



Falcon Chambers



## Gavin Bennison

Called 2015



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## Practice Summary

Gavin Bennison practises in all areas of residential, commercial and agricultural landlord and tenant and real property law.

He has recently advised on and acted in cases concerning, amongst other areas: adverse possession, forfeiture, agricultural holdings, escheat, enfranchisement (both under the 1967 Act and the 1993 Act), the right to manage, easements (including rights to light), profits-à-prendre, mortgage regulation and receivership, Rent Act tenancies, the 1954 Act and land registration. He maintains a busy advisory and court practice addressing the full range of commonplace landlord and tenant, mortgage and service charge disputes. He is also familiar with the differences between English and Welsh residential landlord and tenant law.

Led by Janet Bignell QC, Gavin acted for the successful claimants in *INEOS Upstream Ltd & Ors v Persons Unknown* [2017] EWHC 2945 (Ch), a landmark case on the use of civil injunctions to protect shale gas operators, their suppliers and contractors from unlawful forms of protest. Gavin maintains a particular interest in the law of trespass and in addressing human rights arguments as they arise in relation to property disputes.

In addition to his full-time practice, Gavin presently teaches equity and trusts to final-year undergraduates at the University of Cambridge.

- [Education](#)

MA Geography (Part I) and Law (Part II), St John's College, Cambridge: First with Distinction (Geography), First Class (Law)

BPTC, City Law School: Outstanding

Eastham Scholarship (Lincoln's Inn, 2015)

Buchanan Prize (Lincoln's Inn, 2015)

Lord Denning Scholarship, Harwicke Entrance Scholarship, Accommodation Award (Lincoln's Inn, 2014)

McMahon Law Studentship (St John's College, Cambridge, 2014)

McAulay Scholarship, Wright Prize, named Year Prize for highest achieving undergraduate (St John's College, Cambridge, 2011, 2012, 2013, 2014)

Andrew Hall Prize (highest achieving first year student, Department of Geography, University of Cambridge, 2011)

Philip Lake Prize (highest attaining second year student, Department of Geography, University of Cambridge, 2012)

- [Professional](#)

Gavin enjoys both the teaching and practice of law. He currently teaches equity and trusts to final-year undergraduates at St John's College, Cambridge, in addition to full-time practice. He has previously volunteered as a mentor on the Bar Council's Bar Placement Scheme, which offers sixth form students from widening participation backgrounds the opportunity to spend a week shadowing a practising barrister.

Prior to commencing pupillage, Gavin worked as a paralegal for the property litigation team at Stephenson Harwood LLP. He gained experience of all stages of the litigation process prior to and following instruction of Counsel. He also volunteered as a trainee duty advisor at Willesden County Court, representing defendants in summary possession hearings.

He is a member of the Property Bar Association, the Chancery Bar Association and the Agricultural Law Association.

- [Publications](#)

- "Springing interest or successive re-grant? The nature of a periodic tenancy" (2018) L&TR 22(2) 60-64.
- "Possession claims against trespassers (Part 2) – Occupation of part" NLJ (2 March 2018)
- "Possession claims against trespassers (Part 1) – Injunctions" NLJ (23 February 2018)
- "A very bold fraudster", co-authored with Stephanie Tozer; UK Finance legal issues e-zine, September 2017

- [Recent Advisory Work](#)

### **Landlord and Tenant**

Advice on:

- The proper construction of a covenant against alterations and its implications for the contemplated conversion of a property in West London.

- Apportionment of rent following the compulsory purchase of part of commercial premises under the Compulsory Purchase (Vesting Declarations) Act 1981.
- The validity of a number of notices to quit served on a tenant of an agricultural holding under the Agricultural Holdings Act 1986, requiring consideration of Case B (redevelopment) and the validity of an early resumption clause in the tenancy agreement.
- The proper construction of a licence to use a roof adjacent to a residential flat as a roof garden, including the division of responsibility for repairs and questions of derogation from grant.
- Prospects of forfeiture of a long residential lease for non-payment of service charge and unneighbourly conduct.

## Real Property

- Advising (i) a purported tenant and (ii) a prospective applicant for adverse possession as to the consequences of escheat of freehold land following corporate insolvency
- Advising and drafting statements of case in a complex possession claim against trespassers involving defences of adverse possession, prescriptive profits à prendre of grazing, prescriptive rights of way, and land registration/rectification issues.
- Advising as whether an express right to park created an easement or contractual licence and the implications for enforceability against successors in title, including via a *Lys v Prowsa* constructive trust.
- Considering how to terminate an assisted sale agreement and, in light of ambiguity as to the proper construction of the agreement, the prospects of recovery of the developer's costs of abortive refurbishment works.
- [Recent Cases](#)
  - **INEOS Upstream Ltd & Ors v Persons Unknown** [2017] EWHC 2945 (Ch): led by Janet Bignell QC, Gavin successfully obtained the long-term continuation of interim injunctions restraining a wide range of unlawful conduct by protestors opposed to hydraulic fracturing ('fracking'). The injunctions were initially obtained on an ex parte basis in July 2017 and then continued with only minor modifications at an opposed hearing on 12 September 2017. At a three-day hearing in November 2017 which attracted considerable media interest, the claimants resisted applications to discharge the injunctions brought by two well-known "anti-fracking" campaigners. Gavin appeared on behalf of the claimants at all three hearings, including twice whilst a second-six pupil.
  - **HNW Lending v Carr-Miller & Ors** (Croydon County Court, 20 and 21 August 2018): successfully acted for the lender of secured bridging finance in a two-day trial of a complex mortgage possession claim with an insolvency dimension. The case turned on legal issues on which there was no previous authority, namely whether a loan to a corporate borrower could be a 'regulated mortgage contract' under the Financial Services and Markets Act 2000 and, alternatively, whether the alleged circumvention of statutory mortgage regulation rendered the loan agreement a "sham". Issues of estoppel conditions precedent and restitution also featured.
  - Acting for the Secretary of State for Justice, successfully obtained possession orders against Crown Tenants and other occupiers residing in accommodation formerly provided to prison staff. Due to a Crown exemption, the defendants lacked the protection of the Housing Act 1988 and so considerable care had to be taken in successfully terminating these tenancies at common law.