

SHEILA HAMILTON MACDONALD
SOLE PRACTITIONER BARRISTER
PRIVATE CLIENT : CHANCERY : PROPERTY & TRUSTS



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This CV sets out the range of matters on which I am regularly instructed and is intended to give an overview of my practice. For more specific enquiries, you are welcome to contact me directly by any of the methods outlined above. I am always happy to talk matters over informally with solicitors either by email or phone.



EQUITY AND TRUSTS

Investment and money trusts

Advising trustees on their duties and obligations; advising on the nature and effect of provisions in trust deeds, on distribution and accumulation; advising trustees or beneficiaries on potential breaches of trust and remedies; acting for beneficiaries in litigation for an equitable remedy via rectification of documents, tracing, estoppels, rescission and subrogation; advising and litigating undue influence claims. I also advise on and represent clients in implied trust claims in relation to joint bank accounts and bare trusts.

Trusts of land

Advising on, among many other matters: the operation of specific terms of express trusts of land; dealing with the protection of equitable interests in land at the Land Registry; entitlements to occupy land, liability for costs and expenses, distribution of rent and profits, and occupation rent between co-owners. I advise trustees of land and beneficiaries on the effect of Part 1 of TLATA on their rights, obligations and disputes, including the removal of trustees and the rights and standing of children

occupying trust land and secured creditors. I have extensive experience in advising on and acting in claims relating to the informal creation of trusts in land: resulting and constructive trusts in both family relationships and the business context, including business partners, parent and child property purchases, and property developers linked by friendship or relationship. In the family context, I am also experienced in acting for and advising clients in relation to applications under Schedule 1 of the Children Act 1989.



WILLS & PROBATE

Non-Contentious

I advise executors, personal representatives and their solicitors on the interpretation of specific provisions in a will, or on the operation of the intestacy rules. I also advise on executors' queries or problems relating to the probate process or to the administration of the estate.

Contentious

I have advised on and acted in applications to the Court to remove executors and PRs for various breaches of their duties. I act for PRs and beneficiaries in will challenge cases about lack of due execution, want of knowledge and approval, lack of testamentary capacity, and undue influence. In relation to want of knowledge and approval and lack of testamentary capacity, I have a particular interest in, and knowledge of, dementia – see also my Court of Protection work.



INHERITANCE (PROVISION FOR FAMILY AND DEPENDANTS) ACT 1975

I was trained as a junior barrister in IHA work by Sidney Ross, author of *Inheritance Act Claims: Law and Practice*. I have acted for a wide range of claimants including infant children, spouses widowed after long marriage, adult children, s. 1(1)(e) dependants, and cohabitants, in disputes involving complex estates of all kinds, including those with elements of equitable joint tenancy, partnership or limited company assets, agricultural land, and development land.



COURT OF PROTECTION AND MENTAL CAPACITY

I have a growing practice dealing with property and affairs matters in the Court of Protection. I advise on the drafting and the execution of lasting powers of attorney, the nature and effect of executed LPAs, and difficulties with LPA registration. I also advise and act regularly on challenging the appointment of a property and affairs deputy, removing a court-appointment deputy from post, or seeking review of a particular decision of a P&A deputy. I have a particular interest in, and understanding of, legal questions of mental capacity in the context of dementia and autism.



FINANCIAL REMEDIES IN DIVORCE

As well as more straightforward financial remedies cases, I also advise and act for clients where there are claims by extended family members or others to matrimonial property, and in cases where one or other of the spouses is a beneficiary under a trust.



LAND LAW

My background is as a black-letter real property lawyer and I have a particular interest in the law of mortgages. I was trained as a junior barrister by Edward Cousins, author of *Cousins on Mortgages* and now the Chief Adjudicator to the Land Registry. I advise on the terms of mortgage deeds and problems regarding enforcement. I also advise generally on issues relating to commercial leases. I advise and act for clients in cases on easements, particularly on rights of way and rights to light matters, and on land registration issues. I am also available as an on-call resource for quick advice on conveyancing problems and issues. More recently, I have developed a practice advising on the use, occupation and valuation of agricultural land.