



## Francesca Gardner

Year of call: 2009

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*"Extremely bright and very talented"* The Legal 500

*"Ms Gardner is undoubtedly considered to be one stalwarts of practitioners in this area. She is extremely bright, hard-working and a formidable opponent in court."* The Legal 500

Francesca is a specialist in all areas of health and social care. Francesca's practice encompasses all areas of Court of Protection work, including welfare disputes, serious medical treatment, and property and affairs matters. Francesca regularly advises and acts in public law disputes arising from her specialist practice areas.

Francesca regularly acts in complex welfare proceedings and has a particular interest and experience in cases involving: cross-border placements and disputes, children and deprivation of liberty, the international protection of adults, cases involving both welfare and financial disputes, and safeguarding vulnerable adults under the Inherent Jurisdiction of the High Court.

Francesca's practice is unique in that Francesca specialises in Health and Welfare and Property and Affairs within the Court of Protection.

Francesca also has extensive experience in Mental Health Law, including representing patients before the First-Tier Tribunal and Nearest Relative Displacement Proceedings. Francesca has extensive experience in cases concerning the interface between the Mental Health Act 1983 and the Mental Capacity Act 2005.

Francesca sits as a Deputy District Judge on the North Eastern Circuit hearing Court of Protection cases and Private and Public Law family cases.

## Areas of expertise

Community Care and Mental Health

Civil Liberties and Human Rights

Inquests

Mediators

Safeguarding

Court of Protection - Welfare

## Court of Protection - Property and Affairs

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Francesca routinely advises on complex financial cases, including cases flowing from or overlapping with personal injury or clinical negligence claims.

Francesca regularly receives instructions from a broad range of clients in property and affairs work including: the Official Solicitor; professional and lay deputies; family members and public bodies.

Francesca has particular interest and expertise in cases involving the following: statutory wills; the appointment of deputies; the scope of the authority of a deputy; financial abuse; lasting powers of attorney and gifts.

In **SAD & Anor v SED [2016] EWCOP 3**: Francesca represented the daughters of P in the first post-MCA case to consider the issue of capacity to revoke a lasting power of attorney (LPA). P decided with capacity to appoint her daughters under an LPA. The evidence before the court indicated that the LPA was executed to guard against the financial consequences of hypomania resulting from her bipolar disorder. P revoked the LPA, and this was challenged by the daughters. The court gave helpful guidance as to the information relevant to the decision to revoke an LPA.

Francesca routinely advises in proceedings flowing from or related to personal injury proceedings. Francesca has recently advised on the management of a damages award for a prisoner that lacks the capacity to manage the award and the management of a damages award for a young man seriously injured in a road traffic accident. Francesca has extensive experience advising in relation to personal injury and clinical negligence claims that require consideration of applications to be made in the Court of Protection in circumstances where the protected party lacks capacity, including applications to authorise any deprivation of liberty arising from the care package.

Francesca advises and represents professional deputies in relation to a range of complex matters including applications for authority to execute a statutory will in complex circumstances, suspected financial abuse, service outside of the jurisdiction, fraudulent activities of a charity and applications to dispense with service.

Francesca provides regular training in this area and has experience of providing training events and seminars to practitioners, including public bodies and professional deputies.

### Cases of note:

- **SAD & Anor v SED [2016] EWCOP 3**
- **Re KC [2020] EWCOP 62**

## Recommendations

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- *"Francesca is diligent, organised and timely with preparing advice and documents. She fights aggressively for her clients, forensically prepares for cases and leaves no stone unturned. She has a real 'human' quality and really understands and cares about the cases she works on"* The Legal 500, 2023
- *"A fantastic advocate who is diligent and pragmatic, with a deep understanding of how the Court of Protection works."* The Legal 500, 2023
- *"She is calm, approachable and very strategic in her approach. She is also excellent in cross – examinations."* The Legal 500 2023

- *"Francesca is an absolute dream to work with. She is focused, concise and always absolutely on point. She advocates fiercely on behalf of her clients and is a QC in waiting!"* The Legal 500 2022
- *"Ms Gardner is undoubtedly considered to be one stalwarts of practitioners in this area. She is extremely bright, hard-working and a formidable opponent in court."* The Legal 500 2021
- *"She is able to take a complex case and find a way to navigate through it with what seems like ease. She is methodical in her approach to advocacy, making this barrister a safe pair of hands."* The Legal 500 2021
- *"She is extremely knowledgeable and able to explain matters in a way that can be applied in practice."* The Legal 500 2021
- *"Francesca is dedicated and committed to achieving outcomes that are beneficial to vulnerable clients and their families. She is not phased by more senior counsel or complex situations and remains collected and professional at all times."* The Legal 500, 2021
- *"She is responsive and gets on top of papers early. She works in a collaborative way and is a pleasure to deal with."* Chambers and Partners UK 2021
- *"She is kind, approachable and very reliable. She is very thorough and gets to the heart of the issue quickly. While she has a gentle manner with clients, she is a tenacious advocate and holds her own against very experienced juniors and silks."* Chambers and Partners UK 2021
- *"She takes a confident and robust approach in court."* Chambers and Partners UK 2021
- *"Francesca is dedicated and committed to achieving outcomes that are beneficial to vulnerable clients and their families. She is not phased by more senior counsel or complex situations and remains collected and professional at all times."* The Legal 500, 2020
- *"She is an excellent advocate; she's very easy to listen to and is very sensible and kind."* *"She is wonderful and you can depend on her to get the job done. She is very thorough, her drafting is superb and she thinks very much outside the box."* Chambers and Partners UK 2020
- *"She has a tremendous amount of experience and is not afraid of novel or complex issues in a case. She works tirelessly to try to ensure the right result for her client."* Chambers and Partners UK 2019
- *"Francesca's approach to matters is highly methodical and committed. She puts forward the clients' issues and concerns with great aplomb."* Chambers and Partners UK 2019
- Shortlisted in the Legal 500 Awards for 'Regional Junior of the Year 2018.
- *"Extremely bright and very talented."* The Legal 500 2018
- *"She is tenacious, eloquent, caring and incredibly talented, which means that she is in increasingly high demand for the most complex of Court of Protection cases."* Chambers and Partners UK 2018
- Shortlisted in the Legal 500 Awards for 'Regional Junior of the Year 2017.'
- *"An up- and – coming star in the area of Court of Protection, her practice includes a range of mental health and capacity cases involving deprivation of liberty, covert medication and human rights matters."* The Legal 500 2017
- *"She has a clear grasp of complicated issues and the ability to convey that to clients."* *"She is very clear, concise and she cuts through all the nonsense."* Chambers and Partners UK 2017

## Memberships

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- Member of Grays Inn 2009
- Member of the North Eastern Circuit
- Court of Protection Practitioner's Association – Chair (Yorkshire & the Humber)(COPPA)

- Member of the national executive COPPA committee

## Education

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- Bar Vocational Course- 2009

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