



Neil Allen

Year of call: 1999

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"An unflappable and incredibly intelligent junior, who has wonderful client empathy." The Legal 500, 2022

Neil has particular interests in human rights, mental health and incapacity law, and has been involved in many of the leading cases in this field, including *Cheshire West, N v ACCG*, and *Re X*, as well as many reported cases in the lower courts which have shaped the law.

Neil provides specialist advice and representation, as well as expert legal training to frontline health and social care practitioners, which is complemented by his website, www.lpslaw.co.uk. He regularly publishes his views on the development of the Mental Capacity Act 2005 and the Mental Health Act 1983 in blogs, journals and books. He also teaches undergraduate and postgraduate university students as a senior lecturer at the University of Manchester and provides pro bono services through his [Dementia Law Clinic](#).

Areas of expertise

Court of Protection - Welfare

Community Care and Mental Health

Community Care and Mental Health

Neil has specialised in the Mental Health Act 1983 for over 15 years, appearing in the Upper Tribunal and delivering expert training to approved mental health professionals (AMHPs), approved clinicians and section 12 doctors. In 2018, he was an advisor on the Statutory Principles Group to the Independent Mental Health Act Review and, since 2012, has been an advisor to the Care Quality Commission's Deprivation of Liberty Safeguards Advisory Group. Since 2021, he has been responsible for delivering approved clinician and section 12 re/approval courses across the whole of Wales for local health boards on behalf of the Welsh Minister. His cases typically involve issues including:

- Ordinary residence
- Section 117 after-care disputes
- The interface between the Mental Health and Capacity Acts
- Whether grounds exist to challenge tribunal decisions
- The legality of community treatment orders

- Social care assessments.

Cases of note:

- ***SM v Livewell Southwest CIC* [2020] UKUT 191 (AAC) (3887)** - Guidance from the Upper Tribunal on the approach to be taken where a patient lacks capacity to challenge their detention under the Mental Health Act 1983.
- ***GA v Betsi Cadwaladr University LHB* [2013] UKUT 280 (AAC) (3888)** - Consent and community treatment orders.

Recommendations

- As a band 1 junior, Neil is ranked with only 11 practitioners across the country in the Court of Protection: Health and Welfare category in Chambers and Partners (2022) and in band 2 in The Legal 500 (2022).
- *"An unflappable and incredibly intelligent junior, who has wonderful client empathy."* The Legal 500 2022
- *"He is especially talented in Court of Protection cases concerning mental health. He brings an interesting perspective to cases and pitches at the right level."* Chambers and Partners 2022
- *"Always well prepared, a pleasant opponent and a good problem solver." "He thinks outside of the box and puts himself into P's shoes when he is providing advice and will fight to the death to ensure P's rights are restricted the least amount possible." "Very flexible, and the work that he does is of a very high quality. His knowledge base is excellent."* Chambers and Partners 2021
- *"Neil's knowledge of the whole span of mental health, community care and public law is comprehensive. He applies that knowledge with great judgement and one never doubts his analysis. He is excellent on the papers, as he is on his feet."* The Legal 500 2021
- *"He's very academically on the ball, knows the law very well and is a very good advocate." "He is incredibly helpful, very responsive, fantastically knowledgeable and hugely respected in the Court of Protection world."* Chambers and Partners 2020
- *"Incredible intellectual abilities; not in the least phased at the prospect of having to appear before the senior courts on complex matters, at short notice."* The Legal 500 2020
- *"He brings a really great and broad perspective to cases thanks to his academic background. He has an excellent technical understanding of the Mental Capacity Act and community care law, and he is very good at dealing with both lay and professional clients."* Chambers and Partners 2019
- *"Has an encyclopaedic knowledge of all things CoP, but also very likeable and pragmatic."* The Legal 500 2018
- *"Excels at Court of Protection work that involves deprivation of liberty and other human rights issues. Peers point out his academic excellence as a distinguishing characteristic, citing his role as lecturer in Clinical Legal Education at the University of Manchester. His academic excellence in this field is a real strength, and he's brilliant." His ability to quickly identify those issues which may cause difficulties makes him a very helpful advocate." "The level of his ability is beyond his years of call."* Chambers and Partners 2017
- *"Intelligent and thorough, he offers an academic but accessible rights-based approach to complex welfare cases. He's an excellent communicator. An excellent communicator and reliable source of support and expertise for the firm and clients alike. He's always willing to delve deeper into broader issues and readily offers insight into exceptionally complex issues"* Chambers and Partners 2016
- *"Intelligent and thorough, he offers an academic but accessible rights-based approach to complex welfare cases. He's an excellent communicator. Very academic and extremely learned on the history of the law and its development. He is also fantastically approachable."* Chambers and Partners 2015

- *"He is highly respected by the Official Solicitor. He has a thoughtful, analytical approach to cases and an amazing eye for detail. What he doesn't know about deprivation of liberty isn't worth knowing."*
Chambers and Partners 2014

Memberships

- University of Manchester's Centre for Social Ethics and Policy
- Liberty

Qualifications

Education

- 1998-1999 / The Inns of Court School of Law, London/Bar Vocational Course
- 1995-1998 / The University of Manchester/LL.B English Law (Hons)

Scholarships and prizes

- Manchester Law Society Special Recognition Award Winner (2021)
- The 'LawWorks and Attorney General' Award Highly Commended (2021)
- Times Higher Education Award Nominee for the University of Manchester (2021)
- LawWorks Pro Bono Award Finalist (2020)
- Higher Education Academy CATE Award Nominee for the University of Manchester (2019)
- LawWorks & Attorney General Award Finalist (2019)
- Oxford University Press Law Teacher of the Year finalist (2019)
- Winner of the University of Manchester's Making a Difference Award for Inspiring Communities (2017)

Additional information

Law Books

- Chapter 9 *'The tests for incapacity'* and chapter 10 *'Care and treatment of those lacking decision-making capacity'* in Jean McHale and Judith Laing (eds), *Principles of Medical Law* (4th ed.) (2017), Oxford University Press.
- *'Psychiatric care and criminal prosecution'* in *Medicine, Crime and Society* (2013) Cambridge University Press.
- Brazier, M., Allen, N., *'Criminalising medical malpractice'* in Charles Erin and Suzanne Ost (eds), *The Criminal Justice System and Health Care* (2007) Oxford University Press.
- *'Medical or managerial manslaughter?'* in Charles Erin and Suzanne Ost (eds), *The Criminal Justice System and Health Care* (2007) Oxford University Press.
- *'Necessity, Incapability and Emergency'* in Steven Hedley and Margaret Halliwell (eds), *The Law of Restitution* (2002) Butterworths Common Law Series.

Legal Journals

- Allen, N. et al, *'Advance decisions to refuse treatment and suicidal behaviour in emergency care: it's very much a step into the unknown'* (2019) 5(4) *British Journal of Psychiatry* 1.
- Allen, N. et al, *'The management of patients with an advance decision and suicidal behaviour: A*

systematic review (2019) British Medical Journal (open access).

- Ruck-Keene, A., Bartlett, P., Allen, N., '*Litigation friends or foes? Representation of P before the Court of Protection*' (2016) Medical Law Review 333-359.
- '*The (not so?) great confinement*' (2015) 5(1) Elder Law Journal 45-51.
- '*The Right to Life in a Suicidal State*' (2013) 36 International Journal of Law and Psychiatry 350-357.
- Allen, N. and Prescott, A., '*The opacity of sexual capacity*' (2012) 2(4) Elder Law Journal 352-357.
- '*Criminal Care: Ill treatment and wilful neglect*' (2012) 2 Elder Law Journal 71-75.
- 'Dare to care' (2011) 1(2) Elder Law Journal 167.
- '*The Bournewood gap (as amended?)*' (2010) 18 Medical Law Review 78-85.
- '*First do no harm. Second save life?*' (2010) Journal of Mental Health Law 180-185.
- David, T., Bray, S., Farrell, A.M., Allen, N., Ellson, S., '*Fitness to practise procedures for undergraduate healthcare students*' (2009) 10 Education Law Journal 102-112.
- '*Saving life and respecting death: A Savage dilemma*' (2009) 17 Medical Law Review 262.
- '*Is capacity "in sight"?*' (2009) Journal of Mental Health Law 165-170.
- '*Restricting movement or depriving liberty?*' (2009) Journal of Mental Health Law 19-32.
- '*Protecting the suicidal patient*' (2008) Journal of Mental Health Law 93-100.
- '*A human right to smoke?*' (2008) New Law Journal 886-887.
- '*All in the mind?*' (2008) New Law Journal 848-849.
- '*Re-detention after recent discharge: A role for judicial review?*' (2007) 15 Medical Law Review 253-261.
- '*A call for order*' (2007) New Law Journal 241.

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