



Albion
Chambers

Richard Shepherd



Degree:

LLB (Hons) Wales; LLM (Warwick) International Economic Law

Year of call and Inn:

2001; Middle Temple

Professional Membership:

Western Circuit, PIBA, ELBA, CBA, ELA

Email:

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Appointments:

Recorder 2018 (Crown Court)

Specialist Areas:

Crime, including Courts Martial

Employment and Professional Disciplinary

Inquest

Regulatory, including Health and Safety

Public Access Areas:

Employment

Inquest

Regulatory

Practice Overview:

Richard Shepherd specialises in employment, regulatory crime and inquests. He is the Head of Albion's Employment and Professional Disciplinary Team and has a thriving nationwide practice. He is consistently recognised by Legal 500 as a 'Leading Junior' and a 'Tier 1' practitioner and sits as a part-time Crown Court judge (Recorder) on the Western Circuit.

Richard is a certified advocacy trainer for the Western Circuit, and is a facilitator for the national roll-out of the Vulnerable Witness Advocacy Training programme.

Richard is on the approved List of Specialist Regulatory Advocates in Health and Safety and Environmental Law.

Richard also acts as 'standing counsel' for a number of businesses and organisations around the UK.

Client Recommendations:

"he has a knack of making complicated factual scenarios seem very straightforward"

"In advising, Richard cuts to the chase and his advice is direct yet reasoned, clear and easy to understand"

"personable, responsive and very helpful"

"tenacious in cross examination"

Recommendations from national publications:

"Tier 1 - A very effective advocate"

Legal 500 2019

"Tier 1 - An employment law specialist"

Legal 500 2017

"Excellent with clients and witnesses: he has the ability to put the most nervous witnesses at ease"

Legal 500 2016

"He handles instructions from local authorities, public bodies and unions, among other parties"

Legal 500 2015

"Recommended for all stages of employment litigation"

Legal 500 2014

"firm in cross-examination and persuasive in his submissions"

Legal 500 2012

Public Access:

Richard Shepherd is licensed to accept work under the Public Access rules. [Click here](#) for further details about the Public Access scheme.

Areas of Practice

Employment

Richard is the Head of Albion's Employment and Professional Disciplinary Team. For eight consecutive years he has been recommended in the Legal 500 for 'all stages of employment litigation' and is commended for his 'firm cross-examination and persuasive submissions'.

Richard's nationwide, respondent-centred practice is noted for his work in relation to local authorities, care homes, councils, schools and public bodies, being instructed in matters of the upmost sensitivity and severity in both employment and professional disciplinary matters. Clients are always impressed with his mastery of the papers, his down-to-earth advice and his exemplary advocacy. For many clients Richard is their go-to barrister.

Richard accepts instructions to undertake:

- trial and pre-trial Employment Tribunal advocacy;
- case merits assessment and advisory work;
- disciplinary hearings under Police Misconduct Regulations;
- appellate work in the Employment Appeals Tribunal and Court of Appeal;
- appellate work in the Police Appeals Tribunal;
- internal disciplinary, grievance and appeals;
- disciplinary and grievance investigations.

Employment cases of interest:

Jenkins v Lonetree Ltd (2019) – the Claimant was dismissed for gross misconduct after a large sum of money went missing from the work's safe. Initially there was no evidence incriminating the Claimant, however he began to act suspiciously on CCTV, 'finding' the sum of money in the office. He was dismissed on circumstantial evidence. Richard successfully represented the Respondent in this classic *Burchell* case;

N v Avon and Somerset Constabulary (2019) – Richard represented the officer in misconduct proceedings against her. The force alleged the officer failed to progress an investigation and had attempted to cover up her inaction. The officer relied upon extensive evidence of overwork, poor supervision and IT material to establish she had not 'interacted' with a particular email and had not read its contents;

Rapple v I Plc (2019) – application for strike out of the Claimant's claim of unfair dismissal, his dismissal arising out of his bringing martial-arts weapons, including knives, throwing stars and nunchucks, onto government premises;

C v H (2019) – instructed for the Respondent charity, a preliminary hearing was listed for a rule 37(1)(a) strike out application in relation to whistleblowing claims. The application was successful, relying on *Cavendish Munroe* (2010), persuading the Tribunal that the disclosures did not convey facts, merely unsubstantiated allegations;

McEachern v Gloucestershire Fire Service (2019) – acted on behalf of the Fire Service defending an ET s.15 disability discrimination and unfair dismissal claim. A retained firefighter who was insubordinate to her superiors and also made a number of uncorroborated allegations of assault, was dismissed for gross misconduct. The Claimant claimed her behaviour was related to her Asperger's diagnosis. The Claimant's claim was unsuccessful;

B v Avon and Somerset Constabulary (2018) – Richard represented the Officer in this highly-publicised case where the officer was accused of using unreasonable force in deploying her taser on a person, who turned out to be, the constabulary's former race-relations advisor. The Officer was cleared of all allegations of misconduct; BBC ITV The Guardian The Independent The Times

I v VL (2018) – instructed on behalf of the Applicant Company in these High Court proceedings to secure an emergency, interim 'Springboard injunction', preventing a senior employee from using or disclosing confidential information to assist in setting up or supporting a fledgling rival company;

Afrah v Bristol City Council (2018) – acted on behalf of the City Council, Richard defended a claim brought by a former school TA, dismissed for gross misconduct. She claimed she had been discriminated against on the grounds of race and as a whistle-blower;

Wilson v Gloucestershire City Council (2018) – represented the Council in this ET claim, where the Claimant, a very senior employee, submitted that he was not dismissed for SOSR but for redundancy, following a large structural reorganisation of the council. The Claimant also claimed the decision constituted age discrimination;

RR v NMC and Social Care Wales (2018) – Richard was instructed in twinned suspension

proceedings to represent a senior nurse and manager after she was initially suspended following a malicious allegation. Both suspensions were lifted following Richard's attendance at the hearings;

T v Avon and Somerset Constabulary (2018) – during misconduct proceedings, the Sergeant was accused of using unnecessary force on a detainee. Richard relied on expert evidence from two psychiatrists to establish that the officer suffered from PTSD and suffered a dissociative episode, negating any culpability;

Oruzinsky v Omega Resource Group and Honda UK (2017) – Richard represented the first Respondent defending a nationality discrimination claim brought by the claimant. Unusually in the ET, Richard was successful in a 'half-time submission' halting the discrimination claims against the first Respondent;

O v Gloucestershire Constabulary (2017) – acted for the Claimant in her ET claim for sexual discrimination arising out of a change in shift pattern alleged to have disadvantaged female Police Officers;

Turner v PAT (2017) – an appeal to the Police Appeals Tribunal concerning the scope of Salter and its application to other forms of non-dishonest gross misconduct;

A v Gloucestershire Constabulary (2017) – Richard represented the Officer in misconduct proceedings for attending horse-racing events whilst purportedly unwell. The proceedings explored the interrelationship between mental and physical illness and exacerbation of conditions by stressful workplace environments; BBC The Telegraph The Times

Howells v Breaksea Residential Home Ltd (2017) – Richard acted for the Respondent nursing home in the claim heard at Cardiff Employment Tribunal. The claim centred on the status of a nursing employee after a period of absence where her role had changed significantly during her absence;

W (2016) – represented a surgeon in a disciplinary process concerning allegations of using inappropriate and outdated surgical techniques;

Robson v ESG Skills Ltd (2016) – a case in Newcastle Employment Tribunal founded upon associative disability discrimination related to the long-term illness of the employee's daughter;

T v Wiltshire Constabulary (2016) – instructed by the Police Federation in relation to allegations against an officer relating to his use of social media and his interest in alternative adult genres;

Stearn v Cornwall Fire and Rescue Service (2016) – Richard was instructed on behalf of the Respondent at Truro Employment Tribunal in relation to a Part-Time Worker's discrimination claim based upon a particular interpretation of the Grey Book;

F v Avon and Somerset Constabulary (2016) – a case concerning the use and speed of use of a taser in volatile and fast moving circumstances, analysis of training methods and appropriateness of alternative restraint techniques featured as part of the case;

C v Ofsted (2016) – instructed on behalf of a nursery in relation to allegations of inadequate safeguarding of children;

PR v National Nursing and Midwifery Council (2016) – instructed to advise a care home director in relation to a referral made to the NMC by the Care and Social Services Inspectorate Wales;

Reported Employment Law Cases:

Jackson Lloyds Ltd and Mears Group PLC v Smith and Ors [2014] UKEAT/0127/13/LA – an EAT challenge to the Liverpool ET's findings that a TUPE transfer could take place where the multifactorial Spijkers approach indicated a transfer to a Transferee other than the purchaser or 100% shares of Transferor;

Mrs R M Bennett v Cornwall County Council [2008] UKEAT/0207/08/DA –consideration of a ‘knock out’ point as per *Glennie v Independent Magazines (UK) Ltd*.

Clerk:

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Fraud and Regulatory Crime

Richard undertakes prosecution and defence work, and is a CPS panel advocate level 4 prosecutor. He also sits as a Crown Court Recorder in the South West. He accepts instructions in the Crown Court, High Court and Court of Appeal. He is particularly known for his in-depth knowledge of business and financial affairs, making him the ideal barrister for complex fraud and regulatory matters.

Richard is on the approved List of Specialist Regulatory Advocates in Health and Safety and Environmental Law.

Richard has a particular interest in the following fields:

- fraud;
- regulatory crime;
- CQC (Care Quality Commission);
- health and safety;
- trading standards;
- consumer protection; and
- private prosecutions.

Fraud and Regulatory cases of interest:

R v Peter Bennett (2019) – prosecution of a fraudster who targeted vulnerable victims following their purchase of timeshares. The defendant claimed that he was able to extricate the victims from the timeshare schemes but if they did not do so, matters were likely to deteriorate and they could lose their houses;

R v Blackburn (2019) – as part of a wider operation Richard prosecuted a prominent jeweller and gold bullion dealer for possession of illegal firearms, namely CS Gas sprays, obtaining following a kidnap attempt;

R v James McCormick (2018) – Richard was instructed by the specialist proceeds of crime act unit of the CPS to litigate the enforcement proceedings of a confiscation order made against a defendant who had sold fake bomb detectors to Iraq and other nations. The defendant had failed to disclose or realise his hidden assets and therefore default sentences were imposed; *The Guardian Somerset Live*

R v Blackburn and others (2018) – instructed by the CPS to prosecute this case concerning an international money laundering conspiracy, using the trade in gold bullion and other precious metals, sourced from Dubai, Belgium and Germany, as a vehicle to convert criminal property;

R v Mohammed Hussain (2018) – acted on behalf of the CPS Midlands Complex Case Unit to prosecute a law clerk, working in a criminal legal aid firm in the Midlands, in relation to allegations of fraud in connection with his dealings with clients; *Birmingham Mail*

B v Avon and Somerset Constabulary (2018) – Richard represented the officer in this internationally

publicised case where the officer was prosecuted for an alleged assault by deploying and firing her taser in an aggressive and confrontational situation; BBC The Independent The Telegraph Metro

R v Lister (2018) – Richard represented the defendant, a 95-year-old lady of good character, in the prosecution brought against her for the offence of causing death by dangerous driving arising out of an 'accidental acceleration' of her vehicle; The Times BBC

R v Birch and Birch (2017) – instructed by the CPS Complex Case Unit to prosecute an international bonds and investments fraud valued at circa £6million. The defendants adopted fake titles and pedigrees and created false documentation to defraud victims from Germany, Italy, Russia, Canada and the US. Subsequently a £5.8million Proceeds of Crime Act confiscation order was made, with a seven-year sentence to be served in default; BBC Daily Mail

R v Vaughan and Others (2017) – prosecution of an eight-handed conspiracy to cause explosions and commit armed robbery in relation to ATMs and security vans in the South West. All defendants were convicted and sentenced to over 50 years' imprisonment; BBC Plymouth Herald

South Gloucestershire Council v Leighfield (2017) – acted for the defence, the owners of long-established dog kennels, in a health and safety prosecution brought against them following an attack on a volunteer worker by two of the resident dogs;

Department for Business, Energy and Industrial Strategy v Royston Knight (2017) – Richard was instructed on behalf of the prosecuting department in this historic case concerning a disqualified director and a string of failed businesses. The case was delayed for over 10 years as the Defendant was resident in Panama;

Swindon Borough Council v Roy and Taluk (2017) – acted on behalf of the prosecution in respect of serious food hygiene charges, in particular the contamination of food stuffs with chemicals and building materials;

R v Lee (2016) – represented the defendant, an accountant, in a case alleging fraud, false accounting and the dishonest use of shell companies to obscure the true business activities;

North Somerset Council v Montgomery (2016) – instructed on behalf of the applicant in relation to contempt of court proceedings for breach of court orders where penal notices were attached;

R v Choudhury and Others (2016) – prosecution of national organised crime group, primarily based in London, targeting circa 500 elderly and vulnerable victims across the UK in a sophisticated, well rehearsed courier fraud;

Swindon Borough Council v Webb (2016) – represented the prosecution, this has become the leading Court of Appeal authority concerning the discharge or purging of an individual's contempt of court;

Bristol City Council v Ward and Others (2015) – Richard represented the primary defendant in this prosecution alleging the sale and distribution of counterfeit pharmaceuticals and clothing. The case featured as part of the BBC's 'Fake Britain' series';

HSE v 'C' Ltd (2014) – defence of a packaging manufacturing company in the prosecution brought against it by the HSE. Various workplace H&S breaches were alleged alongside causation of a workplace crush injury;

Reported Regulatory Law Cases:

Swindon Borough Council v Webb [2016] EWCA 152 (Civ) – an authority where the Court of Appeal took the opportunity of clarifying the existing law, practice and procedure of purging or discharging

a contempt of court;

Smith v North Somerset Council [2007] EWHC 1767 (Admin) – case stated appeal concerning the term ‘prompt’ under the Social Security Administration Act 1992.

Clerk:

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Inquests

Richard conducts inquests on behalf of the full range of parties. His familiarity with medical terminology, treatment, diagnosis and prognosis, combined with the witness-handling skills developed in the criminal field brings the ‘best of both worlds’ to this area. Richard is also the editor for the largest and most active LinkedIn group specialising in the field of Inquests and Coroners.

Inquests cases of interest:

‘AR’ (2019) – an Article 2 inquest by virtue of perceived systemic failures by the constabulary and ambulance service. A jury was summoned under the Coroner’s general discretion. The inquest focussed on the interrelationship between the police and ambulance control rooms and the proper extent to which medical advice should be given by civilian police call handlers;

‘AL’ (2019) – a post-Cheshire West/Policing and Crime Act 2017 inquest, therefore though the deceased was subject to a DoLS the inquest was not Article 2. Richard advised the nursing home. During its own investigation it discovered risks with the use of air mattresses and the methodology in measuring gaps between the mattresses and bed rails. This in-house investigation assisted the coroner in formulating his Regulation 28 report, for national dissemination;

‘MG’ (2018) – instructed on behalf of the constabulary in an inquest of a man, known to be vulnerable, living in his car. Post-mortem confirmed he died as a result of hanging. The inquest centred upon whether the constabulary’s Article 2 obligations were triggered in the circumstances of the case;

‘H’ (2017) – Richard represented the NHS Trust which provided mental health services to the deceased. The deceased died in suspicious circumstances at the address of a family with whom he had been feuding. Pathology was inconclusive as to the precise mechanical cause of death whilst the occupiers of the property exercised their right not to answer questions which may incriminate them;

‘H’ (2017) – Richard represented the family of the deceased in this inquest exploring their concerns regarding the combined use of ‘iliac blocks’ and other analgesia and the appropriate level of observation post treatment. The inquest resulted in changes to local NHS practice and the national dissemination of the risks identified;

‘G’ (2017) – acted on behalf of a care home where an elderly resident had fallen, sustaining a fracture. After hospitalisation the resident had died. The inquest examined the internal policies for supervision whilst residents were undertaking personal care, so as to lessen the risks of falls;

‘M’ (2016) – instructed by the Police Federation to represent the interests of two senior police officers who were involved in the risk assessment of incoming reports and the tasking of resources during the period in which information relating to a suicidal individual was received;

'B' (2016) – an inquest touching upon the death of a government worker who was discovered a number of weeks post-mortem. The timing of discovery caused obvious difficulties in forming conclusions as to cause of death, specialist expertise in pathology was required;

'B and M' (2015) – the inquest concerned the well-publicised death of a young mother and her newborn child who were found close to the Clifton Suspension Bridge after the mother left the midwifery unit of a local hospital. The inquiry examined the mental health services and assessments provided to the mother, alongside general supervision and social services involvement;

'NE' (2015) – an Article 2 inquiry into the death of a female prisoner. Richard represented the organisation providing nursing services to the prison. The inquest assessed the medical care provided by nurses, HCAs, GPs and paramedics, alongside ambulance response times, provision of emergency equipment and communication systems within the prison. A particular focus of the inquest was on medical professionals' response to symptoms of septicaemia and related conditions;

'RG' (2014) – inquest into the death of a patient following extensive surgery and treatment in ICU. Instructed on behalf of the family to explore potential failings in post-operative medical care, leading or contributing to the patient's death;

'GO' (2014) – acted for the NHS Trust which provided mental health services in the community and prison settings. An Article 2 jury trial following the death of inmate found hanging in cell. Live expert evidence in psychiatric care, prison medicine, resuscitation and A&E medicine all featured as part of the three-week inquest.

Inquest Clerk:

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