



## Robert Wastell

Call: 2004

Robert Wastell's practice incorporates a broad range of civil law representing both Claimant and Defendant with a particular specialism in healthcare law. His main areas of practice are clinical negligence, public law, professional disciplinary including GMC and GDC, coroner's inquests, public inquiries and personal injury. He has also prosecuted and defended in the criminal courts.

He was a member of the Attorney-General's Panel of Junior Counsel to the Crown between March 2008 and August 2017 and continues to undertake nominations on a case by case basis. He undertook government work in all of his main practice areas in many high profile cases. He also has extensive experience in national security sensitive cases including in public inquiries and the Special Immigration Appeals Commission.

He continues to have a busy practice in healthcare law, most notably in clinical negligence cases, disciplinary proceedings and coroner's inquests, as well as in high value traumatic personal injury cases. Recent cases include successful settlements for claimants suffering severe brain injuries during labour (led by Henry Witcomb QC), following an alleged amniocentesis needle injury whilst in utero (led by Angus McCullough QC), a delayed cervical cancer diagnosis case following negligent misreporting of a cervical smear and Disorder of Consciousness following a missed deep vein thrombosis. He also continues to represent GPs, NHS Trusts and individual clinicians in defending high value clinical negligence claims involving severe injuries and fatalities. He continues to represent the Ministry of Defence in high-profile clinical negligence and traumatic injury claims.

## Clinical Negligence

---

Robert regularly acts in high value clinical negligence claims for both Claimants and Defendants from coroner's inquest / pre-action stages to conclusion at settlement or trial.

## Selected Cases

- **OC v MOD & St George's University Hospital Trust (2017)**: Represented the Ministry of Defence in this severe spinal injuries case in which the treating NHS Trust were successfully brought in as an Additional Defendant under CPR Part 20. Liability has been compromised and the matter proceeds by way of quantum only.
- **Lariam Litigation (2016-present)**: Representing the Ministry of Defence in litigation arising out of the use of the malaria prophylaxis mefloquine (Lariam) by the Armed Forces and its alleged severe psychiatric side-effects.
- **JNW (A Child) v Croydon Health Services NHS Trust (2016)**: Represented a child claimant with cerebral palsy in this multi-million pound settlement concerning a severe brain injury sustained during labour.
- **Anon v SoS for Health (2016)**: Represented the claimant in this brain injury claim concerning an alleged amniocentesis needle stick injury sustained in utero.
- **Re Emily Titterington (2015)**: Inquest into death of 16 year old who died from a constipation induced heart-attack who was alleged to have a phobia of using the toilet, represented the family's GP.
- **DW v RM & Anr (2015)**: Acted for Claimant with severe brain injury in claim arising out of road traffic accident and subsequent treatment at neurosurgery unit.
- **M v MOD (2014)**: Acted for Ministry of Defence in claim by ex-serviceman for successive failures to diagnose and treat PTSD following return from active duty leading to profound life-long consequences.
- **J v Kings College Hospital NHS Foundation Trust & 2 Ors (2012)**: Represented mother in wrongful birth claim arising out of wrongly reported genetic testing during pregnancy.
- **Group Dental Action (2011-2013)**: Claims by a group of current and former prisoners against the Ministry of Justice and a local PCT for alleged dental negligence and human rights abuses.

## Public Law

---

Robert has appeared in several notable public law and human rights cases over the past 10 years particularly in cases for the government concerning national security.

## Selected Cases

- **Inquest into the death of Alexander Peripilichnyy (2017-2018)**: junior counsel to inquest concerning the sudden death of Russian Alexander Perepilichnyy who is alleged to have been a whistleblower in a large scale fraud.
- **The Litvinenko Inquiry (2015-2016)**: The death of Alexander Litvinenko on 23rd November 2006 from suspected poisoning with polonium-210.
- **D2 v Secretary of State for the Home Department [2014] UKSIAC 116/2012**: Case concerning the minimum level of disclosure in SIAC cases engaging Article 8 ECHR following *ZZ(France) v SSHD* [2013] 3 WLR 813.
- **Bank Mellat v Her Majesty's Treasury (No. 1 and No. 2) [2013] UKSC 38, 39**: Power for the Supreme Court to adopt a closed material procedure and a challenge to the Financial Restrictions (Iran) Order

2009.

- **R (Newsham) v The Parole Board (2013) CO/11422/2012:** A challenge to the failure to release on licence or to transfer to open conditions.
- **E1/(OS Russia) v Secretary of State for the Home Department [2012] EWCA Civ 357:** A challenge by Chechen National of SIAC's dismissal of his application to judicially review the decision to cancel his Indefinite Leave to Remain on the grounds of defective notice of appeal rights.
- **Zatuliveter v Secretary of State for the Home Department [2011] UKSIAC 103/2010:** Challenge to deportation on grounds of national security by Russian Parliamentary aide.
- **R (Lonergan) v Nottingham County Court [2010] EWHC 3504 (Admin):** Judicial review of refusal of permission to appeal by Circuit Judge in Nottingham County Court.
- **R (Chater) v (1) Secretary of State for Justice and (2) Parole Board [2010] EWHC 2257 (Admin):** Test for release of life prisoner following erroneous recall whilst on licence.
- **L1 v Secretary of State for the Home Department [2010] UKSIAC 100/2010:** Deprivation of British Citizenship – preliminary issue.
- **R (Al-Sweady & Others) v Secretary of State for Defence [2009] EWHC 2387 (Admin):** Claims of torture and murder of Iraqi nationals by soldiers during Iraq war.
- **R (On The Application of Baiai & Others) v Secretary of State For The Home Department [2008] UKHL 53:** House of Lords case on whether immigration policy breached right to marry.
- **Al Jedda v Secretary of State for the Home Department [2009] UKSIAC 66/2008:** Deprivation of British citizenship.

## Professional Discipline & Regulation

---

Robert is regularly instructed to defend clinicians in professional disciplinary proceedings, most notably before the GMC and GDC.

### Selected Cases

- **GMC proceeding (2018):** defended senior gynaecologist from allegations of sexual misconduct.
- **GDC v A (2017):** Professional Conduct Committee case against a Dental Nurse and Practice Manager accused of acting beyond the scope of their practice. Case successfully referred back to the Investigating Committee and concluded without further action.
- **GMC v C (2016):** Professional Conduct Committee case for a GP accused of prescribing drugs to non-patients.
- **GDC v B (2016):** Professional Conduct Committee case for a senior dentist accused of dishonesty and poor professional performance amounting to misconduct. All allegations dismissed save for those in relation to note taking.
- **GDC v X (2013):** Professional Conduct Committee case for a dentist accused of dishonest failure to declare caution for theft to GDC.
- **GDC v Y (2010):** Health Committee case concerning a dentist suffering from Kleptomania.
- **GMC v Z (2010):** Month Long Hearing before Fitness to Practice Panel concerning a colorectal surgeon's professional performance. Led by Robert Seabrook QC.

# Inquests

---

Robert regularly appears in coroners courts around the country for families, GPs, Hospital Trusts, Prisons or other Interested Persons. He is presently instructed as counsel to the coroner in the Inquest into the death of Alexander Perepilichnyy heard at the Old Bailey before the Recorder of London in June 2017 and scheduled to continue in Autumn 2017.

## Selected Cases

- **Re Caixia Sun (2018)**: Inquest into death of Caixia Sun after she was crushed against a car whilst attending an event at her son's school.
- **Re Alexander Perepilichnyy (2017)**: Inquest into the sudden death of Russian Alexander Perepilichnyy who is alleged to have been a whistleblower in a large scale fraud.
- **Re Felicity Verallo-Robbins (2017)**: Inquest into the death of seven hour old baby following multiple issues in her pre and post-partum care which were avoidable. Robert represented the parents.
- **Re: Inquest into the death of SM (2016)**: Inquest into the death of a young boy found hanged at the family home. SM had attended A&E 3 weeks previously after being found claiming to want to throw himself in front of cars. Robert represented a Consultant Psychiatrist.
- **Re: Rashda Patel (2016)**: Inquest into the death of a young mother with placenta percreta after failed interventional radiology following the birth of her child by Caesarean Section.
- **Re Emily Titterington (2015)**: Inquest into death of 16 year old who died from a constipation induced heart-attack who was alleged to have a phobia of using the toilet, represented the family's GP.

## Public Inquiries

---

Robert acted for the Home Secretary in the Inquiry into the death of Alexander Litvinenko, led by Neil Garnham QC. Within that role, which encompassed wider government, he was also sole counsel for Public Health England (formerly the Health Protection Agency). He is often asked to be involved in public inquiries and long running inquests and accepted instructions to assist the Independent Inquiry into Child Sex Abuse. He is presently counsel to the the Inquest into the death of Alexander Peripilichnyy (2017).

## Selected Cases

- **The Litvinenko Inquiry (2014-2016)** : death of Alexander Litvinenko on 23rd November 2006 from suspected poisoning with polonium-210.

# Personal Injury

---

Robert also acts in high value traumatic personal injury and fatal accident cases for Claimants and Defendants. He is currently instructed in a number of claims on behalf of family's who have lost loved ones in fatal accidents or on behalf of individuals sustaining life changing injuries.

## Selected Cases

- **Dunsby, Roberts v MOD (2016-present)**: Counsel for the Ministry of Defence in litigation arising out the deaths of soldiers during training on the Brecon Beacons in 2013.
- **DW v RM & Anr (2015)**: Acted for Claimant with severe brain injury in multi-million settlement arising out of road traffic accident and subsequent treatment at neurosurgery unit.

# Human Rights

---

Human rights claims arise in many of Robert's cases and he is adept at dealing with complex issues concerning rights under the ECHR.

## Selected Cases

- **D2 (SIAC) (2017 and ongoing)**: Challenge by Chechen National to refusal of leave to enter the UK on grounds of national security (Article 8 ECHR).
- **Dunsby, Roberts v. MOD (2016 – present)**: Counsel for the Ministry of Defence in litigation arising out the deaths of soldiers during training on the Brecon Beacons in 2013 (Article 2 ECHR).
- **Re Alexander Perepilichnyy (2017 – present)**: Inquest into the sudden death of Russian Alexander Perepilichnyy who is alleged to have been a whistleblower in a large scale fraud. (Article 8 and 10 ECHR).
- **GDC v X (2013)**: Professional Conduct Committee case for a dentist accused of dishonest failure to declare caution for theft to GDC (2013) – Successful application to hear evidence privately (Articles 6, 8 and 10 ECHR).
- **Group Dental Action (2011-2013)**: claims by a group of current and former prisoners against the Ministry of Justice and a local PCT for alleged dental negligence and human rights abuses (Article 3 ECHR).
- **D2 v Secretary of State for the Home Department [2014] UKSIAC 116/2012**: case concerning the minimum level of disclosure in SIAC cases engaging Article 8 ECHR.
- **Bank Mellat v Her Majesty's Treasury (No. 1 and No. 2) [2013] UKSC 38, 39**: power for the Supreme Court to adopt a closed material procedure and a challenge to the Financial Restrictions (Iran) Order 2009) (Article 1 of Protocol 1 and Article 6 ECHR).
- **R (Newsham) v The Parole Board (2013) CO/11422/2012**: a challenge to the failure to release on licence or to transfer to open conditions (Article 5 ECHR).

- **E1/(OS Russia) v Secretary of State for the Home Department [2012] EWCA Civ 357**: a challenge by Chechen National of SIAC's dismissal of his application to judicially review the decision to cancel his Indefinite Leave to Remain on the grounds of defective notice of appeal rights (Article 8 ECHR).
- **Zatuliveter v Secretary of State for the Home Department [2011] UKSIAC 103/2010**: challenge to deportation on grounds of national security by Russian Parliamentary aide (Articles 5, 6 and 8 ECHR)
- **R (Chater) v (1) Secretary of State for Justice and (2) Parole Board [2010] EWHC 2257(Admin)**: test for release of life prisoner following erroneous recall whilst on licence (Article 5 ECHR).
- **R (Al-Sweady and Others) v Secretary of State for Defence [2009] EWHC 2387 (Admin)**: claims of torture and murder of Iraqi nationals by soldiers during Iraq war.
- **R (On The Application of Baiai and Others) v Secretary of State For The Home Department [2008] UKHL 53**: House of Lords case on whether immigration policy breached right to marry (Articles 8, 12, 14 ECHR).

## Appointments

---

- Treasurer of the Constitutional & Administrative Law Bar Association (2014-present)
- Junior Counsel to the Crown (B Panel) (2012-2017)
- Junior Counsel to the Crown (C Panel) (2008-2012)

## Awards

---

- Lord Denning Scholarship, Lincoln's Inn

## Education

---

- BVC, Inns of Court School of Law (2004)
- CPE Diploma in Law, City University (2003)
- BA (Oxon) in Politics, Philosophy & Economics (First Class) Hons (2001)

## Memberships

---

- PNBA
- PIBA
- ALBA