

Mike O'Brien

Call: 1987



Mike O'Brien is an experienced practitioner and member of chambers Court of Protection, International and Public Law groups.

Expertise

Court of Protection

Mike O'Brien appears regularly in the Court of Protection instructed by local authorities, the Official Solicitor and family members in cases involving health, welfare, finance and deprivation of liberty. He became a QC in 2005.

He successfully represented the local authority, seeking to take into care WMA, a 25 year old man with autistic spectrum disorder, who wanted to live with his mother in living conditions which gave rise to concerns. In a complex case, which raised difficult issues around the precise level of incapacity and also WMA's Article 8 Rights, he argued the importance of distinguishing the right to a private life from the right to family life. *NCC v WMA and MA* [2013] EWHC 2580.

He represented a local authority where a 22 year old woman who lacked capacity, was in a secure care home, had a serious physical conditions and had had two children taken into care, was nonetheless entitled to have unprotected sexual relations with a boyfriend which could lead to pregnancy and another child being taken into care.

And in another matter he argued that for the Official Solicitor that an elderly woman held in secure accommodation with dementia should be allowed out to go to the park and walk her family dogs. In another case involving a complex Power of Attorney dispute over the property of a person taken into care he successfully negotiated a settlement between warring members of a family.

Mike initially trained as a solicitor in Birmingham, but later transferred to the bar. During his career he taught law for six years, practiced in a firm specialising in high profile criminal cases in London and practiced as a solicitor advocate in London, which saw him in court daily. Elected as an MP, he was a Minister in the Home Office where he helped take through the Human Rights Acts and FOI legislation and then the Foreign Office and was Minister of State for Health. He is a member of HM Privy Council. He was a Law Officer advising the government on legal issues, having served as Solicitor General For England and Wales for two years. He was involved in decisions leading to the creation of the Mental Capacity Act. In 2011 he joined No5 Chambers where he specialises in Court of Protection cases and Judicial

Birmingham

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Review, although he has appeared in the Court of Appeal on property and chancery disputes.

International

Mike O'Brien is a former Law Officer and advised the government on legal issues. He was Solicitor General for England and Wales from 2005 to 2007, and served for thirteen years as a Government Minister. This includes being a Home Office Minister and the Minister of State for Health until May 2010. He therefore has an in depth knowledge of how the public sector operates at the national and local level and understands the NHS. He took through the House of Commons new legislation on health, as well as the Human Rights Act, the Freedom of Information Act, two pensions Acts and oversaw implementation of the Data Protection Act. He has lectured and written on the new Health and Social Care Act including conducting in house seminars for specialist firms on the implications of the new law.

Since joining No5 Chambers last year Mike has worked on judicial review cases including on local government and health related matters. He has advised on procurement cases involving in local government and health areas. In addition, he has recently acted in a 30m trust dispute over the ownership of a chain of businesses which was resolved privately and also in series of personal injury claims, including medical negligence.

He recently acted in an internal dispute within a national professional organisation as part of a developing interest in disciplinary and regulatory law.

Mike has a keen interest in Mental Health Act and Mental Capacity Act cases and both advised local authorities and others, as well as lectured on the subject.

Mike initially trained as a solicitor in Birmingham. He was a lecturer in Contract and Business Law from 1981 to 1987 before practicing as a solicitor in London and later the Midlands. He was on his feet in court on a daily basis as a solicitor advocate for some years before being elected to Parliament in 1992. He is a member of Her Majesty's Privy Council and was appointed by HM as a Queen's Counsel in 2005. He transferred to the Bar and joined No5 Chambers in early 2011.

This gives clients the opportunity to brief counsel with an extensive experience of how the public sector works, as well as the person who brought into the law many important Acts of Parliament. Although he was made a QC in 2005, Mike is currently building up his client base and hence has accepted a wide range of work as a junior because the key thing for him is to attract a range of interesting cases.

Public Law

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Memberships

- Mike is a member of COPP
- HM Privy Council

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