



Marcus Flavin

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Barrister

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Marcus is primarily a private client barrister. His practice covers trust, probate, and family provision litigation; applications to court by trustees and executors for approval and directions; and non-contentious advice and drafting, (including tax). He has also worked on divorce cases where family trusts are in issue.

He has a particular interest in offshore work, originally arising from an extended secondment to the trusts department of a major Jersey law firm, advising clients on non-contentious trust matters (including pensions) and trusts litigation and has advised on matters in BVI, Cayman, and Guernsey as well as Jersey and Man.

TRUSTS

Marcus is an experienced junior in both contentious and non-contentious trusts work. He has advised on construction issues and exercise of trustees' discretionary powers, disclosure to beneficiaries, and variations. He has also acted in claims for removal of trustees, breach of trust claims, tracing claims, claims that the trust is a sham (including claims arising out of insolvencies) and he has acted for trustees brought into ancillary relief proceedings in the Family Division.

Selected recent significant cases include:

- *English v Keats* [2018] EWHC 673 (Ch) – Acting in a successful claim to remedy defective execution of a power of appointment 18 years ago, by reviving a jurisdiction previously last successfully relied on in England and Wales in 1908 and apparently consigned to history by Park J in *Breadner v Glanville-Grossman* in 2005
- *Representation of G Trustees Ltd & In the matter of the H and J Trusts* [2017] JRC162A – Assisting Jersey advocates for the Trustee in a hotly contested Public Trustee v Cooper application
- *Mills v Mills* [2015] EWHC 1522 (Ch) – Acting on behalf of minors on case concerning construction of a trust deed, retrospective authorisation of a breach of the self-dealing rule, and valuation of interests
- *Perczynski v Perczynski* – Advising trustees of a Jersey trust on litigation disclosure and other issues arising out of long running matrimonial litigation in Poland, France, and Canada

- *Wright & anor v Gater & anor* [2011] EWHC 2881 (Ch) – Acting on behalf of a minor in an application for approval of a deed of variation made on a double intestacy for tax and other reasons
- *Adelaide Partners & ors v Danison & ors* [2011] EWHC 4090 (Ch) [2011] AllER (D) (01) (Mar) – Acting for the wife of the principal defendant in a breach of trust claim arising from an advance fee fraud in the sum of some \$16.5 million, on allegations of dishonest assistance and knowing receipt of the proceeds of the fraud

WILLS AND ESTATES

Marcus is an experienced practitioner in the fields of trusts, administration of estates, probate claims, non-contentious probate proceedings (caveats, citations, applications and summonses) and claims under the Inheritance (Provision for Family and Dependents) Act 1975. He is equally at home in dealing with such matters in the Chancery Division, in the County Court, or in the Principal Probate Registry.

Marcus is recommended as a leading junior in the Private client: trusts and probate section of The Legal 500.

Some illustrative cases include:

- *Haider v Syed* [2013] EWHC 4079 (Ch); [2014] W.T.L.R. 387 – Concerning a of forgery of a will made in India
- *Dobson v Heyman* [2010] WTLR 1151 – Acting in a case concerning an application for the removal of a trustee and executor (including appearing for the respondents on the removed executor’s unsuccessful appeal)
- *Musson v Bonner* [2010] WTLR 1369 – Acting in a claim turning on the presumption of advancement, where the deceased and her son had opened a joint bank account
- *Organ & Another v McKeachie & Others* [2008] EWHC 2661 (Ch) successfully defending a claim that a will should be pronounced against on grounds of want of knowledge and approval said to arise from alleged forgery of a letter of instruction
- Successfully contesting an application for permission to bring a claim under the 1975 Act out of time.

INTERNATIONAL

Marcus often undertakes work offshore, particularly in relation to trusts.

Earlier in his career he spent 8 months on secondment to the trusts department of the Jersey firm of Bailhache Labesse where he drafted trust instruments and advised on a wide variety of contentious and non-contentious work.

His cases and work of note in this area include:

- *Representation of G Trustees Ltd & In the matter of the H and J Trusts* [2017] JRC162A – Assisting Jersey advocates for the Trustee in a hotly contested Public Trustee v Cooper application
- *Perczynski v Perczynski* – Advising trustees of a Jersey trust on litigation disclosure and other issues arising out of long running matrimonial litigation in Poland, France, and Canada
- Advising BVI trustees of a settlement holding land in England and shares in an insolvent English company on claims attacking the trust made by creditors of the bankrupt principal beneficiary and the insolvent company
- Advising trustees of a Jersey trust holding substantial assets on a freezing order made in proceeds of crime proceedings in Belgium that was impeding major commercial decisions
- Assisting Michael Heywood in advising the plaintiff in *Re Teighmore* (the “Shard of Glass” litigation) in Jersey
- Assisting the Jersey Law Commission in preparing their report on the Jersey Law of Partnership.

TAX

Marcus advises on inheritance tax, capital gains tax, and the income tax treatment of trusts and estates, and often advises on and drafts instruments of variation under section 142 of the Inheritance Tax Act and section 62 of the Taxation of Chargeable Gains Act. He is also experienced in court applications where the consent of the court is required for such a variation. He has also been involved in tax litigation with an insolvency angle.

In 2011, Marcus acted for the *Revenue in the Court of Appeal in HMRC v Chamberlin* [2011] EWCA Civ 271, a claim by the bankrupt to annul her bankruptcy on the basis that the VAT returns on which the petition had been based were said to be incorrect. This was an appeal by the Revenue from the order of Mr Donaldson QC, who had granted an appeal from the original order of Chief Registrar Baister and had granted the annulment. The Court allowed the appeal and reinstated the bankruptcy order.

PROFESSIONAL LIABILITY

Marcus accepts instructions in the field of professional liability, primarily with regard to trusts, financial advice, will drafting, administration of estates, inheritance tax, and conveyancing.

RECOGNITION

- *"Pragmatic, creative, approachable and technically very knowledgeable."* (Chancery: Traditional, *Chambers UK Bar 2022*)
- *"He has subtle but clever cross-examination skills. Marcus digests and retains large volume of information well."* (Private Client: Trusts and Probate, *Legal 500 UK Bar 2022*)
- *"His particular familiarity and expertise in relation the Jersey trusts is immensely useful."* (Offshore, *Legal 500 UK Bar 2022*)
- *"Marcus is an extremely useful resource in contentious trusts matters, and indeed in matters less contentious and requiring trust drafting advice."* (Chancery: Traditional, *Chambers HNW London Bar 2021*)
- *"He is praised for his "sensible and commercial approach" and "clever and sharp mind." "He is really good at partnering with you and is a real part of the team. He's good at suggesting alternative solutions and is extremely helpful."* (Chancery: Traditional, *Chambers UK Bar 2021*)
- *"A very experienced junior."* (Private Client: Trusts and Probate, *Legal 500 UK Bar 2021*)
- *"He really understands the problems most commonly faced by offshore trustees."* (Offshore, *Legal 500 UK Bar 2021*)
- *"He has a sensible and commercial approach" and "clever and sharp mind."* (Chancery: Traditional, *Chambers HNW London Bar 2020*)
- *"He is really good at partnering with you and is a real part of the team. He's good at suggesting alternative solutions, and extremely helpful."* (Chancery: Traditional, *Chambers HNW London Bar 2020*)
- *"He really knows his stuff and writes brilliant opinions."* (Chancery: Traditional, *Chambers UK Bar 2020*)
- *"He particularly understands the dynamics in Jersey."* (Offshore, *The Legal 500 UK Bar 2020*)
- *"Is great with uncommon/unusual claims."* (Private Client: Trust and Probate, *The Legal 500 UK Bar 2020*)
- *"Instructed by leading firms in the Crown Dependencies."* (Offshore, *The Legal 500 UK Bar 2019*)
- *"He is clear in his advice."* (Private Client, *The Legal 500 UK Bar 2019*)
- *"Instructed by leading firms in the Crown Dependencies."* (Offshore, *The Legal 500 UK Bar 2018*)
- *"His experience working in Jersey gives him an edge."* (Offshore, *The Legal 500 UK Bar 2017*)
- *"He has a fine academic brain and an eye for detail."* (Private Client, *The Legal 500 UK Bar 2017*)

PUBLICATIONS AND SPEAKING

- Applications for variation of trust (Private Client Yearbook (2012))

QUALIFICATIONS

- BVC (ICSL)
- GDL (City)
- Master's in Historical Research, Corpus Christi, University of Oxford
- BA History (1st Class Honours) UCL

MEMBERSHIPS

Chancery Bar Association; The Society of Trust and Estate Practitioners; The Association of Contentious Trust and Probate Specialists.

POLICIES AND OTHER DETAILS

- Read Marcus' [Privacy Notice](#), [Data Protection Policy](#) and [Disposal Policy](#).