

JAMES POOLE



Call 2016

James is regularly recommended for the quality of his legal analysis, his persuasive oral advocacy in court, the practicality of his advice, and his sensitive and responsive interaction with clients.

His busy practice spans a number of Chambers' key practice areas, and particularly focuses on:

- Probate, inheritance and trust disputes, including 1975 Act claims, trustee/executor removal and TLATA claims.
- Non-contentious private client work.
- Commercial and contractual disputes, including arbitrations and interim applications such as freezing injunctions.
- Partnership/LLP – both advisory and contentious work.
- Court of Protection and associated litigation.
- Charity law.
- Landlord and Tenant issues – both residential and commercial, including pubs and licensed premises.
- Property, including covenants, easements and boundary disputes.
- Insolvency, both individual and company.

James is a skilled and highly effective advocate, who appears regularly in the High Court and County Courts. He also has significant experience of offshore litigation, particularly in the Channel Islands and the Isle of Man.

Before coming to the Bar, James taught at secondary and tertiary level in England and Vanuatu, and is equally comfortable being instructed in both English and Bislama.

James is also a qualified mediator, and welcomes instructions as a mediator in any of the areas in which he practices.

Location

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Commercial Chancery

James has a broad and busy practice encompassing a range of commercial areas.

Recent highlights include:

- Company disputes:
 - Advising in a number of shareholder and share valuation disputes, including those arising from the administration of estates.
 - Acting on behalf of a member and director of a company in a dispute involving allegations of unfair prejudice made by both parties.
- Interim relief:
 - In recent months James has successfully obtained in the High Court: freezing injunctions, Norwich Pharmacal orders, interim injunctions and orders for disclosure;
- Contractual disputes – recent cases have involved claims for breach of contract, unjust enrichment and professional negligence in areas including:
 - Contracts of sale;
 - Contracts for services in the healthcare sector; and
 - Construction disputes.
- Insolvency – both individual and company:
 - James appears regularly in the Winding Up Court, including making applications to set aside winding up orders.
 - Conducting public examinations of a Bankrupt under s.366 of the Insolvency Act 1986.

Private Client: Contentious

James is regularly instructed in onshore and offshore contentious private client matters, often including complex and difficult family relationships.

Recent highlights include:

- Inheritance disputes, including 1975 Act claims, including:
 - *Re W*: A complex dispute involving a derivative claim to set aside a lifetime transfer on the basis that it was procured by undue influence and/or breach of fiduciary duties.
 - *Re R*: A dispute focusing on the beneficial ownership and valuation of shares forming part of the deceased's estate.
 - *Re N*: A claim for provision by two siblings in very difficult family
 - *Re J*: A claim for provision made by an estranged spouse who had been disinherited by the deceased's will.
- Contested probate proceedings, including:
 - *T v W*: a challenge to the validity of a will on the basis of undue influence, lack of knowledge and approval, and lack of formal validity.

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- *Re J*: a challenge to the validity of a will on the basis that the deceased lacked testamentary capacity when making his final will.
- Applications to remove or pass over executors and trustees, including:
 - *Robinson v Robinson* [2018] EWHC (Ch): A three day high court trial focusing on the removal of the trustees of two trusts on the basis of a number of breaches of trust and breaches of fiduciary duty.
 - *Ruhl v Ruhl* [2018] EWHC (Ch): An application to pass over one of the executors of a will on the basis that her conduct had prevented the administration of the estate.
 - *H v J*: An application to remove a co-executor due to their conflict of interests arising from claims the estate had against them.
- Advising in respect of trustee liability for breach of trust and breach of fiduciary duties, including in respect of offshore trusts in the Channel Islands and the Isle of Man.
- Representing the family of one of the victims of the Universal Wealth Management scandal. Successfully obtained judgment, followed by wide-ranging freezing injunctions, orders for disclosure, Norwich Pharmacal Orders and Third Party Debt Orders in order to trace and recover the monies that had been unlawfully retained.
- *Crociani v Crociani*: involved on behalf of the successful claimant in this long-running claim for breach of trust (led by Eason Rajah QC).

Partnerships and LLPs

James gained substantial experience of Partnership and LLP matters during pupillage, especially during his time sitting with Jeremy Callman, Jonathan Gavaghan and Naomi Winston. He has worked on a large number of Partnership and LLP disputes, for both firms and individual partners.

Recent highlights include:

- Expulsion and compulsory retirement (both in an advisory capacity and after disputes have arisen);
- Drafting and updating partnership and LLP agreements;
- Advising on the enforceability of restrictive covenants;
- Part 8 claims for declaratory relief;
- Disputes involving solicitors' firms, hedge funds, medical practices, farms, and family investment partnerships.

Private Client: Non-Contentious

James is regularly instructed on non-contentious private client matters relating to both trusts and estates.

Recent highlights include:

- Drafting Wills and codicils;
- Drafting Deeds of Trust, including in relation to matrimonial disputes;
- Drafting Deeds of Appointment and Variation;

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- Variation of Trusts applications;
- Advising on the construction and rectification of wills and trusts;
- Advising on matters relating to domicile; and
- Advising on the taxation of estates, particularly in relation to inheritance tax planning.

Property

James has substantial experience in Property and property-related matters and is regularly instructed on behalf of landlords and trustees in relation to residential and commercial property disputes.

Recent highlights include:

- *Robinson v Robinson* [2018] EWHC (Ch), a three day high court trial involving disputes over the development, sale and trusteeship of valuable agricultural land in Cambridgeshire held in two separate trusts.
- Commercial property claims involving service charge disputes and breach of covenants; James is regularly instructed on behalf of one of Britain's largest breweries to deal with the landlord and tenant issues arising from the 1000+ pubs they own.
- Numerous residential property claims, variously involving: complex offshore ownership arrangements, TOLATA disputes, disrepair, unlawful eviction, rent arrears and conversion.
- Advising and acting in possession claims against both tenants and licensees, including tenants of charitable trusts and licensees of Almhouse charities.
- Successfully defending a claim for possession against LPA receivers appointed by a mortgagee.

Court of Protection

James is regularly instructed in matters involving the Court of Protection. This includes making and responding to applications in the Court of Protection, and acting on behalf of deputies and attorneys in other forms of litigation.

Recent highlights include:

- Statutory will applications – both making applications and responding to them;
- Advising with regard to investments made by P's attorneys;
- Advising on the use of assets held by deputies on behalf of P, including where other parties may have an interest in those assets;
- Advising P's litigation friend on the merits of claims that can be brought on P's behalf; and
- Advising on the merits of settlement proposals and drafting applications for approval by the court.

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Arbitration

James has significant experience of acting in and advising in respect of arbitral proceedings, including arbitrations under the LCIA Rules involving non-UK based entities. He was recently led in two long-running commercial arbitrations involving a very wide range of legal and factual issues, ranging from alleged breaches of fiduciary duties to estoppel by convention.

Charities

James is regularly instructed to advise on charity law and related matters, including matters arising from bequests to charities in wills.

Recent highlights include:

- Advising on whether assets held by a charity ought to be considered a permanent endowment;
- Advising the trustees of a charity on whether a proposed transaction would comply with their duties as trustees;
- Advising on gifts to charities in wills, including gifts that have failed; and
- Advising on *cy-près*

Qualifications

- Bar Professional Training Course (Outstanding), City Law School (2016)
- Buchanan Prize, Lincoln's Inn (2016)
- Lord Denning Scholarship, Lincoln's Inn (2016)
- Graduate Diploma in Law (Commendation), City Law School (2015)
- Hardwicke Award, Lincoln's Inn (2015)
- Lord Bowen Scholarship, Lincoln's In (2015)
- MA Modern History, University of Oxford (2009)

Publications

- "Persons Unknown", *New Law Journal*, 21 November 2014 (with Tim Lawson-Cruttenden)

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