



David Jones

YEAR OF CALL: 1994



David is an accomplished Immigration and human rights practitioner with more than 20 years experience. He is passionate about the work he does, appreciating that in his area of practice – whether it be a claim for asylum or an application for leave as an investor – outcomes change lives.

David endeavours then in every case to obtain the best possible outcome for his clients relying on his considerable experience, expertise and an unerring determination.

"Excellent is an understatement. My number one person to call, his knowledge is phenomenal. He's extremely thorough and passionate and you know he's going to fight for you. Of all the barristers I've engaged he is by far the best at putting clients at ease, explaining their case to them and ensuring they fully understand everything."

CHAMBERS UK, 2020

"He has wonderful interpersonal skills and is engagement with clients and the court is exemplary.'

LEGAL 500, 2020

"He produces very good results and is very committed to clients. He is very experienced and tactical."

CHAMBERS UK, 2019

"David is excellent at communicating with clients and building a rapport. He is able to advise business clients as he understands the commercial context and what the drivers are for these clients."

LEGAL 500, 2021 (IMMIGRATION)

"David was very professional, ethical and factual when he took my case. He explained my options to my family and I, while allaying our fears along the way. He has shown dedication and empathy, and his team are kind and experienced. I will highly recommend him for his persistence, advocacy and professionalism."

JANET DANLADI, PUBLIC ACCESS CLIENT, MAY 2020

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IMMIGRATION, PUBLIC LAW AND CIVIL LITIGATION

Over more than two decades David has developed an extraordinary level of expertise as a practitioner in all areas of immigration, human rights, EU Free Movement, and nationality law. David also enjoys an expanding practice in managed and business migration.

David is an accomplished litigator in the appeal courts – from the First Tier of the Immigration and Asylum Chamber through to the Court of Appeal, in the sphere of judicial review both in the Upper Tribunal and Administrative Court, and the realm of civil litigation in relation to unlawful detention cases, regularly trying or settling high-value claims. David has in particular over time been at the vanguard of proceedings seeking to attain equality of treatment for Foreign National offenders, particularly with regard to accessing to early release programs and resisting enforcement action.

David also enjoys a vibrant direct access practice, enjoying the opportunities and challenges afforded by the extension of rights of access, and endeavouring to provide the best service possible to his clients by securing the litigation extension which enables him to issue proceedings, conduct negotiation and instruct expert witnesses.

NOTABLE CASES

Victory in false imprisonment action challenging the lawfulness of Home Office Iraqi removal exercise

QA v SSHD (Do3CL294) in the Central London County Court

David acted for the Applicant, QA, instructed by Tori Sicher of Sutovic & Hartigan Solicitors, whose claim for damages for unlawful detention concluded mid-trial with an offer of settlement. The case challenged in particular the lawfulness of the enforcement exercise initiated by the Home Office in 2017, which operated contrary to the Iraqi Government's prevailing and approved removal processes and the Home Office's published Guidance which allowed only for documentation and return of persons prepared to leave voluntarily.

False imprisonment and personal injury claim made by Zimbabwean national lawfully present in the U.K

Tapiwa Matukutire settled at pre-action stage

False imprisonment and personal injury claim made by Zimbabwean national lawfully present in the U.K. who was falsely accused of being present irregularly and was subject to humiliating attempts to detain and restrain by more than 6 immigration officers in his own home owing to a failure to properly check his status before pursuing enforcement action. The case revealed the human cost of the information sharing created by the "hostile environment" policy which required banks, landlords, and the DVLA report on people they suspected were in the U.K. illegally, through access to an immigration database. It disclosed too the weakness in the system due to the poor quality of data sharing – and then the poor interrogation of tip-offs by the Home Office. This case has also received media coverage from [ITV News](#) and [Sky News](#).

European Court of Human Rights finds torture victims detention unlawful

S.M.M. v. THE UNITED KINGDOM (Application no. 77450/12).

The ECtHR found the U.K. had violated Article 5 § 1 was found, concluding more decisive steps should have been taken to bring the decision making process swiftly to a close given his acknowledged vulnerability of the Zimbabwean national.

Restoration of currency of Iraqi country guidance

QA v SSHD C4/2017/2737 on appeal from the Admin Court *R (on the application of Amin)* [2017] EWHC 2417 (Admin)

Acted for the Appellant. Obtained leave to appeal to appeal against the decision of the Administrative Court in which he had overrode the Country Guidance decision of the Upper Tribunal in AA(Article 15C) Iraq [2015] which had found Kirkuk to be a contested territory. The Home Office subsequently conceded the appeal, paying the Appellant's costs. The decision of Admin Court had been extensively relied upon by the Home Office and the Lower court's in order to deny a protection entitlement to Iraqi asylum seekers. Quashing the decision restored AA's status as a binding precedent and obliged decision makers distinguish the findings in the same by reference to prevailing country evidence, and where they could not, required they acknowledge a protection entitlement.

Country Guidance properly construed entitling Iraqi asylum seeker to a fresh claim

R (on the application of H) v The Secretary of State for the Home Department (application of AA (Iraq CG)) *IJR* [2017] UKUT 00119 (IAC)

The Upper Tribunal revisited its own decision in the country guidance case of **AA (Article 15(c)) Iraq CG [2015] UKUT 00544 (IAC)** in this judicial review, emphasising that a proper reading of that determination did not enable decisions makers to suspend their assessment of an applicant's entitlement to international protection merely because they could not currently be returned, owing to a lack of particular travel documentation. Rather, it obliged a thorough and particular review of the individual circumstances of that applicant in order to determine whether a claim to international protection could be made out by reference to other factors apart from documentation, such as ethnicity, gender, age and strength of attachments.

Nigerian National defeats Home Office decision refusing to revoke deport order and obtains damages for unlawful detention

OA, R (on the application of) v Secretary of State for the Home Department [2017] EWHC 486 (Admin) (15 March 2017)

The Court concluded that the decision maker had erred in the law when rejecting the application to revoke an

outstanding deportation order noting the fact of the birth of a child following the adverse disposal of an earlier appeal by the Tribunal and expressly rejecting the Home Office's submission that the interests of that child could be extrapolated from, and so rejected, in reliance upon the assessment previously carried out by the Tribunal in respect of the claimant's other children. The Court also found the claimant had been unlawfully detained, highlighting when so doing a Memorandum of Understanding between the Nigeria and British Governments the terms of which it recognised operated in this case as a substantial bar to documentation and so removal.

Albanian Domestic violence victims claim secures a right of appeal

FR & Anor (Albania), R (On the Application Of) v Secretary of State for the Home Department [2016] EWCA Civ 605 (23 June 2016)

The Court of Appeal gave an important ruling in this case as to the approach that needed to be followed by the Home Office when certifying asylum and human rights claims as "clearly unfounded" emphasising the need to give separate consideration to a claim for asylum, where she decides whether the claim should be refused, and the decision on the issue of certification, and stressing that Certification was only possible where the claim admitted of only one answer before the tribunal.

Protection claims for homosexual men held to enjoy substance

R on the application of SE v Secretary of State for the Home Department [2016] UKUT JR-13730-2015

This judicial review concerned the denial of access to an in-country right of appeal to an Albanian homosexual, with the threshold of harm necessary to establish persecution and the necessity exhaust domestic avenues of protection also being in issue being contentious issues in the case. The Upper Tribunal ruled authoritatively in favour of the Applicant to the effect that there was facility even on the latest country information for the establishment of a protection need by homosexuals.

Access to settlement for Turkish workers

R (on the application of Buer) v Secretary of State for the Home Department [2014] All ER (D) 20 (Aug) , [2014] EWCA Civ 1109 ILR on the basis of Ankara agreement. The claimant was a Turkish worker who had been employed in the United Kingdom for four years before being refused indefinite leave to remain based on art6(1) of Decision No1-80 made pursuant to the EEC-Turkey Association Agreement. He was refused permission to bring judicial review proceedings against the decision to grant him a further three years' leave. He was granted permission to appeal in respect of the 'standstill clause' at Article 13 of the decision. The Court of Appeal, Civil Division, dismissed his appeal as it was clear under the caselaw from the Court of Justice of the European Union that arts6(1) and 13 of the Decision were directed at different situations and his rights

were covered by art6(1) as applied by the Secretary of State.

Settlement obtained for a Philippine family wrongly denied status

Gonzales v the Secretary of State for the Home Department (on appeal from [2014] EWHC 1813 (Admin)). The applicants asserted an entitlement to indefinite leave to remain contending a proper interpretation and application of the Home Offices policy statements issued under what was known as the Legacy scheme entitled them to the same. They were ultimately successful in the Court of Appeal following 6 years of determined litigation the Home Office conceding their appeal at the door of the court and granting settlement.

Guidance afforded on the interpretation of long residence provisions

MD (Jamaica) & JE (Jamaica) v Secretary of State for the Home Department [2010] EWCA Civ 213 Case concerning the operation of a long residence concession, and in particular the proper construction of rules and policy, and the role of past and subsequent policy in defining the interpretation of statutory instruments, and whether a waiver implied by actions of a decision maker could be relied upon to inform the application of a concession. The Court of Appeal adopted a strict approach to construction finding that grants of leave to remain pursuant to an application made after the expiry of a previous grant of leave to remain did not operate to legalise the applicant's residence during the period between the expiry of the earlier leave to remain and the subsequent grant of leave to remain. It was held also that the lawfulness of a person's residence at any given time had to be judged by reference to the law in force at that time.

Protection need established for trafficking victims

AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC) Heard in the Asylum and Immigration Tribunal/Immigration Asylum Chamber The case addressed the Country Guidance issues such as whether trafficked women are capable of constituting a particular social group of the Refugee Convention, to what extent the decision makers must take into account the risks of re-trafficking and the issues of stigmatisation and discrimination, the general issues of sufficiency of protection in respect of threats from traffickers (including analysis of the availability and suitability of women's refuge's and protected housing), the safety and reasonableness of the internal relocation alternative (in particular, vulnerability of lone female without familial support; stigmatization of single mother; availability of welfare and child care provision, availability of employment). The case-specific issues were whether the proposed removal of the Appellants from the UK was compatible with the UK's obligations under Articles 3 and 8 of the ECHR.

Other notable reported cases

Seamen deserters entitled to same fair treatment

R v Secretary of State for the Home Department, ex parte Urmaza [1996] Times LR (11th July 1996) (QBD)

The proper approach to the assessment of fresh claims for asylum

R v Secretary of State for the Home Department, ex parte Hamid Habibi [1997] Imm AR 391 (QBD)

Sikh nationalists Protection claim renewed

Tarlochan Singh v Secretary for the Home Department [1999] Imm AR 1 (CA) Wilby v Secretary of State for the Home Department [1999] Immigration Law Update (HMSO)

Harmonised the approach to the fact-finding in cases involving the Refugee and European Convention on Human Rights in the UK

Kacaj v Secretary of State for the Home Department [2001] INLR 354 (IAT); [2002] EWCA Civ 314

Established as substantial protection claims founded on threat from organised criminals in Jamaica

Atkinson v Secretary of State for the Home Department [2004] EWCA Civ 846 (CA), Times LR (20 July 2004)

Conviction for illegal entry quashed for failure to consider refugee defence

R on the application of Badur v (1) Birmingham Crown Court (2) Solihull Magistrates' Court & (1) Director of Public Prosecutions (2) Secretary of State for the Home Department (3) Crown Prosecution Service (Interested Parties) [2006] EWHC 539 (Admin)

Error of law for the Tribunal to go behind pre-existing favourable findings of fact

MY (Turkey) v Secretary of State for the Home Department [2008] EWCA Civ 477; [2008] All ER (D) 101 (public law)

BACKGROUND

David began his practice as locum caseworker for the [Immigration Advisory Service](#). At the same time he also volunteered as an outdoor clerk for the [Joint Council for the Welfare of Immigrants](#), and worked as an Administrative assistant at the [Immigration Law Practitioners' Association \(ILPA\)](#).

For several years following the commencement of practice David also assumed the role of a Trustee at the Charity [Electronic Immigration Network](#).

In 2000 David co-founded [HJT Research](#) with the objective of developing a comprehensive database of human rights reports to aid practitioners and litigants concerned with establishing an entitlement to

protection by reason of conditions on their countries of origin. The resource is now in its 20th year, is published by the [Electronic Immigration Network](#) and provides a comprehensive record of human rights conditions in over 120 countries worldwide.

Perceiving a need in the sector David established with long term friend and Colleague Mark Symes, a specialist immigration and human rights training company HJT Training in 2003. Over time HJT has delivered training on all areas of immigration and human rights law to a diverse array of delegates from all areas of practice, as well as NGO's, Governmental departments (both foreign and domestic), International agencies and commercial entities.

Outside of his professional life he has assumed the role of a school Governor and Chair of Governors to Westminster Diocesan School between 2009 and 2014. He has also served on working groups concerned with the establishment of Academies within the faith school system at both County and Diocesan level.

He is currently a member of the [Haldane Society of Socialist Lawyers](#) and [ILPA](#).

PUBLICATIONS

David is a long-time contributor to *Macdonald's Immigration Law and Practice* 5th-9th Editions (Butterworths Lexis Nexis).

David is also a contributor and editor of *Mastering Immigration Law*, an online resource of immigration and human rights law.

He also contributed to HJT's *Immigration Manual* from its inception through to its current 20th Edition.

He has, in the past, prepared immigration chapters for both *Your Rights* (Liberty); and *Atkins Court Forms Immigration Volume* (Butterworths).

More recently David prepared the Trafficking chapter in the *Immigration and Asylum Handbook* published by the Law Society.

TRAINING AND SEMINARS

Over the past two years David has prepared and presented training courses on the following:

- **Basic principles of Judicial Review**
- **Unlawful Detention: law and procedures**

- **Free movement and the European Union**
- **Nationality Law**
- **Tier 1 and 2 points based system**
- **Employers sanctions and illegal working**
- **Article 8 within and outwith the rules**
- **Rule 39 applications to the European Court of Human Rights**
- **Policies and concessions of the UK Border Agency (UKBA)**
- **Deportation**
- **Advocacy**

EDUCATION

- **Bar Vocational Course - Inns of Court School of Law (1995-1996)**
- **LLM International Economic and Corporate Law - Queen Mary College, University of London (1994-1995)**
- **LLB Hons (2:1) - Queen Mary College, University of London (1991-1994)**
- **Foundation Degree in English and American Literature - University of Kent (1990-1991)**

PROFESSIONAL MEMBERSHIP

- **Immigration Law Practitioners' Association**
- **Haldane Society**
- **Amnesty International**

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