

# Fraser Campbell

*“Incredibly intelligent, highly commercial, hard-working, proactive and just a brilliant advocate.”*

– CHAMBERS AND PARTNERS, 2021

Year of call: 2010  
Degree: MA (Oxon) (Law with Law Studies in Europe, First Class)



Fraser’s practice is focused on commercial litigation and arbitration. He is also experienced in judicial review cases, typically involving highly-regulated businesses, and in pensions-related litigation.

He is recommended in the current editions of the legal directories as a leading junior in Commercial Litigation (“Incredibly intelligent, highly commercial, hard-working, proactive and just a brilliant advocate”), Company (“He is like an encyclopaedia in the field of unfair prejudice law”), Administrative & Public Law (“He provides pragmatic and commercial advice and is extremely responsive”), and Pensions (“He has a knack of breaking down complex problems in an understandable and logical way”). He was also one of Legal Week’s 2017 ‘Stars at the Bar’ (top 12 commercial litigation barristers under 10 years’ call).

A former solicitor and a Fellow of All Souls College, Oxford, Fraser is Junior Counsel to the Crown (B Panel), and in 2016 was appointed a Specialist Adviser to the House of Commons Treasury Select Committee.

## EXPERIENCE

### Commercial

Fraser regularly appears in the Commercial Court and Chancery Division, both as sole counsel (often against Silks) and with a leader. He has a particular interest in unfair prejudice petitions, involving allegations of oppression of minority shareholders, under section 994 of the Companies Act.

He is recommended as a Leading Junior (Commercial Litigation/Commercial Dispute Resolution) in the Legal 500 2020 and Chambers and Partners 2020.

*“Calm, knowledgeable, thorough and detail-oriented, an excellent advocate.”*

– LEGAL 500, 2021

## Cases

### **Re. Preferred Management Limited**

[2020] EWHC 2942 (Ch)

For the respondents to an unfair prejudice petition regarding an English company holding shares in a major Russian insurer. Security for costs obtained December 2020; seven day trial listed for autumn 2021.

### **Re. Cintep Development Limited**

[2020] EWHC 3210 (Ch)

For respondents to an unfair prejudice petition regarding a start-up technology joint venture. Further trial to be listed in 2021.

### **Re. local authority's dispute with PPI contractor**

(Dispute settled 2020)

Advising large local authority on dispute with private sector supplier of energy/recycling services.

### **Filatona Trading Ltd & Anor v Navigator Equities Ltd & Ors**

[2020] EWCA Civ 109

For the successful respondents, in both the Court of Appeal and the Commercial Court. The Court of Appeal gave authoritative guidance on the factors which determine when a principal is precluded from intervening on a contract made by his or her agent. The Court upheld the right of the principal to sue directly on the shareholders agreement in question, notwithstanding that the agreement described the agent as the beneficial owner of the relevant shares. In the Commercial Court, the 5-week trial concerned the disputed ownership of a joint venture to develop a valuable real estate site in central Moscow.

### **AXA S.A. v Genworth**

[2020] EWHC 2024 (Comm) and [2019] EWHC 3376 (Comm)

For AXA in claim for over £500m, relating to historic PPI mis-selling, from the vendor of subsidiary insurance businesses. AXA struck out the defendant's Part 20 counterclaim as an abuse of process, before prevailing at subsequent liability and quantum hearings involving issues of contractual construction and subrogation, and expert evidence on market practice.

### **Re. sale of national gym business**

(Commercial Court, ongoing)

For multiple defendants to breach of warranty claims following the sale of a chain of gyms. Six day trial listed for 2022.

**Re. LBNS Limited**

(Companies Court, ongoing)

For the Respondent to a £100m claim for unfair prejudice in relation to a major pharmaceutical import and distribution business. Security for costs obtained March 2021.

**X (art collector) v Y (exhibition producer)**

(Commercial Court, case settled 2019)

For defendant exhibition producer, facing allegations of damaging a valuable Banksy piece. The case involved multiple expert witnesses on damage/restoration/valuation issues. The claimant withdrew the claim after exchange of expert reports.

**Re. Edwardian Group Limited**

[2019] EWHC 873 (Ch)

For the Company in quantum hearing following findings of unfair prejudice. Expert evidence on hotel and share valuation was heard to determine the disputed share purchase price, with competing valuations ranging from £85m to £185m.

**Re. Blackpool Football Club Limited**

[2019] EWHC 530 (Ch)

For the successful Petitioner in unfair prejudice proceedings, enforcing a £30m outstanding buy-out order by various means, including the appointment of a receiver to sell Blackpool Football Club.

Previously for the successful Petitioner, the former President of Blackpool FC, in the main trial of action claiming unfair prejudice ([2017] EWHC 2767 (Ch)). The Companies Court found that the company's majority shareholders had wrongly paid themselves disguised dividends, in the form of nearly £25m of excessive remuneration and uncommercial intra-group loans following Blackpool's promotion to the Premier League, while excluding the Petitioner from management. The Court ordered a buyout of the Petitioner's shares for £31m, basing this valuation on giving effect to an informal 'gentleman's agreement' that the Petitioner was to be treated as an equal shareholder, notwithstanding his formal holding of only a 20% stake.

Fraser's cross-examination of the company's financial controller and company secretary was quoted extensively in the Judgment.

**Al-Khyami v El-Muderris**

[2018] EWHC 24 (QB)

For the defendant, resisting a seven-figure claim for conversion of luxury watches and jewellery. The trial featured allegations of witness interference and false statements to the police.

**Baltic International Bank v Segesta Limited**

[2017] EWHC 339 (QB)

For the claimant in proceedings asserting under-payment of profit share under a property construction joint venture. The Court found for the claimant on various points of contractual interpretation, regarding deductions of capital expenditure pre-distribution, and ordered a seven-figure interim payment pending an account of the profit due.

**The Libyan Investment Authority v Société Générale and others**

(Commercial Court, case settled 2017)

For one of the defendants to a \$1.5 billion action alleging fraud, intimidation and bribery in connection with transactions entered into by Libya's sovereign wealth fund under the Gaddafi regime.

**Crown Bidco Ltd v Vertu Holdings Oy**

(Commercial Court, case settled 2017)

For the claimant in a substantial dispute concerning the sale by Nokia Corporation of the Vertu luxury mobile phones business. The claimant claimed that misrepresentations were made as to the business conducted by Vertu in the share purchase agreement. The principal sum claimed exceeded £100m. The Defendants counterclaimed, alleging amongst other things conspiracy to defraud.

**(1) Global Asset Capital (2) Glenn Maud v (1) Aabar (2) Robert Tchenguiz**

[2017] EWCA Civ 37

For the claimant property investors in an action alleging breach of contract and economic torts in connection with the ownership of a multi-billion euro property asset.

## Arbitration

Fraser regularly appears in domestic and international arbitrations, under a variety of different arbitration regimes.

He is recommended as a Leading Junior (Commercial Litigation/Commercial Dispute Resolution) in the Legal 500 2020 and Chambers and Partners 2020.

***“His intellect is utterly outstanding. Few can match it; and probably none, exceed it.”***

– LEGAL WEEK STARS AT THE BAR, 2017

## Cases

**Filatona Trading Ltd & Anor v Navigator Equities Ltd & Ors**

[2020] EWCA Civ 109

For defendants to various section 67 and 68 challenges to a \$95m arbitration award following unlawful exclusion from a property joint venture in Moscow.

### **Re. supply of MRI equipment**

(London Court of International Arbitration, 2020)

For the UK supplier of MRI equipment to a Russian research facility, including cross-examination of technical experts.

### **Re. an African fertiliser business**

(London Court of International Arbitration, ongoing)

For the claimant joint venturer seeking declarations of right to buy out partner, following events of insolvency.

### **Re. a multi-billion pound investment firm**

(London Court of International Arbitration, 2020)

For the claimant founder of an investment management business, alleging breach of fiduciary duty by co-founders in various proposed restructuring transactions.

### **Re. an African telecommunications company**

(London Court of International Arbitration, 2020)

For claimant telecoms business in dispute arising out of Chinese supplier's repudiation of long-standing maintenance and support contract, including cross-examination of accountancy experts.

### **X (UK public body) v Y (international IT supplier)**

(London Court of International Arbitration, 2018)

For the respondent IT supplier in a major claim brought by a UK public authority in relation to the provision of a new IT system.

### **X (Russian investors) v Y (Spanish investors)**

(London Court of International Arbitration, 2018)

For the defendants in proceedings alleging mismanagement of an international telecoms group.

## **Public & Regulatory**

Fraser has considerable experience of judicial review claims and statutory appeals brought by highly-regulated businesses and professionals, particularly in the energy and health/life sciences sectors. He is a past Vice Chair of the Human Rights Lawyers Association and a member of the Attorney General's Panel of Junior Counsel to the Crown (B Panel).

He is recommended as a Leading Junior (Public & Administrative Law) in Chambers and Partners 2020.

***“Extremely responsive and turns things around really quickly.”***

– CHAMBERS AND PARTNERS, 2021

## Cases

### **Infected Blood Inquiry**

Advising multiple corporate and individual participants in the public inquiry into the historic distribution of infected blood products.

### **R (British Telecommunications Plc) v HM Treasury**

[2020] EWCA Civ 1

For BT in its judicial review of HM Treasury's decision to grant indexation for the 'guaranteed minimum pension' component of public sector pensions, following the abolition of the additional state pension, in a manner that inadvertently reads across to certain private sector schemes.

### **R (Hughes and others) v Pension Protection Fund**

[2020] EWHC 1598 (Admin)

For the trustee of a pension scheme in assessment with the PPF, in an action concerning the PPF's EU law obligations to provide minimum levels of benefits.

### **Intercept Pharma Ltd v European Medicines Agency**

Case C 576/19, Court of Justice of the European Union, 29 October 2020

For the applicant pharmaceutical company in proceedings raising the question of the scope of the 'court proceedings' exemption to EU freedom of information legislation.

### **Re. political donations/expenditure**

Advising a range of political organisations about statutory restrictions on donations and spending, and on potential enforcement actions by the Electoral Commission.

### **R v Biffa Waste Services**

[2020] EWCA Crim 827

For waste management company in appeal against conviction, challenging the validity of UK regulations implementing EU law on overseas waste shipments.

### **Re. coronavirus restrictions in social care**

Acting pro bono for a disabled man, challenging the withdrawal of housing benefit following his forced absence from supported housing during the pandemic.

### **Re. firearms legislation**

Advising the Home Secretary on powers of confiscation/forfeiture in respect of a multi-million pound cache of unlicensed firearms and munitions.

**R v John West Foods Limited**

(Crown Court, charges dropped October 2019)

For John West, the tuna importer/distributor, defending charges of illegal fishing in African waters on grounds inter alia that the UK legislation was void for failing to reflect the relevant EU regulation. The Prosecution dropped all charges, days before the hearing.

**R (Keiserie) v Secretary of State for Justice [2019]**

[2019] EWHC 2252 (Admin)

For the Secretary of State for Justice, in a case challenging the recall of a violent offender to prison. The Administrative Court upheld the lawfulness of the recall, on grounds of breach of licence, notwithstanding that no formal licence had been issued prior to the prisoner's release.

**Amicus Therapeutics v European Medicines Agency**

Case T-33/17 (General Court of the European Union, September 2018)

For the applicant pharmaceutical company, seeking an annulment of the EMA's decision to release clinical study reports under freedom of information legislation.

**R (Gracebay II Holdings SARL and others) v Pensions Regulator**

[2017] EWHC 7 (Admin)

For the trustees of the Silentnight pension scheme, resisting an application by the claimants to quash a Warning Notice regarding a possible order for them to contribute nearly £100m to the pension scheme following the insolvency of the Silentnight business. The Court held that the statutory scheme provided an appropriate alternative remedy to judicial review.

**R (Rushport Advisory LLP) v NHS Litigation Authority**

[2016] EWHC 907 (Admin)

For a GP practice in a judicial review concerning whether it could be granted permission to open an in-house pharmacy in circumstances where there was already conditional permission for a commercial operator to open a pharmacy at the same site.

**Crosswaite v General Medical Council**

[2016] EWHC 2947 (Admin)

For the GMC in resisting a doctor's appeal against the suspension of his registration. The Court rejected the doctor's case that the Tribunal had not taken proper account of his mental health problems, and had failed to consider mitigating features before determining the sanction imposed.

**R (Rimmer) v Secretary of State for Justice**

[2016] EWHC 329 (Admin)

For the Secretary of State for Justice in resisting a judicial review brought by a released offender who claimed his human rights were infringed by licence conditions that prevented him having contact with his grandchildren.

## Pensions

Fraser's pension law practice draws on his broader experience of contractual, public law and employment law disputes. He has appeared in recent leading cases on the Imperial duty to maintain trust and confidence when exercising pension scheme discretions (IBM in the Court of Appeal) and on the construction of pension scheme deeds and rules (Barnardo's in the Supreme Court), as well as in various pensions-related judicial review claims. He is recommended as a Leading Junior (Pensions) in the Legal 500 2020 and Chambers and Partners 2020.

***“He grasps new and difficult points and explains them in a concise and easy-to-follow manner.”***

– CHAMBERS AND PARTNERS, 2021

## Cases

### **R (various defined benefit schemes) v (1) UK Statistical Authority (2) Chancellor of the Exchequer**

Administrative Court, ongoing

For the trustees of various major pension schemes, in their judicial review claim challenging the decision of the UKSA and Chancellor to reform the Retail Prices Index so as to align it with the Consumer Prices Index. The decision has substantially reduced the value of RPI-linked gilts and other investments, increasing scheme deficits.

### **R (Hughes and others) v Pension Protection Fund**

[2020] EWHC 1598 (Admin)

For the trustee of a pension scheme in assessment with the PPF, in an action concerning the PPF's EU law obligations to provide minimum levels of benefits.

### **R (British Telecommunications Plc) v HM Treasury**

[2020] EWCA Civ 1

For BT in its judicial review of HM Treasury's decision to grant indexation for the 'guaranteed minimum pension' component of public sector pensions, following the abolition of the additional state pension, in a manner that inadvertently reads across to certain private sector schemes.

### **Proceedings before the Pensions Regulator**

(ongoing)

Advising the trustee of a scheme in connection with pending proceedings before the Determinations Panel of the Pensions Regulator, regarding the proposed imposition of contribution notices.

### **Re. a defined benefit pension scheme**

(ongoing)

Advising the Principal Employer of a defined benefit pension scheme on the parameters of rationality/good faith within which decisions should be made regarding discretionary increases to pensions in payment.



## **Re. proposed Warning Notice**

(ongoing)

Advising the trustee of a multi-section scheme regarding possible action by the Pensions Regulator following a failure to agree valuations with employers.

## **Quaid v IBM**

(Employment Tribunal, case settled 2019)

For IBM, defending claim by hundreds of employees regarding age discrimination in the closure of IBM's pension scheme. Case settled shortly before trial.

## **Buckinghamshire v Barnardo's**

[2018] UKSC 55

For scheme members (led by Andrew Simmonds QC) at the Supreme Court stage of a case concerning the power of scheme trustees to switch from RPI to CPI when calculating member benefits. The Supreme Court upheld the members' victory in the Court of Appeal, and in doing so provided guidance as to the principles for interpreting pension scheme deeds and rules.

## **EDF pensions restructuring**

Advised both EDF and its partner trades unions on a pension restructuring exercise to cap pensionable pay.

## **IBM v Dagleish**

[2017] EWCA Civ 1212

For IBM in its appeal against landmark High Court decisions by Mr Justice Warren ([2014] EWHC 980 (Ch) and [2015] EWHC 389 (Ch)) on the scope of an employer's implied duty of good faith when making changes to its pensions schemes. The 126-page judgment, in favour of IBM, followed a 10 day hearing in the Court of Appeal.

## **R (Gracebay II Holdings SARL and others) v Pensions Regulator**

[2017] EWHC 7 (Admin)

For the trustees of the Silentnight pension scheme, resisting an application by the claimants to quash a Warning Notice regarding a possible order for them to contribute nearly £100m to the pension scheme following the insolvency of the Silentnight business. The Court held that the statutory scheme provided an appropriate alternative remedy to judicial review.

## ACHIEVEMENTS

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### Education

MA (Oxon)

### Prizes & Scholarships

- Fellow of All Souls College, Oxford (2005 – 2012, and 2013 to present)
- Hunt Prize for Advocacy (Gray's Inn, 2011)
- Phoenicia Scholarship (Bar European Group, 2011)

### Other relevant experience

Fraser studied law at Pembroke College, Oxford and the University of Leiden, Netherlands. As a student he was President of the Oxford Union (where he is now a trustee) and European Debating Champion, and on graduating was elected a Fellow of All Souls College, Oxford. In 2008 he was the youngest of ten solicitors profiled in The Times as 'Future Stars of the City'. He is co-author of The Law of Political Donations (Wildy & Sons, 2012) and former Vice Chair of the Human Rights Lawyers Association.

VAT registration number: 447008068

Barristers regulated by the Bar Standards Board