

Daniella Waddoup



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Profile

The focus of Daniella's practice is criminal justice and mental health. In addition to a busy criminal trial and appellate practice, she undertakes work in related areas, including prison law, crime-related public law and mental health law.

Daniella is recognised for her commitment to representing vulnerable young defendants: in 2017 she was presented with the 'Rising Star in Youth Justice' award by the Youth Justice Legal Centre.

Her pro bono work includes providing training to probation and prison staff to promote understanding of the entitlement of children and young people in custody with special educational needs to appropriate educational support and provision.

Daniella served as consultant editor for the fifth edition of *Halsbury's Laws Vol.75: Mental Health and Capacity* (2021) and is a contributing author to the second edition of *Taylor on Criminal Appeals*. She is regularly called upon to provide advice and representation in criminal cases where complex issues around fitness to plead, securing transfer to secure psychiatric facilities, and mental health disposals arise.

In 2016-17, Daniella was judicial assistant to Lord Mance JSC. During that time, she was closely involved in many of the leading cases before the Supreme Court and Privy Council in her current areas of practice.

Prior to joining Chambers, Daniella was a research assistant in the Law Commission's criminal law team, where she worked primarily on reform of the insanity defence and fitness to plead procedure. She has provided research and editorial assistance for *Smith and Hogan's Criminal Law*, *Smith and Hogan's Text, Cases and Materials on Criminal Law* and, specifically in relation to youth justice, *Blackstone's Criminal Practice*. She also volunteered as a paralegal in the strategic litigation department of Just for Kids Law, as a welfare rights worker for St Mungo's Broadway and as a mentor for young people with learning disabilities taking part in restorative justice.

WHAT THE DIRECTORIES SAY

"Daniella is intellectually considered and hardworking, with a brilliant mind" – Legal 500, 2022.

Education

BA, Law with Law Studies in Europe, Oxford University (First Class)

LLM, Human Rights and Criminal Justice, Cambridge University (First Class)

BPTC, Kaplan Law School (Outstanding)

Languages

German

Related practice areas

Criminal Law

Actions Against the Police and Public Authorities

Court of Protection & Mental Health

Administrative & Public Law

Children's Rights Group

Foreign Jurisdiction Work

Criminal Appeals

Crime

Daniella is an experienced and effective trial advocate. She represents clients in serious, complex and sensitive cases, both alone and as a led junior. Daniella has particular expertise in representing young clients and clients with mental health difficulties. Examples of recent instructions include:

- **R v Pietro Addis** (Cardiff Crown Court, ongoing, led by Sarah Elliott KC) – young defendant charged with murdering his grandmother. The central issues in the case are whether the defendant, who had not previously been diagnosed with any major mental disorder, was psychotic at the time of the incident and, if so, whether any psychosis was drug-induced.
- **R v Adam Haigh** (Manchester Minshull Street Crown Court, ongoing) – instructed on behalf of a Palestine Action protestor charged with criminal damage of a factory said to manufacture weapons deployed in the Occupied Palestinian Territory.
- **R v Mark Alexander** (Central Criminal Court, 2022, led by James Wood KC) – murder allegation raising complex issues of fitness to plead and diminished responsibility.
- **R v Tinubu** (Southwark Crown Court, 2022) – successful defence of self-defence to an assault on an emergency worker on the grounds of the defendant's mistaken but genuine beliefs arising from psychotic illness.
- **R v Roxanne Davis** (Winchester Crown Court, 2019, led by Katy Thorne KC) – young mother accused of causing or allowing the death of her newborn baby. Her co-accused was her former partner; each blamed the other. The trial involved cross-examination of a number of expert medical witnesses, as well as legal argument.
- **R v Deriece Wright** (Northampton Crown Court, 2018, led by Isabella Forshall KC) – the 17-year-old defendant was accused, along with six others, of murdering a 16-year-old in a broad daylight attack involving the use of a knife. The prosecution accepted a plea to manslaughter after the alleged principal was convicted of murder and the jury was discharged from reaching a verdict in relation to DW. A subsequent reference by the Attorney General to the Court of Appeal on grounds of undue leniency was rejected.
- **R v Paul Attwater** (Southwark Crown Court, 2018, led by George Hepburne Scott) – complex and multi-handed conspiracy to supply fighter jet parts to Iran.
- **R v Jonathan Griffiths** (Cardiff Crown Court, led by Sarah Elliott KC, 2017) – the defendant killed his grandmother and attempted to decapitate her, believing her to be

an evil spirit. The prosecution accepted a plea to manslaughter on grounds of diminished responsibility on the basis that JG had a primary diagnosis of paranoid schizophrenia and that although he may have taken illicit drugs in the run-up to the killing, his abnormality of mental functioning was a significant factor in causing him to act as he did.

- **R v Suhaib Majeed** (Central Criminal Court, 2016, led by Tim Moloney KC) – terrorism (conspiracy to murder a police officer and/or soldier by means of a drive-by shooting).
- **R v Andrew Dickie** (Southampton Crown Court, 2016, led by Rupert Bowers KC) – conspiracy to cheat the public revenue and transferring criminal property. After a week of legal argument, the prosecution accepted a favourable basis of plea with a dramatically reduced agreed loss to HMRC.

Daniella has a particular interest in representing children and young people. She combines her experience of working in schools and other educational settings with an in-depth knowledge of the law of youth justice in order to achieve positive results and to ensure the effective participation of children and young people in proceedings against them. She is a regular contributor to the Youth Justice Legal Centre's legal guides, and delivers training to practitioners in the field. Recent instructions include:

- **R v PS** (magistrates' court) – imposition of a sexual risk order on a young person with special educational needs resisted; interim order lifted. Daniella made detailed written and oral submissions on the relevant law and guidance, including that which militates against the criminalisation of young people and demands a focus on emotional development and maturity, as well as chronological age.
- **R v MB, MB & LE** (magistrates' court) – Daniella represented three students who held a house party in breach of Covid-19 regulations. Although they were initially issued with £10,000 fixed penalty notices, the Crown accepted a plea to a lesser offence. Following mitigation, fines of £320 were imposed.
- **R v MA** (Crown Court) – possession with intent to supply Class A drugs. The prosecution offered no evidence in the face of written submissions in support of an application for dismissal based on the inadequacy of DNA evidence.
- **R v B** (Crown Court) – s. 18. A plea to s. 20 and possession of a bladed article was accepted.

- **R v KA-B** (Crown Court) – sentence of an 18-year old for possession with intent to supply Class B drugs and possession of an offensive weapon. He had several previous convictions for similar offences and had committed the present offences during the currency of a youth referral order. The Court imposed a suspended sentence.
- **R v SB** (youth court) – serious case in which the defendant pleaded guilty to attempted s. 18 GBH and using a knife to threaten on school premises. Following detailed submissions, the youth court retained jurisdiction for sentence. The Court found that it would be “unjust” to apply two sets of mandatory minimum sentencing provisions and sentenced the defendant to a youth referral order instead of detention.
- **R v MJUE** (youth court) – violent disorder and possession of an offensive weapon. The prosecution offered no evidence after an application for an adjournment of the trial date was successfully resisted.
- **R v IC** (youth court) – sentence of a youth for a joint enterprise robbery in which a knife was used to threaten the complainant. Despite a previous conviction for possession of an offensive weapon, the Court sentenced him to a youth referral order with a requirement of intensive supervision and surveillance.

Criminal Appeals

Daniella has a substantial appellate practice. She has been involved in a number of appeals against conviction and sentence to the Court of Appeal, as well as to the Supreme Court, Privy Council and European Court of Human Rights. She welcomes instructions to provide written advice on the merits of appeals, as well as in relation to applications to the Criminal Cases Review Commission (where she has particular experience in relation to convictions of victims of human trafficking and convictions of refugees for identity document offences). Daniella is regularly instructed to advise as to whether fresh medical evidence relating to mental disorder or disability may found a ground of appeal against conviction and/or sentence. She is a contributing author to the second edition of *Taylor on Criminal Appeals* (OUP, 2nd ed., 2022) and Doughty Street’s **Criminal Appeals Bulletin**.

Recent cases include:

- **R v AA** (Court of Appeal, 2023, ongoing) – appeal against conviction on behalf of a refugee convicted of possessing a false identity document.

- **R v Isaac Calver** (with Emma Goodall KC, 2023) – appeal against sentence to the Court of Appeal following an 18-year-old's conviction for murder. The central issue was whether sufficient credit was given for the offender's youth and immaturity.
- **R v Mark Alexander** (led by James Wood KC [2022] EWCA Crim 1517) – the Court of Appeal rejected a reference by the Attorney General on grounds of undue leniency. Although the jury had not found the offender's responsibility to be diminished, his complex mental ill health had justified a substantial reduction of six years.
- **R v DW and others** (led by Isabella Forshall KC) [2018] EWCA Crim 2379_ – the Court of Appeal held that the sentence imposed on DW and his co-accused (youths convicted of manslaughter following a group attack involving the use of a knife) was not unduly lenient.
- **R v Jogee; R v Ruddock** [2016] UKSC 8 (led by Francis Fitzgibbon KC and with Caoilfhionn Gallagher KC and Joanne Cecil, for the intervener Just for Kids Law) – a landmark Supreme Court/Privy Council case on the law of joint enterprise. The submissions on behalf of Just for Kids focused specifically on the impact of parasitic accessorial liability on young defendants. The Court held that the common law had taken a “wrong turn” and had been misapplied for 30 years.
- **Albert Edwards v The State** (led by Richard Thomas, 2016) – following written submissions in an appeal against a murder conviction on the basis of fresh evidence about the bad character of a prosecution witness and a misdirection on joint enterprise murder, the conviction was quashed, leading to the appellant's immediate release.

Daniella regularly provides advice and assistance to the Death Penalty Project in cases involving the death penalty and other forms of oppressive punishment. Cases before the Privy Council include:

- **R v Watson** (led by Paul Taylor KC and with Amanda Clift-Matthews, 2023) – concerning the lawfulness of a 50-year sentence of imprisonment substituted by the Bahamian Court of Appeal for an offence of manslaughter (permission granted; hearing forthcoming).
- **Pitman & Hernandez v The State** [2017] UKPC 6 (led by Edward Fitzgerald KC and with Paul Bowen KC and Ruth Brander) – concerning the constitutionality of sentences of death imposed on those suffering from intellectual disability.

- **Hunte and Khan v The State** [2015] UKPC 33 (assisting Richard Thomas) – a case with wide implications for the jurisdiction of the Privy Council to commute a death sentence to one of life imprisonment.

Daniella also appears in constitutional appeals before the Privy Council. Examples of recent cases include:

- **Attorney General v Rolle and others** (2023, led by Edward Fitzgerald KC) – concerning the entitlement of persons born outside of marriage to automatic birthright citizenship.
- **Stubbs v The Queen** (2022, led by Edward Fitzgerald KC) – concerning the constitutionality of detaining an offender in hospital at the Governor General's pleasure, without review, for thirty-seven years. The appeal was allowed; Daniella continues to act in ongoing civil proceedings in relation to Mr Stubbs's unlawful detention.
- **Attorney General of the Turks and Caicos Islands v Misick and others** [2020] UKPC 30 (led by Edward Fitzgerald KC) – concerning the constitutionality of resuming a part-heard criminal trial remotely via live video link.

Daniella has experience of making applications to the European Court of Human Rights in the context of criminal appeals and in related areas, including extradition. She was recently led by Edward Fitzgerald KC in an Article 3 ECHR challenge to the extradition to the United States of an applicant who faces a real risk of an irreducible life sentence and conditions of detention that would amount to inhuman and degrading punishment.

Mental Health Law

Daniella's interest in mental health and capacity law spans criminal, civil and public law cases. Daniella has detailed knowledge of the law and procedure governing defendants' fitness to plead and stand trial, having worked on a Law Commission law reform project on the topic before coming to the bar. She is a consultant editor for the most recent edition of *Halsbury's Laws Vol.75: Mental Health and Capacity* and contributed, along with other members of the Doughty Street mental health team, to the **Bar Council's response to the Department of Health and Social Care's consultation paper on Reforming the Mental Health Act**

In 2023, Daniella was junior counsel (led by Leonie Hirst) for the interested party, a patient convicted of manslaughter on the grounds of diminished responsibility, in **R (Maher) v First-tier Tribunal (Mental Health) and others** [2023] EWHC 34 (Admin). The case concerns the rights of victims of serious crimes committed by mental health patients (including the right to be provided with reasons where such a patient is discharged from hospital), and raises important issues concerning open justice.

Daniella accepts instructions in the First-tier Tribunal (Mental Health) to represent detained patients. She also provides advice and representation in the context of public law challenges in a mental health context: recent instructions include a case involving the failure to accept the transfer of a patient from Broadmoor hospital to a medium secure hospital. Daniella has secured settlements in the context of civil claims for damages under the Human Rights Act 1998 in respect of delays in bringing about speedy reviews of the lawfulness of patients' detention in hospital pursuant to ss. 2 and 3 of the Mental Health Act 1983.

Daniella has considerable experience in the complex area of securing transfer from prison to secure psychiatric facilities.

Prison and Crime-Related Public Law

Daniella is an experienced Parole Board advocate and has an in-depth understanding of prison law and practice. She regularly acts in complex cases, including those in which prisoners have been convicted of terrorism related offences. Her expertise is particularly sought after in relation to mentally disordered prisoners, where she is also able to advise in relation to transfer to secure psychiatric settings. She recently represented a lifer who was supported in his parole proceedings by an intermediary.

Daniella is regularly instructed in relation to civil claims arising from delays and errors by the Parole Board and Probation Service.

Daniella combines her experience of crime and prison law with expertise in judicial review proceedings. She represents claimants in public law claims relating to all areas of the criminal justice system, including in the context of decisions taken by the Secretary of State for Justice, the prison service, police and Crown Prosecution Service. She is effective in securing the early resolution of cases involving charging decisions and the issuing of cautions, especially where such decisions have been taken in cases involving young and vulnerable defendants and in breach of the applicable law and guidance.

Recent instructions include:

- A number of successful challenges to decisions not to hold an oral hearing when deciding whether to downgrade prisoners' security classification from Category A.
- A successful challenge to the Parole Board's decision not to hold an oral hearing to decide whether to re-release the prisoner on licence.
- A challenge to the decision not to allow the claimant prisoner face-to-face contact with his daughter.
- Advice on the merits of a judicial claim in relation to the decision of the police to take no further action in the case of a disabled claimant who had made allegations of a serious historic sexual assault and was not provided with appropriate adjustments during the investigative process.
- **R (DC) v CCRC** (led by Rebecca Trowler KC) – judicial review of the decision of the Criminal Cases Review Commission not to refer the applicant's murder conviction to the Court of Appeal.
- **R & others v CCC & Commissioner of the City of London Police** (led by Rupert Bowers KC) – challenge to the application for and execution of a search warrant where the court was not informed that the officers executing the warrant would be accompanied by a documentary film crew. The case settled in the claimants' favour following detailed written submissions.
- **S v UK** (led by Rupert Bowers KC) – submissions requesting a referral of the applicant's case to the Grand Chamber of the ECtHR on the basis that the procedure for hearing applications for warrants of further detention under Sch. 8 of the Terrorism Act 2000 (which allows evidence to be given in closed session and makes no provision for special advocates) amounted to a breach of Article 5(4) ECHR.
- **R (JH and JH) v Secretary of State for Justice** [2015] EWHC 4093 (Admin) – Daniella made submissions that s. 31(2A) of the Senior Courts Act 1981 should not apply in circumstances where the defendant had breached his public sector equality duty but the claim had failed in all other respects.
- Assisting Caoilfhionn Gallagher KC in a number of judicial review challenges to the separation of mothers and babies.

Civil Actions Against the Police and Other Public Authorities

In light of her overlapping experience of criminal and human rights law, Daniella is well placed to advise in relation to civil claims against the police. She has experience of providing advice, drafting and advocacy in relation to a range of claims, including for false imprisonment, assault, malicious prosecution, misfeasance in public office, breaches of the Data Protection Act 1998 and violations of the Human Rights Act 1998. Recent instructions include:

- **TT v An NHS Foundation Trust** – successful claim for breach of Article 5(4) ECHR in respect of delays in bringing about a speedy review of the lawfulness of a claimant's detention in hospital pursuant to ss. 2 and 3 of the Mental Health Act 1983.
- **CN v Lord Chancellor** – successful claim for breach of Article 5 ECHR arising from procedural failings in the committal of the claimant to prison for alleged contempt of court.
- **KN v Lord Chancellor** – successful claim for breach of Article 5 ECHR arising from the court's failure, when sentencing the claimant, to give credit for time spent on a qualifying curfew.
- **AB v MoJ** – successful claim for negligence and breach of Article 3 ECHR in respect of the defendant's failure to treat the claimant's injuries while he was in prison.
- **FJ v CC of South Wales** – advice as to whether the claimant's detention pursuant to s. 2, MHA 1983 following his arrest amounted to a breach of his Article 5 and 5 ECHR rights.

Inquests and Inquiries

Daniella has experience representing bereaved families in inquests. She has acted in inquests into the deaths of neonates following failures by healthcare staff during pregnancy and delivery, vulnerable adults in hospital following clinical negligence, and prisoners in custody. She assisted Caoilfhionn Gallagher KC with an inquest into the death of a 17-year-old in police custody. The jury concluded that his suicide was contributed to by an anomaly in the law which resulted in him being treated as an adult while in the police station, despite being recognised as a child by national and international legal standards.

Daniella assisted Adam Straw KC in a **successful application** for fresh inquests into the fire at the Stardust Disco in Artane on Valentine's Day 1981 in which 48 young people died and 214 were injured. The Attorney General accepted that there had been an insufficiency of inquiry into their deaths at the original inquests.

In 2021, Daniella was instructed by British Gymnastics in the context of the **Whyte Review**, an independent review into allegations of abuse in gymnastics.

Education Law

Before joining Doughty Street, Daniella volunteered in schools and provided assistance in relation to the teaching of music and English as a foreign language, as well special educational needs provision. She continues to maintain her interest in the education of children and young people by accepting instructions, including on a pro bono basis, in the First-tier Tribunal (Special Educational Needs and Disability). She is a founding member of Project EPIC, which provides pro-bono legal advice and assistance for young people who have, or may have, special educational needs, and who are detained in custody.