



## GORDON BALFOUR



### Year of Call

2002

### Devil Masters

Eric Robertson

Lord Beckett

Graham Primrose QC



## Practice Profile

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Gordon has developed an extensive practice across several different areas of law. In the Legal 500 he is ranked as a leading junior in both Commercial Litigation and Personal Injury, Medical Negligence and Professional Negligence (where he is described as being "truly of senior counsel quality and ability"). In Chambers and Partners he is ranked in the field of Personal Injury where he is described as being "just exceptional".

He is primarily instructed to act on behalf of insurance clients in a wide variety of disputes. He has substantial experience in property damage cases, many involving complex claims of high value. He is regularly instructed in professional negligence actions including construction disputes (both litigation and adjudication); claims against solicitors and surveyors; and medical negligence cases. In the field of personal injury he is particularly skilled in the quantification of damages and has given several seminars on the application of the Ogden Tables and on Periodical Payment Orders. He has extensive experience in high value claims arising out of catastrophic injury (both spinal and brain injury); fatal accidents; and industrial disease.

He has expertise in actions involving the European Convention on Human Rights. He appeared on behalf of the Scottish Ministers before a full bench of the Inner House in *Hamilton v Ferguson Transport (Spean Bridge) Limited*. He identified and developed a novel argument concerning Convention rights in the context of an adjudication which found favour with the court in *Whyte & Mackay Limited v Blyth & Blyth Consulting Engineers Limited*. He has appeared as junior counsel in both the Privy Council and the Supreme Court in leading cases such as *Cadder v HMA*, *McInnes v HMA* and *McDonald v HMA*.

Gordon is instructed in contractual disputes and property disputes (including commercial leasing). He also has experience in the field of regulatory crime where he has acted in high profile cases including *Balmer v HMA* and *HMA v Transco plc*.

He was instructed by Dame Elish Angiolini QC to act as junior counsel to the investigation into practices at Mortonhall Crematorium regarding the disposal of ashes following the cremation of

babies.

He was appointed as Standing Junior Counsel to the Scottish Government between 2008 and 2011. He is presently appointed as Standing Junior Counsel to the Ministry of Defence. He has acted as a devilmaster and is an instructor on the devils' training course.

## Education & Professional Career to Date

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BA (Hons) Law, 2:1 (Pembroke College, Cambridge, 1994); MA (1998)  
LLB (Ordinary, with Distinction) (Edinburgh, 1996); Diploma in Legal Practice (1997) Assistant,  
McGrigor Donald (1999-2001)  
Trainee Solicitor, Dundas & Wilson (1997-99)

## Appointments

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- Standing Junior to the Ministry of Defence
- Standing Junior to the Scottish Government (2008–2011)
- Ad hoc Advocate Depute (2012–2017)

## Selected Cases

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- **Dundee City Council & others v D Geddes (Contractors) Limited 2014 SLT 764, [2014] CSOH 164, [2017] CSOH 108**  
Junior counsel for defender in high value case concerning the supply of chippings for use in road construction. Defender absolved after proof in Commercial Court.
- **Cruden Buildings & Renewals Limited v Scottish Water [2017] CSOH 98.**  
Counsel for defender in property damage case. Successfully argued that the pursuer had no title to sue.
- **A J Allan (Blairnyle) Ltd v Strathclyde Fire Board 2016 SC 304; [2014] CSOH 135**  
Counsel for defender in leading case concerning the duties of care owed by the fire service.
- **Cole v Advocate General for Scotland Court of Session 2015 SLT 504**  
Counsel for defender in case concerning res judicata in the context of provisional damages.
- **Campbell Construction Group Ltd v Scottish Water 2015 SLT (Sh Ct) 159**  
Counsel for defender in property damage case concerning the extent to which the pursuer had sustained a loss.
- **Mitchell v Advocate General for Scotland 2015 SLT 92**  
Counsel for defender in motion for issues concerning the interpretation of the Prescription and Limitation (Scotland) Act 1973.
- **Miller Construction (UK) Ltd v Building Design Partnership Ltd [2014] CSOH 80**  
Counsel for defender in action for enforcement of adjudicator's award.
- **Cora Foundation & Board of Managers of St Mary's Kenmure v East Dunbartonshire Council 2014 SC 665**  
Junior counsel for the defender and respondent in complex case involving statutory construction.

- **Cunningham v Cameron [2013] CSOH 193**  
Counsel for defender in case involving fire damage to a residential property. Complex proof regarding the cause of the fire.
- **Whyte and Mackay Ltd v Blyth & Blyth Consulting Engineers Ltd [2012] SLT 1073**  
Junior counsel for defender and counterclaimant in complex construction dispute involving enforcement of adjudicator's award
- **Hamilton v Ferguson Transport (Spean Bridge) Limited [2012] CSIH 52**  
Counsel for the Scottish Ministers in full bench case concerning the Convention compatibility of civil jury trial procedure
- **Ambrose v Harris [2011] 1 WLR 2435**  
Junior counsel for the Crown in Supreme Court case concerning the implications of the Cadder decision in circumstances other than following formal detention
- **Odeon Cinemas Limited v GF Holding (Contractors) Limited and Others**  
Junior counsel for the first defender in a construction dispute in which the pursuer sought approximately 10M. Successfully resisted motion for caution and diligence on the dependence. Claim resolved at mediation
- **HMA v Hutchison and Others**  
Junior counsel for the first accused in (i) prosecution for regulatory offences concerning fishing in excess of quotas; and (ii) proceeds of crime action in which the Crown initially sought over 3M. Successfully advanced a number of technical arguments in the proceeds of crime action
- **Fraser v HM Advocate [2011] SC (UKSC) 113**  
Junior counsel for the Crown in Supreme Court case concerning the Convention compatibility of proceedings in which certain material had not been disclosed to an accused person
- **Cadder v HM Advocate [2011] SC (UKSC) 13**  
Junior counsel for the Crown in Supreme Court case considering the Convention compatibility of Scottish procedure for detention and questioning of suspects without access to legal advice
- **Allison v HM Advocate [2010] SC (UKSC) 19**  
Junior counsel for the Crown in Supreme Court case considering approach to non-disclosure of previous convictions and outstanding charges of witnesses
- **McDonald v HM Advocate [2010] SC (PC) 1**  
Junior counsel for the Crown in Privy Council case considering whether the Lord Advocate's system for disclosing information to the defence in criminal cases was Convention compliant

## Areas of Practice

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- Clinical and Professional Negligence
- Commercial
- Personal Injury
- Property

## Publications & Seminars

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Introducing Some Structure: Periodical Payment Orders (June 2017)

Loss of Support in Mesothelioma Cases (January 2016)

The Ogden Tables (September 2013)

Ogden 7: So where are we now? (November 2011)

## **Directories**

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Recommended in The Legal 500 in 2015, 2016 & 2017

Recommended in Chambers & Partners UK Bar Guide 2016, 2017 & 2018

Band 2 for Personal Injury

## **Additional Information**

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Instructor, Faculty of Advocates Devils Training Course