



Kate Vaughan-Neil

Call 1994

“Kate Vaughan-Neil is a highly sought-after barrister with a particular focus on professional negligence” (as demonstrated by her Legal 500 ranking within Tier 4), insurance and commercial litigation; appearing in substantial high court and arbitration matters as both sole and junior counsel.

Her professional negligence expertise covers most of the main professions, with particular emphasis on those involving solicitors, architects and engineers; but also surveyors, barristers and financial advisers. She is well versed in both advising at the pre-action stage and acting in litigation. Chambers & Partners has described Kate as “very considered; immediately seeing the potential counter-arguments and how they could affect the strategy”.

Kate’s insurance practice is varied and extensive. In recent years, she has undertaken substantial repeat acting for a major insurer; a company engaged in managing insurance portfolios in run-off; and a company engaged in acting for policyholders in relation to both claims and policy renewal. That (ongoing) experience embraces advising on coverage related issues of insurance law and policy interpretation; drafting revisions to policy wording as part of renewal negotiations; as well as assisting in the analysis and presentation of claims, not least regarding a number of business interruption policies in light of the FCA v Arch decision and subsequent jurisprudence.

As regards her wider commercial experience, Kate has considerable expertise in general commercial litigation (including advising at the pre-action stage); as well as of complaint forums. Her commercial litigation experience is deep and longstanding; and encompasses fraud claims, including acting for an Azerbaijani travel agency in a claim (settled just before trial) arising out of a failure to provide aircraft under a charter agreement. As regards complaint forums, she has been engaged by two major retail banks in respect of two separate FCA Reviews, namely the review into mis-sold interest rate hedging products, where she advised on numerous consequential loss claims; and the review into one bank’s business support unit, where she was part of a panel determining appeals brought by customers against the bank’s determination of its claims under the review. She has also acted a number of times for respondents facing complaints to the Financial or Legal Ombudsman.

Professional Negligence

Kate has a broad and well-established professional negligence practice, which covers most of the main professions, with particular emphasis on those involving solicitors, architects and engineers, but also including surveyors, barristers and

financial advisers. She is recommended in Chambers and Partners 2016 directory as “*very considered; immediately seeing the potential counter-arguments and how they could affect the strategy.*”

Featured Professional Negligence cases

Claims against solicitors

- Acting for claimant in claim against blue chip City firm of solicitors in relation to drafting of concession agreement regarding use by Premier League football club of London Stadium for its matches.
- Advising potential claimant as to merits of possible claim against another blue chip City firm of solicitors arising out of their conduct of the conveyance of a high value property on his behalf.
- Acting for solicitors in claim brought against them by a litigation funder regarding the conduct of underlying claim, which had been struck out.
- Acting for solicitors in a claim brought against three of the claimants’ former legal advisors (both solicitors and barristers) in respect of conduct by them (sequentially) of earlier proceedings against Barclays Bank.
- Acting for potential claimants in relation to claim against solicitors arising out of their conduct of a dispute relating to design/construction of defective residential works.
- Acting for City firm of solicitors in claim brought against them arising out of conduct of high-value adjudication proceedings.
- Acting for solicitors in a claim arising out of alleged negligent conduct of an appeal to the Employment Appeal Tribunal.
- Acting for potential claimants in relation to claim against solicitors arising out of alleged negligent advice/conduct of litigation against the background of the sale of a tree surgery business.
- Acting for solicitors in a growing number of claims arising out of alleged fraud/negligence in conveyancing transactions, including:
 - Acting for a firm of solicitors in a claim arising out of alleged misapplication of mortgage monies in a group of conveyancing transactions;
 - Acting for a firm of solicitors in a series of claims arising out of alleged negligence of a former partner in a number of conveyancing transactions;
 - Acting for two partners in a firm of solicitors in a claim for alleged negligence of a consultant to the firm in a commercial conveyancing transaction.
- Acting for a lender in claim against solicitors arising out of alleged negligence in reporting to the lender on title.
- Kate has also represented solicitors in relation to two complaints made against them to the Legal Ombudsman (the first dismissed on a summary basis; second yet to be determined).

Claims against barristers

- Acting for leading KC in claim against him for alleged breach of confidentiality/fiduciary duty.
- Acting in a claim against a barrister arising out of an intellectual property claim which the barrister had pursued to trial on the basis of an allegedly defective statement of case.

Claims against engineers

- Acting for engineers in a claim arising out of alleged defecting design and installation of a glazing system at commercial premises in London.
- Acting for engineers in a claim arising out of alleged negligent advice regarding remediation of a site for proposed development.
- Acting for M&E engineers in a claim arising out of a sewage leak following completion of a commercial/residential development.

- Acting for M & E engineers in a claim arising out of alleged negligent design/installation of fire stopping at commercial premises damaged by fire.

Claims against architects

- Acting for architects in claim brought against them by commercial property developer arising out of a section 278 application later deemed to be unnecessary by local council.
- Assisting pre-action and advising potential claimants regarding claim against designer of plans for house extension later affected by subsidence.
- Acting for architects in a claim arising out of alleged negligent design regarding sound transmission in a residential apartment block.
- Acting for architects in a claim arising out of alleged negligent design of a dental practice.
- Acting for claimants in claim against an architect arising out of alleged defective design of an extension.

Other construction-related claims

- Acting for a Middle Eastern government in a substantial arbitration to determine claim brought by architectural/planning consultants regarding the development of two international airports, with numerous underlying contract packages relating to a wide range of professional disciplines.
- Acting for developers in a claim arising out of a leak following completion of a residential development.
- Acting for the contractor in a claim arising out of alleged negligent construction of a retirement home.
- Acting for a major construction company in a claim against the M&E sub-contractor arising out of water damage to a hospital operating theatre.
- Acting for the employer's agent in a claim arising out of the temporary halt to construction of substantial commercial premises in Nottingham by reason of the absence of planning permission. Particular point of interest in relation to question whether employer's agent owes a duty of care to tendering contractor. Case was successfully appealed to the Court of Appeal.

Claims against financial advisers

- Advising potential claimants regarding possible claim against financial adviser arising out of substantial loss of value in an EIS.
- Acting for and against financial advisers, principally in relation to the alleged mis-selling of pensions.
- Acting for financial advisers in a claim arising out of alleged negligent advice regarding a number of investments made by an off-shore trust company and a private individual.

Claims against surveyors

Kate has also acted in a number of negligent valuation cases against surveyors. These include not only cases in which substantive negligence claims have been pursued, but also a case in which she acted for the defendants successfully resisting a two day application to set aside an order extending time for service of a claim form.

Insurance

Kate has considerable experience in the insurance field on a wide-ranging basis, including advising on substantive legal/interpretation issues; drafting policy wording; and assisting with the analysis and presentation of claims. Her

expertise has developed not least due to repeat work undertaken for both a major insurer; a company engaged in managing insurance portfolios in run-off; and a company engaged in acting for policyholders in relation to both claims and policy renewal (for whom she is now their primary counsel of choice).

Featured Insurance cases

- Acting for a major construction company in relation to multiple (ongoing) claims arising out of cladding claims in light of the Grenfell tragedy.

- Advising the same construction company in relation to renewal of its Crime, D&O and Third Party Liability policies and drafting revisions to same.

- Advising a major insurer regarding the merits of application of a proportionate remedy in the context of a substantial personal injury claim.

- Acting for a market-leading institutional investment platform in relation to three separate claims under its PI policy arising out of trades made in the period following the October 2022 mini-budget.

- Undertaking a review of the Covid-19 business interruption claims brought against a major insurer.

- Acting for subsidiary of major hotel chain in claim arising out of destruction by fire of a warehouse in Belgium.

- Challenging Covid-19 business interruption insurer declinature on behalf of various policyholders, including an international airport authority and a garden centre business with numerous locations throughout the UK.

- Challenging insurer declinature in respect of various other (non-BI related) claims, including a major demolition company facing an adjudication arising out of asbestos removal; the director of a prosthetics company facing an Unfair Prejudice petition; and a leading IT service management company facing a claim arising out of the receipt/passing on of information regarding dangerous driving conditions following a serious accident.

- Advising various policyholders on policy interpretation/coverage, including those referred to above but also others, e.g. a major property investment company making a claim under its D&O policy; a financial investment management company making claims under its D&O policy; and a global chemicals company making a claim under its Management Liability policy.

- Reviewing and advising upon a number of claims brought in US states arising out of both damage to property/infrastructure following major weather incidents/other disasters and high-value personal injury claims.

- Reviewing/revising/advising upon a number of draft claim notifications to ensure validity.

Commercial

Kate has extensive experience of a great variety of commercial disputes, including those involving allegations of fraud.

Featured Commercial cases

Acting for an Azerbaijani travel agency in a claim arising out of a failure to provide aircraft under a charter agreement (in which fraud allegations were prominent). Settled on eve of trial.

- Acting for insurance intermediary in substantial claim brought against it by an insurer following termination of agreement governing broking of staff absence insurance business. Settled after nine days of two week trial.
 - Acting for farming partnership in high-value claim brought against it by neighbouring farmer arising out of transmission of bovine TB to claimant's cow herd.
 - Acting for owner of pheasant shoot in longstanding (now settled) claim brought against it by neighbouring wine producer arising out of pheasant damage to grape crop.
 - Advising property investment company and its insurers regarding possible claim against management/security company in relation to recommendation/supply of alarm system at commercial premises.
 - Acting for bio-tech company in dispute regarding the manufacture and supply of herpes diagnostic testing kits.
 - Acting for leading provider of primary healthcare services in dispute arising out of termination of relationship with digital solution provider.
 - Acting for a solar panel company in two separate disputes regarding the design and supply of photovoltaic systems.
 - Acting for adhesives manufacturer in sale of goods/misrepresentation claim.
 - Acting for commercial bailee in claim arising out of theft of a number of high value cars.
 - Acting for supplier of medical equipment in sale of goods claim.
 - Acting on behalf of insurers in subrogated claim arising out of the destruction by fire of a thatched cottage.
 - Advising major brewery as to its obligations under a lease.
 - Acting for double glazing company in claim arising out of costs of compulsory relocation due to the London Olympics.
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- Acting for engineering company in claim for monies alleged to be due under contract for supply and manufacture of steel.
- Acting for manufacturer of generators in claim arising out of alleged defective cooling units.

Employment

Kate has considerable experience of employment disputes, including acting for employers in unfair/constructive dismissal claims brought in the employment tribunal, as well as acting for and against employers in claims brought in the High Court, both for bonuses/holiday pay and for alleged breach of restrictive covenants.

Featured Employment cases

- Acting for major retailer in relation to a series of unfair dismissal claims brought by former employees.
- Acting for employees in relation to claims for injunctive relief arising out of alleged breach of restrictive covenants.
- Acting for major company in relation to a claim for injunctive relief arising out of alleged breach of restrictive covenants by an outgoing employee.
- Acting for individual in relation to a bonus claim against an investment bank.
- Acting for individual in relation to a claim for bonus/holiday pay against a former employer.
- Advising major company regarding redundancy/unfair dismissal implications of intended dismissal of employees.
- Advising company as to meaning/implications of a restrictive covenant in contract of employment of one of its employees.
- Advising major oil company as to enforceability of relocation clauses in a series of international employment contracts.

Construction & Engineering

Kate's practice in construction and engineering disputes encompasses claims relating to employers, contractors, architects, engineers and surveyors. Her experience includes litigation in the Technology and Construction Court, adjudication and mediation.

Featured Construction & Engineering cases

- Acting for engineers in claim arising out of alleged defective construction of student accommodation blocks at an English university.
 - Acting for contractor in a claim arising out of subsidence occurring at a factory in South Wales during the course of land reclamation work being undertaking on adjoining land.
 - Acting for the contractor in claim arising out of destruction of claimant's property by fire during the course of renovation works. Preliminary issue taken to the Court of Appeal regarding question whether contractor's standard terms and conditions could successfully be relied upon as an exemption clause.
 - Acting for engineers in claim arising out of alleged defective design of air conditioning system at commercial premises in London.
 - Acting for individual in application for summary enforcement of an adjudication decision.
 - Advising major construction company regarding interrelationship between a series of individual employment contracts and the Construction Industry Joint Council Working Rule Agreement.
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Banking & Financial Services

Kate also has experience in banking and financial services. She has advised banks in relation in particular to pre-action disclosure applications in the context of mis-selling claims. Further:

- she is now very experienced in both the substance and procedure of claims for consequential loss brought within the FCA Review into the mis-selling of interest rate hedging products;
- she has experience of related complaints to the Financial Ombudsman Service, and formulating responses to such complaints;
- she was a member of the independent panel reviewing and determining appeals arising out of claims brought within the FCA Review into the business support unit of a major retail bank.

As regards financial services, in addition to the claims against financial advisers referred to above, Kate also acted for Equitable Life in relation to a variety of matters arising out of the cessation of new business and was extensively involved in the drafting of documentation regarding the setting up of a new fund for intermediaries.

Appointments

- Trained mediator

Education

- MA (Oxon) Jurisprudence
- LLM (Cantab)

Languages

- French (working knowledge)