



Catherine Foster



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“Someone you want fighting your corner. Faultless expertise, practical, analytical style and great responsiveness and ability to adapt to client needs.”
(Legal 500, 2021)



Catherine specialises in various niche areas of personal injury, abuse and disease litigation, focusing on a range of occupational diseases; occupational stress; child sexual exploitation; sexual abuse; catastrophic injury; professional negligence and Inquest work.

She has been involved in many significant Group Actions including in the Supreme Court on behalf of Courtaulds PLC Baker v Quantum Clothing [2011] UKSC 17; [2011] and on behalf of the Claimant cohort in the Atomic Veterans (radiation exposure) litigation AB and Others v MOD The Atomic Veterans Litigation [2012] UKSC 9.

Catherine appears in Court on a regular basis and has a reputation as a strong advocate with an extremely busy practice acting for both Claimants and Defendants.

Industrial Disease

Catherine is instructed in many aspects of occupational and environmental disease litigation, in particular claims involving asbestos related conditions, asthma, pneumoconiosis, cancers (including bladder cancer), carbon monoxide exposure, back injuries, beat knee, upper limb disorders, carpal tunnel syndrome (CTS), hand arm vibration syndrome (HAVS), chemical exposure (COSHH claims), noise induced hearing loss (NIHL), dermatitis, silicosis, deep vein thrombosis, Legionnaire’s disease, food poisoning, norovirus, pneumonitis and radiation exposure. She has been involved in emerging areas of disease litigation for over 25 years and is regularly instructed to provide advice on generic issues such as diagnosis, causation, etiology and apportionment.

Selected Cases

- *Bowe v Mersey Rewinds Engineering Ltd. & Ors* [2018] EWCA Civ 72: in which the Court held that infrequent and transitory exposures to vibration above daily guidance threshold limits did not give rise to a foreseeable risk of injury at common law
- *Davies and 8 others v Essex County Council and Havering College and Governing Body of the Sawyers Hall College* [2018]: instructed on behalf of 9 Claimants who recovered damages for injuries

- arising from carbon monoxide poisoning
- Swift and others v Fred Olsen Cruise Lines [2016] EWCA Civ 785: instructed by the Defendant in this multi-party action arising from an outbreak of norovirus on its cruise ship 'Boudicca'
 - Baker v Quantum Clothing [2011] UKSC 17; [2011] 1 W.L.R. 1003; [2011] 4 All E.R. 223): multi-party action arising from the Nottinghamshire Derbyshire NIHL litigation
 - AB and Others v MOD 'The Atomic Veterans Litigation' [2012] UKSC 9 and ECHR application no. 61332/12; [2012] 2 W.L.R. 643; [2012] 3 All E.R. 673; [2012] P.I.Q.R. P13; [2012] Med. L.R. 306; (2012) 125 B.M.L.R. 69; (2012) 109(22) L.S.G. 19; (2012) 156(11) S.J.L.B. 31; Times, March 27, 2012: test cases on limitation issues in which the Court considered the correct approach to 'knowledge' for the purpose of section 14 of the Limitation Act 1980 and the exercise of discretion under section 33: instructed by 1011 Claimants who alleged adverse consequences to health resulting from exposure to ionising radiation from nuclear tests carried out in the South Pacific at Christmas Island by the British Government in the late 1950s, early 1960s;
 - Philips v Haxton [2014] EWCA Civ 4: addressing a novel claim for damages for the loss of a cause of action arising in the context of mesothelioma claims
 - Whalley v Montracon Ltd [2005] EWCA Civ 1383: on the issues of diagnosis in claims for HAVS
 - Airbus Operations Ltd: advising on numerous issues in the in the management of large numbers of ongoing claims for HAVS and CTS
 - Minimal loss NIHL: advising on a range of generic and case specific issues, including complex costs issues in the context of multi-party litigation
 - Asbestos related injuries: advising Insurers and attending hearings on a regular basis on a range of issues in the handling of asbestos litigation, including show cause applications, quantum hearings and taking evidence on commission
 - Norovirus and food poisoning claims: advising various hotels/restaurants and cruise ship operators on an ongoing basis in respect of claims arising from food poisoning/norovirus
 - Other selected group actions and multi-party litigation: has been instructed by Claimants and Defendants in a number of Group Actions including:
 - (2015-2017): represented Fred Olsen in its defence of claims for injuries caused by norovirus on its cruise ships
 - (2006-2013): represented Courtaulds Plc in the Nottinghamshire Derbyshire noise induced hearing loss
 - Group test case litigation involving a cohort of several thousand Claimants seeking compensation for exposure to excessive noise whilst employed in the textile industry
 - (1994-2013): represented the DTI in its HAVS litigation arising from the liabilities of British Coal Corporation involving a cohort of 160,000 Claimants; instructed as junior Counsel in the substantive litigation in 1994 and 1996; instructed in the Court of Appeal on 5 occasions to address issues arising in the context of the litigation; appearing in the High Court on at least 3 occasions per annum over a 10 year period to address issues arising in the management of the CHA; advised upon and contributed to the drafting of the claims handling arrangement (which eventually led to payments in damages and costs estimated at £3 billion)
 - British Coal Corporation HAVS claims [2006] EWHC 1131; [2006] EWHC 1154; [2006] EWCA Civ 1357 and 2008] EWHC 69: concerning the administration of the DBERR Claims Handling Agreement for coal miners hand arm vibration syndrome claims
 - (1994-2011): represented the DTI in its noise induced hearing loss litigation arising from the liabilities of British Coal Corporation
 - (2008-2011): represented Gallaher PLC in its noise induced hearing loss litigation (cigarette and cigar making processes) involving a cohort of 300 Claimants
 - (2005/2007): represented UK Coal Mining PLC in the miners' 'Beat Knee' litigation



- (2005/2007): represented Scania (UK) Limited in its back injury litigation arising from allegations of poorly designed lorry cabs involving a cohort of several hundred Claimants
- (2004/2006): represented Montracon Limited in its HAVS litigation involving a cohort of 120 Claimants

Personal Injury

Occupational Stress/Psychiatric Injury

Catherine attends Court on a regular basis to pursue / defend claims for occupational stress and harassment and has a particular interest in causation issues involving the interplay of psychiatric injury with stressful work/environmental situations and accident circumstances. She has a particular interest in the connection between physical and psychiatric injury and has working knowledge of a range of conditions including fibromyalgia, complex regional pain syndrome, movement disorders, ME, chronic depression and anxiety disorders. She is regularly instructed by Claimants and Defendant Employers, PLCs, Local Authorities and other corporate entities to advise and attend joint settlement meetings and mediations in this area of litigation and by its nature, much of her work is highly confidential.

General Personal Injury and Catastrophic Injuries

Catherine has considerable experience of fatal accident claims and of catastrophic spinal and brain injury litigation encompassing severe cognitive conditions and amputations arising in the context of aviation accidents, road traffic accidents and employers' liability claims; and in the analysis of high value complex claims and is regularly instructed to attend round table settlement meetings and mediations in this context. She has a particular interest in cycle accident claims and as a keen cyclist around London herself, understands the issues at stake.

Catherine also has a developing interest in the law around the use of drones and driverless cars. She is making good preparations to be involved in any litigation that will inevitably follow.

Selected Cases

Occupational Stress/Psychiatric Injury

- *Mawgoud v Your Healthcare Community Interest Company* (High Court): claim by a Consultant Psychiatrist in respect of injury arising from occupational stress: resolved mid-trial
- *Nicholls v Ladbrokes Betting & Gaming Limited* [2013] EWCA Civ 1963: addressing issues of breach of duty and causation in a claim for psychiatric injury following a robbery
- *Packenhams-Walsh v Connells Estate Agency* [2006] EWCA Civ 90: addresses the legal principles relevant to occupational stress
- *Harding v The Pub Estate Company Ltd* [2005] EWCA Civ 553: occupational stress causing myocardial infarction
- *Bonser v UK Coal Mining Limited* [2004] IRLR 164 (Court of Appeal): addresses the legal principles

relevant to occupational stress

- Martin Humphrey v Tote Bookmakers [2003] EWHC 217: claim for psychiatric injury arising from an armed robbery in a betting shop: involving complex causation issues.

General Personal Injury and Catastrophic Injuries

- Wright v Satellite Information Services Ltd [2018] EWHC 812 (QB), [2018] All ER (D) 57 (Apr): a judgment on appeal in respect of fundamental dishonesty
- Shoreham Air Crash litigation; instructed by the Insurer in its management of claims by the estates and dependents of 11 men who were killed when a vintage Hawker Hunter aircraft crashed at the Shoreham Air Show in 2011
- Hussein v Happy Badge Projects Limited t/a Ronnie Scott's [2017] Her Honour Judge Baucher: involving a tripping accident on a staircase at the famous jazz club
- Peakstone Ltd v Joddrell [2012] EWCA Civ 1035: on the interpretation of section 1032(1) of the Companies Act 2006 in the context of issuing claims for personal injury
- Pinchbeck v Craggy Island Ltd [2012] EWHC 2745 (QB) HHJ Judge Curran QC: represented the Claimant in a climbing wall accident in which the Court considered a number of issues including the nature and scope of the Defendant's duties and the doctrine *volenti non fit injuria*
- Jade Spillman v Bradfield Riding Centre [2007] EWHC 89 (QB): on the principles relating to interim payments

Abuse/Neglect

Sexual Abuse/Child Sexual Exploitation and Failure to Protect

Catherine has been instructed in claims involving the Catholic Church, Jehovah's Witnesses, various other religious organisations, the Scout Association, Schools, Children's Homes, Care Homes, Local Authorities and foreign Governments over a wide range of issues including complex vicarious liability arguments, allegations of failure to intervene to prevent abuse by parents / foster carers / employees, failure to prevent damage (rape and criminal damage) caused by abused perpetrators and duty of care issues.

She is experienced in the forensic analysis of documentation spanning long periods of time and also in the quantification of damages both in the context of civil claims and applications to the CICA. She is regularly instructed to advise pre litigation and to advise upon and participate in the resolution of CSE and other abuse claims by ADR. She has a good working knowledge of safeguarding issues / procedures, local authority/social work practices and child care legislation and has a particular interest in the historical development of social work practice.

Selected Cases

Sexual Abuse/Child Sexual Exploitation and Failure to Protect

- FZO v Andrew Adams (1) & London Borough of Haringey (2) [2018] EWHC 3584 (QB), in which the

Court awarded damages in excess of £1m to the victim of sexual abuse and considered complex psychiatric issues

- *Rowe v Sheffield City Council* (17.05.17): instructed by the Defendant at a trial before HHJ Robinson (judgment available) involving allegations of conspiracy and misfeasance in public office
- Max Clifford: instructed by the well-known publicist in respect of civil claims arising from his convictions for sexual assault
- X PL (2015): represented a major PLC in addressing a cohort of claims by male Claimants who were sexually abused as children by an employee during his work based visits to international destinations over a period of 20 years
- Various Claimants v The Oaks Partnership and Dr Bernard Delaport: instructed by a partnership of GPs in their action to recover an indemnity from a fellow GP partner for damages paid to patients who were sexually abused by him during consultations
- *JGE v The English Province of Our Lady of Charity and The Trustees of the Portsmouth Roman Catholic Diocesan Trust* [2012]: sexual abuse of children in a care home: instructed by the '*Sisters of Mercy*' who were not directly concerned with the issue of the vicarious liability of a Catholic priest, which issue was subsequently determined by the Court of Appeal
- 'Haute de la Garenne' care home abuse claims: instructed by the States of Jersey and advised upon and participated in the drafting of a compensation scheme to compensate the victims of this long standing abuse
- And
see: <http://www.gov.je/GOVERNMENT/DEPARTMENTS/HEALTHSOCIALSERVICES/Pages/HistoricAbuseRedress.aspx>
- *Jake Pierce v Doncaster Metropolitan Borough Council* [2008] EWCA Civ 1416: in which the Court of Appeal considered whether an adult Claimant should have been removed from his family as a child in order to prevent neglect and abuse at their hands
- X v XY: instructed by the Claimant who was raped by a carer whilst an inpatient at a psychiatric unit for children and who went on to be convicted and imprisoned for sexual offences committed by himself many years later
- X v Hillgreen Care Limited: instructed by the severely autistic Claimant who was raped by a fellow inpatient at a care home: the incident was then covered up by staff at the home and the Quality Care Commission

Examples of non-litigated cases:

- Is regularly instructed by Claimants and Defendants to advise on claims for sexual abuse perpetrated by teachers, priests, medical professionals, parents / step parents, foster parents, carers, youth workers and others in positions of trust and authority
- Is regularly instructed to advise pre-litigation and to advise upon and participate in the resolution of CSE and other abuse claims by ADR
- Has acted for the families of survivors who committed suicide as a result of their experiences of abuse
- Has acted for Claimants who have been abused in the context of attending 'gay conversion' therapy
- Is regularly instructed by Executors of the estates of deceased persons accused of sexual abuse in the management of claims from a liability and probate point of view

Insurance Fraud

Catherine has advised in a wide range of cases involving fraudulent/exaggerated claims arising from “subtle” brain injuries, orthopaedic injuries and psychiatric conditions and where issues arising have included the disclosure and admissibility of surveillance/social media evidence; data protection issues; the relationship between various alleged psychiatric and physical conditions and any purported disability (e.g. chronic fatigue syndrome (CFS), complex regional pain syndrome (CRPS), fibromyalgia, functional movement disorder, post-traumatic stress disorder (PTSD) etc.); applications to strike out fraudulent/exaggerated claims as an abuse of process and remedies, including costs penalties and applications for contempt of Court pursuant to Part 32.14 CPR.

Catherine acted for the Defendants in the following substantive trials and appeals, in which the defences were based on allegations that the Claimants had been dishonest in the presentation of their claims, both in respect of liability and quantum issues:

- Boyle v Medimmune [2019] judgment of HHJ Harrison, Cardiff County Court
- Wright v Satellite Information Services Ltd [2018] EWHC 812 (QB), [2018] All ER (D) 57 (Apr): a judgment on appeal in respect of fundamental dishonesty
- Ronald Barnaby v Raleys Solicitors [2014] EWCA Civ 686
- Andrew Procter v Raleys Solicitors [2015] EWCA Civ 400
- Desmond Partridge v Raleys Solicitors – 2015 Judgment of HHJ Saffman 90LO3367
- George Head v Raleys Solicitors – 2014 Judgment of HHJ Belcher – 1LS03608
- Graeme Gummerson v Raleys Solicitors – 2014 Judgment of HHJ Gosnell – 90LO3172
- Kevin Flanagan v Raleys Solicitors – 2014 Judgment of HHJ Saffman – 1LS03604

Catherine has also been instructed to attend numerous JSMs where the credibility of the Claimant was in issue and has negotiated substantial discounts to settlements on this basis.

Professional Liability

Catherine has been instructed since 2011 in the ‘BCC HAVS Professional Negligence Litigation’ and has represented a number of firms of Solicitors who are being sued for professional negligence arising from their handling of the BCC HAVS compensation scheme. She has appeared in a total of 12 contested trials since 2012 and in the Court of Appeal on 2 occasions: see Barnaby v Raleys Solicitors [2014] EWCA Civ 686 and Procter v Raleys Solicitors [2015] EWCA Civ 400.

Selected Cases

- Ronald Barnaby v Raleys Solicitors – Judgment of HHJ Gosnell – 1LS03193
 - Ronald Barnaby v Raleys Solicitors [2014] EWCA Civ 686
 - Andrew Procter v Raleys Solicitors – Judgment of HHJ Gosnell – 90LO3967
 - Andrew Procter v Raleys Solicitors [2015] EWCA Civ 400
 - Clifton Anders v Avalon – Judgment of HHJ Gosnell – 2LS00449
 - William Sharp v Raleys Solicitors – Judgment of HHJ Gosnell – 2YJ87483
 - George Head v Raleys Solicitors – Judgment of HHJ Belcher – 1LS03608
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- Graeme Gummerson v Raleys Solicitors – Judgment of HHJ Gosnell – 90L03172
- Kevin Flanagan v Raleys Solicitors – Judgment of HHJ Saffman – 1LS03604
- Anthony J Connor v Raleys Solicitors – Judgment of HHJ Saffman – 2YJ83003
- Desmond Partridge v Raleys Solicitors – Judgment of HHJ Saffman – 90L03367

Inquests & Public Inquiries

Catherine is regularly instructed to attend Coroners' Inquests involving mental health issues where Article 2 is engaged and where the deceased have been subject to supervision by Social Services and/or Health Trusts and have committed suicide or have died due to medication overdoses or in other untoward circumstances. She also attends Inquests concerning deaths at and/or associated with work and arising from road traffic accidents.

Selected Cases

- Instructed on a number of occasions by the families of psychiatric patients who took their own life whilst either inpatients or on home leave from psychiatric units
- Instructed by a Local Authority in a case where the deceased committed suicide whilst under the watch of Social Services due to his failing mental health
- Instructed on a number of occasions by care providers where elderly and/or otherwise vulnerable patients and residents have died whilst in care due to falls and/or other accident related causes
- Instructed by a Local Authority in a case where the deceased died as the result of electrocution caused by a failure to maintain air conditioning in circumstances where the Council had been on notice of the risk but failed to act
- Instructed by a Local Authority in a cohort of case where the deceased had died as the result of carbon monoxide poisoning caused by a failure to maintain heating systems
- Instructed on a number of occasions by Statutory Authorities where the maintenance and repair of road systems has been implicated in fatal road traffic accidents
- Instructed by the family of a spectator who was killed when a racing car left the track at an organized race event
- Instructed by a Local Authority where the deceased had fallen asleep overnight on a tram track and was decapitated when the first tram set out on its morning journey
- Instructed by a Local Authority in a case where the deceased had been dragged into the sea by a wave and drowned due to a lack of rescue equipment

Qualifications

- LLB, Nottingham University (1985)

Memberships

- Personal Injury Bar Association
- Professional Negligence Bar Association



Recommendations

"An incredible advocate with an innate ability to construct a logical and persuasive legal argument."
Legal 500, 2022

"Someone you want fighting your corner. Faultless expertise, practical, analytical style and great responsiveness and ability to adapt to client needs."
Legal 500, 2021

"A formidable tactician and a real team player who really knows her stuff." "She is excellent in cross-examinations."
Chambers & Partners, 2021

"A tenacious and very clever advocate; she knows when to take points and when to leave them."; "One of the best trial advocates in the market. She won't let go of a witness once she has hold of them and has a very strong grasp of the evidence."
Chambers & Partners, 2020

"She has a wealth of experience and very good attention to detail."
Chambers & Partners, 2019

"An erudite advocate who cross-examines with the precision of a surgeon's scalpel. Very good on cases where there are credibility issues."
Chambers & Partners, 2018

"A mature and sophisticated performer who has an incredibly high success rate on difficult cases."
Chambers & Partners, 2018

Nominated 'Personal Injury Junior of the Year'
(Chambers & Partners 2012 and 2013)

She has an established reputation across both disease and accident litigation and is "a reliably strong and insistent advocate" and "experienced in disease and occupational stress cases." and "an excellent trial advocate with great expertise in disease cases"

"Leader at the Bar" in Personal Injury: Industrial Disease (Chambers & Partners 2013, 2014, 2015 and 2016)

"A tough advocate and a tough opponent", "a very direct and incisive operator, who is very strong at negotiating and good on her feet. When it needs to be a bit of a fight she's someone you welcome in your corner", "tough, thorough and skilled cross-examiner", "a fearsome opponent who knows how to stealthily deliver the killer punch" and as "one of the finest senior juniors in the country."

"Leader at the Bar" in Personal Injury (Chambers & Partners 2013, 2014 and 2015)

"Her advocacy is first-rate and she is one of the best cross-examiners" and "a consummate performer in court'. Solicitors have "no hesitation" in using Catherine Foster "in cases which might otherwise be taken by silks."

"Leading Junior" in Personal Injury (Legal 500 2016, 2015, 2014, 2013 and 2012)