



Ben Faulkner

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Clerks' Details

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Qualifications and Appointments

- Law Scholar at Gonville and Caius College, Cambridge. Graduated in 2007 with a first class degree, finishing fifth in the year.
- William McNair Prize in 2006 and 2007 for the top first at Gonville and Caius College in both years.
- Denning Scholarship from Lincoln's Inn.
- Lincoln's Inn Entrance Award
- Buchanan Prize for obtaining an "outstanding" grade in the BVC.

"He combines impressive mental agility with sensitivity to the concerns of the client."

The Legal 500, 2021

Memberships

- Chancery Bar Association
- Association of Pension Lawyers (Associate member)
- Property Bar Association
- Bar Pro Bono panel

Publications

- Editor of '[Hill and Redman's Law of Landlord and Tenant](#)' (ongoing) (sections on Commonhold tenure, and unfair terms in tenancy agreements)
- '[Butterworths Property Law Handbook](#)' 10th Edition (2013) and 11th Edition (2018)
- A Game Changer? S Franses v Cavendish Hotel E.G. 26 August 2017, 1734, 48-50
- An irregular presumption: Is the Scottish approach to the so-called presumption of regularity really "common sense" Practical Law Journal (23 March 2017)
- '[Ramsay v Love](#)' (2015) Wilberforce Property Update (Issue 1) May 2015

Practice Overview

Ben has a commercial Chancery practice with a particular emphasis on property work and related professional negligence, although he also has wide experience in Chambers' other core areas, including pensions, insolvency, company, commercial, trusts, wills and probate, and other private client matters.

He enjoys acting on his own account, or as a junior as part of a large team.

In consecutive years (2018 and 2019) Ben was one of three nominated by Chambers & Partners as Real Estate Junior of the Year.

Chambers & Partners 2021 describes Ben as "*an excellent junior; he is very personable and strong on the technical detail*". He is "*very bright and enjoys a challenge*" and "*has a personable style*". He "*inspires confidence*" and is "*energetic, responsible and user-friendly*".

The Legal 500 2021 edition says he is "*an excellent communicator and both quick and bright*". "*He combines impressive mental agility with sensitivity to the concerns of the client.*" "*He works hard and effectively, makes a point of responding quickly and thoroughly, and is a great comfort to have on the team.*" The guide also notes that he is "*definitely a junior to watch over the next few years and a real superstar in the making*"; an "*extremely bright and hardworking junior with great presence beyond his call*." He is recognised for his "*gravitas and positive and engaging manner*".

In 2018, led by [Joanne Wicks QC](#), he successfully acted for the tenant in *S Franses Ltd v Cavendish Hotel (London) Ltd* [2018] UKSC 62, a Supreme Court case which has substantially recast the law relating to 'ground (f)' under the Landlord & Tenant Act 1954. A large part of Ben's practice concerns opposed and unopposed lease renewals.

Ben has been recommended in Chambers & Partners since 2013, and Legal 500 since 2015. Other comments from clients include that he is "*a strong and confident advocate who is well regarded by peers and clients*", "*bright, commercial, easy to work with and responsive*", "*recognised for his diligence and client-focused approach*" and that he has "*impressed solicitors with his tremendous work ethic and mastery of the facts*".



Publications continued

- ['Quantification of release fees: principle and practice'](#) (2012) *Development Disputes: current issues for property litigators*
- 'A room with a view' (2010) *New Law Journal* vol 160, No 7405

Property

Ben's practice focuses on all aspects of real property and landlord and tenant related litigation and advice. In particular, he is frequently instructed in cases under Part II of the Landlord & Tenant Act 1954.

In consecutive years (2018 and 2019) Ben was one of three nominated by Chambers & Partners as Real Estate Junior of the Year. The property category of Chambers & Partners 2021 says he is **"very bright and enjoys a challenge. He has a personable style and inspires confidence."** He is **"energetic, responsible and user-friendly"**. He has previously been described as **"incredibly thorough and leaves no stone unturned"**, **"he provides really good commercial advice"**, **"very hands-on and willing to delve into the gritty details of the matter"** and **"hard-working and meticulous"**.

The Legal 500 2021 property litigation category recognises he is **"a fantastic junior with gravitas and a positive and engaging manner. Definitely a junior to watch over the next few years and a real superstar in the making"**. He has previously been described as **"super bright, spots every point going and can tackle absolutely any question."**

In 2018, led by [Joanne Wicks QC](#), he successfully acted for the tenant in *S Franses Ltd v Cavendish Hotel (London) Ltd* [2018] UKSC 62, a Supreme Court case which has substantially recast the law relating to 'ground (f)' under the Landlord & Tenant Act 1954. Ben has developed a particular expertise in business tenancy renewal cases.

Ben also has a reputation for dealing with complex, high value property litigation. He was instructed in the complex *Manchester Ship Canal* litigation (led by [Michael Barnes QC](#) and Janet Bignell QC). He was also been instructed in a complex and very high value mortgage possession case (led by Tom Grant QC), which included a successful multi-headed 2-day strike out application.

Recent cases include:

- *S Franses Ltd v Cavendish Hotel (London) Ltd* [2018] UKSC 62 in the Supreme Court, concerning whether a landlord can rely upon ground (f) of the Landlord & Tenant Act 1954 where the proposed works have no commercial purpose other than to secure vacant possession from the tenant.
- Multiple opposed and unopposed lease renewal cases, dealing with the application of S Franses and the new climate brought about by the Covid-19 pandemic. Ben has been instructed on a portfolio of 123 lease renewals coming to trial in 2021.
- Cases concerning the liability of commercial tenants to pay rent during the Covid-19 pandemic.
- *GKN Aerospace Services Ltd v Duncan Investments Ltd* [2020] EWHC 3719 (Ch): a part 8 trial, which then went on appeal, concerning the effectiveness of a break notice.
- *Persimmon Homes Limited v Country Weddings (Cardiff) Limited* [2020] EWHC 302 (Ch): successfully resisting an application for summary judgment as to whether a restrictive covenant continued to bind relevant land.
- *UBS AG v Rose Capital Ventures Ltd* [2018] EWHC 3137 (Ch): a complex mortgage possession claim, which was largely disposed of at a 2-day strike out application, which included argument over Braganza rationality of the mortgagee's decision making (led by Thomas Grant QC).
- A trial concerning whether a lease had been validly excluded from the protections of Part II of the Landlord & Tenant Act 1954.
- Acting for defendant solicitors in a multi-million pound professional negligence claim concerning the alleged grant of rights of light, inhibiting development on neighbouring land (led by [Jonathan Seitler QC](#)).
- Acting for owners of the Manchester Ship Canal in their claim against United Utilities for trespass in respect of numerous outfalls discharging treated and untreated sewage into the water (led by [Michael Barnes QC](#) and Janet Bignell QC): *The Manchester Ship Canal Company Limited v United Utilities Water Limited* [2016] EWHC 259 (Ch).



Property continued

- Acting for a famous chef against the landlord of one of his restaurants, who claimed he was entitled to a personal guarantee from the chef. The chef argued that the personal guarantee was not executed either by him, or with his authority (led by [Jonathan Seitler QC](#)): *Gordon Ramsay v Love* [2015] EWHC 65 (Ch).
- Appearing in the Court of Appeal in a case concerning the time limits within which to make an application to register land as a town or village green (led by Jonathan Karas QC): *R (Church Commissioners for England) v Hampshire CC* [2014] EWCA Civ 634.
- *Herrmann v Withers* [2012] EWHC 1492 (Ch) (led by [Jonathan Seitler QC](#)), a successful claim brought against residential property conveyancers, which raised difficult issues of mitigation of loss.

Ben is the co-editor of the current edition of Butterworths Property Handbook, and the editor of the sections on unfair terms in tenancy agreements and on Commonhold tenure in Hill and Redman. He is also the co-editor of the Willberforce Chambers book Development Disputes: current issues for property litigators.

Professional Liability

Ben regularly accepts instructions in professional negligence matters, particularly those concerning property. He acts both on his own account, or as a junior in more substantial matters. He is ranked as a leading junior in professional negligence. The Legal 500 2021 edition states he is an **"excellent communicator and both quick and bright. Very good in conference, in which he combines impressive mental agility with sensitivity to the concerns of the client. He works hard and effectively, makes a point of responding quickly and thoroughly, and is a great comfort to have on the team"**.

Notable recent instructions include:

- Acting for defendant barristers in a claim relating to a discontinued multi-million pound fraud trial (led by Joanna Smith QC and [Ian Croxford QC](#)).
- Acting for defendant pension actuaries and benefit consultants in respect of alleged failures to effect changes to a pension scheme (led by Ben Hubble QC).
- Acting for the claimant lender in respect of a mortgage fraud, where its solicitors failed to protect it against the risk of fraud.
- Acting for defendant solicitors in a multi-million pound professional negligence claim concerning the alleged grant of rights of light, inhibiting development on neighbouring land (led by [Jonathan Seitler QC](#)).
- Acting unled for trustee services providers in a legally complex claim against them for their failure to detect that their client's emails had been hacked.
- Acting unled in a claim brought against conveyancing solicitors brought by purchasers of property who had been tricked by identity fraudsters.
- Acting for an IFA in a claim brought against him by an ex-professional footballer, for allegedly failing to preserve his favourable retirement age.
- Acting for solicitors in defending a claim brought against them for their alleged failure to equalise a pension scheme effectively.
- *Herrmann v Withers* [2012] EWHC 1492 (Ch). A successful claim brought against residential property conveyancers, which raised difficult issues of mitigation of loss (led by Jonathan Seitler QC).

Trusts, Tax, Probate and Estates

Ben has wide experience in dealing with trusts and private client disputes.

Notable recent instructions include:

- An ongoing and highly complex multi-jurisdictional probate matter (led by [Gilead Cooper QC](#) and Elspeth Talbot Rice QC), involving issues as to the appropriate forum for the dispute, domicile, the validity of wills, foreign forced heirship claims.



Trusts, Tax, Probate and Estates continued

- Attending the High Court in the Isle of Man on behalf of a discretionary beneficiary of a very substantial Manx trust and successfully obtaining declarations as to validity of the trust and approval of distributions (led by [Jonathan Hilliard QC](#)).
- Acting for a beneficiary of an estate in holding the administrators of the estate to account.
- Acting for a beneficiary of an earlier will in a challenge to a later will on the basis of the testator's lack of testamentary capacity.

Commercial

Ben is often instructed in banking and commercial matters, both on his own account or in larger cases as part of a team.

Recent instructions include:

- *UBS AG v Rose Capital Ventures Ltd* [2018] EWHC 3137 (Ch): a complex and very high value mortgage possession case (led by Tom Grant QC), acting for a major bank, which included a successful multi-headed 2-day strike out application.
- Advising a consultant services company in relation to a potential claim for repudiatory breach of a services agreement
- Advising a substantial agency company in relation to a claim for unfair prejudice
- Acting for a purchaser of a company in relation to breaches of warranties in the share purchase agreement
- Advising in a confidential case concerning financial assistance rules.
- Acting for a well-known call centre in a complex commercial dispute concerning the sales of loft and cavity wall insulation (led by [Graeme Halkerston](#)).