

Owain Thomas QC

Call: 1995 QC: 2016



Owain Thomas QC has a broad practice with an emphasis on the areas of medical law, professional discipline, public law (in particular relating to healthcare) and taxation.

He has wide experience acting for both Claimants and Defendants (NHS and MoD) in clinical negligence, particularly high value claims resulting from birth injury or other catastrophic injuries. He has experience of a wide variety public law challenges against Mental Health Trusts in the Administrative Court and emergency injunctions and best interests cases in the Family Division. He regularly appears for public authorities (hospitals, mental health Trusts and prisons) in complex inquests.

Owain has considerable experience in all areas of professional regulation and regularly appears on behalf of doctors, dentists and other professionals before the GMC, GDC etc.

He has appeared in hundreds of indirect tax cases in the domestic courts (in the Tribunal, the High Court, Court of Appeal and Supreme Court) and the European Court of Justice. His experience includes advisory work as well as advocacy in all areas of indirect taxation. He appears for HMRC and taxpayers.

He also has particular experience in the field of customs duties, goods classification, anti-dumping duty and landfill tax.

He undertakes a wide range of public law challenges particularly in the field of healthcare, criminal injuries and tax litigation.

"He has a very high standard of written work, is tactically very astute and is a pleasure to work with. His capacity to absorb facts of law, apply them and convince a court is impressive."

Chambers & Partners 2020

"He has an almost unrivalled competence in VAT and customs duty work."

"He is incredibly bright and knows tax very well."

Chambers & Partners 2019

Tax

Owain represents both HMRC and taxpayers in wide range of indirect tax matters. He has experience as a leader and junior in all domestic courts and tribunals up to the Supreme Court. He has appeared in more than a dozen cases in the CJEU. His work is roughly evenly split between Crown and private work. He has experience across the full range of indirect tax cases including VAT, customs duties, excise duties, landfill tax, anti-dumping duties, and insurance premium tax.

Selected Cases

- **Kaplan International Colleges (UK) Ltd v HMRC**: VAT exemption case which is perhaps the last reference to the CJEU from a domestic court before Brexit.
- **HMRC v Newey T/A Ocean Finance [2018]**: acted for the Commissioners in Court of Appeal where an offshore structure is established to provide a VAT advantage to a business offering loans to UK consumers.
- **Volkswagen Financial Services Ltd v HMRC [2017] UKSC 26 / (Case C-164/16)**: partial exemption implications of hire purchase transactions, referred from Court of Justice of the European Union back to Court of Appeal.
- **Will Woodlands v HMRC [2017] UKFTT 0578 (TC)**: represented a private woodland charitable trust in an appeal against HMRC's decision to resile from a business/non business method for the recovery of input tax incurred in the running of several large woodland estates.
- **Inhealth & Another v HMRC [2016] UKFTT 289 (TC)**: acted for taxpayer in successful challenge to HMRC decision on joint employee services.
- **Craft Carnival [2016] UKUT 433(TCC)**: (acted for taxpayer in case about licences to occupy land.
- **General Healthcare Group v HMRC [2016] UKUT 315 (TCC)**: single/multiple supply dispute relating to the provision of prostheses by private hospitals.
- **Airtours Holiday Transport Ltd v HMRC [2016] UKSC 21**: Supreme Court case relating to VAT tax treatment of supplies in tripartite contracts.
- **Cooneen Watts & Stone Ltd v HMRC [2015] EWCA Civ 1261**: availability of military end-use relief from customs duty.
- **HMRC v Pendragon [2015] UKSC 37**: Supreme Court case on abuse of law concerning margin scheme for demonstrator cars.
- **Mercedes Benz v HMRC [2015] EWCA Civ 1211**: tax treatment of hire purchase transactions.
- **Interfish Ltd v HMRC [2014] EWCA Civ 876**: concerning scope of deductions from corporation tax liability of payments made partly to benefit another company.
- **Subone Limited v HMRC [2014] EWCA Civ 773**: compliance of domestic law with EU principle of fiscal

neutrality.

- **BAA Limited v HMRC [2013] EWCA Civ 112:** deduction of input tax by holding companies.
- **Case C- 194/15 Baudinet:** double taxation of profits on shares.
- **Case C- 326/11 DNB Banka:** scope of relief for costs sharing groups.
- **Case C- 605/15 Aviva:** scope of exemption for costs sharing groups.
- **Case C-126/14 Sveda:** deduction of input tax on capital projects with a subsidy and extent of non economic use of recreational land.
- **Case C-183/13 Banco Mais:** partial exemption for car leasing transactions.
- **Case C-605/12 Welmory:** place of supply in cross border cases.
- **Joined Cases C-108/14 109/14 Larentia and Minerva:** deduction of input tax by holding companies and scope of Member States' discretion under the grouping provisions.
- **Case 26/12 Fiscale Eenheid PPG Holdings:** deduction of input tax by employer in respect of separate pension scheme.
- **Case 594/10 Van Laarhoven.**
- **Case 653/11 Newey t/a Ocean Finance –v- HMRC:** abuse of law case concerning offshore loan broking structure.
- **Case 511/10 Finanzamt Hildesheim -v- BLC Baumarkt.**
- **Joined Cases C-288/09 and 289/90 BSKyB -v- HMRC:** customs classification of set top boxes.

Professional Discipline & Regulation

Owain has wide experience of representing doctors in all forms of GMC hearings including FTP hearings, IOPs, Investigations Committee hearings and reviews.

Owain has considerable experience of representing dentists in all forms of GDC hearings including FTP hearings.

Has experience of representing other professionals before their professional bodies e.g. Insurance Brokers, Structural Engineers, Accountants and Psychotherapists.

Selected Cases

- **Dr Khamoushi (2016):** FTP concerning inappropriate touching of patient.
- **Dr Mistry (2016):** FTP case concerning implant treatment.
- **Dr Holliday (2016):** FTP case concerning multiple patient complaints, allegations of dishonest advertising and unlawful practice.
- **Dr Temple (2015):** FTP case alleging dishonest claiming of UDA.
- **Dr Javed (2015):** allegations of serious sexual assault.
- **Dr Inthiraraj (2012):** allegations of dishonesty.
- **Dr Harland (2012):** mismanagement of research trial.
- **Dr Hayden (2010):** allegations of false entries on CV.
- **Dr Irons (2010):** allegations of drink driving while on call.
- **Dr Stephens (February 2011).**

- **GMC v Dr Wakefield & Others (2007-2010)**: junior Counsel for the GMC in the longest ever FTP hearing concerning research misconduct relating to the MMR vaccine.

Clinical Negligence

Owain has a broad clinical negligence practice. He acts for Claimants and Defendants in roughly equal proportions. He is instructed by the leading Claimant firms and by the NHSLA and all the defence organisations in substantial claims. He has expertise in high value catastrophic injury claims of all kinds.

He has wide experience acting for both Claimants and Defendants (NHS and MoD) in clinical negligence, particularly high value claims resulting from birth injury or other catastrophic injuries. He has experience of a wide variety public law challenges against Mental Health Trusts in the Administrative Court and emergency injunctions and best interests cases in the Family Division. He regularly appears for public authorities (hospitals, mental health Trusts and prisons) in complex inquests.

In addition, Owain is well versed in mental health litigation cases ranging from FTT hearings concerned with the continued necessity of detention, public law challenges to treatment decisions and detention from the FTT to the Court of Appeal, challenges to decisions to release patients and human rights challenges on procedural and substantive grounds.

He also has experience in professional negligence cases arising the management of clinical negligence litigation

Listen to Owain discuss the significant case of *Darnley v Croydon NHS Trust* [2018] UKSC 50 regarding hospitals liability for the actions and statements of their non-medical staff in A & E in [episode 47](#) of Law Pod UK.

Selected Cases

- **Sullivan v Guy's and St Thomas' NHS Foundation Trust 2017 EWHC 602 (QB)**: represented child's estate in case involving infant with severe congenital heart disorder.
- **Holmes v Kings College NHS Foundation Trust (2017)**: acted for the Claimant in case alleging misdiagnosis of spinal tumour.
- **Brooks (2016)**: case concerning systemic allegations against hospital for death of elderly patient following routing surgery.
- **Brack v Al Kemachki (2016)**: acted for Defendant GP in case alleging failure to diagnose post chemotherapy sepsis in cancer patient at a Walk-in centre.
- **McLeod v Aneurin Bevan University Health Board (2016)**: acted for Defendant in case of failure to diagnose Maple Syrup Urine Disease leading to catastrophic neurological damage.
- **DLH v West London Mental Health NHS Trust FTT (2014)**: 6 day FTT case concerning challenge to the legality of detention for treatment of patient with personality disorder.
- **St Andrews Healthcare v DL (2014) UT**: Judicial Review of FTT decision in relation to release of detained patient.
- **R (ota Modaresi) v Secretary of State for Health and others [2011] EWCA Civ 1359**.
- **R (ota B) v Dr SS (RMO), Dr G (SOAD) and Secretary of State for Health – Court of Appeal [2006] 1 WLR**

810): representing the RMO in a five day judicial review hearing and subsequent appeal to the Court of Appeal.

Inquests

Selected Cases

- **Antoniou (2014) Sandwich Coroner's Court:** represented a doctor conducting a s.136 Mental Health Act assessment.
- **Hollis (2012) West London Coroner's Court:** represented the family in high profile inquest where baby was crushed by falling lamppost.
- **Giscir (2012) Manchester Coroner's Court:** represented the Trust in complex inquest concerning cardiac surgery.
- **Gilman (2011) Liverpool Coroner's Court:** represented the Trust in case involving refusal of blood transfusion by Jehovah's Witness.
- **Khan (2005) Leeds Coroner's Court:** represented a nurse (with Sally Smith QC) in 11 day inquest involving accusation of gross negligence manslaughter.

Health Law

Owain has experience in all fields of healthcare including public law challenges to inclusion/exclusion from performers' lists, mental health cases in the tribunal structure and judicial review of decisions concerning the criteria for assessment detention and discharge, judicial review training and educational standards and a wide range of Court of Protection and best interests cases involving incapacitated adults in a variety of settings. Previous cases have involved refusal of investigations by a patient with schizo-affective disorder, refusal of a mother to allow administration of anti-retroviral drugs to prevent HIV infection in an infant on religious grounds and residential compulsory treatment for eating disorders.

Selected Cases

- **SSHD v Sergei Skripal & Salisbury NHS Foundation Trust, SSHD v Yulia Skripal & Salisbury NHS Foundation Trust [2018] EWCOP 6:** successfully applied for a court order allowing the OPCW to analyse blood samples taken from victims of the Salisbury Nerve Agent Attack.
- **W NHS TRUST v P (BY THE OFFICIAL SOLICITOR) [2014] EWHC 119 (COP):** investigations authorised on patient with schizo-affective disorder.
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- **R (ota B) v Dr SS (RMO), Dr G (SOAD) and Secretary of State for Health, Court of Appeal [2006] (1 WLR 810)**: representing the RMO in a five day judicial review hearing and subsequent appeal to the Court of Appeal R (Tene) v Health Education England (2014).
- **Dr N v Warrington PCT [2012] UKUT 179 (AAC)**.

Public Law

Owain has a broad public law practice which encompasses public inquiries and judicial review challenges in all areas of his practice, including tax. He has experience of regulatory challenges in the healthcare sector e.g challenges to disciplinary decisions by the GMC or the management of performance lists and also more broadly, e.g. challenges to the language requirements for doctors based on EU law. He has particular expertise in criminal injuries compensation cases involving judicial review in the Upper Tribunal and above.

Selected Cases

- **Hutton and others v Criminal Injuries Compensation Authority [2016] EWCA Civ 1305**: succeeded in a judicial review claim for the Criminal Injuries Compensation Authority on time limits for historic claims for compensation
- **Mid-Staffordshire NHS Foundation Trust Public Inquiry (2010-2012)**: Counsel for the NHSLA.
- **Redfern Inquiry (2007-2008)**: Into Nuclear Industry (representing BNFL)
- **The Alder Hey Inquiry into the Removal and Retention of Organs**: Junior Counsel for the Alder Hey.
- **Independent Inquiry into the Conduct and Performance of Richard Neale (2003)**: Junior Counsel to the Inquiry instructed by the Department of Health. Chairman Susan Matthews QC.
- **R (Hutton and others) v FTT and CICA [2016] EWCA Civ 1305**: case concerning time limits for applications for compensation for historic crimes.
- **R (Tene) v Health Education England (2014)**: Judicial Review of language requirements for doctors in training.
- **R (Gibson) v GMC (2014)**: Judicial Review of GMC Registrars decision to convene review hearing.
- **Dr N v Warrington PCT [2012] UKUT 179 (AAC)**: Article 9 challenge to removal of doctor from performers list for introducing religious content to consultations.

Court of Protection

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Professional Negligence

Owain uses his extensive expertise to represent a range of clients including solicitors, surveyors and architects in professional negligence claims. He has particular experience in professional negligence claims arising from clinical negligence and tax litigation.

Appointments

- Recorder on the Midland Circuit
- Junior Counsel to the Attorney General's A Panel (2008)
- Junior Counsel to the Attorney General's B Panel (2003)
- Junior Counsel to the Attorney General's C Panel (2001)
- Lay Member of St Thomas' Hospital Local Research Ethics Committee (2004 – 2012)
- School Governor, Herbert Morrison Primary School 1999 – present)

Memberships

- HRLA
- LCLBA
- PIBA
- PNBA

Publications

- Law Pod UK Ep. 47: Darnley v Croydon Health Services NHS Trust
- 'One Minute with...Owain Thomas QC' *Tax Journal* (October 2017)
- Burnett-Hall, 2012, *Environmental Law*, 3rd Edition, London, Sweet & Maxwell