

Overview

Charities
 Commercial Disputes
 Court of Protection
 Partnership and Joint Ventures
 Planning and Local Government
 Professional Liability
 Property
 Tax
 Trusts
 Wills and Estates

Mediation and Arbitration

Profile: Overview

Kate has a wide ranging and highly successful commercial and traditional chancery practice. An experienced litigator, she has appeared in a number of high profile cases and has represented numerous government departments and agencies while on the Attorney General's Panels. She is known for her clear, concise and pragmatic approach.

Experience and Expertise

Kate Selway is a busy, successful commercial and traditional chancery practitioner with extensive High Court litigation experience. She was appointed to the Attorney General's A Panel of Counsel in 2016.

Her core areas of practice are trusts (including the taxation of trusts); all aspects of real property and landlord and tenant; wills, probate and the administration of estates; charities; Court of Protection; professional negligence.

As a member of the Attorney General's B and C Panel of Counsel from 1999 to 2008 Kate undertook a broad range of civil litigation for various government departments and agencies including HMRC, the Highways Agency, the Department for Transport, the Land Registry, the Competition Commission, the MOD, the National Crime Agency and the Department of Works and Pensions. Kate represented the Highways Agency at three public road inquiries between 2003 and 2007.

Kate appears regularly in the Chancery Division of the High Court and has appeared in the Court of Appeal in two important decisions, concerning the excessive use of easements (*McAdam Homes Ltd-v-Robinson*), section 423 of the Insolvency Act 1986 and transactions defrauding creditors (*CIR-v-Hashmi*) and in the Supreme Court concerning the marshalling of securities (in the *NCA-v-Szepietowski litigation*).

Kate undertakes extensive advisory work in all areas of her expertise.

Cases and Work of Note

- *Holden-Hindley-v-Holden-Hindley* [2014] W.T.L.R. 275 ChD Roth J (scope of exercise of trustees' powers of appointment; whether resettlement of trust assets was for beneficiary's benefit; *Pilkington* type resettlements)
- *Szepietowski v The National Crime Agency* [2013] 3 WLR 1250 (Important Supreme Court decision on the limits of the equitable doctrine of marshalling.)
- *Siaw-v-Lock & Ors* [2011] EWHC 2926 (Ch) (Administration of estates; consent orders; proprietary estoppel; receivers' powers and duties)
- *SOCA-v-Szepietowski litigation 2009-11* (Proceeds of crime, civil recovery orders, the equitable doctrine of marshalling)
- [2011] EWCA Civ 856, Court of Appeal
- [2010] EWHC 2570, Henderson J
- [2009] EWHC 1560, Times 26 August 2009, Henderson J
- [2009] EWHC 344, [2009] 4 All ER 393, Henderson J
- [2009] EWHC 655, Henderson J
- *Taff-v-Highways Agency* JPL 2010, 2, 264-8, Lands Tribunal (Compensation for compulsory purchase; waste management licences)
- *The Solicitor for the Affairs of Her Majesty's Treasury-v-Doveton* [2008] EWHC 2812, [2009] BPIR 352 (Probate and the administration of estates; will forgery)
- A46 Public Inquiry 2007 (six- week public road inquiry representing the Highways Agency)
- *Elizabeth Court (Bournemouth) Ltd-v-HMRC*, 31 October 2007, Special Commissioner Dr N. Brice (Liability to pay Stamp Duty)

- Land Tax where right of collective enfranchisement to purchase freehold exercised)
- *Coombes-v-HMRC* [2007] EWHC 3160 (Ch), (Trusts; capital gains tax; whether capital gain could be attributed to appellant as the settlor of the settlement)
- *Significant Ltd-v-Farrel* (HMIT) [2006] STC 1626 (Ch D, Blackburne J) (Appeals by way of case stated; procedure and time limits for transmitting case stated to High Court; whether High Court had jurisdiction to extend time limit.)
- *Vowles-v-Aston*, 15 March 2005, (Ch D, Patten J) (Landlord and tenant; rent review; jurisdiction of arbitrator)
- A550/A5117 Deeside Park Junctions Public Inquiries 2005 (Two-week public road inquiry representing Highways Agency)
- *R (on the application of Ford t/a David Sayers)-v-Leasehold Valuation Tribunal* [2005] EWHC 503 (QBD, Admin, Collins J) (Judicial review of a decision of the Leasehold Valuation Tribunal in relation to a claim for collective enfranchisement under the 1993 Act)
- *IRC-v-Arkwright* [2004] WTLR 855, [2005] 1 WLR 1411, also reported in Simon's Tax Cases (Ch D, Gloster J) (A special commissioner had jurisdiction to hear an appeal in relation to an inheritance tax dispute on an issue of law but had no jurisdiction to determine the value of the interest in a property for the purposes of inheritance tax. That was an issue for the Lands Tribunal.)
- *Lonsdale-v-Braisby* (HMIT) [2004] EWHC 1811 [2004] STC 1606 (Ch D, Lewison J) (Personal pension contributions made under both retirement annuity contracts and personal pension schemes; tax relief allowed; Income and Corporation Taxes Act 1988 s.625(1)(b) and s.655(1)(b))
- *Sevenoaks District Council-v-First Secretary of State & Anr* [2004] 14 EG 141 (CS) (Construing planning conditions; what may be reasonably implied into planning conditions)
- *McAdam Homes Limited-v-Robinson* [2004] EWCA Civ 214, [2005] 1 P. & C.R. 30 (Extent of implied easements; redevelopment of land and change of use; excessive user)
- A428 Caxton Common to Hardwick Public Inquiry 2003 (One-week public road inquiry representing the Highways Agency)
- *New World Medical Ltd-v-Cormack* (HMIT) [2002] STC 1245 (Corporation tax; practice and procedure)
- *Commissioners of Inland Revenue-v-Mohamed Akram Hashmi* [2002] EWCA Civ 981, [2002] 2 BCLC 489 (ChD & CA) [2002] WTLR 19 (Ch D, Hart J) (Insolvency; trusts; transactions defrauding creditors; transaction at an undervalue; fraud)
- *Kirkwood (HMIT)-v-Evans* [2002] 1 WLR 1794 (Ch D, Patten J) (Income tax; deductibility; travel expenses; home office expenses; whether travel expenses incurred in performance of duties)
- *Slater Ltd-v-IRC* [2001] The Times 18 December 2001 (Corporation tax; practice and procedure)
- *Ansell (HMIT)-v-Brown* [2001] STC 1166 (Ch D, Lightman J) (Income tax; Schedule E; whether deductions for expenditure necessarily incurred wholly and exclusively in performance of the duties of the employment)
- *King-v-Walden* (HMIT) [2001] The Times 12 June 2001 (Ch D, Jacob J) (Tax penalties; human rights; incorrect return or accounts; fraud or neglect)
- *Thompson (HMIT)-v-Hart* [2000] STC 381, The Times, 24 April 2000 (Ch D, Hart J) (Whether taxpayer was entitled to Business Expansion Scheme relief under s. 289 Income and Corporation Taxes Act 1988)
- *Norris (HMIT)-v-Edgson* [2000] STC 494; [2000] 2 FLR 655 (Ch D, Park J) (Whether tax payer was entitled to relief under s. 347B Income and Corporation Taxes Act 1988 in respect of maintenance payments)
- *Nicholls-v-Highways Agency* [2000] 2 EGLR 81 (Lands Tribunal) (Landlord and tenant; compulsory purchase)
- *Secretary of State for the Environment Transport & the Regions-v-Baylis (Gloucester) Limited* [2000] 80 P&CR 324; [2000] 2 EGLR 13 (Ch D, Kim Lewison QC) (Property litigation; highways)

Recommendations

Kate Selway is recommended as a leading junior by Chambers UK and/or The Legal 500 for commercial chancery, traditional chancery and property litigation. Examples of recent directory comment are as follows:

- "Her advice is crystal clear, and she is very client-friendly, enthusiastic and a

pleasure to deal with. she is very prompt and always reacts well to what the other side throws at her." (Chancery: Traditional, Chambers UK 2018)

- "She is very engaging, positive and upbeat, and talks through her advice clearly." (Property Litigation, The Legal 500, 2017)
- "Clients love her, she is positive and upbeat." (Private Client, The Legal 500, 2017)
- "She is very engaging and encourages cooperation between solicitor and counsel." (Charities, The Legal 500, 2017)
- "Clients love her." (Agriculture, The Legal 500, 2017)
- "Provides prompt and pragmatic advice, and is not afraid to give a definitive opinion." (Real Estate Litigation, Chambers UK, 2017)
- "Her paperwork is excellent, and she is extremely clear and very thorough. She's great with clients and they have a lot of confidence in her." (Chancery: Traditional, Chambers UK, 2017)
- "Truly excellent." (Private Client: Trusts and probate, The Legal 500, 2016)
- "practical and clear advice." (Chambers HNW, 2016)
- always very enthusiastic, she's crystal clear on the issues and on the road map through them
- she provides very efficient and constantly reliable advice, and is also very easy to work with
- she is accessible, good at problem solving and excellent on the detail
- unflappable in some tight situations... usually comes out on the winning side
- she is fearless in her advice and very much liked by clients because of her concision
- commentators gush about Kate Selway's huge amount of litigation experience
- she is excellent on both the law and procedure
- she covers every point, is a tough negotiator and deals in an honest, straightforward fashion
- very concise; she can sum up everything you want to say about a case in half a dozen sentences
- known for her speed of response and friendly, pragmatic approach
- exceptionally knowledgeable counsel who provides practical, client-focused and commercially sound advice
- not only is she extremely bright and capable but she also works hard and is always ready to do whatever is needed in the circumstances
- approachable, very easy to work with and excellent with clients.

Publications

Kate was a co-editor of Wurtzburg & Mills on Building Society Law from 1996-2010.

Seminars

Kate regularly gives seminars in property, trust and probate related matters.

Education

Before studying Law, Kate read History. She has a 1st Class BA from Bristol and a DPhil from Oxford, where she specialised in late medieval English history.

On a Personal Note

Kate has a Blue in hockey and still plays regularly. She also enjoys photography and inflicting visits to historic sites on her husband and two sons.

Memberships

Kate is a member of the Chancery Bar Association, the Charity Law Association and STEP.

Other Details

VAT Registration Number: 681554419

For More Information

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

