



Kevin McCartney

Barrister

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Kevin has a specialist practice representing professional clients both individual and corporate. He is regularly instructed in matters investigated by the GPhC, GMC, GDC, SDT/SRA, BSB and PSD. He has a background in serious crime, including murder/manslaughter, sexual offences, and fraud but over the past 15 years his practice has been predominately related to professional discipline, regulatory crime, and Inquests. He is instructed by the major medical/pharmaceutical insurers, such as the MDU, MPS, MDDUS, NPA the PDA and the police federation, both at first instance and appeal. Kevin is frequently instructed by troubled pharmacies facing investigation by NHSE and has a good record for 'problem solving' and avoiding removal from the pharmaceutical lists. He has acted for a number of the large pharmacy multiples over the years with regard to both individual and systemic allegations.

"His detailed knowledge of pharmacy practice combined with his superb client manner, collaborative approach and outstanding tactical ability, make him a joy to work with."

Specialist areas

Professional Regulation

Inquests & Inquiries

Crime

Fraud, Business and Financial Crime

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Kevin was junior counsel for the pharmacist who was investigated by the GPHC for the supply of diamorphine to Harold Shipman and represented ILEX in the Court of Appeal who faced a challenge to its then disciplinary regime. He has considerable experience acting for pharmacists/online pharmacies and prescribing doctors/independent prescribers who face investigation arising from individual and system failures in online pharmacies.

Some examples of current cases include representing an Orthopaedic surgeon facing allegations of historic sexual assaults on female colleagues, a world-renowned orthopaedic hip surgeon, investigated by the Human Tissue Authority and the GMC for the unlawful retention of post operative bone and cartilage, and a consultant cardiothoracic surgeon facing investigation regarding a number of post operative fatalities.

Last year he represented two of the consultants criticised in the hyponatraemia inquiry arising from the deaths of children in RBHSC Belfast said to be due to the use of excess saline in the 1990s. He secured the acquittal of an NHS pharmaceutical advisor who, along with three others, faced allegations of bribery arising out of the provision NHS pharmaceutical contracts for the supply of medication and represented a consultant general surgeon accused of serious clinical failings before the MPTS. Further examples of previous cases can be seen in the individual sections listed below.

Consistently recognised in the legal directories he is viewed as a strong and persuasive advocate who has a collaborative approach to case preparation.

Professional Regulation

Pharmacists

Kevin is recognised in the directories as a true specialist in community pharmacy law. He regularly acts for pharmacists in criminal cases, fitness to practice (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 several 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.

R v R: police officer accused of serious child pornography offences.

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

AA v S: allegations of failure to investigate.

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.

Crime

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

Testimonials

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

'Tenacious and thorough in his preparation and on his feet.'

'He has unrivalled experience at the Bar in acting for pharmacists and pharmacy owners.'

'Unrivalled expertise acting for pharmacists in relation to disciplinary proceedings, inquests and regulatory crime.'

– Legal 500

'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.'

'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.'

'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.'

'His detailed knowledge of pharmacy practice combined with his superb client manner, collaborative approach and outstanding tactical ability, make him a joy to work with.'

'Approachable and totally committed to his cases. He is a tenacious and persuasive court advocate.'

'User-friendly and combines a thorough understanding of the legislation with excellent strategic acumen.'

– Chambers and Partners