



## Paul Ashwell

Call: 1977

Paul Ashwell offers expertise across the full range of commercial and property law, including probate and planning. He is recommended as a Band 1 practitioner by both Chambers & Partners and Legal 500. He lectures frequently on the development of law in his practice areas.

*'Commercially astute, thorough in preparation, easily approachable and exceptional legally knowledgeable.'*

**Legal 500 2021**

*"I find him very attentive. He always prepares advice in advance of any conference, which helps clients to understand what to expect and the types of questions that may come up. Because of his experience he is my first choice for the bigger matters."*

**Chambers & Partners 2021**

*"A very shrewd tactician and brilliant lawyer." "He's very methodical and very good with clients. He will go above and beyond what is needed, has a very good manner in conference and his drafting is excellent."*

**Chambers & Partners 2020**

## Commercial

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### Selected Cases

#### Contracts

- Dispute over payment for aircraft parts destined for end-users in Middle East that were detained by Federal Authorities in the US.
- Dispute over contract for provision of computer-based EU monitoring of emissions and purchase of carbon credits for large fleet of aircraft following expansion of aircraft operator by reverse takeover.
- Acting in High Court for managing agent of owner of multi-storey car park against surveyor and contractor after resurfacing fails and leaks occur.
- Dispute over recovery of underpaid manufacturing royalties by a licensor.
- Defending contractor when ceiling fixings fail not long after a school was renovated and contractor was not given opportunity to rectify
- Drafted complex assignment of substantial judgment debt.
- Advising on dissolution of partnership owning care homes and interpretation of partnership agreement.

### Directors, Companies & Partnerships

- Variation of undertakings given on restoration of company to register.
- Advising directors on personal liability in event of company incurring substantial uninsured liabilities.
- Acting for minority shareholders where the sole director was making a claim against the company and not defending it. Succeeded in devising a fast and economical solution without an expensive and time-consuming Companies Act 2006 section 994 petition.
- Advising shareholders of company in a large group which was voluntarily dissolved forgetting that it was the commercial lessee of spaces at shopping malls. What was the effect on leases of disclaimer by Crown?
- Effect of guarantee executed by attorney under power of attorney.

### Insolvency

- Represented creditor in high profile bankruptcy petitions against James Stunt.
- Action against liquidator to accept creditor's claim for £2,000,000.
- Getting high value statutory demands against a married couple set aside.
- Advising a company when third party trying to rely statutory demand on incorrectly served on it.
- Advising former members of Limited Liability Partnership on disclaimer of leases under which LLP was the tenant.

## Property, Landlord & Tenant

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### Selected Cases

- **Oakley v Harper McKay Developments:** Succeeded in establishing the sellers' right to serve a completion notice on the buyer of an office block ripe for conversion into residential flats and duplexes.
- Defending owner of Grade 1 listed building against Listed Building enforcement action.
- Advising on relief from forfeiture by re-entry of pub premises where assignment imminent.
- High Court dispute about whether covenants allow roof-top development of penthouses on blocks of flats.

- Representing a developer in a 5-day trial about obstruction of a right of way by development of properties on either side of it.
- Representing owner of large commercial building ripe for residential conversion in High Court dispute about whether notice to complete validly given.
- Effect of covenant against development passing to the Crown as bona vacantia on dissolution of corporate covenantee.
- Advising whether a restrictive covenant would be discharged and whether an injunction or damages would be granted for breach by building landmark houses on private coastal estate.
- Representing a neighbourhood group at application for alcohol licence in a prestigious residential area.

## Probate & Trusts

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### Selected Cases

- Claim by estranged adult child where there was a letter explaining exclusion from will in light of *Ilott v Mitson* [2017] UKSC
- Represented defendant in High Court against claim under s. 33 Wills Act 1837
- Claims in estoppel and under Inheritance Act to house. Effect of possible fraud.
- Action to remove sibling executor and force sale of home.
- Successful mediation on behalf of sister in dispute with her brother over trusts of land involving a number of properties, and contested administration of parent's estate.
- Won claim by cohabitant over disputed £100,000 promissory note given to her to encourage her to leave home.

## Professional Negligence

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### Selected Cases

- Acted for a beneficiary under a will which negligently failed to exclude s. 33 Wills Act 1837 [*Hives v Machin* [2017] EWHC 1414 [Ch]].
- Recovered damages against solicitors for advising on exchange of contracts on commercial property without ensuring that a valid Election to Waive VAT Exemption had been given to HMRC.
- Acting in High Court for managing agent of owner of multi-storey car park against surveyor and contractor after resurfacing fails and leaks occur.
- Advising mortgagor on liability of chain of intermediaries in recommending unsuitable commercial mortgage.
- Acted for claimant against solicitor for conveyancing where forged signature and false attestation, and applying for rectification of register.
- Acting for claimant where solicitor failed to get confirmation of capacity of testator on execution of will.

# Court of Protection

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Paul deals with Court of Protection cases in the area of property and affairs. Often these cases are linked to claims in the Chancery Division about the appointment and removal of trustees, lifetime gifts and wills made under undue influence and the administration of estates of which Paul has a wealth of experience.

## Selected Cases

- Whether the donor had mental capacity she executed a power of attorney.
- Successfully applying for a statutory will to address the ademption of a gift and also change the formula to provide for equal division of the residuary estate taking into account changed values of assets after sale of home to pay care home fees.
- Contested registration of power of attorney.
- Whether an inheritance received by young man who had suffered head injuries in a car accident should be used to reduce the mortgage loan of his carer.

# Local Government & Public Law

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## Planning

Paul acts for developers, groups of residents, neighbours and for Local Planning Authorities. He advises, and appears at inquiries at applications for injunctions and in prosecutions. He is always keen to get on site quickly to better understand the problem. His real property practice enables him to deal also with the problems of restrictive covenants and rights of way that often go hand in hand with planning disputes.

## Licensing

Paul acts for public authorities and for individuals and groups, advising them and representing them at application hearings and in court.

## National Health Service

Paul regularly represents residents and their families on appeals to Independent Review Panels for NHS Continuing Healthcare payments.

## Selected Cases

### Planning

- Defending owner of listed Manor House against High Court injunction proceedings to stop building works and negotiating undertakings.
- Advising owner of blocks of residential flats whether a condition attached to planning permission to build roof-top penthouses was a genuine pre-condition.
- Defending owner of listed stables against Listed Building enforcement prosecution in Magistrates Court.
- Defending owner of Grade 1 listed town house designed by Robert Adam against Listed Building prosecution.
- Advising owner on section 106 agreement on conversion of former public house and sports club to residential flats.
- Advising owner of former pig unit on conversion to residential, scope of permitted development rights and response to Planning Contravention Notice.
- Successfully advising house owner on representations to make to defeat application by neighbour for development of garden by building a pavilion, garage block, office and swimming pool.

### Licensing

- Representing a neighbourhood group at application for new premises alcohol licence by a boutique B&B in a prestigious residential area.
- Prosecuting a train operating company for leaving trains running at night causing nuisance by noise.
- Accompanying neighbours of urban public house to meeting with Council to agree action to reduce nuisance by noise.

### Public Access

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Paul accepts work from clients in accordance with our [Public Access Scheme](#). You can view his profile on Barrister For Me [here](#).

### Education

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- BA (Hons)

### Memberships

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- London Common Law and Commercial Bar Association

- Planning and Environment Bar Association.
- Property Bar Association