

Charles Foster

Year of Call: 1988

Practice Summary

Charles Foster is a specialist in regulatory, medical and public law.

He has been involved in some of the key cases in medical law in the High Court, Court of Appeal, Supreme Court and the European Court of Human Rights.

He has vast experience representing clinicians and healthcare professionals brought before the MPTS, GDC, NHS tribunals, NMC. Represents clients at subsequent appeals up to and including the Administrative Court and the Court of Appeal. He receives instructions from MPS, MDDUS, MDU and also on a privately funded basis.

He was the Chambers and Partners Junior of the Year for Professional Discipline in 2011, and has for many years been recognized as a leading barrister for Professional Discipline and Clinical Negligence in the Chambers and Partners directory and the Legal 500.

Acts in concurrent serious criminal and regulatory cases before disciplinary tribunals for the same client, facing charges of dishonesty, theft, fraud, sexual allegations, manslaughter.

Appears at Inquests including jury, representing healthcare professionals facing potentially serious criminal charges including medical manslaughter.

Instructed by Radcliffes Le Brasseur in the first UK criminal prosecution of a doctor under the Female Genital Mutilation Act (R v Dharmasena 2015);

He sits as a Recorder in the Crown Court and the County Court, and is authorized to try serious sexual offences.

He is a Fellow of Exeter College, Oxford, a member of the Oxford Law Faculty (where he is a Visiting Professor), a Senior Research Associate at the Uehiro Institute for Practical Ethics (within the Faculty of Philosophy), and a Research Associate at the Ethox Centre and the Helex Centre (both within the Faculty of Medicine), and the Oxford Human Rights Hub (within the Faculty of

Law).

His research has focused recently on questions of identity, personhood, and authenticity, on whether theories of human dignity can do any real work in the law, and on the use of intuitions in moral and legal reasoning.

He appears very regularly in the national and international broadcast and print media, commenting on medico-legal matters.

Huge experience of judicial review and related challenges, including to decisions of various health regulatory tribunals, including the assisted dying litigation in the House of Lords and the Supreme Court.

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Vast experience, over many years (from the first Hillsborough Disaster Inquest onwards) of inquests and inquiries, generally in a health care context.

Vast experience of defending health care practitioners at regulatory tribunals of all kinds, including challenge in the Adminstrative Court to decisions of those tribunals. Chambers and Partners Disciplinary Law Junior of the Year, 2011.

Noteworthy Cases

The assisted suicide litigation in the Supreme Court (Nicklinson v Ministry of Justice, 2014), and the House of Lords (Purdy v DPP, 2009); the Supreme Court decision about the need for court endorsement of a decision to withdraw life-sustaining nutrition and hydration from patients in permanent vegetative state and minimally conscious state (An NHS Trust v Y, 2018)

Kadir v Mistry (2014) (principles governing the recoverability of damages for pain, suffering and loss of amenity in cases of delayed diagnosis);

CP v The Criminal Injuries Compensation Authority (2014) (can a child in utero be the victim of a crime for the purposes of the CICA jurisdiction?);

NHS Trust A v MB (a child) and Mr and Mrs B. (2006) (attempt by NHS Trust to withdraw life-sustaining artificial ventilation from a child with Spinal Muscular Atrophy);

Al Hamwi v Johnston and North West London Hospitals NHS Trust (2005) (extent of clinician’s obligation to ensure that patient had understood warning about risks of amniocentesis);

Halsey v Milton Keynes NHS Trust: Steel v Joy (2004) (effect on costs of a refusal to mediate);

Kataria v Essex Strategic Health Authority (2004) (meaning of ‘review’;

R v Chief Constable of West Mercia ex p Jepson (2003): Judicial review of police decision not to prosecute for late abortion of a child with cleft lip/palate;

Leeds Teaching Hospitals NHS Trust v As, Bs and others (2003) (who is the father where the wrong embryo is implanted into a woman as a result of an IVF mix-up? The biological father or the husband of the woman?).

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Experience

- 2022 - A Fellow of Exeter College, Oxford
- 2018 - Visiting Professor, Faculty of Law, University of Oxford
- 2005 - Recorder of the Crown Court. Subsequently authorised to sit also in the County Court, and to try serious sexual offences.
- 1990 - In practice at the Bar from 11 King’s Bench Walk/6 Pump Court/Outer Temple Chambers/Serjeants’ Inn Chambers.

Education

- St. John’s College, Cambridge University (BA 1984: Vet. MB, MRCVS 1987: MA 1988). Read Medical Sciences Tripos, Law Tripos and Clinical Veterinary Medicine. Sir Bartle Frere Exhibition. Constable Essay Prize.
- Inns of Court School of Law: Bar Finals 1988.
- PhD, University of Cambridge: Faculty of Law, 2012 (for published work on autonomy and human dignity): Examiners: John Spencer (Cambridge): Richard Huxtable (Bristol)

Publications

- He is the author, editor, or contributor to many legal books and hundreds of articles: details are at www.charlesfoster.co.uk/publications

Areas of Expertise

- Administrative Public Law
- Adult Social Care
- Human Rights Equalities
- Inquiries And Inquests
- Professional Discipline And Regulatory