

## Agata Patyna



Call: 2014

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### Profile

Agata works across the fields of asylum, immigration, public law and children's rights. She has a particular specialism in refugee and trafficking claims as well, unlawful detention, asylum support and age disputes. She is ranked Tier 3 in the Immigration category in Legal 500 and Band 4 in the Immigration category of Chambers and Partners. She is praised for being *'extremely bright, thorough, and hard working'*, *'leaving no stone unturned'* and *'incredibly thorough preparation for cases'*.

### What the directories say

*"She is extremely bright, thorough, and hard working. She has an appetite for the detail, and an ability to analyse and deploy it effectively."* – **Legal 500 2024 (Leading Juniors) Ranked: Tier 3**

*"Very good knowledge of unlawful detention and migrant support claims. Extremely hardworking with a forensic approach to evidence – she will leave no stone unturned. Goes above and beyond for every client – and is usually successful."* – **Legal 500 2023 (Leading Juniors)**

*"Agata is several years above her call and has become an indispensable part of the firm's support infrastructure. Her advice is thorough, sensible, level-headed, and practical. She is our first port of call for any thorny issues."* - **Legal 500 2022**

*"Incredibly thorough preparation for cases and she is very generous with her time."* -

**Chambers and Partners**

*"Extremely helpful and smart in providing advice and guidance in complex cases."*-

**Chambers and Partners**

Agata appears in judicial review hearings and appeals before the First-Tier Tribunal and Upper Tribunal (Immigration and Asylum Chamber), the High Court and the Court of Appeal in asylum and human rights, deportation, nationality deprivation and entry clearance cases as well as challenges to age assessments, detention under immigration powers (including civil claims) and cases concerning destitution and the provision of asylum support and bail accommodation. She is particularly well-placed to provide advice and representation on behalf of vulnerable clients including victims of trafficking for sexual exploitation, forced labour and forced criminality, victims of torture and unaccompanied asylum seeking children. She has considerable experience in urgent and out of hours work.

Agata has particular expertise in immigration matters involving EEA nationals and ongoing interest in the position of EEA nationals following Brexit. Her submissions in *Terzaghi v Secretary of State for the Home Department* [2019] EWCA Civ 2017 were described by the Court of Appeal as "excellent and succinct". She represented the Appellant in *Baigazieva v Secretary of State for the Home Department* [2018] EWCA Civ 1088, the key Court of Appeal authority regarding rights of residence of former spouses of EEA nationals after divorce.

Agata is a fluent Polish speaker and regularly assists Polish-speaking clients. She accepts instructions on a Direct Public Access basis in all areas of her work.

## **Background**

Prior to coming to the Bar, Agata worked as volunteer caseworker for a number of charities in the immigration and asylum field, including Bail for Immigration Detainees (BID) and the New Citizens Legal Service. She continues to accept pro bono instructions on behalf of BID as well as other charities including the AIRE centre.

## **Publications**

Agata has contributed case reviews to the Journal of Immigration, Asylum and Nationality Law and edits the immigration law chapter for Butterworths Family Law Service.

## Notable cases

- **R (on the application of ER) v Secretary of State for the Home Department** [2023] EWHC 3187 (Admin): successful application for interim to provide accommodation for vulnerable detainee, resulting in award of indemnity costs against SSHD
- **AA and others v Secretary of State for the Home Department** (2022): Instructed in the High Court, Court of Appeal and Supreme Court by UN High Commissioner for Refugees (UNHCR), an intervener in ongoing litigation concerning the lawfulness of the UK's agreement for the transfer of asylum seekers to Rwanda. Part of UNHCR's Counsel team, led by Angus McCullough QC and Laura Dubinsky QC.
- **R (SB (a child)) v Royal Borough of Kensington & Chelsea** [2023] EWCA Civ 924 and [2022] EWHC 308 (Admin): challenge about the fairness of a 'short form' age assessment of an asylum seeking young person. Led by Shu Shin Luh in the Court of Appeal, unled in the High Court.
- **MO v London Borough of Newham** [2022] EWHC 3224 (KB): grant of interim relief to an age disputed asylum seeker where the court considered competing arguments about safeguarding risks.
- **HA (Iraq), RA (Iraq), AA (Nigeria) v Secretary of State for the Home Department** [2022] UKSC 22: acted for AA in Supreme Court case concerning key principles applicable to private and family life in cases involving deportation of foreign nationals, in particular impact on children. Led by David Lemer.
- **R (Silva) v SSHD** (November 2021): Declaration regarding regulation 23(9) EEA Regulations 2016 being of no effect to an individual protected by the UK-EU Withdrawal Agreement. Led by Simon Cox
- **R. (on the application of FH) v Kent CC** [2021] 5 WLUK 238: Regarding test of interim relief in the context of a contested age assessment
- **R (AH) v Kent County Council** [2021] EWHC 878 (Admin): Application for interim relief in an age assessment dispute where the Claimant had turned 18
- **R (Humnyntskiy) v Secretary of State for the Home Department** [2020] EWHC 1912 (Admin): junior counsel for one of the Claimants in a successful challenge to the Home Office's policy and practice concerning accommodation for destitute immigrants under paragraph 9 Schedule 10 Immigration Act 2016. Led by Laura Dubinsky.
- **R. (on the application of AQS) v Secretary of State for the Home Department** [2020] EWHC 843 (Admin): early judgment during the Covid-19 pandemic concerning

the accommodation of asylum-seekers who display Covid-19 symptoms, and the communication of policy and practice in this area. Led by Simon Cox.

- **R (on the application of SW) v Secretary of State for the Home Department** [2020] EWHC 2118 (Admin): successful urgent application for a mandatory order to accommodate a Covid-19 vulnerable foreign national offender.
- **Terzaghi v Secretary of State for the Home Department** [2019] EWCA Civ 2017: on the correct approach of the Upper Tribunal to a decision to deport an EU national with long residence in the UK and the jurisdiction of the Court of Appeal to deal with the 'error of law' decision of the Upper Tribunal.
- **MS (s.117C(6): "very compelling circumstances") Philippines** [2019] UKUT 122 (IAC): on the interpretation of the 'very compelling circumstances' exception to deportation for serious offenders.
- **Baigazieva v Secretary of State for the Home Department** [2018] EWCA Civ 1088: on the acquisition of retained rights to reside as a former spouse of an EEA national.

## What others say

*"My client was very nervous during her First – tier Tribunal appeal but Agata's professionalism and her obvious knowledge put the client at ease straight away. Agata has an understanding of the clients' needs and they found this experience highly satisfying. I have no hesitation in instructing Agata again."* - From an immigration solicitor.

*"We want to thank you very much for the conference yesterday. It is with special thanks for your wonderful professional service and constructive advice given that indeed turned our meeting into a very productive one."* - From a direct access client.

## Education

Bar Vocational Training Course (Outstanding), BPP University

Graduate Diploma in Law (Distinction), BPP University

MSc, Global Migration (Distinction), University College London

BA (Hons,) Archaeology and Anthropology (First Class, top result in the year), Keble College, University of Oxford

## Languages

Polish

## **Related practice areas**

Immigration

Administrative & Public Law

Community Care and Health

Children's Rights Group

Anti-Trafficking

Immigration Detention Group

## **Immigration Asylum and Personal**

Agata's practice primarily focuses on asylum and refugee law. She provides representation and advice in respect of appeals in the Immigration and Asylum Chamber (First-tier and Upper Tribunals) in immigration judicial review claims and appeals to the Court of Appeal. She has extensive experience in refugee claims from Turkey, Afghanistan (especially claims by unaccompanied asylum seeking children), Sri Lanka, Albania, Iraq and Iran, including claims on the basis of sexual orientation and religious conversion. She regularly represents victims of trafficking in protection claims and appeals.

Agata has a particular interest and expertise in EU free movement law, including complex claims involving misuse of rights, breakdown of a marital relationship and claims by vulnerable EU nationals in detention. She is well-regarded for her ability to engage with clients whose cases involve difficult credibility challenges, especially in the context of sham marriage allegations.

Agata has considerable experience in emergency work, including out of hours applications for a stay on removal. She often acts in cases involving complex mental health issues. With a background in family law, she is well-placed to assist clients with cases spanning both immigration and family law issues.

Agata regularly provides lectures and training on asylum and EU free movement law.

## **Administrative and Public Law**

Agata specialises in public and administrative law especially cases with an immigration or asylum element and community care. She has particular experience in representing unaccompanied asylum-seeking children in age dispute claims against local authorities and children and vulnerable adults in challenges against the Home Office to termination or failure

to provide support. She regularly acts on behalf of victims of trafficking.

Agata has a considerable practice acting in cases challenging detention under immigration powers, both in the High Court and the County Court, and provision of bail accommodation and asylum support. She regularly appears in cases which necessitate urgent applications for mandatory interim orders for release or accommodation. She appeared as junior counsel (led by Laura Dubinsky) for one of the successful claimants in **R (Humnyntskiy) v Secretary of State for the Home Department** [2020] EWHC 1912 (Admin), a significant case concerning accommodation for immigrants under paragraph 9 Schedule 10 Immigration Act 2016 and destitution and Article 3 ECHR. The Home Office's policy and practice concerning the provision of bail accommodation to destitute foreign national offenders were declared systemically unfair.

In the fields of asylum, human rights and EU free movement law, Agata is regularly instructed in fresh claims, challenges to clearly unfounded certificates and claims involving extended family members of EU nationals, as well as complex claims involving nationality and statelessness.

## Immigration Business and Commercial

Agata accepts instructions in the area of business immigration, including all aspects of the Points Based System. She assists sponsors in respect of compliance issues and challenges to decisions to refuse or revoke sponsor licences. She acts for businesses in appeals against civil penalty notices for employing individuals with no right to work in the UK.

## Children's Rights

Agata has considerable experience in representing children and parents in cases at the intersection of immigration and family law. She is well-placed to assist clients in matters which require an assessment of a child's best interests. She has acted in public law cases involving allegations of child neglect, parental alienation and radicalisation. She has a strong interest in proceedings concerning the risk of Female Genital Mutilation and forced marriage.