



## Joshua Winfield

Call: 2001

**Barrister**

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**Joshua Winfield** has a general chancery advisory and litigation practice, specialising in private client work and charities. He is also experienced in work relating to property, capital taxes and professional negligence in the private client and property context. He has developed expertise in diverse areas, including religious charity disputes, sale of charity land and forfeiture of long residential leases.

### WILLS AND ESTATES

Joshua has wide experience of litigation, advice and drafting relating to wills and probate and the administration of estates, including applications for the construction of wills, removal of personal representatives, deeds of variation, and Inheritance (Provision for Family and Dependants) Act 1975 applications.

Prior to his call to the Bar, Joshua spent a year as a paralegal in the Private Client department of Charles Russell. He acquired extensive experience of drafting wills during his year in their team. He is a member of the Society of Trust and Estate Practitioners.

Some of Joshua's cases of note include:

- *Re Dharamshi, Deceased* [2013] EWHC 3917 (Ch) - Challenging a will based on lack of capacity due to extreme bereavement reaction
- *Re Longman, Deceased* [2012] EWHC 666 (Ch); [2012] PTSR 1619 - Acting in a case concerning the construction of a gift of residue to a charity involved in a merger between the date of the will and the date of death, in light of s 75F of the Charities Act 1993 (now s 311 of the Charities Act 2011)
- *Millburn-Snell v Evans* [2011] EWCA Civ 577; [2012] 1 WLR 41 - Acting in an appeal against the striking out of a claim issued by administrators before obtaining a grant
- *Love v Griffiths, unreported* (2009) Ch D (Bristol DR) - Appearing in a case concerning construction of a gift in a will of the balance of the deceased's building society accounts.

### TRUSTS

Joshua has wide experience of litigation, advice and drafting relating to trusts,

including applications for the construction of trusts, removal of trustees and variations. He acquired considerable expertise in trust-drafting during his year at Charles Russell and in offshore work on his secondments at the Jersey advocates Bailhache Labesse and Hanson Renouf, which he has built on subsequently. He is a member of the Society of Trust and Estate Practitioners.

In August 2012, Joshua assisted in a discovery exercise in a complex and high-value tracing claim by a divorcing wife against a Jersey trust, holding shares of companies in several offshore jurisdictions, that was alleged to have been settled by the husband out of assets subject to community of property laws.

Some of Joshua's reported cases include:

- *Widd v Widd* [2011] EWHC 1420 (Ch) – Filing an application to set aside a trust made under a mistake
- *Dean v Burne* [2009] EWHC 1250 (Ch) – Acting as junior counsel to the representative defendant in this high-profile charitable trust dispute in the Chancery Division concerning the construction of trust deeds relating to the assets of the Russian Orthodox community in London
- *Singla v Brown* [2007] EWHC 405 (Ch); [2008] Ch 357 – Resisting the setting aside of a transfer of the beneficial interest in a house by a bankrupt as a transaction at an undervalue
- *Moscow v Brown and others* [2005] EWHC 2243 (Ch) – Resisting an order for sale of a house under a charging order, and establishing a co-owner's 99% beneficial interest.

## **CHARITIES**

Joshua's charities practice encompasses all aspects of litigation in the Chancery Division, advisory work and drafting, with particular experience in disputes involving religious charities, unincorporated associations and dispositions of charity land, advice on governance issues and changes to governing documents, and advising local authorities holding land as charity trustees. He has also advised on charity issues in Northern Ireland.

Joshua has continued to be recognised by the legal directories' charity divisions for a number of years. In 2018, he was elected a member of the Executive Committee of the Charity Law Association and chaired the Association's working party on the revision of the Code of Fundraising Practice. He had previously been a member of the working party on the Perpetuities and Accumulations Bill.

Some significant cases include:

- *Egyptian Association in Great Britain v Mohamed* (ongoing) – Acting in a claim against a former director of a charitable company for an account of profits relating to the exploitation of the charity's licence to provide visas for the Hajj (pilgrimage to Mecca)
- *Mohammed v Mohammed* [2018] EWHC 805 (Ch) – Filing an application for an interim injunction to prevent hostile takeover of a mosque
- *Charity Commission of Northern Ireland v Tughan* (ongoing) – Advising the former trustee of two industrial and provident societies in a claim by the Charity Commission of Northern Ireland for an account and equitable compensation based on various alleged breaches of trust and fiduciary duty
- *Von Stein v Camphill Village Trust Ltd* (unreported) – Appearing in a claim for declarations and injunctions to prevent restructuring of a charity providing communities for adults with learning disabilities, mental health problems and other support needs
- *Park v Cho* [2014] EWHC 55 (Ch); [2014] PTSR 769 – Appealing against lifting of stay of enforcement of costs order following trial in charity proceedings due to lack of Charity Commission permission to bring proceedings
- *Marwaha v Singh* [2013] EWHC B6 (Ch) – Acting in a case concerning a claim for an injunction to restrain the holding of elections to the

management committee of a Sikh temple in Leicester and compel the current committee to review the membership list. [2013] WLR (D) 429 (CA): Court of Appeal held that the court could interfere in the exercise of charity trustees' discretion where they acted in breach of duty without an allegation of bad faith

- *Cifci v Erbil* [2012] EWHC 3170 (Ch) – Appearing in a case concerning declarations as to the constitution governing an unincorporated Alevi charity and the validity of registration of new members
- *Re Longman, Deceased* [2012] EWHC 666 (Ch); [2012] PTSR 1619 – Acting in a case concerning the construction of a gift of residue to a charity involved in a merger between the date of the will and the date of death, in light of s 75F of the Charities Act 1993 (now s 311 of the Charities Act 2011).
- *Dean v Burne* [2009] EWHC 1250 (Ch) – Acting as junior counsel to the representative defendant in this high-profile charitable trust dispute in the Chancery Division concerning the construction of trust deeds relating to the assets of the Russian Orthodox community in London

## **PROPERTY**

Joshua has acted in matters involving a broad range of real property and landlord and tenant issues, including possession claims involving residential and business tenants, squatters and mortgagors, specific performance of contracts for sale, estate agents' commission, and claims by registered social landlords for possession and injunctions on the grounds of anti-social behaviour.

He has particular experience of representing lenders in claims for forfeiture of long residential leases.

Illustrative cases include:

- *Bank of Scotland plc v Rihany* (QBD (Brighton DR), 1 June 2012) – Setting aside forfeiture by peaceable re-entry of long residential lease for rent arrears on grounds of waiver
- *Singla v Brown* [2007] EWHC 405 (Ch); [2008] Ch 357 – Resisting the setting aside of a transfer of the beneficial interest in a house by a bankrupt as a transaction at an undervalue
- *Moscow v Brown and others* [2005] EWHC 2243 (Ch) – Resisting an order for sale of a house under a charging order, and establishing a co-owner's 99% beneficial interest

## **TAX**

Joshua advises on capital taxes and some aspects of income tax in connection with property, private and charitable trusts, and estates.

Cases include advising:

- a charity as to how to challenge an income tax assessment on expenditure alleged by HMRC to be non-charitable
- a widow born in the USA as to the prospect of her proving domicile in England and Wales to take advantage of the inheritance tax surviving spouse exemption
- executors as to the inheritance tax treatment of repaid PETs and payments by the deceased made shortly before death in consideration of care by the recipient owners of agricultural property subject to an option agreement as to the capital gains tax and inheritance tax consequences of a gift of the land to their children,

## **RECOGNITION**

For several years Joshua has been ranked by the legal directories as a leading junior in charities, with editorial comment including:

- *“Very responsive and highly knowledgeable, he is a barrister whose opinion you can trust and his turnaround time is incredibly quick.”  
“Handling an extremely complex area of law, he really shines at getting to the heart of a problem and he offers practical solutions to clients.”* (Charities, Chambers UK Bar 2021)
- *“Very bright, but very easy to deal with - has a clear and logical approach. Able to turn instructions around quickly with clear and concise advice.”* (Charities, Legal 500 UK Bar 2021)
- *“Very clear and incisive, he gives advice that is straight to the point.” “His opinions are timely and pragmatic and he quickly grasps difficult issues. He’s very much a ‘go-to’ barrister for charity governance matters.”* (Charities, Chambers UK Bar 2020)
- *“Pragmatic and highly efficient in turning round opinions.”* (Charities, The Legal 500 UK Bar 2020)
- *“He knows the subject and he has a very thorough approach.”* (Charities, Chambers UK Bar 2019)
- *“Clear, pragmatic advice and the quick ability to absorb issues.”* (Charities, The Legal 500 UK Bar 2019)
- *“Has an impressive ability to remain focused on the key issues in a complex matter. His prompt, astute responses assist us greatly when we are faced with tight deadlines, and his advice is straightforward and practical.”* (Charities, Chambers UK Bar 2018)
- *“Highly rated for appellate work.”* (Charities, The Legal 500 UK Bar 2017)
- *“He gives good technical advice, and is clearly a rising star in this area.”* (Charities, Chambers UK Bar 2017)
- *“Experienced in advising trustees of schools and religious charities.”* (Charities, The Legal 500 UK Bar 2016)

## **PUBLICATIONS AND SPEAKING**

- Spencer-Bower on Reliance-Based Estoppel (5<sup>th</sup> ed), chapters 3, 5 & 6
- Charity mergers: a missed opportunity (TEL&TJ Vol 143 p 15)

## **QUALIFICATIONS**

- MA (Oxon); PgDL (City University)

## **MEMBERSHIPS**

Joshua is a member of the Executive Committee of the Charity Law Association. He is a member of the Chancery Bar Association and the Society of Trust and Estate Practitioners.

## **POLICIES AND OTHER DETAILS**

- Read Joshua’s [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#).