

Dr Oliver Lewis



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Profile

Responding to the Covid-19 crisis

While Oliver continues his Court of Protection and public law practice, during the Covid-19 crisis he is available to advise people with disabilities, their families and relevant public bodies (in the UK and abroad) on human rights-based solutions to the myriad of issues that the pandemic raises. His problem-solving approach enables him to provide rapid and practical advice and representation, including drafting judicial review pre-action correspondence. A recent **example** for the parents of an autistic man detained in a hospital force an NHS Trust which led the Trust to change its visits policy to take into account patients with disabilities.

Oliver's blog on "**Disability, coronavirus and international law**" has been shared widely and is updated regularly. Oliver has held webinars on this topic and will adapt the material for webinars for disability rights NGOs on a pro bono basis. Commenting Oliver's work in response to the crisis, a solicitor said, "I just wanted to say how impressive your constant work on Covid-19 changes and updates have been", and a leading disability rights campaigner said, "Thank you for all the amazing actions you've already taken for people in my disabled community".

Summary of legal practice

Oliver appears regularly in the Court of Protection in health and welfare cases, where he is instructed by the Official Solicitor, family members or public bodies. He has built up a particular expertise in cases concerning people with learning disabilities, autism or alcohol dependence and cases with allegations of abuse or neglect and cases involving complex family dynamics. He delivers training to social workers and allied practitioners on confident Court of Protection practice.

In inquests, Oliver represents families and other interested persons in cases where the death took place in detention or in cases that concern medical, mental health or capacity issues. In the area of mental health law, he has appeared in the Upper Tribunal on appeals from the First-tier Tribunal. He has a growing judicial review and Human Rights Act claims practice. In May 2019 he was appointed to the Equality and Human Rights Commission's panel of counsel.

Having spent 15 years working in international human rights law before returning to the UK bar in 2017, Oliver has experience litigating at the European Court of Human Rights as well as conducting advocacy before UN and Council of Europe bodies. He has particular expertise in the UN Convention on the Rights of Persons with Disabilities, having participated in its drafting. Oliver is currently instructed by the United Nations Development Programme to develop guidelines on political participation of people with intellectual disabilities or psychosocial disabilities.

Oliver holds a part-time position as Professor of Law and Social Justice at the School of Law at the University of Leeds, where he is a member of the University's Centre for Disability Studies. He teaches on the LLB and LLM disability law modules and convenes the LLM module on global human rights advocacy. Oliver is a trustee and Vice-Chair of Respond, a national charity that helps people with learning disabilities who have experienced trauma. He is also a trustee of the Bristol Law Centre.

Education

PhD, international human rights law, University of Leiden

MA Medical Ethics and Law, King's College London

MPA, Open University Business School

LLB (Hons), LSE

Languages

German

Hungarian

Related practice areas

Court of Protection & Mental Health

International Human Rights Law

Inquests and Public Inquiries

Children's Rights Group

Clinical Negligence, Personal Injury & Product Liability

Administrative & Public Law

Discrimination

Court of Protection and Mental Health

“Oliver is committed to protecting the rights of vulnerable people and will always provide advice based on that objective. He is always prepared and provides in-depth advice considering a range of options.” - Legal 500 2021

Oliver accepts instructions across a range of applications in the Court of Protection. He most often represents the person lacking capacity, and is regularly instructed by the Official Solicitor. He also represents family members, local authorities, CCGs, NHS Trusts and other bodies. Oliver has experience of vulnerable adult cases under the inherent jurisdiction of the High Court as well as international protection of vulnerable adults. Oliver advises in judicial reviews and civil claims arising from unlawful deprivation of liberty and inappropriate treatment of disabled people.

He accepts instruction in any matter relating to the Mental Health Act 1983, including applications by detained patients in complex First-tier Tribunal (Mental Health) hearings, appeals to the Upper Tribunal and displacement of nearest relative proceedings.

Oliver has a special interest in helping families who have relatives with learning disabilities and/or autism who are detained in Assessment and Treatment Units. He has extensive

experience of strategic litigation, having spearheaded a series of successful test cases in the European Court of Human Rights from countries in central and eastern Europe, including *Shtukaturov v. Russia (2008)* and *Stanev v. Bulgaria (2012)*, both cited by the UK Supreme Court.

Recent cases include:

Among Oliver's recent cases are the following. By their nature, most Court of Protection cases are unreported.

- **DP v LB Hillingdon [2020] EWCOP 45.** Hayden J. Interim declarations in s.21A MCA applications. Oliver represented DP. First reported case bought by an accredited legal representative. Led by Victoria Butler-Cole QC.
- **Cornwall Council v NP and BKP [2020] EWCOP 44.** DJ Taylor sitting in Truro. Oliver represented an older man NP, by his litigation friend, the Official Solicitor. The judge decided that it was in NP's best interests to return home after a period in a rehabilitation unit.
- **QJ v A Local authority & Anor [2020] EWCOP 3 and 7.** Oliver represented the litigation friend of an 87-year-old man with dementia who had been interviewed by police in relation to historic child sex offences and had then stopped eating in his care home. Hayden J found that QJ had capacity to make decisions about nutrition and hydration. Press report [here](#).
- **CB (by her litigation friend, the Official Solicitor) v Medway Borough Council and Anor (Appeal) [2019] EWCOP 5:** Oliver represented the Official Solicitor on behalf of a 91-year-old woman who had been deprived of her liberty in a care home. Hayden J held that the Court of Protection should never summarily dismiss s.21A applications.
- **Walsall Metropolitan Borough Council v (a) Julie X (2) Jeremy X (3) Bethany X (a minor acting via her guardian),** Keehan J in the High Court (Family Division). Led by Victoria Butler-Cole QC, it was argued that the local authority should not attempt to injunct the father of a 17-year-old girl who had lived in a hospital seclusion room for nearly 2 years. Press coverage can be found [here](#). Oliver is instructed in the follow-up judicial review, funded by the Equality and Human Rights Commission.
- **RH v (1) Secretary of State for Work and Pensions and (2) Medway Borough Council (DLA) [2018] UKUT 48 (AAC).** Oliver represented Medway in an Upper Tribunal social security appeal. He raised human rights points and argued that the UK had not fulfilled its commitments under the UN Convention on the Rights of Persons

with Disabilities.

- **Milton Keynes Council v (1) PS (by her litigation friend, the Official Solicitor) (2) RS** HHJ Hildyard QC in Luton. Oliver represented the husband of P who been removed from the marital home by the local authority because of bruises on her body. After a fact-finding hearing, the court declined to make any findings of fact against Oliver's client and ordered that it was in P's best interests to be returned home.
- **SB (by his litigation friend, the Official Solicitor) v West Sussex County Council**, HHJ Thorp, Worthing, July 2018. Oliver acted for SB, who had alcohol-related dementia, and the issues were evidence of capacity and searching for a placement that could best meet his needs and respect his Article 8 rights.
- **A Council v (1) XX (by his litigation friend, the Official Solicitor) (2) XX**. HHJ Davies in Peterborough, 2018-19. Oliver represented P, a young man with Prader Willi Syndrome, in a case concerning where he should live and receive care, as well as contact and sexual relations with his girlfriend. There were several hearings in 2018.
- **COM (by her litigation friend, the Official Solicitor) v Brighton and Hove City Council**, May 2018, HHJ Farquhar in Brighton. Oliver acted for COM, a lady in her 80s who had been placed against her will in a care home for several months. At a final hearing, the judge directed that it was in COM's best interests to live in her flat with a package of support.
- **Milton Keynes Council v (1) WT (2) IT**, Cobb J in the Family Division of the High Court, 2018. Oliver acted for WT in several directions hearings and a final hearing. The local authority claimed WT was coercing her elderly mother by blocking visits by social workers.
- **RO (by his litigation friend, the Official Solicitor) v (1) London Borough of Newham (2) JA**. DJ Eldergill, First Avenue House, March 2018. Oliver represented JA, the older brother of RO who had learning disabilities and schizophrenia and was removed from his home by the local authority. Oliver successfully argued RO should return to the family home, which was opposed by the local authority and the Official Solicitor.

Inquests

Oliver is regularly instructed in inquests that raise concerns about the provision of health or

social care, often involving complex medical evidence. He is adept at judicially reviewing Coronial decisions to ensure that inquests are carried out fairly, as well as representation in civil claims.

Oliver is instructed in several ongoing inquests, including Article 2 and jury inquests that touch on learning disability, mental health, personality disorder, respiratory disorders, cardiology and neurology. He is representing several clients whose loved ones died from Covid-19 and where national and local failures arguably contributed to the deaths.

Recent cases include:

- **Inquest into the death of John Ashley**, West Sussex Coroner's Court, December 2019. Oliver represented the sister of a man with longstanding mental health issues. The Coroner found that he died by suicide contributed to by the neglect of the local mental health Trust. Press report [here](#).
- **Inquest into the death of Molly Frank**, St Pancras Coroner's Court, April 2019, Oliver represented the family of a care worker who was likely struck on the head by the 95-year old service user she was caring for. The jury found she died due to natural causes. Press report [here](#).
- **Inquest into the death of PC**, West London Coroner's Court, October 2018, Article 2 inquest before a jury. Jury found suicide contributed to by neglect of an NHS Trust and a GP, due to lack of discharge planning and communication. Coroner made a prevention of future deaths report.
- **Inquest into the death of PL**, Bedfordshire Coroner's Court, June 2018. Misdiagnosis by a GP of a heart attack.
- **Inquest into the death of JM**, Hertfordshire Coroner's Court, January 2018: Young man with Asperger's died from taking heroin he bought on the dark internet.
- **Inquest into the death of AN**, Suffolk Coroner's Court, December 2017: Man with learning disabilities and autism died in a care home by choking on his dinner. Coroner made a prevention of future deaths report in respect of national guidelines on first aid training of care home staff.

At the international level Oliver oversaw a third party intervention in **Centre for Legal Resources v. Romania** (2014), a case brought by a Romanian NGO in the European Court of Human Rights. This is a leading case on the right to life under Article 2 of the ECHR and access to justice for people with mental disabilities. The Court found that an NGO could

pursue an application on behalf of a man who died in a psychiatric hospital and had no next of kin.

Clinical Negligence

Oliver accepts instructions in clinical negligence cases across the range of medical specialisms. He has an MA in Medical Ethics and Law and a PhD in mental capacity and international human rights. Oliver has a strong health-related inquest practice, as well as a Court of Protection and mental health law practice including serious medical treatment cases in which he is ranked as a leading junior. He sits as a chair of Independent Review Panels adjudicating NHS Continuing Healthcare appeals.

Oliver is developing a niche negligence practice in relation to the care and treatment of patients in mental health and learning disability institutional settings. These include in 'assessment and treatment units', some of which are private sector providers. This work involves both advice and representation to ensure that the detained person is discharged from detention in a timely and safe way and securing a care package in the community that meets the person's needs. Oliver then works with families on HRA and negligence claims in relation to detention, seclusion, restraint and other forms of ill-treatment and trauma.

He has spent twenty years working with people with learning disabilities and/or autism and their families and is particularly sensitive to their needs. He is a trustee of the charity 'Respond', which provides psychotherapeutic interventions to people with learning disabilities and/or autism.

Administrative and Public Law

Oliver is regularly instructed to advise on judicial reviews, including those related to provision of healthcare and social care and compliance with the Equality Act 2010. Through drafting Letters Before Claim, Oliver has successfully reversed several case management decisions by Coroners. During the Covid-19 pandemic he has been instructed to challenge restrictive visits policies of NHS Trusts and care home providers. He is also instructed by the Covid-19 Bereaved Families for Justice, a group calling for a statutory inquiry into the UK government's response.

International Human Rights Law

Oliver is currently instructed by the United Nations Development Program (UNDP) on an 18-month-long project about political participation of people with intellectual or psychosocial disabilities. He is drafting UNDP's guidance to governments, electoral commissions and civil society on how to bolster participation in elections.

Oliver has carried out human rights monitoring and delivered training in over twenty countries in Europe, Africa, Asia and Latin America. Drawing on his experience as Legal Director then Executive Director of the international charity Validity (formerly the Mental Disability Advocacy Centre) from 2002 until 2017, he can be instructed to provide law and policy reform advice as well as training services to bodies committed to implementing human rights standards including governments, NGOs, inspectorates, philanthropic organisations, corporations and development agencies.

Oliver has litigated, trained and written about children's rights, mental health law, monitoring closed institutions (e.g. social care institutions and psychiatric hospitals), equality and non-discrimination, community living, guardianship and legal capacity, political participation, access to justice, and combatting torture and ill-treatment – including sexual violence, psychiatric coercion and conditions of detention.

At MDAC Oliver oversaw the world's largest multi-country docket of disability rights test cases. Under his leadership MDAC represented applicants or acted as amicus curiae in cases before the European Court of Human Rights,

- **Gajcsi v. Hungary**, 2006: fresh evidence needed for mental health detention
- **Shtukurov v. Russia**, 2008: guardianship cannot be used as a backdoor to psychiatric detention
- **Alajos Kiss v. Hungary**, 2010: legal capacity and the right to vote
- **Stanev v. Bulgaria**, 2012: social care detention and degrading conditions
- **Bures v. Czech Republic**, 2012: physical restraint
- **Sykora v. Czech Republic**, 2012: detention and guardianship
- **ZH v Hungary**, 2013: reasonable accommodations to a disabled prisoner
- **Lashin v. Russia**, 2013: right of person under guardianship to marry

- **Mikhailenko v. Ukraine**, 2013: guardianship
- **Centre for Legal Resources on behalf of Valentin Campianu v. Romania**, 2014: right to life, standing of NGOs to represent a deceased person
- **Stankov v. Bulgaria**, 2015: guardianship and social care detention
- **Blokhin v. Russia**, 2016: unlawful detention in prison and abuse of boy with disabilities
- **Kocherov and Sergeyeva v. Russia**, 2016: disability and parenting
- **Cervenka v. Czech Republic**, 2016: detention and guardianship
- **Usmanov v. Russia**, 2016: conditions of psychiatric detention

MDAC achieved numerous successes in constitutional courts and other domestic proceedings, including in Bulgaria, the Czech Republic, Russia and Slovakia. Working in partnership with the Bulgarian Helsinki Committee, Oliver initiated the first case in central and eastern Europe concerning disability discrimination in the provision of education (**MDAC v. Bulgaria, 2008, European Committee of Social Rights**). This case helped to ensure that abusive children's institutions in Bulgaria were closed down.

Oliver has developed and implemented advocacy strategies using international human rights mechanisms and the media. He is experienced in conducting negotiations with representatives of governments and intergovernmental organisations. Oliver has also facilitated complex and innovative multi-stakeholder discussions. For example, he worked to bring the disability and Roma rights communities together for the first time to advocate at the UN level for inclusive education for all children.

He has made many written and oral submissions to human rights bodies, including the UN Human Rights Committee, the UN Committee against Torture, the UN Subcommittee for the Prevention of Torture, the UN Committee on the Rights of the Child and the UN Committee on the Rights of Persons with Disabilities. He has advised several UN Special Rapporteurs (on Health and on Torture), and he has worked on projects with OHCHR, UNDP, UNICEF and the WHO.

In Europe, Oliver has conducted advocacy at the European Commission, the European Parliament, the Council of Europe's Parliamentary Assembly, the Committee for the Prevention of Torture and the Commissioner for Human Rights. In 2011, he led a successful international campaign to persuade the Venice Commission to reverse its position that people could be deprived of the right to vote on the basis of their mental incapacity.

Publications

For a full list of Oliver's publications, see [ResearchGate](#). Oliver blogs [here](#). Recent publications include:

Oliver Lewis (2020) **"Supranational Human Rights Bodies and Protecting the Rights of People With Disabilities in the COVID-19 Pandemic"**, European Human Rights Law Review, September

Oliver Lewis and Soumitra Pathare (2020) "Chronic illness, disability and mental health" in **Foundations of Global Health and Human Rights**, Benjamin Meier and Lawrence Gostin (eds), OUP

Oliver Lewis and Geneva Richardson (2020) **The right to live independently and be included in the community**, International Journal of Law and Psychiatry, Vol 69, March-April 2020

Oliver Lewis (2018) "Council of Europe" in Lisa Waddington and Anna Lawson (eds) **The UN Convention on the Rights of Persons with Disabilities in Practice**, OUP

Ann Campbell and Oliver Lewis, **"Violence and abuse against people with disabilities: A comparison of the approaches of the European Court of Human Rights and the United Nations Committee on the Rights of Persons with Disabilities"**, International Journal of Law and Psychiatry, Volume 53, July–August 2017, Pages 45-58

Felicity Callard and Oliver Lewis (2017) **"The World Psychiatric Association's "Bill of Rights": A curious contribution to human rights"**, International Journal of Mental Health, 46:3, 157-167