

## Jane Tracy Forster

Call: 1975



### Overview

Jane specialises in medical law including clinical negligence claims and applications in the Court of Protection relating to the medical care of patients lacking capacity. She is also instructed in diverse employment and disciplinary disputes, usually for the employers, and in catastrophic personal injury claims.

In the clinical negligence field, her instructions emanate from claimant firms, panel firms of the NHR and medical defence societies and insurers of private hospitals. In recent years, her employment practice has developed in relation to the education sector. She has represented many colleges and universities in tribunal, High Court and internal disciplinary proceedings. She is particularly interested in the interface between disciplinary processes relating to the employment of medical and allied professionals.

She is a trained mediator and is experienced in the use of mediation in all disputes arising in the healthcare arena. Jane has been instructed in several inquests involving deaths in hospital. She is ranked as a leading junior in the field of clinical negligence in both *The Legal 500* and *Chambers UK*. In 2017, Jane was shortlisted for *Legal 500's* Personal Injury & Clinical Negligence Junior of the Year Award.

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### Medical law

Jane has a practice embracing all aspects of clinical negligence from anaesthesia to vascular surgery, and she has substantial experience in birth asphyxia claims. Her current caseload is principally relating to birth-related injuries such as cerebral palsy and obstetric brachial plexus injury, and she has lectured in the latter area jointly with eminent obstetric experts.

She also has significant experience in claims for undiagnosed perineal tears in childbirth and late diagnosis of cancers. Her defence practice covers all areas of clinical negligence in the NHS and private sectors. Her initial experience in clinical

negligence was in the series of claims involving patient awareness under general anaesthesia for caesarean section, which eventually led to the prosecution of one anaesthetist before the GMC, and to a radical change in the practice of obstetric anaesthesia.

### **Court of Protection**

Jane specialises in medical law including clinical negligence claims and applications in the Court of Protection relating to the medical care of patients lacking capacity.

Recently, Jane has been instructed in several inquests investigating hospital deaths.

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### **Personal injury**

Jane has acted for claimants and insurers in many cases of significant injury and loss. She has particular experience of head injury and spinal injury claims.

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### **Employment law**

Jane was, for many years, standing counsel to a supermarket group prior to its takeover, and also acted for Tesco and Iceland Frozen Foods in a number of tribunal claims. She was counsel in the seminal EAT decision of *Jones v Iceland Frozen Foods*. She has extensive experience of tribunal cases, High Court actions, disciplinary proceedings including the GMC, and of appeals arising from all of these jurisdictions. In recent years she has gained particular expertise in the medical and education sectors and has advised and represented many universities and colleges. She also has an interest in employment disputes arising within the City and financial services industry, and has advised and represented the Financial Services Authority. She has also acted on behalf of HM Government.

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### **What others say**

"Jane has buckets of experience. There is nothing she hasn't seen." *Chambers UK, 2025*

"Jane is wonderful to work with and has the experience to robustly defend claims with confidence." *Chambers UK, 2025*

"Jane is excellent with clients, putting them at their ease and explaining difficult legal issues." *Chambers UK, 2025*

"Jane is absolutely brilliant. There is nothing she doesn't know. She has as good knowledge as the doctors." *Chambers UK, 2025*

"Jane has an excellent reputation for being thorough and detailed in her approach. She understand complex medical reports and can communicate the issues to clients well." *Legal 500, 2025*

"Jane is meticulous and thorough with her analysis of records and expert evidence; and can really identify the nub of a case with ease." *Legal 500, 2024*

"Jane is extremely experienced and is wonderfully robust in her defence of clinical negligence claims." *Chambers UK, 2024*

"Her drafting is a joy to behold." *Chambers UK, 2024*

"She's really impressive: she can walk in with no papers and tell you everything about the claim." *Chambers UK, 2024*

"Clients love her. She really is quite special." *Chambers UK, 2024*

"Jane is a very good senior junior. She uses her considerable experience to take a high-level view of cases." *Chambers UK, 2023*

"Jane is a very keen tactician. She is very shrewd." *Chambers UK, 2023*

"Jane is a true expert and has decades of experience running complex clinical negligence cases for both claimants and defendants. This really shows in her forensic understanding of the medicine and the quality of her advice." *Legal 500, 2023*

"Jane is very approachable, sympathetic and immediately puts clients at their ease. She is particularly good with vulnerable or nervous clients." *Legal 500, 2022*

"She grasps and explains complex legal and medical issues with ease. Jane gets to key issues quickly in conference and in pleadings. She is always reliable and is realistic." *Legal 500, 2021*

"She has a wealth of experience and expertise in complicated cases. She's tenacious and knows how to get the right result." *Chambers UK, 2021*

"Fantastic with clients – she's very empathetic and understanding. She gives solid, sound and firm advice, and is very thorough in her preparation of cases." *Chambers UK, 2020*

"She has excellent attention to detail which means she is very good at going through everything with a fine-tooth comb." *Chambers UK, 2020*

"An excellent advocate who draws on her valuable experience in acting for both claimants and defendants." *Legal 500, 2020*

"She is very experienced and builds a good rapport with clients" *Chambers UK, 2019*

"Incredible medical knowledge" "Very thorough and very approachable" *Chambers UK, 2019*

"A very experienced junior, approachable and knowledgeable" *Legal 500*, 2019

"Extremely knowledgeable. Thorough, forensic and understanding with clients" *Chambers UK*, 2018

"She has extensive knowledge and experience" *Legal 500*, 2017

"She is fantastic and wipes the floor with the other side." *Chambers UK*, 2017

"She is very experienced, empathetic and builds a good rapport with clients." *Legal 500*, 2016

"I really enjoy working with her. She's very thorough and has a great eye for detail. She will get stuck into a case and pull out all the stops to get good results for a client." "She combines sensitivity to clients with a sharp mind and formidable negotiation skills." *Chambers UK*, 2016

"A formidable advocate, who is particularly impressive in court and during settlement meetings." *Legal 500*, 2015

"Highly experienced and has real gravitas, because she's done every kind of case possible. The fact that she does both claimant and defendant work is a real strength of hers when it comes to the strategic side of things." *Chambers UK*, 2015

"A first-rate advocate, with a very caring and empathetic approach towards clients." *Legal 500*, 2014

"Has extensive knowledge of the medical and legal aspects of clinical negligence. 'She has the necessary degree of sensibility and sensitivity to handle difficult clients – she is firm but empathetic'." *Chambers UK*, 2014

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## **Notable cases**

*Stephenson v North Cumbria University Hospitals NHS Trust* [Carlisle CC HHJ Hughes KC 6 July 2015]

*ST v Maidstone and Tunbridge Wells NHS Trust* [2015] Med LR 70

*C v North Cumbria University Hospitals NHS Trust* [2014] Med LR 189 – An NHS Trust v (1) DE (by his litigation friend, the Official Solicitor) (2) FG & JK (3) C Local Authority (4) B Partnership Trust [2013] EWHC 2562 (Fam) – landmark declaration that it is in the best interests of a man with severe learning disabilities to undergo a vasectomy.

*Pye v Queen Mary University of London* [EAT, 23 February 2012, unrep] – circumstances in which a tribunal should grant adjournment of a hearing on the grounds of a party's alleged ill-health.

*DH NHS Foundation Trust v PS* (by her litigation friend, The Official Solicitor) [2010] EWHC 1217 (Fam) – ground-breaking best interests application in the Court of

Protection before Sir Nicholas Wall P. Judgment published in full relating to the potential use of force to enable surgery for cancer to be performed upon a patient with learning difficulties who was likely to refuse to submit to surgery and had a hospital phobia.

*Ryan St George v The Home Office* (2007/CA 2010/QB)- negligent failure of care leading to prisoner developing severe brain damage. The Court of Appeal dismissed the Home Office's appeal and allowed the cross-appeal against the finding of 15% contributory negligence. Quantum was then agreed and approved on a novel basis that periodical payments were to provide for accommodation in Central London by way of rental and associated expenses. MacKay J expressed the view that this solution should be considered in more cases in the future.

*Garth v Grant and the MIB* (2007; London QBD; HHJ Hickinbottom) – RTA case involving future loss of earnings based on the new Ogden tables (6th Edition).

*Purver v Winchester and Eastleigh Healthcare NHS Trust* (QBD; 2007) – trial of operative delivery.

*Subramanian v GMC* [2002] UKPC 64 (Privy Council) – procedure at GMC hearings, duty of disclosure, penalty.

*Carmon v Page* [2000] Clinical Risk v6 no.1 Jan 2000 – negligent failure to diagnose breast cancer; quantum.

*Smith v Leicester HA* [1998] Lloyd's Rep Med 77 – permission for case to proceed notwithstanding allegations of clinical negligence in late 1950s.

*Thurman v Bath & Wiltshire HA* [1997] 1 CL 734 – lifelong provisional damages award following cervical smear error, resulting in the development of cervical cancer.

*Ackers v Wigan HA* [1991] 2 Med LR 232 – first of a series of cases concerning inadequate anaesthesia in caesarean section delivery, which eventually brought about changes in practice in obstetric anaesthesia.

*Harber v N.E.London Polytechnic* [1990] IRLR 198 – definition of a week for calculating qualifying periods of employment.

*Jones v Iceland Frozen Foods* [1982] IRLR 439 – definitive case in unfair dismissal re: range of reasonable responses available to employer.

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## Further information

Jane has lectured to audiences as diverse as the Royal College of Obstetricians and Gynaecologists (RCOG), the Ministry of Defence, APIL and ALARM. She is frequently asked to lecture to both legal and medical audiences. In 2008, and again in October 2010, she was the sole invited legal speaker at the day conference for clinicians and midwives on 'Pelvic floor trauma in childbirth' organised jointly by the RCOG and the

British Society of Uro-Gynaecologists.

Jane has also chaired an AvMA conference on anaesthetic claims and has lectured at the Advanced Obstetrics C5 seminars. In 2011, she was a speaker at a day seminar organised by an NHS Foundation Trust for clinicians at its own and neighbouring Trusts on the best interests jurisdiction of the Court of Protection. Jane regularly takes part in chambers' programme of seminars and talks for solicitor clients and special interest groups.

**Education:** Liverpool University, LL.B. (Hons); qualified mediator

**Professional memberships:** PNBA; ELBA; Senior Associate of The Royal Society of Medicine; Member of the Ethics Committee of King Edward VII Hospital

**Personal:** Jane is married with one son and lives in London. Her interests outside her practice include reading, cooking, European cities, art, architecture and music.

ICO Data protection registration number: **Z4591630**.

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