



## JONATHAN BRODIE QC



### Year of Call

1994

### Year of Silk

2009

### Devil Masters

The Rt Hon Lord Reed SCJ

The Rt Hon Lord Boyd of Duncansby

Sheriff Principal Craig Scott QC

## Practice Profile

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Jonathan returned to private practice in July 2013, following four valuable years serving as an Advocate Depute. His intensive trial experience included almost three years as a Senior Advocate Depute, and two years as dedicated Crown Counsel to the Health and Safety Division within Crown Office. While for much of this time Jonathan was conducting High Court trials, he also regularly appeared in the Appeal Court.

In 2011, Jonathan appeared on behalf of the Lord Advocate in the Supreme Court in *Jude v HMA* [2012] SC (UKSC) 222 (concerning the admissibility of admissions to police questioning and time-bar under the Scotland Act 1998). He was involved in drafting the Crown's written submissions in *Ambrose v Harris* [2012] SC (UKSC) 51 (also concerning the admissibility of admissions to police detention and interrogation). Jonathan drafted the Lord Advocate's Written Intervention in the media hyped *Assange v Sweden* [2012] 2 AC 471, [2012] UKSC 22 (concerning issues relating to enforcement of a European Arrest Warrant under the Extradition Act 2003).

Jonathan resumed a civil practice, his area of work as junior counsel. As a Standing Junior Counsel - first to the Secretary of State for Scotland and then to the Department of Work and Pensions - Jonathan undertook a variety of government work involving questions of public administrative law. Other principal areas of focus were in relation to personal injury, professional negligence (medical, solicitor and surveyor), NHS disciplinary tribunals, defence instruction in health and safety prosecutions, plus some planning work.

## Education & Professional Career to Date

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Trainee Solicitor, Dundas & Wilson CS (1991-93)

## Appointments

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- Senior Advocate Depute, National Sex Crimes Unit, 2010-11; Dedicated Crown Counsel to Health and Safety Division, Crown Office, 2011-13 (2010–2013)
- Queen's Counsel (2009–present)
- Trials Advocate Depute (2009–2010)
- Ad hoc Advocate Depute (2005–2009)
- Standing Junior to the Department of Work and Pensions (2000–2009)
- Standing Junior to the Bible Board of Scotland (1998–2000)

## Selected Cases

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- **Jude v HMA [2012] SC (UKSC) 222**  
UK Supreme Court. The admissibility of admissions in respect of detention and time-bar under the Scotland Act 1998
- **Ambrose v Harris [2012] SC (UKSC) 51**
- **Assange v Sweden [2012] 2 AC 471 (UKSC)**  
Lord Advocate's Written Intervention in respect of enforcement of the European Arrest Warrant under the Extradition Act 2003
- **Sarwar v HMA [2011] HCJAC 13**  
Two-week appeal concerning MTIC fraud (missing trader intra-community VAT fraud) under the Proceeds of Crime Act 2002
- **Duffield Morgan Ltd v Lord Advocate [2004] SLT 413**  
Procedure roll debate concerning rights of way and servitudes under the Scheduled Ancient Monuments Act 1979
- **Gillies v Secretary of State for Work and Pensions [2006] SC (HL) 71**  
Before both the Tribunal of Social Security Commissioners and the House of Lords. An appeal concerning apparent bias and the constitution of social security appeal tribunals
- **Cunningham v Secretary of State for Work and Pensions [2005] 1 SC 19**  
Statutory appeal to the Inner House concerning apparent bias of social security appeal tribunals
- **Mooney v Secretary of State for Work and Pensions; Capello v Secretary of State for Work and Pensions**  
Representing the Department of Work and Pensions in Judicial Reviews against decisions of the Social Security Commissioners in these two cases
- **Howie v CGU Insurance plc**  
Commercial Court action concerning insurance indemnities
- **Chadwick v Continental Tyre Group Ltd [2008] CSOH 24**  
Procedure roll debate concerning questions of construction under the Consumer Protection Act 1987
- **McCusker v Cunningham and Glen 2008**  
Personal injury action proof concerning liability and contribution proceeding in fatal road traffic accident (acting as junior counsel for defenders)
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### **Balmer v HMA [2008] SLT 799**

Successfully led a seminal appeal in Scotland against the competency of prosecuting a dissolved partnership for health and safety breaches under the Health and Safety at Work Act 1974

- **G Hamilton (Tullochgribban Mains Ltd) v Highland Council and Ennstone Thistle Ltd 2009**  
Petition for Judicial Review in respect of a decision relating to old mineral permissions under the Town and Country Planning (Scotland) Act 1997
- **William Tracey Ltd v Secretary of State and Renfrewshire Council [2005] CSHIH 15**  
Appeal to the Inner House under the Town and Country Planning (Scotland) Act 1997 in respect of Certificates of Lawfulness of Existing Use or Development
- **Hyaltech Ltd v Medicines and Healthcare Products Regulatory Agency (MHRA) [2007] CSOH; Inner House - 2009 SLT 92 842007 and 2008**  
Acting for MHRA, successfully opposed petition for Judicial Review and subsequent appeal. The case involved issues concerning the regulatory functions of MHRA in respect of medical devices and medicinal products
- Seven-week planning and scheduled ancient monument consent appeal hearing on the instructions of Historic Scotland in respect of Castle Tioram (2001)
- Four-week planning and scheduled ancient monument consent appeal hearing on the instructions of Historic Scotland in respect of Rowallan Castle (2002)
- Social Security/Child Support Commissioners' Hearings and Tribunals of Commissioners: some 70 substantive appeals on questions of law in my capacity as Standing Junior Counsel to the Department of Work and Pensions (2004-09)
- Special Commissioners of Inland Revenue: four-day hearing before the Special Commissioner (Gordon Reid QC). Test case considering the definition of 'offshore installation' in respect of UK citizens working in the Gulf of Mexico (2009)
- NHS Tribunals: four tribunal hearings considering the removal of medical practitioners from the relevant NHS lists for alleged misconduct (2004-09)
- Fatal Accident Inquiry into the death of Kieran Nichol at Castle Craig Nursing Home. A 10-week FAI into the death of Kieran Nichol following admission for treatment for heroin addiction, before Sheriff Gordon Liddle (2009)

## **Areas of Practice**

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- Clinical and Professional Negligence
- Crime
- Personal Injury
- Public and Fatal Accident Inquiries
- Public Law

## **Additional Information**

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Jonathan has contributed significantly to the Faculty of Advocates Advocacy Skills Training, having completed a NITA instructional course for advocacy trainers in the USA in 2004