



Call 1985

Nicholas O'Brien

AREAS OF PRACTICE

Children, Ancillary Relief, Care Standards, Mental Health, Community Care, Education and Social Services

Nick O'Brien has a mixed family and civil practice. While based in London and the South East, he regularly travels to represent and advise clients throughout England and Wales. He is experienced in the following areas:

Family - all aspects of children law, working for local authorities, children and adults.

Property - ancillary relief, trusts of land disputes, mortgage and undue influence cases and Inheritance Act proceedings in both the Family and Chancery Divisions including infant settlements.

Mental Capacity and Protection of Vulnerable Adults - representing local authorities and family members and those lacking capacity in disputes about living arrangements, guardianship and finances for those who lack capacity - advising and representing clients (both patients and health trusts) involved in hearings before and appeals from Mental Health Tribunals.

Administrative Law and Tribunals - advising and representing local authorities and private individuals, especially in relation to issues concerning social services; community care, fostering and other allowances and age assessment - representing and advising those involved in care standards, data protection and freedom of information and education cases.

MEMBERSHIPS

The Family Law Bar Association
The Association of Lawyers for Children
The Administrative Law Bar Association

REPORTED CASES

Family Social Services and Education

London Borough of Lambeth v TK LTL 22nd February 2008
Role of family courts in age disputes involving local authorities

R (D) v London Borough of Southwark [2007] 1 FLR 2181
When is child "looked after" by a local authority

Re P-B (Placement Order) [2006] EWCA Civ 1016 [2007] 1 FLR 1106
Need for local authority to have adoption panel consider case before commencing placement order application

R (C) v London Borough of Merton LTL 7th September 2005
Procedural requirements when assessing age

Re B (A Child: Court's Jurisdiction) [2004] 2 FCR 391 [2004] 2 FLR 741
Family proceedings - Jurisdiction - Scottish courts - Appropriate jurisdiction - ss 2A(2), 13(6) and 41 Family Law Act 1986.

R (B) v London Borough of Merton [2003] 4 All ER 280 [2003] 2 FLR 888
Procedural requirements when assessing age

R (M) v Brighton & Hove Borough Council and SENDIST [2003] ELR 752
Rejection of expert evidence by tribunal

Re H (Respondent Under 18: Power of Arrest) [2001] 1 FLR 641
Occupation order - Power of arrest - Respondent aged under 18

Re H (A Child) (Occupation Order: Power of Arrest) [2000] 1 FLR 461
Court had power to attach power of arrest to order even though child could not be taken into custody for breach

Re F (Adult: Court's Jurisdiction) [2000] 2 FLR 512
Mental health - Inherent jurisdiction - Risk of possible harm to adult

Re AMR (Adoption: Procedure) [1999] 2 FLR 807
Adoption - Foreign adoption - Natural parents deprived of parental authority by foreign order

Re J (Minors) (Care: Care Plan) [1994] 1 FLR 253
Care - Care proceedings - Threshold criteria satisfied

London Borough of Southwark v B [1993] 2 FLR 559
Enforcement - Care proceedings - Committal application for breach of undertakings

O v UK (8th July 1987)
ECHR decision on ending contact with child in care

[Mental Health and Incapacity](#)

Re ST (Adult Patient) [2008] 1 FLR 111
Removal of a mentally incapacitated adult overseas

R (On the Application of S) v Secretary of State for the Home Department [2003] MHLR 264
Mental Health - Revocation of licence of a prisoner subject to s3 Mental Health Act 1983 - Meaning of "at large"

Re F (Adult Patient: Court's Jurisdiction) [2001] Fam 38 [2000] 2 FLR 512
High Court had power to grant declarations to protect incapacitated adults at request of local authority

Re D-R (Adult: Contact) [1999] 1 FLR 1161

Contact - Father applying for declaration regarding contact to adult incompetent daughter under inherent jurisdiction of High Court - Whether declaration sought should be granted - No presumption of right to contact between parent and mentally incapacitated adult offspring.

Re S (Hospital Patient: Court's Jurisdiction) [1996] Fam 1 and Re S (No 2) (Hospital Patient: Foreign Curator) [1996] Fam 23

Cases establishing High Court's jurisdiction to resolve disputes between friends and relatives and foreign guardians concerning care of the mentally incapacitated

Property

Robinson v Bird, Fernsby and Others LTL 20th February 2003

Meaning of reasonable provision - testatrix with declining capacity

Active Estates Ltd v Parness and Others [2002] 36 Estates Gazette 147

Enforcement of guarantees after disclaimer of lease by liquidator following change of occupancy

Davies v Norwich Union Life Assurance (1999) 78 P&CR 119 (CA)

Undue influence and subrogation where new and more onerous charge replaces existing charge

Nerva and Others v RL&G Ltd [1997] ICR 11

Tips paid by credit card to be treated as wages for purpose of national minimum wage (nb ECHR case [2002] IRLR 815)

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