



## Michael Pooles QC

Call: 1978 | Silk: 1999

### Overview

Michael Pooles QC's principal area of practice is that of professional indemnity claims and related coverage issues. He frequently acts for or against lawyers, accountants and surveyors but also acts for or against all manner of professionals including areas such as veterinary science, land management and fish farming. He is frequently instructed in costs matters. His practice also includes general insurance matters of all types and substantial personal injury claims. Michael is consistently ranked as a leading silk in the areas of professional negligence and costs by the leading directories and was Chambers & Partners' 2008 and 2016 Silk of the Year for Professional Negligence. Michael was formerly one of editors of the solicitors' chapter of Professional Negligence and Liability.

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### Professional liability

#### Lawyers

Michael is recognised as a leader in the field and has appeared in a number of the highest profile claims against lawyers in recent years.

#### Accountants & auditors

Michael has acted in a number of claims against accountants and auditors and represented accountants before a variety of disciplinary bodies up to the AADB.

#### Financial professionals

Michael has represented many financial professionals and has challenged determinations of the FOS before the administrative court.

#### Insurance brokers

Michael has appeared in many brokers claims and has considerable experience of both professional indemnity and general insurance disputes.

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## **Costs**

Michael has experience in costs matters appearing in the Court of Appeal in The Accident Group final costs hearings and in leading cases on costs capping.

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## **Arbitration and mediation**

In addition to his many appearances in arbitrations, Michael has frequently been appointed as an arbitrator in respect of insurance coverage and professional indemnity and conduct matters. He has also been retained in this capacity in costs disputes. He deals with matters involving both disputed on paper and full hearings. He is very happy to travel at the convenience of the parties and is highly conscious of the need for speed and economy in arbitration.

Michael is a trained mediator.

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## **Noteworthy cases**

*Percy v Merriman White* [2022] EWCA Civ 493. Operation of s 1(4) Civil Liability (Contribution) Act 1978 and proof required for contribution claims.

*Brearley v Higgs* [2021]. Practical application of *Perry v Raleys* test to a very large loss of a chance claim.

*Alsopp v Banner Jones* [2021] EWCA Civ 7. Consideration of abuse of process strike out test considering res judicata and collateral attack.

*Angelgate v Baltic House* [2020] EWHC Civ 3643. Limits of s235 FSMA 2020 pleas.

*Stoffel v Grondona* [2020] UKSC 42. Consideration of application of dishonesty defence under *Patel v Mirza*.

*Perry v Raleys* [2019] UKSC 5. The correct approach to loss of a chance claims in professional negligence.

*Cavanagh v Witley Parish Council* [2018] EWCA Civ 2232. Owners' obligations in respect of tree inspections.

*Edwards v Hugh James* [2019] UKSC 54. Admissibility of after-acquired evidence in professional

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negligence damages calculations.

*Barton v Wright Hassell* [2018] UKSC 12. Whether litigants in person are entitled to additional latitude under the Civil Procedure Rules.

*Thomas v Hugh James* [2017] EWCA Civ 1303. Explanation of limits upon what solicitors might be expected to advise in low value personal injury claims.

*Joseph v Farrer* [2017] EWHC. (Ch) Solicitors did not owe contractual tortious duties to the claimant beneficiary of an intended inter vivos gift.

*Rahim v Arch Insurance* [2016] EWHC 2967 (Comm). Solicitor not entitled to an indemnity owing to her fraudulent conduct.

*LSREF v Gateley LLP* [2016] EWCA Civ 359. Date to be adopted for transactional loss following professional negligence.

*CRU v King & Wood Malletsons LLP* [2016] EWHC 727 (QB). Solicitors' duties when advising on termination of employment contracts.

*Clydesdale Bank v Workman* [2016] EWCA Civ 73. Requirements in findings of dishonesty against professional men and women.

*Wellesley v Withers LLP* [2015] EWCA Civ 1146. Test of remoteness of damage in cases of concurrent professional liability.

*Rayner v Wolferstons* [2015] EWHC 2957 QB. Date of knowledge under section 11 (4) a of the Limitation Act 1980 and impact upon consequential claim against solicitors.

*Wellesley v Withers* [2014] EWHC 556 – Test of remoteness of damage where parallel duties owed in contract and tort.

*Santander v R A Legal* [2014] EWCA Civ 183 – Nature of trusts in conveyancing and relief under s61 Trustee Act 1925.

*Harrison v Cluttons* [2013] EWCA Civ 1569 – Duty of care of landlords' surveyor to tenant.

*Drysdale v Hedges* [2012] EWHC 4131 – Landlord's duties under Defective Premises Act 1972.

*Davisons v Nationwide* [2012] EWCA Civ 1626 – Nature of solicitor's obligations in trust and s61 Trustee Act defence).

*Herrmann v Withers LLP* [2012] EWHC 1492 Ch, Newey J – Solicitor's conveyancing obligations and measure of damages.

*Asiansky v Khazada* [2011] EWHC 2831 QB, Andrew Smith J – Summary dismissal of claim against QC.

*Kmeicic v Isaacs* [2011] EWCA Civ 451 – Duties of householder towards construction workers on site.

*Greene & Wood Mclean LLP (in administration) v Templeton Insurance Ltd* [2010] EWHC 2678 – Defending counsel alleged to have negligently advised the pursuit of a Group Litigation Order, claim dismissed.

*Cabvision v Feetham & ors* [2009] EWHC 3400 (Ch) Norris J – Costs litigation and breach of duty.

*Jones v Attrill (Law Society intervening)* [2008] EWCA Civ 1375 – Accident line direct challenges to recoverability.

*Taylor Walton v Laing* [2008] PNLR 11 – Abuse of process by way of relitigation.

*Zurich Professional v Karim* [2006] EWHC 3355 – Exclusion of professional indemnity cover due to dishonesty committed or condoned.

*Flora v Wakom* [2007] 1 WLR 482 – Indexation of periodical payments in injury claims.

*The AIDB v (1) PricewaterhouseCoopers and (2) David Donnelly FCCA* [2007] – Disciplinary complaints brought about by the AIDB following the collapse of the Mayflower Group.

*The Queen on the Application of Rosemary Fogg v The Secretary of State for Defence* [2006] EWCA Civ 1270.

*Aer Lingus v Gildercroft Ltd* [2006] EWCA Civ 4 – Contribution between tort feasons and limitation.

*Haward v Fawcetts* [2006] UKHL 9 – Accountants / limitation / family business / multiple potential causes of loss / damage / attribution.

*Law Society v Sephton* [2006] UKHL 22 – Accountants / limitation / solicitor's accounts rules certificates / date of damage.

*3M United Kingdom & Anor v Linklaters & Paines (A Firm)* [2006] EWCA Civ 530 – Solicitor's negligence / date of knowledge.

*Shalson v Russo* [2005] Ch 281 – Tracing / offshore trust / test for sham trusts.

*Sharratt v London Central Bus* [2004] EWCA Civ 575 – Costs / TAG costs group action / referral fees / ATE premiums.

*Atack v Lee* [2004] EWCA Civ 1712 Costs – CFAs / success rates / cases at trial / judicial discretion.

*Manolakaki v Constantinides* [2004] EWHC 749 (Ch) – Solicitor / insurance / financial instrument fraud / coverage / non-disclosure.

*J.J. Coughlan Ltd v Ruparelia Thaker* [2004] PNLR 4 – Financial instrument fraud / solicitor / outside ordinary course of business / liability of innocent partner.

*Sweetman v Nathan* [2004] PNLR 7 – Strike out / fraud on third party / subsequent negligence claim against partners of fraudulent solicitor.

*Ezekial v Lehrer* [2002] Lloyd's Rep PN 260, C.A. – Limitation S14A knowledge.

*Delaware Mansions v Westminster City Council* [2002] 1 AC 321 – Nuisance and tree-root damage.

*Ingmar GB Ltd v Eaton Leonard Technologies Inc* [2001] CMLR 9 – Commercial agents regulations.

*Lloyds Bank v Crosse & Crosse* [2001] Lloyd's Rep P.N. 452 – Negligent conveyancing / limitation / measure of damages.

*Lec (Liverpool) Ltd v Glover* [2001] Lloyd's Rep I.R. 315 – Fire insurance policy construction / exclusion cause / blow torch.

*Casey v Hugh James Jenkins* [1999] Lloyd's Rep P.N. 115 – Solicitor's obligation on loss of legal aid / causation.

*Abbey National v Sayer Moore* [1999] EGCS 114 – Limitation lenders claim against solicitors.

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## What others say

“You can really see where he's adding value: he knows just the right advice to give to take a claim forward. Very easy to work with and extremely bright.” “Absolutely brilliant, a leader of the professional negligence Bar. He has the ear of the court and is a delight to work with.” “He is just brilliant. He makes difficult things look easy, has a really responsive manner with clients, and doesn't get hot under the collar.” *Chambers UK, 2022*

“Michael is a highly polished performer and a wonderful cross-examiner. He is full of charm but is a smiling assassin.” *Legal 500, 2022*

“He is phenomenally intelligent yet engages with clients in an approachable and down to earth manner. He is trustworthy and dependable, gets to grips with the detail quickly and has a beautiful drafting style. His expertise is second to none.” *Legal 500, 2021*

“He is phenomenally clever and gives you practical and concise advice. He is brilliant at cross-examination and has a calming effect on clients.” *Chambers UK, 2021*

“He is quite simply the go-to man for high-profile, high-value, complex professional negligence claims. His submissions were instrumental in winning the case and his gravitas was clear for all to see.” *Chambers UK, 2020*

“Very impressive: a true advocate who is quick on his feet and a very good cross-examiner.” *Chambers UK, 2020*

“He is very experienced and an extremely popular silk” *Legal 500, 2020*

“A super advocate who has tremendous knowledge of solicitors’ negligence and fraud” *Chambers UK, 2019*

“He is a master and has been operating at the top level for a very long time” “Absolutely charming and quick off the mark. Everyone finds him a delight to work with” *Chambers UK, 2019*

“Excellent advocacy and client service” *Legal 500, 2019*

“Top end, especially for solicitors’ negligence. He is absolutely excellent” “He provides clear and down-to-earth advice. He spots the key issues immediately and develops a strategy accordingly” *Chambers UK, 2018*

“He has an excellent way of getting to the heart of a case and is a pleasure to work with” *Legal 500, 2017*

“The best professional indemnity barrister there is.” “If we need a case to win, we instruct Michael. What he doesn’t know about professional indemnity isn’t worth knowing.” “Confident, inspiring and reassuring: a superb lawyer with a refined and smooth style.” *Chambers UK, 2017*

“An absolute star” *Legal 500, 2016*

“He is the jewel in the crown of their chambers. He sets everything out in a huge amount of detail and is organised and methodical.” “Very approachable, highly regarded and a very good strategist. He knows the insurance market really well and has a common-sense way of dealing with cases.” *Chambers UK, 2016*

“He has very good instincts and stands by them.” *Legal 500, 2015*

“Confident, inspiring and reassuring, he’s a superb lawyer with a refined and smooth style. ‘He is extremely clever, has very good instincts and stands by them’.” *Chambers UK, 2015*

“Cool headed, steady and extremely experienced.” *Legal 500, 2014*

“A very strong professional indemnity practitioner – there are few people who know the field as well as he does.” *Chambers UK, 2014*

“For any sticky situations he is normally the first one called. ‘Very impressive, he’s great on his feet, and clearly knows his stuff’.” *Chambers UK, 2014*

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## Further information

**Education:** The Perse School Cambridge; LLB (London); Scarman Scholar, Inner Temple Jardine Scholar and Treasurer's prizewinner (1978). Qualified Mediator 2003.

**Appointments:** Recorder 2000-2012. Master of the Bench of The Inner Temple.

**Committees:** Former Board Member of the Bar Standards Board; Former member of the Professional Conduct Committee (and the Legal Services Committee) of the Bar Council of England and Wales.

**Professional memberships:** Professional Negligence Bar Association; COMBAR; South Eastern Circuit; London Common Law and Commercial Bar Association.

**Publications & lectures:** Former editor of the solicitors' chapter of Professional Negligence and Liability (Informa looseleaf.), Michael Pooles has frequently provided lectures to members of the Professional Negligence Bar Association and others on professional indemnity, policy, conduct, limitation and civil fraud matters.

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## Quotes

"Michael is a highly polished performer and a wonderful cross-examiner. He is full of charm but is a smiling assassin."

**Legal 500, 2022**

"Absolutely brilliant, a leader of the professional negligence Bar. He has the ear of the court and is a delight to work with."

**Chambers UK, 2022**

"He is phenomenally intelligent yet engages with clients in an approachable and down to earth manner. He is trustworthy and dependable, gets to grips with the detail quickly and has a beautiful drafting style. His expertise is second to none."

**Legal 500, 2021**