

# Francesca Whitelaw KC

Call 2003

Silk 2023



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## **Francesca Whitelaw KC is a leading specialist in public law and police law and took silk in 2023.**

Described by Chambers UK as “a highly likeable advocate”, she represents public and private bodies across the country in all areas of civil law including judicial review, civil actions, data claims, professional discipline, human rights, inquests and public inquiries. Before taking silk she was appointed to the Attorney General’s A Panel of Counsel to the Crown since 2020. She is ranked in Chambers UK for Police Law, Professional Discipline and Inquests and Public Inquiries and in The Legal 500 for Police Law and Inquests and Inquiries. She has been shortlisted for Public Inquiries and Inquests Silk of the Year by Chambers UK for 2024.

Francesca is currently instructed as Counsel to the Inquiry for the Public Inquiry into the death of Dawn Sturgess (Salisbury Novichok poisonings) and she is instructed in the Omagh Bombings Inquiry. She previously acted in the Infected Blood Inquiry.

Francesca has represented Secretaries of State in most of the recent high profile terrorism inquests:

- the Secretary of State for the Home Department in the Forbury Gardens inquests (Reading Terror Attack)
- the Secretary of State for the Home Department in the Amman inquest (Streatham Terror Attack)
- the Secretary of State for the Home Department and the Secretary of State for Justice for the inquests into the deaths arising out of the terror attack at Fishmongers’ Hall
- the Secretary of State for the Home Department and the Secretary of State for Justice for the inquests arising out of the London Bridge and Borough Market Terror Attacks
- the Secretary of State for the Home Department and the Secretary of State for Justice in the Westminster Bridge Terror Attack

Francesca appeared with Jason Beer KC representing South Wales Police in the appeal to the Court of Appeal in the case of Bridges v South Wales Police, the first case in the world to consider the use of Automated Facial Recognition by Police. She was also previously instructed by the Ministry of Defence to represent former soldiers for the inquest into the death of Sean Benton, and the inquest into the death of Cheryl James, both of whom died at the Deepcut Barracks in 1995.

## Expertise

### Police Law

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Francesca is a specialist in advising and representing police forces nationwide in all areas of police civil law. These include judicial review, inquests, civil actions for false imprisonment, assault, malicious prosecution, misfeasance, and negligence. She advises forces on all aspects of operational and policy matters. Francesca acted as the Independent Legal Advisor to the Police Misconduct Panel for the public hearing of allegations against Inspector Mackaill, which arose out of the ‘Plebgate’ incident.

## Notable Police Law cases

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Gatland and Others v Independent Police Complaints Commission [2018]

First Junior Counsel to Jeremy Johnson QC representing the Independent Office for Police Conduct in proceedings being brought by six claimants under Articles 6 and 8 and Article 1 of the First Protocol of the European Convention. Two of the claimants also bring a claim in misfeasance in public office. The claims arise out of disciplinary proceedings brought against the officers.

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R (on the application of Kashaba) v Chief Constable of Lancashire Constabulary [2016]

Acted on behalf of the Chief Constable in defence of an application for judicial review challenging the retention by police of an oral harassment warning issued to the Claimant.

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R (on the application of Desmond Campbell) v IPCC [2015] EWHC 3424

Counsel to the IPCC in an application for judicial review of its appeal decisions concerning a Metropolitan Police investigation into complaints the Claimant made following the execution of a search warrant at his home.

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R (on the application of McNeary) v Independent Police Complaints Commission [2014] EWHC 1873 (Admin)

Represented the IPCC for the judicial review of a decision to dismiss the Claimant's appeal against the dismissal of his complaint to police that he had been blackmailed.

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Laurance v Commissioner of Police for the Metropolis [2013]

Counsel to the Commissioner in a claim, tried by judge and jury, for wrongful arrest and false imprisonment, assault and malicious prosecution, brought by a protestor following his arrest at a Stop the War demonstration in Hackney.

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R (on the application of Driver) v Independent Police Complaints Commission [2012] EWHC 1271 (Admin)

Counsel to the IPCC in the substantive hearing of a claim for judicial review brought by a man challenging his treatment in police custody and the subsequent review of his complaints. The case particularly involved complaints concerning the removal of his clothing, following his attempts to harm himself with it.

## Public & Administrative

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Francesca has considerable experience of all aspects of public / administrative law work including judicial review, prison law, police law and human rights.

As A-Panel Counsel to the Crown, Francesca advises, and is instructed by, the Government Legal Department in false imprisonment, misfeasance, human rights and other claims brought against the Home Office, the Ministry of Justice, the Ministry of Defence and other government bodies, and at inquests.

## Notable Public & Administrative cases

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R (on the application of Ian Stewart-Brady) v (1) The Lord Chancellor (2) the First Tier Tribunal (Health, Education and Social Care Chamber) (2017)

Appeared on behalf of the First Tier Tribunal in the hearing of the last set of legal proceedings brought by Ian Brady before his death. Brady sought to challenge the decision of the Tribunal not to appoint his choice of legal representative as well as the decision of the Lord Chancellor to refuse public funding. Both applications were rejected by the Administrative Court.

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Chief Constable of Devon & Cornwall v HM Coroner for Plymouth, Torbay & South Devon & (1) Elber Twomey (2) Wojciechowska (2) Insurers of Wojciechowska (deceased) (4) Independent Police Complaints Commission [2013] EWHC 3729 (Admin)

Appeared on behalf of the Devon and Cornwall Constabulary for the judicial review which arose out of an inquest into the death of a child and a suicidal driver in

circumstances where police had attempted to stop the suicidal driver's vehicle.

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(1) Daniel Cummings (2) Zahid Bashir (3) Geno Boyoh v Ministry of Justice [2013] EWHC 33 (QB)

Instructed as Junior Counsel to Jeremy Johnson QC representing the Ministry of Justice in a claim by prisoners at HMP Frankland, for damages for assault and misfeasance in public office by prison officers.

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R (on the application of Ivor Adams) v Independent Police Complaints Commission [2013] EWHC 2650 (Admin)

Appeared on behalf of the IPCC for the judicial review of a decision to grant dispensation for a police force from the statutory complaints procedure.

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## Human Rights

The whole spectrum of Francesca's practice encompasses Human Rights Law. She is currently instructed, together with Jeremy Johnson QC and Alice Meredith, by the Independent Office for Police Conduct in proceedings being brought by six claimants under Articles 6 and 8 and Article 1 of the First Protocol of the European Convention.

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### Notable Human Rights cases

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Potter v Crown Prosecution Service [2016]

Instructed by the CPS in a successful strike out application. The Claimant had sought to claim damages for alleged breaches of Articles 10 and 11 ECHR following her acquittal at trial in a prosecution for an alleged offence under section 4 of the Public Order Act 1986. The prosecution arose out of an animal rights protest at an airport. Permission to appeal was refused by the Central London County Court and by the Court of Appeal.

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## Inquests

Francesca has extensive experience of inquests, particularly those arising out of terrorist attacks, deaths in prison and police custody, deaths following police contact (including police pursuits) and deaths involving army personnel.

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### Notable Inquests cases

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Fishmongers Hall Inquests (2020-2021)

instructed for the Secretary of State for Justice and the Secretary of State for the Home Department in the inquests into the deaths arising out of the terror attack which took place at Fishmongers Hall.

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Inquest touching the death of Miranda Stevenson (2020)

Counsel to the Chief Constable of Surrey Police for the inquest into the death of a woman in police custody.

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London Bridge and Borough Market Inquests (2019)

represented the Secretary of State for the inquests into the deaths arising out of the terror attacks on London Bridge and Borough Market.

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Onese Power Inquest (2019)

acted for the Commissioner of Police of the Metropolis in the renewed inquest into the death of Onese Power, a motorcyclist who died in the course of a police pursuit in 1997.

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Westminster Bridge Inquests (2018)

appeared on behalf of the Secretary of State at the inquest into the death of Khalid Masood, the attacker responsible for the terrorist attack on Westminster Bridge and at New Palace Yard, who was lawfully killed by police.

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Deepcut: Inquest touching the death of Sean Benton (2018)

represented two former soldiers for the renewed inquest into the death of Sean Benton, a young soldier who died at the Deepcut Barracks in 1995.

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Inquest touching the death of Jagdip Randhawa (2016)

represented the Chief Constable of Derbyshire Constabulary for the 3-week jury inquest into the death of a 19-year old Leeds University student. Mr Randhawa died in hospital, having suffered a serious brain injury following a punch by a professional boxer, Clifton Ty Mitchell, who was subsequently convicted of manslaughter. Mr Mitchell was on bail at the time of the incident.

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Inquest touching the death of Cheryl James (2016)

instructed by the Ministry of Defence to act on behalf of two former soldiers in the further inquest into the death of Cheryl James at the Deepcut Barracks in 1995.

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Inquest touching the death of Wiktorja Was, deceased (2015)

Counsel to the Commissioner of Police of the Metropolis for the jury inquest into the death of a 13-year old girl who died when a car, which was being pursued by police at the time, crashed into the vehicle in which she was travelling. The driver of the car pleaded guilty to causing death by dangerous driving and other offences.

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Inquest touching the death of Joshua Brown, deceased (2015)

Counsel to the Chief Constable of Surrey Police for the 3-week jury inquest into the death of a 21-year old soldier who was hit by a police vehicle attending an emergency call on the A31 in Surrey in foggy weather.

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Inquest touching the death of Henry Hicks (2015-2016)

Represented the Commissioner of Police of the Metropolis in a successful application for anonymity for police officers, who had been subject to death threats, in the context of the inquest into the death of an 18-year old boy who was riding a Vespa scooter at the time of his death. The IPCC are investigating whether police officers were pursuing Henry at the time as well as previous police contact with him.

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Inquest touching the death of Harry Kirkham (2015)

Counsel to the Chief Constable of West Midlands Police for the jury inquest into the death of a 15-year old boy who died of a traumatic brain injury after being hit by a police car in March 2015. Harry had been free-running with his friends,

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Inquest touching the death of Frances Andrade (2014)

Represented the Chief Constable of Surrey Police at the inquest into the death of a concert violinist who was found dead after giving evidence against a couple who sexually abused her while she was at Chetham's School of Music in Manchester.

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Inquest touching the death of Barry deceased (2013)

Counsel to the Chief Constable of Kent Police in the three-week jury inquest into the death of a 14-year old boy who died after drinking methadone (see R (on the application of Kent County Council) v HM Coroner for Kent (North-West District) [2012] EWHC 2768 (Admin)).

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## Information Law

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Francesca advises and represents public and private bodies in matters involving a broad spectrum of information law issues. Her experience includes addressing issues arising under the Regulation of Investigatory Powers Act 2000; challenges to information disclosed during DBS checks and security vetting procedures; claims under the Data Protection Act and GDPR; and other civil actions and public law challenges concerning information retention and sharing including those involving ECHR rights.

### Notable Information Law cases

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Edward Bridges v Chief Constable of South Wales Police [2020] EWCA Civ 1058

with Jason Beer QC, Francesca represented the Chief Constable in the Court of Appeal in the first case in the world to consider the use by police of facial recognition technology by law enforcement agencies.

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R (on the application of HA) v (1) Disclosure and Barring Service (2) Chief Constable of West Midlands Police (3) Secretary of State (Interested Party) [2019]

Appeared on behalf of the Chief Constable of West Midlands Police in successfully resisting a claim for judicial review challenging the disclosure of the applicant's youth convictions. The claim was brought under the GDPR and the Data Protection Act 2018 which were not in force at the time of the claims which were the subject of the Supreme Court's recent decision in *In Re an application by Lorraine Gallagher for Judicial Review (Northern Ireland); R (P, G & W) v Secretary of State for the Home Department; R (P) v Secretary of State for the Home Department* [2019] UKSC. The Claimant has sought permission to appeal to the Court of Appeal.

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R v Clodagh Hartley

Represented the Commissioner of Police of the Metropolis in the Central Criminal Court at a hearing which arose out of Operation Elveden (the investigation into allegations of inappropriate payments to police officers and public officials opened as a result of documents provided by News International to Operation Weeting, the phone hacking investigation). The case concerned the collateral use of information disclosed in criminal proceedings.

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## Professional Discipline & Regulatory

Francesca regularly advises and acts for police forces at misconduct hearings, including the Police Appeals Tribunal and deals with judicial review relating to misconduct issues. Cases have included the discharge of firearms and taser, deaths in custody, corruption, computer misuse, rape, sexual harassment and assault.

### Notable Professional Discipline & Regulatory cases

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Gross Misconduct Proceedings concerning Inspector Mackaill (Plebgate) (2015-2016)

Acted as independent legal advisor to the Panel in gross misconduct proceedings against a police inspector which arose out of his involvement in, and statements to the press following, a meeting with Andrew Mitchell MP on 12th October 2012. The meeting arose out of incident which became known as 'Plebgate'.

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In the matter of Olaseni (Seni) Lewis deceased [2015-2017]

Junior Counsel advising the Independent Police Complaints Commission on matters concerning the death of 23-year old Seni Lewis, who died following police restraint at the Bethlem psychiatric hospital.

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Gross Misconduct Proceedings against an Officer (2015)

Presenting Counsel for the Chief Constable of a Police Force in gross misconduct proceedings against an officer who had discharged a Taser against a suspect during the course of an arrest.

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#### Re police disciplinary proceedings (2013)

Counsel to the Commissioner in disciplinary proceedings, recommended by the IPCC, against a Hackney police officer who it was found used excessive force against a member of the public during the course of an arrest, leading to serious facial injury. The officer was dismissed following a week's hearing.

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## Healthcare

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**Francesca is a ranked junior specialising in police and government law. She advises and represents public bodies across the country in all areas of civil law including judicial review, civil actions, professional discipline and human rights claims. She also has notable expertise in inquests, appearing in some of the most high profile inquests in recent years.**

## Education & Qualifications

- 2003 – Called to the Bar by Inner Temple
- 2004 – City University, MA in Law
- 2003 – ICSL (Duke of Edinburgh Entrance Scholarship, Inner Temple), BVC
- 2002 – Inner Temple Exhibition
- 2001 – St John's College, University of Cambridge (McMahon Scholarship)
- 1998 – Harvard University Summer School, Cambridge, Massachusetts

## Memberships

- Administrative Law Bar Association (ALBA)

## Appointments

- 2016 – Attorney General's B Panel of Counsel
- 2012 – Attorney General's C Panel of Counsel

## Awards

