

TANFIELD

PROPERTY & REAL ESTATE BARRISTERS



Andrew Butler KC

Year of call Silk
1993 2018

'Incredibly impressive on the detail – commercial in his approach, with superb drafting skills. He gets on very well with clients. Robust and calls it as he sees it – he doesn't sit on the fence but gives clear, definitive and reasoned advice.' – Legal 500 2022.

Andrew Butler KC practises in the areas of Property and Business & Commercial, and is Head of Chambers' Business & Commercial Group. While he accepts instructions across the full spectrum of commercial and property work, he particularly specialises in development disputes and professional negligence matters, with company law issues also forming an increasing part of his caseload.

Andrew is a qualified mediator and a member of both the Chartered Institute of Arbitrators and the London Court of International Arbitration. He is an adjudicator on the panel of the Professional Negligence Bar Association. He was appointed Queen's Counsel in 2018 and his silk practice has gone from strength to strength, involving an appearance in the Supreme Court, and regular appearances in the Court of Appeal, as well as the Commercial and Business and Property Courts.

Andrew was short-listed for Barrister of the Year in the Lawyer Awards 2020.

Real Property

Andrew's background is in Real Property and the majority of his practice is in professional negligence and commercial claims with a property element.

In the former context, he has undertaken claims against architects, surveyors, insurance brokers and

solicitors, among other professionals (see, further, "Professional Negligence" below).

In the latter context, he undertakes cases in a variety of fields, including a recent Supreme Court case involving estate agency fees (*Devani v Wells* [2019] 2 WLR 617). In 2022, he has undertaken High Court trials in matters as diverse as landlord consent to assignment (*Gabb v Farrokhzad* [2022] EWHC 212, see link to news article [here](#)) and liability for a devastating fire at an oil processing plant in Essex (*Smith v Howard* [2022] EWHC 562 (TCC)). Of Andrew's performance in securing victory in the latter case, his instructing solicitor commented: "The result of course turned on cross-examination, where hits were scored on both sides. Perceived [sc. expert] bias proved to be the bigger hit. Not all silks would have been so effective."

Andrew routinely undertakes advisory work on real estate disputes and developments; recent examples include the viability of the redevelopment of a major UK shopping centre and two disputes concerning prime residential real estate in the Bahamas.

Commercial Disputes

Andrew undertakes purely commercial work, often with an international element. A particular example is the long-running case of *UCP v Nectrus* (reported on quantum at [2020] PNLR 9), in which Andrew (despite only being instructed shortly before a 12-day Commercial Court trial) successfully defended the majority of a multi-million pound claim made against a Cypriot entity in relation to a property venture in India. The case has attracted interest in particular in relation to a reflective loss case advanced by Andrew; while this was rejected by the trial judge and the Court of Appeal in *Nectrus*, it has recently been confirmed by the Privy Council in a different case (*Primeo v Bank of Bermuda*) that the defence was sound and that *Nectrus* is wrongly decided in this respect. An application to re-open the appeal in *Nectrus* has been successful [2022] EWCA Civ 949.

Other recent commercial cases undertaken by Andrew include *Auty v Duru*, a high value s.994 petition concerning a Turkish cosmetics group, *Quantum Advisory Ltd. v Quantum Actuarial LLP* [2022] 1 All ER (Comm) 473, a leading Court of Appeal authority on covenants in restraint of trade, and *TBD Owen Hollands v Simons* [2021] 1 WLR 992, an important Court of Appeal decision on search orders and common interest privilege.

Professional Negligence

As set out in the Real Property section, much of Andrew's work both within and beyond the field of property related disputes has a professional negligence element and he acts in claims against all manner of

professionals including insurance brokers, solicitors and architects. Aside from *UCP v Nectrus* (see "Commercial Disputes" above and reported at [2020] PNL R 9), recent and/or ongoing cases include:

- a claim against an Employer's Agent about the allegedly negligent drafting of a Liquidated and Ascertained Damages Clause in a major construction contract.
- a claim against a tax adviser/company law specialist arising out of errors in the establishment of a family trust fund.
- a claim against a barrister arising out of the Court of Appeal's decision in the residential forfeiture case of *Gibbs v Lakeside Development Ltd* [2019] 4 WLR 6.
- a claim against a solicitor arising out of the drafting of an SPA (involving a novel point under s.14A Limitation Act 1980).

Andrew is frequently called upon to talk about negligence issues and lectured on the RIBA CPD programme for many years. He is a member of the PNLA and PNBA, and also sits on the adjudication panel of the latter.

Mediation

Andrew is a trained mediator and has ample experience of the mediation process, both as advocate and mediator.

Notable Cases

Quantum Advisory Ltd. v Quantum Actuarial LLP [2023] EWCA Civ 12

Declaration sought by Claimant as to scope of services to be provided under 99-year Services Agreement and in particular whether Defendant required to undertake tendering and re-tendering exercises – questions of construction and proper approach to interpretation of long-term relational contracts, and the existence and effect of a contractual duty of good faith in such contracts – Andrew successfully resisting appeal against dismissal of claim.

Smith v Howard [2022] EWHC 562 (TCC)

Claim arising out of major fire at oil refinery plant in Essex – Andrew acting for Claimant who succeeded in liability-only trial against co-occupier of plant – case turned on negligent placement of oil container said to have been instrumental in the spread of the fire giving rise to difficult questions of liability and (in particular) causation.

Gabb v Farrokhzad [2022] EWHC 212 , [2022] 1 WLR 2842

Claim against landlord alleging unreasonable refusal of consent to assign a lease – unreasonable refusal established but claim for exemplary damages successfully defeated – partial permission to appeal obtained from Court of Appeal, but claim settled before appeal heard.

Quantum Advisory Ltd. v Quantum Actuarial LLP [2022] 1 All ER 473

Dispute arising out of long-term Services Agreement between actuarial pensions company and LLP formed to carry out services on its behalf – challenge to restrictive covenants preventing direct client engagement for entire 100-year duration of agreement – Court of Appeal deciding whether doctrine of restraint of trade applied and if so whether covenants were enforceable.

TBD Owen Holland v Simons [2021] 1 WLR 992

Important Court of Appeal decision about scope of search orders and in particular whether they permit the inspection and deployment in litigation of documents obtained as a result of a search – also issues of common interest privilege in relation to one particular document thus obtained.

Goyal v Florence Care Ltd. [2020] EWHC 659

Successful appeal against decision of County Court Judge giving rise to questions about (a) the continuation of proceedings against a bankrupt Defendant; (b) equitable accounting; and (c) solicitors' responsibilities in respect of third party funds.

UCP v Nectrus [2020] PLR 9

£21m dispute following loss of substantial funds invested by Isle of Man entity in construction projects in India – action brought against Cyprus-based Investment Manager – acted for Defendant in 13-day split trial in Commercial Court involving issues of liability, causation and reflective loss – appeal pending to Court of Appeal.

Devani v Wells [2019] 2 WLR 617

Supreme Court decision on formation of oral contracts and effect and application of s.18 Estate Agents Act 1979.

Recommendations

"Andrew is very intellectual and his arguments are very clever and technical."

Chambers UK 2024

"Andrew is excellent in all respects. His legal and tactical advice is confident and direct and he is not afraid of nailing his colours to the mast when it comes to making tough calls on strategy. His pleadings are excellent and his skills as a trial advocate go from strength to strength."

Legal 500 2024

"Andrew has a very good smooth style and is a commercial practitioner. He is great with clients and awfully good on his feet."

Chambers UK 2023

"He's an excellent counsel and the pleadings he drafts are top-notch. He cuts through the paperwork." "He is great with clients."

Chambers UK 2022

"Incredibly impressive on the detail – commercial in his approach, with superb drafting skills. He gets on very well with clients. Robust and calls it as he sees it – he doesn't sit on the fence but gives clear, definitive and reasoned advice."

Legal 500 2022

"A formidable but always reasonable opponent. He consistently provides high calibre, clear advice."

Chambers UK 2021

"He is quickly developing his silk practice."

Legal 500 2021

"Embarrassingly good on his feet and great with clients."

Legal 500 2020 (Property Litigation)

"He is extremely user-friendly and his tenacious and practical approach makes him a favourite with clients."

Chambers UK 2019

"He can very quickly review a large amount of information and detail and provide practical and specialised advice, often at short notice."

Chambers UK 2019

"Gets on well with clients, a good advocate and calm under pressure."

Legal 500 2018

"A property specialist who is known for his expertise in cases driven by professional negligence claims. Sources see him as an approachable and accessible practitioner."

Chambers UK 2016

Awards

- Lawyer Monthly, Business Barrister of the Year (2015)

Qualifications

- FCI Arb
- MA (Oxon)
- BA

Memberships

- Chartered Institute of Arbitrators
- Commercial Bar Association
- Professional Negligence Bar Association

- Property Bar Association