



Arianna Kelly

Year of call: 2013

Email: arianna.kelly@39essex.com

"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

-- Community Case and Mental Health

Arianna works extensively for local authorities, health authorities, and private individuals in community care and healthcare matters. Arianna is involved in many judicial reviews of community care assessment and eligibility decisions and advises on matters relating to ordinary residence, charging, deferred payment agreements, and debt recovery. She is the author of the book, 'Social Care Charging' (Law Society, 2023), the leading text issues of charging and financial assessment for social care. She is a leading Community Care, Administrative and Public Law and Court of Protection junior. The Legal 500 writes: "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."

Cases of note

- ***E & F (Minors: Blood Transfusion) [2021] EWCA Civ 1888*** - Junior counsel for a health trust in the Court of Appeal on the leading case on applications in the inherent jurisdiction for the medical treatment of minors.
- ***W(Young Person: Unavailability of Suitable Placement) [2021] EWHC 2345 (Fam)*** - Acted on behalf of a health trust in relation to authorise a 15-year-old child's deprivation of liberty in hospital and in an unregistered community placement. Before Mr Justice Knowles.
- ***R(A&B) v Secretary of State for Health and Social Care*** - Acted as junior counsel for the Department of Health and Social Care in a high-profile judicial review to the eligibility criteria of a national scheme relating to benefits for children and families.
- ***R(E) v Telford & Wrekin Council*** - Acted as junior counsel in an Article 14 challenge to a local adult social care charging policy under the Care Act 2014.
- ***R(A Patient) v South London and Maudsley NHS Foundation Trust*** - Acted as sole counsel for a mental health trust in a judicial review to challenge to a patient's detention and compulsory medication on Article 3 and 5 ECHR grounds.
- ***R(KP) v South Tees CCG and NHS England*** - Acted as sole counsel for the defendants in a claim challenging the lawfulness of a refusal of NHS Continuing Healthcare and claims of systemic unfairness in such eligibility decisions.
- ***R(C) v Trafford Council*** - Acted for a local authority in a challenge to the adequacy of a needs assessment a decision not to meet needs on a discretionary basis under s19 of the Care Act 2014.
- ***R(A Child) v Leeds City Council*** - Acted for a local authority in a challenge to the lawfulness of an age assessment.

Recommendations

- *"She is responsive, thoughtful, practical, empathetic, academic and meticulously well prepared. She*

- *She is responsive, thoughtful, practical, empathetic, academic and methodically 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

- 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

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

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.
-

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