

# Landmark Chambers

## Barrister CV

Katharine Elliot



### Contact us

[clerks@landmarkchambers.co.uk](mailto:clerks@landmarkchambers.co.uk)

+44 (0) 20 7430 1221



# Katharine Elliot

Call: 2016

kelliot@landmarkchambers.co.uk

Katharine has a diverse practice, encompassing planning, environment and public law, particularly Court of Protection, mental health, education, election and tax matters.



## Expertise

Planning, Environment, Public and Administrative, Rating and Valuation

## Contact Practice Managers

### Richard Bolton

020 7421 1392

rbolton@landmarkchambers.co.uk

### Charlotte Hockney

020 7421 1303

chockney@landmarkchambers.co.uk

## Practice Summary

Katharine is a strong and accomplished advocate, who appears in the Magistrates' Court, County Court, High Court, Court of Protection, First-tier and Upper Tribunals, coroners' courts and professional disciplinary panels, both as junior counsel and in her own right.

Katharine was appointed to the Attorney General's C Panel in 2021. Prior to and since her appointment, she has been instructed by both the GLD and HMRC to act in complex, high value litigation alongside leading counsel.

She also has extensive experience in private and public inquiry work, including acting as junior counsel to the Dame Linda Dobbs Review commissioned by Lloyds Banking Group.

Katharine's extensive knowledge of trusts, probate and general private client law makes her exceptionally well placed to advise in cases where public and private law issues meet. She also handles cases at the interface of public and criminal law.

Katharine accepts public access and pro bono instructions where appropriate.

A strong believer in promoting both access to justice and diversity at the Bar, Katharine regularly accepts *pro bono* instructions through Advocate, is a session leader and mentor for BME Legal and champions access to legal work experience for students from disadvantaged backgrounds. She is also a tutor with The Access Project, a charity which supports students from disadvantaged backgrounds to access top universities.

Beyond the Bar, Katharine sings as a soprano with the Collegium Musicum of London Chamber Choir and previously sang with the London Symphony Chorus. She is a keen rugby union fan and played for Haringey Rhinos RFC until she retired from the sport in 2019. She also enjoys a casual game of netball.

A keen linguist, Katharine speaks Italian and French and has studied German, Russian and Mandarin.

## Planning

Katharine accepts instructions in all areas of planning law, advising individuals, local authorities, planning consultants and land agents across a wide range of matters including:

- Air quality
- Water pollution and nutrient neutrality
- Conservation areas, heritage asset management, and assets of community value
- Green belt and National Parks
- Community Infrastructure Levy
- Scope and interpretation of planning permissions
- Estate regeneration
- Traveller/gypsy sites
- Compulsory Purchase Orders
- Traffic Management Orders and Highways Act 1980 issues
- Section 106 agreements.

Katharine regularly provides advice and representation in judicial review and statutory challenges to planning decisions, including as sole counsel, as well as at all stages of the planning decision making process.

Katharine has particular expertise in advising on issues arising from the material change of use of residential property, including as a result of HMO and Airbnb/short term rental usage. She has also provided advice in connection with nationally significant infrastructure projects.

Practice highlights include:

- ***Bedford Park Developments v Secretary of State for Levelling Up, Housing and Communities (CO/995/2023)***:

Katharine acts as sole counsel for the respondent in this statutory challenge which raises grounds of procedural unfairness, including alleged departure from the statement of case by the Inspector.

- **McGinley v Secretary of State for Levelling Up, Housing and Communities (CO/1622/2023)**: Katharine acts as sole counsel for the respondent in this statutory challenge against the decision of the Inspector not to grant planning permission for a gypsy/traveller site. Katharine also represents the Secretary of State in a linked enforcement appeal.
- **R (CPRE (Somerset) v South Somerset DC [2022] EWHC 2817 (Admin)**: Katharine assisted Richard Moules as counsel for the claimant in this successful judicial review challenge to a grant of planning permission on the basis of apparent bias on the part of members of the planning committee who determined the application.
- Assisting James Maurici KC in advising on **nutrient neutrality** issues impacting housing development
- **Land at Ware Park (APP/M1900/W/17/3178839)**: An appeal against the refusal of planning permission for a sand and gravel quarry development in Hertfordshire. Katharine acted as sole counsel for a community action group Rule 6 party in this 11-day inquiry, successfully arguing that the appeal should be dismissed and planning permission refused on the basis that the development threatened to pollute a vital source of local drinking water.

## Environment

Katharine accepts instructions in all areas of environment law, advising individuals, planning consultants, land agents, local authorities, government departments, regulators and other public bodies across a wide range of matters including:

- Environmental impact assessments
- Air quality
- Water pollution and nutrient neutrality
- Conservation areas, heritage asset management, and assets of community value
- Green belt and National Parks
- Traveller/gypsy sites.

Katharine has provided advice in connection with nationally significant infrastructure projects.

Practice highlights include:

- Assisting James Maurici KC in advising on nutrient neutrality issues impacting housing development
- Advising a town council on the interface between planning and pollution control frameworks in connection with a controversial proposed waste incinerator development.
- **Land at Ware Park (APP/M1900/W/17/3178839)**: An appeal against the refusal of planning permission for a sand and gravel quarry development in Hertfordshire. Katharine acted as sole counsel for a community action group Rule 6 party in this 11-day inquiry, successfully arguing that the appeal should be dismissed and planning permission refused on the basis that the development threatened to pollute a vital source of local drinking water.

## Public and Administrative

Katharine accepts instructions in all areas of public law, including judicial review. She advises and represents individuals, local authorities, government departments and other public bodies across a wide range of sectors including education, health and social care (including funding issues), mental health, immigration, tax and election law. As an advocate, she has appeared as both sole and junior counsel in the County Court, High Court, First-tier and Upper Tribunals and Coroners' courts.

She was appointed to the Attorney General's C Panel in 2021. Prior to that appointment, she was instructed by both the GLD and HMRC to assist in the conduct of complex, high value litigation alongside leading counsel. This has included claims under Article 1 Protocol 1, claims for *Frankovich* damages arising out of judicial review proceedings and high value tax litigation dealing with complex offshore asset holding structures.

Practice highlights include:

- ***Abdullah (UI-2022-006321, U1-2022-006322), Szuba (UI-2023-000505) & Rudokas (UI-2023-001538)***: Katharine, led by Julia Smyth, is instructed on behalf of the Home Office in these conjoined appeals dealing with the law applicable post-Brexit to decisions around grants of leave under the EU Settlement Scheme and human rights applications for EU citizens convicted of criminal offences in the UK.
- ***Ritblat & Ors v HMRC (BL-2021-000675) & HMRC v Ernst & Young LLP (BL-2022-001186)***: Katharine, led by Jonathan Davey KC and Michael Jones KC, is instructed on behalf of HMRC in these conjoined High Court proceedings dealing with whether or not HMRC entered into a settlement agreement with the trustee of an Employee Benefit Trust on the basis of misrepresentations/misstatements.
- Acting as sole counsel representing the Ministry of Justice in a **multi-day inquest** into the death of a prisoner from COVID-19, including consideration of the steps taken to protect prisoners from contracting the virus.
- ***R (HSPC Ltd) v Secretary of State for Education [2022] EWHC 3159 (Admin)***: Judicial review proceedings challenge the Secretary of State's decision to transfer Holland Park School to the United Learning multi-academy trust following an inadequate Ofsted rating on the grounds that the consultation process had been inadequate. Katharine acted as junior counsel, led by Jonathan Auburn KC, for the successful respondent.
- ***Mustafeyev v Secretary of State for the Home Department (JR-2022-MAN-000074; JR-2022-MAN-000075)***: Judicial review challenges dealing with eligibility for bespoke immigration schemes established in response to the war in Ukraine. Katharine acted as junior counsel for the respondent, led by Julia Smyth.
- ***Breen v HMRC [2022] UKFTT 00155 (TC)***: A case in which the taxpayer alleged that he should not be subject to tax penalties because HMRC's investigation had left him with a debilitating fear of making a mistake on his tax return. Katharine acted as sole counsel for the successful respondent.
- Assisting David Lock KC in advising on the split of **s.117 Mental Health Act 1983** after-care funding between the relevant local authority and health body, specifically how the accommodation aspect of the care package fell to be funded.
- ***Vachha v Hamilton [2020] EWHC 3728 (Ch)***: An application for multiple injunctions aimed at controlling the internal workings of the United Kingdom Independence Party, and for the expedited trial of a dispute over who held various party offices. Katharine acted as junior counsel, led by Timothy Straker KC, for the successful respondents.

Katharine also has extensive experience in private and public inquiry work, including acting as junior counsel to the Dame Linda Dobbs Review commissioned by Lloyds Banking Group.

Katharine has been a contributor to the Association of Electoral Administrators '**Arena**' magazine, writing on issues such as election fraud and voter disability discrimination. She spoke on election law and litigating elections at the ALBA Summer Conference 2021.

## Court of Protection

Katharine has an extensive Court of Protection practice, providing advice and representation to individuals (including via the Official Solicitor), local authorities, healthcare bodies and the Public Guardian in both health and welfare and property and affairs cases. Katharine has dealt as sole counsel in the County and High Courts with complex proceedings, handling capacity and best interests disputes covering:

### Health and Welfare

- Medical treatment
- Covert medication
- Residence
- Care and support
- Contact
- Sex and relationships
- Marriage
- Internet and social media use
- Removal from the jurisdiction.

### Property and Affairs

- Financial management
- Property transfers
- Statutory wills
- Tenancy agreements.

Katharine also regularly provides advice and representation in connection with the validity and revocation of Lasting Powers of Attorney and the appointment of deputies.

In addition to being one of the few barristers with an established practice in both health and welfare and property and affairs, her expertise in public and private client law make her well placed to advise on overlapping issues of law (such as education, health and social care, human rights and judicial review challenges) and complex procedural questions (from injunctions and reporting restrictions to the interface with criminal and family law proceedings, including issues of disclosure).

Katharine also has experience with cases under the Mental Health Act 1983 and is well placed to advise on the interface with the Mental Capacity Act 2005.

Practice highlights include:

- ***Public Guardian v RI*** [2022] EWCOP 22: Katharine represented the Public Guardian in this case, the first occasion on which the High Court considered and provided guidance on the legal test for capacity to execute a lasting power of attorney.
- ***Kent County Council v P & Anor*** [2022] EWCOP 3: A determination by the Court of Protection that previously private health and welfare proceedings should be opened to the public despite ongoing police investigations into the neglect and abuse of P. Katharine continues to act as sole counsel for the local authority in this ongoing case, dealing with issues of residence, care and support, contact and medical treatment.

Katharine is a member of the Court of Protection Bar Association and contributed to its response to the Government's proposed reforms to Lasting Powers of Attorney in 2021. She also regularly writes articles and delivers talks and training sessions on Court of Protection matters.

## Education

Katharine regularly provides advice and representation to individuals, local authorities and government departments in education law matters, acting as sole and junior counsel in the First-tier Tribunal and in the High Court.

Practice highlights include:

- ***R (HSPC Ltd) v Secretary of State for Education*** [2022] EWHC 3159 (Admin): Judicial review proceedings challenging the Secretary of State's decision to transfer Holland Park School to the United Learning multi-academy trust following an inadequate Ofsted rating on the grounds that the consultation process had been inadequate. Katharine acted as junior counsel, led by Jonathan Auburn KC, for the successful respondent.
- Advising a local authority on whether Electromagnetic Hypersensitivity constituted a special educational need or disability requiring an Education, Health and Care Plan (EHCP).
- Advising and representing a local authority in an EHCP appeal where allegations of inappropriate sexual behaviour had been made by and against the child in a residential placement setting.

## Rating and Valuation

Katharine accepts instructions in all areas of rating law, advising and representing ratepayers, local authorities and the VOA. She has particular expertise in issues arising from redevelopment/reconstruction/refurbishment and completion notices.

Katharine also advises on valuation issues arising in other contexts, including Annual Tax on Enveloped Dwellings.

## Qualifications

- University of Cambridge: Classics, BA (Hons) (Starred 1st class, 2014)

- Kaplan Law School: GDL (Distinction, 2015)
- BPP Law School: BPTC (Outstanding, 2016)

## Cases and inquiries

09 12 22	R (HPSPC and NEU) v Secretary of State for Education [2022] EWHC 3159 (Admin)
08 11 22	R (CPRE (Somerset) v South Somerset DC [2022] EWHC 2817 (Admin)
07 06 22	Public Guardian v RI [2022] EWCOP 22
03 05 22	Breen v HMRC [2022] UKFTT 00155 (TC)
04 02 22	Kent County Council v P & Anor [2022] EWCOP 3
27 04 21	Ritblat & Ors v HMRC (BL-2021-000675) & HMRC v Ernst & Young LLP (BL-2022-001186)
01 12 20	Vachha v Hamilton [2020] EWHC 3728 (Ch)
04 04 19	Land at Ware Park (APP/M1900/W/17/3178839)

## Publications

So 'water' now for sewer discharges? (UKELA) (May 2023)

Challenging findings of fact about foreign law: Dos and Don'ts (Perry v Lopag Trust Reg (No 2)) (Lexis) (June 2023)

Deprivation of Liberty Seminar (November 2022) (Lexis)

Specificity in Education, Health and Care Plans (DN v Cornwall CC) (13 October 2022) (Lexis)

Powers of Attorney: Creating the bulletproof LPA (October 2022) (Trusts and Estates Law & Tax Journal)



Approach to retrospective determinations of LPA capacity clarified (*Public Guardian v RI & others*) (July 2022) (Lexis)

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Disability and the Right to Vote: Reflections on *R (Andrews) v Minister for the Cabinet Office (No 1)* [2019] EWHC 1126 (Admin) and *R (Andrews) v Minister for the Cabinet Office (No 2)* [2021] EWHC 2233 (Admin) (November 2021) (ARENA Magazine)

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“*You don’t have the votes!*” Challenging political election results in England & Wales (February 2021) (ARENA Magazine)

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