

Rosa Polaschek



Call: 2021 (2015 - New Zealand)

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Profile

Prior to transferring to the English bar, Rosa practised as a barrister and solicitor in New Zealand and as a foreign qualified associate at an international law firm in London. She has particular experience as a public and administrative lawyer across both litigation and advisory work.

She has a strong interest in refugee and asylum matters, and specifically in modern slavery-related cases, drawing on her experience working in business and human rights, including advising on compliance with the Modern Slavery Act and on workers' rights issues at a large UK NGO. Rosa also has significance experience in advising on civil tortious and human rights claims ranging from group litigation on behalf of vulnerable asylum-seekers to *Osman* claims.

Rosa has appeared unled in the High Court, County Court, First-tier Tribunal, the Upper Tribunal and the Coroners' Courts. She has also been led in significant judicial review proceedings in the High Court, Court of Appeal and Supreme Court including in the successful challenge to the legality of the Rwanda removal scheme. She has experience in appearing for families in inquests, including as junior counsel in complex cases.

Rosa began her career as a Judges' Clerk (Judicial Assistant) in the High Court of New Zealand. She graduated third in her year from the University of Auckland and completed her

LLM at New York University as a Hauser Global Scholar. Rosa is an enrolled barrister and solicitor of the High Court of New Zealand.

Education

BA/LLB (Honours), University of Auckland

LLM, New York University

Related practice areas

Administrative & Public Law

Immigration

Inquests and Public Inquiries

Actions Against the Police and Public Authorities

International Law

Climate and Environmental Justice

Public and Administrative Law

Rosa has significant experience appearing in and advising on public law and related issues across a wide range of topics. She brings a practical, outcome-focused lens to assessing potential cases and can advise on procedural matters including interim relief. She also has inter-related experience advising on the viability of tortious claims arising from public law breaches.

Her work has included:

- Being instructed by an individual claimant in the challenge to the Rwanda removal scheme (led by Richard Drabble KC, Alasdair Mackenzie and David Sellwood)
- Being instructed by Tamil refugees being detained in the British Indian Ocean Territory, challenging removal decisions made by the BIOT officials (led)
- Being instructed by the Centre for Women's Justice (led by Caoilfhionn Gallagher KC, Fiona Murphy and Pippa Woodrow) in its challenge to the non-public status of the Angiolini Inquiry (following the murder of Sarah Everard)
- Being instructed to challenge a decision under the Miscarriage of Justice compensation scheme (led by Maya Sikand KC)

- Acting on judicial review proceedings on the provision of support to potential victims of modern slavery and challenges to SCA decisions
- Assisting with advice on judicial review proceedings against police forces and the Secretary of State for the Home Office on the arrest and detention of children
- Appearing on judicial review/appeals of immigration decisions (in the New Zealand High Court and Court of Appeal)
- Appearing in interim relief and judicial review proceedings challenging the legality of Regulations authorising exemptions from environmental regulations (in the New Zealand High Court and Court of Appeal)
- Advising on public bodies' liability for nuisance and cross-cutting public law duties
- Advising a wide range of bodies, including Government departments and FTSE-100 companies, on compliance with human rights obligations and public law

Immigration and Asylum

Rosa has a particular interest in refugee and asylum claims, building on her experience in New Zealand and her specialist knowledge of modern slavery in the United Kingdom through her business and human rights work.

She has appeared in asylum appeals in the First-tier Tribunal and Upper Tribunal; represented individuals in applications for immigration bails, including for Bail for Immigration Detainees; and appeared in judicial review proceedings in the Upper Tribunal, particularly in trafficking-related matters. She also has experience advising on and progressing complex immigration detention matters from the interim relief stage and into subsequent civil claims.

Rosa appeared in the New Zealand High Court and Court of Appeal in refugee and asylum judicial review proceedings, including in the leading New Zealand case on repeat refugee claims and the test for "fresh claims". She was part of the legal team on the first New Zealand case relating to passport cancellation on national security grounds. She is familiar with Government decision-making and how to best approach appeals and judicial review proceedings within the immigration and refugee framework. In the United Kingdom, she has recently been instructed and appeared on strategic litigation challenging the Government's Rwanda removal policy.

Actions against Public Authorities

Rosa can assist with tort and damages claims against the police, local authorities and other public bodies. She regularly advises on damages claims arising from unlawful detention in the immigration context and post-inquest proceedings, as well as on a wide range of claims against local authorities (particularly for failure to protect children at risk of harm). Her previous experience in New Zealand advising public bodies on potential tortious and public law liability means she is well-placed to strategically advise claimants considering civil or public law litigation against public authorities.

She has a strong interest in civil liberties and the range of associated data protection issues for public authorities.

Inquests and Public Inquiries

Rosa regularly represents families in inquest proceedings. She was instructed on behalf of the maternal family in the three-month inquest into the death of Gaia Pope-Sutherland (led by Caoilfhionn Gallagher KC and Sophy Miles) and has worked with families across all stages of inquests to secure positive outcomes ahead of the final hearing. Rosa also has experience in advising families on potential judicial review of Coroner's decisions and in subsequent civil claims.

She is currently instructed as junior counsel for 13 Pregnancy, Baby and Parenting Organisations and for Clinically Vulnerable Families in the Covid Inquiry.

Business and Human Rights and International

Rosa has a broad interest in international human rights law and a particular speciality in business and human rights. She has experience in litigious matters, advisory work (for both NGOs and companies) and policy across environmental, social and governance issues; and in advising on international human rights and humanitarian law. She is therefore well-placed to give practical, forward-thinking and strategic advice on tackling novel human rights concerns. She has a particular interest in corporate liability for environmental and human rights across complex supply chains.

Specifically, Rosa's experience includes:

- Drafting petitions to UN Special Rapporteurs
- Assisting in the evidence-gathering (including travelling to Kazakhstan) and analysis for a report into the January 2022 protests in Kazakhstan and the arrest of political activist Zhanbolat Mamay
- Acting for the family of Anton Hammerl, a journalist killed in Libya in 2011, to seek accountability/redress for his death.
- Advising on the legality of relocating a UK embassy under international and international humanitarian law
- Acting in the litigation team in a lead case involving the prosecution of corporate executives accused of complicity in suspected war crimes
- Conducting Human Rights Impact Assessments for companies and advising on best practice for HRIA
- Advising on compliance with the UN Guiding Principles on Business and Human Rights and the OECD Multinational Guidelines for various organisations, including across the technology, electricity, and oil and gas sectors
- Advising on compliance with international humanitarian law in the business context

Rosa has also presented and conducted business and human rights training for NGO groups and government departments, and been published in the Business and Human Rights Journal. She has co-published guidance on Westlaw's Practical Law on conducting due diligence in supply chains.