

Simon is a specialist in professional discipline with extensive experience defending professionals before a variety of disciplinary tribunals, in cases of gravity, sensitivity and complexity.

Where allegations of misconduct also give rise to criminal allegations, his additional expertise in criminal law enables him to provide a comprehensive service with consistent advice and representation.

He has a loyal following of solicitors who instruct him, but notably also has a significant volume of direct access instructions, often arising through word of mouth referrals.

Simon is recognised as a leading Junior in the latest editions of both of the leading legal directories: the Legal 500 and Chambers & Partners, in the field of both professional discipline.

The editors of Chambers & Partners (2023) recognise him as ***“a barrister with strong expertise in representing police officers and healthcare professionals before their regulatory bodies... experienced in everything from fitness to practise hearings to High Court and Court of Appeal advocacy.”***

He has been described as ***“a legend when it comes to professional disciplinary work” who “has a fantastic success rate” and is “calm, considered and methodical in his approach”*** (2019 Edition).

In the 2022 and 2021 Editions of the Legal 500 he is described as:

‘Intellectually formidable and well-organised... a hugely impressive advocate... a quality barrister with a huge intellect. Very good on his feet, great knowledge of the law.’

The 2021 Edition of Chambers & Partners describes him as:

“exceptionally bright and very measured in his approach. He is a quality barrister who is really hard-working and very responsive... His attention to detail is brilliant.”

In the 2020 Edition he was described as:

“a rising star of the Northern Circuit. He just has that magical something. He’s very switched-on, very clever, very proactive and hard-working”

and

“a quick thinker and a persuasive advocate. He is sought out due to his encyclopaedic legal knowledge and his ability to apply that to defences and legal arguments... In complicated cases he has an unrivalled mastery of detail.”

Previous editions have described him as “a top-notch barrister” (Chambers, 2020), “an outstanding lawyer and formidable advocate” (Legal 500, 2020) who is “very straightforward and direct, produces excellent written work and impresses clients” (Chambers, 2021 Edition).



CONTACT DETAILS

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PRACTICE AREAS

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Health and safety

Tax appeals

Judicial review

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APPOINTMENTS

Recorder 2020 (Crime, Midlands Circuit)

SPECIALIST PANELS

Crown Prosecution Service General Crime - Category 4

CPS Specialist Counter Terrorism, Serious Crime and POCA Panels

Government List of Specialist Regulatory Advocates - List B

MPTS Rule 36(5) Counsel Panel

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Member of the Inner Temple Bar Liaison Committee

Chair of Board of Governors of Egerton High School in Urmston

AWARDS

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Liberty

Amnesty International

The Northern Circuit

EDUCATION

BA (Hons) Law & Politics - First Class Honours University of Manchester

Simon has extensive experience advising and representing professionals across a wide range of sectors. In the healthcare sector he represents medical practitioners, dentists, nurses and midwives, pharmacists, osteopaths and healthcare assistants. More widely he has experience representing teachers, social workers, solicitors, police officers, chartered surveyors and other professionals facing allegations of misconduct or other investigations into their fitness to practise by their respective regulators. He is acutely aware of the particular significance to professional clients of allegations of serious wrongdoing.

He has an impressive record when appearing before interim orders panels and in substantive fitness to practise hearings, but also in persuading regulators through written representations to terminate investigations before any hearing is convened.

Simon is often retained to advise practitioners at the early stages of such investigations and, if unable to bring the investigation to a swift end, he provides representation throughout the proceedings, not only before the tribunal but also in appellate proceedings.

He has significant experience in the High Court and Court of Appeal, in both appeals against findings of fitness to practise panels and opposing applications by regulators to extend interim orders.

His experience in the field of judicial review has also been deployed to assist clients facing regulatory action, challenging decisions of both the Medical Practitioners Tribunal, Merseyside Constabulary and the Independent Office of Police Complaints.

Simon also advises practitioners on regulatory matters relating to licensing and registration and regulatory requirements imposed by the regulator, the NHS and the Care Quality Commission, such as a refusal by a regulator to register a practitioner with a licence to practise or a decision to revoke a licence because of problems over revalidation.

Simon has lectured solicitors and medical defence organisations on the law and tactics arising from the cross-over between regulatory and criminal proceedings.

Simon has been instructed to represent numerous police officers of the Greater Manchester, Lancashire, Merseyside, Cumbria and North Wales Constabularies. Simon has successfully represented officers appearing before the Crown Court accused of offences across the spectrum, including dangerous driving, assault, data protection offences and possession of extreme pornography. He has a strong track record representing officers before misconduct hearings and also has experience conducting appellate proceedings before the Police Appeals Tribunal.

Notable Cases:

GMC v Dr Adeogba [2016] 1 WLR 3867 – appeared in the leading case in the field of healthcare regulation on proceeding in the absence of the practitioner. Instructed on a direct access basis by a cosmetic plastic surgeon, on an appeal to the High Court from the decision to erase his name from the medical register. Simon was successful on appeal, however the GMC took the case to the Court of Appeal. During the intervening 18 months between the appeal hearings Simon ensured his client was able to continue to practise by deploying a novel legal argument before the Interim Orders Panel, which resulted in no order restricting his practice. The GMC was ultimately successful in overturning the decision of the High Court.



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GMC v Dr NS –instructed for a Consultant Gynaecologist (and Clinical Director of the local NHS Trust) who faced allegations of impaired fitness to practise arising from (1) a caesarean section during which she allowed the patient’s husband to participate during the surgery; and (2) her provision of employment references on behalf of underperforming staff, which were alleged to be dishonest. The case involved substantial expert and factual evidence. Following a four-week hearing, all the contested allegations were found not proven and the Doctor received a warning. Simon also drafted a Rule 7 response to a second set of allegations concerning clinical misconduct, which resulted in the case being terminated without a hearing (instructed by James Cassidy of Clyde & Co Solicitors, London).

Dr NS said: “I am confident that the favourable outcome was only made possible by Mr Gurney, and would highly recommend him to anyone undergoing any such difficult circumstances.”

GMC v Dr CL - this case arose from the tragic death of a patient and following an inquest where the Doctor’s failings had been found to have contributed to the death. The case involved both complex expert evidence and legal issues. Simon was instructed to advise and represent the doctor, a maxillofacial surgeon, who had been referred by the GMC over a series of concerns surrounding his honesty as well as his competence. Simon advised at an early stage on strategy, case preparation, the admissibility of evidence and legal arguments. After a 3-week hearing, during which GMC sought erasure from the register, Simon succeeded in securing dismissal of all contested allegations and persuaded the Tribunal to allow the Client to continue to practise subject to conditions (instructed by Alison Marriot of Stephenson Solicitors).

HG v Teacher Regulation Agency - instructed to represent a teacher accused of using physical violence against four pupils and neglect of a fifth, during incidents that were alleged to have occurred between 2018 and 2010. The TRA referred her case to a Misconduct Panel on the basis that a prohibition order should be imposed to prevent her teaching. The allegations were based in large part on hearsay evidence, i.e. reports of the incidents from pupils who were not intended to be called as witnesses at the hearing. Opposed the admissibility of the evidence. Detailed legal arguments led to the Panel excluding the evidence, resulting in 3 of the 5 allegations being withdrawn and a decision by the TRA not to proceed with the case any further.

GMC v Dr RZ – instructed (direct access) for a Consultant plastic surgeon, referred to the Medical Practitioners Tribunal following the pursuit of a sexual relationship with a vulnerable patient. Simon advised the Doctor in preparing for the hearing and represented him. He successfully retained his registration, being suspended for 12 months before returning to the register.

GMC v Dr SM - instructed to represent an NHS Consultant referred by the GMC over allegations of dishonesty in the preparation of expert medico-legal reports in relation to minor road traffic accidents. He was accused of running a “report writing factory” with a consultation room like a “cattle market” and fabricating details in the report of a patient, claiming to have undertaken examinations that were never performed. Following a 10-day hearing the Tribunal rejected the allegation of dishonesty, accepted that the Doctor’s fitness to practise was not impaired and declined to impose a warning.

Dr SM said: “Simon was amazing in the way he dealt with my case and fought to get the outcome I desired... I applaud his professionalism, his attention to detail and his arguments were exceptional, as well as his ability to keep me calm and offer sound clear advice. His attention to detail was brilliant and I was happy to put my utmost trust in him to defend me. He is an outstanding advocate who is intuitive and thorough and knew exactly what to say.”

GMC v Dr WE - instructed to represent a speciality doctor in ophthalmology who was accused of sexual assault of a colleague, a fellow medical practitioner, who had also seen him as a patient. He was accused of inviting her to his home address, where he propositioned her, before forcing himself upon her when she refused his advances. The case was investigated by the Police but no charges were brought. The allegations were therefore referred to a Medical Practitioners Tribunal.



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The Doctor faced 50 particularised allegations. After a contested hearing lasting 10 days the Tribunal found none of the charges proved, with the result that the Doctor was free to continue practising without restrictions (instructed by Jared McNally of Clifford Johnstone Solicitors). Dr WE said: "He was exceptional. I knew he would be good, but I did not realise just how good. Mr Gurney's cross examination of the GMC witnesses was superb. He was amazing and he exceeded all my expectations. It was clear to see that he had prepared my case thoroughly and had not missed a thing. I cannot express in words how impressive Mr Gurney was. He was articulate, persuasive and simply brilliant."

Dr Arunachalam v GMC [2018] EWHC 758: instructed to represent a Trust Grade doctor of 20 years' experience erased from the medical register following a contested hearing before a MPT (at which he was represented by other counsel), which found proven allegations of sexually motivated conduct towards two junior female colleagues. Simon advised on appeal and drafted grounds upon which to challenge the sanction: focusing on inadequacy of reasoning, failure to evaluate mitigation; and disproportionality in sanction. Resulted in a successful appeal against sanction and led to the imposition of an order of suspension (instructed by Alison Marriott of Stephenson Solicitors).

GMC v Dr B – instructed to represent a Consultant Ophthalmologist who faced allegations of the utmost seriousness, arising from his conduct as the Chairman of a chain of private cosmetic hospitals across the North West. When Simon was instructed, Dr B was suspended from practice and had been for nearly 2 years. Simon successfully opposed an application to extend the interim order in the High Court. Simon challenged the GMC's approach to disclosure of digital material and was successful in securing an order requiring the GMC to disclose material that Dr B and his Solicitors had been seeking for several years. Ultimately Simon represented Dr B during a 5-week hearing, during which Simon pursued an application that the Panel recuse itself because of its exposure to prejudicial material. The Panel refused the application. Simon drafted grounds for judicial review and permission was granted by the High Court, following which the Panel recused itself in the interests of justice. Following his cross-examination of one of the GMC's witnesses, the GMC withdrew a number of the allegations from the Panel. The remaining contested allegations were found not proven by the Panel. The Panel made no finding of impairment and even decided not to impose a warning. As a result, Dr B was exonerated after 5 years subject to investigation (instructed by Paul Grant of BSG Solicitors, London).

Dr B said: "I cannot express how impressed I was with the way Mr Gurney dealt with all aspects of my case right up to the final substantial hearing where detailed cross examination of witnesses including expert witnesses was required... I firmly believe this outcome [all charges unproven] was largely down to the skill and efforts of Mr Gurney on my behalf. I would highly recommend Mr Gurney to anyone facing serious and complicated proceedings before the GMC or indeed any medical and/or regulatory body ... because if he will take your case, you can expect the best outcome you possibly can."

TS v RICS - instructed on behalf of a Chartered Surveyor accused of dishonestly offering to inflate property valuations for the benefit of purchasers, against a background of drug and alcohol addiction and mental health problems. Instructed at a late stage. Advised in conference on strategy which resulted in a wholesale change of approach by the Client: significant admissions made, including an acceptance of dishonesty, which substantially improved prospects of success before the Panel. Represented at Disciplinary Panel hearing which resulted in the Client retaining his licence to practise, but subject to conditions. The misconduct here went to the heart of the professional obligations, involving as it did offering dishonestly to alter a house valuation. The outcome was noteworthy and secured as a result of the change of approach adopted on advice (instructed by Deepika Raino of Adkirk Law).



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KA v General Pharmaceutical Council - represented (direct access) a pharmacist who had been struck off the register in 2015 following a number of convictions for violence, threats and harassment of his younger sister. He had been sentenced to imprisonment and was struck off, on the basis that his conduct was fundamentally incompatible with registration. Instructed to attempt to secure his restoration. Advised on the preparation of his evidence, on which we sought to show that he had remediated his misconduct and no longer posed any risk by his resumption of practice. The Panel was persuaded that he should be permitted to return to practise. The case raised interesting questions as to the relevance of the Covid crisis to the consideration of the public interest, and the need for front line professionals to help the country during this emergency.

RR v General Osteopathic Council - instructed on a direct access basis to represent a registered osteopath who had practised without indemnity insurance over a period of 3 years. He was alleged to have done so dishonestly, deceiving patients who were treated without any protection should they be injured. Given the allegation of dishonesty, he was at risk of being struck off the osteopathic register. Pursued a legal argument at the outset of the hearing in relation to the drafting of the charges and the unsustainability of the dishonesty allegation. The Panel agreed with the argument, which narrowed the case that could be presented by the regulator. Ultimately the disputed allegations were found not proven and he was merely admonished for his admitted misconduct.

HCPC v ML - instructed to represent ML, a social work team manager previously employed by Manchester City Council, who had been called before the Conduct and Competence Committee of the HCPC over allegations that she had failed adequately to safeguard children in her care. Following successful cross-examination, Simon made a submission of 'no case to answer' with which the Committee agreed. The case was stopped from going any further and without calling on ML to give evidence to defend her reputation. ML's fitness to practise was confirmed by the Committee meaning she is free to return to social work without any blemish on her professional reputation (instructed by Sarah Sharpe of Slater & Gordon Lawyers)

GMC v Dr RC - instructed on a direct access basis to represent a junior doctor who had been referred for a hearing before a MPT in relation to allegations of dishonesty concerning his annual leave. He had compounded his position by proffering a dishonest explanation to his employer and to the GMC in his Rule 7 response. With sensible and sensitive advice, he was able to admit his ongoing dishonesty, which decision ultimately led to a successful outcome. At the hearing, the Tribunal was persuaded not to erase him, but rather to suspend for a period of 2 months without any review. Dr RC said: "his knowledge of the regulatory system... was clearly excellent... he displayed great client care by responding promptly to my e-mails... was an extremely well prepared advocate... I would highly recommend Mr Gurney to fellow practitioners."

GMC v Dr Suntha [2014] EWHC 3534 - instructed to oppose the GMC's application for an extension of an interim order in respect of Dr S. Simon opposed the application on the grounds that Dr S had no intention of practising as he had retired and so an order was not necessary. He relied on a very recent case from the High Court concerning interim orders made by the NMC. Simon advised and assisted in the drafting of a witness statement which persuaded the Judge that no order was necessary, so the GMC's application was refused (instructed by Carl Johnson of Stephenson Solicitors)

Cumbria Constabulary v DC X - instructed to advise and represent an Officer facing a plethora of allegations of gross misconduct, ranging from dishonesty, to bullying, to breaches of confidentiality and improper use of police systems. The evidence was voluminous and required careful consideration and analysis. The investigation arose in the arena of covert policing and training at the College of Policing. It gave rise to complex disclosure challenges. The misconduct hearing took 3 weeks to complete, commencing in July and concluding in October 2020, Not only did it involve substantial contested evidence, a significant portion of the hearing involved legal argument surrounding the disclosure regime under the Police Conduct Regulations and whether the proceedings were being conducted fairly (instructed by Sahar Handford, JMW Solicitors).



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Merseyside Constabulary v PC Kelly – instructed to represent PC Kelly, who had been dismissed after a finding of gross misconduct in relation to her conduct in the arrest of a member of the public who alleged that PC Kelly had assaulted him, without reason or provocation, by tasing him a number of times in the back of a police van. The original decision to dismiss PC Kelly was widely publicised at the time, in the national press and by the IPCC. Simon successfully appealed the decision to the Police Appeals Tribunal, arguing that the decision was unreasonable and a result of an unfair procedure. The Tribunal overturned the decision of the misconduct panel and ordered that PC Kelly be reinstated, which ensured that Simon's client was able to resume her career as a police officer with her reputation restored (instructed by Alan Greenidge of Slater & Gordon Lawyers).



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