

## Philip Havers

QC

Call: 1974 QC: 1995



Philip Havers QC has a wide ranging practice with particular emphasis on medical law, public law and human rights law. He appears regularly in the Court of Appeal and the Supreme Court. He was Head of Chambers from 2006 – 2018.

He is recognised as a 'Star Individual' by Chambers & Partners and Tier 1 by Legal 500. He has been named 'Clinical Negligence Silk of the Year 2020' by Chambers & Partners.

*'An amazing advocate with unparalleled legal knowledge and understanding.'*

**Legal 500 2021**

*"A fantastic legal mind – he's excellent." "Very well prepared and a tenacious advocate." "Diligent, knowledgeable, hard-working and a pleasure to instruct."*

**Chambers & Partners 2021**

*"He's the man I turn to when I need someone to present a case in a very reassuring way. He's very pleasant to deal with, but his real strength is his advocacy and his persuasive powers."*

**Chambers & Partners 2020**

## Public Law

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## Selected Cases

- **Legal challenge to COVID-19 Lockdown (2020)**: Lead counsel in legal challenge to the lawfulness of the Government's Covid-19 lockdown.
- **Dulgheriu v London Borough of Ealing Council (2019)**: Local Authority's power to prevent protests outside an abortion clinic. Awaiting Supreme Court's permission to appeal.
- **Hon. Chief Justice of Trinidad and Tobago v The Law Association of Trinidad and Tobago [2018] UKPC 23**: Appeal concerning lawfulness of an investigation into allegations in the local press.
- **Black v Secretary of State for Justice [2016] EWCA Civ 125**: Claim by prisoner in respect of the Government's failure to apply the statutory ban on smoking to state prisons on the grounds of Crown immunity.
- **Keep Wythenshawe Special Ltd v NHS Central Manchester CCG [2016] EWHC 17 (Admin)**: Challenge to the reconfiguration of medical services provided at hospitals in Manchester.
- **R (Tracey) v Cambridge University Hospitals NHS Foundation Trust [2012] EWHC 3860 (Admin)**: Claim against a Trust in respect of DNR (Do Not Resuscitate) Notices placed on deceased's notes raising issues as to the adequacy of the Trust's guidance on DNR Notices and the failure of the Secretary of State for Health to promulgate national guidance.
- **R (Mousa) v Secretary of State for Defence [2013] EWHC 1412 (Admin) and [2011] EWCA Civ 1334**: Whether the Secretary of State should hold a public inquiry into allegations of abuse made by Iraqi civilians against the armed forces during the occupation of Iraq.
- **Legal Ombudsman v Young [2011] EWHC 2923 (Admin)**: Guidance given as to procedure and general approach to be adopted by the Ombudsman and the Court in cases where a solicitor has failed to comply with a notice from the Ombudsman.
- **R (Crosbie) v Secretary of State for Defence [2011] EWHC 879 (Admin)**: Claim by army chaplain in public law and under Article 6 of the Convention for loss of his career.
- **R (Semoff) v Liverpool PCT**: Challenge to the decision to build a new hospital in Liverpool on the basis that because it was to be paid for under PFI it was poor value for money.
- **A v B (Investigatory Powers Tribunal: Jurisdiction) [2009] EWCA Civ 24, [2009] 3All ER416, CA**: Jurisdiction of Investigatory Powers Tribunal.
- **R (Compton) v Wiltshire PCT [2008] EWCA Civ 749, [2009] 1WLR 1436, CA**: Circumstances in which Protective Costs Orders are to be granted.
- **R (Lynch) v General Dental Council [2004] 1 ALL ER 1159**: Admissibility of expert evidence in Judicial Review.

## Clinical Negligence

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Philip Havers QC has been awarded "Clinical Negligence Silk of the Year 2020' by Chambers & Partners and was shortlisted for this award in 2019.

## Selected Cases

- **ABC v St George's Healthcare NHS Foundation Trust and others (2019)**: a high profile clinical negligence case concerning the disclosure of confidential medical information.
- **Meadows v Khan [2020] (CA) [2017] (QB)**: a wrongful birth claim concerning the recoverability of additional costs arising out of an unconnected disability. Permission to appeal granted by Supreme Court.
- **CN & GN v Poole BC[2019] UKSC 25**: UK Supreme Court considered the extent to which local authorities and their employees owe a common law duty to protect children from harm caused by third parties.
- **Darnley v Croydon Health Services NHS Trust [2018] UKSC 50**: Whether A&E receptionists owe a duty of care to patients to inform them correctly as to waiting times.
- **Duce v Worcestershire Acute Hospitals NHS Trust [2018] EWCA Civ 1307**: successfully resisted appeal in Montgomery consent case at first instance and in the Court of Appeal (2019).
- **Sullivan v Guy's & St Thomas' NHS Foundation Trust [2017] EWHC 602 (QB)**: Claim by child patient in respect of cardiac surgery in the course of which the temperature of his body was significantly cooled.
- **FE v St George's University Hospitals NHS Trust [2016] EWHC 553**: Claim by infant in respect of care provided around the time of his birth.
- **Williams v Bermuda Hospitals Board [2016] UKPC 4**: Ruling by Privy Council as to correct approach to causation in clinical negligence cases.
- **Rich v Hull & East Yorks Hospitals NHS Trust [2015] EWHC 3395**: Claim by pregnant mother alleging failure to provide steroids during her pregnancy.
- **Nyang v Dr Thomas [2013] EWHC 3946 (QB)**: Claim by detainee against local GP and mental health nurse.
- **Burnett v Dr Lynch [2012] EWCA Civ 347**: (Correct approach to clinical negligence appeals on the facts.
- **R v Royal National Orthopaedic Hospital NHS Trust [2012] EWHC 492 (QB)**: Claim for damages in respect of complex spinal surgery to correct scoliosis.
- **Whiston v London SHA [2010] EWCA Civ 195 [2010] Med LR 132, CA**: Actual knowledge, constructive knowledge and discretion in limitation in a clinical negligence claim 32 years after the events complained of.
- **Thompstone v Tameside & Glossop Acute Services NHS Trust [2008] EWCA Civ 5, [2008] 1WLR 2207, CA**: Appropriate index for periodical payments.
- **Crouch v King's Healthcare NHS Trust [2005] 1 WLR 2015, CA**: Offer to settle by NHSLA, whether to be treated as if payment into court.
- **Gregg v Scott [2005] 2 AC 176, HL**: Damages for loss of a chance.
- **Thomas v Brighton Health Authority [1999] 1 AC 345, HL**: Multipliers.

## Human Rights

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### Selected Cases

- **SXH v CPS [2017] UKSC 30, SC**: Do decisions to prosecute engage Article 8 ECHR.
- **AM v GMC [2015] EWHC 2096 (Admin)**: Whether GMC guidance as to doctors providing assistance for

the purposes of suicide was in breach of the Human Rights Act.

- **AM v DPP [2014] UKSC 14, SC:** Right to die – whether a gravely disabled person who is unable to commit suicide without assistance is entitled to further guidance from the DPP as to whether doctors, carers and other professionals would be likely to be prosecuted were they to assist him to do so.
- **Meerabux v AG of Belize [2005] 2 AC 513, PC:** Judge's removal from office – whether in breach of constitutional fair trial rights.
- **R (Ullah) v Special Adjudicator [2004] 2 AC 323:** HL-Extra Territorial Effect of the ECHR.
- **Grievs v UK (2004) 39 EHRR 7, ECHR:** Right to fair trial.
- **Cooper v UK (2004) 39 EHRR 8, ECHR:** Right to fair trial.
- **Khan v Royal Airforce Summary Appeal Court (2004) HRLR 40, DC:** Conscientious objector to military service in connection with the Iraq war.
- **R v Spear, Hastie & Boyd [2003] 1 AC 734, HL:** Right to a fair trial.
- **R (Pretty) v DPP [2002] 1 AC 800 HL:** Right to assistance in committing suicide / right to life / right to self-determination.
- **Gough v Chief Constable of Derby Constabulary [2002] QB 1213, CA:** Football banning order – whether violation of human rights.
- **R (on the application of Heather) v Leonard Cheshire Foundation [2002] 2 All ER 936, CA:** Meaning of "public authority" under Human Rights Act 1998.
- **Pretty v UK (2002) 35 EHRR 1, ECHR:** Right to die.
- **Morris v UK (2002) 34 EHRR 52, ECHR:** Right to a fair trial.
- **R v Martin [1998] AC 917, HL:** Right to a fair trial.
- **Wingrove v UK (1997) 24 EHRR 1, ECHR:** Right to free speech/Law of blasphemy.
- **Findlay v UK (1997) 24 EHRR 221, ECHR:** Right to fair trial / Courts-martial.
- **R v Preston [1994] 2 AC 130:** Civil Liberties / Telephone tapping.

## Health Law

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### Selected Cases

- **Lesforis v Tolia (2019) (CA):** Whether surgeon liable to his patient for administering medicine to her a few hours after surgery. Claim, and subsequent appeal, dismissed.
- **JRM v King's College Hospital NHS Foundation Trust (2019):** £5m settlement of birth injury claim.
- **Bostridge v Oxleas NHS Foundation Trust [2015] EWCA Civ 79, CA:** Whether mentally disordered patient unlawfully detained entitled to more than nominal damages where he would have been otherwise lawfully detained.
- **Savage v South Essex Partnership NHS Foundation Trust [2008] UKHL 74, [2009] 2WLR 115, HL:** Whether mental hospital under Convention duty to prevent suicide of compulsorily detained mental patient who absconds and commits suicide.
- **R (Axon) v Secretary of State for Health [2006] 2 WLR 1130:** Whether parents entitled to be notified that their child is seeking medical advice and treatment, including abortion.
- **R(H) v Secretary of State for the Home Department [2004] 2 AC 253, HL:** Power of the MHRT to review its decision to discharge.

- **R(N) v Dr M [2003] 1 WLR 562, CA**: The test for the giving of treatment without consent to a patient detained under the Mental Health Act 1983.
- **Miss B v a NHS Hospital Trust [2002] 1 FLR 1090 Butler-Sloss P**: Withdrawal of artificial ventilation; right to die with dignity.
- **A Health Authority v X [2002] 2 All ER 780, CA**: Disclosure of confidential patient information by GPs to local health authority.

## Personal Injury

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### Selected Cases

- **R (ABI) v Lord Chancellor (APIL intervening) [2017]**: Challenge by insurers to decision of Lord Chancellor to announce the outcome of her review of the discount rate.
- **Pike v Indian Hotels Co Ltd [2013] EWHC 4096 (QB)**: Do the English Courts have jurisdiction to try claim by English claimant injured in the Mumbai terrorist attack?
- **R (APIL) v Lord Chancellor [2012]**: Challenge to the failure of the Lord Chancellor to revise the discount rate for the assessment of damages for future loss in personal injury claims.
- **Glaister v Appleby-in-Westmorland Town Council [2009] EWCA Civ 1325, CA**: Liability of Town Council for injury sustained during the Appleby Horse Fair.
- **Bottomley v Todmorden Cricket Club [2004] PIQR P18, CA**: Liability of employer of independent contractor for injury to independent contractor's agent arising from his negligence.
- **Heil v Rankin & Ors [2001] QB 272, CA**: Test cases on general level of general damages.
- **Warren v Northern General Hospital [2000] 1 WLR 1404, CA**: 3% discount rate pending fixing of rate by Lord Chancellor.

## Inquests

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### Selected Cases

- **Gamor-Ogun Koya, Poplar Coroners Court (2012)**: Inquest into the killing of two young children by their mother following her discharge from inpatient psychiatric treatment.
- **Goodson v HM Coroner for Beds & Luton NHS Trust [2006] 1 WLR 432**: State's obligation under Article 2 to investigate deaths in hospital.
- **R (Khan) v Secretary of State for Health [2004] 1WLR 971, CA**: State's obligation under Article 2 ECHR to provide funding for representation of deceased's family at inquest.
- **R v Inner London North Coroner, ex p Touche [2001] QB 1206, CA**: Maternal death in a hospital 'unnatural' for purposes of holding an inquest.

# Public Inquiries

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## Selected Cases

- **Ladbroke Grove Rail Inquiry (1999)**
- **Southall Rail Inquiry (1997)**
- **Clapham Railway Disaster Inquiry (1988)**
- **Legionnaires Disease Inquiry (1986)**

## Appointments

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- Deputy High Court Judge
- Bencher, Inner Temple
- Premier League's (Football) Arbitration Panel

## Memberships

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- Administrative Bar Law Association
- British Institute of Human Rights
- Bar European Group
- Common Law & Chancery Bar Association
- Personal Injury Bar Association
- Professional Negligence Bar Association
- JUSTICE
- LIBERTY