

## SIMON HILTON

Year of call: 1987

Clerked by: Stephen Loxton Paul Clarke

**AREAS OF EXPERTISE:**

Clinical Negligence & Healthcare Inquests Serious Injury  
Occupational Disease



## Occupational Disease

Simon's principal areas of specialisation are Clinical Negligence and Personal Injury. He acts for both Claimants and Defendants, often in cases of high value or technical complexity. In his capacity as AG Panel Counsel he is widely experienced in litigation involving Government departments (eg military accidents, prison assaults, historic sexual abuse) as well as inquests (death in custody, military fatality).

His personal injury practice embraces industrial and occupational disease, road traffic, rail and general EL work. He has a particular interest in related insurance disputes, including claims arising out of permanent health policies and contested indemnity cases. He also specialises in health and safety related work, cases involving product liability, and claims for psychiatric injury arising from workplace stress and bullying.

In clinical negligence, the breadth and diversity of his caseload in the last two years has included litigation arising from:

- Fatal pulmonary embolus following routine hip replacement surgery;
- Death following obstetric complications and refusal to accept blood transfusion;
- Mismanagement at birth leading to Cerebral Palsy;
- Vascular complications during critical limb ischemia surgery;
- Mismanagement of medication for ulcerative colitis;
- Failure to diagnose Mueller-Weiss Syndrome;
- Fatal complications arising from bariatric surgery;
- Contraction of Clostridium Difficile Infection on hospital ward;
- Gynaecological mismanagement (sterilisation surgery);
- Failure to diagnose cholesteatoma in the middle ear;
- Negligent treatment during psychotherapy;
- Delay in diagnosis of cancers;
- Instrumentation injuries (including diathermy injury);
- Montgomery - founded claims centering on consent;
- Delay in treatment of stroke.

### Regulatory and Enforcement

Simon has very extensive experience in health and safety, trading and consumer law enforcement - including data protection. Simon has acted in over 100 HSE, local authority and Environmental Agency prosecutions, generally for the defence, especially in cases arising from construction fatalities, agriculture and fire accidents. He has appeared in the Magistrates and Crown Courts, and the Court of Appeal. He has advised and represented commercial clients across the range of consumer protection legislation, including cases under the Trade Descriptions Act 1968, Trademarks Act 1994, Consumer Credit Acts, CQC Regulations, and the Consumer Protection from Unfair Trading Regulations.

### Disciplinary

Simon's work in this area is complemented by his expertise in the fields of personal injury and clinical negligence. Much of his disciplinary practice is medical based. He has both prosecuted and defended doctors in the General Medical Council (and on appeal to the Administrative Court ~ *Jasinarachichi v GMC* 2014 EWHC 3570 Admin.) in cases involving professional misconduct and registration. He has represented clients in disciplinary proceedings before the British Psychological Council, and has acted as Legal Assessor to the British Hearing Aid Council.

In 2012 he represented the Liverpool and North Yorkshire Primary Care Trusts in a disciplinary appeal under the NHS Drug Tariffs Regulations concerning alleged overpayments to a contractor in a sum in excess of £1M.

### Profile

Simon Hilton is vastly experienced Counsel whose practice encompasses high value Personal Injury and Clinical Negligence cases, professional negligence, regulatory, Professional disciplinary and Inquests. Simon has been junior regional panel A counsel to the Crown since 2000.

Simon has appeared in many leading cases within these fields and is known for his skill in negotiation and advocacy. Simon acts for many leading insurance companies as well as NHS Trusts and many departments of government.

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## Areas of Expertise

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Clinical Negligence & Healthcare

Inquests

Occupational Disease

Serious Injury

## Qualifications

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Oxford University, MA (English) 1981-84

Appointed Attorney General's Junior Counsel to the Crown (Regional A Panel) - 2000 to date

Appointed Recorder - 2003 (Civil & Criminal jurisdictions)

## Notable cases

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*McDonnell and McGeown v. Walker [2009] EWCA 1257:* Limitation appeal - commencement of second action post Horton v. Sadler.

*Silcock v. HMRC [2009] EWHC 3025:* Mesothelioma - appeal under CPR Show Cause procedure.

*Ibbotson v. Highways Authority and various [2013] QBD (Unrep):* Instructed by HA in £1.5M claim following trunk road accident.

*Storm v. Secretary of State for Justice [2009] EWHC 2168:* Judicial review - re-categorisation decision on life prisoner.

*Bennett v. MOD [2009] QBD (Unrep):* Military helicopter crash; double fatality; £1M claim with complex aeronautical evidence.

*Marritt v. Heaney [2008] QBD (Unrep):* Motorcycle accident; amputation of both legs.

*McAvoy v. Railtrack [2015] QBD (Unrep):* Railway accident; electrocution; brain damage.

*Nicholls v. MOD [2008] QBD (Unrep):* Overturned combat vehicle in Bosnia; severe arm injury.

*Essomba v. Secretary of State for Home Department [2009] EWHC 2300:* Judicial review; fresh claim in asylum proceedings; Article 8 ECHR.

*H v. Norwich Union [2016] QBD (Unrep):* Action to enforce payment under PHI policy; fibromyalgia.

*Bullen Stomacare v. Liverpool & N Yorks PCTs [2009] NHS Appeal Tribunal:* Pharmaceutical regulations (drug tariffs); overpayments exceeding £1M to drug contractor; instructed by NHS.

*Inquest into the death of Andrew Borketas [2008]:* Instructed by MOD; infantry recruit drowned during training exercise at Catterick.

*AB v Ministry of Justice 2014 EWHC 3934:* Compensation for contravention of the Data Protection legislation

*R v Sue Ryder Care:* Prosecution under Section 3 HSWA following death in nursing home (positional asphyxia)

*HSE v. British Nuclear Fuels Ltd:* Prosecution under Section 2 HSWA - oil rig diver trapped underwater.

*R v ESB Hotels Ltd. (2005) EWCA Crim 132:* Double fatality following fire at Moat House Hotel;

*HSE v British Polythene plc:* Prosecutions under Ss 3&4 HSWA; production worker dragged into pallet-wrapping machine

*HSE v Rainbow Waste Management Ltd:* Management & PUWER regulatory prosecutions; fatal accident to Bobcat driver

*HSE v Metal Innovations plc:* Prosecution under HSWA & Management Regulations following mining fatality during construction work at National Mining Museum.

*Care Quality Commission v Mother Redcaps Care Homes Ltd:* Management of Medicines & Registered Manager charges brought under Health & Social Care Act 2008

*HSE v Worsley Dry Dock Ltd:* Prosecution under S2 HSWA following fatality during boat repairs at dry dock.

*HSE v. George Wimpey (NE) Ltd:* Prosecution under Section 2 HSWA following fatal accident caused by reversing lorry.

*Greater Manchester Fire & Civil Defence Authority v. ESB Hotels Ltd [2005] EWCA Crim 132:* Prosecution under Section 7 Fire Precautions Act following fatal fire at Moat House Hotel in Bolton

*R v. T H Clements Ltd:* Carbon monoxide poisoning of farm workers.

*HSE v. Realty Estates Ltd:* Sprayed limpet asbestos insulation in a slaughter house.

*GM Fire & Civil Defence Authority v. Salford MBC:* Fire in primary school; prosecution under Fire Precautions Act

*HSE v. PTE plc:* Criminal prosecution following collapse of steel beam during construction of gymnasium.

*HSE v. GMI Construction plc:* Prosecution under Section 2; overturned dumper truck; catastrophic injury.

*HSE v. Grinne (UK) Ltd:* Prosecution under Section 3 HSWA and PUWER 1998; severe injury to farm worker - arm drawn into unguarded rotavator.

*HSE v. Foster Farms:* Prosecution under Section 2; catastrophic injury to farm worker falling through skylight.

*HSE v. Grays Construction:* Prosecution under Section 3; fall from scaffolding resulting in brain injury.

*HSE v. Longslow Food Group Ltd:* Prosecution under Section 3 following accident caused by failure to implement traffic management measures.

*Environment Agency v. Realty Estates:* Section 33 EPA prosecution; dumping controlled waste.

*Environment Agency v. Haven plc:* Section 33 EPA prosecution; contamination of river.

*Macclesfield MBC v. S:* Control of Asbestos Regulations; dutyholder offences (successfully defended on an abuse of process argument).

*Gloucester BC v. Log Book Loans:* Misleading advertising; prosecution under 2004 Advertisement Regulations.

*North Lincolnshire BC v. HPAS Ltd:* Unfair commercial practices; door-stepping by sales canvassers; prosecution under 2008 Regulations.

*HSE v. Haven plc:* Food Safety Act prosecutions (sell by dates).

*Corrie v. Secretary of State for Home Department:* Police Regulations 2003; construction of pay provisions for temporary Police Officers.