

Significant judgment dealing with diplomatic immunity in child protection proceedings.

1st June 2020

Jo Delahunty QC, Chris Barnes and Lucy Logan Green appeared on behalf of the children, instructed by Deborah Marsden at Creighton & Partners, in *A Local Authority v AG (No. 2)* [2020] EWHC 1346 (Fam) ([click here](#) for link to judgment). The recent judgment follows the earlier decision in *A Local Authority v AG* [2020] EWFC 18 ([click here](#) for link to judgment) in which Mostyn J found that '... by virtue of diplomatic immunity [care] proceedings cannot proceed and must be stayed'.

The issue in *A Local Authority v AG (No. 2)* was whether the local authority could bring pursue a claim that the Diplomatic Privileges Act 1964 is incompatible with Article 3 of the 1950 European Convention for the Protection of Human Rights in circumstances where the issue had become 'academic'. The Secretary of State for Foreign and Commonwealth Affairs, instructing Sir James Eadie QC and Prof Vaughan Lowe QC opposed the continuation of the claim.

In a decision that is significant in providing a route to the resolution of the question of diplomatic immunity in child protection proceedings, and more broadly in its consideration of the circumstances in which 'academic' claims for declarations of incompatibility can be heard, Mostyn J accepted the argument advanced on behalf of the children that 'there are good reasons in the public interest why the declaration of incompatibility claim should be allowed to proceed'. Subject to any appeal, the claim will now proceed to be determined later in the year.

In the proceedings Jo, Chris and Lucy have worked in collaboration with Prof Antonios Tzanakopolous of the Public International Law Group at the University of Oxford.