

FAY COLLINSON

Year of call: 2011

Qualifications: Classics and Ancient History BA (Hons), Graduate Diploma in Law

Clerked by: Louise Barnes Luke Heywood

AREAS OF EXPERTISE:

Commercial Litigation Court of Protection: Property & Affairs
Private Client, Trusts and Probate Real Estate Litigation



Profile

Fay is a specialist court of protection and chancery barrister. She has a broad practice that encompasses contentious probate, trusts, property disputes and all sides of Court of Protection work.

Year of Call: 2011

Areas of expertise

Commercial Litigation

Court of Protection: Property & Affairs

Fay is a property and affairs specialist; she does not dabble. Her court of protection practice is almost exclusively property and affairs.

Fay is also a member of the Business & Property team in Chambers. She has a thriving wills, trusts, probate (contentious and non-contentious), charity and property practice meaning she is ideally placed to advise and act in the most complex court of protection property and affairs cases. Fay is frequently instructed to advise in statutory will, trustee and gifting applications often involving succession planning where extensive knowledge of chancery principles is required.

In her chancery practice, Fay routinely advises in claims against trustees and fiduciaries. She is, therefore, often called upon to advise on applications seeking the removal of attorneys and deputies, misappropriation of P's estate and the methods of civil recovery and calling in the security bond.

Owing to her expertise, deputies will often look to Fay to advise on a range of matters concerning P's estate. In particular, because of her unique specialism in the court of protection and civil jurisdiction, she is frequently instructed to advise on matters with a cross jurisdictional element especially where it involves consideration of P's beneficial interest in property, P's interest in a probate estate and P's liability to pay the cost of their care.

Fay is passionate about the property and affairs jurisdiction of the court of protection. She is eager to help carve the way for further regionalisation of this work. With this in mind, along with a number of equally passionate solicitors, she established the Northern Property & Affairs Association of which she is Chairperson.

Examples of the types of property and affairs cases in which Fay is instructed include:

- Advising a Deputy on an application for retrospective approval of settling P's estate into a charitable trust. The matter was ultimately transferred to the High Court for declarations on whether the charitable trust was void or voidable. Fay advised the Deputy on all aspects of the application, including, the approach to settling a further charitable trust.
- Advising a Deputy in a claim for unjust enrichment against a local authority in circumstances where it charged P incorrectly for their care for a number of years. Fay also advised on the professional negligence claim against the former deputies.
- Advising attorneys on a gifting application where P's estate was in excess of £3M. The prevailing reason for the application was succession planning.
- Advising a Deputy on a statutory will application in circumstances where P, who received a substantial personal injury award, would die intestate. The primary purpose of the application was inheritance tax planning.
- Advising a Deputy on a statutory will application where there were serious concerns that P's existing will was procured by the undue influence of convicted fraudsters. The application involved complicated issues of dispensing with service.

- Advising a Deputy on P's entitlement under a will trust and whether an application to remove the trustees should be considered.
- Advising a Deputy on P's beneficial interest in commercial property and whether litigation ought to be pursued.
- Acting for P in a claim for reasonable financial provision pursuant to the *Inheritance (Financial Provision for Family and Dependents) Act 1975* and subsequent applications made to the court of protection for a statutory will and pursuant to section 36(9) of the Trustee Act 1925.
- Acting for the administrator of P's estate in an application to call in the security bond following misappropriation by P's former deputy. The application involved a complicated dispute about the interpretation of *The Lasting Powers of Attorney, Enduring Powers of Attorney and Public Guardian Regulations 2007* (as amended).
- Advising and acting for a family member in a statutory will application in circumstances where there was real concern that P lacked testamentary capacity when they executed their Will and the main beneficiaries under that Will had misappropriated P's funds whilst acting as their attorney.
- Providing written advice to P's litigation friend in accordance with the guidance set out in *OH v Craven [2016] EWHC 3146 (QB)*.
- Representing the Office of the Public Guardian in a multi-day contested hearing to revoke a lasting power of attorney on the basis that the donor lacked the capacity execute it.

Private Client, Trusts and Probate

Fay's chancery practice encompasses both contentious and non-contentious work with a particular emphasis on probate, inheritance claims and trusts matters. She is routinely instructed in the following types of cases:

- Contested probate claims, including the validity of wills.
- Applications to court under the 1975 Act.
- Applications to court for the removal of personal representatives and trustees.
- Trust disputes.
- Applications to court for directions in relation to questions or disputes involving trusts and estates.
- Claims arising from breach of trust or fiduciary duty
- Proprietary estoppel, constructive trust and mutual will claims.
- Applications to court for rectification of wills and rectification or setting aside of deeds
- Applications to vary trusts.
- Related professional negligence claims.

Real Estate Litigation

Property advice and litigation accounts for a growing part of Fay's practice. She deals routinely with the following matters

- Proprietary estoppel claims
- Co-ownership disputes and applications under TOLATA.
- Adverse possession and boundary disputes.
- Easements and freehold covenants.
- Residential and business tenancies and claims for possession.
- Mortgages and accounts

Memberships

Court Of Protection Practitioners Association (COPPA)

North Eastern Circuit

Chancery Bar Association

Qualifications

Classics and Ancient History BA (Hons) First Class - University of Manchester

Graduate Diploma in Law, Distinction - BPP

Bar Professional Training Course, Very Competent - Manchester Metropolitan University

Sir Joseph Cantley Award, Middle Temple

Sarah Marsland Prize for academic excellence, University of Manchester

Recommendations

Chambers UK 2021

"Her ability to empathise and engage with the client is outstanding"

"She has good attention to detail - she doesn't miss a thing"

Legal 500 2021

"Extremely knowledgeable and provides timely practical advice"

"Fay is excellent at explaining matters clearly to clients and putting them at ease, particularly in a courtroom setting. One of the reasons I repeatedly instruct Fay is that I trust her to give her no-nonsense opinion on a matter and to offer practical advice."

"First choice for trusts and probate work"

Legal 500 2020

"Very good with difficult or argumentative clients."