

# BRICK COURT CHAMBERS

BARRISTERS



## Mark Howard QC

Year of Call 1980 Silk 1996

Clerk: Ian Moyler [ian.moyler@brickcourt.co.uk](mailto:ian.moyler@brickcourt.co.uk)

### EXPERTISE

- Commercial
- EU/Competition

*“an ‘exceptional silk’ and an ‘extraordinarily well-rounded advocate’”*

- Chambers & Partners 2013

*“one of the great intellects at the Bar and a famously brilliant cross-examiner.”*

- Chambers & Partners 2011

## OVERVIEW

Mark Howard is the joint Head of Brick Court Chambers. He is widely regarded as one of the leading commercial silks at the bar, and has very wide experience of commercial and 'City' litigation, along with banking, professional negligence, fraud, energy and insurance and reinsurance. He also has significant experience of Competition Law and Administrative Law cases. He is an experienced advocate appearing before the Supreme Court and Court of Appeal frequently, as well as dealing with high value and complex first instance disputes. He also has great experience of appearing before arbitral tribunals, including ICC, FIA (F1 Sports) and BIT panels. He has appeared on many occasions in cases before the Courts of the BVI. Mark Howard has also advised clients and appeared before the Takeover Panel.

Recent cases of note include *Cherney -v- Deripaska* (Commercial Court), “Rainy Sky” *Kookomin Bank* (Supreme Court), *Benedetti -v- Sawaris* (Supreme Court), *VTB -v- Nutritek* (Supreme Court), *Harbinger Capital Partners -v- Caldwell* (Valuer of Northern Rock Shares) (Court of Appeal), *Servaas Incorporated -v- Rafidian Bank* (Supreme Court), “The Alexandros T” (Supreme Court), *Re Sigma* (Supreme Court).

In addition to his Commercial practice he acted for Imperial Tobacco in the Competition Appeals Tribunal in the leading case of *Imperial Tobacco -v- OFT (CAT)*, setting aside the then largest fine ever imposed by the OFT in a competition case, and has advised on investigations into Cement, Dairy, and Wax markets. In 2010 Mark Howard was presented with the 'Commercial Litigation Silk of the Year' Award at the Chambers Bar Awards, having previously in 2008 been awarded both 'Barrister of the Year' at the Lawyer Awards and 'Commercial Litigation Barrister of the Year' at the Chambers Bar Awards. In 2016 he was nominated by Chambers & Partners as Banking Law Silk of the Year; and by Legal 500 as International Arbitration Silk of the Year. In 2017 he is shortlisted by Chambers & Partners as Commercial Litigation Silk of the Year.

## PRACTICE AREAS

### COMMERCIAL

#### Important cases

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## Banking and Financial

- “Rainy Sky” (Supreme Court)
- *Harbinger Capital Partners -v- Caldwell* (Valuer of Northern Rock Shares) (Court of Appeal)
- *Perpetual Trustee -v- Bank of New York* (Supreme Court)
- *Satinland -v- BNP Paribas* (Court of Appeal)
- *Sigma Finance Corporation* (House of Lords)
- *IFE -v- Goldman Sachs* (Court of Appeal)
- *REO -v- Aberdeen Asset Management* (Court of Appeal)
- *Banco Santander -v- Banque Paribas* (Court of Appeal)
- *Camdex International -v- Bank of Zambia* (Court of Appeal)
- *Riyad Bank -v- Ahli United Bank* (Court of Appeal)
- *Argo Fund -v- Essar Steel* (Court of Appeal)

## Commercial

- *Benedetti -v- Sawaris* (Supreme Court)
- *SerVaas Incorporated -v- Rafidain Bank & Republic of Iraq & Ors* (Supreme Court)
- *NML Capital Limited -v- Argentina* (Supreme Court)
- *Concord Trust -v- Law Debenture* (House of Lords)
- *General Motors -v- Royal Sun Alliance* (Court of Appeal)
- *Kolden Holdings Limited -v- Rodette Commerce Limited* (Commercial Court)
- *Sibir -v- Gregory Trading* (Eastern Caribbean Court of Appeal)
- *Channel Tunnel Group -v- Balfour Beatty* (Commercial Arbitration/Injunction)
- *Transworld Russian/Kazakhstan Litigation* (Commercial Fraud / Arbitration)
- *Messier Dowty -v- Sabena* (Commercial/Air) (Commercial Court)
- *Fyffes -v- Seatrade* (Commercial/Fraud) (Commercial Court)
- *HHR Pascal -v- Puppet* (Commercial Court)
- Has also acted as Counsel in high value ICSID dispute.

## Energy & Commodities

- \$48bn ICC arbitration relating to a Commodities Market
- *AAR Petroleum -v- BP International Ltd* (Comm Arbitration/Injunction)
- *British Energy -v- Credit Suisse* (Commercial Court)
- *EWS -v- E.ON* (Commercial Court)
- *Teeside Gas & Amoco -v- Enron* (Technology and Construction Court)
- *BHP -v- Damine* (Commercial Court)
- *Esso Petroleum -v- Texaco* (Commercial Court)

## Professional Negligence

- *Stone & Rolls -v- Moore Stephens* (Commercial Court)
- *Barings Plc -v- Coopers and Lybrand* (Chancery Division)
- *Sir Elton John -v- PWC & Ors* (Court of Appeal)
- *County Nat West -v- Gilbert Elliott* (Court of Appeal)
- *Maxwell* - (Prof. Neg./constructive Trust Claims)
- *Kuwait Airways* - (War risks insurance/Prof. Neg.) (Commercial Court)
- *Wallace Smith Trust -v- Coopers & Lybrand* (Professional Negligence/ Fraud) (Chancery Division)
- *Attwell -v- Perry* (Court of Appeal)

## Insurance / Reinsurance

- *Mutual Indemnity (Bermuda) Ltd -v- American Patriot* (Privy Council)
- *Wurtembergische -v- Home Insurance* (Court of Appeal)
- *Axa -v- Field* (Commercial Court)

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- *Kuwait Airways -v- KIC and others* (Commercial Court)
- *Sphere Drake -v- Orion* (Court of Appeal)
- *Charman -v- GRE* (Commercial Court)
- *Maxwell Accidental Death* (Insurance Claim)
- *BP -v- Frankona* (High Court) (Commercial Court)
- "Capricorn" - (Hull insurance) (Commercial Court)

## Administrative Law

- *Sir Michael Bishop -v- Lufthansa*
- *R -v- DHSS ex parte: Source Informatics* (Court of Appeal)
- *Yukos -v-FSA, London Stock Exchange & Rosneft* (Administrative Court)

## EU/COMPETITION

### Important cases

#### Competition Law

- *Imperial Tobacco -v- OFT* (CAT)
- *EasyJet -v- Go* (Competition/Airline Industry)
- Previously engaged on OFT investigation into dairy market
- Previously engaged in OFT investigation into the construction recruitment sector (2009)

## PUBLICATIONS

Co Editor of Butterworths Banking Law Guide (2006) with Roger Masefield.

## DIRECTORY QUOTES

### Banking

#### Chambers & Partners

- "Mark has a formidable reputation as one of the most prominent commercial silks at the Bar. He gives clever, shrewd and realistic advice and above all he excels in cross-examination." "Mark is a case-winning advocate, who has the authority of the court and is prepared to tell the judge what's what." (2018)
- "He gives clever, shrewd and realistic advice and, above all, excels in cross-examination. He also obviously has the respect of the court." "A strong cross-examiner and a good advocate." (2017)
- "Fellow star silk Mark Howard QC is equally well regarded: "He does the very best-quality work and is a great trial litigator who is tremendous in court." Solicitors say that "he manages to pull the cat out of the bag every time," and that he is "absolutely the man to have on a cross-examination." " (2013)
- "Stablemate Mark Howard QC is also counsel of choice for many of the City's leading solicitors. They say: "He obviously has the respect of the court" and "is always very well prepared for meetings, never failing to deploy the materials given to him."" (2012)
- "has a formidable reputation as one of the most prominent commercial silks at the Bar." Howard "gives clever, shrewd and realistic advice and above all excels in cross-examination." (2011)
- "bold, pre-eminent banking expert and highly impressive cross-examiner" (2010)
- 'cautious yet elegant', has a 'wonderful reputation', 'particularly useful when one needs to see how a judge would view a particular problem' (2009)
- has a 'rare quality of being not only an impressive advocate but also a devastating cross-examiner,' delivers 'clever, shrewd and realistic advice in a timely fashion' (2008)
- well prepared and punchy - he doesn't mess around but gets right to the heart of the matter,' 'dangerous opponent,' 'excellent court

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performer' (2007)

- 'class act,' 'excellent cross-examination skills,' 'good on detail, if you have a witness you think you can shred he's the man for the job' (2006)

### Legal 500

- "One of the very best." (2017)
- "Deserves his stellar reputation." (2016)
- "Mark Howard QC is 'among the best of his generation', and 'a supremely able cross-examiner with a feel for how the case will go'." (2013)
- "The 'formidable' Mark Howard QC 'gives clever, shrewd and realistic advice and excels in cross-examination'." (2012)
- "The 'exceptional' Mark Howard QC is 'quick to understand even the most complex of issues' and 'without a doubt one of the best in this field'." (2011)
- "Mark Howard QC 'really thinks outside the box' and maintains his 'stellar reputation'" (2010)
- 'pre-eminent trial advocate' with 'a smooth turn of phrase and keen strategic mind' (2007)
- 'devastating in cross-examination' (2004)

### Who's Who Legal

- The "brilliant" Mark Howard QC is "a standout name in the market" who has "a great reputation as a skilful cross-examiner". (2018)
- "Mark Howard QC has "an excellent reputation as a cross-examiner". As "a very established leader in the field" he has extensive experience handling a range of complex banking disputes before arbitration tribunals and at trial, handling cases up to the Supreme Court." (2017)

### Commercial Litigation

#### Chambers & Partners

- "He gives clever, shrewd and realistic advice, and above all he excels in cross-examination." "He combines an astute legal mind with an eye for strategy." (2018)
- "Formidable in terms of his exceptional analytical and strategic skills, and an advocate with ferocious cross-examination skills." "His legal ability is just flawless, and he masters the case at hand every time." (2017)
- "One of the best. He delivers decisive, clear, commercial advice and is formidable in the courtroom." "A brilliant trial lawyer who combines an astute legal mind with a good eye for strategy." (2016)
- "Mark Howard QC, one of the Commercial Bar's biggest names, is an "exceptional" silk and an "extraordinarily well-rounded advocate" who "can command the attention of any judge." A provider of "clever, shrewd and realistic advice," Howard excels "above all" in cross-examination, and is seen as being quite "devastating" in this regard." (2013)
- "Mark Howard QC is "a clear star at the Commercial Bar and someone you fear finding on the other side." Commentators are particularly impressed by his advocacy style, noting that he is a "tough and dogged opponent" who is "authoritative in court" and "always seems to have the ear of the judge." " (2012)
- " "one of the great intellects at the Bar and a famously brilliant cross-examiner." Instructing solicitors line up to praise his "clever, shrewd and realistic advice," with one interviewee noting that he "clearly has the respect of the court." ' (2011)
- "Stellar performer Mark Howard QC "drills things down into such fantastic detail that when you're in litigation with him it's like being in the sights of a rifle. He's one of the best cross-examiners in the business." He successfully represented B Sky B in the high profile B Sky B v EDS case, and in addition to his domestic practice he has extensive experience of acting in overseas jurisdictions." (Chambers Global 2011)

### Legal 500

- "Quite simply the best advocate at the commercial Bar." (2017)
- "A superb advocate; probably the best around." (2016)
- "Mark Howard QC is 'one of the best of his generation'; 'no one can come near him'." (2013)
- "Mark Howard QC, who is 'exceptionally clever and able to digest complex and detailed cases with ease'." (2012)
- "an extremely good advocate" (2011)
- "'a hugely impressive performer' who acted in Re Sigma, the first decision by the Supreme Court" (2010)
- 'thinks outside the box, and is bold' (2009)

### Professional Negligence

#### Chambers & Partners

- "His reputation is absolutely outstanding." "Right at the top for big City litigation. He is really strong in court and a very strong analyst and examiner. A heavy hitter." (2018)
- "A legend at the Bar who is big in commercial and financial services and who is consistently rated for his cross-examination." "He's really strong in court, a very good analyst and examiner who would be one of the first you'd look to for a heavy hitter." (2017)
- "Mark Howard QC remains 'right at the top of the list for big City litigation.' A heavyweight silk, 'he is really strong in court and a very strong analyst and cross-examiner.' Howard attracts hugely complex cases." (2013)
- "The intellectually immense" Mark Howard QC is one of the leading professional negligence silks. He is a "real star" and "if you want a heavy hitter, he remains one of the first that you would look to." "Remarkably calm and authoritative," he is "an advocate who judges listen to." " (2012)
- 'Clients say he is "one of the best courtroom advocates, who always displays excellent judgement. He is ever ready to take on difficult courtroom battles without hesitation"' (2011)
- "a serious player who has built up an enviable reputation. "One of the outstanding barristers of the generation," he is "by turns calm and ferocious in court and definitely someone you want on your side rather than against you." " (2010)
- 'Wonderfully calm and authoritative', praised for his 'crisp, clear and concise advocacy style' (2009)

#### Legal 500

- "Really strong in court and a very strong analyst and examiner." (2017)
- "A brilliant advocate." (2016)
- "the 'outstanding' Mark Howard QC" (2013)
- "Among the silks, the 'clear, commercial and decisive' Mark Howard QC has 'an edge of hard steel'" (2012)
- "Mark Howard QC is 'a real leader'" (2011)
- "recommended for matters 'which are high value, complex and/or of vital importance'." (2010)

#### Who's Who Legal

- Mark Howard QC is "known for being a superb cross-examiner" according to sources. His practice covers an array of professional negligence issues for which he provides over 30 years' experience. (2018)
- "Mark Howard QC is considered to be "one of the pre-eminent names in the area". He boasts a great reputation in the field, and "thoroughly deserves to be at the top of the tree."" (2017)

### Energy

#### Legal 500

- "A counsel you want on your side in a difficult situation." (2017)
- "A consummate advocate, who commands the respect of the Court." (2016)
- "Highly rated silks include Mark Howard QC (who is 'devastating in cross-examination')," (2013)
- "Recommended silks include Mark Howard QC, who is 'pre-eminent in international energy disputes'" (2012)
- "Mark Howard QC delivers 'excellent legal analysis'" (2011)
- "The 'able and strong' Mark Howard QC and Roger Masefield provide 'excellent advice' on downstream issues." (2010)

#### Chambers & Partners

- "He is incisive and highly intelligent, but, most notably, he has exceptional authority as an advocate. Having used him once, clients do not tend to go elsewhere." "If you ever need a Rottweiler of a cross-examiner, he will be close to the top of the list." (2018)
- "Sometimes you appear against someone and you're just instantly impressed at the way they get to the heart of the issues - he's one of those people." "What he says carries a lot of weight and he puts things across very clearly and concisely." "There are very few advocates who can give witnesses as difficult a ride as he can." (2017)
- A top-level commercial silk who specialises in handling bet-the-farm cases. A source described him as a "superstar who is the first person

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- everyone thinks of to lead on the biggest cases." **Strengths:** "He is very, very effective on his feet and he can cross-examine witnesses incredibly well." (Chambers & Partners 2016)
- "Mark Howard QC is "one of the best in town" for energy disputes. He is a "terrific advocate," who is "very clever, very hard-working and a great strategic thinker." A man who "knows how to fight cases to win," he remains a top pick for the most complex commercial matters" (2013)
  - "Leading silk Mark Howard QC is "incisive, commanding and powerful." He has a superlative practice, and is trusted to deal with the highest-value, most complicated cases in the market." (2012)
  - " "one of the most lethal cross-examiners at the Bar today." Acknowledged as one of the current form horses in commercial law, he is an advocate with a "razor-sharp mind," who shows "continual enthusiasm for his cases." " (2011)
  - " "power to condense even the most complex matters down to one or two central ideas" impresses sources throughout the market. "He is so good that he can bring out a completely new perception of a case," and is universally acknowledged as one of the very finest cross-examiners at the Bar." (2010)

### Who's Who Legal

- Mark Howard QC is renowned among peers for his "big energy practice" and strong sector focus in an area in which he is considered a "pre-eminent" practitioner. (2018)
- "Mark Howard QC is described as "one of the giants of the commercial Bar". He regularly acts for major domestic and international energy companies." (2017)

### Insurance/Reinsurance

#### Chambers & Partners

- "Excellent insurance and reinsurance counsel" who is noted for his superior advocacy and cross examination skills. His insurance work is of a consistently high quality and value and he is further noted for his ability to represent clients in international arbitration. "A brilliant cross-examiner, who has the respect of judges - they really listen to what he has to say." "A top-quality commercial leader with very good insurance experience." (2018)
- "Brilliant cross-examiner, who has the respect of the court - judges really listen to what he has to say." "A powerful, senior silk, who is the right man to turn to for the important occasion." (2017)
- "Mark Howard QC comes highly recommended for his effective advocacy style and superb cross-examination skills. He has "one of the finest legal minds at the Bar," and excels at whatever is put before him." (2013)
- "He receives compliments from clients for being "really strong in court, as well as a very strong analyst and cross-examiner." His diverse practice recently included a dispute concerning the management of reinsured run-offs." (2012)
- "noted for his "clear thinking and sensible advice." He is equal to cases of any standing." (2011)
- "The "laser-beam intelligence" and "frighteningly good cross-examination skills" of Mark Howard QC are similarly praised. According to sources, "judges and arbitrators always listen to Mark, and he has the admirable skill of ensuring that clients willingly discard any bad points." (2010)

#### Legal 500

- "He commands the room, displays an unflappable mastery of his brief and is unrivalled on his feet." (2017)
- "Having him on board is a statement of intent to opponents." (2016)
- 'one of the best cross-examiners in the business' (2009)
- 'Mr Reinsurance' (2008)
- 'pragmatic, reinsurance expert' (2007)

### Who's Who Legal

- Mark Howard QC is "a star name" and is "incredibly highly regarded" among peers. According to respondents, "He is by far the best commercial litigator in town," with one effusing, "He is perhaps the best cross examiner at the commercial bar." (2018)
- "Mark Howard QC has "the highest possible reputation" as a commercial litigator, with insurance and reinsurance a key area of practice." (2017)

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## Fraud

### Legal 500

- "Devastating in court." (2017)
- "A fearsome cross-examiner and the best strategist at the Bar." (2016)
- "Noted figures include Mark Howard QC, who is 'undoubtedly a star'" (2013)
- "Mark Howard QC is a 'top-quality advocate who has a calm and measured approach'" (2011)
- 'brings cross-examination and interim application skills that are second to none' to a case" (2010)

### Chambers & Partners

- "Commanding and impactful." "A formidable advocate and an excellent tactician." (2018)
- "Mark Howard is just a force of nature. He pulls it out of the hat every time." "He penetrates all the surrounding noise and is very good at getting to the key points. He also reads the court and judges very well." (2017)
- "Sources view him as "a top choice" for difficult cross-examination." (2013)
- "Mark Howard QC is first choice of counsel on a remarkable number of high-level disputes, fraud or otherwise. "His powerful cross-examination can utterly devastate an opposition's case," insists one admiring source." (2012)
- 'renowned for his fearless advocacy style. A "devastating cross-examiner," he is a favourite amongst instructing solicitors for cases requiring a heavyweight silk.' (2011)
- "A "ferocious and incisive cross-examiner who does not waste a single question," he is appreciated by instructing solicitors for his flexibility and his willingness to take on cases at short notice." (2010)

### Who's Who Legal

- Mark Howard QC is a leading name in this year's research, who draws praise for his "really impressive control of the court room". (2018)
- "The "excellent" Mark Howard QC has a strong commercial background and has appeared in both first instance disputes and appellate courts in complex fraud cases." (2017)

## Commercial Arbitration

### Legal 500

- "One of the first you would look to when in search of a heavy-hitter." (2017)
- "One of the leading silks in this sphere, who commands the respect of arbitration tribunals." (2016)
- "A fantastic cross-examiner, who prepares really well and gets on top of the detail."
- "Mark Howard QC is 'a devastating cross-examiner who gives clear and practical strategic advice.'" (2013)
- "Mark Howard QC is 'a master at weaving treaty law and fraud principles into his cross-examinations'" (2012)
- "Mark Howard QC is 'a brilliant, extremely talented advocate' with an especially strong reputation for major utilities and infrastructure disputes" (2011)
- 'just as impressive in arbitration as he is in court' (2010)

### Chambers & Partners

- "Provides robust advice on difficult issues." (2018)
- "There is no shortage of evidence confirming that Mark Howard QC is a pre-eminent commercial silk, and his "formidable and astute mind" is put to excellent use in international arbitration. Those who have seen him in action comment that "he is just a brilliant advocate" and praise his "excellent grasp of detail and his understanding of the bigger picture." His expertise also extends to investment treaty arbitration, and his recent work has seen him work on several high-profile disputes." (2013)
- "Mark Howard QC's reputation as a titan of the Commercial Bar is undisputed. He has gained considerable experience appearing before arbitral tribunals and in overseas jurisdictions." (2012)

### Who's Who Legal

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- "The "excellent" Mark Howard QC is commended for his fantastic knowledge of commercial disputes. He is an experienced advocate and regularly acts under ICC, FIA and BIT institutional rules." (2017)

### Offshore

#### Chambers & Partners

- "Very forceful and has great judgement. He has a knack of picking up all the key points before everyone else and is brilliant on strategy." (2018)
- "He'll blow away someone in a commercial case as easily in the BVI as he does in London" (2017)
- Has a strong reputation for his work on a wide variety of contentious commercial work, spanning competition, professional negligence and international arbitration. **Strengths:** "He is amazing – head and shoulders above the rest." (2016)
- "No less distinguished, Mark Howard QC attracts praise for his "excellent client handling" and devastating cross-examination skills. He has considerable experience of appearing in overseas jurisdictions." (2013)
- "Sources say of him that "he is immensely capable and has an excellent success rate."" (2012)

### EU/Competition

#### Chambers & Partners

- "A truly superb litigator who wipes the floor with opponents." (2018)
- "A cool customer who gets his point across beautifully" and "blows the opposition away." (2017)
- "He is just absolutely excellent." "His advice is clear and he's highly responsive." (2016)
- "Mark Howard QC is a new and popular addition to the competition table this year, and is applauded for his "ability to bring leadership and clarity to the most complex of cases." He is considered the "pre-eminent exponent of the art of cross-examination at the moment," and has worked on a number of leading competition cases in the last year." (2013)

### Further information

Cited as Leading Silk in the areas of Banking and Finance, Commercial Litigation, Energy, Fraud (Civil), Insurance and Reinsurance and Professional Negligence by Chambers & Partners and the Legal 500 2005 - 2017.