

1GC | Family Law

Elizabeth Darlington MCI Arb

Year of Call: 1998



Practice Overview

Elizabeth specialises in property and family finance cases. Her practice focuses on the financial consequences of relationship breakdown (whether marriage or cohabitation) and property disputes between family members generally. She is recognised as an expert in applications involving cohabitants (including under the Trusts of Land and Appointment of Trustees Act 1996 and Schedule 1 of the Children Act 1989). She regularly appears in both the Family Court and the Business and Property Court.

She is an IFLA Arbitrator and a mediator (civil and commercial; ADR group accredited).

She is the author of a number of highly regarded practitioner texts including Cohabitation and Trusts of Land with Laura Heaton. The fourth edition, published by Sweet and Maxwell, is due out in 2023. She is the General Editor of Cohabitation: Law and Precedents, published by Sweet and Maxwell. This publication is updated twice a year and includes a number of expert contributors.

Elizabeth regularly publishes articles in leading journals on her areas of expertise and is regularly invited to speak at both national and regional conferences including the Family Law Bar Association, Resolution, White Paper and in-house for top-tier solicitors' firms.

Elizabeth is an approved Pupil Supervisor.

Elizabeth was elected to the national committee of the FLBA in 2021 and sits on the Finance and Property sub-committee.

She accepts instructions on a Direct Access basis.

Areas of Expertise

Elizabeth undertakes a wide range of contentious and non-contentious work including:

- Financial Remedies;
- Real Property;
- Co-ownership disputes, including applications under the Trusts of Land and Appointment of Trustees Act 1996 based on constructive and/or resulting trust and proprietary estoppel;
- Schedule 1 claims;
- Inheritance Act claims.

Elizabeth receives instructions to act as a mediator and early neutral evaluator and regularly represents clients in all forms of non-court dispute resolution.

Notable Cases

Ladwa v Chapman (2018) - application by Claimant for an order for sale and 50% of the proceeds.

Property had been transferred into the joint names of the Defendant and Claimant after purchase. Counterclaim to set aside the transfer on the grounds of undue influence. Received press coverage in *The Times* and other newspapers.

Curran v Collins (2015) - application for permission to appeal to the Supreme Court.

Elizabeth was instructed to apply for permission to appeal the decision of *Curran v Collins* [2015] EWCA Civ 404 to the Supreme Court. This case concerned the test to be applied by the Courts in cases in which a property is owned in one partner's sole name. Permission was refused on the facts of the case.

Bourne v Poznyak (2015): *Birmingham County Court, Chancery Business*

Dispute between two former cohabitees regarding two properties owned by Elizabeth's client. Elizabeth successfully argued on behalf of the owner that the claim should be dismissed and a costs order made against the Defendant.

Begum v Issa and ors [2014] EW Misc B51

Case concerning an unregistered Islamic marriage and therefore governed by property law principles. The case included allegations of fraud; priorities of mortgages and whether an order for sale should be deferred. Before HHJ Behrens.

Aspden v Elvy [2012] EWHC 1387 (Ch)

Dispute between an unmarried couple as to the beneficial ownership of a farm. The High Court found that Elizabeth's client, the female defendant, had a 75% beneficial interest. As she had consistently offered to settle on a 50/50 basis, the male claimant was ordered to pay her costs.

Radford v Gwilliam (2009): *Birmingham County Court, Chancery Business*

Dispute between parents and their daughter and son-in-law as to ownership of property. The parents had invested the proceeds of sale of their home in constructing an annex to a property owned by their daughter and son-in-law. The parties then fell out.

The parents brought a claim based on constructive trust and/or proprietary estoppel on the basis that they had a beneficial interest in the property or alternatively were entitled to compensation for the

amount they had spent. The Court found for the parents and awarded them a lump sum in compensation.

Dowson v Riley (2009): Leeds County Court, Chancery Business

Representing male partner in a dispute concerning the former matrimonial home, a farm. Property purchased by the couple as joint tenants. Entirety of purchase monies, however, provided by the female partner's father. Matter settled by consent.

Shaw v McCormack (2007 - 2008): High Court

Representing female partner in successful application for a freezing order against the male partner in respect of the proceeds of sale of the parties' former home. Male partner subsequently "disappearing". Successful TLATA proceedings in respect of the proceeds of sale.

Bland v Clapham (2006)

Representing elderly couple seeking a declaration of a beneficial interest in a property owned by their daughter and son-in-law. Daughter and son-in-law divorced and son-in-law denied that the parents had any interest in the property. The parents had sold their previous home. The proceeds of sale were invested in the property and the father, a retired builder, had constructed an extension at the property and other improvements. Settled by consent.

Kay v Mills [2005] EWCA Civ 1537

Property dispute between father and daughter. Father sought possession of property purchased on trust by father and daughter upon trust for father's sole benefit. Defence based on proprietary estoppel. Successful application to the Court of Appeal against decision to strike out the defence.

Al Hawaz v Thomas Cook Group [2000] All ER (D) 1568

Travellers cheque fraud; admissibility of similar fact evidence.

What the Directories Say

Elizabeth has been consistently recommended in both Chambers and Partners and Legal 500 as a leading individual.

"Elizabeth is exceptional. She is incredibly patient with clients and has a down to earth bedside manner. A confident and accomplished courtroom advocate." **Legal 500, 2024**

"Elizabeth is a TOLATA Schedule 1 expert. What she doesn't know isn't worth knowing." **Band 2 - Chambers and Partners, 2023**

"Elizabeth has an impressive ability to quickly grasp the issues in a case and provide options and solutions to the client, accompanied by well-considered advice." **Band 2 - Chambers and Partners, 2023**

"Elizabeth has a down-to-earth approach that is hugely appealing to clients, and always goes the extra mile in preparation and advice." **Band 2 - Chambers and Partners, 2023**

"Elizabeth is a leader in her field with an eye for detail and an incisive intellect. Her work is thorough, well prepared and meticulous. She leaves no stone unturned, and her calm but firm court room manner has earned her the respect of the judiciary." **Tier 1 - Legal 500, 2023**

"Elizabeth has phenomenal knowledge of the area of cohabitee and property interests. She has a calm approach and first rate client handling skills, which mixed with her superb intellect and preparation make her a real asset to a case." **Tier 1 - Legal 500, 2022**

"She gives clients the options, looking at the scenarios, and really gets a grip early on. She is able to deliver advice without it being crushing if it is not the answer that clients want to hear and makes sure that clients are informed." "She is calm, measured and composed." "She is very knowledgeable about the law in cohabitation and TOLATA and is pragmatic, approachable and user-friendly." **Band 2 - Chambers and Partners, 2022**

"She is absolutely excellent at cohabitation disputes. She wrote the book and knows all there is to know." **Band 2 - Chambers and Partners, 2021**

"Her knowledge about cohabitation is excellent, but the real strength is the ability to apply that and come to a pragmatic and sensible outcome." **Band 2 - Chambers and Partners, 2021**

"Beth's legal expertise in relation to TOLATA cases is second to none in our region. Beth is quickly able to get to the crux of the issues involved and build a rapport with the client. She works tirelessly to assist the client to achieve a settlement and avoid lengthy and expensive court proceedings and provides pragmatic advice." **Tier 1 - Legal 500, 2021**

"A leader in her field." - Family *"Clear, down-to-earth and knowledgeable."* - Property **Legal 500, 2020**

"A gem at cohabitation disputes, she is very competent in her advice and very client-focused." "Elizabeth is simply brilliant in TOLATA cases. Her knowledge is second to none." "Her knowledge and intellect are outstanding." **Chambers and Partners, 2020**

"Easy to work with, clever and insightful. She is thorough, engaging and good at presenting information to clients and in court." "An extremely capable advocate who has an excellent bedside manner with clients." **Chambers UK, 2019**

"An authority in TOLATA cases." **Legal 500, 2019**

"Elizabeth is approachable and very good with professionals and clients. She is technically very competent." "A genuine authority in TOLATA cases who provides clear, well-prepared advice and representation." **Chambers and Partners, 2018**

"Intelligent and sympathetic, yet steely when required." **Legal 500, 2018**

"[Elizabeth] has an excellent knowledge in the complex area of trusts of land work, has a good client manner, and is calm, thorough and well prepared." **Chambers and Partners, 2017**

"Extremely good with clients, putting them at ease." **Legal 500, 2017**

"She has a gentle manner with clients, but is a tough advocate with great depth of knowledge." **Chambers and Partners, 2016**

"Commands trust and confidence in lay and professional clients." **Legal 500, 2016**

Education

1997 BA (Cantab)

1998 Called Middle Temple

2000 MA (Cantab)

Pupil Supervisor

ADR Group Accredited Civil and Commercial Mediator

Appointments

Arbitrator (MCI Arb)

Elected to National Committee of the FLBA (2021)

Awards

Elected Scholar of Selwyn College, Cambridge

Jules Thorn Scholar of the Middle Temple

Memberships & Associations

Family Law Bar Association

Chancery Bar Association

Resolution

Publications

Cohabitation and Trusts of Land (Sweet and Maxwell) (4th ed) 2023

Cohabitation and Trusts of Land (Sweet and Maxwell) (3rd ed) 2016

Cohabitation and Trusts of Land (Sweet and Maxwell) (2nd ed) 2010

Cohabitation and Trusts of Land (Sweet and Maxwell) (1st ed) 2007

General Editor of Cohabitation: Law and Precedents (looseleaf) (Sweet and Maxwell)

Seminars

Elizabeth is regularly invited to speak at conferences and to give presentations for various bodies, including the FLBA, Whitepaper Conferences; Law Societies and in-house for solicitors firms.