



## Arianna Kelly

Year of call: 2013

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*"Arianna is a superb advocate. She is methodical in her reasoning and makes complex concepts straightforward to understand. She works really hard and is always someone you want fighting your corner. She has star quality about her."* The Legal 500 2022

Arianna has a public law practice with a focus in community care, mental capacity, serious medical treatment, mental health law and inquests. She is a leading junior in the Court of Protection (Chambers and Partners and The Legal 500), Community Care (Chambers and Partners) and a 'Rising Star' in Administrative and Public Law (The Legal 500).

Arianna acts in a range of Court of Protection matters including welfare, property and affairs, serious medical treatment. Since 2022, she has been a contributing author to 'Court of Protection Practice' (Lexis Nexis), the leading practitioner text for the Court of Protection, and has been a contributing editor to the [39 Essex Chambers Mental Capacity Reports](#) since 2021. She is a member of the National Committee for the Court of Protection Practitioners Association. Arianna also regularly acts and advises in matters relating to the inherent jurisdiction of the High Court for both children and adults, and acts matters relating to deprivations of liberty of young people.

Arianna works extensively in the field of community care, frequently advising public authorities on policies relating to health and social care. The Legal 500 praises her "Outstanding knowledge of the Care Act", and she is the author of 'Social Care Charging', the leading text on this subject. She frequently undertakes judicial reviews in relation to eligibility and care planning decisions, community care charging, safeguarding investigations and decisions to de-register approved providers.

Arianna is on both the Attorney General's Regional Panel and the Equality and Human Rights Commission Panel of counsel. She is a qualified mediator, a fee-paid First-Tier Tribunal judge, (Mental Health) and fee-paid Court of Protection judge.

## Areas of expertise

Court of Protection and Medical Treatment

-- Court of Protection – Mediation Service

- Court of Protection - Property and Affairs
- Court of Protection – Urgent Applications
- Court of Protection - Welfare
- Medical Treatment Cases
- Administrative and Public Law
- Healthcare
- Community Case and Mental Health
- Inquests
- Alternative Dispute Resolution - Mediation

## -- Court of Protection - Property and Affairs

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Arianna acts and advises in all areas of property and affairs work, acting regularly for the Office of the Public Guardian, deputies and private individuals. She has a particular interest in matters with a crossover between property and affairs and social care charging, and is the author of the leading text on social care charging. Arianna is particularly experienced in issues of financial abuse, contested issues relating to capacity, the removal of holders of lasting powers of attorney and statutory wills applications. Arianna regularly advises deputies on applications to the Court of Protection relating to the recovery of funds on behalf of people lacking capacity, including on complex questions of best interests in relation to pursuing recovery from family members. Arianna is a member of the National Executive Committee for the Court of Protection Practitioners Association.

### Cases of note

- **Calderdale MBC v AB [2021] EWCOP 55** - Acted on behalf of a local authority in an application relating to a property and affairs deputy's scope of authority. Before Her Honour Judge Hilder.
- **Personal injury proceedings** - Advised on the scope of a deputy's duties in personal injury proceedings, considering mixed issues of property and affairs and health and welfare.
- **Removal of holders of lasting power of attorney** - Acted on behalf of the Office of the Public Guardian in an application to remove holders of a lasting power of attorney and appoint a panel deputy, on the basis of the donor making substantial transfers of assets while the donor had capacity.
- **Access to P** - Acted on behalf of a deputy to secure access to a vulnerable person. Arianna supported the deputy in making an emergency application to the Court of Protection to ensure the deputy had access to P in order to discharge her duties.
- **Double Recovery** - Provided detailed advice in proposed judicial review proceedings relating to eligibility for local authority funding where P had significant periodical payments.
- **Recovery of Assets** - Advised a deputy on what steps could be taken to restore P's estate following the removal of her former attorneys;. The advice was written both to advise the deputy and support an application to the Court of Protection for permission to bring litigation.
- **Ending a deputyship** - Acted on behalf of a person who had a property and affairs deputy appointed following a brain injury, but had regained capacity and sought the discharge of his deputy.

### Recommendations

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- *"She is responsive, thoughtful, practical, empathetic, academic and meticulously well prepared. She is brave on her feet, argues difficult points elegantly and works tirelessly hard for her vulnerable clients."* The Legal 500 2023

- *"Arianna is very approachable and easy to work with and gives clear, helpful advice." 'She is very proactive and helpful. She has a good way with clients. She takes a very commercial and pragmatic approach and cuts through issues quickly.'* Chambers and Partners 2023
- *"Arianna has an incredible eye for detail and her passion for the law is evident. She is confident, trustworthy and thorough."* Chambers and Partners 2023
- *"Arianna is an absolute delight to work with."* Chambers and Partners 2023
- *"Arianna is a superb advocate. She is methodical in her reasoning and makes complex concepts straightforward to understand. She works really hard and is always someone you want fighting your corner. She has star quality about her."* The Legal 500 2022
- *"She is extremely reliable and has excellent knowledge of the Care Act and community matters." "She is extremely intelligent while also being refreshingly approachable and practical in her advice."* Chambers and Partners 2022
- *"Friendly and approachable counsel with first-rate Court of Protection knowledge."* The Legal 500 2022
- *"She has a brilliant understanding of public law duties under the Care Act and can bring different perspectives." "Arianna is well prepared and goes the extra mile to ensure she receives the best results for her clients." "She is sympathetic and patient with clients, and firm and persuasive in court."* Chambers and Partners 2021
- *"Excellent attention to detail. Outstanding knowledge of the Care Act. Pragmatic in approach. Very quick at picking up the key issues and facts."* The Legal 500 2020
- *"Arianna is brilliant at thinking outside of the box."* The Legal 500 2020
- *"She's extremely thorough in her approach and has great attention to detail. She's totally on top of the facts and is a very good advocate." "An excellent cross-examiner."* Chambers and Partners 2020
- *"Talented public law junior, regularly appearing in the Court of Protection in cases concerning mental health, residence and welfare. She is also well regarded for her handling of property and affairs matters"* Chambers and Partners 2018
- *"She has an incredible knowledge of the academics of the law, excellent drafting skills, and she can convey very complex points in a simple and easy to understand way."* Chambers and Partners 2018

## Memberships

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- Court of Protection Practitioners' Association, National Executive Committee Member (2017-2020); Treasurer of the National Executive Committee (2020-)
- Administrative Law Bar Association
- Court of Protection Bar Association
- Member of the Honourable Society of the Inner Temple, 2013
- Member of the Northern Circuit, 2014

## Qualifications

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### Education

- Harvard College, A.B., Government, cum laude 2005
- Harvard Law School, J.D., cum laude 2008
- London School of Economics, LLM, with distinction 2013

## Additional information

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### Appointments

- Fee-paid Judge of the First Tier Tribunal, (2021-present)
- Fee-paid Court of Protection Judge (2022-present)
- Admitted to the Massachusetts Bar, 2008 (currently non-practising)

### Publications

- Sole author of "Social Care Charging" (Law Society, 2023)
- Judicial Review: Law & Practice, Patterson & Karim (Third Edition, 2019): Chapter 6 – Community Care
- Community Care Law and Local Authority Handbook (Third Edition, 2015): Chapter 6 – Finance and Charging
- LexisNexis: Articles: Entitlement to remain at home; Alternative care and funding; Care homes—placement options and fees; Ordinary residence
- Westlaw Insight: Articles: Local government functions (promotion of well-being); Social care: duty to promote well-being (Wales)
- "Consideration of private evidence and carer's needs under the Care Act 2014" Local Government Lawyer, 7 August 2020
- "Local authority deputies: when is discharge appropriate?" Encyclopaedia of Local Government Law Bulletin, August 2020
- "Requests for care pending assessment" Local Government Lawyer, 19 June 2020
- "Article 8 breaches and local authority statutory duties" Local Government Lawyer, 7 May 2020,
- "Articles 3 and 8 in the time of Coronavirus" Local Government Lawyer, 14 April 2020
- "Coronavirus Act 2020: Implications For Local Authority Obligations To Meet Care Needs", Encyclopaedia of Local Government Law Bulletin, April 2020
- "In the matter of D (A Child) [2019] UKSC 42: Case Comment", Encyclopaedia of Local Government Law Bulletin, November 2019
- "Court of Protection Update: Capacity to make decisions about residence, social media and sexual relations; Personal Welfare Deputies"
- Encyclopaedia of Local Government Law Bulletin, August 2019
- "Community Deprivations of Liberty under the Mental Health Act 1983: MM and PJ" Encyclopaedia of Local Government Law Bulletin, April 2019
- "Social care assessments: Reducing care packages and the well-being principle" Encyclopaedia of Local Government Law Bulletin, November 2018
- "Forge Care Homes Ltd, R. (on the application of) v Cardiff and Vale University Health Board [2017] UKSC 56: Case Comment"
- Encyclopaedia of Local Government Law Bulletin, April 2018
- Arianna has written for Jordan's Public Law Online in the areas of community care, healthcare, education and immigration.

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