

Avril Rushe

Call: 2017

"Avril is meticulous and analytical, and an articulate advocate. She also demonstrates great empathy and compassion with clients."

Legal 500 2025



Avril has a busy public law practice with a particular expertise in mental capacity, education, and mental health law. Avril also has broad experience in inquests, community care, prison law, and asylum.

Expertise

Court of Protection

Avril has a busy Court of Protection practice and provides representation in both health and welfare and property and financial affairs matters.

Avril has been instructed by the Official Solicitor, family members, Integrated Care Boards, Health Boards, and Local Authorities in section 21A and section 16 proceedings.

Avril is also instructed in Forced Marriage Protection Order proceedings, fact finding hearings involving allegations of sexual abuse, proceedings where the interface between the Mental Capacity Act 2005 and the Mental Health Act 1983 is in issue, case invoking the inherent jurisdiction of the High Court, and nearest relative displacement applications under the Mental Health Act 1983.

In respect of property and financial affairs proceedings, Avril is regularly instructed by the Public Guardian in a variety of proceedings, including where there are concerns in relation of the execution and operation of Lasting Powers of Attorney, and the time-limited appointment of deputies. Avril is also instructed by family members in challenging applications to revoke their Lasting Powers of Attorney and in applications for statutory wills.

Avril has an advisory practice in mental capacity, in particular applications for the recognition of foreign protective measures, the interface between the mental capacity law and SEN law and damages claims for breaches of Article 8 ECHR.

Avril was previously seconded to the Adult Social Care Team of a highly regarding local authority law firm.

Birmingham

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Notable Cases

Re RB [HHJ Cronin]

Avril was instructed by the Official Solicitor in a complex case concerning whether a young woman ought to be forcibly given medical treatment for severe rheumatoid arthritis under restraint. Avril successfully argued, on behalf of the Official Solicitor, that RB had capacity to refuse the treatment and that her decision was unwise rather than incapacitous.

Re FH [Lieven J.]

Avril is instructed in ongoing section 16 proceedings where P is not engaging in capacity assessments and there are concerns in relation to capacity silos for residence and care.

Re SA [Newton J.]

Avril appeared in an ex-parte application for non-disclosure of certain pieces of evidence on a protective basis, and persuaded Mr. Justice Newton that SA's interests outweighed the interests of the implicated party to view and respond to those pieces of evidence.

Re MT [DJ Regan]

Avril was instructed by the Health Board (Wales) in a case where the diagnostic element of the capacity test had not been resolved. While P was found to lack capacity in the relevant domain, the question was still live as to whether she may regain capacity following treatment (if available).

Re. JC [HHJ Goodwin]

Avril was instructed by the Official Solicitor in a section 21A challenge where those holding a Lasting Power of Attorney were opposed to a move due to the attendant increased cost of care.

Re. BF [DJ Mort]

Avril was instructed by a litigant in person (pro bono through Advocate) in proceedings where contact was in issue between the parties and successfully negotiated changes to a communication and behaviour protocol.

Re. MW [HHJ Plunkett]

Avril was instructed to represent the CCG in a case concerning whether P's current needs resulted in eligibility for s.117 aftercare

Re. AAM [DJ Beckley]

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Avril was instructed to represent the CCG in an application by P's next of kin to remove her from her current placement..

Re. MNP [DDJ Allen]

Avril was instructed by a Local Authority in a dispute as to P's capacity relating to his residence, care, and contact. Avril was also required to advise on the inherent jurisdiction of the High Court.

Re AP

Avril was instructed by the Official Solicitor in this section 16 case concerning capacity to consent to sex and to make decisions regarding residence, care and contact. The case involved overlapping issues of mental health law stemming from an extant Guardianship order.

Re. JN [Senior Judge Hilder]

Avril was instructed by the Public Guardian in proceedings investigating P's retrospective capacity to execute the LPA.

Re. PL [DJ Wilson]

Avril was instructed by the Public Guardian in proceedings where there were allegations of undue influence by the professional deputy in the partial revocation of a joint power of attorney, as well as dispute regarding when a power of attorney is deemed revoked. Avril successfully negotiated a way forward whereby all parties were willing to accept the appointment of a professional panel deputy.

Re. PJL [DJ Beckley]

Avril was instructed by the Public Guardian in a case involving the alleged mismanagement of P's funds and the payment of retrospective gratuitous care payments.

Re. GAB [DJ Asokan]

Avril was instructed to represent P's sons in their application to oppose their sister's registration of an EPA.

Re. EZ [HHJ George]

Avril was instructed by the Public Guardian in proceedings concerning whether the attorney had capacity to act under the LPA and/or had acted contrary to P's best interests.

Avril has appeared before the First-Tier Tribunal (Mental Health), seeking the release of those detained pursuant under the Mental Health Act 1983.

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Immigration, Asylum & Nationality

Avril regularly appears in appeals before the First-Tier Tribunal, particularly in claims based on sexual orientation and political opinion. Avril has considerable experience working with vulnerable clients and draws on her knowledge in mental health and mental capacity law in this regard. Avril is also instructed in age dispute/age assessments for unaccompanied asylum-seeking children, Avril hopes to develop her practice across the full range of personal and business immigration law.

Asylum and Humanitarian Protection

Avril has appeared in protection appeals in the First-Tier Tribunal involving a broad range of States including Cameroon, Iraq, Afghanistan, South Sudan, Sri Lanka, Pakistan, India, Cameroon, Albania, Vietnam, Iraq, and Iran. Avril also appears in claims involving victims of trafficking and modern slavery

Bail Applications, Human Rights Appeals and Deportation and Removals

Avril regularly appears on behalf of immigration detainees in bail hearings before the First-Tier Tribunal. Avril has also appeared in human rights appeals before the First-Tier Tribunal against the Entry Clearance Officer and in the First-Tier Tribunal against removal decisions under the EEA Regulations 2016. In approaching these cases, Avril's knowledge of prison law, including questions of risk management such as the interpretation of OASys reports, is an asset.

Inquests, Public Inquiries & Coronial Law

Avril has considerable experience appearing on behalf of a range of Interested Persons at coronial inquests, including multiple-day Article 2 jury inquests, and usually where mental health treatment and mental capacity are in issue.

Avril also advises on the prospects of successful post-inquest civil proceedings.

Public Law

Avril continues to develop a broad public law practice including immigration law, Court of Protection, prison law, education law, mental health law, inquests and coronial law, civil liberties, and age dispute/age assessments for unaccompanied asylum-seeking children,

Education Law

Avril is instructed by local authorities and parents in appeals concerning all aspects of Education and Health Care Plans (including pre-issuing and cases involving health and social care recommendations) and discrimination claims under the Equality Act 2010.

Avril has a growing advisory practice in cases which straddle SEN law and mental capacity law.

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Prison & Police Law

Avril has successfully appeared before the Parole Board seeking release of prisoners serving indeterminate sentences and regularly advises on behalf of prisoners in judicial review challenges to decisions of the Parole Board and the Secretary of State for Justice, including decisions concerning release, recall, and the provision and prioritisation of oral hearings.

Avril also accepts instructions to represent prisoners at hearings before Independent Adjudicators and more generally in relation to alleged breaches of Article 8 of the ECHR.

Avril has a keen interest in actions against the state and has advised in false imprisonment claims against the police and the Home Office, which have resulted in financial settlement.

Education

Avril frequently appears in the First-tier Tribunal (Special Educational Needs and Disability) in appeals against Educational, Health and Care Plans for parents in section B, F and I appeals, extended appeals for health and social care provision, and appeals for non-issuing of an EHCP.

Avril also has a growing practice in discrimination, admissions and exclusions within education. Avril's work in education law runs alongside a general public law practice, particularly in judicial review.

Inquests & Inquiries (Public Law)

Avril has considerable experience appearing on behalf of a range of Interested Persons at coronial inquests, including multiple-day Article 2 inquests, and usually where mental health treatment and mental capacity are in issue.

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Awards



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Memberships

- Human Rights Lawyers Association Committee Member
- Court of Protection Bar Association

Qualifications

- LLB Law and German Trinity College Dublin
- LLM Public International Law University of Amsterdam
- MSc. European Integration and Development Vrije Universitat Brussels (Free University of Brussels)
- PhD Candidate, Walther Schucking Institute for Public International Law, Germany

Languages

- Irish (fluent)
- German (fluent)
- French (working knowledge)
- Spanish (working knowledge)

Previous Experience

Avril has gained extensive experience in the field of public law and human rights. Avril has worked in human rights NGOs and legal advice centres in Germany, Bolivia, the UK, and the Netherlands, including the AIRE Centre where she advised on family reunification and the Citizenship Directive. Through this work, Avril has developed skills for dealing with vulnerable clients, particularly in the fields of LGBT rights, immigration and asylum, access to healthcare, anti-discrimination, and violence against women. Before joining Chambers, Avril taught in the LL.M programme at the Walther Schucking Institute for Public International Law.

Avril is contactable out of hours and is always happy to assist charities and NGO's on a pro-bono basis.

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