Falcon Chambers

Guy Fetherstonhaugh KC

Called 1983 Silk 2003



Practice Summary

While sharing with his colleagues in Chambers a wide practice in commercial property law, Guy Fetherstonhaugh specialises in rent review work (co-authoring the principal text on the subject), development agreements, easements and restrictive covenants, and has recently appeared in the Supreme Court in leading cases on leasehold covenants and prescriptive claims.

Joint Head of Falcon Chambers

Education

- Bristol University BSc (1977)

Professional

- Member of the Chancery Bar Association and the London Common Law and Commercial Bar Association
- Bencher of Inner Temple
- Honorary Member of the Royal Insitution of Chartered Surveyors
- FCIArb
- Hon ARBRIX

Recent Cases

- **Biggin Hill Airport Ltd v Bromley LBC** [2025] EWHC 879 (Ch)
- **Herbert Smith Freehills LLP v Fitzwilliam Trustees No 1 Ltd** [2024] NICA 84
- **B&M Retail Ltd v HSBC Bank Pension Trust (UK) Ltd** [2023] EWHC 2495 (Ch)
- **Bank of New York Mellon (International) Ltd v Cine-UK Ltd** [2022] EWCA Civ 1021
- **Hope Community Church, Wymondham v Phelan** [2020] EWHC 1240 (Ch)

- **Edgware Road (2015) Ltd v Church Commissioners for England** [2020] UKUT 104 (LC)
- **Fearn v Trustees of the Tate Gallery** [2020] EWCA Civ 104
- **Beaumont Business Centres Ltd v Florala Properties Ltd** [2020] EWHC 550 (Ch)
- **Bate v Affinity Water Ltd** [2019] EWHC 3425 (Ch)
- **Great Dunmow Estates Ltd v Crest Nicholson Operations Ltd** [2019] EWCA Civ 1683
- **TFS Stores Ltd v Designer Retail Outlet Centres (Mansfield) General Partner Ltd** [2019] L&TR 26
- **S Franses Ltd v Cavendish Hotel (London) Ltd** [2019] AC 249 (Supreme Court)
- **O'Connor v Proprietors, Strata Plan No. 51** [2018] 4 WLR 22 (Privy Council)
- **Westhill Endowment v Birmingham City Council** [2016] (Chancery Division): Town or Village Greens register rectified to remove registration of land as village green, on the footing that signs erected by the owner had prevented use being as of right.
- **Schwartz v O'Sullivan** [2016] (Chancery Division): whether restrictive covenant prevents holiday letting; whether servient owner could require diversion of utility conduits; whether morring rights acquired.
- **Winterburn v Bennett** [2016] 2 P & CR 11 (Court of Appeal): whether prohibitory signs prevented the acquisition of prescriptive rights (of access and to park) over a car park.
- **Vanquish Properties (UK) Ltd Partnership v Brook Street (UK) Ltd** [2016] EWHC 1508 (Ch) (Chancery Division): whether break clause notice served by a limited partnership valid.
- **Loose v Lynn Shellfish Ltd** [2016] UKSC 14 (Supreme Court): considers the doctrines of prescription and accretion in the context of a presumed grant of several shellfishery over foreshore.
- **Marks & Spencer Plc v BNP Paribas Securities Services Trust Co (Jersey) Ltd** [2015] 3 WLR 1843 (Supreme Court): whether it was appropriate to imply a term into a break clause providing for the landlord to repay rent referable to the period after the break date.
- **Evans v Wimbledon and Putney Commons Conservators** [2014] 2 P & CR 17 (Court of Appeal): whether it lay within the Conservators' powers to grant access and construct a road to a private property that would otherwise effectively be landlocked.
- **Martineau Galleries No.1 Ltd v Birmingham City Council** [2014] 1 P & CR 6 (Chancery Division): whether the rent payable for a mixed use property should be valued by reference to rents payable under sub-tenancies, or with vacant possession.
- **Ridgewood Properties Group Ltd and others v Valero Energy Ltd and Pannone & Partners [2013] Ch 525 (Chancery Division):** a case which considers, among other things, the extent to which a seller of land pursuant to a development agreement had put it out of its power to perform covenants given to the grantee of the development rights.
- **Canonical UK Ltd v TST Millbank LLC** [2013] 2 EGLR 193 (Chancery Division): discusses the extent to which a tenant exercising the right to break its lease had complied with a condition precedent as to payment of rent and premium.
- **PGF II SA v OMFS Company** [2014] 1 WLR 1386 (Court of Appeal): the decision considers the effect of failure to mediate on costs in dilapidations dispute. **Fitzpatrick v Sarcon** (No 177) Ltd [2012] NICA 58 (Court of Appeal of Northern Ireland): dispute concerning the proper interpretation of a number of agreements for a residential development by Belfast Docks, involving considerations of delay, extensions of time, repudiation, repudiation, rescission, and whether time was of the essence for performance of the agreements.
- **Constance Long Term Holdings Ltd v Duke of Westminster** [2012] EWHC 3434 (TCC): estate management powers in relation to a proposed residential redevelopment.
- **HMV UK Ltd v Propinvest Friar Ltd Partnership** [2012] 1 Lloyd's Rep 416 (Court of Appeal): whether arbitrator's award "obviously wrong".
- **Wheeler v 21 Davies Street Ltd** [2010]: noise nuisance claim.

- **Accord Housing Association Ltd v Concept Development Solutions Ltd** [2010] Ch: construction of overage provision in development agreement .
- **Huntley v Armes** [2010] EWCA Civ 396: significance of reference to plan in parcels clause.
- **Mulford Holdings and Invest Ltd v Greatex Ltd** [2010] Ch (Floyd J); [2010] (Lloyd LJ): certainty of agreement for sale; forfeiture of deposit; security for costs.
- **Isle of Anglesey County Council and the Crown Estate Commissioners v The Welsh Ministers** [2010] QB 163: whether several fishery order overrides rights of owners of foreshore and seabed.
- **Huntley v Armes** [2010] EWCA Civ: significance of reference to plan in parcels clause.
- **Buckingham Estates Ltd v The Crown Estate Commissioners** [2009] Ch (Proudman J): interpretation of user covenant in lease.
- **Mount Anvil Group Ltd v Volans Management Ltd** [2009] Ch: interpretation of development agreement.
- **Vedalease Ltd v Cascabel Investments Ltd** [2009] 2 EGLR 51: extent to which legal costs and receivers' costs can be added to mortgage security.
- **FBO (Antigua) Ltd v Stanford Development Company** [2008] UKPC 51 (Privy Council): certainty of agreement for lease.
- **Metropolitan Property Realizations Ltd v Atmore Investments Ltd** [2008] EWHC 2925 (Ch) (Sales J): arbitration award set aside for serious irregularity.
- **City Inn (Jersey) Ltd v Ten Trinity Square Ltd** [2008] EWCA Civ 156 (Court of Appeal): whether restrictive covenant subject to approval of original grantor.
- **Housden v Wimbledon and Putney Commons Conservators** [2008] 3 All ER 1038 (Court of Appeal): whether competent grantor required for prescriptive easement of way.
- **Vedalease Ltd v Averti Developments Ltd** [2007] 2 EGLR 125 (HHJ Hazel Marshall QC): extent to which legal costs and receivers' costs can be added to mortgage security.
- **Amberleigh Homes Ltd v Jackson** [2007] (Evans Lombe J): interpretation of restrictive covenant.
- **Tribeca Developer Portman UK Ltd v Portman Square Properties Ltd** [2007] (Roger Kaye QC): whether crane oversailing derogation from grant in lease.
- **Legal and General Assurance Society Ltd v Expeditors International (UK) Ltd** [2007] EWCA Civ 7: whether term rightly implied into agreement compromising issues relating to exercise of a break clause in a lease.
- **Maurice Investments Ltd v Lincoln Insurance Services Ltd** [2006] EWHC 376: whether rent review trigger notice valid.
- **George Wimpey UK Ltd v V.I. Construction Ltd:** [2005] Court of Appeal: entitlement to unilateral rectification of development agreement.
- **Caerphilly County Borough Council v P/U:** Blackburne J [2004]: whether entitled to injunction against Persons Unknown.
- **New Islington & Hackney Housing Association v Perry:** [2004]: interaction between Limitation Act 1980 and Landlord and Tenant Act 1954
- **Harbour Estates Limited v HSBC Bank Plc:** Lindsay J: [2004] 3 All ER 1057: entitlement to exercise break option in Lease; effect of s.63 Law of Property Act 1925.
- **Brighton & Hove City Council v Collinson:** [2004] 2 EGLR 65 Court of Appeal: whether agreement to contract tenancy out of security of tenure provisions of Landlord and Tenant Act 1954 effective.
- **Perry v New Islington and Hackney Housing Association** [2004] (1954 Act-protected oral periodic tenant cannot gain title by adverse possession after 12 years non payment of rent).
- **Blacker v Wimbledon and Putney Commons Conservators:** [2004] 51 EG 90: Whether powers of enfranchisement in Leasehold Reform Act 1967 prevailing over bar against alienation in 1871 Act.
- **Habib Bank AB Zurich v Hassan Investments Ltd:** [2003]: whether wife had equity in home capable

of binding mortgagee.

- **Norfolk County Council v Mason:** whether road private or highway, subject to public rights of way.
- **Butts Park Ventures (Coventry) Ltd v Bryant Homes Central Ltd** [2003] EWHC 2487: whether right of preemption defeated by conditional purchase of land.
- **Checkpoint Ltd v Strathclyde Pension Fund** (Court of Appeal) [2002]: challenge to rent review arbitrator's award under section 68 Arbitration Act 1996.
- **Clarke and others v Lloyds Bank plc (High Court)** [2002]: substantial damages for breach of covenant to supply air conditioning.
- **Biggin Hill Airport Limited v London Borough of Bromley** (Court of Appeal): interpretation od the user covenant for Biggin Hill Airport.
- **Dinsdale v The Rent Service** (Court of Appeal)
- **Morrells v Oxford City Council and others** [2001] 2 WLR 128 (restrictive covenant).
- **National Grid v M25 Group [1999] 1EGLR 65: Court has jurisdiction to determine questions of construction of rent review clause in advance of expert so doing.**
- **Pridedean v Forest Taverns** (1998) 75 P&CR 447, CA: fitting out works by prospective tenant did not create proprietary estoppel.
- **Romain v Scuba TV** [1996] 1 EGLR 126, CA: limitation period of 6 years for damages payable by surety in respect of tenant's failure to pay rent.
- **Postel Properties v Boots** [1996] 2 EGLR 60 (costs incurred by landlord on works to shopping centre recoverable from tenants through service charge provisions in leases.
- **Daejan Properties v Holmes** [1996] EGCS 185: contractual override of disregard of improvements carried out by tenant at its expense.
- **System Floors v Ruralpride** [1995] 1 EGLR 48 CA: obligations in side letter between original landlord and tenant bind successor in title to reversion.

Publications

- Commonhold (Joint Author) OUP 2004
- Handbook of Rent Review (Joint Author)
- The Litigation Practice (Contributing Editor)
- Blundell Memorial Lecturer 1998, 2005, 2009.

Related News

- Decision in Vanquish Properties (UK) Limited Partnership v Brook Street (UK) Limited [2016] EWHC 1508 (Ch)

Related Practice Areas

- Commercial property

Published Comments

"He was great on his feet; head and shoulders above the other side in advocacy and strategy preparation. I'm a big fan of his; he's a leading property silk." *Chambers and Partners UK Bar Guide 2027 (Real Estate Litigation)*

"He is at the very top of his specialist field and excels as an advocate and in giving sound and commercial legal advice." *Legal 500 UK Bar Guide 2027*

"Guy is an absolute titan." *Chambers and Partners UK Bar Guide 2027 (Real Estate Litigation)*

"He's an obvious expert on rent review matters." *Chambers and Partners UK Bar Guide 2027 (Real Estate Litigation)*

"Guy is the pre-eminent property silk of this era." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"He is an exceptional barrister and the go-to for complex and high value disputes." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"Guy has a magisterial manner and super intellect, producing clear and persuasive legal analysis." *Chambers and Partners UK Bar Guide 2026 (Real Estate Litigation)*

"Guy has an incredible mind, but is extremely commercial and user friendly." *Legal 500 UK Bar Guide 2026*

"Guy Fetherstonhaugh KC acts as the joint head of chambers and is widely respected in the market. His areas of expertise include enfranchisement, easements and restricted covenants. He has experience appearing in both the Supreme Court and the Court of Appeal." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Guy Fetherstonhaugh's reputation precedes him." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Guy's advice and advocacy are both masterful." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Guy Fetherstonhaugh is truly a pleasure to work with and is extremely charming. He is incredibly knowledgeable in the field and is an extremely pleasant individual to deal with." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Guy is a heavyweight silk at the very top of the property Bar." *Legal 500 UK Bar Guide 2025*

"Guy Fetherstonhaugh is a go-to counsel for complex matters and he is extremely good with clients." *Chambers and Partners UK Bar Guide 2024*

"Guy is a very polished performer who inspires confidence." *Chambers and Partners UK Bar Guide 2024*

"Just superb. The undisputed heavyweight champion of the property litigation world." *Chambers and Partners UK Bar Guide 2024*

"Guy is probably our first choice of any property litigation KC for when we need the best legal advice and the most sensible commercial perspective." *Chambers and Partners UK Bar Guide 2024*

'Guy can turn his hand to anything; his command over English property law is astonishing. He cuts through the noise and gets straight to the heart of the issue.' *Legal 500 UK Bar Guide 2024*
"Guy Fetherstonhaugh will argue very, very strongly." *Chambers and Partners UK Guide 2023*

"He is calm, unflappable and has an easy manner." *Chambers and Partners UK Guide 2023*

"He provides a top-notch, extremely high-quality service." *Chambers and Partners UK Guide 2023*

‘There is no one better than Guy. A superb advocate, completely unflappable and an immense level of knowledge. His dedication to the cause and willingness to go the extra mile make him such a joy to work with. ’ *Legal 500 UK Bar Guide 2023*

Guy Fetherstonhaugh QC acts as the joint head of chambers and is widely respected in the market. His areas of expertise include enfranchisement, easements and restricted covenants. He has experience of appearing in both the Supreme Court and the Court of Appeal. "His advice is both excellent and accessible." "He is about as perfect a QC as you can imagine! He goes from strength to strength." "He provides very structured, commercial advice." *Chambers and Partners UK Guide 2022*

"Probably the best property litigation silk in the business." *Legal 500 UK Bar Guide 2022*

"A polished advocate", held in high regard for his top-notch work on enfranchisement, easements and restricted covenants. *Who’s Who Legal UK Bar Report 2022*

Acts as the joint head of chambers and is widely respected in the market. His areas of expertise include rent review, easements and restricted covenants. He has experience of appearing in both the Supreme Court and the Court of Appeal. Strengths: "Continues to impress clients with his thorough preparation, commercial acumen, encyclopedic knowledge of cases and classy presentation." "Technically excellent, highly intelligent and a pleasure to work with." "Unquestionably one of the top-tier property QCs in the country." *Chambers and Partners UK Guide 2021 (Real Estate Litigation)*

"Guy is a superb advocate and a great speaker. I thought his submissions at trial were outstanding and he kept the judge in the palm of his hand." *Legal 500 UK Bar Guide 2021*

Acts as the joint head of chambers and is widely respected in the market. His areas of expertise include rent review, easements and restricted covenants. He has experience of appearing in both the Supreme Court and the Court of Appeal. Strengths: "The source of very practical and well-reasoned advice." "Consistently brilliant and an intellectual heavyweight." "Fabulous to work with and understands client pressures and needs." Recent work: Successfully represented the Tate in Fearn v Board of Trustees of the Tate Gallery, a claim of nuisance and breach of human rights brought by the owners of apartments overlooked by the Tate Modern's new outdoor viewing platform. *Chambers and Partners UK Guide 2020 (Real Estate Litigation)*

"One of the best property litigation advocates in the business." *Legal 500 UK Bar Guide 2020*

Guy is one of the foremost real estate silks at the Bar. He is "very highly regarded for his excellent work in development agreements, rent review and restrictive covenants". *Who's Who Legal UK Bar 2019 Guide*

"Acts as the joint head of chambers and is widely respected in the market. His areas of expertise include rent review, easements and restricted covenants. He has had recent cases in both the Supreme Court and the Court of Appeal. Strengths: 'Leading authority on rent review, providing clear, concise and commercial advice.' 'A legend of the real estate Bar.' 'An excellent property litigation specialist at the top of his game.' Recent work: Acted in Westhill Endowment v Birmingham City Council, a case which led to the Town or Village Greens register being rectified to remove the registration of land as village green because signs erected by the owner had prevented use being as of right." *Chambers UK Guide 2019 (Real Estate Litigation)*