
Thomas Ogg

Tom's practice focuses on the following areas:

- Professional discipline and regulatory law, particularly in the financial services industry.
- Employment and equality law.
- Administrative law and local government, particularly relating to education, pensions, and investigation/inquiry matters.
- Commercial, including contract/fraud, partnership, and business protection matters.

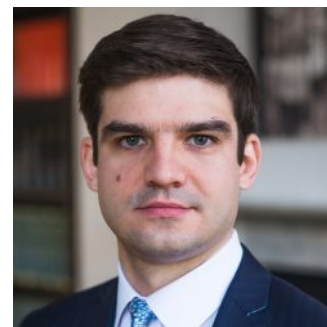
Chambers & Partners recognise Tom "for his considerable expertise in matters at the intersection of financial services regulation and employment law."

Tom is the co-editor of *Conduct and Pay in the Financial Services Industry: the Regulation of Individuals*, with Richard Leiper QC.

He is a Barrister Director of the School Exclusion Project, and an Honorary Visiting Lecturer at the City Law School, University of London in relation to the same.

Tom is a member of the 'C Panel' for both the Attorney General's and Equality and Human Rights Commission's Panel of Counsel.

Tom has also acted in cases in the Dubai International Financial Centre (DIFC).



Professional Summary

Called 2012

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Specialisms

Professional discipline and regulatory law

Tom acts in a range of industries for individuals and regulators in both professional discipline and general regulatory matters. He has particular experience in the financial services industry, as well as the legal, education and accountancy fields.

Financial Services

Tom acts for and against the Financial Conduct Authority and Prudential Regulation Authority in a range of matters.

Tom's most recent case in the public domain is the FCA's decision in Paul Stephany's case (Final Notice). Mr Stephany's case was the first individual disciplinary case to arise from the FCA's new competition jurisdiction, and the first case to address the conduct of the buy-side in IPOs. Tom also represented Mr Stephany in his Employment Tribunal proceedings (see below).

In the legal year 2013/14, Tom was seconded to the FCA, during which he sat in the Enforcement Division's Legal Group and in the General Counsel Division. Whilst on secondment, Tom drafted submissions to the Regulatory Decisions Committee (RDC) and appeared at the FCA's Regulatory Transactions Committee (RTC). In GCD, Tom drafted sections of the FCA Handbook.

Tom is frequently asked to advise and assist in the following areas:

- Misconduct, approvals and regulatory investigations: Tom provides strategic advice in relation to both potential and actual regulatory investigations. He is often asked to opine on what a regulator's view might be of particular misconduct, and whether any person has acted in breach of regulatory rules or guidance. That advice is often asked for in relation to current or future applications for approval, regulatory references, or employment matters (particularly an exit). Tom has previously worked on LIBOR cases and disciplinary proceedings brought against senior individuals, both in private practice and whilst seconded to the FCA. In private practice, he assisted the FCA disciplinary proceedings against the directors of Swinton Group Limited (*Peter Halpin, Nicholas Bowyer and Anthony Clare*). He is currently instructed in relation to allegations of market abuse and breaches of the listing rules. Tom acted *pro bono* for VIP Wealth Ltd at the RDC in their unsuccessful application for Part 4A permission, the final notice in relation to which is here. Tom also recently secured a discontinuance of proceedings in an individual approvals context, following Enforcement's consideration of Tom's written submissions for an RDC hearing.
- Regulatory references: Tom regularly advises individuals and institutions in both litigation and policy development in this important area. Tom has represented a financial services firm in County Court proceedings relating to an allegedly negligent reference, in proceedings which settled. He has also successfully represented a number of financial services professionals in Employment Tribunal proceedings, where the purpose of the proceedings was to correct an unfair reference.
- Regulatory perimeter, unauthorised business, and compliance: Tom is regularly asked to advise on whether a particular set of arrangements, especially property arrangements, fall within the regulatory perimeter and if so to advise on regulatory compliance (for example, with consumer credit rules). Tom worked on a wide range of unauthorised business cases whilst seconded to the FCA's Enforcement Division, and has been instructed by the FCA in relation to injunctions, restitution, limitation and perimeter issues in private practice.
- The Senior Managers and Certification Regimes: Tom is often asked to assist with issues arising in relation to the new regulatory regime for individuals, the SMCR. His recent work includes advising senior managers on the SMCR (including in relation to their contracts of employment), and training lawyers on the requirements of the SMCR.
- Remuneration: Tom is often asked to assist on remuneration issues from both a regulatory and common law standpoint, including the drafting of remuneration policies.
- Financial Ombudsman Service: Tom has represented the FCA in a judicial review of the FOS, and has advised in private practice on FOS determinations.

Tom has also worked on matters relating to financial promotions; supervisory powers such as OIREQs, OIVOPs, information requirements and skilled persons reports; the protected items regime; the FCA's powers under FSMA; the public and private-law implications of FCA decisions; international co-operation matters; mutuals; authorisations; the Equality Act 2010 duties in financial services; and changes of control.

Legal

Tom appears in the Solicitors Disciplinary Tribunal and has advised both the Solicitors Regulation Authority and individuals. Tom represented the Solicitors Regulation Authority in *Fessahaye v SRA* (see here) , and has acted for the SRA in a number of other appeals.

Education

Tom has advised on matters including disciplinary proceedings against by Ofqual against recognised bodies, National College of Teaching and Leadership proceedings against teachers, and a variety of matters relating to the governance of academies and local authority maintained schools.

Accountancy

Tom has acted in a range of cases concerning questions of compliance with accountancy standards, including the International Financial Reporting Standards.

Membership disputes

Tom appears in domestic tribunals of all kinds. He recently represented the National Executive

Committee of the Labour Party in National Constitutional Committee proceedings in which a member was accused of anti-Semitic abuse. He is also an appointed investigator for a professional association, for which he has carried out a number of investigations.

Employment and equality law

Tom advises and acts in the full range of employment tribunal, County Court and High Court proceedings, including matters relating to restrictive covenants, penalty, and statutory employment law. He regularly appears in multi-day trials in the Employment Tribunal, particularly in relation to whistleblowing.

Tom is particularly sought-after by individuals and firms in the financial services industry on account of his expertise in both financial regulation and employment law, on which Tom frequently advises in tandem. He also regularly acts for NHS Trusts and other public bodies, particularly in education.

Examples of Tom's work include:

- *Paul Stephany v Newton Investment Management Limited*. An unfair dismissal claim in the context of FCA individual disciplinary and competition act proceedings (see here).
- *Re a PLC*. Tom acted for two individuals bringing whistleblowing unfair dismissal claims against senior individuals in a FTSE 100 company, including at an interim relief hearing.
- *Manu v DRS Care Homes Limited*. A whistleblowing unfair dismissal case (see here).
- *Wallace v Apple Europe Ltd*. Acted successfully for Apple in this unfair redundancy claim (see here).
- *Mills v East Sussex Healthcare NHS Trust*. An unfair dismissal case in which the claimant successfully secured re-instatement (see here).
- *Re B*. Advised a senior broker on a potential constructive unfair dismissal whistleblowing claim, and associated issues relating to deferred remuneration.
- *Re Y (Singapore)*. Acting for the defendants in proceedings relating to allegations of an unlawful means conspiracy, breach of restrictive covenants and fiduciary duties in proceedings issued in Singapore.
- *Johnson v Lloyds Bank plc*. Acted successfully for Lloyds in this disability discrimination, reasonable adjustments and unfair dismissal claim.
- *Hall v Santander*. Acted successfully for Santander in this unfair dismissal claim.

Tom acts in a range of discrimination and equality matters in the County Court, Employment Tribunal and First-Tier Tribunal (see also the 'Education' section below). Examples of Tom's cases include:

- Tom represented the a residential estate (Royal Herbert Freehold Ltd) in a case brought against it in the County Court by Mr James Plummer, which was funded by the Equality and Human Rights Commission (see here). The main issues were whether Royal Herbert was a service provider, and whether it had failed to make reasonable adjustments to its premises to permit Mr Plummer, a wheelchair user, to access the swimming pool on the estate.
- Tom advised a leading bank on the question of reasonable adjustments in the context of a consumer redress exercise.
- Tom represented a leading independent school in a challenge in the First-Tier Tribunal to its use of an aptitude test in its admissions arrangements.
- Tom is represented a leading university in defending a reasonable adjustments claim in the County Court in respect of its admissions procedures.
- Tom represents a national supermarket in a disability discrimination and harassment claim brought against it.
- Tom has advised the Flying Disabled campaign, which aims to ensure that wheelchair users can travel in aeroplanes using their own wheelchair, without having to transfer to a seat (problems relating to which BBC journalist Frank Gardiner has documented).

Commercial

Tom's commercial practice includes contract/fraud, partnership, business protection, and procurement. He appears in County Court and is often asked to draft pleadings. He is often asked to advise on commercial disputes in the regulated sector.

Contract / fraud: appeared in a number of contractual claims in the County Court, including claims for fraud and debt claims. Tom advises on contentious bonus matters. He has advised on a range of misselling claims including in relation to foreign-exchange accumulators and interest-rate hedging products.

Business protection: advised on a range of issues relating to confidential and privileged information, restrictive covenants and competitive threats.

Company & Partnership: Tom has advised on a range of company matters including the removal of directors. He has advised on the liabilities and property of partners in both LLPs and general partnerships.

Procurement: advised on a range of procurement matters, including relating to award criteria and modifications to contracts. Tom was instructed by the Treasury Solicitor to assist in *Mansfield DC v Secretary of State for Communities and Local Government* [2014] EWHC 2167 (Admin), a judicial review relating to an alleged breach of the public procurement rules.

Administrative Law, local government and pensions

Tom is instructed to act in a range of administrative law matters, including regulatory and education matters described elsewhere in this profile.

Tom has particular experience of the Firefighters Pension Schemes and issues relating to injury awards. He completed a lengthy investigation in relation to the payment of injury awards at Buckinghamshire and Milton Keynes Fire Authority in 2015, the interim report for which is available [here](#). He has advised a number of fire authorities on similar matters.

In 2016, Tom was instructed to act for the FCA, who was an interested party in a judicial review of the Financial Ombudsman Service brought by Admiral Wealth Management. He has separately advised in private practice on FOS determinations.

Tom was instructed by the Treasury Solicitor to assist in the preparation of the evidence for the judicial review *R(C) v Secretary of State for Work and Pensions* [2014] EWHC 2403 (Admin).

Tom has advised on questions of ordinary residence in the care context. He has also advised on the law of highways.

Investigations & Inquiries

Tom accepts instructions to undertake investigations and inquiries, either as sole investigator or as part of a team of professionals. Tom's recent investigations include:

- investigating an alleged child protection matter for a boarding school;
- investigating allegations that a director was bullying and undermining staff, for an employer in the leisure industry; and,
- acting for a quasi-public body in relation to allegations that its CEO and a senior member of staff had engaged in misconduct.

In early 2015, Tom completed a long-running inquiry as sole investigator into accounting issues relating to the payment of injury awards at Buckinghamshire and Milton Keynes Fire Authority. His interim report is available [here](#). Tom was required to assess the scale of the financial problem; identify opportunities to discover the accounting failure; detail the factual circumstances in which the error came about; and to make recommendations.

Tom also has experience of investigations and proceedings arising from investigations relating to the Financial Conduct Authority.

Education

Tom's education law practice encompasses discrimination claims, contractual issues, and special educational needs. He has a particular specialism in exclusions. Prior to joining the Bar, Tom was a teacher at the London Boxing Academy Community Project, for teenage boys, many of whom had been permanently excluded from school.

Tom appears in the High Court, First-Tier Tribunal and the County Court in relation to his education work.

Recommendations

"Tom is very professional, offers sound and thorough advice, also strikes a good rapport with the client" **Legal 500**

"He is very accessible and down to earth in his approach, yet comprehensive and confident in his advice" **Legal 500**

"He's incredibly perceptive, very bright and gets the job done; he's a go-to on very technical matters." **Chambers & Partners**

"Very bright and technically astute." **Legal 500**

"He's really good in technical terms and is very responsive and very calm with clients."
Chambers & Partners

"He does an excellent job of making the dry and labyrinthine regulations clear." **Chambers & Partners**

News, Articles and Publications

Tom is the co-editor of *Conduct and Pay in the Financial Services Industry: the Regulation of Individuals* (with Richard Leiper QC), Informa from Routledge, 2017.

Boxing Clever, (2012), Civitas. This book describes Tom's career prior to the Bar, in which he was a teacher at the London Boxing Academy Community Project in Tottenham, North London, a school which catered for teenagers who had been expelled from mainstream schools.

A New Secret Garden? Alternative Provision, Exclusion and Children's Rights, (2010), Civitas.

Tom Ogg, Anna Zimdars, and Anthony Heath (2009) '*Schooling effects on degree performance: a comparison of the predictive validity of aptitude testing and secondary school grades at Oxford University*', British Journal of Educational Research, Vol. 35(5) pp.781 – 807 (concerning the impact of attending either a state school or an independent school upon performance in final examinations at Oxford University).

Tom is an editor of 11KBW's Financial Regulation Briefing.

Education

University of Oxford, BA (Hons) Politics, Philosophy and Economics (PPE), Corpus Christi College.

University of Oxford, MSc Sociology, Nuffield College.

City, University of London, Graduate Diploma in Law.

City, University of London, Bar Professional Training Course.



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