

## Tom Pascoe

YEAR OF CALL: 2013

*"Sharp as a tack and has commercial and strategic acumen beyond his year of call"*

Chambers & Partners 2023

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## Practice Overview

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Tom is a leading barrister in the fields of commercial, arbitration and competition law. He has been described as *"a star in the making"*, *"sharp as a tack"*, *"someone to watch"* and a *"sharp and strategic thinker"*. Solicitors have praised him for being *"super clever"*, *"speedy, decisive and polished"*, having *"strategic acumen beyond his year of call"* and being *"in high demand for a reason"*. He is ranked in the directories as a leading junior in the areas of commercial, competition and energy law.

Tom has worked on many of the most significant cases in these fields in recent years, such as *Federal Republic of Nigeria v P&ID*, a two-month Commercial Court trial in 2023 worth US\$11 billion described as one of the *"world's largest lawsuits"*; *NMC v Ernst & Young*, a multi-billion dollar audit negligence and fraud claim arising out of the collapse of a private healthcare group in the UAE; *Facebook v CMA*, a test case concerning the competition regulators' powers to intervene in big tech acquisitions; and *Pfizer/Flynn v CMA*, a competition case concerning alleged excessive pricing of an epilepsy drug which has been ongoing for more than eight years. Tom acts in a number of the leading follow-on damages claims and class actions, including *Trucks* (where he has been representing MAN, instructed by Slaughter and May, for more than five years) and *Forex* (where he has been representing RBS, instructed by Macfarlanes, for several years).

Tom also has a heavyweight practice in arbitration. He has appeared in numerous multi-billion dollar arbitration hearings in London and abroad, and has acted in a number of leading cases concerning the enforcement and set-aside of arbitral awards before the English courts. He has particular expertise in setting aside arbitral awards on grounds of fraud.

Tom has a background in public law, having appeared before the Supreme Court in the well-known *Miller* case concerning the government's decision to trigger the process for exiting the EU. He is happy to accept *pro bono* instructions in public law and human rights cases, and has particular experience of *pro bono* cases concerning refugee law.

Tom's work is a mixture of work led by Kings Counsel and unled work. He routinely appears unled before the High Court, and has done so in a number of multi-billion dollar heavyweight commercial cases. He has a first-class law degree from Robinson College, University of Cambridge and a BCL degree from Trinity College, University of Oxford.

## Commercial

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Tom has acted in numerous leading commercial cases, including in the Commercial Court, Chancery Division, Court of Appeal and before various arbitral tribunals both in London and abroad. His recent cases include:

- *Federal Republic of Nigeria v P&ID* (2023) – acting for Nigeria in applying to set aside one of the “world’s largest lawsuits” – a London arbitration award worth US\$10 billion – on grounds of fraud. See press coverage e.g. (led by Mark Howard KC, instructed by Mishcon de Reya).
- *NMC plc v Ernst & Young* (2023) – an ongoing audit negligence claim for around US\$4 billion arising out of the global collapse of the NMC group, one of the world’s largest private healthcare providers (led by Simon Salzedo KC, instructed by Quinn Emanuel).
- *Mining dispute (arbitration)* – an ongoing multi-billion dollar arbitration between two companies involved in a joint-venture mining project (led by Vernon Flynn KC, instructed by Linklaters).
- *Raga v SCM Financial Overseas Limited* [2018] EWHC 1008 (Comm) – LCIA arbitration worth approximately \$1 billion between two Ukrainian oligarchs, involving parallel arbitration and High Court proceedings (led by Neil Calver KC, instructed by Quinn Emanuel);
- *British Gas Trading v Shell; Esso* [2018] EWHC 3943 – representing British Gas in a dispute worth in excess of £75 million concerning a long-term gas supply contract (led by Michael Bools KC, instructed by Herbert Smith Freehills);
- *Gazprom v Overgas* [2018] EWHC 3724 (Comm) – representing Overgas in energy-related claim for over \$100 million concerning gas supply arrangements with Gazprom in Bulgaria, alleged breaches of directors’ duties, and counterclaims for alleged breaches of competition law (led by Neil Calver KC, instructed by Squire Patton Boggs);
- *AssetCo Plc v Grant Thornton LLP* [2019] EWHC 150 (Comm) and [2020] EWCA Civ 1151 –

acting for the successful claimant in recovering over £25 million from Grant Thornton as a result of auditor's failure to detect widespread management fraud (led by Michael Swainston KC and Mark Templeman KC, instructed by Mishcon de Reya);

- *Single Buoy Mooring Inc v Zurich Insurance plc & ors* – \$1.5 billion insurance dispute raising questions of coverage and causation in connection with the abandonment of an oil platform in the North Sea (led by Mark Howard KC, Neil Calver KC and Steven Midwinter KC, instructed by Herbert Smith Freehills);
- *Sinocore International Co Ltd v RBRG Trading (UK) Limited* [2018] EWCA Civ 838 – Court of Appeal judgment concerning circumstances in which an English court may refuse to enforce an arbitral award on public policy grounds where the award is based on fraud (led by Neil Calver KC)

## Competition

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Tom's practice covers all areas of EU and competition law, including competition appeals before the CAT, follow-on damages claims, mergers, commercial cases involving competition infringements and other areas of EU law such as sanctions. Notable cases include:

- *Facebook v CMA* – acting for Facebook in respect of its acquisition of GIPHY Inc (led by Robert O'Donoghue KC, instructed by Latham & Watkins);
- *FX litigation* – acting for RBS in a follow-on claim and class action brought by a number of large financial institutions (led by Joshua Holmes KC, instructed by Macfarlanes);
- *Pfizer; Flynn v CMA* – Ongoing CAT appeal against CMA decision imposing largest ever fine for breach of competition law for alleged excessive pricing of an epilepsy drug sold to the NHS (led by Daniel Jowell KC, instructed by Macfarlanes). The proceedings have been ongoing for more than a decade, and Tom has been acting for almost eight years;
- *Trucks cartel litigation* – acting for MAN Trucks in follow-on claims, including two class actions, with estimated claim value in excess of £1 billion (led by Daniel Jowell KC, instructed by Slaughter and May);
- *Associated Lead Mills Limited v CMA* – representing lead manufacturer in CMA investigation

into alleged cartel activity in the construction sector (led by David Scannell KC);

- *PHS Limited v CMA* – acted for the CMA defending a challenge to a merger remedy in the washrooms sector;
- *Ping v CMA* – representing a golf club manufacturer fined by the CMA for online sales restrictions (led by Robert O'Donoghue KC).
- *Gazprom v Overgas* – representing Overgas in a Commercial Court claim for over \$100 million involving alleged price-fixing, collusion and refusal to supply on Eastern European natural gas markets by Gazprom (led by Neil Calver KC, instructed by Squire Patton Boggs);
- *iiyama v Samsung* – acting for Samsung in a follow-on claim concerning LCD panels (led by Robert O'Donoghue QC, instructed by Covington & Burling);
- Advising the IP Federation and IP Law Association on the implications of Brexit for the Unified Patent Court (with Richard Gordon QC). The advice has been widely disseminated and reported. See e.g. the *Legal Week* report .

## Public Law

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Tom has experience of a broad range of public law work. He is happy to act *pro bono*, and has previously done so for organisations such as Amnesty, Liberty, the European Human Rights Advocacy Centre (“EHRAC”) and the Human Dignity Trust. He has particular experience working for UNHCR in the field of refugee law. Notable cases include:

- *R (Miller) v Secretary of State for Exiting the European Union* [2017] UKSC 5 - representing the Welsh Counsel General in landmark constitutional case concerning the government's power to give notice to leave the European Union under Article 50 TEU (led by Richard Gordon KC).
- *R (Forge Care Homes) v Cardiff & Vale University Health Boards & ors* [2016] EWCA Civ 26 – judicial review concerning the division of responsibility between the NHS and local authorities for care home funding. Appeal heard by the Supreme Court in April 2017 (led by Richard Gordon KC).

- *R (States of Guernsey) v DEFRA* - judicial review against the suspension of Guernsey fishing licences, concerning the scope of the EU Common Fisheries Policy and A1P1 (led by Marie Demetriou KC).
- *Sophocleus v Foreign and Commonwealth Office* - historic claims for torture and ill treatment of Cypriot insurgents by colonial security forces during the 1950s (led by Marie Demetriou KC).
- *MM (Somalia) v Home Secretary* [2016] EWCA Civ 715 - intervening in Court of Appeal for UNHCR on whether an asylum seeker can be expected to give up his profession as a journalist in order to avoid the risk of death and violence from a terrorist organisation (led by Marie Demetriou KC).
- *MST (Eritrea)* [2016] UKUT 443 - intervening in Upper Tribunal for UNHCR in Country Guidance case concerning conditions in Eritrea.

## Education & Qualifications

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### Employment

2014-15: Pupillage, Brick Court Chambers

2014: Judicial assistant to Lord Dyson MR in the Court of Appeal (Civil Division)

2013-14: Stipendiary Lecturer in Tort Law, Wadham College, University of Oxford

2013-14: Supervisor in Constitutional Law, Robinson College, University of Cambridge

2013-14: Teaching Fellow in Tort Law, UCL

### Education

2012: BCL, Trinity College, University of Oxford (Distinction)

2011: BA Law, Robinson College, University of Cambridge (Double First)

### Prizes

2013: Stephen Chapman scholarship, Inner Temple

2012: Prize for highest mark in BCL Philosophical Foundations of the Common Law paper

2012: Trinity College, Oxford Prize for BCL results

2009-11: Cambridge Law Faculty Rebecca Flower Squire Scholarship (placed 4<sup>th</sup> in year), Robinson College Scholarship, Robinson College Prize for Tripos results, Nicola Blakeman Memorial Prize

## Directory quotes

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"Tom is a very calm and collected individual, who seemingly effortlessly turns out immaculately researched, but also commercial and concise, advice in very short time frames. He is also a pleasure to work with on a personal level." (Chambers & Partners 2024)

"Tom has good drafting skills and identifies points very succinctly. He puts these forward and he expresses himself very well." (Chambers & Partners 2024)

"Tom Pascoe provides really high quality analysis." (Chambers & Partners 2024)

"Tom is a future star. His analytical skills are well beyond his years, his legal advice is measured, commercial, and generally spot on for what is required in any given situation." (Legal 500 2024)

"Tom strikes the valuable balance between being highly personable and able to give firm and robust advice. His standout quality is his impeccable attention to detail." (Legal 500 2024)

"Tom is very effective in drafting pleadings that are water-tight on the most complex issues of substance whilst remaining clear and easy to understand by readers unfamiliar with the law or the case." (Legal 500 2024)

"Tom is a star in the making." "He is incredibly pragmatic and commercially minded; the advice he gives is in the context of what the client is driving towards commercially." (Chambers & Partners 2023)

"His drafting is excellent, and he is very quick to grasp the issues and open to discussing them. He is someone to watch." (Chambers & Partners 2023)

"Tom is as sharp as a tack and has commercial and strategic acumen beyond his year of call. His drafting and responsiveness are both excellent." (Legal 500 2023)

"He grapples with the technical and legal issues, tackling each task with enthusiasm and consistently delivering work of the highest standard." (Legal 500 2023)

"A smart and strategic thinker." "He writes really well and is clever and nice to deal with." (Chambers & Partners 2022)

"Tom is in high demand for a reason, he is extremely detailed-orientated and brings a positive attitude to even the most serious of cases." (Legal 500 2022)

"Very responsive to clients. Excellent engagement with the substantive issues. Very good drafting in tight time frames." (Legal 500 2022)

"He is very responsive, extremely user-friendly and clearly super clever." "He is a very bright, keen, hard-working and intelligent junior." (Chambers & Partners 2021)

"Tom is an absolute pleasure to work with – he is strong on the law but also incredibly practical. He works very well in a team, is quick to respond and is very client-friendly.' (Legal 500 2021)

"Decisive, speedy and polished." (Legal 500 2020)