



#### Year of Call

1997

#### Devil Masters

Sheriff Neil J Mackinnon

Robert A Anthony QC

@voidgrab on Twitter

LinkedIn Profile

## Practice Profile

---

David is an experienced and enthusiastic practitioner in the fields of Statute, Public and Criminal law. He has made several key contributions to Scottish Legal Literature -increasingly used as a Speaker to a wide range of Groups, including the AM Public Law Conference and the NHS Central Legal Office.

David's career began in Local government, and he was the head of legal Services at a Regional Council by the time he decided to pursue a career at the Bar. He has maintained his interest in this area, not least by appearing at a number of lengthy Planning Inquiries, in relation to matters such as Judicial Review, Child Care, Statutory Nuisance and ASBOs. He is a member of the AM Family Law Group.

In parallel, David has developed extensive interests in the field of Mental Health, Adults with incapacity and Human Rights Law. In August 2021, Law Brief Publishing released David's latest publication, "A Practical Guide to the Sheriff Court and Protecting Vulnerable Adults in Scotland". This resulted in "Scottish Legal News" featuring David as their "Lawyer of the Month" for August 2021. He has written two other Textbooks considering the developing area of Mental Health Law in Scotland, and also Articles on these topics which appeared in the "Scots Law Times".

In 2019, David was an advisor to the Independent Review of Learning Disability and Autism in the Mental Health Act (IMRHA). David regularly updates the sections of the "Scottish Human Rights Service" on Mental Health and Planning and the Environment Law, and also contributed a Chapter to the SULI Textbook on Environmental Law. David has regularly presented Courses and Webinars on Adults with Incapacity Law and was the Keynote Speaker at the Annual Conference of the Scottish Autism Alliance in October 2020.

David has also gained substantial experience as a Procurator Fiscal Depute and Crown Junior, and successfully prosecuted in a number of cases at Sheriff and Jury level. He intends to develop this background, particularly in relation to Criminal Appeal work.

David has a deep and genuine commitment to making his skills available to the Third Sector, and

particularly to clients who require assistance on a pro bono basis. He has been a Director of Reeltime Music - an award - winning Community Youth Music Project in a deprived area - for over 17 years. For 3 years, he has also been a Board Member of the Mental Disability Advocacy Charity Partners in Advocacy and is also a supporter of the Faculty's Free Legal Services Unit, which he has assisted in Employment cases.

David is also a supporter of Planning Democracy, Validity (formerly the Mental Disability Advocacy Centre) as well as a member of the Pro Bono Panel of Inspiring Scotland.

David provides a high quality and responsive service underpinned by integrity, which focuses on the expectation of Clients and their Agents in a rapidly - evolving Legal Services market. A constructive, inquiring and emphatic approach characterises David's professional ethos. He communicates in a manner and at a level appropriate to his audience, and as demonstrated by the forthcoming publication of a Plain English Guide to Mental Health Law, seeks to demystify complex legal issues.

## Education & Professional Career to Date

---

Local government experience spanning 16 years at all levels - latterly as Head of Legal Services of Central Regional Council

LLB (Hons), 2:1 (Edinburgh, 1980); Diploma in Public Administration, with Distinction (Glasgow Caledonian, 1986)

## Appointments

---

- Member of the Equality & Human Rights Commission Panel of Counsel (2019–present)
- Junior Counsel, First Tier Tribunal (Immigration and Asylum), Office of the Advocate General (2018–2019)
- Case Presenter for the Nursery and Midwifery Council (2017–present)
- Part-Time Case Investigator for the Scottish Legal Complaints Commission (2017–2019)
- Part-time Advisor to the Independent Review of Autism and Learning Disability Law (IMRHA) which published its report in December 2019
- Chair of Grievance Appeal Hearing at Chief Officer Level for a Local Authority

## Selected Cases

---

- **P v DWP**  
Judicial Review of decision by DWP regarding transition of 16 year old child from Disability Living Allowance to Personal Independent Payment. Full back payment of Benefit obtained
- **BH & EH v CH & SM, Sheriff Appeal Court, 27 February 2019**  
Opposed Adoption
- **Byrom v City of Edinburgh Council [2017] CSOH 135**  
Challenge to legality of planning consent granted for Hotel Development adjacent to Edinburgh Central Library. First Crowdfunded litigation.

- **Secretary of State for Work and Pensions v Robertson 2016 SLT 52**  
Consideration of decision by Upper Tier Judge that Regulations had been made ultra vires of the Secretary of State, and also the extent to which such a decision is appealable.
- **K v Mental Health Tribunal for Scotland 2015 SLT (Sh.Ct.) 197**  
The first reported decision upon the operation of a Cross- border Transfer of a patient subject to a Compulsory Treatment Order under the Mental Health (Care and Treatment) (Scotland) Act 2003
- **D v Mental Health Tribunal for Scotland 2014 SLT (Sh.Ct.) 39**  
Successful Appeal to the Sheriff Principal against a decision of a Mental Health Tribunal that a failure of procedure invalidated a Compulsory Treatment Order
- **DC v W Nursing Home and Ors 2014**  
A case often referred to as the Scottish Bournemouth, which explored the extent to which the accommodation of an incapable individual in a Nursing Home engaged Convention Rights
- **G v NHS Greater Glasgow and Clyde 2014**  
A case which examined the operation of a Mandatory Drugs Testing regime applicable to a Detained Patient

## Areas of Practice

---

- Crime
- Employment, Discrimination and Harassment
- Family
- Personal Injury
- Public and Fatal Accident Inquiries
- Public Law

## Publications & Seminars

---

Author of "A Practical Guide to the Sheriff Court and Protecting Vulnerable Adults in Scotland", Law Brief Publishing

"Disclosure of mental disorder in Court" 2019 SLT (News) 79.

Stair Memorial Encyclopaedia Second Reissue, Mental Health, published May 2018

Mental Health (Care and Treatment) (Scotland) Act 2003, Ronald A Franks and David W Cobb 2005 (Second Edition published December 2017)

'A subdued Light of Experience? - the Mental Health (Scotland) Act 2015' Scots Law Times (News) 13, 2016-06-28

'Closing the Bournemouth Gap - the Scottish Law Commissioner's Report on Adults with Incapacity', Scots Law Times (News) 13. 2015

Environmental Law in Scotland, Chapter on Planning and Pollution Control 2014

'G v Scottish Ministers', Scots Law Times (News) 40, 2014

'Human rights and protection of vulnerable persons - the Scottish Law Commission considers Bournemouth', Scots Law Times (News), 201, 2012

'The Supreme Court and the State's duty to protect vulnerable groups; the effect of Rabone', Scots Law Times (News), 75, 2012

Chair of Workshop for Legal Services Agency Mental Health Law Conference, October 2019

Presenter of course on the Law of Incapable Adults for MBL Seminars Dec 2016 - present

Author and Updater of the Scottish Human Rights Service Chapters on Mental Health and Planning and the Environment 2014 - present

Speaker at Seminars organised by CPP Seminars in May and December 2014 and March 2016-06-28

## **Additional Information**

---

Regular supporter of the Faculty's Free Legal Support Unit , in areas including Planning, Housing and Employment. Most recently involved in supporting the occupiers of Lorne Street, Leith against the sale of their properties by a Charitable Trust.

Substantial interest in the working of the voluntary and third sectors -

Management Committee Member of award-winning and nationally - recognised youth music project Reeltime Music

Board member of Partners in Advocacy, a Mental Health Advocacy Charity

Member of Scottish Legal Action Group

Member, Planning Democracy

Former Committee Member of the Scottish Human Rights Centre

Facebook and LinkedIn profiles in his own name

Twitter and WordPress accounts under the pseudonym 'Voidgrab'