

# 12

King's Bench Walk

## Andrew Hogarth QC

Call: 1974

Silk: 2003

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### AREAS OF EXPERTISE

Industrial Disease, Personal Injury, Employment & Discrimination, Inquests, Abuse, Mediation, ECITB levy claims, Arbitration, International & Travel, Aviation

### JUDICIAL APPOINTMENTS

Fee-paid employment judge 1998-2010

Andrew Hogarth QC has a strong reputation both in the field of personal injury and employment law with a particular interest in industrial disease claims. His reputation is at its strongest in cases requiring experience in both employment and personal injury law. He is recommended as a leading PI and employment silk in the current editions of the major legal directories. He was invited to write the editorial introduction to the personal injury section of the 2014 and 2015 editions of Chambers Directory.

Chambers & Partners 2015 describes Andrew as "Very clever, impressive on his feet, and good at dealing with and communicating with clients." The 2015 edition of the Legal 500 said he 'Couples his employment expertise with an esteemed reputation in personal injury'.

Previously Andrew has been described for giving "measured and reasonable advice" on personal injury, employment law and industrial disease matters" and as "a barrister capable of digesting a vast amount of information and distilling it into a few words." Instructing solicitors say that, despite his "fantastic knowledge and enterprise," Hogarth "doesn't have an inflated personality." and "knowledgeable, approachable and professional."

In 2014 he brought to a successful conclusion the long-running case of Kernohan v Attorney General of the Cayman Islands in which he acted for the dismissed Chief of Police in his claim for wrongful dismissal and misfeasance in public office against the AG and a former Governor of the Islands.

From 1997 to 2010 he was a part-time Employment Tribunal Chairman. He is a CEDR-accredited mediator and mediates in employment law and personal injury cases. Andrew Hogarth QC was head of Chambers between 2005 and 2015.

### Personal Injury

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A leading PI practitioner ranked in Band 1 by Chambers 2016. His practice covers a number of specialized fields

including stress claims, psychiatric injury and secondary victim claims, asbestos disease litigation and the recent round of cases in which the correct discount rate is for consideration.

## Qualifications

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M.A.Trinity College, Cambridge.

## Appointments

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Fee-paid employment judge 1998-2010

Head of Chambers 2005-15

## Directories

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Chambers 2019: "He is always impressive, with a prompt turnaround and great knowledge of the most complicated areas of personal injury practice." "He has both old-school charisma and a modern-day savviness."

Legal 500 2018: "He is very thorough and has a keen mind that is goal driven."

Legal 500 2018: "Precision and clarity of paperwork and calculation of losses are particular strengths."

Chambers 2016: "Highly recommended for his far-reaching knowledge of occupational stress and severe injury claims. His substantial background in employment law is a particular asset on claims that fall under employer's liability.

Strengths: "He is very clear and straightforward in his advice." "He is an authority on stress at work cases and he is extraordinary to work with."

Legal 500: "He brings gravitas to the table, and judges warm to his persona."

## Publications

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Contributor *Asbestos: Law & Litigation*, Sweet & Maxwell, 2019 (Chapter; Causation)

Contributor of chapter on industrial disease in the last three editions of Munkman's *Employers' Liability*.

Author *Asbestos Disease litigation*. Butterworths personal injury litigation.

## Cases

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*Thomson v Thomson* (Bermuda Court of Appeal 2016). Acted on behalf of the defendants in a personal injury action in which the court decided to use a negative discount rate.

*Woodward v Secretary of State for Energy and Climate Change* [2015] EWHC 3604 (QB). Another low exposure asbestos claim.

*Sheppard v CW Duke and Sons Ltd* [2015] EWHC 1043 (QB). For the winning defendant in a low exposure asbestos claim.

*In Burnett v British Telecommunications plc* [2015] EWHC 3893 (QB) Minimum latency periods in mesothelioma claims.

*Yates v Chin* [Court of Appeal Cayman Islands.] [2014] Acted on behalf of the appellant defendants in a personal injury appeal in which the Court declined to adopt a zero percent multiplier.

*Kernohan v Attorney General of the Cayman Islands and another* [2014] Instructed on behalf of the dismissed Chief of

Police in his claim against the AG and a former Governor of the Islands for wrongful dismissal and misfeasance in public office.

*Atkinson v Secretary of State for the Department of Energy and Climate Change* [2014] EWHC 3773

*Wood v Ministry of Defence* [2011] EWCA Civ 792. Exposure of a serviceman to paint fumes and the use of medical literature to establish causation.

*Brighton and Hove Bus & Coach Company Limited v S Brooks, M Tadrous & N Tadrous and others* [2011] EWHC 2504  
A claim for contempt of court made against three defendants in relation to representations and statements made in support of a personal injury claim by a member of their family.

*Owens v Noble* Court of Appeal (Civil Division), [2010] 1 W.L.R 2491 [2010] P.I.Q.R. Q2. Setting aside damages awards following discovery of fresh evidence showing fraud.

*Dowson v Chief Constable of Northumbria* [2010] EWHC 2612 Stress at work claim by 5 police officers alleging harassment under the 1997 Act.

*British Telecommunications Plc v Royal Mail Group Ltd* Court of Appeal (Civil Division) [2010] EWCA Civ 974. Indemnity against asbestos disease liabilities.

*Rayment v Ministry of Defence* [2010] EWHC 218 (QB); [2010] I.R.L.R. Termination of employment as an act of harassment.

*Drew v Whitbread Plc* Court of Appeal (Civil Division) [2010] 1 W.L.R. 1725; [2010] C.P. Rep.22; [2010] 2 Costs L.R. 213; [2010] P.I.Q.R. P11. Costs – judge's discretion.

*Veakins v Kier Islington Ltd* Court of Appeal (Civil Division). [2010] I.R.L.R. 132. What constitutes harassment under the Protection from Harassment Act 1997..

*Bodden v Solomon* [2008] CILR 385 (Grand Court of Cayman Islands) Largest Personal Injury award in the Cayman Islands.

*Bristol City Council v Deadman* (Court of Appeal) [2007] IRLR 888, [2007] All ED (D) 434 (Jul). Breach of contract leading to a stress at work claim.

*Sayers v Cambridgeshire County Council* [2007] IRLR 29. Breach of statutory duty and work related stress claims.

386. *D. Robinson-Steele v R. D. Retail Services Ltd*, *Michael Jason Clarke v Frank Staddon Ltd and J. C. Caulfield and Others v Hanson Clay Products Ltd* (C-257/04). (C-131/04) [2006] IRLR 386. European Court of Justice. Lawfulness of rolled up holiday pay.

*Stoke on Trent City Council v Walley* (Court of Appeal) [2006] All ER (D) 483 (Jul) [2006] 4 All ER 1230. Resiling from admissions.

*Burgess v Plymouth City Council* [Court of Appeal] [2006] I.C.R. 579 – Health and safety – Employer's liability – Workplace obstruction

*Hartman v South Essex Mental Healthcare NHS Trust* [2005] ICR 782, [2005] IRLR 293 CA – Stress at work – confidentiality.

*Barber v Somerset County Council* [2004] ICR 457, [2004] IRLR 475 HL – Stress at work.

*Cooke v United Bristol Healthcare NHS Trust and others* (2004) PIQR Q10 – Assessment of damages for the cost of

future care-what allowance to be made for cost rising more steeply than RPI.

*Fairchild v Glenhaven & Ors* [2002] 3 WLR 89 – Causation in mesothelioma claims.

*Wallerby Holiday Homes v UCATT* (Gray J 7.11.03) Right to strike.

*Hatton v Sutherland* [2002] 2 All ER 1 – Stress at work.

*Byrne Bros v Baird* [2002] ICR 667 – Definition of workers.

*Bernadone v Pall Mall Services* [2000] 3 All ER 544 – Transfer of tortious liability by virtue of the TUPE Regulations.

*Edwards v. Peter Black Healthcare (Southern) Ltd* [Court of Appeal] [2000] I.C.R. 120. Practice. Striking out claims.

*Clark v BET Plc* [1997] IRLR 348 – Measure of damages in wrongful dismissal.

*Page v Smith (No.1)* [1996] 1 AC 155 – Leading modern case on the award of damages for psychiatric harm.

*Page v Smith (No.2)* [1996] 1 WLR 855 – Causation in tort in the context of Chronic Fatigue Syndrome.