



James Purnell

# Contents

Product Liability .....	1
Representative Cases .....	2
Health & Safety .....	3
Personal Injury .....	4
Representative Cases .....	4
Environment .....	6
Commercial Insurance .....	6
Representative Cases .....	7
Business Protection & Employment .....	7
Representative Cases .....	7
Consumer Protection .....	8
Appointments .....	8
Memberships .....	8
Education .....	8
Awards & Recognitions .....	8



## James Purnell

*"Highly regarded junior who is frequently involved in high-profile group actions...", "Very hardworking, client-friendly and approachable; a pleasure to work with...". "Amazing service delivery, gets to the point and thinks quickly on his feet..." "Attentive and well versed in product liability and recovery issues. He applies his mind to the matter!"*

*- Legal 500 2016 & Chambers UK 2017, 2018*

---

Call 2002

---

Tel: +44 (0)20 7583 9020

Email [jpurnell@hendersonchambers.co.uk](mailto:jpurnell@hendersonchambers.co.uk)

James Purnell is recommended in the legal directories for his expertise in product liability, personal injury, health and safety and environment law.

**Product Liability:** In the fields of product liability and personal injury, James has particular expertise in representing defendants facing group litigation, or multiple claims which are the subject of co-ordinated case management. James's clients frequently are multi-national concerns which involves consideration of issues of jurisdiction, applicable law, and the co-ordination of case management with litigation in other jurisdictions. Recent examples include: metal-on-metal hip litigation, vaginal mesh litigation, fetal anticonvulsant litigation, heater-cooler unit litigation. Recommended by the Legal 500 (2017) and Chambers & Partners (2018).

**Personal Injury:** James has considerable experience in defending personal injury claims of all kinds, including particular experience representing the Government facing group claims for ill-treatment alleged by foreign nationals against members of the UK armed forces: the Iraqi civilian litigation, and the Cyprus emergency litigation.

**Health & Safety / Environment:** In the fields of health and safety and environment law, James regularly represents companies and individuals facing regulatory investigations and prosecutions. In addition to prosecuting and defending cases in the criminal courts, James has a wealth of experience in appealing against improvement and prohibition notices. Recommended by the Legal 500 (2017).

**Inquests:** Dovetailing with his product liability and health and safety practice, James has considerable experience in representing clients' interests at coroner's inquests and for the purpose of submissions concerning reports to prevent future deaths. Recommended by the Legal 500 (2017).

**Business Protection / Commercial:** James frequently represents companies in disputes with regulatory bodies and trade associations, competition claims involving breach of confidentiality and breach of directors' duties, and in litigation involving employment disputes including claims for unfair dismissal, wrongful dismissal, victimization, harassment and discrimination.

## Product Liability

Highlights and representative group cases include:

- The fetal anticonvulsant litigation: a group action in the High Court brought by children alleging congenital defects as a result of in utero exposure to an anti-epilepsy drug taken by their mother during pregnancy.
- Stress urinary incontinence litigation: the co-ordinated case management of a group of claims alleging defects in transvaginal tape used in the treatment of SUI.
- Pelvic organ prolapse litigation: the co-ordinated case management of a group of claims alleging defects in mesh used in the treatment of POP.
- Metal on metal hip litigation: a group action in the High Court brought by claimants alleging defect in metal on metal hip prosthesis.
- PIP breast implants litigation: representing a private hospital defendant in the group litigation brought by claimants alleged unsatisfactory breast implants.

Examples of individual cases include:

- £14m property damage claim arising out of supply and installation of a defective electrical miniature circuit board, resulting in fire and massive property destruction.
- Acting on behalf of a pharmaceutical company in an action brought by a consumer in respect of alleged personal injury sustained after being injected in hands and beneath the eyes with poly-L-lactic acid.
- Acting on behalf of a facial cream company in an action brought by a consumer in respect of alleged burns sustained after applying a slow release cream to the cheek bone, below the eye and arm.
- Advising e-cigarette manufacturer on EU and UK product safety and labelling requirements.
- Advising a pharmaceutical company as to potential liability for HIV and Hepatitis contracted by a haemophiliac during blood transfusion.

James has particular experience in claims involving food safety (including *Campylobacter* infection) and agricultural claims (defective animal feed).

James wrote the chapter entitled “Product liability for medicinal products” in Powers & Barton’s “Clinical Negligence”, 5<sup>th</sup> ed (Bloomsbury), described by Hickinbottom J as a “commendable consideration of the issues surrounding product liability for medicinal products” in *Wilkes v DePuy* [2018] 2 WLR 531.

## Representative Cases

- *Gee v DePuy International Ltd* (21 May 2018)  
Representing interested party in metal on metal hip litigation.
- *The Fetal Anti Convulsant Litigation*  
As a result of the variety of claims alleged to have been caused by in utero exposure to sodium valproate, James has experience of expert evidence in the fields of: biostatics; epidemiology; teratology; clinical genetics; autistic spectrum disorders; adult neurology; paediatric neurology; neuropsychology; neo-natology; maternal fetal medicine; pharmacology; minor malformations; and pharmaceutical regulation.
- *GLO v Sanofi* [2009] EWHC 95 (QB)  
Application of the “fair apportionment of risk” in the EC Product Liability and whether it entitled claimants to adduce expert evidence on the sales and profitability of a medicine; the use of travaux

preparatoires and recitals as interpretative aids in the construction of EC legislation.

- *Factor VIII Litigation*

Advising a pharmaceutical company as to potential liability for HIV and Hepatitis contracted by a haemophiliac during blood transfusion, including: the long-stop limitation defence; forum non conveniens; and the effect of a settlement in another jurisdiction; the state of knowledge and the “development risks defence”.

## Health & Safety

James is recommended as a leading junior in the Legal 500 for his expertise in Health & Safety and Environment litigation: “*Clients assert that James Purnell delivers ‘very practical and insightful advice on the procedural and legal issues and also in relation to case strategy’*”. In the field of health & safety and environment law, James is equally adept in the criminal courts as in the civil courts and is able to advise clients on their rights and liabilities arising in either arena. James is on the HSE’s List of Specialist Regulatory Advocates.

Recent instructions include:

- Defending a cemetery company in a 2 week trial for breach of environmental health legislation including the depositing of waste without a licence.
- Defending the company which undertakes legionella risk assessments in a prosecution brought by the HSE. In addition to the criminal prosecution, James also represented the company in its appeal against an improvement notice.
- Representing the defendant waste management company in a prosecution arising out of a fatality.
- Representing the interests of the employer of a JCB operator at an inquest in relation to a death at West Ham LUL station.
- Representing the interests of the employer and driver of an HGV lorry at an inquest in relation to a death on the A2.
- Defending a landlord charged with an offence under the Gas Safety (Installation and Use) Regulations, for failure to ensure that her tenanted properties had valid gas safety certificates.
- Defending a company charged with a HSWA offence arising out of a hand injury to an apprentice operating a guillotine in a bridge manufacturing factory.
- Defending a coach company charged with that offence under the Road Traffic Act 1988, that one of its coaches was in a condition such that its use involved a danger of injury to other people (the wheels fell off the bus).
- Defending a truck driver charged with an offence under the Road Traffic Act 1988, for failure to secure a load, causing damage to other road users.
- Representing a corporate motivation company in a prosecution for health and safety offences arising out of a fire-walking exercise;
- Representing a retail company in a prosecution for breach of health and safety and environmental protection legislation;
- Representing an agricultural company in a successful appeal against Environmental Protection Act notices;
- Representing a games company in a prosecution for health and safety matters and offences contrary to the Town and Country Planning Act;
- Advising one of the country’s largest Housing Associations as to its obligations under Health and Safety

legislation as a landlord and as an employer in respect of Legionnaires' Disease.

## Personal Injury

James is a specialist personal injury barrister. His expertise extends to claims for occupational disease, catastrophic injury claims, chronic pain claims, torture claims, sexual abuse and psychiatric harm claims, holiday claims, sports claims and product liability claims. James has particular experience in multi-party litigation, including group litigation, and regularly acts in cases involving issues of apportionment between more than one defendant.

James has particular experience involving claims by foreign nationals against the UK government seeking compensation for acts by UK armed forces. These cases are high profile and have high public interest elements and invariably involve private and public international law arguments. Examples of reported decisions include:

- *Sophocleous v Secretary of State for the Foreign and Commonwealth Office* [2018] EWHC 19 (QB): application for the rule of double actionability and choice of law.
- *Alseran v Ministry of Defence* [2017] EWHC 3289 (QB): personal injury and human rights claims by Iraqi civilians against UK armed forces.
- *Rahmatullah v Ministry of Defence* [2017] EWHC 547 (QB): application of closed material procedure to personal injury and human rights claims by Iraqis.
- *Mohammed v Secretary of State for Defence* [2017] UKSC 2: Supreme Court case on the lawfulness of detention during non-international armed conflict
- *Rahmatullah v Ministry of Defence* [2017] UKSC 1: Supreme Court case on the defence of Crown act of state to tort claims by foreign nationals arising out of the conduct of foreign policy.
- *Iraqi Civilian Litigation v Ministry of Defence* [2016] UKSC 25: Supreme Court case on the application of the foreign law of limitation.
- *Mohammed v Secretary of State for Defence* [2016] 2 WLR 247: Court of Appeal case on the lawfulness of detention during non-international armed conflict.
- *Iraqi Civilians v Ministry of Defence* [2015] EWHC 1254 (QB): trial on joint liability in Iraqi law.
- *Iraqi Civilians v Ministry of Defence* [2015] 2 All ER 714: availability of aggravated damages in foreign law.

## Representative Cases

- *R (on the application of Mongson) v Upper Tribunal (Administrative Appeals Chamber)* 8 March 2018  
Court of Appeal decision on jurisdiction of criminal injuries compensation authority
- *XYZ v Atomic Weapons Establishment Plc* [2013] (*Master Whitaker*)  
Representing defendant in £250k+ claim for mesothelioma brought by estate of widow exposed to asbestos dust brought home from work by her husband. Expert evidence in respiratory medicine, geriatrics, care management and Court of Protection costs.
- *Stokes v Ministry of Defence* [2013]  
Representing defendant in £275k+ claim for mesothelioma brought by estate of deceased exposed to asbestos dust brought home from work by father. Complex Fatal Accidents Act claim including complex pension calculations.

- *Mason v Ministry of Defence [2013]*  
Advising defendant in £250k+ claim for mesothelioma brought by estate of deceased exposed to asbestos by US Air Force at RAF Sculthorpe. Advising on NATO Status of Forces Agreement.
- *R v Atomic Weapons Establishment Plc [2012]*  
Advising defendant in relation to claim for mesothelioma; advising on causation and application of de minimis principle; state of knowledge; liability under OLA 1957, negligence, Factories Act 1961, Asbestos Regulations 1969 and 1987; apportionment.
- *D'Arcy v London Underground Ltd [2012]*  
Advising defendant in relation to three consolidated claims for degenerative spinal conditions allegedly caused by workplace conditions.
- *Cyprus Emergency claims*  
Advising the Foreign & Commonwealth Office in relation to claims brought by former EOKA members who allege torture at the hands of the British authorities in Cyprus in 1950s.
- *CICA v First Tier Tribunal & X [2013]*  
Representing CICA in appeal to Upper Tribunal from decision to award £750k for historic sexual abuse and for psychiatric damage as a result of witnessing the aftermath of the sexual abuse of her children.
- *G v Derbyshire Police [2013]*  
Advising defendant in relation to claim for brain injury caused by falling shutter gate at Chesterfield Police Station.
- *Berry v Star Autos Ltd [2012]*  
Representing defendant in claim for catastrophic electrocution at Kendall Calling festival; resisting application for interim payment.
- *Boas v John Lewis Financial Services Ltd [2013]*  
Representing defendant in claim under s.75 CCA for serious injuries caused in a fatal hot air balloon crash in Turkey in 2010, bought using credit card.
- *Bloom v Hurtigruten [2012]*  
Representing defendant in claim for injuries as a result of a husky-sled excursion in Norway; succeeding on preliminary issue as to whether excursion formed part of package under Package Travel Regs 1992.
- *Davies v Future Travel Ltd [2012]*  
Representing defendant in claim for injuries as a result of snow mobile excursion in Switzerland; succeeding on issue as to whether excursion formed part of pre-arranged package.
- *Flowerday v Amey Plc [2012]*  
successfully representing defendant in claim against employer for injuries sustained in a work football match; succeeding on preliminary issue of whether employer vicariously liable for employee in off duty football match.
- *Packman v Central Fast Food [2012]*  
Representing defendant in claim for career losses as a result of a slip on the floor of kebab shop causing chronic pain.

- *Straughen v Ministry of Defence [2013]*

Advising defendant on settlement negotiations in relation to claim brought for a fall at military base involving 5 defendants.

## Environment

James is recognised as a specialist in the criminal and civil litigation that follow environmental disasters. He is recommended as a leading junior in environmental work by the Legal 500. James is on the Environment Agency's List of Specialist Regulatory Advocates.

James has experience dealing with cases involving expert issues regarding the constitution of soil and waste, and with acoustic experts in noise nuisance cases. James acts in civil disputes, environmental prosecutions and abatement notice proceedings.

James has particular expertise in defending claims arising out of exposure to asbestos, including mesothelioma claims. He regularly represents and advises insurers and employers with regard to their liability for historic exposure and in contribution proceedings. James has considerable experience in matters such as the "show cause" procedure, causation, contribution, apportionment, state of knowledge, liability at common law, liability of occupiers & employers, Factories Acts, Asbestos Regulations and Control of Asbestos Regulations.

Recent instructions include:

- Defending a private prosecution for noise nuisance arising out of game shooting.
- Defending a cemetery company in a 2 week trial for breach of environmental health legislation including the depositing of waste without a licence, including geotechnical evidence on the movement of soil.
- Defending the company which undertakes legionella risk assessments in a prosecution brought by the HSE. In addition to the criminal prosecution, James also represented the company in its appeal against an improvement notice.
- Representing the defendant waste management company in a prosecution arising out of a fatality.
- Representing a retail company in a prosecution for breach of health and safety and environmental protection legislation;
- Representing an agricultural company in a successful appeal against Environmental Protection Act notices;
- Advising one of the country's largest Housing Associations as to its obligations under Health and Safety legislation as a landlord and as an employer in respect of Legionnaires' Disease.

## Commercial Insurance

James has expertise in the field of insurance coverage disputes, particularly in the relation to property damage and product liability, including recent litigation in the High Court and Court of Appeal

Recent instructions include:

- Acting for claimant in action arising out of supply of commercial bottle suppliers to pubs and restaurants.



- Advising subsidiaries of manufacturer of liability for property damage in UK caused by allegedly defective refrigerator in a motor home manufactured in Sweden, supplied in the US.
- Advising in claims against suppliers and holiday park owners in multiple claims involving defective caravans.

## Representative Cases

- *Conarken Group Ltd v Network Rail [2011] EWCA Civ 644*  
James represented the defendant at trial and on appeal to the Court of Appeal in the test case concerning the recoverability of complex penalty charges imposed by the rail regulator for delays arising from the damage of railway infrastructure caused by third party tortfeasors (usually motor vehicles). Several claims are brought each year by Network Rail against insurers of road traffic and heavy good vehicles arising from accidents where roads meet railways, costing the insurance industry tens of millions of pounds each year.
- *AXA Insurance UK Plc v Cunningham Lindsey UK Plc [2007] EWHC 3023 (TCC)*  
James represented the defendant loss adjuster in a 2-month trial concerning the recoverability of damages following the negligent reconstruction of property following subsidence damage
- *Gleeson Group Plc v Frankona Reinsurance (2006) (TCC)*  
Litigation arising out of dry rot damage during the course of a construction contract.

## Business Protection & Employment

James frequently represents companies in disputes with regulatory bodies and trade associations, competition claims involving breach of confidentiality and breach of directors' duties, and in litigation involving employment disputes including claims for unfair dismissal, wrongful dismissal, victimization, harassment and discrimination.

## Representative Cases

- *Secretary of State for BIS v McDonagh [2013] ICR 1177*  
employee's rights in company voluntary arrangements, claims on the National Insurance Fund.
- *Secretary of State for Justice v Bowling [2012] IRLR 382*  
Equal pay; material factor defence.
- *Secretary of State BIS v Coward (2011) EAT*  
Notice pay; company insolvency.
- *Secretary of State BIS v Stones (2011) EAT*  
Redundancy pay; company insolvency; TUPE transfer.
- *Eastern & Coastal Kent PCT v Jocelyn Grey (2009) IRLR 429*  
Representing the claimant in disability discrimination claim (EAT).

- *Unegbu v Newman Stone [2008] All ER (D) 164 (Aug)*  
Representing recruiter in application for costs in race discrimination claim (EAT).

## Consumer Protection

James successfully represented the claimant consumer in the leading authority on consumer harassment: *Lisa Ferguson v British Gas Trading plc* (2009) 3 All ER 304 – (Court of Appeal).

Following the success of that case, James regularly advises both consumers and businesses as to their rights and liabilities in relation to billing and charging disputes.

---

## Appointments

- Specialist Regulatory Panel Advocate for the HSE in Health & Safety and Environment Law – “List B” (2019)
- Attorney General’s Panel of Counsel (B Panel, 2014-)
- Attorney General’s Panel of Counsel (C Panel, 2009-2014)
- Specialist Regulatory Panel Advocate for the Environment Agency & HSE – “List C” (2012)

## Memberships

- British Insurance Law Association
- Employment Lawyers Association
- Employment Law Bar Association
- Health & Safety Lawyers’ Association
- London Common Law & Commercial Bar Association
- Personal Injuries Bar Association

## Education

- Queen Mother Scholar (Middle Temple)
- PGDipLaw (Distinction)
- MA (Hons) (First Class)

## Awards & Recognitions

