

OUR PEOPLE

Ben Hubble KC

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CHAMBERS & PARTNERS

“Clever, calm and confident. He’s notable for his incredible memory for detail.”

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Ben Hubble KC is a specialist in professional liability, disciplinary, regulatory and commercial work. He was nominated for Professional Regulatory and Disciplinary Silk of the Year in the Legal 500 Bar Awards 2022.

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 following his success for the claimant in the landmark case of Rihan v Ernst & Young [2020] EWHC 901 (QB). 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, accountancy 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 accountancy and financial disciplinary side, Ben has longstanding expertise in advising audit practices on regulatory

issues and acting in many of the large accountancy disciplinary proceedings of recent times. 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 KC.

Expertise

Professional Liability

“A very impressive silk. He is extremely bright, always prepares very thoroughly, and is great with clients.” – *Legal 500, 2022*

“At the top of the game in professional indemnity. An exceptional lawyer and great in trials.” “He is very bright and very capable, but also very client-focused. An ideal person for his expertise and his people skills.” “Exceptionally prompt, gets to the point very quickly, and gives technically strong and very pragmatic advice.” – *Chambers & Partners, 2022*

“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.

Featured cases

- 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
- *E-surv v Goldsmith Williams* [2015] EWCA CIV 1147; Ben successfully argued [that the *Bowerman* reporting duty on solicitors survives the imposition of the CML Handbook.
- *Hawksford Trustees Ltd v Halliwells* [2015] EWHC 2996 (CH); 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* [2015] EWHC 2398 (COMM); The leading case on aggregation in solicitors claims.
- *Watson Farley & Williams v Ostrovizky* [2014] EWHC 160 (QB), [2015] EWCA 457; A £10m+ claim against Ben's client was dismissed with indemnity costs.
- *Innovator Litigation* [2012] EWHC (COMM) 1321; 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* [2010] EWHC 1548 (CH); 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)* [2010] EWHC 1032 (CH); 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* [2010] PNLR 19; 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* [2010] PNLR 10 CA, [2010] 1 WLR 1662; 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* [2009] EWHC 1376 (COMM); [2009] WLR (D) 205; Ruling on validity of service of Claim Form by fax and consideration of new form of CPR 6.
- *Watson v Irwin Mitchell* [2009] EWHC 1376 (COMM); Claim against solicitors for alleged mishandling of underlying commercial litigation.
- *R (on the application of Revenue & Customs Commissioners) v W* [2008] EWHC 2780; Circumstances in which solicitor obliged to afford access to client files.
- *Dayman v Lawrence Graham* [2008] EWHC 2036 (CH); Claim by trustee in bankruptcy of former client alleging conveyancing negligence and missed negotiation opportunity.
- *Veitch v Avery* [2008] PNLR 7; 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.

Featured cases

- *Rihan v Ernst & Young entities* [2020] EWHC 901 (QB), [2020] EWHC 1380 (QB); Ground breaking claim that established

that corporate head offices of one of the Big 4 could owe a duty to a member of a foreign member firm not to involve them in unethical behaviour during an audit.

- Griffin v Hacker Young [2010] PNLR 20; 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*.

Featured cases

- 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.

Featured cases

- 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.
- (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) [2016] EWHC 160 (COMM);
- *AIG Europe Ltd v ILP* [2015] EWHC 2398 (COMM); 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+.

Featured cases

- 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.

Disciplinary

“Ben is extremely thorough, bright, has excellent judgement and a very good eye for detail.” – Legal 500, 2022

“He is as bright as any counsel I’ve instructed. He really knows his regulatory law and he knows how to add value.” “He is very bright and capable, but also client-focused.” – Chambers & Partners, 2022

“Excellent from a technical perspective and very gentle with clients in a difficult situation.” – Legal 500, 2021

“A disarmingly persuasive leader in the field.” – Legal 500, 2020

“Accessible and super bright.” “Responsive, pragmatic and empathetic yet firm. He is good on his feet in hearings with multiple parties and his submissions are all well crafted.” – Chambers & Partners, 2020

“Very knowledgeable and a good advocate, he is also very good at managing clients.” – Legal 500, 2019

“Very easy to work with and extremely practical and sensible.” “Very bright.” – Chambers & Partners, 2019

Ben regards his regulatory and disciplinary work as a natural extension to his professional liability work. Indeed, claims often require a holistic approach where both the liability and the disciplinary aspects are dealt with at the same time. Ben is particularly adept at devising strategies to address the inter-related regulatory, disciplinary and regulatory risks that arise after a breakdown of compliance or corporate breakdown. Ben has a strong track record in dealing with regulatory problems such that issues, whilst being addressed properly with the regulator, are contained and so never enter the public domain.

In relation to his professional disciplinary work, Ben is named as a leading Silk in both Chambers & Partners and the Legal 500. He enjoyed the recommendation in the Legal 500 as being the lawyer to instruct if you are stuck on a desert island and need to work the law to get off it. His experience extends across all disciplinary and regulatory sectors but he has an outstanding track record in the financial disciplinary area. Thus, he successfully defended the finance director accused of misconduct in the *Mayflower* case, being the first prosecution brought by the then Accountancy Investigation & Discipline Board, and then went on successfully to prosecute three Chief Executives of the Equitable Life Assurance Society for misconduct. Previously, Ben was retained by the AADB and the FRC to prosecute on their behalf, but now he concentrates on acting only for Respondents. He is particularly well placed to advise on financial (FCA related), accountancy or actuarial related disciplinary matters. Alongside that, Ben undertakes work in the Solicitors Disciplinary Tribunal and before the Bar Standards Board.

Ben regularly lectures on professional disciplinary issues to Specialist Bar Associations, insurers and solicitors.

Accountancy

- *The Mayflower Litigation* where Ben successfully defended the finance director accused of failing to report a black hole in the company accounts to the board; this was the first and remains the most substantial disciplinary hearing held by the (now) AADB;
- Acting for the AADB/FRC in successfully prosecuting a financial controller said to have manipulated company accounts and misled auditors as to the company’s profitability
- Acting for the AADB/FRC in successfully prosecuting the finance directors of a high profile short term lender which collapsed with material irregularities in its financial statements
- Defending the FRC disciplinary proceedings against Mazars alleging inadequate valuations of employer covenants in

- the pensions context
- Defending the FRC disciplinary proceedings against Paul Newsham arising from the audit of various long term construction contracts
 - Defending a finance director in respect of disciplinary proceedings said to arise from incorrect accounting treatment of long term contracts
 - Defending potential FRC disciplinary proceedings against Irish firm of accountants who audited financial institution that collapsed post credit crunch
 - Defending the Finance Director in the Equity Red-Star disciplinary proceedings
 - Acting for various firms of accountants who are the subject of FRC investigations and securing disposal either by (i) abandonment or (ii) settlement of the allegations
 - Defending a firm of accountants before the *ICAEW* against allegations that the firm wrongfully paid away a client's investment monies; after receipt of written submissions prepared by Ben, the prosecuting counsel abandoned the allegations
 - Defending insolvency practitioners before the *ICAEW*

Actuaries

Ben has long experience of disciplinary proceedings against auditors going back to the *Equitable Life Proceedings* where (notwithstanding the collapse of the commercial litigation against the same individuals and the massive scale of the investigation) he secured findings of misconduct against each of the respondents; this, despite the fact that the respondents called the then President of the Institute of Actuaries to give expert evidence on their behalf.

Architects

Successfully defended architect accused of inadequate professional services and unprofessional dealings with clients.

Lawyers

Ben acts as effectively trusted adviser to city and other law firms to assist COLPs, COFAs and Heads of Risk with the range of regulatory issues that across domestically and internationally across large global businesses. He has a strong track record in managing these issues to a successful conclusion with either no or minimal public attention. Where that is not possible, Ben then acts on the subsequent proceedings before the SDT.

Featured cases

- misconduct proceedings against an employment solicitor for the payment of illegal referral fees
- misconduct proceedings against personal injury solicitors for the payment of illegal referral fees
- misconduct proceedings against conveyancing solicitors for the payment of illegal referral fees
- misconduct proceedings against conveyancing solicitors for acting on transactions said to bear the hallmarks of mortgage fraud
- misconduct proceedings against commercial solicitors said to have acted on land banking schemes without advising that they were unregulated collective investment schemes
- misconduct proceedings against a solicitor said to have misled his client
- advising several city firms on SRA investigations, including into potential breaches of SARs and money laundering breaches particularly in relation to use of client account as banking facility
- advising law firms on when and how to self-report to the SRA or make Suspicious Activity Reports
- advising city and other law firms on MeToo, whistleblowing and victimisation allegations; Ben is experienced in dealing with the range of sensitive and difficult issues that arise when handling MeToo allegations.

Surveyors

Acted for firm accused of failure to preserve client funds; successfully applied to strike out the proceedings on the basis that the RICS investigation amounted to an abuse of process and that the charges were in any event not evidenced.

Insurance & Reinsurance

“Accessible, knows his stuff, provides straightforward and pragmatic advice, and is excellent on his feet – the go-to silk for difficult clients who are reluctant to accept the problems with their case.” – *Legal 500, 2022*

“Ben has a great bedside manner and has tenacity.” “He is very pragmatic and provides technically strong advice.” – *Chambers & Partners, 2022*

“A go-to QC for coverage claims, he is calm, detailed and decisive, as well as a first-rate analyst. He also has an excellent manner in dealing with clients facing serious claims, which reassures them that their claims will be tenaciously defended.” – *Legal 500, 2021*

“He is able to get to the heart of the issues quickly; his advice is measured, practical and commercial.” – *Legal 500, 2020*

“Technically very strong and rolls up his sleeves and gets into the detail.” “Very authoritative.” – *Chambers & Partners, 2020*

“Very accessible and easy to work with. He provides very pragmatic advice and is excellent on his feet.” “Very knowledgeable, commercial and approachable.” – *Chambers & Partners, 2019*

In relation to insurance, Ben concentrates on both general commercial insurance and professional indemnity insurance related issues. In relation to general commercial insurance, Ben is particularly experienced in fire and business interruption claims. Ben has been appointed to advise a number of different insurance brokers, and/or their clients, in relation to potential Covid-19 claims.

In relation to professional indemnity related insurance claims, the nature of Ben’s practice is such that his expertise inevitably extends to all the insurance related issues arising from professional liability and misconduct claims. Ben is accordingly an expert in the issues arising from both professional indemnity insurance and D&O policies. Ben regularly advises on indemnity and coverage issues. Ben acts as an arbitrator on professional indemnity coverage disputes.

Expertise

- Fire claims
- Business interruption claims including advising national insurance brokers on different Covid-19 related scenarios by reference to standard policy wordings
- The Solicitors Minimum Terms and Condition, including successor practice issues
- Dishonesty conferences against the backdrop of mortgage fraud and generally
- Professional indemnity policies for other professionals
- Meaning of claim and circumstance
- Notification issues, particularly in relation to multiple conveyancing transactions
- Aggregation, particularly in relation to multiple conveyancing transactions and ATE schemes (having acted for AIG at first instance in the leading case in the area)
- Advising on whether claims arising from Private Legal Practice
- Advising insurers on whether claims against financial advisers for non FSA regulated activities fell within policy terms
- Advising insurers on whether claims against financial advisers for SCARP products within fell policy terms
- Acting on LCIA arbitrations often with a US element
- Acting on claims by regulated entities against insurers for costs of mitigation and remediation exercises

Ben regularly advises on the above issues, acts as a paper arbitrator and appears at arbitrations between insurer and insureds.

Pensions

“Excellent, clear advice. Clear subject matter expertise. Very pleasant to deal with.” – Legal 500, 2022

“Very approachable and available to discuss points as and when they arise – a great team player and a pleasure to work with. Technically strong and with a strong appreciation of how points will be received by the court.” – Legal 500, 2021

Ben combines top level professional liability expertise (he is top Tier in the directories and is a former Chair of the Professional Negligence Bar Association) with a real understanding of pensions (he is ranked in Pensions in the Legal 500). His pensions experience dates back to when, as a junior, he acted for the Institute of Actuaries in (successfully) prosecuting Chief Executives and Appointed Actuaries of Equitable Life for misconduct.

Ben is regularly instructed in relation to high value pension claims brought by Scheme trustees and employers against former scheme consultants, actuaries and solicitors. He is particularly experienced in equalisation, Barber window and deeds cases.

Featured Pensions cases

- Acting for Aon in the Gleeds litigation, a claim for £50m+ by a pension scheme against the former scheme consultants and actuaries, as well as the scheme’s former legal advisers, for losses arising from invalid execution of scheme documents. This litigation also gave rise to the judgment of Fancourt J addressing Without Prejudice Privilege: *Briggs & Ors v Alexander Clay & 5 Ors [2019] EWHC 102 (Ch)* where Ben successfully argued that without prejudice communications between the Aon Defendants and the Claimants in the context of the Part 8 proceedings remained privileged against disclosure in the Part 7 Proceedings.
- A £20m+ claim by pension scheme against former scheme consultants & actuaries (for whom Ben acted) as well as scheme solicitors in relation to consequences of flawed scheme documentation.
- Claim by pension scheme against a firm of solicitors for alleged failure to ensure drafts of the consolidated rules for the Scheme reflected instructions accurately.
- Claims against firms of solicitors, acting for pension schemes in underlying litigation, that run into difficulties relating to issues such as ambit of standstill agreements, limitation and/or settlement terms.
- Acting for SIPP pension administrators (and their insurers) on numerous claims by investors who were convinced to cash in their occupational pension schemes and invest, via their pension administrator, in esoteric investments offshore.

Commercial Dispute Resolution

Ben has a broad commercial litigation practice, ranging from fire claims through to banking and security documentation. Ben particularly relishes proceedings involving security documentation dating back to his involvement in *Etridge* in the House of Lords. Ben spends much of his time as an advocate in the Commercial Court.

Featured Commercial Dispute Resolution cases

- defending the lessee on a contribution claim for losses caused by a high profile fire at a storage warehouse; Ben identified and took a *Berni Inns* point that the lessor could have no claim against the lessee and, as such, there could be no contribution claim against the lessee either; an early preliminary issue was ordered and after service of Ben’s Skeleton Argument the contribution claim against his client was discontinued;
- acting on the various business and loss of profits claims following on from the failure of an electricity generator for a large factory
- acting on a dispute over the collapse of a joint venture on formula 1 sponsorship deals and rights
- acting for leading building society in dispute as to whether a swap agreement had been entered into and, if so, whether the class of swap was subject to FSMA or not

Offshore

“Has an exceptionally calm and reassuring approach, coupled with sound legal thinking and good strategic advice.” – Legal 500, 2022

“One of the most user-friendly silks in the fields of accountants regulatory investigations.” – Legal 500, 2021

“Superb on every level: rolls up his sleeves and solves issues; adds huge value to anything he touches.” – Legal 500, 2020

Ben’s work frequently is either offshore or has an offshore element. Recent cases have included, an arbitration on behalf of a Caribbean Government relating to the ownership of a significant amount of its coastline, a \$1billion auditors negligence claim in the Cayman Islands and a key case on directors and registered agents’ duties in the BVI. Ben is called in the BVI and appears in the Cayman Islands.

Featured Offshore cases

- A claim by a company (owned by a Brazilian) against the company directors and registered agents in the BVI for wrongly selling all the company’s property in reliance on instructions from the Brazilian’s former personal assistant. The claim raised important issues as to the duties owed by directors and registered agents of offshore companies where the beneficial owner (as is often the case) has acted through agents. Trial before Bannister J. The case went to the East Caribbean Court of Appeal in November 2018.
- A claim by city solicitors against trustees of trusts registered in Jersey for outstanding fees and as to consequences of receivership in Guernsey.
- A claim by property developers against a Caribbean Government alleging breaches of a development agreement aimed at creating a substantial resort and hotel complex along a section of the Island’s coast line.
- A claim by the liquidator of a South American bank (registered in the Cayman Islands) that brought a claim for approx \$1billion against its reviewing Cayman Island auditors for failing to spot and stop the asset stripping of the bank by its directors. Ben acted for the Cayman auditors.
- A claim by Jersey solicitors for outstanding fees and a counterclaim by former client alleging that solicitors had mismanaged and misadvised in relation to complex/high-value trust litigation in Jersey.
- Proceedings in the Cayman Islands as to whether there is jurisdiction for a non-party to be joined to existing proceedings for the purposes of making a costs order against them.
- Alongside his offshore work, Ben advises or provides expert opinions in respect of claims with a US element. Such cases include claims by UK pension funds against US banks for misrepresenting the risks that they were running in the lead up to the credit crunch, and against a multi-national for misrepresenting the safety of the company’s operations.

International Arbitration

Ben’s modern and flexible approach to the presentation of written materials and advocacy makes him well suited to his arbitration work.

Ben’s arbitration related work has three elements:

- insurance related arbitrations involving coverage disputes between insurer and insureds (often with the insurance broker present also)
- commercial arbitrations often involving claims between former partners or joint venturers
- arbitrations with an international aspect, in particular Ben has particular expertise of Caribbean jurisdictions and arbitrations involving Caribbean Governments

Awards



Qualifications

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)