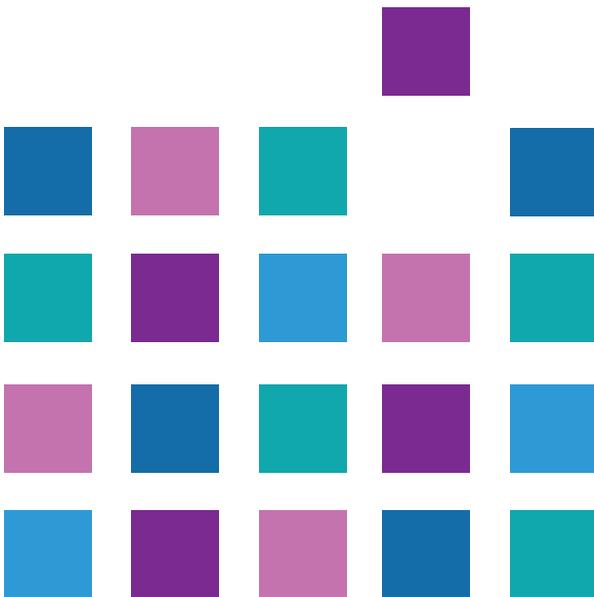




# A GUIDE FOR INTERNATIONAL LAWYERS AND CLIENTS





The Chancery Bar Association was established in 1935 and is the oldest specialist bar association in England and Wales.

In addition to its 1,200 members who practise in England and Wales, it also has overseas members. The overseas members are distinguished lawyers who practise in common law jurisdictions outside the UK and who specialise in Chancery work.

The remainder of this booklet gives more information about:

- The specialist services that a Chancery barrister is able to provide
- Types of work in which Chancery barristers specialise
- How to instruct a Chancery barrister if you are a lawyer practising outside the UK or a business based outside the UK

**For further information, please go to the Association's website at [www.chba.org.uk](http://www.chba.org.uk)**

The Bar of England and Wales is a legal profession of specialist advocates and advisers. One of its most highly-rated areas of specialisation is finance, property and business law. This is known as Chancery work, because it is primarily the province of the Chancery Division of the High Court of England and Wales. The Chancery Division is the successor to the Court of Equity, and in some jurisdictions this work is known as Equity.

The Chancery Bar Association comprises 1,200 barristers who mostly specialise in finance, property and business law. It stands for excellence, knowledge and attention to detail. Among its members are many who have chosen to specialise still further in one or more aspects of Chancery law, such as banking and financial services, company and insolvency, intellectual property, pensions and tax, professional negligence, real estate, or trusts and probate. They are trained to set this specialist knowledge in a wider commercial context.

Chancery barristers operate like consultants. They do not look after the day-to-day affairs of their clients. This typically means that a barrister will be instructed by an English solicitor or another professional client, or by an international lawyer or business based outside the UK, in relation to a particular case or problem. They will be brought in as a member of a team for the purpose of representing

the client at a particular court hearing or arbitration, or providing specialist advice on a particular aspect of the client's legal problem. They can be as flexible in their working methods as the case demands.

The expertise of the Chancery Bar makes it possible for smaller firms of lawyers to compete with the largest global firms, by enabling them to import specialist advice and advocacy as and when needed. It is equally valued by larger firms, who wish to supplement their own specialist resources from time to time, without having to carry this expense as a constant overhead. Chancery barristers' overheads are generally low, meaning that their fees are very competitive.

# SERVICES PROVIDED BY CHANCERY BARRISTERS

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## ADVOCACY

Members of the Chancery Bar Association are specialist advocates and trial lawyers. They represent clients in cases heard by courts and tribunals in any jurisdiction where they have rights of audience.

In England and Wales, they represent clients before courts and tribunals at all levels. The standards of advocacy in these courts and tribunals are very high. This means our members are well placed to succeed as advocates internationally. In many jurisdictions our members are able to obtain the necessary rights of audience whereas, in others, it is possible for them to provide a supporting role to the local advocate.

English law has recently promoted the use of alternative methods of resolving disputes, such as mediation and arbitration. Our members are frequently instructed either as the mediator or arbitrator, or to represent one of the parties at the mediation or arbitration.

Finally, given their expertise, Chancery barristers are often called upon to give expert evidence on English law in courts and tribunals outside the UK.

## ADVICE

Members of the Chancery Bar Association can provide advice on non-contentious and contentious matters within their area of expertise.

Our members can, for example, advise on the wording of a contract, will or trust document or how a transaction should be structured in order to meet any particular legal requirements.

In addition to that, barristers who are experienced as litigators and advisers can often bring a wider perspective to a transaction or arrangement than those who act as advisers only.

This is because their experience of courts helps them to identify the risks that a particular transaction might be disputed, or the approach that the courts might take in respect of those risks.

# CHANCERY BARRISTERS AND THEIR CHAMBERS

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Barristers mostly practise as self-employed individuals, based at a set of chambers.

- A barrister is usually instructed by first speaking to or e-mailing his or her clerk in chambers.
- The clerk looks after the barrister's commitments and can provide further information about fees and availability.
- Where it is not possible to identify an individual barrister in advance (or a particular barrister is not available), those seeking to instruct a barrister can contact the clerk at a chosen chambers. The clerk will be able to recommend a member of chambers who is available and most suitable to work on the case bearing in mind its value, subject matter and complexity.
- Barristers are divided into Queen's Counsel (known as "QCs" or "silks") and juniors.
- All barristers who are not QCs are known as juniors.
- Appointment as a QC is a recognition of expertise and excellence in advocacy.
- Individual barristers and chambers are recommended by publications such as Chambers & Partners and The Legal 500.



# CHANCERY WORK

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The following are the principal areas of speciality of the Chancery Bar, many of which often have an international dimension.

## **Banking, Consumer Credit, Financial Services and Regulation**

**Banking:** Retail and investment banking, regulation of banks and banking instruments and products, advising on transactions, advising on disputes arising out of banking transactions, including project, acquisition, asset and property finance as well as securitisation, derivatives and capital markets.

### **Financial Services and Regulation:**

Disciplinary and regulatory proceedings before a wide range of tribunals and regulatory bodies and challenges to their decisions, investor compensation, drafting and interpretation of financial documents, advising on financial business, structures and transfers of businesses.

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## **Charities**

Their formation, alteration, amalgamation and dissolution, the interpretation of charity documents, and the relationship of charities with regulators and commercial organisations.

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## **Company, Partnerships, Insolvency and Fraud**

**Civil Fraud:** Proceedings in the civil courts concerning investment and other frauds, fraudulent misrepresentation, conspiracy, misappropriation of funds, asset tracing, preservation and recovery; applications for urgent freezing injunctions and search orders, and for the appointment of receivers.

**Company:** All aspects of the life of a corporation from formation to dissolution,

including mergers and acquisitions, corporate finance, regulatory requirements, directors' duties and shareholders' rights and disputes.

**Corporate Insolvency:** Contested winding up petitions, applications relating to the conduct of administrations, receiverships, compulsory and voluntary liquidations and voluntary arrangements, disputed proof of debt proceedings, asset recovery proceedings, setting aside transactions, directors' disqualification proceedings.

**Partnerships:** Partnerships of all kinds including limited partnerships and LLPs; formation of partnerships and the appointment, retirement and removal of partners; drafting and interpretation of partnership agreements; partnership disputes, including those relating to partnership assets and actions for an account and dissolution.

**Personal Insolvency:** Bankruptcy proceedings; individual voluntary arrangements, the debt relief regime, disputes with trustees in bankruptcy or supervisors; setting aside transactions.

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## **Intellectual property**

**Intellectual Property:** Patents, copyright, design rights, trade marks, passing off actions, confidential information and privacy.

**Media and Entertainment:** Entertainment and media law and performers' rights; drafting and interpretation of management, recording and production agreements, merchandising rights, copyright disputes, broadcasting, film and



theatre, publishing, confidential information and privacy.

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### **Professional Negligence**

Claims for breach of contract, negligence and breach of fiduciary duty against professional advisers, such as accountants, auditors, actuaries, solicitors, barristers, surveyors, insurance brokers, banks and financial advisers.

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### **Real Estate and Landlord and Tenant**

**Land and Real Estate:** Contracts for the sale and development of land and joint ventures; land registration, adverse possession and title issues; equitable interests in land, including trusts of land, co-ownership and proprietary estoppel; trespass, nuisance and boundary disputes; mortgages, easements, restrictive and positive covenants and options.

**Landlord and Tenant:** Commercial and residential tenancies, interpretation of leases, forfeiture and actions for breach of covenant, rent review, guarantors, statutory regulation

of tenancies including business tenancy renewals, leasehold enfranchisement and service charges.

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### **Wills and Probate, Trusts and Settlements, Court of Protection**

**Mental Capacity:** Claims concerning the property and welfare of persons lacking mental capacity.

**Trusts and Settlements:** The creation, variation, rectification and termination of trusts, interpretation of trust documentation, challenges to the validity of trusts and exercise of powers; administration of trusts, removal of trustees; allegations of breach of trust and tracing against trustees and third parties; trust taxation.

### **Wills, Probate and Administration of Estates:**

Drafting and interpretation of wills and deeds of variation, intestacy, pre- and post-death tax planning, challenges to wills, probate actions, removal and substitution of personal representatives; the administration of estates and claims for family provision.



## HOW TO INSTRUCT A CHANCERY BARRISTER

If you are:

- a lawyer practising outside the UK; or
- a business or individual based outside the UK

you can instruct a Chancery barrister in relation to international or domestic work.

### **Instructions for international work**

If you are involved in any dispute or litigation outside the UK, you may instruct a barrister in relation to your case. You currently do not need to instruct a UK firm of solicitors and can instruct the barrister directly.

Chancery barristers welcome such instructions and are very happy to work with international clients and lawyers.

### **Instructions for domestic work**

If you need advice or are involved in any dispute or potential litigation in the UK, then you can instruct a barrister directly in relation to your case. This may be sensible because a barrister specialising in the relevant area of law will be able to give you an initial assessment of your case at a very competitive rate.

But if proceedings are to be commenced in England and Wales, then it will usually be necessary for you to instruct a solicitor. This is because you will be unable to instruct a barrister directly to provide advocacy services in relation to such proceedings. However, a barrister providing you with an initial assessment of your case will be able to help you identify a suitable firm of solicitors to instruct for any court proceedings.