



CEDR Accreditation:	2003
CEDR Panel Admission:	2006
CEDR Chambers:	2012
Languages:	English
Location:	United Kingdom

## Nick Pearson

### Overview

*"His interventions were always to the point and I felt that the parties recognised and valued his obvious experience."*

Mediation Feedback

Recognised in Chambers & Partners and The Legal 500 as a top City litigator, Nick Pearson practiced law internationally for over 30 years in the dispute resolution field including a significant period based in Hong Kong. After retiring as a partner and the Head of the Global Dispute Resolution practice at Baker & McKenzie (over 700 disputes lawyers in over 35 jurisdictions). Nick now pursues an independent mediation practice, and is recognised as a leading mediator by Chambers and by The Legal 500 for over eight years.

Nick acts as lead mediator both in the UK and internationally, in a wide range of mediations (including many multi-party) specialising in corporate and commercial disputes, with particular experience in cross-border claims, breaches of contract, partnership and shareholder disputes, trusts, probate, insolvency, professional negligence, fraud, and claims in the corporate and banking sectors. Amounts in dispute have ranged from £30,000 to £100 million.

Described as a calming but *"politely forceful"* mediator, Nick has considerable practical and commercial experience of problem solving for a wide range and background of parties.

His mediation practice takes him all over the UK and abroad.

### Expertise

- Banking & Finance
- Commercial Contracts
- Corporate Fraud
- Employment & Workplace
- Facilitation / Neutral Chairing
- Insolvency
- Insurance
- International
- Media & Entertainment
- Partnership & Shareholder
- Professional Negligence
- Property
- Public Sector
- Contentious Trusts, Wills & Probate



## Dispute Experience

### Banking & Finance / Commercial Contracts

As Head of Global Disputes at Baker & McKenzie, Nick was the relationship partner for a number of financial institutions and corporations. With 30 years' experience of litigating/arbitrating corporate and City type claims in the UK and abroad, Nick has turned his skills to helping the parties reach a resolution of their disputes through mediation.

Amongst matters mediated are:

- Claim by financial advice group against consultant for negligent investment advice and mis-selling.
- Consultants claim against corporate client for failure to pay success fee.
- Bi- party and multi-party claims for breach of mandate.
- Mis-selling of endowment mortgages.
- Claims covering money laundering and corrupt practices.
- Claims about the impact of US anti money laundering legislation, and offshore tax jurisdictions.
- £40 million claims by groups of bankers seeking bonus payments following 2008/9 financial banking crisis.
- Self-dealing and conflicts of interest disputes in financial services sector.
- Dispute between fund manager and fund administrator in financial services field in offshore jurisdiction.
- The recovery of payments made by mistake in financial trading market.
- Claims for breach of confidence.
- Joint venture and franchise disputes.
- Claims under corporate guarantees.
- Dispute relating to investing on the FTSE futures index and failure to fund margin calls.
- Dispute involving several millions of pounds between shareholders in offshore investment fund involving allegations of fraud and insolvency.
- Real estate and aircraft mortgage and security claims.
- Multimillion pound claim against bank for alleged negligent operation of forex facility.
- Claims against IFAs alleging mis-selling and breach of contract.
- Claim concerning the failure to provide in the sale of shares in a company for disclosure of the existence of high risk financial products in the financial services industry.
- A claim by customers against their bank concerning interest protection products.



- Claims involving mortgage fraud, solicitor's negligence and building society recoveries.
- Claim by lender for possession of house raising FSMA issues and penalty clause arguments.
- Corporate borrowers claim against Building Society for swap mis-selling and damages for lost opportunity.
- Breach of director's duty in financial services company and claim against IFA for trail commission.

#### Corporate Fraud

- British and Indian charities claim against fund raiser for misappropriation of funds and an account of his dealings on behalf of the charities.
- \$8 million claim against directors for misappropriation of international corporate business opportunity.
- Claim against client's bookkeeper for breach of trust and fraud and the taking of an account.

#### Employment & Workplace

Within Baker & McKenzie Nick regularly assisted his firm and advised on employment and workplace issues, including participation in internal disciplinary, professional and regulatory matters. For a number of years, he chaired his firm's Professional Responsibility Committee.

As mediator he now mediates such claims, including:

- Employer/employee disputes concerning misuse of confidential information.
- Claims for breach of contract.
- £2 million race and disability discrimination claim.
- Wrongful dismissal actions.
- Claims relating to the imposition of gardening leave.
- Claims against directors, and accounting for monies received.
- Consultancy and commission claims.
- Fee related disputes.

#### Facilitation / Neutral Chairing

- Assisting a large professional organisation and its constituent members to restructure their body. This necessitated initial meeting with the members' individual COOs and then chairing a form of Board meeting at which proposed changes were discussed. These were then discussed in private to help facilitate new modus operandi.
- Acting as a neutral chairman helping two senior executives in large PLCs to talk to each other about a very large scale dispute which was brewing between them and which required urgent action and planning on both sides, before battle lines were drawn.



- Acting as chairman in an out of the office meeting between all partners in a law firm at which the future of one of them was on the agenda. This led to a parting of the ways but was conducted more as a facilitation exercise than a mediation.
- Facilitating meeting between CEOs of two Joint Venture partners when trust between them had broken down.

## Insolvency

As a litigator, Nick has had considerable experience in handling disputes in this area both in the UK and abroad. He was himself for many years a licensed insolvency practitioner, and has acted for many insolvency practitioners in bringing claims on behalf of the insolvent estate or defending claims against them. He has also acted for and against directors involved in insolvency processes, and third parties claiming against entities in financial difficulties - e.g. in asset tracing, or retention of title disputes. He is very familiar with the types of problems arising from these issues.

In the mediation context these skills have come to the fore. Recent mediations include:

- Liquidators' claims against former directors for preferences, transfers at undervalue and misfeasance.
- Claim by Liquidators of media company against directors under s 214 Insolvency Act 1986 for wrongful trading.
- Claims by bankrupt against trustee in bankruptcy for failure to account to him for monies owing and for improperly seizing bankrupt's exempt property.
- Liquidators of FX companies claim against bank for negligent operation of trust account and to recover trust funds.
- Claim against trustee in bankruptcy for selling assets at undervalue and by bankrupt's spouse to set aside contract with trustee on the basis of duress, undue influence and misrepresentation.
- Misfeasance claim by creditor under Insolvency Act against director concerning transfer of property.
- Claims against accountants and insolvency practitioners as office holders, e.g., against trustee in bankruptcy alleging sale at undervalue and failure to account.
- Claim against court appointed receivers for alleged failure to prevent dissipation of assets.
- Retention of title and conversion claims.
- Claims against connected parties.
- Claim by assignee from liquidator against former director for breach of director's duty, self-dealing, and transfer at undervalue.
- Contractual claims against administrators in the insolvency of a large trading group.
- Claims against guarantor of insolvent entity under long term contracts.
- Claims for up to £12 million against offshore professional directors for misfeasance and wrongful trading under the Insolvency Act.



- Claim by Liquidators against company creditor for recovery of preferential payment to connected party under S 239 Insolvency Act 1986.
- Claim by Administrators of insolvent wholesale electrical goods company against directors for breaches of duty, conflicts of interest and unlawful declaration of dividend.
- Claim to recover dividend from directors.

### Insurance

In the first part of his career Nick acted exclusively for a range of insurance companies defending their insured. More recently he tended to bring claims against insured parties. Now as a mediator many of the claims he mediates have an insurance dimension where previous industry knowledge has been invaluable.

Examples of mediated cases include numerous professional negligence claims against lawyers, accountants, tax advisers, valuers and engineers, and are based on, e.g.:

- Drafting errors;
- Failure to advise;
- Negligent advice;
- Professional misconduct.
- Dispute between computer supplier and its cleaners arising from uninsured losses caused when claimant's premises were broken into and products stolen when alarm system not activated by cleaners.

Cases often raise complex issues of causation, the measure and quantum of damages, mitigation, etc.

### International Cross Border Disputes

As Head of Baker & McKenzie's Global Disputes Group, Nick handled a huge range of international disputes (litigation and arbitration), acting for clients from all over the world in a range of jurisdictions. He has considerable overseas connections - Hong Kong (lived and practised there for over 9 years - basic spoken Cantonese), France (studied there and reasonably fluent language skills), Spain (basic Spanish language), Malaysia (regular visitor and local family connections) and USA (regularly worked and travelled).

As well as with lawyers from around the world within his own firm, he has managed significant cases in and worked closely with other lawyers in, e.g. Jersey, Guernsey, USA, Bahamas, Cayman Islands, Switzerland, Kuwait, Egypt, Hong Kong, Singapore, Spain, and Japan.



In the context of mediation, Nick has acted as a mediator in many disputes with a cross border elements including multinational parties, legal issues, foreign assets, etc.

Cases include:

- A two-day offshore mediation involving UK, US, and Cayman parties in the banking and gaming sectors.
- A two-day mediation involving a professional firm with UK and Chinese issues.
- A dispute involving Kuwaiti and UK parties.
- A corporate joint venture dispute in the electrical sector involving German and UK companies.
- A professional negligence action against an international law firm.
- The successful mediation of a dispute between a German purchaser of equipment and its UK manufacturer relating to termination of a long term contract.
- Mediation in Guernsey relating to a dispute in the financial services sector between fund managers and fund administrators and raising issues of self-dealing, breach of fiduciary duty and regulatory matters.
- UK/US joint venture dispute in health care sector, involving UK and US regulatory and compliance issues.
- A dispute relating to a distribution contract involving Canada, the USA and the UK.
- A dispute on the construction of a share sale agreement between UK and French parties.
- Dispute between partners in US international law firm.
- Franchise dispute involving UK, Russian and other overseas parties.
- Claim against sovereign state for damages, raising issues of immunity, enforcement, jurisdiction, etc.
- Claim against offshore law firm alleging negligence and overcharging.

#### Media & Entertainment

- Claim for royalties and damages under European licence agreement in cinema industry.
- Dispute between partners in a theatre / entertainment business involving IP issues, termination and break up of relationship, duty to account for profits and non-competition.

#### Partnership & Shareholder

As chairman of Baker & McKenzie's Global Professional Practice and Responsibility (Ethics) Committee and as a partner in a firm with over 600 partners around the world, Nick has had a very significant involvement in matters of professional conduct and real experience in managing partnership issues, including claims and issues of fiduciary responsibility. As well as internal



firm issues he advised third parties in connection with their partnership or shareholder claims and corporate joint venture disputes.

Recent cases mediated in this field have involved:

- Partners in law firm claim for compensation and bonuses in context of firm's insolvency.
- Claim to set aside independent expert's report on share valuation on grounds of manifest error.
- New shareholder overcomes pre-emption rights in favour of other shareholders following first instance judgment and faces Court of Appeal hearing.
- Dispute over payments under joint venture agreements in property sector.
- UK and German corporations in a joint venture dispute.
- Many claims between partners in law firms involving allegations of breaches of fiduciary duty.
- UK Partnership Act disputes.
- Problems arising on partnership dissolution – e.g. valuation of goodwill, scope of restrictive covenants.
- Claims between farmers concerning break up of farming partnership and distribution of assets, including EU quotas and subsidies.
- Shareholder dispute in engineering sector.
- Shareholder dispute in the offshore oil industry with allegations of unfair prejudice the making of secret profits and breaches of director's duties.
- Break up of partnerships in the construction and entertainment sectors-involving IP and royalty payment claims.
- Claims between members of a firm of patent agents.
- A large number of minority shareholder complaints, and Section 994 unfair prejudice applications.
- A partner in a firm for over 14 years, claimed that he has been bullied, harassed, and unfairly treated as a minority shareholder of the LLP.
- Dispute between partners in a theatre/entertainment business involving IP issues, termination and break up of relationship, duty to account for profits and non-competition.
- A dispute between members of an LLP in the construction industry relating to the termination of the LLP, the duty to account for profits earned outside the partnership, and ultimate distribution of the partnership assets.
- A company shareholder dispute in which unfair prejudice was alleged, coupled with counterclaims for breach of director's duty.
- Partnership dispute (solicitors LLP) and unfair prejudice petition involving regulatory and buy out issues.
- Unfair prejudice petition in manufacturing sector in 50/50 company.



- Minority shareholder unfair prejudice petition in care home sector.
- Numerous claims for breach of warranty under share and asset sale and purchase agreements.

### Professional Negligence

During the course of his practice as a solicitor over 30 years Nick has acted in many cases against a variety of professional organisations and their insurers, including many high profile and large claims against accountants, auditors and lawyers. He was a member of the Solicitors' Disciplinary Tribunal, and a Committee member of the UK/Scottish accountants' Joint Disciplinary Scheme. As a mediator, Nick is regularly asked to assist in such cases.

Recent examples include:

- Trustees sue solicitors for losses flowing from badly drafted trust documentation. Dispute concerns reasonableness of mitigation.
- Barrister sued solicitor for unpaid fees.
- Executor brings claim on behalf of deceased customer's estate against his bank for paying forged cheques and negligence arising in context of undue influence.
- Liquidator claims against court appointed supervising accountants for failing to secure assets in POCA/money laundering case.
- Claims against Independent Financial Advisers to recover compensation for product mis-selling.
- Claims against solicitor firms based upon alleged drafting errors in commercial documents—e.g. share and sale and purchase agreements, wills, overage provisions in property transactions—failure to advise correctly in property, matrimonial, trust, probate, litigation, planning, and tax cases, forgery, failure to protect client's interests in ancillary relief proceedings, and professional misconduct.
- Claims against accountants alleging tax and accounting failures, failure to advise on tax saving strategies, concerning deficient pensions related advice, audit negligence, setting up offshore trusts and on VAT issues.
- Claims against property valuers and surveyors relating to negligent advice concerning purchase of property and consequential losses.
- In the construction industry, claims against engineers and designers.
- A claim by an individual against a firm of accountants for failure to advise/negligent advice in relation to the establishment of an offshore trust, and exposure to tax under the UK Inheritance Act.
- Claim by client's executor against solicitors for negligence in connection with sale of claimant's property, involving allegations of mortgage fraud, forgery and breach of trust.





- Claim against accountants alleging negligence in connection with tax advice concerning non-dom status and tax saving schemes.
- Claims for negligence by liquidators of offshore companies operating investment schemes against their non-executive directors (and insurers) arising in context of major fraud against the companies.
- Claim by liquidators against auditors seeking substantial damages raising issues of causation, quantum and contributory negligence by directors.

Many of these claims raise complex issues of liability, causation, quantum, contributory negligence, damages generally, and mitigation, and many involve large sums and often several parties in the mediation.

### Property

- Residential purchasers sue their surveyor for negligence and claim loss of value on house purchase and consequential losses.
- Dispute over terms of occupation of beach huts and possession action.
- Claim by estate agents for commission on sale of property or quantum meruit entitlement.
- Mortgagee claim for arrears due under mortgage and counterclaim to set aside charges and for damages under Consumer Credit Act (unfair relationship provisions), FSMA and for misrepresentation.
- Property related dispute over quantification of damages for loss of right to light.
- TOLATA claims including claims concerning nature and effect of Trust Deed.
- Claim based upon adverse possession of property.
- Property related claims - e.g. concerning rent reviews and dilapidations – and planning disputes.
- Claim by executor to recover land subject to agricultural tenancy.

### Public Sector

- Claim against public body for negligence and recovery of £20 million for consequential losses.
- Claim against government department for damages for breach of contract raising issues of force majeure and breach of warranty.
- Claim for damages in discrimination field.



### Trusts, Wills & Probate

Nick has a considerable background in litigating trust disputes. He is a member of the Association of Contentious Trust and Probate Specialists (ACTAPS).

He mediates many disputes in this sector. Such cases have related to:

- Inheritance Act claim by widow seeking reasonable financial provision from husband's £2.8 million estate as against two step children.
- Beneficiary/trustee claims arising under wills or settled trusts.
- Inheritance Act claims for the provision of reasonable assistance, and claims arising on intestacy - e.g. claim by widow of many years' marriage effectively against two stepchildren concerning multi-million-pound estate with foreign assets.
- The interpretation and construction of trust documentation and wills.
- Claims by beneficiaries or trustees against professional advisors—lawyers and financial advisers.
- Forgery and duress.
- TOLATA claims.
- Claims by Charity Commission and liquidator of charity against former directors and trustees for misapplication of assets.
- Breaches of trust and conflicts of interest.
- Challenges to the validity of wills in family disputes.
- The handling of foreign elements –e.g. claims made overseas or to foreign assets.
- Claims by siblings under Inheritance Act, allegations of forged documents and dispute over ownership of property between family members.
- Claim by Trustee in Bankruptcy against wife of bankrupt seeking an order for sale of matrimonial home in which wife owns half interest raising issues of equitable accounting and the equity of exoneration.

Multi-party cases involving numerous beneficiaries and trustees are common, and sums in dispute have ranged from £50,000 to £100 million.

### Other

In addition to the above, Nick has mediated cases in the many other areas.

- In a wide variety of contractual and tort claims, including contractual interpretation and construction, termination provisions, breach of warranty, misrepresentation, and negligent misstatement.



- Claims for royalties under international licence agreement.
- Cases involving allegations of fraud and corrupt practices, forgery, bribery, extortion, economic duress and malicious falsehood.
- Claims relating to the sale of goods and services in various sectors-eg, healthcare, commercial, building.
- Disputes relating to the provision of IT services, and many in the building and construction sectors.
- Various distribution, agency and franchise agreements - domestic and international - and including claims relating to Commercial Agents.
- High value VAT dispute involving HMRC and concerning recovery of input tax – [Nick is a member of the HMRC approved panel of tax mediators].
- Dispute between service provider and NHS trust concerning the provision of telephone and TV services to patients.
- Finally, Nick is a member of the accredited Court of Appeal mediator panel.

Claims range from several thousand to many millions of pounds. Many also include insurance related issues and parties, and many involve a foreign element.

### Personal Style

Nick has a lifetime of practical experience in handling disputes both in the courts and through arbitration in the UK and around the world. He is quick to assimilate the detail of matters in dispute but alert to the dangers of becoming too overburdened by them and with his calm, open style, Nick is able quickly to build rapport and confidence.

Described as firm, but not overbearing, enthusiastic, but also realistic Nick understands the process well and uses it to seek solutions where they can be found. He aims to liaise closely with the parties prior to the mediation day so as to help their preparation, and keeps in close contact post mediation wherever required to help achieve the parties' objectives.

### Feedback – Clients

- *“Nick was excellent. He is politely forceful and really tried to explore all the various avenues with both parties.”*
- *“Nick did very well. He was a good listener and worked with the parties to achieve the settlement on a difficult case. I would use him again.”*
- *“Nick clearly worked extremely hard on both days in assisting the parties and their legal advisors to achieve a settlement-nothing short of miraculous given the strong personalities involved on both sides - Nick’s approach was spot on. He inspired confidence in my clients throughout.”*



- *"Well prepared ... very wise ... won confidence of all present ... a natural mediator."*
- *"His interventions were always to the point and I felt that the parties recognised and valued his obvious experience."*
- *"I found his support as an experienced litigator extremely useful ..."*
- *"Nick was good at pushing the parties."*
- *"I would use him again. He has a nice manner, is sensible and listens well."*
- *"Nick has a very quiet style but very much deliberately so. His biggest strength in this case was probable to bring a calming influence to the table, which is what was needed here. I will definitely use Nick again and have recommended him since."*
- *"He had a good understanding of the issues and understood both parties' arguments. He judged how the other party was reacting and acted accordingly."*

#### Feedback – Directories

Recommended by the UK legal directories 2007 to date.

- **" CEDR Chambers"** Nick Pearson is **Baker McKenzie's** former global dispute resolution head; he specialises in corporate and commercial disputes and currently mediates three or more cases each month, many of which have an international element. The disputes handled by Pearson in 2018 included insolvency, wills and probate, professional negligence, banking and financial services, partnership claims, breach of contract and shareholder disputes.  
- The Legal 500 2020
- "Nick Pearson of CEDR Chambers is active in mediations concerning issues of professional negligence, insolvency and finance, and maintains a strong international presence across Europe. Clients say: "Nick was calm, understanding, incredibly patient and motivated without placing undue pressure."  
- Chambers 2020

#### Professional Skills

Major specialisations as a litigator included corporate and commercial disputes with particular experience in international, multi-jurisdictional matters, trust disputes, fraud, insolvency, contract and tort claims, professional and partnership disputes and claims in the corporate and financial sectors. Nick managed the litigation surrounding the multimillion dollar collapse and liquidation of Carrian Investments Ltd when working in Hong Kong, and the multi-jurisdictional disputes which arose following the massive frauds upon the Kuwait Investment Office and Grupo Torras following the first Gulf war.

- Partner Baker & McKenzie, London 1988-2006;
- Chairman of Firm's European Dispute Group, and Head of Global Dispute Resolution Practice (over 700 dispute lawyers in over 35 different countries);
- Baker & McKenzie, Hong Kong 1979-1988 - Partner from 1982;
- Herbert Smith, solicitors, London 1974-1979;
- Licensed Insolvency Practitioner 1993-2004;
- Trained and CEDR Accredited Mediator 2003 to date;
- Member of CEDR Chambers-2011-to date;
- Considerable experience of handling disputes involving different cultures and nationalities.

#### Additional information

- Member of Baker & McKenzie's London Management Committee - 1992-1996;
- Chairman and Member of Baker & McKenzie's Global Professional Responsibility and Practice [Ethics] Committee 1997-2000 and 2004-2006;
- Member of Solicitors Disciplinary Tribunal - 2006 to 2010;
- Member of the Executive Committee of the Accountants' Joint Disciplinary Scheme -2006 to 2010;
- Member of Association of Contentious Trust and Probate Specialists (ACTAPS);
- Chairman/ Committee member of the Association of South West Mediators - 2009 to date;
- Secretary and Trustee of charitable trusts connected with former College, Lincoln College, Oxford University.

1 May 2020