

Overview

Banking and Financial Services
 Charities
 Commercial Disputes
 Company
 Court of Protection
 Insolvency
 Partnership and Joint Ventures
 Professional Liability
 Property
 Wills and Estates

Profile: Overview

Howard is widely experienced in property, commercial and private client matters. He is a calm, realistic and very approachable lawyer who focuses on achieving the client's goal. Solicitors appreciate his collaborative approach to cases, his enthusiasm for complex issues and his thorough command of his brief.

Experience and Expertise

Howard Smith specialises in litigation and related advisory work in Chancery and commercial cases. He is widely experienced in all areas of property work. He regularly acts in professional negligence disputes involving property issues (for claimants and defendants), and acts for both landlords and tenants in commercial and residential landlord and tenant disputes and leasehold enfranchisement. He deals with conveyancing disputes, often on an urgent basis, and neighbour disputes involving rights of light, party walls, boundaries, easements and restrictive covenants.

He deals with contentious and non-contentious commercial cases. His contentious work involves contractual disputes, banking, insurance, third party costs and insolvency. His non-contentious work includes drafting commercial contracts, security documents and overage agreements.

Howard's private client work includes Court of Protection, probate and estate disputes and charity issues.

Cases and Work of Note

Some of his more recently reported cases include:

- *Re M* [2011] 1WLR 344 (leading case on statutory wills and best interest decisions under the Mental Capacity Act 2005);
- *R&R Ltd v Axa Insurance UK plc* [2010] 2 AER (Comm) 527 (construction of insurance contracts and duty of disclosure);
- *Re P* [2010] WTLR 1405 (best interest decisions on appointment of deputy and personal welfare applications in the Court of Protection);
- *Clarke v Meadus* [2012] EWHC Ch (third party costs orders);
- *Graham v Easington DC* [2010] RVR 168 (discharge or modification of restrictive covenants);
- *Circular Facilities (London) Ltd v Sevenoaks DC* [2005] EnvLR 35 (liability for contaminated land);
- *Joyce v Rigolli* 1 P&CR 22 (boundary agreements and registered land, applicability of de minimis principles in oral contract for transfer of land);
- *Jennings v Cairns* [2004] WTLR 361 (setting aside transactions for undue influence and breach of fiduciary duty);
- *Customs & Excise v Dickinson* [2004] 1 WLR 1160 (forfeiture);
- *Landmaster Properties Ltd v Thackeray Property Services Ltd* [2004] L&TR 4, 2EGLR 30 (Leasehold Property Repairs Act 1938);
- *Taylor v Williamson* [2003] C.P. Rep. 20 (bias & judicial decision-making);
- *Wellcome Trust v Bellhurst* [2003] HLR 10, L&TR 8 (leasehold enfranchisement and service of notices);
- *AIB Group Plc v Martin* [2002] 1 W.L.R. 94 (bank security documents & construction).

Recommendations

Howard is recommended for Court of Protection: Property and Affairs by Chambers UK. Recent editorial has included:

- "Howard has digested a great volume of material and presents cases in a concise and clear manner." "An understated advocate who knows the law and makes pragmatic decisions." (Court of Protection: Property & Affairs, Chambers UK 2018)
- "An expert in party wall matters, he is fully on top of all the subtleties and intricacies of this challenging area." (Property Litigation, The Legal 500, 2017)
- "He's very good at communicating with the solicitor, which is a must, especially in emergency applications. He's always very clear and concise in the advice he gives, and always happy to talk through something with you and amend if necessary." (Court of Protection (Property and Affairs), Chambers UK 2017)
- "Marvellous. He's very staunch about what he's saying on behalf of his client but nevertheless very easy to deal with."
"He has an excellent ability to appease judges. He has a way of making his point and gets the job done without aggression."

Publications and Seminars

- Howard was the barrister member of the RICS working group which produced RICS Rights of Light Guidance Note (2011).
- Howard was also the barrister member of the RICS working group which produced the RICS Party Walls Guidance Note (2012).
- He has written various articles for professional magazines on land law issues and private client matters. He is involved in co-writing a book on rights of light. He often gives seminars on property, private client and court of protection topics, including a recent LexisNexis webinar on court of protection practice.

Qualifications

Howard was educated at Oriel College, Oxford (MA) where he was a scholar of the college and at City University, London (Dip Law). He sits as a deputy master of the High Court, Chancery Division

Memberships

Chancery Bar Association; Property Bar Association.

Other Details

VAT Registraton Number: 524038374

Bar Membership Number: 21711

For More Information

Please click on the links to the left or contact a member of the clerking team.

