

Maxwell Gillott – Education, Social Care and Health Care Solicitors

We are **specialist solicitors**, providing legal advice and assistance for clients who face difficulties with the key public services of **education, health and social services**.

Maxwell Gillott are proud to be the top ranked education law firm acting for individuals in the country in **Chambers and Partners 2011**. According to the Guide: "Market sources are unanimous in the opinion that this team is now an 'absolutely exceptional force in SEN law'."

- **Special educational needs provision**
 - **Statementing**
 - **Special education tribunal representation**
- **School admission and exclusion**
- **Disability discrimination**
- **Medical negligence**
- **Access to medical treatment**
- **Care and respite**
- **Continuing care**
- **Court of Protection - welfare and best interests**
- **Public Law & Human Rights**

We're not like other firms of solicitors, who may offer these services alongside a range of other general legal work, such as crime, conveyancing and divorce.

We only deal with issues in these highly specialised fields. This means that our clients can be confident that our knowledge and experience is focused exclusively in the areas that concern them. We work with people of all ages from all parts of the country, providing services ranging from telephone advice to representation at tribunals and in court cases.

We also operate a national telephone helpline in education law for people who are eligible for legal aid. We are the only law firm in the country to be funded by the Legal Services Commission to provide this service.



To find out more about how we can help you, please contact [Maxwell Gillott Solicitors](#).

About Mglaw: our firm

Founded in 2003 by Elaine Maxwell and Charles Gillott in order to bring together the experience they had each gained over many years in legal practice, Maxwell Gillott specialises in all aspects of education, health and community care law.

In September 2009 Maxwell Gillott merged with **Simpson Millar LLP Solicitors** and it is hoped the merger will build a stronger presence in the healthcare and education sectors for both companies.

Our lawyers are experts in their fields and can provide you with advice or representation to help you overcome problems in securing your rights or those of your family.

We have strong links with many of the charities that are active in our areas of interest and this helps us maintain up to date knowledge of developments relevant to our work.

Our specialist skills and expertise are acknowledged by our inclusion in the Legal 500 and the Chambers Guide, which list the UK's leading law firms and practitioners.

We are fully franchised by the Legal Services Commission in our specialist areas. This means that we can apply for public funding – legal aid – for our clients, because our services and the way we work meet the high standards required by the Commission.

If public funding is not available to you, we will advise on alternative ways of meeting your legal costs and ensure that you are quite clear about your position before we start work on your behalf.

The Legal Services Commission has recognised our expertise by appointing us as the only solicitors' firm in the country to provide national telephone advice on education law via their Community Legal Advice service. Our work in this field has been recognised with the highest mark for quality following peer review carried out for the Commission.

To find out more about how we can help you, please contact **Maxwell Gillott Solicitors**.

About us: our people

Our team brings together experts with extensive experience in our specialist areas of education, community care, health, public law and human rights.

To find out more about our experts, click on the name you are interested in.

Solicitors

Education and Community Care

- [Elaine Maxwell](#) - Lancaster Office
- [Emily Gent](#) - Lancaster Office
- [Eleanor Wright](#) - London Office
- [Angela Jackman](#) - London Office
- [Oliver Studdert](#) - London Office
- [Julie Cornes](#) - London Office
- [Keeley Creedy](#) - London Office
- [Gurvinder Kaur](#) - Birmingham Office
- [Imogen Jolley](#) - Lancaster Office
- [Lainey Gough](#) - Lancaster Office
- [Lisa Hashmi](#) - Lancaster Office
- Beth Holbrook – Lancaster Office
- [Victoria Pogge von Strandmann](#) - London Office
- [Dan Rosenberg](#) - London Office
- [Jessica Whitehead](#) - London Office

Other Human Rights and Public Law Issues

- [Victoria Pogge von Strandmann](#) - London Office

Clinical Negligence

- [Sara Denver](#) - Lancaster Office

Our other team members

Trainee solicitors (Lancaster Office)

- Victoria Edwards
- Joanne O'Neill

Telephone advisors (Lancaster Office)

- Steven Bayliss
- James Betts
- Emma Buckenham
- Ann-Julie Crozier
- Francesca Gray
- Thomas Mitchell
- Sarah Pryce
- Kathryn Saban

To find out more about how we can help you, please [contact us](#).

About us: our people

Elaine Maxwell

Elaine qualified as a barrister in 1974, and a few years later joined the Civil Service. After taking time out to have three children, she decided to return to practising law. She chose to become a solicitor rather than remain as a barrister, because solicitors have a higher level of direct contact with clients. Elaine began advising educational institutions and individuals on issues of education law in 1990, and in 1994 decided to specialise in education law. In 1998 she established her own firm, based on the philosophy that an exclusive concentration on a highly specialised area of law would result in a better service to clients.



Until recently she was a peer reviewer in education law for the Legal Services Commission, and assists them in the drafting of advice booklets on education law for the general public. Elaine has been recognised as a leader in education since 1996 in both Chambers Guide to the Legal Profession and the Legal 500. Much of her current work in the preparation and presentation of cases for Special Needs Tribunals although she has run many important cases on education law, from student entitlement to grants claims to special needs.



Elaine has personal experience of children with special educational needs. Of her three children, one has Attention Deficit Disorder and dyspraxia, while another is dyslexic. She has acted as a governor at a local special school, and provided training for members of charities and parents groups including IPSEA and the National Autistic Society, as well as student unions and university administrators. She regularly talks to parent groups about the law relating to special educational needs and has also been interviewed on Radio 4 on a number of occasions about education law issues.

Although interested in all aspects of education law, she has a particular focus on autism, particularly in those cases which need support from health and social services as well as education. She is also concerned to make sure that the introduction of academy schools does not reduce rights for parents and children.

Her reported cases include:

- Jones v Staffordshire County Council, [1997]ELR 357
- R v Manchester City Council ex parte S [1999]ELR 414
- White v Clitheroe Royal Grammar school (first DDA case against a school), 6 May 2002 Preston County Court
- Governors of F Primary School v T and Sendist [2006] EWHC 1250
- Hill v Bedfordshire County Council, [2008] EWCA 661

as well as many others she has supervised as head of the education department.

Quoted in Chambers and Partners 2011:

Education: Individuals, Elaine Maxwell has been advising on provision for severely disabled pupils. Sources say she has a "*phenomenal understanding of the issues that parents dealing with SEN face.*"

Quoted in Chambers and Partners 2010:

Education: Individuals Elaine Maxwell "*brings both empathy and expertise to every single case.*"

Contact em@mglaw.co.uk

About us: our people

Emily Gent

Emily qualified as a solicitor in 2005, after training with Irwin Mitchell in clinical negligence and public law, with a focus on community care issues, and joined us in 2006. She became a Director of the firm in 2007 and specialises in education and access to health and social care services (particularly cases involving more than one of these areas of law). She also heads up the NHS continuing care health funding department for recovery of care home fees. She is consulted on an informal basis by various charities, schools, advice and advocacy agencies and delivers training on community care and education law.



She has worked with disabled people and their families throughout her career and has been employed by charities and local authorities. Emily decided to study law to better assist individuals get public services they are entitled to. Her specialist legal work relies on knowledge of education and community care, human rights and discrimination law.

Emily's reported cases include:

O v Lewisham [2007] EWHC 2092 (Admin), a judicial review with wide reaching implications on the assessment of costs (including community care costs) to be taken into account by the special needs tribunal when considering school placements. This case has made a significant difference and is leading authority on this important issue.

Hampshire CC v R [2009] EWHC 262 (Admin) in which we defended the parent and cross-appealed. The judgment greatly improved the power of parents to obtain the special school of their choice and gave detailed guidance on how disputes should be decided by tribunal.



Emily obtains results for clients through negotiation as well as appeal, tribunal and court hearings and her work covers the following:

- Additional support for children with statements of special educational needs and schools preferred by parents
- Local and health authority responsibilities to assess needs and provide suitable services
- PCT continuing care health funding
- Educational provision for learning disabled young people post 16 and 19
- Admission and exclusion / disciplinary / fitness to practise decisions
- Children out of school
- Transport to school/ college and other education and community care related issues

In her spare time Emily likes to climb mountains and tour the UK in a campervan.

Quoted in Chambers and Partners 2011:

Education: Individuals, Emily Gent has a growing reputation for her advice on SEN cases involving community care provision. She is said by sources to be "*committed, sharp and technically accurate.*"

Contact : eg@mglaw.co.uk

About us: our people

Eleanor Wright

Eleanor Wright originally practised in general civil litigation before specialising in professional negligence and mortgage law. She began working in Education Law as a result of a general interest in the subject, and a more particular interest arising because she has a child with dyslexia, and through her position as a school governor - she is now chair of governors at a local primary school. She has increasingly moved to specialising in Education Law and related care issues for 12 years and now works exclusively in that area, and is nationally recognised as a leader in the field.



Eleanor joined Fisher Meredith in 2001 and became a salaried partner in 2006. She joined MG Law on 19 April 2010 as a Partner and Director.

She specialises in all aspects of education law including in particular provision for children with special educational needs, school exclusions and admissions, disability discrimination, cases involving children without school places, and some further and higher education work. She also deals with care issues arising in connection with children's educational and disability.

Eleanor is regularly invited to speak on education law issues to parents and professionals, and has also had articles published in various legal journals including Education, Public Law and the Individual, the Education Law Monitor, and the Education Law Journal. She and Angela Jackman contribute regular Education Law updates to the Legal Action Gazette.



Eleanor is a peer reviewer in Education Law for the Legal Services Commission. She is a committee member and Befriender for her local branch of the Dyslexia Association, and also sits on and chairs Exclusion and Admission Appeal Panels in her local area.

Quoted in Chambers and Partners 2011:

Education: Individuals, Eleanor Wright has a wealth of experience in all aspects of education law. She is praised by sources for going *"out of her way to make herself available at all hours."*

Quoted in Chambers and Partners 2010:

Education: Individuals Eleanor Wright has a genuine strength in SEN and has recently been advising on disability discrimination claims.

Contact eleanor.wright@mglaw.co.uk

About us: our people

Angela Jackman

Angela has been a recognised Leader in education law since 2003 when she was first ranked by Chambers and Partners. Since 2009 she has held the prestigious Chambers band 1 individual rank; she is also ranked in Legal 500 and Legal Experts.



In addition to her long established education law practice, Angela has track records in community care and capacity law. She has a particular interest in children's community care issues and has developed a niche practice in Court of Protection best interest cases. She is cited in Chambers and Partners 2010 as a category 3 individual leader in Civil Liberties.

Angela's reported cases include the following:

R v Board of Stoke Newington School ex p M (1994) ELR 131; K v (1) Special Educational Needs and Disability Tribunal. (2) Hertfordshire County Council (2007) EWHC 790 Admin ; (R) A v Independent Appeal Panel for London Borough of Sutton and Others [2009] EWHC 1233 (Admin), D v Southwark LBC (2007) EWCA (iv) 182 and Re SK [2007] EWHC 3289 (Fam).

Angela obtained a BA Hons law degree from Balliol College, Oxford University and subsequently qualified as a solicitor in 1987. Following qualification, she moved to Hackney Community Law Centre where she practised for 13 years in the areas of education, immigration and asylum and housing.



Angela was actively involved in grassroots community groups whilst based at the law centre, including Hackney Action for Racial Equality and Hackney Anti-Deportation campaign. She also provided free legal advice to numerous voluntary organisations and charities.

Angela convened the Law Centres Federation Education Working Party and facilitated workshops at its national conferences. She was also invited by the Legal Services Commission to join a working party which devised supervisor standards in education.



Angela joined Fisher Meredith in 2001 and became a salaried partner in 2006. Angela joined MG Law on 20 April 2010 as a Partner.

Angela is an experienced writer and trainer. She has been a lecturer for CLT and Legal Action Group; she currently lectures for MBL Seminars. She is also a podcast contributor for CPDcast and has featured in College of Law Legal Network TV training DVDs.

Angela successfully participated in a live discussion on Radio 4's "The Learning Curve " in February 2008 which featured one of her education judicial review cases.

Angela co-wrote "Practical Education Law", an education law text, published by the Law Society in 2005. She co-writes regular education law updates for Legal Action Group and writes articles for legal journals, including New Law Journal and Education Law Journal.

Angela is a member of the College of Law pro bono Legal Advice Centre's advisory panel and the Secretary of the Education Law Practitioners' Group which organises seminars for education law practitioners and spearheads responses to government consultations.

Angela was presented with an award for Outstanding Achievement at the Legal Aid Practitioners Group Silver Jubilee Awards Ceremony in June 2009. She was also featured as a role model of achievement at the Law Society's inaugural Black History Month celebration in October 2009.

Angela enjoys 10k runs, traditional African dance and world music.

Quoted in Chambers and Partners 2011:

Civil Liberties, Angela Jackman is *"organised, approachable, knows her stuff and is able to get to the nub of the matter quickly."*

Education: Individuals, Angela Jackman is praised for her *"reassuring and calm presence,"* with clients agreeing that she is *"totally unflappable."* She is also *"extremely approachable and not afraid to tell you how it is."*

Quoted in Chambers and Partners 2010:

Civil Liberties, Angela Jackman regularly acts for vulnerable young people in challenges relating to best interest and capacity, and is widely praised for the consistent quality of her practice.

Education: Individuals, Angela Jackman is marked out as a leading light when it comes to issues of exclusion and has enviable experience in judicial reviews.

Contact angela.jackman@mglaw.co.uk

About us: our people

Oliver Studdert

Oliver specialises in education and community care law, with a particular emphasis on young people and their rights. Oliver qualified with John Ford solicitors in 2005 and later moved to Fisher Meredith to continue practising in the above areas. He joined MG Law in April 2010.



Oliver was the solicitor for a homeless 17 year old in *R (G) v LB Southwark [2009] 1 WLR 1299*, a case which was described as a "huge step forward for children's rights". The House of Lords unanimously agreed that young people in similar circumstances should be accommodated and supported through Children's Services, not housing. Oliver continues to act for many young people who require support and accommodation.

Oliver acted for the Appellant in *KC v LB Newham (SEN) [2010] UKUT 96 (ACC)* in a successful challenge to the Upper Tribunal. The Appellant's appeal to the First Tier Tribunal had been struck out on the basis of the child no longer being of compulsory school age and that his statement should cease. The Upper Tribunal Judge found that the decision of the lower tribunal was unlawful and this case will now be reconsidered.



Oliver is a member of the Children's Rights Alliance for England and works closely with a number of charities including the Howard League for Penal Reform, Kids Company and Voice.

Oliver plays football for a Saturday side and is a long-suffering supporter of Brentford FC. He also enjoys golf and skiing.

Quoted in Chambers and Partners 2011:

Civil Liberties, Oliver Studdert is recognised for his expertise in young people's rights. He impresses sources with his superb case management and client care.

Education: Individuals, Oliver Studdert makes his debut in the tables having impressed sources with his staunch commitment to the rights of children and young people.

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About us: our people

Julie Cornes

Julie specialises in advising clients and enforcing their Community Care and Health law rights. Having qualified as a solicitor in 1999 after a career in the theatre in Paris, Julie became a Solicitor Advocate in 2005. Julie sits part time on the Asylum Support and Social Security Tribunals.



Prior to joining Maxwell Gillott, Julie worked for a number of years at Bindman and Partners, where she specialised in Immigration and Asylum law. As a result of her increasing interest in representing disabled and elderly clients, she then joined Fisher Meredith LLP, where she developed a niche practice in this area.

With the reaffirmed commitment made by the coalition government to ensuring that all disabled and elderly people have access to an Individual Budget, to enable them to live as independently as possible in their own homes, Julie has developed a strong interest in advising people to assert their rights and obtain that to which they are legally entitled. Julie has successfully negotiated with local authorities and Primary care trusts on behalf of clients, to find creative solutions to difficult cases, often avoiding the need for lengthy and stressful litigation.

Julie has successfully represented clients and their families in appeals to obtain free personal care at home and in residential care. In a number of cases, she has secured significant financial payments for clients.

Julie is an accredited member of the Law Society's Mental Health Panel and, aside from representing detained patients, is regularly instructed by the Official Solicitor in relation to health and welfare disputes, in the Court of Protection. Julie's most recently reported case is *LD, KD & another v Havering [2010] WTLR 69* (His Honour Judge Michael Horowitz QC, 19 October 2009). This report is highlighted in the Court of Protection 2009 Report as a key decision in the development of the jurisdiction of the Court of Protection under the Mental Capacity Act 2005.

Julie advises national organisations and charities working on behalf of the elderly and disabled, such as "In Control" and "The National Centre of Independent Living".

Julie speaks fluent French

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About us: our people

Gurvinder Kaur

Having trained with Maxwell Gillott, Gurvinder qualified as a Solicitor in 2008. She specialises in Education, Public Law and Community Care, and runs the Maxwell Gillott Birmingham Office.



Gurvinder has developed real expertise in SEND representation and works with parents and relevant professionals to ensure that cases are prepared to the highest standard to ensure the best possibility of success. One particular example that she has dealt with is working with Looked After Children a key resource available to professionals and carers in England and Wales who are working with “looked after children”, of which there are some 60,000 in the UK.

She also has experience of dealing with Exclusions and Admissions appeal representation and has had demonstrable success with higher education disability discrimination claims. Gurvinder also fights tirelessly in cases to secure support for young people leaving care.

Her more recent cases include dealing with failures to provide for children with SEN, unlawful cease to maintain of statements for young people of school leaving age , post 16/ 19 transitions , securing funding for specialist placements and other statement issues. Her interest in post 16 derives from recent changes to the law.

Gurvinder can speak Hindi , Urdu and Punjabi and enjoys cooking and travel

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About us: our people

Imogen Jolley

Imogen qualified as a solicitor in 1996 with a local firm in Lancaster.

Following a family move in 2000, she worked for Norfolk County Council specialising in education law, particularly the law relating to admissions and exclusions from school. Imogen worked in this field while raising her family of 4 children and returned to Lancaster in summer 2008. She is now working for us across the full range of education law.



Contact ij@mglaw.co.uk

About us: our people

Lainey Gough

Having trained with the firm Lainey qualified in 2009. Although originally from Ireland, she completed her secondary education in Germany where she was awarded the International Baccalaureate. She has personal experience in working with young people with disabilities and now specialises in education and public law.



Lainey has developed expertise in representing parents at the Special Educational Needs Tribunal and works closely with parents and other professionals in preparing for the appeal hearing. In addition to this tribunal work, Lainey also specialises in admissions and exclusions in particular in relation to children with special educational needs, disability discrimination, transport and other further and higher education work.

More recently, Lainey has taken a number of successful challenges against authorities that fail to provide the therapy outlined in a child's statement of special educational needs with many of these cases settling without the need for court action.

Lainey also has a strong interest in community care law and works with parents and young people in requesting assessments of their needs, challenging the withdrawal of services and implementing care plans.

Lainey is currently learning British Sign Language and hopes to continue developing her skills in this area. In her spare time she enjoys swimming, cycling and travel.

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About us: our people

Lisa Hashmi

Lisa trained as a Registered General Nurse at the Mid-Essex Hospitals NHS Trust, qualifying in 1990. She was subsequently awarded a Diploma in Nursing in 1991.

Post qualification, she worked in a wide variety of clinical settings in both the public and private health sector, including acute elderly and general medicine, mixed surgery, intensive care, coronary care and accident and emergency. Lisa has worked as a Nurse both in the UK and Pakistan.

Whilst her children were young, she completed a degree in Nursing Studies and thereafter Postgraduate Diplomas in Law and Legal Practice. She undertook her training contract with Maxwell Gillott, working in both the Education and Clinical Negligence departments.

Upon qualifying as a Solicitor she joined the Greater Manchester Crown Prosecution Service and worked as a Senior Crown Prosecutor, bringing cases before the Criminal Courts.

In September 2009, Lisa was appointed as an Assistant Deputy Coroner within the Manchester (North) jurisdiction. She maintains this appointment alongside her current work commitments.

In January 2010, she returned to Maxwell Gillott having been appointed as a Solicitor within the Community Care Team, specialising in NHS continuing health care funding matters. Her work involves obtaining continuing health care funding assessments (including posthumous assessments) and challenging the outcome of those through the Local Health Boards, Primary Care Trusts and Strategic Health Authority review procedures. She is also currently involved in the training and supervision of other members of the continuing health care team.

Lisa is married and has two teenage children. She enjoys a busy family life, horse riding and travel.

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About us: our people

Victoria Pogge von Strandmann

Victoria specialises in **community care, and education law, along with healthcare, discrimination law, access to justice and access to information.** She has a particular interest in public law, civil liberties and human rights.

Victoria Pogge von Strandmann qualified at Linklaters in 2005 and later moved to Fisher Meredith to focus on the above areas. She joined MG Law in May 2010.



Victoria has developed specific expertise in representing young people in need of support and accommodation from social services, including those leaving custody, care leavers, unaccompanied asylum seeking minors and victims of trafficking. Victoria has also gained considerable experience in representing adult asylum seekers and failed asylum seekers in enforcing their rights to accommodation and support from social services and in respect of difficulties with their asylum support from the Home Office.

Victoria also has a strong interest in education law and regularly represents parents of children who have been excluded, are out of school and with respect to their special educational needs.

Victoria has worked closely with a number of charities including the Medical Foundation, the Refugee Council, Refugee and Migrant Justice, the Howard League for Penal Reform, the Trinity Centre/DOST, the Helen Bamber Foundation, the Iranian and Kurdish Women's Rights Organisation and ECPAT.

Victoria's reported cases include *R (B) v Independent Appeal Panel of the London Borough of Brent* [2009] EWHC 1189 (Admin) and *R (O) v London Borough of Barking and Dagenham* [2010] EWHC 634 (Admin).

Victoria Pogge von Strandmann is an Associate Trainer for the British Institute of Human Rights and holds a Master of Laws from University College London, where she specialised in public law, human rights and public international law and gained a distinction.

Victoria enjoys playing the violin in her spare time, playing in orchestras in Oxford and London.

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About us: our people

Dan Rosenberg

Dan specialises in community care, education and public law.

He obtained a degree in Social and Political Sciences from Kings College, Cambridge University, and worked for a grassroots campaigning organisation before converting to law. He qualified in 2004, following a training contract with Clifford Chance, which included time on secondment to Liberty.



He joined Maxwell Gillott in 2010 from Fisher Meredith LLP, where he had worked as a solicitor in their public services law department. He previously worked as an in-house solicitor for a large London borough for two years, giving him a valuable insight into how local authorities operate, and before that for Public Interest Lawyers in Birmingham.

Community Care

Dan undertakes a full range of adult and children's community care matters. He regularly works with leading charities that recognise him as having particular expertise in representing vulnerable young people requiring support and accommodation from social services, and in assisting families with no recourse to public funds obtain the help that they require.

Education

Dan represents parents across the full range of education law issues undertaken by the firm, including special educational needs, exclusions, admissions and children out of school.

Public Law and Human Rights

Running throughout Dan's work is the creative use of the mechanism of judicial review to safeguard the rights of individuals and communities from unlawful decisions by public authorities. Cases include successfully representing communities threatened by hazardous waste or large urban regenerations schemes, and a local councillor in a High Court appeal against disqualification.

Healthcare

Dan has assisted individuals with immigration problems access life-saving healthcare, and has also acted in disputes relating to NHS continuing care.

He is always happy to discuss any potential cases on an informal basis with charities, advocacy organisations or other advice agencies.

Dan is a keen swimmer, and also enjoys kayaking and cycling.

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About us: our people

Jessica Whitehead

Jessica specialises in public law, community care and education law. Having qualified as a solicitor at Fisher Meredith LLP in September 2008, Jessica joined Maxwell Gillott in June 2010.

Jessica has developed expertise in acting for young people in relation to their entitlement to support and accommodation from local authority social services' departments. Her younger clients include children leaving care or leaving custody and in need of accommodation, unaccompanied asylum seeking minors and victims of trafficking. She also acts for adult asylum seekers and failed asylum seekers in relation to their entitlement to support from the UK Border Agency. She has also successfully represented clients who are unlawfully detained under immigration powers.



In the education sphere, Jessica represents parents whose children have been excluded from school, who have experienced discrimination, and who have special educational needs.

Jessica has worked closely with various charitable organisations, including the Medical Foundation for Victims of Torture, the Refugee Council, Action for Refugees in Lewisham, Voice and Kids Company.

In her spare time Jessica enjoys cycling, boating and scuba diving.

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About us: our people

Anne McLean

Anne has provided telephone advice on special needs and other educational issues for organisations including the Independent Panel for Special Education Advice and Resources for Autism since 1997, having become involved in this work since the birth of two children with special needs.

She originally worked as an assistant for people with mental health difficulties and has also run a specialist advice line for parents who are home educating children with special needs.

Anne now provides full support on our telephone advice line as well as working within the firm on cases involving home education and related issues.

About us: our people

Sara Denver

Sara Denver qualified as a solicitor in 1999 and joined our medical law team in January 2005. Throughout her legal career she has specialised in medical negligence litigation and has wide ranging experience in this specialized area of legal work.



Sara is also a Registered General Nurse with experience in ICU, general medicine and oncology with particular expertise in cardio-thoracic intensive care. She is a member of the Royal College of Nursing and a member of the International Observatory on End of Life Care Cluster Group. She is undertaking doctoral research in the Faculty of Law, Business and Social Sciences at the University of Glasgow. Her research interest is in cancer and palliative care services.

Contact : sd@mglaw.co.uk

About us: what they say about us

Chambers Guide to the Legal Profession and the Legal 500 list the leading lawyers in the UK and around the world:

Chambers 2011 UK says:

Education: Individuals - Maxwell Gillott - This firm has been strengthened by the lateral hire of leading individuals from Fisher Meredith. Now operating from Lancaster and London, the team is dedicated to providing advice on special educational needs (SEN), admissions and exclusions, disability discrimination claims, and judicial review cases. Market sources have watched the move with interest and are unanimous in the opinion that this team is now an *"absolutely exceptional force in SEN law."*

Key Individuals: Based in Lancaster, **Elaine Maxwell** has been advising on provision for severely disabled pupils. Sources say she has a *"phenomenal understanding of the issues that parents dealing with SEN face"*. **Emily Gent** has a growing reputation for her advice on SEN cases involving community care provision. She is said by sources to be *"committed, sharp and technically accurate"*. New to the team from Fisher Meredith are **Angela Jackman**, **Eleanor Wright** and **Oliver Studdert**. Jackman is praised for her *"reassuring and calm presence,"* with clients agreeing that she is *"totally unflappable"*. She is also *"extremely approachable and not afraid to tell you how it is"*. Wright has a wealth of experience in all aspects of education law. She is praised by sources for going *"out of her way to make herself available at all hours"*. Studdert makes his debut in the tables having impressed sources with his staunch commitment to the rights of children and young people.

Civil Liberties - Maxwell Gillott - This firm has been strengthened by the arrival of the public services law team from Fisher Meredith. The team operates from the newly opened London office and has boosted the firm's profile in civil liberties. It now has a wealth of experience in social welfare law and the rights of exceptionally vulnerable children.

Key Individuals: **Angela Jackman** and **Oliver Studdert** head the public law branch in the new London office. Sources say Jackman is *"organised, approachable, knows her stuff and is able to get to the nub of the matter quickly"*. Studdert is recognised for his expertise in young people's rights. He impresses sources with his superb case management and client care.

Chambers 2010 UK says:

This expanding regional firm is making an impact across the UK. The majority of the team's time is dedicated to representing children with SEN, particularly autism, and the lawyers have also witnessed an increase in judicial reviews, disability discrimination claims and SENDIST appeals on behalf of private clients. Maxwell Gillott maintains its unique selling point as being the only firm in the country to provide a specialist telephone advice contact, funded by the LSC.

Elaine Maxwell "brings both empathy and expertise to every single case."

Civil Liberties **Angela Jackman** regularly acts for vulnerable young people in challenges relating to best interest and capacity, and is widely praised for the consistent quality of her practice.

Education: Individuals **Elaine Maxwell** "brings both empathy and expertise to every single case." **Angela Jackman** is marked out as a leading light when it comes to issues of exclusion and has enviable experience in judicial reviews. **Eleanor Wright** has a genuine strength in SEN and has recently been advising on disability discrimination claims.

Legal 500 2010 UK says:

Top Ranked for Education: Individuals - Maxwell Gillott Solicitors' nine-lawyer team acts for disabled pupils and has a track record in cutting-edge education law work. The group recently acted for a cognitively able boy with cerebral palsy and autism in the first judicial review application to be transferred to the Upper Tier of the Health, Education and Social Care Tribunal. Lancaster-based **Elaine Maxwell** is a notable figure in the group, while the London team comprises three lawyers recruited from Fisher Meredith: **Oliver Studdert**,



Administrative and Public Law - **Oliver Studdert** joined Maxwell Gillott Solicitors from Fisher Meredith, and is 'very, very good'.

Civil Liberties and Human Rights - Maxwell Gillott Solicitors recruited **Oliver Studdert**, **Angela Jackman** and **Eleanor Wright** from Fisher Meredith in 2009.

Chambers' 2009 UK edition says:

'A good firm dedicated to this sector and going from strength to strength. Key to the firm's success in this area is the drive and determination of **Elaine Maxwell**. Peers observe that "she has a lot of energy and is both a tough litigator and negotiator." From a client's point of view, "she does a great job and gets positive results.'

The Legal 500 2007 edition says:

"**Maxwell Gillott** focuses solely on education law (including SEN), clinical negligence and community care. Its experience in education cases includes judicial reviews, and it notably provides a direct telephone service for education advice. Elaine Maxwell is highly experienced in SEN."

Events & Talks

The Maxwell Gillott team regularly attend schools to speak to parents and offer support and advice on education law matters. If you would like someone from our team to come and talk at your school or parent group please get in touch with us on Tel: 01524 596080 or drop us an email office@mglaw.co.uk.

Events/Talks

2011

- 23 March 2011 - **Carers, Herfordshire** - Emily Gent will be providing training on community care rights to parents of disabled children
- 5 April 2011 - **In Control "Still Fooled by the Law"** - Emily Gent and Julie Cornes will be running a workshop on personal health budgets

2010

- 16 November 2010 - **Advice Link Conference** - Emily Gent spoke about Community Care
- 31 March 2010 - **Cerebra Meeting**, Coventry - Gurvinder Kaur attended from Maxwell Gillott
- 9 March 2010 - **Robert Ogden School** - Elaine Maxwell and Lainey Gough attended Robert Ogden School which is specialist independent school for pupils on the autistic spectrum: Elaine spoke to around 20 parents who either had specific queries about their own children or who wanted more general advice to feed back to parents in their local areas. Elaine spoke on a variety of issues including the statementing process, post 16 education, tribunal appeals and hearings and how to get more support from the local authority. This was then followed up with one-to-one sessions with Parents who wanted more specific advice.
- 16 February 2010 - **Cleveleys Citizens Advice Bureau** - Emily Gent spoke on general issues in education and community care to advisors

2009

- 23 September 2009 - **Southwark Parent Partnership** - Emily Gent spoke to parents, on the invitation of the parent partnership, about statements for transfer to secondary school, rights to request certain schools and to appeal to tribunal.

Our services: education

Most children will experience difficulties during their education from time to time.

Some face more serious problems than others but do not always receive the correct support. In these circumstances, expert legal advice can help you ensure that your child receives the education he or she needs.

We provide an expert legal service to help parents put their case for additional assistance and for appropriate education. The child's needs must always come first, so we take care to work alongside their school wherever possible, to develop a partnership in the child's interests. We will also work alongside any charities involved.

We can:

- advise on how to secure appropriate **special needs provision**
- draft **appeal** and represent you at **tribunals**
- make sure your child gets the help they are legally entitled to through **judicial review**
- assist with **admissions and exclusions**
- advise on claims against schools and local authorities for failure to provide appropriate education or to deal appropriately with a child's disability
- advise on other educational claims against local authorities involving matters such as transport, access to funding and other issues.

We carry out our own advocacy in most of these cases, so you can be confident that the person representing you at a hearing has been fully involved with the file from the beginning.

We can also advise on aspects of higher education law to ensure that the right courses are delivered in the right way under the contract between the educational body and its students. We have successfully challenged unlawful disciplinary action. We have obtained redress for students who have suffered from discrimination on grounds of disability. We deal with student finance too.

Special educational needs

Parents of children with special educational needs must not only deal with constant challenges in their everyday life. They also face increasing pressures in making sure that their child benefits to the full from the education system.

In these circumstances, parents may feel at a loss about the best way forward or overwhelmed at the prospect of fighting their case against local education authorities (LEAs) with access to all the relevant resources and information and years of experience in dealing with special educational needs tribunals.

If you are facing this situation, you are likely to receive differing and even conflicting advice from your LEA and other organisations or support groups.

So seeking an independent, expert view is a wise move to clarify the issues for your child and to provide objective advice on how to achieve what is really needed.

Our expertise in all aspects of education law is enhanced by our practical experience of working extensively with the parents of children with wide-ranging and complex learning disabilities, including autism, cerebral palsy, Down's syndrome, dyslexia, dyspraxia, hearing difficulties and visual impairment.

We also offer specialist knowledge and skills in relevant areas, including the law relating to home education, representing parents at special educational needs tribunal hearings and the cross-over between education, social and health care.

Our expertise in both community care and education is particularly useful when parents are appealing for a residential school place.

Where parents are on benefits and cannot afford legal representation at Special Educational Needs and Disability Tribunals (SEND, formerly SENDIST), we work closely with several of the main charities in the field to secure the best, most cost-effective, service.

"I will definitely recommend you to parents who have children with SEN" - Yildiz Metkawi

Useful information:

- **SEN Statementing Services**
- **What is a SEN Statement?**
- **SEN Statementing Process**
- **Appealing a SEN Statement**

Special Educational Needs (SEN) Statements

Statementing

We can provide as much or as little support as you need. Some people merely need us to let them have some initial advice on tactics and the best way to present their case, and are then happy to deal with all the paperwork and tribunal themselves. However most parents ask us to take on the full range of work needed to get the provision that is important for their child.

SEN Helpline

Brain Lamb in his report on special needs to the Secretary of State, emphasised that parents need access to telephone advice to support them. Although this is already in operation for people who are eligible for legal aid, **until now there has been nothing for people of modest means who earn too much to get legal aid.** We have now set up a:

SEN helpline on: 0845 388 0108
(Mon-Fri 9am to 5pm)

If you call us on this number we will transfer you to an advisor who will give up to **30 minutes of free initial advice** to help you see your way through the SEN Statementing maze.

How we can help you

Our years of experience, mean we are able to give you advice in practical terms about the problems you may be facing and advise you on how they can best be brought to the attention of the local authority and Tribunal. We can also attend annual reviews and other meetings if it seems likely that these may shorten the process of getting your child the provision he or she needs.

Education law is complex and even where the terms used in statements seem plain enough, they may have a different effect in law or to the Tribunal.

Dealing with a child with special needs is doubly stressful, without all the worry of the statementing process. In addition, many parents find a tribunal hearing which inevitably focuses on their child's difficulties to be distressing, at precisely the moment when they want to have a clear head.

While inevitably you will be the experts on your child, we are the experts when it comes to presenting cases. Although we will advise you when we think it is appropriate to use a barrister, we carry out most of our own advocacy as we find that dealing with the parents and children over a period of time ensures that we have as full a picture as possible of what a child needs, rather than a focus solely on the legal aspects.

Statementing Services

Our services range from:

- initial advice on what is wrong with the formal drafting of the current statement
- suggestions about expert witnesses who can give you a full picture of your child's needs (this is likely to be rather different from that put forward by the LEA, whose reports tend to be shorter and less detailed with fewer specified and quantified recommendations for provision)
- advice on tactics and how to achieve the best result
- advice on the law and how it may impact on your child's education
- helping you to get to the point at which you can lodge an **appeal against a statement**

- drafting the appeal and dealing with all the other requests from the Tribunal to make sure your case is put in the most persuasive way possible
- negotiation with the authority
- ensuring expert reports are in a format that can be easily understood by the Tribunal Panel with the correct level of detail
- representation at tribunal
- enforcement of any local authority obligations
- advising on your chances of success

and any other steps you may want us to take.

Useful information:

- **What is a SEN Statement?**
- **SEN Statementing Process**
- **Appealing a SEN Statement**

Statementing for Children with Special Educational Needs (SEN)

If your **child already has a Statement of Special Educational Needs** from your Local Education Authority (LEA), you'll know that your Statement is reviewed annually and can be withdrawn against your wishes.

Alternatively, you may be a **parent who is new to the statementing process**, which many people find to be a challenging, stressful and emotional time.

What is a SEN Statement

A Statement of SEN is a legal document which aims to make sure that any child who has special educational needs gets the support he or she needs to make progress in school.

What information should a SEN Statement include:

The Statement should set out the child's special educational needs as assessed by the LEA and set out the support which the LEA feels the child requires. It should also name the school, type of school or other provision which will give this support.

SEN Statementing Process

At first parents are offered a provisional statement to check through before a final statement is drawn up. Find out more about the **statementing process...**

Appealing a Statement

If you disagree with the final statement you can appeal for it to be changed. Find out more about how to **appeal a SEN Statement...**

Need Professional Advice?

This is your chance to get the best education for your child so it's important to get the right professional support as you tackle what can be a confusing process which takes up to 6 months to complete.

Maxwell Gillott are Education Law specialists and can help with all aspects of Statementing for children with special educational needs.

SEN helpline: 0845 388 0108

Get 30 minutes free legal advice!

Statementing Process - Children with Special Educational Needs (SEN)

The statementing process takes time and it's complicated. Here's what to expect:

- Firstly your child will need to be assessed to determine his or her special educational needs and what special help he or she needs. This assessment is only required if your child's school or nursery cannot provide the help that he or she needs.
- When the request to assess your child for SEN is made, your LEA will have 6 weeks to decide if they will carry out an assessment. During that time you will have the chance to put forward your views as to why you feel your child needs a Statement of SEN.
- After 6 weeks your LEA will tell you whether or not they will carry out an assessment: **if the LEA decides NOT to carry out an assessment and you disagree with that decision you have the right to appeal. There are strict time limits to appeal at this stage so seek professional advice as soon as possible.**
- Alternatively you will be informed that the LEA will carry out an assessment to see if your child is entitled to a Statement of SEN.
- Within 12 weeks of beginning the assessment the LEA has to let you know whether or not they will write a Statement. **Again, you have the right to appeal at this stage if you disagree with the decision.**
- If a Statement of SEN is to be prepared, you will receive a 'proposed statement' and be asked for your views. **If you are unhappy at this stage it is a good idea to seek professional advice for your best chance of success.**
- **You will only have 15 days to comment on the proposed statement and to say which school you want your child to go to.** You can ask for a meeting with your LEA at this stage, which allows you another 15 days to make any more comments.
- You should receive your final Statement of SEN within 8 weeks of the proposed statement. **If you disagree with the Statement of SEN you have the right to appeal no later than 2 months after the decision.**

The Statement of Special Educational Needs process normally takes 6 months.

It is a draining time as you fight for the best outcome for your child.

Having Education Law specialists like Maxwell Gillott on your side from the start will give you the best chance of success.

SEN helpline: 0845 388 0108

Get 30 minutes free legal advice!

Special Educational Needs - Schools and Education Law Advice

While most **children with special needs** are able to thrive in their local special or maintained school, there are many who really **need the specialist attention** and **therapies** that are more readily available in **specialist independent schools**. This can be a real problem for parents of children with dyslexia or autistic spectrum disorders, as well as those with cerebral palsy.

Because the cost of these places is an additional drain on local authority budgets, it can be extremely **difficult to persuade them** to agree to these placements, without a real fight, often through an appeal to the **Special Educational Needs Tribunal**. In some cases, the provision we are seeking for a child may cost the local authority well over £1 million over their school career. Inevitably local authorities will usually fight very hard to avoid such expenditure if at all possible, so cases have to be backed up by the strongest of evidence and arguments in order to stand a good chance of success.

Our **Education Law Solicitors** work closely with a large number of non-maintained and independent special schools across the country to make sure that **parents are able to put forward the best case** possible. Because of our **in-depth knowledge** both of many of the disabilities and also a significant number of the schools concerned, we may also be able to point parents towards suitable schools that may have a place available for their child.

Special Schools Across England and Wales:

This list was taken from the [Good Schools Guide](#).

Specialists in Education Law and SEN

Our **Education Law Solicitors** are committed to helping parents with children with Special Educational Needs. Give us a call now to see how our **education law experts** can help and your child.

Appeals - Statement of Special Educational Needs (SEN)

If you feel that your **Statement of SEN will not meet your child's needs** or if the LEA decides not to issue a Statement and you feel that your child should have one, then you may be able to **appeal to the SEN and Disability Tribunal**.

The Tribunal is an independent body which is made up of 3 people – a lawyer and 2 others who will have experience of SEN.

The Tribunal will look at the evidence you provide and make a final decision. They will check that your Local Education Authority (LEA) has followed the Code of Practice – an official document which sets out guidance and how to identify, assess and provide help for children with SEN.

If the Tribunal finds that your LEA hasn't followed the Code then they may still rule that the LEA's decision is correct, but will expect an explanation as to why the Code wasn't adhered to.

You can go to a Tribunal on your own but it's best to have a professional prepare your case and go with you for the best chance of success.

As Education Law specialists we have particular expertise in appealing Statements of Special Educational Needs and will make getting the best education for your child our priority.

SEN helpline: 0845 388 0108

Get 30 minutes free legal advice!

Special Educational Needs and Disability Tribunal representation

The Special Educational Needs Tribunal and Disability Tribunal (SEND) is designed to enable parents to conduct their own case. However, many parents find this extremely difficult, particularly at a time when they are emotionally vulnerable.

While the tribunal hearing is designed to be informal, the process leading up to it can be quite legalistic and inflexible and requires a great deal of preparation

We can provide you with a full package of support to take you through the tribunal process. If you prefer to **appeal** against your child's statement of special educational needs yourself, we can advise you on the procedures and whether you need any additional reports on your child and put you in touch with appropriate experts, who are experienced not just in your child's specific disability but also in giving evidence at tribunal hearings.

We can also present your case on your behalf at the hearing. We are able to represent parents in any part of England or Wales.

Over the last five years, we have obtained independent educational provision worth over £18 million on behalf of over 100 children as well as helping many other parents to successfully appeal at tribunals to obtain the education their children needed.

Special educational needs case studies

Martin

Martin, aged eight, had severe autism. He attended a local education authority (LEA) school for children with severe learning difficulties, which was very caring but had little idea of how to handle his distress over his communication difficulties or how to help him apply his learning in different settings.

Although Martin was becoming increasingly difficult at home and at school, the LEA considered that the problems were home-based and that he was receiving an adequate education.

Martin's parents had appealed earlier to the tribunal but did not have legal representation at that stage and had not been advised on the expert reports they would need to prove their case. When they came to us, they had just lost the tribunal, although they had won an increase in the level of provision at Martin's school.

We arranged for Martin to be assessed by a speech and language therapist specialising in autism and an educational psychologist who assessed him in school. The psychologist was able to show that regardless of how caring the school staff were, they were not equipped to deal with autism.

With these experts' help, we were able to show that the LEA needed to reassess Martin and to issue a new statement of special educational needs.

Following a successful appeal to the tribunal, we obtained an order naming the school of the parent's choice, which had specialist provision for autism, as well as the full range of speech and language and occupational therapy. After taking a little time to settle in, Martin has blossomed and is communicating for the first time in years.

Brian

Brian, aged 16, had Asperger's syndrome. He had been helped through his compulsory education by attending an independent specialist school.

It was generally agreed that on leaving school he would benefit from continuing his education at college. Brian chose a college some distance from his home, where he could pursue his interest in horticulture while receiving support for his special needs.

Brian needed transport to attend college, but his parents could not afford this. Despite months of negotiation and discussion with his parents, Brian's local education authority refused to pay for the transport, arguing that Brian should attend a nearer college on a different course.

Following correspondence from us, threatening legal action, the LEA made proper transport arrangements in time for Brian to start college at the beginning of term.

Zaina

Zaina had autism. She attended a local special school for her primary education that was a feeder for a generic maintained special school.

The Local Authority considered a request from parents for a residential place in a specialist autism school and refused. We challenged both the Education department through SENDIST and the Authority as a whole through a complaint with a view to judicial review in the High Court for failing to address needs holistically.

The Authority agreed to fund the school place, costing approximately £250,000 per annum just before the case went to a SENDIST hearing.

Appeals against decisions of the Special Educational Needs & Disability Tribunal

Tribunal decisions are generally final but sometimes the panel might make a mistake. We have extensive experience of challenging Tribunal decisions. These cases have to be brought within 28 days of the decision so rapid action is needed by a specialist firm in order to ensure that the case stands a chance of success.

Ben

In one recent case, a parent was concerned that the local authority had not been ordered to assess her son, despite the fact that provision was being made for him through a specialist speech and language unit. We lodged an appeal to the High Court on her behalf, and as a result the child now has a statement of special needs.

Josh

Josh was a child with severe autism whose mother needed high levels of expensive respite care in order to look after him. The tribunal held originally that the local authority school was appropriate for his educational needs even though it did not provide a residential place. They initially rejected other arguments that they should also take into account the cost of the residential provision being made by social services. This decision was overturned in the High Court in a groundbreaking case, which now enables parents to bring these costs into account.

Judicial reviews

Parents may need to take action in the courts on behalf of their child against the local education authority (LEA).

For example, they may need to make sure that the child receives the provision specified in a statement of special educational needs or they may need to take action because the school or other body misinterpreted the law in dealing with an admission or exclusion.

Negotiation by parents with LEAs in these circumstances is frequently unsuccessful and the only way forward may be to bring an action for judicial review in the courts. If the court decides that the LEA has acted improperly, it will order the LEA to reconsider its decision.

In these situations, it is essential to act speedily (as time limits are short) and expert legal help is essential. We are specialists in judicial review and are able to lodge cases quickly when appropriate, sometimes within one or two weeks of receiving instructions.

Frequently, the prompt issue of court proceedings will persuade the LEA to put the correct provision in place, without the necessity of a hearing before a judge. In most cases, other than admissions, Legal Aid is available for the child.

Judicial review case studies

Local education authority policy – group action

A local education authority (LEA) followed a policy of failing to specify provision in any statements of special educational needs, leaving everything to be decided by individual schools in individual education plans.

Although individual parents were able to challenge this policy – which is illegal – by appealing to tribunal, this lengthy procedure was difficult for many parents to undertake and benefitted children on a case by case basis only.

After we brought an action for judicial review on behalf of eight selected children in its area, the LEA accepted our arguments the day before the court hearing, changing its statementing policy in the process.

Elizabeth

Elizabeth wanted to attend the same church school as her older sister. However, the school changed the admission requirements without giving proper notice to parents, as required by statute.

As a result, Elizabeth no longer came easily within the admission criteria and was refused a place on appeal.

Had her mother had known the exact requirements when applying to the school, she could have ensured that the original application form contained the necessary information so that the panel could reach a properly informed decision.

However, within one week of our application for judicial review, the school accepted that it had made a mistake, and allowed Elizabeth into the school.

Discrimination in education

Disability

New legislation makes the law is developing so that it can deal with this important issue. Until September 2002, when the law changed, most of the education sector was exempt from legislation governing disability discrimination. Law that came into force in 2006 has extended protection for disabled pupils and students.

In a case funded by the Disability Rights Commission (now part of the Equality and Human Rights Commission where we also have close links), we acted in what was thought to be the first action brought under disability discrimination legislation against an educational institution, successfully suing a school for refusing to allow a diabetic pupil to go on a water sports trip. The case, which has established important legal principles for other disabled students, is described in more detail in our disability discrimination in education case studies.

While most education insitutions have tried hard to adopt best practice, there are still many schools, Univeristites and colleges that are confused about their obligations and do not fully realise how their policies may adversely affect disabled students.

In many cases, we can put forward positive proposals, which can solve the problem to the satisfaction of both sides.

However, our wide experience in both Special Educational Needs and Disability Tribunals, and in court actions relating to education, means that we are ideally placed to help in challenging decisions if agreement is not possible.

Race and Religion

Unfortunately, there are still considerable numbers of people who experience prejudice because of their race or religious beliefs in an educational context and court action can be taken in appropriate cases.

There has been a number of well publicised cases on how far uniforms should be adapted to allow for religious dress. We consider there is stil scope for further clarification and development inthis area of law.

There are, of course, other types of discrimintaion and whilst they are less common we can use our expertise in this area to advise. All discrimination cases must be taken very promptly as the timetlimits are very short.

Disability discrimination in education case studies

Sharaf

Sharaf had cerebral palsy and was physically unable to attend any lessons in classrooms that were not on the ground floor. This meant that in his first year of secondary school, he attended very few lessons with his year group and spent most of his time in the library with his learning assistant.

We acted for his parents in a tribunal appeal, after which the school altered Sharaf's timetable so that he could share fully in lessons with his fellow students.

Ben

Ben, who had diabetes, suffered a "hypo" (low blood sugar) while on a school skiing trip. Afterwards, the school was concerned that this might happen again and considered that they could not rely on Ben to control his blood sugar levels adequately.

Without seeking any expert medical advice, the school told Ben he could not go on a watersports trip he had already booked.

After a lengthy court case, the judge held that the school was at fault because they had prevented Ben from going on the trip without first assessing the risks fully and exploring how these could be dealt with, or listening to the advice of medical experts.

Ben was awarded compensation for injury to his feelings. The case also set out principles, which all educational institutions must now apply.

Angela

Angela obtained a place at university to study for a Bachelor of Arts degree. She was blind and prior to her starting the course, the university carried out an assessment of her needs, to ensure that as well as being able to move around the campus safely, she could fully access the course, particularly the texts that students had to study. A report was prepared in which appropriate arrangements were specified.

Unfortunately the university failed to deliver the specified support and after a year, Angela had to leave the course. She claimed damages for disability discrimination. We pursued the matter for her in the County Court and she received substantial damages, with a full apology from the university.

Admissions and exclusions

All parents want the best for their children but achieving a place in the right state school is becoming increasingly difficult.

We can advise on the issues to consider when deciding on a school for your child and in making applications for admission.

We also act for parents on admissions appeals and, if necessary, judicial reviews of appeal panel decisions if it appears that the decision was taken without due regard for the law or proper procedures.

If your child has been **permanently excluded** from a **maintained school**, you can appeal to an independent panel for the exclusion to be lifted. This involves preparing a written statement explaining why this should be done and appearing before the panel.

Procedures and guidance on admissions and exclusions change fairly frequently and schools and LEAs sometimes fail to comply with the latest requirements. We can advise you on the strength of your case for an appeal and help you to prepare your written statement. We can also represent you at the panel hearing if you wish us to do so, although the cost of this will not be covered by legal aid even if you are financially eligible.

Discrimination issues often arise in admissions and exclusions cases.

Useful Links

- [Admission Appeals](#)
- [In Year Admissions](#)
- [Infant Class Size Rules](#)
- [Special Educational Needs and Admissions](#)

[Click here](#) to view our Admission Appeals Charges.

Thank you (Angela Jackman) again for your help and very professional services. I will be recommending your services at any opportunity that may arise - Khuram Yaqub

Thank you (Angela Jackman) again for your help and very professional services. I will be recommending your services at any opportunity that may arise - Khuram Yaqub

Thank you (Emma Buckenham) for all your help and the help of the team you worked with. Throughout the appeal I have had fantastic support from you and I am truly grateful for the help and advice you have given to me.
Miss V Eyres

Admissions Appeals

Although you do not have the right to choose exactly which school your child should attend, you are entitled to be consulted and to appeal to an independent appeal panel if your child is not allocated a place at the school of your choice. Where you should make your appeal and when varies, depending on what type of school you are applying for, but the letter you receive about your child's place should set out what you need to do next.

In all cases your appeal will be heard by an independent panel. They will decide initially whether the school can show that putting an extra child into the year group in question would adversely affect the education of the others or the resources of the school, for example if classrooms physically cannot take another child. If this can be shown, they will have to look at how serious the adverse effects are on the school and its pupils and balance those against how important it is for your child to attend that school. Once they have carried out this balancing exercise, they will decide whether or not to award a place. On the whole, unless your child wants to go into an infant class, it is much harder for schools and local authorities to show that they cannot take an extra child if you are seeking a place outside the normal years of entry into reception or year 7. We can help with lodging an appeal, putting your case in writing to the panel and help you decide on the best arguments to put forward in support of your appeal. We can even represent you at the hearing if you wish however this service is not covered by legal aid even if you are financially eligible.

Although you cannot appeal against a decision of an independent appeal panel just because you don't like their decision, if you believe that the meeting was not conducted properly or the panel made a mistake in law, we can advise on the decision and whether further action can be taken. In addition if you are not given a right to appeal when you are entitled to one we can help get this and if necessary look into Judicial Review.

Click here to view our Admission Appeals Charges.

In Year Admissions

Parents can apply for school places at any time of year other than the usual reception and year 6/7 transitions and will do so for a number of different reasons. If you apply for a school and there are places available in the year group in question then a place can only be refused in certain circumstances.

If there are no places available then you should be given the right to appeal to an independent appeal panel in the same way as those applying for admissions for reception and year 7. If you have been refused a place when you think there are places available, the reason for refusal is other than a lack of available places or you are not given the right to appeal we can advise on the matter and whether we consider further action can be taken by way of Judicial Review in addition to advice on an appeal.

Click here to view our Admission Appeals Charges.

Infant Class Size Rules

Many parents are extremely concerned to make sure their child gets into the right school at Reception. However, if you are not given the place you want, it can be difficult to be successful at appeal. This is because there are strict rules saying that there can be no more than 30 children per qualified teacher in a class unless there are exceptional circumstances. Also some parents do not realise that their child will not automatically progress from the Nursery department to Reception; if they want them to continue at the same school they will have to make an application for a place.

If a school already has 30 children in a class, an appeal can only succeed if you can show either that the admissions arrangements or the law were not applied properly and the child would have been offered a place if they had been, or if the decision was totally unreasonable. Although most parents would see a refusal to accept their child as unreasonable this argument rarely applies. If you have not been given a place at the school you want and think that these criteria apply to your situation we can investigate the matter and assist with an appeal.

Special Educational Needs and Admissions

If your child has a statement of special educational needs, then you should not go through the normal admissions process, even if you want your child to attend an oversubscribed mainstream school.

Special arrangements apply to children with statements which can mean that it is easier to obtain a place, as any appeal you bring will not be to the independent Appeal Panel, but to the Special Educational Needs Tribunal. The tribunal will take into account your child's educational needs rather than just carrying out a balancing exercise and issues such as distance from school or church attendance are much less important. By 15th February, you should receive a new statement setting out the details of which school your child should attend the following September. However, you need to act quickly because Tribunal will not order a school to take a child if there genuinely is no space available.

If you still have not received an amended statement then you should contact us as soon as possible so that we can move matters forward for you, by legal action if necessary.

Admissions and Exclusions case studies

Admissions and Exclusions case studies

Jake

Jake was due to start primary school. However because of his difficulties with walking his mother decided that only one local school would be suitable for him. She applied for a place at this school within the time limits and asked that he be included within the group which should have places because of his health and physical difficulties. Because she did not have a letter from her doctor saying that only this school was suitable, he was not considered to have special reasons for attending the school and her application was judged solely on how far they were from the school. As a result he was not given a place.

We helped lodge an appeal against this decision and during the case it became clear that even if Jake had been put in the right category he still would not have been given a place as it was below a number of other criteria, particularly religious ones as this was a church school. As a result of this children such as Jack had little chance of being given places at the schools they really needed. We argued that the order of the local authority criteria for deciding which child got a place was unfair, and did not deal properly with his disability.

The independent appeal panel agreed that the decision not to give the place that Jake needed so badly was wrong and ordered the local authority award a place at the school. Jake has since started and his mother says that the placement is working out exactly as they hoped and he is making excellent progress.

Peter

Following a family breakdown, Peter had to move schools. However he was not able to settle in a new town. His mother applied for his old school place to be given back to him as she planned to move back to the old family home but her application was turned down as there were no available places.

An appeal was lodged on her behalf and it was argued that the difficulties Peter had to cope with together the emotional effect that having to go to yet another new school would have far outweighed those that the school would have to cope with should an extra child be allowed into the school. The independent appeal panel agreed with this and ordered that a place be given to Peter at his old school. He is now attending and progressing well.

Kosi

Kosi had recently been diagnosed as being autistic and was allocated a place at a school two bus journeys from his home. His mother can see very little and is registered blind so could not help him with the bus to school and he did not have the independence skills to get there alone. His closest school and the one that his mother had applied for was a ten minute walk on main roads from their home.

We helped by lodging an appeal to the independent appeal panel putting forward all of the difficulties and the fact that Kosi's mother could walk him to school if was given a place at the school she wanted. It was decided that Kosi's need to attend the school was greater than the school's difficulties in coping with an extra child so the appeal succeeded and Kosi was given a place.

Our services: issues arising from healthcare

Clinical negligence

When we visit a doctor or are treated in hospital, we can be confident that the people caring for us will look after us well.

Very occasionally, mistakes occur. An important factor may be overlooked, leading to an incorrect or delayed diagnosis. There might be unexpected complications following an operation, or a treatment regime may prove to be inappropriate. There may be a failure promptly to spot and deal with deterioration in a patient's condition.

If someone is injured as a result of a medical accident, whether under NHS or private care, he or she is likely to want an explanation, an apology and assurance that standards will improve in future. These can be sought direct from the treating doctor or from the relevant NHS body via formal complaints procedures.

However, if an injury caused by a medical accident has substantial or even permanent adverse effects, causing loss of earnings or a need for extra care, it may be important to seek financial compensation to help with day-to-day support and ensure long term security. Specialist legal advice is essential in this area.

We can advise on your rights and on how to pursue and fund a claim for compensation. We can investigate your case and take legal action on your behalf.

Parents of children injured through medical accident will benefit from our holistic approach to the needs of disabled children, including expertise in education and community care law, to ensure that a child's educational and care needs are properly met. Adult patients may also benefit from our help with aspects of community care law

Clinical Negligence Case Studies

Andrew

When she was 33 weeks into her pregnancy with Andrew, his mother suffered a sudden increase in her blood pressure. This was a dangerous situation and she should have been admitted to hospital at once. There was a delay of four days in admitting her and by the time she reached hospital, Andrew was in a very poor condition and had to be delivered at once, even though the pregnancy was several weeks short of full term.

Soon after he was delivered he suffered fits and was later diagnosed with cerebral palsy. He was severely disabled. We pursued a claim for damages on Andrew's behalf, arguing that his disability was caused by the delay in admitting his mother to hospital after her blood pressure increased.

The NHS argued that Andrew's disability was the unavoidable result of his prematurity and that nobody had been at fault. We pursued the matter to trial and obtained a settlement for Andrew, comprising a seven figure lump sum award of damages and the agreement of the NHS to make annual payments rising to £80,000 per year (present value) for life to cover his recurring care and therapy needs.

We also challenged Andrew's local authority over its provision for his education and community care. We obtained a court order requiring social services to provide a proper assessment and care plan as well as succeeding in a tribunal appeal for funding for him to attend a special school as a weekly boarder.

Sarah

Both of Sarah's hips were dislocated at birth. This should have been spotted and treated before she reached her second birthday. Unfortunately the diagnosis was missed by her family doctor and later missed again by a surgeon. Not until she was five years old did she receive treatment and although that was successful, the delay meant that her hips would fail and require replacement by the time she reached the age of 40.

Had the dislocations been identified and treated before her second birthday, the need for replacement surgery would have been deferred until much later in her life, with a consequent reduction in the number of subsequent revision procedures required.

With our help, Sarah claimed damages and although her claims were strongly resisted, she received awards compensating her for her injury.

Rose

Rose underwent abdominal surgery in an NHS hospital. Although the surgery achieved its intended outcome, Rose received inadequate pre-operative antibiotics and was left with a severe wound infection which proved very difficult to treat and adversely affected her physical and mental health.

She underwent several further operations. The infection caused permanent damage to her abdominal wall. Her claim for damages was resisted by the NHS trust but after we commenced court proceedings on Rose's behalf, the trust agreed to settle and after negotiations, her claim settled with an award of £72,000 damages.

Medical law and entitlement to treatment

The UK is a signatory to the European Convention on Human Rights, which includes significant rights relating to medical treatment. These include:

- **Article 2:** protects the right to life and may be relevant where treatment is refused or where withdrawal of treatment or feeding is advised.
- **Article 3:** prohibits, among other things, degrading treatment, which might include experimental treatment without proper consent or a failure to provide proper treatment to people in detention or institutional care.
- **Article 8:** requires that private and family life are respected. This includes a right to respect for bodily integrity and has been held to be relevant to delays in treating a patient. The article is also relevant to the privacy of medical records and possibly to the right of a patient to receive information about their condition.
- **Article 14:** prohibits discrimination and would be relevant in any case in which treatment was refused on grounds of age or disability.

We can advise in this complex field of law, which involves issues of fundamental importance for patients and their families.

If a patient is denied access to treatment, a legal challenge may be possible. We can advise on the patient's rights and the options for legal action and can conduct such action if appropriate.

Our services: Community Care

Community care law covers access to health and social services from the NHS or Local Authorities. As you know Health Trusts and social services departments are under severe strain. However, often individuals are **not aware of their rights** and this is where **specialist advice** is really important.

Community Care Specialists

We can explain what people are entitled to. We are able to help on almost any query related to health and social care problems, common areas we are asked about include:

- **Children and parents/carers**
- **Disabled adults and carers**
- Young people (eg **leaving care/custody, homeless under 18, age assessment disputes**)
- **Elderly people**
- **NHS continuing health care funding, particularly for care home fees**
- **People from abroad and access to public services**
- **Court of protection – best interests cases and deprivation of liberty**
- **Medical law - entitlement to treatment**

Common Community Care Issues include:

- delay in or inadequate assessment of need
- disputes about what level or type of service is suitable
- removal of services from an individual or community
- inappropriate or unfair charges for services
- adaptations to the home (eg refusals or delays)
- self directed support (eg refusal of or insufficient amount of direct payment/ individual or personal budgets)
- rejection by panels of proposed care packages

We have extensive experience of advising on all this and more.

Worried about Funding?

Legal aid is sometimes an option available for community care work.. In many cases, we can get legal aid to cover the costs of legal action if we are acting on behalf of disabled children, provided they have no assets of their own. On continuing care health funding appeals we work on a 'no win no fee' basis wherever possible (if clients are not financially eligible for legal aid as is common in the case in this type of work).

Act sooner rather than later – Don't miss out due to time limits

Action in most community care cases must be taken extremely promptly. If a legal challenge is appropriate there is normally a **maximum 3 month deadline** running from the date of a decision.

In many community care cases you may need to make a **formal complaint before taking legal action**, but people should **seek legal advice before starting that process** in case it can be bypassed. Other deadlines may also apply. In any case it is important to seek advice as soon as possible

Our Services: Adults with Disabilities and their Carers – Community Care

We have a dedicated team of community care and health care solicitors who can advise you on the issues that you may be facing in relation to community care services.

The law gives **rights** to all **disabled individuals** who need **care** and to those **caring** for them. We specialise in advising on whether or not local authorities and health services are meeting their legal obligations and if not, how to get them to do so.

We are highly experienced in understanding the difficulties that can arise for individuals with disabilities and their families when they do **not have the support** they need to help them continue to live in dignity at home or in care. Whether they suffer from a long-term disability or health problems as a result of an accident or injury, we have achieved significant results in challenging any failures in care provision.

Our Expertise

Whilst we have been successful in a number of Judicial Reviews and tribunal case, we recognise how stressful court proceedings can be and for that reason, we have a **strong track record** of being able to **persuade local authorities and the health services** to **provide the support** that a disabled individual need. In this way we avoid going to court and help to build a **positive way forward** between individuals and care professionals.

If you are experiencing difficulties with your local council or Primary Care Trust, whether that is because you do not have adequate support or you think that you are being charged too much, we will be able to help. We can help you ensure that you are getting the right amount of direct payments or that your Support Plan and Individual Budget meet your needs.

We can also advise **carers on their rights** to be supported to remain healthy and to permit them to work, study and have a good social life.

Funding

If you receive certain welfare benefits such as Income Support, you will automatically qualify for public funding, (legal aid). If you receive other benefits or have a low income and savings, you may also qualify. Any direct payments that you receive will not be taken into account.

Our Services: Community Care provision for children – How We Can Help

Parents/Carers

Taking proper legal advice from the start could ensure your success

Caring for a child with disabilities or other difficulties is a full-time job, and one which you may be able to get help with from your local council.

If the child you care for is deemed to be a **'child in need'** under the Children Act 1989 then your local authority has a **duty to provide community care services** which will ensure the best upbringing and brightest future for the young person in your care.

Getting the help you need

The **first step** towards getting help as a **parent or carer** of a **'child in need'** is to **contact your local authority (LA)** and ask them to carry out a **community care assessment** – The Local Authority has **7 working days** from receiving the request to carry out an initial assessment. In order to see whether anything needs to be put in place straight away to help you and your child while a full assessment is carried out

Community Care Assessments

- The initial community care assessment will weigh up the individual needs of the child – in relation to disability, health or educational development and contain suggestions for community care measures such as respite care or home help.
- The Local Authority should then conduct a **'full core assessment'** within **35 working days** if it's required. If they consider that you should receive support from them after carrying out the assessment, they will also draft a care plan. As a parent or carer of a 'child in need' of community care, you will have the chance to comment on the full community care assessment before a full community care plan is drawn up.
- You should also ask for a carer's assessment which will give you the opportunity to explain the challenges you face as a carer and the areas in which you feel you need community care assistance –from home help to temporary accommodation to respite care.

Legal advice during these crucial stages could improve the outcome!

During these **crucial assessment stages** parents and carers of children requiring community care would benefit greatly from our **expert legal assistance** to ensure that the process is handled properly and the **very best outcomes are achieved** for the vulnerable children at the heart of it all.

Parents/Carers - What if you can't cope?

We understand that looking after a child with complex needs is stressful and there are times when you feel that you simply can't go on, especially when other family or life demands get in the way.

Don't despair. Under these circumstances, and especially when there are no relatives or friends on hand to help out, your Local Authority must provide community care accommodation for any child in need.

This is called placing the child in '**voluntary care**' and the child benefitting from this community care will be referred to as a 'looked after child'. **This is not the same as "taking a child into care" which is nearly always used by journalists and others to mean cases where the local authority have taken action against you because of their concerns for your child.**

It is always in your own and the child's best interests to **seek solid community care legal advice** about the implications of your child becoming 'looked after', however temporary the arrangement.

Caring for a child of a relative or friend?

This can be a **tricky area and we do recommend that you take legal advice** if you are a carer for a child of a family member or friend.

If the local authority has asked you to take on your role as carer you should definitely seek legal advice. In these circumstances the Local Authority is in effect placing the child with you as a carer and so has legal duties to meet, not least providing maintenance for the child.

If you haven't made a solid and legally-binding agreement, the Local Authority may well argue that you have entered into a 'private fostering agreement' which means it may well refuse to provide community care support and/or maintenance for the child.

Community Care Expertise

We are **highly experienced** in providing advice and support on all aspects of **community care for children in need and community care assessments for parents and carers.**

As highly experienced lawyers, we are **leaders in the community care legal advice** field with a thorough knowledge and understanding of the complexities of this area of law.

We have a **track record of success** in fighting for the community care services our clients need and deserve.

Please contact our team of experts on 0845 0941685.

Our Services: Support for Care Leavers – Community Care

For most young people who have been in care or were looked after by social services prior to turning 18, **local authorities** will continue to **owe important duties** after they turn 18. These are often referred to as "leaving care" duties.

Planning for the future

Most importantly, this will involve helping the young person to plan for the future, including important issues like:

- education
- employment
- obtaining stable accommodation, and
- ensuring they have adequate financial support.

Local Authority Assessments – Pathway Plan

The **local authority must carry out an assessment** and set out clearly the young person's plan for the future in a document called a pathway plan.

These obligations will usually start well before the young person turns 18 and will include duties to **help the young person** make the transition from being a child to an adult and any changes in their living arrangements that this may involve.

The **local authority must also provide** the young person with a **personal adviser** who supports them with the pathway planning process. This person must be different to and separate from the social worker and is there to support the young person in putting their views across about the pathway plan.

These leaving care duties can include a duty to provide accommodation and financial support to the young person in situations where their welfare requires it, such as when the young person is not eligible for council housing or unable to claim benefits or when they are in full-time education.

The local authority must continue to provide this support until the young person turns 21, or 24, if they remain in education.

How our Community Care Team can Help

We have found that **local authorities** are often very **reluctant** to fulfill their **obligations** to young people in this category and we have a **very experienced team** of lawyers who are able to ensure that the **young person gets the support that they need** to make that important transition to adulthood and to be able to fulfill their goals in life.

We welcome enquiries from young people and parents as well as support groups and charities.

Funding

These types of cases can almost always be run using legal aid which we will apply for on the young person's behalf.

Our Services: Young People who are Homeless or in Need of Support – Community Care

Our Community Care team are happy to provide advice to any young person who needs support from their local authority.

Many young people can find themselves homeless for a number of reasons eg

- thrown out by their parents
- victims of violence or broken homes, and

need help in finding somewhere to live. In addition to accommodation, they often need **support in their every day lives**, in areas such as:

- financial and budgeting support
- education/employment advice and
- help with moving towards independence.

Essentially, they need the support that a child would normally expect from a parent.

Young People's (Under 18's) Rights

Social Services have a **duty to provide support and accommodation** to young people under the age of 18 who are in need of help to manage things that affect their health or development. This duty also applies to unaccompanied asylum seeking children.

There are many young people who have to fight for their right to accommodation. **Social services departments should carry out an assessment** of the young person to find out whether or not they do in fact have a **duty to provide support and accommodation** in this particular case.

The Law

There has been a wealth of recent case law which set outs clearly when local authorities are required to act. It clearly states that a homeless young person under the age of 18 must almost always be accommodated by social services and not by the housing department.

There are a number of very good reasons for this.

- First and foremost, social services have the expertise to be able to identify the type of support package that a young person requires, as this will go way beyond the provision of accommodation.
- They will also be able to establish the type of accommodation which is needed for the young person, be that a children's home, foster care, supported accommodation or independent accommodation with visiting support.

Support for Young People over the Age of 18

In many cases, where social services have arranged accommodation for a young person between the ages of 14 and 18, they will be entitled to a range of further services, guaranteeing support from social services until the age of 21, or 24 if they remain in education. The benefits of this to a young person who is without parental support are enormous. Unfortunately, due to the cost of providing these services, local authorities often restrict services and support packages which young people frequently need.

Why Choose Us?

At Maxwell Gillott we have one of the most experienced and successful community care teams in the country. Our solicitors have assisted hundreds of young people to receive the support to which they are entitled.

We can advise young people, parents, support groups and charities of the rights of young people and ensure that local authorities meet their duties to many of the most vulnerable people in society.

Our Services: Age Assessment Disputes – Community Care

We are able to support children and young people whose age is being disputed by social services.

Unfortunately, it is very common for those who are under 18 and who arrive in the UK seeking asylum to be subjected to an **age assessment** by social services and for social services to decide that the young person is older than the age that they are claiming to be.

We are able to assist young people who wish to **challenge an age assessment** conducted by social services, including by challenging the age assessment in the High Court, if appropriate.

Age Assessment Disputes Expertise

Our expertise in acting for this vulnerable category of children and young people includes acting for those in detention and for victims of trafficking.

We accept age assessment dispute referrals from all sources and are happy to talk through the issues informally first before accepting a formal referral.

Funding an age assessment claim?

We are able to apply for legal aid to fund age assessment dispute cases. (Find out more about **Legal Aid** here)

Our Services: Support for Migrants - Community Care

Our solicitors have extensive experience **assisting asylum seekers, refugees** and other **people from abroad with immigration problems** obtain the support they require in the UK from local authorities and central government. We have an excellent record in obtaining results for clients who often come to us in desperate situations. We are able to give pragmatic advice, and work closely with immigration solicitors to ensure client's problems are looked at in the round. We collaborate with a number of charities and refugee organisations, as well as receiving referrals from immigration, housing and family solicitors.

We have particular experience of working with vulnerable client groups, including victims of domestic violence, trafficking victims, people with mental health problems and torture victims, as well as those with physical disabilities and health problems.

In addition to problems relating to accommodation and support, we also assist migrants with **access to health care/ NHS** charging problems and **education issues**, as well as providing advice to **unaccompanied minors and those previously looked after by local authorities**.

Dan Rosenberg previously worked for a London local authority, and has particular knowledge of what drives their decision making. Keeley Creedy recently was successful in the Court of Appeal in a case involving a local authority's duties to a blind asylum seeker. **Julie Cornes** has a vast amount of experience in this field, including the overlap with mental health, and currently sits as a part-time Judge in the Asylum Support Tribunal. **Jessica Whitehead, Victoria Pogge von Strandmann** and **Shirley Rojas** are also very experienced in this field, regularly receiving referrals from the Refugee Council. **Oliver Studdert** has particular experience working with migrants leaving the care system.

We are always willing to spend time discussing potential cases with voluntary agencies, community groups, or other solicitors.

In most cases public funding will be available. Please contact us for further information.

Our Services: The Elderly – Community Care

As a team, we are **dedicated** to ensuring that robust and effective **advice** and **action** are taken on behalf of **elderly people and their carers**. All too often, we are asked to advise when there is a lack of communication and joined – up care planning between local authorities and the NHS. Every person has a **right** to remain **living in their home** and **receive the support** that they need to remain as well as possible. Their **carers also need support**.

Our Expertise

We pride ourselves on **persuading local authorities** and **Primary Care Trusts** to deliver the **care** that the law says they should provide and we most **often achieve** this **without** having to **involve the courts**.

We are particularly **successful in challenging decisions** of local authorities to **charge the elderly** for their **residential or home care services**, as many people with health problems should **not have to pay for their care**.

Often we are thanked for our intervention on behalf of the vulnerable, because social and health care professionals find the law too complicated to navigate. This enables us to make sure that ongoing relationships between people and professionals involved in their lives are not damaged.

Funding

If you receive certain welfare benefits such as Guaranteed Pension Credit, you will automatically qualify for public funding, (legal aid). If you receive other benefits or have a low income and savings, you may also qualify. Any direct payments that you receive will not be taken into account.

Our services: Continuing Care Health Funding - Care Fees

Your local Primary Care Trust (PCT) is responsible for providing NHS continuing care health funding to people who are eligible and receiving care in the community or in a residential home.

Who is eligible for continuing care health funding?

Eligibility depends on whether the what is known as the "primary need" is essentially related to health. In short, if health care is more than a minor add-on to the social care and is therefore more than should be expected of social services, then the NHS should pay for the continuing care costs.

This is **important** because if NHS funding is not available, an individual will have to **pay for their own care fees** unless they qualify financially for social services support.

Care Fees Assessments

It has taken a number of years and decisions from the High Court, recommendations from the Parliamentary and Health Ombudsman and new Department of Health guidance to set up a new national framework for assessing whether people are eligible to have their care costs met by the NHS.

There has been a lot of media interest in the **injustice** caused to individuals who **should have got NHS funding** but in fact **had to pay their own care home fees**, often selling their homes to do so. Many people who have been paying care home fees are now seeking advice on whether they can recover those, sometimes after the patient has died. It can still be difficult, though, to get an assessment and to go through the review and appeal process.

How we can help

Our Continuing Care Team **specialise** in this type of work and do it under a "**no win no fee**" arrangement wherever possible.

A benefit of a "no win no fee" agreement is that our fees should be covered by money paid back by the NHS.

Many organisations doing this type of work take a percentage cut of what is recovered and therefore do not take on cases worth less than tens of thousands. We charge for the amount of work done, if you win. We believe this is fairer. It can also help when the amount of fees paid is relatively modest, for example, where someone has died of a terminal condition after a short time in a home and has a strong case.

What you can expect from our continuing care team

When first considering a case relating to continuing care we assess the strength and value of it and the likely level of costs and advise on whether we can offer a "no win no fee" agreement and on whether the claim seems financially viable.

Going into a care home?

Many people want advice before a move to a care home or very soon after and the continuing care case might then not be suitable for a no win no fee arrangement. We understand that sometimes it is important to protect future assets and can offer a fixed fee service for legal advice in cases like this.

Need information on getting an assessment?

General information on getting an assessment and how to appeal can be found, for example on the Age Concern website. They have produced a factsheet on NHS continuing care health funding (at <http://www.ageconcern.org.uk/AgeConcern/factsheets.asp>) and on other related issues like hospital discharge arrangements and financial assessments by the local authority social services department.

Public funding

There is a chance public funding might be available for NHS continuing care health funding cases if assets have fallen so low that someone is financially eligible for legal aid. Much of our work in other areas of community care law is publicly funded and we can discuss this possibility with you if you wish.

Protecting assets

There are other ways of **covering the cost of care home fees**, privately. Our parent company, Simpson Millar, have an expert in this field and you can find more information on how he can help you.

Our Services: Court of Protection Issues - Carers

The Mental Capacity Act 2005 provides the legal framework for acting and making decisions on behalf of individuals who **lack the mental capacity** to **make** particular **decisions** themselves.

Everyone working with and/or **caring** for an **adult** who may lack capacity to make specific decisions must **comply with this Act**, which means they must make **decisions in their best interests**. The same rules apply whether the decisions are life-changing events or every day matters.

At certain times, a decision-maker may be faced with people who disagree about a person's best interests. Family members, partners and carers may disagree between themselves, or they might have different memories about what views the person expressed in the past. They might also agree with decisions made on the person's behalf by the local authority or PCT, such as where the person should live and the amount of contact he or she should have with certain relatives.

At Maxwell Gillott, we are regularly instructed by families and carers who want to challenge decisions made. We can advise on the steps that can be taken to obtain a second opinion, involve an advocate, hold a formal or informal 'best interests' case conference, attempt some form of mediation or pursue a complaint through the organisation's formal procedures.

Ultimately, if all other attempts to resolve the dispute have failed, we can provide legal advice and representation in the Court of Protection, where the court might need to decide what is in the person's best interests.

If you receive certain welfare benefits such as Income Support or Guaranteed Pension Credit, you will automatically qualify for public funding, (legal aid). If you receive other benefits or have a low income and savings, you may also qualify. A person who is being deprived of their liberty will automatically qualify for legal aid.

Community care case studies

William

William was autistic and was the younger brother of a child with cerebral palsy. Everyone in the family was beginning to suffer as the parents struggled to manage the needs of both children.

We negotiated with the social services department to get a proper care assessment which assessed the needs of all family members.

We then arranged for respite care to enable the parents to have a proper holiday, as well as one weekend a month which could then be devoted to their older son. William also got time away with people his own age and staff who were able to meet his needs.

James

James had cerebral palsy, learning difficulties and visual impairment. He had been looked after by foster parents since early childhood and educated in an education authority special school. Unfortunately his local authority failed to address his needs on transition to adult life and no arrangements were made for his housing, care and further training once he reached the age of 18.

The foster parents were able to provide him with housing in a property adjoining their own home but James needed a team of trained carers to look after him. Belatedly the local authority offered James a place in one of its residential homes.

This was located some distance from the foster family, who believed the placement was in any event unsuitable for someone with James' range of special needs.

We advised that James had strong grounds for action through the court, and represented him in negotiations with the local authority, engaging independent expert assistance in assessing how his needs should be met. A housing association and a specialist care agency became involved and we secured local authority funding for a tailored care package, to be delivered to James in the property adjoining his foster parents' home.

That way his care needs could be met while he continued to live in the community where he had spent his childhood. We also ensured he obtained a place at a suitable local college, so that he could continue his education.

Mary

Mary lived in a nursing home. She had complex care needs caused by the effects of long-standing diabetes. She needed experienced nursing care and received NHS fully funded continuing healthcare payments to help pay for her nursing home place.

Her needs were re-assessed by her local Primary Care Trust (PCT), which decided she was no longer eligible for the NHS payments. We were consulted after the time for appealing the PCT's decision had expired but persuaded the strategic health authority to allow Mary to appeal out of time.

Steph

During a SENDIST appeal for a residential school place for an autistic child, we threatened an Authority with legal action for failing to meet social care needs. The social services team then applied to the family court for an order that Steph should go into care. The Authority failed because there was no evidence that Steph was at risk. Under pressure from the court, the school place was agreed.

We then helped the family with a formal complaint about how the Authority handled the case and particularly the unjustified family court application and lack of understanding of the needs of families living with autism. The Local Government Ombudsman upheld the central complaints and asked the Authority to apologise, review procedures and make a nominal financial award for distress.

Our services: Public Law & Human Rights

We assist individual people and groups who believe that their **rights have been infringed** by **government bodies and other public authorities** acting unfairly or unlawfully. We are all **public law specialists**, and have experience of using judicial review and other public law remedies to ensure that **people are treated fairly** by public bodies.

We **take action when public bodies act unfairly and unlawfully**, and there are many ways in which they do so. Some common examples are:

- When they do not take relevant considerations into account in their decision making
- When they undertake consultations without an open mind as to what the outcome might be
- When they show bias during the decision making process

It may also be possible to challenge a decision if irrelevant factors are taken into account, or even on the grounds that the decision is irrational.

If a decision does appear to be unfair we will seek to find a way to ensure that the decision is not allowed to stand.

To ensure the very best chance of a fair and positive outcome, the earlier you contact us the better so that we can advise you on the legal issues and procedures. In our experience, it is far better for those dealing with local authorities and other public bodies to attempt to get the decision that they want first time round, rather than have to challenge a decision after the event, which is usually more expensive, and harder to succeed.

Some examples of cases successfully handled by our team include:

- Advising parents on a City Council's use of a lottery scheme for school admissions
- Re-opening a consultation on a large urban renewal programme
- Winning re-instatement for an unjustly disqualified local councillor
- Helping a village stop a hazardous waste site

How we can help

If you feel that you or your community is being **treated unfairly by a local authority or other public body**, we welcome your enquiry. There are often very strict and short time limits for action in these types of cases, and particularly where a decision has been made which you may wish to challenge, so please get in touch with us as soon as possible.

If you receive benefits or have a low income, you may qualify for legal aid and we can advise you in relation to this. If you are not eligible, we offer a very competitive rate.

What will it cost?

Education law and community care law

When you first contact us, we always arrange a free initial telephone advice session with one of our experienced advisors.

This advice will include an initial view on your legal entitlements, and, where appropriate, practical advice on steps you can take yourself to deal with the problem.

Our advice will also deal with the question of cost. We will explore with you the alternatives to paying privately. Cover for legal costs is not a clear-cut issue in the areas of the law in which we specialise, as the availability of public funding (formerly known as legal aid) in the name of the pupil varies according to the type of case.

Insurance cover is rarely available for the type of court actions we normally need to take in education and community care law but you should check whether you may be covered by legal expenses insurance. Your household contents policy may include legal expenses cover. Some bank accounts, car insurance and credit cards also provide such cover.

If you are on a low income, we may be able to provide free advice under the Legal Help scheme, which can meet part or all of the costs. In addition we can offer a reduced fee for people who receive Working Tax Credit but are not financially eligible for legal aid.

If full public funding would be available in your case, we will make the application to the Legal Service Commission. Because we have a full franchise in education law, we are able to grant emergency funding ourselves in suitable cases.

Admission Appeals Charges

We realise that it is important to you to be able to budget for the costs involved in challenging the admission decision. Consequently we offer fixed fees for admission appeals, and have set out the ranges below. The final charge depends on the seniority of the person handling the case and will be discussed with you before we start work.

These charges do not apply to cases involving academies, selective schools, special needs or disability discrimination.

Assessing your papers and a telephone discussion: **£100**.

Assessing your papers and providing written advice on the arguments which should be raised and possible chances of success: **£250**
(£100 will be refunded if we later draft your appeal documents)

Drafting appeal documents to set out all the important points: **£475 - £750**

Telephone support throughout: **£200 - £275**.

Representation at one hearing within 1.5 hours travel time, provided we have also advised on the papers: **£275 - £600**
(Travel costs will be charged at £60 per hour)

We can provide representation further afield, and will provide an estimate for this on request.

VAT at the standard rate will be added to all bills.

Click here to view more on the School Admission Decisions 2009.

What will it cost?

Clinical negligence and medical law

In clinical negligence and medical law cases, we offer a free first interview at which we will advise whether your case is worth pursuing and on the ways in which it might be funded.

If it is not easy for us to meet face to face, this initial advice can be given by telephone. If you ask us to proceed with your case, we can then arrange to meet.

We will agree the funding arrangements with you and give you written confirmation of what has been agreed.

Public funding (the new name for legal aid) is available for clinical negligence and medical cases. Eligibility depends on the merits of the case and your financial means, and we can advise on this. The eligibility of children is assessed according to their own financial circumstances, not those of their parents, so most children qualify.

If public funding is unlikely to be available to you we can advise on other ways of funding your case. Sources of funding include:

Legal expenses insurance: more and more people have access to this, often without being aware of it. Check your household insurance policy and your other personal or family insurances and see if there is an entitlement to legal expenses cover. Some banks and credit card companies offer such cover to their customers. We act for a number of people whose cases are being funded by this method.

Conditional fee agreements: we are prepared to consider handling cases under what is commonly known as a “no win, no fee” arrangement.

Trade unions/professional associations: if you are a member of one of these bodies, you should enquire whether they can help with legal costs.

FAQ

Will I know who is handling my case?

You will be told who is dealing with your case and who will supervise them. Sometimes it is more efficient to have more than one person working on a case and you will be told if this applies to you. You can contact all staff through the main office number. If the person dealing with your case is not available, a colleague will do whatever they can to assist, or will take a message.

Will I have to attend your office?

We work for people from all over the country, communicating with them by telephone, e-mail or post. In most education and community care cases it is not necessary for us to meet clients face-to-face. However, in clinical negligence matters we do usually meet clients in person in the early stages and from time to time as the case continues. Clients who need to meet us are welcome to visit the office, which is fully accessible for wheelchair users and offers car-parking facilities on site. If travel is a problem, we can discuss other options for meeting, including home visits.

Will I win?

In most cases, we will only be able to pursue a case under public funding if we think you have good prospects of winning. If you are paying privately, we will advise you on what we consider to be your prospects of success so you can decide whether or not to invest money in the case. We will advise all clients as the case develops of any change in the situation.

How might legal action affect my relationship with a local authority or a doctor?

While it is understandable that a client will be concerned that future services or treatment will be harder to get if legal action is threatened or pursued, most public authorities are used to the idea of legal challenges and the client's ability to access services is not harmed. Our approach is always to be practical and professional and to settle issues by negotiation if possible so that relationships are left on a better footing for the future. We are often able to negotiate settlements without the need for court proceedings. If you feel that the threat of legal action is interfering with your access to treatment or services, you can discuss this with us and we can advise you on how to proceed.

How long will it take?

This will, of course, depend on the type of case.

Clinical Negligence claims can take two or three years to complete if they are contested. Very complex or high value claims can take longer. The initial investigation of the claim usually takes no more than a year. The time frames in our other areas of work tend to be much shorter. School exclusions and admissions appeals are generally dealt with in a matter of weeks though challenges to those appeals can take a number of months or more. Special educational needs appeals, last approximately five months from start to finish. Our initial advice will usually include an estimate of how long we expect your particular case to take. If you want to clarify, please just ask.

How much will it cost?

There are separate pages on the website on costs. As solicitors, we are obliged to tell you at the outset if you are going to be liable to pay us for our work. We will never charge you without advising you first on what the cost is likely to be and obtaining your agreement that we can proceed. We run various fixed fee and reduced fee schemes to help clients manage finances.

Links to other websites

General Educational and Children's Charities

- [Advisory Centre for Education](#)
- [Bullying Online](#)
- [Barnado's](#)
- [Education Otherwise](#)

Official Organisations

- [DfES](#)
- [Equality and Human Rights Commission](#)
- [Local Government Ombudsman](#)
- [Ofsted](#)
- [Special Needs and Disability Tribunal](#)

Special Needs Charities

- [AFASIC](#)
- [British Deaf Association](#)
- [British Dyslexia Association](#)
- [Contact a Family](#)
- [Foundation for Conductive Education](#)
- [Dyspraxia Foundation](#)
- [IPSEA](#)
- [Dyslexia Institute](#)
- [MENCAP](#)
- [National Autistic Society](#)
- [National Society for Epilepsy](#)
- [National Deaf Children's Society](#)
- [Network 81](#)
- [OAASIS](#)
- [Rathbone](#)
- [Resources for Autism](#)
- [Royal National Institute for the Deaf](#)
- [RNIB](#)
- [SCOPE](#)
- [SENSE](#)
- [SNAP Cymru](#)
- [Tourette Syndrome Association](#)
- [Williams Syndrome Foundation Ltd](#)

Schools and professionals

- [Hesley Group](#)
- [Farleigh Schools](#)
- [I CAN](#)
- [Priors Court](#)
- [Royal School for the Deaf - Derby](#)
- [Royal School for the Deaf - Manchester](#)
- [SENAD](#)

Health

- [AvMA \(Action Against Medical Accidents\)](#)

If your organisation is missing from this list, or you know of another group which would be of interest to people using this site, please [contact us](#).

Contact us

We always offer a free initial advice session, to help us to assess your case and to identify the best way forward. Please contact us:

Lancaster:

Maxwell Gillott Solicitors
King's Yard
High Street
Lancaster
LA1 1LA.

Telephone: 01524 596080

Fax: 01524 840811

Email: office@mglaw.co.uk

London:

Maxwell Gillott Solicitors
Floor 2
33-41 Dallington Street
London
EC1V 0BB

Telephone: 01524 596080

Fax: 0207 754 5645

Email: office@mglaw.co.uk

Birmingham:

Maxwell Gillott Solicitors
47 Summer Lane
Birmingham
B19 3TH

Telephone: 01524 596080

Fax: 0844 858 3599

Email: office@mglaw.co.uk

Directions

Lancaster Office

These directions will take you to the car park next to our offices.

From the south

1. Leave the M6 at junction 33 for Lancaster.
2. At the roundabout after the slip road, turn right onto the A6, signposted Lancaster and University.
Continue for 4.3 miles, following the signs for city centre all the way. At the roundabout, go straight ahead for the city centre.
3. Continue straight ahead at the traffic lights after 0.2 miles.
4. Move into the left hand lane and drive down the hill, keeping Kentucky Fried Chicken on your right.
5. 0.1 miles after Kentucky Fried Chicken, turn left at the traffic lights into Middle Street. At the top of the hill, turn left into High Street.
6. Our offices are at the entrance to the car park just after the Trinity Reform Church, 100 yards along High Street on the left.

From the north

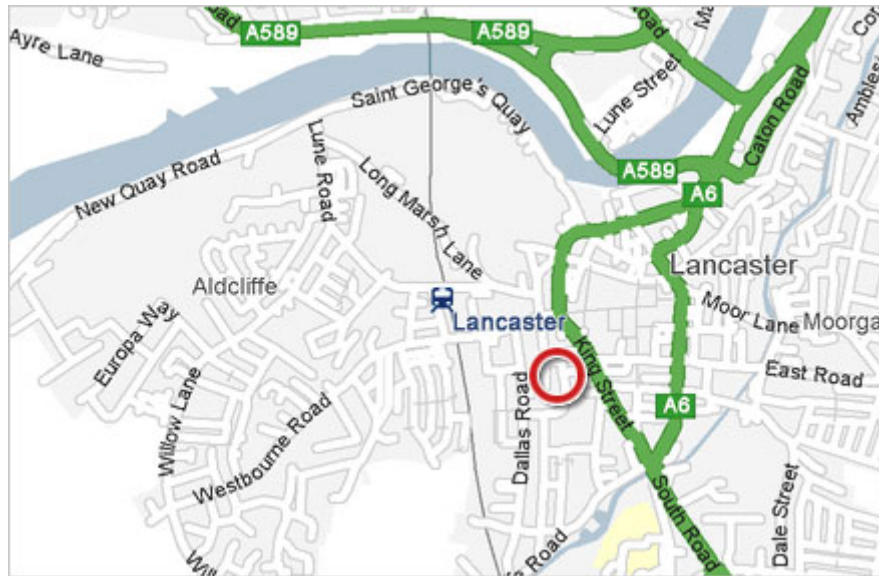
1. Leave the M6 at junction 34 for Lancaster.
2. Turn left at the end of slip road, onto the A683 signposted Lancaster.
3. Travel straight on for 1.4 miles. Where the road splits into two, continue straight ahead on the one-way system, signposted Morecambe, Heysham and city centre.
4. The road bends to the right past Currys and Halfords etc, with traffic lights at the end, turn left at the traffic lights signposted city centre and White Cross.
5. Continue up the road after the traffic lights, keeping in the right hand lane, past Dalton Square on the left (0.4 miles after left hand turn).
6. Go through the traffic lights at top of Dalton Square, keeping in the right hand lane and passing the police station on the right. The road splits into three at the traffic lights at the top of hill. Turn right, signposted city centre, then follow as from 5 for directions from the south.

From Lancaster Railway Station

Lancaster station is on the West Coast main line and is served by direct trains from London, Birmingham, Manchester, Liverpool, Glasgow, Edinburgh and Leeds. The walk to our offices will take about seven minutes.

1. Turn left on leaving the station and walk towards the city centre, along Meeting House Lane
2. Take the third right into Fenton Street (there is a post office on the corner) and turn left at end into Cawthorne Street, then right into High Street. Go past the top of Middle Street and the United Reformed Church and we are on the left, overlooking the car park.

In case of difficulty please telephone us on **01524 596080**.



[Click the above map for a detailed view.](#)

Professionals

Inevitably we deal with many people who are advising our clients on a professional basis, for example therapists or educational psychologists, or as teachers or Connexions advisors. We are always happy to discuss any case with you on a confidential basis. Our aim is to work alongside the other professionals involved in a client's case, so that we can provide a co-ordinated approach for the benefit of both the client and others. If you have any queries or would just like to talk through a case with us, to see if we can help a client, just call 01524 596080 for further advice.

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If you require advice on a specific legal problem please contact the relevant fee earner or alternatively you can send an email to Maxwell Gillott Solicitors.

All electronic links to any part of this site require the consent of Maxwell Gillott Solicitors. Please email requests to office@mglaw.co.uk.

Disclaimer

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2. References on this website and in these terms and conditions to:
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 3. We and our suppliers own the intellectual property rights in the software that runs this website. Save to the extent expressly permitted by applicable laws, you must not copy, modify, download, distribute or de-compile that software without our consent.
 4. We cannot guarantee that this website and its document delivery system will operate in accordance with your expectations or will be error free. If you are aware of any error on this website please contact us by email at office@mglaw.co.uk and we will endeavour to correct it.
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 6. It is our policy to virus check documents and files before they are posted on this website. However, we cannot guarantee that documents or files downloaded from this website will be free from viruses and we do not accept any responsibility for any damage or loss caused by any virus. Accordingly, for your own protection, you must use virus-checking software when using this website. You must not post or provide to us via this website, any document or file which you believe may contain a virus. You must virus check any document or file which you intend to post or provide to us via this website.
 7. You may only use this website for lawful purposes. You must ensure that any document, file or other information that you intend to post to our website or provide to us via this website does not contravene any applicable laws or contravene any person's legal rights and you must not post or upload anything indecent, obscene, abusive, libellous or defamatory. We do not monitor or edit documents or files posted or provided to us by other persons for posting on this website and accordingly we do not accept any responsibility for any damage or loss you may suffer. We reserve the right to remove material from this website that infringes these rules.
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Statistical data

We automatically collect statistical data about usage patterns on our website. This information is not used to identify any individual. It is only collected to provide us with an understanding of the areas of interest on our site and kept only for as long as required for this purpose.

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Email security

Please note unless encrypted, email messages sent via the internet may not be secure and could be intercepted and read by someone else. Please bear this in mind when deciding whether to include personal or sensitive information in any email messages you intend to send.

Sitemap

Use this site map to locate and access a page on the web site.

This site map is organised to reflect the different sections on the site, along with the sub-sections within those sections.

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 - **Emily Gent** - Lancaster Office
 - **Eleanor Wright** - London Office
 - **Angela Jackman** - London Office
 - **Oliver Studdert** - London Office
 - **Julie Cornes** - London Office
 - **Keeley Creedy** - London Office
 - **Gurvinder Kaur** - Birmingham Office
 - **Imogen Jolley** - Lancaster Office
 - **Lainey Gough** - Lancaster Office
 - **Lisa Hashmi** - Lancaster Office
 - **Victoria Pogge von Strandmann** - London Office
 - **Shirley Rojas** - London Office
 - **Dan Rosenberg** - London Office
 - **Jessica Whitehead** - London Office
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 - **Young People - Leaving Care/Custody**
 - **Young People - Age Assessment Disputes**
 - **Young People - Homeless/Under 18s**
 - **Migrants - Asylum Seekers, Refugees etc**
 - **Elderly People - Community Care**
 - **Continuing Care Health Funding - Care Home Fees**
 - **Court of Protection**

- **Community care case studies**
 - **Public Law & Human Rights**
- **Our Costs**
 - **Admission Appeals Charges**
 - **Education law and community care law**
 - **Clinical negligence and medical law**
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