



 Howse Williams

## Clinical Negligence & Healthcare Practice

September 2019

# Contents

Contents.....	1
About Us .....	2
Our Clinical Negligence and Healthcare Practice.....	3
Our Approach.....	3
Healthcare Expertise.....	3
Pharmaceutical Expertise.....	4
Medico-legal Employment.....	5
Regulatory Advice .....	5
Chris Howse.....	6
David Kan.....	8
Bernard Murphy .....	10
Oonagh Toner .....	12
Alison Scott .....	13
Maureen Liu .....	14
Our Team.....	15

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**Howse Williams is an independent Hong Kong law firm which combines the in-depth experience of its lawyers with a creative, forward-thinking approach.**

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## **About Us**

Our key practice areas are corporate/commercial and corporate finance; commercial and maritime dispute resolution; clinical negligence and healthcare; insurance, personal injury, and professional indemnity insurance; employment; family and matrimonial; property and building management; banking; fraud; financial services/corporate regulatory and compliance.

As an independent law firm we are able to minimise legal and commercial conflicts of interest and act for clients in every industry sector. The partners have spent the majority of their careers in Hong Kong and have a detailed understanding of international business and business in Asia.

The HW partners and their teams have an excellent reputation for delivering high quality legal advice with a practical and commercial approach to solving legal issues in line with clients' commercial objectives.

## Our Clinical Negligence and Healthcare Practice

The medico-legal team advises doctors, dentists, nurses, midwives, physiotherapists, pharmacists, chiropractors, osteopaths and their indemnity providers and other healthcare professionals. The partners also advise private hospitals, medical group practices, corporate healthcare providers and pharmaceutical companies on issues relating to the import and distribution of drugs and pharmaceutical products, drug liability claims and other regulatory matters.

Our team of over ten lawyers, four of whom are partners, is led by the firm's senior partner, Chris Howse. Chris has over 25 years of experience assisting healthcare professionals in Hong Kong. Our team has unrivalled expertise and is widely respected as being a leader in medico-legal and pharmaceutical markets in Hong Kong. Two of our partners are dual-qualified as lawyers and medical practitioners.

## Our Approach

At HW we defend healthcare professionals and institutions on a broad range of clinical negligence and healthcare related matters. We provide timely advice, as soon as clinical incidents occur, often outside office hours.

We are mindful that the cases we handle are often very sensitive and professional reputations are at stake. We provide practical solutions to resolve problems and protect our clients' interests. We diligently investigate and obtain early expert assistance where required.

We also have expertise to advise on the professional and legal obligations when setting up a medical practice (whether as a sole practitioner, limited company, or a partnership or group practice). These issues concerning the business aspects of medical practice include compliance with Medical Council provisions including those governing practice promotion and the announcement of commencement of practice; potential liability issues of the doctor/owner, or the partners or the company; obtaining professional indemnity insurance cover for the medical and nursing staff; fulfilling the requirements for making contributions to the Mandatory Provident Fund; and also obtaining insurance cover for potential liabilities under the Employee Compensation Ordinance and for public liability.

## Healthcare Expertise

We advise on a broad range of medico-legal matters including:-

- Clinical negligence claims against doctors, dentists and private hospitals including high value obstetric cases, brain damage cases and fatality claims. We secure early discontinuance of frivolous claims. We represent clients in the District Court, High Court, Court of Appeal and Court of Final Appeal.
- Department of Health investigations, particularly sentinel event investigations arising from adverse incidents. We assist the doctor and sometimes the

hospital prior to any interview. This includes the preparation of medical reports and meeting with various staff members.

- Medical Council and Dental Council matters. We have an impressive track record of disposing of cases at the Preliminary Investigation Committee. If a case is referred to the inquiry stage we represent the doctor ourselves at the inquiry (as opposed to routinely instructing barristers).
- Education and Accreditation Committee issues such as restriction or withdrawal of the specialist registration for doctors.
- Coroner's inquests arising from patient deaths. We usually undertake our own advocacy at the inquests and we are well known to the coroners.
- Criminal investigations and proceedings such as manslaughter, indecent assault and fraud – we attend police interviews, ICAC interviews and assist with cautioned statements.
- Dangerous drug prosecutions and Magistrate Court hearings.
- Mental Health Tribunal work. Dr David Kan has served as a member of the Guardianship Board and has expertise in handling Guardianship Board matters and applications under the Mental Health Ordinance.
- Judicial Reviews.
- Mediation – two of our team's lawyers are accredited mediators and are called on to mediate clinical disputes. Where appropriate, our team use mediation to resolve claims for negligence.
- General legal and ethical advisory work on a wide range of matters such as confidentiality, informed consent, data protection legislation, practice promotion and advertising.
- Legal ramifications of reproductive technology treatment, particularly sex selection and surrogacy.
- Drafting risk assessment policies within clinics and hospitals on high risk areas of clinical management.
- Defamation and libel proceedings in the medical field.

## Pharmaceutical Expertise

We advise biotech and pharmaceutical companies, and other organisations, on a variety of matters including:-

- Product liability claims for defective medical and pharmaceutical products including consequential economic loss.
- Advising pharmaceutical companies on clinical trials (particularly with adverse events/patient harm)
- Assisting with the complex regulatory framework for registering, importing and selling drugs
- Drafting distribution agreements with various parties such as importers and distributors.
- Contractual claims for breach of warranty and civil claims for compensation
- Representing pharmaceutical companies in the Courts for breach of strict liability offences concerning the supply of pharmaceutical products.
- Intellectual Property matters are advised on by our specialist IP team.



## Medico-legal Employment

Our healthcare team works closely with HW's specialist employment team to advise on sensitive areas such as:-

- Staff grievance investigations and hearings within the clinical environment.
- Appeals of healthcare workers facing disciplinary sanctions such as warnings, suspension, stoppage of increment and removals.
- Other employment related matters such as unfavourable and prejudicial references and revocation of admission privileges.
- Media guidance including press releases, following high profile staff disputes/incidents where patients have been harmed.
- Advice upon staff recruitment, contract terms, transfers, remuneration, terminations, redundancies, minimum wage, discrimination and other general employment issues applicable to the healthcare industry.

## Regulatory Advice

We have provided medicolegal regulatory advice to a wide range of individuals and entities on issues including:

- The categorisation of medical devices and drafting of distribution agreements for medical device manufacturers.
- Advising how the Hong Kong statutory pharmaceuticals regime affects veterinary surgeons and veterinary product importers / distributors.
- Drafting end-user and physician-user agreements for healthcare apps.
- Advising medical start-ups on regulatory, employment, property and corporate structuring issues.
- Packaging requirements for pharmaceutical / cosmeceutical products.
- Advising healthcare companies on relationships with medical and dental professionals.
- Guiding medical device companies and healthcare companies on legal issues affecting proposed marketing initiatives.



## Chris Howse

*Partner*

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Chris Howse was admitted as a solicitor in Hong Kong in 1981 after being seconded by the London office of a city law firm, Richards Butler, to build up its Hong Kong office. He was the Senior Partner and Managing Partner of the Hong Kong office of Richards Butler until December 2011. Following the takeover of Richards Butler Hong Kong by an American law firm he set up Howse Williams on 1 January 2012 with a large number of partners and solicitors from the Hong Kong office of Richards Butler. The firm is now one of the largest independent law firms in Hong Kong.

Chris Howse is the head of the medico-legal team. He started to undertake medico-legal work in 1985. He has been providing professional advice and assistance to doctors, dentists and other healthcare professionals and to the private hospitals of Hong Kong on a wide range of medico-legal issues for over 30 years. His firm have been panel lawyers for the Medical Protection Society and Dental Protection Ltd. since the mid-1980s.

The medico-legal areas on which Chris Howse provides advice and assistance include:

- (1) Civil claims being pursued against doctors and dentists in the Hong Kong courts.
- (2) Defending doctors and dentists before the Medical Council and Dental Council.
- (3) Representing doctors and dentists at inquests.
- (4) General advice and assistance on a wide range of medico-legal topics arising from the everyday practice of doctors, dentists and other healthcare professionals.
- (5) Department of Health investigations.
- (6) Advice concerning pharmaceutical companies, clinical trials and the import and export of medicines and other medical products into and out of Hong Kong.

### ▼ *Experience*

2012 Howse Williams  
2011 Reed Smith Richards Butler  
2008 Richards Butler in Association with Reed Smith LLP  
1983 Richards Butler, Hong Kong  
1975 Richards Butler, London

▼ *Education*

1975 College of Law  
1973 University of Bristol, BA (Hons)  
1970 University of Geneva

▼ *Professional Qualifications*

1978 England and Wales  
1981 Hong Kong  
1988 Australia

▼ *Professional Affiliations*

Arbitration:

Fellow, Chartered Institute of Arbitrators (Hong Kong)  
Fellow, Hong Kong Institute of Arbitrators Ltd  
Supporting Member, London Maritime Arbitrators Association  
Arbitrator, Hong Kong International Arbitration Centre  
Arbitrator, China Maritime Arbitration Commission  
Arbitrator, Hong Kong Maritime Arbitration Group  
Arbitrator, Korean Commercial Arbitration Board  
Member, Hong Kong Arbitrations Law Review Committee (1996-2000)

Professional Indemnity Insurance:

Chairman, Hong Kong Law Society Professional Indemnity Claims Committee (2004-2007)  
Deputy Chairman, Hong Kong Law Society Professional Indemnity Claims Committee (1999-2004)  
Member, Hong Kong Law Society Professional Indemnity Insurance Claims Committee (1989-1999)  
Member, Hong Kong Law Society Professional Indemnity Advisory Committee (1999-2006)  
Member, Hong Kong Law Society Working Party on Professional Indemnity Insurance Scheme (1996-2004)  
Chairman, Hong Kong Professional Indemnity Review Committee (2002)





## David Kan

*Partner, Solicitor Advocate*

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David is a dual qualified medical doctor/solicitor and is a Founding Member of the Faculty of Forensic and Legal Medicine of the Royal College of Physicians (UK). He "changed horses" to law almost 25 years ago and nowadays he and Chris Howse lead a team of experienced healthcare lawyers which handle all types of clinical negligence claims, including complex high value and fatal accident claims.

As an experienced litigator, David has gained accreditation as a Solicitor Advocate with Higher Rights of Audience in Hong Kong's Court of First Instance, Court of Appeal and Court of Final Appeal. David has substantial advocacy experience representing clients before the Civil Courts, Coroner's Court and Medical and Dental Council.

David also has considerable experience in advising on mental health law, medical criminal proceedings, clinical trials and risk management issues.

David has a Master's Degree in Medical Law and Ethics which placed him on good stead to provide healthcare regulatory advice to healthcare professionals as well as institutional clients including hospitals, pharmaceutical and biotechnology companies, medical device manufacturers, specialist group practices and corporate healthcare providers. In 2008, David was appointed as an Honorary Associate Professor of the University of Hong Kong Faculty of Medicine. He regularly lectures at HKU as well as to the Specialist Colleges. He also provides clients and others with training in healthcare law. He is an advisor to various entities including the British Medical Association (HK) and the Hong Kong Medical Association.

Outside of private practice, David has served on the governing boards of a government hospital and a major international school for many years. He is also a qualified coach with the Squash Rackets Association (UK) and he trains almost daily.

### ▼ *Experience*

2012 Howse Williams  
2011 Reed Smith Richards Butler  
2008 Richards Butler in Association with Reed Smith LLP  
1999 Richards Butler Hong Kong  
1998 Bevan Ashford Solicitors UK  
1996 Lees and Partner Solicitors UK

▼ *Education*

- 2007 University of Hong Kong, Postgraduate Diploma in Child and Adolescent Health
- 1996 Keele University, Master Degree in Medical Law
- 1996 Birmingham University, LPC (with commendation)
- 1995 Birmingham University, CPE
- 1991 Nottingham University, Bachelor of Medicine and Bachelor of Surgery
- 1990 Nottingham University Exhibition Prize for Medicine
- 1989 Nottingham University, Bachelor of Medical Sciences (Hons)

▼ *Professional Qualifications*

- 1999 Hong Kong
- 1986 England and Wales
- MA (Med Law), MBBS, MFFLM, BMed Sci (Hons), PDipCAH

▼ *Professional Affiliations*

- Member, Hospital Governing Committee of the Bradbury Hospice
- Founding Member, Faculty of Legal and Forensic Medicine, Royal College of Physicians UK
- Legal Advisor, Hong Kong Medical Association
- Legal Advisor, British Medical Association of Hong Kong
- Member, Ethics Committee for the Hong Kong College of Obstetrics and Gynaecology
- Panel Member, Guardianship Board of Hong Kong (2005-2008)
- Vice-chairman, New Medico-Legal Society of Hong Kong (2005-2007)
- Member, Hong Kong Association of the Pharmaceutical Industry
- Member, Law Society of England and Wales
- Member, Law Society of Hong Kong



## Bernard Murphy

*Partner*

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Both a medical doctor and a solicitor, Bernard specialises in medico-legal issues, acting for a wide range of healthcare professionals including doctors, dentists, nurses and physiotherapists in proceedings before the Medical Council, clinical negligence claims, Coroner's Court, and Department of Health investigations. Bernard also acts for hospitals and other institutional and corporate healthcare providers in a comprehensive array of healthcare legal matters. Bernard's healthcare practice also extends to advising veterinary surgeons on proceedings before the Veterinary Surgeons Board (VSB) and advising veterinary practices in relation to complaints, claims and regulatory/legislative issues. Bernard was admitted as a solicitor in Hong Kong in 2004 and in England and Wales in 2005.. His legal career began with Richards Butler Hong Kong.

Before qualifying as a lawyer, Bernard practised medicine for more than ten years, the majority of that time in Hong Kong and China. During and following his medical training, Bernard worked as a doctor in NHS hospitals in the UK as a house physician and house surgeon. He was commissioned into the British Army in 1989 and worked as an army doctor until 1994. After leaving the army, Bernard worked in the field of emergency medical evacuation in China and Hong Kong between 1995 and 1999. He has also worked in private medical practice in Hong Kong.

An Adjunct Assistant Professor, Department of Accident and Emergency Medicine, the Chinese University of Hong Kong, Bernard lectures on healthcare legal issues for the Chinese University Department of Accident and Emergency Medicine. He has also presented lectures/workshops for doctors' medical practices, public and private hospitals the Chinese University School of Public Health, and the Hong Kong Polytechnic University Department of Physiotherapy.

### ▼ *Experience*

2012 Howse Williams  
2011 Reed Smith Richards Butler  
2008 Richards Butler in Association with Reed Smith LLP  
2002 Richards Butler Hong Kong

### ▼ *Education*

2002 University of Hong Kong, Postgraduate Certificate in Law  
2001 Manchester Metropolitan University, Postgraduate Diploma in Law  
1988 University of Aberdeen, Bachelor of Medicine and Bachelor of Surgery

▼ *Professional Qualifications*

2005 England and Wales

2004 Hong Kong

▼ *Professional Affiliations*

Adjunct Assistant Professor, Department of Accident and Emergency Medicine, The Chinese University of Hong Kong

Foundation Member, Faculty of Forensic and Legal Medicine, Royal College of Physicians

Member, Law Society of England and Wales

Member, Law Society of Hong Kong



## Oonagh Toner

*Partner*

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Oonagh specialises in dispute resolution and commercial and professional negligence litigation. She also handles clinical negligence claims advising healthcare professionals on a range of contractual, regulatory and criminal matters. Prior to qualifying as a Solicitor, Oonagh was an industrial designer and worked in design and advertising in London, Dublin and Hong Kong.

### ▼ *Experience*

2012 Howse Williams  
2011 Reed Smith Richards Butler  
2008 Richards Butler in Association with Reed Smith LLP  
2005 Richards Butler, Hong Kong  
Previously with Hayes Solicitors, Dublin, Ireland

### ▼ *Education*

Griffith College Law School, Dublin  
Bachelor of Design in Industrial Design, National College of Art and Design, Dublin, Ireland  
Master of Design in Design Management, Royal College of Art, London

### ▼ *Professional Qualifications*

2007 England and Wales  
2006 Hong Kong  
2005 Ireland

### ▼ *Professional Affiliations*

Member, Law Society of Hong Kong



## Alison Scott

*Partner*

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Alison previously worked as a partner with HW's senior partner Chris Howse at Richards Butler in Hong Kong. She has extensive experience in dispute resolution and commercial and professional negligence litigation. Alison moved to England in 1998 but returned to join HW in 2014.

Alison continues to advise in respect of commercial litigation matters including regulatory investigations by governmental bodies and corporate litigation including shareholder disputes. She also provides professional indemnity advice and assistance to doctors, dentists and other healthcare professionals in HW's medico legal practice.

### ▼ Experience

2014 Howse Williams  
1991 Richards Butler

### ▼ Professional Qualifications

1986 Admission as a solicitor, Hong Kong  
1985 Admission as a solicitor, England and Wales





## Maureen Liu

*Partner*

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Maureen specialises in dispute resolution and medico-legal matters. She has extensive experience in advising healthcare professionals, clinics and hospitals on clinical negligence claims and complaints, Coroner's inquests, disciplinary proceedings and Department of Health investigations. She also advises on non-contentious matters such as general compliance with the professional code of conduct and personal data legislation in a healthcare professional's day to day practice. Maureen is fluent in English, Cantonese and Mandarin.

### ▼ *Experience*

2012 Howse Williams  
2011 Reed Smith Richards Butler  
2008 Richards Butler in Association with Reed Smith LLP

### ▼ *Education*

2008 Bachelor of Civil Law (BCL), The University of Oxford  
2007 Postgraduate Certificate in Laws (PCLL), The University of Hong Kong  
2006 Bachelor of Laws (LLB), The University of Hong Kong

### ▼ *Professional Admissions / Qualifications*

2010 Hong Kong

### ▼ *Professional Affiliations*

Member, Law Society of Hong Kong

## Our Team

### **Heidi Sheung**

*Consultant*

Heidi has a great depth of experience in personal injury and contentious insurance matters having been engaged in them since the outset of her traineeship in 2000. She advises on all aspects on liability ranging from statutory, employees' compensation, product liability, medical negligence, occupational disease claims, motor vehicle accidents and construction sites, with a particular emphasis on accidents on board ships and at container terminals and maritime industrial undertakings. She has handled and given advices on a very wide range of cases from the most serious tetraplegic to the more run of the mill minor accidents acting for numerous major liability insurers. She is frequently called on by clients to construe terms of policies of insurance and review on policy coverage disputes. She is acutely aware of the commercial needs of the insurers in economic and practical claims handling and seeks to work closely with the instructing claims officers making her one of the most user friendly defence lawyers in town.

In addition to her insurance practice Heidi has throughout her career been engaged in major commercial litigations.

She is also an accredited mediator on the HKIAC General Panel and Law Society of Hong Kong since 2009 and acts regularly as a mediator in numerous disputes of various natures.

### **Carmen Fung**

*Senior Associate*

Carmen specialises in insurance litigation. She has extensive experience in handling personal injury and insurance litigation claims on behalf of insurance companies. Carmen also advises insurers on policy-related issues and defence of claims. Carmen is fluent in English, Cantonese and Mandarin.

### **Katy Yeung**

*Senior Associate*

Katy qualified as a Solicitor in England and Wales in 2011 and was admitted as a Hong Kong Solicitor in 2015. Katy has experience in medico-legal matters. She advises healthcare professionals on clinical negligence claims and complaints, Coroner's inquests and disciplinary proceedings. Katy is fluent in English and Cantonese.

## **Hiu Yee Chung**

*Senior Associate*

Hiu Yee has experience in insurance litigation including professional indemnity, regulatory and medico-legal matters. Hiu Yee was admitted in Hong Kong in 2012. She is an accredited mediator with the Hong Kong International Arbitration Centre and the Hong Kong Mediation Accreditation Association Limited. Hiu Yee is fluent in English, Cantonese and Mandarin.

## **Bianca Wu**

*Senior Associate*

Bianca joined the medico-legal team in Howse Williams upon completing her training contract in 2013. She has experience in dispute resolution and medico-legal matters (including non-contentious matters). She advises healthcare professionals and hospitals on clinical negligence claims and complaints, Coroner's inquests, disciplinary proceedings, debt-recovery by hospitals, Mental Health Ordinance matters and criminal matters. Bianca is fluent in English and Cantonese.

## **Betty Lee**

*Senior Associate*

Betty focuses on advising international corporations, small and medium companies and individuals upon contentious and non-contentious employment-related matters.

Betty's practice covers a wide range of work, including compensation and benefits, employment protection, payment on completion and termination of contracts of employment and preparing employment agreements, handbooks, policies, consultancy agreements and secondment agreements. She also regularly advises on the employment aspects of corporate restructuring including share and business transfers and amalgamations. She also advises on immigration and data privacy matters.

Betty is experienced in handling employment disputes, particularly claims involving discrimination or deferred compensation. She often assists parties who are involved in Labour Department investigations, Labour Tribunal proceedings, and complaints to the Equal Opportunities Commission and to the Office of the Commissioner for Personal Data Privacy. She also represents parties engaged in employment disputes in the courts.

## **Natasha Tin**

*Senior Associate*

Natasha specialises in insurance litigation and commercial litigation. She also has experience in handling personal injury and employee compensation claims. Natasha is fluent in English, Cantonese and Mandarin.

## **Alex Yau**

*Associate*

Alex has experience in a wide range of medico-legal and healthcare matters such as disciplinary inquiries before the Medical Council, criminal proceedings, clinical negligence, civil claims, alternative dispute resolution and regulatory and advisory work. Alex is fluent in English, Cantonese and Mandarin.

## **Angela Chow**

*Associate*

Angela qualified as a doctor before studying law. She completed a training contract at HW in 2018. Angela has experience in a wide range of medico-legal and healthcare matters. Angela is fluent in English, Cantonese and Mandarin.

## **Simon Fung**

*Trainee Solicitor*

Simon joined HW as a paralegal in 2017 before starting his training contract at HW in 2018. Before studying law, Simon was a pharmacist in New Zealand and Hong Kong. Simon works on matter relating to Clinical Negligence and Healthcare. Simon is fluent in English, Cantonese and Mandarin.



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