in respect of a High Court planning challenge brought by Mr Frackman against the decision by the Secretary of State for Communities and Local Government to grant Cuadrilla planning permission for fracking operations at a site in Lancashire.

Mr Frackman argued that the Secretary of State erred because he had failed to consider the likely cumulative impacts of the proposed development by only taking into account carbon emissions from "exploration" and ignoring the indirect emissions from the production stage. He also argued that the Secretary of State had acted irrationally by failing to apply the precautionary principle when deciding to grant Cuadrilla planning permission, because the public health effects of fracking are unknown and so cannot be regulated. *Dove J* rejected both grounds and the Court of Appeal upheld his decision.

### **Knowles v Department for Work and Pensions** (2013) EWHC 19 (Admin)

This was a judicial review challenge in which it was argued that the housing benefit regulations relating to the provision of housing benefit to those Gypsies and Travellers living on private sites were discriminatory and incompatible with Article 14 of the European Convention on Human Rights.

### **Harrow Community Support Limited v Secretary of State for Defence** (2012) EWHC 1921 (Admin)

This was the highly publicised judicial review challenge of the decision to deploy a high velocity missile system on the roof of the Fred Wigg Tower in Leytonstone, London as part of the air defence plan for the 2012 Olympics.

### **R (Mary Michelle Sheridan and Others) v Basildon BC** (2011) EWHC 2938 (Admin)

This was a judicial review challenge of the council's decision to take direct action to evict Irish Travellers from their plots on Dale Farm. The case received worldwide publicity and was heard at first instance by Ouseley J and Lord Justice Sullivan on appeal.

## ENVIRONMENTAL LAW

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Marc's environmental law practice is extensive and includes work within the United Kingdom and abroad.

Marc is regularly instructed to advise on challenges to the grant of planning permission for development that has an impact on the environment. Notably, he recently represented Mr Frackman in both the High Court and Court of Appeal in his high-profile judicial review challenge of the decision of the Secretary of State for Communities and Local Government to grant Cuadrilla planning permission for fracking at two sites in Lancashire.

Marc has also been instructed to advise on challenges to government environmental legislation and policy, including those relating to fracking and climate change.

## **NOTABLE CASES**

In the international arena, Marc has been instructed with two other members of Chambers to bring a [multi state complaint before the European Court of Human Rights on behalf of a number of Portuguese youth applicants](#) who will argue that their rights protected by Articles 2, 8, 14 and Article 1 of Protocol 1 of the Convention are being violated because of the states' individual and collective failure to take appropriate steps to tackle climate change. This case has been mentioned in the Times (July 2019) - '[Climate change warriors turn to courts](#)'.

In addition Marc has been instructed to represent CAN-Europe in their application to intervene in the [People's Climate Case](#) which is currently being considered by the General Court of the European Union.

Marc has also recently been instructed with other members of Chambers to act on behalf of the [Inhabitants of Barbuda in a case they wish to bring against the government of Antigua and Barbuda](#).

The people of Barbuda were evacuated to Antigua in the wake of hurricane Irma. However, the government has not yet restored essential facilities and amenities on Barbuda and the inhabitants have not yet been repatriated to their island. Further, the government has just passed legislation that affects the communal rights of ownership of the Barbudan people.

Marc and his colleagues are instructed to bring a constitutional and public law challenge in the Antiguan courts to the legislation and a claim to force the government to carry out the necessary work on the island and repatriate the inhabitants.

Other recent cases include:

***Steer v Shepway DC and Westgarth*** [2018] EWHC 238 (Admin)

This was a successful judicial review challenge of a council's decision to grant planning permission for a holiday park in an area of outstanding natural beauty in Kent on grounds that it failed properly to explain its decision.

***Frackman v SSCLG and Cuadrilla*** [2018] EWCA Civ 9

This was an appeal against the decision of Dove J - (2017) EWHC 808 (Admin) - in respect of a High Court planning challenge brought by Mr Frackman against the decision by the Secretary of State for Communities and Local Government to grant Cuadrilla planning permission for fracking operations at a site in Lancashire.

Mr Frackman argued that the Secretary of State erred because he had failed to consider the likely cumulative impacts of the proposed development by only taking into account carbon emissions from "exploration" and ignoring the indirect emissions from the production stage. He also argued the Secretary of State had acted irrationally by failing to apply the precautionary principle when deciding to grant Cuadrilla planning permission, because the public health effects of fracking are currently unknown and so cannot be regulated. The Judge rejected both grounds and the Court of Appeal upheld his decision.

***Carolyn Brown v London Borough of Ealing and Queen's Park Rangers***[2018] EWCA Civ 556

This appeal from Dove J - (2017) EWHC 467 (Admin) - was heard by the Court of Appeal in 2017. The appellant had judicial reviewed the Council's decision to grant Queen's Park Rangers planning permission to redevelop the 61-acre Warren Farm site in the Metropolitan Open Land (MOL) for mixed use as a training facility for the football team and community open space/sports facilities. The appeal concerned the meaning of the term "very special circumstances" but also had a very important environmental angle, namely the application of the London Plan's policies on the development of protected open spaces within the MOL.

## **PLANNING LAW**

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Marc has a wide experience and expertise in planning law and represents both developers and objectors in planning and enforcement appeals, statutory reviews and appeals, examinations in public and planning enforcement proceedings in both the civil and criminal courts.

### **NOTABLE CASES**

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***O'Brien v South Cambridgeshire DC and SSCLG*** [2016] EWHC 36 (Admin)

This was a claim of judicial review concerning the proper construction and application of the planning enforcement related power of a local authority under section 70C of the Town and Country Planning Act 1990, and related transitional provisions. In a particularly detailed judgment, Lewis J considers the underlying statutory purpose of the power, and the question of proportionate enforcement action under Article 8 ECHR, within the context of alleged, delayed and abusive reliance by a planning authority upon an extant enforcement notice issued in 2005.

***Stevens v SSCLG and Guildford BC*** [2013] EWHC 792 (Admin)

This was a statutory challenge brought in respect of a planning inspector's decision to refuse temporary planning permission for a Gypsy site. The claimant argued that the inspector had failed to take account of the best interests of the children in accordance with the principles laid down by Baroness Hale in the Supreme Court decision in *ZH (Tanzania) v SSHD* [2011] UKSC 4. The Judge accepted that the principles were relevant and gave guidance on their application in planning cases but concluded that on the facts that the Inspector had complied with those principles.

## CIVIL LIBERTIES AND HUMAN RIGHTS

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Marc's human rights practice is extensive. He is a member of the Equality and Human Rights Commission's A list Panel of Counsel.

Marc takes instructions on human rights claims in cases before domestic and international courts.

Marc is currently instructed by a number of Portuguese children to bring a complaint against all 47 member states of the Council of Europe on grounds that they have failed to comply with their climate change obligations and have thereby breached the complainants' rights protected by articles 2, 8, 14 and article 1 of protocol 1 of the Convention.

Marc also speaks regularly at conferences and seminars in both the UK and abroad on human rights and discrimination and has been instructed by the Council of Europe and the EU to act as an expert on these topics on a number of occasions.

### NOTABLE CASES

***Mulvenna and Smith v Secretary of State for Communities and Local Government (SSCLG) and the Equality and Human Rights Commission (EHRC)*** (2017) EWCA Civ 1850

These two judicial review claims followed [\*Moore and Coates v SSCLG and EHRC\*](#) [2015] EWHC 44 (Admin) in which Gilbert J found the Secretary of State had unlawfully discriminated against Romani Gypsies/Irish Travellers by recovering all Gypsy/Traveller caravan site planning appeals for his own determination in breach of the Equality Act 2010 and Articles 8 and 14 of the European Convention on Human Rights. The claimants argued that the Secretary of State's unlawful recovery of their appeals had a "domino effect", which rendered his own appeal decisions unlawful. The EHRC supported that argument but Cranston J rejected it and the Court of Appeal upheld his decision.

***Traveller Movement v J D Wetherspoon PLC*** (2015) Central London County Court, 18th May 2015, HHJ Hand QC

In this landmark discrimination claim the court held that a pub that had refused entry to Irish Travellers and Romani Gypsies and their companions following an annual conference organised by the Traveller Movement had committed direct race discrimination because the pub landlord made stereotypical assumptions that Irish Travellers and Romany Gypsies were likely to cause disorder. The court also held that the Travellers' and

Gypsies' companions also succeeded in their claims for associative direct discrimination.

***Buckland v United Kingdom*** (2012) Application No 40060/08, 18th September

In this case the ECtHR found that the Article 8 rights of a Romani Gypsy had been violated in circumstances where she had not been given the opportunity to challenge the proportionality of a decision to seek possession of her rented pitch on an authorised site before an independent tribunal. The ECtHR awarded the applicant EUR 4000 and the Welsh Government subsequently amended the law to make it compatible with the ECHR.

## ROMANI GYPSY AND TRAVELLER RIGHTS

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Marc is well known for his representation of Gypsies, Roma and Travellers and has appeared in many leading cases relating to rights, including: the high-profile judicial review challenge of the decision taken by Basildon Borough Council to use its direct action powers to evict Irish Traveller families from their homes on Dale Farm; and the successful discrimination claim brought against the pub chain, JD Wetherspoon, by a registered charity called the Traveller Movement and a number of Gypsies and Travellers.

Marc is also on the Advisory Board of the [European Roma Rights Centre](#) and he is a Trustee of the registered charity, [Friends Families and Travellers](#).

### NOTABLE CASES

***Mulvenna and Smith v Secretary of State for Communities and Local Government (SSCLG) and the Equality and Human Rights Commission (EHRC)***(2017) EWCA Civ 1850 These two judicial review claims followed ~~*Moore and Coates v SSCLG and EHRC*~~ [2015] EWHC 44 (Admin) in which Gilbert J found the Secretary of State had unlawfully discriminated against Romani Gypsies/Irish Travellers by recovering all Gypsy/Traveller caravan site planning appeals for his own determination in breach of the Equality Act 2010 and Articles 8 and 14 of the European Convention on Human Rights (the Convention). The claimants argued that the Secretary of State's unlawful recovery of their appeals had a "domino effect", which rendered his own appeal decisions unlawful. The EHRC supported that argument but Cranston J rejected it and the Court of Appeal upheld his decision.

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***Knowles v Department for Work and Pensions*** [2013] EWHC 19 (Admin)

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**Secretary of State for Environment Food and Rural Affairs v Meier and others** [2009] UKSC 11

In this case concerning New Travellers, the Supreme Court held that a wide possession order granted to the Forestry Commission in respect of land which it owned and occupied and of which no-one was, at present, in unauthorised occupation, should be discharged and in so doing, the Supreme Court also overturned the Court of Appeal's earlier decision in the case of *Drury v Secretary of State for the Environment* [2004] EWCA Civ 200.

***R (Lisa Smith) v London Development Agency and SSTI*** [2007] EWHC 1013 Admin

This was a judicial review challenge brought by Romani Gypsy to the Compulsory Purchase Order of land used as a Gypsy site for the purposes of the Olympics.

***R (Clarke) v Secretary of State for Transport, Local Government and the Regions*** [2002]

EWCA Civ 819 and [2002] JPL 1365

This was a successful statutory challenge by a Romani Gypsy to a planning appeal decision in which it was established that the offer of bricks and mortar accommodation to a Gypsy with a cultural aversion to bricks and mortar could constitute a breach of Article 8 of the Convention.

### **Coster v UK** [2001] 33 EHRR 20

This was one of five complaints brought before the European Court of Human Rights by Gypsies and Travellers who claimed that enforcement action taken against them had breached their rights protected by articles 8 and article 1 of protocol 1 of ECHR. The seminal lead judgment can be found in the judgment in the case of *Chapman v UK* (2001) 33 EHRR 18.

## **DISCRIMINATION**

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Marc's discrimination practice is extensive. He is a member of the Equality and Human Rights Commission's A list Panel of Counsel.

Marc takes instructions on discrimination claims before both domestic courts and the European Court of Human Rights.

Marc also speaks regularly at conferences and seminars in both the UK and abroad on discrimination and has been instructed by the Council of Europe and the EU to act as an expert on these topics on a number of occasions.

### **NOTABLE CASES**

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## FURTHER NOTABLE CASES

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More of Marc's notable cases can be found [here](#).

## PUBLICATIONS

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Marc is the co-editor and co-author of a book entitled *[Gypsy and Traveller Law](#)* which was first published by the Legal Action Group and the Commission for Racial Equality in 2004 (the second edition was published in 2007 and the third edition is pending publication).

Marc is also the editor of the Council of Europe's handbook for lawyers defending Roma and Travellers entitled *[Ensuring access to rights for Roma and Travellers - The role of the European Court of Human Rights](#)* (2014) and he is a regular contributor to the *Legal Action Group* magazine and other legal publications.

## TRAINING AND SEMINARS

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Over the past 15 years Marc has undertaken a considerable number of international speaking engagements relating to human rights and civil justice abroad, including:

- The European Convention on Human Rights (ECHR) and its relevance for the protection of refugees and asylum seekers at an event organised by the UN High Commissioner for Refugees in Moscow.
- The application of the ECHR in Armenia at an event organised by Interights and the Netherlands Helsinki Committee for Lawyers.
- A human rights course in Rostov-on-Don, Russia, for the Council of Europe.
- A course held in Tbilisi, Georgia, on religious and other forms of discrimination prohibited by the ECHR.
- Roma Rights and the ECHR, on behalf of the Council of Europe at a conference organised by the Greek

- Ombudsman in Athens.
- Delivering the keynote speech at a conference on protecting the freedom of movement and human rights of Roma in Vienna organised by the EU Fundamental Rights Agency.
- Presentations on Roma rights and European discrimination law in Budapest, Bucharest and Sofia.
- Speaking at a seminar on Gypsy Justice on behalf of the Council of Europe at the American Bar Association conference, Dublin.

Marc has also undertaken a significant amount of training and advisory work on behalf of the Council of Europe and the European Union, including:

- "Support for Access to Justice in Armenia", specifically the development of a School for Advocates in Armenia.
- Advising on reform of the Russian civil appeals procedure, legal aid and access to justice training in Pyatigorsk, Russia, for Chechen lawyers.
- Advising on the Council of Europe's Human Rights Education for Legal Professionals (HELP) e-learning programme and the creation of a website educational tool on anti-discrimination.
- Expert advice and presentations on civil appeals procedure in an EU project to improve civil justice in Russia.
- Expert advice and presentations on civil appeals procedure in an EU project to improve civil justice in the Ukraine.

## **EDUCATION**

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- LLB

## **PROFESSIONAL MEMBERSHIP**

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- Administrative Law Bar Association (ALBA)
- Planning and Environment Bar Association (PEBA)
- [Institute of Law and Ethics \(ILE\)](#)

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