



## Fiona Paterson KC

Year of call: 2003 | Silk: 2023

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“Brilliant written and oral submissions...Is always fully engaged with a case, no matter how big or small the issue is” Legal 500 2023

“An excellent barrister who is really on the ball” Chambers and Partners 2022

“Simply masterful in court...has the ability to translate complex and extensive information into compelling and persuasive submissions” The Legal 500 2022

Before taking Silk Fiona was a member of the Attorney General’s A Panel of Junior Counsel.

She has appeared in a number of landmark cases before the Supreme Court and Court of Appeal, representing vulnerable adults, children, NHS trusts and government departments, both with leading counsel and alone.

Described as a “delight to work with” and “very understanding of the client’s needs” Fiona was a solicitor for nine years specialising in all aspects of medical law before coming to the Bar.

She is also CEDR trained mediator and has mediated a wide variety of disputes both as a lead and assistant mediator.

## Areas of expertise

Court of Protection and Medical Treatment

Administrative and Public

Regulatory and Disciplinary

## Administrative and Public

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*“Brilliant written and oral submissions. Very knowledgeable in this area of law. Is always fully engaged with*

A former member of the Attorney General's A Panel, Fiona specialises in public law in a wide range of fields including human rights, mental health, mental capacity, social security benefits, the provision of health care and prisons.

## Cases of note

- ***Abbasi v Newcastle Hospitals NHS Foundation Trust and Ors* – Hearing 15 and 16 November 2022 – Court of Appeal – judgment awaited** - Led by Gavin Millar QC in an appeal concerning two NHS Trusts who had successfully argued in the High Court [2021] EWHC 1699 (Fam) that the Court had jurisdiction to maintain or reimpose a reporting restriction order protecting the anonymity of clinicians involved in the care of a child, now deceased, who had been the subject of end of life proceedings under the inherent jurisdiction.
- ***Dance v Barts Health National Health Service Trust* [2022] EWCA Civ 1106** - Represented Barts Health NHS Trust before Court of Appeal who refused to grant the appellant's application for a stay of an order authorising the withdrawal of life-sustaining treatment in respect of her 12-year-old son, pending the determination by the United Nations Committee for the Rights of Persons with Disabilities of her complaint alleging a breach of the Convention on the Rights of Persons with Disabilities by the UK.
- ***CK v JM v Secretary of State for Work and Pensions* [2022] 122 (AAC)** - Represented the SSWP along with Jack Anderson in an appeal before the Upper Tier Tribunal concerning the lawfulness of Regs 2(2) and 2(3) of the Social Security (Personal Independence Payment) (Amendment) Regulations 2017 (SI 2017/194). The appeal was dismissed on the basis that the government had consulted properly and fairly about the changes before they were introduced. And even though they resulted in hardship to certain claimants, the government had been entitled to make necessary savings in public spending.
- ***R v G and Secretary of State for the Home Department* [2022] EWHC 655 [2022] 4 WLR 44** - Represented the SSHD in an application for the implementation of a return order made under the Hague Convention against a mother while her judicial review against an unsuccessful asylum application was pending. The High Court held that the return order could be implemented.
- ***FP Re JB* [2021] UKSC 52** - Led by Vikram Sachdeva QC and Richard Whittam QC. Represented a Local Authority in an appeal to the Supreme Court. The Supreme Court upheld the local authority's argument that the test for capacity to engage in sexual activity includes an understanding that a partner or potential partner must give consent which can be withdrawn at any time.
- ***FP Re C* [2021] EWCA Civ 1527** - Led by Sir James Eadie QC and Sarah Hannett QC: Represented the Secretary of State for Justice in an appeal from the Court of Protection which was upheld by the Court of Appeal who determined that where care workers assist a learning-disabled young man to access a sex worker, they would commit an offence under s39 Sexual Offences Act 2003.
- ***FP Re P (An Adult)* [2021] EWCA Civ 512** - Represented a young woman, through the Official Solicitor suffering serious mental health problems whose mother had been discharged as a party from proceedings in the Court of Protection, without notice, on the basis that her continued involvement in the proceedings would amount to an infringement of daughter's privacy. First appeal to the Civil Division of the Court of Appeal using a closed procedure. Extensive examination of European Convention on Human Rights (ECHR) Article 6 and 8 rights.
- ***Professional Standards Authority v HCPC and Yong* [2021] EWHC 52 (Admin)** - Represented the Professional Standards Authority for Health and Social Care in an appeal to the High Court from a disciplinary panel of the Health and Care Professions Council. The court held that the panel had erred in finding that a social worker's inappropriate behaviour towards six female

colleagues was not behaviour "in a harassing manner" or sexually motivated. The panel had failed to consider that the council was subject to the public sector equality duty imposed by s149 of the Equality Act 2010 and had failed to consider the statutory definition of harassment in s26 of the Equality Act 2010.

- **FP Cumbria Tyne and Wear NHS Foundation Trust and Secretary of State for Justice v EG [2021] EWHC 2990 Fam** - Represented the Secretary of State for Justice in an appeal by NHS trust and Secretary of State for Justice to Mrs Justice Lieven sitting as a judge in the High Court under the inherent jurisdiction and the Upper Tribunal in respect of EG, who had been conditionally discharged from a secure psychiatric hospital to a care home in the community where he continued to receive treatment, but was deprived of his liberty. Mrs Justice Lieven held that this was lawful as were he to be returned to hospital his condition would deteriorate and result in a breach of his convention rights. However, it was possible to read the Mental Health Act in a convention compliant manner by reading "liable to be detained" to mean liable in law to be detained for treatment, even where that treatment is being provided in the community, so long as it could lawfully be provided in hospital.

## Recommendations

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Fiona has received the following recommendations:

*"Fiona has the ability to grapple with the most complex cases."* Chambers and Partners 2023

*"She is really good on her feet and in negotiation."* Chambers and Partners 2023

*"She is robust and really fights the client's corner."* Chambers and Partners 2023

*"Brilliant written and oral submissions. Very knowledgeable in this area of law. Is always fully engaged with a case, no matter how big or small the issue is."* The Legal 500 2023

*"An excellent barrister who is really on the ball."* Chambers and Partners 2022

*"Simply masterful in court... has the ability to translate complex and extensive information into compelling and persuasive submissions."* The Legal 500 2022

*"Her written submissions are excellent...she is extremely reliable."* The Legal 500 2022

*"Thinks very well on her feet."* Chambers and Partners 2021

*"Very skilled and highly sensitive. Great on detail."* The Legal 500 2021

*"[Fiona] is able to think broadly about a case but also provide expert advice on very specific issues that other barristers would not have knowledge of."* The Legal 500 2021

*"A formidable advocate" and "an amazing lawyer."* Chambers and Partners 2020

*"One of the leading lights in admin and public law."* The Legal 500 2020

## Memberships

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- The Constitutional and Administrative Bar Association [ALBA]
- Court of Protection Bar Association
- Justice

# Qualifications

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## Education

- 2003 CEDR Qualified Mediator
- 2000 Qualified as a Solicitor in England and Wales
- 1994 Qualified as a Solicitor in Scotland

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