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## Charles Apthorp

Call: 1983

Charles' areas of expertise include police law, employment law, commercial litigation and professional negligence. He acts for a wide range of clients including police forces, public bodies, private companies and individuals.

Charles frequently lectures for a number of organisations including police authorities, insurers and solicitors on police related subjects. He played an important role in developing and delivering Chambers' NPIA accredited training on all aspects of the 2012 Conduct and Performance Regulations and has more recently trained Legally Qualified Chairs prior to their introduction in 2017.

Charles has run in-house training courses for solicitors in negotiating skills, ADR and Mediation, and lectured General Practitioners on litigating PCT contracts, legal remedies for GMS and PMS contractual disputes. He also recently lectured at the Westminster Forum seminar on Integrity and previously the Insurance Institute of London.

Charles accepts instructions and has considerable experience acting in Direct Access cases.

Charles joined 5 Essex Court in 1997 from 3 Temple Gardens.

### Police Law

Charles' practice also includes instructions in internal disciplinary tribunals, including police discipline and he provides advice and representation for a number of constabularies around the country. This includes areas as diverse as police force mergers and detention of ships outside of territorial waters.

He has also been instructed in a Chief Constable's review of two discipline cases, advising and reporting on the management of complex discipline cases and errors and omissions in the investigation.

A notable case was *Carter and others*, the leading case in respect of claims asserting misfeasance in public office arising from the conduct of police discipline cases, during which he was able to obtain an order striking out the claim, together with an indemnity costs order.

### Employment

Charles has widespread experience of employment law, representing large public bodies such as NHS Trusts and police forces in cases involving dismissal for disciplinary reasons, incapacity, unfair dismissal and those involving allegations of disability and racial discrimination. He was recently instructed by a police force in a multi-handed race discrimination claim, the sum claimed was in excess of £1m.

Charles has also been instructed in a complex disability discrimination case relating to a consultant in the oil and gas industry who has MS.

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Charles is also regularly instructed in respect of redundancy, in particular ETO's and TUPE transfers and in matters relating to pensions.

Cases and advisory work include:

- Unfair and wrongful dismissal
- Disability discrimination
- Race Discrimination
- Incapacity
- ETO's and TUPE transfers
- Redundancy
- Breaches of FSA and FCA regulations

**McGlue and others v Land Registry UKEAT/0197/11** liability, and **UKEAT/0435/11/RN** quantum, re injury to feelings and overlap with aggravated damages. Sex discrimination claim arising from being excluded from a VR severance package, EAT held entitled to recover value of the package as compensation even though she had continued to be employed, disproportionate impact on female employees. The initial hearing on liability took 3 weeks followed by 2 days in the EAT, followed by a 4 day hearing on quantum, followed a further day in the EAT.

**Wood v MIS Brokers Ltd** - Charles represented a Broker in a high value claim in the High Court, which also involved alleged breaches of FSA regulations, recovering substantial damages and costs.

## Regulatory

Charles has extensive experience in Regulatory Law, appearing and advising in relation to a wide range of professional disciplinary tribunals including the SRA, IPreg, MPTS, GPhC, FCA, ACCA and the Bar Council.

He is appointed legal adviser to the Nursing and Midwifery Council and as legal assessor to the General Dental Council.

Cases and advisory work include:

- Representation Pharmacists in disciplinary proceedings;
- Representing GP's in partnership disputes, including exclusion from practices for breach of partnership Deeds;
- Representation a GP in a six day arbitration with his partner involving a dispute over the retention of the partnership GMS contract, obtaining a successful result and recovery of costs;
- Drafting of partnership Deeds;
- Property disputes;
- NHS contract litigation. Advice on the termination of PMS contract with the local PCT, damages claims arising from breaches of GMS agreements and unilateral termination of GMS contracts by PCTs.

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## Environmental Law

Charles is regularly instructed on Environmental Law matters acting a range of companies.

Cases and advisory work include:

- Contamination of controlled waters; leaking of noxious substances from industrial premises;
- Dams/Reservoirs Act;
- Statutory Nuisance/Noise pollution;
- Trespass;
- Waste management licenses (Hazardous substances);
- Pollution Prevention and Control Act;
- Occupational diseases, lung disease and dermatitis;
- Fishing rights and leases of fishing clubs.

***Hyde and others v Simple Skips Ltd [2017] EWHC 3087 (QB)*** - litigation concerning termination of licence for waste transfer station, liability for co-defendant breaches of licences and waste management licences. Settled following 6 day trial, on favourable terms for defendant.

## Commercial

Charles has wide ranging experience of commercial litigation, contract disputes and contract drafting.

Examples of his diverse cases include:

- Instructed in multiparty litigation relating to waste management licences, commercial leases and contractual disputes.
- Instructed in matters as diverse as web sites and insurance claims.
- Recently successfully completed a minority shareholders action leading to the purchase of the client's shares at full value and costs.
- Litigation concerning the operation of a claims management agreement.
- Regularly instructed in the High Court to obtain injunctions and freezing orders, including the enforcement of restrictive covenants and loss of confidential data.

## Professional Negligence

Charles has an extensive professional negligence practice. Cases and advisory work include:

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- Breach of Trust and Breach of retainer
  - Conveyancing errors
  - Clinical Negligence

**McNamara Ryan v Dellner** - Litigation following termination of retainer by solicitor following discovery of potential conflict, breach of Rule 1.04 and 3.01 and breach of fiduciary duty. Client refusing to pay for work done prior to termination. Settled at evaluative ADR on favourable terms to Claimant solicitor.

**Thompson v Lonsdale Solicitors** - Litigation following negligent failure of solicitor to advise guarantor of impact of providing security for an overdraft of a business. Breach of Rule 3, conflicts of interest and breach of retainer alleged. Settled on favourable terms.

**Shakarchi v A & M Legal Services and another** - Litigation concerning negligent advice and conduct of litigation arising from a settlement agreement.

## Property Litigation

Charles has considerable experience in property related litigation including possession proceedings, breach of covenants in leases, disputes concerning ownership of land, rights of way, trespass and neighbour disputes. Charles was standing Counsel to Newham Property and Design Department conducting a range of litigation relating to the Council's extensive property portfolio. He is also instructed in professional negligence claims arising from conveyancing and negligent surveys.

Cases and advisory work include: -

Possession Proceedings relating to Comrades of Great War Club premises in Blackpool, an Industrial and Provident Society (A Community Society)

Litigation with Animal Charity occupying, in breach of a licence, a development site adjacent to Blackpool Airport.

Litigation relating to ownership of a development site, the former Wimpey factory in Mumbai.

Litigation relating to the use of a ground floor and basement by an Islamic Charity in breach of lease and planning permission leading to owner recovering possession.

Litigation relating to building collapse caused by undermining by a adjacent basement.

Litigation arising from joint investments in property, including complex cross investments and disputes arising.

Advising and providing representation relating to RBS wrongfully appointing a LPA Liquidator, after refusing to roll over facility for a property company owned by an UK naturalised Iranian.

Dams/Reservoirs Act.

Statutory Nuisance/Noise pollution impacting on adjacent properties.

Trespass.

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Fishing rights and leases of fishing clubs.

Recent cases:

**Knightsbridge Property Development Corporation (UK) Ltd v South Chelsea Properties Ltd and Ibrid SL (Andorra Company)** [2017] EWCH 2730 (Ch) relating to the breakdown of relations between Directors and Company Secretary and whether transactions authorised by the Company Secretary were a mistake and in breach of the Companies Act 2006.

**Hyde and others v Simple Skips Ltd, Stiles and Corney** [2017] EWHC 3087 (QB). Litigation concerning termination of licence for waste transfer station, liability for co-defendant breaches of licences and waste management licences. Settled following 6 day trial, on favourable terms for the 3rd Defendant.

**Coutts –Baldwin Limited (in Liquidation) v Foote-Forster and Kucicia D.O.O. (A Croatian Company)** HC12D03418 injunction proceedings relating to the investment in and ownership of properties held by a Croatian Company.

**Kashi v Safai, Leeds County Court and Central London County Court** Claim No:3010/07 long running litigation relating to a claim for commission on the purchase of a development site in Leeds and the enforcement of the costs award against the losing party.