



## Ben Hubble QC

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*Clever, calm and confident. He's notable for his incredible memory for detail.*

- Chambers & Partners

### **Ben Hubble QC is a specialist in professional liability, disciplinary, regulatory and commercial work.**

Much of Ben's work involves claims against accountants, actuaries, auditors, directors, financial advisers, financial institutions, insurance brokers, lawyers, pension consultants and tax advisers often following on from corporate collapse, lender losses, increased pension scheme liabilities or failed tax and investment schemes. Multi-party and group litigation is a particular expertise. In addition, Ben concentrates on: commercial arbitrations and litigation both on and offshore; banking; insurance (particularly coverage and indemnity disputes) and claims arising from the financial services sector. Ben is a Senior Decision Maker for the Guernsey Financial Services Commission.

In April 2020, Ben was featured as both 'Lawyer of the Week' in The Times and as the first 'Barrister of the Week' in The Lawyer. Ben's recommendations in the Directories extend to Professional Negligence, Professional Discipline & Regulatory, Pensions, Offshore and Insurance. He is variously described as "*superb on every level: rolls up his sleeves and solves issues; adds huge value to anything he touches*", "*absolutely at the top of his game and excellent to work with*", "*his advocacy is fantastic. He really makes it all very simple and based in common sense*", "*analytical, innovative and easy to approach*", "*highly rated for his advocacy, focused advice and prompt response*", "*[a QC who] immediately earns clients' confidence due to his understanding and his forensic approach*", "*as conscientious and thorough as can be*", "*hardworking, bright and responsive*", "*the first name I think of for professional discipline accountancy cases*", "*one of the 'big beasts' of the Professional Negligence Bar and our first choice for big-ticket claims in that arena. He is very knowledgeable and articulate and he is an excellent advocate*" and "*very experienced and [able to] adapt his advocacy style to the particular tribunal he is addressing.*"

Ben regularly acts on the high value claims in the professional liability arena, particularly those where the dispute is of a commercial or international nature. In relation to lawyers' liability, Ben is frequently involved in claims with a multi-party element, such as the Right to Buy Litigation and various claims arising from failed property investment schemes.

Ben is particularly experienced in regulatory and professional disciplinary issues in the legal and financial sectors. Ben advises a number of city law firms on regulatory and compliance issues, as well as acting on disciplinary claims before the SDT. On the financial disciplinary side, Ben has longstanding expertise having acted in many of the large accountancy disciplinary proceedings of this decade. Ben is particularly adept at providing strategies to address the various regulatory and compensatory risks that arise from a breakdown in compliance or corporate governance.



Ben is a highly experienced trial lawyer and relishes his role as an advocate. Alongside that, Ben places particular emphasis on detailed preparation, teamwork and being as approachable and flexible as possible.

## Privacy Policy

[Click here for a Privacy Policy for Ben Hubble QC.](#)

## Areas of Expertise

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### Professional Liability

**“He has everything: a brilliant legal and strategic mind combined with outstanding client care skills.”** – *Legal 500, 2021*

**“He is unflappable and inspires confidence.”** – *Legal 500, 2020*

**“He is very good at reading his audience and knows when he should keep going with a point and when he should stop.” “He is unflappable and inspires confidence. He possesses a wonderful down-to-earth manner: he’s warm and welcoming, yet has a gravitas that is helpful on some of the bigger, more high-profile cases.”** – *Chambers & Partners, 2020*

**“His advocacy is fantastic. He really makes it all very simple and based in common sense.” “Extremely likeable and humble. There is no arrogance or grandstanding and he is a pleasure to work with. He comes across as eminently reasonable in court, which can result in him succeeding with applications that he shouldn’t really be able to win.”**– *Chambers & Partners, 2019*

Ben is top rated and cited in the Directories as **one of the ‘big beasts’ of the professional liability world**. Ben has very considerable experience in all aspects of professional liability claims, especially those with a commercial element. Ben also has very considerable experience in multi-party litigation. He acted for the majority of the 650 odd panel solicitors sued by ATE insurers in *the TAG Litigation* following the collapse of the Accident Group. Similarly, he acted for the lead defence group in *the CLE Litigation*. He successfully resisted the application made on behalf of miners for a Group Litigation Order arising from alleged misappropriation of damages paid under the Coal Miners Compensation Scheme. He acted for the solicitor firm sued in *the Innovator Litigation*. He acted for one of the Major Defendant firms of solicitors in *the Right to Buy Litigation*. He is instructed on various ongoing claims against solicitors’ firms arising from failed property or investment schemes. Claims involving security documentation and undue influence remain a particular interest, Ben having acted for the Law Society and the solicitor appellant in *Etridge*.

Ben was at the forefront of the wave of lender claims against both solicitors and valuers following on from the credit crunch. He acted for the lender in *Nationwide v Dunlop Haywards*, obtaining summary judgment on the £20m+ deceit claim, and in the associated claims against the solicitors involved. He acted on numerous claims arising from high value (£10m+) individual transactions and also multi-claim actions arising from alleged mortgage fraud rings. He defended the innocent partner in relation to claims of alleged dishonesty against his fellow partner in some 500 odd conveyancing transactions. In *E-surv v Goldsmith Williams* he successfully argued that the *Bowerman* duty survives the imposition of the CML Handbook. Ben also has particular expertise in limitation (having appeared for the successful defendants in the Court of Appeal in *Axa v Akhtar*) and issues arising under the Civil Liability (Contribution) Act 1978.

Ben is also heavily involved in claims arising from the failure of (what were intended to be) tax-advantaged investment or film schemes. He regularly acts for both high net worth individuals (often from the sporting world) who have found themselves caught up in the adverse financial and taxation consequences, as well as accountants, tax advisers and IFAs who advised on such schemes.

In the pension context, Ben regularly acts for pension consultants, scheme actuaries or scheme solicitors on claims arising from the mis-management of pension schemes.

In addition to appearing in the English Courts, Ben acts on claims in a number of Caribbean jurisdictions, including the BVI and the Cayman Islands.



Ben is in demand as a lecturer on professional indemnity related issues. He is a past Chairman of the Professional Negligence Bar Association. He ran the Lawyers Liability annual seminar for that Association for many years. In addition to that, he lectures regularly on professional liability related issues to Specialist Bar Associations, insurers and solicitors.

## Lawyers

Ben has acted and continues to act in the major lawyers liabilities' claims of the day. Ben's expertise covers all areas of lawyers liabilities, including in particular lender litigation, defective tax and investment schemes, mishandled litigation, failed joint ventures and confidentiality/privilege issues. Multi-party actions are a particular interest. He acted for the majority of the 650 odd firms of solicitors sued in *the TAG Litigation* and for the lead defence group in *the CLE Litigation*. He successfully resisted the application made on behalf of miners for a Group Litigation Order arising from alleged misappropriation of damages paid under the Coal Miners Compensation Scheme. He acted for the solicitor's firm sued in *the Innovator Litigation*. He acted for one of the Major Defendants in *the Right to Buy Litigation*. He is presently acting on various multi-party claims against solicitors firms arising from failed property or investment schemes.

Examples of cases leading to judgments can be found in the cases section below. In addition, Ben has acted and continues to act on large numbers of complex and high value cases, about which confidentiality means relatively little can be said. Some examples include:

- acting for claimants and defendants on large-scale lender litigation, including dealing with consideration of appropriate causes of action, interaction with contributory negligence and the measure of damage
- acting on a claim for \$100m + loss said to have been suffered by re-insurers as a result of class action in the US being rendered more expensive due to destruction of evidence by defendant solicitors
- acting on a claim for \$100m + following the strike out of original action
- acting for defendant city firm on £25m+ claim arising from consequences of service of notice extending charters for freight vessels
- acting for firm of solicitors sued for £10m+ for participation in failed property schemes
- acting for claimant on claim for £8m for unauthorized settlement of *Sempra* type claim against HMRC
- acting for defendant on claim for £5m for alleged bad advice on attempt to takeover board of company
- acting for claimant on claim in BVI alleging that on island company officers facilitated unauthorized sale of beneficiary's property in Brazil

## Cases

- (1) Ocean Finance & Mortgages Ltd (2) Ocean Money Ltd (Claimants) v Oval Insurance Broking Ltd (Defendant) & (1) Senior Wright Ltd (2) Senior Wright Indemnity Ltd (Third Parties)
- *E-surv v Goldsmith Williams*  
Ben successfully argued that the *Bowerman* reporting duty on solicitors survives the imposition of the CML Handbook
- *Hawksford Trustees Ltd v Halliwells*  
Ben's client recovered c. £4m having established that a limitation of liability clause was not incorporated into the retainer
- *AIG Europe Ltd v ILP*  
The leading case on aggregation in solicitors claims
- *Watson Farley & Williams v Ostrovizky*  
A £10m+ claim against Ben's client was dismissed with indemnity costs
- *Innovator Litigation*  
After a 16 week trial, all claims against the solicitor Defendants were dismissed; the case is presently on appeal
- *Allied Surveyors Plc v Newcastle Home Loans Limited & Others*

Claim against innocent partner said to be liable for alleged dishonest involvement of fellow partner in some 500 odd conveyancing transactions, and consideration of the no privilege in iniquity exception

- **Youlton v Charles Russell (a firm)**  
Claim against solicitors for losses said to be suffered by pension scheme due to failure to ensure board approval for transaction involving related parties
- **Nahome v Last Cawthra Feather Solicitors**  
Claim by former leaseholder for failure to serve notice under 1954 Act said to result in loss opportunity to develop jewellery business
- **Axa Insurance Limited v Akhtar & Darby Sols & Ors**  
Claim by ATE Insurer against personal injury solicitors alleging vetting breaches; won preliminary issue on limitation in relation to when actual damage accrued and successfully resisted appeal to Court of Appeal.
- **Andrew Brown v Innovatorone plc and others**  
Ruling on validity of service of Claim Form by fax and consideration of new form of CPR 6.
- **Watson v Irwin Mitchell**  
Claim against solicitors for alleged mishandling of underlying commercial litigation.
- **R (on the application of Revenue & Customs Commissioners) v W**  
Circumstances in which solicitor obliged to afford access to client files.
- **Dayman v Lawrence Graham**  
Claim by trustee in bankruptcy of former client alleging conveyancing negligence and missed negotiation opportunity.
- **Veitch v Avery**  
Claim for lost opportunity to defend possession proceedings said to result in loss of West Country Hotel.

## Accountants, Auditors & Actuaries

Ben regularly acts on claims against accountants, auditors and tax advisers. Having acted for the Defendant solicitors in *the Innovator Litigation*, a particular expertise is litigation arising from the failure of (what were intended to be) tax advantaged investment or film schemes. Ben variously acts for both high net worth individuals (often from the sports world) who entered into ill-fated tax schemes, and the accountants, tax advisers and IFAs who advised on such schemes. Ben has acted and is acting on claims arising from, among others, the Innovator, Tower M Cashback, Eclipse, Ice-breaker, Little Wings, Samarkand, Resolve, Fortitude, Perseus and Scion Schemes. Recent cases include a claim by a group of high net worth individuals against one of the big four accountancy firms, a claim by a boxing promoter against his former accountant relating to a failed insurance policy entered into in respect of a failed tax scheme, and a claim by one of the world's leading football managers against his former tax advisers.

In addition to failed tax schemes, Ben regularly acts on other accountants and auditors' negligence cases. Examples of recent cases include:

- advising special liquidators of collapsed Irish Bank in relation to potential claims against external auditors
- claim by bank's liquidator for \$900m against Cayman auditors for alleged failure to spot fraudulent business model; claim involves both *ex turpi causa* and traditional breach and causation issues
- claim by hedge fund manager against insolvency practitioner for £10m+ for alleged inability to work in investment due to criminal conviction said to be caused by insolvency practitioner's negligence (*Griffin v Hacker Young [2010] PNLR 20*)
- claim against tax advisers for advising company and shareholder to enter into a defective Share Scheme tax avoidance scheme
- claims against auditors for failure to identify director's fraud and thefts
- claim against big 4 firm of accountants for negligent advice in relation to a non residency scheme aimed at avoiding CGT
- claims against accountants for negligent accounting and tax advice



In relation to actuaries, Ben has in depth knowledge of the pensions industry and the workings of large life offices having spent two years leading the successful prosecution of the successive chief executives of Equitable Life for professional misconduct. Ben has acted and is acting on various claims against pension consultants and actuaries (and often scheme solicitors also) relating to alleged misadministration of pension schemes, including re Barber window problems.

## Cases

- **Griffin v Hacker Young**

Claim by hedge fund manager against insolvency practitioner for £10m+ for alleged inability to work in investment due to criminal conviction said to be caused by insolvency practitioner's negligence.

## Financial Services Professionals

Ben is regularly instructed on claims involving financial services professionals. Often this involves acting for claimants or defendants in relation to financial advice and pension cases. It also includes claims over against financial advisers following on from allegedly defective tax and investment schemes. Ben is currently acting on the claims over against financial advisers arising from the multi-party *Innovator Litigation*.

Examples of other recent cases include:

- advising on whether financial services networks liable under Section 39 of FSMA for acts or omissions of Appointed Representatives (*R (on the application of TenetConnect Services Ltd) v Financial Ombudsman [2018] EWHC 459 Admin*)
- claims against advisers alleging failure to advise of multi-currency facility for large loan account
- claims against advisers alleging defective advice in relation to transfer from pension schemes
- claims against advisers alleging defective IHT planning
- consideration of whether particular activities FSA regulated or not
- consideration of whether activities amount to collective investment schemes or not

## Insurance Brokers & Agents

Ben regularly acts on insurance brokers' claims, typically defending insurance brokers. Ben is very familiar with the issues that arise in tripartite litigation involving insurers, insureds and insurance brokers. Recent cases include:

- claims against insurance brokers arising from refusal of cover for SEC related claims in the US
- claims against insurance brokers for refusal of cover in fire cases

## Cases

- (1) Ocean Finance & Mortgages Ltd (2) Ocean Money Ltd (Claimants) v Oval Insurance Broking Ltd (Defendant) & (1) Senior Wright Ltd (2) Senior Wright Indemnity Ltd (Third Parties)

- **AIG Europe Ltd v ILP**

The leading case on aggregation in solicitors claims.

- **Claim against insurance broker**

For failing to advise a mortgage broker to make a blanket notification to insurers in respect of possible PPI claims.

- **Claim against insurance brokers**

Against backdrop of fire losses, for failing to explain meaning of condition precedents and warranties in policy.

- **Claim against insurance broker**

Said to have failed to ensure adequate insurance in place for tuna farms off coast of Turkey destroyed by adverse weather conditions.

- **Claim against insurance broker**

For failing to ensure that group of financial advisers had adequate professional indemnity insurance.

## Surveyors & Valuers

Ben has acted on claims against Surveyors and Valuers throughout his career and has been at the forefront of the new wave of litigation against surveyors and valuers following on from the credit crunch. Ben acted for Nationwide in its claims against Dunlop Haywards arising from the fraudulent acts of their valuer, Mr McGarry, and successfully obtained summary judgment in deceit for £20m+.

Recent and ongoing cases include:

- claims by lenders against valuers said to have fraudulently or recklessly overvalued both commercial and residential properties
- claims by lenders against valuers said to have negligently overvalued both commercial and residential properties
- claims by lenders against valuers said to have overvalued portfolios of public houses across England and Wales
- claims by lenders against valuers said to have overvalued portfolios of commercial properties, including sale and leaseback and buy to let transactions in respect of substantial property portfolios

## Qualifications & Memberships

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Ben is a former Chairman of the Professional Negligence Bar Association. He has sat on the Committees advising on the terms of the Professional Negligence Pre-Action Protocol and the Adjudication Scheme for Solicitors Negligence claims. He is also a member of the Chancery Bar Association and the Common Law & Commercial Bar Association.

### Education

B.A. (Oxon.) Dip. Law (City)

## Insights

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### **The new Accounts Rules – what can you do?**

28 October 2019

On 25 November 2019 the SRA Accounts Rules 2011 will cease to have effect, and will be replaced by new accounts rules. In one quarter-stroke of the draftsman's pen, 52 rules covering 50 pages of single-spaced typescript on pages of A4 will be replaced by 13 rules on 10 pages. The SRA has trumpeted loudly that the rules have been simplified and that they provide greater flexibility. Have they? Do they?