

## Mary-Rachel McCabe



Call: 2015

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### **Profile**

Mary-Rachel has a busy Court of Protection practice and acts in cases concerning a wide range of health and welfare matters. Mary-Rachel has particular expertise in cases involving 16 and 17 year olds in the Court of Protection. Mary-Rachel acts for vulnerable adults, children, their families, and statutory bodies. She is frequently instructed by the Official Solicitor.

Mary-Rachel has a particular interest in disability and children's rights. She acts for children and vulnerable adults in Human Rights Act damages claims against local authorities, including claims arising out of delays by local authorities in issuing care proceedings. She represents disabled children and their parents in judicial review proceedings against local authorities and Integrated Care Boards relating to their care packages. Mary-Rachel has acted in urgent judicial review proceedings for children who are street homeless or otherwise in need of support or accommodation.

Mary-Rachel also acts in public inquiries. She is currently instructed as junior counsel for two core participants in Module 3 of the UK Covid-19 Inquiry. She previously acted as junior counsel in two strands of the Independent Inquiry into Child Sexual Abuse.

In 2018, Mary-Rachel was awarded a Pegasus Scholarship by Inner Temple. She travelled to New Zealand for two months to work at YouthLaw, the country's only dedicated law centre for children and young people.

Mary-Rachel has contributed to *Disabled Children: A Legal Handbook* (Legal Action Group, Third Edition, 2020). She also co-authors the Court of Protection updates for *Legal Action Magazine*.

## **What the directories say**

*"She has fantastic judgement, drafting skills and advocacy."*

*"Her preparation and written work are meticulous. She is an engaging and effective advocate."*

### **Chambers and Partners 2024**

*"Mary-Rachel has great client skills. She is practical, empathetic and a great advocate. She does her best work in her cases for vulnerable and challenging clients."*

### **Legal 500 2024**

*"Mary-Rachel is concise and persuasive on her feet. Her advice is strategically minded, with a clear focus on the individual at the heart of the case. She can easily get to grips with complex cases. The quality of her written work is excellent."*

### **Legal 500 2023**

*"Her advice is always detailed and well-reasoned and she is a strong and measured advocate on her feet."*

### **Chambers and Partners 2023**

*"Her ability to put vulnerable clients at ease is quite extraordinary."*

### **Chambers and Partners 2022**

## **Education**

LLB Law with Spanish (1st Class Honours), University of Sussex and University of Seville (2007-2011)

Harmsworth Scholarship, Middle Temple (2013)

Bar Professional Training Course, City Law School (2013-2015)

## **Languages**

Spanish

## **Related practice areas**

Housing, Social Welfare and Property  
Court of Protection & Mental Health  
Community Care and Health  
Administrative & Public Law  
Children's Rights Group

## Court of Protection

Mary-Rachel has a busy Court of Protection practice and acts in cases concerning a wide range of health and welfare matters. She has particular expertise in cases involving 16 and 17 year olds in the Court of Protection and cases involving allegations of coercive control. Mary-Rachel acts for vulnerable adults (via their litigation friends), children, family members, local authorities and Integrated Care Boards. She is frequently instructed by the Official Solicitor.

Her key cases include:

- Acting for the Official Solicitor as P's litigation friend in **MB v PB [2022] EWCOP 14**, a fact-finding hearing in which Sir Jonathan Cohen found that P had been subjected to coercive and controlling behaviour by her husband of over 40 years;
- Acting for the Official Solicitor as junior counsel in **Re HD (Capacity to Engage in Sexual Relations)** [2021] EWCOP 15 - the first case (at first instance) to consider the test for capacity to engage in sexual relations set down by the Court of Appeal in *Re JB* [2020] EWCA Civ 735;
- Acting as junior counsel for the first intervener, **RESPOND**, when *Re JB* was appealed to the Supreme Court ([2021] UKSC 52).

Mary-Rachel has experience acting in cases involving complex medical issues including covert administration of medication.

Mary-Rachel is co-author, with Sophy Miles and Gemma Daly, of the Legal Action magazine Court of Protection updates.

## Community Care and Health

Mary-Rachel acts for children and vulnerable adults in Human Rights Act damages claims against local authorities, including claims arising out of delays by local authorities in issuing care proceedings, and Article 5 claims for unlawful deprivation of liberty.

Mary-Rachel represents disabled children and their parents in judicial review proceedings against local authorities and ICBs relating to their care packages. She is happy to provide early advice in such proceedings and has a good track record of obtaining favourable settlement agreements.

Mary-Rachel has advised and acted in judicial review proceedings relating to the provision of accommodation and support to vulnerable adults and children, under the Care Act 2014 and Children Act 1989.

She has successfully secured interim relief for vulnerable children and their families in a number of claims. Examples include:

- ***R (AT & KT) v Lewisham LBC***: Claim for judicial review of the local authority's failure to conduct an assessment under section 17 Children Act 1989 and to provide interim accommodation to a homeless single mother and her young children; settled following the authority's agreement to conduct an assessment and provide accommodation.
- ***R (N) v Greenwich [2016] EWHC 2559***: Successful judicial review of refusal to provide accommodation under section 17 Children Act 1989 where the mother did not have the right to rent (reported in **Legal Action 2016/17, Dec/Jan, 17-21**; J.H.L. 2016, 19(5), D71-D72)

## Administrative and Public law

Mary-Rachel has experience of acting in judicial review matters raising community care and discrimination issues. She has appeared both led and unled in the High Court and has appeared as junior counsel in the Court of Appeal and Supreme Court.

Mary-Rachel recently acted as junior counsel (led by Caoilfhionn Gallagher KC) on a case of international importance brought by the family of an Irishwoman who emigrated to England in the 1950s, **Margaret Keane**. Mrs Keane's family appealed against a May 2020 ruling of the Consistory Court of the Diocese of Coventry which had denied them a gravestone of their choice over their mother's grave. The Court of Arches confirmed that the decision of the Chancellor not to permit the family's inscription in Irish-only (without an English translation)

was irrational under the common law, and in breach of the family's right not to be discriminated against under the Human Rights Act. The case attracted substantial attention in Ireland, Britain and internationally.

Mary-Rachel was instructed by Just for Kids Law (led by Caoilfhionn Gallagher KC) in a judicial review challenge to the use of children as covert human intelligence sources or 'child spies'. As a result of the litigation and the campaign by the charity, the Home Office agreed to overhaul its Covert Human Intelligence Sources (CHIS) Code of Practice to make clear that children can only be used in exceptional circumstances, with significant new safeguards to protect them. The Home Office's significant changes to the Code of Practice meant that the legal action settled prior to the hearing.

Mary-Rachel was proud to act as junior counsel (led by Caoilfhionn Gallagher KC) in **Re: Northern Ireland Human Rights Commission** [2018] UKSC 27, a landmark case concerning access to abortion for women in Northern Ireland.

## Education Law

Mary-Rachel has represented parents and local authorities in appeals against Education, Health and Care Plans in the First-Tier Tribunal. She welcomes instructions in related judicial review proceedings.

## Public Inquiries

Mary-Rachel is currently instructed as junior counsel for two core participants in Module 3 of the UK Covid-19 Inquiry. She also appeared as junior counsel (led by Caoilfhionn Gallagher KC), in two strands of the Independent Inquiry into Child Sexual Abuse: in the Nottinghamshire strand, acting for 44 complainant core participants; and in the Child Sexual Exploitation by Organised Networks strand, acting for the **Centre for Women's Justice**.