



New Park Court

Ashley Tucker

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# Ashley Tucker

Year of call 1990

For enquiries please call +44 (0)113 243 3277 or email

Ashley Tucker is a civil practitioner in the chancery field, with a particular expertise in Wills, Probate and Property, but still retains his interest in commercial and employment law. From time to time though just to freshen things up he takes on something a little different, such as taking on a criminal defence in response to an HSE prosecution.

## Wills, Trusts & Probate

Ashley has a particular interest in the construction, effect and validity of Wills, including mental competence, fraud and undue influence, regularly advising and litigating on the conduct of the administration of estates by personal representatives, including challenging grants of probate, challenging the conduct of the administration by the personal representative, applications under the Inheritance (Provision for Family and Dependants) Act 1975 Donatio Mortis Causa and the recovery of the costs of care by local authorities. He is also regularly called upon to advise on trusts, in particular in relation to negligent conveyancing of property interests, proprietary estoppel and constructive trusts.

## Representative Cases

- *Major v White*

Advising on whether a solicitor has a duty to warn a testator that the disposition they propose to make may result in one or more disappointed relations challenging the will or otherwise litigating against the estate,

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and whether the solicitor owed a separate duty to the beneficiaries to avoid this eventuality; completing a trial where the witnesses to the will who had originally agreed they witnessed the will subsequently retracted that agreement.

## Landlord & Tenant

Ashley has particular experience relating to commercial premises, advising on a variety of aspects in relation to leases, licenses and tenancy matters. He also undertakes occasional drafting of commercial leases and notices, and litigation, largely on behalf of tenants.

## Chancery

Ashley has a broad range of experience of, and undertakes advisory work and advocacy in, all types of property matters including, boundary disputes, rights of way, adverse possession claims, trespass and nuisance claims relating to land and commons registration.

## Commercial

Able to bring an acquired knowledge of commercial practices into consideration when instructed in commercial and company matters, Ashley has a broad commercial practice and regularly acts for Claimants and Defendants in litigation in typical commercial claims.

In addition he has drafted memoranda and articles of association and amendments to memoranda and articles of association for company agents as well as companies, and drafted and advised on commercial contracts, recently including a contract regarding the supply of kit and other sportswear to a Professional Rugby Team.

He has also appeared on behalf of erring directors in director's disqualification actions by the DTI.

He has recently advised:

- In relation to knowing assistance and knowing receipt by a company in relation to an employee's breach of the implied term of trust and confidence in diverting a business opportunity from his employer.
- In relation to whether there is an implied term by custom & usage in relation to the measurement of stonework in a building contract.
- On whether the purchase of shares by a husband in his wife's name was a gift to her or whether she held them on trust for him – the effect of the purchase being in breach of a term that purchases cannot be

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made in other people's names.

## Professional Liability

Ashley's experience in professional negligence is particularly geared towards claims made against Solicitors, accountants and surveyors in respect of conveyancing transactions, will drafting, estate planning and insolvency.

He has also advised on claims made in relation to conveyancing and local authority advice relating to enquiries touching and concerning land.

## Relevant Experience

- Advising in relation to the meaning and effect of and acting in a mediation arising out of home made codicil's to professionally drafted Wills and the subsequent revocation by one Testator and the execution of a new Will with altered dispositions.
- Advising in relation to the recovery of money acquired in breach of fiduciary duty under a power of attorney from the estate of the attorney.

## Employment

Frequently appearing in the Employment and Employment Appeal Tribunal, on behalf of both applicants and respondents, Ashley has a wide range of experience in employment litigation covering unfair and wrongful dismissal, race, sex and disability discrimination, harassment, victimisation, TUPE, and stigma damages. He also advises, drafts and litigates in relation to employment contracts, particularly restrictive covenants and confidentiality clauses. Ashley has recently advised on whether it was possible to vary a homeworker's contract to require her to work from an office 30+ miles from home.

## Regulatory

Although a civil practitioner in the chancery and commercial fields, Ashley Tucker has from time to time taken on inquests and even more exceptionally, criminal matters. Some of the matters that have some bearing in the regulatory field.

Ashley has delivered talks on Deaths in Police Custody.

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## Representative Cases

- *In the matter of Jenney Bryant*  
Acting on behalf of a care home manager in respect of the death of a care home resident as a result of an assault by another resident.
- *In the matter of Garry Baird*  
Acting on behalf of a member of nursing staff in respect of a death by suicide by someone who had previously been taken to hospital by the Police due to concerns for the person's health.
- *Scarborough Borough Council v Fixter*  
Prosecuting a landlord for multiple breaches of provisions of the Housing Act 2004 regulation of property in multiple residential occupation.
- *In the matter of Margaret Streetly*  
Acting on behalf of the local authority who had supervisory responsibility for care homes in respect of the death of a resident of a care home following a choking incident.
- *In the matter of Christopher Arthur Wale*  
Acting in an inquest surrounding the death of a serving prisoner following a scuffle with a fellow inmate.
- *R (HSE) v North Yorkshire Council*  
Junior Counsel for the Defendant Council in relation to a prosecution by the Health and Safety Executive in respect of sections 2 and 3 of the Health and Safety at Work etc. Act 1974 arising out of an incident where a schoolboy was drowned whilst caving.
- *In the matter of Florence Cooper*  
Acting on behalf of the local authority in respect of the death of a resident in a private care home.
- *In the matter of Joe Lister*  
Acting on behalf of the supervising Council in an inquest into the death of a schoolboy who drowned on a school trip to a cave.
- *In the matter of Alex Foulkes*  
Acting on behalf of a local authority with responsibility for an organised trip overseas of several schoolchildren in an inquest into the drowning of one of the pupils.
- *In the matter of Kirk Davis*  
Acting on behalf of the deceased's son (acting by his mother) in an inquest into a death occasioned by shooting by a West Yorkshire Police Tactical Firearms Unit.
- *In the matter of Gemma Carter*  
Acting on behalf of a local authority whose teachers were in supervisory control of several pupils on an

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overseas trip in an inquest into the drowning of one of the pupils.

## What the directories say

"Experienced in cases regarding the construction, effect and validity of wills."

*Legal 500 2017*

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