



Toby Riley-Smith KC

"Toby is one of those extraordinary talents: he works hard, is good with clients, and collaborative and collegiate in his approach. He has a superb way of interacting with clients; he's better than anyone I know on paper and the best I've seen in court."

- Chambers UK 2023

Call 1995
Silk 2016

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

Toby Riley-Smith K.C. specialises in consumer law, product liability, group litigation, health & safety, inquests/inquiries, consumer finance and environmental law. He is recommended as a leading silk in each of these areas by Chambers UK, Legal 500 and/or international directories. He was short-listed for *Health & Safety Silk of the Year* at the Chambers UK Bar Awards 2021 and for *Group Litigation and Consumer Silk of the Year* at the Legal 500 Bar Awards 2023.

In consumer law, *"Toby is exceptional – he has literally written the book on consumer law"* (Chambers UK 2023). He is a *'First-class practitioner, he has become the benchmark to measure all other barristers and he beats them consistently'* (Legal 500 2021), a *"superb advocate who engages with the court."* (Legal 500 2023) and *"Toby is super approachable. He's great."* (Chambers UK 2024). He is Standing Counsel (Consumer Law) to the Competition and Markets Authority. Toby's appearance in the Court of Appeal in *Cooper v The Freedom Travel Group Ltd* [2023] 1 WLR 663 was live-streamed: you can watch the archived video feed [here](#).

In product liability, Toby has been lauded over the years as a *"product liability star"* (Legal 500 2013), *"go to counsel for product claims"* (Legal 500 2016), and as someone who *"shines thanks to his unsurpassed knowledge in the area"* (Who's Who Legal – Product Liability Defence 2019). *"He's incredibly hard-working and really gets it right"* (Chambers UK 2021). He has *'Great tactical acumen and sound commercial advice coupled with a strong and persuasive advocacy style.'* (Legal 500 2023). *"Toby is able to get to grips with complex technical aspects of cases"* and *"quickly establishes rapport with experts"* (Chambers UK 2023). *"He really understands what the client needs and is incredibly good at dealing with delicate situations."* (Chambers UK 2024). *"Toby is an absolute delight to work with even if he is on the other side. Annoyingly for his opponents, he charms judges and drives a hard bargain."* (Legal 500 2024)

In group litigation, he *has acted* in many of the most significant group actions of the last three decades, including The Tobacco Litigation, The MMR Vaccine Litigation, The PIP Breast Implant Litigation, The Bodo Oil Pipeline Litigation, The Corin Metal-on-Metal Hip Litigation, The Vaginal Mesh Litigation and The Essure Litigation. *"His preparation is impeccable and his court style very polished."* (Legal 500 2023). *"Toby has a wealth of group litigation experience and is an absolute delight to work with"* (Chambers UK 2023). He is *"Amazingly knowledgeable, approachable and supportive and a master strategist in public inquiry and contested GLO matters"* (Chambers UK 2024). *"He is thoughtful and meticulous."* (Legal 500 2024).

In health and safety cases, he is said to be *"an extraordinary talent. He works hard and is good with clients"* (Chambers UK 2023). Before taking silk, Toby was said to be *"probably the best junior around for commercial clients in the crossover of health and safety, product liability and consumer law"* (Chambers UK 2016). In silk: *"He*

sees straight to the heart of an issue and makes sense of it” (Chambers UK 2023). ‘His impeccable output – whether that is his work on paper, or his superb and incredibly careful advocacy – is the ultimate reflection of the incredibly hard graft he puts in’ (Legal 500 2023). “His mind works incredibly quickly and he is brilliant at developing case strategy from the outset.” (Chambers UK 2024).

In inquests/public inquiries, “Toby is one of those extraordinary talents: he works hard, is good with clients, and collaborative and collegiate in his approach. He has a superb way of interacting with clients; he’s better than anyone I know on paper and the best I’ve seen in court” (Chambers UK 2023). He is a “very good team player when there are multiple defendants, and very good at coordinating all the different barristers involved. He goes above and beyond.” (Legal 500 2021). “Toby is always thinking strategically – he is four steps ahead.” (Chambers UK 2024). “Toby is a superb advocate who reassures the tribunal that they are in the safest of hands; he has a first class brain and wonderful manner” (Legal 500 2024).

In environmental cases, he is acknowledged as “an expert in post-disaster litigation” (Chambers UK). “He has a peerless mind and an incredible way of calming and reassuring clients” (Chambers UK 2021). “He is very responsive, always accessible, easy to work with and get on with. He’s all the things you want from a barrister – the whole package” (Chambers UK 2023). ‘One the joint best of the senior barristers for regulatory crime, he is a quiet, careful, thoroughly prepared and destructive cross-examiner’ (Legal 500 2023).

For more information about the way barristers at Henderson Chambers work, including our terms of engagement, fee transparency statement and our complaints process, [please click here](#). Barristers are regulated by the Bar Standards Board.

[Please click here](#) for a copy of Toby Riley-Smith’s privacy policy.

Consumer Law (including Banking, Consumer Credit & Consumer Finance)

Toby is a leading specialist in Consumer Law. He has particular expertise in the consumer protection regimes regulating both consumer finance and consumer products. In 2021 he was appointed Standing Counsel (Consumer Law) to the Competition and Markets Authority.

He is ranked as a leading silk in this field by both the Legal 500 2021 (“First-class practitioner, he has become the benchmark to measure all other barristers and he beats them consistently”) and Chambers UK 2021 (“He is a technically brilliant and experienced counsel”).

His consumer credit expertise has led to his ranking by Legal 500 2021 as a leading silk in Banking and Finance (“Strong attention to detail, impressive advocacy skills, and expert in the area of consumer credit”) and Financial Services (“Highly intelligent and very hard-working, and good at getting to the core of a case without being distracted by peripherals”).

He has published extensively in this field. For many years was a contributing editor of *Goode: Consumer Credit*

Law and Practice. He is the co-author of the *Blackstone's Guide to the Consumer Credit Act 2006*. He has been a co-editor of *Butterworths' Commercial and Consumer Law Handbook* since 2009.

He is an Honorary Fellow of the CICM.

Consumer group actions

Toby has advised and/or acted in consumer-driven group litigation arising out of the financial products including:

- groups of shareholders against executives accused of publishing misleading financial information.
- mortgage mis-selling claims.
- consumer claims against banks arising out of alleged non-compliance with consumer credit legislation, including the leading case of *Sternlight v Barclays Bank*.
- groups of claims following failed traded endowment policies (TEP) investment schemes.
- claims against estate agents.
- a group of claims against second-hand car vendors.

He recently led *Lia Moses* in a test-case (*Hodgson v Creation Finance Limited* [2021] EWHC 2167) that determined the approach to be taken in low-value claims against finance companies under section 75 arising from a supplier's misrepresentation in relation to solar panels.

Consumer Credit claims

He has great experience of litigation involving consumer credit agreements – including those involving:

- Non-compliance with ss 60 – 64 of the CCA 1974
- Non-compliance with ss 77 – 78 of the CCA 1974
- Unfair relationships / extortionate credit bargains
- PPI mis-selling
- Professional negligence claims arising out of the drafting of non-compliant contractual documentation
- Claims against finance companies under section 75 – including the recent case of *Cooper v Freedom Travel Group & another* (2021, unreported, HHJ Simpkins) in which he resisted a travel claim by debtor's family member under the section

Consumer Credit – licensing/authorisation

He acted successfully for the OFT in one of the last licensing appeals to the First-Tier Tribunal under the old regime.

Consumer Protection

As Standing Counsel to the CMA, he is involved in enforcement action under Part 8 of the Enterprise Act 2002.

He has significant experience of the civil and criminal aspects of the regime introduced by the Consumer Protection Act 1987 and its subordinate legislation: for more details please see “Product Liability” below.

Financed goods

He is regularly instructed in commercial litigation arising out of goods subject to finance. Recent instructions include:

- Claims against banks for defective manufacturing machinery under hire purchase agreements
- Claims arising out of hiring of photocopiers
- Claims for the recovery of goods owned by finance house
- Disputes over title to cars subject to stocking agreements

Secret Commission Claims

He has experience of individual (and groups of) secret commission claims made against banks, asset finance companies and others.

Representative Cases

- *Smith v 1st Credit (Finance) Ltd and another* – [2012] All ER (D) 134 (Sep)
Bankruptcy – Annulment – Appeal – Consumer Credit Act 1974, s 82A.
- *Sternlight v Barclays Bank & Other Cases* - [2010] All ER (D) 33 (Dec): [2010] EWHC 1865
Consumer credit test cases – Form and content of agreement – Whether interest rate misstated and agreements “irredeemably unenforceable”.
- *Conister Trust Limited v John Hardman & another* [2008] EWCA Civ 841
Consumer Credit – unenforceable agreements – whether there was a liability sufficient to bind a third party indemnitor.
- *Hodgson v Creation Finance Limited* [2021] EWHC 2167
test case for low-value claims against finance companies under sections 56/75 arising out of supplier’s misrepresentation in relation to solar panels
- *Cooper v Freedom Travel Group & another* (unreported, 02 September 2021, HHJ Simpkins)
the wife of cardholder not permitted to bring a claim against creditor under section 75

Product Liability

Toby is a leading product liability silk. According to recent legal directories, “*He shines thanks to his unsurpassed knowledge in the area*” (Who’s Who Legal ~ Product Liability Defence). He is “*user-friendly and easy to approach, he undertakes cases with professional and courteous attitude*” and “*he is always charming and brilliant with judges*” (Chambers UK). Before taking silk, he was recognised as a “*product liability star*” (Legal 500) and “*one of the strongest juniors at the Bar*” in the field (Chambers UK).

He has great experience of the legal processes involving product manufacturers/suppliers can become involved – whether personal injury/fatal accident claims, commercial claims, trading standards prosecutions, public inquiries or inquests. He acts in cross-border disputes and regularly deals with the jurisdictional issues

that arise in product claims.

He has experience of a wide range of products including consumer goods, cosmetics, electrical appliances, food, industrial machinery, medical devices, medicines, motor vehicles, pharmaceuticals, trains and white goods. Recent clients have included American Medical Systems, Bayer, Boston Scientific, Corin, Electrium, Ikea, Implantcast, L'Oreal, Medtronic, Merck, Siemens, Sony and Whirlpool.

Group Actions

He has particular experience of complex multi-party litigation, having acted in some of the most significant group actions and mass tort claims in recent times:

- *The Tobacco Litigation*: From 1996 to 1999 he was one of the team of counsel instructed by Imperial Tobacco Limited in its successful defence of claims brought by a group of smokers suffering from lung cancer.
- *The MMR/MR Vaccine Litigation*: From 1999 to 2007 he was junior counsel to Merck & Co Inc, a manufacturer of the MMR vaccine. The claims of 1,000 autistic children were defeated in one of the largest UK product liability group actions.
- *The ABG Hip Prosthesis Litigation*: he acted for Pfizer in a group of claims brought under the Consumer Protection Act 1987 following the early revision of hip prostheses.
- *The PIP Hydrogel Breast Implants Litigation*: instructed by one of the clinics which implanted breast implants in the hydrogel group litigation.
- *The Bomu-Bonny (Bodo) Oil Pipeline Litigation*: acted for Shell in thousands of claims brought by fisher folk following leaks from oil pipeline in the Niger Delta.
- *The Corin Metal-on-Metal Hip Litigation*: he acted for a manufacturer (Corin Limited) of hip implants facing hundreds of claims by patients.
- *The POP / SUI Product Litigation*: he is acting for a manufacturer of pelvic organ prolapse products

He is currently instructed by manufacturers or suppliers facing group litigation in relation to cardiac defibrillators, combine harvesters, contraceptive devices, dishwashers, fridge-freezers, traded endowment policies and tumble dryers.

Unitary claims

Consumer goods

He regularly acts in cases following injury caused by consumer goods. Recent instructions have involved the following products:

- Cosmetics: personal injury claims against the manufacturer of aftershave
- Dishwashers: commercial claims, fatal accident claims, and inquests following domestic fires.
- Hair dye: various claims and inquests following adverse reactions to home hair colourants.
- Heaters: claim for catastrophic personal injuries to children following a domestic house fire.
- Fireworks: claims following injury caused by defective fireworks.
- Furniture: claim against an international furniture manufacturer in relation to a flat-pack bed.
- Miniature circuit breakers: inquest and litigation following a house fire caused by recalled MCBs.
- Laptops: personal injury and property damage claims following domestic fires.
- Pressure cooker: personal injury caused by an exploding device.

- Tumble-dryers: fatal accident claims following domestic fires.
- Washing machines: fatal accident claims following domestic fires.

Commercial claims

He has been instructed in many commercial “chain-of-contract” and insurance claims involving defective products, such as:

- Agricultural machinery: claims against the manufacturer following fires in combine harvesters.
- Animal feed: acted for the country’s largest animal foodstuff manufacturer in a commercial claim related to contaminated chicken feed.
- Bio-fuel: claim against supplier of allegedly contaminated bio-fuel or recycled “soup” to industry.
- Car park decking systems: a commercial recovery action following the failure of a car park surface.
- Chinaware: acted for a company that bought hundreds of thousands of defective mugs for a promotional campaign in its recovery action against the manufacturer.
- Electrical products: claims by insurers and others arising out of electrical fires at commercial premises that are blamed on defective products (light fittings, electrical capacitors and commercial fryers).
- Electrical generators: recovery action by insurers following a fire at commercial premises in the City of London caused by defective generator.
- Highway maintenance: acting in commercial claims brought by the highways authorities against insured drivers involved in accidents that require highway repair.
- Industrial machinery: various sale of goods cases arising from the supply of equipment such as industrial plant, grinding machines, potato-harvesters and baling machines.
- Petrol Contamination: acted for one of the producers of the contaminated petrol supplied to thousands of supermarket customers in the spring of 2007. The multi-party commercial dispute that has followed – involving many of the major supermarkets – was both high-value and high-profile.
- Pipework: acted in claim that involved the flooding of a factory as the result of defective pipes.
- Polymers: acted for Korean manufacturer of industrial polymer implicated in a factory explosion.
- Polyethylene sheets: acted for the manufacturer of polyethylene sheets used to wrap animal foodstuffs.
- Toilet blocks: commercial claim by a manufacturer which had bought defective machinery.
- Trains: acted for a passenger injured in the Ladbroke Grove Rail Crash at all stages up to the House of Lords.
- Trains: double fatality and subsequent high court commercial litigation on behalf of German Locomotive Manufacturer following explosion of locomotive whilst working in the Channel Tunnel rail link.
- Yachts: claim in relation to a defective luxury yacht.

Food and drink

He has been instructed in cases involving contaminated food, including:

- Cheese: claims arising out of the sale of metal-contaminated cheese by supermarkets.
- Dye (Sudan Red): acted for a major supplier and manufacturer in the food sector on the possible liabilities arising from the supply of products contaminated with illegal food dye.
- Eggs (Salmonella): defended a group of claims following a mass-poisoning at a lunch hosted by one of London’s grandest hotels.
- Horse Meat: advised in claims against Spanish producers arising out of the sale of pork products allegedly contaminated with horse-meat.
- Ready meals: acted for the manufacturer of ready meals contaminated by metal.

- Rice: acted for the Japanese manufacturer of retortable packaging that was said to have caused widespread contamination of packets of microwaveable rice.

He has advised on the application of the food labelling regulations and directives, in particular in relation to genetically modified food.

Medical devices / pharmaceutical products

He is regularly involved in personal injury claims following the use of medical devices or pharmaceutical products, often brought under the *Consumer Protection Act 1987*. Recent cases have involved the following products:

- Contact lenses: acted for the manufacturers of contact lenses.
- Contraceptives: unitary claim involving an implantable contraceptive device
- Cosmetic implants: acted for the manufacturer of cosmetic lip fillers / implants in a claim brought by a Swedish model against both his client and the cosmetic surgeons.
- Enteral feeding devices: represented the manufacturer of feeding devices at an inquest.
- Flow diverter stents: acting for the manufacturer in a high-value claim following treatment for large brain aneurysms with an embolisation device
- Implantable Cardiac Defibrillators (ICDs): acted for the manufacturers of the devices, and those who manufacture leads, in inquests and subsequent litigation arising out of the supply of such devices and leads.
- Insulin (pumps): represented various manufacturers of automated insulin pumps at inquests.
- Insulin (pre-filled syringes): appeared at an Inquest, and in subsequent criminal and civil proceedings, for the manufacturer of pre-filled insulin syringes implicated in the death of a diabetic.
- Haemostatic blood clotting agent: acted for the manufacturer at an Inquest following a patient's death during an operation.
- Hip prostheses: acted in various unitary claims arising out of defective prostheses, whether metal-on-polyethylene or metal-on-metal.
- Hypertension medication: acted for the manufacturer in a claim brought in relation to a generic medicine causing psoriasis.
- Knee prostheses: unitary claim arising out of fractured knee prosthesis.
- Parkinson's Disease Medication (Dopamine agonist): defended various claims against various manufacturers that alleged that a dopamine-agonist caused a gambling addiction.
- Rheumatoid arthritis medication: represented a global pharmaceutical company at an inquest whose clinical trial ended in the death of the patient.
- Surgical screws: acted for the manufacturer in personal injury litigation.
- Transcatheter Aortic Valve Implantation (TAVI): he acted for the manufacturer of a medical device in various litigation.
- Vaccines: he acted for the manufacturer of vaccines in various unitary and group *claims*.

Military hardware

- Mortar: led by Jonathan Harvey, he obtained record damages against MOD for the dependants of an SAS sergeant killed in a "friendly-fire" incident in the Gulf.
- Helicopter: he acted for the Ministry of Defence in a claim by a pilot following a helicopter crash.

Playground equipment

- Traditional swings: he acted for a defendant who successfully resisted a personal injury claim involving allegedly defective swings at the Duxford Air Field.
- Cantilever swings: he successfully defended at trial the manufacturer of a cantilever swing in Liverpool that was alleged to have been defective and caused injury.
- Leisure slides: he acted for the owner of the UK's longest play slide in claims against the seller/manufacturer following a series of injuries to customers.

Vehicles

- Cars: acted for manufacturers in claims involving defective cars and vans.
- Highways Act Claims: he is acting in various commercial claims by the Highways Agency against owners of vehicles that have caused damage to the highway.

Cross-border / Jurisdictional Challenges

He provides advice and acts in cross-border disputes and challenges to the jurisdiction of the English Courts. Cases have included claims involving alleged assaults / torture in Peru, nuisance in Nigeria and products manufactured / sold in Korea, China and India.

Product recall

He provides product liability and product safety advice to manufacturers and suppliers on when and how to manage a product recall.

Product safety and labelling

He advises on the product safety and labelling regulations and acts for businesses in regulatory prosecutions.

Trading Standards enforcement action

He acts for businesses and individuals prosecuted for offences under various trading legislation including the Trade Descriptions Act and the Consumer Protection Act. Recent instructions have included:

- Chinese electrical goods: he recently advised a Chinese importer on threatened enforcement action under the General Product Safety Regulations in relation to electrical products.
- Tumble dryers: he acted for Whirlpool in challenging enforcement action taken by trading standards authority in the aftermath of a fire in a tower block in Shepherds Bush that was said to have been caused by a defective tumble dryer; and in the judicial review of the enforcement authority's conduct by the Consumers' Association.

Representative Cases

- *Shaw (Personal Representative of the Estate of William Ewan, Deceased) v Medtronic Corevalve LLC & 4 others [2017] EWHC 1646 (Lavender J)*
Basis of assessment – costs of successful defendant.

- *Shaw (Personal Representative of the Estate of William Ewan, Deceased) v Medtronic Corevalve LLC & 4 others* [2017] EWHC 1397 (Lavender J)
Dismissal of application to amend particulars of claim – summary judgment – application to disapply QOCS.
- *Shaw (Personal Representative of the Estate of William Ewan, Deceased) v Medtronic Corevalve LLC & 4 others* [2017] EWHC (Lavender J)
Permitted challenge to jurisdiction and struck out claims under CPR 3.4.
- *The Corin Metal-on-Metal Hip Litigation (Hickinbottom J)*
Various case management conferences in group litigation (2015-2017).
- *The PIP Hydrogel Breast Implants Litigation (Thirlwall J)*
Two case management conferences in group litigation (2014).
- *Bodo Community & Others v Shell Petroleum Development Company of Nigeria Ltd* [2014] EWHC 217 (Akenhead J, TCC)
Costs – Order for costs – Preliminary issue – Proceedings arising from oil spillages in Nigeria – Defendant company admitting liability for spillages – Court determining preliminary issues – Appropriate order for costs.
- *Bodo Community & Others v Shell Petroleum Company of Nigeria Ltd* [2014] EWHC 1973 (Akenhead J, TCC)
Preliminary issues of Nigerian Law – ouster of common law by statutory scheme – measure of loss – public nuisance – jurisdiction.
- *Guerrero & others v Monterrico Metals Plc; Caucha & another v Monterrico Metals Plc & another* [2010] EWHC 3228 (Tugendhat J)
Group Action – Master giving permission to claimants to amend their particulars of claim for second time – Whether master erring.
- *Guerrero and others v Monterrico Metals plc; Caucha and another v Monterrico Metals plc and another* [2010] All ER (D) 181 (Tugendhat J)
Group actions – practice on amendment and case management.
- *Gray v Thames Trains* [2009] UKHL 33
The leading House of Lords case on the tortious defence of ex turpi causa.
- *Re MMR & MR Vaccine Litigation Sayers & others v Smithkline Beecham Plc & others* - [2007] All ER (D) 67 (Jun) (Keith J)
Practice – Civil litigation – Case management – Group litigation – Whether appropriate to end status of litigation as group litigation.
- *Re MMR & MR Vaccine Litigation Sayers & others v Smithkline Beecham Plc & others* - [2007] All ER (D) 30 (Jun) (Keith J)
Court document – Respondent seeking to obtain copy of court document – Whether production of document in interests of justice – Whether production leading to breach of data protection legislation – Whether production leading to breach of human rights.

- *Re MMR & MR Vaccine Litigation Sayers & others v Smithkline Beecham Plc & others* - [2006] All ER (D) 442 (Jul) (Keith J)
Group action – Case management.
- *Viasystems (Tyneside) Limited v Thermal Transfer (Northern) Limited* [2005] EWCA Civ 1151 (CA)
Whether a labour-only employer and a temporary employer may be vicariously liable for tort of employee – authority for joint vicarious liability.
- *Re MMR & MR Vaccine Litigation (No 10) Sayers & others v Smithkline Beecham Plc & others* - [2004] All ER (D) 67 (Apr) (Keith J)
Disclosure of documents – Request to court of member state – Inspection of premises in member state – Appropriateness of making request – Council Regulation (EC) 1206/2001.
- *Re MMR & MR Vaccine Litigation (No 9) Sayers & others v Smith Kline Beecham Plc & others* - [2003] All ER (D) 112 (Sep) (Keith J)
Group action – Case management conference – Effect on temporary withdrawal of funding on trial timetable.
- *Re MMR & MR Vaccine Litigation (No 4)* - [2002] All ER (D) 143 (Jun) (Keith J)
Group action – Questions to expert – Expert preparing report for purpose of application for summary judgment – Application withdrawn – Party seeking order requiring experts to answer questions regarding report – Whether order to be granted – CPR Pt 35.
- *Khan v Abbey Life Assurance Company Limited* [2001] All ER (D) 389
Insurance – allegations of fraud – whether claim exaggerated – whether material to cover proceedings in Chambers – costs in conditional fee cases.
- *Re MMR & MR Vaccine Litigation (No 3)* [2001] All ER (D) 293 (Bell J)
Group action – case management – Claimant seeking to amend Particulars of Claim – where the Claimant required to prove possible causation.
- *Re MMR & MR Vaccine Litigation* [2000] All ER (D) 1665
Pre-emptive costs-sharing order in group actions – whether judge entitled to impose costs-sharing order between claimants in a non-agreed form.
- *Hodgson v Imperial Tobacco Limited* [1998] 2 All ER 673 (CA)
Hearings in chambers – CFAs.
- *Hobin v Douglas* [1998] All ER (D) 683(CA)
Costs appeal in personal injury claim.
- *Hobin v Douglas*, 3/12/1998, *Times*, December 29, 1998 (CA)
Quantum of damages in personal injury claim.

Health & Safety

Toby is recognised by both the Legal 500 and Chambers UK as a leading health & safety Silk. He is “*A first-class advocate: steely, effective, and charming*” (Legal 500 2021).

Before taking Silk, Toby was lauded as “*probably the best junior around for commercial clients in the crossover of health and safety, product liability and consumer law*” (Chambers UK 2016). He has recently been short-listed for *Health & Safety Silk of the Year* at the Chambers UK Bar Awards 2021.

His previous experience includes the high-profile litigation that followed the Ladbroke Grove Train Crash, the Buncefield Refinery Explosion, the Bodo Oil Spill, the Hednesford Train Crash, the Shepherd’s Bush Tower Fire, the Grenfell Tower Fire and the terrorist attack on the In Amenas Gas Facility in Algeria.

He has represented clients from a wide variety of sectors including construction, energy, food/drink, government, healthcare, industrial, leisure, life sciences, oil/gas, ports, prisons, railways, retail, schools and waterways. He has particular expertise acting for Very Large Organisations.

He recently led the team representing the Welsh Government at the high-profile conjoined inquests into the deaths of six residents at the Brithdir Care Home in New Tredegar.

Other clients have included: Associated British Ports, Bakkavor Foods, Berkeley Homes, BP, The Scout Association and Tesco.

His other experience includes:

Construction

- An inquest following a fall from a mobile elevated working platform near Bristol (acting for the manufacturer).
- An inquest into the death of a motorist at a new roundabout (acting for a construction company).
- A prosecution following the collapse of the roof structure of a school in Telford and the injury of a number of workers (acting for the construction company in both the Magistrates and the Crown Courts).
- A prosecution of a parochial church council following a serious injury in the course of the construction project in a parish church (acting for the Parish).
- A fatal fall at the Thames Tunnel (acting for the principal contractor at the Maidstone Crown Court).
- A prosecution following a non-fatal accident near a construction site on a landmark residential development in the centre of London (acting for the developer in prosecution by HSE)
- A fatal fall from scaffolding in Sheffield (acting for the one-man company before the Sheffield Crown Court)
- A prosecution following injury to a passer-by hit by cladding (acting for the sub-contractor company in the Magistrates)
- A double fatality in the course of the construction of the Channel Tunnel Rail Link (acting for the German manufacturer of the locomotive in the Inquest and subsequent high court commercial litigation).
- A carbon-monoxide poisoning incident following the installation of a conservatory (acting for the company before the Magistrates).

- A fatal accident in the course of construction work at a riding stables (acting for the defendant company before the Canterbury Crown Court)

Energy

- A fatal accident at work (acting for an energy company before the Coroner).

Food and Drink

- A fatal accident at a food processing plant in Wigan (acting for the employer).

Government

- A Crown Censure following the death of a driver at a weapons depot (acting for the Ministry of Defence).
- A claim against a local authority arising out of the infection of a heating system with Legionella.
- A fatal accident claim by widower of a court manager who died from septicaemia following an insect bite (acting for Ministry of Justice).
- A fatal friendly-fire incident in the Middle East (acting for the deceased's soldier's family at the Inquest, and in the subsequent civil proceedings against MoD).
- A fatal accident, and non-fatal injury, to journalists reporting on the conflict in Iraq (acting for the employer).

Healthcare

- An inquest into the death of a student from meningitis following a delay in ambulance arrival (acting for the doctor advising the call-handler).
- An inquest following a rare but known reaction to clozapine (acting for the monitoring service).
- An inquest into the death of a patient whilst in respite care near Worcester (acting for the care provider).
- An inquest into the death of a dementia patient at a residential care home in Brighton (acting for the home).
- An inquest into the suicide of a young out-patient with mental disabilities in North London (acting for his carers).
- An inquest following a death in a nursing home in Lincoln (acting for the manufacturer of a relevant medical device).
- An inquest into the death of an elderly tenant in a sheltered housing scheme in Tamworth (acting for the landlord).
- A fatal fire at a residential care home in Hertfordshire (acting for the care home before the Coroner).
- An accident at a residential care home that led to the prosecution of an Order of Nuns (acting for the religious before the Magistrates).

Industrial

- A challenge to the HSE's claim for fees-for-intervention following a COMAH incident in North Yorkshire (acting for the company).
- A commercial claim against a supplier following personal injury claims paid by an employer following an explosion at a plastics factory in Northumberland (acting for the supplier).

- A prosecution following the explosion of the compressed air cylinder (acting for the manufacturer).
- An inquest into an electrocution at work (acting for the site manager).
- An inquest following a fatal accident at a warehouse in Corby (acting for the employer).
- A fatal fire at a potato factory in Cambridgeshire (acting for the owner before the Coroner).

Leisure

- A series of personal injury claims by users of the UK's longest play slide (acting for the slide owner).
- A personal injury claim involving allegedly defective swings at the Duxford Air Field.
- A personal injury claim by a child who had used a cantilever swing in a public park in Liverpool.
- An inquest into the death of an explorer scout (acting for The Scout Association).

Oil and Gas

- A prosecution following an explosion at a gas terminal and COMAH site in Norfolk (acting for a petro-chemical company in the Norwich Crown Court).
- A prosecution following a death on an oil platform in the North Sea (acting for a petro-chemical company in the Norwich Crown Court).
- The civil claims brought against a number of companies in the BP Group arising from the terrorist attack on the In Amenas Gas Facility in Algeria.

Ports

- A death of a member of the public at the docks in Port Neath (acting for Associated British Ports).
- A fatal accident to a security guard at the Port of Immingham (acting for the port owner at both the inquest and the subsequent sentencing hearing in the Crown Court).
- A non-fatal accident at the Port of Ipswich (acting for the port owner at the sentencing hearing in the magistrates court).
- A fatal accident at the Port of Ipswich (acting for the port owner).
- A fatal accident in the hold of a container ship at Grimsby Docks (acting for the employer).
- An inquest into a fatal accident following a tyre explosion at Ipswich Docks (acting for the port owner).
- A fatal fall at Ipswich Docks (acting for the port owner at the Ipswich Crown Court).
- An inquest following a death whilst unloading the hold of a ship (acting for the port owner.)

Prisons

- A series of civil claims against a prison by those prison officers who allege that they contracted TB from a prisoner (acting for HM Prison Service).
- An inquest into the death of a prisoner whilst in custody (acting for HM Prison Service).

Railways

- A double fatality on the railway at Hednesford (acting for a major rail infrastructure company in the Magistrates Court, Stafford Crown Court and Criminal Division of the Court of Appeal).

Retail premises

- An inquest following the death of a customer in a supermarket in Buckinghamshire (acting for the

retailer).

Schools

- An inquest into a pupil's death at an independent school (acting for the Governors).

Waterways

- A fatal accident during a diving operation at a freshwater lock on the River Severn (acting for British Waterways before the Coroner, in the Bristol Crown Court and in the civil claim).
- An inquest into a drowning at a leisure park in the Cotswolds (acting for the Park).

Representative Cases

- *R v Associated British Ports, ICTS and DFDS Seaways (Hull Crown Court, 2018)*
- *R v Bakkavor Foods Limited (Manchester Crown Court) (2017)*
- *Bolle Transport BV v Secretary of State for the Home Department [2016] EWCA Civ 783 (CA): Carriers' liability*
Clandestine entrants into United Kingdom.
- *ICS Car Srl & Another v Secretary of State for the Home Department [2016] EWCA Civ 394*
Afghan nationals discovered in trailer -Secretary of State imposing civil penalties on appellants – scope of statutory defence.
- *R v Fresenius Kabi Limited (Sheffield Crown Court) (2016)*
- *Levene v MOJ (2015)*
Claim for damages by employee of court service.
- *Hamilton v MoD (2014)*
Claim for damages following helicopter crash.
- *R v Merley Paper Converters (Northampton Crown Court) (2013)*
- *Grosvenor Chemical Ltd v Health & Safety Executive [2013] EWHC 999*
Judicial review of HSE's fees for intervention.
- *R v Shell UK Limited (Bacton Gas Explosion) (Norwich Crown Court) (2011)*
- *R v Ling Metals (Canterbury Crown Court) (2010)*
- *R v Network Rail Infrastructure Limited [2010] EWCA Crim 1225*
Sentence – level of fine in health and safety prosecution – whether fine of £666,667 manifestly excessive.
- *Gray v Thames Trains [2009] UKHL 33*
The leading House of Lords case on the tortious defence of ex turpi cause.

- *Wood & Others v Ministry of Defence (Unreported, 2006)*
Record damages against Ministry of Defence for widow and children of SAS Sergeant killed on exercise in Oman.

Inquests

Toby is ranked as a leading silk by Chambers UK 2021. It is said that *“His knowledge of inquests in particular should be called out as exceptional.”* He is *“Well liked by coroners and the court.”* *“A very good team player when there are multiple defendants, and very good at coordinating all the different barristers involved. He goes above and beyond.”*

Many of Toby’s product liability, health & safety and environmental cases involve fatalities. His practice in these areas has therefore taken him to Coroners’ Courts around the country. He has therefore developed significant experience in inquests and coronial law.

He has particular experience of high-profile and demanding inquests and inquiries. They include:

- Grenfell Tower Inquiry: Toby is acting (with Richard Matthews QC, Adam Heppinstall QC and Eleanor Sanderson) for Whirlpool Corporation in the Public Inquiry following the disaster. A Whirlpool subsidiary produced the fridge-freezer that is said to be the origin of the fire.
- Brithdir Care Homes Inquests: he recently led the team representing the Welsh Government at the conjoined inquests into the deaths of six residents at the Brithdir Care Home in New Tredegar. The inquest followed the decade-long police investigation. The hearing lasted for 8 weeks.
- Re Julie McCabe: an inquest following an anaphylactic reaction to hair colourant. He acted for the manufacturer.
- Channel Tunnel Rail Link Inquests: a month-long inquest into a double fatality in the course of the construction of the Channel Tunnel Rail Link. He acted for the German manufacturer of the locomotive (and in the subsequent high court litigation).

Other clients have included: Associated British Ports, Bakkavor Foods, Boston Scientific, HM Prison Service, Medtronic, Merck, Mylan, Siemens, The Scout Association, Taylor Wimpey and Tesco.

Environment

Toby is a leading silk in environmental law. He is recommended for his work in this field by both leading directories. According to the Legal 500: *“He has excellent analytical skills and is good with clients, making them feel welcomed and valued.”* According to Chambers UK, *“He has a peerless mind and an incredible way of calming and reassuring clients.”* *“An excellent and really charming advocate”.*

He is an expert in the criminal and civil litigation following disasters (explosions, fire, floods and polluting events) – whether enforcement action by regulators or compensation claims for personal injury or property damage by individuals or their insurers.

He has developed a particular expertise in the law of nuisance – whether common law nuisance or statutory nuisance under the *Environmental Protection Act 1990*.

International mass tort claims

- **Bomu-Bonny Oil Pipeline Litigation:** He defended Shell (with Charles Gibson QC, Geraint Webb QC, Adam Heppinstall, Abigail Cohen and Ognjen Miletic) against thousands of claims brought in these courts by Nigerian nationals following oil spills near Bodo in the Niger Delta in 2008.
- **Peruvian copper mining:** with Charles Gibson QC, he represented the defendant mining company in *Tabra v Monterrico Metals PLC*, a group action brought by 33 Peruvian environmental protestors for personal injuries sustained in the course of their protest in Peru against the mining activity of the subsidiary of an English parent-company.
- **In Amenas Gas facility:** he acted for defendants in the civil claims brought against a number of companies in the BP Group arising from the terrorist attack on the In Amenas Gas Facility in Algeria.

Environmental pollution

He has been instructed in pollution claims arising out of disasters including:

- **Buncefield Disaster:** he advised the insurer of one of the oil companies who operated the Hertfordshire Oil Storage Depot on matters arising from the explosion and fire in December 2005 and the consequent litigation.
- **Bacton Gas Terminal Explosion:** representing Shell UK Limited in its joint prosecution by the HSE and the Environment Agency following an explosion at a gas terminal on the Norfolk coast in 2008.
- **HSE v Grosvenor Chemicals:** litigation following an explosion at a COMAH site in 2009 and subsequent toxic spill into the River Wharfe.
- **Highways England v Aviva:** litigation following a spill of hydraulic oil onto a motorway and its pollution of a canal.

Fire claims

He has acted in many claims following fires at residential or commercial premises (fatal accident, personal injury, nuisance and commercial) including:

- **Shepherds Bush Tower Block Fire:** a group of claims by residents of a tower block owned by a local authority following a fire (acting for the manufacturer of the implicated electrical device).
- **Thomas More Square Fire:** a commercial claim by the owner of commercial premises in the City of London following a fire in the generator room (acting for the manufacturer of the generator)
- **Grenfell Tower Fire:** he is instructed on behalf of the manufacturer of the implicated fridge freezer).

Flooding claims

- **Flood at a caravan park:** acted for Teignbridge District Council in successfully defending a high-value flooding claim in the TCC.
- **Flooded agricultural land:** acted for a farmer in a high-value agricultural flooding claim.
- **River Quaggy Floods:** acting for the Environment Agency in a group of claims brought by householders in south London arising from the flooding of the River Quaggy in 2013.

Highways claims

- Damage to motorways: he is acting for insurer defendants in claims brought by the Highways Agency against insured drivers for damage to the highway.
- Icy roads: he is acting for insured claimants suing the local highway authority following accidents in icy conditions.

Land contamination

- Recycling products: criminal prosecution following the contamination of land with recycled household waste.
- Metal contamination: following contamination of industrial premises by chemicals used in electro-plating processes.

Statutory noise nuisance

- Successful defence of a landowner who was prosecuted privately by his neighbour under the powers in section 82 of the Environmental Protection Act 1990 (*O'Bryan-Tear v Tyrwhitt-Drake*). It was alleged that game shooting caused a statutory nuisance. This high-profile litigation attracted widespread media attention.

Waste management

- Recycled mulch: he appeared for a significant East Anglian waste management company in its high-profile prosecution.
- Biofuel: he is currently acting for the producer of waste used as biofuel facing commercial claims by those using the fuel.

Water

- Water leaks: he successfully sought injunctive relief on behalf of a water company in the Magistrates Court.
- Statutory Compensation Scheme: he is acting for the environment agency in compensation claims arising under the statutory scheme in the Water Resources Act 1991.

Wind turbine nuisance

- He acted for the claimants in a ground-breaking nuisance claim brought in the TCC by a local resident against the owners of a wind-turbine in Yorkshire (*Siraj v CM Hall Ltd*, Leeds District Registry, 13 February 2015). The case established for the first time in domestic courts that a wind turbine could be an actionable nuisance.

Representative Cases

- *Statutory noise nuisance private prosecution (2018/19)*
Toby successfully defended private landowners in a landmark private prosecution by an aggrieved neighbour under the powers in section 82 of the *Environmental Protection Act 1990* that occupied over 4 full weeks of court time. It was alleged that game shooting on the Estate caused a statutory nuisance to the neighbouring property. This high-profile litigation has attracted widespread media attention.
[Link to news item here](#)
- *Siraj v Hall (TCC in Leeds) (2015)*
Wind turbine a private nuisance.
- *Bodo Community & others v Shell Petroleum Development Company of Nigeria Ltd [2014] EWHC 217*
Costs – Order for costs – Preliminary issue – Proceedings arising from oil spillages in Nigeria – Defendant company admitting liability for spillages – Court determining preliminary issues – Appropriate order for costs.
- *Bodo Community & others v Shell Petroleum Company of Nigeria Ltd [2014] EWHC 1973 (TCC)*
Preliminary issues of Nigerian Law – ouster of common law by statutory scheme – measure of loss – public nuisance – jurisdiction.
- *Seago & 19 others b Environment Agency (TCC, unreported, 18 May 2018)*
claim by local residents arising out of a flood of the River Quaggy

What the directories say

"He has a calm yet effective courtroom style which allows him to achieve the right result for his clients."
Legal 500 2024

"A well-established silk. He is urbane, meticulous and astute."
Legal 500 2024

"His impeccable output – whether that is his work on paper, or his superb and incredibly careful advocacy – is the ultimate reflection of the incredibly hard graft he puts in."
Legal 500 2024

"Toby is an absolute delight to work with even if he is on the other side. Annoyingly for his opponents, he charms judges and drives a hard bargain."
Legal 500 2024

"He is thoughtful and meticulous."
Legal 500 2024

"Toby is a superb advocate who reassures the tribunal that they are in the safest of hands; he has a first class brain and wonderful manner."

Legal 500 2024

"A lawyer with immense knowledge of regulatory matters."

Chambers UK 2024

"Toby is super approachable. He's great."

Chambers UK 2024

"Toby Riley-Smith is a very good, well-regarded barrister who is particularly good for consumer credit."

Chambers UK 2024

"Toby has an incredible eye for detail; he gets to the heart of technical issues or difficult legal issues. He's an invaluable part of the team."

Chambers UK 2024

"Toby is very gentle, but with an authoritative style of advocacy. He's really very good."

Chambers UK 2024

"His mind works incredibly quickly and he is brilliant at developing case strategy from the outset."

Chambers UK 2024

"He's a very good and very effective advocate in court."

Chambers UK 2024

"Toby's absolutely superb with solicitors but also clients in terms of his bedside manner."

Chambers UK 2024

"Toby is meticulous in his approach and is able to handle complex matters with ease. He has an excellent manner with clients and in court, garnering the confidence of both."

Chambers UK 2024

"Toby is always thinking strategically - he is four steps ahead."

Chambers UK 2024

"Toby has an incredible eye for detail. He gets to the heart of technical issues or difficult legal issues. He's an invaluable part of the team."

Chambers UK 2024

"He really understands what the client needs and is incredibly good at dealing with delicate situations."
Chambers UK 2024

"Amazingly knowledgeable, approachable and supportive and a master strategist in public inquiry and contested GLO matters."
Chambers UK 2024

"Toby is very astute."
Chambers UK 2024

"Toby has an incredible eye for detail and he gets to the heart of technical or difficult legal issues."
Chambers UK 2024

"Superb advocate who engages with the court."
Legal 500 2023

"Great tactical acumen and sound commercial advice coupled with a strong and persuasive advocacy style."
Legal 500 2023

"Toby is an excellent barrister, who has a wealth of experience in consumer finance litigation both in the context of litigated claims and complaints handling. His approach to litigation is meticulously thought out, his arguments are properly reasoned, and his style of communication with clients, judges and opponents is respectful and personable."
Legal 500 2023

"One the joint best of the senior barristers for regulatory crime, he is a quiet, careful, thoroughly prepared and destructive cross-examiner."
Legal 500 2023

"His impeccable output – whether that is his work on paper, or his superb and incredibly careful advocacy – is the ultimate reflection of the incredibly hard graft he puts in."
Legal 500 2023

"His preparation is impeccable and his court style very polished"
Legal 500 2023

“He has an encyclopedic knowledge of regulatory matters.”
Chambers UK 2023

“Toby is exceptional - he has literally written the book on consumer law.”
Chambers UK 2023

“He is very responsive, always accessible, easy to work with and get on with. He's all the things you want from a barrister - the whole package.”
Chambers UK 2023

“Toby is collaborative and collegiate in his approach.”
Chambers UK 2023

“He sees straight to the heart of an issue and makes sense of it.”
Chambers UK 2023

“He is very hard-working.”
Chambers UK 2023

“He quickly establishes rapport with experts.”
Chambers UK 2023

“Toby is able to get to grips with complex technical aspects of cases.”
Chambers UK 2023

“Toby has a wealth of group litigation experience and is an absolute delight to work with.”
Chambers UK 2023

"An excellent counsel for banking and finance cases, including consumer credit; firms have no hesitation in recommending him."
Legal 500 2022

"An excellent counsel for consumer cases and we would have no hesitation in recommending him."
Legal 500 2022

"He is an excellent counsel for financial services regulation matters."
Legal 500 2022

"A safe as pair of hands, hardworking and totally meticulous in his preparation."
Legal 500 2022

"Toby has a phenomenal eye for detail. His analysis of complex legal regulations and provisions is fantastic and has brought real value to the team. Toby has a fast increasing experience of acting alone as a silk in a number of high profile cases but also is a great team player - he is thoughtful and dynamic in approach listening carefully to differing views and reaching sensible and pragmatic conclusions."
Legal 500 2022

"Thorough in all he does and very accessible, he's a great analyst and tactician."
Chambers UK 2022

"He has a great depth and breadth of understanding of the consumer finance field."
Chambers UK 2022

"He's a beautiful advocate to listen to and a true expert who wears his expertise lightly."
Chambers UK 2022

"Impressive in court, incredibly bright and very thorough in his preparation."
Chambers UK 2022

"He is a standout individual - he has a fantastic, really great analytical brain."
Chambers UK 2022

"He is a real details person and completely on top of everything. He is also great at assisting everyone in finding a sensible way forward."
Chambers UK 2022

"He can charm the socks off anyone and gets completely stuck in to his cases. He is a delight to work with."
Chambers UK 2022

"A first-class advocate: steely, effective, and charming"
Legal 500 2021

"Strong attention to detail, impressive advocacy skills, and expert in the area of consumer credit."
Legal 500 2021

"First-class practitioner, he has become the benchmark to measure all other barristers and he beats them

consistently."
Legal 500 2021

"Highly intelligent and very hard-working, and good at getting to the core of a case without being distracted by peripherals."
Legal 500 2021

"He has excellent analytical skills and is good with clients, making them feel welcomed and valued."
Legal 500 2021

"A first-class advocate: steely, effective, and charming."
Legal 500 2021

"He is a highly respected and enthusiastic practitioner with eye for detail"
Legal 500 2021

"He is a technically brilliant and experienced counsel."
Chambers UK 2021

"He has a peerless mind and an incredible way of calming and reassuring clients."
Chambers UK 2021

"He works phenomenally hard and always masters his brief. He's very well prepared, organised and a delight to work with." "His knowledge of inquests in particular should be called out as exceptional." "He is a very good team player when there are multiple defendants. He goes above and beyond."
Chambers UK 2021

"He's very detailed and thorough, with a wealth of experience in product liability work." "A formidable opponent." "He's incredibly hard-working and really gets it right."
Chambers UK 2021

"A first-class advocate with an exceptional intellect – steely and effective, but charming and polite."
Legal 500 2020

"Very easy to work with; great with commercial clients; really understands the detail and a fantastic advocate."
Legal 500 2020

"He's brilliant, charming, very hard-working and makes friends with everyone in the court. He's a delight to

work with."
Chambers UK 2020

"An excellent and really charming advocate. He is intellectually sharp and fantastic on his feet. He is easy to work with and gains respect from clients, opponents and judges alike."
Chambers UK 2018

"A very good advocate who gauges the tribunal well. He is excellent with clients, and very patient and thorough in his preparation."
Chambers UK 2017

"Fantastic to work with and such a grafter."
Chambers UK 2017

'He has exceptional intellect and an inexhaustible capacity for hard work.'
Legal 500 2017

Appointments

- Standing Counsel (Consumer Law) to the Competition and Markets Authority (2021)
- Recorder (2019)
- Middle Temple Advocacy Trainer (2018)
- King's Counsel (QC 2016)
- Junior Counsel to the Crown, Attorney-General's A Panel (2012-2016)
- Honorary Fellow of the Chartered Institute of Credit Management (2015)
- CEDR Accredited Mediator (2000)

Publications

- Contributor to *The Law of Artificial Intelligence* (1st ed) (Thomson Reuters; 2020)
- Contributor to *Product Liability: Law and Insurance* (2000)
- Co-editor of *Halsbury's Laws of England (Consumer Credit)* (2000)
- Co-editor of *Halsbury's Laws of England (Civil Procedure)* (2001)
- Co-author of *Blackstone's Guide to the Consumer Credit Act 2006* (2006)
- Co-editor of *Butterworths Encyclopedia of Forms and Precedents (Consumer Credit) 5th Edition* (2007)
- Co-author of *Butterworths Commercial and Consumer Law Handbook* (2009-2017)
- Contributing editor of *Goode: Consumer Credit Law and Practice (looseleaf)* (2007-2018)

Memberships

- Commercial Bar Association

- Health & Safety Lawyers Association
- Medico-Legal Society
- Personal Injuries Bar Association
- Health & Safety Lawyers' Association

Education

- Eton College
- Trinity College, University of Cambridge (BA (Hons), MA)
- City University (Dip Law)
- Inns of Court School of Law
- Jules Thorne Scholar (Middle Temple)

Awards & Recognitions

