



GARDEN COURT CHAMBERS

# Helen Foot

YEAR OF CALL: 2008



Helen specialises in immigration, judicial review, human rights and nationality law. Her expertise encompasses civil litigation arising from unlawful detention and SIAC appeals involving national security issues.

Helen is public access accredited and welcomes enquiries from individuals or organisations seeking advice or representation.

Helen is a Recorder on the North Eastern Circuit (Civil).

"Helen is an excellent advocate. She combines compassion with precision and firmly advocates for her clients."

LEGAL 500, 2024

"A strategic thinker who is also very good with clients."

"An exceptional barrister who provides an extremely high level of service. She has an encyclopedic knowledge of immigration law, her drafting skills are second to none and she is great with clients."

CHAMBERS UK, 2023

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"A brilliant advocate who has in-depth knowledge of immigration law and excellent attention to detail."

CHAMBERS UK, 2022 (IMMIGRATION)

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"Helen is an exceptional barrister. She has a very agile mind and can get to the heart of a complex issue extremely quickly. She is sharp and thorough in all of her work and her drafting skills are second to none."

LEGAL 500, 2022 (IMMIGRATION)

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"She has a brilliant, agile mind that can quickly get to the crux of the matter regardless of the complexity of the case."

LEGAL 500, 2021 (IMMIGRATION)

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

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You can also contact Helen directly:

+44 (0)20 7993 7708

## IMMIGRATION LAW

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Helen has over a decade of experience in the First-tier and Upper Tribunal and the Administrative Court. She has appeared in the Court of Appeal and Supreme Court, where she acted as junior counsel for the appellants in *KO (Nigeria) v Secretary of State for the Home Department* [2018] UKSC 53 and *R(Hysaj and others) v*

*Secretary of State for the Home Department* [2017] UKSC 82. She specialises in complex protection claims on behalf of trafficking victims, child refugees and those fleeing gender-specific persecution.

Helen represents appellants in the Special Immigration Appeals Commission (SIAC) including acting as junior counsel to the appellants in *U3 v SSHD SC/153/2018* and *D5-D7 v SSHD SC/176-8/2020*, deprivation appeals concerning allegations of national security risk (*U3*) and involvement in serious organised crime (*D5-D7*).

Helen's judicial review practice comprises challenges to immigration detention, removal and deportation, certification of protection claims and decisions under the National Referral Mechanism for identifying victims of trafficking and modern slavery. She has been involved in recent litigation on behalf of former Afghan judges seeking resettlement in the UK following the Taliban takeover of Kabul in 2021.

Helen also acts in civil private law claims against public authorities in the immigration context, including claims in false imprisonment and claims against public authorities for damages under the Human Rights Act 1998.

## **NOTABLE CASES**

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

### ***FH v Secretary of State for the Home Department* HU/55431/2022**

Represented FH, a former Afghan judge, and her adopted son, in their appeal against a decision to refuse them entry clearance. FH and her son were granted resettlement in the UK and have been reunited with their family members.

### ***U3 v SSHD SC/153/2018***

Deprivation appeal on behalf of U3, the victim of coercive control at the hands of her former partner, and who was alleged to present a risk to national security owing to alignment with ISIS.

### ***D5-D7 v SSHD SC/176-8/2020***

Deprivation appeals on behalf of three individuals alleged to have been involved in serious organised crime.

### ***Ciceri (deprivation of citizenship appeals: principles)* [2021] UKUT 238 (IAC)**

Sole counsel in this guidance case on the correct approach to deprivation appeals, before the President and Vice President.

### ***KB(Jamaica) v Secretary of State for the Home Department* [2020] EWCA Civ 1385**

Successful deportation appeal on behalf of a father of four British children. The Court considered the “unduly

harsh” test and followed *HA (Iraq) v Secretary of State for the Home Department* [2020] EWCA Civ 1176.

***Omotosho v The United Kingdom Application No. 22225/19***

Secured damages from the European Court of Human Rights on behalf of the children of the appellant in *KO (Nigeria) v SSHD* [2018] UKSC 53. Concerned the UK courts’ approach to the rights of the children of foreign criminals under Articles 3 and 12 of the UN Convention on the Rights of the Child as well as Article 8 ECHR.

***Hysaj (Deprivation of Citizenship: Delay) [2020] UKUT 00128 (IAC)***

Guidance case on delay in the Secretary of State’s decision making where there is a historic unlawful “nullity” decision.

***KO (Nigeria) v Secretary of State for the Home Department [2018] UKSC 53***

When considering whether the effect of deportation on a qualifying child is “unduly harsh” under section 117C(5) of the Nationality, Immigration and Asylum Act 2002, whether the court should take into account wider public interest considerations, or focus on the child only.

***BM v The Home Office (2020)***

Claim for damages in false imprisonment on behalf of a British citizen detained following an unlawful decision that his citizenship was a nullity.

***SC (paras A398-399D: ‘foreign criminal’: procedure) Albania [2020] UKUT 00187 (IAC)***

The Tribunal considered the correct approach to Article 8 ECHR in deportation appeals when an appellant is convicted overseas and is thus not a “foreign criminal” within the Immigration Rules or section 117D of the Nationality, Immigration and Asylum Act 2002.

***ATP v The Home Office (2018)***

Claim for damages in false imprisonment and for breaches of Articles 4 and 8 ECHR on behalf of a Vietnamese trafficking victim.

***R (KP) v Secretary of State for the Home Department CO/4661/2018***

Judicial review on behalf of a high-profile individual subject to an entry clearance ban as the result of allegations of corruption in Kenya. Concerned section 4B of the British Nationality Act, and the impact of Kenyan independence legislation on KP’s citizenship status. Led by Sonali Naik KC.

***Re A (2018)***

Advising a member of the royal family of a former Sultanate and British protectorate in the Middle East as to whether they are entitled to British citizenship based on ancestral links to Yemen and Hyderabad, a former

“Princely State” in India.

***R (VRB) v Secretary of State for the Home Department JR/3746/2017***

A decision to refuse indefinite leave to remain to a child victim of sexual exploitation was in breach of the Secretary of State's duties under section 55 of the Borders, Citizens and Immigration Act 2009 and unlawfully fettered her discretion to grant ILR outside the Rules.

***R (Shoriful Islam) v Secretary of State for the Home Department JR/5121/2017***

A decision to certify the applicant's asylum claim pursuant to section 96 of the Nationality Immigration and Asylum Act 2002 was unlawful since it failed to follow the Secretary of State's policy and the principles established in *A, B and C v Staatssecretaris van Veiligheid en Justitie* relating to delay in disclosure on the part of gay individuals claiming asylum.

***Awuah and Others (No1) [2017] UKFTT 555; Awuah (No 2) HU/04300/2015***

Guidance cases on costs in the First-tier Tribunal, concerning the meaning of “unreasonable conduct” on the part of the Secretary of State for the purposes of Rule 9(2)(b) of the Tribunal Procedure (First-tier Tribunal). (Immigration and Asylum Chamber) Rules 2014 (see *Awuah* No. 2).

***R(WRU) v Bristol City Council JR/5663/2016***

Judicial review of age assessment carried out by the local authority. Claimant found to be a child and entitled to support under the Children Act 1989.

***Re A (2016)***

Advising and representing a high-profile individual subject to an extradition request in a human rights and protection claim. Concerned the “exceptional circumstances” test which must be met under the Immigration Rules for a protection claim by an EU citizen to be admitted for consideration by the Secretary of State.

***Re MB (2016)***

Advising a Turkish national accused of involvement in a coup on the impact of claiming asylum on forthcoming extradition proceedings.

***Re AW (2015)***

Advising on a complaint to the UN Committee on the Elimination of Discrimination Against Women (“CEDAW”) concerning gender discrimination in the Kenyan independence legislation, as the result of which the client’s mother was unable to transmit British nationality to him.

***R (MA (Bangladesh)) v Secretary of State for the Home Department* JR/2652/2015**

Challenge to detention within the detained fast-track and attempted removal of claimant accepted for referral by the Helen Bamber Foundation as a potential victim of torture. Linked to *JM and others* CO/377/2015.

***SE (Ireland) v Secretary of State for the Home Department* C3/2011/1172**

Appeal concerning the UK's obligations under Zambrano to Irish citizen children who are settled in the UK and the prohibition on discrimination in Article 18 of the Treaty on the Functioning of the European Union.

***R (Mustafa Abdul Hussein) v Secretary of State for the Home Department* [2012] EWHC 1952 (Admin)**

Judicial review of a decision to refuse to grant indefinite leave to remain to an Iraqi hijacker of a Sudanese airbus at Stansted airport in 1996, who was detained, tortured and sentenced to death under Saddam Hussein's regime. Led by David Jones. Reported in [The Independent](#), [The Evening Standard](#) and [The Telegraph](#).

***EN (Serbia) v Secretary of State for the Home Department* [2009] EWCA Civ 630**

Appeal concerning the meaning of “particularly serious crime” in section 72 of the Nationality, Immigration and Asylum Act 2002 and the requirements of Article 33(2) of the Refugee Convention. Assisted Kathryn Cronin during pupillage.

## NATIONALITY

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Helen was junior counsel for the appellants in the Supreme Court in *R (Hysaj and Others) v Secretary of State for the Home Department* [2017] UKSC 82 and has expertise in representing individuals whose citizenship is subject to deprivation proceedings where fraud is alleged. She has appeared in most of the leading cases on citizenship deprivation including *Hysaj* and *Ciceri* in the Upper Tribunal and *U3* in SIAC.

Helen regularly advises individuals on complex claims to British citizenship, including registration applications on behalf of minors and those with ancestral links to the UK. She is familiar with the independence legislation of several former British colonies.

Recent work includes advising the royal family of a former British protectorate in the Middle East on entitlement to citizenship, and a judicial review of a refusal to grant citizenship on character grounds where the Secretary of State failed to disclose her reasons for refusal on public interest grounds. Helen has also advised on a complaint to the UN Committee on the Elimination of Discrimination against Women (CEDAW)

concerning the discriminatory effect of Kenyan independence legislation on women's ability to transmit nationality to their children.

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### **~~Hysaj (Deprivation of Citizenship: Delay) [2020] UKUT 00128 (IAC)~~**

Guidance case on delay in the Secretary of State's decision making where there is a historic unlawful "nullity" decision. On appeal to the Court of Appeal.

### **~~U3 v SSHD SC/153/2018~~**

Deprivation appeal on behalf of U3, the victim of coercive control at the hands of her former partner, and who was alleged to present a risk to national security owing to alignment with ISIS.

### **~~D5-D7 v SSHD SC/176-8/2020~~**

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### **~~R (Hysaj and others) v Secretary of State for the Home Department [2017] UKSC 82~~**

The Secretary of State's decisions to treat the appellants' citizenship as a nullity were unlawful; the correct

approach was to regard their citizenship as obtained as a result of fraud and therefore liable to deprivation. In giving judgment the Supreme Court overturned a long line of Court of Appeal authority concerning nullity where citizenship is obtained by impersonation.

### ***Re AW (2016)***

Advice on a complaint to the UN Committee on the Elimination of Discrimination Against Women (“CEDAW”) concerning gender discrimination in the Kenyan independence legislation, as the result of which the client’s mother was unable to transmit British nationality to him.

## **ADMINISTRATIVE AND PUBLIC LAW**

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Helen's public law practice is focused on immigration and related community care law. She is regularly instructed in unlawful detention challenges, both in the Administrative Court and in civil claims for damages in the county court.

She is experienced in age assessment cases, as well as challenges to removal and deportation, certification of human rights and protection claims and decisions under the National Referral Mechanism. Helen acts in urgent applications for interim relief including injunctions preventing removal or deportation and is happy to be instructed at short notice.

### **NOTABLE CASES**

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#### ***R (KP) v Secretary of State for the Home Department CO/4661/2018***

Judicial review on behalf of a high-profile individual subject to an entry clearance ban as the result of allegations of corruption in Kenya. Concerns section 4B of the British Nationality Act, and the impact of Kenyan independence legislation on KP’s citizenship status.

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A decision to refuse indefinite leave to remain to a child victim of sexual exploitation was in breach of the Secretary of State's duties under section 55 of the Borders, Citizens and Immigration Act 2009 and unlawfully fettered her discretion to grant ILR outside the Rules.

***R (Shoriful Islam) v Secretary of State for the Home Department JR/5121/27***

A decision to certify the applicant's asylum claim pursuant to section 96 of the of the Nationality Immigration and Asylum Act 2002 was unlawful since it failed to follow the Secretary of State's policy and the principles established in *A, B and C v Staatssecretaris van Veiligheid en Justitie* relating to delay in disclosure on the part of gay individuals claiming asylum.

***R (WRU) v Bristol City Council JR/5663/2016***

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***R (MA (Bangladesh)) v Secretary of State for the Home Department JR/2652/2015***

Challenge to detention within the detained fast-track and attempted removal of claimant accepted for referral by the Helen Bamber Foundation as a potential victim of torture. Linked to *JM and others CO/377/2015*.

***R (SR) v Hampshire County Council CO/11469/2012***

Judicial review concerning the correct test to be applied at the permission stage where a claimant seeks to challenge an age assessment on traditional public law grounds and does not ask the Court to exercise its fact-finding jurisdiction.

***R (Mustafa Abdul Hussein) v Secretary of State for the Home Department [2012] EWHC1952 (Admin)***

Judicial review of a decision to refuse to grant indefinite leave to remain to an Iraqi hijacker of a Sudanese airbus at Stansted airport in 1996, who was detained, tortured and sentenced to death under Saddam Hussein's regime. Led by David Jones. Reported in [The Independent](#), [The Evening Standard](#) and [The Telegraph](#).

## COMMUNITY CARE LAW

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Helen advises and represents vulnerable adults and children in judicial reviews concerning duties under the Children Act 1989. She is experienced in age assessment disputes and has expertise in cases involving an

immigration crossover where the impact of community care proceedings on parallel immigration proceedings is an issue.

Early in her practice she was instructed in a judicial review concerning [a hospital's refusal to provide emergency surgery to a 9 month old baby](#) on the basis of her parents' eligibility for charges under the NHS (Charges to Overseas Visitors) Regulations 2011.

## EXTRADITION

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Helen has expertise in cases where individuals are subject to parallel asylum and extradition proceedings. She has advised and represented high-profile individuals at risk in their home countries on the basis of political activities who are subject to extradition requests.

### NOTABLE CASES

#### ***Re A (2016)***

Advising and representing a high-profile individual subject to an extradition request in a human rights and protection claim. Concerned the “exceptional circumstances” test which must be met under the Immigration Rules for a protection claim by an EU citizen to be admitted for consideration by the Secretary of State.

#### ***Re MB (2016)***

Advising a Turkish national accused of involvement in a coup on the impact of claiming asylum on forthcoming extradition proceedings.

## PRO BONO WORK

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Helen is committed to pro bono work. She has been involved in recent litigation [assisting former Afghan judges](#) to resettle in the UK.

She worked as a volunteer adviser at Haringey Migrants' Support Group and is regularly instructed by Bail for Immigration Detainees (BID).

## BACKGROUND

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Prior to coming to the Bar, Helen worked for eight years as a television producer and broadcast journalist, producing documentaries and current affairs programmes.

## PUBLICATIONS

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Helen is a contributing author of *Macdonald's Immigration Law and Practice* (10th Edition), *Jackson's Immigration Law and Practice* (5th Edition) and the Legal Action Group book, *Support for Asylum Seekers and Other Migrants*.

## AWARDS

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Arden Scholarship (Gray's Inn, 2008)

Bedingfield Scholarship (Gray's Inn, 2007)

CPE Prize for graduating top of year (London Metropolitan University, 2007)

Gibbs Prize in Philosophy for outstanding performance in philosophy finals (*proxime accessit*, University of Oxford, 1998)

College Exhibition (University of Oxford, 1997)

## EDUCATION

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**BA (Oxon) Physics & Philosophy (First Class)**

**MA Gender Studies (Distinction)**

**CPE (Distinction)**

**BVC (Outstanding)**

## PROFESSIONAL MEMBERSHIP

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**Immigration Law Practitioners' Association (ILPA)**

**Administrative Law Bar Association (ALBA)**

**Liberty**

**JUSTICE**

**Amnesty International**

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