

1GC | Family Law

Andrew Bagchi QC

Year of Call: 1989 Year of Silk: 2015



Practice Overview

Andrew is regarded as one of the most versatile practitioners at the highest level, practising in all areas of family law and the law relating to incapacitated adults in the High Court and the Court of Protection. He brings a wide breadth of knowledge and experience to complex child abuse litigation (murder, FII and sexual abuse), high conflict private law litigation involving children in both a domestic and international arena and difficult financial remedy litigation. Alongside this, he maintains a highly ranked practice in the Court of Protection which involves issues relating to the validity of marriage, capacity to engage in sexual relations, deprivation of liberty and 'end of life' litigation. He has a strong appellate practice and was recently instrumental in achieving a unique second rehearing following identified judicial error at the first fact-finding hearing.

Children (Public Law)

Andrew regularly represents parents, children and local authorities in serious and complex care and adoption proceedings, often involving allegations of serious harm including, sexual abuse, factitious and induced illness, child death and brain injuries.

Recent reported cases include:

R (Children: Control of Court Documents) [2021] EWCA Civ 162 (12 February 2021)

T and R, Re (Refusal of Placement Order) [2021] EWCA Civ 71 (28 January 2021)

G, Re [2020] EWFC 94 (22 December 2020)

CTD (A Child: Rehearing) [2020] EWCA Civ 1316 (14 October 2020) -

London Borough of Southwark v A Family [2020] EWHC 3117 (Fam) (18 May 2020)

The Local Authority v Mother & Ors [2020] EWHC 1216 (Fam) (26 February 2020) - Care proceedings concerning an 11-year-old child and the fact-finding hearing conducted into the circumstances surrounding the death of her elder brother.

C (Female Genital Mutilation and Forced Marriage: Fact Finding) [2019] EWHC 3449 (19 December 2019) - A case concerning allegations of FGM and forced marriage. The court considered the difficulties in assessing the evidence of a vulnerable witness and what allowances, if any, the

court can make for a witness who, by virtue of their learning disability, cannot give a coherent or credible account.

A (No. 2) (Children: Findings of Fact) [2019] EWCA Civ 1947 - The Court of Appeal ordered a second retrial following the death of a 10-year-old child.

Re A (Fact Finding, rib injuries) [2019] EWFC B89 - A fact-finding hearing to determine how a 17 month old child suffered a number of injuries resulting in hospital admission.

Royal Borough of Greenwich v DC & Ors [2019] EWHC 1751 (Fam) - A case concerning two applications made by the local authority for a care order and for a placement order following the death of a previous child from non-accidental injuries.

Poole Borough Council v GN and Another [2019] UKSC 25 - An appeal concerning the liability of a local authority for what is alleged to have been a negligent failure to exercise its social services functions so as to protect children from harm caused by third parties.

W (A Child: No 4) [2017] EWHC 1760 (Fam) (10 July 2017) – A rare application for permission to set aside an adoption order allegedly made as a result of material non-disclosure. Review of the principles engaged.

J (Children), Re [2017] EWCA Civ 398 (23 May 2017) - An appeal against care order made in circumstances of serious procedural irregularity.

SW & TW (Children: Human Rights Claim: Procedure) (Rev 1) [2017] EWHC 450 (Fam) - An important decision on the making of claims for damages under the HRA 1998 within welfare proceedings where legal aid is used.

W (A Child), Re [2017] EWHC 829 (Fam) (06 March 2017) - An application for an adoption order following serious historical procedural irregularity causing unfairness.

Children (Private Law)

In private law disputes, Andrew has a particular interest in cases with an international dimension, such as applications for the relocation of children to another jurisdiction or cases involving the status of foreign marriages or foreign divorce proceedings. He has recently achieved relocation orders in favour of clients seeking to relocate to Finland, USA and France. He was also successfully opposed relocation to USA and another part of the UK. Andrew also has an excellent reputation for acting in high conflict cases where the principle of contact is in issue either where there are allegations of serious parental misconduct. He recently achieved a transfer of residence for the father in an 'alienation' case and is currently acting in a number of further such cases.

Recent reported cases include:

Re A (A Child) [2016] EWHC 2691 (Fam) - An unusual application for relocation order following previous abduction of the child.

QS v RS & Anor [2016] EWHC 2470 (Fam) (10 October 2016) - A residence and recognition of foreign adoption order.

Family Finance & Property

Andrew is routinely instructed in financial proceedings consequent upon divorce and family breakdown. He has a particular specialism in cases where one of the parties or children of the family suffer from disability, demonstrating the value of his simultaneous specialism in the Court of Protection. He is asked to advise in cases where the validity of the marriage is questioned.

Andrew led the successful intervention in financial remedies proceedings for a family member where it was proved that the husband had used non-matrimonial money for his own purposes. He is currently acting in a case involving the validity of a historical mortgage transaction and another in which matrimonial assets are said to be locked into a company insolvency.

International Family Law

Andrew regularly represents parties in international relocation cases and cases which give rise to the jurisdiction of the English court, either as a part of abduction proceedings or as a prelude to a relocation application. Andrew has a particular interest in international adoption and recently acted in a ground-breaking case which involved the common law recognition of a foreign adoption order which engaged the HRA.

Recent cases include:

QS v RS & Anor [2016] EWHC 2470 (Fam) (10 October 2016) - A residence and recognition of foreign adoption order.

Court of Protection

Andrew regularly appears in the Court of Protection in cases involving the personal welfare, health and financial arrangements of persons lacking mental capacity under the Mental Capacity Act 2005. He acts for the Official Solicitor and Public Authorities in complex health and welfare cases. He has a wide breadth of experience in cases which involve capacity to engage in sexual relations, marriage and international issues. Medical cases in this area include those which deal with end of life management and medical intervention to treat eating disorders.

Andrew is also very interested in the protection of the vulnerable from financial exploitation and is involved in a number of cases where the exercise of powers of attorney and deputyship have been questioned.

Recent cases include:

London Borough of Tower Hamlets v NB (consent to sex) [2019] EWCOP 27 (16 July 2019)
Controversial case concerning the alleged 'rights' of married couples to enjoy sexual relations when one arguably lacks capacity.

X Health Authority v D [2019] EWHC 2311 (Fam) (22 August 2019) Identification of treatment options for a patient with a chronic eating disorder, including forced feeding.

Imperial College Healthcare An NHS Trust v MB & Ors [2019] EWCOP 29 (08 May 2019)

Regarding the conflict between a patient's mother and the Doctors towards the insertion of a tracheostomy to improve the patient's palliative care.

AB v HT and Others [2018] EWCOP 2 Capacity to marry. Effect of religious marriage and protective orders in relation to a vulnerable adult from forced marriage

London Borough of Brent v NB [2017] EWCOP 34 Capacity to make decisions re care and treatment. Enmeshed relationship with parent - quasi FII.

Kirk v Devon County Council & Anor [2017] EWCA Civ 260 (12 April 2017). Committal proceedings in the COP.

A County Council v AB & Ors (Participation of P in Proceedings) [2016] EWCOP 41 (31 May 2016) Guidelines decision on participation of P and P giving evidence in the COP.

W (Medical Treatment: Anorexia), Re [2016] EWCOP 13 Treatment options for anorexic patient in the Court of Protection.

M, Re [2015] EWCOP 69 (07 July 2015) Appointment of health and welfare deputy.

CWM TAF University v F [2015] EWHC 2533 (Fam) (15 May 2015) Application to remove artificial nutrition and hydration in patient with PVS.

What the Directories Say

Andrew is consistently ranked in Chambers and Partners and Legal 500 as a leading individual in both Family Law and Court of Protection categories.

"Andrew's strengths are his superior knowledge of the law alongside his very personable and down-to-earth manner." Tier 3 – Legal 500, 2022

"A calm communicator who impresses with his willingness to have a chat about difficult points in a case." "Superbly relaxed even with the trickiest of clients." Band 2 - Chambers and Partners, 2021

"He has a good understanding of the law and is quick to identify the real issues in a case and provide a straightforward and pragmatic answer." "He is skilled in making complicated things sound easy." "He's extremely personable, his drafting is excellent and he is superb on his feet. He is extremely adept all round." Band 1 - Chambers and Partners, 2021

"Friendly, accessible and very quick to respond. Clearly at the very top of the tree for children work." Tier 3 - Legal 500, 2021

"Is a strong and forceful advocate. He has a lovely personable nature who inspires confidence in his clients yet manages to put them at ease." Tier 2 - Legal 500, 2021

"Gets straight to the point and his cross-examination is peerless, often lulling witnesses into a false sense of security." Legal 500, 2020

"Has a remarkable ability to put clients at ease and present cases in an unfussy manner." Legal 500, 2020

"He is a fantastic advocate who is very easy to get along with and is a very good team player." Chambers and Partners, 2020

"Extremely approachable and sensible, he adopts a good tactical approach to cases. Judges and experts find him charming." Chambers and Partners, 2020

"A standout in how you would want to conduct yourself as a barrister." Chambers and Partners, 2020

"Outstanding children lawyer with a fantastic ability to analyse parents' motives and behaviour." Legal 500, 2019

"Well liked by clients." Legal 500, 2019

"He's an excellent individual and a heavyweight silk. He's steely, ferocious and very sharp." Chambers and Partners, 2019

"He brings a remarkable level of calm to even the most challenging of cases. His knowledge and experience of the court systems and processes is always of benefit in ensuring a smooth ride for clients. His written opinions are not just legally sound but pragmatic and sympathetic." Chambers and Partners, 2019

"Well thought of by his peers and by the Bench, he has excellent client care skills and is an effective, organised and decisive advocate who always gets to the root of the problem." Chambers and Partners, 2017

"A strong advocate with a comprehensive command of children law. He has an excellent manner with clients and is clearly well respected by the judiciary." Legal 500, 2017

"Precise, knowledgeable and effective, he has a great manner and way with clients." Chambers and Partners, 2016

"He has a very nice air about him, is easy to get along with and very affable." Chambers and Partners, 2016

"A charismatic advocate who is a very co-operative and helpful opponent, a real team player. He has a huge grasp of this area of law and very much deserved taking silk this year." Chambers and Partners, 2016

"Knowledgeable and constructive in his advice and guidance." 2015

"He's hugely knowledgeable and has good judgement combined with really strong technical ability." 2015

"At the top of the list for instructions. Very pragmatic, he can get on top of issues very quickly. He's super-approachable and really responsive." 2015

Education

QEGS Wakefield

LLB, Kings College, London

Bar Course (1989)

Appointments

Queens Counsel (2015)

Bar Council (2009-2012)

Awards

In 2014, Andrew was assessed by the Chambers and Partners Guide as one of only five family law barristers who are in the Top 100 junior barristers nationally.

Family Law QC of the Year 2020 (shortlisted)

Memberships & Associations

[Court of Protection Bar Association](#) (Committee Member)

[Court of Protection Practitioners' Association](#)

[Family Law Bar Association](#)

Seminars, Publications and Training

Andrew lectures regularly on family law and Court of Protection related topics. For the past two years Andrew has conducted a seminar at the Judicial College for newly ticketed Court of Protection judges.

This year, lectures have included aspects of ADR, secure accommodation and deprivation of liberty, sex, marriage and the vulnerable adult and high conflict/parental alienation disputes.

He gave a webinar on "[Court of Protection: Challenges, Easements and Suggestions during the Pandemic](#)" as part of the 1GC Family Law Webinar series (April 2020).

Andrew is a co-author of [DIY Divorce & Separation: The Expert Guide to Representing Yourself](#) (Jordan Publishing), 2014

Languages

Conversational French and German.

Personal

Cricket, Football. Golf (not necessarily in that order). Electronica.