



PARK
SQUARE

BARRISTERS

Kirsten Mercer

Call: 2006

Regulatory & Public

Ranked Tier 1 for Inquests and Inquiries in The Legal 500 (2022)

Band 2 for Inquests & Public Inquiries in Chambers & Partners (2021)

“Kirsten is an advocate with faultless attention to detail. She is brilliant with witnesses, and always prepared to ask difficult questions when required.” Legal 500 (2022)

“Her client focused attitude coupled with her tenacity ensures she delivers a premium service to those who instruct her, She has a serious attitude to the matter in hand, delivering well prepared and fully researched work. A trusted barrister in her field.” The Legal 500 (2021)

“She has a special touch with clients having their first encounter with the law.” Chambers and Partners 2022

“She was so impressive – she was tactical and astute in her analysis.” “She is cool and calm with clients and very reassuring.” – Chambers & Partners (2021)

Kirsten Mercer specialises in inquests and regulatory crime.

Kirsten is a highly impressive inquest advocate and has a broad inquest practice, representing a wide array of interested persons in inquests including bereaved families, healthcare providers, care homes, insurers and government departments. With extensive knowledge of coronial law and Article 2 of the European Convention of Human Rights she is frequently involved in arguments regarding the engagement of Article 2.

Kirsten accepts instructions both to prosecute and defend in prosecutions brought by the Health and Safety Executive or Environment Agency.



Education:

2005 - Newcastle University, LLB

2006 - Nottingham Law School, BVC ('very competent')

Career:

2009 - Pupil at Park Court Chambers, Leeds

2010 - Tenant at Park Court Chambers

Tenant at Park Square Barristers

Appointments:

2012 - Government Legal Department panel counsel B list

2019 - List B of the Panel of Specialist Regulatory Advocates

Memberships:

North Eastern Circuit

Park Square Barristers
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Kirsten was appointed to the Attorney General's list of Civil Advocates in 2012 and has ten years of experience representing government departments at inquest. She is particularly well regarded for her handling of matters involving deaths in custody and is sought after in cases where the probation service have been involved in supervising either the deceased or the perpetrator of an unlawful killing. Kirsten is regularly involved in complex and sensitive Article 2 inquests both with and without a jury. She draws strength from her grounding in criminal law, which makes her a natural in front of a jury and from which she has developed a thorough understanding of how to take the best tactical approach to best assist both the inquest and her client.

Kirsten has also been appointed to the Specialist Regulatory Prosecution panel of advocates and prosecutes on behalf of the Health and Safety Executive. She brings that experience to her inquest practice where there is any suggestion of a breach of health and safety legislation. Kirsten is able to provide continuity of representation should any criminal or professional disciplinary proceedings arise out of the issues explored during an inquest.

Kirsten has a keen interest in representing families in cases where there has been a death following or as a result of domestic violence. She is relentless in her desire to ensure such deaths are properly investigated and all evidence is considered by the police and Coroner. She takes on such instructions direct access and often on a pro bono basis to represent families in this type of case. Kirsten has a developing relationship with AAFDA (Advocacy Kirsten also acts for healthcare providers in prisons and more widely.

Recent Inquests

Inquest into the death of MB (December 2021)

Represented HMPPS in the inquest into the death of MB for whom no medical cause of death could be established on the balance of probabilities. MB had indicated suicidal thoughts prior to his death but there was nothing to suggest that he had taken his own life. The inquest explored whether drugs could have contributed to MB's death. The jury recorded that it was an open conclusion with no evidence of suicide, unlawful killing or drug related. The Coroner made reports to prevent future deaths in respect of the communication between the prison and healthcare in the event of a medical emergency.

Inquest into the death of AC (November 2021)

Represented HMPPS in the inquest into the death of a man in custody who fell from some safety netting which he had climbed onto whilst under the influence of psychoactive substances. The inquest explored the adequacy of the safety netting and whether further barriers should have been in place. The inquest also explored the procedures in place for prisoners to raise concerns and complaints so they do not need to resort to protesting behaviour and the steps that are taken to reduce demand and supply of drugs in the prison.

Inquest into the death of SP (November 2021)

Represented the family in the inquest into the death of SP. This matter concerned the death of a woman who in the days before her death had made a complaint to the police that she had been assaulted by her partner. Kirsten assisted the family to ensure every avenue was explored by the coroner and the police to ensure that the principles in the case of *R v D* [2006] EWCA Crim 1139 had been fully considered and relevant material obtained and explored.

Inquest into the death of DP (July 2021)

Represented the healthcare provider in the inquest into the death of a man in custody who was found hanged in his cell. The inquest explored DP's history of anxiety, depression and poor sleep. It explored the medication he was prescribed, whether he should have seen a psychologist and whether an ACCT should have been opened for DP.

Inquest into the death of DHa (July 2021)

Represented HMPPS in the inquest into the death of a man in custody who suspended himself from his medicine cabinet. The jury concluded that they were unable to determine his state of mind at the time of his death due to his substance misuse and chronic leg and back pain.

Inquest into the death of DHo (June 2021)

Represented HMPPS in the inquest into the death of a man in custody. Numerous members of prison staff were subject of disciplinary procedures as a result of their failure to conduct roll checks and welfare checks. DHo died as a result of methadone toxicity with aspiration. The inquest explored the welfare checks which should have been conducted.

Also advised in respect of civil proceedings following the inquest.

Inquest into the death of DA (April 2021)

Represented HMPPS at an article 2 jury inquest. The inquest explored information sharing when a vulnerable prisoner is shared from one establishment to another. The inquest looked at the care of vulnerable prisoners including under ACCT (assessment, care, custody monitoring) processes. The inquest considered the emergency response and a decision not to commence CPR by those initially responding the emergency. The inquest heard evidence from an expert consultant intensive care physician and dealt with questions of the timing of brain stem death.

Inquest into the death of AT (February 2021)

Represented a local authority in an inquest into the death of AT who hanged himself in the community. AT had previous been a looked after child but was 18 at the time of his death. The inquest explored the personal circumstances of AT and the obligations of the local authority for a former looked after child.

Inquest into the death of DW (February 2021)

Represented the healthcare provider in an inquest into the death of a man in custody who hanged himself following consumption of synthetic cannabinoids. He was being investigated for murder at the time of his death, although had not been charged. The inquest explored the reception health screening assessments, whether DW should have been monitored on an ACCT and his state of mind. A preliminary issue dealt with what the jury could be told about the murder investigation and whether that may have been affecting DW's state of mind.

Recent Regulatory Cases

HSE prosecution in which the company were find for a breach of section 2 of the Health and Safety at Work Act 1974 for failing to manage the risks associated with the use of vibrating tools. (January 2022)

HSE prosecution for breaches related to a fall from height (September 2021)

R v CW and JB – representing the second defendant in a case arising out of the design and

manufacture of a cot, in which a baby died.

Seminars

Kirsten is available to present bespoke in-house seminars on inquest or health and safety matters. She regularly presents a seminar on the application of Article 2 in inquest proceedings.

Contact Kirsten's clerks

Madeleine Gray on 0113 202 8603

Patrick Urbina on 0113 213 5250