



# Gráinne Mellon

YEAR OF CALL: 2010, 2013 (IRELAND AND NORTHERN IRELAND)



Gráinne is a public law specialist with expertise in human rights, civil liberties and equality law. Her practice includes all aspects of immigration and nationality law, community care and Court of Protection, children's rights and discrimination law. She acts in judicial review claims and in civil claims for damages under the Human Rights Act 1998.

In addition to her domestic practice, Gráinne acts and advises in international and European human rights law.

Gráinne is listed as a leading junior in Chambers and Partners in the fields of Civil Liberties and Human Rights and International Human Rights Law. She is listed in The Legal 500 in the fields of Education law, Community Care law and Court of Protection.

Gráinne regularly advises individuals, as well as charities and other organisations. Her expertise spans public and private law and she enjoys acting in complex trials involving cross-examination as much as arguing points of public law. She is particularly known for her work representing vulnerable children and adults across the spectrum of both judicial

review claims and civil/human rights claims. Gráinne is appointed to the Equality and Human Rights Commission's [preferred Panel of Counsel](#).

She teaches International Human Rights Law at the London School of Economics and is also a [Fellow in the Centre for Human Rights at the LSE](#). She is the Vice-Chair of the Bar Human Rights Committee, the international human rights arm of the Bar of England and Wales. Gráinne sits, on a part-time basis, as a Judge in the First Tier Tribunal Health, Education and Social Care (Mental Health).

Gráinne was highly recommended at the Bar Pro Bono Awards 2021 in the 'Junior Pro Bono Barrister of the Year' category and was shortlisted for the [International Bar Association's Pro Bono Award 2021](#).

"A real pleasure to work with - she's excellent with clients."

CHAMBERS UK, 2022 (COURT OF PROTECTION)

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"Gráinne is a barrister who is exceptionally dedicated and committed. She is practical, engaging and will get to the crux of an issue."

CHAMBERS UK, 2022 (CIVIL LIBERTIES & HUMAN RIGHTS)

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"She is very responsive and considered in her advice."

CHAMBERS UK, 2022 (INTERNATIONAL RIGHTS LAW)

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"A brilliant barrister with exceptional experience in Court of Protection matters. She is excellent with young vulnerable people. A junior who is always on top of her game."

LEGAL 500, 2022 (COURT OF PROTECTION & COMMUNITY CARE, TIER 1)

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"She is tenacious in her approach to cases and shows excellent strategic judgement."

LEGAL 500, 2022 (EDUCATION)

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If you would like to get in touch with Gráinne please contact the clerking team:

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You can also contact Gráinne directly:

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## ADMINISTRATIVE AND PUBLIC LAW

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Gráinne is a public law specialist. She acts on behalf of individuals, charities and other organisations in public law claims in a range of contexts including immigration, detention, trafficking, community care, children's rights and criminal justice cases. She acts at all levels and frequently deals with urgent cases raising complex human rights issues. Grainne's clients are often children or vulnerable adults; including those with additional health or education needs or those subject to immigration control.

The breadth of Gráinne's public law practices means she is frequently instructed to advise on crossover cases involving a number of areas of law.

In the last year, Gráinne has acted in a leading case on retrospective delegation for children in need; detention policy for victims of torture and in a challenge to the publication of an NHS Investigatory report.

### NOTABLE CASES

***OA v London Borough of Camden and the Secretary of State for the Home Department [2019] EWHC 2357*** Successful challenge under s. 17 Children Act 1989; significant analysis of EU law rights of 4 month old baby, and derived rights of his mother by way of an extension of the Zambrano principle in Court of Justice of European Union.

***Bajratari v Secretary of State for the Home Department [2019] ECR I*** Intervention on behalf of the AIRE Centre in the Court of Justice of the European Union clarifying the 'sufficient resources' condition of Article 7(1)(b) Directive 2004/38

***WM v Kent County Council and Secretary State for the Home Department [2018] EWHC 2025 (Admin)*** Case considering whether a person who has failed in his initial claim for asylum but has made a

fresh claim for asylum becomes, by definition in law, an asylum seeker again and as such is entitled to support pursuant to schedule 3 of the Nationality, Immigration and Asylum Act 2002.

***R (on the application of AC and SH) v London Borough of Lambeth Council [2017] EWHC 1796 (Admin) Case NO: CO/84/2017*** High Court Guidance on the requirements of an adequate assessment/re-assessment of an autistic child in need pursuant to the Children Act 1989.

***Hossain and others v SSHD [2016] EWHC 1331 (Admin)*** - Test case (with four representative claimants) on the lawfulness of the "Detained Asylum Casework" system; granted declaration that SSHD failed to have regard to equality duties in considering asylum claims in detention.

***A v London Borough of Enfield [2016] EWHC 567 (Admin)*** - Unlawful failure to accept radicalized and homeless teenage girl as a Child in Need pursuant to s. 17 Children Act 1989 and to provide accommodation under s. 20 Children Act 1989): see coverage in the [\*The Telegraph\*](#) and in [Community Care](#)

## **CIVIL LIBERTIES AND HUMAN RIGHTS**

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Grainne has considerable experience in private law claims and associated claims under the Human Rights Act 1998 and Equality Act 1998 in particular against local authorities, schools, health authorities and other public authorities, including the Home Office and police.

Grainne acts in civil claims arising from immigration detention and on behalf of victims of trafficking.

Grainne has particular expertise in damages claims under the Human Rights Act 1998 arising from family proceedings, and in respect of children in the care system, as well as on behalf of disabled children and their families. She also has experience in sexual abuse claims and claims for breach of privacy/data protection against both the police and local authorities.

## **IMMIGRATION: ASYLUM AND HUMAN RIGHTS**

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Gráinne has a strong background in immigration law and has particular experience in cases involving points of EU law and human rights law.

Gráinne acts in a range of immigration judicial reviews including in detention, trafficking, nationality, third country and age assessment cases. Her tribunal work includes asylum, human rights, deportation, detention,

family reunion, elderly dependent relative and entry clearance cases.

Gráinne has particular expertise in cases concerning children and advises on the overlap between family law and immigration law, including advising across the spectrum of family proceedings. She regularly provides expert advice to parties, local authorities and guardian's ad litem concerning the steps to be taken to resolve immigration issues for children, including as a joint expert in care proceedings.

Gráinne is regularly instructed to represent trafficking victims in a broad range of public law and human rights cases including in asylum and judicial review claims.

Gráinne acts and advises in international cases, including most recently in relation to children in Calais on behalf of the Bar Human Rights Committee. She lectures widely on issues of refugee law, migrant children and trafficking.

## **NOTABLE CASES**

***Bajratari v Secretary of State for the Home Department [2019] ECR 1*** Intervention on behalf of the AIRE Centre in the Court of Justice of the European Union clarifying the 'sufficient resources' condition of Article 7(1)(b) Directive 2004/38.

***WM v Kent County Council and Secretary State for the Home Department [2018] EWHC 2025 (Admin)*** Acted for the Claimant in a case considering whether a person who has failed in his initial claim for asylum but has made a fresh claim for asylum becomes, by definition in law, an asylum seeker again and as such is entitled to support pursuant to schedule 3 of the Nationality, Immigration and Asylum Act 2002.

***LH v Secretary of State for the Home Department [2017]***: Acted on behalf of a 6 year old deaf Iraqi refugee in a challenge to the decisions taken to remove him and certify his asylum and human rights claim. The case was reported extensively in the press, including in the [BBC](#), [ITV](#), [The Telegraph](#) and [The Times](#).

***Hossain and others v SSHD [2016] EWHC 1331 (Admin)*** - Test case (with four representative claimants) on the lawfulness of the "Detained Asylum Casework" system; granted declaration that SSHD failed to have regard to equality duties in considering asylum claims in detention.

***Ajinde and Thinjom (Carers - Reg.15A - Zambrano) [2015] UKUT 560 (IAC)*** - test case concerning the rights of Zambrano carers to a derivative residence card under Regulation 15A (4A) of the EEA Regulations 2006.

## COMMUNITY CARE AND COURT OF PROTECTION

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Gráinne is an established practitioner in Community Care and Court of Protection and is ranked in Legal 500 for her practice in these areas.

Frequently instructed on behalf of vulnerable children and adults in complex and sensitive cases in the Administrative Court, under the inherent jurisdiction of the High Court and in the Court of Protection.

In community care cases, Grainne is instructed in judicial reviews as well as in human rights and equality act claims. She acts on behalf of disabled children and their families, destitute families, migrant families, victims of trafficking and unaccompanied and age disputed children, including in age assessment challenges and trials. She is frequently instructed – including on an urgent basis- in challenges to assessments, the provision of services and support and the on-going duties owed to care leavers.

In the Court of Protection, Grainne regularly represents family members, NHS Trusts and particularly the Official Solicitor including in deprivation of liberty cases, section 21A applications, and cases dealing with complex care and transition plans. Gráinne has a particular expertise in cases involving transitions from child to adult social care services and in cases concerning independent living for disabled young people.

Gráinne's background in education, immigration and family law means she is sought after in cases with cross-over public law issues.

Gráinne also advises on unlawful detention claims and damages under the Equality Act 2001 and Human Rights Act 1998.

### NOTABLE CASES

#### ***OA v London Borough of Camden and the Secretary of State for the Home Department* [2019] EWHC 2357**

Successful challenge under s. 17 Children Act 1989; significant analysis of EU law rights of 4 month old baby, and derived rights of his mother by way of an extension of the Zambrano principle in Court of Justice of European Union.

#### ***WM v Kent County Council and Secretary State for the Home Department* [2018] EWHC 2025**

**(Admin)** Acted for the Claimant in a case considering whether a person who has failed in his initial claim for asylum but has made a fresh claim for asylum becomes, by definition in law, an asylum seeker again and as

such is entitled to support pursuant to schedule 3 of the Nationality, Immigration and Asylum Act 2002.

**[R \(on the application of AC and SH\) v London Borough of Lambeth Council \[2017\] EWHC 1796 \(Admin\) Case NO: CO/84/2017](#)** Guidance on the requirements of an adequate assessment/re-assessment of an autistic child in need pursuant to the Children Act 1989.

**[A v London Borough of Enfield\[2016\] EWHC 567 \(Admin\)](#)** - Unlawful failure to accept radicalized and homeless teenage girl as a Child in Need pursuant to s. 17 Children Act 1989 and to provide accommodation under s. 20 Children Act 1989): see coverage in the [The Telegraph](#) and in [Community Care](#)

**[Re EQ\[2016\] EWHC 3418 \(Fam\)](#)** - Urgent consent to medical treatment case under the inherent jurisdiction of the Family Division of the High Court; concerning a baby diagnosed with bilateral congenital cataracts shortly after birth and whether it was in her best interests to be operated on under general anaesthetic to treat the condition.

**[North Somerset Council v LW \[2014\] EWHC 1670 \(Fam\)](#)** - Court of Protection proceedings concerning whether or not a local authority were permitted not to disclose to a mother who lacked capacity the care plan for her unborn child, namely removal at birth; capacity to consent to a caesarean section; see coverage in [Family Law Week](#).

## EDUCATION LAW

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Gráinne is instructed in a broad range of education cases including schools, higher education and regulatory cases. She has a particular expertise in discrimination and public law issues that arise in accessing education.

Grainne is frequently instructed in public law cases which involve overlapping issues of education, community care law and immigration law including for leading children's charities. She is frequently instructed in cases seeking urgent interim relief in judicial review proceedings and in civil claims under the Human Rights Act 1998 against schools and local authorities.

In school work she acts in particular in high value special educational needs cases and in complex discrimination claims. In higher education, she represents students and academics alike in internal disciplinary hearings, fitness to practice matters and in appeal to the OIA.

In the last year, Gráinne has been instructed in significant tests case litigation concerning the legality of restricting asylum seekers from studying and in a significant High Court challenge to budgetary decisions in

relation to autistic children and young people.

## **NOTABLE CASES**

***ML and others v Cornwall Council and Truro and Penwith College [2019]*** Acted on behalf of six representative Claimants in this successful judicial review against funding cuts for education for autistic young people. The High Court made a number of declarations of illegality and granted a mandatory order to the Claimants in relation to the reinstatement of the educational provision under challenge.

## **INTERNATIONAL FAMILY LAW**

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Gráinne has considerable experience in cross-border family law where family or childcare cases involve associated issues on immigration status- as well as in family cases involving community care or education provision or claims under the Human Rights Act 1998.

In particular, she is frequently instructed as an expert in family proceedings to advise on immigration and nationality issues, including frequently by local authorities and parties in care proceedings. She also advises on on cross-border family law issues including international adoptions and transnational care and child placement arrangements, as well as on issues of Irish law and placement of children in Ireland.

Grainne is often instructed on discrete human rights points in family proceedings and has expertise in safeguarding, local authority corporate parenting duties, deprivation of liberty and issues of FGM and forced marriage. Grainne frequently advises in claims for damages under the Human Rights Act 1998 arising from family proceedings and on behalf of children in care.

## **NOTABLE CASES**

***Re AO (Care Proceedings) [2016] EWFC 36*** High Court case on when and whether a woman's decision to give her child up for adoption is likely to meet the threshold criteria for a care order pursuant to s. 31 Children Act 1989 – see coverage in [The Guardian](#) and [Family Law Week](#).

***Re JL and AO (Babies Relinquished for Adoption) [2016] EWHC 440 (Fam)*** Guidance on consensual adoptions and parents from abroad; [see coverage in Family Law Week](#).

***M v Somerset County Council [2014] EWCA Civ 942*** See coverage in [Family Law Week](#).



## DISCRIMINATION AND PROFESSIONAL REGULATION

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Gráinne has expertise in discrimination law across the contexts of employment, education, civil actions and judicial review claims. She has expertise in particular in sex and disability discrimination claims, whether in the field of employment, education or goods and services.

She also represents clients before the full range of professional and regulatory bodies and in particular deals with fitness to practice hearings before the Nursing and Midwifery Council, General Medical Council and the Health Professions Council. She frequently advises professionals facing barring by the Disclosure and Barring Service including the Adult and/or Children's Barred List.

Gráinne has previously lectured on the LLM in Employment Law at the London School of Economics.

### NOTABLE CASES

***Hannah Miller v Tonbridge School***: successfully represented female physics technician in an equal pay and sex discrimination case against a leading public school: see coverage in [The Telegraph](#), and [The Times](#).

***Walsh v Shanahan***[2013] EWCA Civ 675

***Nejjary v Aramark Ltd (Unfair Dismissal)*** [2012] UKEAT 0054\_12\_3105 (31 May 2012)

Advising the National Secular Society on the Government's obligations to activate s.9(5) of the Equality Act 2010 prohibiting discrimination on the grounds of caste: available [here](#):

## INTERNATIONAL HUMAN RIGHTS

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Gráinne undertakes advisory work, litigation, teaching and training in international and European human rights law and in international criminal law.

She acts on behalf of individuals, organisations and charities.

Gráinne has advised on/drafted a range of international interventions before the UN, regional human rights systems and the International Criminal Court. She was instructed by Reprieve to advise on the case of Ibrahim Halawa, an Irish citizen detained in Egypt for over two years who faces a mass trial alongside 493 other Defendants.

She is frequently instructed to conduct trial observations, training and fact-finding missions on behalf of both the [Bar Human Rights Committee](#) (BHRC), of which she is Vice Chair and the [International Bar Association Human Rights Institute](#) (IBA HRI). She has been appointed as a trial observer in cases in Egypt, Turkey and Malaysia. In 2016, she conducted a fact-finding mission to Calais in relation to police violence in the camps. She has previously been part of a delegation to Nigeria where she delivered training on behalf of UNICEF to the Nigerian National Human Rights Commission on children's rights and international law.

In 2014, Gráinne was awarded a Pegasus scholarship to complete a fellowship at the Center for Constitutional Rights in New York where she worked on national security, international human rights and Guantanamo Bay cases.

Gráinne is on the Panel of Assistants to Counsel at the [International Criminal Court](#) and is a Fellow at the Centre for Human Rights at the London School of Economics.

## YOUTH JUSTICE & CHILD RIGHTS

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Grainne has broad child-rights expertise including in issues of trafficking, immigration and asylum, community care, education law and in cases under the inherent jurisdiction. She acts in appeals, urgent judicial review claims and in civil claims under the Human Rights Act 1998 including in relation to sex abuse claims. She is frequently represented to instruct vulnerable children and young adults across these areas and is instructed by leading children's charities, and the Official Solicitor.

## WHAT OTHERS SAY

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Grainne is ranked in Chambers and Partners (2021) Civil Liberties and Human Rights and appears in the Spotlight table for her work in International Human Rights. She is ranked in the Legal 500 (2021) in Education, Community Care and Court of Protection.

*"Commended for her expertise in cases involving children and vulnerable adults. She is particularly noted for her work in judicial reviews and in Human Rights Act damages claims."*

Chambers UK, 2021 (International Human Rights Law)

*"She's responsive, communicates well and works with us as part of a team."*

Chambers UK, 2021 (Civil Liberties & Human Rights)

*"Her advocacy is very strong. She is persuasive and can convey very complex issues in an engaging and*

*understandable manner."*

Legal 500, 2021 (Court of Protection & Community Care)

*"Clever, practical and determined. Has a gentle manner which puts parents at ease but there is no doubt that she is a steely opponent."*

Legal 500, 2021 (Education)

Gráinne is ranked in the Chambers & Partners (2020) for Civil Liberties and Human Rights and Legal 500 (2020) for Education, Community Care and Court of Protection.

The Legal 500 (2020) guide notes that *"she is incredibly bright and practical and offers sound advice"*, and that Gráinne *"is a solution-oriented barrister who gets straight to the nub of a case."*

## **BACKGROUND**

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Before coming to the Bar, Gráinne worked in the European Commission, the International Criminal Court and the House of Lords.

Gráinne has previously worked with Prayas Institute of Juvenile Justice in Delhi, in the US House of Congress in Washington D.C. and as a research assistant at the LSE.

## **PUBLICATIONS**

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'Trial Observation Report, Aya Hegazy' Bar Human Rights Committee Report, October 2017 available [here](#)

'Interim Trial Observations Report: Hearing of 'Taraf' Journalists', Bar Human Rights Committee Report, October 2016, available [here](#)

'Camps at Calais and Grand Synthe (France): Policing and Access to Justice', Fact-Finding Report on behalf of the Bar Human Rights Committee, 1 August 2016 (with Stephen Cragg QC), available [here](#)

'British plans to repeal Human Rights Act misguided and unnecessary', *Irish Times*, 10 November 2015, available [here](#)

Judicial Review of Criminal Proceedings, Hart, Contributing author (2014)

'The Charter of Fundamental Rights and the Dublin Convention: An Analysis of *S. v Secretary of State for the Home Department*'

(C-411/10) *European Public Law* 18 (4) - Nov 2012

'Indeterminate sentences for public protection: James, Wells and Lee v UK' and 'Permission to work: Asylum Seekers and Article 8 ECHR' *Human Rights in Ireland* (Guest Contributor)

'Statutory Rules, Common Law Rules and Public Policy in the Global Financial Crisis' *Penn State International Law Review*, [2011] 29 3 613 (with Professor Sara Worthington)

'Prosecutorial compassion' *Criminal Law & Justice* Vol. 175 No. 12, 2011 (with Abigail Bright)

## TRAINING AND SEMINARS

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Gráinne lectures in International Human Rights Law and Discrimination Law to LLM students in the [Law Department](#) of the London School of Economics. She is also a Fellow at LSE's [Centre for Human Rights](#).

Gráinne teaches advocacy and refugee law on the BPTC at BPP Law School and is accredited to provide advocacy training by the [Advocacy Training Council](#).

Gráinne is an Associate Fellow of the Higher Education Academy.

## Conferences

United Nations on Trial: LSE Law Literary Festival: 26 February 2016;

'Charters, Conventions, Acts and Bills' [Sweet and Maxwell Human Rights Law Conference 2015](#)

'The Protection of Human Rights: A Barrister's Perspective' Bar Human Rights Committee, 2 December 2015

'The Bar in 2020: A Vision for the Future' The Young Bar Conference, Bar Council of Northern Ireland, 24 January 2014

'Is Strasbourg the last word?' Paper presented at the Four Jurisdictions Conference, Middle Temple, and May 2012

## AWARDS

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Pegasus Scholarship, Middle Temple, 2013

Middle Temple Queen Mother BVC Scholarship, 2009-2010

Middle Temple Certificate of Honour, 2010

LSE 11KBW Award for Human Rights Law, 2007

Exhibitioner, Trinity College Dublin

## EDUCATION

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- **LLB Trinity College Dublin (First Class Honours)**
- **LLM Public International Law, LSE (Distinction and 11 KBW Award for Human Rights Law)**
- **BVC (Outstanding), Queen Mother Scholar, Middle Temple**
- **Postgraduate Certificate in Higher Education (Associate), LSE**
- **Advocacy Training Council, Accredited Advocacy Tutor (2015)**

## PROFESSIONAL MEMBERSHIP

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- **Bar Human Rights Committee (BHRC): Vice-Chair**
- **London Irish Lawyers Association (LILA): Chair**
- **Bar Council Retention Panel, Member**
- **Administrative Law Bar Association (ALBA)**
- **Court of Protection Bar Association.**

## LANGUAGES

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- **Irish**
- **French**

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