

Practice and Procedure

Introduction

Welcome to the March 2015 Newsletters. Highlights this month include:

- (1) In the Health, Welfare and Deprivation of Liberty Newsletter: a case rivalling *Neary* in its importance, a case at the outer limit of the COP's powers and an update on *Re X*;
- (2) In the Property and Affairs Newsletter: recent decisions of Senior Judge Lush, including a rare refusal of an application by the OPG for revocation of a power of attorney including an interesting assessment of the place of P's wishes and feelings;
- (3) In the Practice and Procedure Newsletter: the significant case of *Bostridge* on nominal damages, extreme product champions, veracity experts and the place of morality;
- (4) In the Capacity outside the COP Newsletter: two extremely important decisions of Charles J in relation to the MHT and patients who may lack capacity, an extremely significant Strasbourg decision on Article 5; anonymisation, the capacity to drive; and a new SCIE directory of MCA resources;
- (5) In the Scotland Newsletter: an appreciation of Sheriff John Baird, an update on deprivation of liberty in the context of the SLC report, new guidance from the MWC about managing the finances of those lacking the material capacity; an update on incapacity matters addressed (or not) in proposals for court reform and the further Devolution Command paper, and an update on the Assisted Suicide Bill.

And remember, you can now find all our past issues, our case summaries, and much more on our dedicated sub-site [here](#).

Editors

Alex Ruck Keene
Victoria Butler-Cole
Neil Allen
Annabel Lee
Simon Edwards (P&A)

Scottish contributors

Adrian Ward
Jill Stavert

Table of Contents

Introduction	1
When will nominal damages alone be awarded?	2
Short Note: extreme product champions and their effect on P	5
When does the court need an expert to assist as to veracity?	6
What place morality (as compared to forensic rigour)?	7
Short note: who decides as to death?	8
Conferences at which editors/contributors are speaking	9
For all our mental capacity resources, click here . Transcripts not available at time of writing are likely to be soon at www.mentalhealthlaw.co.uk .	

When will nominal damages alone be awarded?

Bostridge v Oxleas NHS Foundation Trust [2015] EWCA Civ 79 (Court of Appeal (The Chancellor, Clarke and Vos LJ))

Article 5 ECHR – Damages

Summary

The Court of Appeal has dismissed the appeal in the case of *Bostridge v Oxleas NHS Foundation Trust*, confirming that the principles set down in the immigration detention context in *Lumba v Secretary of State for the Home Department* [2011] UKSC 12 (*Lumba*) and *Kambadzi v Secretary of State for the Home Department* [2011] UKSC 23 (*Kambadzi*) also apply to claims for false imprisonment/breach of Article 5 ECHR brought in the context of the MHA 1983.

The facts of Mr Bostridge’s case are, insofar as relevant for present purposes, these. He was discharged from detention by the FTT (Mental Health) in April 2009, his discharge being deferred so a Community Treatment Order could be put in place. However, for technical reasons that need not detain us here, what was then purported to be put in place as CTO was not, in fact, a CTO such that, when his condition deteriorated in August 2009 and he was recalled to hospital and detained thereafter (with six days of leave) until November 2010, his detention was at all stages – and was admitted by the Defendant Trust – to be unlawful. The Defendant admitted that the period of 442 days amounted to false imprisonment and/or unlawful deprivation of liberty for purposes of Article 5 ECHR. His case was reviewed twice by a Tribunal during his detention (with no one realising the fact that the detention was unlawful), on both

occasions the Tribunal finding that his condition warranted continued detention. The Claimant never realised that his detention was unlawful, nor did anyone involved in his care. A jointly instructed psychiatrist who reported in the subsequent claim brought on his behalf after it was realised that he had been unlawfully detained indicated that his re-admission to hospital in August 2009 was necessary as at that point, that there was no evidence that he had suffered damage during the period of unlawful detention due to his being unlawfully detained, and that he would have suffered the same unhappiness and distress had he been lawfully detained.

It was therefore common ground that the Claimant had suffered no actual loss, because he would have been detained had his illness been correctly addressed via s.3 MHA 1983, as it should have been on 19 August 2009, and thereafter he would have received precisely the same treatment and he would have been discharged in September 2011.

Against that backdrop of agreed facts, HHJ Hand QC at first instance had to assess the quantum of damages that fell to be awarded the Claimant for both false imprisonment and unlawful deprivation of liberty. In concluding that the Claimant was not entitled to any more than nominal damages, HHJ Hand QC relied heavily on the cases of *Lumba* and *Kambadzi* (discussed in more detail in Alex’s article with Catherine Dobson, “*At what price liberty? The Supreme Court decision in Lumba and compensation for false imprisonment*” [2012] *Public Law* 628).

False imprisonment

The Claimant appealed. Before the Court of Appeal, the main ground of the appeal was that

Lumba and *Kambadzic* could be distinguished because, in those cases, the Secretary of State always had power to detain the claimants in question, and that she would have exercised that power anyway had the unlawfulness come to light, whereas, in the instant case, the NHS trust did not have such a power at all; the NHS Trust was dependent on lawful compliance with ss.3 and 11 MHA 1983, which required actions by third parties, namely by two medical practitioners and by either the nearest relative of the patient or by an approved mental health professional. It was also argued on Mr Bostridge's behalf that the prior cases of *Christie v. Leachinsky* [1946] KB 124 (CA) [1947] AC 547 (HL) (*Christie*) and *Kuchenmeister v Home Office* [1958] 1 QB 496 (*Kuchenmeister*), when read together with *Lumba* and *Kambadzi*, mandated the result that nominal damages were only appropriate when the defendant itself (as opposed to some third party) could and would anyway have detained the claimant under a lawful power had the illegality come to light.

The Court of Appeal disagreed. Giving the sole reasoned judgment, Vos LJ held that:

"20... [t]he tort of false imprisonment is compensated in the same way as other torts such as to put the claimant in the position he would have been in had the tort not been committed. Thus if the position is that, had the tort not been committed, the claimant would in fact have been in exactly the same position, he will not normally be entitled to anything more than nominal damages. The identity of the route by which this same result might have been achieved is unlikely to be significant

[...]

23. As I have said, the principle dictates that the court, in assessing damages for the tort of false imprisonment, will seek to put the

*claimant in the position he would have been in had the tort not been committed. To do that, the court must ask what would have happened in fact if the tort had not been committed. In each of *Lumba* and *Kambadzi*, the answer was obvious. Had the torts of false imprisonment not been committed, the Secretary of State would have applied the published policy or undertaken the appropriate custody reviews. In both cases, the claimants would still have been detained. They sustained no compensatable loss. The majority of the Supreme Court determined, in addition, that vindictory damages were not available in these circumstances (see paragraph 74 of Baroness Hale in *Kambadzi*)."*

Vos LJ held that none of the authorities relied upon by Mr Bostridge compelled the conclusion argued for (and that, to the extent that *Kuchenmeister* suggested that vindictory damages were appropriate in a case of false imprisonment even where the claimant could have been lawfully detained or anyway impeded in his journey, that first instance authority should no longer be followed as inconsistent with *Lumba*).

Vos LJ therefore held that the judge was right to decide on the basis of *Lumba* and *Kambadzi* that the appellant was only entitled to nominal damages and, now that the law has been clarified by these cases, neither *Christie* nor *Kuchenmeister* pointed to any different conclusion.

Article 5

Perhaps a little surprisingly, Leading Counsel for Mr Bostridge placed little reliance upon Article 5 and the right to compensation enshrined in Article 5(5). Both *Lumba* and *Kambadzi* were cases solely concerned with the common law tort of false imprisonment, and it might perhaps have

been expected that arguments might have been addressed as to the fact that the tort is not entirely co-existent with Article 5.

A tentative argument was advanced that, on the basis of *Winterwerp* (confusingly called ‘*Wintwerp*’ in the judgment), there was a ‘policy’ reason for the award of substantial damages in cases such as *Mr Bostridge*. However, whilst *Vos LJ* accepted that it was “*not in doubt that a breach of either substantive or procedural rules will lead to a finding of false imprisonment. In my judgment, however, the ECtHR’s decision says nothing about the appropriateness of the compensation to be awarded once that finding is made. In the circumstances of this case, I do not think that there were any policy considerations that required a substantial award of damages.*”

It was also argued – again somewhat tentatively – that damages should have been more than nominal to reflect both the appellant’s loss of liberty and the loss of the procedural and substantive protections afforded by a lawful detention. However, as *Vos LJ* noted:

“30. This point too was not much pressed by Mr Drabble. Indeed, it was also not suggested with any force that the judge ought to have made a greater than nominal award under section 6 of the Human Rights Act 1998 by way of ‘just satisfaction’ for a breach of article 5 of the Convention. In my judgment, once it is clear that the appellant sustained no loss, because he would in fact have been lawfully detained anyway whether or not the breach had occurred, it is hard to see how an award of anything more than nominal damages could be justified, whether as compensatory damages or as a just satisfaction. For this reason, I do not think that the damages ought to have been more than nominal either to reflect the loss of liberty or the loss of the procedural and substantive protections

afforded by a lawful detention. Both these grounds for a substantial award are ruled out, as Baroness Hale acknowledged at paragraph 74 in Kambadzi, by the inappropriateness after Lumba of vindicatory damages in this kind of case.”

Comment

This decision will, we suspect, be greeted with considerable relief by public authorities, and in particular those concerned with potential liability for claims for unlawful deprivation of liberty in post-*Cheshire West* cases. Although concerned with damages in relation to unlawful detention under the MHA 1983, the confirmation that the principles set down in *Lumba* and *Kambadzi* apply not only outside the immigration detention setting and also in relation to claims relying upon Article 5 ECHR, very strongly suggest that the same approach will be adopted wherever it is clear that an individual has suffered no loss as a result of an unlawful deprivation of liberty. That will apply to very many of those who have been subjected to what is – in shorthand but inaccurately – known as ‘technical’ deprivation of liberty – i.e. where there is no question but that the deprivation has fulfilled at all stages all the substantive criteria for detention under Article 5(1)(e) ECHR and would have fulfilled the procedural criteria if (for instance) the supervisory body been able to complete the assessment procedure more speedily.

There will undoubtedly still be room for claims to be brought where it can be shown that the claimant has, in fact, suffered loss. This will most obviously be where it can be shown that, had the public body taken the steps mandated of it by the MCA at an earlier stage, a less restrictive option would have been identified, and they would, for instance, have been returned home.

It is also important, perhaps, to highlight that the burden of proof does not lie with the claimant to establish that the actions/omissions of the public authority led to loss, at least if the claim is framed both in terms of false imprisonment and unlawful detention contrary to Article 5 ECHR. Once it has been established that imprisonment was false as a result of the actions/omissions of the public body, it then lies with the public authority to establish that they made no difference. Otherwise, *“the result would be to transform the tort of false imprisonment from being one actionable without proof of damage into one in which the claimant, in a large number of cases, would have to prove loss. [such an approach is] incompatible with the approach of the Supreme Court in Lumba. If the [public body] wishes to say that a claimant would have been detained anyway, [they] must establish that proposition”* *R(EO & Ors) v SSHD* [2013] EWHC 1236 (Admin) per Burnett J at paragraph 74. We would suggest that the same principles also hold true in relation to claims brought in relation to Article 5 given the requirement in Article 5(5) that everyone who has been the victim of arrest or detention in contravention of the provisions of this article shall have an enforceable right to compensation (even if compensation may not amount to more than a declaration as to the breach).

Short Note: extreme product champions and their effect on P

In a decision from October 2014 which was only very recently placed on Bailii (and which we are very grateful for to Caroline Hurst of Switalskis for bringing to our attention), District Judge Mainwaring-Taylor made a heartfelt plea to an ‘extreme product champion’ to reflect upon the consequences of his actions. In *Re MW* [2014] EWCOP B27, proceedings concerning an elderly

lady, MW, had been concluded with a decision that she should continue living in a care home rather than being cared for by her son at home. A significant factor in that decision had been the fact that he had taken, and posted on a private section of YouTube, a video of his mother in an extremely distressed state at home.

Some two years later, the matter came back to court, it appears because of the son’s continued conduct and – in particular his continued practice of videoing. In a description that may ring bells, District Judge Mainwaring-Taylor noted that “[Mr W] is entirely convinced that in all the circumstances he is always right and he produces what he says are justifications. Unfortunately, Mr W’s justifications really centre on his needs, rather than on his mother’s needs. I quite accept and believe that Mr W is entirely genuine in thinking and having a perception that what he is doing and wants is in his mother’s best interests, but, sadly, that is simply not the case.”

In maintaining the status quo, namely that Mrs W should continue to reside in the care home, the judge made a plea that:

“Perhaps in his future dealings and thoughts, Mr W might think that, every time he does something which provokes the need for court proceedings, he is directly diminishing his mother’s resources. Because it always seems to get to the stage where the matter has to come before the court and, as soon as that happens, Mrs W needs representation; that representation has to be through the Official Solicitor and it has to be funded. As long as Mrs W has financial resources, it will be she who funds it, rather than the monies being there for her care and comfort.”

Comment

Cases such as this (and that of *A Local Authority v M & Ors* [2014] EWCOP 33 and *Re A and B (Costs*

[and Delay](#)) [2014] EWCOP 48 will no doubt be considered carefully by the ad hoc Rules Committee when in due course in the course of their deliberations as to how to seek to enshrine into the Rules mechanisms to ensure that the resources of the court – and, significantly, the resources of privately paying Ps – are deployed proportionately.

When does the court need an expert to assist as to veracity?

Wigan Council v M, C, P, GM, G, B and CC [2015] [EWFC 8](#) (Family Court (Peter Jackson J))

Practice and Procedure – Other

Summary

This case concerns expert evidence in family proceedings in relation to (1) the capacity of a witness to give evidence and (2) the witness's veracity. As materially similar principles apply by analogy in COP proceedings, the conclusions reached by Peter Jackson J are equally applicable to judges of and practitioners appearing in that court.

Two children, aged 15 and 16, alleged that they had been sexually abused by their stepfather. At a case management hearing, the stepfather applied for a 'veracity assessment' and an assessment of the children's ability to give evidence. The application was supported by the other parties and granted by the court.

An experienced clinical psychologist with special experience in the analysis of forensic interviews was instructed. The expert concluded that there was nothing in what the children said that required the interpretation of an expert. The

children were articulate teenagers who were capable of giving evidence.

Peter Jackson J, whilst acknowledging that an assessment of capacity to give evidence, and the arrangements that should be made to assist a witness to do so fairly is a proper subject for expert advice where necessary, it is not necessary in every case. He identified three principles:

1. As a matter of law, there is no bar on the admission of expert evidence about whether evidence is or is not likely to be true.
2. Expert evidence can only be adduced if it is necessary to assist the court to resolve the proceedings. The fact that expert evidence is admissible and might be relevant or even helpful in a general way is not enough.
3. Cases in which it will be necessary to seek expert evidence will nowadays be rare. Judges have been trained in and are expected to be familiar with the assessment of evidence. The court is only likely to be persuaded that it needs expert advice if it concludes that its ability to interpret the evidence might otherwise be inadequate.

Peter Jackson J also expressly agreed with what was said by Baker J in *A London Borough Council v K* [2009] EWHC 850 (Fam) that veracity or validity assessments have a limited role to play in family proceedings. The ultimate judge of veracity, i.e. where the truth lies, is the judge and the judge alone.

Comment

In the COP, as in the Family Court, an expert may give evidence on questions going to factual matters, such as the veracity or truthfulness of a witness but the final decision upon those matters

remains for the judge. Indeed, the ultimate questions of whether P has capacity and what is in their best interests are matters for the court.

The equivalent to Part 25 of the Family Procedure Rules 2010 is COPR Part 15 accompanied by PD 15A. Pursuant to rule 121, the COP is under a specific duty to limit expert evidence to that which is “reasonably required” to resolve the proceedings. This is in contrast to s.13(6) Children and Families Act 2014, which dictates that expert evidence can only be adduced if it is necessary to assist the court to resolve the proceedings justly. It is likely that this change will be introduced in due course in the COP. It would therefore be wise for COP practitioners to take heed of the three principles identified by Peter Jackson J when considering whether to seek to adduce expert evidence going to veracity. Indeed, it is only like ever to be required where there are real doubts (for instance) as to whether a person has the mental capacity to understand the import of what they saying. An example from the experience of the editors where this has arisen is where a person with a severe learning disability placed in a care home made allegations of sexual abuse but where there were doubts as to whether the words that they are using reflected their own experience or words that they had picked up from contact with other service users or from the media. In that case, the assistance of an expert psychologist was undoubtedly necessary, but these cases are likely to be rare.

What place morality (as compared to forensic rigour)?

In the matter of A (A Child) [\[2015\] EWFC 11](#)
(Family Court (Sir James Munby P))

Practice and Procedure – Other

Click [here](#) for all our mental capacity resources

Summary

In this case, the President of the Family Division, Sir James Munby P, was extremely critical of the local authority’s analysis, handling of the case and conduct of the litigation in what he described it as “*an object lesson, in almost a textbook example of, how not to embark upon and pursue a care case.*”

This case concerned an application for a care order and placement order. The child in question had been born while his mother was serving a prison sentence. He was accommodated in local authority foster care and the care application was not issued until some 8 months after his birth.

As well as proceeding on assumptions with no evidential basis, the local authority made repeated reference to the “immoral” nature of the father’s behaviour. The father’s immoral behaviour included having had sex with a 13 year old girl when he was 17 years old, and being a former member of the English Defence League (EDL). Sir James Munby P made clear that the “morality” of the father’s character was neither appropriate nor relevant and that these aspects should never have featured as part of the local authority’s case. He was also at pains to emphasise that it was for the local authority to prove, on a balance of probabilities, the fact upon which it seeks to rely.

Comment

Although not a COP case, COP practitioners should take note of the President’s warning that:

“...the father may not be the best of parents, he may be a less than suitable role model, but that is not enough to justify a care order let alone adoption. We must guard against the risk of social engineering, and that, in my

judgment is what, in truth, I would be doing if I was to remove A permanently from his father's care."

The same concerns hold true in cases relating to adults particularly where there are safeguarding concerns.

The tone of Sir James Munby P's approach also chimes with the key principles governing the MCA. One principle is that a person is not to be treated as unable to make a decision merely because he makes an unwise decision. The fact that others, including the court, think that a decision is unwise or unsavoury, is an insufficient basis upon which to displace their decision. Another principle is that the best interests requirement should take into account the particular wishes and feelings of the incapacitated person, again, even where others, or the court, would not necessarily agree.

Short note: who decides as to death?

In an unusual and tragic case, *Re A (A Child)* [2015] EWHC 443 (Fam), brought by an NHS Trust seeking declarations as the fact that a child was brain dead and that the ventilator providing them with life support could be turned off, Hayden J has confirmed what should happen where there is doubt as to whether brain stem death has occurred in a child. Although a Coroner has concurrent jurisdiction and the High Court has jurisdiction over a body, Hayden J referred with approval to the passage in *Jervis on Coroners* (13th Edition) at paragraph 5-14, which provides that:

"The coroner may also be faced with the difficult task of deciding whether a body in his area is actually dead, for instance when it is connected to a life support machine in an

irreversible coma... it appears that once a person has suffered brain stem death which no medical treatment is able to reverse, the person is 'dead' for the purposes of the coroner acquiring jurisdiction even whilst a machine ventilates the body."

Hayden J continued:

"21. [...] That proposition is said to be supported by Mail Newspapers v Express Newspapers [1987] FSR 90; Airedale NHS Trust v Bland [1993] AC 789. The footnote also refers to Thurston's Coronership: 3rd Edition 1985, which sets out the view that I have just recorded but also the opposing one, that while the heart beats and the blood circulates, there is no "dead" body i.e. for the purposes of establishing the Coroner's jurisdiction. I note that the distinguished authors also make the following observation which, in tone, seems to imply that they regard it as self evident:

'Of course, in practice no Coroner would insist on taking possession of the body were it was still connected to a life support system.'

22. I associate myself entirely with those observations. I cannot conceive of any circumstances in which the Coroner should seek to intervene, where a body remains ventilated, beyond those circumstances concerning the removal of organs where the family are consenting. Any other approach I regard as likely to generate immense distress and contribute to an atmosphere where sound judgment may be jeopardised."

Exactly the same propositions must hold true in relation to adults and, as with a child, the proper forum for resolution of the questions that follow upon brain death must be the Court (in that case, the Court of Protection).

Conferences at which editors/contributors are speaking

The National Autistic Society's Professional Conference

Tor will be speaking at this conference, to be held on 3 and Wednesday 4 March in Harrogate. Full details are available [here](#).

DoLS Assessors Conference

Alex will be speaking at Edge Training's annual DoLS Assessors Conference on 12 March. Full details are available [here](#).

Elderly Care Conference 2015

Alex will be speaking at Browne Jacobson's Annual Elderly Care Conference in Manchester on 20 April. For full details, see [here](#).

'In Whose Best Interests?' Determining best interests in health and social care

Alex will be giving the keynote speech at this inaugural conference on 2 July, arranged by the University of Worcester in association with the Worcester Medico-Legal Society. For full details, including as to how to submit papers, see [here](#).

Editors

Alex Ruck Keene
Victoria Butler-Cole
Neil Allen
Anna Bicarregui
Simon Edwards (P&A)

Scottish contributors

Adrian Ward
Jill Stavert

Advertising conferences and training events

If you would like your conference or training event to be included in this section in a subsequent issue, please contact one of the editors. Save for those conferences or training events that are run by non-profit bodies, we would invite a donation of £200 to be made to Mind in return for postings for English and Welsh events. For Scottish events, we are inviting donations to Alzheimer Scotland Action on Dementia.

Our next Newsletter will be out in early April. Please email us with any judgments or other news items which you think should be included. If you do not wish to receive this Newsletter in the future please contact marketing@39essex.com.

David Barnes

Chief Executive and Director of Clerking
david.barnes@39essex.com

Alastair Davidson

Senior Clerk
alastair.davidson@39essex.com

Sheraton Doyle

Practice Manager
sheraton.doyle@39essex.com

Peter Campbell

Practice Manager
peter.campbell@39essex.com

London 39 Essex Street, London WC2R 3AT
Tel: +44 (0)20 7832 1111
Fax: +44 (0)20 7353 3978

Manchester 82 King Street, Manchester M2 4WQ
Tel: +44 (0)161 870 0333
Fax: +44 (0)20 7353 3978

Singapore Maxwell Chambers, 32 Maxwell Road, #02-16,
Singapore 069115
Tel: +(65) 6634 1336

For all our services: visit www.39essex.com

Thirty Nine Essex Street LLP is a governance and holding entity and a limited liability partnership registered in England and Wales (registered number OC360005) with its registered office at 39 Essex Street, London WC2R 3AT. Thirty Nine Essex Street's members provide legal and advocacy services as independent, self-employed barristers and no entity connected with Thirty Nine Essex Street provides any legal services. Thirty Nine Essex Street (Services) Limited manages the administrative, operational and support functions of Chambers and is a company incorporated in England and Wales (company number 7385894) with its registered office at 39 Essex Street, London WC2R 3AT.

Editors

Alex Ruck Keene
Victoria Butler-Cole
Neil Allen
Annabel Lee
Simon Edwards (P&A)

Scottish contributors

Adrian Ward
Jill Stavert

CoP Cases Online



Use this QR code to take you directly to the CoP Cases Online section of our website





Alex Ruck Keene
alex.ruckkeene@39essex.com

Alex been recommended as a leading expert in the field of mental capacity law for several years, appearing in cases involving the MCA 2005 at all levels up to and including the Supreme Court. He also writes extensively about mental capacity law and policy, works to which he has contributed including 'The Court of Protection Handbook' (2014, LAG); 'The International Protection of Adults' (forthcoming, 2015, Oxford University Press), Jordan's 'Court of Protection Practice' and the third edition of 'Assessment of Mental Capacity' (Law Society/BMA 2009). He is an Honorary Research Lecturer at the University of Manchester, and the creator of the website www.mentalcapacitylawandpolicy.org.uk. **To view full CV click here.**



Victoria Butler-Cole
vb@39essex.com

Victoria regularly appears in the Court of Protection, instructed by the Official Solicitor, family members, and statutory bodies, in welfare, financial and medical cases. She previously lectured in Medical Ethics at King's College London and was Assistant Director of the Nuffield Council on Bioethics. Together with Alex, she co-edits the Court of Protection Law Reports for Jordans. She is a contributing editor to Clayton and Tomlinson 'The Law of Human Rights', a contributor to 'Assessment of Mental Capacity' (Law Society/BMA 2009), and a contributor to Heywood and Massey Court of Protection Practice (Sweet and Maxwell). **To view full CV click here.**



Neil Allen
neil.allen@39essex.com

Neil has particular interests in human rights, mental health and incapacity law and mainly practises in the Court of Protection. Also a lecturer at Manchester University, he teaches students in these fields, trains health, social care and legal professionals, and regularly publishes in academic books and journals. Neil is the Deputy Director of the University's Legal Advice Centre and a Trustee for a mental health charity. **To view full CV click here.**



Annabel Lee
annabel.lee@39essex.com

Annabel appears frequently in the Court of Protection. Recently, she appeared in a High Court medical treatment case representing the family of a young man in a coma with a rare brain condition. She has also been instructed by local authorities, care homes and individuals in COP proceedings concerning a range of personal welfare and financial matters. Annabel also practices in the related field of human rights. **To view full CV click here.**



Simon Edwards
simon.edwards@39essex.com

Simon has wide experience of private client work raising capacity issues, including *Day v Harris & Ors* [2013] 3 WLR 1560, centred on the question whether Sir Malcolm Arnold had given manuscripts of his compositions to his children when in a desperate state or later when he was a patient of the Court of Protection. He has also acted in many cases where deputies or attorneys have misused P's assets. **To view full CV click here.**



Adrian Ward
adw@tcyoung.co.uk

Adrian is a practising Scottish solicitor, a partner of T C Young LLP, who has specialised in and developed adult incapacity law in Scotland over more than three decades. Described in a court judgment as: *“the acknowledged master of this subject, and the person who has done more than any other practitioner in Scotland to advance this area of law,”* he is author of *Adult Incapacity*, *Adults with Incapacity Legislation* and several other books on the subject. **To view full CV click here.**



Jill Stavert
J.Stavert@napier.ac.uk

Dr Jill Stavert is Reader in Law within the School of Accounting, Financial Services and Law at Edinburgh Napier University and Director of its Centre for Mental Health and Incapacity Law Rights and Policy. Jill is also a member of the Law Society for Scotland’s Mental Health and Disability Sub-Committee, Alzheimer Scotland’s Human Rights and Public Policy Committee, the South East Scotland Research Ethics Committee 1, and the Scottish Human Rights Commission Research Advisory Group. She has undertaken work for the Mental Welfare Commission for Scotland (including its 2013 updated guidance on Deprivation of Liberty) and is a voluntary legal officer for the Scottish Association for Mental Health. **To view full CV click here.**