



# Stephen Clark

YEAR OF CALL: 2013



Stephen specialises in complex, multi-disciplinary work which draws on the full range of his flourishing practice and with recent successes in the Supreme Court, Court of Appeal and the European Court of Human Rights. He works across a broad spectrum of practice areas from judicial review, immigration and asylum, inquests, actions against state authorities, prison law and community care.

Stephen has considerable experience dealing with cases involving mental capacity and complex, interlocking physical and mental health conditions ranging from Emotionally Unstable Personality Disorder, Autistic Spectrum Disorder, Post-Traumatic Stress Disorder, severe neurodisability and neurodegenerative conditions. He is able to cut through the factual and legal complexity to get to the heart of the issues and secure the best result for his client. Alongside his litigation experience, he is the author of *The Reform of Civil Justice* with Sir Rupert Jackson and able to help with complex civil procedure and costs issues.

"He is unflappable. He seems to have two brains and is outrageously intelligent."

CHAMBERS UK, 2022 (CIVIL LIBERTIES & HUMAN RIGHTS, UP AND COMING)

"I take this opportunity to thank his counsel, Mr Clark, for the careful and measured manner in which he sought to prosecute this appeal. His efforts, patience and diligence have, in my view, served the best traditions of the Bar well and indeed [his client]"

JUDGE

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"A firecracker"

LAY CLIENT

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"Epitomises a number of key qualities at the Bar: fearlessness, mastery of detail and an ability to identify the essence of a legal issue and presentation skills that seem effortless, undoubtedly as his preparation is so extensive and targeted"

SOLICITOR CLIENT

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"Erudite submissions... considerable skill"

JUDGE

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

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## ADMINISTRATIVE AND PUBLIC LAW

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Stephen's public law practice is at the heart of his multi-disciplinary work, bringing tactical and strategic guidance to complex cases. He has recently worked on cutting edge cases on the interaction between human rights, mental capacity and unlawful detention as well as immigration, coronial law and human rights standards.

### NOTABLE CASES

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

***R (on the application of Lawal) v Secretary of State for the Home Department (death in detention; SoS's duties)[2021] UKUT 114 (IAC)***

- Reported in the [Guardian](#), [The Times](#), [Financial Times](#), [Metro](#)

Successful judicial review on the interaction of the Secretary of State's parallel and potentially conflicting duties under her detention and immigration powers. The case required skilful argument on the interaction of substantive and procedural coronial case law, the Secretary of State's detention services orders, immigration casework instructions and general powers of deportation and removal. As a result of the case, three policies of the Secretary of State's have been declared unlawful as well as the substantive decisions. This case was the first time that the Secretary of State has ever been found to be in breach of her Article 2 duties in the immigration detention estate.

Led by Sonali Naik QC and Raza Halim, both also of Garden Court Chambers. Instructed by Toufique Hossain and Jamie Bell of Duncan Lewis Solicitors. Jamie Bell was [The Times' Lawyer of the Week](#) for his work on this case.

***R (on the application of VC, by his litigation friend the Official Solicitor) v. Secretary of State for the Home Department* UKSC/2019/0077 (on appeal from [\[2018\] EWCA Civ 57](#))**

Successful appeal to the Supreme Court which was settled by consent. VC was a profoundly mentally ill man who lacked capacity and was detained by the Secretary of State. The Court of Appeal found his detention unlawful on, *inter alia*, grounds of failing to take into account Rule 35 reports and unlawful discrimination but ruled against the Article 3 claim. On appeal, VC's legal team successfully secured a costs capping order limiting VC's liability in adverse costs to £nil and, after resisting a complex series of procedural applications by the Secretary of State seeking to knock the appeal out, secured a full concession that VC's treatment had breached Article 3. Stephen also acted in the consequent damages claim which settled for a six-figure sum.

Led by Stephanie Harrison QC and Amanda Weston QC, both also of Garden Court Chambers. Instructed by Hamish Arnott of Bhatt Murphy.

***R (on the application of MBT) v Secretary of State for the Home Department (restricted leave; ILR; disability discrimination)* [\[2019\] UKUT 414 \(IAC\)](#)**

Judicial review of the Secretary of State's continuing refusal to consider MBT longer periods of leave than 6 months under the Restricted Leave policy, as well as to what extent she has a duty under common law, the policy and under the Equality Act to make allowances for MBT's interlocking physical and psychological disabilities which affect his ability to meet the criteria.

Led by Amanda Weston QC. Instructed by Sonia Routledge of Birnberg Peirce & Partners.

## INQUESTS AND INQUIRIES

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Stephen acts in complex inquests across detained and community settings, particularly those involving mental health elements. In addition to his strength on legal submissions and developing cutting edge arguments, he has extensive experience in winning the confidence and trust of bereaved families under exceptionally difficult circumstances even by inquest standards.

### NOTABLE CASES

***Inquest touching on the death of Charlotte Nokes*** - reported in the [Guardian](#), [BBC](#) and [Independent](#)  
Acting for Charlotte's family, this concerned an exceptionally vulnerable female prisoner on the now abolished indeterminate sentence for public protection ("IPP") with a complex case of emotionally unstable personality disorder. The expert psychiatrist for the NHS described her as "caught in a vicious cycle" and a "perfect storm" whereby the interplay between her sentence and mental health condition left her stuck in the prison system. The inquest looked at both standards of mental healthcare and the sentence regime Charlotte was on, leading to significant press interest. Stephen was sole counsel for the family, against 4 counsel for the state IPs. Instructed by Tara Mulcair of Birnberg Peirce & Partners.

***Inquest touching upon the death of Archie Spriggs*** - reported in the [BBC](#), [ITV](#) and [Shropshire Star](#)  
Acting for Archie's paternal family, the inquest examined state authorities' role and failures in managing the case of 7 year old who was murdered by his own mother. The inquest required careful handling in light of considerable media interest and unfounded allegations which had been made against Archie's Dad. The Coroner concluded there were failures in the lead up to Archie's death and, although non-causative, resulted in a strongly worded Prevention of Future Deaths report. Instructed by Sarah Kellas and Marte Lund of Birnberg Peirce & Partners.

## IMMIGRATION: ASYLUM AND HUMAN RIGHTS

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Stephen acts in complex, long-running immigration matters covering the full range of work from Adult Dependent Relative applications to cessation and revocation appeals involving serious criminal offending. He is highly regarded for his ability to handle acutely vulnerable victims of torture and trafficking, as well as unaccompanied asylum-seeking children. He has particular and extensive expertise in handling the claims of individuals lacking capacity, including regularising the immigration status of patients in long-term psychiatric

detention.

Stephen's tactical and strategic insight often results in solicitors seeking advice at the very earliest stages of case building.

## **NOTABLE CASES**

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

### ***Russian National Security cases (various)***

Stephen has acted successfully for a series of high-profile Russian nationals and their family members where there has been the interest and involvement of the domestic Security Services. These have included leave to remain for elderly parents whose daughter feared persecution if she had to travel to see them due to her work and associations, a family who were assessed by the NatCSO as requiring a marker against their home to warn first responders of the potential risk of biochemical agents being used against the family and Chechen and Dagestani refugees who were being assessed under the Government's Prevent programme.

### ***RM (Zimbabwe)***

Stephen acted in the First-Tier and Upper Tribunals on behalf of a Zimbabwean refugee who committed a serious offence when he was 16 and was subject to cessation, revocation and deportation proceedings. Navigating the complex development of the Zimbabwean Country Guidance, Stephen succeeded on the Cessation and Article 3 grounds enabling RM to avoid deportation and application of the restricted leave policy. Instructed by Jawaid Luqmani of Luqmani Thompson & Partners.

### ***AM (Iran)***

A rare successful Article 3 medical claim pre-Paposhvilli and pre-AM (Zimbabwe) on behalf of a profoundly disabled young Iranian Kurd who had CDKL5 deficiency disorder, leading to permanent neurodisability and likely death before the age of 18. Successfully adduced live evidence from a leading consultant paediatric neurologist and resisted Home Office arguments that this case fell outside the exceptional circumstances required by *N v Secretary of State for the Home Department*. Instructed by Mark Shepherd of Migrant Legal Project.

### ***ZS (Ethiopia)***

Stephen successfully acted on behalf of this Ethiopian refugee who had been unsuccessful on his asylum claim before the Tribunal twice before and marked as lacking credibility. ZS's mental health had declined so severely due to the delays in regularising his status and the social isolation caused by Covid-19 that he had no capacity

to give evidence. The Home Office conceded an entitlement to Humanitarian Protection at the final CMRH, but resisted the refugee convention grounds which were ultimately accepted by the judge who expressly found that ZS was a witness of truth.

## COMMUNITY CARE LAW

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Stephen is regularly instructed in challenges on behalf of unaccompanied asylum-seeking children whose age is disputed by the Home Office or local authorities and entitlement of children and adults to support under the Immigration and Asylum Act 1999, Children Act 1989 and Care Act 2014.

### NOTABLE CASES

#### ***R (on the application of CE) v. Royal Borough of Greenwich***

A successful age assessment claim on behalf of a vulnerable young Nigerian victim of human trafficking who was forced into sex work while still a child. Despite accepting her account of trafficking and child sex exploitation, the Local Authority social workers criticised her for displaying adult behaviours. After extensive and combative preliminary hearings, the Local Authority conceded on the first day of the final hearing.

Instructed by Milla Walker of Luqmani Thompson & Partners

#### ***R (on the application of H) v. London Borough of Haringey***

An ongoing case on behalf of a Syrian national who was assured by the Local Authority they wouldn't make a decision without verifying his birth certificate and then made a decision criticising him for failing to provide an expert report verifying it. The Local Authority then retained the birth certificate and failed to return it. Due to the failure to return the birth certificate so that H could have it verified, successful and innovative pre-issue proceedings were lodged in the Queen's Bench Division seeking an order for delivery up. Instructed by Jawaid Luqmani and Suzie von Strandmann of Luqmani Thompson & Partners

## ACTIONS AGAINST STATE AUTHORITIES

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Stephen acts in the full range of civil work against public authorities – ranging from claims against the Police and Home Office for false imprisonment and Human Rights Act breaches to post-inquest civil claims against prison and healthcare authorities.

## PRISON LAW

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Stephen specialises in complex parole board and judicial review hearings concerning prisoners with complex mental health problems which impact and otherwise limit their ability to progress towards release. He has particular experience and expertise in those offenders with personality disorder diagnoses.

## INTERNATIONAL HUMAN RIGHTS

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Stephen is an expert on both the substantive and procedural law of the European Court of Human Rights and has brought or advised upon several complex applications to the Court. He has also advised on applications to the other UN Treaty bodies from the Committee against Torture to the Human Rights Committee and CEDAW.

## NOTABLE CASES

### ***VCL v. the United Kingdom* (app. no. 77587/12) [\[2021\] ECHR 132](#)**

The first judgment in the Convention system to hold that Article 4 entails a duty not to prosecute victims of trafficking and that a failure to investigate them as victims rather than offenders will lead to a breach of Article 6. It is the first successful Article 6 challenge to a criminal conviction in over a decade. Led by Henry Blaxland QC and Emma Fitzsimons of Garden Court Chambers and Michelle Brewer, formerly of Garden Court Chambers. Instructed by Philippa Southwell of Birds Solicitors and Southwell & Partners.

### ***DRJ & 4 Others v. Australia***

Preliminary advice to 5 Yazidi women who were enslaved, trafficked and abused by an Australian member of ISIL as to whether they had to seek permission to appeal from the High Court of Australia before making a complaint to the UN Treaty Bodies, particularly in light of the risk of the costs.

## BACKGROUND

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Before commencing pupillage, Stephen spent a number of years working for a range of non-governmental organisations and courts.

Immediately before commencing pupillage, Stephen worked as a judicial assistant to Lord Justice Jackson

and Lord Justice Burnett. He gained experience across the Civil and Criminal Divisions of the Court of Appeal, as well as the Divisional Court. While there, he was able to observe cases dealing with Shaken Baby Syndrome, covert surveillance, the deportation regime, national security, extradition, removals under the Dublin Regime, Article 2 inquests and balancing open justice, privacy and freedom of expression.

After his LLM, Stephen worked for the charity JUSTICE. He assisted the team in challenging the imposition of the criminal courts charge, briefing parliamentarians on the new civil orders in the Modern Slavery Bill.

Stephen has worked at the European Court of Human Rights in Strasbourg for the Head of the UK's Legal Division. While there, he worked on diverse issues of human rights law ranging from the retention and deletion of historic criminal records, the compatibility of whole life orders with Article 3 and Article 1 jurisdiction over extra-territorial State activity.

He returned to the UK to work at the AIRE Centre for Matthew Evans and Nuala Mole, combining providing front line legal assistance to EEA nationals with drafting third party interventions before domestic and international courts. Stephen also worked at the Inter-American Court of Human Rights as a visiting professional.

## **PUBLICATIONS**

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Stephen co-authored *The Reform of Civil Litigation* (2nd ed) with Sir Rupert Jackson, former Lord Justice of Appeal. The new edition looks at reforms to the broader civil justice system and what they mean for access to justice.

Stephen has an extensive history in drafting policy papers, Parliamentary briefings and submissions, dating back to his work with the Constitution Unit, JUSTICE and the AIRE Centre.

Stephen worked closely with the Police Actions Lawyers Group (PALG) and was instrumental in formulating their written submissions to the Jackson Review on Fixed Recoverable Costs, which resulted in the review finding that police actions would 'seldom be suitable' for any fixed costs regime. He remains involved in formulating PALG's response to the subsequent Ministry of Justice consultation.

## **TRAINING AND SEMINARS**

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Data Protection for Immigration Practitioners, with Amanda Weston QC



## AWARDS

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Sir Joseph Priestley Scholar (2014)

Inner Temple Exhibition Award & Duke of Edinburgh Entrance Award (2012)

School Of Law Prize (2012)

Dean's Commendation (2012)

Clyde & Co European Law Prize (2011)

Clifford Parker Mooting Prize (2011)

## EDUCATION

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- **LLM, Clare College, University of Cambridge (2014)**
- **BPTC, Kaplan Law School (2013)**
- **LLB (Hons), First Class, University of Exeter (2012)**

## PROFESSIONAL MEMBERSHIP

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- **Administrative Law Bar Association (ALBA)**
- **Human Rights Lawyers Association (HRLA)**
- **Honourable Society of the Inner Temple**
- **Inquest Lawyers Group (ILG)**
- **JUSTICE**
- **Police Action Lawyers' Group (PALG)**
- **Trans Equality Legal Initiative (TELI)**

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