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## Nia Gowman

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### Practice Overview

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Nia joined 30 Park Place in 2015 following successful completion of her pupillage under the supervision of Claire Williams (Family) and Angharad Davies (Chancery and Commercial).

Since becoming a tenant, Nia has developed a busy Family, Civil and Public Law practice. Nia is presently focussing on developing her Civil and Public Law practice and is becoming particularly recognised for her expertise in Court of Protection matters. Nia has been acknowledged for her calm and professional demeanour, providing sensible advice, thorough preparation, detailed documents and robust representation.

Prior to commencing pupillage, Nia gained almost three years experience within the financial services sector having been employed as a Risk & Compliance Executive and later as a Financial Crime specialist. Nia also previously worked as a paralegal responsible for challenging Continuing NHS Healthcare decisions on behalf of her own caseload of clients.

Nia has continued to actively pursue opportunities to enhance her knowledge and experience. In 2016 Nia was seconded to NHS Legal and Risk Services where she either advised or attended court on a range of matters to include clinical negligence, commercial, court of protection and inquests. In 2017 Nia was awarded a prestigious Inns of Court Pegasus Trust Outgoing Scholarship and travelled to India for two months where she spent time working with the Standing Counsel of the Government of Delhi, the Delhi Commission for Women, the All India Democratic Women's Association, human rights NGO the Lawyers Collective and with a Supreme and High Court Advocate specialising in Commercial Law.

Nia is a fluent Welsh speaker and is happy to conduct cases through the medium of Welsh.

### Notable and Reported cases

- Chancery & Commercial
  - Re AD – Nia was instructed by an NHS body to prepare a Defence and Counterclaim in a civil claim pursued by a dentist for reimbursement of mentoring and training costs incurred by him. The NHS body denied liability and counterclaimed for an overpayment made to the Claimant in excess of £60,000. The case involved interpretation of the General Dental Services (GDS) contract and regulations such as the National Health Service (Performs List) Regulations 2004, the Performers Lists (Suspended Dentists' NHS Earnings) Determination 2015 and the National Health Services (General Dental Services Contracts) Regulations 2005. The case settled soon after the Defence and Counterclaim was served and prior to the CMC.



- Court of Protection

- Re KA – Nia was instructed by KA via the Official Solicitor in an application made by the Local Authority pursuant to sections 4A(3) and 16(2)(a) of the Mental Capacity Act 2005 using the streamlined procedure to authorise KA's deprivation of liberty at his current placement. KA is a young male with severe learning disabilities and autism. Concerns were raised regarding the care and support arrangements within the current placement and whether it was in KA's interests to remain there. Expert evidence was obtained from KA's consultant psychiatrist and dietician to address pertinent issues in the case. A search was undertaken for a new placement for KA, a difficult task given KA's particular needs and the high level of support required. The case concluded with a KA moving to a purpose built property and a Working Together Agreement between relevant parties to support the placement.
- Re FJB – Nia represented FJB via her RPR and litigation friend in a section 21A challenge to a deprivation of liberty authorisation where FJB was seeking to return to her own home. Issues included the adequacy of the capacity evidence and the court's power in ordering reports under section 49 of the Mental Capacity Act 2005, whether it was in FJB's best interests for money to be expended on remedial works to the property and whether a trial at home with a package of domiciliary care should be attempted. The Court directed that the remedial work should be completed and that FJB should have a trial at home.
- Re DMW – Nia represented the Local Authority in a section 21A challenge to a deprivation of liberty authorisation. DMW had significant mental health involvement over the years and was the subject of a Community Treatment Order at the time of the application. The case involved consideration of the interplay between the Mental Capacity Act and the Mental Health Act and the jurisdiction to interfere with the conditions of the CTO. The case also involved consideration of DMW's capacity to marry.
- Re LH – Nia represented the Local Authority in its application made pursuant to sections 4A(3) and 16(2)(a) of the Mental Capacity Act 2005 using the streamlined procedure to authorise LH's deprivation of liberty at her placement; for a Prohibited Contact Order and for Injunctions precluding LH's family from entering an area surrounding LH's placement and from placing certain information on social media.
- Re Various – Nia represented the Health Board in respect of applications to move a number of residents from X Placement to alternative placements due to a change in X Placement's CSSIW registration. The move was vehemently opposed by X Placement. The case involved capacity considerations, dispute as to nature and extent of need, independent expert evidence, consideration of the implications of Funded Nursing Care and Continuing Health Care funding arrangements and arguments as to the limitations of the Court's jurisdiction.
- Re RM – Nia represented the Health Board in a section 21A challenge to a deprivation of liberty authorisation pursued on behalf of RM. RM's representatives sought a return of RM to his home. RM has significant health difficulties and has been fitted with a percutaneous endoscopic gastrostomy (PEG) tube through which he receives all his nutrition, hydration and a majority of his medications. During the course of proceedings, RM was diagnosis as being in the advanced palliative stage of Huntington's disease. Nia was successful in representing the Health Board in its COP9 application to discharge RM to a nursing home pending the conclusion of the case.

- Inquests

- Re DR – Nia represented the Health Board in an Article 2 jury inquest. The deceased was detained under section 3 Mental Health Act 1983 on a psychiatric ward at the time of her death. The deceased had been demonstrating self-injurious behaviours and staff had had to intervene to prevent the deceased from ligaturing on multiple occasions. The deceased died after having ligatured. The family were concerned that the observation policy had been used inappropriately. Nia questioned the professional witnesses and made submissions regarding conclusions and Regulation 28 to the coroner. No significant adverse findings were made against the Health Board.
- Re AD – Nia represented the Health Board in an Article 2 jury inquest where the medical cause of death was unknown. Queries were raised regarding the interplay between the deceased's complex



mental health and physical needs, whether her care had been managed appropriately and whether her observations had been appropriately taken and recorded. Nia questioned the professional witnesses and made submissions regarding conclusions and Regulation 28 to the coroner. No adverse findings were made against the Health Board.

- Re JB – Nia represented the Welsh Ambulance Service in the inquest of a gentleman who died having sustained a blow to the head after falling from a first floor window whilst under the influence of cocaine. The patient was not on the scene when the ambulance arrived. The WAST were criticised for the delayed use of an interpreter on the initial call, the delay in dispatching an ambulance, failure to conduct a robust search of the area once they arrived and failure to engage the services of the police to locate the gentleman. Nia questioned the professional witnesses and made submissions regarding conclusions and Regulation 28 to the coroner. No adverse findings were made against the WAST.
- Re RE – Nia represented the Health Board in an inquest where the deceased had surgery for an ischemic terminal ileum which resulted in an anastomotic leak which was operated and diagnosed on but resulted in multi organ failure and sepsis causing the death. Nia questioned the professional witnesses and made submissions regarding conclusions to the coroner. No adverse findings were made against the Health Board save that the coroner raised wanted sight of an effective system for conveying the histology results from pathology to the consultants which was already in progress.

- Mental Health

- Re JH – Nia represented a 22 year old patient who had been convicted of rape and detained in a secure unit pursuant to section 38/41 Mental Health Act 1983 when he was 15 years old. Nia played an active role at the section 117 multi-disciplinary meeting and at the subsequent tribunal hearing to determine whether the patient was able to be discharged from a secure unit. Nia was successful in securing the conditional discharge of the client.
- Re LH – Nia represented a patient who was detained pursuant to section 3 Mental Health Act 1983 at the tribunal hearing to determine whether the patient could be discharged. Nia questioned the professionals who were not supportive of LH's request to be discharged primarily due to uncertainty regarding LH's accommodation post-discharge. Nia presented forceful arguments to the Tribunal that LH was seemingly being detained solely due to the respective public bodies' lack of understanding of their section 117 aftercare duties. The Tribunal adjourned and made directions for senior officers from the Health Board and the Local Authority to come and give evidence on section 117 aftercare services. Suitable accommodation was subsequently sourced very quickly for LH who was discharged by his RC.
- Re ND – Nia represented an Approved Mental Health Professional in an application brought pursuant to section 29(3)(e) Mental Health Act 1984 for an order directing that the functions of the patient's nearest relative be exercised by his mother thereby displacing his father as nearest relative. Nia was successful in securing the order on the basis that ND's father was an unsuitable person to act as ND's nearest relative as he did not accept the care and treatment proposed by professionals, ND's mental health deteriorated and subsequent detention under the Mental Health Act 1983 was required and ND had made an allegation that his father had been physically violent toward him.
- Re HH – Nia represented an Approved Mental Health Professional in an application brought pursuant to section 29(3)(c) Mental Health Act 1984 for an order directing that the functions of the patient's nearest relative be exercised by the Local Authority thereby displacing her father as nearest relative on the basis that he was unreasonably objecting to the making of a Section 3. Nia questioned HH's father and medical professionals on complex issues pertaining to the use of anti-psychotic medication. Following robust examination, HH's father conceded and agreed to HH being placed on Section 3.

- Personal Injury

- Re JS – Nia was instructed in a fast track trial on behalf of the Claimant in a claim for personal injuries against the Defendant. The Claimant had tripped over a warning sign which was situated on a pathway. The Defendant sought to argue that it had a reasonable system of inspection in place, that



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the records demonstrated appropriate site maintenance, that the warning sign would not have been placed on the pathway and that the warning sign must have been moved by a third party over which they have no control. Following a careful analysis of photographs taken by the Claimant's son the day after the accident, Nia robustly questioned the witnesses and was able to establish unsafe practices on the site which deviated from industry standard. The Judge found in favour of the Claimant.

- o Re KS – Nia represented an infant Claimant in a fast track causation and quantum trial. The case involved complex expert evidence from child psychologists and psychiatrist which demonstrated that the cause of the Claimant's symptoms was multi-faceted and attributed not only to the index accident but also to a second accident sustained by the Claimant, the Claimant's diagnosis of autism and projection of difficulties and insecurities onto the Claimant by his mother. The case was further complicated by conflicting medical and education records and conflicting accounts given by Claimant's mother. Nia successfully secured a favourable award for the Claimant and was subsequently instructed to represent the Claimant in the claim relating to the second accident.

## Chancery & Commercial

Nia regularly accepts instructions to advise, draft documents and represent clients across a wide range of chancery and commercial matters to include contentious probate, contractual disputes, credit hire, possession actions, rights of way, adverse possession and boundary disputes.

## Court of Protection

Nia has developed a strong Court of Protection practice, both in relation to health and welfare and property and affairs. Nia regularly acts for Local Authorities, Health Boards, RPRs, the Official Solicitors and family members in relation to applications to the Court of Protection. Nia's experience includes disputes over capacity, section 21A applications and personal welfare applications involving decisions about residence, care and treatment (to include medical treatment), marriage and sexual relations. Nia has been commended for her detailed drafting to include statements of facts and grounds, position statements, skeleton arguments and orders. Nia also accepts instructions in contested property and affairs disputes to include the appointment and removal of deputies and attorneys (welfare/financial affairs).

Nia is actively involved in providing seminars with the Court of Protection Team at 30 Park Place and is available to provide training to relevant parties.

## Education

Nia accepts instructions to advise, draft case statements and represent clients across a range of education law matters including admission, exclusion and SENTW appeals. Nia is actively involved in providing seminars with the Education Law Team at 30 Park Place including at the Welsh Education Law Conference and has recently delivered training to North Wales Local Authority Consortium on The Additional Learning Needs and Education Tribunal (Wales) Act 2018.

## Family & Child Care

Nia undertakes work in all aspects of public and private family law and has represented local authorities and parents in the county court and the family proceedings court. Nia has experience drafting all key procedural documents to include public law threshold documents, case summaries and draft orders.

## Inquests & Inquiries

Nia accepts instructions from interested parties to provide pre-inquest advice on such considerations as disclosure, witness requirements, expert evidence, scope and procedure and thereafter provides representation at pre-inquest reviews and inquests. Nia is particularly experienced in cases involving mental health elements, often where Article 2 ECHR is engaged as a result of the deceased being in custody or detained under the Mental Health Act 1983.

## Mental Health

Nia accepts instructions to advise and represent clients in all aspects of mental health law. Nia regularly



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represents patients at mental health tribunals and has developed a particular niche for displacement of nearest relative applications pursuant to Mental Health Act 1983 in the County Court.

## Personal Injury & Clinical Negligence

Nia acts for both claimants and defendants in personal injury matters to include workplace claims, road traffic accidents, slipping/tripping claims and matters relating to consumer protection. Nia also has experience of advising and representing clients in clinical negligence claims which was enhanced following time on secondment with NHS Legal and Risk Services. Nia accepts instructions to advise on liability and quantum. Nia is viewed favourably for her ability to turn paperwork around quickly. Nia is happy to undertake work on a Conditional Fee Agreement basis.

## Appointments

- 2012 – 2013 - Cardiff University - Welsh Rugby Union, Student Advisor
- 2012 – 2013 - Caerphilly Citizens Advice Bureau, Gateway Assessor
- 2012 - 2013 - Cardiff University - The Fostering Network, Student Advisor
- 2009 - 2010 - University of Bristol Law Clinic Executive - Committee Member
- 2008 – 2010 - University of Bristol Law Clinic, Student Advisor

## Career

- 2013 – 2014 – Target Group Ltd – Financial Crime Executive
- 2013 – Hugh James Solicitors – Nursing Care Paralegal
- 2010 – 2012 – Target Group Ltd – Risk & Compliance Executive

## Education & Qualification

- 2012 – 2013 - Cardiff Law School - BPTC - Outstanding
- 2011 – 2012 - International Compliance Association – Diploma in Financial Crime Prevention - Merit
- 2007 – 2010 - University of Bristol – LLB (Hons) Law – 2.1
- 2000 – 2007 – Ysgol Gyfun Gymraeg Glantaf

## Awards

- 2017 – Inns of Court – Pegasus Trust Outgoing Scholarship (India)
- 2015 - Gray's Inn - Ann Goddard Pupillage Scholarship
- 2012 - Gray's Inn - Edmund-Davies BPTC Named Award
- 2010 - University of Bristol - Bristol PLuS Outstanding Achievement Award