

## Rowan Pennington- Benton

Call Date: 2008

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Rowan's mainstay practice is in commercial, chancery and insolvency. He also advises and acts on public law and regulatory matters.

He has a busy domestic and international practice, appearing in a variety of courts as well as arbitration and adjudication proceedings. He regularly appears in the High Court and other courts and tribunals in high value and complex commercial disputes, with specialist experience in development, property, construction and investment sector disputes. Much of his work is multi-jurisdictional and includes conflicts of law, recognition and enforcement and cross-border asset preservation.

Rowan deals with the full spectrum of insolvency matters, both personal and corporate. He is on the Attorney General's B Panel of Crown Counsel, with experience of HMRC insolvency and enforcement actions and POCA work.

Rowan practises as a UK registered barrister from 3 hare Court Chambers in London, and from Hassans International Law Firm in Gibraltar. <https://www.gibraltarlaw.com/>.

## Legal Services

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### Arbitration

#### Notable Arbitration cases

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£200m plus ICC Arbitration (London), concerning diversion of business assets in breach of contract /breach of trust (energy sector –partial state funded JV geothermal project in Africa).

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High value ICC Arbitration (London seat), concerning in state-supply contract dispute in the aluminum fluoride sector (public/private issues of public policy, enforceability and cross-border recognition –acting for the claimant).

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£67m Commercial Arbitration (LCIA, London), involving allegations of State corruption and breach of contract in relation to off-shore development and investment scheme in the Caribbean (public/private law issues combined –acting for the State).

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Acting for the claimants in £27m renewable energy arbitration (LCIA, London) (on-shore run of the river facility in Africa –payment dispute / breach of warranty / output performance).

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Rule K sports arbitrations/ CAS appeals, including FIFA/FA sanctions work –both domestic and overseas (improper conduct, match fixing, side-betting –for individuals and the relevant association).

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## Chancery, Civil Fraud, and Insolvency

### Notable Chancery, Civil Fraud, and Insolvency cases

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High Court civil fraud /breach of trust (Quistclose) and dishonest assistance claim (£32m), in the context of a property development and investment dispute (including interim relief: freezing orders, asset preservation orders and restraining injunctions).

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Reclaim Limited (In Liq) –acting for PWC (claims against ex-directors for breach of fiduciary duty; and against law firm third party trustees in Spain and for unlawful dissipation –includes cross-border recognition and enforcement).

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Regular advisory work for trustees / trust management companies (including off-shore) on issues such as variation of trusts, trustee’s disclosure and confidentiality obligations, and beneficiary-trustee disputes.

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On-going advisory and trial work for and against IPs (unlawful dividends, breach of fiduciary duty, TUVs, breach of trust etc); many cases involving cross-border recognition and enforcement.

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Advising and acting in a financial regulator's intervention into a major offshore insurance company (public/private dispute, solvency capital requirements imposed under the EC Solvency II Directive (2009/138/EC) and scope of regulator's powers to intervene and enforce.

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## Commercial

Rowan has established links with central hubs for crypto-currency and other DLT operations. In particular he works with Daniel Feetham QC and Darren Martinez of Hassans International Law Firm in Gibraltar (which has a dedicated FinTech /DLT team), and with Pantelis Christofides, partner in the commercial and regulatory team at L Papaphilippou & Co LLC, Cyprus.

He also has links with legal teams in Malta and other common law jurisdictions. He provides regular advice on regulatory and litigation aspects of ICOs /STOs, Fintech and other blockchain technology issues and disputes.

## Notable Commercial cases

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On-going insolvency recovery /realisation claims (corporate –UK and cross-border)), for recovery of cryptocurrencies and other crypto-assets, including interim relief, asset preservation orders and tracing.

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Claim against major Market Predictions Platform -loss in investment funds due to alleged leakage of coins, contrary to the vesting schedule. Questions include legal status of White Paper (and representations made therein), and of late amendments to vesting schedules prior to ICO.

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### [Lederer v Allsop LLP\[2018\] EWHC 1425 \(Ch\)](#)

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Order made against Lendy Ltd, for the disclosure of the names of over 4,000 underlying lenders signed to Lendy's crowdfunding platform; part of an on-going dispute concerning the draw-down of development funds under the facility. Thomas Roe QC and Rowan Pennington-Benton acting for the borrowers.

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## International and Privy Council

### Notable International and Privy Council cases

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[Dean v Bhim\[2019\] UKPC 10](#)

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Sole counsel for the respondent; Privy Council (Trinidad & Tobago) –appeal in contested probate proceedings –concurrent findings of fact and ‘presumption of revocation’

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[Ansaldo’s Townhouse Ltd v Sharrock Shand Ltd\[2017\]](#)

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(Sole counsel for Claimant; Supreme Court, Gibraltar: enforceability of an adjudication clause in an amended JCT construction contract).

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[Hemery v Ramlogan\[2017\] UKPC 41](#)

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Sole counsel for the successful Respondent(Privy Council, Mauritius -construction contract payment dispute, amendments and fair trial issues).

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## Public and Constitutional Law

Rowan’s public law practice includes judicial review and constitutional adjudication on a range of issues including planning, local government law, human rights, and immigration (personal and commercial). His public law work often involves some private /commercial law issues.

### Notable Public and Constitutional Law cases

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[R \(Scunthorpe United Football Club\) v Greater Lincolnshire LEP\[2018\] EWHC 3351](#)

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Judicial review challenge to the refusal of a grant to assist in construction of a new football stadium. Led by Thomas Roe QC

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[Smart v DPP\[2019\] UKPC 35](#)

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Sole counsel in Privy Council appeal concerning the application of regulations governing appointments to the Judicial and Legal Services Commission

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[Archie v Law Association of Trinidad and Tobago\[2018\] UKPC 23](#)

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Privy Council appeal led by Chris Hamel-Smith SC. Judicial Committee upheld the Court of Appeal's dismissal of a judicial review challenge seeking to suppress the Law Association's investigation into the conduct of the serving Chief Justice. See The Guardian news coverage of the case, here. – <https://www.theguardian.com/law/2018/aug/16/trinidad-judge-loses-bid-to-halt-legal-inquiry-into-his-private-life>

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## [The Estate of Lewis Francis v HM Attorney General \(Appeal No. 10 of 2017\)](#)

Court of Appeal for Gibraltar (judgment 16 July 2018). With John Restano QC, represented successful appellants in constitutional challenge to rent control legislation (right to property, proportionality/ legitimate aim). See GBC news coverage here. – <https://www.gbc.gi/news/politicians-row-over-housing-act-appeal-judgement>

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## [Patel v Secretary of State for the Home Department \[2019\] UKSC 59](#)

UK Supreme Court challenge, in light of Chavez-Vilchez, to the conventional and restricted understanding of the Zambrano test of being 'compelled to leave' the UK).

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## [Successful appeal on behalf of the government in United Policyholders Group and others v The AG of Trinidad and Tobago \[2016\] 1 WLR 3383](#)

Privy Council, with Howard Stevens QC: judicial review, legitimate expectations and 'promises' made during a government bailout following the collapse of CLICO, one of the largest insurers in the Caribbean.

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## Public Access

Rowan is a Public Access trained barrister and available for instruction on that basis (also known as direct access). This means that he can receive instructions, in appropriate cases, directly from members of the public or on behalf of companies, partnerships or other entities. Please speak with our clerks for further information. For guidance on Public Access please visit the [Bar Council website](#).

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## Publications

- Rowan has taught administrative law/ public law at the Queen Mary University, London and at the University of Essex where he previously taught contract law. He also taught at the London School of Economics.
- Rowan has had several articles published in the New Law Journal and other publications. For a time he was research assistant to Professor Paul Craig QC, author of the standard textbooks on EU law and

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administrative law.

- [Corporate Identity and Liability in the Modern World](#) (Barbados Bar Association, 2019)
- [Recent Developments in Commercial and Public Law](#) (Barbados Bar Association, 2018)
- [The Judicial Committee of the Privy Council -contribution to judicial review and public law](#) (Judicial Review, 2018)
- [Legitimate expectations as a ground for judicial review](#) ('Outlaw' by Pinsent Masons, 2017)
- ['Not all that glitters is gold'](#) (Solicitors Journal, 2016)

## Memberships

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- Commercial Bar Association (COMBAR)
- ICBC

## Qualifications

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- LLB (hons), (First Class), University of Essex;
- BCL, (Distinction), St Edmund Hall, Oxford