

## OUR PEOPLE

# Nicholas Bacon KC

CALL 1992

SILK 2010

## CHAMBERS & PARTNERS

““Superlatives can't describe how good he is - he's brilliant and always willing to put in extra time.””



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## Head of Chambers

### Nicholas Bacon KC is recognised as a leading silk by the Legal Directories in his specialised fields of costs and regulatory work.

For nearly 30 years he has been recognised as one of the best-known leading barristers in his specialised field of costs related and funding litigation. He is regularly instructed by insurers and funders to draft and advise on complex funding structures for use in multi-party litigation and in claims of substantial value, including in excess of £1 billion. Appeared in practically all of the most important costs funding cases in recent years and continues to be a leading Silk in the field. He dominates this market with a hugely impressive bank of leading cases to his name in all divisions of the High Court, Court of Appeal and Supreme Court.

## The Directories

Chambers & Partners 2023 says that *“There is no one better on costs. He is very straightforward to deal with, hugely experience and knows the rules inside out.”*

Legal 500 2023 describes Nick as *“The oracle of costs law, he is easy to work with, collaborative, and gives good commercial advice.”*

Chambers and Partners 2022 says that Nick is *“a calm and steady hand on the tiller. He's pragmatic and has a real presence in any situation, especially in court.”* *“Highly impressive on his feet, he produces well judged cross-examinations and has sound commercial judgement. A first stop for a costs QC.”*

Legal 500 2022 says that Nick is *“A great range of knowledge and experience acquired over a stellar career.”* (Costs); *“A barrister who knits together complex legal issues and commercial practicalities expertly.”* (Professional Discipline & Regulatory).

Legal 500 2021 says that Nick is “*great at getting to the heart of the matter. He’s always a great choice*” (Costs); “*He has a very commercial approach and is easy to deal with.*” (Professional Discipline & Regulatory).

2021 says that Nick is “a master cross-examiner of both lay and professional witnesses.” “Nick has gravitas and he is highly respected by everyone.”

2019: “Nick is one of the best advocates in the business and his knowledge of costs law is unparalleled; he is also very approachable and gives clear, concise and understandable advice.” “He is a leading silk – if you want someone on side to get key points across to the judge you’d instruct Nick.”

2018 says that “Nick is the best barrister in his field, end of. If you want to win, then you need him in your corner. Judges respect him and know he doesn’t take bad points.” 2018: Superlatives can’t describe how good he is – he’s brilliant and always willing to put in extra time.” “The only QC to instruct on anything costs related. Hands on and user-friendly, he’s an excellent advocate and the standout leader in his field.”

Nicholas is “simply the doyen of the legal costs world” (Chambers and Partners 2016). “If you want an absolute costs specialist silk then there’s only Nick Bacon.” “His strength above everything else, lies in his ability to identify what success means in a job and ensuring that he achieves it. He’s very down to earth, extremely easy to work with and, for somebody who is a leader in the field, he’s also very accessible.” (Chambers and Partners 2015).

He has been described as, “a guru on costs matters”, “top of the tree in this field” and “one of the go-to people” at the Costs Bar . Praised for his “huge knowledge of costs authorities”, “he can always arrest the attention of the judge.” Chambers and Partners 2014 comment “He is definitely a leading silk in the field. To that end, you know when you hire him, you’ve got the guy.”

## Publications

He has been a contributing editor to the section on Costs in Halsbury’s Laws of England. He is contributing editor to the ‘Green Book’ – the Civil Court Practice where he edits the sections on Funding and Legal Aid. He was the co-author of The Bar Handbook. He is a contributing editor to Butterworths’ Costs Service and the Civil Court Precedents.

## Personal

Nicholas’ outdoor passion is yachting. He is a qualified Yachtmaster. He is married with two children.

## Privacy Policy

Click here for a [Privacy Policy](#) for Nicholas Bacon KC.

## Expertise

### Costs

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**“There is no one better on costs. He is very straightforward to deal with, hugely experienced and knows the costs rules inside out.”** – Chambers & Partners, 2023

**“The oracle of costs law, he is easy to work with, collaborative, and gives good commercial advice.”** – Legal 500, 2023

**“Nick is a calm and steady hand on the tiller. He’s pragmatic and has a real presence in any situation, especially in court.”  
“Highly impressive on his feet, he produces well judged cross-examinations and has sound commercial judgement. A first stop for a costs QC.”** – Chambers & Partners, 2022

**“A great range of knowledge and experience acquired over a stellar career.”** – Legal 500, 2022

**“A master cross-examiner of both lay and professional witnesses.” “Nick has gravitas and he is highly respected by everyone.”**  
– Chambers & Partners, 2021

**“Great at getting to the heart of the matter. He’s always a great choice”** – Legal 500, 2021

Nick Bacon is probably one of the best-known leading barristers in his specialised field of costs. He is described in the Legal 500 as having **“probably the biggest costs practice at the Bar”** and by Chambers and Partners as being **“top of the tree in this field”**. He has appeared in practically all of the most important costs funding cases in recent years. He is a recognised specialist in that area having been appointed as an Assessor in the High Court on appeals against costs assessments.

He advises on all aspects of inter parties and Solicitor Act assessments and represents both claimants and defendants, insurers and funders and solicitors either pursuing costs or defending clients’ challenges to their fees. He has been instructed in some of the largest costs claims to come before the courts, including the BCCI v. Bank of England claim where the costs exceeded £70M. He is currently retained in the largest costs assessment in English legal history involving over £105M.

He is an advisor to a number of Unions and Incorporated Associations and Membership Organisations in respect of Collective Conditional Fee agreement structures and related legal expense insurance arrangements.

He has advised some of the leading Third Party funders in the market on terms of indemnities and “premium” recovery.

He is often retained by the leading ATE insurers to advise not just on premium recovery but on the form and content of LEI policies underlying the insurance. He is often instructed to advise on and draft associated panel solicitor documentation.

He was junior counsel in the House of Lords for the successful claimant in Callery v Gray (HL) (2002) 1 WLR 2000 which was and remains the leading case on the recovery of success fees and insurance premiums. He appeared as Counsel in the House of Lords in KAC v. Iraqi Airways Company on an Incidental Petition concerning the recovery of costs. He has been instructed in most of the significant conditional fee agreement/ after the event insurance premium cases in the Court of Appeal including the seminal case on the enforceability of conditional fee agreements, Hollins v Russell (CA) (2003) 1 WLR 2487 and subsequently Garrett v. Halton Borough Council; Myatt v. National Coal Board [2007] 1 WLR 554. He appeared for the Appellant in the Court of Appeal in the first discounted fee agreement test case of Gloucestershire County Council v. Evans [2008] EWCA Civ 21 and in Butt v. Nizami [2006] 1 WLR 3307. He represented the successful Respondent before the Master of the Rolls in the recent fixed costs case of Kilby v. Gawith [2008] WLR (D) 163.

He appeared for the successful Respondent in the lead Costs Capping case of Willis v. Nicholson [2007] EWCA Civ 199

He was instructed at first instance and on appeal in the Court of Appeal in the Claims Direct Test Cases [2003] Lloyd’s Law Reports 67 and subsequently in The Accident Group Test Cases [2004] 3 All ER 325. He was instructed for the Defendant in the RSA Pursuit Test Cases (27 May 2006) where he achieved the largest reduction to any of the premiums claimed.

He was a member of Lord Justice Jackson’s working group on the report into Civil Costs Review.

## Mediation of Costs Disputes

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Nicholas is ranked as the leading Silk in Costs: Legal 500 2013.

Chambers and Partners 2013 describe Nicholas as *“top of the tree in this field”* and *“one of the go-to people”* at the Costs Bar. Praised for his *“huge knowledge of costs authorities”*, *“he can always arrest the attention of the judge.”* He acted in Motto v Trafigura case, one of the largest costs cases in English legal history. He acted for News Group Newspapers in the seminal

Mitchell (Plebgate) case.

Prior to taking silk in 2010, Nicholas was described as “Undoubtedly the best-known junior in the field.” This high acclaim has continued. In 2011 he was described in the Legal 500 as ‘a guru on costs matters’, *4 New Square ...houses two of the top practitioners in the field. New QC Nicholas Bacon QC receives praise from all quarters – ‘an exceptional practitioner’, ‘he responds quickly and thinks quickly’. Bacon is instructed on the £100m costs claim arising out of the Trafigura group litigation*”.

“The “enormously likeable” Nicholas Bacon QC continues to consolidate his practice after last year’s elevation to silk. “A deservedly popular choice of counsel,” he is “a vigorous defender of his clients’ interests.” Famed for his encyclopaedic knowledge of costs law, he has “an impressive analytical eye, which he uses to great effect when on his feet.” Clients particularly take a shine to his “bold and forceful advocacy style,” as it “reassures them that he is always fighting their corner hard.” (Chambers and Partners: 2008). “Hardworking, energetic and steeped in costs law, Nicholas Bacon has probably the biggest costs practice at the Bar and “solicitors like him enormously”. (Legal 500 – 2005) “An experienced and formidable opponent who lives and breaths costs appeared in many leading cases” (Legal 500-2004) “Knows the subject backwards’ and is the leading player, with a string of important recent cases to his name” (Legal 500: 2003).

## Appointments

High Court Assessor on Costs Appeals.

This equips Nicholas with experience in undertaking assessments of the kind required in a mediation process. As an Assessor he advises the Judge as to the applicable costs assessment principles to apply. He was requested in the Mealing McCloud case to advise the High Court Judge as to the likely level of recovery of costs sought by the appellant litigant.

Member of the Joint Tribunal (Bar Council/Law Society) on fee disputes. Nicholas has conducted Tribunal determinations which are dealt with usually by a written judgment without a hearing and based on written submissions. This involves assessing the likely recoverable fees of the barrister concerned.

## Mediation

The fact that Nicholas is not a trained mediator with accreditation does not prevent him from accepting instructions to act as a mediator and he is frequently asked to do so. He has considerable mediation experience in the field of costs as a party representative where he has successfully mediated some of the largest costs claims passing through the courts. Subject to conflict issues he will act as a mediator to settle any form of costs dispute whether as between solicitor and client or inter partes. This includes the whole or any part of the bill(s) in question. The process is very often seen as a more efficient and costs effective route to resolving costs disputes than the traditional detailed assessment process.

## ADR

Nicholas’ background and status as leader in his field lends attraction to parties wishing to settle their disputes via a process of adjudication in which the parties agree to be bound by a written determination of the likely costs recovery in the particular case. The process can be adapted to suit the parties’ wishes to involve a short hearing if required but more often than not written submissions alone can form the basis for the adjudication process. This form of determination very often results in substantially less costs being incurred than if the matter had been progressed through the court assessment process and results in much speedier resolution of the dispute.

## Expert

Nicholas also accepts instructions to act as an expert witness. Most recently he provided an expert report on the likely recovery of costs in a dispute being determined by the US District Court of New York in respect of legal costs incurred in England.

## Committees

Member of the Civil Procedure Rules Committee

Bar Council Remuneration Committee Bar Council CFA Panel Member of PNBA

## Third Party Funding

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Nicholas is a leading, go to advisor, on all aspects of litigation funding.

He has represented many of the leading third party funders and ATE providers and brokers including Burford and its predecessor First Assist, Harbour, JLT, Arag, Temple, DAS, Keystone, Elite and many more 'household names'.

He has been key adviser in the orchestration and packaging of funding packages in multi-million pound funding deals and large group litigation cases.

He is regularly instructed to advise on regulatory compliance issues and the underlying contractual documentation to complete due diligence for both insurers and insured.

Quite apart from acting for the funders, he is regularly instructed on behalf of both receiving and paying parties to recover / oppose the recovery of pre LASPO premiums and additional liabilities. He has been involved in many of the key Court of Appeal and Supreme Court decisions relating to the recovery of costs arising out of funded litigation.

He was an advisor member to the Civil Justice Counsel committee on the implementation of DBA legislation following the Jackson reforms which, to his regret, resulted in Government intervention undermining the genuine need and desire to free up the market with contingency fee style agreements.

He is a long standing member of the Bar Council Remuneration Committee (Vice Chair Civil) where he continues to be actively involved in post Jackson law reform.

For his interview with the Judge: <http://www.insolvencylitigationfunding.com/media-resources/videos/interview-nick-bacon>

## Disciplinary

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**“A barrister who knits together complex legal issues and commercial practicalities expertly.”** – *Legal 500, 2022*

**“He has a very commercial approach and is easy to deal with”** – *Legal 500, 2021*

He has appeared in practically all of the most important costs and funding cases in recent years. His costs practice is well juxtaposed to his professional negligence work with particular emphasis on solicitors' negligence, both for and against solicitors. This includes solicitors' regulatory and disciplinary work for which he is also ranked on Legal 500.

### Regulatory – FSA/SRA/Bar Standards

Nicholas acts for members of the Bar and solicitors in all areas of professional discipline. He is commonly instructed in representing solicitors before the Solicitors Disciplinary Tribunal and assists in all forms of complaints arising from SRA investigations including interventions.

He has been instructed by Queen's Counsel in respect of fee disputes and represented their interests in Joint Tribunal proceedings.

Nicholas has advised extensively in respect of FSA registration and approval in respect of the provision of financial services and insurance mediation activities. Advising after the event insurers on FSA regulatory issues arising under the Solicitors Financial Services (Scope) Rules 2001 and the Solicitors Financial Services (Conduct of Business) Rules 2001.

He is currently advising business and practices looking to set up ABS's in the future and providing advice as to the structure of the complaints processes that will apply. His experience in the area has led to him becoming the new co-contributor to Cordery on Legal Services in respect of the regulation of the Bar under the Legal Services Act.

Example Regulatory/Disciplinary work in past year.

Acting in long running SDT proceeding involving multi handed alleged offences ranging from breach of referral code to mortgage fraud.

Acted for Solicitor accused of breach of Solicitors Practice Rules in seeking to recover legal costs said to have been incurred by his client but which were allegedly not incurred at all. Case involved an application for the matter to be referred to the DPP. (Bury CC: District Judge Duerden) 29/4/2008

Advising solicitors in respect of SRA references arising out of the Accident Group and other claims management companies.

Advising and representing solicitor in complaint by a local authority against a solicitor who was accused of having held herself as acting as a solicitor, but without a valid practicing certificate. Complaint within both court proceedings and before the Solicitors Regulation Authority (Oct 2008).

Acting for Claimants as part of a group/class action against solicitors retained by the property developers Morris Properties Group. A nationwide alleged property investment "scam" (feature on BBC Panorama program) in which the solicitors are accused of multiple breaches of the Solicitors Practice Rules and Solicitors Accounts Rules. Advising in respect of referrals to the SRA. Case ongoing.

Regularly advising solicitors on all aspects of the Solicitors' Code of Conduct and in particular in respect of fee sharing and referral fees, conditional fees and insurance mediation activities.

Advising after the event insurers on FSA regulatory issues arising under the Solicitors Financial Services (Scope) Rules 2001 and the Solicitors Financial Services (Conduct of Business) Rules 2001.

Advising and acting for solicitors in court proceedings (alongside SRA referral) arising out of alleged breaches by the solicitor of the Money Laundering under the Proceeds of Crime Act 2002 and the Money Laundering Regulations 2007. Case ongoing.

Advising consortium of solicitors in respect of their leading national personal injury claims referral business on the application of the Cancellation of Contracts made in a Consumer's Home or Place of Work etc.Regulations 2008.

## Sports Law

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*"His strength above everything else, lies in his ability to identify what success means in a job and ensuring that he achieves it. He's very down to earth, extremely easy to work with."*

*"..an excellent advocate, who's hands-on, and user-friendly"*

Nicholas Bacon is a Yachtmaster, former UK national sailing squad sailor and qualified RYA Level 2 sailing coach. His regulatory work is increasingly broadening its depth to sports related matters, including most recently representing an Olympic Podium contender in a round of appeals relating to both selection and funding. In the past he has been instructed in fee disputes arising out breach of agency contracts and involving challenges to legal fees. His expertise in costs and funding related matters is well documented elsewhere.

## Professional Liability

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### Lawyers

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Nick Bacon has spent the best of part of 16 years devoted to work relating to the practice of solicitors and barristers.

He undertakes all types of claims for and against solicitors and barristers, both in advisory and litigation context. His practice covers failed litigation in business disputes, lost litigation in person injury cases, cases involving limitation issues, failed property investment / shared equity schemes, negligent drafting and advice in respect of commercial agreements and funding agreements, wills, administration of estates. He has considerable experience of group action litigation both for and against



solicitors. He was instructed for Panel Solicitors in the multi party litigation arising out of the collapse of The Accident Group Ltd. He regularly advises in respect of insurance issues relating to solicitors including in respect of FSA Insurance Mediation Activities. He represents solicitors in SRA disciplinary matters and regularly advises solicitors on all issues of professional conduct.

His expertise in the area of costs (described by Legal 500 as the leading player), provides him with an excellent platform for all wasted costs issues and applications at both first instance and appellate levels. His costs expertise has provided him with unparalleled exposure to the work of solicitors and barristers across the entire litigation spectrum both in the UK and abroad.

He is author of the Bar Handbook (Bar Council publication) which arises out of his interest and experience in the professional conduct of barristers at all levels of seniority.

He is a member of the Joint Tribunal (Law Society and Bar Council Tribunal for resolving fee disputes). He is an appointed High Court Costs Assessor.

## Property/Mis-selling/Valuers

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Nicholas has represented claimants in two GLO / group action cases, one in claims arising out of the PPP property scam and the other more recently arising out of the Morris Property Group – featured on BBC Panorama. These were both claims against solicitors and valuers. Currently lead counsel in the Mortgage Trust v. White case – another claim against solicitors with the potential for valuers to be added at a later date. Preliminary rulings awaited in linked cases.

## Claims Management

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Advised Claims Direct both before after it became a PLC as to regulatory requirements and the legality of business model. Advised as to the procurement of business including as to breach of referral fee codes of practice. Represented Claims Direct in High Court and Court of Appeal on legitimacy of the retainers it had with solicitors. Claims Direct Test Cases [2003] EWCA Civ 136, Claims Direct Test Cases [2003] Lloyd's Law Reports 677

Advised and represented The Accident Group – a claims management company specialising in procurement of personal injury cases. Assisted in the drafting of model agreements for use by panel firms. Represented TAG in successful appeal to the Court of Appeal on enforceability of its retainers with its panel members. Advised TAG over the recovery of ATE insurance premiums payable by customers of TAG and of the recovery of interest under support consumer credit loans taken out by customers of TAG. Accident Group Test Cases [2003] 1 All ER 353

Advised Accident Advice Helpline as to legitimacy of terms of conditional fee arrangements between panel and the CMC. Represented AAH in the recovery of AAH costs and ATE premiums taken out pursuant to the AAH scheme. Advised as to the issue of incorporating an “association” and the timing of the issuing of the AAH policy in CFA ATE cases.

Advised Lawyers for You as to whether panel members obligations to contribute towards advertising expenses amounted to an unlawful referral fee. Advised as to whether a policy of insurance which provides for a deferred payment of the insurance premium could be considered to be a Consumer Credit Agreement.

Advised various CMC's on establishing consumer retainers and fee agreements in respect of endowment and Bank fees on overdraft and other consumer driven bank charges. Advised as to regulatory requirements of contracts incepted at home (off business premises) whether by personal attendance or via telephone. Advised firms of solicitors (often as panel firms to the CMC) as to applicability of consumer protection legislation to not only their own business models but of their clients too including obligations akin to those arising under the Conduct of Authorised Person Rules 2007 and the distance selling regulations.

Advised CMC as to ABS (alternative business structures).

Member of the Civil Procedure Rules Committee. Currently working closely with the MOJ on substantial reforms to the legal sector including as to the introduction of contingency fee arrangements / no cure no pay agreements / referral fee ban under reforms proposed by Lord Justice Jackson / litigation funding generally.

## Awards



## Qualifications

Called to the Bar in 1992. Queens Counsel in 2010 (now King's Counsel).

2018 Recorder Criminal and Civil ticket.

2021 Deputy High Court Judge.

Legal Advisor Panel Member – Costs Lawyers Standards Board.

Former member of the Civil Procedure Rules Committee.

Former Chairman of the Bar Council Remuneration Committee.

Professional Memberships:

Professional Negligence Bar Association.

Commercial Bar Association.