

James Browne



James is a highly experienced property advocate who combines intellectual rigour with a practical, commercially minded approach. He is regarded by clients as approachable and efficient, always aiming to put the client's needs first. James completed his 3-year term as Head of Property in April 2021.

James has particular expertise in commercial and residential landlord and tenant law and is a leading authority on tenancy deposit protection scheme disputes.

He sits as a Recorder and as a Deputy District Judge.

James is married with two children. When time permits, he enjoys wine, cricket, bridge and music. He was an elected member of Elmbridge Borough Council for 14 years until he stood down in May 2022, serving in various roles including Leader of the Council, Leader of the Opposition, Cabinet Member for Planning and six years as Cabinet member for Housing.



Year of Call: 1994

Contact Practice Manager

Paul

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Further information

Other publications

- Francis v Phillips [2014] EWCA Civ 1395

Qualifications and appointments

- BA (1st class) Birmingham University (Ritchie Prize) (1990)
- British Academy Scholarship, Oxford University (1990)
- MSt Brasenose College, Oxford (1991)
- Middle Temple Queen Mother's Scholar (1992)
- Middle Temple Harmsworth Entrance Exhibitioner (1992)
- Legal Services Commission Funding Review Panel

Languages

- French (fluent), German (working knowledge)

Memberships

- Property Bar Association
- Editorial Board, RICS Isurv

Interests



Wine, politics, history, music, bridge, cricket and football.

Landlord & Tenant

James has an extensive and well-established practice in landlord & tenant law, covering both residential and commercial leases including disrepair and dilapidations, nuisance, anti-social behaviour, unlawful sub-letting, lease renewals and claims for new leases under the Leasehold Reform, Housing & Urban Development Act 1993, rent reviews, service charge disputes (including declaratory relief), forfeiture and all claims for possession of land. He represents private individuals, commercial organisations, registered providers of housing and local authorities.

Throughout his career he has dealt with all aspects of litigation arising out of the Housing Acts of 1985 and 1988, claims to succession to tenancies and the grounds for possession under both acts. This includes claims based on alleged breaches of the tenancy agreement and also “no-fault” grounds for possession such as the termination of assured shorthold tenancies under the section 21 procedure. He has also successfully pursued public sector tenants under the Prevention of Social Housing Fraud Act 2014, securing significant financial compensation.

James has particular expertise in all disputes arising out of the 2004 tenancy deposit protection legislation both as originally enacted and after amendment under the Localism Act 2011 and the Deregulation Act 2015, having appeared in a number of leading cases in this area.

An experienced commercial property advocate, James regularly represents clients in claims and applications under the Landlord & Tenant Act 1954. In particular, James has a wide experience of lease renewal claims (acting both for landlords and tenants), rent reviews and dilapidations disputes.

James is a regular speaker at conferences and frequently gives in-house seminars to solicitors and housing professionals. He is an advisory editor to RICS *Isurv* Residential, and edits the Service Charges material on the *Isurv* web site.

Recent Cases:

James has recently been dealing with a number of cases arising out of the redevelopment under the Decent Homes initiative of various south London social housing estates. He has dealt with various disputes in which tenants have sought to rely on the provisions of the Equality Act 2010 either to defeat possession claims or to obtain damages against landlords and property owners. He has a continuing flow of cases relating to tenancy



deposit protection legislation.

Reported cases

Section 21 notices

Spencer v Taylor [2014] UKSC 0068

James represented the landlord in drafting a response to the tenant's application for permission to bring a second appeal. The Supreme Court refused permission for the reasons James had advanced.

Tenancy deposits:

Johnson v Old [2013] EWCA Civ 415 [2013] HLR 27

James satisfied the Court of Appeal that rent paid in advance was not equivalent to a security deposit

Potts v Densley & Pays [2011] EWHC 1144 (QB), [2012] 1 WLR 1204, [2011] L&TR 31

Whether the court had any discretion as to whether or not to apply the statutory penalty under s.214(4) Housing Act 2004.

Draycott v Hannells [2010] EWHC 217 (QB) [2011] 1 WLR 1606, [2010] 3 All ER 411, [2010] HLR 27, [2010] L&TR 12

The first case testing the tenancy deposit provisions are originally enacted. James successfully established that a landlord who complied with the deposit protection requirements before a tenant's claim was brought could escape the statutory penalties in s.214.

See: A tenant's money made safer? 2010 EG 1024 p.108-110

Disrepair

Niazi v van der Loo [2004] EWCA Civ 53, [2004] 1 WLR 1254 [2004] HLR 34

Liability of landlord where he himself is a leaseholder and the defect occurs outside the demised premises

Landlord & Tenant Act 1954 s.30(1)(a) and 30(1)(c)

Youssefi v Mussellwhite [2014] EWCA Civ 885, [2014] 2 P&CR 14, [2014] 3 EGLR 22

Whether a tenant's breach of a "keep open" covenant and refusal to grant access to the landlord could justify a refusal of a new tenancy under the 1954 Act even where the landlord could show no financial losses

See "Clarifying the "ought not to be" test: Sol Jo 30.9.14 p.5

Real Property



James has wide experience in the field of real property: he advises in relation to trusts of land (especially trusts for sale and disputes following break-up of unmarried couples), easements, options, adverse possession and boundary disputes.

James also handles professional negligence disputes concerning property professionals such as lettings agents, surveyors and valuers.

Recent Cases:

James has been instructed in a number of high-value co-ownership cases regarding London properties. These arise out of relationship breakdown, attempts within minority communities to help other community members, and the operation of foreign-based property owning trusts.

Reported cases

Greenwood Reversions v World Environment Foundation & Mehra [2008] EWCA Civ 47, [2008] HLR 31, [2009] L&TR 2

Court of Appeal: waiver of forfeiture where landlord makes an unequivocal demand for rent, what amount to an unequivocal demand, availability of relief.

Mehra v Mehra & Aras [2008] 3 EGLR 153 Central London CC (Chancery List) HHJ Hazel Marshall QC

Overriding interests: whether occupier's assertion of actual occupation sufficient to establishing an overriding interest under para 2 of schedule 3 to the Land Registration Act 2002; whether allegation of fraud capable of rendering subsequent sale void.

Contentious Trusts and Probate

