

Antonia Benfield



Call: 2013

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Profile

Antonia works across the fields of asylum, immigration and public law with a specialism in refugee, asylum law and children's rights. Before joining the Bar, Antonia worked for NGOs including the Refugee Council, and has spent over 15 years working in support of refugee and migrant rights.

Antonia is regularly instructed in the First-Tier and Upper Tribunals, High Court and Court of Appeal on asylum and public law claims, with a particular focus on complex claims and those involving victims of torture and sexual violence. Combining her backgrounds in the NGO field, Antonia is highly regarded for her ability to engage with particularly vulnerable clients and her detailed knowledge of country conditions and asylum policy. She is especially well placed to undertake cross-cutting work in the fields of immigration, children's rights and public law and works on complex country guidance cases and claims involving cessation/revocation of international protection.

Antonia is regularly instructed in public law challenges on behalf of unaccompanied asylum-seeking children whose age is disputed by the Home Office or local authorities, unlawful detention of putative children and asylum support challenges under the Immigration and Asylum Act 1999. In addition, she acts on behalf of adults and unaccompanied minors in the

context of Dublin III challenges and challenges to trafficking decisions. Antonia acts in criminal deportation, human rights claims and EEA challenges and has extensive expertise in out-of-hours and urgent claims.

Antonia is currently appointed as Counsel to the Independent Inquiry into Child Sexual Abuse on the Children outside the UK (Phase 2) and Child Sexual Exploitation by Organised Networks investigations. She has been a member of the Equality and Human Rights Commission Panel since 2019.

What the Directories say

Chambers and Partners, 2021: *'She is extremely intelligent, a formidable opponent.'*

An up-and-coming junior with a growing immigration and asylum practice. She is particularly experienced in immigration cases that involve family members of EEA nationals and third-country removal claims. Other strengths include representing vulnerable individuals, including those with mental health conditions, in complex asylum claims.

Legal 500, 2021: Ranked as a *'rising star'* in both community care and immigration law for 2021.

Community Care: *'Astonishingly bright. Antonia's strengths include being incredibly fast to grasp all details of the case and having a mastery of every minute detail of the claim. She has amazing analytical skills.'*

Immigration: *'Antonia's oral submissions are outstanding and very persuasive; she is extremely knowledgeable on all aspects of immigration law.'*

Education

MA Social Anthropology of International Development, SOAS, 2006

BA History of Art and Archaeology (Asia and Africa), SOAS, 2004

Graduate Diploma in Law, University of Law, 2012

BPTC, University of Law, 2013

Related practice areas

Immigration

Administrative & Public Law

Community Care and Health

Children's Rights Group

Immigration and Asylum Law

Immigration and asylum

Antonia specialises in asylum and refugee law, representing both high-profile individuals and vulnerable clients including those who have been the victims of trafficking, serious human rights abuses and torture. She has particular experience working with clients who have complex mental health problems.

She is well regarded for her extensive knowledge of asylum law and policy and her sensitivity in working with vulnerable clients. Antonia is dedicated to the advancement of refugee rights and regularly works for NGOs and Law Centres, who are in particular need of high-quality representation.

She has a particular interest in complex policy challenges in relation to the cessation and revocation of refugee status in line with UNHCR standards, cases of disputed and doubtful nationality and the interpretation of medico-legal reports as independent evidence of torture.

Antonia is highly experienced in refugee claims from Sri Lanka, Eritrea, Afghanistan, Uganda and the Democratic Republic of Congo. Her knowledge of country information is extensive and she excels in presenting complex factual cases.

Significant cases

Patel v Secretary of State for the Home Department; Secretary of State for the Home Department v Shah [2019] UKSC 59 – instructed by Liberty as intervener before the Supreme Court considering derivative rights of residence held by Zambrano carers.

KK (Sri Lanka) & Anor v Secretary of State for the Home Department [2019] EWCA Civ 59 – appeal before the Court of Appeal considering the risk for Sri Lankan nationals who have given evidence as witnesses to war crimes before the UN OISL inquiry, and the risk of persecution as a result.

MST and Others (national service – risk categories) Eritrea CG [2016] UKUT 00443 (IAC) – country guidance case considering the risk on return for Eritrean nationals, in which the UNHCR acted as intervener. Considering whether there had been change in the country situation following a change in the Home Office’s policy to the human rights situation in the country. The case established that the risk categories for Eritrean asylum seekers should be maintained and extended to provide a protection against a breach of Article 4 (2) ECHR for those required to undertake national service in Eritrea which was found to constitute forced labour.

MST and Others (Disclosure – restrictions – implied undertaking) Eritrea [2016] UKUT 00337 (IAC)

Ayinde and Thinjom (Carers – Reg.15A – Zambrano) [2015] UKUT 560 (IAC) - EEA test case concerning the rights of Zambrano carers to a derivative right of residence under Reg. 15A(4A), and whether requiring an adult dependent EEA national to enter state care, in the alternative to receiving care from a family member, amounted to an infringement of the genuine enjoyment of their rights as EEA nationals.

Administrative and Public Law

Antonia specialises in public and administrative law in immigration and asylum cases as well as in age-dispute/age assessment challenges for asylum-seeking children, asylum support challenges, trafficking claims and challenges under the Dublin III Regulations.

In the field of asylum law, she is regularly instructed in asylum fresh claims and challenges to clearly unfounded certificates as well as complex claims involving statelessness applications and the Dublin III regulation.

Antonia has particular experience in judicial review challenges against local authorities and the Home Office on behalf of unaccompanied asylum-seeking children, including age dispute challenges, challenges to detention, termination of support and dispersal and challenges to transfer under the National Transfer Scheme. She is presently instructed on a number of complex cases involving disputes between local authorities about the responsibility for unaccompanied asylum-seeking children.

Significant cases

R (NG) v London Borough of Hillingdon & Ors [2020] EWHC 2847 (Admin) – a significant challenge against the practice of the London Borough of Hillingdon in refusing to

accommodate UASCs under section 20 Children Act 1989 on the basis that suitable accommodation was available to them provided by NASS with adult asylum-seekers in hotel type accommodation.

R (on the application of HBTN) v Sunderland City Council & Ors [2019] EWHC 3221 (Admin) – judicial review claim on behalf of a Vietnamese victim of trafficking whose identity was in dispute as was the question of which local authority was under a duty to support and accommodate under CA 1989.

R (F) by his litigation friend Maria Houlihan v Manchester City Council [2019] EWHC 2998 (Admin) – judicial review claim relating to a challenge to a refusal to reassess age in the light of further evidence.

R (on the application of General Abdulwaheed Shannan Al Rabbat) v Westminster Magistrates' Court [2017] EWHC 1969 (Admin) - a private prosecution brought by a former Chief of Staff of the Iraqi Army seeking the prosecution of Tony Blair, Jack Straw and Peter Goldsmith QC for the crime of aggression in invading Iraq in 2003. Led by Michael Mansfield QC. Heard before the Lord Chief Justice with the Attorney General intervening.

Community Care

Antonia specialises in cases that involve a cross-over between community care and immigration. She has particular experience in public law challenges on behalf of age disputed and unaccompanied asylum-seeking children including challenges to local authority age assessments and cases that involve detention and transfers under the Dublin III Regulations. In addition, she regularly acts in judicial review challenges under the Children Act 1989 including claims considering the suitability of accommodation and support for age disputed unaccompanied asylum-seeking children and the provision of section 17 support.

Public Inquiries

Antonia is currently instructed as junior counsel to the inquiry (led by Henrietta Hill QC) in the **Independent Inquiry into Child Sexual Abuse**: Children outside the UK investigation and the investigation into Child Sexual Exploitation by Organised Networks.

Training

Antonia regularly delivers training both for, and in partnership with, NGOs and community organisations particularly focusing on the asylum system and issues affecting asylum-seeking and refugee clients. She regularly speaks at public events on refugee and broader human rights issues.