



Mark Fell KC

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Barrister

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Mark Fell KC is a versatile advocate, with particular specialisms in banking/financial services and tax. He has extensive experience acting for private sector institutions, as well as central government and regulators.

Over the last few years Mark has been involved in an array of substantial cases in venues from the High Court to the Court of Justice of the European Union. One day he might be arguing a technical customs law point in the Tribunal on behalf of HM Revenue and Customs with industry wide implications for the way goods are cleared into the UK. Another, he might be advising a building society on regulatory issues arising from a multi-billion-pound mortgage portfolio.

FINANCIAL SERVICES AND CONSUMER LAW

Financial services regulation and consumer law are core specialisms. Mark has a wealth of experience doing cutting-edge advocacy for regulators, financial institutions and businesses (including on public law points). He has particular expertise in the regulation of retail mortgages and consumer credit.

Mark is a leading barrister in these fields and is ranked by Chambers UK Bar and The Legal 500 UK Bar, in which he is described as "*pragmatic, commercial and considered*" (Financial Services Regulation, The Legal 500 UK Bar 2022).

Selected recent work includes:

- Financial Conduct Authority v London Property Investments & Ors [2022] EWHC 2862 (Ch) – Acting in a High Court trial concerning the carrying on of regulated activities and financial promotions in relation to regulated mortgage contracts and sale and rent back arrangements.
- Acting in relation to a Competition and Markets Authority investigation into the operation of auto-renewal provisions in consumer contracts.
- Financial Conduct Authority v London Property Investments & Ors [2022] EWHC 1041 (Ch) – Operation of a debarring order in regulatory litigation.
- Mason v Godiva Mortgages Ltd [2018] EWHC 3227 (QB) – Acting in a High Court case relating to compliance with responsible lending rules. The first case in which the High Court has considered those rules in the context of a claim for damages under the Financial Services and Markets Act 2000.
- Chickombe v Financial Conduct Authority and Barclays Partner Finance [2018] CTLC 197 – Acting in a widely reported case concerning a validation order in relation to a £47 million consumer credit loan portfolio brokered by an unauthorised credit broker. Leading case on the relevance of consumer

detriment to such orders.

- Nationwide Debt Consultants v Financial Conduct Authority [2017] UKUT 0142 TCC – Appearing in a case relating to the significance of record keeping allegations in regulatory authorisation litigation.
- Maoudis v Financial Conduct Authority (2017) BPIR 1555 – Acting in regulatory authorisation litigation concerning the consumer credit interim permission of a debt management firm.
- Acting for a global bank in a test case concerning interest rate variations on a mortgage pool (2017).
- Koksai v Financial Conduct Authority (2016) CTLC 201 and (2017) BPIR 1517 – Acting in a tribunal reference challenging a decision refusing to authorise a consumer credit broker. The first consideration by the Tribunal in an authorisation case of its revised jurisdiction under the Financial Services Act 2013.
- PDHL Ltd v Financial Conduct Authority (2017) BPIR 1623 – Appearing, led by Javan Herberg KC, in an application to suspend the ceasing of an interim permission of a consumer credit firm pending a book sale.
- Financial Conduct Authority v HFO [2015] UKUT 0118 (AAC) – Appearing, led by Patrick Goodall KC, in proceedings concerning the cancellation of the regulatory authorisations of a group of debt collection firms.

BANKING AND BUILDING SOCIETY LAW

Mark has a substantial practice in banking and building society law. His significant experience in the building societies sector has resulted in Mark being asked to edit the leading textbook *Wurtzburg & Mills on Building Society Law* since 2010.

The Legal 500 UK Bar describes him as “*a consumer credit and retail mortgages guru*” (Banking and Finance, The Legal 500 UK Bar 2022).

Anonymised examples include:

- Advising on due diligence and regulatory authorisation issues in relation to a multi-billion pound loan pool sale.
- Advising a major banking group on aspects of the legislation ring fencing retail and investment banking.
- Advising on building society mergers and acquisitions during the 2008/9 credit crisis.
- A project redrafting one of the clearing banks account terms and conditions in the run up to the so-called overdraft charges litigation.
- Advising in relation to an amendment to the UK’s financial services regulatory perimeter by HM Treasury.

TAX LITIGATION

Mark has a high-level business tax litigation practice, which includes cases with public law aspects. He appears regularly in the First-tier Tribunal and the Upper Tribunal, and has appeared in the Court of Justice of the European Union. He has particular specialisms in matters involving EU law (such as customs classification and anti-dumping duty) and areas involving international cooperation (such as the OECD transfer pricing guidelines).

Selected cases include:

- Volkerrail Plant Ltd & Ors v Revenue & Customs [2023] EWCA Civ 210 – Acting in litigation concerning the consistency with EU law of a piece of UK legislation relating to cross border double deduction of losses.
- DHL Air Ltd v Revenue & Customs [2023] UKFTT 123 (TC) – Litigation concerning authorisation for end-use relief and the importation of aircraft into the UK.
- Push Energy Ltd v Revenue & Customs [2022] UKUT 312 (TCC) – appeal concerning the so-called Zwartveld procedure for cooperation between judicial authorities and the European Commission.
- Belkin Ltd v Revenue & Customs [2022] UKUT 244 (TCC) – Litigation

- concerning the customs classification of wireless charging devices.
- *Kubota v Revenue & Customs* [2021] UKUT 276 (TCC) – The latest in a series of cases in which Mark has represented HMRC and the UK in litigation concerning the classification of utility vehicles. The litigation has run all the way from the Tribunal through to the Court of Justice of the European Union.
 - *Revenue and Customs v Opus Bestpay* [2021] SFTD 39 – Acting in Tribunal proceedings in relation to the DOTAS regime.
 - *Vitol Aviation UK Ltd v Revenue & Customs* [2021] UKFTT 353 (TC) – Acting in Tribunal litigation concerning closure of a corporation tax enquiry and the role of the Diverted Profits Tax regime.
 - *Renesola UK Ltd v Revenue and Customs* [2020] STC 810 – Acting in a case regarding validity of EU regulation determining origin of imported solar panels for anti-dumping duty purposes. The EU equivalent of similar litigation conducted in the US regarding dumping of Chinese solar panels on world markets.
 - *Imprimatur Capital Holdings Ltd v Revenue & Customs* [2021] 1 WLUK 473 – Litigation concerning VAT input tax deductions in the venture capital sector.
 - *St George’s University v Revenue & Customs* [2021] SFTD 675 – Acting in an appeal concerning the liability of a university in Grenada for VAT in respect of courses taught in the UK.
 - *C&J Clark v Revenue and Customs* [2020] 11 WLUK 494 – Acting in an appeal concerning the procedure for imposing liability for anti-dumping duty.
 - *Bluejay Mining Plc v Revenue & Customs* [2020] STI 2466 – Acting in an appeal concerning the concepts of ‘consideration’ and ‘economic activity’ in the VAT legislation.
 - *Oriel Developments Ltd v Revenue and Customs* [2019] SFTD 1288 – Acting in a case concerning whether a tax assessment could become stale.
 - *R v Revenue and Customs (Awodiya)* [2019] BTC 6 – Acting in High Court judicial review proceedings in relation to the tax credit system.
 - *Inventive Tax Strategies Ltd v Revenue & Customs* [2019] STC 1665 – Acting in an appeal concerning when a price reduction triggering a refund under the VAT legislation could be taken to have occurred.
 - *Revenue and Customs v Curzon Capital Limited* [2019] SFTD 506 (TC) – Acting in Tribunal proceedings in relation to the DOTAS regime.
 - *Performers College Ltd v Revenue and Customs* [2018] STI 834 – Case concerning the consistency of a VAT exemption with EU law.
 - *Revenue and Customs v Ben Nevis (Holdings) Ltd & Ors* [2012] STC 2157 and [2014] WTLR 1 – Appearing in litigation concerning the interpretation of a double taxation treaty between the UK and South Africa and a judgment for in excess of £220 million in unpaid tax. Led by James Ayliffe KC.
 - *Revenue and Customs v Ali* [2012] STC 42 – An authority in which it was determined that HMRC has sufficient right to support a freezing order where income tax assessments have been issued, but the obligation to pay tax sought under the assessments has not yet crystallised.

RECOGNITION

Mark has been recommended by The Legal 500 and by Chambers UK for more than a decade. Recent editorial comment has included the following:

- *“Mark Fell is personable, reliable, hardworking and innovative, and Mark’s advocacy is impressive and effective.”* (Tax: VAT and Excise, *Legal 500 UK Bar 2024*)
- *“Mark is a very clear and persuasive advocate. He has strong technical skills and his written work is comprehensive and persuasive.”* (Finance Service Regulation, *Legal 500 UK Bar 2024*)
- *“Mark is excellent at describing complex issues in terms that are simple to understand to the layperson. He has a thoughtful approach, and constructs well reasoned and compelling arguments.”* (Banking and Finance, *Legal*

500 UK Bar 2024)

- *“An effective and very pleasant advocate, who easily grapples with complex and sophisticated legal arguments.”* (Consumer Law, Chambers UK Bar 2024)
- *“Mark is great to work with as he understands both the technical and commercial aspects of matters.”* (Consumer Law, Chambers UK Bar 2023)
- *“Mark provides clear and sound advice. He is pragmatic, commercial and considered.”* (Finance Service Regulation, Legal 500 UK Bar 2022)
- *“Mark really knows his stuff. He is a consumer credit and retail mortgages guru – He is able to convey his advice in a pragmatic and commercial way so that it is easily digestible by the client.”* (Banking and Finance, Legal 500 UK Bar 2022)
- *“An intelligent and able barrister who particularly impresses with his paperwork.”* (Consumer Law, Chambers UK Bar 2021)
- *“He is an expert in this field and has an expanse of knowledge which means he is able to provide practical and relevant examples when giving any advice.”* (Finance Service Regulation, Legal 500 UK Bar 2021)
- *“He is a fantastic sounding board when you just need a second opinion or someone to bounce an idea off and his expanse of knowledge and expertise in the area is immense.”* (Banking and Finance, Legal 500 UK Bar 2021)
- *“He is a highly intelligent and analytical barrister who has the ability to provide clear legal advice with commercial awareness of the practical implications.”* (Consumer Law, Chambers UK Bar 2020)
- *“An expert in the consumer credit field, superbly responsive and supportive.”* (Banking and Finance, Legal 500 UK Bar 2020)
- *“An extremely capable advocate able to meet the challenges of complex cases.”* (Finance Service Regulation, Legal 500 UK Bar 2020)
- *“Extremely approachable, friendly and someone whose knowledge of the law is excellent.”* (Chambers UK Bar 2019)
- *“An excellent junior barrister – one to watch.”* (Legal 500 2019)
- *“Very knowledgeable, responsive and diligent, particularly in retail banking law.”* (Legal 500 2019)
- *“He has an excellent bedside manner. He puts very complex things into very simple terms, he is very efficient and he gets things done.”* (Chambers UK Bar 2018)
- *“An excellent financial services and regulatory barrister.”* (Legal 500 Bar 2017)
- *‘His work is thoroughly researched and of a consistently high standard.’* (Legal 500 Bar 2017)
- *“Shows meticulous attention to detail, together with clarity and precision in drafting, and has a patient, accessible and responsive manner.”* (Chambers UK Bar 2017)
- *“He gets straight to the heart of the issue and is very user-friendly.”* (Chambers UK Bar 2017)
- *“A responsive, diligent and impressive barrister with an expert knowledge of the law.”* (Legal 500 2016)

PUBLICATIONS AND SPEAKING

Mark is an editor of *Wurtzburg & Mills on Building Society Law*, which he co-edits with colleagues in chambers and the law firm Allen & Overy. He is also the author, along with Malcolm Waters KC and Elizabeth Ovey, of *Retail Mortgages: Law, Regulation and Procedure*, published by Sweet & Maxwell.

Mark is very happy to speak at events and lead seminars based on his areas of practice.

COMMUNITY AND PRO BONO

Mark is committed to voluntary and community-based work. Highlights of his work in this area include:

- mentoring as part of the Lincoln's Inn mentoring scheme;
- being on the Bar Council's Ethics Committee;
- chairing and being a member of the steering committee for the Radcliffe Chambers Student Barrister Experience Programme, which won the Diversity & Inclusion Initiative of the Year award at the 2018 UK Diversity Legal Awards;
- acting as a trustee of one of London's leading homeless charities.

QUALIFICATIONS

Mark read Philosophy at Corpus Christi College, Cambridge, where he secured a double first and was made a Scholar. He went on to do an MSc in Political Theory at the London School of Economics, securing a distinction and coming top of his year. Mark is a Bowen and Mansfield scholar of Lincoln's Inn.

MEMBERSHIPS

Mark is a member of the Chancery Bar Association, the Commercial Bar Association, the Revenue Bar Association and the Financial Services Lawyers Association.

POLICIES AND OTHER DETAILS

- Read Mark's [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#).