

# 1GC | Family Law

## Gemma Kelly

Year of Call: 2007



## Practice Overview

Gemma is a specialist Children practitioner and her work spans the whole spectrum of public and private law proceedings, including those featuring an international element and modern family structures.

She acts in equal measure for local authorities, parents, children, extended family members and the Official Solicitor. She is frequently instructed in complex cases up to Court of Appeal level. She has a particular interest in cases involving 'heavy' medical evidence.

Gemma also has a strong Court of Protection practice, often dealing with cases where there is interplay between those proceedings and care proceedings.

Gemma is ranked in Chambers and Partners, which states, *'She's just quite simply excellent. She is able beyond her years and already has experience in a lot of big matters'*.

Gemma also sits as a Recorder in both private and public law cases.

## Children (Public Law)

Gemma has a flourishing care and adoption practice. She has a particular interest in matters involving complex medical evidence. Recent cases have involved FII, radicalisation, non-accidental injuries (brain injuries, multiple fractures, burns and bruises) intergenerational sexual abuse, criminal charges of murder and human rights claims.

Gemma, led by Charles Geekie QC, successfully appealed on behalf of the local authority in the Court of Appeal case of *Re W (A Child)* [2016] EWCA Civ 1140. The judgment sets out important guidance on witnesses being able to challenge findings made against them, if made in breach of their Article 8 rights. The case has attracted considerable media interest.

Gemma has recently been appointed by the Attorney General as a Special Advocate. This involves her representing a party's interests in closed hearings, from which that party has been excluded, and typically in cases involving serious allegations of radicalisation.

## Children (Private Law)

In private law proceedings, Gemma is instructed on behalf of parents, children and extended family members in the full range of applications. These include difficult cases of implacable hostility, shared care arrangements, internal and external relocation, special guardianship and fact-finding hearings regarding domestic violence, sexual abuse and children giving evidence. She is well placed to act in cases where there is the potential for care proceedings to be initiated.

Gemma also has a keen interest in cases involving alternative families and surrogacy.

## International Family Law

Gemma has expertise in cases involving an international element, both in the public and private law arenas. These include Child Abduction, Forced Marriage, Radicalisation and International Relocation.

She successfully represented the child, led by Deirdre Fottrell QC, in a case before the President of the Family Division in *Re N (A Child)* [2016] EWHC 3085 (Fam) regarding recognition of foreign adoptions.

## Domestic Violence & Injunctions

Gemma undertakes all applications under the Family Law Act 1996. This includes forced marriage cases involving both children and adults lacking capacity.

## Court of Protection

Gemma accepts instructions on Health and Welfare Court of Protection work. She has acted pro-bono for a mother in the High Court in a welfare application regarding where P should live following allegations of sexual abuse by her against a family member.

## Modern Families & Surrogacy

Gemma has a keen interest in cases involving alternative families, including surrogacy and assisted reproduction, donor conception, adoption and parental rights and fertility treatment law.

## What the Directories Say

"Gemma is the complete package - she's a commensurate advocate, who is tenacious in pursuing her case and someone who always has the client's best interests at heart." **Band 2 - Chambers and Partners, 2024**

"Her attention to detail and preparedness are unsuppressed. On top of this her courtesy to the court and the thoroughness of her skeleton arguments are exceptional." **Band 2 - Chambers and Partners, 2024**

"Gemma does amazing work in children cases, and delivers top-quality advice with compassion and clear skill." **Band 2 - Chambers and Partners, 2024**

*"Gemma is an imaginative and lateral thinker. She is an excellent advocate in the face of often serious opposing arguments by others. She remains calm and focused and is always very well-prepared."* **Legal 500, 2024**

*"Gemma is a very poised and skillful advocate."* **Band 3 - Chambers and Partners, 2021**

*"She has extensive knowledge of all aspects of children law, including complex international matters and issues that arise in public and private Children Act proceedings. Gemma has a wonderful approach with the client and can come up with creative solution for difficult situations."* **Band 3 - Chambers and Partners, 2021**

*"Incredibly calm, well respected, clear and unflappable. She has a steely grip and really knows the case inside out." "A strategist who can dissect a case and set in train a massively impressive evidence-gathering process. Her legal analysis is excellent."* **Chambers and Partners, 2021**

*"Good on her feet and knows exactly how to put things to the judge."* **Chambers and Partners, 2020**

*"She's a strong and tenacious advocate who works well both in court and with clients."* **Chambers and Partners, 2020**

*"She's incredibly thorough, a fantastic advocate and a good strategist." 'She's very intelligent, and can really get to the nub of an issue very quickly.'* **Chambers and Partners, 2019**

## **Notable Cases**

*The Father v The Mother* [2023] EWHC 1454

*London Borough of Southwark v A Family* [2020] EWHC 3117

*London Borough of Haringey v A and B and Others* [2020] EWFC 38

*Re A* [2020] EWHC 1162

*PA Media Group v London Borough of Haringey* [2020] EWHC 1282

*A Local Authority v The Mother & Ors* [2020] EWFC 38

*A (No 2) (Children: Findings of Fact)* [2019] EWCA Civ 1947

*Royal Borough of Greenwich v Adopters* [2018] EWFC 87

*L (A Child), Re* [2017] EWHC 3707

*Re W (Children); Application by SW* [2017] EWFC 61

An application by a social worker, against whom unfair findings had been made, for disclosure of documents from care proceedings to her legal team for the purpose of QBD proceedings.

***Re J (A Child)* [2017] EWCA Civ 398**

An important decision in the Court of Appeal regarding the procedure to be adopted at an IRH. Led by Andrew Bagchi QC for the Local Authority.

***Re N (A Child)* [2016] EWHC 3085** A significant judgment from the President regarding recognition of foreign adoptions. Led by Deirdre Fottrell QC.

***Re W (A Child)* [2016] EWCA Civ 1140** The Court of Appeal sets out important guidance on witnesses being able to challenge findings made against them, if made in breach of their Article 8 rights. Led by Charles Geekie QC.

***Re W (Fact-Finding)* [2014] EWHC 4347**

***Royal Borough of Greenwich v JB & Ors* [2014] EWHC B18**

## Education

MA (Hons), English, St Anne's College, Oxford University

GDL, BPP Law School

BVC, BPP Law School

## Appointments

Recorder on the South Eastern Circuit to sit in Family matters (2022)

Gemma has recently been appointed by the Attorney General as a Special Advocate.

Gemma sat as the Chair of the Local Family Justice Board in Oxfordshire between 2014 and 2017. The Board monitors and improves the performance of the family justice system in the area.

## Awards

Inner Temple Scholarship

## Memberships & Associations

Association of Lawyers for Children and Resolution (ALC)

Bar Pro-Bono Unit

Family Law Bar Association (FLBA)

## Honourable Society of the Inner Temple

### Resolution

Seminars, Publications and Training

**2016:** A public debate held by the Family Court in Bristol against the motion *“Our Care System is Too Risk Averse”*.

**2015:** Online seminar for Lexis Nexis regarding Litigants in Person.

**2014:** An in-house seminar on The Interplay Between Care and Criminal Proceedings.

**2014:** *“Making Contact Work”* seminar delivered to several large solicitors firms.

**2014:** *“Re B-S And Beyond”*: training for local authorities.

Gemma has written for the online legal resource, Practical Law Company. She has drafted guidance on *“Contact with Children In Care”* and *“Interim Orders”*.