

# LLOYD MAYNARD

CALL 2010

*“Exceedingly bright and well considered... a truly modern barrister.”*



✉ [lmaynard@forumchambers.com](mailto:lmaynard@forumchambers.com) ☎ 020 3735 8070

Lloyd practices in all areas of commercial law. He has particular expertise in disputes arising from distribution agreements, manufacture, sale and supply of goods and services and banking and financial services litigation.

Lloyd is a fearless advocate who presents cases strongly yet courteously. Lloyd's advocacy has proven successful at first instance and appellate level, with members of the senior judiciary identifying Lloyd's oral and written advocacy as being elegant and persuasive.

## AREAS OF EXPERTISE

### BANKING AND FINANCE

Lloyd has built an impressive practice in banking & financial services. Lloyd regularly acts for the largest peer-to-peer lenders in the UK on advisory and litigation matters, whether in respect to the lender's regulatory duties or recoveries work.

Lloyd also acts for claimants in respect of claims of mortgage mis-selling, negligent investment advice, negligent pensions transfers including in respect of overseas investments, and liabilities arising from transacting cryptocurrencies.

Lloyd has extensive knowledge of the provisions of the FCA Handbook, and has significant experience in advising on COBS, MCOB, PERG and CONC. Lloyd has assisted a number of FX and investment brokerages in response to FCA investigations into potential breaches of the financial promotion rules and unauthorised activities.

- Is a peer-to-peer investment platform entitled to reinvest an investor's funds after receipt of the investor's instruction to return them?

- Can a lender's encouragement of a borrower's sale of a secured property to a connected third party create an unfair credit relationship?
- When is advice to transfer out of a Defined Benefit pension negligent? Can the children of the recipient of negligent advice claim for loss of inheritance?
- Can a "complaint" be made within the meaning of the DISP rules of the FCA Handbook whilst a customer is participating in a bank's voluntary review process?
- Can a bank or financial institution's provision of accurate information to a Credit Reference Agency nevertheless amount to 'unfair' processing of data in breach of the Data Protection Act?
- Are a peer-to-peer lender's loan fees and default charges an unenforceable penalty?
- Can a guarantor incorporate terms into a deed of guarantee by indicating next to the signature that additional terms are set out in an attached letter?
- To what extent can victims of vishing or phishing frauds recover from their bank?
- In what circumstances can a respondent challenge the enforcement of a Financial Ombudsman Service award in the county courts?

Lloyd's burgeoning knowledge of banking & financial services law developed alongside his teaching of international banking law at postgraduate level at Cardiff University between 2013 and 2018. Lloyd has also been asked to preview a first edition academic banking law textbook.

*Indicative Banking & Financial Services work:*

- **Davis v Lloyds Bank plc (current Court of Appeal):** together with David McIlroy, Lloyd has been instructed in the High Court ([2020] EWHC 1758 (Ch)) and the current Court of Appeal proceedings concerning the question of whether a "complaint" can be made within the meaning of the DISP rules of the FCA Handbook whilst a customer is participating in a bank's voluntary review process.
- **Credit Capital Corporation v Watson [2021] EWHC 466 (QB):** Lloyd was successful in this recent 8-day trial concerning allegations of an unfair credit relationship arising from the sale of a secured property to a party connected to the lender.
- **Lendy Ltd and Saving Stream Security Holdings Ltd v Omoruyi (current, High Court):** instructed on behalf of the Claimants for sums unpaid under a loan. Defending counterclaims for fraudulent misrepresentation and sale of property at an undervalue.
- **Sprint 1108 Ltd v RBS Bank plc, Business & Property Courts, Business List:** instructed as sole counsel for the claimant in proceedings alleging that RBS sold an interest rate swap pursuant to a fraudulent misrepresentation.

## COMMERCIAL LITIGATION

Lloyd is adept at handling commercial litigation in the High Court. Lloyd has acted for a wide array of clients including banks, administrators of peer-to-peer lenders, insurance companies, small and medium sized businesses, supervisors of IVAs, consumers, investors, partnerships, and schools. Lloyd also has experience of acting in a range of complex shareholder and partnership disputes.

*Lloyd has recently addressed the following issues in his cases:*

- Does the creation of a new parent company breach of a shareholders' agreement in respect of the former holding company?
- Was the unilateral conversion of preference shares to ordinary shares unfairly prejudicial conduct?
- Is a director required to have knowledge of HMRC's likely treatment of an EFRBS tax scheme before being considered to be in breach of director's duties?
- Does a manufacturer's product recall of custom-made goods mean the goods were not of satisfactory quality or fit for purpose?
- The extent of a High Court Enforcement Officer's liability for goods lost after being deposited with a third party.
- Determining liability for breaches of duty under a Design Build Operate Lease Agreement for a water treatment plant.
- Whether unpaid fees on termination of a joint venture between two solicitors's practices were taxable as bills of costs.
- The scope of a distributor's duty of confidence under a distribution agreement.
- The extent of a Local Council's indemnity to an Academy Trust under a Commercial Transfer Agreement made in the context of the Academies Act 2010.
- The circumstances in which a company can lawfully sell a database of customer information without breaching data protection laws.
- Whether an evergreen clause in a company's standard terms and conditions was validly incorporated into an oral publishing contract.
- Whether a distribution company's commercial agency contract provided for a valid contractual lien over the principal's goods upon termination.

*Indicative Commercial Litigation work:*

- Advising and appearing at mediation on behalf of a ministry of defence contractor on claims arising from a terminated sub-consultancy agreement.
- Instructed to act for E Ltd, a business with claims for fraudulent misrepresentation and non est factum arising from entry into leases for printers.
- **Demand Media Ltd v Koch Media Ltd 2019 HC Queens Bench:** 5-day trial acting as sole counsel for Koch Media Ltd. Defending claims arising from termination of a distribution agreement, including breach of contract, breach of confidence and breach of design right.
- **ITM Ltd v HM Ltd and another:** acting for the claimant in a claim for breach of a contract to provide exclusive tax mitigation advice.
- **Ladjevardi v Nikkiah:** successful 3-day trial acting as sole counsel for Mr Ladjevardi in claims for unjust enrichment in respect of an agreement to purchase shares in Gresham House plc.
- **Sesame Ltd v Orr-McAuley:** instructed by the claimant IFA network in respect of claims under a personal guarantee against the former director of an IFA member.
- **Bang & Olufsen UK Ltd v McMichael:** instructed by the claimant to pursue a £400,000 debt against a former franchisee.
- **Rawdon Asset Finance Ltd:** advising on the regulatory implications of lending to individuals and

consumers. Drafting updated precedent loan, security and debenture documents.

- **Industrial Staffing Solutions Ltd v Take 4 Personnel Ltd:** instructed for the defendant in proceedings concerning an alleged underpayment pursuant to a contract for the supply of agency workers.
- **JS Burgess Engineering v Sash Hardware Ltd:** instructed by the claimant in a claim for damages arising from the defendant's failure to pay for bespoke stillages.
- **Direk v Kargin:** instructed at trial and on appeal by the successful claimant concerning a dispute arising from the failure to repay a corporate investment loan.
- **1stCredit Finance v Durrant:** instructed by the successful claimant to pursue a debt in county court proceedings.
- **Gazechim Plastics UK Ltd:** drafted a 'Cash-pool' Agreement on behalf of a multi-national group of manufacturing companies.
- **B&Y Publishing Ltd and CW Publishing Ltd:** acting in a number of claims for breach of a publishing contract, involving misrepresentation, negligent mis-statement, the Unfair Contract Terms Act and Unfair Terms in Consumer Contract Regulations 1999. Advising on breaches of Data Protection Act 1998.
- **Steel v Nationwide Building Society and another:** instructed for the defendant in resisting a claim for breach of an insurance contract
- **Cresswell Holdings Ltd v Powerhall Development Ltd, White Elm Ltd and Clydesdale Bank plc:** acted for Clydesdale Bank Plc in part 8 proceedings concerning the enforceability of a charge over commercial premises sited on a former colliery.

## PROFESSIONAL NEGLIGENCE

Lloyd has experience of advising in respect of claims against IFAs, solicitors and the Citizens Advice Bureau. Lloyd has advised numerous clients on the law on limitation and its application in a professional negligence context, as well as the merits and quantum of claims.

Lloyd is currently instructed as junior counsel together with David McIlroy on 3 group actions arising from failed developments in Liverpool and Manchester.

*Recent issues Lloyd has addressed include:*

- The extent of conveyancing solicitor's duty to advise their client of the full terms, meaning and effect of agreements for sale.
- Whether professional negligence proceedings in England were appropriate where the claimant received negligent pensions advice whilst situated in Hong Kong, from an IFA operating from England and Switzerland.
- Whether a barrister was negligent for advising a litigant to settle employment tribunal proceedings.
- The duties upon IFAs when advising upon Defined Benefit Pension Transfers.
- Whether SIPP providers were liable for allowing an IFA to invest funds in an Unregulated

Collective Investment Scheme.

- The duties and liability of a conveyancing solicitor acting as stakeholder when releasing funds outside the terms of agreements for sale.
- The limitation periods for claims to the Pensions Ombudsman.
- The limitation period for negligence claims against solicitors for allowing a claim to be struck out for want of prosecution.
- Whether the Financial Services Compensation Scheme should construe a trust deed subject to foreign law as though the foreign law applies or according to the English law position.
- Whether a solicitor who advised a client (without formal retainer) of a limitation period had a duty to remind the person of the pending expiry of that limitation period 2 years later.
- Whether a Citizens Advice Bureau was liable to its client for failure to issue an employment claim within the limitation period.

## INJUNCTIONS

Lloyd's commercial practice frequently requires him to act in injunction hearings before the High Court.

*Indicative Injunctions work:*

- **Ultima Displays Ltd v Burdett, Very Displays Ltd:** Lloyd obtained a Search and Seizure Order and Imaging Order in one of the first cases to apply the principles in *TBD (Owen Holland) Ltd v Simons and others*[2020] EWCA Civ 1182.
- Advised a company that does business as a food wholesaler in pre-action correspondence which led to settlement of a potential application for injunction to restrain the use of confidential information obtained in breach of employment covenant.
- Obtaining a freezing order in connection with a familial pension dispute.

## INSOLVENCY

Lloyd has acted in a wide range of insolvency matters, including applications for injunction to restrain the presentation and advertisement of petitions, applications pursuant to sections 212 & 213 Insolvency Act 1986 and section 1157 Companies Act 2006; applications to set aside statutory demands and petition hearings.

## QUALIFICATIONS

- BA (Oxon)(Law)
- LLM Commercial Law Cardiff University
- BVC BPP London

## SCHOLARSHIPS AND AWARDS

- Walter Wigglesworth Scholarship Lincoln's Inn
- BPP Individual Moot Winner Judged by Lord Walker of Gestingthorpe, former Supreme Court Justice
- Buchanan Prize Lincoln's Inn
- Lord Denning Scholarship Lincoln's Inn
- Hardwicke Scholarship Lincoln's Inn
- Farrar Award for Constitutional Law Pembroke College, Oxford University

## PROFESSIONAL BODIES

- Financial Services Lawyers Association
- The Commercial Bar Association
- Professional Negligence Bar Association
- Chancery Bar Association

## PROFESSIONAL DEVELOPMENT

Lloyd has delivered a number of talks on topics such as:

- The utility of pleading misrepresentation and pointers on responding to such claims.
- The Business & Property Court's Disclosure Pilot.
- What Lord Denning would do about financial market manipulation in the 21st
- Understanding recent jurisprudence on contractual interpretation.
- An update on Swaps mis-selling litigation.
- Understanding the Foreign Exchange scandal.
- Understanding the Repo-rate scandal.
- Maximising the chances of a successful Financial Ombudsman Service complaint.
- Maximising the chances of a successful Financial Services Compensation Scheme claim.
- How to make the most of consequential loss claims.

## TEACHING

- Lloyd was a visiting Teacher of Law at Cardiff University, teaching on the LLM in Commercial Law between 2013 and 2018. Lloyd taught courses on International Banking Law, Competition Law and

Money Laundering.