

Catherine Brown

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AREAS OF EXPERTISE

Personal Injury, Industrial Disease, Clinical Negligence, Public Authority Liability, Abuse, Employment & Discrimination, Health & Safety, Inquests, Costs & Litigation Funding, Arbitration

JUDICIAL APPOINTMENTS

Recorder: 2008

Catherine is a specialist personal injury barrister. She is recognised as a leading junior in both Chambers & Partners and Legal 500. She is known, in particular, for her expertise in occupational stress and occupiers' liability claims. However, she is experienced in all fields of personal injury and industrial disease (including fatal claims). She also undertakes clinical negligence cases.

Catherine is regularly instructed in public authority liability cases. In addition to personal injury claims, her public authority practice includes human rights law, social work and educational negligence, misuse of private information, property damage, and disability discrimination.

Catherine also has a strong defendant health and safety practice, she is regularly instructed at high profile inquests, and she has an expanding practice in the field of costs.

Catherine has been a Recorder since 2008 and she sits in the criminal (including serious sexual offences) and civil jurisdictions (Wales Circuit).

When not working, Catherine is often to be found walking her retired racing greyhound (or watching her run around the local park).

Personal Injury

Catherine's specialist personal injury and fatal accident practice covers all areas of this field. She is recognised as a leading junior in both Chambers & Partners and Legal 500.

Catherine's personal injury practice has a particular emphasis on liability and causation issues, including public liability claims and employers' liability and construction site cases. She regularly acts in cases involving public authorities, or in which issues of occupiers' liability, highway authority liability or occupational stress arise. Her experience of the interface between employment law and personal injury civil claims gives her a particular expertise in dealing with the issues arising when ET proceedings have previously been issued or contemplated.

Catherine is instructed in cases from the largest brain injury and spinal injury claims, to those involving chronic pain,

conditions such as fibromyalgia, psychiatric injury or issues of exaggeration and malingering.

In addition to her trial practice, Catherine is regularly instructed on interlocutory issues, including those relating to costs and costs budgeting, as well as relief from sanctions, issues relating to video surveillance, interim payments and similar applications.

Catherine is an experienced and effective negotiator, both in the context of joint settlement meetings and at mediations, as well as in the drafting of offers and settlement agreements.

Catherine sits as a civil Recorder in Wales and this, combined with her practice acting for Welsh public authorities, means that she has a knowledge and understanding of the particular legal issues which can arise in Welsh cases as a consequence of the devolution settlement. Catherine accepts instructions as an arbitrator (see 12KBW ADR).

Catherine's personal injury cases include:-

- *Willis v Northumberland CC & another*, Newcastle upon Tyne CC (2017) – occupiers not liable to fisherman who fell off unfenced breakwater (D)
- *Dyer v East Sussex CC*, Brighton CC (2016) – school not liable for brain injury suffered by pupil (D)
- *Manda v UBS AG*, Central London CC (2016) Lawtel 20/7/16 – strike out of stress claim as *res judicata* due to previous ET proceedings arising from same facts (D)
- *ABC v Chief Constable of Northumbria Police* QBD, Newcastle upon Tyne DR (discontinued by C April 2016) – psychiatric injury claim by police officer arising out of Raoul Moat shooting of PC Rathband (D)
- *Burton v Arrow Light Rail Ltd*, Nottingham CC (2016) – tram operator not liable for accident involving cyclist at crossing (D)
- *Russell v Newlon Housing Trust*, Central London CC (2015) – housing association not liable for C's fall down smoke shaft despite defect in door mechanism (D)
- *Armstrong v Keepmoat Homes Ltd & 2 others* QBD, Newcastle upon Tyne DR 3/2/12 (Lawtel LTL 14/2/12) – local authority not liable for injuries caused to a child who had crossed a dual carriageway by accessing it from local authority land through a gap in a fence (D2&3)
- *Thomas v Warwickshire CC* [2011] EWHC 772 (QB) – liability of highway authority to cyclist for concrete deposit on highway – scope of section 41 Highways Act 1980 (D)
- *Button v Caerphilly CBC* [2010] EWCA Civ 1311 – Workplace (Health, Safety and Welfare) Regulations 1992 and definition of “traffic route” – importance of oral submissions (D)
- *Harvey v Plymouth CC* [2010] EWCA Civ 860; [2010] PIQR P18 – occupier did not owe duty to a person who acted outside the scope of any implied permission and was therefore not a visitor to the land in question at the time of the accident (D) (led by Edward Faulks QC)
- *Cunningham-Jones (deceased) v (1) EST Bus Co. & (2) Vale of Glamorgan* (settlement 2007) – issue of whether a local authority/school owes a duty of care to a pupil on a school bus (claim discontinued against D2) (D2)
- *Maloney v Torfaen CBC* [2005] EWCA Civ 1762; [2006] PIQR P21 – no liability to tenant taking short-cut who fell into unfenced pedestrian subway and suffered brain injury (D)
- *Wallis v Balfour Beatty* [2003] EWCA Civ 72 – foreseeability of employee risking his own safety in performance of his duties (D)

Industrial Disease

Catherine has long been recognised in the legal directories for her expertise in occupational stress, bullying and harassment claims, acting on behalf of both defendants and claimants. She has successfully fought trials on behalf of employers such as local authorities and colleges, and she has negotiated significant settlements on behalf of claimants for whom she has acted. She has a particular knowledge and understanding of the relationship between employment tribunal and personal injury claims, including where there are discrimination allegations, a claimant has resigned or the claim arises out of disciplinary or grievance procedures. In recent cases she has successfully argued that an employment tribunal compromise agreement precluded an award of loss of earnings in a civil claim and that a claim for damages should be struck out as *res judicata* due to previous employment tribunal proceedings.

Catherine's occupational stress (stress at work) cases include:-

- *P v MOD* (ongoing case) – claim by Army officer for occupational stress (C)
- *Manda v UBS AG*, Central London CC (2016) Lawtel 20/6/16 – stress claim struck out as res judicata by reason of previous withdrawn / struck out ET proceedings
- *Stock v King Edward VI College*, Birmingham CC (2015) – successful defence of stress claim by Head of Drama at 6th form college (arising from disciplinary proceedings) (D)
- *Redfern v Corby BC* (settlement 2015) – stress / whistleblowing claim which received substantial media coverage (D)
- *N v Chubb Systems Ltd* (settlement 2015) – stress and sexual harassment claim by employee (C)
- *Godber v Bournemouth BC*, Southampton CC (2013) – dismissal of stress claim arising out of disciplinary proceedings – issue estoppel in relation to employment tribunal compromise agreement (D)
- *Grimes v City of Sunderland College*, Newcastle upon Tyne CC (2012) – successful defence of stress (overwork) claim by lecturer (D)
- *C v Basingstoke & North Hampshire NHS Foundation Trust* (settlement 2011) – substantial (over £¼m) settlement of stress (overwork) claim by health service employee (C)
- *Haynes v North Wiltshire CC*, Bristol CC (2011) – dismissal of stress claim by employee of local authority (alleged bullying by manager) (D)

In addition to occupational stress, Catherine's practice includes other industrial disease claims, such as those arising from asbestos exposure (mainly defendant – including date of knowledge and occupiers' liability), noise induced hearing loss (NIHL), vibration white finger (VWF), work related upper limb disorders (WRULD) and repetitive and strain injuries due to manual handling. She is able to advise on all issues relating to liability, limitation, causation, apportionment of damages and quantum.

Clinical Negligence

Catherine has a long-standing practice in clinical negligence cases, both on behalf of claimants themselves, and on behalf of liability insurers claiming indemnities or contributions from treating doctors and other medical and health practitioners. Her practice is mainly in relation to issues concerning trauma management, and cases involving orthopaedic, spinal and neurological injuries. However, Catherine also has experience of psychiatric claims, and she has acted on behalf of claimants in gynaecological and other clinical negligence claims.

Catherine's cases include a successful claim for a substantial contribution from a leading teaching hospital trust following the inadequate diagnosis and management of a claimant injured in a road traffic accident and a successful claim on behalf of a claimant arising from a failed sterilisation procedure.

Public Authority Liability

Catherine's public authority liability practice extends well-beyond her personal injury and industrial disease specialisms. Catherine is instructed in a wide range of cases, both on behalf of, and against, public authorities of all kinds, ranging from contractual claims, human rights cases, data protection and misuse of personal information claims, and social work negligence, to flooding and other property damage and nuisance claims, cases concerning highway authority liability and law, and cases arising from the alleged negligent performance of duties, or misfeasance by, public officials. Issues of whether a duty of care exists at all and, if it does, the nature and scope of the duty in question are at the heart of many cases in which Catherine is instructed in this field. She is instructed by police forces, many local authorities, national charities, health authorities, and educational establishments of all kinds, as well as on behalf of claimants bringing claims against public bodies.

Catherine's public authority liability cases include:-

- *P v MOD* (ongoing case) – claim by Army officer for occupational stress (C)
- *W v MOD* (ongoing case) – claim by Naval officer for assault and harassment (C)

- *Willis v Northumberland CC & another*, Newcastle upon Tyne CC (2017) – occupiers not liable to fisherman who fell off unfenced breakwater (D)
- *Dyer v East Sussex CC*, Brighton CC (2016) – school not liable for brain injury suffered by pupil (D)
- *ABC v Northumbria Police* (discontinued 2016) – representing Northumbria Police in case arising from Raoul Moat shooting of PC Rathband
- *Langhorne v LB Merton*, Central London CC (2016) – representing highway authority in claim arising out of defect on forecourt (claim against highway authority dismissed)
- *Claire Cruttenden Inquest*, East Sussex Coroners Court (2015-16) – representing Sussex Police at jury inquest concerning the treatment by the police of a sexual assault complainant who committed suicide
- *Taylor & Fathers v Powys CC* (settlement 2015) – claim arising out of alleged breach of duty by local authority in providing replies about the status of a highway in response to pre-purchase enquiries during the conveyancing process (D)
- *D v University College, London & 1 other* (settlement 2015) – post-graduate student alleging sexual abuse against senior academic (D1)
- *Oates (deceased) v 2 others & West Suffolk College* (settlement 2015) – human rights and negligence claim following suicide of disabled student (D3)
- *Redfern v Corby BC* (settlement 2015) – high profile stress / whistleblowing claim (D)
- *Whelan v Milton Keynes Council & another*, Oxford CC (2014) – council not liable for foster child's accident – issues of non-delegable duty / scope of duty (D1)
- *Morley and Hyde v North East Lincolnshire Council*, QBD, Lincoln DR (2014) (permission to appeal refused 2015) – summary judgment for D in social work negligence claim (D)
- *Bristol CC v ETM*, QBD, Bristol DR (TCC) (2013) – representing highway authority in successful contractual claim against maintenance contractors
- *Armstrong v 2 others and Northumbria CC*, QBD, Newcastle upon Tyne DR (2012) – occupiers' liability claim (claim dismissed)
- *Thomas v Warwickshire CC* [2011] EWHC 772 (QB) – representing highway authority – scope of section 41 Highways Act 1980 (D)
- *Caerphilly CBC v Button* [2010] EWCA Civ 1311 – representing appellant local authority employer
- *Harvey v Plymouth CC* [2010] EWCA Civ 860 – representing successful local authority appellant (led by (Lord) Edward Faulkes QC)
- *Maloney v Torfaen CBC* [2005] EWCA Civ 1762 – representing successful local authority appellant

Abuse

Catherine is frequently instructed in cases involving sexual and physical abuse, including historical abuse and bullying. In particular, she frequently acts on behalf of local authorities in cases where allegations of social work negligence are made.

However, she also acts for claimants, including, for example, a claim on behalf of a young girl who was sexually assaulted by her GP, and in criminal injuries compensation (CICA) claims and a claim by a Naval officer assaulted and sexually harassed in the course of her service.

Catherine's practice in this field (and others) includes human rights law, issues concerning disclosure, the misuse of private information, and limitation, as well as the specific causation and quantum issues which arise in abuse cases, including apportionment of damages.

Catherine is authorised to try serious sexual offences as a Recorder. When acting as an advocate, she is therefore particularly aware of the needs of vulnerable witnesses.

Catherine's cases in this area include:-

- *W v MOD* (ongoing case) – claim by Naval officer for assault and harassment (C)
- *D v University College, London & 1 other* (settlement 2015) – post-graduate student alleging sexual abuse

- against senior academic (D1)
- *Welsh Government v Hillcrest Care Ltd & 2 others* (Newport Magistrates Court 2015) – prosecution of children's home following suicide of 15 year old resident alleged to have been bullied at the home (D1)
- *Oates (deceased) v 2 others & West Suffolk College* (settlement 2015) – human rights and negligence claim against local authority, health authority and FE college following suicide of disabled student alleged to have been bullied at college (D3)
- *Morley and Hyde v North East Lincolnshire Council* (QBD, Lincoln DR 2014) (permission to appeal refused 2015) – social work negligence claim relating to familial sexual abuse in late 1960s-1970s – summary judgment granted following joint statement of liability experts (D)
- *M v The Trustees of St Benedicts Abbey, Ealing* (settlement 2014) – claim arising out of alleged sexual abuse (D)
- *P v Dr Collins* (settlement 2012) – sexual abuse of young female patient by GP (C)
- *ADW v City of York Council* (2011) – York sex slave case (D)

Employment & Discrimination

Catherine has a niche practice in non-employment discrimination claims, in particular, disability discrimination. Catherine is able to advise on civil claims arising in the context of education, services provision and premises (including physical access issues) pursuant to the Equality Act 2010 (and the predecessor legislation), such as those concerning whether reasonable adjustments have been made.

Claimant's occupational stress practice includes many civil claims in which allegations of discrimination are made in the guise of negligence and / or harassment allegations. She is particularly experienced in advising on the interface between ET and civil court jurisdictions, and on consequential issues such as abuse of process and estoppel.

Catherine's cases in this field include:-

- *Manda v UBS AG*, Central London County Court (2016) Lawtel 20/7/2016 – stress claim struck out on basis of res judicata as a result of earlier withdrawn / dismissed ET claim in which discrimination and breach of contract allegations were made against the same defendant (D)
- *El-Sayed v Exeter City Council* (discontinued 2015) – stress claim including allegations of racial discrimination against employer (D)
- *Oates (deceased) v 2 others & West Suffolk College* (settled 2015) – fatal claim by mother of student who committed suicide alleging disability discrimination (in addition to breach of human rights and negligence) (D3)
- *Peaurt v Darlington College* (2013) – disability discrimination claim against FE College by a childcare student who was unable to undertake a work placement at a nursery due the risk assessment undertaken as to the effect of her disability on the safety of children in her care (claim discontinued shortly before trial) (D)
- *Morgan v University of Plymouth* (2009) – claim by disabled student for alleged failure by a university to make reasonable adjustments (D)

Health & Safety

Catherine has a strong defendant health and safety practice, which combines her expertise in health and safety law and practice, based on her personal injury law specialism, with her knowledge and experience of the criminal justice system, as both a barrister and a Crown Court Recorder.

She has been instructed in a range of health and safety prosecutions, including cases alleging gross negligence manslaughter, breaches of sections 2, 3 and 7 of the Health and Safety at Work Act 1974, and breaches of Wales specific regulations.

Catherine has particular knowledge and expertise in drafting and negotiating the terms of "Friskies" schedules for bases of plea, and in the application of the Sentencing Guidelines, both in relation to fatalities and in respect of other health and safety cases.

In addition to criminal health and safety cases, Catherine is often instructed to protect the interests of potential defendants at inquests, including Article 2 cases. Catherine's human rights law knowledge is of particular importance in ensuring that the scope of inquests and, more importantly, the nature and scope of the "verdict", is limited where appropriate.

Catherine's health and safety cases include:-

- *Welsh Government v Hillcrest Care Limited & 2 others*, Newport Magistrates Court (at Cardiff Crown Court) (2015) – prosecution pursuant to Children's Homes (Wales) Regulations 2002 following the suicide of a child resident at D1's children's home (D1) – most serious charges abandoned at close of P case
- *Epping Forest DC v Casterbridge Care and Education Limited and others*, Chelmsford Crown Court (2013) – prosecution following death of 2 year old Rhiya Malin at the Defendants' nursery – subject of Channel 4 Documentary "How Safe is Your Child's Nursery?" in February 2013 (D1&D2)
- *R(HSE) v Tennant*, Truro Crown Court (2013) – successful defence of individual prosecuted as the alleged "manager" of main contractor following death of scaffolding sub-contractor's employee (D)
- *R v Collier*, Mold Crown Court (2012) – gross negligence manslaughter prosecution of builder responsible for defective retaining wall which fell and killed a child (D) (led by Ronald Walker QC)
- *R v Menna*, Luton Crown Court (2012) – ss2 & 3 HSWA 1974 – prosecution arising out of murder of care worker by resident with bi-polar affective disorder (D2) (led by Ronald Walker QC)
- *Rhiya Malin Inquest*, Essex Coroner's Court (2010) – Death of child as a result of neck entrapment in a playhouse at a private nursery (Nursery)
- *R (Malin) v Crown Prosecution Service* [2010] EWHC 1255 (Admin) – Judicial review of decision not to prosecute for manslaughter in case of child who died at a private nursery (Interested Party)

Inquests

Catherine has been instructed on behalf of public authorities, companies and individuals in a wide range of inquests, including Article 2 compliant *Middleton* inquests, as well as domestic *Jamieson* inquests. She has been involved in many jury inquests, including ones in which where questions of unlawful killing had to be considered. Her knowledge of coronial and human rights law is of particular assistance when she is drafting and making submissions on the scope of inquests and the questions for the jury, both at pre-inquest hearings and at the inquest itself.

Catherine is often instructed to represent interested persons in cases in which health and safety prosecutions may follow the hearing. She also has experience of inquests arising from possible clinical negligence, road traffic accidents, work related fatal accidents and occupational disease deaths, including those from asbestos exposure.

Catherine's inquests include:-

- *Terry Smith*, Surrey Coroner's Court (listed February 2018)
- *Claire Cruttenden*, East Sussex Coroner's Court (2015-16) – representing police force following the suicide of a sexual assault complainant who had received inappropriate treatment by police officers who attended her home on the previous evening
- *Rhiya Malin*, Essex Coroner's Court (2010) – representing nursery at which child died in playhouse (also represented nursery in subsequent civil proceedings and health and safety prosecution)
- *Stephen Cosh*, Avon Coroner's Court (2007) – representing Bath Stone mine at inquest into death of miner when large lump of rock fell from roof face of mine (also represented mine in subsequent civil proceedings)

Costs & Litigation Funding

Catherine has an established, but developing, practice in the field of costs and costs budgeting. She has received training in costs and cases management as a Civil Recorder and she is fully aware of the current issues and proposals in this and related fields.

Catherine regularly undertakes costs and case management hearings. She is able to make submissions on detailed costs budgeting issues, and issues of principle, without the need for the instruction of a specialist costs practitioner.

Catherine has recent experience of issues concerning the application of qualified one-way costs shifting (QOWCS) and of those relating to fundamental dishonesty. However, she also has expertise in costs' issues of more general application, including situations in which offers outside of Part 36 are advisable.

Her recent cases include a successful contested hearing in respect of the appropriate costs order following the settlement of damages, where there was an outstanding disagreement as to the apportionment of costs between two defendants, advising on non-Part 36 *Calderbank* offers, and advising on non-party and wasted costs orders.

Qualifications

- University of Birmingham: B Com (Hons)
- Polytechnic of Central London (now University of Westminster): Diploma in Law

Appointments & Memberships

Recorder: 2008 (Wales Circuit – Crime, including Serious Sexual Offences, and Civil)

Barrister Member of Bar Standards Board Professional Conduct Committee 2009 – 2015 (continuing role as a retired pool member)

Previously Faculty Member, SE Circuit International Advocacy Course, Keble College, Oxford (Advocacy and Ethics trainer)

Personal Injuries Bar Association

Professional Negligence Bar Association

Association of Women Barristers

South Eastern Circuit

Middle Temple

Directories

Chambers & Partners 2017 says that she is widely recognised for her broad expertise and delicate handling of psychiatric injury, stress at work and sexual abuse claims. "She very quickly picks out the key details from vast swathes of information." "She's excellent, a joy to work with."

Legal 500 2016 says "She has a wonderful knack for putting difficult legal concepts into plain language".

Chambers & Partners 2016 said "She provides very authoritative and clear advice and she has the ability to assimilate a large amount of documentation very quickly. She is an expert in stress and harassment cases".

Legal 500 2015 said "Her intellect is immense and solicitors trust her judgement implicitly"

Earlier editions of the directories included the following:

"The "decisive and robust," Catherine Brown is a skilled negotiator who is "able to explain complex issues in straightforward terms" and put clients at ease." She has "sound judgment and focus" and was commended for having

skills associated with a far more senior advocate. She is respected for her “detailed and comprehensive” approach and the fact that she was “ever-prepared to make hard decisions. “Catherine “is widely held out as one of the leading personal injury juniors on the circuit” who is well known for her “tenacious cross-examination.” Fellow barristers note that she is “tough but sensible – she will hold her line but never if it is a foolish one.”

She has also been described as “clued up” and “regularly briefed on important personal injury cases”. The entry continued by saying that she was “a tenacious trial lawyer and a formidable opponent who is outstanding on large stress claims”. Clients have described Catherine as an “exceptional cross-examiner” and “always extremely supportive of her clients”.