hailshamchambers

Clerks: **020 7643 5000**

Simon Howarth KC

Call: 1991 | Silk: 2022



Overview

Simon specialises in professional negligence, insurance and general commercial work.

Described by Chambers Directory as "*Excellent. A first-class, very knowledgeable barrister*" and by Legal 500 as "*technically excellent … very user-friendly*", Simon is particularly sought after for his expertise in relation to financial professionals: IFAs, accountants, insurance brokers and mortgage brokers.

He also acts in relation to claims against barristers and solicitors, and in the TCC.

He defends all kinds of professionals in disciplinary proceedings and he advises on regulatory issues particularly under the Financial Services and Markets Act 2000 and the Legal Services Act 2017.

He has particular expertise in Ombudsman claims and challenges to awards by way of judicial review.

Simon was called to the Bar in 1991 and took silk in 2022.

Financial services

Investments and Tax Schemes

Simon has specialised in this area for over 20 years. During that time he has advised on and conducted cases concerning most of the high profile investment products and tax schemes which have led to significant litigation. These have included:

- Imperial Consolidated
- Innovator One

- Stirling Mortimer
- Arch Cru
- Keydata
- Harlequin Property
- Scion Film Schemes
- Ingenious Media Film Schemes
- Elysian Fields

Simon has acted in ground breaking cases concerning the interpretation of FSMA 2000, including in particular his success in *Anderson & others v Sense Network* [2018] EWHC 2834, [2019] EWCA Civ 1395 (the leading case on the interpretation of s.39 and, at first instance before Jacobs J, the only authority discussing a principal's duties to supervise its AR).

He has also appeared in leading cases concerning vicarious liability at common law for fraudulent agents: see e.g. *Frederick v Positive Solutions* [2008] EWCA Civ 431 (appeal to Supreme Court compromised), and limitation in this area: *Jacobs v Sesame* [2015] PNLR 6 (CA), *Cole & others v Scion & others* [2020] EWHC 1022 (Nugee J).

Financial Ombudsman Service

Simon has appeared in significant cases relating to the powers and duties of the FOS, including:

Bunney v Burns Anderson [2007] 4 AER 246 (Lewison J) (limits on the powers of FOS; whether ultra vires award had to be challenged by way of judicial review)

Clark v In Focus [2014] 1 WLR 2502 (CA) (application of res judicata to FOS awards)

SIPP Operators

Simon acted for the consumer in R (*oao Berkeley Burke*) v FOS [2018] EWHC 2878 (Admin) (Jacobs J): appeal to CA withdrawn.

He has since advised on numerous occasions (acting for investors and SIPP operators) on the controversy as to the extent of a SIPP operator's duty in relation to investments proposed for the SIPP.

Insurance and mortgage brokers

Reported cases include *Bateson v Savills* [2013] PNLR 20 (HHJ Gosnall). Simon acted in a number of cases in the recent "interest only mortgages" litigation. He represented the successful defendant in the only case which went to a full trial.

Accountants and insolvency practitioners

Simon has experience in allegations of negligent audit, tax advice and tax planning.

His reported cases include:

Dhillon v Siddiqui [2008] EWHC 2020 (Ch) (Livesey KC): tax advice

Midland Packaging v HW [2011] PNLR 1 (HHJ Brown KC): tax planning

Moria v Bednash [2011] EWHC 839 (Arnold J): contest over validity of alleged assignment by IP

Integral Memory v Haines Watts [2012] EWHC 342 (Ch) (Sheldon KC): alleged continuing duties of tax adviser and limitation issues

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Solicitors and barristers

Simon's expertise ranges over the full ambit of lawyers' negligence claims. He has litigated on matters concerning failed litigation (in every type of court and in every area of law), to high value corporate transactions and other non contentious business, including botched conveyancing and lenders claims. He has defended both sides of the profession against applications for wasted costs

He particularly enjoys the endless variety of lawyers' negligence: in a particularly memorable week he advised in succession on mishandled matrimonial litigation, the proper construction of the Proceeds of Crime Act, and an agreement for the sale of an oil rig.

Cases include:

Whelan v Jeffries Essex and another June 2017, Ch D: alleged mishandling of litigation, claim discontinued following Simon's cross examination of the claimant's witnesses.

Sharma v GTC January 2017, unreported (Ch D): claim failed on the basis that the claimant was an unreliable witness.

BPC Hotels v Wright Hassell and another [2016] EWHC 1286 (TCC) (Soole J): whether Counsel and solicitors obliged to investigate matters going beyond their express instructions.

Johnson v Gore Wood [2002] 2 AC 1 (HL): solicitors' negligence, reflective loss and the rule in Henderson v Henderson.

Johnson subsequently went to trial ([2002] EWHC 776 Ch (Hart J) and to a further appeal to the Court of Appeal [2003] EWCA Civ 1728.

Construction professionals and TCC work

Simon's TCC work includes but is not confined to professional negligence. He has expertise in all manner of property damage claims and especially fire claims, and he has advised in relation to disputes on NHBC and similar policies.

His reported cases include:

Glauser v Khan [2002] BLR 224 (CA): engineer's negligence.

Scott v Shepherd [2016] EWCH 1949 (Fraser J): engineer's negligence.

Broster v Galliard [2011] PNLR 34 (Akenhead J): pure economic loss.

Smith v UKPN [2012] BLR 34 (Akenhead J): resistive heating fires.

Jerrett v Walker [2013] (unreported: HHJ Cotter KC): fire and ignis suus.

Professional discipline

Simon has considerable experience of defending professionals (solicitors, accountants, insolvency practitioners and surveyors) in disciplinary tribunals, and advising them as to pleas and mitigation. He seeks to combine a realistic approach when recommending what allegations ought to be accepted with a robust defence where the allegations are properly in dispute.

Regulatory

Simon has been instructed to advise in relation to regulatory issues pertaining to IFAs, claims managers and lawyers, including authorisation, business structure, and appropriate business structures and practices. All of these matters are confidential.

Insurance and general commercial

Simon advises and acts for parties involved in insurance disputes. Recent work includes a series of matters relating to business interruption claims. He has expertise in insurance fraud (non-personal injury claims).

He also conducts general contractual claims, including sale of goods.

He has experience of s.994 petitions and derivative actions.

Career history

Simon began his career at 2 Crown Office Row, undertaking a wide variety of common law work in all tribunals, including the occasional foray into the Crown Court. He gained invaluable courtroom and cross examination experience before coming to specialise in professional negligence, as a result of the large volume of this work which he conducted in the mid to late 1990s.

Simon moved to Hailsham in 2011 to pursue his interest in professional negligence work.

What others say

"An exceptional and tenacious advocate, with a real understanding of the arguments which are most attractive to the court. He combines exceptional intellectual ability with a practical and down-to-earth understanding of what is in the client's best interests." *Legal 500, 2026*

"Simon is detailed in his approach, careful and astute. He knows his stuff, and is prepared to take on the difficult cases and put up a fight." *Chambers UK, 2025*

"Superb on paper and his feet. Simon is down to earth and very solicitor- and client-friendly." *Chambers UK, 2025*

"Simon can deal with difficult clients. He is persuasive yet professional, a refreshing approach to see." *Chambers UK, 2025*

"Simon is exceptionally good to work with and very collaborative. He is one of the best for financial services professional negligence claims and regulatory matters." *Legal 500, 2025*

"Simon is technically brilliant and has the most incredible wealth of knowledge and expertise." *Chambers UK, 2023*

"Down to earth but superb on paper and on his feet." *Chambers UK, 2023*

"Calm and unflappable, Simon has a very effective style for leading a court to the desired outcome." *Legal 500, 2023*

"Simon is incredibly good on his feet. He has an exceptional courtroom manner and an effortless ability to get the judge on side. Outstanding depth of knowledge in all aspects of professional negligence." *Legal 500, 2023*

"He has an excellent understanding of the interrelationships between regulatory law and professional negligence. He really is a go-to lawyer for that kind of work." *Chambers UK, 2022*

"He's excellent. A first-class, very knowledgeable barrister, he knows the financial

services regulations inside out, is very good with clients and produces excellent written work." *Chambers UK, 2022*

"He's extremely brainy, impressively knowledgeable about insurance and great at distilling the hard stuff down and picking out the key issues." *Chambers UK, 2022*

"Simon is technically excellent. He has in depth knowledge of professional negligence particularly in the financial services sector. Very user-friendly, and provides succinct advice." *Legal 500, 2022*

"A confident and solid performer, and a bright barrister." *Chambers UK, 2021*

"An extremely talented litigator." *Chambers UK, 2021*

"Extremely sharp mind and great at spotting and dealing with tricky legal points. He is extremely able academically but also has an acute tactical grasp of cases. A wonderful turn of phrase; conscientious; personable.' *Legal 500, 2021*

"He has got a brilliant academic mind and a fantastic grasp of the law, particularly in relation to financial services and tax negligence work." *Chambers UK, 2020*

"He is extremely approachable and very pleasant to work with." *Chambers UK, 2020*

"He is great on difficult areas" *Legal 500, 2020*

"He is both clever and commercial" *Legal 500, 2019*

"He is much in demand, and justifiably so. He has exceptional technical knowledge" "Thorough in his analysis and advice, as well as very pleasant to work with" *Chambers UK, 2018*

"Very bright but user-friendly with it" *Legal 500, 2017*

"He applies his formidable intellect in a way that makes his knowledge and advice accessible." "A real expert in professional negligence who understands all the nuances and who is an excellent tactician." *Chambers UK, 2017*

"Great on his feet and very collegiate in his approach." *Legal 500, 2016*

"He is very energetic, resourceful and inventive. Very pleasant to work with." "His written work is superb in quality and he is extremely knowledgeable on financial claims." *Chambers UK, 2016*

"The standout junior for claims against financial professionals. He is 'a very bright chap who is good on his feet and a team player'." *Chambers UK, 2015*

"Very sharp and a real expert in the field of claims against financial professionals." *Legal 500, 2014*

"Solicitors highlight [Simon's] skill on work relating to financial professionals, and appreciate his collaborative and easy-going work style. He is 'an easy person to work with, while also being bright. The quality of his work is very good'." *Chambers UK,*

2014

Notable cases

Solicitors & Barristers

- Johnson v Gore Wood [2002] 2 AC 1 and (appeal following trial of action) [2003] EWCA Civ 1728 (abuse of process; reflective loss; scope of duty)
- Lane v Cullens [2012] QB 693 (CA: limitation and contingent damage)
- BPC Hotels v Wright Hassall and another [2016] EWHC 1286 (TCC) (alleged failure properly to formulate a claim in litigation)
- Murithi & others v AVH Legal & others [2023] EWHC 1245 (KB): alleged negligence of counsel and solicitors in relation to group litigation

Accountants & insolvency practitioners

- Integral Memory v Haines Watts [2012] EWHC 342 (Ch) (limitation and alleged continuing duties)
- Dhillon v Siddiqui [2008] EWHC 2020 (Ch) (tax advice)
- Midland Packaging v HW [2011] PNLR 1 (tax advice)
- Moria v Bednash [2011] EWHC 839 (Ch) (validity of assignment; duties of insolvency practitioner)

IFAs

- Cole v Scion and others [2020] EWHC 1022 (with Michael Pooles KC: section 14A Limitation Act)
- Anderson v Sense Limited [2018] EWHC 2834 (Comm) and [2019] EWCA Civ 1395 (liability of principal under s.39 FSMA/at common law in respect of fraudulent scheme; attribution of knowledge of agent to principal; duties of network to supervise appointed representatives; definition of UCIS)
- Frederick v Positive Solutions [2017] EWHC 643 (Ch), [2018] EWCA Civ 431, appeal to Supreme Court compromised in 2019 (liability for fraud of agent)
- Jacobs v Sesame [2014] EWCA Civ 1410, [2015] PNLR 6 (section 14A Limitation Act)
- Clark v In Focus [2014] 1 WLR 2502 CA (res judicata and FOS awards)
- Bunney v BAIN [2007] 4 AER 246 (limits of FOS awards)
- Bateson v Savills [2013] PNLR 20 (mortgage broker negligence and causation)
- KVB & others v Jacobs Hopkins McKenzie & others [2023] EWHC 1686 (Comm): scope of section 39 FSMA

Construction Professionals

- Glauser v Khan [2002] BLR 224 (CA: engineer’s negligence, re-litigation and abuse of process)
- Scott v Sheppard [2016] EWHC 1949 (TCC): engineer’s negligence

Commercial Law

- Broster v Galliard [2011] PNLR 34 (pure economic loss)
- Jerrett v Walker [2013] Exeter District Registry (fire and ignis suus)
- Smith v UKPN [2012] BLR 34 (electrical fires: test cases)

Further information

Education:

Harrogate Grammar School & Trent College Nottingham.

Magdalen College Oxford (BA Hons).

Gray's Inn: Mould Scholar and Advocacy Prize.

Personal:

Simon lives near Farnham with his wife (also a KC) and their menagerie: 2 dogs and 2 cats. He has two grown up children who have not taken up the law, in favour of pursuing more sensible careers.

When not working, he enjoys cooking, playing cricket and golf (badly), reading and, under duress, gardening.

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