

# 1GC | Family Law

## Elizabeth Darlington MCI Arb

Year of Call: 1998



## Practice Overview

Elizabeth specialises in financial remedy cases and property disputes. Her practice focuses on the financial consequences of relationship breakdown (whether marriage or cohabitation). 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 Financial Remedies Court and the Business and Property Court.

Her practice covers all forms of dispute resolution, including non-court dispute resolution (mediation, arbitration and early neutral evaluation including private FDRs.) Elizabeth often appears in cases against KCs. She is an extremely capable advocate who has an excellent bedside manner with clients.

Elizabeth is an IFLA Arbitrator and a mediator (ADR group accredited) and conducts early neutral evaluations, including private FDRs.

She is the author of a number of highly regarded practitioner texts including *Cohabitation and Trusts of Land* with Laura Heaton, published by Sweet and Maxwell. The fourth edition, was published in 2024. Elizabeth is also 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 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.

## Family Finance & Property

Elizabeth's practice covers all areas of financial provision including:

- nuptial agreements,
- inherited wealth,
- high net worth individuals,

- cases involving third parties (often parents of one or both party);
- farming cases,
- trusts;
- overseas assets;
- pensions;
- businesses and partnerships;
- financial relief after foreign divorce;
- Costs.

## **Mediation**

Elizabeth is a qualified mediator (ADR Group accredited). She conducts mediations in all types of financial and property disputes, including those involving multiple parties. Elizabeth has excellent interpersonal skills and an ability to listen, which assist in facilitating settlement.

Elizabeth was a member of a Family Law Bar Association (FLBA) Sub-Committee which provided a response to the Government's 2023 consultation on compulsory mediation in financial remedy cases.

## **Arbitration**

Elizabeth is an arbitrator, qualifying in July 2021. She conducts arbitrations in both financial remedy and TLATA and Schedule 1 cases.

## **ENE / Private FDR**

Elizabeth conducts early neutral evaluations in disputes between former cohabiting couples, utilising her extensive experience and expertise in this area. She also conducts private FDRs in financial remedy cases.

Elizabeth is also willing to consider instructions to conduct a combined early neutral evaluation and mediation where both parties agree that this is required.

In some cases it may be more cost effective and proportionate for there to be a "round-table meeting", where the parties are represented but no third party facilitator is instructed. Elizabeth is experienced in conducting negotiations in this format and will advise clients if a round-table meeting is suitable for them.

## **International Family Law**

Elizabeth is experienced in representing parties in applications for financial relief following overseas divorce under Part III of the Matrimonial and Family Proceedings Act (MFPA) 1984.

She is also instructed and has a particular interest in cases involving issues as to validity of marriage, where, for example, where an Islamic marriage ceremony has been carried out but has not been registered and recognition of foreign divorces.

## **TLATA and Schedule 1**

Elizabeth is a “go to” person in the area of cohabitation disputes and has a national reputation in this field. She has written widely in this area. The 4<sup>th</sup> edition of her book, “Cohabitation and Trusts of Land” with Laura Heaton, was published in January 2024. Elizabeth is often invited to speak at conferences and debates on this topic.

Areas include:

- co-ownership disputes, including applications based on constructive and/or resulting trust and proprietary estoppel;
- Claims to set aside property transfers based on undue influence, mistake, fraud or duress;
- Equitable accounting;
- Occupation rent;
- Practice and procedure under the CPR;
- Acting for Third Party Intervenors (e.g. older parents of children involved in a divorce);
- Financial abuse of the elderly;
- Occupation Orders;
- Engaged Couples;
- Schedule 1 claims;
- Inheritance Act claims;
- Unregistered marriages, including for example, where an Islamic ceremony has been carried out but the marriage not registered.

Elizabeth recognises that the various forms of non-court dispute resolution are particularly helpful in respect of resolving disputes between former cohabitants and is very experienced in advising as to which form might be most suitable for a particular case, in addition to conducting mediations, arbitration and early neutral evaluations herself.

## Areas of Expertise

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

- Financial Remedies;
- 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

*P v Q, R and S (Claim against Assets of Extended Family)* [2024] EWFC 164 (B)

Elizabeth successfully represented the intervenors (the husband’s parents) in defeating a claim made by the wife in respect of two properties owned by them, in the course of financial remedy proceedings.

*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 cohabitantes 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.

## **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."* **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."* **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."* **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."* **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."* **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."* **Chambers and Partners, 2022**

*"She is absolutely excellent at cohabitation disputes. She wrote the book and knows all there is to know."*

## 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."* 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."* 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 Selwyn College, Cambridge BA (Law)

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](#)

Middle Temple

North Eastern Circuit

Publications

Cohabitation and Trusts of Land (Sweet and Maxwell) (4th ed) 2024

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)

Published articles include:

Summer 2023: Fairness versus Certainty – Should the Matrimonial Causes Act 1973 be amended to restrict the duration of spousal maintenance? (with Katherine Dunseath) Financial Remedies Journal Summer 2023

Separation after Long Cohabitation: Common Issues October [2022] Family Law

ADR in Family Property Disputes: Mediation, Early Neutral Evaluation/private FDRs and Arbitration Family Law February [2021] Family Law

Quantification in Proprietary Estoppel – Part 1 and Part II June and July [2021] Family Law

Seminars

Elizabeth is regularly invited to speak at conferences and to give presentations for various bodies,

including the FLBA, Resolution, Whitepaper Conferences; Law Societies and in-house for solicitors firms. Recent topics include: costs in financial remedy cases; transparency in the Family Court and cohabitation disputes.

She took part in the 2023 Family Justice Council Annual Debate: “Should cohabitants have the same rights as married couples or those in a civil partnership?”