



Francis Taylor Building
Inner Temple
London EC4Y 7BY

Francis Taylor Building

DX: 402 LDE

T: 020 7353 8415 F: 020 7353 7622
E: clerks@ftbchambers.co.uk W: www.ftbchambers.co.uk

Kate Olley

Profile



Year of call 1999

Kate is an established and highly experienced planning and public law practitioner. She is valued for her judgment, good legal sense, the clarity of her advocacy and written advice, and for her approachability and excellent client care.

In her planning work Kate acts for both developers and local authorities at planning inquiries and hearings and in the High Court and Court of Appeal.

Kate acted with Christopher Katkowski QC promoting the United Kingdom Holocaust Memorial and Learning Centre at the call-in Inquiry heard in October and November 2020.

She recently acted for Ealing LBC in the 55 West tall building inquiry heard in July 2021, and is currently acting in the appeal in relation to 56-58 Stanley Gardens in Ealing, due to be heard in November - December 2021.

In July 2019 she appeared for Wiltshire County Council at the Stonehenge DCO hearings.

Kate is instructed by Wirral Council on an ongoing basis in connection with the preparation of the new Wirral Local Plan and has been deeply involved since the Regulation 18 consultation stage.

Kate appeared with Christopher Katkowski QC for the developer at the Notting Hill Gate Newcombe House Inquiry in November 2019 and for most of the Rule 6 parties at the Swiss

Cottage 100 Avenue Road tall building Inquiry. She has also advised on various issues in relation to the 40 Leadenhall Street redevelopment. She acts on behalf of the developer (Nam Sang Wai Development Company Limited) in a complex and lengthy planning appeal, raising many important ecological issues which was heard in Hong Kong in November 2020 and January 2021.

Kate also has very strong public law experience and appeared as sole Counsel in the Supreme Court in *C v Secretary of State for Justice* [2016] UKSC 2 (concerning the principle of open justice) and in the Court of Final Appeal in *Designing Hong Kong Ltd* [2018] HKCFA 16 (which made the law on protective costs orders/cost capping orders for Hong Kong). She also acted (with Christopher Jacobs) for the successful claimant in the constitutional law case of *R (Roszkowski) v SSHD* [2017] EWCA Civ 1893 (concerning the ability of the Secretary of State to intervene in grants of bail made by Immigration Judges).

Kate practises both in the UK and internationally and is one of a very small group of barristers who are able to accept instructions in Hong Kong cases without the need to seek *ad hoc* admission. A keen Mandarin speaker, Kate welcomes instructions from overseas clients with business interests in London and throughout the UK. Kate is also becoming involved in planning and urban design projects in the Middle East.

Kate has been interviewed on topical cases by Jim Reed on Newsnight and has in the past acted as a legal adviser to the TV series, *Holby City*.

Testimonials

"Intellectually sharp, very organised and a good team player." Legal 500, 2022

"She can win very difficult and complex cases with her brilliant advocacy" Legal 500

"She is a talented junior, dedicated and hardworking, and capable of approaching cases in different ways."

"a persuasive advocate whose skeleton arguments and written advice are of a very high standard"

"An excellent court advocate who provides clear advice"

"has excellent communication skills and deals with very difficult clients with ease"

"knowledgeable, committed and well-prepared"

"highly impressive"

"a rising star"

"gives clear and precise advice"

"is admired for the breadth of her practice"

"popular among sources for being unflappable: 'She is not fazed by someone throwing a spanner in the works halfway through a case and can immediately see a simple solution to any obstructions in the road- she has total mastery of her brief'"

Experience

Planning

Kate appears at planning inquiries on behalf of developers, local authorities and third parties and also has extensive experience of High Court and Court of Appeal work in the planning & environmental context dating back to the very beginning of her practice. She has regularly advised the Environment Agency and also Defra.

She acted with Christopher Katkowski QC, promoting the United Kingdom Holocaust Memorial and Learning Centre at the call-in Inquiry heard in October and November 2020.

She recently acted for Ealing LBC in the 55 West tall building inquiry heard in July 2021, and is currently acting in the appeal in relation to 56-58 Stanley Gardens ealing, due to be heard in November - December 2021.

In July 2019 she appeared for Wiltshire County Council at the Stonehenge tunnel DCO hearings.

Kate represented most of the Rule 6 parties at the Swiss Cottage tall building Inquiry (the 100 Avenue Road site) in which the major issues were heritage and daylight/sunlight and she appeared with Christopher Katkowski QC for the developer at the Inquiry for the Newcombe House scheme at Notting Hill Gate in November 2019, focusing on heritage, townscape and affordable housing issues. She has also advised on various issues in relation to the 40 Leadenhall Street redevelopment.

She is currently instructed with Christopher Katkowski QC by Wirral Council in connection with the preparation of its Local Plan. Together they have produced the experts' verification report of Wirral's Action Plan, in one of the first cases in which the Secretary of State has intervened under the 2004 Act in the Local Plan process.

Other recent work includes bringing successful judicial reviews and s288 and s289 appeals on behalf of individuals.

Kate regularly advises in relation to a very wide range of issues, including all Local Plan issues, the construction or variation of s106 Agreements, lawful development certificates, permitted development rights, affordable housing, TPOs, as well as generally in relation to the lawfulness of local authority and planning inspector decisions. She has advised in relation to basement development applications in Kensington & Chelsea and matters raising issues of daylight and overshadowing. She has also advised the developer of a proposed Motorway Service Area in which the major issue is its Green Belt location.

Kate also has strong expertise in enforcement appeal inquiries and related matters.

She has advised in relation to Neighbourhood Development Plans and conducted a mediation between a local authority and a would-be Neighbourhood Forum, successfully avoiding a judicial review.

Kate has expanded her planning practice to Hong Kong. She was instructed by the Hong Kong Government in *Jonnex v Town Planning Board* [2018] HKCFI 62 (in relation to a challenge to the refusal to re-zone a site on an Outline Zoning Plan on Hong Kong island), and is instructed by the Hong Kong Government in the judicial review in *Royal Billion Investment v Town Planning Board*.

Kate is currently acted for the developer, Nam Sang Wai Development Company Limited, in a lengthy planning appeal (equivalent to a Planning Inquiry procedure) which was heard over 4 weeks in November 2020 and January 2021. The appeal concerns the proposed development of a part of the Nam Sang Wai site in order to facilitate the long-term conservation and management of an internationally important wetland (part of which is a Ramsar site). The case raises many important ecological issues.

Kate acted as Junior Counsel for Designing Hong Kong Ltd, a Hong Kong planning & environmental NGO, in a judicial review in which the applicant applied for a Protective Costs Order. The matter was heard by the Court of Final Appeal (Hong Kong's Supreme Court equivalent) in April 2018 and made the law on protective costs orders/cost capping

orders for Hong Kong: *Designing Hong Kong Ltd v Town Planning Board and Secretary for Justice* [2018] HKCFA 16.

Public

Kate is a judicial review specialist, with extensive experience covering the fields of planning & environmental, mental health, prisons, education (including special educational needs), asylum & immigration (including cases involving national security), social security, community care, prisons and general local government including the political balance of committees and issues of local government finance.

Kate successfully appeared as sole Counsel in the Supreme Court on behalf of the Ministry of Justice in *C v Secretary of State for Justice* [2016] UKSC 2, in which it was established that there is no presumption of anonymity in civil proceedings in the High Court relating to patients detained in psychiatric hospitals or otherwise subject to compulsory powers under the Mental Health Act 1983.

Before deciding to focus on expanding her international practice in Hong Kong she served on the Attorney-General's Panel of Junior Counsel to the Crown, acting for a wide range of Central Government departments and agencies (including the Foreign & Commonwealth Office, Home Office, Environment Agency, Defra, Department of Transport, Department for Work and Pensions, HM Treasury, Department of Education and the Ministry of Justice). She has been 'DV' cleared since 2007 and has conducted extensive exculpatory reviews in the context of appeals to the Special Immigration Appeals Commission.

Kate was heavily involved in the challenge brought by Bank Mellat against the 2011 and 2012 Financial Restrictions Orders imposed by HM Treasury restricting all Iranian financial institutions from accessing financial markets in the UK and also the US\$4bn damages claim brought as a result of the Supreme Court decision in relation to the 2009 Financial Restriction Order affecting Bank Mellat.

Kate has also regularly acted for individual claimants, instructed amongst others by the Public Law Project, Birnberg Peirce, Leigh Day and Scott-Moncrieff & Associates Ltd. She has represented appellants in the Immigration & Asylum Chamber and Upper Tribunal and also has very extensive experience in unlawful detention claims. She is a former Chair of the Free Representation Unit and represented FRU on the then Attorney-General's Pro Bono Co-ordinating Committee.

Kate has substantial knowledge of the law of cost capping orders. In Hong Kong she acted for Designing Hong Kong Ltd, a Hong Kong planning & environmental NGO, in a judicial review in which the applicant applied for a Protective Costs Order. The matter was heard by the Court of Final Appeal (Hong Kong's Supreme Court equivalent) in April 2018 and made the law on protective costs orders/cost capping orders for Hong Kong: *Designing Hong Kong Ltd v Town Planning Board and Secretary for Justice* [2018] HKCFA 16. The arguments and judgements drew heavily on the English (and Australian) jurisprudence from Corner House onwards.

She also has substantial experience in safeguarding matters and appeared many times in the Upper and First-tier Tribunals dealing with these issues and conducting appeals

brought against placement on the Children's and/or Adults' Barred Lists under the Safeguarding Vulnerable Groups Act 2006 (and its predecessor legislation providing for the PoVA, PoCA and List 99 schemes).

International

Kate is a member of Parkside Chambers in Hong Kong. She is the co-author of 'Planning Law in Hong Kong', Lexis Nexis April 2018 and co-updated Lexis Nexis' 'Judicial Review in Hong Kong'.

As part of the process of admission to the Hong Kong Bar, Kate focused on many areas of Hong Kong law (including property, equity and trusts, constitutional and administrative and company law) and is well placed to advise on the interface between UK and Hong Kong law. She can accept instructions from both UK-based and HK-based clients. She speaks Mandarin and has a basic knowledge of Cantonese.

Kate conducted many training sessions on the European Convention on Human Rights for local lawyers, judges and NGO representatives in various countries including Albania, Turkey, Ukraine, Kosovo, the Caucasus and the Russian Federation, invited by the Council of Europe's Directorate General of Human Rights.

In 2002 Kate was the Pegasus Scholar to Hong Kong where she worked as a judicial assistant to Frank Stock VP (as he then was) in the Court of Appeal.

Mediation

Kate has been a CEDR-accredited mediator since 2005 and was a delegate to the South Asia Regional ADR conference. She also organised mediation training in Pakistan including for an NGO (the Aurat Foundation) based in Peshawar in North-West Frontier Province. Her experience of mediation has largely focused on planning and property-related matters but she does not limit her interest to the resolution of cases in any particular area of law. Indeed her expertise in the area of public and administrative law gives her special insight into the context underlying matters in that area. She has mediated disputes between a local authority and a neighbourhood development forum, successfully avoiding a judicial review, and other disputes between local authorities and various groups. She also has experience of mediation in Hong Kong.

Qualifications

Kate graduated with First Class Honours from St. Hilda's College, Oxford University (Chinese Studies).

She completed her CPE/Diploma in Law at City University and was called to the Bar (England & Wales) by Middle Temple in 1999.

In 2014 she passed the Hong Kong Bar Examinations for Overseas Practitioners and in 2015 she was called to the Hong Kong Bar. She is a member of Parkside Chambers in Hong Kong.

In 2005 she became a CEDR-accredited mediator.

Recent articles and publications

11 Jan 2021 - Virtual Inquiries: Top Tips - webinar

30 Nov 2020 - The implications of the Environment Bill for High Court Legal Challenges

30 Nov 2020 - Planning High Court Challenges Annual Conference, Part 3 - webinar

30 Sep 2020 - Permitted Development: pitfalls - article 4

30 Sep 2020 - Permitted Development: Pitfalls

30 Sep 2020 - Permitted Development - Webinar

29 Sep 2020 - Variation of s.106 obligations

29 Sep 2020 - The Variation and Enforcement of s.106 Obligations - Webinar

14 Sep 2020 - Reflections on the Independent Review of Administrative Law: Time Limits, Relief, Appeals and Costs

14 Sep 2020 - The Review of Judicial Review: Reflections on the Faulks Review - Webinar

07 Sep 2020 - 'Planning for the Future' White Paper - A radical version of the current system (first published by Lexis PSL planning on 3rd September 2020)

30 Jun 2020 - The procedure for preparing the plan and consultation requirements during the COVID-19 pandemic

30 Jun 2020 - Neighbourhood Plans: The Latest Law And Policy - Webinar

04 Jun 2020 - Current Development Plan Issues: Housing Need

04 Jun 2020 - Development Plan Issues - Webinar

14 May 2020 - Paragraph 145 And The Exceptions

14 May 2020 - Developing In The Green Belt - Webinar

02 Dec 2019 - New Planning Policies And Guidance

11 Apr 2019 - Litigation In The Upper Tribunal

19 Nov 2018 - Reasons Challenges and the Impact of Dover

10 Sep 2018 - The Revised Presumption

10 May 2018 - Landlord's consents and planning permission

04 May 2018 - Revised NPPF: Overview, the new wording of the presumption, transitional provisions and interpretation

30 Apr 2018 - Using a Neighbourhood Plan to resist proposed development

05 Mar 2018 - Plan Making: Interaction with Neighbourhood Development Plans

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