



GARDEN COURT CHAMBERS

# Grace Capel

YEAR OF CALL: 2012



Grace specialises in immigration, asylum and related public law. She is instructed in a diverse range of cases before the Administrative Court, Upper Tribunal and First Tier Tribunal, both as sole and led junior.

Her expertise includes international protection, unlawful detention and challenges involving the identification and support of trafficking victims. She often undertakes complex and urgent work for lay clients under threat of removal or those requiring urgent support.

"Grace is a great junior. She has good judgement and is a calm but persuasive advocate."

LEGAL 500, 2024

"She is approachable, precise and incredibly up-to-date across immigration and public law."

CHAMBERS UK, 2024

"Grace is hard-working and prepares excellent representations."

CHAMBERS UK, 2024

"She is very supportive and has really fantastic drafting skills."

CHAMBERS UK, 2024

"Her meticulous pleadings and thorough research are impressive. She's always helpful and cooperative, willing to help in even the most difficult situations."

CHAMBERS UK, 2023

"No matter how complex the legal issue, she is up to it, and she operates with the highest degree of clarity and precision."

CHAMBERS UK, 2022 (IMMIGRATION, UP AND COMING)

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

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## IMMIGRATION: ASYLUM AND HUMAN RIGHTS

Grace acts in all areas of immigration and asylum law including the Refugee Convention, the European Convention on Human Rights, EEA law, nationality law, removal and deportation, and the Immigration Rules (including entry clearance).

Grace is currently being led by Raza Husain QC in *AB and NB v Secretary of State for the Home Department*, a preliminary reference to the CJEU concerning the interpretation of Article 12(1)(a) of the Qualification Directive Article 1D of the Refugee Convention. She is also led by Sonali Naik QC in *YT v Secretary of State for*

*the Home Department*, an article 8 ECHR damages claim arising from the SSHD's 'deport first, appeal later' provisions.

## **NOTABLE CASES**

Past notable cases can be viewed below. [Click here to see a list of recent notable cases.](#)

### ***MA v Secretary of State for the Home Department***

Following an out of hours hearing before Henderson LJ, the Court of Appeal granted an injunction preventing the deportation of a Moroccan national resident in the UK for 42 years. Permission to apply for judicial review of the refusal of further submissions was subsequently granted by the Upper Tribunal at an oral hearing. The claim was compromised and an in-country right of appeal was granted.

### ***SK v Secretary of State for the Home Department***

The Court of Appeal granted permission to appeal against the FTT and UT's refusal of an Afghan national's claim for humanitarian protection. In the grant of permission to appeal, Lord Justice Silber acknowledged the need for guidance on the correct approach to consideration of country background and expert evidence post-dating a Country Guidance case. The appeal was settled by consent.

### ***DS v Secretary of State for the Home Department***

Challenge to a negative Conclusive Grounds decision, including on the basis of the Secretary of State's unfair reliance upon undisclosed documents obtained from the Albanian Ministry of the Interior. Settled following grant of permission at an oral hearing before HHJ Curran QC.

### ***SN v Secretary of State for the Home Department***

Obtained an injunction preventing the removal of a DRC national on the basis of the Secretary of State's failure to apply her policy guidance, 'Judicial Review and Injunctions' and defer removal in order for the Claimant to access legal advice and representation.

### ***NAS v LB Kent***

Successful challenge to an age assessment by LB Kent. Following a 1-day trial, the UT concluded that the Applicant was a child at the time of the local authority's assessment and as of the date of the hearing.

### ***GDI v Secretary of State for the Home Department***

Challenge to an age assessment decision of Croydon CC that a national of the DRC was 30 years old, when he claimed to be 17. Settled following a grant of permission on the papers. The child's claimed age was accepted.

### ***AB v Secretary of State for the Home Department***

Successful challenge to the Secretary of State's refusal of further submissions on Article 8 grounds representing a Pakistani national who is the primary carer for his partner, who suffers from mental illness. Settled following grant of permission on the papers.

### ***ML v Secretary of State for the Home Department***

Successful challenge to the refusal of further submissions on asylum grounds by an Albanian victim of trafficking. Settled following a grant of permission on the papers.

### ***TA v Secretary of State for the Home Department***

Judicial review of SSHD's refusal of an EEA residence card on the basis of retained rights of residence to a victim of domestic violence. Settled prior to permission.

### ***BN v Secretary of State for the Home Department***

Advised on a challenge to the refusal of further submissions on Article 3 grounds representing Kenyan National suffering from paranoid schizophrenia. Settled following pre-action correspondence with an in-country right of appeal granted. The appeal was successful.

### ***MH v Secretary of State for the Home Department; MAL v Secretary of State for the Home Department***

Led by Amanda Weston QC in linked asylum appeals for Maldivian nationals fearing political persecution. The appeals were conceded.

## **IMMIGRATION DETENTION**

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Grace is regularly instructed in unlawful detention / false imprisonment claims in the Administrative Court and County Court. She has particular expertise in issues relating to bail accommodation and the treatment of vulnerable individuals, including those who lack capacity, victims of torture and victims of trafficking.

Grace is currently being led by Amanda Weston QC in *JO (by his litigation friend, Sarah Shungu) v SSHD*, a challenge to the SSHD's Chapter 60 'Judicial Reviews and Injunctions' policy as it relates to detainees lacking capacity. She was led by Stephanie Harrison QC in *AK v Secretary of State for the Home Department* (CO/1200/2020) a challenge to the SSHD's treatment of independent medical reports under her Adults at Risk in Immigration Detention policy ("AAR policy") and her failure to publish internal guidance on that topic; in settling the claim, the SSHD made concessions with important wider implications for the application of the

AAR policy.

## COMMUNITY CARE LAW

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Grace accepts instructions in challenges to the provision of support under the Children Act and to asylum seekers and victims of trafficking. She has experience acting for age disputed asylum-seeking children including cases that involve crossover issues concerning detention or accommodation.

## PRO BONO WORK

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Grace regularly acts pro bono for Bail for Immigration Detainees in both bail applications and deportation appeals. She has also undertaken pro bono work for the Just for Kids Law, the AIRE Centre and Refugee Legal Service Athens.

Grace is a trustee of Young Roots, a charity providing educational and social opportunities to young asylum seekers and refugees. More information about Young Roots' work can be found [here](#).

## PUBLIC AND ADMINISTRATIVE LAW

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Grace acts in public law challenges relating to her area of specialism. She has experience of judicial review in the Upper Tribunal and Administrative Court: including challenges to unlawful immigration detention; refusal to provide support and accommodation to migrants; failure to recognise victims of trafficking and modern-day slavery, refusal to recognise further submissions as a fresh claim under the Immigration Rules, certification of protection and human rights claims; delays in decision making, the imposition of study restrictions, and the refusal to naturalise or register individuals as British citizens.

Grace represented the Applicant in *OA v Secretary of State for the Home Department* (JR/22/2020), in which the SSHD agreed to review and revise her 'Immigration Bail' guidance to reflect that there is no requirement to impose a study restriction in all cases where a person is subject to a deportation order. In *R (otao WEN) v The Secretary of State for the Home Department (Rev1)* [2019] EWHC 2104 (Admin), Grace acted in a successful challenge to a negative Reasonable Grounds decision.

## NOTABLE CASES

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### ***MZ v Secretary of State for the Home Department***

Grace is currently being led by Laura Dubinsky in a challenge to Secretary of State's system and policy for determining eligibility for bail accommodation under paragraph 9, Schedule 10 of the Immigration Act 2016.

### ***AH v Secretary of State for the Home Department; CM v Secretary of State for the Home Department***

Led by Shu Shin Luh in a challenge to the Secretary of State's imposition of a study restriction as a condition of bail on two individuals with university scholarships simply because they were appeal rights exhausted. In settling the claims, the Home Office agreed to review and revise its Immigration Bail Guidance to reflect that there is no requirement to impose a study restriction in all cases where a person is 'appeal rights exhausted'.

### ***R (otao WEN) v The Secretary of State for the Home Department (Rev1) [2019] EWHC 2104 (Admin)***

The High Court quashed the Secretary of State's negative Reasonable Grounds decision and ordered reconsideration.

## **BACKGROUND**

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Grace joined chambers in 2014 following completion of her pupillage under the supervision of Amanda Weston QC and Di Middleton QC. Prior to this, she worked in the field of immigration, asylum and human rights in a range of contexts both in the UK and abroad.

## **PUBLICATIONS**

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Grace contributes to Butterworth's Immigration Law Service and writes for Garden Court's blog.

## **TRAINING AND SEMINARS**

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Recent training sessions include 'Securing release from immigration detention in the age of Covid-19' and 'Urgent judicial review: Community care'

## AWARDS

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GDL and BPTC Exhibition, Inner Temple

Sir Joseph Priestly Scholarship, Inner Temple

William Barcroft Scholarship, Sidney Sussex College, Cambridge

## PROFESSIONAL MEMBERSHIP

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

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