

## Adrian Francis

2018 Gray's Inn

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Education	Professional Associations	Appointments
University of Liverpool (BA Hons)	Law Society	Solicitor 2005 - 2018
College of Law Chester (LPC Commendation)	Gray's Inn	Law Society's Mental Health Review Tribunal Panel 2005 - 2008
	Court of Protection Practitioners Association	
	Professional Negligence Bar Association	
	Royal Society of Medicine - Senior Associate	
	Northern Circuit	

### Areas of Specialism

Court of Protection

Health & Social Care Advice

Inquests

Community Care

Mental Health

Ordinary Residence Disputes

Care Funding Disputes

### Profile

Adrian is a specialist health and social care Barrister. Prior to transferring to the bar Adrian had over 12 years post qualification experience as a solicitor in both private practice and the public sector. Adrian trained numerous solicitors and trainee solicitors during this time. He also managed one of the largest health and adult social care solicitor legal teams in the country as he was the lead legal adviser to Cambridgeshire County Council, Northamptonshire County Council and Central Bedfordshire Council for adult social care and healthcare law. Adrian is an experienced advocate in matters that arise before the Court of Protection, County Court, High Court, Inquests, Mental Health Tribunal & Care Standards Tribunal.

As an experienced and specialist health and social care lawyer Adrian has significant experience of advising both public bodies & private clients. Adrian is developing a rapidly expanding Court of Protection practice and regularly receives instructions to act for local authorities, NHS bodies and care providers appearing nationwide before the Court of Protection in all types of proceedings. Adrian is well versed in protecting the positions of private clients, local authorities & NHS bodies in legal disputes.

Adrian also has an expanding practice acting on behalf of care providers and insurers in various legal disputes that often arise due to the costs of care. Having practised previously in house for numerous local authorities Adrian has a significant amount of knowledge of public bodies who commission services. Care providers often seek Adrian's advice as he has a significant level of insight into commissioning organisations. Adrian is a second language Welsh speaker and has an in depth knowledge of health and social care legislation applying to both England & Wales and advises both private and public sector clients on both sides of the border.

With specialist expertise in obtaining financial recovery for public bodies Adrian has previously obtained successful determinations by the Secretary of State for Health in ordinary residence disputes between local authorities. Adrian is also instructed in care home fee recovery matters with an emphasis on disputes involving complex deprivation of capital issues which often involve asset protection trusts.

#### Court of Protection

##### Health and Welfare

Expertise in obtaining successful outcomes in health and welfare proceedings such as securing a change in care home placement which allowed for improved care and greater access to the community. Adrian has represented the Official Solicitor and recent cases include a contested trial on issues in relation to P's place of care and residence. Numerous orders have been obtained in proceedings when acting for public bodies to place P in care and or to restrict contact with others.

Adrian has also recently represented public bodies in serious medical treatment matters before the Court of Protection.

##### Deprivation of Liberty

Adrian is experienced in the representing the applicant in proceedings brought before the Court of Protection pursuant to section 21A Mental Capacity Act 2005. Adrian is also regularly instructed by NHS Trusts, clinical commissioning groups and local authorities as the respondent in section 21A appeals. He also receives instructions by law firms and public bodies to deal with any breach of Article 5 ECHR claims for any unlawful deprivation of liberty.

##### Property and Affairs

Adrian has significant experience in representing parties in contested property and affairs matters before the Court of Protection. He has successfully acted in applications to revoke LPAs and further also to both obtain and discharge deputyship orders.

##### Financial Recovery

##### Care Home Fees Funding

Adrian has advised NHS CCGs, local authorities & private clients on numerous complex matters involving care home fees funding which involve factors which constitute a deprivation of capital. In addition Adrian has also advised on matters involving NHS continuing health care funding applications. Having experience of applications for the recovery of care home fees in matters involving deprivation of capital by way of both asset protection trusts and lifetime gifts. Adrian has recovered a significant amount of care home fees and regularly assists with the drafting of letters before claim and any pleadings required to progress such claims.

##### Ordinary Residence & other care funding disputes

Adrian has made numerous successful applications to the Secretary of State for Health on behalf of local authorities in ordinary residence disputes which have resulted in the recovery of significant care costs.

##### Community Care Law

Adrian advises both private clients and public bodies on the funding of packages of care.

As a solicitor Adrian has considerable experience of claimant and defendant judicial review litigation on behalf of numerous public bodies and in particular in the successful defence of local authorities to legal challenges to the reduction of packages of care.

##### Mental Health Law

Adrian has represented both private clients, local authorities and NHS Trusts before the Mental Health Tribunal in addition to numerous successful applications involving the displacement of the nearest relative. Adrian was a member the Law Society's Mental Health Review Tribunal from 2005 to 2008.

## Safeguarding

Adrian has significant first hand safeguarding experience having attended and chaired a considerable number of safeguarding meetings and in addition has provided representation to both local authorities and NHS Clinical Commissioning Groups at serious case reviews. Adrian had acted in a matter involving the safeguarding of an NHS Trust on a whole trust basis. In addition Adrian has acted on safeguarding matters which have involved the closure of care homes at short notice with the involvement of the Care Quality Commission.

## Inquests

Adrian is experienced in providing representation for insurers, local authorities, families & care homes at inquests with or without a jury to include Article 2 ECHR Inquests. Adrian has recently represented a family of the deceased in an Article 2 jury inquest concerning a death in custody where a rider of neglect was added to the conclusion against the treating hospital NHS Trust.

Adrian has particular expertise in relation to inquests involving residents at care home and hospitals who are deprived of their liberty under schedule A1 of the Mental Capacity Act 2005.

## Notable Cases

### Inquest

Inquest touching the death of DC

Represented the family of the deceased DC at this inquest. The deceased was a diabetic and serving prisoner at HMP Lincoln. The deceased did not receive his required morning and evening dose of insulin medication upon arrival at prison from court. Nottinghamshire Healthcare NHS Trust who provide healthcare services at HM Prison Lincoln made Tainton admissions to this effect. The deceased was admitted to hospital less than 24 hours after arriving at prison after developing diabetic ketoacidosis. He was not treated in accordance with the diabetic ketoacidosis pathway and subsequently suffered a cardiac arrest some 12 hours after his admission to hospital. Sadly the deceased subsequently suffered from multi organ failure passing way 4 days later. Expert evidence was heard that the diabetic ketoacidosis was treatable upon admission and failure to follow the appropriate diabetic ketoacidosis pathway was causative of the deceased's death. A finding of misadventure contributed by neglect was returned by the Jury.

<https://thelincolnite.co.uk/2017/01/investigation-launched-lincoln-prison-inmate-dies-custody/>

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### Court of Protection

#### **WC v GS (2011) EWHC 2244 (COP) - (Solicitor with conduct of the litigation)**

Case concerned an application for contact restrictions between P and her son. The Court approved a contact schedule restricting P's contact with her son to strictly supervised contact in her best interests. The court having held that a fact finding exercise was not required in respect of every event that was found in the papers of the proceedings.

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### Inquest

#### **The inquest touching the death of Jane Parker**

Adrian recently represented Tameside Council who were the commissioner of care at this inquest. The deceased was a care home resident who suffered from dementia and had a history of choking and was subject to a modified diet. On the date of death the deceased was given a non modified diet comprising of chicken nuggets. The Coroner found that she died from asphyxiation caused by the neglect of the care home. The Coroner then directed reports on action to prevent future deaths subject to Regulation 28 of the Coroner's (Investigations) Regulations 2013 against the Care Quality Commission and the minister for responsibility for care at the Department of Health. No PFD report were directed against Tameside Council.

<https://www.dailymail.co.uk/news/article-5908741/Manchester-grandmother-dementia-choked-death-given-solid-food.html>

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