

JENNIFER GRAY

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Practice Overview

Jennifer specialises in all areas of immigration, asylum human rights and employment law. She is a member of the Attorney General's Panel Counsel to the Crown and an experienced advocate, appearing regularly in the Administrative Court, Upper Tribunal (IAC) and Employment Tribunals.

Immigration, Asylum and Human Rights

Jennifer has wide experience of claims involving detention, administrative removal and deportation (non-EEA and EEA), protective and non-protective human rights claims (including claims relating to modern slavery), appeal rights, certification and fresh claims, the points based system and sponsor licences.

Employment

Jennifer acts for a broad range of clients including both claimants and respondents in the public and private sectors. Recent cases have included claims relating to unfair and wrongful dismissal, discrimination and equal opportunities, whistleblowing, maternity and parental rights, redundancy and changes to contract terms.

Other Interests

Jennifer is also a successful children's author. Her work is published by Faber and Faber, Quercus and Faber. She has been shortlisted for a number of prestigious awards including the Waterstones Children's Book Prize and in 2014 was the winner of the Red House Children's Book Award (Younger Readers Category).

Practice areas

Immigration, Asylum & Human Rights
Employment

Memberships

ELA
ELBA
IER

Qualifications

BA (Hons) Economics
LLM Employment Law (Distinction)

Education

Manchester University
King's College, London



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Immigration, Asylum & Human Rights

Jennifer has expertise in the following areas:

- Asylum and human rights claims
- Claims relating to modern slavery
- Deportation and administrative removal (non-EEA and EEA)
- Unlawful detention claims
- Staged settlement
- Appeal rights, certification and fresh claims
- Points-based system claims and administrative review
- Refusal and revocation of sponsor licences
- Procedural and policy issues

Jennifer appears regularly in the Upper Tribunal (IAC) and the Administrative Court in judicial review proceedings at both the permission and substantive stages.

Cases:

Administrative Court

Full hearing:

R (on the application of AC (Algeria)) v Secretary of State for the Home Department [2019] EWHC 188 (Admin) - foreign national offender, lawfulness of detention pending deportation, grant of bail in principle, provision of Schedule 10 accommodation, delay in determining asylum claim, effect of non-co-operation re nationality, whether C should have been referred to the NRM as a potential victim of trafficking, materiality.

R (on the application of Farhan Aslam) v Secretary of State for the Home Department [2018] EWHC 2123 (Admin) - administrative removal, lawfulness of detention, whether non-EEA or EEA regime applied, retained rights of residence, rationality of D's decision that C's marriage not valid and was one of convenience, service of decision letter, lawfulness of procedure, materiality.

R (on the application of Sheraz Khan (trading as Exmoor Surgery) v Secretary of State for the Home Department [2018] EWHC 105 (Admin) - refusal of application for Tier 2 (general) sponsor licence, genuine vacancy, compliance with residential labour market test, record keeping and recruitment, appropriate SOC code).

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R (on the application of TS (India)) v Secretary of State for the Home Department [2017] EWHC 837 (Admin), [2017] WLUK 29 - administrative removal, lawfulness of detention, Rule 35 report, fresh claims, section 3C leave, fraudulent use of ETS certificate.

At the interim relief stage:

R (on the application of Hussein & Rahman) v Secretary of State for the Home Department [2018] EWHC 213 (Admin), [2018] 2 WLUK 27, [2018] A.C.D. 32 - conditions and "lock in" at IRC Brook House challenged by practising adherents of Muslim faith, Articles 9 & 14 ECHR engaged, conditions indirectly discriminatory under Section 19 Equality Act 2010, whether D had shown justification, breach of public sector equality duty.

R (on the application of Qarani) v SSHD [2017] EWHC 507 (Admin) - lawfulness of detention pending deportation, dispute over nationality, delay in obtaining ETD, provision of Section 4 accommodation, application for bail

Upper Tribunal (IAC)

Pathan v Secretary of State for the Home Department (JR/12657/2017) – refusal of ILR under paragraph 322(5) IR on basis of dishonesty arising from discrepancy of earnings declared to S of S and HMRC in previous LTR application, accountant's error blamed, whether R rationally entitled to refuse application. Considered in *R (on the application of Khan) v SSHD (Dishonestly, tax return, paragraph 322(5) [2018] UKUT 00348 (IAC)*.

Thomas & Others v Secretary of State for the Home Department (JR/13587/2016) – fresh claims challenge, whether decision required in respect of fourth applicant for whom no human rights claim had been made, materiality.

Sharfi v Secretary of State for the Home Department (JR/10704/2015) – challenge to refusal of FLR as an entrepreneur, whether A had already provided evidence of funds on his last successful PBS application so as not to be required to do so again, whether mistake of fact, materiality.

Alaimagan Thangarajah v Secretary of State for the Home Department (JR/445/2016) – challenge to refusal to revoke deportation order and to certification under Regulation 26(5) of the Immigration (European Economic Area) Regulations 2006, exercise of discretion, failure to give reasons.

Badavi v Secretary of State for the Home Department (JR/6869/2016) – fresh claims, whether S of S entitled to conclude that A's sur place

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activities relating to the treatment of Ahwazi Arabs by the Iranian authorities since the earlier FtT decision did not admit of a realistic prospect of success before an IJ.

Menon v Secretary of State for the Home Department (JR/1719/2016) – A's application for ILR as Tier 1 (General) Migrant refused under paragraph 322(5) general grounds of refusal (conduct), S of S entitled to rely on information from HMRC from which S of S concluded A had misstated true financial position to either HMRC or UKVI, lawful exercise of discretion on the facts, procedural unfairness rejected.

Jeyarasa v Secretary of State for the Home Department (JR/7557/2016) – fresh claims, whether S of S had applied anxious scrutiny of the evidence in the light of his own guidance relating to Tamil Separatism.

Khurram v Secretary of State for the Home Department (effective service; 2000 Order) IJR [2016] UKUT 00281 (IAC) – construction of Article 8ZA (2)(c) of the Immigration (Leave to Enter and Remain) Order 2000, in the alternative notice of curtailment properly served to A's last-known or usual place of abode within Art 8ZA(3)(a).

Sorae v Secretary of State for the Home Department (JR/14748/2014) – application of policy relating to overstaying (non-family route), exercise of discretion, rationality of S of S decision that there were no exceptional circumstances in A's case, materiality.

Msiza v Secretary of State for the Home Department [2015] UKUT 00483 (IAC) – lawfulness of refusal of leave on Article 8 grounds, effect of supplementary letter.

Employment

Jennifer has expertise in the following fields of employment law:

- employment status
- atypical work
- changes to employment terms and conditions
- maternity and paternity regulations
- shared parental leave
- fixed term contracts
- all aspects of discrimination law including pregnancy and maternity discrimination, disability discrimination, race discrimination and religious discrimination
- unfair dismissal
- wrongful dismissal

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- redundancy
- whistleblowing
- wage claims
- holiday pay
-

She also has a particular interest in collective labour law.

As well as substantive hearings, Jennifer regularly attends case management discussions and preliminary hearings and prefers to be involved in a case throughout. She has experience of dealing with a wide range of procedural issues, including jurisdictional issues, specific disclosure, identifying the issues to be determined, amendment of pleadings, applications to strike out, and applications for unless orders, deposit orders and costs.

Examples of Recent Cases

Trayhorn v S of S for Justice: Acting for the respondent prison (HMP Littlehey) in a claim by a former employee for direct and indirect religious discrimination, harassment and constructive unfair dismissal relating to the Claimant's participation in a prison chapel service. The Claimant's claims were dismissed. <http://www.bbc.co.uk/news/uk-england-cambridgeshire-35804440>

Devine v Local Government Boundary Commission for England: Acting for the respondent in a lengthy claim for failure to make reasonable adjustments by a litigant in person. The Claimant's claims were dismissed.

Akintunde v S of S for Justice: Acting for the respondent prison (HMP Pentonville) in a claim for direct race discrimination and unfair dismissal for gross misconduct in failing to carry out an order. The Claimant's claims were dismissed.

O'Callaghan v St Francis Catholic Primary School: Acting for the respondent school in a claim by a former deputy head teacher for 'last straw' unfair constructive dismissal and whistleblowing. The claimant subsequently withdrew her whistleblowing claim and the unfair constructive dismissal claim was dismissed.

Velupillai v Camden & Islington NHS Foundation Trust: Acting for the respondent health authority against claims for unfair dismissal, breach of contract and notice pay brought by a nurse who had been dismissed for gross misconduct following an incident at a care home. The claimant's claims were dismissed.

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Assan v De La Salle School: Acting for a respondent school in a complex claim for race discrimination and 'last straw' unfair constructive dismissal brought by a former teacher at the school. The claimant's claims were dismissed.

Jackson v Croydon NHS Trust: Acting for a claimant in a rule 3(10) hearing in the EAT. The claimant was given leave to proceed to a full appeal against a costs award made against her by the Employment Tribunal. The appeal was subsequently allowed by consent and the costs ruling set aside.

Brind v OR Media: Acting for a claimant against a television production company in a claim for breach of maternity regulations, maternity discrimination, harassment, breach of contract and unfair dismissal when the claimant was prevented from returning to her former role after taking maternity leave. The claimant succeeded in her claim and was awarded almost £50,000 in compensation, including an injury to feelings award of £17,000.

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