

## BRENDAN ROCHE KC

Year of call  
1989

Silk  
2020



Brendan Roche KC is a very able, committed advocate. He is friendly, calm and authoritative.

He is versatile, having had significant experience in a number of diverse areas of the law, and specialises in all types of case involving the welfare of children or vulnerable adults as well as civil actions for damages for abuse and clinical negligence.

Brendan is qualified to accept instructions directly from clients and is registered under the Bar Council's Public Access Scheme, meaning that members of the public who seek specialist advice can come direct to him. In addition, he welcomes instructions from solicitors, in-house law departments, qualified foreign lawyers, and clients licensed by the Bar Council to give instructions direct to barristers under the Bar Council's Licensed Access Scheme. For more information please visit our Direct Access page [here](#).

## LEGAL EXPERTISE

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### Family Law

Brendan is instructed around the country to appear in every type of child, or vulnerable adult, welfare case and, in particular, the most serious and complex cases involving international or difficult medical issues. In the last year, he has been instructed in several cases where children have suffered very serious brain and other injuries or died as the result of alleged abuse. He has appeared in many cases where one parent has been killed by the other. He is instructed on behalf of local authorities, parents, children's guardians and intervening health authorities.

Brendan also appears in the Court of Protection. He sits as a Recorder in private and public family law cases and also in the civil jurisdiction. He frequently writes and lectures on the areas in which he practises. Over

recent years he has lectured on female genital mutilation, child abduction, international relocation and the provisions of the Children and Families Act 2014.

## Selected Cases

### [A Local Authority v AA \[2022\] EWHC 1596 \(Fam\)](#)

Defence of parent accused of intentional suffocation of his children and inducement of allergic reaction in mother.

### [Derbyshire CC v AA, BA and X \[2022\] EWHC 3404 \(Fam\)](#)

This is an interesting decision of Lieven J where, in agreement with the parents' submissions, she held at the pre-trial review that no purpose would be served in conducting a finding of fact trial in a case involving injuries to a very young baby. The local authority's application for permission to appeal was dismissed by Peter Jackson LJ. In this case, Brendan Roche KC (7BR), leading Helen Knott (St Mary's Family Law), acted for one of the parents, instructed by Gareth Protheroe of Nelsons Solicitors. [2022] EWHC 3404 (Fam).

### [A Mother v Derby City Council \[2021\] EWCA Civ 1867, \[2022\] Fam 351, \[2022\] 2 FLR 1](#)

A local authority placed a looked-after child in an unregistered children's home. That placement was outside the statutory scheme established by the Children Act 1989 s.22C and the Care Planning, Placement and Case Review (England) Regulations 2010, as amended by the Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021. It was nevertheless open to the High Court to exercise its inherent jurisdiction, in an appropriate case, to authorise the deprivation of liberty of a young person by placing them in such a placement.

### [Derby City Council v BA \[2021\] EWHC 2931 \(Fam\), \(2022\) 25 CCL Rep 31](#)

Judgment of MacDonald J on 3rd November 2021 in which he held that the court would not ordinarily countenance the exercise of its inherent jurisdiction to authorise the deprivation of liberty of a child under 16 in circumstances where an unregistered placement either would not or could not comply with the requirement, contained in the President's Practice Guidance: Placements in unregistered children's homes in England or unregistered care home services in Wales (2019), to apply expeditiously for registration.

### [Tameside MBC v AM \[2021\] EWHC 2472 \(Fam\)](#)

Judgment of MacDonald J on 8th September 2021 in which he decided that the Care Planning, Placement and Case Review (England) (Amendment) Regulations 2021, which would come into force the day after the judgment, did not remove the power of the High Court to authorise under its inherent jurisdiction the deprivation of liberty of a child under the age of 16 in a placement that is prohibited by the terms of the amended statutory scheme.

### [B \(A Child\) \(Designated Local Authority\) \[2020\] EWCA Civ 1673](#)

Court of Appeal decision regarding designation of local authority under s. 31(8) Children Act 1989 as qualified by s. 105(6).

### [Re T \(Children\) \[2020\] EWCA Civ 507, \[2020\] 2 FCR 756](#)

Successful appeal against findings that a father had sexually abused his daughter where the evidence had been weak and obtained in police interviews that failed to comply with ABE guidance, where the allegations were strikingly similar to the repeated abuse that his daughter had much more recently suffered at the hands of her mother and her mother's partner, and where the judge had failed to assess the father's credibility in light of his denials.

### [Re A Child \[2019\] EWHC 1511 \(Fam\), Williams J](#)

Threshold: Inflicted Injury and Domestic Abuse.

### [Q \(A Child\) \(Interim Care Order: Jurisdiction\), Re \[2019\] EWHC 512, \[2019\] 2 WLR 1161, \[2019\] 2 FCR 1168, Knowles J](#)

Whether an interim care order made in respect of a child under the age of 17 could subsist beyond their 17th birthday.

### [Re S \(A Child\) \[2017\] EWCA Civ 2695](#)

Appeal against designation of a local authority in whose area a baby had never been present.

### [Lincolnshire CC v Father, Maternal Grandparents, Paternal Aunt & Uncle, L \[2015\] EWFC 48, Holman J](#)

Re best placement of six-year-old boy whose mother had been murdered by his father.

### [Re L-K \(Children\) \[2015\] EWCA Civ 2695](#)

Appeal against findings of fact in respect of injuries to six-year-old boy.

### [Re W \(A Child\) \[2013\] EWCA Civ 662](#)

Appeal against findings of fact in respect of injuries to 10-month-old child.

### [R \(on the application of H\) v Kingston upon Hull City Council, KS, AS, SS, & FS \[2013\] EWHC 388 \(Admin\)](#)

Judicial review of change of care plan/removal of children from family placement under interim care order.

## F (A Child) [2012] EWCA Civ 1770

Appeal against judge's refusal of father's applications for contact, parental responsibility and change of name.

## Re E (A Child) [2012] EWCA Civ 537, Fam Law 939

Appeal against placement order.

## MG, JJ v A Local Authority [2011] EWCA Civ 745, [2011] 2 FLR 955

Appeal against interim care order.

## Clinical Negligence

Brendan is a friendly and sympathetic barrister, instructed predominantly by claimants in all types of clinical negligence case, including inquests where the quality of care received by the deceased is under scrutiny. His early years prosecuting and defending in the Crown Court and continuing, regular appearances in the family court have made him a first-class advocate.

## Selected Cases

### Z v S

Failure to diagnose brain tumour.

### E v K

Hospital Mismanagement of newborn baby leading to baby's death and psychiatric harm to parent.

### Inquest Re JS

Representing nursing agency at inquest into death of a drug addict.

## Personal Injury

Brendan is instructed in all types of serious personal injury cases but particularly in abuse cases and other cases where negligence is alleged against social services, schools or other organisations. His considerable experience in the family courts and understanding of the child protection system is invaluable in such cases.

## Selected Cases

### Child Abuse Litigation

Involving Forde Park Approved School, Devon; Barlavington Manor, Sussex; Tennal Assessment Centre,

Birmingham; Skircoat Lodge, Halifax.

## [Maddock v Devon CC \[2004\] EWHC 3494 \(QB\)](#)

Successful defence of claim brought by social services client for breach of confidence.

## [Surrey County Council v M \(A Child\) \[2001\] EWCA Civ 691](#)

Successful strike-out of claim against local authority for failure to protect children from abuse by a child known to but not in the care of the local authority.

## [DS & Anor v Gloucestershire County Council & Ors \[2000\] EWCA Civ 72, \[2001\] Fam 313](#)

Court of Appeal case where abuse of a child in foster care was alleged. Cited in House of Lords case of [JD v East Berkshire Community Health NHS Trust \[2005\] UKHL 23](#).

## [Barrett v Enfield LBC \[1999\] UKHL 25, \[2001\] 2 AC 550](#)

House of Lords case where the existence of a duty of care to a child in care was in issue.

## **Sports Law**

Brendan has a developing interest and expertise in many aspects of Sports Law, particularly in those areas that overlap his established strengths in negligence, personal injury (including concussion) and the protection of children, young people and vulnerable adults. He has a keen interest in Rugby Union.

## **Court of Protection**

Brendan Roche is a very able, committed advocate. He is friendly, calm and authoritative. He is versatile, having had significant experience in a number of diverse areas of the law, and in particular accepts instructions for the Court of Protection in respect of both welfare and property & affairs.

Brendan acts for Ps, the Official Solicitor, family members and Local Authorities. He recently represented a Local Authority before the Vice President in a complex welfare case where P was 'marooned' in hospital because of a combination of her very significant personality and physical difficulties.

## **Selected Cases**

### [Re QD \(Jurisdiction: Habitual Residence\) \[2019\] EWCOP 56](#)

## Appointments

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- Recorder (2012)

## Memberships

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- Family Law Bar Association
- Professional Negligence Bar Association
- Personal Injury Bar Association
- Midland Circuit