



GARDEN COURT CHAMBERS

Abigail Smith

YEAR OF CALL: 2003



Abigail is an experienced specialist in asylum and immigration law who is regularly instructed in a wide range of cases at all levels. She offers a high success rate coupled with a user-friendly approach.

"...Able to care for her clients, particularly those in vulnerable situations. She is very sensitive, even concerning a very practical point of view."

CHAMBERS UK, 2024 (IMMIGRATION)

"She is forensic in her case preparation and an excellent advocate. She presents cases with clarity and fluency both in her oral and written advocacy."

LEGAL 500, 2024 (IMMIGRATION)

"Fantastic to work with. She's great with clients and so efficient."

"Solicitors strongly recommend anyone to instruct Abigail Smith in the most complicated and complex cases."

LEGAL 500, 2022 (IMMIGRATION)

"She is tenacious and produces results on the most difficult Article 8 cases."

CHAMBERS UK, 2022 (IMMIGRATION)

"Abigail goes the extra mile to prepare for all cases and she has such an easy way with clients, which puts them at ease. She really is superb."

CHAMBERS UK, 2021 (IMMIGRATION)

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

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You can also contact Abigail directly:

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IMMIGRATION LAW

Abigail is an immigration and asylum specialist who regularly appears at all levels in a range of matters. In her practice, Abigail draws on experience gained whilst working for solicitors firms and various NGOs. Abigail appears frequently before the Upper Tribunal and First-Tier Tribunal in all areas of immigration law, including refugee, human rights, family, EEA, student, business immigration, bail and deportation cases.

She continues to develop her practice and enjoys frequent success offering a reliable and effective service to both lay and professional clients.

NOTABLE CASES

***Secretary of State for the Home Department v SC (Jamaica)* [2017] EWCA Civ 2112**

In the context of remitting a deportation appeal to the FTT the Court of Appeal held that the test for internal relocation in *Januzi* was intentionally left broad to include all the relevant circumstances about both the country and the person, including their criminality. The Court confirmed that the plain meaning of "most of his life" for the purpose of para.339A(a) of the Rules was "more than half" and "lawful residence" ran from the date of application for refugee status.

***AT and another (Article 8 ECHR - Child Refugee - Family Reunification) Eritrea* [2016] UKUT 227 (IAC)**

The UT held that while the Immigration Rules make no provision for family reunification in the case of a child who has been granted asylum, a refusal to permit the family members of such child to enter and remain may constitute a disproportionate breach of the right to respect for family life under Article 8 ECHR.

***BM and Others (returnees - criminal and non-criminal) DRC CG* [2015] 293 (IAC)**

Country Guidance case on criminal and non-criminal returns to the DRC.

***RK (Deportation: basis of plea) Albania* [2014] UKUT 84 (IAC)**

The UT confirmed that where a deportation decision is based solely on a conviction following a plea of guilty, it is not for a Tribunal to reach its own view of the facts underlying a conviction based on a basis of plea save perhaps in very exceptional circumstances.

***MJ (Angola) v SSHD* [2010] EWCA Civ 557, 20 May 2010**

The lead case on (a) deportation of persons subject to restrictions under Mental Health Act and (b) need for "very serious reasons" for deportation of persons who grow up in the UK (cf *Maslov v Austria* [2008] ECHR 546).

***VW (Uganda) & AB (Somalia) v SSHD* [2009] EWCA Civ 5, 16 January 2009**

The Court of Appeal took the important step of putting an end to the misapplication of the so-called "insurmountable obstacles" test from Lord Phillips' judgment in *Mahmood* [2001] 1 WLR 840 CA in assessing proportionality under s.2 Article 8.

***RS (Zimbabwe) v SSHD* [2008] EWCA Civ 839, 18 July 2008**

This was a successful Court of Appeal challenge for a Zimbabwean woman with HIV post *N HoL* and ECtHR.

***FK (Democratic Republic of Congo) v SSHD* [2007] EWCA Civ 1545, 14 December 2007**

The Court of Appeal considered proportionality under Article 8 in the context of a lengthy delay by SSHD and allowed the appeal

PRISONERS' RIGHTS

Abigail practises in prison law where her work includes judicial reviews, hearings before the Parole Board and advising prisoners on a wide range of matters.

NOTABLE CASES

***R (Modhej) v Secretary of State for Justice* [2011] EWHC 2267 (Admin), 28 August 2011**

The High Court considered the complex issue of the calculation of release dates for extended sentence prisoners.

***R (Hewlett) v Secretary of State for Justice* [2009] EWHC 2979 (Admin), 16 November 2009**

This was a challenge to an Incentives and Earned Privileges (IEP) downgrade for a prisoner maintaining his innocence.

BACKGROUND

After completion of her undergraduate degree at Trinity College, Dublin, Abigail worked and volunteered for various NGOs, including the Irish Refugee Council, North Australian Aboriginal Legal Advice Service (NAALAS), the Public Interest Advice Centre Sydney (PIAC), the Free Representation Unit (FRU), Liberty and Bail for Immigration Detainees (BID).

Abigail then worked in the immigration departments of two well-known specialist immigration firms before completing a master's degree in human rights at the London School of Economics and training for the bar. She was an elected member of the Executive Committee of the Immigration Law Practitioners' Association (ILPA) for three years. After completing pupillage at Tooks Chambers in 2004 Abigail practised there until she joined Garden Court Chambers in 2013.

PUBLICATIONS

Abigail regularly provides seminars and courses for the Immigration Law Practitioners' Association (ILPA) and Garden Court Chambers.

EDUCATION

LLM, London School of Economics

LLB (Ling Germ), Trinity College Dublin

PROFESSIONAL MEMBERSHIP

Immigration Law Practitioners' Association (ILPA)

Administrative Law Bar Association (ALBA)

Human Rights Lawyers' Association (HRLA)

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