

## Graeme Middleton KC

**Year called:** 2003  
**Year of silk:** 2021  
**Email:** [graeme.middleton@compasschambers.com](mailto:graeme.middleton@compasschambers.com)  
**Qualifications:** LL.B (Hons) – University of Aberdeen (1992)  
Dip.LP – University of Aberdeen (1993)



## Practice

Graeme has a busy general reparation practice, acting for Pursuers and Defenders alike - especially in a broad range of industrial and road accident, disease and workplace stress claims. He is ranked in both the Legal 500 and Chambers UK.

Graeme's principal fields of practice have historically included Personal Injury, Professional and Clinical Negligence and Insurance Litigation and he has a growing practice in marine/fishing boat accidents and consumer protection. He is Junior Counsel for the Pursuers in the first ever set of Group Proceedings in Scotland, concerning vehicle nitrogen oxide emissions. He also acts in health and safety and road traffic prosecutions.

Graeme is an Instructor on the Faculty of Advocates Foundation Course.

## Representative cases

### **Gillian Cameron & Ors v Volkswagen AG, Audi AG, SEAT SA, Skoda Auto SA & Ors [ongoing]**

Acting for about 5,000 Pursuers in Group Proceedings who claim to have purchased or leased cars containing a so-called "defeat device" which is said to have enabled the cars to pass emissions tests, which emitting harmful nitrogen oxides during on road driving.

**M & D's (Leisure) Ltd v Craig Boswell & Ors [ongoing]**

Pursuing claims for damages for property damage, business interruption and recovery of personal injuries damages paid as a result of the derailment of the "Tsunami" fairground ride.

**Olufemi Adekomaya v Heriot Watt Univeristy (Edinburgh Sh Ct, 15.1.20)**

Achieving dismissal of a claim for damages by a dissatisfied university student under the Consumer Rights Act 2015.

**AB v Inverurie Skip Hire Ltd [2019] CSOH 47**

A complex motion concerning the award of expenses in the context of a historic Minute of Tender, accepted years after lodging after the production of damaging surveillance evidence.

**Allen Woodhouse v Lochs & Glens (Transport) Limited [2019] CSOH 105**

Successfully defending a multi-Pursuer road traffic coach crash case, where a bus operated by the Defenders overturned on a road in the Scottish Highlands, almost rolling into a loch and injuring many of the 52 passengers – the bus having been blown over by a freak and exceptionally powerful gust of wind. The case raised a number of complex issues and investigations, including road traffic, engineering, meteorological and topographical expertise.

**Helen Watt v Thomas Mullen (Aberdeen Sh Ct, 8.6.18)**

Successfully resisting the Defender's motion for dismissal at Debate regarding the sufficiency of averments regarding the existence of an implied contract of agency, in the context of solicitor and client.

**Mulsanne Insurance Ltd v McLuckie (Airdrie Sh Ct, 24.7.17)**

Acting for the Pursuers to avoid a policy of motor insurance on the ground of deliberate misrepresentation on the part of the insured at inception and under the Consumer Insurance (Disclosure and Representations) Act 2012.

**John Kerr & Ors v Inverlussa Shellfish Co Ltd – [2019]**

Defending claims brought by the relatives of a fishing boat skipper, who was killed when a newly-installed crane collapsed and crushed him.

**Ronald Richards & Ors v Pharmacia Ltd – [2017] CSOH 77**

Acting for Pfizer Inc on behalf of the Defenders, to defend multiple personal injuries/product liability cases, where the ingestion of a pharmaceutical called Celebrex, which was taken as a non-steroidal anti-inflammatory, is said to have caused heart attacks and strokes.

**Amlin Ltd v Geo-Rope Ltd [2016] CSOH 165**

A decision concerning the interplay between personal injuries litigation and compulsory employers' liability insurance. the Employers' Liability (Compulsory Insurance) Act 1969 and a set of 1998 Regulations.

**Robert Fraser v Kitsons Insulation Contractors Ltd 2015 SLT 753**

A case concerning the appropriate manner of disposal of an award of provisional damages for asbestos-related pleural plaques by Minute of Tender and Acceptance – about which there is little authority in Scotland.



**Red Star Pub Company (WRII) Ltd v Scottish Power Ltd [2016] CSH 100**

The Pursuers' property in Glasgow flooded and required to be repaired. The Defenders were called on to make the electrical appliances safe. During their works, asbestos was discovered and the building required to be evacuated. Thereafter, the building went on fire and the Defenders are sued for leaving the premises in an electrically unsafe state. There were complicated issues of title to sue, electrical safety, the standard of professional care and measure of loss.

**Isabella Haddock & Ors v Transocean North Sea Ltd [2016]**

Acting in defence of a claim by the relatives of an offshore worker who apparently committed suicide at work, 2 years after being involved in a prior workplace accident causing psychological injuries and depression. The case will involve the conducting of a so-called "psychiatric autopsy", to retrospectively determine the Deceased's state of mind at the time of his death and whether that can be linked to the prior fall.

**Francis Talbot v Babcock International Ltd & Anor [2014] CSOH 160**

A case concerning the appropriate manner of disposal of an award of provisional damages for asbestos-related pleural plaques by Minute of Tender and Acceptance.

**Catriona Peat & Anor v Assembly Theatre Ltd [2014] CSOH 144**

Successfully persuading the Court at Procedure Roll to exercise its equitable discretion to allow a time-barred action to proceed out of time.

**Douglas Dickson v Stuart Kinsman & Centrica plc [2013] CSOH 111**

Acting for a cyclist who had to carry out an emergency stop on the approach to a junction with a minor road, when it appeared to him that a works van driver had not seen him and was not going to stop at the give way lines. The Pursuer was successful because the manner in which the van was being driven reasonably caused him to believe that there would be a collision if he did not brake sharply. He was himself exculpated by operation of the "agony rule".

**Eileen Blackley v Ors v Svitzer Marine Ltd & Anor [2012]**

Acting for the owners of the "Flying Phantom" tug boat, which girted and capsized in the River Clyde while towing another vessel in poor visibility.

**Peter Brown v First Glasgow Ltd [2012] CSOH 192; 2013 GWD 2-83**

Successfully pursuing the common law claim of a driver of a parked and stationary van, when a bus driver, who had negligently executed his manoeuvre away from a bus stop, crossed the centre line of the road and collided with the Pursuer's van door. The case involved the detailed examination and cross of road traffic experts for both Parties.

**John Cowan v The Hopetoun House Preservation Trust [2013] CSOH 9; 2013 GWD 4-125**

Successfully pursuing the claim of a visitor to a stately home, who was taking part in a night-time guided walk through the grounds, looking for bats and who fell over an unmarked, man-made aesthetic feature of the grounds – known as a "Ha Ha" – having been given insufficient instructions and directions by the Defenders' Ranger for returning safely to the car park in the dark. The claim was made under the Occupiers' Liability (Scotland) Act 1960.

**HMA v Faulds [2012]**

The successful defence of a bus driver, charged with causing death by careless driving, who was blinded by low sunlight when colliding with and killing a pedestrian on the road.

## **Heather Hodgkinson v Renfrewshire Council [2011] CSOH 142**

Successfully defending, after Proof, a claim brought under the Provision and Use of Work Equipment Regulations 1998 and the Workplace (Health, Safety and Welfare) Regulations 1992 by a local authority gardener, regarding the "suitability" of a park gate which struck her face when she opened it. The Pursuer failed to prove that the construction of the gate gave rise to more than a mere possibility of injury if opened carelessly.

## **Findlay v Welchs Homes Limited [2010]**

Successfully pursuing at Proof the recovery of a deposit paid for the purchase of a prefabricated mobile home on the ground of essential contractual error.

## **Martin Brand v Transocean North Sea Ltd & Anor [2010]**

Successfully defending a claim by a Pursuer who was injured in an offshore accident, but who had secured employment with the same employer with greater earnings and faster promotion prospects. The case principally involved the correct approach/application of the Ogden Tables and/or a "Smith v Manchester/Blamire" award for loss of employability.

## **David Patterson v Grattan plc 2010 GWD 38-768**

Successfully defending a claim under the Sale of Goods Act 1979, brought against the mail order catalogue supplier of an allegedly defective bicycle. After a Preliminary Proof, the Sheriff granted absolvitor on an application of the "best evidence" rule, the bicycle having been disposed of.

## **HMA v Abernethy Trust & Ors [2009]**

Not guilty plea accepted on behalf of outdoor activities instructor involved in a gorge-jumping activity in Dumfriesshire, when a 15-year old girl was killed.

## **Blair v Axa Insurance UK plc & Anor [2009]**

Successfully defending what is believed to be the first case in Scotland concerning the construction of a policy of travel insurance, in the context of a claim by a paralysed Pursuer claiming policy benefits for a "Permanent Total Disability".

## **HMA v Sanctuary Housing Association & Anor [2009]**

A prosecution following the death of a resident in a quasi-care home, having been put into a scalding hot bath.

## **HMA v Turning Point Scotland & Anor [2009]**

Representing a nationwide social housing provider, charged under the 1974 Act, in connection with the death of a resident in a scalding bath on their premises.

## **HMA v Abernethy Trust & Ors [2008]**

The successful defence of an outdoor activity instructor, charged under the Health and Safety at Work etc Act 1974, in connection with the death of a young girl while gorge jumping in Dumfriesshire.

## **Jayne Taylor v Caledonian Water Rally Committee [2007]**

The defence of a Proof in Dingwall Sheriff Court, acting for the Scout and Girl Guide Associations, who were sued by a young girl following a mountain bike accident, claiming that the bike was defective.

## **John Trower & Ors v Forth Valley Acute Hospitals NHS Trust [2007]**

Acting as Junior Counsel in a medical negligence claim for a severely handicapped young girl with cerebral palsy, caused due to birth complications. The case involved complex medical and quantification issues, including life expectancy, cost of 24-hour care, loss of earnings, accommodation and case management costs.

## **Agacan v Findlay & Co [2006]**

The successful refusal of an appeal from the Sheriff to the Inner House of the Court of Session, regarding the construction of a contract for the provision of professional accounting services.

## **McKnight v Corus Construction [2006] CSOH 116**

Successfully defending an industrial accident claim under the Provision and Use of Work Equipment Regulations 1998, involving a consideration of expert ergonomic and metallurgical evidence.

## **Jessie Borland v Forth Estuary Transport Authority [2006]**

Resisting an appeal to the Sheriff Principal by a Pursuer who had an accident on her bicycle while cycling over the Forth Road Bridge.

## **City of Edinburgh Council v Michael Anthony [2005]**

Successfully resisting an appeal to the Sheriff Principal in a case for recovery of possession of heritable property.

## **John Duff v East Dunbartonshire Council & Anor [2005]**

Defending a claim under the Occupiers' Liability Scotland Act 1960 brought by a member of the public who fell down a steep slope into a ravine, resulting in paralysis. The case involved complex conveyancing and surveying issues to determine the ownership of the relevant area of land and the general duties of occupiers. The claim was eventually abandoned after many years of litigation.

## **McWilliams v Caledonian Wild Foods Ltd 2004 SLT 1027**

Successfully pursuing the claim of a self-employed Edinburgh restaurateur injured in a road accident, who, on account of his injuries, brought his wife in as a partner in the business. The principal dispute concerned the claim for loss of business profits.

## Lectures and seminars

Graeme regularly provides talks and seminars for professional bodies, instructing solicitors and at Compass Chambers' Conferences.

## What the Directories Say



Chambers UK 2020 - Ranked Band 1 for Personal Injury - "He's excellent at drafting, has great attention to detail and always takes a very measured approach." "A fantastic advocate. He has a first-class brain and is thoroughly organised." "He's professional, straightforward and unflappable under pressure."

Legal 500 UK 2020 - Ranked Band 1 for Personal Injury and Clinical Negligence - "An excellent all-rounder who is comfortable dealing with a wide variety of cases."

Chambers UK 2019 - Ranked Band 1 for Personal Injury - "A standout Junior Counsel at the Scottish Bar. He's somebody that you want on your side as he has a way with words and excellent presentation skills in court."

Legal 500 UK 2019 - Ranked Band 1 for Personal Injury and Clinical Negligence

Chambers UK 2018 - Ranked Band 1 for Personal Injury - "He is very sensible, competent and intelligent." "Graeme is an astute court practitioner who always conveys an unflappable air of calm and assuredness. He has a definite gravitas in court and with clients. He is always fully prepared and utterly dependable."

Legal 500 UK 2018 - Ranked Band 1 for Personal Injury and Clinical Negligence

