



GARDEN COURT CHAMBERS

Emma Fitzsimons

YEAR OF CALL: 2011



Emma Fitzsimons is a public law barrister, specialising in immigration, trafficking, community care, civil liberties and detention. She acts at all levels, including before SIAC and the ECtHR. She is ranked in Legal 500 (Administrative Law and Human Rights, and Immigration) and in Chambers & Partners (Immigration).

She regularly acts for vulnerable clients, including children, victims of trafficking, and persons lacking mental capacity. She also advises on strategic issues, including on recent legislative and policy changes to immigration law. She is a contributing author to *Macdonald's Immigration Law and Practice*, *Human Trafficking and Modern Slavery Law* and *Practice and LAG Migrant Support Handbook*.

"Extremely knowledgeable of asylum and immigration law and applies it clearly and succinctly to the case. Her advocacy style is clear and compelling."

An amazing advocate with a clear and compelling style. She is very thorough, responsive and approachable.'

LEGAL 500, 2024 (ADMINISTRATIVE LAW & HUMAN RIGHTS)

"Great at drafting, very good under pressure and very willing to do urgent matters. She is friendly, approachable and easy to work with."

CHAMBERS UK, 2024 (IMMIGRATION)

"Emma is an outstanding barrister. She is always well prepared and has exceptional understanding of the legal issues in often-complex asylum appeals, including children and Upper Tribunal error of law hearings."

MARK SHEPHERD, DIRECTOR & SOLICITOR, MIGRANT LEGAL PROJECT

"We have instructed Emma in a number international protection, human rights & public law claims. She combines a strong intellect, hard work and great determination. Emma is a pleasure to work with."

AHMED AYDEED, DIRECTOR OF PUBLIC LAW & SOLICITOR, DUNCAN LEWIS SOLICITORS

"She's very easy to work with. Really competent and good with difficult clients."

CHAMBERS UK, 2023

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

contactmyclerks@gclaw.co.uk | +44 (0)20 7993 7600

ADMINISTRATIVE AND PUBLIC LAW

Emma undertakes a broad range of public law work, in immigration, nationality, migrant support, trafficking, and unlawful detention. She is ranked in Legal 500 as a Leading Junior for Administrative and Public Law. In the last two years, Emma has been instructed in a number of cases involving claims by Afghan nationals and

their family members seeking relocation to the UK.

Notable cases include:

***R (S and AZ) v Secretary of State for the Home Department* [2022] EWHC 1402 (Admin) and [2022] EWCA Civ 1092**

Successful judicial review challenge on behalf of two Afghan judges seeking relocation to the UK.

***R (SH) v Secretary of State for the Home Department* [2022] EWHC 1937 (Admin)**

Successful judicial review on behalf of an Afghan journalist, seeking relocation to the UK.

***R (JZ) v Secretary of State for the Home Department* [2023] UKAITUR JR2022LON1012**

Successful judicial review on behalf of an Afghan judge, challenging a refusal of Leave Outside the Rules.

IMMIGRATION LAW

Emma advises and represents on all areas of immigration law, with a focus on international protection and human rights law. She undertakes immigration and nationality related judicial review challenges, in the Upper Tribunal and High Court. In the past year, she has worked considerably on Afghan relocation cases, and challenges to Albanian certification claims.

She has particular experience representing children and young people, trafficking victims, persons with serious mental health diagnoses and those who lack mental capacity. She has a high rate of success before the First-tier and Upper Tribunal (Immigration and Asylum Chamber). She is a contributing author to *Macdonald's Immigration Law and Practice*.

Recent cases include:

***R (JZ) v Secretary of State for the Home Department* [2023] UKAITUR JR2022LON1012**

Successful judicial review on behalf of an Afghan judge, challenging a refusal of Leave Outside the Rules.

***J (a child) v Secretary of State for the Home Department* (2022)**

Successful settlement of an Afghan child's appeal against the UT's dismissal of his asylum appeal, following grant of permission by the Court of Appeal. On remittal, the Home Office granted refugee leave.

***R (ROO (Nigeria)) v Secretary of State for the Home Department* [2018] EWHC 1295 (Admin)**

Successful judicial review challenge to section 96 certificate and refusal of fresh claim of LGBT torture victim. Obtained urgent interim relief to prevent removal.

COMMUNITY CARE LAW

Emma advises on all aspects of migrant support, including judicial review challenges to asylum support and accommodation. Her clients include those facing street homelessness as well as for persons in immigration detention who require bail accommodation.

She also acts for victims of trafficking seeking access to support and recovery services, and access to suitable accommodation. She also undertakes age assessments, which is informed by her significant experience with working with trafficked and asylum-seeking children. She has secured positive results via settlement. She is a contributing author to *Migrant Support Handbook* (first edition, Legal Action Group, Luh & Johnston).

Recent cases include:

R (NVC) v Secretary of State for the Home Department [2023] EWHC 3172 (Admin)

Successful interim relief application, challenging a Public Order Disqualification notice, and obtaining re-entry to MSVCC support, enabling release from detention to safe house accommodation.

R (AK) v Secretary of State for the Home Department (2023)

Obtained urgent interim relief for asylum support accommodation to be provided to a destitute, vulnerable asylum seeker and victim of trafficking.

R (HIS) v Secretary of State for the Home Department (2023)

Obtained urgent interim relief for section 98 asylum support accommodation to be provided to a destitute asylum seeker.

R (TC) v Lincolnshire County Council (2023)

Successful settlement of age assessment of challenge of a victim of trafficking.

SPECIAL IMMIGRATION APPEALS COMMISSION (SIAC)

Emma advises and represents individuals in appeals and reviews before SIAC, including serious organised crime and national security. Recently, she was instructed in ***D5, D6, D7 v SSHD SC/176-178/2020***, the joined appeals against deprivation and review of exclusion from the UK of three individuals. The case is the first where SIAC has applied the Supreme Court's judgment in *Begum* to the serious organised crime context.

CLAIMS AGAINST PUBLIC AUTHORITIES

Emma advises and represents individuals in claims against public authorities, in particular claims arising out of immigration detention; failures to protect and unsuitable accommodation.

She has considerable unlawful detention challenges, both the public law elements (including securing interim release and bail accommodation) and the civil claims for false imprisonment and HRA claims. She has acted for victims of torture, victims of trafficking, and persons lacking mental capacity.

She is currently instructed in a number of ongoing claims, including:

Multi party litigation arising out of allocation to unsuitable asylum accommodation

Unsafe release from detention of a vulnerable victim of trafficking

False imprisonment and breach of confidence in asylum procedures

INTERNATIONAL HUMAN RIGHTS

Emma has significant expertise in international human rights law. Academically, she focused on international human rights law as part of her Masters' Degree. Before coming to the Bar, she worked in both the UK Parliament and at the Irish Department of Foreign Affairs and Trade, where she worked on draft legislation and human rights issues.

In practice, she has experience acting in applications and preparing interventions before the European Court of Human Rights. She was part of the counsel team instructed by the First Applicant in *VCL and AN v United Kingdom* (77587/12) [2021] 73 EHRR 9, a landmark case finding the UK had violated the Article 4 and 6 ECHR rights of a child victim of trafficking, by prosecuting him for cannabis cultivation offences.

She was instructed by JWCI in its intervention in *Otite v United Kingdom* (18339/19) concerning Article 8 in deportation. She is currently instructed in a pending intervention in respect of mentally disabled detainees in immigration detention.

TRAFFICKING AND MODERN SLAVERY

Emma has significant expertise advising and representing victims of trafficking. She was part of the legal team instructed in *VCL and AN v United Kingdom* (77587/12) [2021] 73 EHRR 9, a landmark case which found the UK had violated Article 4 and 6 ECHR by prosecuting a child victim of trafficking arising out of their exploitation.

She regularly obtains successful outcomes for victims, including overturning negative reasonable/conclusive grounds decisions, and securing access to recovery services and leave to remain. She has also secured substantial damages for trafficking victims in civil claims arising out of unlawful detention and failures to protect. She also has a busy practice representing trafficking victims before the Tribunal, in asylum, human rights and deportation appeals. She is a contributing author to *Human Trafficking and Modern Slavery Law and Practice* (second edition, Bloomsbury Professional).

Notable cases include:

***R (NVC) v Secretary of State for the Home Department* [2023] EWHC 3172 (Admin)**

Successful interim relief application, challenging a Public Order Disqualification notice, and obtaining re-entry to MSVCC support, enabling release from detention to safe house accommodation.

***R (JS and AH) v SSHD* (2022)**

Instructed as junior counsel in one of two linked judicial review claims, challenging the Home Secretary's policy, Discretionary leave considerations for victims of modern slavery. Case successfully settled post-permission, with SSHD agreeing to withdraw the deportation orders, and granting both individuals leave to remain.

***R (TVN) Secretary of State for the Home Department* [2021] EWHC 3019 (Admin)**

Acted in successful challenge to a negative Conclusive Grounds decision for a vulnerable victim of trafficking and torture, where the High Court gave helpful guidance on the treatment of lies and application of Lucas directions to trafficking decisions.

***VCL and AN v United Kingdom* (77587/12) [2021] 73 EHRR 9**

Landmark case finding the UK had violated the Article 4 and 6 ECHR rights of a child victim of trafficking, by prosecuting him for cannabis cultivation offences.

PRO BONO WORK

Emma welcomes pro bono instructions. She acts for BID in immigration bail applications before the First-tier Tribunal, and has advised pro bono via the Bar Pro Unit. She also spent time volunteering in 2017 with the Refugee Legal Support Project in Athens.

BACKGROUND

Before coming to the Bar, Emma worked at the House of Commons as a legal specialist, advising select committees during their legislative inquiries. She authored five Parliamentary reports, and assisted the Joint Committee on Human Rights in its 2010/11 Report on the UK's Compliance with decisions of the ECtHR.

Whilst at the House of Commons Scrutiny Unit, she was seconded to the Office of Speaker's Counsel. She advised on parliamentary privilege, contract, crime, employment and tort law, and had responsibility for the handling of employment law litigation.

Emma also completed an internship in the Legal Division of the Department of Foreign Affairs and Trade, during which she worked on an international agreement between the UK and Ireland, ECtHR cases, Ireland's compliance with international humanitarian law and law of the sea. She also undertook extensive work on the preparation of a draft bill, implementing the Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict.

PUBLICATIONS

Contributing Author, *Macdonald's Immigration Law and Practice*, 10th Edition.

Lexis Nexis PSL Note, 'Will Brexit Weaken the enforcement of fundamental rights in the UK?' 15 November 2018

Contributing Author, *Friends of the Earth Environmental Impact Assessment and Case Law Update* (2017)

YLAL News Item, '[Justice Denied - TUC Report finds women and children have been disproportionately affected by the devastating impact of LASPO](#)', 2016 available at:

YLAL News Item, '[Amnesty International say legal aid cuts have created two-tier justice that leaves the poorest and most vulnerable out in the cold](#)'

'A Recipe for Disaster? When Religious Rights and Equality Collide through the Prism of the Ashers Bakery Case', *Hibernian Law Journal*, 2016

'Rage Against the Machine', *Counsel Magazine*, 2016

'O Mother, where art thou?' Case Comment: *M.R. v An tArd-Chláraitheoir*, *Kings Inn Law Review*, 2016

'Behind Closed Doors? Justifying what's off limits online: The EU's Right to Be Forgotten', *ELSA Student Journal of European Law*, 2014

Report of the Political and Constitutional Reform Select Committee, *The Government's Lobbying Bill*, 2013

Report of the Political and Constitutional Reform Select Committee, *The Impact of the Fixed-term Parliaments Act 2011*, 2013

Report of the Northern Ireland Affairs Select Committee, *Draft Northern Ireland (Miscellaneous Provisions) Bill*, 2013

Report of the Joint Committee on Human Rights, *Defamation Bill*, 2012

Report of the Joint Committee on the Draft Enhanced Terrorism Prevention Measures Bill, 2012

TRAINING AND SEMINARS

ILPA Training, *Good Practice in Working with Unaccompanied Children (UPRIGHTS project)* - July 2018

Seminar: Remedies For Points based System Problems, *Article 8 and Private Life Claims* - May 2018

Roundtable Discussion with Privacy International: *Data Sharing Between Public Bodies - Tools of a Hostile Environment* - April 2018

AWARDS

Bar Council Law Reform Essay Prize 2015

Finalist, European Court of Human Rights Mooting Competition 2014

Dean's Roll of Honour, Trinity College Dublin 2014

Asbury Scholarship, Middle Temple 2010

McFarlow Bursary, Sidney Sussex College, Cambridge 2009

Winner, Lovells Land Law Moot 2008

EDUCATION

LLM, Trinity College Dublin, First Class Honours with Distinction (First Place in the Year), 2014

BPTC, City Law School, Very Competent, 2011

MA (Hons) Law, University of Cambridge, 2010

PROFESSIONAL MEMBERSHIP

Administrative Law Bar Association (ALBA)

Immigration Law Practitioners' Association (ILPA)

London Irish Lawyers Association (LILA)

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