

## Andrew Nicol

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*Very intelligent and highly regarded.*

- Legal 500

**'Very intelligent and highly regarded', 'exceptional ability.'** - Legal 500

Variously described as "a fantastic proactive advocate with a quick turnaround", "very thorough and very clever", "very commercially aware", "excellent on his feet and not someone you want peering back at you if you are in the witness box", "especially effective in case heard in the Chancery Division", "extremely bright and approachable" and "a barrister who really understands solicitors' needs" Andrew is a courtroom advocate and team player who strives to obtain the best possible commercial results for his clients. Those clients include banks, building societies, secondary lenders, major insurers, well known plcs and prominent individuals.

Andrew cut his teeth at the Bar in the wake of the last property slump of the early 1990s and acted in many high profile cases on behalf of both lending institutions and professional indemnity insurers. He remains intimately involved in such issues as loan syndication, lending, valuations, conveyancing and related insurance issues.

Andrew regularly appears in all Divisions of the High Court, including the Commercial Court, the TCC and the Senior Courts Costs Office and has acted in many Arbitrations (both ICC and domestic). He also frequently attends mediations on behalf of clients where his commercial approach to legal problem solving is at the fore.

Andrew has a burgeoning and broad based commercial practice which encompasses all the major areas of work undertaken at 4 New Square. He lives with his young family in Central London and the French Alps and has a passion for sports (particularly winter sports, rugby and salmon fishing).

### Privacy Policy

Click here for a **Privacy Policy** for Andrew Nicol.

### Transparency Statement

Click here for the **Transparency Statement** for Andrew Nicol.

## Areas of Expertise

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### Costs



Disputes in relation to legal costs form an important part of Andrew's practice. There can be no greater frustration to any litigator than the issue of costs forming a logjam preventing dispute resolution. Careful consideration needs to be given to the issue of costs before, during and after dispute resolution. Andrew well understands the frustration of lawyers and clients when disagreements over costs arise. Whilst the majority of such dispute are apt for informal resolution Andrew has longstanding experience of the Courts' Costs' Jurisdiction.

By way of example in the last 12 months Andrew;

- Represented a well known niche firm of Solicitors in the SCCO on a contested detailed assessment at which the fees disputed ran into seven figures (case settled);
- Represented Solicitors in a Stage 1 Wasted Costs Hearing in the Liverpool District Registry (Privilege, proportionality, merits etc. – Application dismissed);
- Continues to represent a solicitor in relation to a High Court dispute with his former partners as to the validity of CFAs entered into by that partnership;
- Advised a Commonwealth lawyer in relation to the assessment of his fees in the High Court in London;
- Represented a Ukrainian Company in Detailed Assessment Proceedings in the SCCO;
- Represented a leading firm in proceedings in the SCCO (S.71 and Special Circumstances – Application dismissed);
- Represented the paying party in an 8 day Detailed Assessment in SCCO (Proportionality and costs of a partly successful appeal);
- Represented Solicitors on Appeal from Regional Costs Judge (New evidence on Appeal and compliance with Cancellation of Contracts Made in Consumer Home etc. Regulations) and Detailed Assessment thereafter (Reasonableness of Success Fee etc);
- Continues to represent the Claimants in multi-faceted actions in the Cardiff District Registry and SCCO (Terms of Retainer, validity of CFAs etc);
- Continues to represent the Paying Party in SCCO on Preliminary Issue (validity of CFA, whether agreement in writing etc);
- Represented a paying party in the SCCO (validity and effect of compromise)
- Continues to represent the receiving party in County Court costs proceedings against Third Party (non-assignment/novation etc);
- Continues to represent the Receiving Party in SCCO (dispute as to validity and extent of indemnity/Section 71);
- Continues to represent the Paying Party in SCCO and on Appeal (Applicability of “new” rules on Proportionality);
- Advised the Successful Appellant on costs in the Court of Appeal (Issue based costs etc.)
- Advised the Successful Appellant on costs in the Court of Appeal (partial – but financially significant – success);
- Continues to represent the Appellant on Appeal from SCCO (test of necessity and appearance of bias);
- Represented Third Party insurer sought to be joined as a party to costs proceedings (Section 51 SCA '81 etc.);
- Continues to represent the Respondent Solicitor to Wasted Costs Application at first instance and on Appeal (privilege, proportionality, public funding, procedure, causation etc.);
- Continues to represent a solicitor defending a High Court claim made by the Lord Chancellor in respect of Legal Aid fees;
- Continues to advise a Leading Firm in relation to the termination of retainers with overseas client (liens , statutory rights etc.);
- Continues to act for the estate of a deceased night club proprietor in its dispute with his former solicitors in the SCCO.

## Professional Liability

**“He has in-depth experience across a range of professional negligence disputes.”** – *Legal 500, 2020*

**“Exceptional ability.”** – *Legal 500, 2019*

For many years Andrew has been listed as a leading junior in the field of professional liability by *The Legal 500*. His work in this area spans all the professions (save the medical profession) and he has regularly been instructed by all the leading insurers in the field. He has many reported cases to his name at first instance and in the Court of Appeal

### Educational Professional Negligence

Andrew has a widespread and long-standing experience of breach of contract, professional negligence and discrimination claims in



the education sector as well as claims alleging inadequate teaching. This experience spans common law claims and Employment Tribunal claims.

In an employment context Andrew has acted for a number of City and corporate clients defending of race, sex, disability and whistle-blowing claims and a number of high-profile individuals bringing such claims in both the Employment Tribunal and the High Court. A number of these claims were asserted to have been the highest value such claims brought at the relevant time. Andrew has also acted for solicitors and Counsel alleged to have been professionally negligent in the conduct of such claims and have acted for disappointed litigants seeking to pursue such claims against their former legal advisers. The vast majority of these claims either settled or were summarily dismissed (when acting for Defendants) and are not reported but further, anonymised, details can be supplied on request.

Perhaps most pertinently Andrew acted for the Defendant barrister in the leading case of *Gosfield School v Birkett & Long LLP* [2006] PNLR 19. This case is commented upon in "Educational and Professional Negligence: claims for school fees and the defence of negligent education" Ed L.M. 2006.

## **Commercial Dispute Resolution**

Andrew has wide experience of a broad range of commercial work, including sale of goods, corporate and personal insolvency, share warranty and other contractual claims and banking and other lenders' disputes.

Andrew's recent caseload has included a number of disputes in relation to share purchase agreements, company takeovers, business purchases and company collapses.

## **Insurance & Reinsurance**

By the very nature of much of his practice Andrew spends a great deal of his time considering insurance issues. He is regularly instructed by insurers to defend claims on behalf of their clients and to consider coverage issues and policy terms. He has recently advised insurers on their liability or otherwise to respond to a claim made by a premiership football club following the catastrophic injury to one of its players whilst on international duty, advised insurers in respect of a multi-million pound fire claim, represented SIF pursuing a claim against an assured and on many occasions advising as to what circumstances could give rise to a claim on an insurance policy.

## **Sports**

In his youth Andrew played first class rugby and he remains passionate about the game and about sport generally. Andrew has an evolving sports law practice. He recently advised insurers in relation to a claim made by a premiership football club after one of its players who was catastrophically injured whilst on international duty. Andrew's other particular passion is mountain sports and he has advised a number of members of the UIAGM (Mountain Guides) in relation to professional negligence claims made against them. He is currently instructed in a dispute in which allegations of professional negligence are made against a French ski instructor.

## **Construction & Engineering**

Andrew has considerable and long-standing experience in a wide range of construction and engineering disputes and related professional liability claims.

He has conducted many cases in the TCC, acted in many Arbitrations and for a variety of parties in very many Mediations. He is renowned for his skill in cross examining experts across many disciplines and for the accuracy and clarity of his written advocacy.

His recent and current Instructions in this field include;

- Acting for Defendant structural engineers in multi-party TCC litigation relating to the cladding of apartment complexes in London;
- Acting in the TCC for Defendant landlord in relation to similar claims involving cladding on residential buildings in

Manchester;

- Acting for the Claimant developer against an infrastructure provider for its failures in relation to a retail centre in the North West;
- Acting for a Defendant Facilities Manager facing professional negligence claims in relation to the operation of a shopping centre in the South West;
- Representing a Third Party following the destruction of valuable plant and machinery at a recycling centre in the Midlands;
- Acting in the TCC in a claim arising from a fire at a school which occurred during construction works;
- Acting for architects in respect of claims arising from the construction of a Waste to Energy facility;
- Representing the Responding Party in relation to a professional indemnity claim in respect of the measurement of works at a vehicle sales facility in the Midlands;
- Acting in the Arbitration following construction works at a private members' club in London;
- Representing the vendors following TCC claims related to the sale of allegedly contaminated land at an industrial park in Northern England.

## International Arbitration

Andrew has extensive experience of arbitrations, mediations and adjudications including:

- Commercial Arbitrations (both ICC and domestic)
- Construction and engineering arbitrations
- Many mediations and adjudications

Recent arbitrations include a dispute between two major UK plcs as to the warranties in a Share Purchase Agreement, a dispute between the parties to an agreement relating to the sale of a Russian Bank and a dispute in respect of the refurbishment of one of the most expensive private houses sold in London.

Andrew is happy to represent clients at mediations at which he seeks to avoid a “barristerial” approach but instead to achieve sensible commercial solutions to disputes.

## Qualifications & Memberships

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M.A. (Cantab.)