

# JUSTICE PRESS RELEASE

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## **UK Supreme Court upholds the right to legal representation at the police station**

Today, 26<sup>th</sup> October, a unanimous seven judge UK Supreme Court confirmed that the law in Scotland breaches the right to a fair trial by not allowing advice and representation to detained persons in the police station. The right has been considered fundamental in England, Wales and Northern Ireland for 20 years, but it is only today that the same protections can finally be invoked across the Scottish border. As Lord Hope, giving the majority judgment, observed '*It is remarkable that, until quite recently, nobody thought that there was anything wrong with this procedure*' (para 4).

The Law Lords held that there is now a clear and consistent line of authority from the European Court of Human Rights that in order to ensure that the right against self-incrimination is properly protected, a suspect must be afforded the right to legal advice as from the first interrogation.

Lord Rodger observed:

*For this reason, in my view there is not the remotest chance that the European Court would find that, because of the other protections that Scots law provides for accused persons, it is compatible with article 6(1) and (3)(c) for the Scottish system to omit this safeguard... and for suspects to be routinely questioned without having the right to consult a lawyer first. On this matter Strasbourg has spoken: the courts in this country have no real option but to apply the law which it has laid down (para 93).*

**Jodie Blackstock, Senior Legal Officer at JUSTICE said:**

**The decision of the Court is made in the clearest terms: no matter what safeguards already apply in Scotland, these do not go far enough to ensure people detained by the police are properly represented at the most crucial stage of their case – the police station. The Scottish government must now do everything it can to ensure the right is effective in practice.**

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### **Notes to Editors**

1. The case is *Cadder v Her Majesty's Advocate*, UKSC [2010] 43, in which a 16 year old made admissions of guilt in a police interview without having seen a lawyer and was subsequently convicted of the offence. The Scottish courts will now decide whether his trial was unfair in light of the Supreme Court ruling.
2. JUSTICE intervened in the case, represented by Aidan O'Neill QC of Matrix Chambers/Ampers and Stable and Jodie Blackstock of JUSTICE, assisted by Tony Kelly, Scots Solicitor and Herbert Smith LLP.
3. There are at least 76,000 live cases directly affected by the judgment and have been an estimated 1.2 million convictions since the Scotland Act brought the European Convention on Human Rights into effect in Scotland.
4. The judgment can be read here <http://www.supremecourt.gov.uk/news/judgments.html>