



Kenneth Hamer

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## Kenneth Hamer

*"Almost unparalleled knowledge of regulatory case law. His grasp of detail is nearly unequalled, together with his encyclopaedic knowledge of regulators"*

- Chambers UK 2017

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Kenneth Hamer is an experienced barrister and has an extensive practice. He has wide experience of civil litigation at almost every level, particularly in the fields of professional negligence (including claims against architects, surveyors, valuers, accountants, solicitors and barristers); clinical negligence; personal injury involving issues of liability and quantum; and substantial common law commercial claims. He frequently appears against silks, often leading more junior counsel himself. He represents both claimants and defendants.

Kenneth also has substantial experience in all areas of professional discipline and regulation. He is the author of the leading textbook *Professional Conduct Casebook*, published by Oxford University Press, Now in its third edition, and he regularly lectures and writes articles on regulatory and disciplinary matters. He is a former Recorder of the Crown Court and regularly sat in crime, civil and family matters.

See Kenneth talking to the OUP about his *Professional Conduct Casebook* (2nd edition) [here](#).

## Professional Discipline

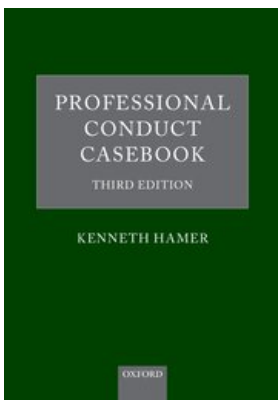
Kenneth has substantial and wide ranging experience in professional conduct and competence matters. He has expertise in health care, legal, accountancy and financial aspects of professional discipline. He is a former member of the prosecuting panel of the Bar Standards Board, and since 2017 has been a Legally Qualified Chair at the General Medical Council – Medical Practitioners Tribunal Service. He also sits as a Legal Assessor at the Nursing & Midwifery Council and as a Legal Adviser to the General Dental Council. In recent years he has regularly acted for the General Pharmaceutical Council on appeals to the High Court, the Court of Appeal and the Supreme Court.

He regularly advises or represents solicitors in disciplinary and regulatory cases and appears at hearings before the Solicitors Disciplinary Tribunal and other professional bodies. He was a member of the prosecuting panel of the Bar Standards Board and the General Council of the Bar for over 20 years, and he also represents or advises barristers facing disciplinary issues. In 2014 he was instructed by the Bar Mutual and successfully represented a joint Head of Chambers on appeal before the Visitors concerning responsibilities under the Code of Conduct for the administrative arrangements in chambers. From 2006 – 2012 he was chair of the Appeal Committee for the Chartered Institute of Management Accountants.

Kenneth is the author of the leading textbook *Professional Conduct Casebook*, published by Oxford University Press. His book, now in its third edition, is hugely relied upon by practitioners in this field. It contains all key professional conduct cases in a single portable volume and analyses cases across an extensive range of professions including the healthcare professions, law, accountancy and financial services, the police and prison service, and sports law, and contains well over 1000 cases. He regularly lectures and writes on professional conduct issues and is the joint editor of the Association of Regulatory and Disciplinary Lawyers' Quarterly Bulletin.

In 2003 Kenneth was appointed by the Home Secretary to conduct a review and report on the legislative provisions in the Police Act 1996 and non-statutory guidance for appointing independent members to police authorities. The review consisted of Kenneth as chair with the Chief Executive of the NHS Appointments Commission and the Chief Executive of Devon and Cornwall Police Authority as specialist advisors. Kenneth's report, *Review of the Selection and Appointments Process of Independent Members of Police Authorities*, was presented to Parliament on 4th May 2004, and contained a range of recommendations to improve the appointments process of key posts in police authorities, highlighting the need to engage local people and the importance of police authorities continuing to develop effective links with other community groups.

In 2012 Kenneth chaired a working group of senior practitioners and regulators who submitted a written response on behalf of ARDL to the Law Commission Consultation Paper on the Regulation of Health Care and Social Care Professionals.



## Representative Cases

- *Hussain v General Pharmaceutical Council [2018] EWCA Civ 22*  
Court of Appeal rejects any procedure defect in hearing or that sanction of erasure was disproportionate.  
The case arose from a BBC documentary into a number of pharmacies in London selling prescription-only medicines without a valid doctor's certificate, and the appellant Mrs Hussain was the responsible pharmacist on duty when an undercover reporter was able to buy Amoxicillin, a prescription-only medicine, over the counter in the absence of a valid prescription.
- *Khan v General Pharmaceutical Council [2017] 1 WLR 169 SC (S)*  
Supreme Court Review procedure – need for panel to focus on current impairment at original hearing and at review hearing – whether sanction excessive and disproportionate.

- *Abdul-Razzak v General Pharmaceutical Council [2016] EWHC 1204 (Admin)*  
Supply of prescription-only medicines without a prescription by counter-assistants at pharmacy – role of responsible pharmacist – patient safety – video evidence – weight to be placed on footage.
- *Burrows v General Pharmaceutical Council [2016] EWHC 1204 (Admin)*  
Criminal caution for fraud – failure of registrant to attend fitness to practise hearing – representation by counsel at hearing – removal from register – lack of insight.
- *Rasool v General Pharmaceutical Council [2015] EWHC 217 (Admin)*  
Bias – chairman of fitness to practise committee chairing earlier interim order against employee of registrant – no risk of impartiality.
- *Gulamhusein v General Pharmaceutical Council [2014] EWHC 2591 (Admin)*  
Concurrent proceedings – interim suspension order granted pending trial of criminal proceedings – test for extension of interim order.
- *Conlon & Others v Bar Standards Board [2014] Lex Citation 136*  
Barrister – visitors – jurisdiction of lay or barrister members to sit as visitors. Head of chambers – obligations under Code of Conduct – delegation of responsibility – reasonable steps to ensure proper arrangements made within chambers for carrying out administrative functions.
- *Williams v Bar Standards Board [2014] 31 October 2014 (unreported)*  
Successful appellant barrister – unfettered discretion of visitors to award cost against Bar Standard Board.
- *R (Hill) v Institute of Chartered Accountants in England and Wales [2014] 1 WLR 86 CA*  
Member of tribunal absent during part of oral evidence – transcript provided to panel member who later returned to hearing – whether hearing complied with rules of natural justice/fairness – whether capable of being waived.
- *Shaikh v General Pharmaceutical Council [2013] EWHC 1844 (Admin)*  
Hearsay evidence – admissibility – rule 24 GPhC 2010 Rules – application to admit new evidence on appeal refused.
- *R (Cela) v General Pharmaceutical Council [2012] EWHC 2285 (Admin)*  
Appeals – time limit – merits and interests of justice.
- *Ansari v General Pharmaceutical Council [2012] EWHC 1159 (Admin)*  
Fitness to practise – misconduct – convictions for driving – whether sanction of removal excessive – pharmacists.
- *Chaudhari v General Pharmaceutical Council [2011] EWHC 3433 (Admin)*  
Disciplinary proceedings – misconduct – admission of judgments in earlier civil proceedings – weight – adjournment of proceedings – pharmacists.
- *Sheikh v Royal Pharmaceutical Society of Great Britain [2010] EWHC 2602 (QB)*  
Claim for harassment against society – disciplinary proceedings brought by regulatory body exercising statutory powers – statutory defence under Protection from Harassment Act 1997 – action struck out.

- *Yusuf v Royal Pharmaceutical Society of Great Britain [2009] EWHC 867 (Admin)*  
Role of chairman in putting respondent's case to witnesses when respondent not attending hearing – no unfairness in process adopted by the committee.
- *Richards v Law Society [2009] EWHC 2087 (Admin)*  
Case clearly made in correspondence – standard of proof.
- *Chamba v Law Society [2009] EWHC 190 (Admin)*  
Solicitor – solicitors disciplinary tribunal – dishonesty – sanction – test to be applied by tribunal for dishonesty.
- *R (Neelu Chaudhari) v Royal Pharmaceutical Society of Great Britain [2008] EWHC 3190 (Admin)*  
Interlocutory hearing before disciplinary body held in private – not determinative of civil rights and obligations within Art 6(1) of ECHR – application for public hearing dismissed.
- *R (Sunaina Chauhhari) v Royal Pharmaceutical Society of Great Britain [2008] EWHC 3464 (Admin)*  
Judicial review of investigating committee's decision not to prefer charges against named pharmacist – lack of evidence that was pharmacist responsible for dispensing relevant prescription – no real prospect of success.
- *Sritharan v Law Society [2005] 1 WLR 2708CA*  
Solicitor – intervention by Law Society – automatic suspension of practising certificate – whether power to restore certificate pending hearing before Solicitors' Disciplinary Tribunal – whether power of court to devise scheme to replace statutory intervention.
- *Collins v Office for the Supervision of Solicitors [2002] EWCA Civ 1002*  
Claim by former client against Law Society alleging negligent investigation by the OSS into the handling of his affairs by his former client – whether duty of care owed by Law Society investigation officers – assumption of responsibility – measure of damages.
- *R v Law Society ex parte Reigate Projects Limited [1993] 1 WLR 1531*  
Solicitor – dishonesty – compensation – whether consequential losses recoverable from Law Society Compensation Fund – policy not to compensate for consequential loss – whether unreasonable and contrary to objectives of fund.

## Health & Safety

Kenneth has been involved in major health and safety work for over 25 years, mainly acting for claimants including the following cases:

- Corby Group Litigation involving children born with limb disorders exposed to toxic waste before birth.
- Buncefield Litigation – claims by residents affected by oil depot explosion
- Southall and Ladbroke Grove Rail Accident Inquiries representing injured passengers and bereaved families dealing with issues such as evacuation from trains, emergency services response, safety management systems and regulatory framework of the rail industry.
- Stress at work claims including teacher unable to cope; insurance agent bullied by employer; accountant suffering depressive illness through exhaustion; barrister working for international bank put under excessive

strain.

- Claims for medical sickness including work related injury benefit payable under NHS Regulations for dentists; and accident and sickness health insurance policies acting for insurers, and policy holders.
- Numerous medical negligence claims against NHS Trusts, and consultants.
- Responsibility for the control of legionella bacteria in water systems at commercial properties in central London.
- Group of 11 mothers who gave birth to children born with fetal deformities (primarily gastroschisis) living adjacent to landfill sites used to dispose of liquid or sludge wastes.

In 1999 Kenneth was counsel at the Southall Rail Accident Inquiry representing passengers and bereaved families funded by the Health & Safety Commission and the Secretary of State for the Environment, Transport and the Regions. In 2000 – 2001 he appeared in Parts 1 and 2 of the Ladbroke Grove Rail Accident Inquiry. At Part 2 he represented 150 passengers and bereaved families and was lead counsel on the crucial issues of the regulatory framework for the rail industry, escape from the train and the establishment of better safety management systems. Kenneth went on to advise claimants in respect of the Buncefield disaster where fuel escaped from storage at the Buncefield Oil Storage Depot in Hertfordshire in December 2005. He also acted for claimants in the Corby multi-party group litigation involving children born with limb deformities, their mothers having lived or worked close to and been exposed during pregnancy to toxic waste from the former British Steel ironworks plant at Corby, Northants. In 2008 the Court of Appeal held that damages for personal injury in the Corby Group Litigation were recoverable in the tort of public nuisance.

Kenneth is currently instructed by the British Standards Institution (BSI) Group to advise in relation to the *Grenfell Tower Inquiry*.

Kenneth has recently been advising on the regulatory status of MHRA/CE marked equipment being used to prevent COVID-19.

## Representative Cases

- *Sam v Atkins [2006] RTR 14 CA*  
Road Traffic – vehicle travelling at 20 mph overtaking stationary van in busy shopping street – pedestrian emerging from in front of van hit by vehicle – judge finding driving at 20 mph negligent but not causative – whether findings inconsistent – whether accident reasonably avoidable.
- *Vahidi v Fairstead House School Trust Limited [2005] EWCA Civ 765; [2004] EWHC 2102 (QB)*  
Stress at work claim – teacher known to be unable to cope – foreseeability and causation established for second breakdown on return to work – whether breach of duty established – 10 days High Court, 3 day Court of Appeal held no breach of duty as school took reasonable steps.
- *Butler v Mount Vernon & Watford General Hospital NHS Trust [2002] EWCA Civ 1387; Med Lit Cases 0842*  
Joint expert – put forward by defence reporting favourably to claimant – evidence agreed – application by Defendant to call additional evidence refused – effect on funding arrangements.
- *Hobin v Douglas [2000] PIQR Q1 (CA)*  
Costs – personal injury – civil procedure – appeal on causation with offer of global figure for damages. Substantial personal injury case involving complex issues of causation lasting 15 days at trial

with 12 expert witnesses giving evidence. 4 days in Court of Appeal.

- *Hassan v Gill [2013] PIQR PI CA Court of Appeal*  
Slipping hazard in shop – whether reasonable system – extent of evidence and burden of proof on defendant.
- *Corby Group Litigation [2009] 2 QB 335 CA*  
Public nuisance – damages for personal injury – whether recoverable in the tort of public nuisance

## Common Law & Commercial

Kenneth also has an extensive common law and commercial practice, particularly in the fields of professional negligence and financial matters. In the 1990s he was involved in the Barlow Clowes trial which lasted eight months at the Old Bailey. He has acted in company director's disqualification proceedings, boundary disputes and cases of sale of goods and defective products. In 2006 Kenneth spent six months at the Financial Services Authority working in its General Counsel's Division advising on a range of financial regulatory issues including the merger of two building societies, banking issues and European legislation.

## Representative Cases

- *Dhillon & Another v Heer Manak Solicitors*  
Nottingham County Court September 2016 (10 days) Mortgage monies – use of monies – breach of trust – employee of solicitors – whether claimants knew of or authorised transactions.
- *Rajvel Construction Limited v Bestville Properties Limited [2012] EWCA Civ 587*  
Costs – directors liability – full and frank disclosure of means – security for costs.
- *Rajvel Construction Limited v Bestville Properties Ltd [2011] EWHC 2669 (TCC)*  
Coulson J: whether High Court has jurisdiction to make freezing order to support order for security for costs – circumstances in which appropriate to grant injunction – section 37 Senior Courts Act 1981.
- *Rajvel Construction Limited v Bestville Properties Ltd (2011)*  
Technology and Construction Court – security for costs – second application – change of circumstances – evidence not disclosed by claimant at previous hearing.
- *Rajvel Construction Limited v Bestville Properties Ltd [2010] EWCA Civ 1621*  
Claim form served without response pack as required under CPR 7.8 – default judgment – litigants in person – setting aside default judgment under CPR Part 13 without terms – recording of proceedings – Technology and Construction Court.
- *Britton Special Steels Limited v Wood (2006)*  
Claim for £800,000 against former director for alleged breach of fiduciary duties – payments made to



associated company of director – issue as to proper consideration for payments and knowledge by fellow directors and shareholders – action dismissed (4 days, Bristol).

- *Malekout v Allied Dunbar Assurance plc [2004] EWCA Civ 192*  
Insurance policy – accident and sickness benefits – pre-existing unknown condition – whether “disablement” within meaning of policy conditions. Court of Appeal following High Court hearing lasting 6 days.
- *OPM Properties Ltd v Venner & Others [2003] EWHC 427 (Ch)*  
Specific performance – sale of property – previous signed contract for earlier abortive sale – authority of solicitors and estate agents to exchange contracts – acts amounting to ratification by vendor. 8 days Chancery Division.
- *Esmail (Abdullah) v Abdullah and Abdulla (2002)*  
Ten day combined High Court Family and Chancery Division property dispute over title to and ownership of family assets allegedly worth £1 million situate in Kenya and England – whether transfers executed by husband in favour of wife made under duress or undue influence based on wife’s threat not to let husband see the children – conflict between interests of wife and her solicitor – proper approach as to beneficial ownership and financial relief by wife.

## Inquiries & Tribunals

1999 – Counsel for passenger group at Southall Rail Accident Inquiry

2000-2001 – Counsel for passenger group at Ladbroke Grove Rail Accident Inquiry

2003-2004 – Chair of Home Office Review of the Selection and Appointments Process of Independent Members of Police Authorities

2019 to date – Counsel for British Standards Institution at Grenfell Tower Inquiry

## Representative Cases

- *In re Barlow Clowes Gilt Managers Ltd [1992] Ch 208*  
Practice – discovery – public interest immunity – use in criminal proceedings of confidential information obtained by liquidators.
- *R v Clowes and Others [1992] 3 All ER 440*  
Witness summons against liquidators – production of documents – information provided to liquidators voluntarily and in confidence – whether public interest in confidentiality outweighing public interest in ensuring that defendants received fair trial.

## What the directories say

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"Kenneth has a completely encyclopaedic knowledge of case law relating to professional disciplinary work."

Even in hotly contested cases, he is courteous and helpful at all times."  
*Legal 500 2021*

"He has a very strong reputation as being somebody who knows all the cases in this area." "He is certainly a tenacious opponent." "He is a walking encyclopedia of professional discipline law."  
*Chambers UK 2021*

"A stalwart fighter."  
*Legal 500 2020*

"Standout practitioner with a breadth of expertise encompassing numerous areas of professional regulation. Known for his adept representation of accountants and barristers as well as his impressive prosecution work on behalf of the General Pharmaceutical Council"  
*Chambers & Partners 2020*

"Very charming and professional, and a prominent senior junior in his area. Excellent knowledge and application of case law to unusual problems. He is well regarded, particularly in High Court work and advice on legislative frameworks".  
*Chambers uk 2020*

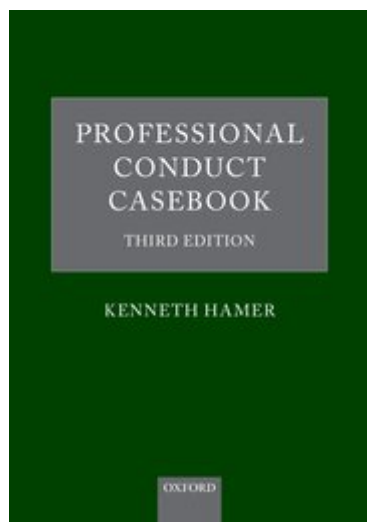
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## Appointments

- Former Recorder of the Crown Court (2000 – 2018), Assistant Recorder (1992 – 2000) sitting in Crime, Civil and Family matters
- Chair of the Appeal Committee of the Chartered Institute of Management Accountants (2006 – 2012)
- Chair of Home Office Review of the Selection and Appointments Process of Independent Members of Police Authorities (2003 – 2004)
- Lecturer, Holborn College of Law (1970 – 1974)
- Accredited Mediator and Fellow of the Chartered Institute of Arbitrators
- Former member of prosecuting panel for Bar Standards Board. Former member of the Disciplinary Tribunal Panel of the Council of the Inns of Court.
- Legally Qualified Chair and Legal Assessor at the General Medical Council (Medical Practitioners Tribunal Service)
- Legal Assessor to the Nursing and Midwifery Council
- Legal Advisor to the General Dental Council
- Joint Editor of the Association of Regulatory and Disciplinary Lawyers (ARDL) Quarterly Bulletin

## Publications

- Professional Conduct Casebook, Oxford University Press, 2013, 2015 (2e) and 2019 (3e)
- The Boundaries of Professional Misconduct in the Legal and Health Care Professions (Lecture to Sidney Sussex College, Cambridge, Published by ARDL 2016)
- The Implications of Bawa-Gaba and the Boundaries of Professional Conduct (Lecture to Royal College of General Practitioners, Published by ARDL 2019)
- Review of the Selection and Appointments Process of Independent Members of Police Authorities (Home Office)
- Security for Costs in European Litigation
- Hinde's How to Prove a Will, 32nd edition



## Memberships

- London Common Law and Commercial Bar Association
- Professional Negligence Bar Association
- Regulatory & Disciplinary Lawyers
- Health & Safety Lawyers' Association

## Education

- Evans Lewis-Thomas Law Award
- Sidney Sussex College, Cambridge
- Cheltenham College

## Awards & Recognitions

