Barrister Mark Symes provides advice and representation in all areas of immigration, asylum, and human rights law, including European Union free movement law. He has represented clients in every court from the Tribunal to the Supreme Court, and the European Court of Human Rights.

Mark deals with work ranging from business immigration and entry clearance representations and appeals, to refugee and criminal deportation cases. He is ranked for immigration in Chambers UK 2019 (Band 2) and the Legal 500 2019.

Mark is appointed to the Equality and Human Rights Commission's preferred Panel of Counsel (Panel A).

Mark is registered with the Bar Council for public access work and regularly represents private clients of means in difficult immigration scenarios.

“He has an unparalleled knowledge of legal development both national and international.”
“He has encyclopaedic knowledge and is innovative in his approach.” “He is both academic and practical.”

“One of the leading authorities on asylum and immigration law.”

“Encyclopaedic knowledge and innovative approach to legal issues.” “He is fiercely intelligent and strikes up good relationships with clients.”

“He is generous with his time, flexible with his fees and really understands that preparation is the key to doing well in asylum cases.”

If you would like to get in touch with Mark please contact the clerking team: immigrationclerks@gclaw.co.uk | +44 (0)20 7993 7600

You can also contact Mark directly: +44 (0)20 7993 7688

IMMIGRATION LAW

Mark sits as a judge of the Upper Tribunal and First-tier Tribunal which gives him great insight into the way a case should be presented. He has particular expertise in higher appeals having spent many years specialising in test-case litigation both with the Refugee Legal Centre and since arriving in private practice; he is very well known to the Senior Immigration Judiciary at Field House - see for example the Foreword to his new book with Peter Jorro Immigration Appeals and Remedies Handbook (“invaluable ... to the armoury of all ... a compulsory addition to the library of every immigration judge and practitioner”: President of the Upper
Tribunal Mr Justice McCloskey).

Mark is very active in public speaking and training (he is a Fellow of the Institute of Advanced Legal Studies with "encyclopaedic... pre-eminent" knowledge according to one Supreme Court judge) and is a contributor to MacDonald’s Immigration Law and Practice. Mark has long been one of the experts who specialist immigration lawyers go to in order to make sure that they are up to speed with the latest legal arguments.

**Business and private immigration**

Mark’s business acumen, developed whilst being a company director at HJT Training (which he established and expanded with fellow Garden Court Immigration Team member David Jones), makes him a good choice for commercial immigration advice. He has real expertise in every aspect of business immigration, from Van Der Elst visas to investors, entrepreneurs and Tier 2 inter-company transfers. He has advised numerous wealthy individuals in complex cases involving different aspects of immigration law. He has particular expertise with remedies against difficulties that have arisen under the Points Based System including the withdrawal and suspension of sponsor licences, both of employers and educational establishments, an area on which he has written and spoken extensively. Mark has repeatedly been chosen as the Immigration Lawyers’ Practitioners’ Association speaker of choice at their annual conference for expert business immigration lawyers.

**European Union free movement law**

Mark has particular expertise in all aspects of European Union free movement law from claims under the 2006 Regulations to free-standing applications relying directly on Treaty Rights. He regularly trains and speaks publicly on matters involving European Economic Area (EEA) nationals. His successful judicial review case of Heritage (IJR) [2014] UKUT 441 on the relationship between EU residence rights and "precarious" immigration status has received significant attention: the government has now been granted permission to appeal to the Court of Appeal.

**NOTABLE CASES**

Mark has long been at the forefront of cutting-edge asylum and human rights work.

He has recently acted in a communicated Strasbourg Court case where the British government is seeking to restrict the application of Article 8 ECHR to entry clearance applications.

**Asylum cases:**

*EM (Eritrea) R (on the Application of) v Secretary of State for the Home Department UKSC 12*
Supreme Court case in which the litigation challenged the compatibility of returning asylum seekers to Italy (where they face destitution) with their right to be free from inhuman and degrading treatment.

**Tarakhel v Switzerland**
Mark is instructed in this case on the same issue as above in the Grand Chamber of the European Court of Human Rights.

**EW Italy**
Mark appeared for the claimants in the earlier test case on the safety of Italy for "third country" returnees.

Mark has been extensively involved in a number of challenges to returns to Greece, in which context he has repeatedly addressed conferences of Europe's leading asylum lawyers. His work was critical in developing the arguments which led to the referral of 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.

**SQ (Pakistan) & Anor [2013] EWCA Civ 1251**
Mark acted for the successful claimants in this landmark case where the Court of Appeal recognised that a different test applies where children, as opposed to adults, challenge their removal abroad because of the lack of health treatment there.

**KU Pakistan [2012] EWCA Civ 107**
The Court of Appeal allowed an appeal, so reversing the Tribunal decision below, in which the Upper Tribunal had been too quick to deprive an asylum seeker of positive credibility findings in the Harmondsworth fast track.

**FM Afghanistan**
The Upper Tribunal issued a much-cited landmark decision disapproving the approach taken by their predecessors in the claims of children fearing armed conflict, and to tracing relatives of unaccompanied minors.

**MK (Iran) [2010] EWCA Civ 115 (25 February 2010)**
Mark 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.

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

**Important Cases on state protection, internal relocation, state recognition, and past persecution**

In his Refugee Legal Centre days, Mark led the organisation's 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: subsequently relied on by the Strasbourg Court in *Hilal v UK*), and *Ertan* (on the recognition of states).


A positive decision on causation and domestic violence.

**Country Guidelines cases:**

*AMM and others (conflict; humanitarian crisis; returnees; FGM) Somalia CG [2011] UKUT 445 (IAC)*

The Upper Tribunal found that Somalis were generally unreturnable because of the armed conflict in their country, and issued important rulings on refugee and subsidiary protection law.

*MT (Article 1F (a) - aiding and abetting) Zimbabwe [2012] UKUT 15 (IAC)*

The lead case on complicity in refugee exclusion cases.

*AX (family planning scheme) China CG [2012] UKUT 97 (IAC)*

The lead case on the international protection consequences of the Chinese family planning laws.

*GS Afghanistan*

The Tribunal's lead case on the protection of civilians fearing armed conflict in Afghanistan.

*HH (Criminal record; deportation: "war zone") Iraq [2008] UKAIT 00051*

This case was 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.

*KH (Article 15(c) Qualification Directive) Iraq CG [2008] UKAIT 00023*

Interpreting Article 15(c) of the Qualification Directive as to the extent of international protection to be given to those fleeing armed conflicts. Mark represented appellant HH in the Tribunal and onwards to the Court of Appeal.
In cases designated as test cases for giving Country Guidelines, but conceded by the Secretary of State shortly before their hearings, of BC Bhutan (with Lawrence Lupin Solicitors) on the contemporary approach to statelessness, and HL China (with Birnberg Pierce Solicitors) on the interpretation of serious non-political crimes.

**HM and Others (Article 15(c)) Iraq CG [2010] UKUT 331 (IAC)**
Mark was part of the original legal team in this case which is another leading case on the interpretation of internal armed conflict.

**Criminal Deportation Cases:**

**DB (Jamaica) [2017] EWCA Civ 440**
Mark represented the successful criminal deportation in the Court of Appeal against Robin Tam QC for the Secretary of State, in which Davis LJ expressly commended the care and clarity of Mark’s approach. The court accepted that the First-tier Tribunal had been right to allow the client’s appeal, having referred to "exceptional" circumstances in the appropriate context albeit not expressly asking whether the case was a "compelling" one. Mark was instructed by Mark Lilley-Tams of Paragon Law.

**Detention Cases:**

**Saleh (Sudan) [2013] EWCA Civ 1378**
Mark succeeded in securing a major victory in the Court of Appeal, including a damages claim, for a client whose asylum claim had not been processed with appropriate speed by the Home Office.

**Ibrahim & Anor [2010] EWHC 764 (Admin)**
Mark appeared for the claimant (instructed by Sue Willman of Pierce Glynn Solicitors) in achieving damages for unlawful detention for the claimant in this important test case about the treatment of Iraqi nationals.

**IMMIGRATION: ASYLUM AND HUMAN RIGHTS**

Recognised by the legal directories as a "real expert on asylum matters", Mark is co-author (with Peter Jorro, also of Garden Court) of Asylum Law and Practice described as and as "indispensable in advocacy work for refugees and human rights", by Professor Guy Goodwin-Gill.

He is particularly interested in the European dimension of international protection, and arguments based on the Qualification, Procedures and Reception Directives, and the Charter of Fundamental Rights.
Mark’s interests and experience extend to issues of exclusion from refugee status and subsidiary protection. He is a member of UNHCR’s pro bono panel of advocates and is a convenor for the International Association of Refugee Law Judges. He is also a Visiting Fellow at the Refugee Law Initiative, School of Advanced Study, at the University of London.

**NOTABLE CASES**

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A positive decision on causation and domestic violence.

**ADMINISTRATIVE AND PUBLIC LAW**

Mark has a flourishing judicial review practice, specialising in human rights, refugee, and subsidiary protection issues, though frequently extending to all kinds of public law challenges to the Home Office decision-making. He has been at the forefront of litigating "no right of appeal" judicial reviews on human rights grounds, a topic on which he has written and spoken extensively.

**PROFESSIONAL REGULATION**
Mark conducts compliance and regulatory work, and has worked for the Law Society, Office for the Immigration Services Commissioner, and with individual law firms in contractual disputes with the Legal Services Commission (LSC, now the LAA).

His previous experience as a solicitor working under public funding is especially useful in this regard.

**BACKGROUND**

Mark joined Garden Court Chambers in 2004, having formerly worked at the Refugee Legal Centre where he held numerous posts including Head of Tribunal Team in which he had responsibility at national level for legal strategy. Formerly a solicitor, he was Head of Advocacy at one of the country's leading legal aid firms in the early 2000s.

**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

Consultant Editor of the *Immigration and Nationality Law Reports*

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

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 *Case Law 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)

Author of *The Law Relating To Without Foundation Asylum Appeals*, (published by the Refugee Legal Centre, May 1996)
TRAINING AND SEMINARS

Mark is well known for training and public speaking in the field of immigration and asylum law. He was appointed to write the new academic standards for the Law Society's Immigration Accreditation Exams. He is a co-founder of HJT Training (with David Jones, also of Garden Court), the leading private company specialising in training in immigration law. HJT has provided training to UNHCR, Liberty, the Legal Services Commission, Office for the Immigration Services Commissioner, the legal staff of the Immigration Tribunals and Royal Courts of Justice in the UK 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 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 Chancellor's Department on the content of the Immigration and Asylum Appeals (Procedure) Rules. He was, at one time, co-convenor of ILPA's Refugee Sub Committee and has assisted the organisation 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.

EDUCATION

- BA (Hons)
- LPC
- Formerly Solicitor of the Supreme Court
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