

# Robert Cohen

Call 2009



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**Robert Cohen is recognised as a leading junior in Chambers UK and The Legal 500.**

He has been described by clients as being “extremely bright”, an “excellent advocate” and “great in conference”.

Robert accepts instructions in all of Chambers’ main practice areas.

Recent highlights in Robert’s practice have included his appearance in the Court of Appeal in R(W80) v IOPC [2020] EWCA Civ 1301 (as junior to Jason Beer QC) and his work on inquests arising from allegations of grave malpractice against a consultant urologist (as junior to Anne Studd QC)

Robert likes to bring a pragmatic and problem-solving approach to his cases; he has been praised for his ability to adapt to the needs of his clients.

Robert accepts instructions in Direct Access Cases.

Robert is a member of the Attorney General’s B Panel of Counsel.

## Expertise

### Police Law

Robert is ranked by The Legal 500 and Chambers UK as a leading junior in the field of police law. He represents police forces across the country and has extensive experience in a range of civil matters. He has been praised by clients for his ‘calm’ and ‘intelligent’ approach and is described as being ‘extremely eloquent’.

He has appeared on behalf of Chief Constables in the Court of Appeal, High Court, and County Court.

Robert has a great deal of experience dealing with the issues facing the police in relation to their handling of sensitive information. He is regularly instructed in to deal with judicial reviews and civil actions in respect of police decisions as to criminal records. He is also often asked to make submissions in relation to Public Interest Immunity.

## Notable Police Law cases

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R(W80) v IOPC [2020] EWCA Civ 1301

Acted (as junior to Jason Beer QC) for the Commissioner of Police of the Metropolis in this appeal. The Court of Appeal ruled definitively on the extent to which the test for self-defence in police misconduct should be the civil or criminal test.

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R(Weed) v Commissioner of Police of the Metropolis [2020] EWHC 287 (Admin)

Acted for the Defendant in a challenge to her decision not to extend sick pay to a police officer. This was the first time that this issue has been considered by the High Court. Mr Justice Johnson upheld the Commissioner's decision.

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Khan v Chief Constable of West Midlands Police and Chief Constable of Northamptonshire Police [2017] EWHC 2185 (QB)

Acted for both Chief Constables in this civil action for False Imprisonment, Trespass, Assault, and Defamation. The Claimant had been arrested on suspicion of offences under the Terrorism Act and sued both police forces involved. His claims were dismissed in their entirety

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Grey v Commissioner of Police [2016] EWCA Civ 1360

Successfully defended this second appeal in the Court of Appeal. The Court held that the proper approach had been taken to seizing the Appellant's vehicle pursuant to section 165A of the Road Traffic Act.

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Murray v Chief Constable of Lancashire [2015] EWCA Civ 1174

Appeal against the imposition of an interim Injunction to Restrain Gang Related Violence. This is the leading case on the manner in which interim orders ought to be addressed.

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Elliott v Staffordshire Police [2015] EWHC 3165 (QB)

Trial of the Claimant's claim for defamation. The Claimant alleged that he had been libelled by the course of a child protection conference. His claim was dismissed and costs awarded to the Chief Constable on an indemnity basis.

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Re the Al Hilli Children [2013] EWHC 2190 (Fam) and [2013] EWHC 2299 (Fam)

Acting for the Chief Constable of Surrey (as junior to Fiona Barton QC) in these complex family proceedings. Particular issues arose in relation to the disclosure of sensitive information and the assertion of PII, the attendance of representatives of the press, and the sensitivities associated with an international, cross border investigation.

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Ali v Bashir [2013] EWHC 2572

Acted for the Chief Constable of Surrey in these election court proceedings. He represented the Chief Constable at the scrutiny, and handled applications for the disclosure of police information.

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## Inquests

Robert is listed in The Legal 500 as a leading junior in the field of Inquests and Inquiries. He has been praised for being 'tireless' and 'extremely calm under pressure'. He has experience of acting for public-sector clients in a variety of different circumstances. He has been involved in inquests considering deaths following restraint, cases in which the response of NHS bodies was challenged, and deaths in custody. Robert has acted in a large number of high-profile inquests (including many heard by juries) and has been particularly praised by clients for his handling of sensitive issues.

Robert is an Associate Member of the Royal Society of Medicine.

## Notable Inquests cases

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Re Tarryn Baird (ongoing)

A complex inquest raising issues as to the response of public bodies to allegations of domestic violence.

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Re Darryl Sharples (2020)

Inquest into a death following contact with the police on multiple occasions over a short period of time. The inquest raised issues, which the Coroner described as 'extremely difficult' on the legality of information sharing between different state agencies.

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Inquests into the death of former patients of Paul Miller (2019)

Robert acted for Surrey and Sussex Healthcare NHS Trust (as junior to Anne Studd QC) in the inquests into the deaths of patients of the urologist Paul Miller.

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Re the Birmingham Pub Bombings (2019)

Instructed (as junior to Jeremy Johnson QC) in the inquests into the deaths arising from the 1974 bombings.

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Re Alexander Perepilichnyy (deceased) (2018)

Acted (as junior to Fiona Barton QC) for the Chief Constable of Surrey in the inquest into the death of a Russian businessman.

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Re Leslie Douthwaite (deceased) (2016)

Appeared for the Chief Constable of Devon and Cornwall in this jury inquest in which there were allegations that positional asphyxia had been a contributory factor.

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Re Michael Lawrence (deceased) (2015)

An Article 2 inquest concerning positional asphyxia.

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Re William Hafele (deceased) (2014)

Acted in this two week Article 2 jury inquest in which the procedures relating to 'informal in patients' in mental health units were in particular focus.

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Re Francis Andrade (deceased) (2014)

Acted for the Chief Constable of Greater Manchester at the inquest into the death of a professional musician found dead after giving evidence against a couple who had sexually abused her whilst she was a student at Chetham's School of Music in Manchester.

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## Public & Administrative

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Robert has a long-standing interest in Public Law. As a member of the Attorney General's panel he frequently appears in the Administrative Court. He regularly acts for public bodies in defence of judicial reviews related to information sharing, conditions in custody and police decision making.

Before coming to the Bar Robert worked as a Legal Assistant at the House of Commons. This involved working on interventions in judicial reviews to assert Parliamentary Privilege, and frequently advising on public law issues. This provided Robert with a detailed grounding in public law principles and he is now routinely called upon to advise police forces and the Government in this area. For instance, Robert acted for the Chief Constable of Surrey in the Election Court convened to consider a disputed local government election in Maybury and Sheerwater. He has also advised constabularies on the extent of Parliamentary Privilege.

## Notable Public & Administrative cases

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R(Weed) v Commissioner of Police of the Metropolis [2020] EWHC 287 (Admin)

Acted for the Defendant in a challenge to her decision not to extend sick pay to a police officer. This was the first time that this area of law has been considered by the High Court. Mr Justice Johnson upheld the Commissioner's decision.

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R(Adams) v Secretary of State for Justice [2018] EWHC 3766 (Admin)

Robert defended a decision of the Defendant not to have a review of the Claimant's prison categorisation. The Claimant is a high profile prisoner alleged to be involved in organised criminal activity.

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R(Begley) v Secretary of State for Justice [2018] EWHC 2714 (Admin)

Robert successfully defended the decision of the National Probation Service to impose restrictions on a prisoner released on licence. The Claimant had challenged the decision on the basis of the Children Act, citing the best interests of his young daughter.

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R(Rai) v Secretary of State for Justice

Robert was instructed on behalf of the Secretary of State for Justice. He successfully defended the Secretary of State's refusal to place a prisoner in a lower security category.

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FE v YE [2017] EWHC 2165 (Fam); [2018] Fam 24; [2018] 2 W.L.R. 200

Appeared on behalf of the Secretary of State for the Home Department (as junior to Alan Payne) in this decision on the interaction between the Hague Convention on Child Abduction and the Geneva Convention on Refugees. The High Court confirmed the Secretary of State's core submission that in cases where there is a claim under the Hague Convention in parallel with an application for asylum the asylum claim must be determined first.

## Information Law

Robert has an extensive knowledge and experience of information law. He has shown an ability to provide carefully designed responses to very sensitive issues arising from the mishandling of data. Many of his cases are resolved before public litigation. This dates back to his work in Parliament (where he was involved in the disclosure of MP's expenses claims under the Freedom of Information Act 2000).

He is regularly asked to advise parties on the proper approach to data protection (including under the new General Data Protection Regulation) and Freedom of Information.

Robert is especially well versed in the complexities that can develop when state bodies hold personal data which also engages Public Interest Immunity considerations. He regularly appears in the civil courts in relation to disclosure issues and has participated in a large number of PII applications.

## Notable Information Law cases

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Clark v ICO and National Archives (2019)

Instructed in these ongoing proceedings in the Information Rights Tribunal concerning a request under the Freedom of Information Act 2000 for records of a historic criminal inquiries into 'the nude murders' (a number of serial killings in London in the 1960s).

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Re X (Children) (Disclosure of Judgment to Police) [2014] EWHC 278 (Fam)

Acted for a Chief Constable, making submissions on why an especially sensitive fact finding judgment should be disclosed to police.

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## Human Rights

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As a member of the Attorney General's panel of counsel Robert regularly advises on cases under the Human Rights Act 1998 and has a wide range of experience appearing in cases in which human rights issues are raised.

Recently he has been especially interested in the issues arising from state custody and deprivations of liberty, including in the medical context.

Robert tries to maintain a problem-solving approach to these cases and focuses on establishing the overarching priorities of his clients: he recognises that Human Rights litigation can often be a means to an end.

Robert is instructed in an ongoing judicial reviews which alleges that strip searches have been conducted in a manner which violates the prohibition of torture.

## Notable Human Rights cases

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R(Hopkins) v Secretary of State for Justice [2019] EWHC 2151 (Admin)

acting for the Secretary of State in a challenge which alleged that his failure to consider a prisoner's categorisation at an oral hearing was unlawful.

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R(Hambleton) v Coroner for the Birmingham Inquests (1974) [2018] EWCA Civ 2081

acting for the Chief Constable of West Midlands Police in the leading case on whether Article 2 ECHR requires consideration of the identity of perpetrators of crime.

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Chief Constable of Lancashire v Wilson and Others [2015] EWHC 2763 (QB)

Appeared for the Chief Constable in this matter, in which the Respondents unsuccessfully sought a declaration that parts of the Policing and Crime Act 2009 are incompatible with Article 6 ECHR.

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## Professional Discipline & Regulatory

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Robert is frequently called upon to advise on regulatory issues and appear in regulatory proceedings. He very much enjoys the opportunity that regulatory matters provide to undertake a detailed analysis of the wider circumstances of a situation from a different perspective. For instance, he has been involved in disciplinary proceedings concerning the collapse of a criminal prosecution for rape.

Robert's wider expertise in public law, inquests, information law and personal injury make him ideally suited to regulatory proceedings. He is often called upon to use his knowledge of other areas to assist regulatory bodies.

## Notable Professional Discipline & Regulatory cases

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R(W80) v IOPC [2020] EWCA Civ 1301

Acted (as junior to Jason Beer QC) for the Commissioner of Police of the Metropolis in this appeal. The Court of Appeal ruled definitively on the extent to which the test for self-defence in police misconduct should be the civil or criminal test.

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R(Weed) v Commissioner of Police of the Metropolis [2020] EWHC 287 (Admin)

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Re PC X (2018)

Gross-Misconduct proceedings in relation to a police officer who was found to have misled her insurance company in the aftermath of a road traffic collision.

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Re PC Y (2016)

Gross-Misconduct proceedings in relation to a police officer who had inappropriately become involved in an incident involving her partner. She had previously been acquitted of conspiracy to pervert the course of justice, but was dismissed from the police.

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## Personal Injury

Robert has a busy personal injury practice. He frequently appears in trials and has advised, and drafted pleadings, in a large number of claims. He has been instructed in a number of actions for clinical negligence, workplace stress, and other multi-track litigation. He is often involved in high value claims, including actions in which parties have been permanently disabled. Where appropriate he is happy to accept instructions on the basis of a CFA.

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## Healthcare

Robert has a substantial experience in cases and inquests in which criticism is made of healthcare providers. He routinely appears in inquests in which the acts or omissions of clinicians are under scrutiny.

Robert has also acted in multiple actions for clinical negligence. These have included cases relating to post-operative deep vein thrombosis and, a claim arising from the mis-diagnosis of Sarcoma, and allegations that a spinal cord injury was 'missed' resulting in paralysis.

Robert was instructed by Surrey and Sussex Healthcare NHS Trust in the inquests into the deaths of patients of Mr Paul Miller, a consultant urologist who used high intensity focused ultrasound to treat prostate cancer. He has also acted in inquests in which the treatment of personality disorder, cancer, and serious obesity have been in issue.

He is an associate member of the Royal Society of Medicine. He has been praised by clients for being 'extremely calm'.

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## Court of Protection

Robert's areas of expertise in Court of Protection include:

- Capacity
- Deprivation of liberty
- Best interests decisions
- Deputyship matters
- Lasting Powers of Attorney and Enduring Powers of Attorney
- Medical treatment
- Welfare matters including contact, residence and care decisions
- Forced marriage
- Safeguarding of vulnerable adults

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## Education & Qualifications

- 2009 – Called to the Bar by Inner Temple
- Exhibition – Inner Temple
- 2009 – BVC – BPP

- 2008 – University of Durham, LLB (Hons)

## Appointments

- 2017 – Attorney General’s C Panel of Counsel

## Awards

