

Gemma Daly



Call: 2017

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Profile

Gemma specialises in cases involving deprivations of liberty and mental health issues. She practises in the fields of mental capacity and mental health law, inquests, prison and police law, media, and public law, with particular expertise in social welfare matters.

Gemma regularly appears in the Court of Protection, acting for litigation friends including the Official Solicitor, local authorities, and family members. She appears on behalf of patients detained under sections 2 and 3 of the Mental Health Act 1983, with experience in cases involving the complex overlap with the Mental Capacity Act 2005. Gemma also represents parties involved in proceedings under the Mental Health Act outside of the Tribunal setting, including displacements of nearest relatives, as well as representing families at mental health-related inquests.

Gemma accepts instructions on behalf of prisoners at adjudications and Parole Board hearings, particularly where there are issues relevant to the Mental Health Act. She advises claimants in actions against the police and prison authorities, and represents families in inquests arising from deaths in custody.

She has worked with a number of senior members of Chambers on a broad range of human

rights issues, including a challenge to the prohibition of same-sex marriage in a British Overseas Territory, and is instructed as junior counsel to Peter Carter QC in a number of ongoing cases arising from criminal proceedings in Trinidad & Tobago.

Prior to being called to the Bar, Gemma provided specialist welfare benefits advice and representation at the First-tier and Upper Tribunals on behalf of Macmillan Cancer Support and Citizens Advice, and the Free Representation Unit. Gemma continues to provide representation on a pro bono basis in complex benefits cases, as well as training FRU's volunteers and sitting on FRU's Management Committee.

Gemma is licenced under the **Direct Access Scheme** and can accept instructions directly in appropriate cases across all aspects of her practice.

Education

LLB 1st class honours, University of Bristol with study abroad at the Università degli Studi di Siena.

LLM Distinction, SOAS, University of London.

BPTC Outstanding, BPP University

Related practice areas

Court of Protection & Mental Health
Inquests and Public Inquiries

Court of Protection

Gemma practises in the Court of Protection, regularly appearing on behalf of P instructed by litigation friends, including the Official Solicitor, family members, and local authorities.

Gemma has worked with a number of senior members of the CoP team on complex matters, including Ulele Burnham, Sophy Miles, Oliver Lewis, and Aswini Weeraratne QC.

In collaboration with Aswini Weeraratne QC and Sophy Miles, Gemma has contributed to forthcoming book chapters on the Court of Protection and issues involving capacity, and consent for adults lacking capacity.

Mental Health

Gemma accepts instructions in all matters arising under the Mental Health Act 1983. She was recently instructed as junior counsel to Sophy Miles and Aswini Weeraratne QC by Mind in their intervention in the Supreme Court in *Welsh Ministers v PJ* [2018] UKSC 66. She has co-written an article on the decision for Lexis Nexis' current awareness service.

Inquests

Gemma represents bereaved families at inquests, in particular where there are issues around mental health services in the community, or the deceased was deprived of their liberty in hospital, prison, or police custody. Gemma has experience cross-examining expert witnesses, including consultant psychiatrists, social workers, and police officers.

Actions against the police, prisons & public authorities

Gemma accepts instructions on behalf of prisoners at adjudications and Parole Board hearings, as well as representing families at inquests following deaths in prison and police custody. Gemma is particularly adept at representing in cases where there are questions around mental capacity and issues under the Mental Health Act, such as s.47/48 hospital transfers.

Gemma has experience representing Defendants in Magistrates' Courts and the Crown Court, which provides a useful background for her police and prison work. She has experience of cross-examining police officers, medical experts, and other professionals.

Social Welfare

Gemma has extensive experience in the field of social welfare law, having spent five years advising clients on complex benefits claims and representing at benefit appeals in First-tier Tribunals and the Upper Tribunal. She continues to provide regular training to volunteer

students and junior lawyers at the Free Representation Unit's training days.

Recent reported cases:

EG v Secretary of State for Work & Pensions (PIP) [2017] UKUT 101 (AAC)

YA & SA v Secretary of State for Work & Pensions (ESA) [2017] UKUT 60 (AAC)