

# Landmark Chambers

## Barrister CV

Fiona Scolding KC



### Contact us

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# Fiona Scolding KC

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Fiona's practice involves public and administrative law, social welfare law and human rights in a variety of contexts.



## Expertise

Public and Administrative

## Contact Practice Managers

### **Ben Connor**

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## Practice Summary

Fiona has expertise in issues relating to safeguarding, protection of children and vulnerable adults, education, healthcare, community care and equalities legislation in a variety of contexts.

Fiona has a particular interest and understanding of concerns and complaints relating to governance, standards and organisational culture, monitoring and inspection. She is interested in policy development as a tool for cultural change and improved outcomes for individuals. She is used to undertaking work with significant media and public interest on sensitive topics.

She has spent much of her time in silk involved in public inquiries under the Inquiries Act 2005 or undertaking investigations and reviews in sectors where she is an expert. She was lead counsel to three different investigations at the Independent Inquiry for Child Sexual Abuse – relating to the Church of England and Church in Wales, schools in England and Wales and a plethora of other religious institutions resulting in four investigation reports:

- [The residential schools investigation report](#) – March 2022
- [Child protection in religious organisations and settings investigation report](#) – September 2021
- [The Anglican Church Investigation Report](#) – October 2020
- [Anglican Church Case Studies: Chichester/Peter Ball Investigation Report](#) – May 2019.

Fiona then represented 297 individuals and the Hepatitis C trust in the Infected Blood Inquiry, which involved understanding and analysing all aspects of the provision of healthcare, including the role that central government plays in its management and operation of the NHS as well as a number of quangos.

She has also undertaken high profile reviews for a leading public school in respect of sexual harassment and misogyny between pupils (published March 2022 on the [Westminster website](#)) and for an NHS Trust about governance of maternity care (Published on [Shrewsbury and Telford NHS Trust website](#)). She has undertaken several internal reviews concerning complaints linked to governance, oversight, appointment, standards and equalities in a number of different organisations in the public sector.

Fiona has been recommended for her work in education law for over 20 years in the directories and is also recommended in the following areas: administrative and public law, civil liberties and human rights, Court of Protection and local government.

Fiona has been on the EHRC Panel of Counsel since its inception and was appointed to the Attorney General's B Panel of Junior Counsel from 2013 to 2017, before taking silk.

Fiona is a Deputy District Judge and Upper Tribunal (Administrative Appeals) Chamber.

Fiona is joint head of the 54-strong public law group at Landmark Chambers.

Fiona is on the advisory board of SACPA (a safeguarding advisory group providing training and advice to organisations) and is involved in a number of initiatives relating to improving safeguarding in various organisations in the United Kingdom.

Fiona Scolding KC sits on the panel of [strategic legal advisors](#).

She undertakes work for the Bar Pro Bono Unit and other organisations.

### **Languages**

- French: working knowledge
- Spanish: conversational.

## **Public and Administrative**

Fiona's practice involves public and administrative law, social welfare law and human rights in a variety of contexts. Her specific expertise within this field are listed to the right. Fiona is recommended as a leading barrister in the legal directories for her work in the following public law areas: education, court of protection, community care, administrative law and human rights, education and local government (including rating law).

### **Other public law work:**

Fiona has undertaken a variety of public law work for the Government and for individuals, charities and NGOs including cases on behalf of the DWP, the Department of Health, the Department of Education and immigration cases, to quasi commercial cases about funding. Fiona is recommended both in administrative law and in human rights in the *Legal 500* for her work in this area.

### Other civil claims:

Fiona has undertaken civil work concerning unlawful detention, Equality Act claims concerning goods and public services misfeasance in public office. She has also undertaken breach of contract and professional negligence claims concerning schools, local authorities and universities, and restitutionary claims against local authorities/public bodies. Fiona also has conduct of claims under the Equality Act 2010 concerning race and disability discrimination and religious and age discrimination.

### Court of Protection

Fiona undertakes all aspects of health and welfare work, including medical treatment cases, and cases under the inherent jurisdiction. She represents local authorities, but also the Official Solicitor, NHS Trusts/CCGs and sometimes family members. She is listed in *Chambers and Partners* for her expertise in this area.

Notable instructions have included several cases of intractable familial disputes:

- Whether or not life support should be withdrawn from someone in a PVS state
- The medical care and treatment of disabled children when their parents were opposed to aspects of their care
- Allegations of factitious illness; several cases concerning the appropriate setting for those with challenging behaviour and autism
- Cases concerning the withdrawal of a passport where there was a risk of someone going to Syria to fight against Daesh.

Fiona has particular experience with young adults with learning disabilities.

### Education

Fiona has 20 years worth of experience in cases concerning education law. She has a broad compass of work from the FTT to the Court of Appeal on these issues, including Equality Act claims. She undertakes work across the whole spectrum of education law, including, contract and tort matters, governance, funding, vires and structure, exclusions, admissions, funding of schools, school transport, work for universities and colleges, and further education.

Fiona is particularly noted for her work on behalf of disabled children and young adults. She works both for individuals and for local authorities, schools (both state and independent) universities, further education colleges, charities and other training providers.

Fiona has been noted as a leader in education law since 2002 in both the *Legal 500* and *Chambers and Partners*. She is often called upon to advise on points of principle concerning changes to the education regime. Her work on IICSA means that she has an in-depth understanding of safeguarding policies, practices and procedures.

She is qualified for Direct Access and accepts instructions in this area.

### Immigration

Fiona has undertaken work for the government concerning a variety of immigration matters, including Article 8 challenges, EEA nationals, asylum claims, deportation cases, cases concerning children and their welfare, unlawful detention, and torture. She has represented the government at the Court of Appeal and the Upper Tribunal in this area.

## NHS, Health and Community Care

Fiona undertakes advisory work on all aspects of public law litigation and litigation concerning the healthcare sector, for both CCGs, NHS Foundation Trusts and individuals. This has included advisory work as to the legality of individual decisions in respect of continuing healthcare; the legality of policies in respect of children with long term health conditions; the relationship between health, education and social care for children and young people; and 'rationing' of treatment.

Fiona has also been involved with disputes with NHS England about funding specialist treatment packages and as to their approach to care planning, particularly in the context of children and young adults.

Fiona's community care work often involves children and adults with disabilities and/or the elderly.

Fiona undertakes a broad spectrum of cases from multi-million pound restitutionary claim between the NHS and local authorities concerning continuing health and social care, through to claims about Continuing NHS Care Funding, arrangements of health and social care packages, breach of the Equality Act 2010 and the Autism Act 2009 concerning local authorities policies and procedures, failure to consult on closures of social care institutions to claims for recoupment of monies by local authorities where LAs claim there has been deliberate evasion of fees by deprivation of capital.

Fiona has a sub-speciality in representing kinship carers and children who are in care, mainly to ensure that they have access to appropriate services.

### **Notable instructions have included:**

- Advising on recoupment of sums on behalf of a number of grandparent foster carers.
- Bringing judicial review proceedings against a local authority concerning wholesale cuts to adult social care.
- Bringing judicial review proceedings concerning placement and care packages for adults with disabilities.
- Advising on the legality of local authority policies in respect of various aspects of social care and advising on ordinary residence disputes.

## Procurement and Subsidy Control

Fiona has undertaken a significant amount of work in the area of public procurement since 2010. These cases concern a multitude of issues about procurement including delay; choice of remedy; meaning of equality of treatment under the PCR 2006; nature of mistakes within tenders; what is an effective remedy; and declarations of ineffectiveness.

She was junior counsel in 2015/16 defending the government's implementation of a new contract for criminal solicitors, which concerned over 115 claims run on a group litigation basis.

Fiona is particularly interested in the impact of Brexit upon procurement.

## Public Inquiries and Inquests

Fiona's work in the field of Public Inquiries includes:

- Fiona was senior counsel to three separate investigations in IICSA. She was responsible for managing a team of counsel and paralegals, scoping and setting the terms of investigations and working with policy and research teams on a wide range of issues. Her work involved questioning of high profile governmental witnesses and major public figures (including all three living Archbishop's of Canterbury).
- Fiona represented 297 individuals and the Hepatitis C Trust in the Public Inquiry concerning infected blood, which involved understanding and advocating on a wide range of technical, expert, governmental, public policy, public health and social care issues and having to understand the inner workings of the NHS.
- Fiona has undertaken advisory work in respect of individuals, organisations and public sector bodies in relation to a number of other public inquiries.

## Social Security

Over the past five years, Fiona has developed expertise in the area of social security law, appearing in a number of the leading cases about personal independence payments, but also all aspects of social security benefits, including cases with a human rights or EU element. These include child support legislation, universal credit, pensions credits, employment support allowance and other means tested and non means tested benefits. Fiona is currently involved in two cases concerning social security before the Court of Appeal – one concerning PIP and one concerning payments of carers allowance to an EU national.

## ADR

Fiona is a qualified mediator (ADR Chambers) and receives regular instructions as a mediator in her areas of expertise. She enjoys seeking to build consensus and resolve often entrenched problems.

Fiona was instructed in 2014/15 in a multi-million pound construction arbitration concerning the refurbishment of a nuclear submarine base, which involved leading a team of juniors.

## Qualifications

- 1991 – 1994: BA History, Downing College Cambridge – 2:1
- 1994 – 1995: Diploma in Law, City University – Commendation
- 1995 – 1996: Bar Professional Training Course, ICSL – Very Competent

## Recommendations

"Fiona is highly experienced across educational and Court of Protection and general public law. I trust her with exceptionally difficult cases - she is fantastic with clients, robust with advice and impressive in court." "She was incredibly helpful, working at short notice and with admirable speed to help us submit a time-sensitive response."

**Education, Chambers and Partners, 2024**

"Fiona is fantastic with clients. She is robust with advice and impressive in court."

**Court of Protection: Health and Welfare, Chambers and Partners, 2024**

"Fiona is very intelligent; she has good judgement and is really good on the law." "She is charming and it disarms witnesses. She is hard-working and she has a terrifyingly good memory."

**Inquests and Public Enquiries, Chambers and Partners, 2024**

"Fiona has a wealth of experience in education law and is incredibly knowledgeable on the subject. She has real passion, drive and commitment."

**Education, Legal 500, 2024**

"Fiona is very dynamic, she's good at getting people together to cut through the issues."

**Court of Protection: Health and Welfare, Chambers and Partners, 2023**

"Fiona has a huge amount of experience and can provide reliable and practical advice to clients. She is a good problem solver." "Fiona has good knowledge of intersecting areas of law around education."

**Education, Chambers and Partners, 2023**

"She is a fantastic advocate and a real pleasure to work with." "Exceptionally well regarded in the space."

**Education, Chambers and Partners, 2022**

"Fiona is excellent at detail, but keeps a firm eye on the bigger picture. She is particularly skilled at dealing with vulnerable witnesses."

**Civil Liberties and Human Rights, Legal 500, 2022**

"Fiona is a powerful advocate. She cuts through complex issues effortlessly and has a realistic, pragmatic approach to complex legal issues. She relates easily to clients."

**Court of Protection and Community Care, Legal 500, 2022**

"She is creative in finding innovative solutions for cases and grapples with complex areas of law without difficulty. She is a pleasure to work with." "She has a breadth and depth of experience that makes her very good at de-escalating what can be very contentious court hearings – particularly if there are unrepresented parties."

#### **Court of Protection: Health and Welfare, Chambers and Partners, 2021**

"She is an excellent communicator and advocate, and is able to take on vast amounts of information and make sense of it." "Her expertise in education, community care and mental capacity issues means that she has the ability to consider and advise on a client's needs holistically to work out the best way forward, even in the most complex of cases."

#### **Education, Chambers and Partners, 2021**

"She is a delight to be against. An empathetic advocate but also very effective and constructive." "She instils a great deal of confidence in her clients and is very down to earth. She has a breadth and depth of experience that makes her very good at de-escalating what can be very contentious court hearings."

#### **Community Care, Chambers and Partners, 2021**

"Exceptionally good at digging in to an area and getting completely on top of the material so that she is able to answer any argument and respond to any issue."

#### **Civil Liberties and Human Rights, Legal 500, 2021**

"She is unmatched in her understanding of and ability to argue about any matter relating to children and education. Her advice is always clear, well supported and provides the client with a practical way forward."

#### **Education, Legal 500, 2021**

"She is technical, strategic, honest, practical, enthusiastic and a real joy to work with."

#### **Court of Protection and Community Care, Legal 500, 2021**

"She's very approachable, very tenacious and has a lot of expertise. She's very polite and courteous, but fights her corner and doesn't let things go." "A great advocate who shows real empathy with the clients. Her expertise means she can work out the best way forward in even the most complex of cases."

#### **Education, Chambers and Partners, 2020**

"She brings an infectious energy to proceedings and her advocacy is excellent. She is able to make submissions in a very persuasive way and she is very good in complex cases involving a human element." "She always looks for practical solutions and is a real fighter for her clients."

#### **Community Care, Chambers and Partners, 2020**

"She is very knowledgeable, responsive, approachable and an impressive advocate." "She is an absolute font of knowledge and she's very good at dealing with vulnerable people."

#### **Court of Protection: Health and Welfare, Chambers and Partners, 2020**

## **Cases and inquiries**



11 09 24	Covid Inquiry: Module 3 began this week
11 09 24	Thirlwall inquiry: opened yesterday in Liverpool
20 05 24	Infected Blood Inquiry: Report Published
14 03 22	Westminster School
17 08 20	A level results system – systemic judicial review brought by Good Law Project and Landmark barristers against Ofqual
18 07 18	Williams and another v London Borough of Hackney [2018] UKSC 37
25 04 17	LB Richmond Upon Thames v AC [2017] UKUT 173
06 03 17	EG v SSWP [2017] UKUT 101 (AAC)
20 02 17	MR v SSWP [2017] UKUT 86
28 11 16	MH v SSWP [2016] UKUT 531
28 10 16	MM and BJ v SSWP [2016] UKUT 490
13 10 16	R (Hussain) v SSWP [2016] EWCA Civ 1428
24 09 16	R (MH) v NHS Sheffield [2015] EWHC 4243, [2016] 19 CCL Rep 592
02 09 16	EI v SSWP [2016] UKUT 397
27 05 16	R (MK Law) v Lord Chancellor [2016] All ER D (161)
23 07 15	R (Duncan Lewis) v Lord Chancellor [2015] EWHC 2498, [2015] All ER (D) 355
17 04 15	R (London Oratory) v Schools Adjudicator [2015] All ER (D) 234
01 01 15	Criminal duty tender litigation – 2015/16
08 12 14	R (C) v Buckinghamshire CC [2014] EWHC 4072
07 05 14	R (WB) v Secretary of State for Justice [2014] ALL ER (D) 80

01 01 14	R (CO) v Surrey CC [2014] All ER (D) 19
18 12 13	Royal Free Foundation Trust v Saker [2013] EWHC 4101
15 11 13	AAR v Lord Chancellor [2013] EWHC 3461
25 03 13	P v A Governing Body of a Primary School [2013] UKUT 154
15 03 13	M v LB Hounslow [2013] EWHC 579
08 03 13	X v LBTH [2013] EWHC 480, [2013] EWCA CIV 904
01 01 13	R (UF) v West Sussex and Director of Legal Aid Casework [2013] EWHC (COP) 594

## Publications

Health and social care handbook – co-author: Law Society, 2006

Previous editor of the Education Law monitor

Regular contributor to specialist and general journals