



GARDEN COURT CHAMBERS

James Holmes

YEAR OF CALL: 2011



James specialises in the following areas: Children's Law, Court of Protection and International Family Law.

He is registered with the Bar Council to accept Public Access work.

"James Holmes is a well-respected family law junior with a particular focus on public children law matters."

CHAMBERS UK, 2024

"He has acted in matters covering the full range of children law including non-accidental injury and fabricated illness, as well as cases involving FGM. James represents parents, children and local authorities."

CHAMBERS UK, 2024

"James takes cases that are complex and handles them with the ability of someone much more senior in call year. He will go above and beyond for clients."

CHAMBERS UK, 2024

If you would like to get in touch with James please contact the clerking team:

familyclerks@gclaw.co.uk | +44 (0)20 7993 7600

CHILDREN LAW

James's practice covers all legal issues concerning children. James is regularly instructed to represent local authorities, parents and Children's Guardian. James is particularly interested in the cases concerning non-accidental injuries, deprivation of liberty orders and cases with an international element.

James has developed a particular expertise complex public law matters, including those dealing with; death of/catastrophic injuries to a child, shaken baby, sexual abuse and trauma, non-accidental injury cases, fabricated induced illness, forced marriage, female genital mutilation and abandoned spouse cases. James has also been instructed in matters in the High Court concerning the use of special advocates and material proceedings and transfer of jurisdictions.

As a result of James having been involved in the first Female Genital Mutilation Case which went before the Court of Appeal, James is regularly instructed in cases involving concerns around Female Genital Mutilation and Forced Marriage, and also asked to advise on how to assess the risk posed to children and young persons and what if any safeguards can be put in place to mitigate any risks.

Due to James's experience as both a practitioner in the Court of Protection and sitting as a Tribunal Judge in Special Educational Need Cases, he is able to draw upon this knowledge and expertise when acting in cases which involve children and parents whom are neurodiverse and/or have capacity issues.

NOTABLE CASES

Past notable cases can be viewed below. [Click here to see a list of recent notable cases.](#)

~~Z v V & Anor [2024] EWHC 365 (Fam)~~

Represented the mother in proceedings when she sought protective orders to safeguard her children from the Father, whom had previously abducted the children abroad, Court found the children are at risk of abduction if the Father is given a free hand and were that to come to pass, the impact upon them would be devastating. The issues were what suite of orders could protect her children sufficiently.

~~LC (Placement Order) [2020] EWCA Civ 787~~

Successfully represented the father opposing the Local Authority's appeal against a Judge's refusal to make a placement order for a child aged 2 years old. The Court of Appeal dismissed the appeal as they held the judge had carried out a fair and balanced analysis.

~~Re A (A Child) [2020] EWCA Civ 731~~

Court of Appeal upholds ruling of the President of the Family Division that Family Courts are not bound by a previous assessment or determination on the risk of 'FGM' made by the First-Tier Tribunal.

~~Re A (A Child: Female Genital Mutilation: Asylum) [2019] EWHC 2475~~

Application by Local Authority for an injunction against the SSHD preventing the removal of a child deemed by a Local Authority to at risk of FGM if removed by the SSHD.

~~Re X (FGMPO No. 2) [2019] EWHC 1990 (Fam)~~

Rehearing of a Local Authority's application brought under section 5A and Schedule 2 of the Female Genital Mutilation Act 2003 for a Female Genital Mutilation Protection Order relating to a two year old girl which would prohibit her removal from the jurisdiction until she was 16 years old.

~~Re A, B, C & D (Children) [2019] EWFC B32~~

Application by Foster Carers for Special Guardianship Orders in relation to one of 4 children.

~~RE X (A CHILD) (Female Genital Mutilation Protection Order) [2018] EWCA Civ 1825~~

The court of appeal quashed part of a female genital mutilation protection order prohibiting the removal of a two-year-old girl from the UK until she was 16 where there was insufficient evidence for the imposition of an absolute travel ban, and where the judge had failed to give sufficient reasons as to why another less intrusive order would not have sufficiently protected the child from female genital mutilation.

~~The Child and Family Agency (Ireland) v M & Ors [2018] EWHC 1581 (Fam)~~

James was instructed by Denbighshire County Council whom were one of two Local Authorities, to resist an application brought by The Child and Family Agency for the transfer of proceedings pursuant to an Article 15 of the EC Regulations 2201/2003 and designation. At the conclusion of the hearing, Mr Justice Williams made

an order nisi accepting jurisdiction and appointed Flintshire County Council as the designated local authority.

Re X (A Child) (Female Genital Mutilation Protection Order) (Restrictions on Travel) [2017] EWHC 2898 (Fam)

James was instructed by Hertfordshire County Council in respect of their application for a Female Genital Mutilation Protection Order. The local authority issued these proceedings after a referral by the Health Visitor to safeguard X and to prevent any likelihood of mutilation by seeking orders preventing her mother or anyone else from taking X to Egypt. At final hearing the court made a Female Genital Mutilation Order until the child's majority.

Re SW [2015] EWCA Civ 27

James was instructed in behalf of the appellate mother in a successful appeal to the Court of Appeal against the final care orders made in respect of the mother's three children. The appeal focused on whether it was appropriate for the court to have adopted a summary procedure in care proceedings and the interpretation of the Children Act provisions regarding the consideration of the permanency provisions of care plans.

INTERNATIONAL FAMILY LAW

James has developed a thriving International Family Law practice, regularly being instructed in cases involving international abduction; the transfer of jurisdictions; permanent and temporary relocation; and recognition of orders from other jurisdictions. James has a particular interest and expertise in cases which have issues around immigration and family law, including;

- a) Safeguarding a child or young person whom is at risk of significant harm if removed.
- b) Stranded spouses and children.

He was recently instructed in a case involving removal from the jurisdiction where FGM is a risk and whether the SSHD can be prevented from removing a child from the jurisdiction.

NOTABLE CASES

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RS v AM – Re C (Abduction: Article 13(b) & Child's Objections)

Re-hearing following successful appeal of the case of Re C [2021] EWCA Civ 1354. Court was not satisfied that on the facts of the case, the protective measures available in Poland could effectively or adequately protect the

child from a grave risk of harm

Re C (A Child) (Abduction: Article 13(b)) [2021] EWCA Civ 1354

Court of Appeal allows father's appeal against the dismissal of his application under the 1980 Hague Convention for the summary return of his eight-year-old daughter to Poland. Moylan LJ found that there had been no analysis in the judgment of the child's circumstances were she to return to Poland nor of why or whether those circumstances would potentially expose her to a grave risk of harm, as required by Article 13(b).

Re A (A Child) [2020] EWCA Civ 731

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COURT OF PROTECTION

James regularly appears in the Court of Protection accepting instructions from families, local authorities, ALR's and the Official Solicitor. His expertise spans the full range of the Court of Protection's jurisdiction, including welfare disputes, s.21A challenges, cases involving deprivations of liberty, and complex matters before the High Court (including cases where the inherent jurisdiction has been invoked). James regularly appears before Tier 2 and Tier 3 judges, including on cases involving;

- a. Contested appointments of financial/health and welfare deputies;
- b. Hoarding;
- c. Forced Marriage and capacity to enter into sexual relations;
- d. Sexual Abuse;
- e. Challenges to capacity assessments.

Due to James's background as a highly experienced family practitioner, he is regularly instructed and is building a substantial practice in cases involving young persons who are transferring from Local Authority children services to adult social care. This background is further enhanced as a result of James sitting as a Tribunal Judge in the Health, Education and Social Care Chamber in the area of special educational needs.

A particular interest of James, is around the interplay between the Mental Capacity Act 2005 and Mental Health Act 1983, and ensuring P is in the least restrictive environment. He was recently instructed in a case where a restricted patient had a conditional discharge, but the restrictions required a community deprivation of liberty order to be first put in place.

He also has experience in cases involving cases in which parties have;

- Lasting Powers of Attorney Disputes, including whether a party had capacity disputes;**
- Disputes involving property and affairs;**
- Made applications to either remove or replace court-appointed Deputies.**

PRO BONO WORK

James is a legal adviser and trustee of the Temple Legal Centre, a charity that provides free and independent legal advice to people involved in family law matters who are unable to afford legal advice. James also is an advisor for at FORWARDS Female Genital Mutilation Legal Advice Surgery, the first of its kind in the United Kingdom.

James is also a member of Advocate, the Bar's pro bono charity, and is a volunteer on the Court of Appeal Pro Bono Scheme (COAS).

BACKGROUND

Prior to joining Garden Court James undertook his pupillage at Trinity Chambers in Chelmsford before moving to 1 Gray's Inn Square.

James is a keen hockey player and hockey umpire in his spare time.

PUBLICATIONS

'Preventing deportation of a child at risk of FGM: can the Family Court injunct the Home Secretary? Part One' ([Family Law, April 2019](#)), James co-authored this with [Naomi Wiseman](#), also of Garden Court Chambers.

TRAINING AND SEMINARS

James regularly provides training to professionals on all aspects of his practice including;

- Female genital mutilation and Forced Marriage Protection Orders
- = Deprivation of Liberty Orders and the National Deprivation of Liberty Court
- Young Persons and the Mental Capacity Act and Mental Health Act

EDUCATION

BPTC: Nottingham Law School 2011, Very Competent

LLB Honours Law: Staffordshire University, First Class

PROFESSIONAL MEMBERSHIP

Family Law Bar Association

Former Committee Member of the Family Law Bar Association

Former Committee Member of Young Bar Council
South Eastern Circuit
Lincolns Inn
Middle Temple
Bar Pro Bono Unit
Reviewer

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