

## RICHARD ASCROFT

CALL: 1995

"He is confident, knowledgeable and tenacious. A fighter in court."

*LEGAL 500 2022*

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Richard is a barrister who specialises in insolvency law, company law and commercial litigation. He has over 20 years advisory and advocacy experience and has appeared in courts at all levels including the House of Lords. Richard is identified in the major legal directories as a leading junior in his chosen fields and was on the Attorney General's Regional Panel of Junior Counsel to the Crown for 16 years. He is also a contributor to the leading work on directors' disqualification.

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### PRACTICE AREAS

- Insolvency
  - Commercial
  - Company Law
  - Company Directors Disqualification
  - Banking & Financial Services
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### INSOLVENCY

Richard has a comprehensive knowledge of the Insolvency Act 1986 and related legislation and acts on behalf of debtors (individuals and companies), office holders, bankrupts and directors. His practice involves all aspects of personal and corporate insolvency including:

- Company director disqualification proceedings
- Bankruptcy Restriction Orders and Debt Relief Restriction Orders
- Misfeasance claims (breaches of trust and breaches of duty)
- Bankruptcy
- Transaction avoidance claims (voidable preferences, transactions at an undervalue; transactions defrauding creditors)
- Administrations
- Voluntary liquidations
- Voluntary arrangements
- Unlawful returns of capital
- Prohibited names (s 216 of the Insolvency Act 1986)

Recent work includes:

- Acting for Asil Nadir's trustee in bankruptcy
- Advising a major electronics retailer on the enforceability of a reservation of title clause against administrators
- Securing permission for an undischarged bankrupt to act as a company director
- Obtaining the release from disqualification undertakings of two former Farepark directors
- Advising in relation to alleged breach of duty by the former partners of an LLP

### SIGNIFICANT CASES

- **Bennett v Bosco Investments Ltd** [2018] EWHC 2901 (Ch); [2019] BCC 303; [2019] BPIR 33 (standing of former administrator to apply for administration order as creditor for unpaid fees)
  - **Weir v Hilsdon** [2017] EWHC 983 (Ch); [2017] BPIR 1088 (suspension of discharge from bankruptcy - form of order)
  - **Golstein v Bishop and anr** [2016] EWHC 2804 (Ch); [2017] BPIR 51 (revocation of IVA)
  - **Stonham v Ramrattan and anr** [2011] EWCA Civ 119; [2011] 1 WLR 1617; [2011] 4 All ER 392; [2011] BPIR 518 (Rix, Longmore and Lloyd LJ) - Transaction at an undervalue – ‘use it or lose it’ provisions – interaction between ss 283A and 339 of Insolvency Act 1986
  - **In re Snelling House Ltd** [2012] EWHC 440 (Ch) (G Moss QC sitting as a Dep HC Judge) Misfeasance, de facto director, unlawful dividends.
  - **Stonham v Ramrattan and anr** [2010] EWHC 1059 (Ch); [2010] BPIR 1210 (Mann J) - Transfer at an undervalue discretion to refuse relief.
  - **Re Walker Wingsail Systems Ltd** [2005] EWCA Civ 247; [2006] 1 WLR 2194; [2006] 1 All ER 272; [2005] BPIR 454 Costs on discontinuance of misfeasance proceedings.
  - **Quickson (South and West) Ltd v Katz and arr** [2004] EWHC 2443 (Ch); [2005] BCC 138 - Removal of liquidators.
  - **Secretary of State for Trade & Industry v Frid** [2004] UKHL 24; [2004] 2 AC 506 (HL(E)) - Crown set-off.
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## COMMERCIAL

Commercial work represents approximately half of Richard's practice and he has particular expertise in claims involving:

- Securing or resisting urgent pre-emptive relief (especially freezing and other injunctions)
- Breaches of warranty and misrepresentation (typically in the context of share sale or franchise agreements)
- Enforcement of post sale/employment restrictive covenants
- Professional negligence (solicitors, accountants)
- Interference with goods (bailment, conversion)
- committal proceedings under CPR Part 81

Recent work includes:

- Acting for claimants in breach of warranty claim arising out of share purchase transaction
- Acting for defendant in claim for alleged breaches of franchise agreement
- Advising in connection with a substantial breach of warranty arbitration pending in Dubai
- Acting for the claimant in professional negligence proceedings against his former solicitors in the conduct of litigation
- Advising a motor dealer in connection with an interest rate collar instrument
- Acting for the purchaser of an accountancy practice alleging misrepresentation and breach of warranty
- Acting for the claimant in the enforcement of restrictive covenants contained in a written consultancy agreement
- Securing restitutionary relief on behalf of a property management service provider in respect of mistaken rent payments exceeding £1.7m

## SIGNIFICANT CASES

- **Holland Watts Ltd v Fiander Tovell LLP** [2015] EWHC 2427 (QB) - alleged professional negligence by accountants. Failure to advise client of risk of breach of financial assistance provisions in Companies Act 1985. Availability of 'whitewash' procedure.
  - **University of Wales v London College of Business Ltd** [2015] EWHC 1280 (QB) - breach and termination of degree validation agreement. Defence of £25m counterclaim. Validity of contractual set-off provisions.
  - **Bond v Dunster Properties Ltd and ors** [2011] EWCA Civ 455 (Lord Neuberger MR, Arden and Longmore LJ) - Effect of delay in delivery of judgment following trial of preliminary issues
  - **Jones v (1) Churcher and (2) Abbey National plc** [2009] EWHC 722 (QB); [2009] 2 Lloyds Rep 94 Recovery of mistaken payment; ministerial receipt by bank, defence of change of position.
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## COMPANY LAW

Richard has a long standing interest in company law with a particular emphasis on shareholder disputes. He is frequently instructed in relation to the following areas of company law:

- Unfair prejudice petitions
- Internal management conflicts including breaches of shareholders' agreements and articles of association
- Removal of directors
- Breaches of directors' duties
- Misuse of company monies
- Restoration of companies to register
- Application of pre-emption provisions

Recent work includes:

- Advising in connection with failure by plc share registrar to notify a shareholder of a takeover-offer
- Acting for the respondents in an unfair prejudice petition presented in respect of a healthcare provider
- Acting for the petitioner in an unfair prejudice petition presented in respect of a property investment company
- Advising in relation to numerous breaches of directors' duty claims

## SIGNIFICANT CASES

- **In re Paramount Powders (UK) Ltd [2019] EWCA Civ 1644; [2020] 2 BCLC 1**(just and equitable winding up)
- **Rubin v Parsons [2016] EWHC 237 (Ch)**- LLP - unfair prejudice - appeal against summary determination of petitioners' claims by registrar
- **Davies v Watkins [2012] EWCA Civ 1570 (Thorpe, Lloyd and Black LJ)**- Costs of compromised Beddoe application - proposed unfair prejudice proceedings by executor of deceased estate.
- **Re Neath Rugby Ltd [2007] BCC 671** - Unfair prejudice - summary judgment/striking out.
- **Kranidiotes v Paschali [2001] EWCA Civ 357; [2003] BCC 353**- Unfair prejudice - valuation of minority shareholding.

## COMPANY DIRECTORS DISQUALIFICATION

Richard has substantial experience of CDDA and BRO work, acting both for the Secretary of State/Official Receiver and directors/bankrupts. He was on the Attorney General's Provincial Panel of Junior Counsel to the Crown from 2002 to 2018 and is a contributor to Mithani: Directors' Disqualification, the leading text in the field.

As well as appearing at trials and other contested hearings, Richard is frequently instructed to advise on evidence, the scope of allegations of unfitness, likely periods of disqualification or restriction and in relation to securing permission to act as a director following disqualification orders/undertakings.

### Significant Cases

- **Haughey v Secretary of State for Business, Energy and Industrial Strategy [2018] EWHC 3566 (Ch); [2019] BCC 483** (application by director subject to 6 year disqualification undertaking for permission to act as director)
- **Green v Secretary of State for Trade & Industry [2006] EWHC 1739 (Ch)**(appeal against dismissal of respondent director's application to expunge evidence relating to non-lead company)

## BANKING & FINANCIAL SERVICES

Richard's banking & financial services expertise includes:

- Contested mortgagee possession proceedings (including where undue influence alleged)
- Enforcement of guarantees and other securities for both lenders and borrowers and banks' liabilities for conversion/mistaken payments

## RECOMMENDATIONS

### LEGAL 500 2022

#### Commercial Litigation

'Very responsive, tenacious and extremely good with clients.'

Tier 1

#### Company and Insolvency

'He is confident, knowledgeable and tenacious. A fighter in court.'

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## CHAMBERS UK 2021

### Company

Band 1

Well respected for his deep experience in company law disputes, with particular expertise in shareholder disputes. Ascroft's practice covers unfair prejudice petitions, challenges to the validity of distributions to members, and internal mismanagement cases. He is also adept at handling claims involving directors' duties.

Strengths: "He is very good on shareholder disputes, unfair prejudice petitions and director disqualifications." "He is an extremely respected barrister and he always performs well."

Recent work: Represented the successful petitioners seeking a share purchase order for unfair prejudice in respect of a trampoline park operator.

### Restructuring/Insolvency

Maintains a substantial practice covering all areas of corporate and personal insolvency law. He is an expert in directors' duties and is regularly instructed in transaction avoidance claims and directors' misfeasance proceedings. He has additional experience advising on technical issues surrounding bankruptcy.

Strengths: "Thorough and a great advocate."

### Commercial Dispute Resolution

His practice encompasses breaches of agreement, restrictive covenants and insolvency law. He is particularly adept at handling claims that involve breaches of warranty, interference with goods and professional negligence. He currently serves on the Attorney General's regional panel of junior counsel.

Strengths: "He showed immediate understanding of my situation, and his professional opinion at that time was happily proved correct." "Richard Ascroft turns things around really quickly and gives unequivocal advice."

Recent work: Made successful applications to strike out claims alleging breaches of fiduciary and tortious duty on the part of a financial adviser, as well as an application to commit the defendant for contempt of court.

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## LEGAL 500 2021

### Commercial Litigation

'Combines an eye for detail and a very engaging manner with excellent advocacy.'

Tier 1

### Company and Insolvency

'Experienced in both company and insolvency-related matters.'

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## CHAMBERS UK 2020

### Company

Well respected for his deep experience in company law disputes, with particular expertise in shareholder disputes. Ascroft's practice covers unfair prejudice petitions, challenges of validity of distributions to members and internal mismanagement cases. He is also adept at handling claims involving directors' duties.

Strengths: "Very effective in court." "He is both practical and agile in his strategic thinking, and he's certainly someone on whom you can rely to give good advice in a form which clients can understand. Richard always goes the extra mile and is extremely helpful."

### Restructuring & Insolvency

Maintains a substantial practice covering all areas of corporate and personal insolvency law. He is an expert in directors' duties and is regularly instructed in transaction avoidance claims and directors' misfeasance proceedings. He has additional experience advising on technical issues surrounding bankruptcy.

Strengths: "He is fair, objective and very measured." Recent work: Instructed in Bennett v Bosco Investments. Acted for the former joint administrator as creditor for unpaid professional fees seeking a second administration order against a company.

#### **Commercial Dispute Resolution**

His practice encompasses breaches of agreement, restrictive covenants and insolvency law. He is particularly adept at handling claims that involve breaches of warranty, interference with goods and professional negligence. He currently serves on the Attorney General's regional panel of junior counsel.

Strengths: "He's very experienced, thorough in his approach and always able to see the wider commercial picture." "He's very good both on his feet and on paper, and has a knowledge of case law that is second to none." "He's very likeable and has a charming manner in court."

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## LEGAL 500 2020

### **Commercial, Banking, Company & Chancery**

"Experienced in a wide range of commercial matters."

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## CHAMBERS UK 2019

### **Company**

Well respected for his deep experience in company law disputes, with particular expertise in shareholder disputes. Ascroft's practice covers unfair prejudice petitions, challenges of validity of distributions to members and internal mismanagement cases.

"He's a really good company lawyer, who's got great practical experience of dealing with cases over many years, in particular those concerning unfair prejudice petitions and director disqualification. He's a real fighter and a litigator through and through; he's very at home in court and fights his corner for his clients." "Very competent and someone who always performs well, he's energetic and a lively presence."

### **Restructuring/Insolvency**

Maintains a substantial practice covering all areas of corporate and personal insolvency law. He is an expert in directors' duties and is regularly instructed in transaction avoidance claims and directors' misfeasance proceedings. He has additional experience advising on technical issues surrounding bankruptcy.

"He is extremely knowledgeable and thorough in his approach. His advice is always commercially focused. Very approachable and great with clients." "He is a very talented junior with a wide experience of insolvency matters and the ability to get to the crux of matters very quickly."

Recent work: Acted for a debtor in a High Court appeal by the creditor, whose application to revoke an individual voluntary assignment had been dismissed. This matter was complicated by the timings it concerned.

### **Commercial Dispute Resolution**

His practice encompasses breaches of agreement, restrictive covenants and insolvency law. He is particularly adept at handling claims that involve breaches of warranty, interference with goods and professional negligence. He currently serves on the Attorney General's regional panel of junior counsel.

"Richard is extremely knowledgeable and thorough in his approach. He is very approachable, great with clients and his advice is always commercially focused."

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## LEGAL 500 2019

### **Commercial, Banking, Insolvency & Chancery**

'Excellent on his feet and very good with clients.'

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## WHO'S WHO LEGAL GUIDE TO THE UK BAR 2018

"Recognised for his stellar work in company law, particularly when it comes to directors' disqualification"

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### CHAMBERS UK 2018

#### Company

Leading Junior - Band 1

Has over 20 years' experience in company law and is particularly well known for his work in shareholder disputes and internal mismanagement matters. He has specialised knowledge in directors' duties-related claims, and frequently acts for a diverse range of clients from charitable foundations to governmental bodies.

Strengths: "A strong advocate who knows his stuff. He's pleasant to deal with."

#### Restructuring / Insolvency

Leading Junior - Band 2

Maintains a substantial practice covering all areas of corporate and personal insolvency law. He is an expert in directors' duties and is regularly instructed in transaction avoidance claims and directors' misfeasance proceedings. He has additional experience advising on technical issues surrounding bankruptcy.

Strengths: "He is an excellent all-rounder and great with clients." "He has detailed knowledge of insolvency law and is prepared to fight difficult cases and points."

Recent work: Represented a debtor in the High Court in a challenge to the validity of a creditor's approval of IVA proposals.

#### Commercial Dispute Resolution

Leading Junior - Band 2

His practice encompasses breaches of agreement, restrictive covenants and insolvency law. He is particularly adept at handling claims that involve breaches of warranty, interference with goods and professional negligence.

Strengths: "Robust, proactive and good on his feet. You know he will always fight your client's corner." "He's very strong in injunctions and is good for anything requiring quick, urgent action."

Recent work: Acted for a purchaser against former conveyancing solicitors, claiming failure to advise on Stamp Duty Land Tax.

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### LEGAL 500 2017

#### Commercial, Banking, Insolvency & Chancery Law

Leading juniors

'A safe pair of hands for insolvency matters.'

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### CHAMBERS UK 2017

#### Commercial Dispute Resolution

Leading Junior - Band 2

Sources cite his experience as a solicitor as beneficial. His practice encompasses breaches of agreement, restrictive covenants and insolvency law.

Strengths: "He is imaginative in the way that he deals with issues." "He's a fighter and a great commercial specialist; you know he won't let you down."

Recent work: Represented the tertiary claimant in University of Wales v London College of Business regarding the defence of a £25 million counterclaim concerning allegations of a breach of university course validation agreement.

## Company

Leading Junior - Band 1

Particularly well known for his work in shareholder disputes and internal mismanagement matters. He has specialised knowledge in directors' duties-related claims, and frequently acts for a diverse range of clients from charitable foundations to governmental bodies.

Strengths: "He's a good advocate, he fights hard for his client and he's good at legal analysis as well." "He's very commercially minded. He gives the advice your clients need to hear, not what they want to hear."

Recent work: Acted in *Holland & Watts Ltd v Fiander Tovell LLP*, a case concerning financial assistance for the acquisition of shares and the availability of a 'whitewash' procedure.

## Restructuring / Insolvency

Leading Junior - Band 2

Has a substantial practice covering all areas of corporate and personal insolvency law. He is an expert in directors' duties and is regularly instructed in transaction avoidance claims and directors' misfeasance proceedings.

Strengths: "He is thorough and a great advocate."

Recent work: Acted in a claim by a company in liquidation that alleged professional negligence on the part of its former accountants.

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## LEGAL 500 2016

### Commercial, Banking, Insolvency & Chancery Law

Leading juniors

'Recommended for professional negligence claims.'

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## CHAMBERS UK 2016

### Commercial Dispute Resolution

Leading Junior - Band 2

Noted by market sources as a "reliable player", he provides high-quality advice and advocacy across a wide scope of litigation, including on commercial, company, partnership, professional negligence and insolvency disputes.

Strengths: "He inspires confidence and is very good with clients." "He is good on his feet; excellent cross-examination and impressively pulled together all the strands in his submissions to the court."

Recent work: Acted for the claimant in *Beeny v Michael Ghersie Associates*, a breach of warranty claim concerning the sale of an accountancy practice.

## Restructuring / Insolvency

Leading Junior - Band 1

Noted for his encyclopaedic knowledge of directors' duties matters, Richard Ascroft also receives instructions in transaction avoidance claims and directors' misfeasance matters.

Strengths: "He's and extremely clever, bright and imaginative advocate and he's also lovely to deal with for clients."

Recent work: Successfully defended the validity of a payday lender's assignment of a loan book to a third party.

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## LEGAL 500 2015

### Commercial, Banking & Insolvency

Leading juniors

'Excellent at getting his head around complicated issues'.

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## CHAMBERS UK 2015

### Commercial Dispute Resolution

Leading Junior - Band 2

Specialises in company law, insolvency law and commercial litigation. He has particular expertise in claims involving breaches of warranty and misrepresentation, interference with goods, employment restrictive covenants and professional negligence.

Expertise: "He has an extremely impressive ability to get to grips with quite substantial facts, specific topic areas and the legal issues as well." "He's very calm and very good on strategy."

Recent work: Successfully represented the purchaser of an accountancy practice in a breach of warranty dispute against the vendor.

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## WHO'S WHO LEGAL - UK BAR 2015

At Guildhall Chambers, Richard Ascroft specialises in company law, in particular directors' disqualifications. He is "incredibly gifted" and a "pleasure to work with".

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## LEGAL 500 2014

Commercial, banking and insolvency - Leading juniors - 'Recognised for his insolvency expertise, but he has also handled various breach of warranty claims'

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## CHAMBERS UK 2014

### Commercial

A senior junior with substantial experience in a variety of commercial work such as breaches of warranty and misrepresentation claims.

Recent work: He defended HM Land Registry against a claim alleging negligence in maintaining a proprietorship register in respect of claimant's leasehold interest in freehold property.

### Company

Specialises in insolvency and commercial litigation and is also well versed in company law, notably including niche expertise in director disqualifications. He also advises clients on internal management conflicts and just and equitable windings up.

Expertise: "He is a robust advocate, economic in his delivery, and knows which points to press hard and which to go more softly on."

### Restructuring/Insolvency

A leading junior who has a strong command of the Company Directors' Disqualification and Bankruptcy Restriction Order regimes and regularly appears in transaction avoidance claims and directors' misfeasance proceedings.

Expertise: "He is a good all-rounder in corporate litigation and insolvency work, and is particularly strong on the technical matters."

Recent work: He was instructed in *Mayner v Gaul and Others*, a complex claim brought under Section 339 of the 1986 Insolvency Act.

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## CHAMBERS UK 2013

### Chancery

Richard Ascroft is an insolvency specialist, and is instructed by individuals and businesses. A client said: "I instruct him extensively. He has the law in mind, but he also really gets the commercial picture."

### Commercial

Richard Ascroft has a recognised expertise in, amongst other matters, share sale agreements, retention of title claims; goods supply contracts and issues of fraud and agency. He maintains a busy practice.

### Company

Richard Ascroft of Guildhall Chambers is well versed in company law and regularly advises on directors' duties and shareholder-related matters such as unfair prejudice petitions and derivative claims. Peers describe him as a "capable and approachable" barrister, who has a "very strong practice."

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## LEGAL 500 2012

Guildhall Chambers fields an impressive insolvency team - featuring Richard Ascroft, who is recommended in this area.

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## CHAMBERS UK 2012

### Chancery

Richard Ascroft engages in company law litigation and disputes arising from insolvencies. He is particularly recommended for cases with an unfair prejudice element to them. He is described as "very astute - someone you want to have on your side" in court.

### Commercial

Richard Ascroft is hailed as a 'forceful advocate who delivers valuable advice.' He is highly regarded for providing guidance on insolvency disputes.

### Company

Richard Ascroft offers substantial expertise in company law matters ranging from directors' disqualification and disputes arising from share sale agreements to unfair prejudice petitions.

### Insolvency

Richard Ascroft has a balanced corporate and personal insolvency practice. He was part of the team acting for Asil Nadir's trustee in bankruptcy in connection with his application to lift his suspension from discharge.

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## CHAMBERS UK 2011

### Chancery

Finally at this set, Richard Ascroft is a "quiet yet effective" breed of counsel who does well on complex insolvency wrangles, and cases of a company or general commercial nature.

### Insolvency

Also highly commended is Richard Ascroft, who is particularly focused on personal insolvency matters.

### Commercial

Also respected, Richard Ascroft is "calm, knowledgeable, reassuring and continues to go from strength to strength." He is best known for his insolvency expertise, though he has a broader commercial practice comprising contractual, company law and misrepresentation disputes. Interviewees say he "shows good judgement and is a thoroughly decent person."

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## LEGAL 500 2010

Richard Ascroft 'user friendly and good to deal with'.

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## CHAMBERS UK 2010

### Commercial

Richard Ascroft is "a very reliable advocate and a safe pair of hands." Sources describe him as extremely competent and very pleasant to work with. They further note that he is "an extremely hard worker who will go the extra miles for his clients." His recent highlights include representing a major lender in the attempted recovery of £2 million worth of mortgage monies obtained by fraud.

### Insolvency

Richard Ascroft, who has high-level expertise in all aspects of insolvency law. He is "technically strong" and "extremely impressive on his feet." He regularly acts for and against office holders in relation to transaction avoidance claims and directors' Misfeasance proceedings.

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## LEGAL 500 2009

Richard Ascroft has been recommended.

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## CHAMBERS UK 2009

### Commercial

Richard Ascroft is "highly skilled, with the capacity to think laterally." Breach of contract claims take up a significant amount of his time; he is also praised for his performance on complex disputes and has an extensive company law and insolvency practice.

### Insolvency

Particularly excellent on directors' disqualification work, Richard Ascroft is a "user-friendly, great technician" with impressive advocacy skills. His expertise includes corporate and personal insolvency and company and commercial litigation. He has vast experience handling transaction avoidance claims and directors' misfeasance proceedings.

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## APPOINTMENTS:

- Attorney General's Regional Panel, Junior Counsel To The Crown 2002 - 2018
  - Trustee *Talking Money* (charity providing financial advice) November 2015
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## MEMBERSHIPS:

- Chancery Bar Association
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## EDUCATION:

- LLB Hons, Otago, NZ
  - BCL Oxon
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## RECENT NEWS

- Guildhall Chambers shares best practice alongside Prime Minister Theresa May in The Parliamentary Review
- Richard Ascroft speaking at the BLS's Dispute Resolution Conference - 23rd June 2016
- Guildhall Chambers quiz night goes down a "sturm" - September 2015

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