

Jamie Smith QC

Call: 1995

Silk: 2015

+442078222000

j.smith@4newsquare.com

Clerk: Dennis Peck

d.peck@4newsquare.com

+442078222040

+447912405149



He provides very incisive analysis of difficult problems and is incredibly nice to work with.

- Legal 500

During his time in Chambers, Jamie Smith QC has built up a practice embracing professional liability work, disciplinary & regulatory matters, insurance and commercial fraud.

In all that he does, Jamie brings a meticulous eye for detail and a complete commitment to the cause. He prides himself on being a team player and will not hesitate to work at the coalface and get his hands dirty. Jamie is ever-alert to the clients' commercial aims, but he is not afraid to give robust advice and to stick to his guns.

He is ranked in the directories for his insurance, professional liability, professional discipline and regulatory work. Recognised by the Legal 500 as a leading Silk in professional negligence, regulatory and disciplinary, Jamie is described as “a good team player with a fine legal brain”, “he has really good judgement, and is also a decent man with a terrific sense of humour” (2019). “An exceptional talent” who is “able to see through complicated legal issues and distil down to the essential points” (2018). Before he took silk, Jamie was also in the ‘Star’ category for professional negligence in Chambers & Partners and is now ranked in the 2019 edition as a Leading Silk for his professional negligence and insurance work. He is described as “one of the brightest of the bunch, and extremely user-friendly. Confident but self-aware.” “He is more than willing to jump into the trenches and get involved in the nitty gritty of a case. He is excellent in cases with complex issues that require a meticulous eye for the detail”, “responsive, bright and commercial.” “He really knows his stuff and has the advocacy skills to make his views reality.”

Jamie regularly appears in the appellate courts and is equally at home in arbitration. Examples of his recent work include the ground-breaking Supreme Court decision on liability insurance in *IEGL v Zurich* [2016] AC 509, a ground-breaking Maxwellisation case in the regulatory sphere in *R (Lewin) v FRC* [2018] 1 WLR 2867 and a trip to the Court of Appeal on the meaning of a settlement agreement in *Khanty-Mansiysk Recoveries Ltd v Forsters* [2018] PNLR 20.

Privacy Policy

Click here for a [Privacy Policy](#) for Jamie Smith QC.

Areas of Expertise

Insurance & Reinsurance

“He quickly soaks up all the detail utilising a methodical approach to produce a first-class result.” – Legal 500, 2020: Insurance and Reinsurance



NEW SQUARE

“An incredibly brilliant intellect.” “Very good on his feet, very bright and very analytical.” “Quickly soaks up all the detail utilising a methodical approach.” – *Chambers & Partners, 2020: Insurance*

“Responsive, bright and commercial.” “He really knows his stuff and has the advocacy skills to make his views reality.” – *Chambers & Partners, 2019: Insurance*

“His work ethic and commitment are extraordinary and very admirable.” “He is an extremely capable advocate.” – *Chambers & Partners, 2018: Insurance*

Jamie’s first exposure to insurance issues arose as part of his professional liability work. Insurance has since grown to become a key area of Jamie’s practice and one in which he is both deeply interested and deeply committed: in Court, in arbitration, and in delivering talks and seminars. Jamie is now seen as an experienced practitioner in this field and was Counsel in the ground-breaking Supreme Court case of *IEGL v. Zurich* case, exploring coverage issues in the EL field.

On the professional indemnity side, Jamie has very extensive experience of market policies. He has a particular specialism in the Minimum Terms and Conditions (MTCs), as applying to primary layer solicitors’ policies. He is regularly appointed to arbitrate issues arising under the MTCs. Similarly, he has wide experience of coverage issues arising under ICAEW model policies.

The wide incidence of mortgage fraud has led market insurers to pay close attention to aggregation and dishonesty clauses in their policies and Jamie has repeatedly been engaged to advise on these matters. This includes:

- Dishonesty conferences
- Notification issues (particularly *Rothschild* ‘blanket’ notifications)
- Arbitrations where the market insurer is seeking a declaration that it is entitled to rely on the dishonesty exception in the MTCs

Away from the professional indemnity insurance arena, Jamie advises on a very wide range of topics, from warranties in domestic household policies to exotic ‘prize’ insurance in the on-line gaming industry. As to the latter, Jamie acted for *MyLotto24* in its €24m dispute with Great Lakes following a jackpot win by one of its customers.

Jamie also has extensive D&O experience. He recently advised on notification issues in respect of a captive D&O reinsurance programme and he has been involved in coverage disputes following the *Meinl Bank* litigation, and the *Topland* affair. Jamie’s disciplinary work has also led to coverage disputes, particularly on the scope of cover side in FCA investigations.

Jamie also advises regularly on financial lines policies.

Cases

- **IEGL v Zurich**
Ground-breaking Supreme Court case recognising recoupment rights for EL insurers in mesothelioma cases.
- **Sugar Hut Group v Great Lakes Reinsurance (UK) Plc**
Insurers’ declinature for breaches of warranty upheld following nightclub fire.
- **Hagirhan v Allied Dunbar**
Court of Appeal holds that pain perpetuation syndrome does not trigger PHI insurance policy.

Professional Liability

“Ridiculously hardworking, very perceptive, highly focused and thoroughly charming.” – *Legal 500, 2020: Professional Negligence*

“A fiercely intelligent silk who approaches a case from all angles.” “He is terrifyingly hard-working. I’ve not seen anyone as diligent as him; he knows the detail better than anyone on the case.” “He is an absolute pleasure to work with: incredibly



user-friendly and down to earth. A highly reassuring presence to have on a case.” – *Chambers & Partners, 2020: Professional Negligence*

“One of the brightest of the bunch, and extremely user-friendly. Confident but self-aware.” “He is more than willing to jump into the trenches and get involved in the nitty gritty of a case. He is excellent in cases with complex issues that require a meticulous eye for the detail.” – *Chambers & Partners, 2019: Professional Negligence*

“He is a good team player with a fine legal brain.” – *Legal 500, 2019: Professional Negligence*

Jamie is ranked as a leading silk for his professional negligence work in both Chambers & Partners and the Legal 500. As a junior he was ranked in the ‘star’ category in this field by Chambers & Partners and he was nominated as Professional Negligence Silk of the Year in his first year of silk.

Jamie brings total commitment to his clients’ cause, whether on the claimant or the defendant side. He thrives on mastering the detail, but never loses sight of the bigger picture. Jamie is most at home working as part of a team.

In his 20 or so years of practice in this field, Jamie has handled the biggest cases across all professional disciplines, from actuaries to auditors, and solicitors to consulting engineers.

Jamie is an editor of Jackson & Powell (8th Edition), writes and speaks frequently on professional negligence topics and was for many years on the Committee of the Professional Negligence Bar Association.

Cases

- **Dunhill v Brook & Co**
Court of Appeal revisits scope of barrister’s duty to advise on settlement at the court door.
- **Khanty-Mansiysk Recoveries v Forsters LLP**
Professional negligence claim against solicitors barred by clause in settlement agreement.

Accountants, Auditors & Actuaries

Jamie acts both for and against accountants, auditors and actuaries. He is highly numerate – claiming to have studied both Pure and Applied Mathematics at ‘A’ Level!

Accounting

On the accounting side, he has particular experience in film finance and other tax deferment scheme cases – dating right back to the *Bedford Row Film Finance* litigation in 2006 onwards. In that regard, Jamie has seen the range of schemes: from sale and leaseback to UK GAAP structures.

Other examples of his work on the accountancy side include:

- Tax planning/offshore trust claims where the trust does not have the envisaged tax sheltering effect.
- IHT planning claims.
- Company takeover/share-swap schemes.
- Allegations of incorrect treatment of negative goodwill

Jamie also has substantial experience of disclosure issues arising from documents and working papers held by accountancy and audit practices, e.g., under section 235 of the Insolvency Act.

Audit

Jamie has wide experience in heavy audit cases. He recently represented Deloitte as regards its auditing work in relation to Aero



Inventories plc. He is currently advising an audit practice in respect of the collapse of a Caribbean investment fund. Jamie's work on the civil side goes hand in hand with his regulatory & disciplinary work, with particular expertise in FRC proceedings under the Accountancy Scheme and the AEP.

Actuarial

Jamie's work in actuarial cases has focused principally upon pension scheme cases, e.g., mistakes arising out of *Barber* equalisation and the indexing of uplift to pensions in payment.

Cases

- **R (Lewin) v FRC**
Judicial review arising out of audit claim.
- **Executive Counsel to the FRC v Deloitte**
Disciplinary proceedings concerning audit of aircraft parts wholesaler.

Financial Services Professionals

Jamie is regularly instructed in claims involving financial services professionals. This aspect of his professional liability practice came to the fore in the various waves of litigation involving tax deferment/GAAP schemes – such as The Bedford Row Litigation and The Innovator Litigation. Jamie has acted on both the claimant and defendant side in such claims.

Examples of Jamie's recent work include:

- The involvement of pension advisers in the equalisation of company pension scheme and as to the definition of pensionable salary in an employer's scheme.
- Whether direct-offer advertisements for SCARP products contravened FIMBRA/FSMA guidelines.
- Claims relating to trading of FOREX derivatives and credit default swap derivatives.
- FSMA client classification issues.
- Asset-valuation for film-based tax deferment schemes.

Jamie has just concluded his involvement in a large, multi-party dispute arising from a failed bank guarantee deposit scheme (where £10m of investors' funds was lost). There were claims against several IFAs and financial intermediaries.

Cases

- **Wilson v MF Global**
Eady J holds that trading desk of bank owes no advisory duty to client trading in CFDs.
- **Goldberg v Miltiadous**
Accountancy firm is vicariously liable for investment advice given by dishonest partner.

Insurance Brokers & Agents

Jamie's specialism in claims involving insurance brokers and agents complements his insurance practice (in respect of which he is recommended as a Leading Silk in Chambers & Partners).

Often, Jamie acts in multiparty disputes where both insurers and insurance intermediaries are defendants. He also has offshore experience and has, for example, advised in relation to Channel Islands disputes and pan-European coverage disputes.

Jamie's work in this area includes:

- Advising an online gaming company on the broker's role in the procurement of specialist 'prize' indemnity insurance



NEW SQUARE

(€40m claim).

- Representing an IFA following incorrect notification of pensions mis-selling claims (in the light of *Rothschild v. Goodyear*).
- Acting for a Jersey company as to the broking of a commercial insurance policy for a café.

Jamie has particular experience in business interruption cover claims (and, its counterpart, advance loss of profit cover) and has advised on that type of cover in the context of: (a) a fire at an award-winning Eco hotel project during the construction works period; (b) an arson attack at a supermarket; and (c) a recycling plant.

Jamie also regularly considers D&O issues on the broking side. He was recently involved in a substantial matter relating to European-wide litigation against a high-profile bank and its directors.

He is a member of British Insurance Lawyers Association and has spoken at BILA events.

Cases

- **Cafe de Lecq v Rossborough Insurance Brokers**
Brokers responsible for substandard broking of general commercial policy, leading to declinature after fire for breach of fat-fryer warranties.

Lawyers

In recent years, Jamie has spent much of his time acting in various high-profile lawyers' liability cases – as to solicitors and barristers. That work has entailed court and arbitration work for both claimants and defendants/respondents and has taken him to the Court of Appeal and the House of Lords. The underlying subject matter of the dispute has been very diverse: from the purchase of football rights to the purchase of the rights to extract oil in Siberia. The sums at stake have been consistently high, e.g., *Accident Exchange* (£100m+), *Khanty-Mansiysk* (£150m+), and *IAP* (£40m).

Jamie is equally at home on transactional matters as on 'lost litigation' cases. As to the latter, Jamie has been involved in the full sweep of litigation disciplines from matrimonial to patent work. In recent times, his work has focused heavily on deceit and conspiracy accusations made against professional advisers. He is also comfortable pursuing and defending matters in offshore jurisdictions, including the Channel Islands, Antigua and the BVI.

Jamie edits Chapter 2 of Jackson & Powell on Professional Liability (duties and obligations) and has a particular interest in duty/scope of duty issues.

Cases

- **IAP v Mishcon de Reya**
Conspiracy claim against commercial partner of MdR. Dismissed after 5-week trial.
- **Dunhill v Brook & Co**
Court of Appeal revisits scope of barrister's duty to advise on settlement at the court door.
- **Khanty-Mansiysk Recoveries v Forsters LLP**
Professional negligence claim against solicitors barred by clause in settlement agreement.
- **Agouman v Leigh Day**
Leigh Day held responsible for theft of settlement funds by fraudsters upon transfer to a bank in the Ivory Coast.
- **Clydesdale Bank v Workman**
Commercial conveyancing partners exonerated on appeal of any wrongdoing arising from misappropriation of sale proceeds.
- **Schumann v Veale Wasbrough**
Court of Appeal upholds first instance decision as to scope of barrister's duty to advise in conference on merits of claim.

- **Moy v Pettman Smith**

Seminal House of Lords decision on scope of barristers duty when advising at door of the court.

Surveyors & Valuers

Jamie's practice has for a long time included claims against surveyors and valuers. This has involved work across the full sweep of surveying and valuation disciplines: including secured lending, agency work and estate management.

On the secured lending side, Jamie's work has included:

- Securitisation (including the £750m *Gemini* securitisation by Barclays Bank plc)
- Greenfield and brownfield development
- Commercial lets, including shopping centres and mixed retail/office accommodation

On the agency side, Jamie has acted:

- For an agency sued for breach of a NDA as regards a valuable site near the Olympic Park
- As to the alleged deceitful preparation of sales particulars

As to estate management, Jamie has been involved with farm tenancies and forestry.

Jamie has always been interested in duty of care issues on the valuation side extending to (1) the scope of losses falling within a secured lending engagement (2) whether losses sustained by a lender through hedging transactions are recoverable from a valuer and (3) how *SAAMCo* applies to forced sale valuations.

Cases

- **Freemont (Denbigh) Ltd v Knight Frank**

Valuer giving secured lending valuation not responsible for losses flowing from client's decision to retain the property in a falling market.

- **Dorchester Property Management v. BNP Paribas Real Estate Advisory & Property**

Interpretation to be given to an NDA concerning the sale of land near the Olympic Park in London.

- **Gladman Commercial Properties v FHP**

Court of Appeal strikes out deceit claim against property agents on Henderson v Henderson/Aldi grounds.

- **MASNOL v Edward Symmons**

Court of Appeal holds that valuer arguably responsible for lender's swap losses.

Disciplinary & Regulatory

"A talented advocate, immensely hardworking and tactically astute." – *Legal 500, 2020: Professional Disciplinary and Regulatory Law*

"He has really good judgement, and is also a decent man with a terrific sense of humour." – *Legal 500, 2019: Professional Discipline & Regulatory Law*

Jamie regularly advises on regulatory matters in solicitors and accountancy/audit fields; such issues often arising alongside the professional liability work he does across the professions.

Jamie has a particular interest in FRC disciplinary proceedings, and he recently acted for Deloitte in relation to the proceedings arising from the collapse of Aero Inventory. That hearing lasted 5 weeks and involved detailed questions as to the meaning of



Misconduct under the Accountancy Scheme.

Jamie is also familiar with judicial review challenges to decision-making in the regulatory sphere. He was Counsel to Deloitte LLP in the ground-breaking *Lewin Maxwellisation* case concerning the FRC's Accountancy Scheme.

Jamie also has wide experience of the challenges faced by the professions when civil and regulatory proceedings overlap; and he recently advised a solicitor's practice in that regard (on a confidential basis) as to how to respond to a section 44B notice.

Jamie is the first port of call for a number of professional services providers seeking advice as to how to comply with regulatory obligations and as to how to address incipient concerns.

Jamie has a particular interest in the new FRC AEP and has given a range of talks on that topic. He is a member of ARDL.

Cases

- **Executive Counsel to the FRC v Deloitte**
Disciplinary proceedings concerning audit of aircraft parts wholesaler.
- **R (Lewin) v FRC**
Maxwellisation issues in relation to FRC's Accountancy Scheme.
- **R (Lewin) v FRC (costs)**
Costs of interested parties in judicial review arising out of FRC disciplinary proceedings.

Commercial Fraud

Since taking silk, Jamie has been heavily engaged in a number of large claims where very serious wrongdoing is alleged against professional persons: solicitors, valuers and estate agents. Jamie understands the acute reputational issues that arise in such cases and the heavy burdens placed upon those against whom such accusations are made. He immerses himself in the detail and fights tenaciously for his clients.

Jamie recently led a team that successfully defended a commercial partner at Mishcon de Reya facing a conspiracy claim. All claims were dismissed after a 5-week trial and indemnity costs were awarded. He has also just finished his long-standing involvement in the *Accident Exchange* litigation, a £100m+ claim alleging conspiracy involving expert rates surveyors and three firms of solicitors.

Jamie understands the need to master a range of ancillary remedies associated with commercial fraud claims, such as freezing injunctions and security for costs application. He is also prepared to give bold advice to seek to bring such claims to an early resolution.

Cases

- **IAP v Mishcon de Reya**
Conspiracy claim against commercial partner of MdR. Dismissed after 5-week trial.
- **IAP v Rosser (costs)**
Indemnity costs awarded to successful defendant after lengthy trial of conspiracy claim.
- **Gladman Commercial Properties v FHP**
Court of Appeal strikes out deceit claim against property agents on *Henderson v Henderson*/Aldi grounds.
- **Clydesdale Bank v Workman**
Commercial conveyancing partners exonerated on appeal of any wrongdoing arising from misappropriation of sale proceeds.

Qualifications & Memberships



He is a member of the Chancery Bar Association, the Professional Negligence Bar Association, the London Common Law & Commercial Bar Association, the Commercial Bar Association, the British Insurance Law Association, the Association of Regulatory & Disciplinary Lawyers and the Fraud Lawyers Association.

M.A. (Cantab.)

Insights

Introduction to the SRA's 2019 Standards and Regulations

14 October 2019

A summary look at the main changes brought in by the SRA's new November 2019 Standards and Regulations and their potential impact on practitioners.

Privilege and Maxwellisation – what can we learn from recent FRC cases?

11 December 2018

In this article, Jamie Smith QC and Helen Evans of 4 New Square explain how these two issues have arisen in the context of disciplinary investigations and proceedings undertaken by the Financial Reporting Council (FRC), which plays an important role in the regulation of accountants.

What can the collapse of Carillion teach us about the overlapping web of powers available against companies, their directors and auditors?

20 March 2018

Carillion PLC collapsed in January 2018. By the end of March 2018, at least three strands of regulatory or disciplinary procedures were being pursued as a consequence of the way the company had allegedly been conducted. The Financial Conduct Authority ("FCA") quickly announced that it was launching an investigation based on Carillion's market updates. In late January 2018, the Financial Reporting Council ("FRC") announced that it was investigating Carillion's auditors.

Editor of Jackson & Powell on Professional Liability (8th Edition)

1 March 2016