



Richard Mawrey QC

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Richard Mawrey QC

"Authoritative without being overbearing and unquestionably a leading name in consumer credit."

- Legal 500 2016

Call 1964
Silk 1986

Tel: +44 (0)20 7583 9020
Email clerks@hendersonchambers.co.uk

An advocate and legal scholar of over 50 years' experience, Richard Mawrey QC has been in practice at Henderson Chambers since 1965 and undertakes a very wide range of work at the highest levels. Major areas of practice include commercial law, financial services, credit and leasing, the law relating to computers and local authority law (particularly advisory and drafting). Mawrey is the author or specialist editor of several leading practitioner's textbooks and has some 35 years judicial and arbitral experience. Rated as a leading silk in consumer law, IT law and local government by Chambers, the Legal 500 and Legal Experts.

Commercial Arbitration

Acting as arbitrator (either as a sole arbitrator or as part of an arbitral panel). Experience in both commercial/shipping arbitrations and technical (especially IT) arbitrations.

Currently sole arbitrator in an IT arbitration between a government department and a computer services company and one of three arbitrators in what may be the largest ever IT arbitration (again involving a government department and a major hardware and software system supplier).

Electoral Law

England and Wales's senior and most experienced Election Commissioner (Judge).

Computer Legislation

Richard Mawrey is a leading computer specialist silk. He was counsel in *St Albans' DC v ICL* [1996] 4 All ER 481 CA, the leading case on defective computer software. For the last decade, he has advised and litigated in a large number of disputes relating to hardware and software systems on behalf of Government Departments, National Agencies, local authorities, the emergency services, financial institutions, companies in the private sector and hardware and software suppliers. He also advises on the drafting of computer contracts and on the

application of public procurement rules.

Engaged with computer law and litigation since the mid-1980s, he is author of *Computers and the Law* BSP Professional Books (1988) and specialist editor of other practitioners' textbooks. He has acted as arbitrator in computer disputes most recently acting for a leading company organising marketing events, in an arbitration with a software supplier over its failure to install a new management system and portal, some others are listed below.

Representative Cases

- *St Albans City and District Council v International Computers Limited* [1996] 4 All ER 481 (CA)
Computer contract – whether software supply subject to implied terms of reasonable fitness and satisfactory quality – application of Unfair Contract Terms Act 1977 and validity of exemption clauses – measure of damages for breach of contract.
- *Jonathan Wren & Co Ltd v Microdec plc* (1999) 65 Con LR 157
- *Horace Holman Group Ltd v Sherwood International Group*
Judgment on preliminary issue Judge Havery QC 12.4.00: judgment on quantum Judge Bowsher QC 5.10.01.
- *SAM Business Systems Ltd v Hedley & Co* [2002] EWHC 2733
- *Co-operative Group (CWS) Limited v International Computers Limited* [2003] EWHC 1 (TCC) [2003] EWCA Civ 1955 (CA)

Credit, Leasing, Finance & Consumer Law

Richard has been involved in a very wide range of consumer credit work since well before the Consumer Credit Act 1974 was passed.

The Chambers and Partners and the Legal 500 both currently list Richard in the list of leading silks for Consumer Law and Legal Experts lists him in the list of leading silks for Consumer Law.

He has recently advised major banks, building societies, finance companies and other lending institutions on new forms of credit and on the drafting of agreements and other documents as well as on the many problems thrown up by the transfer of credit regulation to the Financial Conduct Authority.

He was a founder specialist editor of *Goode Consumer Credit Law & Practice* and of *Butterworths County Court Precedents and Pleadings* in 1981 (now *Butterworths Civil Court Precedents*), and is currently editor of Section F of BCCP (Business Law) which includes consumer credit, hire-purchase and leasing, sale of goods, bills of exchange etc. He is a specialist editor of *Bullen Leake and Jacob Precedents of Pleadings* 13th to 18th Editions: including the sections on consumer credit, hire-purchase and leasing, sale of goods etc and a specialist editor of *The Encyclopaedia of Banking Law*.

He is the author of the following books:

- Computers and the Law (Blackwells 1988)
- Blackstone's Guide to the Consumer Credit Act 2006 (OUP 2006) (With Toby Riley-Smith of Henderson Chambers)
- Butterworths Commercial and Consumer Law Handbook (Butterworths) (2015) (With Toby Riley-Smith of Henderson Chambers).

Representative Cases

- *Royal Bank of Scotland v Etridge (No 2)* [2002] 2 AC 773
Enforceability of charges on matrimonial homes and profession negligence of financial advisers.
- *Feldarol Foundry plc v Hermes Leasing (London) Ltd* [2004] EWCA Civ 747
Limited company as "consumer" for the purposes of the Unfair Contract Terms Act 1977.
- *Conister Trust Ltd v John Hardman & Co* [2008] EWCA Civ 841
Consumer credit agreements and CFA litigation schemes.
- *Southern Pacific Securities v Walker* [2010] UKSC 32
Meaning of 'credit' and 'charge for credit' under the CCA.

Public, Administrative & Local Government

He has acted for many local authorities including most of the London Boroughs in matters concerning local government finance, competitive tendering and public procurement, planning, traffic control, local authority contracting, and employment. He has advised almost all of the Passenger Transport Executives on issues such as financing of development, land acquisition, competitive tendering and procurement, privatisation, redundancy schemes, bus and airport services. He has particular experience in railway construction, procurement and regulation and represented the Rail Regulator at the Ladbroke Grove Rail Enquiry. His local government experience extends to acting as an Election Commissioner, in which capacity he set aside the election results in several Birmingham City Council wards after finding evidence of postal ballot abuse and fraud in 2005.

He acts as an arbitrator in commercial and IT disputes.

Instructions Include

- Advising a very large number of local authorities on the public procurement aspects of "large scale voluntary transfers" of housing stock by local authorities to dedicated not-for-profit companies.
- Advising a number of local authorities about new and replacement IT contracts and the extent to which they need to comply with EU procurement rules.
- Advising PTEs on the procurement issues arising in a variety of projects such as extensions to tramway systems, contracts for bus shelters, advertising hoardings etc.
- Advising a consortium of local authorities on the procurement aspects of participating in a scheme to replace a ferry service.

Richard has advised local authorities and PTEs on the following:

- All aspects of public procurement – works, supplies, services and utilities.
- Land acquisition and disposal: planning gain
- Transport contracts – building and running urban rail systems – contracts with national rail services – track and signalling upgrades – station construction – road and bridge construction – vehicle acquisition and maintenance – provision of interchange facilities
- IT contracts, both acquisition of IT and litigating contractual disputes.
- Contracts by emergency services (police and fire services).
- Contracts for privatisation of local authority services (e.g. road cleaning, maintenance of parks and open spaces etc)
- Employment contracts – redundancy provisions – transfer of undertakings.
- Advertising contracts – bus shelters and hoardings

Representative Cases

- *Re Representation of the People Act 1983*
Re Mayoral Election for the London Borough of Tower Hamlets held on 22 May 2014 sub nom Erlam & Others v Rahman & Another [2015] EWHC 1215 (QB).
- *Ali v Bashir and another [2013] EWHC 2572 (QB)*
- *Delaware Mansions Ltd v Westminster City Council [2002] 1 AC 321 (HL)*
Local authority environmental issues – nuisance by encroachment of tree roots – title to sue for continuing nuisance.
- *R v DETR, ex p. South Yorkshire PTE (1998) DC*
Sheffield Supertram – challenging Government’s refusal to honour promises to make up construction costs shortfall.
- *R v London Boroughs Transport Committee ex parte Freight Transport Association Ltd and Others Times Law Reports 4th October 1990 (CA)*
Local authority – goods vehicle licensing conditions – judicial review.
- *Sevenoaks District Council v Pattullo & Vinson Ltd [1984] Ch 211 (CA)*
Local authority – right of market – whether markets can be split territorially or by category of goods.
- *Enfield London Borough Council v Mahoney [1983] 1 WLR 749 (CA)*
Contempt of court – committal order – civil contempt (the Glastonbury Cross case).

Company, Commercial & Insolvency Law

All kinds of contract work, company law, insurance law and shipping (both litigation and arbitration); and the drafting of commercial agreements.

Representative Cases

- *Moloobhoy v Kanani* [2013] EWCA Civ 600
Interplay between challenge to the jurisdiction and right to summary judgment.
- *Balmoral Group Ltd v Borealis (UK) Ltd* [2006] EWHC (Comm) 1900
Application of the Unfair Contract Terms Act in international sale.
- *Feldaroll Foundry plc v Hermes Leasing (London) Limited* [2004] EWCA Civ 747
Whether a company can deal as “consumer” for the purposes of the Unfair Contract Terms Act 1977.
- *Royal Bank of Scotland v Etridge (No 2)* [2002] 2 AC 773
Mortgage enforcement – presumption and constructive notice of undue influence – husband and wife – bank charge over matrimonial home – wife receiving legal advice before entering into transaction - principles to be applied in determining whether provision of legal advice rebuts presumption of undue influence and whether bank put on inquiry to ascertain whether wife acted under husband’s undue influence.
- *Cripps v Heritage Distribution Corporation and Others* (1999) 143 Sol Jo LB 263 (CA)
Security for costs – foreign claimant.
- *Layher Ltd v Lowe and Others* Times Law Reports 8th January 1997 (CA)
Insurance – underwriters repudiating liability – whether notice of claim given timeously by insured.
- *Elliott v Wheeldon* [1993] BCLC 53 (CA)
Company – joint venture – duty of good faith.
- *Armagas Ltd v Mundogas SA (The Ocean Frost)* [1986] AC 717
Agency – ostensible authority – bribery – foreign law of tort.
- *The Helene Roth* [1980] QB 273 (Sheen J)
Admiralty – practice – writs in rem.

What the directories say

"A first-class barrister, with quality work of the highest level."
Legal 500 2021

"Commercial and practical – and very user-friendly."
Legal 500 2021

"He is one of the most pragmatic and commercial advisers out there."
Chambers UK 2021

"If I have a really knotty point, he's the first person I would ask."
Chambers UK 2021

"He has consummate knowledge of the law and the application of it."
Legal 500 2020

"Among the best barristers you'll work with."
Legal 500 2020

"An excellent silk."
Legal 500 2020

"Richard has unrivalled experience and delivers precise yet commercial advice with characteristic gravitas."
Chambers UK 2020

Appointments

- Hon DL (Buckingham)
- Deputy HCJ (1995)
- Election Commissioner (1994)
- Queen's Counsel (1986)
- Recorder (1981)
- Chairman, Appeal Committee, Institute of Chartered Accountants of England and Wales
- Chairman, Appeal Committee, Insolvency Practitioners Association

Publications

- Author of *Computers and the Law*
- *Blackstones Guide to the Consumer Credit Act 2006*
- Editor of *Butterworths Commercial and Consumer Law Handbook* 5th to 7th Editions
- Specialist Editor of *Goode: Consumer Credit Law and Practice*; *Butterworths County Court Precedents and Pleadings*; *Bullen, Leake and Jacob's Precedents of Pleadings* 13th to 17th Editions
- *Butterworths Civil Court Precedents*
- *Atkins Court Forms*
- Editor of the consumer credit section of the *Encyclopaedia of Banking Law*

Memberships

- LCLBA
- PEBA
- TECBAR

- South East Circuit

Education

- Hon DL (Buckingham)
- MA (Hons) First Class, Oxford
- Eldon Law Scholar, Oxford (1964)
- Albion Richardson Scholar, Gray's Inn (1964)

Awards & Recognitions

