

RICHARD BORRETT

Year of call: 2009

Qualifications: BSc Hons, Graduate Diploma in Law, Bar Vocational Course, LLB Hons (2:1)

Clerked by: Paul Clarke Aaron Smith

AREAS OF EXPERTISE:

Abuse and Human Rights Clinical Negligence & Healthcare Court of Protection & Mental Health Inquests



Profile

Richard acts for both Claimants and Defendants in Clinical Negligence, Inquests, Abuse & Human Rights, and Court of Protection both alone and as a junior on very large and complex cases.

Much of Richard's work in those areas involves vulnerable adults and children, e.g. adult social care, psychiatric treatment, and children's social services.

Richard has particular experience of:

- Inquests of various kinds, particularly psychiatric treatment, medical/surgical cases, social care/multi-agency deaths, and armed forces.
- The full range of clinical negligence cases, especially delayed diagnosis of cancer.
- Claims and inquests arising from psychiatric treatment, in particular regarding risk assessment, ground leave, s.17 leave, etc.
- Secondary victim claims.
- Claims against local authorities (including ECHR breaches and negligent failure to remove).
- Mental Capacity issues (both in court of protection and litigation).
- Sexual Abuse.
- Claims by Armed Forces personnel.
- Equestrian claims

Much of Richard's work involves vulnerable individuals and state agencies. Human Rights issues arise in all of his practice areas, particularly the positive and investigatory obligations under Art.2 (in inquests and in litigation), Art. 3 (in personal injury/abuse litigation) and Art.5 (in Court of Protection work).

Year of Call: 2009

Areas of expertise

Abuse and Human Rights

Recent and historic sexual abuse claims against a perpetrator or their employer, failure to remove claims involving local authority children's services, failure to safeguard, and Human Rights Act claims by vulnerable adults, children in care, etc.

Richard is regularly instructed to act for children and vulnerable adults via the official solicitor, in claims against local authorities, including 'failure to remove' and HRA claims.

Many of the cases Richard is instructed in are Failure to Remove claims, and he has delivered a seminar to the Official Solicitor on the effect of *GN v Poole* in such cases.

Significant/recent cases

- Breach of Art.8 by local authority in failing to facilitate contact between C and his wife

- Various art.5 breach claims for failures to authorise deprivation of liberty, or failure to bring s.21A proceedings;
- 6 and 8 claims arising from misuse of s.20 accommodation
- Historic sexual abuse by serving police officer (led by Satinder Hunjan QC)
- Vicarious liability claim from violent assault by door staff at a casino
- Death of care-home resident who suffered from Korsakoff's dementia and lacked the capacity to make decisions about care and treatment. He was permitted to decline all personal care, and over many weeks developed a skin infection which developed into sepsis—acting for family/estate in a claim in tort / for breach of Art. 2 and Art.3.
- Advising on aggravated and exemplary damages for Claimants unlawfully imprisoned and tortured during the Cyprus Emergency
- Historic sexual abuse by a football coach.
- Grooming and sexual abuse by Catholic Priest
- HRA claim for breach of Article 2 Protocol 1 right to education.
- Alleged failure to adequately safeguard vulnerable adult in supported living who tended to bang her head and died when she suffered a TBI in her room.
- Breach of Data Protection Act by local authority in disclosing sensitive personal information about domestic violence.

Clinical Negligence & Healthcare

Richard acts for both Claimants and Defendants in Clinical Negligence matters of substantial complexity and severity, both alone and as a junior.

Richard is ranked in Band 2 for Clinical Negligence in the Legal 500 2021, and Band 3 in Chambers and Partners 2020.

Particular Areas of Expertise:

- Consent
- Cancer diagnosis, especially issues of causation
- Negligent treatment in psychiatry, including suicide and Art.2 issues
- Secondary victim claims

Significant Cases

- Negligent whole-brain radiation causing diffuse white matter brain injury, combined with negligent post-surgical drain removal causing necrotising pancreatitis, valued at £3,500,000.
- Negligent delay in returning to theatre to treat duodenal perforation, materially contributing to post-operative disability.
- Negligent management of labour, resulting in stillbirth. Claim on behalf of mother who suffered very severe PTSD and had not returned to work at 3 years. Settled at mediation for £300,000.
- Fetal developmental defects caused by chemotherapy in utero during first trimester (as junior to Satinder Hunjan QC).
- Delayed diagnosis of soft tissue sarcoma in the knee, value £500,000
- Failure by GP to diagnose breast cancer, C required mastectomy and developed chronic post-surgical pain. Value £800,000
- Secondary victim claims by various family members of child who collapsed at home and died from undiagnosed sepsis
- Failure to diagnose nasal carcinoma leading to total rhinectomy, significant facial disfigurement, loss of smell and taste, etc. Value £300K. Settled at mediation.
- Failure by dentist to refer to suspicious lesion, leading to delay in diagnosis or oral carcinoma, jaw resection, extensive reconstructive surgery.

Court of Protection & Mental Health

Richard acts for all interested parties in Court of Protection cases, often those arising from s21A applications, and where there is a crossover with his other areas of practice in clinical negligence or personal injury.

He is experienced in cases where MCA issues arise outside of the court of protection, e.g. in inquests or in civil litigation.

Significant/recent cases

- Representing P's daughter in a contested 3-day final hearing in a s21A application.
- Representing P in a case concerning P's capacity to make decisions about contact in the context of the COVID-19 pandemic.

Inquests

Richard acts for families and other interested parties, primarily state bodies, in all kinds of inquests. He has extensive expertise in the application of Article 2 in both medical and non-medical spheres.

Richard is ranked in Band 2 of Legal 500 for inquests in 2022:

"Richard always gets up to speed very quickly on cases with significant documentation. He has an excellent manner with clients, particularly those finding the inquest process stressful. He provides practical and thoroughly thought through advice. "

Particular areas of expertise

- Self-inflicted deaths
- Psychiatric treatment, particularly decisions as to discharge/s.117/ground leave
- Medical/hospital deaths
- Military deaths (in the UK and abroad)
- 'Safeguarding' / Mental Capacity Act issues
- Social care / multi-agency inquests

Richard is ranked Band 2 for inquests (northern circuit) in the Legal 500 2021.

Social Care

Richard has particular experience in inquests involving social care/safeguarding/local authorities, examples include:

- 4-week Jury inquest into the death of TR, an autistic care-home resident, following a series of chest infections (for Local Authority)
- Death of DOLS resident who suffered from Korsakoff's dementia who was permitted to decline all personal care, and over a period of many weeks developed a skin infection which developed into sepsis. Counsel to the Inquest instructed; Jury inquest; 15 interested parties. Various issues as to capacity/use of the MCA. (For Family.)
- Unexplained death of man with learning difficulties, who had been locked in his flat by his nephew, where there had been safeguarding referrals to the local authority in the weeks prior to death. (For local authority)
- Article 2, Jury inquest into domestic homicide by a schizophrenic perpetrator, where the family of the victim had sought help from the LA via the duty social worker in the weeks prior to death (<https://www.manchestereveningnews.co.uk/news/greater-manchester-news/paranoid-schizophrenic-discharged-mental-health-17319377>). (For Local Authority)
- Death of supported living resident from head injuries potentially caused by headbanging, raising issues of supervision and/or whether padding/helmet should have been provided. (For LA.)
- Death of looked after child who was accommodated in a nursing home, raising issues of suitability of the placement. (For LA.)

Significant Cases

- Inquest touching the death of Alison Doyle, a cyclist killed when she hit a pothole and lost control of her bicycle: <https://www.dailymail.co.uk/news/article-7500323/Council-received-FOUR-complaints-massive-15-inch-pothole-cyclist-47-killed.html>
- Inquest into the Castlemartin tank incident (led by Michael Rawlinson QC). See media coverage here (<https://www.theguardian.com/uk-news/2018/jul/02/corporals-died-in-tank-blast-after-officer-given-guest-experience-walesinquest-hears>) and here (<https://www.bbc.co.uk/news/uk-wales-south-west-wales-44682846>)
- Suicide of community patient where CAMHS had not communicated to her mother that the deceased would not be visited and so she was left alone and took her life
- Inquest into death of Jamie-Lee Sawyer on a kayaking exercise in Cyprus, when local weather warnings were not heeded (<https://www.birminghammail.co.uk/news/midlands-news/jamie-lee-sawyer-inquest-kayaker-13181794>)
- Acting for hospital in 2-week Jury inquest into death of a detained psychiatric patient who absconded whilst on ground leave.
- Suicide by serving soldier who complained of bullying and mistreatment by chain of command.
- Jury inquest into RTA death where pedestrian was walking in inside lane of motorway at night, having recently been stopped by the police.
- Suicide of community psychiatric patient who had been referred to the emergency duty team shortly before his death, but had been 'triaged' by unqualified staff, raising issues of whether there was a 'real and immediate' risk to his life
- High profile inquest into death of Afghanistan veteran on exercise. The vehicle in which he was travelling overturned, and he was ejected: (<https://www.thewestmorlandgazette.co.uk/news/12927969.soldiers-death-at-cumbria-training-base-was-accidental-inquesttold/>)
- Neonatal death reported as a 'stillbirth', but which the coroner found was not.
- Death of a spectator at a mountain-biking event, caused when a competitor left the course and collided with her.

Memberships

Personal Injury Bar Association

Professional Negligence Bar Association

Qualifications

2007, University of Liverpool (Chester): BSc Hons, First Class

2008, College of Law: Graduate Diploma in Law, Commendation

2009, College of Law: Bar Vocational Course, Very Competent

2009, College of Law: LLB Hons (2:1)

Recommendations

Richard is ranked in Band 2 of Legal 500 for inquests in 2022: *"Richard always gets up to speed very quickly on cases with significant documentation. He has an excellent manner with clients, particularly those finding the inquest process stressful. He provides practical and thoroughly thought through advice."*

Chambers and Partners 2021 - Clinical Negligence Band 3

A popular junior who practises across a diverse caseload including surgical negligence and secondary victim claims. He possesses considerable experience in matters of consent and cases relating to the Mental Health Act.

Strengths: "He is approachable, easy to work with and thorough." "He is friendly, enthusiastic, very good with clients and his advice is always well thought through."

Chambers and Partners 2020: Clinical negligence band 3

- *A popular junior who practises across a diverse caseload including surgical negligence and delayed diagnosis. He possesses considerable experience in matters of consent and cases relating to the Mental Health Act.*
- *Strengths: "His advocacy is excellent and he is sympathetic in his dealings with clients."*

Legal 500 2021: Personal Injury band 1, Clinical Negligence band 2, Inquests band 2:

- *Tenacious and committed to client/case - ever ready to advise/assist when requested. Willing to take on difficult claims and to offer excellent advice/service across the board. Thorough attention to detail throughout duration of case."*
- *"...excellent with our Local Authority clients, cutting through the extraneous matters and getting to the issue at hand. Inquests involving social care input are by their nature document heavy and in many cases complex and Richard has a great aptitude for identifying the salient points quickly."*

Legal 500 2020:

"Always impeccably prepared, he will know every aspect of the case before starting a conference."

Chambers and Partners 2020:

A popular junior who practises across a diverse caseload including surgical negligence and delayed diagnosis. He possesses considerable experience in matters of consent and cases relating to the Mental Health Act.

Strengths: "His advocacy is excellent and he is sympathetic in his dealings with clients."

