



ALEXIS HEARNDEN

Year called 2005

alexis.hearnden@39essex.com

“She is really approachable. She’s a very good advocate, who has dealt with some monster cases.”

Chambers UK

“She’s clever, good on technical points and never misses a trick.”

Chambers UK

Alexis Hearnden is an experienced advocate with a successful regulatory and public law practice. She acts for professionals and regulators across a range of professions including solicitors, dentists, opticians, vets, and osteopaths before tribunals, in judicial review proceedings and statutory appeals. Alexis acts for the Professional Standards Authority in s29 appeals and for the GMC on appeal.

Alexis regularly represents family members, local authorities, health authorities and the Official Solicitor in the Court of Protection. Mental health, community care, healthcare judicial reviews and disputes also form part of her practice.

She is recommended as a leading junior by Chambers and Partners in the areas of Professional Discipline and in the Court of Protection, and by Legal 500 for Professional Discipline.

PRACTICE AREAS

- Regulatory and Professional Discipline

SECTORS

- Local Government
-

PRACTICE AREAS

REGULATORY AND PROFESSIONAL DISCIPLINE

Alexis accepts instructions across a wide range of disciplines for both practitioners and regulators.

LEGAL

Alexis has extensive experience of the regulation of the legal profession. Work includes:

- As junior counsel to Fenella Morris QC acting for a firm appealing against a decision of the High Court not to withdraw a notice of intervention, where procedural unfairness is alleged against the SRA (Neumans v SRA, hearing 25 January 2018, judgment awaited)
- Advising (as junior to Gregory Treverton-Jones QC) a major insurer in relation to a whistle blower who alleged that a dishonest firm pursued inflated personal injury claims.
- Acting for a solicitor after an SRA intervention, seeking an injunction to prevent publication of the intervention until after the general election.
- As junior counsel to Andrew Hopper QC acting for the Solicitors Disciplinary Tribunal in the Court of Appeal. An appeal based on the apparent bias of the Tribunal clerk was dismissed: *Virdi v Law Society & Solicitors Disciplinary Tribunal*, 18 February 2010 [2010] EWCA Civ 100, [2010] 3 All ER 653.
- Acting for a partner accused of recklessness at a firm which was connected – by the SRA – to individuals involved with the intervention into Wollstenholmes LLP.
- Acting as junior counsel to Gregory Treverton-Jones QC before the Solicitors Disciplinary Tribunal defending a practitioner in a ten day case brought by the Law Society.
- Advising a private equity house as to its obligations under the Legal Services Act 2007 when becoming an owner of an ABS.
- Acting for a GDL student who was denied student membership to the Law Society on the basis of a caution for shoplifting. The appeal was compromised and the Law Society agreed to issue a certificate of enrolment.
- On appeal, acting for a solicitor struck off for dishonesty arising out of a period of ill health during which the solicitor borrowed money from client accounts. The SRA agreed to erase the dishonesty finding and substitute the strike off with an indefinite suspension.
- Acting as a legal advisor to the ILEX appeal panel and appearing before the ILEX fitness to practise committee.

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- Acting for a barrister in BSB proceedings in a complaint made by a litigant in person about the barrister's conduct outside court.

Alexis is a member of the editorial board of the Law Society's "Legal Compliance Bulletin".

HEALTHCARE

In the healthcare field Alexis' work includes a range of professional regulators including the General Optical Council, the Nursing and Midwifery Council, the General Osteopathic Council, the Health and Care Professions Council and the Royal College of Veterinary Surgeons. For example:

- As junior counsel to Fenella Morris QC acting for the Nursing and Midwifery Council in the Court of Appeal in an appeal concerning the correct interpretation of the test applied by the Registrar when a nurse or midwife applies to renew her registration ("capable of safe and effective practice") where a conviction was declared at renewal: *Doherty v Nursing and Midwifery Council* [2017] EWCA Civ 1344
- Acting for the General Medical Council in appeals brought under sections 40 and 40A of the Medical Act 1983, for example, *Nooh v General Medical Council* [2017] EWHC 2948 (Admin).
- Acting for the Professional Standards Authority in a number of statutory appeals involving alleged under-prosecuting or unduly lenient sanctions (e.g. *Professional Standards Authority v (1) Health and Care Professions Council, (2) Doree* [2015] EWHC 822 (Admin)).
- Presenting a number of cases on behalf of the Royal College of Veterinary Surgeons (RCVS) involving dishonesty and animal welfare allegations, and defending judicial review proceedings.
- Advising a regulator as to draft guidance on obtaining consent for treatment and the Mental Capacity Act 2005.
- Defending the registrant in a 5 day fitness to practise hearing before the General Osteopathic Council.
- Advising a regulator where it was alleged that a registrant lacked capacity to litigate fitness to practise proceedings.
- Acting for the General Optical Council (GOC) in fitness to practise cases involving record keeping, glaucoma detection and paediatric ophthalmology.
- Representing a member before the British Association for Counselling and Psychotherapy conduct committee.

SECTORS

LOCAL GOVERNMENT

COURT OF PROTECTION

Alexis regularly represents local authorities, the Official Solicitor and families in health and welfare and property and affairs cases in the High Court and in the Court of Protection, including urgent applications. As a result, she has experience of working with vulnerable clients and witnesses. Alexis' background in

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personal injury litigation has been valuable in recent cases where Court of Protection proceedings are litigated alongside civil proceedings.

Cases include:

- Acting for the local authority in a forced marriage case where P was a young man with autism who had undergone a marriage ceremony in Pakistan: *Luton Borough Council v (1) SB, (2) RS (by his litigation friend the Official Solicitor)* [2015] EWHC 3534 (Fam), [2017] 4 WLR 61.
- Acting for the NHS Trust in a mother's application to sterilise her adult daughter.
- Acting for P in a case concerning whether or not blood transfusions should continue to be given when P's atypical eating disorder was not being properly treated.
- Cases concerning serious medical treatment and capacity to consent to sexual relations or marriage.
- Article 5 cases, including claims for damages and declaratory relief.
- Applications to the Court of Protection involving the issues of residence, contact, and alleged abuse.
- Acting in fact finding hearings in cases of alleged sexual and physical abuse.
- Acting for the Public Guardian in an appeal concerning the interpretation and effect of a lasting power of attorney: *Miles v Public Guardian* [2015] EWHC 2960 (Ch).
- Applications to depose a property and affairs deputy.
- Acting for a family member where an EPA and two contrary LPAs may all be valid.
- Proceedings in the High Court under the inherent jurisdiction in cases where P's capacity fluctuates and/or there has been undue influence.
- Acting for a local authority in a case concerning Rule 3A representatives: *SCC v MSA* [2017] EWCOP 18.

MENTAL HEALTH

In the field of Mental Health, Alexis has represented patients and local authorities in applications to displace the nearest relative and has acted for the Defendant in habeas corpus proceedings. In the First Tier Tribunal Alexis is happy to accept instructions from patients or the responsibility authority and has particular experience in cases concerning high security patients.

Work includes:

- Section 117 case: for local authorities where responsibility is dispute, for the NHS Trust in a challenge to the discharge of s.117 duties, and in claims for damages for alleged negligence in discharging the duty under s.117
- Advising a patient on a potential judicial review of a decision not to make a community treatment order.
- Advising a hospital where a conditionally discharged patient alleged that she was de facto detained and therefore deprived of her liberty contrary to Article 5.
- Acting for a patient in a judicial review of a hospital decision to refuse an application for family visiting rights in a high security mental health hospital.

COMMUNITY CARE

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Alexis regularly undertakes work for and against local government which particular emphasis on community care.

Work includes:

- As junior counsel to Fenella Morris QC acting for a Primary Care Trust in an application for permission to appeal against a refusal of permission to proceeding for a judicial review in a claim where it is alleged that the PCT is under a duty to provide 'ordinary' suitable accommodation pursuant to section 3(1) of the National Health Service Act 2006: *R(Whapples) v Birmingham East and North PCT* [2013] EWCA Civ 258.
- Acting for the local authority in successfully resist an application for judicial review of a disputed age assessment of an unaccompanied asylum seeking child: *R(A) v LB Camden* [2010] EWHC 2882 (Admin).
- Acting for a healthcare organisation providing healthcare services in a prison, where a prisoner sought to judicially review the decision to delay elective surgery until after his release.
- Judicial review claims concerning obligations in the Care Act 2014.
- Advising the claimant in judicial review proceedings where breach of section 6 of the Childcare Act 2006 (duty to secure sufficient childcare for working parents) was alleged.
- Advising a local authority in respect of the ordinary residence test and obligations under the Children Act 1989, the National Assistance Act 1948 and the Care Act 2014 including where the service user lacks capacity.

CASES

PROFESSIONAL DISCIPLINE & REGULATION

Nooh v General Medical Council [2017] EWHC 2948 (Admin)

The GMC appealed the restoration decision of a fitness practise tribunal. The GMC argued that the restoration tribunal had re-evaluated the seriousness of the original misconduct when considering the question of restoration.

Doherty v Nursing and Midwifery Council [2017] EWCA Civ 1344

The Court of Appeal held that the criteria to be applied at the renewal of registration was different to that to be applied when considering sanction after a finding of misconduct and impairment in the context of fitness to practise proceedings. *Professional Standards Authority v (1) Health and Care Professions Council (2) Doree* [2015] EWHC 822 (Admin)

The Professional Standards Authority brought a s29 appeal against a decision of the Health and Care Professions Council Conduct and Competence Committee to impose a caution in a case involving

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findings of sexual harassment and bullying. Alexis acted for the Professional Standards Authority.

Virdi v Law Society & Solicitors Disciplinary Tribunal 18 February 2010 EWCA Civ 100 [2010] 3 All ER 653

Alexis was led by Andrew Hopper QC on behalf of the Tribunal in an appeal based on the apparent bias of the Tribunal clerk was dismissed.

COMMUNITY CARE

R(Whapples) v Birmingham East and North PCT [2013] EWCA Civ 258

Acting as junior counsel to Fenella Morris QC, in a case concerned the scope of the extent of the duty owed by an NHS to provide accommodation where there is a clinical need for such accommodation.

MENTAL HEALTH

K v G and Another [2009] All ER (D) 128

Alexis acted for the patient in an appeal from a refusal to displace the nearest relative.

COURT OF PROTECTION

Luton Borough Council v (1) SB, (2) RS (by his litigation friend the Official Solicitor) [2015] EWHC 3534 (Fam), [2017] 4 WLR 61

Acting for the local authority in a forced marriage case and securing a finding that P lacked capacity to consent to sex and the marriage

Miles v Public Guardian [2015] EWHC 2960 (Ch), [2015] COPLR 676

Acting for the Public Guardian in an appeal concerning the correct interpretation of two lasting powers of attorney which provided for a "hybrid" appointment, whereby two attorneys were appointed, with one named as the replacement (if the other could no longer act) and a third named as replacement if neither of the original attorneys could act.

SCC v MSA [2017] EWCOP 18

Alexis drafted written submissions for the local authority, which contended that P's mother (responsible for operating a care package which deprived P of his liberty at home) was not unsuitable to act as his Rule 3A representative.

LOCAL GOVERNMENT

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R(A) v LB Camden [2010] EWHC 2882 (Admin)

Successfully resisting a challenge to a dispute age assessment where the claimant relied on paediatric and dental evidence.

RECOMMENDATIONS

Recommended for Professional Discipline and Regulatory work in the Legal 500 and for Professional Discipline and Court of Protection: Health & Welfare in Chambers UK.

QUOTES

She can find the faults in judgments necessary for successful appeals .’ Legal 500

“Thorough and very approachable.” Chambers UK

”Always very well prepared and ready to take on more senior counsel.” Chambers UK

“Very highly regarded and often instructed by the Official Solicitor.” Chambers UK

“She has a very good technical brain.” “She has got good judgement.” Chambers UK

“Quickly gets to grips with complex cases and can assimilate vast amounts of information” Legal 500

“She gets to grips with complexities very quickly.” Chambers UK

“Her forte is dealing with lay clients. She is very skilled in this area of work.” Chambers UK

“a frequent presence in the SDT and is praised for the strength of her written work” Chambers and Partners

“Considerable experience of solicitors’ disciplinary work” Legal 500

“Sensitive to clients’ plight in traumatic proceedings” Legal 500

“She’s very sensible and reasoned – an excellent person to have on board.” Chambers UK

“She’s very confident and has excellent client-handling skills” Chambers UK

“she’s clever, good on technical points and never misses a trick” Chambers UK

‘Sought-after by both the regulator and the regulated .’ Legal 500

MEMBERSHIPS

- ALBA

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- ARDL
- Justice
- Amnesty

QUALIFICATIONS

2004-2005: Inns of Court School of Law. BVC – Very Competent.

2003-2004: City University. CPE – Commendation.

2003-2004: Ashworth Scholarship Award, Inner Temple.

2000-2003: Mansfield College, Oxford. BA (Hons) (Politics, Philosophy, Economics) 2:1 –
College Exhibition Award for academic excellence.

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