

# JAMES MACDONALD

Year of call  
2010



James Macdonald specialises in clinical negligence and personal injury litigation, crime, inquests and public law.

James is qualified to accept instructions directly from clients and is registered under the Bar Council's Public Access Scheme, meaning that members of the public who seek specialist advice can come direct to him. In addition, he welcomes instructions from solicitors, in-house law departments, qualified foreign lawyers, and clients licensed by the Bar Council to give instructions direct to barristers under the Bar Council's Licensed Access Scheme. For more information please visit our Direct Access page [here](#).

## LEGAL EXPERTISE

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### Clinical Negligence & Personal Injury Litigation

James is frequently instructed in all aspects of injury-related civil litigation. He specialises in claimant clinical negligence and product liability work, but also represents defendants in personal injury claims. Recent work has also seen James instructed in injury litigation with an increasingly international perspective.

James has a particular interest in negligence-related inquests and Fatal Accidents Act claims and regularly represents bereaved families in the coroners' courts.

### Selected Cases

#### Re: the Mariana Dam Collapse

James was instructed as one of a team of junior counsel in civil proceedings being brought in the UK on behalf of the victims of the Brazilian mining disaster in Mariana, Minas Gerais, in 2015.

## Re: TK

James represented the Claimant in a 4-day trial arising out of allegations of negligence against a local hospital trust in the management of the Claimant's pregnancy.

## Re: MM (deceased)

Case involving the allegedly negligent decision to allow unescorted leave to an informally detained psychiatric patient at a private mental health institution. The patient committed suicide whilst on leave. James represented the patient's family at the Article 2, jury inquest into her death, and then advised on civil proceedings in clinical negligence and under the Human Rights Act 1998, the Fatal Accidents Act 1976 and the Law Reform (Miscellaneous Provisions) Act 1934. Oversaw court approval of a six-figure settlement for the deceased patient's dependants.

## Re: WB

James provided tactical advice on a case involving Pinnacle metal on metal hip implants brought outside of a Group Litigation Order against DePuy International Limited.

## XY v GPs

Complex, delayed diagnosis of bladder cancer case in which the expert evidence pointed either to successful medical treatment but for the negligence identified, or a cystectomy in any event, depending on the factual evidence about the date of breach. James advised on prospects of success, quantum and eventual settlement.

## Re: JH

Advised in relation to a claim for damages arising out of the insertion of TVT mesh, and the interplay with any potential claim in clinical negligence.

## CH v YTH

Sports injury case involving a failure to diagnose a pectoral muscle tear sustained by a high-level amateur rugby player. James was instructed to advise on expert evidence and drafted pleadings and expert agendas in the light of conflicting medical literature on the subject.

## PIP Breast Implants

Advised on a number of cases based on the insertion of PIP breast implants; particularly those cases involving insolvent defendant clinics and/or so-called 'rogue' surgeons. James' advice enabled at least one claimant to recover damages from a third-party defendant under the Consumer Credit Act 1974.

## Crime

James regularly appears in the Crown Court throughout the south-eastern and midland circuits. He has

extensive trial experience as well as frequently appearing for prosecution and defence at plea and trial preparation hearings, bail applications and sentencing hearings. He is qualified as a Level 2 CPS panel prosecutor.

James has a particular interest in fraud and the litigation arising out of confiscation proceedings. His experience in public law and clinical negligence also means that James is particularly well-suited to cases involving complex medical evidence and/or material potentially subject to public interest immunity provisions.

## Selected Cases

### R v RDA

Instructed by the Attorney General of Jersey as junior counsel in a multi-million-pound complex fraud case involving the former managing director of BDO in Jersey.

### R v RH & SH

Junior counsel in the successful prosecution of two brothers for murder following a knife attack in Leicestershire in 2018.

### R v MQZ & MBP

Junior counsel in the successful prosecution of two men for human trafficking offences under the Modern Slavery Act 2015. James dealt with the ensuing confiscation proceedings as sole counsel and secured Slavery and Trafficking Prevention Orders against both defendants.

### R v SB

James represented a defendant care worker charged with offences under the Health and Safety at Work Act 1974 arising out of the death of a patient with multiple sclerosis. The defendant was acquitted at half-time following James' successful submission of no case to answer.

### R v GO

James secured a non-custodial sentence for a defendant implicated in a major bribery and corruption scandal involving maintenance contracts within the Royal Household. The prosecution also agreed not to pursue confiscation proceedings against James' client.

### R v T & T

Successful prosecution at Nottingham Crown Court of an insider fraud and money-laundering scam involving a local clothing business.

## R v PB & Others

Junior counsel in the successful prosecution of a 17-defendant national drug-supply conspiracy at Lincoln Crown Court. James dealt with all subsequent confiscation proceedings without a leader.

## Inquests & Public Law

James' experience of Crown Court advocacy coupled with his expertise in Fatal Accidents Act and clinical negligence claims have led to a growing practice in inquest law. James has a particular interest in inquests arising out of instances of alleged clinical negligence. He has both advised on, and appeared at, numerous inquests representing the families of the deceased, including Article 2 inquests. He is known for his compassionate approach to client care in this context. James' experience in this area has also led to a burgeoning practice dealing with litigation involving injured and vulnerable people in the Court of Protection.

Building on his practice as an inquest lawyer, James also has significant experience in the sphere of statutory public inquiries. From 2017 to 2019 James was appointed by the Home Office as a member of the junior counsel team to the Undercover Policing Inquiry: a major public inquiry established under the Inquiries Act 2005 to investigate and report on undercover policing in England and Wales from 1968 to 2008. James has extensive experience of reviewing highly sensitive material and advising on Rule 9 material requests, anonymity applications and the analysis of potentially relevant and necessary evidence within this context.

## Selected Cases

### Undercover Policing Inquiry (2017-2019)

Appointed by the Home Office as a member of the junior counsel team.

### Re: PR (deceased)

Case involving the allegedly negligent decision to allow unescorted leave to an informally detained psychiatric patient at a private mental health institution. The patient committed suicide whilst on leave. James represented the patient's family, successfully arguing that the senior coroner's initial decision that ECHR, Article 2 was not engaged should be reversed, as per the Supreme Court decision in Rabone. James secured findings of very serious failings in the patient's care which was causally related to her death.

### Re: SC (deceased)

A case in which the deceased had suffered a brain haemorrhage, attended hospital, but was triaged and dealt with as a patient under the influence of alcohol. As a result, the deceased was kept in an observation room under the watch of a police officer who observed serious deterioration in his consciousness levels, including a fall to the floor and decline in Glasgow coma score, but did not raise the alarm. James represented the deceased's family at the subsequent inquest into his death and dealt with submissions of neglect, consideration of a separate IPCC investigation and allegations of negligence in relation to the hospital nursing staff.

## Re: MM (deceased)

Another case involving the allegedly negligent decision to allow unescorted leave to an informally detained psychiatric patient at a private mental health institution. The patient committed suicide whilst on leave. James represented the patient's family at the Article 2, jury inquest into her death, and then advised on civil proceedings in clinical negligence, under the Human Rights Act 1998, the Fatal Accidents Act 1976 and the Law Reform (Miscellaneous Provisions) Act 1934. A six-figure settlement for the deceased patient's dependants was ultimately approved by the Court.

## Court of Protection

James specialises primarily in clinical negligence work. His experience of representing psychiatric patients and their families in both the civil and coroners' courts has led to a developing practice in Court of Protection work. James has particular interest in welfare cases and related matters involving capacity, human rights and the provision of medical treatment. James' considerable experience of clinical negligence litigation leaves him particularly well-suited to cases involving the analysis of complex medical evidence and the examination of expert medical witnesses.

## Memberships

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- AvMA
- CBA
- IBA
- INQUEST
- PIBA
- YFLA