



Fiona Paterson KC

Year of call: 2003 | Silk: 2023

Phone: +44 (0)20 7832 1111

“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

Court of Protection and Medical Treatment

“Fiona is simply masterful in court. She has the ability to translate complex and extensive information into

Fiona is ranked by both Chambers and Partners and The Legal 500 as a Band 1 leading junior in the Court of Protection. She has appeared before the Supreme Court and Court of Appeal in cases which have shaped the fundamental rights of vulnerable adults and children. Chambers and Partners 2023 describes her as "really good on her feet and in negotiation" and as a "robust" advocate who "really fights the client's corner."

In November 2022 Fiona was appointed by the Vice President of the Court of Protection, to a committee of four counsel considering the use of closed hearings/material in the Court.

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 NHS 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.
- ***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.
- ***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.
- ***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.
- ***London Borough of Southwark v P and Ors* [2021] EWCOP 46** - Represented a young woman, through the Official Solicitor, in a successful application to discharge her mother as a party to Court of Protection proceedings issued by the local authority over concerns that she had suffered severe neglect and alleged abuse at home. The daughter asserted that she felt unable to participate in the proceedings while her mother remained a party. The mother argued that her Article 8 rights would be infringed if she were no longer a party. The court held that where there was a conflict between the Article 8 rights of a vulnerable adult and those of a third party in the Court of Protection, the rights of the vulnerable adult must prevail
- ***Avon and Wiltshire Mental Health Partnership v WA and Ors* [2020] EWCOP 37** - Represented an NHS trust caring for a pregnant, learning-disabled young woman, AB who lacked capacity to consent to sex. Continuing with the pregnancy was thought to be harmful to AB. It was unclear if she understood the birth process and the implications of having a child. Yet she had

stated she wanted the baby. The Court of Appeal examined how her best interests should be assessed in light of the conflicting evidence.

- **Re AB (termination of a pregnancy) [2019] EWCA Civ 1215** - Represented an NHS trust caring for a pregnant, learning-disabled young woman, AB who lacked capacity to consent to sex. Continuing with the pregnancy was thought to be harmful to AB. It was unclear if she understood the birth process and the implications of having a child. Yet she had stated she wanted the baby. The Court of Appeal examined how her best interests should be assessed in light of the conflicting evidence.
- **Re Y [2018] UKSC 46** - Represented Y, through the Official Solicitor, a middle-aged man in a prolonged disorder of consciousness in an appeal to the Supreme Court. The court held that obtaining an order under the Mental Capacity Act is unnecessary where a family and treating clinicians agree that clinically assisted nutrition and hydration should be withdrawn from an incapacitous adult in a prolonged disorder of consciousness. Led by Richard Gordon QC.

Recommendations

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

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

Qualifications

Education

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

London

81 Chancery Lane,
London
WC2A 1DD
Tel: +44 (0)20 7832 1111
DX: London/Chancery Lane 298
Fax: +44 (0)20 7353 3978

MANCHESTER

82 King Street,
Manchester
M2 4WQ
Tel: +44 (0)16 1870 0333
Fax: +44 (0)20 7353 3978

SINGAPORE

Maxwell Chambers,
28 Maxwell Road,
WC2A 1DD
04-03 & 04-04, Maxwell Chamber
Suites
Singapore 069120
Tel: +65 6320 9272

KUALA LUMPUR

#02-9, Bangunan Sulaiman
Jalan Sultan Hishamuddin,
50000 Kuala Lumpur,
Malaysia
Tel: +60 32 271 1085

BARRISTERS • ARBITRATORS • MEDIATORS

clerks@39essex.com • DX: 298 London/Chancery Lane • 39essex.com