

Appeal seeking Declaration of Incompatibility in relation to s.2 of the Children Act 1989

17th October 2022

Caoilfhionn Gallagher KC of Doughty Street Chambers and Chris Barnes of 4PB are appearing in the Court of Appeal on behalf of the appellant mother, instructed by Alexandra Wilks of ITN Solicitors, in a challenge concerning the lack of power to rescind the parental responsibility ('PR') of a married father under s.2 of the Children Act 1989.

The claim for a Declaration of Incompatibility ('DoI') was heard in the Family Division of the High Court alongside applications for protective orders under the Children Act 1989 and the Family Law Act 1989 arising against a background of exceptionally serious domestic abuse and coercive and controlling behaviour within, and after, the parents' relationship. Wide-ranging orders were made by the High Court but the application for DoI was refused by Russell J at first instance.

The appeal focuses on challenges to the compatibility of the current framework based upon the rights of the appellant, and the respondent children, under Article 8 and 14 of the ECHR. The Lord Chancellor and Secretary of State for Justice intervened at first instance and responds to the appeal.

The appeal will be heard on 18th and 19th October 2022 and can be viewed via the Court of Appeal's livestream accessible on the Judiciary website.