

# Landmark Chambers

## Barrister CV

Hafsah Masood



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# Hafsah Masood

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Hafsah specialises in public and administrative law.



## Expertise

Public and Administrative

## Contact Practice Managers

### **Ben Connor**

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## Practice Summary

Hafsah is a public law specialist with expertise across a range of areas, including immigration and asylum, EU law, human rights, and equality and discrimination law.

She also has a thriving civil practice covering private law claims against public authorities, professional negligence claims, and employment disputes, acting for both employers and employees in the private and public sector and regularly appearing in the employment tribunal.

Hafsah's practice has a strong international element. She has experience of appeals in the Privy Council and has undertaken work in a number of overseas jurisdictions, including the Bahamas, Trinidad and Tobago and Gibraltar. She has been admitted to the Bar of the Eastern Caribbean Supreme Court in the British Virgin Islands.

Hafsah is on the Attorney General's A Panel of Junior Counsel.

## Public and Administrative

Hafsah has expertise across a range of areas, and acts for claimants, defendants and interested parties. She regularly appears in the Court of Appeal, Administrative Court and Tribunals, and is appointed to the Attorney General's A Panel of Junior Counsel.

Hafsah's civil law expertise means that she has significant experience of cross-examination (including cross-examination of experts) and is well-placed to advise on civil procedure and costs, and other cross cutting issues.

## Education

Hafsah has acted in a variety of education matters, including discrimination challenges, de-registration appeals in the First-tier Tribunal and issues around the transfer of EHC plans between local authorities.

She was instructed by the Department for Education in the UK COVID-19 Inquiry.

## EU Law post-Brexit

Notable work includes:

- Advising the Independent Monitoring Authority on a number of matters relating to the Withdrawal Agreement, and its powers.
- Advising and acting in challenges to the SSHD's policies and decision making under the EUSS.
- Advising and appearing in claim challenging decisions by the SSHD under the Dublin III Regulation, including: ***R (AK) v SSHD*** (2021) (procedural fairness/duty to investigate); ***R (BAA & Anor) v Secretary of State for the Home Department (Dublin III: judicial review; SoS's duties)*** [2020] UKUT 227 (IAC) (a significant decision on Article 17(2) of Dublin III); ***R (HN & MN) v SSHD*** (2019) (on the default acceptance provisions); ***R (HA) v Secretary of State for the Home Department & Others) v Secretary of State for the Home Department (Dublin III; Articles 9 and 17.2)*** [2018] UKUT 297 (concerning Articles 9 and 17(2) of Dublin III).
- ***BAA v Secretary of State for the Home Department*** [2021] EWCA Civ 1428 – a significant decision on Article 17(2) of Dublin III, and the threshold for establishing a breach of Article 8 ECHR in the Dublin III context (with Rory Dunlop KC).
- ***Mendes v Secretary of State for the Home Department*** (2021) – acting for the SSHD in a multi-day appeal against a deportation decision taken under the EEA Regulations, involving allegations of procedural unfairness and breaches of policy.
- ***R (MS) v Secretary of State for the Home Department*** (2019) – judicial review claim about the extent of the state's duty under the EU trafficking directive to support a victim of human trafficking during criminal proceedings.

## Human Rights and Civil Liberties

Much of Hafsah's work touches on civil liberties and human rights.

Her notable work includes:

- Acting for HMCTS in a judicial review challenge to its guidance on when court users can bring kirpans in court buildings, including allegations of a breach Articles 9, 8 and 14 of the ECHR.

- ***R (Secretary of State for the Home Department) v First-tier Tribunal (Social Entitlement Chamber)*** [2021] EWHC 1690 (Admin) – on whether Articles 2, 3 and/or 8 ECHR imposed a positive obligation on the state to accommodate failed asylum seekers during the COVID pandemic, in order to protect the health/life of individual asylum seekers and/or the public at large (with Alan Payne KC).
- ***BAA v Secretary of State for the Home Department*** [2021] EWCA Civ 1428 – on the threshold for establishing a breach of Article 8 ECHR in the Dublin III context, and the circumstances in which evidence not before the decision maker is admissible in judicial review proceedings alleging a breach of Convention rights (with Rory Dunlop KC).
- ***R (Soltany & Others) v Secretary of State for the Home Department*** [2020] EWHC 2291 (Admin) – challenge to the regime and conditions at Brook House IRC including on the grounds that they breached detainees’ rights under Articles 8, 9 and 14 ECHR (with Thomas Roe KC).

Hafsah also has significant experience of damages claims under the Human Rights Act 1998, for breach of Convention rights.

## Equality and Discrimination Law

Hafsah has considerable experience of claims under the Equality Act 2010 and Human Rights Act 1998 across a range of subject areas and in a number of different forums.

Notable cases include:

- Acting (for employers and employees) in several disability, race and religious discrimination claims in the employment tribunal.
- Acting for HMCTS in a judicial review challenge to its guidance on kirpans in court buildings, including on the grounds that it is discriminatory.
- Acted for DfT in a judicial review claim challenging the DVLA’s policy regarding the need for original ID documents in support of a licence application, on the basis that it is discriminatory.
- ***R (DK) v Secretary of State for the Home Department*** (ongoing) – judicial review challenge to the SSHD’s system and policies for allocation and provision of initial accommodation to pregnant and new mother asylum seekers including on the basis that the policies are discriminatory, and there has been a failure to discharge the public sector equality duty.
- Acted for the claimants in a judicial review challenge to provisions of the Health Protection (Coronavirus, Restrictions) (All Tiers) (England) Regulations 2020, including a challenge to the tier 2 rule requiring pubs and bars to close unless alcohol was served as part of a “table meal” on the grounds that the rule was discriminatory under the Equality Act 2010 and contrary to Article 14 ECHR (with David Lock KC).
- ***R (Soltany & Others) v Secretary of State for the Home Department*** [2020] EWHC 2291 (Admin) – judicial review challenge to the regime and conditions at Brook House IRC. It was alleged the ‘lock-in regime’, together with the feature of an in-room toilet, discriminated against Muslim detainees who were required to perform obligatory prayers near a toilet (with Thomas Roe QC).
- ***R (Hussein & Rehman) v Secretary of State for the Home Department*** [2018] EWHC 213 (Admin) – judicial review challenge to the regime and conditions at Brook House IRC, including a claim that there had been a breach of the public

sector equality duty.

Hafsah is the co-author of the practitioner text *The Protections for Religious Rights: Law and Practice* (OUP) which includes a comprehensive review of the protections for religious rights, including an examination of relevant provisions of the Equality Act 2010 and other applicable domestic and international instruments.

## Immigration

Hafsah has significant experience in this area regularly appearing in the High Court, Upper Tribunal and Court of Appeal in judicial review claims and appeals.

Her notable work includes:

### ***Afghan Relocations and Assistance Policy***

- Acting in several claims arising from decision making during the evacuation from Afghanistan in August 2021, and decisions taken under the Afghan Relocations and Assistance Policy.

## Asylum support

- ***R (AXG) v Secretary of State for the Home Department*** [2022] EWHC 56 (Admin) – challenge to SSHD’s policy on provision of financial support to asylum seekers in full board initial accommodation.
- ***R (Secretary of State for the Home Department) v First-tier Tribunal (Social Entitlement Chamber)*** [2021] EWHC 1690 (Admin) – judicial review on whether the SSHD was obliged to provide accommodation to destitute failed asylum seekers during the COVID pandemic (with Alan Payne KC).
- ***R (DK) v Secretary of State for the Home Department*** (ongoing) – judicial review challenge to the SSHD’s system and policies for allocation and provision of initial accommodation to pregnant and new mother asylum seekers under s.4/s.95 of the Immigration and Asylum Act 1999.

## Family and private life

- Acting for the SSHD in a judicial review claim challenging a 10-year delay in deciding an application for leave which, it is alleged, breached the applicants Article 8 rights (with David Blundell KC).
- Acted for the SSHD in a challenge to the 10-year route to settlement and policy guidance on the grant of ILR outside the Rules for applicants qualifying under para 276ADE(1)(v) (with David Blundell KC).
- ***NA (Bangladesh) v Secretary of State for the Home Department*** [2021] EWCA Civ [2021] EWCA Civ 953 – appeal concerning the correct approach to the question of reasonableness para 276ADE(1)(iv)/s117B(6) following the Supreme Court’s decision in KO (Nigeria).
- ***BAA v Secretary of State for the Home Department*** [2021] EWCA Civ 1428 – appeal concerning the threshold for establishing a breach of Article 8 ECHR in the Dublin III context.

## Detention

- Advising and acting for claimants in several unlawful detention/false imprisonment claims.
- ***R (Soltany & Others) v Secretary of State for the Home Department*** [2020] EWHC 2291 (Admin) – judicial review challenge to the regime and conditions at Brook House IRC (with Thomas Roe KC)
- ***R (DM (Tanzania) v Secretary of State for the Home Department*** [2019] EWHC 2576 (QB) – judicial review claim challenging the lawfulness of detention pending deportation, and a delay in provision of s.4 accommodation.
- ***R (Hussein & Rehman) v Secretary of State for the Home Department*** [2018] EWHC 213 (Admin): judicial review challenge to the regime, conditions and smoking policy at Brook House IRC (with Thomas Roe KC).

## Other (including asylum, nationality, and the points-based system)

- ***R (Diamond) v Secretary of State for the Home Department*** [2020] EWHC 3313 (Admin) – judicial review challenge to the SSHD's refusal to issue a British passport, where there was a dispute about the applicant's date of birth.
- ***Rauf v Secretary of State for the Home Department*** [2019] EWCA Civ 1276 – appeal concerning the scope of the Patel principle of fairness, and whether the Upper Tribunal was right to permit the SSHD to withdraw a concession made at first instance.
- ***SB (Sri Lanka) v Secretary of State for the Home Department*** [2019] EWCA Civ 160 – appeal concerning the First-tier Tribunal's approach to evidence and assessment of credibility in an asylum appeal.
- ***R (Rahman) v Secretary of State for the Home Department*** [2019] EWHC 2952 (Admin) – judicial review concerning the interpretation of Art.8ZA of the Immigration (Leave to Enter and Remain) Order 2000, and whether a notice of curtailment had been given where the letter had been sent to an old postal address and returned to the Home Office.
- ***R (JS and Others) v Secretary of State for the Home Department (litigation friend – child)*** [2019] UKUT 64 – guidance case on the Upper Tribunal's power to appoint a litigation friend for children in judicial review proceedings.
- ***MS (Bangladesh) v Secretary of State for the Home Department*** [2018] EWCA Civ 1258 – appeal concerning the First-tier Tribunal's assessment of risk in an asylum claim by a Christian convert.

## International

Hafsah advises and has appeared (as junior and sole counsel) in appeals in the Privy Council in constitutional, public law, and criminal cases.

She also undertakes work in a number of overseas jurisdictions, including Trinidad and Tobago, the Bahamas, the British Virgin Islands and Gibraltar. In 2021, she was admitted to the Bar of the Eastern Caribbean Supreme Court in the British Virgin Islands.

Her cases include:

- ***Mauritius Shipping Corporation Ltd v The Employment Relations Tribunal*** [2019] UKPC 42 (Privy Council) – sole counsel for the respondent Tribunal in an appeal from Mauritius, arising from a judicial review challenge to the Tribunal's decision in respect of the appellant's large scale reduction of its workforce.
- ***Smart & Others v the Judicial and Legal Service Commission*** [2019] UKPC 35 (Privy Council) – junior counsel for the state in an appeal from Trinidad and Tobago concerning the legality of the process adopted by the respondent Commission in making appointments to the Judicial and Legal Service (led by Howard Stephens KC).
- ***McLeod v The Queen*** [2017] UKPC 1 – sole counsel in a criminal appeal from Jamaica alleging a denial of due process by reason of the incompetence of defence counsel.
- ***Maharaj v Prime Minister of Trinidad and Tobago*** [2016] UKPC 37 – junior counsel for the state in an appeal from Trinidad and Tobago by a former judge seeking constitutional damages, having won his judicial review claim challenging Cabinet's refusal to re-appoint him for a further term because of allegations in relation to his competence (led by Thomas Roe KC).

## Qualifications

- LLM in Public International Law, London School of Economics (2004-2005)
- BA (Law), Worcester College, University of Oxford (2001-2004)

## Languages

Hafsah is fluent in Urdu and Punjabi.

## Recommendations

"Hafsah acts both for and against the state in a variety of judicial reviews. Her practice includes work on immigration and asylum, and she is notably active in cases relating to the relocation of Afghan nationals to the UK."

**Immigration, Chambers and Partners, 2024**

"She is dedicated, thorough and well-prepared. Her assessments of cases are realistic, but not overly cautious."

**Immigration (including Business Immigration), Legal 500, 2024**

"She engages well with clients and is respected by opponents and judges for her straightforward no-nonsense approach."

**Immigration, Legal 500, 2023**

## Publications

