

# Expert Witness Services

**At EMG solicitors, we have some of the most experienced Court of Protection lawyers in the UK and we are regularly called upon by personal injury and medical negligence lawyers acting on behalf of both claimants and defendants to provide expert witness statements and evidence at trial or tribunal in this complex and challenging area of work.**

Following the case of *Eagle v Chambers*, the court acknowledged the importance of appointing a professional deputy in significant damages claims and our team can provide expert witness advice in relation to both Property & Affairs and Health & Welfare matters.

## Expert Witness Statements - Property & Affairs

When instructed by the claimant's litigation lawyer, our team can help prepare information to be included in the schedule of loss and properly quantify the Court of Protection fees that are payable in a case including, where necessary future Court of Protection costs for the appointment of a professional deputy. This is vital, as if a Court of Protection claim is undervalued, and the claimant requires the service of a deputy for their lifetime, this will result in their other special and general damages being used to pay for the ongoing deputyship costs. This will in turn limit the funds that can be utilised elsewhere for care, rehabilitation and accommodation, amongst others.

When acting on behalf of defendants, we can examine the witness statements put forward by the claimant's expert in relation to Court of Protection fees and can make sure it is reasonable and fair.

## What we provide?

- Expert witness input regarding Court of Protection and deputyship costs, to include both written statements and evidence at trial or tribunal.
- When instructed by the claimant's litigation lawyer, we help prepare the right figures for the schedule of loss
- Informal assessments and expert witness reports on Court of Protection costs for defendant lawyers, where formal statements for service are not required

- Expert witness statements for defendant lawyers that assess and comment on the reasonableness of a claim for professional fees and Court of Protection costs, examining the witness statement put forward by the claimant's expert to make sure it is reasonable and fair.
- Act as a joint expert or litigation friend for either claimant or defendant
- Attend court to provide evidence

## Expert Witness Statements - Health & Welfare

It has become increasingly necessary for consideration to be given to be given to potential costs in the Court of Protection arising out of Health and Welfare matters. In the 2016 Court of Protection matter of *Staffordshire CC v SRK & Ors*, the Court stated that the involvement of property and affairs deputies in the making of a welfare order in relation to a deprivation of liberty should be "factored into the calculations of damages awards in future".

Legal costs may arise in relation to any of the following:

- Disputes about whether a person has or lacks capacity to make specific welfare decisions.
- The involvement of the property and affairs deputy in best interests decision making processes.
- Proceedings in the Court of Protection to determine a best interests dispute. The most common disputes arise in relation to an incapacitated person's residence, care package and contact with others but can extend into a broad range of welfare areas across many areas of their life.
- The authorisation of a deprivation of liberty arising out of care and residence arrangements.
- An application for the appointment of a personal welfare deputy.

**Please see our CV's detailed below.  
Should you require any further information  
please contact our Court of Protection Team  
on 0191 500 6989.**

# Meet the Team

# emgsolicitors

## Emma Gaudern

Managing Director, Emma Gaudern, is nationally, one of the leading individuals in the field of Court of Protection and EMG Solicitors has been highlighted previously in the The Legal 500 as 'among the finest court of protection firms in the country.'

Emma has specialised in Court of Protection work for the last 20 years and is a Court of Protection deputy as well as trustee in a number of high value personal injury trusts.

Emma is well known for her expertise in dealing with brain injured clients and her deputyships range from children with cerebral palsy occasioned via birth injury, through to children and adults who have been injured in road traffic accidents. Emma also represents various adults who have been injured in accidents at work.

Emma is a first tier listed Court of Protection expert with APIL and is regularly called upon to provide expert witness evidence in high value, multi-track catastrophic injury cases.

Where necessary, Emma also acts as litigation friend to individuals who are incapacitated and is regularly instructed by defendants in compensation claims and asked to assess the Court of Protection costs claimed, to make sure they are fair and reasonable.

### Emma Gaudern

Managing Director & Professional Deputy  
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## Jemma Morland

Jemma is a Director and EMG Solicitors and Heads the firms specialist Court of Protection Team.

As a professional deputy, Jemma specialises in all matters pertaining to the Court of Protection and Trust administration. She manages the affairs of a large number of vulnerable people, usually those who have lost capacity due to an injury at birth, catastrophic accidents, illness or learning disability. Jemma is also involved in a number of cases where there is ongoing a personal injury litigation and she is experienced in both pre and post settlement administration.

In addition to her Court of Protection work, Jemma manages numerous personal injury trusts, and also provides advice to lay deputies or trustees.

Jemma also acts as a professional Litigation Friend and works closely with both claimant and defendant solicitors to provide expert witness reports for use within litigation cases, providing her opinion on the costs associated with a deputy or trustee acting on behalf of a specific client over a certain period of time.

Jemma is a first tier listed Court of Protection expert with APIL, helped found and is treasurer for CoPPA North East (the Court of Protection Practitioners Association) and is also treasurer for Headway Wearside which supports those living with brain injury.

### Jemma Morland

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& Professional Deputy  
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## Eilish Ferry-Kennington

Eilish is an Associate Solicitor in the Court of Protection team and specialises in the areas of Mental Health and Court of Protection Health & Welfare. Eilish is a member of the Law Society Mental Health Accreditation Panel and an Accredited Legal Representative on the Law Society Mental Capacity (Welfare) Accreditation Scheme.

Eilish has developed a wealth of expertise in Health & Welfare and Deprivation of Liberty Safeguards at EMG Solicitors and she is regularly instructed by the Official Solicitor. She is a frequent speaker at events concerning Health & Welfare issues and is also instructed in respect of expert witness work in relation to Health & Welfare matters.

Eilish regularly acts for adults who lack the capacity to make decisions for themselves and so often takes instructions from a litigation friend who instructs a solicitor on the person's behalf. Eilish also acts on deprivation of liberty cases and where there are disputes about an individual's welfare.

Eilish is able to undertake expert witness work for both claimants and defendants in personal injury and clinical negligence matters, providing reports on the likely future costs relating to Health and Welfare matters.

### Eilish Ferry-Kennington

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