



## Nicola Kohn

Year of call: 2012

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*"Superb technical knowledge, authoritative, very responsive. An excellent advocate who is always in control and is respected by the judiciary."*

## The Legal 500 2023

Nicola's practice is people focused. It spans public and human rights law and Court of Protection work and extends to common law and regulatory and disciplinary law. She is recommended for both Administrative and Public Law (The Legal 500 2022) and for Court of Protection and Community Care work (The Legal 500 2022 and Chambers & Partners 2022). She has been appointed to the Treasury Panel of Junior Counsel (B Panel) and the Equality and Human Rights Commission Panel of Counsel (C Panel).

She has been involved in some landmark cases of the last few years: ***JT v FTT [2018] EWCA Civ 1735*** which overturned the same-roof rule bar on criminal injury compensation and ***Tavistock v Bell [2021] EWCA Civ 1363***, the challenge to the referral of trans young people under 18 for prescription of puberty blockers.

Nicola has appeared as sole and junior counsel in the Court of Appeal, the Court of Protection, the County Court, the High Court, and various disciplinary tribunals. She will shortly be appearing (led by Jenni Richards KC) in the Supreme Court.

Prior to coming to the Bar, Nicola spent eleven years as a political news journalist at the BBC where she worked as a programme editor on the BBC1 Politics Show and Radio Four's Today, and as a senior producer on Newsnight.

## Areas of expertise

Civil Liberties and Human Rights

Court of Protection: Welfare, Property and Affairs

Medical Treatment Cases

Community Care and Mental Health

Regulatory

## Court of Protection: Welfare, Property and Affairs

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Nicola has acted in well over a hundred cases in the Court of Protection where she is regularly instructed by the Official Solicitor, health bodies, local authorities and individuals. She has experience of acting in complex fact-finding cases, including the cross-examination of vulnerable witnesses and the use of a court intermediary, deprivations of liberty in the Court of Protection and under the Inherent Jurisdiction of the High Court. She also acts in a growing number of serious medical treatment cases, including those involving end-of-life decision-making. She has a particular interest in cases concerning eating disorders.

#### Cases of note:

- ***Re G (Court of Protection: Injunction) [2022] EWCOP 25*** - As sole counsel in the Court of Appeal, acting for the first of three appellants in an appeal against an injunction granted by the Vice President to restrict a mother, father and grandmother's access to the daughter pending her move from a high dependency unit of a hospital for a care home. Nicola was instructed by the mother.
- ***MC v A CCG*** - Before the Vice President, Mr Justice Hayden, in an appeal considering the evidence required by the court to make determinations on best interests in the context of Covid-19 vaccination opposed by P's parents. Instructed by the Official Solicitor.
- ***PH v Brighton and Hove City Council*** - Decision of the Senior Judge of the Court of Protection, HHJ Hilder, on an application to set disapply the anonymity provisions usually contained in a Court of Protection transparency order so as to name Tony Hickmott, a man detained under the Mental Health Act 1983 for over 20 years. Nicola has acted for the hospital throughout proceedings aimed at enabling his discharge from hospital into a community home of his own.
- ***Tower Hamlets LBC v A [2020] EWCOP 21*** before HHJ Hilder - A contested hearing on capacity and best interests in the context of a woman with alcohol-related dementia. The court held that in a case concerning an individual's capacity to determine her residence where she lacked capacity to determine her care, the local authority had wrongly conflated capacity to decide residence and capacity to decide care. Although the two overlapped, they were individual domains of capacity, her ability to make a capacitous decision about care was not relevant to making a decision about residence. Instructed by the local authority.
- ***Clinical Commissioning Group v DC [2022 EWCOP2]*** - When finding that it was in the best interests of a person lacking capacity to receive a Covid-19 vaccine, albeit with some caveats, the Court of Protection commented on the unacceptable delay between identification of the person's need for the vaccine and the matter reaching court. The court stated that once it became clear that there was a dispute between clinicians and family on an urgent matter related to important treatment of a mentally incapacitous adult, an application to the court should be brought, and determined, with urgency. Instructed by the Official Solicitor.
- ***Lincolnshire CC v AB [2019] EWCOP 43*** - Before Keehan J considering the scope of best interests in the context of access to sex workers and whether assistance provided by a care worker might contravene ss.39, 42 and 53A of the Sexual Offences Act 2003. Nicola acted for the successful local authority.
- ***Manchester City Council Legal Services v LC [2018] EWHC 2849 (Fam)*** - A decision by Hayden J concerning capacity to make decisions on contact in the context of a young woman with autism and learning disabilities who was assessed as having capacity to make decisions on sex and wished to engage in sexual relations with multiple partners. Instructed by the Official Solicitor.

#### Recommendations

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- *"She is an impressive court advocate, who is naturally very quick on her feet."* The Legal 500 2022
- *"She leaves no stone unturned, and judges really respond to her."* *"She is very thorough, knowledgeable and particularly sensitive to her clients' needs. She's also very easy to get along with."*

Chambers and Partners 2022

- *"Superb technical knowledge, authoritative, very responsive. An excellent advocate who is always in control and is respected by the judiciary."* The Legal 500 2022
- *"She leaves no stone unturned, and judges really respond to her." "She is very thorough, knowledgeable and particularly sensitive to her clients' needs. She's also very easy to get along with."* Chambers and Partners 2022
- *"Nicola is very bright, good with clients, down to earth and actively involved in the management of cases."*
- *"She has a knack for getting a good result in difficult cases. She's extremely thorough, knows mental capacity law inside out and is a good advocate."*
- *"She is absolutely excellent – very clear and knows her subject extremely well."* Chambers and Partners 2021
- *"Goes above and beyond for her clients. She is also a charming and skilled advocate, with real courtroom gravitas."* The Legal 500 2021

## Memberships

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- ALBA (Administrative Law Bar Association)
- CPBA (Court of Protection Bar Association)
- ARDL (Association of Regulatory and Disciplinary Lawyers)

## Qualifications

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### Education

- 2012 BPTC, BPP, Very Competent
- 2011 GDL, BPP, Distinction
- 1999 MSc in International Relations with Distinction, London School of Economics
- 1997 MA (Hons) First Class, English Literature, Hertford College, Oxford.

### Scholarships and prizes

- Ivor Yorke Prize for Media Law, BBC, 2000
- Academic Scholarship, LSE, 1998

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