

Andrew Bowen QC



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Andrew Bowen QC has a wide-ranging civil and commercial practice, with particular expertise in contract, property, professional liability, cross-border issues and arbitration. Ranked Tier 1 for Commercial Litigation in the latest edition of the Legal 500 (2019), Andy Bowen QC is **'very approachable; he puts clients and solicitors at ease.'** The previous edition described him as **'A concise communicator, who unpicks complex scenarios'**.

He is a Fellow of the Chartered Institute of Arbitrators (FCI Arb).

Biography

Andy read law at Keble College, Oxford (2:1) and took an LLM (1st) at London University specialising in commercial law. He qualified as a solicitor (1989) and barrister (1993) in England and Wales before calling to the Scottish Bar in 1997, taking silk in 2012.

He has a civil and commercial practice, including contract, property, professional liability, cross-border issues and arbitration. His commercial experience includes complex contractual, construction and property disputes, shareholders' litigation, directors' fiduciary duties and professional negligence, disciplinary and regulatory including healthcare professional and architects. He has experience of arbitrations under LCIA and SCC Rules as well as under the 1996 Act. He is a Fellow of the Chartered Institute of Arbitrators (FCI Arb) and an Arbitrator for the Kuala Lumpur Regional Centre for Arbitration. He is ad hoc Advocate Depute (Crown Counsel).

In addition he has worked for the UN in the Gaza Strip and Kosovo and as a Public Solicitor in the Solomon Islands and was most recently an International Fellow in Ramallah, West Bank. He lives in Haddington and is married with two teenage daughters.

Appointments

Ad Hoc Advocate Depute since 2003
Fellow of Chartered Institute of Arbitrators (FCI Arb)
Chairperson (Legal), Private Rented Housing Panel/Homeowner Housing Panel
Arbitrator for the Kuala Lumpur Regional Centre for Arbitration (KLRCA)
Member, Faculty Law Reform Committee

Member, Faculty Human Rights and Rule of Law Committee
Faculty Council (Senior Counsel Constituency)
Member of Nani Palkhivala Arbitration Centre Arbitrator's Panel

Recent Articles and Events

Interest Rate Swaps and 'An Elastic, Factually Sensitive Duty'
Organs of the Company and Exclusive Jurisdiction
Directors as Financial Stewards and Conversion of Company Property
Hypothetical Negotiation and Damages for Breach of Contract
Illegality, One-Man Companies and Supine Directors
Professional Negligence, 'But For' Causation and Collateral Benefit
Textualism and Contextualism in the Interpretation of Avoidably Opaque Contract Terms
A Duty of Good Faith and a Principle of Futility in Commercial Contracts?
Unjust Enrichment and Adjusting Relationships on a Fictionalised Basis
Consideration, Anti-Oral Variation Clauses and "Collateral Unilateral Contracts"
Financial References, Negligent Misstatement and Duty of Care
Interest Rate Swaps and Implied Terms
Solicitors' Professional Indemnity and Exclusions Clauses
Revocation of an Agents Authority
Corporate Raids and the 'Proper Purpose' Rule: Eclairs Group Ltd v JKX Oil and Gas Plc
"Bannerman" Disclaimers and Auditors Liability - Barclays Bank Plc v Grant Thornton UK LLP
Ratifying a Breach of Duty, the Duomatic Principle and Creditors' Interests
Constructive Notice and Proprietary Rights: Between a Possibility and a Probability
Informal Directors, Holding Companies and Hat Identification
Liquidators Duties and Statutory Misfeasance Applications
EU Law, Piercing the Veil and Jurisdiction: Antonio Gramsci Shipping Corp v Lembergs 2014 1 BCLC 581
Tracing and Substitute Property; Relfo Ltd (in liq) v Varsani 2015 1 BCLC 14
Solicitors, Commercial Trusts and Substitutive Performance Claims: AIB Group (UK) plc v Mark Redler & Co Solicitors
Groups of Companies, Duties of Care and Separate Legal Entities: Thompson v Renwick Group plc
Following and Tracing as Remedies for Breach of Fiduciary Duty
Commercial Contracts and the Scope of a Solicitor's Duty
Pre-Pack Receiverships, Peculiar Agency and Duties of Care - Edenwest Ltd v CMS Cameron McKenna (a firm) 2013 1 B.C.L.C. 525
Concealment, Evasion and Piercing the Corporate Veil - Prest v Petrodel Resources Ltd 2013 2 A.C. 415
A Core Expectation of Honesty and Swimming Against the Tide
Investment Mis-selling and Breach of Statutory Duty
Assignations, Metaphysicians and Black Holes - Pegasus Management Holdings SCA v Ernst & Young 2012 2 B.C.L.C. 734
Share Purchase Agreements and Penalties - Cavendish Square Holdings BV v Makdessi 2013 1 All E.R. (Comm) 787
Letters of Credit, Discharge of Debts and Subrogation
Intention to Create Legal Relations and the Application of RTS Flexible Systems Ltd
Adventurous Investments, Banks Duty of Care and Gross Negligence - Camerata Property Inc v Credit Suisse Securities (Europe) Ltd
Guarantees and Entire Agreement Clauses
Reciprocal Unfair Prejudice and Valuation of Shares
Attribution in Company Law and Rectification of Contracts
Misuse of Confidential Information, Restrictive Covenants and Barring-Out Relief
Context is All - Construction of Guarantees as Commercial Contracts
Damages for Loss of Use of Money as Consequential Loss
Principals, Agents and Entire Agreement Clauses
Elephant Traps and Repudiation
Companies Act Obligations And Unfairly Prejudicial Conduct
Implied Terms in Commercial Contracts

Directors Duties of No Conflict and No Profit
De Facto Directors, Corporate Directors and Lifting the Veil
Turning The World Upside Down - Fraud and Auditors Negligence
Pre-Contractual Negotiations and Construction of Commercial Contracts Chartbrook Ltd v Persimmon Homes Ltd 2009 UKHL 38
Ponzi Schemes and Bank Duties
Non-Executive Directors - Total Inactivity and Causation of Loss
The Commercial Realities of Section 151 of the Companies Act 1985 and Contractual Illegality
A Solicitor's Duty of Disclosure
Challenging the Financial Services Ombudsman
Marathon Litigation, Directors Disqualification and Human Rights

Recent Cases

CINE-UK Limited v Union Square Developments Limited [2019] CSOH 3

C.J.C. Media (Scotland) Limited v Kenneth Sinclair [2019] CSOH 8

Keystone Healthcare Ltd v Parr, Chancery Division District Registry (Manchester), [2017] EWHC 309 (Ch)

Martifer UK Limited v Lend Lease Construction (EMEA) Limited [2016] CSOH 98; (Contract: Breach of Contract)

Hill and Another v Stewart Milne Group Limited and Another [2016] CSIH 65 (Expenses)

Gilchrist v McClure Naismith LLP [2015] CSOH 134 (solicitors' professional negligence)