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Francesca Whitelaw

Call: 2003



Francesca is a ranked junior specialising in police and government law. Described by Chambers UK as “a *highly likeable advocate*”, she advises and represents public bodies across the country in all areas of civil law including judicial review, civil actions, professional discipline and human rights claims, and she has notable expertise in inquests.

Francesca was appointed to the Attorney-General's C Panel of Junior Counsel to the Crown in 2012 and was elevated to the B Panel in 2016.

Francesca provides lectures to solicitors on all aspects of her practice. In 2017, she was invited to speak at the Upholding Integrity in Policing Conference, together with Dame Anne Owers (Chair of the Independent Police Complaints Commission), and Victor Marshall OBE (Professional Standards Co-ordinator of the Police Superintendents' Association of England and Wales).

Francesca is currently instructed by the Ministry of Defence to represent two former soldiers for the 5-month inquest into the death of Sean Benton, who died at the **Deepcut Barracks** in 1995. She previously represented former soldiers at the inquest into the death of Cheryl James at Deepcut Barracks.

Recommendations

“A dedicated representative of police forces across the country. She handles all aspects of civil law relating to the police and frequently appears in misconduct hearings before the Police Appeals Tribunal. She is also experienced in complex judicial reviews arising out of disciplinary proceedings.” (Professional Discipline)
Chambers UK 2018

“Very well prepared and on top of the detail.” (Professional Discipline)
Chambers UK 2018

“She is hard-working and always well prepared. Her written submissions are comprehensive and she manages her hearings with confidence. She's a highly likeable advocate.” (Professional Discipline)
Chambers UK 2017

“Well known for her expertise in police law matters relating to the regulation and discipline of law enforcers”
(Professional Discipline)
Chambers UK 2016

“She is very effective and doesn't overstate her case.” (Professional Discipline)
Chambers UK 2015

An advocate with “commendable charm and good humour” - Court of Appeal in *Pryor v Chief Constable of Greater Manchester* [2011] EWCA Civ 749
Client feedback

“A dedicated representative of police forces across the country...experienced in complex judicial reviews...Very well prepared and on top of the detail...”
Chambers UK

Police Law

Francesca is a specialist in advising and representing police forces nationwide in all areas of police civil law. These include judicial review, inquests, civil actions for false imprisonment, assault, malicious prosecution, misfeasance, and negligence. She advises forces on all aspects of operational and policy matters. Francesca acted as the Independent Legal Advisor to the Police Misconduct Panel for the public hearing of allegations against Inspector Mackaill, which arose out of the ‘Plebgate’ incident.

Significant cases include:

Gatland and Others v Independent Police Complaints Commission [2018] - First Junior Counsel to Jeremy Johnson QC representing the Independent Office for Police Conduct in proceedings being brought by six claimants under Articles 6 and 8 and Article 1 of the First Protocol of the European Convention. Two of the claimants also bring a claim in misfeasance in public office. The claims arise out of disciplinary proceedings brought against the officers.

R (on the application of Kashaba) v Chief Constable of Lancashire Constabulary [2016] - Acted on behalf of the Chief Constable in defence of an application for judicial review challenging the retention by police of an oral harassment warning issued to the Claimant.

R (on the application of Desmond Campbell) v IPCC [2015] EWHC 3424 - Counsel to the IPCC in an application for judicial review of its appeal decisions concerning a Metropolitan Police investigation into complaints the Claimant made following the execution of a search warrant at his home.

R (on the application of McNeany) v Independent Police Complaints Commission [2014] EWHC 1873 (Admin) - Represented the IPCC for the judicial review of a decision to dismiss the Claimant’s appeal against the dismissal of his complaint to police that he had been blackmailed.

Laurance v Commissioner of Police for the Metropolis [2013] - Counsel to the Commissioner in a claim, tried by judge and jury, for wrongful arrest and false imprisonment, assault and malicious prosecution, brought by a protestor following his arrest at a Stop the War demonstration in Hackney.

R (on the application of Driver) v Independent Police Complaints Commission [2012] EWHC 1271 (Admin) - Counsel to the IPCC in the substantive hearing of a claim for judicial review brought by a man challenging his treatment in police custody and the subsequent review of his complaints. The case particularly involved complaints concerning the removal of his clothing, following his attempts to harm himself with it.

Public / Administrative

Francesca has considerable experience of all aspects of public / administrative law work including judicial review, prison law, police law and human rights.

As B-Panel Counsel to the Crown, Francesca advises, and is instructed by, the Government Legal Department in false imprisonment, misfeasance, human rights and other claims brought against the Home Office, the Ministry of Justice, the Ministry of Defence and other government bodies, and at inquests.

Significant cases include:

R (on the application of Ian Stewart-Brady) v (1) The Lord Chancellor (2) the First Tier Tribunal (Health, Education and Social Care Chamber) (2017) - Appeared on behalf of the First Tier Tribunal in the hearing of the last set of legal proceedings brought by Ian Brady before his death. Brady sought to challenge the decision of the Tribunal not to appoint his choice of legal representative as well as the decision of the Lord Chancellor to refuse public funding. Both applications were rejected by the Administrative Court.

Chief Constable of Devon & Cornwall v HM Coroner for Plymouth, Torbay & South Devon & (1) Elber Twomey (2) Wojciechowska (2) Insurers of Wojciechowska (deceased) (4) Independent Police Complaints Commission [2013] EWHC 3729 (Admin) - Appeared on behalf of the Devon and Cornwall Constabulary for the judicial review which arose out of an inquest into the death of a child and a suicidal driver in circumstances where police had attempted to stop the suicidal driver's vehicle.

(1) Daniel Cummings (2) Zahid Bashir (3) Geno Boyoh v Ministry of Justice [2013] EWHC 33 (QB)
–Instructed as Junior Counsel to Jeremy Johnson QC representing the Ministry of Justice in a claim by prisoners at HMP Frankland, for damages for assault and misfeasance in public office by prison officers.

R (on the application of Ivor Adams) v Independent Police Complaints Commission [2013] EWHC 2650 (Admin) - Appeared on behalf of the IPCC for the judicial review of a decision to grant dispensation for a police force from the statutory complaints procedure.

Human Rights

The whole spectrum of Francesca's practice encompasses Human Rights Law. She is currently instructed, together with Jeremy Johnson QC and Alice Meredith, by the Independent Office for Police Conduct in proceedings being brought by six claimants under Articles 6 and 8 and Article 1 of the First Protocol of the European Convention.

Significant cases include:

Potter v Crown Prosecution Service [2016] - Instructed by the CPS in a successful strike out application. The Claimant had sought to claim damages for alleged breaches of Articles 10 and 11 ECHR following her acquittal at trial in a prosecution for an alleged offence under section 4 of the Public Order Act 1986. The prosecution arose out of an animal rights protest at an airport. Permission to appeal was refused by the Central London County Court and by the Court of Appeal.

Inquests

Francesca has extensive experience in inquests arising out of deaths in prison and police custody, deaths following police contact and deaths involving army personnel. She also has specialist expertise in the area of police pursuits.

Deepcut: Inquest touching the death of Sean Benton (2018) - Representing two former soldiers for the renewed inquest into the death of Sean Benton, a young soldier who died at the Deepcut Barracks in 1995.

Inquest touching the death of Jagdip Randhawa (2016) - Represented the Chief Constable of Derbyshire Constabulary for the 3-week jury inquest into the death of a 19-year old Leeds University student. Mr Randhawa died in hospital, having suffered a serious brain injury following a punch by a professional boxer, Clifton Ty Mitchell, who was subsequently convicted of manslaughter. Mr Mitchell was on bail at the time of the incident.

Inquest touching the death of Cheryl James (2016) - Instructed by the Ministry of Defence to act on behalf of two former soldiers in the further inquest into the death of Cheryl James at the Deepcut Barracks in 1995.

Inquest touching the death of Wiktorja Was, deceased (2015) - Counsel to the Commissioner of Police of the Metropolis for the jury inquest into the death of a 13-year old girl who died when a car, which was being pursued by police at the time, crashed into the vehicle in which she was travelling. The driver of the car pleaded guilty to causing death by dangerous driving and other offences.

Inquest touching the death of Joshua Brown, deceased (2015) - Counsel to the Chief Constable of Surrey Police for the 3-week jury inquest into the death of a 21-year old soldier who was hit by a police vehicle attending an emergency call on the A31 in Surrey in foggy weather.

Inquest touching the death of Henry Hicks (2015-2016) - Represented the Commissioner of Police of the Metropolis in a successful application for anonymity for police officers, who had been subject to death threats, in the context of the inquest into the death of an 18-year old boy who was riding a Vespa scooter at the time of his death. The IPCC are investigating whether police officers were pursuing Henry at the time as well as previous police contact with him.

Inquest touching the death of Harry Kirkham (2015) - Counsel to the Chief Constable of West Midlands Police for the jury inquest into the death of a 15-year old boy who died of a traumatic brain injury after being hit by a police car in March 2015. Harry had been free-running with his friends,

Inquest touching the death of Frances Andrade (2014) - Represented the Chief Constable of Surrey Police at the inquest into the death of a concert violinist who was found dead after giving evidence against a couple who sexually abused her while she was at Chetham's School of Music in Manchester.

Inquest touching the death of Barry deceased (2013) - Counsel to the Chief Constable of Kent Police in the three-week jury inquest into the death of a 14-year old boy who died after drinking methadone (see ***R (on the application of Kent County Council) v HM Coroner for Kent (North-West District) [2012] EWHC 2768 (Admin)***).

Information Law

Francesca has advised upon and appeared in numerous cases involving Information Law, in particular challenges to police harassment warnings; information disclosed during DBS checks and security vetting procedures; claims under the Data Protection Act and other civil actions related to information retention and sharing.

Significant cases include:

R v Clodagh Hartley [2015] - Represented the Commissioner of Police of the Metropolis at a hearing at the Central Criminal Court which arose out of Operation Elveden (the investigation into allegations of inappropriate payments to police officers and public officials opened as a result of documents provided by News International to Operation Weeting, the phone hacking investigation). The case concerned the collateral use of information disclosed in criminal proceedings.

Regulatory

Francesca regularly advises and acts for police forces at misconduct hearings, including the Police Appeals Tribunal and deals with judicial review relating to misconduct issues. Cases have included the discharge of firearms and taser, deaths in custody, corruption, computer misuse, rape, sexual harassment and assault.

Significant cases include:

Gross Misconduct Proceedings concerning Inspector Mackaill (Plebgate) (2015-2016) - Acted as independent legal advisor to the Panel in gross misconduct proceedings against a police inspector which arose out of his involvement in, and statements to the press following, a meeting with Andrew Mitchell MP on 12th October 2012. The meeting arose out of incident which became known as 'Plebgate'.

In the matter of Olaseni (Seni) Lewis deceased [2015-2017] - Junior Counsel advising the Independent Police Complaints Commission on matters concerning the death of 23-year old Seni Lewis, who died following police restraint at the Bethlem psychiatric hospital.

Gross Misconduct Proceedings against an Officer (2015) - Presenting Counsel for the Chief Constable of a Police Force in gross misconduct proceedings against an officer who had discharged a Taser against a suspect during the course of an arrest.

Re police disciplinary proceedings (2013) - Counsel to the Commissioner in disciplinary proceedings, recommended by the IPCC, against a Hackney police officer who it was found used excessive force against a member of the public during the course of an arrest, leading to serious facial injury. The officer was dismissed following a week's hearing.