



Peter Houghton



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"Peter is hardworking and studious. He has an excellent eye for detail and his drafting skills are superb. Takes on work at short notice that others might fear to touch."
(Legal 500, 2021)



Peter is an experienced junior with a thriving practice focussing on group litigation, personal injury claims, industrial disease matters and associated areas of work. He has appeared in several leading cases, most recently as Junior Counsel to Michael Kent QC in the Supreme Court matter of *Dryden and ors v. Johnson Matthey Plc, on behalf of the Respondent*. He has a strong reputation in his chosen fields of practice.

Peter appreciates the importance of teamwork and communication to bring a case to a successful conclusion. Thus he is happy to advise informally by telephone or email as a case progresses. He also frequently travels to meet clients in conference or undertake site visits.

He appears on behalf of defendants and claimants and is happy to consider instructions on a CFA basis.

Peter regularly presents at Chambers and in-house seminars across the country. Recent talks have covered: special damages in fatal asbestos claims; developments in noise-induced hearing loss (NIHL), cancer and other disease claims; and QOCS.

Group Litigation

Peter is currently representing the defendants in two large and high-profile pieces of group litigation which are ongoing:

- *Hutson and ors v. Tata Steel*, the British Steel Coke Oven Workers' Litigation: hundreds of former workers at British Steel coke oven sites around the country are alleging exposure to harmful emissions leading to a variety of conditions including lung cancer, bladder cancer, skin cancer, COPD and chronic bronchitis. Peter, led by David Platt QC, has acted for the defendants for several years, advising on matters of generic strategy and appearing at the hearing of various interim applications both led and unled (e.g. those reported at [2018] EWHC 107 (QB); [2019] EWHC 143 (QB) and [2019] EWHC 1608 (QB)).
- *Turner and ors v. Ministry of Defence*, the MOD NIHL Litigation: thousands of current and former servicemen and women are alleging damage to their hearing from noise exposure. Many of the claims advanced are of high value. Peter, led by David Platt QC, has been advising on various generic issues but also advising and representing the defendant in individual cases, e.g. *Marc Smith*

(claimant discontinued shortly before trial in light of defendant's strong causation defence) and *Mark Biggans* (claimant's application to rely on evidence of additional medical expert dismissed).

In addition, Peter represented the defendant airline in one of the first contests in the Aerotoxicity Litigation – in which numerous current and former pilots and cabin crew are alleging neurological damage from exposure to harmful aeroplane engine emissions – *Hinton v. Thomas Cook*, where he successfully resisted the majority of the Claimant's application for pre-action disclosure and secured a costs order in the airline's favour.

Personal Injury

Peter's practice, which is exclusively in multi-track claims, covers the following types of case: road traffic accidents; accidents at work; slips and trips; highways claims; civil assaults; casualty fraud; and motor fraud.

He specialises in claims involving: head/brain injury (including post-concussion syndrome); chronic pain conditions and similar syndromes; serious orthopaedic injuries.

Representative examples of his recent work involving head/brain injury (including post-concussion syndrome) are as follows:

For Defendants:

- Acting for a patient transport service sued by an elderly man whom the service had failed to collect and transport to Hospital. He suffered a fall and subsequently was diagnosed with a subdural haematoma for which he underwent emergency neurosurgery. Following Peter's involvement, and particularly his input into the expert medical evidence, the claim was discontinued on the basis that the claimant could not prove that his subdural haematoma was caused or aggravated by the defendant's admitted breach of duty.
- Acting for a motorist who had knocked down a pedestrian. The claimant was a professor of linguistics with unusual earnings patterns. It was alleged that he suffered a significant brain injury although he performed well on cognitive testing. The claim settled at JSM for much less than its pleaded value.
- Acting for a construction firm whose employee (a man in his 40s) was injured when struck on the head by a falling pallet. The expert evidence in the fields of neurology, neuropsychology and neuropsychiatry in particular was exceptionally lengthy and complex. The defendant's case was that the claimant had developed a somatic symptom disorder rather than suffering significant effects from organic brain injury. The claim settled at JSM for a small amount of its pleaded value.
- Acting for a bar at which a customer (a woman in her early 30s) had been injured by a falling lightshade. She alleged a traumatic brain injury, headaches, reduced capacity to pursue her studies and work etc. Peter marshalled expert evidence from a neurologist and neuropsychologist to refute the possibility of brain injury and the case settled for about 20% of its pleaded value.
- Acting for an airline sued by a passenger (a woman in her 20s) who was struck on the head by luggage falling from an overhead locker and now alleges ongoing symptoms of diminished concentration, inefficient memory etc. despite no apparent brain damage. The case raises interesting issues on the recoverability of damages for conditions such as post-concussion syndrome under the Montreal Convention.

- Acting for a motorist who injured a baby in a car accident more than 10 years ago. Traumatic brain injury and permanent cognitive impairment are alleged but the defendant's case based on its medical evidence is that any discrepancies on neuropsychological testing are natural fluctuations in cognitive strengths and weaknesses during the child's development.
- Acting for a taxi driver who caused a severe traumatic brain injury to a young woman in her 20s. Despite this she made a good recovery and continued pursuing her university studies. She performed well on cognitive testing but was diagnosed by neuropsychologists with 'frontal lobe paradox'. The case settled satisfactorily after exchange of expert evidence.
- Acting for a landowner sued by a neighbour who was struck on the head by a branch falling from the landowner's tree and suffered a brain injury. Following Peter's involvement in drafting correspondence, applying successfully to amend the Defence and negotiating on behalf of the client, the claim was withdrawn weeks before trial on satisfactory terms.

For Claimants:

- Acting for a man in his 40s who suffered a serious closed head injury and brain damage in a road traffic accident. Because of the complicated insurance position proceedings were issued against two motor insurers and the MIB. The Claimant was able to return to work within a few months of the accident. The case settled at JSM for £180,000.
- Acting for a man in his 50s who suffered a head injury and mild brain injury plus post-concussion syndrome and a constellation of unusual symptoms. Despite difficult neurological, neuropsychological and psychiatric evidence, Peter was able to settle the claim for £150,000.
- Acting for a woman in her 30s who suffered a head injury when struck by a piece of work equipment on a production line. There are ongoing disputes as to the severity of the head injury, the extent of any brain injury, the role of psychological factors in her presentation etc. The claimant has been unable to work for several years.
- Acting for a woman in her 60s who suffered a head injury and mild brain injury following a fall at work. Again, disputes as to the severity of her head injury, the severity of her brain injury, the extent to which her symptoms are psychologically-mediate etc. are ongoing.

Examples of other work are as follows:

For Defendants:

- Acting for an insurer in a high-value (£250K+) RTA claim. The first defendant driver had disappeared. Peter succeeded, after a contested hearing before HHJ Saggerson, in obtaining a declaration of no jurisdiction and the striking out of the claim on grounds of defective service on first defendant driver.
- Acting for a landowner in a high-value (£1.25m+) occupiers' liability claim. Insurers had admitted liability pre-issue. Peter successfully persuaded the Court to permit his client to resile from the pre-action admission with no adverse costs order against it. Shortly thereafter the claim was withdrawn.
- Acting in a high-value (£1.28m+) quantum-only claim in which the claimant suffered severe pelvic and lower limb injuries. Besides loss of earnings, pension and care, claims were made for accommodation, adapted vehicles, case management etc. In the run-up to a remote JSM Peter undertook conferences with three experts (orthopaedics, pain management, care) which resulted in considerable refocusing of their evidence. The orthopaedic evidence in particular was complicated, turning on statistics about revision rates for types of hip-replacement prostheses. He represented his client at the JSM and secured settlement for just £305,000, less than 25% of pleaded value.
- Acting in a high-value (£1.1m+) quantum-only claim in which a young man suffered serious pelvic

injuries. Peter had considerable input, via conferences, into expert orthopaedic evidence involving questions of: prognosis for the hip and need for hip-replacement surgery; impact of a non-accident-related ankle injury. Representing the defendant at hearings: securing disclosure of medical evidence the claimant had gathered but not disclosed; resisting applications for expert vocational and employment evidence; resisting application to rely on various witness statements; preventing the claimant relying on certain medical evidence. Peter represented his client at JSM and negotiated settlement for only £290,000, approximately 25% of pleaded value.

For Claimants:

- Acting for a construction worker in his 30s who had one artificial eye since childhood and suffered a severe penetrating injury to his other eye in a building site accident. Led by Richard Lynagh QC. The case settled at a JSM for £1.4m.
- Acting for a woman in her 30s who was deliberately run over and suffered major pelvic injuries. She developed chronic pain, urinary difficulties and psychological injuries. The case settled at JSM for £700,000.
- Representing a man in his 40s with severe learning difficulties who broke his hip at a swimming pool when left unattended by his carers. The case was settled for £200,000.
- Acting for a professional man in his 40s in a high-value claim arising out a severe knee injury sustained in a road traffic accident (settled for £200,000 days before trial).

In the sporting arena, Peter has experience of claims from gymnastics lessons, numerous cycling accidents and It's-a-Knockout activity days.

In addition, Peter has experience of CRU appeals and CICA claims.

Selected Cases

- *Furnell v. Flaherty t/a Godstone Farm* [2013] EWHC 377 (QB) (led by Jonathan Waite QC) – following the outbreak of E.coli at Godstone Farm. The case concerned whether the Health Protection Agency or the local council's environmental health officers owed a duty of care to visitors to the farm in tort.
- *John Ruskin College v. Harley* [2013] EWHC 3714 (QB) – recovery of money mistakenly paid out of Court to claimant.

Industrial Disease

Peter specialises in industrial disease work, especially asbestos-related claims, NIHL, HAVS, occupational cancers, and WRULDs and other cumulative injuries. His disease work is predominantly for Defendants (although he does act for Claimants also). Peter is regularly instructed by leading Defendant firms and works for many of the foremost insurers.

Peter has considerable experience in the field of asbestos litigation. He prides himself on thorough preparation, detailed advice, confident advocacy and sound tactics. He has appeared in major test litigation, but in addition a large part of his practice consists of appearing at 'show cause' and assessment-of-damages hearings. He understands the importance of swift counter-schedules and advices on quantum/settlement that are often needed in this type of litigation.

Recent interesting cases in which he has been involved include:

- *Dryden and ors v. Johnson Matthey Plc* [2018] UKSC 18, the leading case on actionable injury, concerning employees who had become sensitised to platinum salts (led Michael Kent QC).
- *Heneghan v. Manchester Dry Docks and ors* [2016] EWCA Civ 86: junior counsel (led by David Platt QC) for the defendants in this leading lung cancer case. The claimant's appeal was successfully resisted in the Court of Appeal.
- *The Employers' Liability Policy Trigger Litigation*. Peter acted for Excess Insurance Co. Ltd, appearing at the trial before Burton J, *Durham v. BAI (Run Off) Ltd* [2009] 2 All ER 26 (QBD). He also appeared in Excess's successful appeal to the Court of Appeal, [2011] 1 All ER 605 (CA). Peter was instructed on the appeal to the Supreme Court in December 2011, [2012] UKSC 14. He was second junior for Excess (with Colin Edelman QC and David Platt QC).
- Two cases where mesothelioma victims from the medical profession bring claims based on 'passing' exposure to asbestos from lagged pipework in the 1970s in underground tunnels beneath NHS Hospitals. The claims are being defended and are ongoing.
- A claim arising from alleged exposure in a power station in the 1950s, following the Supreme Court's decision in *McDonald*. The 'show cause' hearing was successfully defended, *McDonald* being distinguished.
- Acting for a medium-sized building firm in its defence of a mesothelioma claim by a former employee exposed to modest amounts of asbestos from sawing asbestos-cement products in the late 1960s and early 1970s. The claim is ongoing.
- Acting in a 'contaminated overalls' living mesothelioma case. The case involved the issue of the extent to which unearned income from assets that would subsist after death could be included in a 'lost years' claim. The matter settled for £90,000, against a schedule of over £300,000.
- Appearing in a mesothelioma case concerning the scope of the 1969 Asbestos Regulations given that the claimant was (arguably) an independent contractor rather than an employee. The 'show cause' hearing was defended successfully and the claim is ongoing.
- Advising in a case concerning the circumstances in which a Court can make a 'Haxton award'.
- Advising on a living mesothelioma claimant's attempt to recover the cost of private medical treatment funded by a health insurer where the claimant himself was not party to the contract of insurance. Case settled.
- Assisting leading UK companies to prepare generic materials to assist in the defence of future asbestos-related disease claims.
- Acting in various insurance disputes stemming from asbestos-related disease claims: see the 'Insurance' section of Peter's profile on his webpage.
- Acting for a defendant sued by a former employee who alleged that he had developed neurological injury (Parkinson's Disease) as a result of using solvents in the 1970s-1980s.

Selected Cases

- *Durham v. BAI (Run Off) Ltd (the Employers' Liability Policy Trigger Litigation)*:
 - [2008] EWHC 2692 (QB)
 - [2010] EWCA Civ 1096
 - [2012] UKSC 14
- *Heneghan v. Manchester Dry Docks Ltd and ors* [2016] EWCA Civ 86
- *Dryden and ors v. Johnson Matthey Plc* [2018] UKSC 18



Product Liability

Peter is well-versed in claims involving products that have caused (or are said to have caused) injury or damage to property. He is comfortable marshalling the often-complex expert evidence and legal principles encountered in this field of work.

Recent work includes:

- Representing a claimant injured when a nine-month-old car (which he had bought new) crashed. The claimant's case was that the vehicle suffered from an intermittent brake servo defect that could, and did, cause the brakes suddenly and unexpectedly to lose power. Peter was involved from an early stage. The claim was fiercely resisted by a leading national car dealership and a major international motor manufacturer. Eventually the claim settled for almost all its full value a few days before trial.
- Acting for a claimant injured when a ladder he had only just purchased new from a leading hardware store collapsed. A key issue was whether the instructions on the ladder, which the claimant had installed incorrectly, were adequate. The claim settled satisfactorily.
- Acting for a packaging manufacturer accused of providing defective packaging to a food processing company which was said to have resulted in spoiled food and a large loss of profits.
- Acting for a national retailer said to have supplied a defective halogen heater which caused a fire and large-scale property damage.
- Acting for a well-known manufacturer of electronic and electrical equipment sued as a result of a fire said to have caused by a defective microwave. The case raised issues of the correct identity of the parties to it.

Inquests & Public Inquiries

Peter has many years of experience in the coronial jurisdiction. He appears for families of the deceased and other interested parties (such as doctors, drivers, care homes and employers).

Peter recognises how vital it is to prepare thoroughly for inquests and to handle witnesses sensitively at the hearings.

Recent inquest work includes:

- Representing the former employer of a man who died from what his treating clinicians diagnosed as asbestosis. A civil claim had been intimated by the deceased during his lifetime. The issue was whether the deceased had in fact suffered from asbestosis or idiopathic pulmonary fibrosis. Peter secured a conclusion of natural causes.
- Representing a care home at which a resident fell whilst being transferred using a hoist. The matter was complicated by the facts that the carers who were hoisting the resident had been dismissed by Peter's client before the inquest and that the Coroner had obtained expert evidence from the local county social services department as to hoisting. Key issues were whether the carers had been adequately trained, whether the hoist had malfunctioned or had never been properly secured, whether the hoist and sling were appropriate for the resident, the adequacy of the care home's risk assessments and whether the resident's room (which was of a standard size) was too small to

accommodate the required hoist. Many of these had significant ramifications for the care home. Following the evidence, as part of which Peter cross-examined the council expert, the Coroner recorded a conclusion of accidental death. He decided that the carers had been properly trained, risk assessments were adequate, the hoist and sling were appropriate and the room was not too small.

- Representing the motor insurers of a vehicle in which a young woman died following alleged racing between several cars late at night on country roads. The said vehicle was being driven by a man who was neither its owner nor insured to drive it or any other vehicle. Another passenger in that vehicle was very seriously injured in the fatal accident. Peter established during cross-examination that this passenger knew that the driver was not insured to the vehicle (or any other) and further that he knew the driver had never even taken a driving test. This had important consequences for any potential civil claims.
- Representing a care home at which an elderly resident had wandered out of her room at night and been found dead on a flight of stairs having fallen. Key issues included the adequacy of risk assessments for the resident, whether she should have been identified as being at risk of nocturnal wandering and/or falling, whether she should have been housed on the home's ground floor and whether nightly checks on her were sufficient and had been done properly. These were resolved to the home's satisfaction. The Coroner reached a conclusion of accidental death.

Insurance & Reinsurance

Peter's insurance practice stems chiefly from his work in personal injury and industrial disease litigation. He has advised on and litigated policy coverage issues.

He was second junior counsel (led by Colin Edelman QC and [David Platt QC](#)) for Excess Insurance in the *Employers' Liability Policy Trigger Litigation* in the QBD (eight week trial before Burton J), in the Court of Appeal and ultimately in the Supreme Court.

Recent work includes:

- Acting for one historic EL insurer of a dissolved company which wrongfully exposed a former employee to asbestos, causing him to develop mesothelioma. Peter's client paid the employee's claim at a time when no other insurance cover for the company could be traced. Some years subsequently other insurers, who had uploaded their details onto ELTO, were traced and pursued for contributions under the equitable principle in *IEGL v. Zurich*. One has contributed but the other refuses to do so alleging that the equitable claim for contribution is time barred. The claim between insurers will determine the limitation period applicable to an equitable claim for contribution as envisaged by the majority in *IEGL*.
- Acting for a PL insurer in a fatal mesothelioma case which concerns the impact of the *Trigger Litigation* on the '10 year rule' in *Bolton MBC v. MMI*. The claim is worth approximately £1m and is ongoing. There is a dispute between PL insurers as to whose policy responds.
- Acting for an EL insurer in a fatal mesothelioma claim in which indemnity was successfully declined on the grounds that the deceased was contractor and so not a 'person under a contract of service' within the terms of the policy.
- Acting for the PL insurer of a nationwide retailer, one of whose employees (whilst off duty but visiting the workplace) was very seriously assaulted by another. The claim raises interesting issues of whether the EL or PL policy should respond.



- Advising the beneficiaries of certain accidental death benefit insurance policies where the policy holder had died but the insurers had refused to pay out under the policies. The case turned on issues of proximate cause and interpretation of 'accidental bodily injury'. Following Peter's involvement the insurers paid out.
- Advising a leading insurer as to whether certain claims fell under an EL or a group motor policy both issued to a national company.

Selected Cases

- *Durham v. BAI (Run Off) Ltd (the Employers' Liability Policy Trigger Litigation)*:
 - [2008] EWHC 2692 (QB)
 - [2010] EWCA Civ 1096
 - [2012] UKSC 14

Costs

Peter is regularly instructed in costs disputes arising out of personal injury and industrial disease claims. He attends costs hearings in the Senior Courts Costs Office, the High Court and the County Courts.

He has considerable experience of detailed assessments of costs, acting for paying and receiving parties.

In addition he has litigated matters such as: wasted costs orders; the premature issue of proceedings; and the acceptance and effect of Part 36 offers and other offers.

Representative cases include:

- Detailed assessment for paying party. Questions of premature issue and relevance of Part 45 predictive costs regime. Peter secured preliminary ruling that proceedings were issued prematurely.
- Detailed assessment of Bill totalling more than £150,000, for paying party. Case settled satisfactorily following preliminary rulings that VAT was not recoverable at the current rate throughout and that costs were disproportionate.
- Detailed assessment in SCCO for paying party following fatal mesothelioma claim. Peter successfully argued for reduction in hourly rates to be allowed to prominent claimant asbestos litigation firm.
- Appeal to Circuit Judge from Regional Costs Judge over hourly rates allowed on detailed assessment in multi-track PI claim.

Qualifications

- MA (Hons) (Cantab) (Double First Class)
- MPhil (Cantab) (Distinction)
- CPE (City) (Distinction)
- BVC (ICSL) (Outstanding)
- Lord Brougham and Lord Denning Scholarships (Lincoln's)



Recommendations

"An exceptionally robust advocate who presents arguments in an extremely persuasive manner, and also takes an active role both pre and post hearings."

Legal 500, 2022

"He is very good, knows what he's talking about and makes all the right points."; "He is very analytical but pleasant to deal with."

Chambers & Partners, 2021

"Peter is hardworking and studious. He has an excellent eye for detail and his drafting skills are superb. Takes on work at short notice that others might fear to touch."

Legal 500, 2021

"He is very good at tailoring his advice to each client."; "He is extremely reliable, very responsive and has a calm manner."

Chambers & Partners, 2021

"Always goes the extra mile for his clients."

Chambers & Partners, 2020