

## Jody Atkinson



YEAR OF CALL: 2005

“ Jody is a hugely intelligent junior whose advocacy is compelling.”

LEGAL 500, 2023

DIVORCE & FINANCIAL REMEDY

### Practice Overview

Jody is described in Chambers UK as “a very bright guy of singular ability with a massive intellect”. Jody is a specialist private client barrister and is therefore a member of both the wills, trusts & tax and financial remedy teams at St John’s Chambers.

Jody is a popular matrimonial finance practitioner, and is often instructed in financial remedy cases that involve complicating factors (such as trusts, international issues, or third party interests). Jody is also renowned for his expertise in the Child Support Act, being the author of a text book on the subject.

Jody is well known for his experience in disputes concerning wills, trusts and probate. Jody is a full member of the Society of Trusts and Estate Practitioners (STEP), having passed all four of the exams in one sitting. Due to his rare crossover expertise, Jody is often the first choice for Inheritance Act cases and disputes between cohabitants (proprietary estoppel).

Jody has long experience representing clients in acrimonious disputes between family members and achieving settlement where appropriate, or litigating where settlement is not possible.

### Areas of Expertise

#### Court of Protection

Combining both family and trusts/probate expertise, Jody is able to undertake the full range of Court of Protection work. Unlike many barristers he undertakes both ‘property and affairs’ and ‘welfare’ work.

Recently he has represented family members in disputes concerning:

- ▶ The validity of lasting and enduring powers of attorney
- ▶ Where the donee of a power of attorney was accused of stealing money from the incapacitated person
- ▶ Where the mentally incapacitated person had been taken abroad and there was a dispute about whether they should return to the UK
- ▶ Who a mentally incapacitated person should live with

Jody has also been instructed by both local authorities and care providers, as well as family members and the Official Solicitor in disputes concerning:

- ▶ Allegations of abuse by carers
- ▶ The Deprivation of Liberty Safeguards regime
- ▶ Whether a mentally incapacitated person should live at home or in care
- ▶ Contact with a mentally incapacitated person in care

## Family & Divorce

Jody is regularly instructed by both husbands and wives to advise and represent them in financial proceedings resulting from divorce. Jody regularly advises in complex cases involving trust funds, international issues, farms and family businesses.

Jody is well known for his experience in disputes over the ownership of property between unmarried cohabitants. In 'the park bench case' *Ely v Robson* [2016] EWCA Civ 774, [2017] 1 FLR 1704, Jody represented the successful party before the Court of Appeal in a long running dispute about the ownership of property. Jody is equally happy litigating under either the Family Procedure Rules (FPR) or the Civil Procedure Rules (CPR) and will settle proceedings for family unfamiliar with the CPR.

Jody is renowned for his knowledge of the law concerning child maintenance and the Child Maintenance Service (CSA/CMS/CMEC), and is the author of one of the main practitioner texts on the topic. He has appeared on many occasions both before the First Tier and Upper Tribunal: Social Entitlement Chamber (formerly the Child Support Appeal Tribunal and the Commissioners). Jody often undertakes CSA cases on a public access basis.

### *Divorce & Financial Remedy*

As a private client specialist, Jody is able to offer clients advice and representation with regard to all litigation arising out of the breakdown of family relationships.

Jody is regularly instructed by both husbands and wives to advise and represent them in financial proceedings resulting from divorce. Jody advises in cases involving trust funds, foreign assets, farms or family businesses, as well as those of more modest means. As an experienced family practitioner, Jody frequently deals with highly acrimonious and emotional disputes, settling them where practicable, or litigating them where that is in the client's best interests.

Jody is happy to advise on settlement prior to issue of claims (including on a public access basis) or to represent people at mediation appointments. Jody can also advise on the tax implications of divorce. Although Jody does not now specialise in children work, he has ten years' experience in this area, and will act in children disputes where there are associated financial proceedings, thus enabling the client to be represented 'across the board' by the same advocate.

As a full member of the Society of Trusts and Estate Practitioners (STEP), Jody is well qualified to advise unmarried people on the financial implications of the breakdown of their relationships, which are governed by the law of trusts (*Kernott v Jones*, *Stack v Dowden*), and the Trusts of Land and Appointment of Trustees Act 1996 (TOLATA). He is equally happy litigating under either the Family Procedure Rules (FPR) or the Civil Procedure Rules (CPR) and will settle proceedings for family solicitors unfamiliar with the CPR.

Jody is uniquely well placed to advise those making or defending claims under the Inheritance (Provision for Family and Dependents) Act 1975. This difficult jurisdiction combines elements of matrimonial and probate law, and Jody is rare in having experience in both areas.

Jody is renowned for his knowledge of the law concerning child maintenance and the Child Support Agency (CSA/CMEC), having appeared on many occasions both before the First Tier and Upper Tribunal: Social Entitlement Chamber (formerly the Child Support Appeal Tribunal and the Commissioners). Jody often undertakes CSA cases on a public access basis.

## Mediation

Jody's practice embraces both traditional chancery (wills and trusts) and family finance (divorce and financial remedies). The truth is that in all of these areas there is usually a family relationship breakdown lying behind the dispute, and it is important to take into account the emotional and social issues, as well as the legal issues, in order to arrive at a solution.

Jody approaches mediation on this basis and uses his wide cross jurisdiction experience to assist parties in resolving their disputes and moving on.

Jody is happy to conduct mediations either in person or remotely via Zoom.

## Public Access

Jody is nationally known for his expertise in child support and the Child Support Act 1991. Jody has been dealing with the Child Maintenance Service, and its previous incarnations the CSA and CMEC for many years and is able to bring a level of understanding of their practices and procedures that is almost unique. As a matrimonial practitioner, Jody also can advise on the complicated interaction of the powers of the Family Court and the powers of the CMS.

Jody regularly appears before the First Tier Tribunal and the Upper Tribunal in child support cases. Jody represents both paying parties (non resident parents) and receiving parents (persons with care). He is the author of the section on child support in a leading text book.

He is often instructed by solicitors faced with difficult child support situations, and in appropriate cases can also be instructed directly by clients through the public access scheme.

Jody is a member of the Divorce & Financial Remedy and the Wills, Trusts teams at St John's Chambers.

### Professional Negligence

Jody advises and represents claimants and defendants in professional negligence actions arising in his specialist areas. This frequently involves claims by disappointed beneficiaries who have not received a legacy after the death of a loved one or relative due to a failure by a solicitor to prepare a will in time, or where a will has been found to be invalid. Jody has also acted in claims against family solicitors, where negligence is alleged in the settling of financial proceedings after a divorce.

### Wills & Trusts

Jody is well known for his experience in disputes over the ownership of property, particularly between unmarried cohabitants. In 'the park bench case' *Ely v Robson* [2016] EWCA Civ 774, [2017] 1 FLR 1704, Jody represented the successful party before the Court of Appeal in a long running dispute about ownership of property. Jody also represents parties in 'constructive trust' and 'proprietary estoppel' cases, including those involving farms or family businesses.

Jody is frequently instructed in contentious probate cases, where the validity of a will is challenged. Jody is uniquely well placed to advise parties to claims under the Inheritance (Provision for Family and Dependants) Act 1975. This difficult jurisdiction combines elements of matrimonial and probate law, and he has the ideal skill set, with experience in both areas.

Jody is a full member of the Society of Trust and Estate Practitioners, and frequently advises on difficult legal issues that arise in the administration of trusts and estates. In *Berry v Child Support Agency* [2016] EWHC 1418 (Ch), [2016] WTLR 1327, [2016] BPIR 1256, Jody represented the estate in a complex dispute, involving insolvency law, where there were competing claims by the deceased's creditors, spouse and the Child Support Agency.

### Recent cases

- ▶ *Ely v Robson* [2016] EWCA Civ 774
- ▶ *P v G*
- ▶ *C v Secretary of State for Work and Pensions (Child Support Agency)*
- ▶ *C v C*
- ▶ *N v The Secretary of State for Work and Pensions (Child Support Agency)*
- ▶ *S v The S Estate*
- ▶ *E v R*
- ▶ *S v S*
- ▶ *G v Secretary of State for Work and Pensions (Child Support Agency)* and *G*

- ▶ M v The R Estate

## Related Articles

- ▶ Child support, coronavirus and changes in circumstances
- ▶ Child Support: Here Comes the New Gross Income Scheme
- ▶ Child Support Update
- ▶ Child Support in Wildblood on Financial Remedies in Family Matters
- ▶ Trusts and co-ownership
- ▶ Child Support: What Is Going On?
- ▶ Sale of property in financial proceedings lambasted by wealthy spouse
- ▶ Bringing non-contentious probate into the twenty-first century
- ▶ Settling Inheritance Act claims
- ▶ Court Clarifies Quistclose

## Recommendations

“Jody is stellar in advising clients on the complexities of child maintenance matters.”

**LEGAL 500, 2022**  
DIVORCE & FINANCIAL REMEDY

“He is very good and to the point.”

**CHAMBERS UK, 2022**  
FAMILY/MATRIMONIAL

“He delivers results and is liked by clients for his mix of great intelligence and humour.”

**CHAMBERS UK, 2021**  
FAMILY: MATRIMONIAL FINANCE

“Wonderful – supportive and calm and capable and very bright. Always goes the extra mile with the client but will tell them when to stop.”

**LEGAL 500, 2021**  
FAMILY & CHILDREN LAW

“Jody focuses his practice on matrimonial finance issues, and is skilled at taking on inheritance and probate cases. He’s very good on his feet and in cross-examination and gives to-the-point advice. He’s very knowledgeable on all aspects of family law.”

**CHAMBERS UK, 2020**  
FAMILY/MATRIMONIAL

“A technical wizard when it comes to child maintenance legislation.”

**LEGAL 500**, 2020  
FAMILY AND CHILDREN LAW

### Professional memberships:

- ▶ Society of Trust and Estate Practitioners (STEP, Full Member)
- ▶ Chancery Bar Association
- ▶ Family Law Bar Association
- ▶ Western Circuit

### Qualifications & awards:

- ▶ 2011 STEP Diploma in Trusts and Estates
- ▶ 2005 BVC & CPE, Inns of Court School of Law
- ▶ 2002 MA in Modern History, Distinction, University of York
- ▶ 2001 BA (Hons.) in History, First Class, Bristol University.
- ▶ 2004 Inner Temple Major Scholar (BVC)
- ▶ 2003 Inner Temple Major Scholar (CPE)
- ▶ 2001 George Hare Leonard Prize from Bristol University for best degree in year

### Contact Jody:

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