

Tom Adam QC

YEAR OF CALL: 1991 YEAR OF SILK: 2008

"undoubtedly one of the most brilliant legal minds of his generation."

Chambers & Partners

Clerk's Email: PaulsClerkingTeam@brickcourt.co.uk



Practice Overview

Tom Adam QC is well-known as a leading advocate and adviser in a broad range of heavy commercial work. Recent cases include acting for the successful claimant in a hard-fought two week arbitration between well-known oligarchs; bringing a £120m claim for Northern Rock against its former solicitors; a successful appeal (having not acted below) for the Candy brothers against a freezing order (*Holyoake v Candy* [2017] 2 All ER (Comm) 513); and defending a firm of solicitors accused of fraudulent conspiracy to procure false evidence (*Accident Exchange v McLean & Others* [2018] EWHC (Comm) 23).

Tom is a market leader in complex professional negligence/disciplinary matters, and is regularly instructed in matters involving the Magic Circle firms of solicitors and the Big Four accountants. He has acted in many cases in the public eye, including **Stone & Rolls v Moore Stephens**; the phone hacking scandal; the Takeover Panel proceedings relating to Vallar plc/Bumi; and the collapse of Connaught plc. He has extensive experience of dealing with regulatory bodies in high profile disciplinary matters and is currently lead Counsel for the FRC in relation to its investigations into the collapse of Carillion plc.

Tom is also one of the UK's leading insurance/reinsurance lawyers, with a depth of experience going back to the Lloyd's litigation of the 1990s. He is the author of Chapter 10 (insurance brokers) in *Professional Negligence & Liability (LLP)*.

An expert in the law of privilege, on which he writes and lectures, Tom is regularly instructed by The Law Society to advise and appear in privilege cases in which the Society is intervening; this work has included two leading House of Lords/Supreme Court cases (**Three Rivers No 6** (2005) and **Prudential v Pandolfo**

(2012)).

At Cambridge he won a boxing blue as well as prizes for light verse, oratory and more conventional academic achievements.

Commercial

General Commercial

- *"He's got a really excellent style in court, he's very good with clients, and he gives robust, clear advice."* *"A good cross-examiner with great knowledge of the case."* (Chambers & Partners 2018)
- *"First-class with excellent experience in this area".* (The Legal 500 2017)
- *"A superb analyst who is excellent to work with."* *"He is very clever, incisive and effective."* (Chambers & Partners 2017)
- *"Highly regarded by instructing parties and peers alike, with one source naming him as "undoubtedly one of the most brilliant legal minds of his generation.""* (Chambers & Partners 2015)
- *"Commercial, user-friendly and a delight to work with. He has terrific judgement and is an accomplished advocate."* *"Clearly had a grasp of the detail that was second to none. A very good advocate who was very good on cross-examination; he knew where he was going tactically."* (Chambers & Partners 2015)

Tom's recent general commercial cases include a 2 week arbitration dispute between oligarchs in late 2017, in which Tom obtained a substantial award for his client (this was then turned into an order of the Commercial Court, resulting in the issue of a freezing order and payment in short order), and *Holyoake v Candy* [2017] 2 All ER (Comm) 513, in which Tom (instructed to come in at the appellate stage) overturned a novel form of freezing injunction granted against the Candy brothers by the Chancery Division; the Court of Appeal accepted that the Judge had both applied the wrong legal test and misunderstood the facts.

Professional negligence

- *"A superb analyst and excellent to work with."* (Chambers & Partners 2018)
- *"He continues to impress on large complex litigation, and he's the first choice for challenges to existing law."* *"He has a great ability to break down complex issues."* (Chambers & Partners 2017)
- *"He is bright, hard-working, lateral thinking, and he has a good sense of what argument will work with a particular judge."* (Chambers & Partners 2015)
- *"He gets very directly and quickly to the key issues, does everything with panache and a great sense of humour."* *"A clever and punchy barrister, he doesn't shy away from detail, and is extremely clear in his thinking."* (Chambers & Partners 2014)

Tom is regularly instructed in heavy professional negligence disputes involving the leading firms of

accountants, solicitors, insurance brokers, barristers and others. His broad commercial experience enables him to analyse underlying transactions in many different commercial spheres and to make an accurate assessment of where strengths and weaknesses lie. He has appeared in some of the highest profile cases of recent years.

Some significant recent cases:

- **Alton v Ernst & Young** – Tom acted for EY in this 5-6 week 2018 Commercial Court trial, in which accusations of negligence have been made in relation to tax planning advice about the well-known Eclipse film schemes.
- **NRAM v Eversheds** – Tom acted for NRAM in a 3-4 week Chancery Division 2018 trial for negligent legal advice about standard form banking documents.
- **Accident Exchange v McLean & Others** – Tom was leading Counsel for Morgan Cole, one of the firms accused by Accident Exchange of improperly conducting thousands of pieces of “credit hire” litigation. The case has spawned large numbers of interlocutory disputes, including *Accident Exchange v McLean & Others* [2018] EWHC (Comm) 23 (in which the Commercial Court rejected Accident Exchange’s claim that the “iniquity” exception applied so as to disapply privilege) and *Accident Exchange v McLean & Others* [2018] EWHC 1533 (Comm) (in which the Commercial Court granted Morgan Cole’s application for security for costs).

Some significant past cases:

- **Stone & Rolls v Moore Stephens** – Tom acted for the defendant auditors at all levels, including the House of Lords. In this landmark case, which sharply divided judicial and academic opinion, the auditors faced a claim for negligent failure to detect that their corporate client was being used as a vehicle for fraud by its owner and controller. They succeeded in having the claim struck out on the basis that the company itself had been guilty of the dishonest conduct which it was said the auditors should have detected, and thus could not mount a claim.
- **“Phone hacking”**: Tom was heavily involved in rebutting the allegation by Rupert Murdoch that solicitors who had formerly acted for News International (Harbottle & Lewis) had made a “serious mistake” in relation to the phone hacking scandal; this encompassed dealing not only with News International itself but also with Parliament and the Leveson Enquiry.
- **Reed Employment v Robson Rhodes** – Reed (the temporary employment business) entered into tax planning on the advice of its then accountants, Robson Rhodes; ultimately this was challenged by HMRC and litigation followed. Tom acted for Reed in a claim against Robson Rhodes for negligence both as tax advisers and auditors.
- **MCashback v Nabarro LLP** – Tom defended Nabarro LLP against a heavy negligence claim (put at about £125m) relating to the conduct of underlying litigation between 2006 and 2009.
- **SocGen v RSA and others**: after the loss of \$500m in gold bullion, Societe Generale claimed against both its insurers and its insurance brokers (one of whom Tom defended).

- **Credit Suisse v Linklaters:** this claim arose from the collapse of Parmalat. Tom acted for Credit Suisse in its complaint that it had been badly advised on Italian law by Linklaters.
- **Guy Hands & O'rs v Baker Tilly & Another:** Tom defended a member of the tax Bar in a group action relating to a tax avoidance scheme.
- **The Football League v edge ellison:** following the collapse of ITV Digital, the League sued its solicitors for failing to advise that a parent company guarantee should have been obtained on the original sale of broadcasting rights. This has become a leading case on the line between legal and commercial advice from solicitors.

Professional discipline

- *"A robust advocate, who adapts his style expertly to the case in hand."* (The Legal 500 2017)

As a natural fit with his expertise in professional negligence, Tom regularly acts for the same blue chip client base in relation to professional disciplinary matters. He has extensive experience of the disciplinary functions of all the major regulators, including the Takeover Panel, the FRC, the ICAEW, and the SRA. Recently he has acted for PricewaterhouseCoopers in relation to charges brought by the FRC over its audit of Connaught plc, and for Freshfields in relation to charges brought by the Takeover Panel in relation to the affairs of Vallar plc/BUMI. He is currently lead Counsel for the FRC in relation to its investigations into the collapse of Carillion plc.

Insurance/reinsurance

- *"Very, very good at advocacy ... bright, intelligent, responsive and easy to work with."* (Chambers & Partners 2018)
- *"A wonderful team player and an outstanding performer."* (The Legal 500 2017)
- *"His cross-examination is sublime and a joy to behold. Also, despite being diabolically bright, he is a good person to work with and helps get things done."* (Chambers & Partners 2017)
- *"He's a really properly excellent insurance litigator."* (Chambers & Partners 2014)

Tom's practice has included a substantial amount of insurance and reinsurance work from the moment he joined Chambers. Most of this has been undertaken in arbitrations, especially in the reinsurance market, and is therefore confidential but in the last decade the value of the large number of insurance/reinsurance arbitrations in which Tom has appeared is in the billions. Tom is also instructed from time to time as an expert in English law on insurance/reinsurance cases in other jurisdictions and as an arbitrator in insurance/reinsurance disputes.

Banking/corporate finance

Tom is regularly instructed in matters involving banks and other financial institutions. Two examples:

- Following the nationalisation of **Bradford & Bingley** in 2008, claims were threatened by shareholders who had bought shares in a rights issue only weeks before the collapse. Tom acted for both the bank (in effect the Government) and its board of directors in successfully rebutting these claims. This involved analysing the underlying reasons for the bank's failure (its involvement in the sub-prime mortgage market) and advising on some unexplored areas of financial services law.
- The insolvency and restructuring of **British Energy** led to a complex suite of banking documents in relation to one particular asset, a power station in the UK. Tom has acted for British Energy (and then EDF) in a series of successful disputes, at first instance and on appeal, over the construction of the various interlocking banking agreements.

In addition, Tom's professional negligence practice for (and occasionally against) the "Magic Circle" solicitors regularly crosses over into high value banking transactions (for example he advised a major City firm in relation to claims arising from the collapse of Lehman and the form of a Prime Brokerage Agreement under which assets of almost US\$1bn were being held).

Privilege

Tom is regularly instructed by The Law Society in relation to questions relating to privilege. He appeared in the House of Lords when the Society intervened in *Three Rivers DC v Bank of England (No 6)* on the scope of legal advice privilege, and in both the Court of Appeal and the Supreme Court in *Prudential v Pandolfo* on whether advice on the law from accountants attracts legal advice privilege. He also advises the Society from time to time on other, confidential, matters.

Directory Quotes

Below is a selection of comments about Tom since he took silk in 2008. Tom takes pride in the fact that these quotations illustrate that he is a team player, with whom clients and other professionals can easily establish a good working relationship. He treats litigation as a team sport rather than a solo event, and regards one of the key skills for a modern silk in complex cases as the ability to ensure that contributions from all involved are as fruitful as possible. Having been a solicitor himself he understands what his

professional clients need, and he knows that his lay clients want comprehensive advice in common sense language. He never forgets that the law is a service industry.

- "He prepares superbly, his advocacy is really impressive, and he considers every possible argument in a case. Tom is a real wordsmith, who comes up with just the right way of explaining points to the judge." (Chambers & Partners 2022)
- "One of the professional negligence heavy-hitters, he is absolutely brilliant in terms of technical ability and advocacy. If Tom is in the case you definitely want him on your side." "Tom is a first-rate advocate and he's prepared to stand his ground with a tricky court. Easy and helpful to work with; I would recommend him for difficult matters." (Chambers & Partners 2022)
- "Tom is a very personable character and is very diligent." "He is very knowledgeable and has an excellent client manner." (Chambers & Partners 2022)
- "Tom is one of the cleverest and most forceful silks. He is a delight to work with and has very considerable experience." (Legal 500 2022)
- "Perennially brilliant – solicitors cannot express in words just how good he is." (Legal 500 2022)
- "Really fights your corner – he's a pugnacious barrister, who allies that with a serious intellect." "He is very effective, intelligent and really knows his field." (Chambers & Partners 2021)
- "A good advocate who is delightful to deal with." "He is absolutely excellent in all respects." (Chambers & Partners 2021)
- "He's extremely proficient and extremely good." "He gets stuck in and enthuses clients with his committed approach." (Chambers & Partners 2021)
- "Lives and breaths his cases, phenomenal advocate and does not spread himself thinly like others at his level." (Legal 500 2021)
- "A clever silk whose advice is always clear and considered." (Legal 500 2021)
- "He never sits on the fence in terms of his advice, which is always clear and well considered." (Legal 500 2021)
- "Tom is one of the cleverest and most forceful silks I know. He is a delight to work with. He has very considerable experience in relation to the largest professional liability disputes. He never sits on the fence in terms of his advice which is always clear and well considered." (Legal 500 2021)
- Tom Adam QC is a "standout name" in the market, lauded for his adept knowledge of insurance and reinsurance arbitration. (Who's Who Legal - UK Bar: Insurance & Reinsurance 2020)
- "A very good advocate." "His pleadings are excellent – concise and to the point, but very powerful." (Chambers & Partners 2020)
- "He is very good fun to work with: he brings a real energy and sense of fun to the team and is very good at reading the court and fighting his corner." "He is a very robust, sound, clever silk." (Chambers & Partners 2020)
- "He brings a real energy and sense of fun to the team, and is very good at reading the court and fighting his corner." "He can turn his hand to anything, and he has a great courtroom style." (Chambers & Partners UK & Global 2020)
- "Has meticulous attention to detail." (The Legal 500 2020)

- "He is very intelligent and easy to work with." (The Legal 500 2020)
- "A very strong team player and team leader." (The Legal 500 2020)
- Tom Adam QC has a strong reputation in the market for his excellent work on insurance and reinsurance arbitration proceedings. One source comments, "He is one of the best legal minds of his generation." (Who's Who Legal - UK Bar: Insurance & Reinsurance 2019)
- "Tom Adam QC gets under the skin of a case and advocates superbly, showing great judgement as to which points to take and which to leave." (Chambers & Partners UK & Global 2019)
- "Very bright and very switched on." (Chambers & Partners 2019)
- "He's incredibly good in court - very articulate. His technical advice is also very good, and he's very responsive." (Chambers & Partners 2019)
- "Very good, very bright, able and user friendly." (The Legal 500 2018-19)
- "A depth of experience in the insurance market." (The Legal 500 2018-19)
- "He is smart, good on his feet in court, and is on top of the detail." (The Legal 500 2018-19)
- "He's got a really excellent style in court, he's very good with clients, and he gives robust, clear advice." "A good cross-examiner with great knowledge of the case." (Chambers & Partners 2018)
- "Very, very good at advocacy and he manages expectations very well." "He is bright, intelligent, responsive and easy to work with." (Chambers & Partners 2018)
- "A superb analyst and excellent to work with." "He has got a really excellent style in court and is very good with clients. He gives robust, clear advice." (Chambers & Partners 2018)
- "First-class with excellent experience in this area (commercial litigation)". (The Legal 500 2017)
- "A wonderful team player and an outstanding performer." (The Legal 500 2017)
- "A robust advocate, who adapts his style expertly to the case in hand." (The Legal 500 2017)
- "He provides clear thinking and pragmatic advice." (The Legal 500 2017)
- "He continues to impress on large complex litigation, and he's the first choice for challenges to existing law." "He has a great ability to break down complex issues." (Chambers & Partners 2017)
- "His cross-examination is sublime and a joy to behold. Also, despite being diabolically bright, he is a good person to work with and helps get things done." "Gets stuck in and enthuses clients with his committed approach." (Chambers & Partners 2017)
- "A superb analyst who is excellent to work with." "He is very clever, incisive and effective." (Chambers & Partners 2017)
- "Very bright, able and user-friendly, and a good advocate." (The Legal 500 2016)
- "He gets stuck in and enthuses clients with his committed approach." (The Legal 500 2016)
- "One of the greatest legal minds of his generation." (The Legal 500 2016)
- "He has great qualities, and is bright and good in court." "Tom did a very good job at trial - he was good on cross-examination and took on board a lot of background facts." (Chambers & Partners 2016)
- "Highly regarded by instructing parties and peers alike, with one source naming him as "undoubtedly one of the most brilliant legal minds of his generation."" (Chambers & Partners 2015)

- "Commercial, user-friendly and a delight to work with. He has terrific judgement and is an accomplished advocate." "Clearly had a grasp of the detail that was second to none. A very good advocate who was very good on cross-examination; he knew where he was going tactically." (Chambers & Partners 2015)
- "A superb analyst and excellent to work with." "He is bright, hard-working, lateral thinking, and he has a good sense of what argument will work with a particular judge." (Chambers & Partners 2015)
- "A compelling advocate, who is persuasive and agile in oral argument." (The Legal 500 2014)
- "Very bright, robust, hardworking and interested." (The Legal 500 2014)
- "Enthuses clients with his committed approach." (The Legal 500 2014)
- "He's a really properly excellent insurance litigator. He's dead good." (Chambers & Partners 2014)
- "He gets very directly and quickly to the key issues, does everything with panache and a great sense of humour." "A clever and punchy barrister, he doesn't shy away from detail, and is extremely clear in his thinking." (Chambers & Partners 2014)
- "Ferociously bright." "He always knows the documents in a case inside out." (Chambers & Partners 2014)
- "Another favourite of solicitors for complex cases of some magnitude is the "exceptional" Tom Adam QC, who has a breadth of knowledge that enables him to take on an impressive range of substantial claims." (Chambers & Partners 2013)
- "an "extremely responsive" young silk, who is a strong trial advocate with a powerful command of the facts in a case." (Chambers & Partners 2013)
- "unbelievably bright" (Chambers & Partners 2012)
- His clients love him since he is 'enormously incisive and hugely clever', and also appreciate that he has a 'great sense of humour'." (Chambers & Partners 2012)
- "Not only is Tom Adam QC 'very entertaining and easy to work with', he also 'quickly gets to grips with complex issues so you can be assured he will think right around a problem'." (Chambers & Partners 2012)
- "without a doubt the most capable brain of his generation." (Legal 500 2011)
- "Tom Adam QC has 'a razor-sharp mind'." (Legal 500 2011)
- "a rising star at the Insurance Bar" (Chambers & Partners 2011)
- "hugely talented individual and a complete joy to work with" (Chambers & Partners 2011)
- "Always able to think his way around a problem, he is an asset to any team." (Chambers & Partners 2010)
- "As 'one of the most brilliant junior barristers of his generation', Tom Adam QC is 'expected to become one of the established silks of the future'." (Chambers & Partners 2010)
- "Tom Adam QC is praised for his 'steely drive', and is also noted for possessing 'bountiful charisma'." (Chambers & Partners 2010)
- "throws himself into a case with a robust style that makes him an effective advocate." (Chambers & Partners, 2009)
- "Brightness and self-confidence"; "he always comes through at trial." (Chambers & Partners, 2009)

- "superb knowledge of insurance law" "excellent relationships with solicitors." (Chambers & Partners, 2009)
- "a tenacious advocate, equally at home in court or before an arbitration tribunal. Observers are impressed by the 'conviction and emphasis with which he delivers his points'." (Chambers & Partners 2008)
- "'Bright, industrious and witty,' he 'really adds value.'" (Chambers & Partners 2008)
- "One of 'the first choices for a case involving auditors in a big financial institution', Tom Adam is 'a barrister it is hard to find fault with.' Extremely confident and a quality advocate." (Chambers & Partners 2008)

Education & Qualifications

Trinity College, Cambridge; BA 1987 (Lizette Bentwich Prize).

Boxing blue 1987.

Charles Grant Tennant Prize for light verse 1984 and 1987.

Hooper Oration Prize 1986.

Married; three sons.