

Elizabeth Cleaver



Call: 2010 (solicitor 2013-2024)

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Profile

Elizabeth is a leading healthcare lawyer with extensive experience of representing mental health patients and their families. Elizabeth has represented clients in Court of Protection proceedings and before the Mental Health Tribunal for over a decade.

Elizabeth transferred to the Bar and joined Doughty Street Chambers in January 2024 after a very successful career as a solicitor with Higher Rights of Audience. Her experience as a solicitor means that she is uniquely placed to understand the needs of professional and lay clients. She is noted by clients for her experience and sensitivity when dealing with cases involving complex mental health issues and disabilities.

Elizabeth has a varied practice before the Court of Protection with a particular focus on health and welfare cases. She is regularly instructed by the Official Solicitor, family members, local authorities and clinicians to advise on complex cases involving deprivation of liberty, residence, care, contact, deputyships and medical treatment. She has a particular interest in cases involving an overlap in legal framework between the Mental Health Act and the Mental Capacity Act.

Elizabeth has in-depth experience of representing those detained under the Mental Health Act at all levels of security. She has a particular interest in forensic cases and is regularly

instructed by those detained under forensic sections, including in high-profile matters. Elizabeth has acted for patients, families and local authorities in nearest relative displacement cases, and has advised on appeals to the Upper-Tier Tribunal (Mental Health). Elizabeth is also able to advise in relation to unlawful detention claims and public law issues arising from mental health detention.

Elizabeth regularly represents families in inquest proceedings involving deaths in psychiatric detention or in the community, and has advised on associated Human Rights Act claims. Her in depth knowledge of the issues faced by patients in detention is a significant advantage for her when advising on such cases.

Elizabeth also has a general healthcare and public law practice and was involved in high-profile litigation during the pandemic, representing individuals with learning disabilities in judicial review proceedings related to Covid-19 vaccine prioritisation and advising on visiting restrictions in supported living settings.

Prior to qualifying as a solicitor in the UK in 2013, Elizabeth began her legal career in Europe, where she completed placements at the European Ombudsman, Council of Europe, and European Court of Human Rights. She was awarded the Peter Duffy Human Rights award by Lincoln's Inn in 2010.

What people are saying about Elizabeth

Chambers & Partners 2024

"Elizabeth is an excellent litigator. She has a lot of empathy towards her clients and is very detailed in her approach. She really sees things in a way that gets the best for the clients—I think she is a first-class lawyer."

"She is extremely well prepared, with sound judgement and a depth of knowledge of the legal issues in complex Court of Protection cases."

"Elizabeth is very bright and a delight to work with."

"She managed an emotional situation for us very well. She communicated really well with the other side as well."

Chambers & Partners 2023

"[Elizabeth is] very impressive, organised, and great with clients. She's reasonable and firm with her advice, and is a really good team player."

"She communicates well and isn't shaken in the face of difficulty. I have immense respect for her, and she has made a genuine difference to disabled people made vulnerable during the pandemic."

Education

Elizabeth graduated from the Universities of Leicester and Strasbourg with an LLB/Maitrise degree in English & French law in 2008.

Languages

French

Related practice areas

Court of Protection & Mental Health

Inquests and Public Inquiries

Court of Protection & Mental Health

An ICB v H & a Local Authority (2024)

Elizabeth was instructed by the local authority in medical treatment proceedings relating to H, a lady with autism and a learning disability. These proceedings concerned H's capacity to make decisions about the insertion of a PEG feeding tube and her aftercare arrangements.

Great Ormond Street Hospital for Children NHS Foundation Trust v MK (by her litigation friend the Official Solicitor) [2020] EWHC 3476: Elizabeth was instructed by the mother in this medical treatment case, which involved a decision that it was in a child's best interests to undergo open heart surgery, in circumstances where her mother lacked capacity to give consent for the surgery under parental responsibility.

Hertfordshire Partnership NHS Trust v C (by her ALR) 2023

Elizabeth was appointed as Accredited Legal Representative for C and represented her in long running Court of Protection proceedings related to her residence, care and medical treatment. C was a lady in her sixties with a diagnosis of persistent delusional disorder and complex physical health needs. C believed as a result of mental illness that her environment was very hot, when she was in fact very cold. Elizabeth successfully argued that it was in C's best interests to be cared for at home with 24h care. The court also made orders that it was in C's best interests for the temperature of her home to be controlled remotely via a hive heating system. Elizabeth's representation helped C to remain at home in accordance with her wishes.

P (by her litigation friend the Official Solicitor) 2023

Elizabeth was instructed to represent P, a lady in her seventies with a diagnosis of paranoid schizophrenia, in Court of Protection proceedings concerning her residence and care. On the day before the first directions hearing, P was unlawfully removed by social workers from the care home where she had resided for 35 years.

Elizabeth successfully argued for a move to a more appropriate placement in sheltered accommodation for P. She also secured a settlement of £48,000 in damages for the client following the unlawful removal from her home and subsequent unlawful deprivation of liberty.

K (a mental health patient) 2019

Elizabeth represented K, a patient with diagnoses of paranoid schizophrenia and personality disorder, who had been detained under the Mental Health Act since 1999 following his conviction on two counts of manslaughter. Protracted proceedings before the Mental Health Tribunal were required due to a dispute about his proposed discharge conditions and an exceptionally wide exclusion zone. A decision not to discharge K was overturned by the Upper Tier Tribunal.

Public Law

R on the application of Samson Bello [2020] EWHC 950 Admin: Successfully secured the release of a clinically vulnerable client from immigration detention at the start of the pandemic

R (on the application of Sarah Leadbetter) v Secretary of State for Transport [2023] EWCA Civ 1496: Elizabeth instructed DSC's Jamie Burton KC and Sarah Steinhardt in a judicial review challenge to the minimum kerb heights contained within government guidance on the use of tactile paving. The Administrative Court found that the consultation period for the new guidance, which lasted 12 days, was unlawful.

Inquests

Inquest touching upon the death of Rebecca Hursey, Inner London Coroner's court (2019): Elizabeth acted for the family of Rebecca Hursey who died from an overdose whilst detained at Springfield Hospital. The coroner found that article 2 ECHR was engaged, and made a prevention of future deaths report in relation to the need for verbal and written handovers of clinical information by nursing staff, as well as the need for a nationwide system for placing

complex and high-risk patients.

Inquest touching upon the death of Simon Ram, Black Country Coroner's court (2022): Elizabeth acted for the family of Simon Ram, who died at a care home in 2017 following an epileptic seizure. After reopening the inquest further to the family's representations, the court found that article 2 ECHR was engaged and that the failure to assess Simon's capacity to make decisions about having an epilepsy monitor in his room contributed to his death. A damages claim was subsequently settled.

Inquest touching upon the death of Dr Kim Harrison, Swansea coroner's court (2023): Elizabeth as part of the legal team acting for the family of Dr Kim Harrison who tragically died after he was attacked by his son Daniel Harrison. Daniel was suffering from a psychotic illness and had absconded from a mental health ward very shortly before the attack. The coroner found that serious failings in Daniel Harrison's care contributed to Kim's death.

Publications

"Challenging the government's guidance on the use of tactile paving surfaces", Discrimination Law Association (DLA) Briefings, vol 81, March 2024.

"The complexity of public law challenges during the pandemic: seeking priority access to the Covid-19 vaccine for people with learning disabilities", Discrimination Law Association (DLA) Briefings, vol 73, July 2021.

"Inside a Secret World", Counsel magazine, 30 September 2011 (in relation to open justice within the Court of Protection).

"Child- Friendly", Counsel magazine, 30 November 2010 (in relation to the Council of Europe guidelines on child-friendly justice).

Seminars

Elizabeth regularly provides training to other lawyers and clinicians on mental health and mental capacity law. She is always happy to discuss delivering bespoke in-house training.

Elizabeth recently recorded the webinar **Mental Health Law Update: Recent Developments Explored** for MBL.