



## Ben Faulkner

Call: 2008

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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 and Hardwicke Entrance award from Lincoln's Inn.
- Buchanan Prize for obtaining an "outstanding" grade in the BVC.

## Practice Overview

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

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

Ben joined Chambers in 2009 following the completion of his pupillage.

In 2018 Ben was one of three nominated by Chambers & Partners as Real Estate Junior of the Year. Chambers & Partners 2018 recognises his reputation for acting in "*high-profile, complex property litigation*", for his "*user-friendly approach and attention to detail*" and for his "*commercially minded*" approach to cases. In October 2018 he will appear in the Supreme Court, led by [Joanne Wicks QC](#), in *S Franses Ltd v Cavendish Hotel (London) Ltd*, a case concerning 'ground (f)' under the Landlord & Tenant Act 1954.

In pensions work, having acted in the high-profile IBM pensions litigation, the legal directories describe Ben as a recognised junior building a solid reputation in the area, who is as likely to appear in cases as sole counsel as he is to appear led by a silk. "*He is a very bright guy who is very hard-working and very easy to deal with*". "*He is exceedingly user-friendly and charming to work with*". (Chambers & Partners, 2016).

The Legal 500, 2018 describe him as "*extremely diligent, hardworking and able to spot the opponent's oversights*".

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*".

*“A strong and confident advocate... Bright, commercial, easy to work with and responsive”*

Chambers & Partners



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## Memberships

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

## Publications

- ['Butterworths Property Law Handbook'](#) 10th Edition (2013) and 11th Edition (2018)
- Editor of ['Hill and Redman's Law of Landlord and Tenant'](#) (2014) (sections on Commonhold tenure, and unfair terms in tenancy agreements)
- Contributor to the Pension Scheme Actuaries chapter in Professional Negligence and Liability loose-leaf
- *A Game Changer? S Franses v Cavendish Hotel* E.G. 26 August 2017 2017, 1734, 48-50
- An irregular presumption: Is the Schottish approach to the so-called presumption of regularity really 'common sense' Practical Law Journal (23 March 2017)
- ['Ramsay v Loue'](#) (2015) Wilberforce Property Update (Issue 1) May 2015
- ['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

## Pensions

A substantial part of Ben's practice relates to pensions work and associated professional negligence.

### Notable recent instructions include:

- Successfully acting for the Trustee in the *Box Clever* litigation, the first substantive determination by the Upper Tribunal to issue a Financial Support Direction (*Granada UK Rental and Retail Ltd v Pensions Regulator* [2018] UKUT 164 (TCC)).
- Acting for the Representative Beneficiaries of the Scheme in *IBM United Kingdom Holdings Limited v Dalgleish* [2014] EWHC 980 (Ch) and in the Court of Appeal [2018] Pens LR 1 (led by [Michael Tennet QC](#), John Cavanagh QC and Nicholas Stallworthy QC). A substantial claim (and 10 day appeal) concerning an employer's duties of good faith in deciding to cease accrual of defined benefit UK schemes and to withdraw early retirement rights.
- Acting unled for Trustees in a complex failed equalisation case.
- Acting for representative beneficiaries in a failed equalisation and rectification case.
- Acting for the trustee in successful proceedings for a Financial Support Direction in Re Nortel Networks (led by [Michael Tennet QC](#)).
- 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.
- Ben has also acted in claims concerning s 75 debts, scheme administrators' negligence, and complaints to the ombudsman relating to maladministration by pension scheme trustees and administrators.

Ben has been recommended in Chambers and Partners since 2013 in the pensions field, which states that he is "**recognised for his diligence and client-focused approach**" and that he is "**impressed solicitors with his 'tremendous work ethic and mastery of the facts'**".



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## Pensions continued

Having acted in the high-profile IBM pensions litigation, the legal directories describe Ben as a recognised junior building a solid reputation in the area, who is as likely to appear in cases as sole counsel as he is to appear led by a silk. **"He is a very bright guy who is very hard-working and very easy to deal with."** **"He is exceedingly user-friendly and charming to work with."** (Chambers & Partners, 2016).

The Legal 500, 2018 describe him as **"extremely diligent, hardworking and able to spot the opponent's oversights"**.

## Property

Ben's practice encompasses all aspects of real property and landlord and tenant related litigation and advice. He is regularly instructed on disputes in the County Court, Senior Courts and the Tribunals. He is frequently instructed in cases under Part II of the Landlord & Tenant Act 1954.

In 2018 Ben was one of three nominated by Chambers & Partners as Real Estate Junior of the Year. Chambers & Partners 2018 recognises his reputation for acting in **"high-profile, complex property litigation"**, for his **"user-friendly approach and attention to detail"** and for his **"commercially minded"** approach to cases. In October 2018 he will appear in the Supreme Court, led by [Joanne Wicks QC](#), in *S Franses Ltd v Cavendish Hotel (London) Ltd*, a case concerning 'ground (f)' under the Landlord & Tenant Act 1954.

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 has also been instructed in a complex and very high value mortgage possession case (led by Tom Grant QC), which is due for a 2-week trial in 2019.

### Recent cases include:

- *S Franses Ltd v Cavendish Hotel (London) Ltd* 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.
- Successfully obtaining an injunction against managing agents of a residential building, who were withholding records and funds from the right to manage company.
- 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).
- 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.
- Resisting an application to the land registry adjudicator to amend the title plan in a boundary dispute, involving complex issues of land registration (led by [Jonathan Seitler QC](#) and John Martin QC).
- Resisting an application to amend an order concerning a right of way (*Johnsen v Wilson* [2011] EWHC 2623 (Ch)).
- *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. He is also the co-editor of the Wilberforce Chambers book *Development Disputes: current issues for property litigators*, and the editor of the sections on unfair terms in tenancy agreements and on Commonhold tenure in Hill and Redman.



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## Professional Liability

Ben regularly accepts instructions in professional negligence matters, particularly those in the property and pensions fields. He acts both on his own account, or as a junior in more substantial matters.

### Notable recent instructions include:

- 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).
- Ben is also a contributor to the Pension Scheme Actuaries chapter in Professional Negligence and Liability looseleaf.

## 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](#)), involving issues as to the appropriate forum for the dispute, domicile, the validity of wills, foreign forced heirship claims.
- 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:

- Advising in a confidential case concerning financial assistance rules (led by Conall Patton).
- 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](#)).