

## Alison Pickup (Associate)



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### Profile

Alison is Director of Asylum Aid where she leads an expert team providing legal representation to asylum seekers and refugees. Asylum Aid is part of the Helen Bamber Foundation Group. Before joining Asylum Aid, Alison was the Legal Director of the Public Law Project, a national legal charity which promotes access to public law remedies for those whose are disadvantaged by poverty and other barriers. In June 2020, Alison was awarded the Outstanding Employed Barrister in an NGO award by the Employed Barristers Committee of the Bar Council.

Before moving to PLP in summer 2016, Alison had a public law practice at Doughty Street specialising in immigration, asylum and migrants' rights in the wider contexts of unlawful detention, community care, asylum support, and access to justice.

Alison was junior counsel in two of the leading challenges to the legal aid cuts – R (Public Law Project) v Lord Chancellor [2014] EWHC 2365 (Admin) and [2015] EWCA Civ 1193 [2016] UKSC 39 (the successful challenge to the proposed 'residence test' for legal aid) and R (Gudanaviciene & Others) v Director of Legal Aid Casework & Lord Chancellor [2014] EWCA Civ 1622 (which has established that Article 8, ECHR may require legal aid to be provided in immigration cases). In July 2015 she was awarded the Legal Aid Barrister of the

Year award by the Legal Aid Practitioners' Group in recognition of her work on these and other cases and in October 2015 was awarded Human Rights and Public Law Junior of the Year at the Chambers and Partners Bar Awards.

### **What others say**

“A calm and collected advocate with a bright future.” (Legal 500 2017, Administrative and Public Law)

"An outstanding public lawyer, incredibly hard-working, writes really well and legally solid."

"The quality of her work is outstanding. She is focused and committed, processes huge amounts of evidence like a computer and produces beautifully drafted and tight analysis." (Chambers UK 2016, Administrative and Public Law)

"She is extremely reliable, well organised, calm, focused and able to think strategically." (Chambers UK 2015, Immigration)

“A fantastic and dedicated junior.” (Legal 500 2017, Civil Liberties and Human Rights)

### **Education**

BA (Hons) (Cantab) Modern and Medieval Languages (French and Hungarian)

MA (London) in Understanding and Securing Human Rights (Distinction)

PgDL (Distinction)

Middle Temple Queen Mother Scholar

### **Languages**

French

Hungarian

Slovak

Brazilian Portuguese

### **Related practice areas**

Children's Rights Group

Immigration Asylum and Personal

Alison acted as co-counsel (with Alasdair Mackenzie) for the appellant MP in the most recent Country Guidance case on Sri Lanka in the Upper Tribunal, GJ & Others [2013] UKUT 00319 (IAC), and on appeal to the Court of Appeal in MP and NT (Sri Lanka) [2014] EWCA Civ 829 (led by Raza Husain QC) and in the Supreme Court [2016] UKSC 32. GJ & Others led to a radical change in the Country Guidance on the safety of return to Sri Lanka and the Upper Tribunal heard five days of evidence. In June 2016, the Supreme Court made a reference to the CJEU in MP's appeal on the question of whether he is entitled to humanitarian protection under the Qualification Directive as a result of the finding of the Upper Tribunal that his removal to Sri Lanka would breach Article 3, ECHR because of the impact on his mental health.

Significant cases include:

- Alison acted as co-counsel (with Alasdair Mackenzie) for the appellant MP in the most recent Country Guidance case on Sri Lanka in the Upper Tribunal, GJ & Others [2013] UKUT 00319 (IAC), and on appeal to the Court of Appeal in MP and NT (Sri Lanka) [2014] EWCA Civ 829 (led by Raza Husain QC) and in the Supreme Court [2016] UKSC 32. GJ & Others led to a radical change in the Country Guidance on the safety of return to Sri Lanka and the Upper Tribunal heard five days of evidence. In June 2016, the Supreme Court made a reference to the CJEU in MP's appeal on the question of whether he is entitled to humanitarian protection under the Qualification Directive as a result of the finding of the Upper Tribunal that his removal to Sri Lanka would breach Article 3, ECHR because of the impact on his mental health.
- Alison acted between February 2010 and July 2012 as junior counsel (led by Mark Henderson and (in the Court of Appeal) Dinah Rose QC) in R (NS) v SSHD [2013] QB 102, the leading authority on the application of the EU Charter of Fundamental Rights in the UK. The CJEU's judgment made a number of significant findings about the application of the EU Charter, including that the UK/Polish Protocol is not an "opt out", and that governments are not entitled to apply a conclusive presumption that other EU Member States comply with EU law when transferring asylum seekers to other EU States under the Dublin Regulation. The Government subsequently accepted that it would be unlawful to transfer any asylum seekers to Greece until there are significant improvements in the Greek asylum system.
- Alison also represented the appellant in SK (Zimbabwe) [2012] EWCA Civ 807; [2012] 1 W.L.R. 2809 (led in the Court of Appeal by Richard Hermer QC), in which the Court of Appeal considered the application of the exclusion clause in Article 1F(a) of the Refugee Convention on the grounds of involvement in crimes against humanity in the

case of a woman who had been a member of a Zanu-PF youth militia and involved in invasions of white farms in Zimbabwe.

## Administrative and Public Law

Alison regularly acted for claimants in judicial review proceedings challenging the decisions of public authorities. These included judicial review claims relating to legal aid cuts, immigration matters, unlawful detention under immigration powers, asylum support, community care particularly relating to the Children Act 1989, and prisoners' rights.

Significant current and recent cases include:

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- R (Public Law Project) v Secretary of State for Justice [2014] EWHC 2365 (Admin); [2015] EWCA Civ 1193 [2016] UKSC 39 – Alison was junior counsel for PLP in its successful challenge to the Government's decision to introduce a residence test for civil legal aid.
- R (SF) v SSHD [2015] EWHC 2705 (Admin) – a successful challenge to a negative 'conclusive grounds' decision by the National Referral Mechanism finding that SF was not a victim of trafficking. The High Court judgment gives important guidance on the level of scrutiny required of trafficking decisions which engage the protection of the prohibition of slavery servitude and forced or compulsory labour under Article 4 ECHR
- R (Gudanaviciene & Others) v Director of Legal Aid Agency & Lord Chancellor [2014] EWHC 1840 (Admin); [2014] EWCA Civ 1622 – The Court of Appeal upheld the High Court's findings as to the existence of a procedural obligation under Article 8 to grant legal aid in immigration cases where necessary to ensure effective access to a fair procedure, and rule the Lord Chancellor's Guidance on Exceptional Funding under LASPO unlawful. Alison was junior counsel for the claimant 'B', an Iranian refugee, who sought legal aid in relation to an application for family reunion with her husband and son.

Alison is ranked in Chambers and Partners and the Legal 500 in Administrative and Public Law.

## Actions Against the Police and Public Authorities

Alison is especially interested in issues arising out of unlawful detention under the Immigration Acts. She has advised on unlawful detention claims (both judicial review and civil claims for damages) and has successfully settled many damages claims against the Home Office for periods of detention ranging from a few days to more than two years. She acted with Paul Bowen for Medical Justice in its intervention in *R (MD (Angola) & Others) v SSHD* [2011] EWCA Civ 1238, which challenged the detention and treatment of immigration detainees who were HIV positive. She also represented the claimant in *R (M) v SSHD* [2012] EWHC 1424 (Admin), establishing that a Somali man who had been separated from his wife and children had been unlawfully detained for ten months, and the claimant in *R (N) v SSHD* [2014] EWHC 1593 (Admin), securing the release of a mentally ill man of disputed nationality who had been detained for two years following the end of a prison sentence.

Alison was junior counsel to Paul Bowen acting on behalf of the Interveners (Inquest, JUSTICE, Liberty and Mind) in *Rabone v Pennine Care NHS Trust* [2012] UKSC 2 [2012] 2 AC 72 (whether there is an operational obligation under Article 2 ECHR to take reasonable steps to protect psychiatric in-patients who are not detained from taking their own lives).

Since 2010 Alison has acted as junior counsel in a series of claims brought by Iraqi civilians against the Ministry of Defence for damages arising out of their arrest, detention, ill-treatment and in some cases the death of their relatives during the occupation of Iraq and while the British army remained in Iraq until 2009. During 2014-2015, the High Court considered a series of preliminary legal issues in relation to the outstanding claims, culminating in a series of Supreme Court judgments in two of which Alison was junior counsel: *Mohammed (No 2) v Secretary of State for Defence* [2017] UKSC 2 and *Iraqi Civilian Litigation v MOD* [2016] UKSC 25. Alison was junior counsel in the first trial of two lead claims in the Iraqi Civilian Litigation, which took place over June and July 2016 in the Queen's Bench Division.

Alison is recommended in the Legal 500 in civil liberties and human rights.

## Community Care and Health

Alison has particular experience of cases about the support available to asylum seekers and other migrants and is an active member of the Housing and Immigration Group. Notable cases in this area include:

- R (MK and AH) v SSHD [2012] EWHC 1896 (Admin), in which Alison acted for the Intervener, Refugee Action, led by Mark Henderson. The High Court held that the Home Office policy of delaying consideration of applications for support made by asylum seekers who had made a subsequent claim for asylum was unlawful as it created an unacceptable risk of Article 3 breaches.
- R (Refugee Action) v SSHD [2014] EWHC 1033 (Admin) – Alison was junior counsel in this successful challenge by the NGO Refugee Action to a decision by the Home Secretary not to increase the rate of cash support paid to asylum seekers for the third successive year. The High Court quashed the Secretary of State's decision as irrational and ordered a reconsideration of the amount currently paid, £36.62 per week for single adults.
- R (MG (Iran) v SSHD [2015] EWHC 3142 (Admin), led by Martin Westgate QC, in which the High Court upheld a challenge to the refusal of the SSHD to pay additional support to the claimant, an asylum seeker in receipt of asylum support of £36.95 per week, to enable him to travel the distance of more than 120 miles to visit his British son who lived with his mother, the claimant's ex-partner. The Court held that given the SSHD's inability to provide the Claimant with accommodation any closer to his son, the refusal to assist with the costs of travel was unlawful and a breach of Article 8, ECHR.

Alison has also been instructed in cases raising issues of EU law particularly in the context of entitlement to social security benefits. She was junior counsel to Simon Cox in *Patmalniece v SSWP* [2011] UKSC 11; [2011] 1 WLR 783 (whether the restriction of State Pension Credit to those with a right to reside in the UK was unlawfully discriminatory on grounds of nationality against other EU citizens who were habitually resident in the UK) and *R (Tilianu) v SSWP* [2010] EWCA Civ 1397 (whether a worker who, after a period of self-employment followed by a period of illness during which he was hospitalised, was involuntarily unemployed retained a right of residence).

## Prison Law and Criminal Justice

Alison acts in Parole Board cases and advises on legal issues arising from imprisonment including claims for disability and race discrimination, and challenges to categorisation and allocation decisions. She has provided training on adjudication appeals and challenges at the Association of Prison Lawyers' conference and on foreign national prisoners and discrimination for the Prisoners Advice Service. She has a particular interest in the rights of

foreign national prisoners and the application of policies on temporary release and allocation to open conditions to prisoners facing deportation.

In *R (Baybasin) v MOJ* (November 2010), Alison was instructed as junior to Paul Bowen. The MOJ settled this claim for unlawful disability discrimination by a paraplegic wheelchair user who had been held in appalling conditions in HMP Belmarsh since February 2004 the week before a five-day hearing in the High Court. The MOJ accepted that it had unlawfully discriminated against Mr Baybasin by failing to provide him the means to use the toilet and bathe independently, apologised to him, and paid him compensation for the injury to his feelings.

## Equality and Discrimination

Alison has a keen interest in equality and discrimination issues. In 1998 – 1999, she spent a year as a research intern at the European Roma Rights Center (ERRC) in Budapest researching discrimination against Roma in employment among other issues. She has been instructed to advise on potential discrimination claims arising in the prison, mental health, immigration detention, education and public authority fields. These have included the claim in *Baybasin*, noted above.

Alison has been appointed by the Equality and Human Rights Commission to its panel of preferred counsel.

## Publications

- Wise et al, "Children in Need: Local authority support for children and families" (LAG, 2nd edition, 2013) – lead author for chapter on migrant children and their families
- Henderson and Pickup, "Best Practice Guide to Asylum and Human Rights Appeals" (2015 electronic edition on EIN website please see [here](#).)
- Clements and Thompson, "Community Care and the Law" (5th Edition, LAG, 2011) – revised and updated chapter on Asylum seekers and other overseas nationals
- Chapter 7: Arrest and Detention (with Ruth Brander) in Colvin & Cooper (Eds), "Human Rights in the Investigation and Prosecution of Crime" (OUP, 2009).

Alison regularly delivers training on the areas of law in which she specialises to lawyers, NGOs and others. She is happy to consider providing bespoke in-house training packages and webinars.