

# 12

King's Bench Walk

## Michael Rawlinson QC

Call: 1991

Silk: 2009

rawlinson@12kbw.co.uk



### AREAS OF EXPERTISE

Industrial Disease, Product Liability, Inquests, Personal Injury, Abuse, International & Travel, Arbitration, Aviation, Group Litigation, Military Claims, Sport

Michael's principal areas of practice are claims in which exposure to noxious substances are alleged to have led to long-term adverse health effects. He is instructed by victims, expositors and their insurers.

Since such claims often involve the development of cancer many years after exposure, much of his instruction requires the marshaling and presentation of very large quantities of historical documents evidencing or negating either the fact of exposure or the guilty knowledge relating to it.

He works extensively with lawyers from other common law jurisdictions. Under this general description fall specific areas of litigation: occupational exposure to asbestos/other carcinogens and exposure to manufactured products made available to the public.

In addition he accepts a significant number of instructions each year on behalf of service personnel (or their survivors) where injury arises from service life. He is often instructed to appear at the initial fact-finding Inquest and thereafter within subsequent civil litigation. He is regularly instructed in respect of air crashes (fixed and rotary wing) and other aspects of aviation health and safety. More generally, Michael is instructed by insurers where a wider strategic interest arises out of specific litigation. He considers to be a core part of his work to regularly give talks seeking to signpost where the law of causation appears to be heading. He accepts instructions from 'both sides' in catastrophic head and spinal injury.

Notwithstanding the advent of 0% CFA/QOCS claims he is not risk averse where legally interesting or otherwise significant issues arise. Recent work has required him to provide advocacy arising from such diverse topics as the nature of the UK's level of control over Sovereign Base Areas in Cyprus, the system of International aviation regulation operating within the UK, the alleged effect of environmental exposure to organophosphates and the historical behaviour of manufacturers of asbestos products within the UK market.

When instructed to lead a team, he always tries to foster a collegiate approach to the litigation because he firmly believes that helps the entire team to provide maximum value to the client.

### Industrial Disease

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Michael is regularly instructed in litigation aimed at resolving 'generic' issues, the value of which stretches across very large numbers of cases with combined values exceeding beyond £100m (and in the case of Plaques and *Fairchild* running into £Billions).

- *Fairchild v Glenhaven Funeral Services Ltd* [2002] 1 WLR 1052 (HL) (also for academic commentary see (2003) MLR (66(2)), 277-284
- *Grieves v FT Everard & Sons Ltd* [2008] 1 A.C. 281 (HL) (2009) MLR 72(6) (The Pleural Plaque test litigation)
- *Rice & Thompson v Sec. State For Trade & Industry* [2007] I.C.R. 1469 (CA) then remitted back to the High Court and further reported at [2008] EWHC 3216 (QB) (Academic comment (2007) JPI Law 3, C150-152)
- *Carter v Freeman Group plc* [2008] EWHC 3576 (QB) & *Bateman & Danks Holdings* [2009] EWHC 2082 (QB); *Preston v Hurst* [2012] EWHC 870 (QB)
- Series of appeals in respect of mesothelioma. Carter is still cited in the White Book (Part 24)
- *Cox v Transco* [2006] EWCA Civ 127

## Product Liability

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Michael regularly undertake cases for both victims and insurers. Recent examples include:

- the 'toxic sofa' litigation where he initially advised the importers of sofas from the Far East who were alleged to have caused large numbers of customers to develop a dermatitic reaction arising from the insertion of deliquescent sachets into the frame.
- Various Insurers v Cape International Holdings: Michael acts for a number of insurers claiming contribution from CIH in respect of asbestos insulation boards sold by CIH and their subsidiaries to their insured (and subsequently supplied for use to the insured's employees) in the period 1955-1980
- 'Aerotoxicity' – Michael acts on behalf of a number of airline employees who claim exposure to low and higher levels of organophosphates have occurred in the course of their employment aloft. This has happened owing to the design and operation of 'bleed air' from the engine into the aircraft cabin

## Inquests

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The majority of Michael's inquests (albeit not all) are deaths where the MOD is another interested party. In all Inquests he is instructed by the victims' respective families. Recent examples have included

- 'The Nimrod Inquest'
- *This Inquest arose out of the Nimrod crash in Afghanistan in which the Armed Forces sustained the largest loss of life in a single incident since the Falklands conflict. I acted for all but two of the families.* (<http://news.bbc.co.uk/1/hi/uk/7932791.stm>)
- 'The Snatch Land Rover Inquest'
- *This Inquest arose from the death of 4 service personnel (including the first female soldier to die on active service) travelling in a Snatch Land Rover in Helmand when it drove over an IED planted by the Taliban. The Coroner's comments were the subject of the (then) Leader of the Opposition's questions at the next day's PMQs* (<http://www.publications.parliament.uk/pa/cm200910/cmhansrd/cm100310/debtext/100310-0002.htm#10031061000011>) and thereafter Indeed in September 2010 the Government announced the replacement of the Snatch with press coverage highlighting the role of the Coroner in this respect – see <http://www.bbc.co.uk/news/uk-11388724>
- 'The Lynx' Inquest – *The Inquest arose from the death of 5 service personnel in a 'Lynx' helicopter in Afghanistan on 26.04.14. Michael acted for the aircraft commander whom the MOD sought to criticize as being partly to blame for the crash. The subsequent civil litigation is ongoing.*

## Personal Injury

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*A v MOD* – man rendered incapacitated by being struck by negligently discharged Rocket Propelled Grenade. Settled for c£4m

## Abuse

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Michael accept a small number of instructions each year on behalf of victims and insurers where significant issues arise out of either the scope of the duty of care or causation. Recent instructing parties in cases raising such issues have included local authorities and transport companies.

## International & Travel

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Michael is regularly instructed by overseas insurers and much of his litigation contains elements of foreign jurisdictional issues.

## Aviation

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Michael works extensively with lawyers from other common law jurisdictions. Under this general description fall specific areas of litigation, occupational exposure to asbestos/other carcinogens and exposure to manufactured products made available to the public.

He is frequently instructed by overseas insurers and much of his litigation contains elements of foreign jurisdictional issues.

Michael is regularly instructed in respect of air crashes (fixed and rotary wing) and other aspects of aviation health and safety. More generally, Michael is instructed by insurers where a wider strategic interest arises out of specific litigation.

Experience includes;

- Nimrod Inquest/Claim
- Lynx Inquest
- Maydown helicopter crash, inquest/claim
- Crash between two Tornados on a training mission in Scotland
- Group action for traumatic injury, caused by rapid decent of an aircraft.
- Aerotoxicity claims, arising from exposure to low and higher levels of organophosphates from the engine, into the aircraft cabin.

## Qualifications & Awards

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University: Manchester LLB (2:1) (Harry Street Tort Prize, Lawson Prize and Dauntsey Scholarship) 1991

Degree: Inner Temple (Major scholarship)

Panels: Junior Counsel to the Crown (Provincial Panel) (2003 – 2007; 2007 – 2009)

## Appointments & Memberships

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Assistant Commissioner for Boundary Commission for England (2011-12)

Northern Circuit Medical Law Association, PIBA, Northern and North Eastern Circuits

## Directories

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**Legal 500 2018:** “He has a quiet confidence which coroners respect and are persuaded by.”

**Legal 500 2018:** “Has the ability to condense significantly complicated material into bite-size and digestible chunks for

the lay client.”

**Legal 500 2018:** “A brilliant advocate.”

**Chambers UK 2016:** “He always displays an encyclopaedic knowledge of his subject matter and excellent client care.” “An exceptional legal mind; his advice is always thoroughly thought out.” “On his feet he is a terrier.”

**Chambers UK 2015:** “No one has a better knowledge of asbestos disease litigation over the last 30 years.” “He is uncompromising, and thrives on difficult cases.”

**Legal 500 2015:** “A leading light in the world of disease litigation”

**Chambers UK 2014:** Michael Rawlinson QC is “very bright and personable, with an enquiring mind. He should be the first phone call when something novel crops up.” “He’s excellent – he has lots of experience in the mesothelioma area. He’s simply superb.”

**Legal 500 2014:** “He has an instant and encyclopaedic recall for case law”.

**Chambers UK 2013:** Michael Rawlinson QC is “a very reliable and effective advocate” whose practice “is well balanced between claimant and defendant work.” His caseload encompasses a broad range of personal injury claims, and he is especially highly regarded for his expertise in spinal injury and brain injury matters. He also has extensive experience of handling industrial disease claims.”

**Legal 500 2012:** Michael Rawlinson QC is “recommended for spinal and brain injury cases”.

**Chambers UK 2012:** “The immensely talented, well-prepared and persuasive “Michael Rawlinson QC “never shies away from tough and complex cases.”

**Legal 500 2011:** “one of the few counsel who is really willing to fight very difficult cases”

**Chambers UK 2011:** Michael Rawlinson QC has a national reputation on industrial disease matters, especially asbestos-related claims, and also handles a wide variety of other personal injury cases. Instructing solicitors appreciate that he “cuts through all of the issues to get to the main point,” is “exceptionally fluent” and “has an encyclopaedic mind as far as case law is concerned.”

**Legal 500 2010:** “has rapidly established his silk practice in high-value disease and injury claims...a standout practitioner in a strong group”

**Chambers UK 2010:** Michael Rawlinson QC of Kings Chambers wins plaudits for his specialist knowledge of occupational disease cases, especially those involving exposure to asbestos. Interviewees note that “he is always well prepared, extremely thorough in his analysis and a pleasure to work with.” He is widely felt to have a “peerless understanding of his area of specialisation.”

**Chambers UK 2009:** “Incredibly good on his feet and intellectually great,” Kings Chambers’ Michael Rawlinson has a strong background in industrial disease and has undertaken work for and against the Ministry of Defence.

**Legal 500 2008:** “has been acting for the majority of the airmen’s families in the high-profile Nimrod Crash Inquest ”

**Legal 500 2007:** “Michael Rawlinson is acting in the headline Pleural Plaques Test Litigation which has now reached the House of Lords”

**Chambers & Partners 2007:** “Michael Rawlinson at Kings Chambers is another new addition. Widely thought of as a “truly brilliant barrister,” he is commended for his “client-friendly manner and first-rate advice.”

## Publications

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General Editor *Asbestos: Law & Litigation*, Sweet & Maxwell, 2019