



Claire van Overdijk

Year of call
2003

Email
cvo@outertemple.com

Claire van Overdijk is a specialist private client and public law barrister. She is described as a *“very versatile, experienced and persuasive advocate”* and was shortlisted as “Advocate of the Year” at the 2019/2020 STEP Private Client Awards.

Owing to her expertise in private international law, Claire is also recognised as an expert in jurisdictional issues both in the public law and private client fields, and is described as *“exceptional in cases involving complex overlapping issues of jurisdiction, finance, or particularly difficult family dynamics.”*

London

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Court of Protection

Claire has extensive experience in mental capacity law and is the first and currently the only practitioner at the Bar to date to be recognised as a leader in both areas of the COP's jurisdiction (Chambers & Partners Band 2 for both Health & Welfare and Property & Affairs). Claire has published widely in the mental capacity field and her expertise in private international law has also led to her being known as "*go-to counsel for international mental capacity matters*".

Her COP practice is equally split between health/welfare and property and affairs. She is particularly adept in complex hybrid cases where a mix of issues arise. She receives instructions from a range of clients such as the Office of the Public Guardian, the Official Solicitor, public bodies (local authorities, NHS Trusts/ CCGs, central government), deputies and private individuals.

Claire's mental capacity practice is complemented by her public law and private client practice, which enable her to provide tailored advice to clients as appropriate.

Recent noteworthy cases

- ***Various Incapacitated Persons and the Appointment of Trust Corporations as Deputies [2018] EWCOP 3***: guidance for trust corporations that apply to the Court of Protection for appointment as deputy. Claire was instructed by the Public Guardian.
- ***Re SH [2018] EWCOP 21***: case on deputyship appointments and interpretation of s.19 Mental Capacity Act 2005. Claire was instructed by the Public Guardian.
- ***Matrix Deputies Litigation No 1 [2017] EWCOP 14 and No2 [2018] EWCOP 22***: case on security bonds; breach of fiduciary duty; deputies; mental capacity; and costs. Claire was instructed by the Public Guardian.
- ***Harrow LBC v (1) AT (by his litigation friend, the Official Solicitor) (2) DT [2017] EWCOP 37***: case on deprivation of liberty and costs. Claire was instructed on behalf of AT by his litigation friend, the OS.
- ***RE PO sub nom JO v (1) GO (2) RO (3) MP (4) Inverclyde Council [2013] EWHC 3932 (COP)***: case involving the international protection of adults and jurisdiction of the Court of Protection. Claire represented JO on a direct access and pro bono basis.

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Private Client

Claire's private client practice includes contentious probate, trust disputes, claims under the Inheritance (Family and Dependents) Act 1975 Act, administration of estates, and removal of personal representatives. Owing to her expertise in private international law, her practice frequently extends to advice in relation to cross border disputes concerning trusts, estates, foreign succession and domicile.

Claire also has extensive experience in mental capacity law, is recognised as a leader in the property & affairs jurisdiction of the Court of Protection and is described as "*go-to counsel for international mental capacity matters*".

Notable recent cases include:

- ***MN v OP & Ors [2019] EWCA Civ 679***: here the Court of Appeal handed down guidance on anonymity in applications under the Variation of Trusts Act 1958. Claire was appointed by the Attorney General as advocate to the court.
- ***Parsonage (acting as personal representative in the estate) v Parsonage & Ors [2019] EWHC 2362 (Ch)***: a challenge to the validity of a will on the basis of testamentary capacity and lack of knowledge and approval. Claire successfully represented the executor of the estate.
- ***Edgar Harrison, YY and ZZ v Ava Vidal [2018] EWHC 2738 (Civ)***: application under the inherent jurisdiction and s.116 of the Senior Courts Act 1981 to remove the biological mother's entitlement to personal representative status under r.22 of the Non-Contentious Probate Rules 1987. Claire successfully represented interested family members.
- ***Various Incapacitated Persons and the Appointment of Trust Corporations as Deputies [2018] EWCOP 3***: the COP set down important guidance for trust corporations that apply to be appointed as deputy for incapacitated persons. Claire was instructed by the Public Guardian.
- ***Re the estate of Baldev Kohli (deceased) (2018)***: Claire advised the executor of the estate in this domicile dispute brought under the 1975 Act by the claimed child of the deceased.
- ***Kebbeh v Farmer & Ors [2015] EWHC 3827 (Ch)***: 1975 Act claim involving a domicile dispute (UK/Gambia) and recognition of an Islamic divorce carried out in the Gambia. Claire successfully represented the executor of the estate.

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Public Law

Claire has a busy public law practice covering a wide variety of contexts concerning both local and central government and non-governmental bodies. She is frequently instructed in the High Court, Court of Appeal and specialist tribunals in the public law field.

She has expertise in community care, data protection and privacy issues, immigration/asylum, healthcare, ordinary residence disputes, cases affecting children and vulnerable adults, and those involving a human rights claim (particularly false imprisonment/unlawful detention). Claire also frequently appears in cases with public law issues that interface with chancery/commercial law and pensions. Claire's expertise in private international law has also led to her being known as an expert in jurisdictional issues.

Recent noteworthy cases

- ***MN v OP & Ors [2019] EWCA Civ 679***: access to justice; right to privacy; and anonymity in applications under the Variation of Trusts Act 1958. Claire was appointed by the Attorney General as Advocate to the Court.
- ***Re A (A Child) [2019] EWHC 2475 (Fam)***: FGM Protection Orders; interface between family court jurisdiction and jurisdiction of the Immigration and Asylum Tribunal.
- ***Terzaghi v SSHD [2019] EWCA Civ 2017***: immigration/deportation/human rights.
- ***RS (Sri Lanka) [2019] EWCA Civ 1796***: asylum/human rights.
- ***LL (Portugal) -v- SSHD [2019] EWCA Civ 199***: Immigration; deportation; withdrawal of concessions.
- ***AM (Somalia) -v- SSHD [2019] EWCA Civ 774***: asylum; deportation; human rights.
- ***KK (Sri Lanka) v SSHD [2019] EWCA Civ 172***: asylum and Article 3.
- ***PA (Iran) v SSHD [2018] EWCA Civ 2495***: Immigration; mental capacity; Article 3.
- ***Dotcom Solicitors Ltd v The Legal Ombudsman [2018] EWHC 2399 (Admin)***: jurisdiction of the Legal Ombudsman to reconsider a complaint where its previous decision on the matter had been quashed following an error of law.
- ***Matrix Deputies Litigation No 1 [2017] EWCOP 14 and No 2 [2018] EWCOP 22***: Bonds; breach of fiduciary duty; deputies; mental capacity; costs.
- ***ELO & CLO v SSHD [2017] EWHC 3574 (Fam)***: application for the recognition under common law of a Nigerian adoption order.
- ***Re V (A Child) (Recognition of Foreign Adoption) [2017] EWHC 1733 (Fam)***: application for the recognition under common law of a Nigerian adoption order.
- ***Re CD (A Child) (Notice of Care Proceedings to Father without Parental Responsibility) [2017]***

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EWFC 34: application to dispense with service of care proceedings on the biological father of a child subject to the proceedings. Claire was appointed by the Attorney General as Advocate to the Court.

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Appointments & Memberships

- Equality and Human Rights Commission Panel Counsel- A Panel
- Attorney General Civil Panel Counsel- B Panel
- Court of Protection Bar Association- Secretary
- Court of Protection Practitioners Association- London Committee
- STEP Mental Capacity Global SIG Steering Committee- Deputy Chair
- Society of Trust and Estate Practitioners – full member
- Chancery Bar Association
- Administrative Law Bar Association- member

Publications

- *Court of Protection Practice* (LexisNexis), co-editor: annual publication; leading text for practitioners and the judiciary.
- *The International Protection of Adults* (Oxford University Press), co-editor: comparative analysis of private international law rules relating to mental capacity law and the Hague Convention on the International Protection of Adults.
- *Mental Capacity Law and Practice* (LexisNexis), co-editor.

Academia

- 2014- 2018: Part-time member of University College London, Faculty of Law teaching in private international law (LL.M)

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Languages

- Portuguese
- Spanish

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Recommendations



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Testimonials

"Has a keen eye for detail and cuts through the case to get to the point. She is incredibly good in cross-examinations." **Court of Protection: Health & Welfare, Chambers & Partners 2021**

"She is efficient, precise, passionate and absolutely dedicated to getting the best for her clients." **Court of Protection: Health & Welfare, Chambers & Partners 2021**

"Really personable but also terrifically strong on technical matters. She takes a pragmatic and sensible approach." **Court of Protection: Health & Welfare, Chambers & Partners 2021**

"Calm, methodical and reasonable in her submissions to the court. She's someone who wants to resolve a case in the most efficient way." **Court of Protection: Property & Affairs, Chambers and Partners 2021**

"Claire provides succinct and pragmatic advice and is particularly good on cases involving cross-border aspects." **Court of Protection: Property & Affairs, Chambers and Partners 2021**

"Is a great advocate, a clear communicator and excellent when it comes to providing technical and practical legal advice." **Court of Protection, Legal 500 2021**

"She does a very good job for her clients and often undertakes really high-profile work." **Court of Protection: Property & Affairs, Chambers and Partners 2020**

"She's very pragmatic and has an excellent grasp of both Court of Protection and trusts-related matters." **Court of Protection: Property & Affairs, Chambers and Partners 2020**

"A very versatile, experienced and persuasive advocate." **Court of Protection: Health & Welfare, Chambers & Partners 2020**

"She's really smart and is an expert in jurisdictional issues." **Court of Protection: Health & Welfare, Chambers & Partners 2020**

"She is exceptional in cases involving complex overlapping issues of jurisdiction, finance, or particularly difficult family dynamics." **Court of Protection: Health & Welfare, Chambers & Partners 2020**

"Cool under pressure, she is tenacious in her cross-examination and will not give up on the points that

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matter – someone you definitely want in your corner.” **Court of Protection, Legal 500 2020**

“She’s a tenacious advocate who certainly holds her ground in court and isn’t afraid to make difficult points.” **Court of Protection: Health & Welfare, Chambers & Partners 2019**

“A go-to counsel for international mental capacity matters, she has a really good practice and she really knows her stuff.” **Court of Protection: Property & Affairs, Chambers and Partners 2019**

“She’s very responsive, reliable and practical.” **Court of Protection: Property & Affairs, Chambers and Partners 2019**

“She responds to a huge amount of emails and manages her workload really well. In terms of her actual work, I send her to court and can leave her to it, she’s completely independent. I have seen her cross examine and she is completely fearless.” **Court of Protection: Health & Welfare, Chambers & Partners 2018**

“She has a sharp mind, her preparations are excellent and she is patient with lay clients.” **Court of Protection: Property & Affairs, Chambers and Partners 2018**

“Noted for having a broad Court of Protection practice and being strong on mental capacity issues generally. As well as having a strong practice, she has published a number of texts relating to the Court of Protection.”

Court of Protection: Health & Welfare, Chambers & Partners 2017

“She’s very good, very approachable, very friendly and willing to provide advice outside of cases.”

Court of Protection: Health & Welfare, Chambers & Partners 2017

“Has a practice that encompasses both property and affairs and health and welfare matters. She acts for a range of clients, such as individuals, local authorities, the Official Solicitor and financial deputies. She is well known for her work in cases concerning statutory wills, gifts, trusts and disputed deputyships.”

Court of Protection: Property & Affairs, Chambers and Partners 2017

“She’s very calm. We had an aggressive opponent, but Claire was very professional and a very good advocate.”

Court of Protection: Property & Affairs, Chambers and Partners 2017

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