

# Rosalind Emsley-Smith

2001 Gray's Inn

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| Education   | Professional Associations  | Appointments  |
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| Manchester Metropolitan University - LLB<br>BVC - Very Competent. | Criminal Bar Association<br>Northern Circuit<br>Young Fraud Lawyers Association<br>Manchester and District Medico-Legal Society. | CPS Advocates Panel - Cat 3 (R)<br>List of Specialist Regulatory Advocates in Health and Safety and Environmental Law (List B)<br>GMC Approved Panel of Advocates<br>Grade 4 Prosecutor |

## Areas of Specialism

General Crime

Health & Safety

Environmental

Sexual Offences

Inquests

Professional Discipline

Money Laundering, Confiscation and Asset Forfeiture.

Fraud

Licensing

Motoring Offences

Consumer Protection & Trade Marks

Local Authority Prosecutions

Court of Protection

## Profile

Inquests

She has a wide experience of coronial law, representing a range of private companies and families in the Coroner's Court. She is often instructed in Article 2 inquests investigating deaths in police and prison custody. Her experience covers fatal road traffic collisions, drug related deaths, fatal falls in care homes, suicide and more.

#### Regulatory and Health and Safety

Her training at the criminal bar early in her career enables her to robustly represent clients from Inquest through to Crown Court trial if required. She has extensive experience of HSE prosecutions and can utilise her skills to good effect on behalf of her clients.

She regularly prosecutes on behalf of the HSE and the EA and is particularly known for successfully prosecuting difficult and complex Crown court cases involving particularly problematic defendants. She has received instructions beyond her prosecutor's grade for many years, and regularly acts as Counsel alone against much more senior Barristers including Queens Counsel.

She has an authoritative understanding of the law in these areas and an ability to make the law easily digestible for juries. Her legal submissions are known to be of a high standard and she boasts an impressive success rate.

#### Professional Discipline

Rosalind has been appearing on behalf of the General Medical Council presenting cases before Fitness to Practice Tribunals since 2010. During that time her caseload has become more complex and now includes specialist clinical cases and allegations of deficient professional performance in addition to misconduct cases.

#### Local Authorities

She prosecutes and defends local authority prosecutions including benefit fraud, Consumer Protection from Unfair Trading Regulation cases, food hygiene cases, building and planning regulation cases, fly tipping cases and waste disposal cases. In this context she has advised in respect of stating cases and judicial review, drafting grounds and responses if required.

#### General Crime

Rosalind prosecutes and defends serious cases of significant complexity in the Crown Court. The majority of her practice is made up of serious sexual offences and fraud.

She also has extensive experience of the Court of Appeal with an enviable success rate.

She is regularly instructed in large scale frauds and drug conspiracies involving voluminous paperwork. She takes a methodical and diligent approach to her case preparation, is robust in court and always puts her clients first.

She is also instructed in respect of general crime including allegations of dishonesty, false imprisonment, kidnap, violence, neglect and child cruelty, drug offences and arson.

#### Licensing

She has extensive licensing experience with a solid command of the Licensing Act and associated case law. She regularly appears before licensing committees and the Magistrates' Court in respect of appeals. She is a member of the Institute of Licensing.

## Notable Cases

### INQUESTS

Inquest into the death of LB. This was an Article 2 death in custody case with numerous IPs due to the movement of LB prior to his death. The case lasted 6 days. For the CRC.

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Inquest into the death of RG. This was a 3 week Article 2 death in custody case in which there were a number of failings by a number of agencies which complicated the process with individual becoming IPs throughout the 3 week hearing. For the family.

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Inquest into the death of AR. A death in a half way house treatment centre. For the company.

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## HEALTH & SAFETY

### **[HSE v Riaz Ahmad](#)**

The HSE investigation and prosecution followed the collapse of a large three storey Victorian which was in the process of being turned into a Shisha bar. Multiple fatalities were narrowly avoided.

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### **HSE v Scrappers Limited**

The HSE investigating and prosecution followed a serious accident at the Scrappers Yard which was featured in the BBC fly on the wall documentary about the Bolton Scrap Yard. The injured party was left with permanent scarring.

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### **HSE v Siteweld Construction.**

Fatal HSE prosecution following a crane collapse. Defence.

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### **HSE v Capita Properties**

Fatal HSE prosecution, led junior for defence

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### **HSE v Carter Brothers**

Fatal HSE prosecution, defence

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## ENVIRONMENT AGENCY

### **EA v Allison**

The EA investigation and prosecution followed persistent and large scale illegal fly tipping on farm land in Burnley. The defendant was made subject to a Regulation 44 order at sentence which he failed to comply with, The EA pursued contempt of court proceedings and the defendant was imprisoned for 6 months.

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### **EA v Harron Homes**

The EA investigation and prosecution followed a serious illegal water discharge incident on a construction site in Huddersfield. The defendant company entered guilty pleas but what followed was detailed counter submissions and legal argument regarding the basis upon which the company were to be sentenced and the sentencing guidelines.

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## PROFESSIONAL DISCIPLINE

### **GMC -v- Dr O**

Dr O was facing allegations amounting to misconduct on the basis that on two occasions he contacted his employers to report that he was too unwell to work but in fact performed locum shifts elsewhere. Additionally he failed to inform his employer that a clinical attachment had concluded and so was paid for a three month period of work he did not perform. Dr O sought to rely on technicalities in his contract of employment to justify his conduct. Dr O also faced allegations of clinical misconduct in that he failed to diagnose a patient with a significant post biopsy bleed.

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### **GMC -v- Dr W**

This case involved allegations of a complex nature regarding the care provided by a Consultant Clinical Oncologist. The case involved particularly dense expert medical evidence and an ability to be flexible in approach throughout the twists and turns of the case.

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### **GMC -v- Dr P**

Represented the GMC against a Doctor who was facing a wide range of clinical allegations regarding his work as a Consultant Plastic Surgeon at a private clinic in Preston. The witnesses were made up of number of woman who were unhappy with the results of surgery and obviously detailed expert evidence was required in this case. The doctor also faced allegations of dishonesty in that it was alleged and found proved that he had falsified medical records to cover up his errors. The case lasted in the region of five weeks. The doctor was erased from the medical register.

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**GMC -v- Dr B**

Dr B faced allegations of misconduct in that he used his position to pursue an emotional relationship with a patient. He further faced allegations relating to the inappropriate writing of prescriptions for the same patient.

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**CRIME****R v Whiteley**

6 week cocaine conspiracy following operation Jennet. A large scale investigation into County lines large scale drug distribution.

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**R v Greening**

5 week trial relating to historic abuse allegations dating back to the 1970s following a very large investigation into residential schools in Cumbria.

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**R v Corrigan**

A money laundering allegation following industrial scale theft by prison officers working at Forest Back Prison.

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**R v KF**

S18 with a claw hammer.

<https://www.thesun.co.uk/news/...>

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**R v JC**

Secured the acquittal of a former teacher charged with nine charges of historical indecent assault and two serious sexual offences.

<http://www.dailymail.co.uk/new...>

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**R v KB**

Defends client who was later acquitted of 22 counts of rape and sexual assault

<http://www.blackpoolgazette.co...>

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**R v L**

Secured the acquittal of a woman charged with seven counts of engaging in sexual activity with a child.

<http://www.telegraph.co.uk/news/>

<http://www.dailymail.co.uk/news/>

<http://www.mirror.co.uk/news/>

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**R -v- TC**

The case was a theft in breach of trust.

The defendant stole £20,000 from her daughter's bank account having been entrusted with the bank card to ensure her daughter didn't dip in to the money. The defendant's daughter was saving for her wedding and had put her inheritance from her father in the account.

The Judge was persuaded to suspend the 12 month sentence of imprisonment.

<http://www.dailymail.co.uk/news/>

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**R v Walsby-Tickle**

Led Junior, first on the indictment in respect of a fraud against the NHS by an optician. The value of the fraud being well in excess on £1 million.

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**R v Adnan Kanj**

Led Junior in respect of a six month money laundering trial linked to a multi million pound MTIC fraud.

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**R v Terri Ann Davies**

Led junior defending in an allegation of perverting the course of justice arising out of a 5 handed murder.

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**R v Crossley**

A three month trial where my client was facing allegations of assisting an offender. The offender in question was charged with murder and kidnap following a violent gang attack. The body was never found.

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**R v Stephenson**

Historic rape allegations from 3 family members. This case involved complicated issues relating to the interrelationship between fitness to plead and having capacity to take part in court proceedings pursuant to the Mental Capacity Act 2005.

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**R v Johns**

16 counts of Rape and indecent assault on 3 young boys. Defending.

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**R v Aikman**

Rape and Indecent assault X10 with 3 complainants. Defence.

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**R v Aydin**

A taxi driver charged with raping a patient he had collected from a psychiatric hospital. The trial judge commented that he had been represented with "conspicuous ability".

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**R v Palmer, Smith and others**

Five handed conspiracy to supply class A drugs, undercover police investigation, led junior for the defence.

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**R v Scott.**

Five allegations of armed robbery of Manchester City centre bookmakers.

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## What the Directories say

"She is a very accomplished advocate: always very well prepared, knows her brief and argues her corner." "She is very tenacious and impressive in a hearing."

*Chambers and Partners, 2021*

"She has a very impressive legal brain and is very persuasive in court. Her advocacy and preparation of complex legal arguments is very strong."

*Chambers and Partners, 2021*

'Her true strength comes in trials, and her closing speeches to juries are masterful without a wasted word.'

*Legal 500, 2021*

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"Very experienced and good on her feet."

*Chambers and Partners, 2020*

' She has a very likeable manner in front of juries. '

*Legal 500, 2020*

An advocate who uses her broad experience in criminal law to good effect in disciplinary cases in the healthcare sector. She regularly acts for the GMC and has a wide knowledge of the MPTS, with a particular focus on fitness to practise hearings and reviews of fitness to practise hearings. "Very experienced and very good on her feet."

*Chambers and Partners, 2019*

A junior who comes highly recommended for her work ethic and her client care skills. She regularly handles serious crime and complex fraud matters, acting as both prosecution and defence counsel in cases concerning violent and sexual offences. She also has a thriving regulatory practice, has prosecuted a number of cases for the HSE and frequently presents cases before the Medical Practitioners Tribunal. "Very experienced, very competent, very good on her feet."

*Chambers and Partners, 2019*

'She has experience in serious violence, fraud and sexual offences cases.'

*Legal 500, 2018*

An advocate who uses her broad experience in criminal law to good effect in disciplinary cases in the healthcare sector. She regularly acts for the GMC and has a wide knowledge of the MPTS, with a particular focus on fitness to practise hearings and reviews of fitness to practise hearings. "She has a well-rounded knowledge of regulatory matters, takes a sensible approach on cases to progress them and is liked by the client." "A busy practitioner in the GMC. Very tenacious and very thorough in cross-examining. A very confident, impressive performer."

*Chambers and Partners, 2018*

A junior who comes highly recommended for her work ethic and her client care skills. She regularly handles serious crime and complex fraud matters, acting as both prosecution and defence counsel in cases concerning violent and sexual offences. She also has a thriving regulatory practice, has prosecuted a number of cases for the HSE and frequently presents cases before the Medical Practitioners Tribunal. "She is very sharp, hard-working and has a nice manner with clients."

*Chambers and Partners, 2018*

'Clients know she will fight tooth and nail for them.'

*Legal 500, 2017*

A junior who comes highly recommended for her work ethic and her client care skills. She regularly handles serious crime and fraud matters, acting as both prosecution and defence counsel on cases concerning violent and sexual offences. She also has a thriving regulatory practice. "A good lawyer who is hard-working and bright." "A very good advocate who can read the situation well in terms of the judge and who is very versatile and effective."

*Chambers UK, 2017*

Appearing regularly at the Crown Court, Emsley-Smith defends and prosecutes serious fraud cases and handles

sexual assault offences. She also has a good performance history before the Court of Appeal. Instructing solicitors recommend her for her work. "A good performer with a tremendous track record of getting results."

*Chambers UK, 2016*

"A versatile and able advocate" "well regarded for her work relating to the General Medical Council"

*Legal 500 2016*

'She is diligent, hardworking, and has an excellent client manner.'

*Legal 500, 2015*

'dynamic and astute in court'.

*Legal 500, 2014*

'Recommended Junior'

*Legal 500, 2013*

'efficient, well prepared and flexible, and is dynamic and astute in court.'

*Legal 500, 2012*

'is a rising star.'

*Legal 500, 2011*

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