



KINGS
CHAMBERS



MANCHESTER

36 Young Street, Manchester, M3 3FT
Tel: 0161 832 9082 Fax: 0161 835 2139
DX: 718188 (MCH 3)

LEEDS

5 Park Square, Leeds, LS1 2NE
Tel: 0113 242 1123 Fax: 0113 242 1124
DX: 713113 (LEEDS PARK SQ)

Clerked by:

William Brown
Stephen Loxton

Simon Burrows

Year of Call: 1990

Profile

Simon has a particular interest in cases involving the human rights of those who lack mental capacity or are mentally disordered.

Court of Protection: welfare decisions, DOLS, medical treatment decisions; Advance Decisions and LPAs, protection of vulnerable adults: advising and representing on behalf of persons thought to be incapacitated, the Official Solicitor, Local Authorities, PCTs, and families.

Mental Health: Tribunals, Appeals and Judicial Review, Restricted Patients, interface with the MCA/DOLS, displacement of nearest relative applications: advice and representation.

Clinical Negligence: particularly in relation to mental health and mental capacity cases; Article 2 cases; Inquests.

Personal injury: a particular emphasis on work-related accidents, cases involving complicated medical and quantum issues; public provision to meet disability before and after personal injury litigation, including Court of Protection matters to protect vulnerable adults.

Human Rights: mostly concerning the mentally disordered or incapable, Articles 2, 3, 5, 6 and 8.

Regulation of Care Homes, Children's Homes, Hospitals and GMC work.

Cases

R (RB) v. First-tier Tribunal & MoJ [2010] UKUT 160 (AAC)- the first case in which the Upper Tribunal has judicially reviewed a decision of the First-tier Tribunal- in this case whether the Regional Tribunal Judge was justified in setting aside a decision of the First-tier. In this case the UT gave guidance on the principles to be applied when the FTT reviewed its own decision, and set aside the Regional Tribunal Judge's decision

GJ v. A Foundation Trust, A PCT and the Secretary of State for Health [2009] EWHC 2972 (Fam.) (Charles, J): the first case decided in the High Court (sitting as the Court of Protection) concerning ineligibility for detention under the deprivation of liberty safeguards on the grounds that the patient "could" be detained under the Mental Health Act

Moore v Welwyn Components (reported as part of Hartman v South Essex HA [2005] EWCA Civ. 06) Work related stress

Mitchell v CSCl [2004] 0369 EA

Refusal to register the manager of a children's home

Park Manor v Commission for Social Care Inspection [2002] 0360 EA

A long running case involving the cancellation of a care home, one aspect of which related to consent to examination and the human rights of residents, and was the very last case to be heard by the Registered Homes Tribunal

Priestley v Harrogate HA [2001] EWCA Civ 183

Appeal following a successful High Court claim by a nurse as a result of a negligent episiotomy carried out by her own Hospital, issues of inappropriate judicial behaviour.

Burke v Lancashire County Council [2001] EWCA Civ 1679

Foreseeability in negligence

Recent unreported cases and current work:

Acted for the regulator in an appeal by the proprietor of a care home in Manchester which was struck out on our application as having no reasonable prospect of success, the first time this has been done (to my knowledge) under the new HESC Rules.

Acting in the Court of Protection for a family whose elderly mother lacked capacity and was taken from the Hospital where she had been detained and moved away from the area without consultation with her family.

Acting for a PCT in a successful application for its costs against a patient's daughter where the daughter had acted unreasonably in her conduct of her claim to the Court of Protection.

Acting for the Official Solicitor in the Court of Protection in another case involving a Local Authority application for a person thought to be lacking capacity to be subject to a care regime against her expressed wishes and those of her family.

For the partner of a person subject to welfare orders in the Court of Protection who wishes to live with the person and for them to marry (including the issue of consent to sexual relations).

Representing a restricted patient seeking a conditional discharge from Hospital in circumstances where the conditions may amount to a deprivation of liberty.

Advising and representing a patient subject to a community treatment order where the conditions amount to a deprivation of liberty.

Advising on a number of MHT cases where appeals have been considered.

Acting at inquests for a family whose father committed suicide whilst an informal patient at a Hospital (where the coroner made a r43 report on the Hospital's observations policy), and another family where their mother/wife died whilst an in-patient at a psychiatric hospital, the cause of death was found to be organ failure due to the over prescription of anti-psychotic medication.

An increasing number of cases- mostly for Hospitals but also for families- involving the suicides of psychiatric patients who were not formally detained in Hospital and whether they attract the Article 2 duty that detained patients do, and whether family members may make claims under Article 2 (i.e. whether they are "victims" within s.7 HRA)?

Publications

Chapter on Mental Health Law in forthcoming title on Judicial Review (Jordans)

Career & Education

University of Durham

B.A. (philosophy)

Dip. Law; LLM.

Call: Inner Temple, 1990

Tribunal Judge, First-tier Tribunal (Mental Health)

(previously President, Mental Health Review Tribunal): 2003- date

Deputy Regional Chairman, MHRT (North): 2008