



## Practice

Mark (who is registered with the Bar Council for public access work) provides advice and representation in all areas of immigration, asylum, and human rights law, including European Community free movement law. Rated as a "young and clever" rising star by the Legal 500, he undertakes advocacy from the First Tier Tribunal to the Court of Appeal, and deals with work ranging from business immigration and entry clearance representations and appeals, to refugee and criminal deportation cases. He sits as a Judge of the First Tier Tribunal and is a Visiting Fellow at the Refugee Law Initiative, School of Advanced Study, - University of London. He has particular expertise in appeals beyond first instance level having spent eight years specialising in higher advocacy at the Refugee Legal Centre and is very well known to the Senior Immigration Judiciary at Field House (in June 2011 he was invited to address the judiciary on behalf of Claimant lawyers in an expert seminar on Country Guidance). His business awareness from being a company director of leading immigration training company HJT Training makes him a good choice for commercial immigration advice.

He has a flourishing judicial review practice, specialising in refugee, subsidiary protection and human rights issues, though frequently extending to all kinds of public law challenges to the Home Office decision making, including the withdrawal and suspension of licences for educational establishments. He also conducts compliance and regulatory work, and has worked for the Law Society, Office for the Immigration Services Commissioner, and with individual law firms challenging Legal Services Commission decision making.

He is particularly interested in the European dimension of international protection, and arguments based on the Qualification, Procedures and Reception Directives, and on the Charter of Fundamental Rights; and in exclusion from refugee status and subsidiary protection. He is a member of UNHCR's pro bono panel of advocates.

Mark has also advised several solicitors' firms on contractual disputes with the Legal Services Commission (LSC). His experience of having been a solicitor working under the LSC contract is especially useful in this regard.

## Notable Cases

In March 2011 Mark achieved a significant success with Birnberg Pierce Solicitors in FM Afghanistan, the Upper Tribunal disapproving the approach taken by their predecessors in HK Afghanistan to the claims of children fearing armed conflict, and to tracing relatives of unaccompanied minors. Instructed by the Immigration Advisory Service, Mark appeared for the Appellant in HH (Criminal record; deportation: "war zone") Iraq [2008] UKAIT 00051 before the Tribunal to determine the unlawfulness of the Home Office approach to asylum seekers from active war zones. The ruling affected a substantial number of other cases, requiring deportation decisions against Iraqi nationals to be withdrawn. It was upheld by the Court of Appeal in Secretary of State for the Home Department v HH (Iraq) [2009] EWCA Civ 727 (14 July 2009). HH in the Tribunal also involved the interpretation of Article 15(c) of the Qualification Directive on the extent of international protection to be given to those fleeing armed conflicts. Mark was instructed in Country Guidance cases by Refugee Migrant Justice (before its demise) and the Immigration Advisory Service, including AX China (refugee status and the "one child" policy); in GS Afghanistan he was sole advocate in the Tribunal's lead case on the protection of civilians fearing armed conflict. He

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2004

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**Education**  
BA (Hons), LPC,  
Formerly Solicitor of the  
Supreme Court

**Practice Areas:**  
Mark Symes is a member  
of the following Practice  
Areas:  
- Immigration - Asylum  
and Human Rights  
- Immigration - Business  
and Private  
- Public & Administrative  
Law

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also appeared for the Claimants in the test case on the safety of Italy for "third country" returnees, *EW Italy*, and has been extensively involved in a number of challenges to returns to Greece, in which context he addressed a conference of Europe's leading asylum lawyers in 2009. This case was critical in developing the arguments which led to the referral of the parallel litigation in the Greek third country cases to the Court of Justice for the European Union in *NS (R on the application of) v Secretary of State for the Home Department & Ors* [2010] EWCA Civ 990.

Mark appeared for the Claimant (instructed by Sue Willman of Pierce Glynn Solicitors) in *Ibrahim & Anor v Secretary of State for the Home Department (Rev 1)* [2010] EWHC 764 (Admin) (13 April 2010), achieving damages for unlawful detention for the Claimant in an important test case about the treatment of Iraqi nationals (to be heard in the Court of Appeal in late November 2010).

Instructed by James Elliott of Wilson and Co Solicitors, Mark was part of the legal team in *HM and Others (Article 15(c)) Iraq CG* [2010] UKUT 331 (IAC) which is the leading case on the interpretation of internal armed conflict and references to the Court of Justice of the European Union (although unusually, just before the final hearing, a late disclosure of expert evidence required that he withdraw from acting at the hearing itself).

Mark was part of the legal team in *MK (Iran), R (on the application of) v Secretary of State for the Home Department* [2010] EWCA Civ 115 (25 February 2010): he produced advices on the scope of the Charter of Fundamental Rights and the right to refugee status in international and European law for Sultan Lloyd Solicitors.

Working with Hammersmith Law Centre, Mark represented the successful Iraqi claimants in the litigation that challenged the refusal of settlement to Sangatte arrivals.

He represented LA in *LA (para 289A: causes of breakdown) Pakistan* [2009] UKAIT 00019, a positive decision on causation and domestic violence.  
<http://www.bailii.org/uk/cases/UKIAT/2009/00019.html>

In his Refugee Legal Centre days, Mark led their intervention in the House of Lords in *Horvath* (summer 2000). In the Immigration Appeal Tribunal, he represented the appellant in the reported case of *Acero Garces*, and in other important cases: *Allie* (on past persecution), *Foum* (on internal relocation), and *Ertan* (on the recognition of states). *Foum* was cited in *Hilal v United Kingdom* in the European Court of Human Rights.

## Publications

Co-author (with Peter Jorro, also of Garden Court) of 'Asylum Law and Practice' (Bloomsbury, 2nd edition June 2010). Described as 'encyclopaedic in its coverage ... pre-eminent' in the field by Lord Brown and as "indispensable in advocacy work for refugees and human rights", by Professor Guy Goodwin-Gill.

Principal legal consultant to the Electronic Immigration Network.

Sole editor of 'Statements of Principle of the Immigration Appeal Tribunal,' a 2,500 page guide to the jurisprudence of that tribunal published in September 1999 by the Refugee Legal Centre, with a Foreword by former President of the Tribunal His Honour Judge Pearl.

Author of 'Caselaw on the Refugee Convention', a guide to the international judicial approach to the 1951 Convention, with a Foreword by Professor Goodwin-Gill, published in April 2001 by the Refugee Legal Centre, and recommended by the



United Nations High Commissioner for Refugees (UNHCR) and the Immigration Lawyers' Practitioners Association (ILPA).

Consultant Editor of the Immigration and Nationality Law Reports.

Editor of Atkins Court Forms and Encyclopedia of Forms and Precedents (Butterworths 2006)

Author of 'The Law Relating To Without Foundation Asylum Appeals', (published by the Refugee Legal Centre, May 1996).

Training

Mark is heavily involved with training in immigration law. He was appointed to write the new academic standards for the Law Society's Immigration Accreditation Exams. He is a founder of HJT Training (with David Jones, also of Garden Court), which is the leading private company specializing in training in immigration law, providing training to UNHCR, Liberty, the Legal Services Commission, Office for the Immigration Services Commissioner, the staff of the Asylum and Immigration Tribunal and judges of the Refugee Appeals Tribunal of Ireland, as well as most of the UK's leading immigration solicitors' firms.

Mark ran the immigration and asylum course at the Inns of Court School of Law. He was a lead trainer for the College of Law in their winter 2002 project for the Legal Services Commission to provide training on immigration appeals to new barrister practitioners in the field. He delivers professional training for the Joint Council for Welfare of Immigrants (JCWI), and occasionally runs advanced courses in refugee, human rights and appeals law for the Immigration Lawyers Practitioners Association (ILPA).

He is regularly invited to speak domestically and abroad on refugee and human rights law issues.

Mark has in the past been part of the Consultation Group responsible for briefing the Lord Chancellors Department on the content of the Immigration and Asylum Appeals (Procedure) Rules. He was at one time co-convenor of the Refugee Sub Committee at of the Immigration Lawyers Practitioners Association (ILPA) and has assisted ILPA with numerous projects and publications over the years. With the Refugee Legal Centre he advised the Opposition in Standing Committee on their legal stance during the passage of immigration legislation during the 1990s.

Mark Symes joined Garden Court Chambers in December 2004, having formerly worked at the Refugee Legal Centre where he held numerous posts including Head of Tribunal Team in which capacity he had responsibility at national level for legal strategy. Formerly a Solicitor, he was also Head of Advocacy at O'Keeffe Solicitors.

## Other Activities

Mark is keen on socialising. He plays the classical guitar.