



## Thomas Westwell

Year of Call: 2018

Tom welcomes instructions in all of Chambers' core practice areas, with specialisms in personal injury, employment and consumer credit work. Tom appears regularly in courts and tribunals and has a thriving advisory practice.

Tom has appeared in the Supreme Court and the Court of Appeal (led by other counsel), and in the High Court (as sole counsel). Key cases include:

- *Griffiths v TUI* [2023] UKSC 48, [2023] 3 WLR 1204 on fairness and the duty to cross-examine (led by Robert Weir KC and Stephen Cottrell);
- *Miller v Irwin Mitchell LLP* [2024] EWCA Civ 53, [2024] 4 WLR 27 on the duties owed by a firm's legal advice helpline to a personal injury claimant (led by Robert Weir KC);
- *Patricot v Adrian Lee & Partners* [2023] EWHC 2493 (Ch), an application for an expedited trial of a former employee's claim regarding the enforceability of a non-compete clause.

Tom was previously a solicitor at Freshfields Bruckhaus Deringer LLP. He spent four years after qualification as an associate in the employment, pensions and employee benefits team.

In 2019-20, Tom was the judicial assistant to Lord Wilson and Lord Burrows at the Supreme Court.

Tom prides himself on his persuasive advocacy, clear drafting style, exceptional diligence and ability to research complex points of law in service of his clients.

### Personal Injury

Tom is developing a busy personal injury practice.

He has recently worked on the following matters as a junior to Robert Weir KC:

- appearing in the Court of Appeal (led also by William Thorpe) in *Miller v Irwin Mitchell LLP* [2024] EWCA Civ 53, [2024] 4 WLR 27 regarding the duties owed by a firm's free legal advice helpline to an injured claimant;
- appearing (led also by Stephen Cottrell) in the Supreme Court in *Griffiths v TUI* [2023] UKSC 48, [2023] 3 WLR 1204 regarding fairness, expert evidence and the duty to cross-examine (reported in the national media [here](#), [here](#) and [here](#));
- drafting schedules of loss for claimants with four-limb cerebral palsy in two separate, multi-million-pound claims;

- drafting a schedule of loss for a claimant with severe injuries following a road traffic accident.

Tom has appeared in numerous fast-track trials in RTAs, employers' liability and occupiers' liability claims, representing both claimants and defendants. Tom is also adept at representing clients in CCMCs. In March 2024 Tom succeeded in resisting a defendant's application for security for costs, made on the basis of alleged fundamental dishonesty, in a multi-track case where qualified one-way costs shifting (QOCS) applied.

Tom is a member of the Personal Injuries Bar Association (PIBA).

## Employment

Tom welcomes instructions on behalf of employees and employers.

Tom has appeared as sole counsel for a former employee in the High Court in proceedings regarding the enforceability of a restrictive covenant. Tom regularly appears on his own in multi-day employment tribunal hearings in unfair dismissal and discrimination claims, as well as appearing in preliminary hearings across the full range of employment law. He also advises in all areas of employment law. He has conducted his own internal employment investigations.

### Recent highlights include:

- Successfully representing a retailer in a three-day final hearing of a disability discrimination claim (2024).
- Successfully representing a retailer in a four-day final hearing of an unfair dismissal, race and disability discrimination claim (2024).
- Representing the claimant in the High Court on an application for an expedited trial of his claim against his former employer as to the enforceability of a non-compete clause: *Patricot v Adrian Lee & Partners* [2023] EWHC 2493 (Ch).
- Successfully representing a tech start-up in the two-day final hearing of a redundancy unfair dismissal claim (2023).
- Successfully representing a hotel chain in the final hearing of an unfair dismissal claim (2023).
- Successfully defending a catering services provider in a two-day hearing of a constructive dismissal claim brought by a former employee (2023).
- Successfully defending a tech start-up against a former employee's claims for unpaid bonus and on-call allowances (2023).
- Securing the strike-out of an employee's claims of race discrimination against his former employer, a restaurant business (2023).

As a solicitor Tom advised clients on a range of issues, from employment status to the National Minimum Wage to TUPE transfers. He undertook secondments to the in-house legal teams of Novartis AG in Basel (in 2015) and Uber in London (in 2017-18), where he assisted with large international transactions and day-to-day employment issues.

During his time at the Supreme Court, Tom assisted Lord Wilson on the leading cases of *Royal Mail Group Ltd v Jhuti* [2019] UKSC 55 (concerning whistleblowing dismissal) and *Royal Mencap Society v Tomlinson-Blake* [2021] UKSC 8 (concerning the National Minimum Wage).

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Tom is a member of the Employment Lawyers Association (ELA) and the Employment Law Bar Association (ELBA).

### **Financial Mis-Selling and Consumer Credit**

Tom represents consumers in claims arising from the non-disclosure of commission on payment protection insurance policies and on personal contract purchase (PCP) car finance arrangements. He is familiar with the relevant FCA rules and the Consumer Credit Act 1974.

#### **Tom is developing extensive appellate experience in this area:**

- He is currently instructed (led by Robert Weir KC and Jonathan Butters) in three important appeals, to be heard together by the Court of Appeal over three days in July 2024, concerning claims against motor finance providers arising out of the payment of commissions to credit brokers.
- In May 2024 Tom assisted Jonathan Butters before the Court of Appeal in *Self v Santander Cards UK Limited*, a significant case concerning alleged settlements of PPI claims.
- Tom is also instructed as sole counsel in a potential appeal (permission to appeal sought) regarding the appropriate remedy in "half-secret" commission cases.

### **Commercial Litigation and Disputes**

Tom welcomes instructions in all areas of commercial litigation.

#### **Recent highlights include:**

- Representing consumers in Plevin claims regarding undisclosed PPI commission.
- Representing a major energy company in a range of breach of contract claims brought by consumers.

### **Tax**

Tom welcomes instructions on behalf of both taxpayers and the Revenue.

#### **Recent matters include:**

- acting for the Revenue (led by Chris Stone) in two large ongoing appeals concerning enterprise investment scheme relief under the Income Tax Act 2007;
- acting for the Revenue (led by Marika Lemos) in *Sheth v HMRC [2023] UKFTT 368 (TC)*, a case concerning contractor loan schemes, the Rangers case and the validity of discovery assessments.

### **Academic**

BA Classics: Brasenose College, Oxford – Double First

GDL: BPP Law School, London – Distinction

LPC: BPP Law School, London – Distinction

BCL: St Cross College, Oxford – Distinction

### **Memberships & Associations**

ELA, ELBA, PIBA, COMBAR