



Kevin McCartney

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“A superb tactician whose input from an early stage reaps benefits as the case progresses.”™

- Legal 500 (2018)

'He has excellent advocacy skills and a fantastic client manner which make him a joy to work with.' ... 'He manages to put clients at ease and establish a rapport.'

- Chambers and Partners 2018

'He is a calm, reassuring advocate with a wealth of regulatory experience.' ... 'He has a superb client manner, and outstanding tactical ability, which make him a joy to work with.'

- Chambers and Partners 2016

Overview

After many years defending in general criminal cases including murder, drug importation, historic sexual abuse, shaken baby cases, and fraud, Kevin has developed a specialist practice representing professionals, partnerships, companies and professional bodies in criminal, regulatory and coronial proceedings. He is consistently recommended in Chambers and Partners and the Legal 500 as a specialist in professional discipline. In the past three years alone Kevin has acted for 44 pharmacists and 27 doctors. Whilst pharmacy and healthcare represent the bedrock of his practice, he also regularly acts for police officers and solicitors in both misconduct and criminal proceedings. Kevin has acted for both NHS England and practitioners with regard to membership of the pharmaceutical and performers' lists and acted as legal chair of a PCT committee established to resolve financial and regulatory disputes arising from membership of the pharmaceutical lists. Due to his considerable experience in a number of fields, he is frequently instructed in cases with overlapping jurisdictions ensuring continuity of representation and reduced costs. He has advised and represented pharmacists, doctors and nurses in judicial review proceedings and statutory appeals. He was instructed in the Court of Appeal on behalf of ILEX in relation to a judicial review of its disciplinary procedures.

Pharmacy

Chambers and Partners 2017: *'His breadth of expertise in relation to pharmacy law really stands out. He is a very strong advocate with a great client manner, and that makes him a joy to work with.'*

'A very thorough, hard-working and approachable individual.'

Legal 500 2017: *'He has unrivalled experience at the Bar in acting for pharmacists and pharmacy owners.'*

Legal 500 2014: *'Unrivalled expertise acting for pharmacists in relation to disciplinary proceedings, inquests and regulatory crime.'*

Kevin is recognised in the directories as a true specialist in community pharmacy law. He regularly acts for pharmacists in criminal cases, fitness to practise (FTP) hearings, NHSE proceedings, and inquests.

Instructed on behalf of pharmacists for over 20 years he was junior counsel in FTP proceedings brought against the pharmacist who supplied medication to Harold Shipman. He has a particular interest in fatality cases arising from dispensing errors, especially of warfarin. Kevin acted in a number of cases arising out of a BBC programme exposing pharmacists illegally providing medication to patients. He is fully conversant with community pharmacy procedures and has experience in:

- Prescription, short supply, medicine use review and internet pharmacy fraud
- Breach of confidentiality
- Dispensing errors including a significant number of fatality cases
- Medication abuse
- Poor clinical performance
- General dishonesty allegations
- Sexual allegations, sexual harassment and work place bullying
- Waste and Hygiene contravention
- Health

Examples of recent pharmacy cases:

R v BP – *allegations of prescription fraud (acquitted).*

NHSE v R Pharmacy Ltd - *successfully appealed the removal of the company from the pharmaceutical lists.*

GPhC v S – *allegation of prescription fraud (cleared of dishonesty at factual stage).*

GPhC v K – *allegation of dishonesty arising from responsible pharmacy logs- (Admitted dishonesty resulted in a warning).*

GPhC v H – *fraud and theft from employer– (cleared of dishonesty).*

GPhC v N – *poor clinical performance - (conditions on practice).*

GPhC v O – *allegations of sexual harassment of a number of female employees - (proven harassment resulted in suspension and ultimate restoration).*

Doctors

Instructed by leading insurers and medico-legal solicitors to act for doctors before the FTPT of the MPTS,

criminal proceedings and inquests. Experienced in both criminal and clinical matters, with notable expertise in sexual allegations.

Recent examples of cases include:

GMC v Dr N – *alleged failings of a GP with regard to the referral of cancer patients (ongoing).*

GMC v Dr G – *alleged sexual assault during intimate examination (ongoing).*

GMC v Dr N – *historic allegations of sexual offending in familial and clinical settings (discontinued).*

R v S - *allegations of fraud against Consultant Psychiatrist - (case stayed).*

R v P – *allegations of perverting the course of justice against GP arising out of GMC proceedings against another doctor – (acquitted).*

GMC v Dr S – *Consultant anesthetist accused of clinical failings (discontinued).*

Police Officers

Instructed to act for police officers in criminal and misconduct proceedings and inquests. Kevin's experience in general crime and familiarity with criminal procedure and evidence has proved to be a significant advantage when acting in misconduct and coronial proceedings.

Recent examples of cases include:

R v L: *police officer accused of rape of a runaway, misconduct in public office and child pornography (acquitted of rape, pleaded to misconduct in public office offences and child images)*

R v S: *police officer accused of sexual misconduct in public office with regard to vulnerable witnesses (convicted).*

R v R: *police officer accused of serious child pornography offences (plea).*

R v A: *police officer accused of dishonestly claiming expenses (acquitted and cleared in subsequent misconduct proceedings).*

AA v PC F & P: *two police officers alleged to have used excessive force on an offender who suffered serious brain injury after a motorcycle accident – (proved one officer dismissed the other final written warning).*

AA v S: *allegations of failure to investigate - (proved - extension of final written warning).*

Inquests

Kevin is regularly instructed on behalf of pharmacists, doctors and police officers both before a jury and coroner acting alone and has extensive experience cross-examining leading medical experts. He recently acted for a GP who successfully appealed the coroner's conclusion of neglect and acted in the fresh inquest when neglect was not found.

Recent examples of inquests include:

Inquest into the death of RK – *(fresh counsel) successfully appealed coroner's conclusion; neglect not found at a second inquest.*

Inquest into the death of MB – *pharmacist dispensed wrong dose of warfarin leading to fatality.*

Inquest into the death of PM – *pharmacist dispensed the wrong dose of warfarin leading to fatality.*

Article 2 Inquest into the death of NM – *acting for prison GP who treated a prison suicide.*

Article 2 Inquest into the death of LL – acted for junior doctor who treated a mental health patient who died from an unexpected pulmonary embolism.

Article 2 Inquest into the death of AC – acted for a police officer said to have failed to pass on information before a prison suicide.

Criminal

Kevin continues to be instructed in criminal work, often on behalf of professionals with overlapping regulatory proceedings and/or inquests. He is frequently instructed in cases with medico- legal issues or fraud.

Examples of criminal work include:

R v K – leading junior acting for solicitor accused of mortgage fraud with alleged loss of £5 million (acquitted after a re-trial)

R v M – acted alone for defendant who pleaded to murder, third killing committed by the defendant, sentence of life with minimum tariff of 40 years increased to whole life tariff in the Court of Appeal

R v S – acted alone for defendant charged with attempted murder by shooting (convicted)

R v C – allegations of murder of half sister (led) (convicted)

R v P – pharmacist accused of prescription fraud (acquitted)

R v S – consultant accused of fraud on NHS Trust (case stayed- acquitted)

R v P – GP accused of perverting the course of justice by making false allegations against a GP colleague (acquitted)

R v L – police officer accused of rape of runaway (acquitted on rape/pleaded to misconduct in public office and child pornography offences)

R v S - police officer accused of misconduct in public office with regard to sexual relations with vulnerable witnesses (convicted)

R v S – defendant accused of historic rape of his wife, many rapes were alleged to have occurred when she was under the influence of diazepam (acquitted of all allegations)

R v C – father accused of inflicting grievous bodily harm with intent on a baby by shaking (acquitted)

Education/Professional

- LLB Manchester
- Criminal Bar Association
- Association of Regulatory & Disciplinary Lawyers
- Hertfordshire & Bedfordshire Bar Mess
- Member of South Eastern Circuit