



FCEDR Accreditation: 2016

CEDR Panel Admission: 2017

Languages: English

Location: United Kingdom

## Charles Feeny

**“ Can always be relied upon to have the right answer in complex and high value cases ”**

### Overview

Charles has been a practising barrister for nearly 40 years. He started in a general Common Law Chambers where he had experience of almost the entire range of common law litigation coming to specialise in personal injury, clinical negligence, professional negligence, employment and commercial litigation. His success in recent years as a leading specialist in personal injury and clinical negligence has inevitably limited his instructions in other practice areas where he has had extensive experience over a period of years. He is also regularly asked to advise in regulatory work in particular matters involving the Health and Safety Executive.

Charles qualified as a mediator in 2016. He is now regularly instructed as mediator in particular in clinical negligence litigation involving the NHS and other defence organisations where he is recognised as having specific expertise and experience.

Charles sat as a Recorder of the Crown and County Courts between 1996 and 2004 before deciding that a judicial career would not suit him. He has chaired disciplinary and appeal tribunals in the NHS and the voluntary sector. He has also chaired experts' meetings in the Family Division.

Charles has been involved in the voluntary sector as a volunteer and trustee for over 30 years. In particular, he has been a trustee of the major charity Liverpool Council for Voluntary Service since 1988. In this context, he has gained significant experience of the operations of NHS trusts, government agencies, local authorities, and the third sector. This experience has involved disputes between organisations and issues which arise in relation to funding and process. This voluntary work has given Charles insight into many employment and management issues.

### Professional Background

Charles has been a barrister since 1977, initially practicing in a general common law chambers. In 1998 he was involved in the formation of a specialist chambers which became Liverpool Civil Law, the first specialist civil chambers on the Northern



Circuit. In 2014 he became a sole practitioner being supported by Complete Counsel which is an innovative digital based business providing support on a contractual basis to individual barristers. He is a director of Complete Counsel and participates in its management.

### Expertise

- Clinical Negligence
- Professional Negligence
- Regulatory Law
- Personal Injury
- Workplace Employment
- Insurance
- Commercial Disputes

## Dispute Experience

### Clinical Negligence

- Acts for claimants and defendants in a full range of clinical negligence disputes and has been doing so for 20 years.
- Recognised as a leading specialist in clinical negligence litigation having attained the rank of star individual in Chambers Directory.
- Has appeared in a number of leading cases often involving complex and issues of strategic importance, most recently *Reaney v North Staffs NHS Trust and Others* where he was successful in the Court of Appeal in relation to the issue of how damages are to be assessed when defendants' breach of duty aggravates an injury which had arisen constitutionally.
- Advises and negotiates the settlement, either at joint settlement meeting or mediations, of numerous cases of maximum severity each year to include cerebral palsy, other neurological disability, paralysis and amputation.
- Has developed insight into technical issues in relation to the settlement of maximum severity cases to include understanding of actuarial and taxation issues.
- Instructing in group actions for clinical negligence in particular in relation to cosmetic injuries and birth defects, in particular the *Primodos* litigation.

### Personal Injury

- Leading specialist practitioner in personal injury recognised by chambers and partners as a star individual.
- Handles full range of personal injury cases including trauma and industrial disease cases.
- Has been instructed in a number of leading cases on issues of principle in the Court of Appeal and the Supreme Court to include *Fairchild v Glenhaven*, *Barker v Corus*, *Sienkiewicz v Greif* and *Williams v The University of Birmingham*.

- Has been described as being “at the cutting edge of asbestos litigation” (Chambers Directory).
- Regularly advises the settlement of maximum severity personal injury cases to include brain injury, paralysis and amputation.
- Has been involved in significant group actions to include the pleural plaques test cases, the minimal asbestosis test cases, organophosphate poisoning, hand arm vibration syndrome group cases and asthma group litigation.

### Professional Negligence

- Regularly instructed in professional negligence actions, in particular those arising from allegations relating to personal injury and clinical negligence cases.

### Commercial Employment and Insurance

- Throughout his career, Charles has been instructed in commercial employment and insurance cases.
- Appeared in the leading sex discrimination case of *Alison Halford v The Chief Constable of Merseyside Police*.
- Regularly advises in relation to coverage and indemnity in personal injury insurance policies.

### Reported Cases

Charles has appeared in over 50 reported cases of which the most prominent area:

- *Briody v St Helens and Knowsley Area Health Authority* (2011). Court of Appeal decision on whether damages recoverable for surrogacy in clinical negligence.
- *Phillips v Syndicate 999 Gunnar and Others* (2003). Liability for indemnity in insurance contracts in the light of the Fairchild decision.
- *Maguire v Harland & Wolff* (2005). Court of Appeal decision establishing liability for mesothelioma claims involving slight and secondary exposure with a date of knowledge no earlier than 1965.
- *Barker v Corus (UK) Ltd* (2006). House of Lords decision establishing proportionate liability for damages where causation was established following the principle in Fairchild.
- *Sienkiewicz v Greif* (2011). Supreme Court decision dealing with causation and application of Fairchild principle where allegations were of very low levels of exposure.
- *Williams v The University of Birmingham* (2011). Court of Appeal decision applying Baker v Quantum in relation to contemporaneous knowledge of risk in mesothelioma claims.

- *Hussain v Bradford Teaching Hospitals NHS Trust* (2011). Leading authority on causation and clinical negligence for cauda equina syndrome.
- *Chandler v Cape Plc* (2012). Court of Appeal decision on liability of parent company for acts and omissions on subsidiary companies in employers' liability claim.
- *Reaney v North Staffs Hospital and Others* (2015). Court of Appeal decision establishing the basis of quantification where defendants' breach had aggravated a constitutional injury.
- *Bussey v Anglia Heating Ltd* (2017). Whether *Williams v University of Birmingham* was decided per incuriam.

### Publications

- In 2001 co-authored with Per Laleng and Doug Cooper (Mesothelioma, Asbestos and Causation) in the Journal of Personal Injury Law which set out the argument for apportionment which was novel at the time but accepted by the House of Lords in *Barker v Corus*.
- In 2013, "The Dust Settles? Fairchild to Williams" was published in the academic journal "Torts Law Review" in Australia (has written many articles, in particular appearing in the Journal of Personal Injury Law and the website Pro-Vide Law which Charles and others run so as to promote education, training and debate in civil litigation).

### Directories and Testimonials

- "He is able to cut through the most complicated of matters and quickly arrive at the nub of any dispute."
- "Can always be relied upon to have the right answer in complex and high value cases."
- "At the forefront of technical changes for the bar"