



Barrister

EMMA DAYKIN

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Call: 2005





Specialist in  
Personal Immigration  
Business Immigration  
Public Law  
Civil Law  
Modern Slavery & Trafficking Team

## Experience

Emma is a very experienced practitioner in all aspects of immigration, public law, civil penalties and cash forfeiture.

Emma has always practised in immigration, asylum and human rights. Over the last year she has been instructed in a number of judicial review cases involving Afghan interpreters, judges and special forces military personnel and their families refused under the ARAP scheme and related policies. She is experienced in closed material proceedings in national security cases.

In recent years she has become the expert and led the way in conceiving major strategic judicial review challenges to primary and secondary legislation particularly involving the Ankara Agreement for Turkish businesspersons.

Emma is increasingly instructed on a public access basis, particularly at the initial stages for strategic advice. Clients are able to capitalise on Emma's vast appellate experience at the application stage when the solution to a problem is less than obvious in order to put forward strong applications, which are prepared with future litigation in mind, often resulting in positive results without the need for further litigation.

Emma acts as an advocate and advises at all levels. She has particular experience in Afghan cases, complex trafficking claims, deprivation of nationality, asylum claims based on sexual identity, the Turkish Ankara Agreement and appeals against deportation. She also regularly advises and acts in judicial review matters (including urgent applications and injunctions) and civil claims for damages for unlawful detention.

Emma has a particular interest in civil penalties for immigration offences and civil cash forfeiture.

Before focusing her practice towards purely immigration, asylum and human rights, Emma also maintained a successful criminal defence practice.

Emma is a reviewer and volunteer barrister with Advocate.

Emma remains absolutely committed to representing those facing the death penalty through her involvement with the charity Amicus. Emma's devotion to this work began in 2004 when she worked as an investigator with the Office of Capital Defense Counsel, in Jackson, Mississippi on numerous capital murder cases and returning in 2007 and Missouri in 2015.

## What the directories say

Legal 500 2023 'Very detailed knowledge of the law. Can turn grounds around very quickly. Very good at thinking strategically.'

Chambers UK 2023 "Emma Daykin is a much admired barrister with an active immigration practice, advising both pro bono and privately on asylum and trafficking law. She is particularly well known for

her involvement in public law challenges to immigration policy.” “A very experienced and talented advocate.” “She is extremely good at strategy. Her drafting is also brilliant, succinct and persuasive.” “A brilliant all-rounder; a great negotiator and impressive advocate who is fearless in her approach to cases. She goes the extra mile.” “She is very professional, very determined and very passionate in all that she does. I can always rely upon her for her solid work and advice.” Chambers UK Bar Guide 2022

‘There are not many barristers who are as experienced as Emma in dealing with all aspects of immigration (including points based system), asylum and nationality law.’ Legal 500 2021  
“She fights hard and makes life easy due to her clarity.” “She is an excellent barrister in all aspects; a great individual to work with.” Chambers UK Bar Guide 2021

“An absolute star – her knowledge in immigration law is outstanding.’ Legal 500 2020

‘She is an excellent advocate with impressive drafting skills’ Legal 500 2019.

## Education

LLB Law (Criminal Justice)

## Memberships

ILPA

ALBA

Criminal Bar Association

Amicus

## Awards

Nominated for Junior Pro Bono Barrister of the Year Award 2020 – Bar Pro Bono Awards

Shortlisted for Junior Pro Bono Barrister of the Year award 2022 – Bar Pro Bono Awards

[Emma Daykin's Privacy Notice](#)

## CASES

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### **R(Bal & Ors) v Secretary of State for Defence**

R(Bal & Ors) v Secretary of State for Defence [2022] EWHC 2757 (Admin)

[R\(Bal & Ors\) v Secretary of State for Defence \[2022\] EWHC 2757 \(Admin\)](#) involves a successful judicial review challenge to the decision to refuse leave outside the rules to the adult children of an Afghan judge accepted under the Afghan Relocations and Assistance Policy. Led by Tim Owen KC and instructed by Deighton Pierce Glynn Solicitors

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## R (on the application of Alliance of Turkish Business People Ltd) v SSHD

[2020] EWCA Civ 553

Reversing the finding of the court below, the Court of Appeal held that there was no statement or representation that was clear, unambiguous and devoid of relevant qualification, contained within the policy guidance for Turkish business people seeking leave to remain in the UK giving rise to a legitimate expectation. However, if there had been, the Court would have allowed the appeal since the judge below had erred in the evaluation of proportionality.

Importantly, the Court rejected the SSHD's contention that the doctrine of legitimate expectation could not apply in an immigration case because the nature of the immigration rules was such that they were no more than a statement of current policy in reliance on *Odelola v SSHD* [2009] UKHL 25. The Court also rejected the Respondent's submission that it is extremely difficult to build a legitimate expectation on a wrong view of the law. Permission to appeal to the Supreme Court pending.

Area of Law:

Business Immigration, Ankara Agreement, Appeals, Judicial Review, Public Law, Immigration

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## R (otao Karagul and others) v SSHD

[2019] EWHC 3208 (Admin)

Although this case arises in the context of ECAA Turkish Ankara Agreement applications, following on from the Court of Appeal decision in *Balajigari*, the Administrative Court confirmed that as a general principle, where a public authority refuses an application for some, right, benefit or status on the basis that the applicant has been dishonest or acted in bad faith, common law fairness requires procedural safeguards. Either an interview or a written "mind to refuse" process should be followed before a final decision is taken.

Area of Law:

Business Immigration, Ankara Agreement, Judicial Review, Immigration

Related Barristers:

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## R (Alliance of Turkish Businesspeople Ltd) v SSHD

[2019] EWHC 603 (Admin)

A challenge to the change in policy and immigration rules of the requirements for Turkish businesspeople to settle in the United Kingdom on the basis that those already within the scheme had a legitimate expectation they would continue to be subject to the 1973 Rules through to settlement. It was accepted that the claimant had a legitimate expectation and they relied upon it to their detriment but ultimately the frustration of their legitimate expectation was a proportionate response in the public interest.

Area of Law:

Business Immigration, Ankara Agreement, Judicial Review, Public Law, Immigration

Related Barristers:

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## SSHD v CA (Turkey) [2018]

EWCA Civ 2875

Instructed as junior counsel for the claimant resisting the appeal by SSHD in Court of Appeal of successful judicial review which challenged the amendment to primary legislation removing the right of appeal to the First Tier Tribunal for Turkish nationals claiming rights under the Ankara Agreement as incompatible with Art. 41 (1) of the Additional Protocol of the Ankara Agreement.

Area of Law:

Business Immigration, Ankara Agreement, Appeals, Judicial Review, Immigration

Related Barristers:

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## R (otao Akturk) v SSHD

[2017] WLR (D) 145; [2017] EWHC 297 (Admin)

In the Administrative Court, Holman J held, in the lead case on this issue, that the abolition of the right of appeal for Turkish citizens seeking to exercise their freedom of establishment under the European Community Association Agreement (the Ankara Agreement) with Turkey is incompatible with the Agreement in that it breaches Article 41 (1) of the Additional Protocol (standstill clause) and that incompatibility is not avoided by Administrative Review. The individual decisions were also quashed on traditional public law grounds.

Area of Law:

Business Immigration, Ankara Agreement, Judicial Review, Public Law, Immigration

Related Barristers:

[Emma Daykin](#)

## Dang (Refugee – query revocation – Article 3)

[2013] UKUT 00043 (IAC),

Confirms that a decision to revoke refugee status only relates to an individual's status under the Qualification Directive and not their status under the Refugee Convention. If an individual was granted refugee status some time ago, there is no legal or evidential presumption that, for so long as he is a refugee under the Refugee Convention, removal would be in breach of Article 3.

Area of Law:

Personal Immigration, Asylum, Deportation, EU Law, Family and Human Rights

Related Barristers:

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## ST Eritrea, R (on the application of) v Secretary of State for the Home Department

[2012] UKSC 12 (21 March 2012), [2012] 2 WLR 735

The appeal challenged the proposed expulsion of an Eritrean refugee to Ethiopia on the basis that it is contrary to article 32 of Geneva Convention. The judgment of Lord Hope (at paragraphs 45-47) makes an important reference to article 27(1) of Council Directive 2005/85/EC of 1 December 2005 on minimum standards on procedures in Member States for granting and withdrawing refugee status, regarding the full panoply of rights that the person seeking asylum must be afforded when a member state is seeking to remove the individual to a safe third country.

Area of Law:

Personal Immigration, Asylum, EU Law, Appeals, Judicial Review, Public Law, Immigration

Related Barristers:

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## R v Hopes (Nichola Jane)

[2011] EWCA Crim 1869

Appeal against conviction for burglary.

Area of Law:

Crime, Appeals

Related Barristers:

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## ST (Ethnic Eritrean – nationality – return) Ethiopia CG

[2011] UKUT 00252(IAC)

This case stands as the current country guidance for Ethiopia, concerning deprivation of nationality amounting to persecution. The case involved lengthy and complex written and oral expert evidence regarding Ethiopian nationality law and the application in practice.

Area of Law:

Personal Immigration, Asylum, Appeals

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## EK (Ankara Agreement – 1972 Rules – construction) Turkey

[2010] UKUT 425 (IAC), [2011] Imm AR 212

Emma successfully defended the decision of the First Tier Tribunal, upon appeal by the SSHD before the Upper Tribunal, based on the construction of the 1972 Immigration Rules further to the Ankara Agreement.

Area of Law:



Business Immigration, Ankara Agreement

Related Barristers:

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## MK (Albania) CG

[2009] UKAIT 00036

The case involved the risks to lesbian women in Albania under the Refugee and Human Rights Conventions. The matter was both factually and legally complex.

Related Barristers:

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## PUBLICATIONS

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The Law and Practice of Expulsion and Exclusion from the United Kingdom: Deportation, Removal, Exclusion and Deprivation of Citizenship

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