Laura Davidson

Public Law

"Well regarded in the market, and noted for her academic excellence in human rights and mental health law. She is adept at handling serious medical treatment cases and disputes around the withdrawal of life-sustaining treatments."
Chambers & Partners 2017

"She's a doughty fighter." Chambers & Partners 2017

"A popular junior with a strong academic grounding in mental health law and human rights. She is frequently instructed in Court of Protection work by health trusts, local authorities and the Official Solicitor. "Extremely good. She is an effective, assertive advocate who is always entirely up to speed with the issues and knows how to get the result for her client." Chambers & Partners 2016

"Highly valued for both her strong commitment to cases and her academic background." “It is difficult to find someone as grounded as Laura in mental capacity and mental health law, or as practical or positive. She is incredibly hard-working, dedicated and entirely approachable.” “She is very energetic and will go the extra mile.” Chambers & Partners 2015

"An extremely confident advocate who is endlessly energetic."
"A tough opponent who fights hard for her client."
Chambers & Partners 2014

"Laura Davidson is a mental health and human rights expert. Sources commend her work for local authorities, and she also acts for trusts, individuals and the Official Solicitor. "Capable and feisty, you are pleased when she is on your side," said one instructing solicitor." Chambers & Partners 2013

"Laura Davidson is praised for the "technical precision" she applies to her instructions, her warm nature and the "tenacity" with which she approaches every aspect of her work. She is a noted authority on mental health and capacity legislation." Chambers & Partners 2012

Laura is instructed in many judicial review applications in healthcare law, particularly in the mental health arena. Her academic background means she is particularly good at untangling the interrelationship between the many statutes in this complex area of law. She represents hospital Trusts, local authorities, the Official Solicitor and patients, giving her an excellent overall view of all parties’ positions – often very useful tactically.

In the mental health field, Laura appears at First-tier Tribunals (Mental Health) (usually in complex cases involving restricted patients), and is
regularly involved in appeals to the Upper Tribunal. Indeed, she was instructed for the successful nearest relative Applicant in one of the first ever appeals to the Upper Tribunal. She also appeared for the Appellant in the very first appeal to the Court of Appeal from the Upper Tribunal Administrative Appeals Chamber in a mental health matter.

Laura’s other mental health work includes nearest relative displacement applications, in which she has substantial experience. She carries out inquest work involving psychiatric patients and vulnerable adults involving failed care. For example, she has represented the family of a young learning disabled soldier at an inquest into his death in a week-long jury inquest against the Ministry of Defence.

Laura receives regular instructions in habeas corpus applications, largely arising out of defects in detention procedure contrary to the requirements of the Mental Health Act 1983. She also has expertise in cases resisting the disclosure of medical records and Data Protection Act cases.

Much of Laura’s work involves human rights, which was the focus of her doctoral studies at Cambridge. For example, she successfully challenged the failure of a London Trust to fund cancer treatment for an elderly patient, resulting in a U-turn and the provision of treatment. She also brought a successful damages claim on behalf of an informal patient subjected to unlawful restraint and forcible injection whilst he visited friends on a hospital ward.

Laura publishes frequent articles as well as regularly lecturing in this field, both through Chambers and more widely. She is happy to provide tailor-made seminars to solicitors’ firms.

Laura is one of the Commonwealth Secretariat’s legal experts on its roster for the Commonwealth Fund for Technical Co-operation. She is a Consultant for the government of Rwanda, and in 2013 spent seven months drafting the country’s first mental health law.

Articles & Publications:


“Fact-finding hearings in the health and social context” (S.J. Vol.160, No.7, 23rd February 2016 (article considering the law on when fact-finding is necessary in Court of Protection proceedings and in those before a First-tier Tribunal (Mental Health) in the light of In the Matter of AG [2015] EWCOP 78 and AM v Partnerships in Care Limited & Secretary of State for Justice (2015) UKUT 659 (AAC)).

“False Imprisonment Part 2: Are our rights stronger in Europe?”, S.J. Vol. 159, No.27, 14th July 2015 (Second part of article on the implications of Lee Bostridge v Oxleas NHS Foundation Trust [2015] EWCA Civ 79 for future claims for damages based on Article 5 of the ECHR). Read it here, with kind permission from the Solcitors Journal


“Statute of Liberty”, S.J. Vol. 155, No.14 , 12th November 2011 (Article on the effect of RB which the Upper Tribunal found that discharge from detention under the Mental Health Act 1983 did not mean discharge from a deprivation of liberty).

"Minor Threat", S.J. Vol 154 No.41, pp.8-9 (Article about Laura's campaign to amend the Mental Health Act 1983 so that a tribunal may order a move to lesser security)


“Order of the Day”, S.J. Vol 154 No.30, 3rd August 2010 (Article considering the lack of clarity with respect to the recall and discharge provisions relating to community treatment orders.

"Nearest Relative Consultation and the Avoidant Approved Mental Health Professional", JMHL, Spring 2009, pp.70-80 (Article on three key cases concerning the requirements relating to nearest relative consultations)

Author of monthly case summaries for the Institute of Mental Health Law's e-bulletin (see http://www.davesheppard.co.uk/)

“Covert medication”, 158 NLJ, pp.1066-1068, 25.07.08 (Article on the
incompatibility between the covert medication of patients detained under the Mental Health Act 1983 and the statutory provisions on treatment without consent)

“Mental health and mental capacity: the new overlap”. S.J. Vol.151, No.45, pp.1520-1522, 30th November 2007 (Article on the application of Mental Capacity Act principles to detained patients)


QUALIFICATIONS

Ph.D (Cantab): “An examination of the rights of the mentally disordered in English law in the context of Articles 3 and 5(1) of the European Convention on Human Rights and Fundamental Freedoms”

M.Phil (Cantab): “An examination of the rights of the mentally disordered offender in the English criminal justice process: public protection, risk and dangerousness”


Bar Vocational Course, Inns of Court School of Law

Advanced Dip.Law (Distinction)

NOTABLE CASES

AM v Partnerships in Care Limited and Secretary of State for Justice [2015] UKUT 0659 (AAC) (appeal to the Upper Tribunal on errors of law and a tribunal's need to make findings of fact).

RH v South London & Maudsley NHS Foundation Trust and the Secretary of State for Justice (Court of Appeal) [2010] EWCA Civ 1273 (the first mental health appeal to the Court of Appeal from the Upper Tribunal Administrative Appeals Chamber)

TTM (By his Litigation Friend TM) v Hackney London Borough Council and East London NHS Foundation Trust & Secretary of State for Health [2010] EWHC 1349 (Admin) QBD (Admin) (Collins J) 11/6/2010

Laura represented the Claimant in this recent ground-breaking case. The Court held that it did not follow that a patient's detention was unlawful even where their admission was unlawful due to the objection of a nearest relative which had resulted in the issue of a writ of habeas corpus. Collins J found that such a detention was not void ab initio, but only became unlawful when the court so declared. The Court found no violation of the right to compensation under Article 5(5) of the ECHR because there had been no breach of Article 5(1), and therefore did not consider the potential incompatibilities under s.6(3) and s.139(1) of the Act. Further, the best interests of the patient could override the requirement in s.12(2) for one of the medical recommendations to be
provided by a medical practitioner with previous knowledge of the patient.

Permission under s.139(2) of the Mental Health Act 1983 was refused as the AMHP had been neither malicious nor negligent. However, Collins J granted permission to appeal to the Court of Appeal. As a consequence of the decision, no psychiatric patient who is unlawfully admitted may ever gain damages for unlawful detention unless a hospital refuses to act on a writ of habeas.

**AA v Cheshire and Wirral Partnership NHS Foundation Trust, ZZ and the Secretary of State for Health, Upper Tribunal Decision (2009) UKUT 195 (AAC)** (one of the first appeal cases in the Upper Tribunal (Mental Health) in which Laura acted for the successful nearest relative)

**R v East London NHS Foundation Trust & Hackney London Borough Council, ex parte M [2009] MHLR 154** (successful habeas corpus proceedings arising out of a failure to comply with the admission process under the Mental Health Act 1983).

**R v South Region MHRT, ex parte B [2008] EWHC 2356 (Admin) (2008) ACD 91** (a judicial review of a Mental Health Review Tribunal on behalf of a patient on the basis of bias/the appearance of bias)

**R v Cygnet Healthcare & Another, ex parte BB [2008] EWHC 1259 (Admin) [2008] MHLR 106** (a successful habeas corpus application due to a breach of the Mental Health Act 1983)

**R. v Huntercombe Maidenhead Hospital & Others, ex parte SR [2005] EWHC 2361 (Admin); (2006) ACD 17** (acted for the Official Solicitor in successful expedited judicial review proceedings brought on behalf of a 15 year old patient detained under s.3 of the Mental Health Act 1983)