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Charlotte Kilroy KC

"Charlotte Kilroy is fearless, tenacious and doesn't let go of a point."

— CHAMBERS AND PARTNERS, 2026



Year of call: **1999**
Appointed to silk: **2019**
Degree: **BA (Hons)**

Charlotte Kilroy KC is expert in a wide range of areas of public law, civil law and human rights law. She has diverse experience including in cases concerning asylum, national security, competition law, professional discipline, community care, education, and undercover policing.

She has extensive expertise in bringing judicial review challenges to systems and policies, and has been involved in many of the leading cases on procedural fairness, natural justice and access to court including Al Rawi, Bank Mellat, and Medical Justice. She also acts in claims in tort and human rights against the police and the security services.

She appears in a wide variety of courts and tribunals, and is expert in closed material procedures in the High Court, Special Immigration Appeals Commission and the Investigatory Powers Tribunal.

Charlotte is currently representing women deceived by undercover police officers into having sexual relationships at the Undercover Policing Inquiry, acting for Asylum Aid in its challenge to the government's Rwanda scheme and, on behalf of the brother of the Leader of the Indigenous People of Biafra, Nnamdi Kanu, challenging the assistance the UK Foreign Secretary has provided in relation to Mr Kanu's extraordinary rendition and arbitrary detention in Nigeria.

Charlotte is highly rated by both leading independent legal directories, the Legal 500 and Chambers & Partners, for her work in Administrative & Public Law, Civil Liberties & Human Rights, and Immigration. Recent comments include:

- "Charlotte Kilroy is fearless, tenacious and doesn't let go of a point."- Chambers and Partners, 2026
- "Charlotte is an outstanding advocate."- Legal 500, 2025
- "She is a brave, effective and hard-working silk."- Chambers and Partners, 2025

Previous comments included

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- "Charlotte is a true fighter in every sense of the word. She is creative in her approach to complex legal issues and is often ready to take on challenges that others deem too difficult. She is brilliant."- Legal 500, 2024
- "One of the brightest, most brilliant advocates at the Bar. Her legal analysis is completely flawless. Her strategic understanding is incredibly reliable at identifying where you are likely to have the biggest impact with the court."- Chambers and Partners, 2024
- "A visionary in terms of strategy. She stands out in the field of immigration as one of the best lawyers around."- Chambers and Partners, 2023
- "Charlotte exhibits an erudite mastery of the law in her field combined with a strong tactical instinct and good strategic thinking about the claim overall."- Chambers and Partners, 2023

EXPERIENCE

Civil Liberties & Human Rights

"Charlotte is one of the best human rights silks."
— CHAMBERS AND PARTNERS, 2026

She has appeared in many of the leading cases on constitutional law, access to justice and procedural fairness including:

(1) On attempts to oust judicial review of tribunal decisions, U v SIAC/Cart [2010] 2 WLR 1012

(2) On natural justice and closed material proceedings, Al Rawi [2012] 1 AC 531 and Bank Mellat [2014] AC 700

(3) On access to court, Medical Justice /FB [2022] QB 185 and Medical Justice [2011] 1 WLR 2852;

(4) On procedural fairness Citizens UK [2018] 4 WLR 123, Detention Action v FTT [2015] 1 WLR 5341, Detention Action v SSHD [2014] EWHC 2245

She has since 2012 represented women who were deceived into sexual relationships by undercover police officers. On their behalf she has brought civil claims in the High Court, Human Rights Act claims in the Investigatory Powers Tribunal and is now representing several Core Participants in the Undercover Police Inquiry. She represented Kate Wilson in her landmark human rights claim against the Metropolitan Police and National Police Chiefs Council. See judgment here.

She continues to act for Libyan nationals bringing civil claims against the security services for their complicity in unlawful detention and ill-treatment at the hands of Colonel Qadhafi's security services (see eg Kamoka v Security Services [2017] EWCA Civ 1665), and for individuals appealing to SIAC against the Home Secretary's decision to deport them or deprive them of citizenship on national security grounds (see eg BB v Secretary of State for the Home Department [2015] EWCA Civ 9).

Charlotte is also representing the brother of Nnamdi Kanu, the Leader of the Indigenous People of Biafra, and a British citizen who is the victim of extraordinary rendition to Nigeria, in a challenge to the steps the Foreign Secretary has taken to assist him (see R(Kanu) v SSFCDA [2002] EWCA 1598 here) and a woman who is bringing a claim against MI5 in respect of her ill-treatment at the hands of an MI5 agent. See BBC article here.

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Cases

R(Kanu) v Secretary of State for Foreign and Commonwealth Affairs

[2023] EWHC 652

The High Court dismissed a challenge to the lawfulness of the Secretary of State for Foreign and Commonwealth Affairs' approach to deciding whether to make representations to the Nigerian government about the detention and release of the Claimant's brother, the Leader of the Indigenous People of Biafra (IPOB), Nnamdi Kanu, a British citizen. There was overwhelming evidence that Mr Kanu had been the victim of extraordinary rendition from Kenya to Nigeria so that he was being arbitrarily detained there, but the High Court rejected the argument that it was unlawful for the Foreign Secretary to maintain a 'provisional view' of the legality of Mr Kanu's transfer.

R(Asylum Aid) v Secretary of State for the Home Department

[2022] EWHC 3230

The High Court dismissed Asylum Aid's challenge to the fairness of the Secretary of State's Rwanda scheme, but granted permission to appeal the decision.

Big Brother Watch v Cabinet Office

In response for a call for evidence in relation to the use of Covid Status Certificates as a means of accessing entertainment venues, shops and other services, and in the course of employment, Big Brother Watch commissioned a Note identifying the legal issues raised by the proposed scheme. Charlotte led a team of Counsel in drafting the Note addressing the implications of the certificates in common law, human rights and equality law and employment law.

R (ota JCWI) v President of the UT(IAC)

[2020] EWHC 3103 (Admin); [2021] PTSR 800

Represented the successful Claimant charity in its challenge to the lawfulness of Guidance by which the norm of oral appeal hearings was replaced with a default of paper determinations of statutory asylum and immigration appeals during the Covid-19 pandemic. The Guidance was ultra vires, and also unlawful applying the principle in R(Letts) v Lord Chancellor [2015] 1 WLR 4497 because it was inconsistent with common law standards of procedural fairness.

R(FTH) v SSHD

[2020] EWCA Civ 494

Charlotte is acting for an unaccompanied minor unlawfully refused transfer to the UK to join his brother under the procedurally unfair 'expedited process' which the SSHD established in the aftermath of the destruction of the Calais Jungle. The Court of Appeal held that it was bound by an earlier judgment to conclude that although the decision was unlawful at common law it was not a breach of Article 8 ECHR and thus damages could not be awarded.

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R(FwF) v SSHD

[2021] 1 WLR 3781

Charlotte acted for unaccompanied minors seeking to join family members in the UK under the family reunification provisions of EU Regulation 604/2013 (Dublin III) who successfully challenged the SSHD's failure to comply with Dublin III time limits and her policy of sending "holding letters" and then sought damages for the delay in reunification under the Human Rights Act 1998 and EU law. The Court of Appeal found the unlawfulness of the SSHD's decisions did not constitute a breach of Article 8 ECHR.

R(PN) (Uganda) v SSHD

[2019] EWCA Civ 1508; [2019] EWHC 1616

Charlotte acted for the claimant PN in her successful challenge to the fairness of her 2013 appeal determination under the 2005 Fast-Track Rules, obtaining a mandatory order that the SSHD use her best endeavours to return her from Uganda to the UK. Coverage of the case is available in The Guardian and Free Movement.

R(MS) v SSHD

[2019] UKUT 00009 (IAC)

Charlotte represented unaccompanied asylum-seeking minor MS in his successful challenge to the Home Secretary's refusal of claim under EU Regulation Dublin III to join his brother in the UK. The judgment confirms that the Home Office has an investigative duty on receipt of a request from another Member State, and cannot simply refuse a request based on information in Home Office files. See here.

R(TN)(US) v SSHD

[2019] 1 WLR 2647; [2017] 1 W.L.R. 2595; [2019] 1 WLR 2675

The Court concluded that the quashing of the 2014 Fast-Track Rules by the Court of Appeal in Detention Action v FTT [2015] 1 WLR 5341 meant that the 2005 Fast-Track Rules were also structurally unfair and ultra vires. It rejected the argument that the determinations reached were automatically a nullity, and explored the approach to be taken to setting them aside and the correct forum for doing so. Charlotte represented US.

R(Citizens UK) v SSHD

[2018] 4 WLR 123

Charlotte represented Citizens UK in their successful challenge to the fairness of the process the Home Office set up in France for considering the claims of over 1000 unaccompanied asylum seeking children to join family members in the UK. The Court of Appeal found the process was procedurally unfair and that the Home Secretary had materially led the High Court. See here and here.

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MS v SSHD

[2018] 1 WLR 389; G v SSHD [2018] EWCA Civ 2493

Charlotte represented MS and G in their challenges to decisions under the Home Secretary's Restricted Leave policy, by which the government uses ordinary discretionary immigration powers to impose significant restrictions on freedom of movement, access to employment, and education on individuals whom she cannot remove from the UK because they would face torture or ill-treatment in their home countries.

Kate Wilson v Metropolitan Police Commissioner

On 3 October 2018, the Investigatory Powers Tribunal rejected a third attempt by the police to halt the progress of this claim for violations of Ms Wilson's Articles 3,8,10,11 and 14 ECHR rights arising out of the conduct of several undercover police officers, including Mark Kennedy, in infiltrating her life as an environmental activist. The police have admitted that they violated Ms Wilson's Article 3 ECHR rights as a result of Mark Kennedy's deceitful sexual relationship with her, but the role of more senior police officers remains unclear. Charlotte represents Kate Wilson. See here.

Kamoka v Security Services

[2017] EWCA Civ 1665; [2016] EWHC 769; [2015] EWHC 60

The Court of Appeal allowed the appeal of five Libyans seeking damages for their detention between 2005-2007 pending deportation to Colonel Qadhafi's Libya under the deportation with assurances programme (DWA) on the basis of documents showing the UK security services were at the time involved in unlawful renditions to Libya. The High Court had struck out their claims as an abuse of process.

R(ZT)(Syria) v SSHD

[2016] 1 WLR 489

Charlotte represented three unaccompanied Syrian refugee children and a vulnerable adult stuck in the Calais "Jungle" who obtained a mandatory order that the Home Secretary admit them to join their family members in the UK in circumstances where the system for reuniting them established by EU Regulation 604/2013 (Dublin III) was not functioning properly.

Charlotte continues to represent children seeking to join family members in the UK and, in conjunction with the charity Citizens UK, Migrants Law Project and Bhatt Murphy Solicitors, to bring litigation aimed at ensuring that effective systems are set up to enable these children to realise their fundamental rights (see eg R(AM) v SSHD [2017] UKUT 262; R(MK, IK and HK) v SSHD [2016] UKUT 00231).

BB v Secretary of State for the Home Department

[2015] EWCA Civ 9

In April 2016 SIAC allowed the appeals of a group of five Algerians whom the Home Secretary had been attempting to deport to Algeria since 2005 under the DWA programme. After years of appeals, SIAC accepted the Algerian men's case that the assurances offered by the Algerian government were insufficient to contain the risk of torture the men faced because the assurances could not be adequately verified. Charlotte had been representing three of the Appellants since 2008. Please see here.

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DD v Secretary of State for the Home Department

[2015] EWHC 1681

The Court found that the imposition of a condition requiring the Appellant to wear an Electronic Tag violated his rights under Article 3 ECHR due to the severity of his mental health condition. Charlotte acted for the Appellant.

Bank Mellat v HM Treasury

[2014] 1 AC 700

The Supreme Court concluded that it had the power to hear closed evidence in an appeal from a judgment of the Court of Appeal reached following a closed procedure held under the Counter-Terrorism Act 2008, even though there was no express statutory power enabling it to do so. The Court also gave guidance on the circumstances in which it is appropriate to hold closed hearings. Charlotte Kilroy acted for the intervener Liberty.

AJA v Commissioner of Police

[2014] 1 W.L.R. 285

Between 2011-2014, Charlotte represented eight women deceived into having relationships with undercover police who brought a claim against the Metropolitan police for deception, assault, negligence, misfeasance in public office and breach of their rights under Article 3 and 8 ECHR. The police eventually settled the claim with the issue of a landmark apology accepting that the women's fundamental rights had been violated, and damages (see here).

The circumstances in which this deception took place is now the subject of an ongoing public inquiry announced by Home Secretary Theresa May in 2015 (see also DIL v Commissioner of Police [2014] EWHC 2184).

R (on the application of Lumsdon) v Legal Services Board

[2014] EWHC 28 Divisional Court

Charlotte acted for the Claimant in this major challenge to the Legal Service Board's decision to introduce a Quality Assurance Scheme for Advocates (QASA) for all criminal practitioners. The public interest claim, which was backed by the Criminal Bar Association, argued that QASA violated fundamental principles of the rule of law, European Union law and Article 6 ECHR.

Al Rawi v Security Service

[2012] 1 AC 531

The Supreme Court held that the adoption of a closed evidence procedure in civil proceedings would constitute a fundamental departure from the basic principles which govern common law trials. It was not therefore open to a court to adopt this procedure in the absence of statutory authority. Charlotte Kilroy acted for Mr Al Rawi.

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R(Medical Justice) v Home Secretary

[2011] EWCA 1710

The Court of Appeal upheld the High Court's decision that the Home Office's policy of giving little or no notice of removal directions to certain categories of individuals was ultra vires because it abrogated the constitutional right of access to justice. Charlotte acted for Medical Justice.

R (Cart) v. Upper Tribunal; R (U) v. Special Immigration Appeals Commission

[2010] 2 WLR 1012

The Divisional Court held SIAC was not, by virtue of its status as a superior court of record, immune from judicial review by the High Court; SIAC's decision to revoke the U's bail solely on the basis of closed evidence violated his rights under Article 5(4) ECHR and therefore fell to be quashed. Charlotte acted for the Claimant "U".

Immigration

Charlotte is expert in asylum and immigration law.

"Charlotte is excellent. Her advocacy is excellent; she really grasps clients' issues. She is my first port of call."

– CHAMBERS AND PARTNERS, 2026

She has been involved in many of the key systemic challenges to asylum policies. including successful challenges on procedural fairness and/or access to justice grounds to:

(1) The Home Secretary's Removal Notice Windows policy, Medical Justice /FB [2022] QB 185 and Limited Notice of Removal policy in Medical Justice [2011] 1 WLR 2852;

(2) The Detained Fast-Track decision-making and appellate processes in Detention Action v FTT [2015] 1 WLR 5341, and Detention Action v SSHD [2014] EWHC 2245 leading to the demise of the Detained Fast-Track.

(3) The Expedited Process established by the Home Secretary for processing family reunification claims of unaccompanied children from the 'Jungle' in Calais (Citizens UK [2018] 4 WLR 123).

(4)The President of the Upper Tribunal's decision Covid guidance on dispensing with oral hearings of asylum and human rights appeals, JCWI v President of Upper Tribunal [2021] PTSR 800.

She was instrumental in the litigation which led to hundreds of unaccompanied minors being able for the first time to access safe and lawful routes to family reunification with relatives in the UK under EU Regulation 604/2013 (Dublin III) (see ZT(Syria) [2016] 1 WLR 4894, BAA v SSHD [2021] 4 WLR 124, FWF v SSHD [2021] 1 WLR 3781).

She is also expert in proceedings in SIAC and claims raising national security or other public interest issues. Thus she has represented individuals challenging:

(1) Deportation decisions raising national security issues (see eg BB v Secretary of State for the Home Department [2015] EWCA Civ 9);

(2) Deprivation of citizenship (current);

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(3) Decisions to grant restrictive leave when excluded from refugee status (MS v SSHD [2018] 1 WLR 389; G v SSHD [2018] EWCA Civ 2493).

Charlotte is currently representing Asylum Aid in its challenge to the Rwanda scheme on procedural fairness grounds (R (AAA) and (Asylum Aid) v SSHD [2023] HRLR 4 (on appeal)

Cases

R(Asylum Aid) v Secretary of State for the Home Department

[2022] EWHC 3230

The High Court dismissed Asylum Aid's challenge to the fairness of the Secretary of State's Rwanda scheme, but granted permission to appeal the decision.

R(Safe Passage International) v SSHD [2021] EWHC 1821

[2021] EWHC 1821

On 2 July 2021 the Divisional Court declared that two key aspects of the Home Office's policy guidance on the reunification of unaccompanied asylum-seeking children with their relatives in the UK under EU Regulation 604/2013 (Dublin III) were erroneous in law, applying the test established in Gillick v West Norfolk and Wisbech Area Health Authority [1986] AC 112.

That guidance unlawfully advised case-workers to refuse applications which had not yet been properly investigated because the Home Office had not managed to complete enquiries within strict Dublin III timescales. It also unlawfully advised case-workers that local authority assessments on family relationships should not be commissioned unless the Home Office had already decided there was a family link, so that applications might be refused without the benefit of the local authority's views. The Court emphasised the importance for individuals, the Home Office and the courts of correcting guidance which was erroneous in law, so as to avoid unlawful decision-making and resulting challenges (§98 Judgment).

Charlotte Kilroy QC represented the Claimant, charity Safe Passage International.

R (FB) Afghanistan; R (Medical Justice) v SSHD

[2021] 2 WLR 839

Charlotte acted for Medical Justice in its successful challenge to the SSHD's policy of using no notice removal windows to remove individuals from the UK. The Court of Appeal overturned the High Court's judgment, and a parallel ruling by the Upper Tribunal, and found that the 'no-notice' removals policy, under which around 40,000 removals had been effected between 2015 and March 2019, was ultra vires because it gave rise to 'an unacceptable risk of interference with the right of access to court by exposing a category of irregular migrants, including those who have claims on article 2 and/or article 3 human rights and protection grounds, to the risk of removal without any proper opportunity to challenge a relevant decision in a court or tribunal.' The Court (the Lord Chief Justice, Lord Justice Hickinbottom and Lord Justice Coulson) stated that the right to access the court is "an absolute and inviolable right . . . not a relative right to be balanced against other rights and interests" (§117)

Press coverage can be found at the BBC Online, BBC Radio 4, The Telegraph, The Daily Mail, The Daily Mirror, The Independent, The Guardian and the Law Society Gazette

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R(FTH) v SSHD

[2020] EWCA Civ 494

Charlotte is acting for an unaccompanied minor unlawfully refused transfer to the UK to join his brother under the procedurally unfair 'expedited process' which the SSHD established in the aftermath of the destruction of the Calais Jungle. The Court of Appeal held that it was bound by an earlier judgment to conclude that although the decision was unlawful at common law it was not a breach of Article 8 ECHR and thus damages could not be awarded.

R (ota JCWI) v President of the UT(IAC)

[2020] EWHC 3103 (Admin); [2021] PTSR 800

Represented the successful Claimant charity in its challenge to the lawfulness of Guidance by which the norm of oral appeal hearings was replaced with a default of paper determinations of statutory asylum and immigration appeals during the Covid-19 pandemic. The Guidance was ultra vires, and also unlawful applying the principle in R(Letts) v Lord Chancellor [2015] 1 WLR 4497 because it was inconsistent with common law standards of procedural fairness.

R (Here For Good) v SSHD

Charlotte represented the Claimant, Here for Good, in a successful challenge to the SSHD's guidance on how absences from the UK due to Covid-19 would impact EU citizens making applications for leave to remain under the EU Settlement Scheme (EUSS). After Here for Good's claim was lodged, the SSHD withdrew the guidance and replaced it.

R(MS) v SSHD

[2019] EWCA Civ 1340

Charlotte acted for MS in the SSHD's appeal concerning whether the Upper Tribunal was entitled to decide for itself whether two brothers seeking family reunification under EU Regulation 604/2013 (Dublin III) were related as they claimed. The SSHD argued that the right to review on fact and law in Article 27 Dublin III did not apply to refusals of take charge requests. The Court of Appeal dismissed the appeal on the grounds that it was entirely academic; MS had now arrived in the UK to join his sibling and even if Article 27 did not encompass refusals of TCRs, which the Court was inclined to think it did, the Tribunal was in any case required to assess for itself whether the brothers were related under Article 8 ECHR as explained in Balajigari [2019] 1 WLR 4647. The judgment and livestream of the hearing are available here.

R(PN) (Uganda) v SSHD

[2019] EWCA Civ 1508; [2019] EWHC 1616

Charlotte acted for the claimant PN in her successful challenge to the fairness of her 2013 appeal determination under the 2005 Fast-Track Rules, obtaining a mandatory order that the SSHD use her best endeavours to return her from Uganda to the UK. Coverage of the case is available in The Guardian and Free Movement.

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R(MS) v SSHD

[2019] UKUT 00009 (IAC)

Charlotte represented unaccompanied asylum-seeking minor MS in his successful challenge to the Home Secretary's refusal of claim under EU Regulation Dublin III to join his brother in the UK. The judgment confirms that the Home Office has an investigative duty on receipt of a request from another Member State, and cannot simply refuse a request based on information in Home Office files. See here.

R(TN)(US) v SSHD

[2019] 1 WLR 2647; [2017] 1 W.L.R. 2595; [2019] 1 WLR 2675

The Court concluded that the quashing of the 2014 Fast-Track Rules by the Court of Appeal in Detention Action v FTT [2015] 1 WLR 5341 meant that the 2005 Fast-Track Rules were also structurally unfair and ultra vires. It rejected the argument that the determinations reached were automatically a nullity, and explored the approach to be taken to setting them aside and the correct forum for doing so. Charlotte represented US.

MS v SSHD

[2018] 1 WLR 389; G v SSHD [2018] EWCA Civ 2493

Charlotte represented MS and G in their challenges to decisions under the Home Secretary's Restricted Leave policy, by which the government uses ordinary discretionary immigration powers to impose significant restrictions on freedom of movement, access to employment, and education on individuals whom she cannot remove from the UK because they would face torture or ill-treatment in their home countries.

R(Citizens UK) v SSHD

[2018] 4 WLR 123

Charlotte represented Citizens UK in their successful challenge to the fairness of the process the Home Office set up in France for considering the claims of over 1000 unaccompanied asylum seeking children to join family members in the UK. The Court of Appeal found the process was procedurally unfair and that the Home Secretary had materially led the High Court. See here and here.

R(ZT)(Syria) v SSHD

[2016] 1 WLR 489

Charlotte represented three unaccompanied Syrian refugee children and a vulnerable adult stuck in the Calais "Jungle" who obtained a mandatory order that the Home Secretary admit them to join their family members in the UK in circumstances where the system for reuniting them established by EU Regulation 604/2013 (Dublin III) was not functioning properly.

Charlotte continues to represent children seeking to join family members in the UK and, in conjunction with the charity Citizens UK, Migrants Law Project and Bhatt Murphy Solicitors, to bring litigation aimed at ensuring that effective systems are set up to enable these children to realise their fundamental rights (see eg R(AM) v SSHD [2017] UKUT 262; R(MK, IK and HK) v SSHD [2016] UKUT 00231).

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R(Detention Action) v SSHD; R(Detention Action) v SSHD; R(Detention Action) v SSHD

[2015] 1 W.L.R. 5341; [2014] EWCA Civ 1634; [2014] EWHC 2245R

Between 2013-2015, Charlotte acted for the charity Detention Action in the litigation which led to High Court and Court of Appeal judgments that a) the Home Secretary's detained fast-track asylum system (DFT) was operating unlawfully, b) her fast-track detention policy was unlawful and c) the Tribunal's Fast Track Procedure Rules were structurally unfair and ultra vires. The DFT, which had been in operation for over 15 years, was suspended shortly afterwards.

BB v Secretary of State for the Home Department

[2015] EWCA Civ 9

In April 2016 SIAC allowed the appeals of a group of five Algerians whom the Home Secretary had been attempting to deport to Algeria since 2005 under the DWA programme. After years of appeals, SIAC accepted the Algerian men's case that the assurances offered by the Algerian government were insufficient to contain the risk of torture the men faced because the assurances could not be adequately verified. Charlotte had been representing three of the Appellants since 2008. Please see here.

R(FwF) v SSHD

[2021] 1 WLR 3781

Charlotte acted for unaccompanied minors seeking to join family members in the UK under the family reunification provisions of EU Regulation 604/2013 (Dublin III) who successfully challenged the SSHD's failure to comply with Dublin III time limits and her policy of sending "holding letters" and then sought damages for the delay in reunification under the Human Rights Act 1998 and EU law. The Court of Appeal found the unlawfulness of the SSHD's decisions did not constitute a breach of Article 8 ECHR.

R(Medical Justice) v Home Secretary

[2011] EWCA 1710

The Court of Appeal upheld the High Court's decision that the Home Office's policy of giving little or no notice of removal directions to certain categories of individuals was ultra vires because it abrogated the constitutional right of access to justice. Charlotte acted for Medical Justice.

Public & Regulatory

Charlotte has extensive experience in public law litigation, with a long track record of success in constitutional challenges, complex claims, and challenges to systems and policies.

She has appeared in many of the leading cases on constitutional law, access to justice and procedural fairness including:

(1) On attempts to oust judicial review of tribunal decisions, U v SIAC/Cart [2010] 2 WLR 1012

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(2) On natural justice and closed material proceedings, Al Rawi [2012] 1 AC 531 and Bank Mellat [2014] AC 700

(3) On access to court, Medical Justice /FB [2022] QB 185;

(4) On procedural fairness Citizens UK [2018] 4 WLR 123 and Detention Action v FTT [2015] 1 WLR 5341.

She has been involved in many key systemic challenges to policies, including successful challenges to:

(1) The Home Secretary's Removal Notice Windows policy, Medical Justice /FB [2022] QB 185 and Limited Notice of Removal policy in Medical Justice [2011] 1 WLR 2852;

(2) The Detained Fast-Track decision-making and appellate processes in Detention Action v FTT [2015] 1 WLR 5341, and Detention Action v SSHD [2014] EWHC 2245 leading to the demise of the Detained Fast-Track.

(3) The Expedited Process established by the Home Secretary for processing family reunification claims of unaccompanied children from the 'Jungle' in Calais (Citizens UK [2018] 4 WLR 123).

(4)The President of the Upper Tribunal's decision Covid guidance on dispensing with oral hearings of asylum and human rights appeals, JCWI v President of Upper Tribunal [2021] PTSR 800.

(5) The Home Secretary's published policy on reunification of unaccompanied minors under EU Regulation 604/2013 (see R(Safe Passage) v SSHD [2022] 1 WLR 165).

She is expert in using judicial review in novel contexts to address intractable problems. Thus she was instrumental in the litigation which led to hundreds of unaccompanied minors being able for the first time to access safe and lawful routes to family reunification with relatives in the UK under EU Regulation 604/2013 (Dublin III) (see ZT(Syria) [2016] 1 WLR 4894, BAA v SSHD [2021] 4 WLR 124, FWF v SSHD [2021] 1 WLR 3781).

She also appeared in the leading case on the police's approach to assessing compliance with Article 8 ECHR when issuing Enhanced Criminal Record Certificates (R(L) v Commissioner of Police [2010] 1 AC 410

Cases

R(CND) v Prime Minister

[2002] EWHC 2777

The Divisional Court rejected a request from CND for an advisory declaration that Resolution 1441 would not authorise an invasion of Iraq in the event of non-compliance with its terms.

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R(Kanu) v Secretary of State for Foreign and Commonwealth Affairs

[2023] EWHC 652

The High Court dismissed a challenge to the lawfulness of the Secretary of State for Foreign and Commonwealth Affairs' approach to deciding whether to make representations to the Nigerian government about the detention and release of the Claimant's brother, the Leader of the Indigenous People of Biafra (IPOB), Nnamdi Kanu, a British citizen. There was overwhelming evidence that Mr Kanu had been the victim of extraordinary rendition from Kenya to Nigeria so that he was being arbitrarily detained there, but the High Court rejected the argument that it was unlawful for the Foreign Secretary to maintain a 'provisional view' of the legality of Mr Kanu's transfer.

R(Asylum Aid) v Secretary of State for the Home Department

[2022] EWHC 3230

The High Court dismissed Asylum Aid's challenge to the fairness of the Secretary of State's Rwanda scheme, but granted permission to appeal the decision.

Big Brother Watch v Cabinet Office

In response for a call for evidence in relation to the use of Covid Status Certificates as a means of accessing entertainment venues, shops and other services, and in the course of employment, Big Brother Watch commissioned a Note identifying the legal issues raised by the proposed scheme. Charlotte led a team of Counsel in drafting the Note addressing the implications of the certificates in common law, human rights and equality law and employment law.

R(Safe Passage International) v SSHD [2021] EWHC 1821

[2021] EWHC 1821

On 2 July 2021 the Divisional Court declared that two key aspects of the Home Office's policy guidance on the reunification of unaccompanied asylum-seeking children with their relatives in the UK under EU Regulation 604/2013 (Dublin III) were erroneous in law, applying the test established in Gillick v West Norfolk and Wisbech Area Health Authority [1986] AC 112.

That guidance unlawfully advised case-workers to refuse applications which had not yet been properly investigated because the Home Office had not managed to complete enquiries within strict Dublin III timescales. It also unlawfully advised case-workers that local authority assessments on family relationships should not be commissioned unless the Home Office had already decided there was a family link, so that applications might be refused without the benefit of the local authority's views. The Court emphasised the importance for individuals, the Home Office and the courts of correcting guidance which was erroneous in law, so as to avoid unlawful decision-making and resulting challenges (§98 Judgment).

Charlotte Kilroy QC represented the Claimant, charity Safe Passage International.

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R (FB) Afghanistan; R (Medical Justice) v SSHD

[2021] 2 WLR 839

Charlotte acted for Medical Justice in its successful challenge to the SSHD's policy of using no notice removal windows to remove individuals from the UK. The Court of Appeal overturned the High Court's judgment, and a parallel ruling by the Upper Tribunal, and found that the 'no-notice' removals policy, under which around 40,000 removals had been effected between 2015 and March 2019, was ultra vires because it gave rise to 'an unacceptable risk of interference with the right of access to court by exposing a category of irregular migrants, including those who have claims on article 2 and/or article 3 human rights and protection grounds, to the risk of removal without any proper opportunity to challenge a relevant decision in a court or tribunal.' The Court (the Lord Chief Justice, Lord Justice Hickinbottom and Lord Justice Coulson) stated that the right to access the court is "an absolute and inviolable right . . . not a relative right to be balanced against other rights and interests" (§117)

Press coverage can be found at the BBC Online, BBC Radio 4, The Telegraph, The Daily Mail, The Daily Mirror, The Independent, The Guardian and the Law Society Gazette

R(FTH) v SSHD

[2020] EWCA Civ 494

Charlotte is acting for an unaccompanied minor unlawfully refused transfer to the UK to join his brother under the procedurally unfair 'expedited process' which the SSHD established in the aftermath of the destruction of the Calais Jungle. The Court of Appeal held that it was bound by an earlier judgment to conclude that although the decision was unlawful at common law it was not a breach of Article 8 ECHR and thus damages could not be awarded.

R (Here For Good) v SSHD

Charlotte represented the Claimant, Here for Good, in a successful challenge to the SSHD's guidance on how absences from the UK due to Covid-19 would impact EU citizens making applications for leave to remain under the EU Settlement Scheme (EUSS). After Here for Good's claim was lodged, the SSHD withdrew the guidance and replaced it.

R (ota JCWI) v President of the UT(IAC)

[2020] EWHC 3103 (Admin); [2021] PTSR 800

Represented the successful Claimant charity in its challenge to the lawfulness of Guidance by which the norm of oral appeal hearings was replaced with a default of paper determinations of statutory asylum and immigration appeals during the Covid-19 pandemic. The Guidance was ultra vires, and also unlawful applying the principle in R(Letts) v Lord Chancellor [2015] 1 WLR 4497 because it was inconsistent with common law standards of procedural fairness.

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R(MS) v SSHD

[2019] EWCA Civ 1340

Charlotte acted for MS in the SSHD's appeal concerning whether the Upper Tribunal was entitled to decide for itself whether two brothers seeking family reunification under EU Regulation 604/2013 (Dublin III) were related as they claimed. The SSHD argued that the right to review on fact and law in Article 27 Dublin III did not apply to refusals of take charge requests. The Court of Appeal dismissed the appeal on the grounds that it was entirely academic; MS had now arrived in the UK to join his sibling and even if Article 27 did not encompass refusals of TCRs, which the Court was inclined to think it did, the Tribunal was in any case required to assess for itself whether the brothers were related under Article 8 ECHR as explained in Balajigari [2019] 1 WLR 4647. The judgment and livestream of the hearing are available here.

R(MS) v SSHD

[2019] UKUT 00009 (IAC)

Charlotte represented unaccompanied asylum-seeking minor MS in his successful challenge to the Home Secretary's refusal of claim under EU Regulation Dublin III to join his brother in the UK. The judgment confirms that the Home Office has an investigative duty on receipt of a request from another Member State, and cannot simply refuse a request based on information in Home Office files. See here.

R(TN)(US) v SSHD

[2019] 1 WLR 2647; [2017] 1 W.L.R. 2595; [2019] 1 WLR 2675

The Court concluded that the quashing of the 2014 Fast-Track Rules by the Court of Appeal in Detention Action v FTT [2015] 1 WLR 5341 meant that the 2005 Fast-Track Rules were also structurally unfair and ultra vires. It rejected the argument that the determinations reached were automatically a nullity, and explored the approach to be taken to setting them aside and the correct forum for doing so. Charlotte represented US.

R(PN) (Uganda) v SSHD

[2019] EWCA Civ 1508; [2019] EWHC 1616

Charlotte acted for the claimant PN in her successful challenge to the fairness of her 2013 appeal determination under the 2005 Fast-Track Rules, obtaining a mandatory order that the SSHD use her best endeavours to return her from Uganda to the UK. Coverage of the case is available in The Guardian and Free Movement.

MS v SSHD

[2018] 1 WLR 389; G v SSHD [2018] EWCA Civ 2493

Charlotte represented MS and G in their challenges to decisions under the Home Secretary's Restricted Leave policy, by which the government uses ordinary discretionary immigration powers to impose significant restrictions on freedom of movement, access to employment, and education on individuals whom she cannot remove from the UK because they would face torture or ill-treatment in their home countries.

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R(Citizens UK) v SSHD

[2018] 4 WLR 123

Charlotte represented Citizens UK in their successful challenge to the fairness of the process the Home Office set up in France for considering the claims of over 1000 unaccompanied asylum seeking children to join family members in the UK. The Court of Appeal found the process was procedurally unfair and that the Home Secretary had materially led the High Court. See here and here.

R(AT) v SSHD

[2017] EWHC 2714; [2018] A.C.D. 15

The Court refused to grant the Home Secretary relief from sanctions after non-compliance with the CPR provisions on service of his defence, including in one case, preventing the Home Secretary from appearing at the hearing of the claim. Charlotte represented the claimants. (see R(AT) v SSHD [2017] EWHC 2714; [2018] A.C.D. 15, R(ES) v SSHD [2017] EWHC 3224 (Admin); [2018] A.C.D. 20, R(AT) v SSHD [2017] EWHC 3210.)

R(ZT)(Syria) v SSHD

[2016] 1 WLR 489

Charlotte represented three unaccompanied Syrian refugee children and a vulnerable adult stuck in the Calais "Jungle" who obtained a mandatory order that the Home Secretary admit them to join their family members in the UK in circumstances where the system for reuniting them established by EU Regulation 604/2013 (Dublin III) was not functioning properly.

Charlotte continues to represent children seeking to join family members in the UK and, in conjunction with the charity Citizens UK, Migrants Law Project and Bhatt Murphy Solicitors, to bring litigation aimed at ensuring that effective systems are set up to enable these children to realise their fundamental rights (see eg R(AM) v SSHD [2017] UKUT 262; R(MK, IK and HK) v SSHD [2016] UKUT 00231).

R(Detention Action) v SSHD; R(Detention Action) v SSHD; R(Detention Action) v SSHD

[2015] 1 W.L.R. 5341; [2014] EWCA Civ 1634; [2014] EWHC 2245R

Between 2013-2015, Charlotte acted for the charity Detention Action in the litigation which led to High Court and Court of Appeal judgments that a) the Home Secretary's detained fast-track asylum system (DFT) was operating unlawfully, b) her fast-track detention policy was unlawful and c) the Tribunal's Fast Track Procedure Rules were structurally unfair and ultra vires. The DFT, which had been in operation for over 15 years, was suspended shortly afterwards.

R (on the application of Lumsdon) v Legal Services Board

[2014] EWHC 28 Divisional Court

Charlotte acted for the Claimant in this major challenge to the Legal Service Board's decision to introduce a Quality Assurance Scheme for Advocates (QASA) for all criminal practitioners. The public interest claim, which was backed by the Criminal Bar Association, argued that QASA violated fundamental principles of the rule of law, European Union law and Article 6 ECHR.

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Bank Mellat v HM Treasury

[2014] 1 AC 700

The Supreme Court concluded that it had the power to hear closed evidence in an appeal from a judgment of the Court of Appeal reached following a closed procedure held under the Counter-Terrorism Act 2008, even though there was no express statutory power enabling it to do so. The Court also gave guidance on the circumstances in which it is appropriate to hold closed hearings. Charlotte Kilroy acted for the intervener Liberty.

Al Rawi v Security Service

[2012] 1 AC 531

The Supreme Court held that the adoption of a closed evidence procedure in civil proceedings would constitute a fundamental departure from the basic principles which govern common law trials. It was not therefore open to a court to adopt this procedure in the absence of statutory authority. Charlotte Kilroy acted for Mr Al Rawi.

R(Medical Justice) v Home Secretary

[2011] EWCA 1710

The Court of Appeal upheld the High Court's decision that the Home Office's policy of giving little or no notice of removal directions to certain categories of individuals was ultra vires because it abrogated the constitutional right of access to justice. Charlotte acted for Medical Justice.

R (Cart) v. Upper Tribunal; R (U) v. Special Immigration Appeals Commission

[2010] 2 WLR 1012

The Divisional Court held SIAC was not, by virtue of its status as a superior court of record, immune from judicial review by the High Court; SIAC's decision to revoke the U's bail solely on the basis of closed evidence violated his rights under Article 5(4) ECHR and therefore fell to be quashed. Charlotte acted for the Claimant “U”.

R (L.) v. Commr of Police for the Metropolis

[2010] 1 AC 410

The Supreme Court ruled that when deciding under the Police Act 1997 whether to disclose information about an individual's past to an employer on an enhanced criminal record certificate the police must weigh the need to protect children against an individual's right to private life under Article 8 ECHR. The Court of Appeal had been wrong to conclude in X v Chief Constable of West Midlands [2005] 1 W.L.R. 65 that there was a presumption in favour of disclosure. Charlotte acted for L.

Rule of Law

Charlotte has appeared in many of the leading cases raising constitutional and other issues relating to the rule of law.

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(1) On attempts to oust judicial review of tribunal decisions, U v SIAC/Cart [2010] 2 WLR 1012

(2) On natural justice and closed material proceedings, Al Rawi [2012] 1 AC 531 and Bank Mellat [2014] AC 700

(3) On access to court, Medical Justice /FB [2022] QB 185;

(4) On procedural fairness and the duty of candour Citizens UK [2018] 4 WLR 123.

Cases

R (FB) Afghanistan; R (Medical Justice) v SSHD

[2021] 2 WLR 839

Charlotte acted for Medical Justice in its successful challenge to the SSHD's policy of using no notice removal windows to remove individuals from the UK. The Court of Appeal overturned the High Court's judgment, and a parallel ruling by the Upper Tribunal, and found that the 'no-notice' removals policy, under which around 40,000 removals had been effected between 2015 and March 2019, was ultra vires because it gave rise to 'an unacceptable risk of interference with the right of access to court by exposing a category of irregular migrants, including those who have claims on article 2 and/or article 3 human rights and protection grounds, to the risk of removal without any proper opportunity to challenge a relevant decision in a court or tribunal.' The Court (the Lord Chief Justice, Lord Justice Hickinbottom and Lord Justice Coulson) stated that the right to access the court is "an absolute and inviolable right . . . not a relative right to be balanced against other rights and interests" (§117)

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Big Brother Watch v Cabinet Office

In response for a call for evidence in relation to the use of Covid Status Certificates as a means of accessing entertainment venues, shops and other services, and in the course of employment, Big Brother Watch commissioned a Note identifying the legal issues raised by the proposed scheme. Charlotte led a team of Counsel in drafting the Note addressing the implications of the certificates in common law, human rights and equality law and employment law.

R(Detention Action) v SSHD; R(Detention Action) v SSHD; R(Detention Action) v SSHD

[2015] 1 W.L.R. 5341; [2014] EWCA Civ 1634; [2014] EWHC 2245R

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Bank Mellat v HM Treasury

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EU Law

Charlotte is experienced in EU law, and related issues arising following the UK's exit from the EU.

She was instrumental in the litigation which led to hundreds of unaccompanied minors being able for the first time to access safe and lawful routes to family reunification with relatives in the UK under EU Regulation 604/2013 (Dublin III) (see ZT(Syria) [2016] 1 WLR 4894). She was also involved in a series of challenges in the High Court, Upper Tribunal and the Court of Appeal concerning the implementation of Dublin III (see R(Safe Passage) v SSHD [2022] 1 WLR 165, BAA v SSHD [2021] 4 WLR 124, FWF v SSHD [2021] 1 WLR 3781).

She has appeared in competition cases in the CJEU (see Tokai Carbon and others v European Commission (Graphite Electrodes) [2004] 5 CMLR 28; BPB v European Commission [2008] 5 CMLR 18).

In 2021 she brought a successful challenge on behalf of charity Here for Good to the SSHD's guidance on how absences from the UK due to Covid-19 would impact EU citizens making applications for leave to remain under the EU Settlement Scheme (EUSS): see https://www.hereforgoodlaw.org/strategic-litigation.

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Cases

R(Safe Passage International) v SSHD [2021] EWHC 1821

[2021] EWHC 1821

On 2 July 2021 the Divisional Court declared that two key aspects of the Home Office's policy guidance on the reunification of unaccompanied asylum-seeking children with their relatives in the UK under EU Regulation 604/2013 (Dublin III) were erroneous in law, applying the test established in Gillick v West Norfolk and Wisbech Area Health Authority [1986] AC 112.

That guidance unlawfully advised case-workers to refuse applications which had not yet been properly investigated because the Home Office had not managed to complete enquiries within strict Dublin III timescales. It also unlawfully advised case-workers that local authority assessments on family relationships should not be commissioned unless the Home Office had already decided there was a family link, so that applications might be refused without the benefit of the local authority's views. The Court emphasised the importance for individuals, the Home Office and the courts of correcting guidance which was erroneous in law, so as to avoid unlawful decision-making and resulting challenges (§98 Judgment).

Charlotte Kilroy QC represented the Claimant, charity Safe Passage International.

R(MS) v SSHD

[2019] EWCA Civ 1340

Charlotte acted for MS in the SSHD's appeal concerning whether the Upper Tribunal was entitled to decide for itself whether two brothers seeking family reunification under EU Regulation 604/2013 (Dublin III) were related as they claimed. The SSHD argued that the right to review on fact and law in Article 27 Dublin III did not apply to refusals of take charge requests. The Court of Appeal dismissed the appeal on the grounds that it was entirely academic; MS had now arrived in the UK to join his sibling and even if Article 27 did not encompass refusals of TCRs, which the Court was inclined to think it did, the Tribunal was in any case required to assess for itself whether the brothers were related under Article 8 ECHR as explained in Balajigari [2019] 1 WLR 4647. The judgment and livestream of the hearing are available here.

R (Here For Good) v SSHD

Charlotte represented the Claimant, Here for Good, in a successful challenge to the SSHD's guidance on how absences from the UK due to Covid-19 would impact EU citizens making applications for leave to remain under the EU Settlement Scheme (EUSS). After Here for Good's claim was lodged, the SSHD withdrew the guidance and replaced it.

R(FwF) v SSHD

[2021] 1 WLR 3781

Charlotte acted for unaccompanied minors seeking to join family members in the UK under the family reunification provisions of EU Regulation 604/2013 (Dublin III) who successfully challenged the SSHD's failure to comply with Dublin III time limits and her policy of sending "holding letters" and then sought damages for the delay in reunification under the Human Rights Act 1998 and EU law. The Court of Appeal found the unlawfulness of the SSHD's decisions did not constitute a breach of Article 8 ECHR.

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Public International Law

Charlotte is experienced in litigation raising issues of international law in the UK courts. She wrote a key opinion on the lawfulness of the prospective invasion of Iraq see http://lcnp.org/global/CNDLegalOpinion.pdf), and acted on behalf of CND in its request to the Divisional Court for an advisory opinion on the lawfulness of the Iraq war: R (CND) v Prime Minister [2002] EWHC 2777.

She has over a period of some years acted and continues to act for Libyan nationals bringing civil claims against the security services for their complicity in unlawful detention and ill-treatment at the hands of Colonel Qadhafi's security services (see eg Kamoka v Security Services [2017] EWCA Civ 1665)

Charlotte is also representing the brother of Nnamdi Kanu, the Leader of the Indigenous People of Biafra, and a British citizen who is the victim of extraordinary rendition to Nigeria, in a challenge to the steps the Foreign Secretary has taken to assist him (see R(Kanu) v SSFCDA [2002] EWCA 1598 here)

Cases

Kamoka v Security Services

[2017] EWCA Civ 1665; [2016] EWHC 769; [2015] EWHC 60

The Court of Appeal allowed the appeal of five Libyans seeking damages for their detention between 2005-2007 pending deportation to Colonel Qadhafi's Libya under the deportation with assurances programme (DWA) on the basis of documents showing the UK security services were at the time involved in unlawful renditions to Libya. The High Court had struck out their claims as an abuse of process.

R(Kanu) v Secretary of State for Foreign and Commonwealth Affairs

[2023] EWHC 652

The High Court dismissed a challenge to the lawfulness of the Secretary of State for Foreign and Commonwealth Affairs' approach to deciding whether to make representations to the Nigerian government about the detention and release of the Claimant's brother, the Leader of the Indigenous People of Biafra (IPOB), Nnamdi Kanu, a British citizen. There was overwhelming evidence that Mr Kanu had been the victim of extraordinary rendition from Kenya to Nigeria so that he was being arbitrarily detained there, but the High Court rejected the argument that it was unlawful for the Foreign Secretary to maintain a 'provisional view' of the legality of Mr Kanu's transfer.

R(CND) v Prime Minister

[2002] EWHC 2777

The Divisional Court rejected a request from CND for an advisory declaration that Resolution 1441 would not authorise an invasion of Iraq in the event of non-compliance with its terms.

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ACHIEVEMENTS

Education

Magdalen College, Oxford University BA Honours in Classics

Inner Temple CPE Law Award (1996)

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