



## Kester Lees KC Called 2010 Silk 2024

### Practice Summary

Kester specialises in all aspects of commercial and residential property law; with particular expertise in rights to light, registered title rectification, mortgages, multi-million pound dilapidations disputes, and property related insolvency.

His practice encompasses commercial and residential landlord & tenant, development disputes, telecommunications Code work and professional negligence; together with an expanding practice of property related tax work.

Kester regularly undertakes multi-million pound trials in the High Court and test cases in specialist tribunals and has a burgeoning appellate practice, including appearing in the Supreme Court in *CTIL v Compton Beauchamp* [2022] UKSC 18, which is the seminal decision on the telecommunications code, and in *M&S v BNP* [2015] UKSC 72, which is the leading case on implied terms, break clauses and the apportionment of rent.

Kester regularly appears in the High Court, Upper Tribunal (Land Chamber), First Tier Tribunal (Property Chamber), the Leasehold Valuation Tribunal and County Courts across the country; and often successfully appears alone against silk opponents.

Kester is currently engaged on a number of seminal contentious matters for Telecommunications operators and a large and complex rights to light dispute.

- Education

- Kester obtained a first class degree in Theology at the University of Birmingham, graduating first in his year. He then converted to law on a two year senior status law degree at City University, during which he held an Inner Temple scholarship and a City University Postgraduate Law Scholarship. Graduating with a first class degree and first in his year, Kester was awarded several prizes including the Old Bailey Press Prize for Land Law and the Recorder of London Prize for being the 'best law student' in the faculty.
- Kester went on to obtain a Distinction on the BCL at Brasenose College, University of Oxford, where he held an AHRC Award and was awarded the Allen & Overy Prize for Corporate Insolvency Law on the BCL and various College prizes.

- Professional

- Kester was awarded an Inner Temple Major Scholarship and Duke of Edinburgh Entrance Scholarship for his BVC year.
- Kester was classified as Outstanding on his BVC at City Law School. He was subsequently awarded the Ede & Ravenscroft Prize by the Inner Temple.
- During his BVC year Kester was a Visiting Lecturer at City University, London tutoring in contract law.
- Kester is a member of the Chancery Bar Association and the Property Bar Association. Kester recently became a committee member of the Property Bar Association with special responsibility for liaising with the Junior PLA.
- Since 2012 Kester has been Co-Editor for Casenotes for The Conveyancer and Property Lawyer, the



leading property law journal. He is a Contributing Editor to the Woodfall Bulletin and also regularly contributes to the Landlord and Tenant Review. Kester is also the author of several topics on Westlaw Insights including Business Tenancies, Security of Tenure and Periodic Tenancies.

- Kester has also provided in-house seminars to solicitors firms and client institutions direct as well as a regular guest speaker for CLT, a leading CPD provider, including a webinar on mortgagee remedies. Recent topics include: Tenant insolvency, Forfeiture, when Mortgagees ought to pay residential service charges to protect their security.

- Recent Cases

Kester is currently instructed in the following cases:

- Kester acts for a bank in an upcoming week long trial concerning trusts and overreaching with a value in excess of £1.5m.
- Kester acts for a FTSE 100 company in a multi-million pound SDLT dispute; led by a leading tax silk.
- Kester acts for a telecoms operator in relation to the appropriate valuation method for lease renewals under the 1954 Act of telecoms sites.
- Kester acts for a group of insurers in relation to double ground rent cases and whether such clauses are void and, if not, the appropriate method of valuation for a 1993 Act lease extension claim.
- Kester acts for a government agency seeking to rely upon ground (f) in an upcoming week long trial which will allow a development of 1000 homes to proceed.
- Kester is currently instructed to act in several multi-million pound dilapidations disputes.

Recent completed cases in which Kester has been instructed include:

**Campbell & Anrs v Banks (various) [2019] UKFTT 0730 (PC)** – Kester acted for all ten successful lenders in a one day test case before the specialist tribunal concerning alleged non-compliance with formality requirements for mortgage deeds. This decision has been applied in the High Court on multiple occasions subsequently.

**Principality Holdings v Mahor & Anr** – a week long trial in the High Court (Bristol) concerning dilapidations to a nightclub. The claim was successfully settled days before trial.

**LCP Estates v Santander** – Kester acted for the successful landlord (led by Joanne Wicks QC) in a two day trial in Central London County Court concerning a multi-million pound development and ground (f) under the 1954 Act. The case concerned whether a building lease for which the design was entirely that of the proposed tenant was a sufficient intention.

**Crosthwaite** – Kester acted (led by Jonathan Karas QC) for the claimant to a right to light seeking injunctive relief to prevent the development of Stamford Bridge in contravention of that right to light. The case was successful settled.

**Bank of Scotland v Mahmud** – High Court (Birmingham); Kester acted for the successful bank in a trial concerning its liability for negligent advice given by a broker.

**Chiswick Village Residents Ltd v Branwell** – Kester acted for the successful landlord in a week long trial in Central London County Court concerning significant dilapidations and allegations of estoppel stretching back over decades; together with the subsequent successful forfeiture of the long residential lease.

**Taylor v Torrible [2017] UKFTT 639 (PC)** – Kester acted for the successful respondent in a two day trial in the specialist land registration tribunal concerning a development right of way which concerned complex issues of perpetuities and, unusually, a successful argument that an easement had been given up by means of a proprietary estoppel.



**West One Loans v Varma** – Kester acted for the successful petitioner in the two day trial in which legal issues as to a defence of non est factum and undue influence were considered.

**Heron Quays (HQ2) T1 Ltd & anr v Jervis & anr** (as Administrators for Lehman Brothers Limited) (led by Guy Fetherstonhaugh QC) – Kester was instructed on behalf of the Canary Wharf Group in a ten week High Court trial concerning the Lehman Lease of 25 Bank Street and issues such as repudiatory breach damages (circa £0.5bn) in the leasehold context and a dilapidations claim in excess of £50m. The claim was successfully settled during week one of the trial.

**Marks & Spencer Plc v BNP Paribas Securities Services Trust Co (Jersey) Ltd** [2016] A.C. 742 (led by Guy Fetherstonhaugh QC) – the leading Supreme Court decision on implied terms, break clauses and the apportionment of rent.

**Cannon v 38 Lambs Conduit LLP** [2016] UKUT 371 (LC) – the leading decision on the relationship between s.47 of the Landlord and Tenant Act 1987 and the jurisdiction of the First Tier Tribunal (Property Chamber) under s.27A of the Landlord and Tenant Act 1985.

**Helix 3D Ltd v Dunedin Industrial Property Nominee Ltd** [2016] EWHC 3012 (CH) – Kester acted for the successful claimant in a one day High Court trial concerning the true construction of the mechanism of an option agreement.

**Sendrove v Jennings Racing Limited** – acted for the defendant in a five day trial in the County Court at Central London concerning dilapidations and the true construction of the demise (successfully settled on terms at trial).

**NCP v Hawsworth** – Kester acted for the successful defendant landlord in this uncontested 1954 Act lease renewal concerning two car parks in Peterborough. The case raised interesting points as to the valuation of the car parks, the appropriate valuation date where the term is agreed to be calculated by reference to a date to the trial and the availability of a turnover rent upon renewal (against a silk).

**Conway v Shelton** – Kester acted for the successful claimant in a two day trial before the FTT concerning the rectification of a transfer and contract for sale (dating from the 1990s) (against a silk). The case also raised interesting questions as to actual occupation of car parking spaces.

**Lloyds TSB v Kendall** – a 3 day trial in the High Court concerning the ambulatory nature of constructive trusts of the family home.

**Re Caste Court Freehold Limited** – a 4 day service charge dispute before the Leasehold Valuation Tribunal worth in excess of £1.5m.

**Country & City Properties v Lake** – Kester acted for the successful landlord in a five day trial concerning alleged dilapidations, arrears of service charges and set off in Brighton County Court (successfully settled on terms at court).

**Re 2 Dunraven Street** – Kester acted for the successful applicant in a 1 day trial in the Leasehold Valuation Tribunal concerning the reasonableness of one of London's most prominent landowners' procedure for obtaining insurance for mixed use blocks.

**Alder Securities v Worrall** – Kester acted for the successful claimant in a 2 day trial in West London County Court concerning breaches of non-alienation covenants and defences of waiver and estoppel by convention. Kester also more recently appeared successfully in the appeal of this claim, which was dismissed.

**Neelam Properties Limited v Rivaaz Enterprises Limited** – Kester acted for the successful claimant in a 2



day trial in Willesden County Court concerning whether a rent review provision could be exercised and the defence of estoppel.

## • Publications

- "Rent during Covid-19: landlords still hold the strongest hand" EGI (online) and upcoming in print edition on 25 April 2020. Subject: Landlord & Tenant; Rent; Frustration; Suspension; Implied Terms; Coronavirus
- "S Franes Ltd v Cavendish Hotel (London) Ltd: motive, intention and causal conditionality (Case Comment)" Conv. 2019, 4, 397-409. Subject: Business tenancies; Grounds for opposition; Intention; New tenancy applications; Redevelopment
- "Double trouble: forgotten remedies..." W.L.T.B. 2019, 2(Jul), 1-4. Subject: Business tenancies; Double rent; Double value; Formalities
- "Dissolution of landlords and tenants without any prior disclaimer" W.L.T.B. 2018, 3(Sep), 1-5. Subject: Landlord and tenant; Insolvency; Real property; Trusts; Bona vacantia; Companies; Disclaimer of onerous property; Dissolution; Escheat; Freeholds; Landlords; Leaseholds; Tenants; Trust property; Vesting orders
- "NRAM v Evans: there are mistakes and mistakes... (Case Comment)" Conv. 2018, 1, 91-98 Subject: Real property; Banking and finance; Amendments; Charges register; Indemnities; Land registration; Mistake; Priorities; Rectification; Registered charges; Secured loans
- "Collective enfranchisement notices: always protect - but be careful what you agree... (Case Comment)" W.L.T.B. 2017, 4(Sep), 1-4. Subject: Landlord and tenant; Collective enfranchisement; Freeholds; Initial notices; Non-registration; Transfer of title; Validity
- "Wood v Capita Insurance Services Ltd: textualism and contextualism: polish off your dictionaries..." (Case Comment) Conv. 2017, 5, 364-372. Subject: Contract terms; Indemnity clauses; Interpretation; Meaning; Misselling; Share sales
- "The protection of pre-emption rights" (with Martin Dray) S.J. 2017, 161(28), 28 Subject: Real property; Pre-emption rights; Restrictions; Sale of land; Title to land; Tomlin orders; Unilateral notices
- 'The jurisdiction of the FTT to determine the payability of sums not yet due (Case Comment)' W.L.T.B. 2017, 1(Feb), 1-4 Subject: Landlord and tenant; Demands; First-tier Tribunal; Jurisdiction; Landlords' duties; Reasonableness; Service charges
- Surprising defects: Edwards v Kumarasamy (Case Comment)" - L. & T. Review 2016, 20(6), 223-227. Subject: Landlord and tenant - Common parts; Disrepair; Landlords' duties; Notice; Repair covenants; Subtenancies
- "There's no profit in alienation consents" - S.J. 2016, 160(43), 31 Subject: Landlord and tenant - Conditions; Consent to assignment; Costs; Qualified covenants; Underleases
- "EMI Group Ltd v O & H Q1 Ltd: the forbidden assignment" (Case Comment)- Conv. 2016, 5, 387-397. Subject: Landlord and tenant - Assignees; Assignment; Guarantors; Leasehold covenants; Leases; Release; Void transactions
- "M&S and implied terms: better not left unsaid ..." - I.H.L. 2016, Spr, 111-112 Subject: Landlord and tenant - Break clauses; Business tenancies; Implied terms; Interpretation; Rent; Repayments
- "What's in store after M&S?"- E.G. 2016, 1602, 60-62. Subject: Landlord and tenant - Apportionment; Break clauses; Business tenancies; Implied terms; Interpretation; Rent; Repayments
- "Uncertainty of term again" (Case Comment). - L. & T. Review 2015, 19(5), 212-216. Subject: Landlord and tenant - Duration; Forfeiture; Housing associations; Notices to quit; Possession; Residential tenancies; Termination Abstract
- "Wood v Waddington: section 62 and apparently continuous easements..." (Case Comment) - Conv. 2015, 5, 423-432. Subject: Real property - Conveyances; Express grant; Occupation; Rights of way; Statutory easements
- "Resolving the tension between the Land Registration Act 2002's "priority" and "alteration" provisions" (Case Comment) - Conv. 2015, 3, 253-266. Subject: Landlord and tenant - Land registers; Long leases; Priorities; Rectification; Reinstatement; Retrospective effect; Title to land
- "Reasonable belief" in adverse possession"- E.G. 2015, 1521, 77. Subject: Real property; Legislation - Adverse possession; Boundaries; Reasonable belief; Statutory interpretation; Time limits
- "Residential service charges: the return of a "sets-based" approach to qualifying works" (Case Comment) - W.L.T.B. 2015, 1(Feb), 1-4. Subject: Landlord and tenant - Consultation; Holiday accommodation; Landlords' duties; Residential tenancies; Service charges
- "Francis v Phillips: putting the pin back into the valedictory hand grenade" (Case Comment) - Conv. 2015, 1, 67-77. Subject: Landlord and tenant - Consultation; Fees; Holiday accommodation; Improvements; Landlords' duties; Leases; Residential tenancies; Service charges
- "Disclaimer of leases: an essential guide" - I.H.L. 2014, 224(Oct), 73-76. Subject: Insolvency; Landlord and tenant - Business tenancies; Disclaimer of onerous property; Liquidation; Liquidators' powers and duties; Non-domestic rates; Third parties; Trustees in bankruptcy; Trustees' powers and duties;



- Unoccupied property; Vesting orders
- "Business rates and disclaimer of leases: the limits of statutory fictions" (Case Comment) - Conv. 2014, 5, 434-444. Subject: Landlord and tenant; Insolvency; Rates - Business tenancies; Disclaimer of onerous property; Non-domestic rates; Unoccupied property
  - Lessons to be learned from M&S - Kester's recent talk to the PLA in Leeds can be found here
  - Re Game Station Ltd: A salvaged Salvage Principle" – Conv. 2014, 3, 249-262. Subject: Insolvency - Administrators' powers and duties; Expenses; Liquidators' powers and duties; Provable debts; Rent.
  - "Administration and rent - equity in the game at last..." - W.L.T.B. 2014, 2(Apr), 1-4. Subject: Insolvency - Administrators' powers and duties; Expenses; Liquidators' powers and duties; Provable debts; Rent.
  - "Superstrike Ltd v Rodrigues: more questions than answers..." - Conv. 2014, 1, 60-69. Subject: Landlord and tenant - Assured shorthold tenancies; Deposits; Landlords' duties; Notices seeking possession; Periodic tenancies; Tenancy deposit schemes.
  - "Malik v Fassenfelt: known unknowns" - Conv. 2013, 6, 516-529 Subject: Human rights - Eviction; Possession orders; Proportionality; Right to respect for private and family life; Squatters; Trespassers.
  - "Break options and the repayment of overpaid rent - an implication of common sense" - W.L.T.B. 2013, 3(Jul), 1-5 Subject: Landlord and Tenant - Break clauses; Business tenancies; Implied terms; Overpayments; Rent; Repayments.
  - "Knowing where to begin - the last day of the period in section 21 notices" - L. & T. Review 2013, 17(4), 129-133 Subject: Housing - Assured shorthold tenancies; Date of termination; Houses; Periodic tenancies; Repossession.
  - "Parshall v Hackney: a tale of two titles" - Conv. 2013, 3, 222-232 Subject: Real property - Adverse possession; Boundary disputes; Concurrent possession; Land registration; Limitation periods; Mistake; Rectification
  - "Freeholders of 69 Marina: judicial reading between the lines..." – Conv. 2012, 6, 498-505 Subject: Landlord and tenant - Arrears; Costs; Forfeiture; Landlords' duties; Service charges.
  - "Tenants take notice! Patel v MRD Property Developments Ltd" - L. & T. Review 2012, 16(6), 226-228 Subject: Landlord and tenant - Business tenancies; Demands; Insurance premiums.
  - "Geary v Rankine: money isn't everything" - Conv. 2012, 5, 412-421 Subject: Real Property - Beneficial interests; Business premises; Constructive trusts; Intention; Unmarried couples,
  - "Article 8 defences - separating the wheat from the chaff: Corby BC v Scott; West Kent Housing Association Ltd v Haycraft" L. & T. Review 2012, 16(4), 148-152 Subject: Landlord and tenant; Housing; Human rights; Public sector tenancies; Summary dismissal.
  - "If you don't ask, you don't get..." - E.G. 2012, 1206, 87 Subject: Adjudicator to HM Land Registry - Indemnities; Jurisdiction; Rectification.
  - "A prospective look at rectification" - L. & T. Review 2012, 16(1), 12-15 Subject: Rectification - Adjudicator to HM Land Registry; Deeds; Deeds of variation; Jurisdiction; Retrospective effect; Third parties.
  - "A piece of the puzzle: piecing together the Leasehold Reform Act 1967 and the Leasehold Reform, Housing and Urban Development Act 1993" - Conv. 2011, 6, 454-464 Subject: Landlord and tenant - Collective enfranchisement; Purchase of Freehold; Statutory contract; Statutory interpretation.
  - "Concurrent leases and break clauses" - L. & T. Review 2011, 15(2), 51-55 Subject: Landlord and tenant - Break clauses; Business tenancies; Concurrent Leases.
  - "A who's who of concurrent leases" - L. & T. Review 2011, 15(1), 30-33 Subject: Landlord and tenant - Break clauses; Business tenancies; Concurrent Leases; Covenants; Notices; Security of tenure.

## Published Comments

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"Kester Lees KC is a talented new silk who handles all aspects of landlord and tenant and property law, including rectification of titles, adverse possession and insolvency matters. He has notable expertise in telecommunications." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Kester is a fantastic advocate and is a joy to work with. He adapts well to the changing needs of clients." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Kester is a superb barrister whose enthusiasm for finding innovative solutions to complex problems is incredible." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*



"Kester is a fierce advocate and superb on his feet. He has a great legal mind and possesses encyclopedic knowledge of real estate law." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Kester is very bright, academic and pleasant to deal with." *Chambers and Partners UK Bar Guide 2025 (Real Estate Litigation)*

"Kester Lees KC is recognised for his work where property and telecommunications interests intersect, and has recently been involved in high-profile cases involving the new Electronic Communications Code. He is regularly instructed by large telecommunications operators such as EE and Telefonica." *Chambers and Partners UK Bar Guide 2025 (Telecommunications)*

"Kester is technically strong and an amazing advocate. He is incredibly hard-working and goes the extra mile with client service and delivery." *Chambers and Partners UK Bar Guide 2025 (Telecommunications)*

"Kester is a superstar and an absolute pleasure to work with. We particularly value that he sees himself as part of the wider team, as well as his energy and positivity." *Chambers and Partners UK Bar Guide 2025 (Telecommunications)*

"Kester combines a towering intellect with a wonderful bedside manner. He is sharp and quick-witted on his feet in court and considerate and understanding to clients in conference." *Legal 500 UK Bar Guide 2025*

"Kester Lees is very strong and knowledgeable."

"A silk in the making - great on his feet and on papers. Very easy to work with and clients always rate him."

"Kester Lees is pretty much unparalleled at his level of call. He has a voracious appetite for unlocking knotty problems and almost always finds new ways of looking at things that make a difference."

"As a junior he stands out amongst his peers for his mature advice and strong advocacy skills." *Chambers and Partners UK Bar Guide 2024*

'Very bright, personable and easy to work with.'

'Kester is superb on his feet – a highly effective cross-examiner and all round advocate. He is equally as impressive on papers and always gives solid commercial advice.' *Legal 500 UK Bar Guide 2024*

"Kester makes his perspective clear, very comprehensive and assertive; he guides judges in his advocacy." *Chambers and Partners UK Guide 2023*

"He's fantastic with clients, his work on paper is on point, and he is tenacious on his feet." *Chambers and Partners UK Guide 2023*

'Kester Lees is a very talented junior with impressive technical skills. He is a superb advocate and his ability to see a solution to the most difficult issues is unrivalled. A silk in the making.' *Legal 500 UK Bar Guide 2023*

Kester Lees is a talented junior who handles all aspects of landlord and tenant and property law, including rectification of titles, adverse possession and insolvency matters. He has notable expertise in telecommunications. "He has great technical knowledge which he combines with an insight into the commercial position to help to get the practical solution clients want and need." "He has a brain the size of a planet. He's a very good advocate and he is excellent on paper." *Chambers UK Guide 2022 (Real Estate Litigation)*





"An exceptional advocate - first in class on paper, in court and conference. Meticulous eye to detail and encyclopedic knowledge of property law. My go to Counsel for title rectification and complex property related rectification work." *Legal 500 UK Bar Guide 2022*

"Kester Lees is singled out as a "rising star in the property field" with market sources commending him as a "very good technical lawyer and a delightful opponent". *Who's Who Legal UK Bar Report 2022*

Talented junior who handles all aspects of landlord and tenant and property law, including leasehold enfranchisement, adverse possession and insolvency matters. Strengths: "He is a brilliant junior - intelligent, thoughtful, client-friendly and clear in his communication. His drafting is well structured and his arguments very coherent." "He's very thorough, knowledgeable and very good with clients." *Chambers and Partners UK Guide 2021 (Real Estate Litigation)*

"His advice is clear and concise; translating complex concepts into simple, easy to understand advice. He is very responsive and strategic in his approach. He gained the trust and confidence of our lay client extremely quickly." *Legal 500 UK Bar Guide 2021*

Talented junior who handles all aspects of landlord and tenant and property law, including leasehold enfranchisement, adverse possession and insolvency matters. Strengths: "Very approachable and contactable, as well as considered and bright. He is really going places." "Incredibly bright, user-friendly and accessible. Kester is technically superb, providing client-friendly opinion on the most complex matters." Recent work: Successfully represented the claimant in a £500,000 dilapidations case regarding a nightclub in Bristol. *Chambers and Partners UK Guide 2020 (Real Estate Litigation)*

"Bright, ambitious, helpful and dependable" *Legal 500 UK Bar Guide 2020*

"Talented junior who handles all aspects of landlord and tenant and property law, including leasehold enfranchisement, adverse possession and insolvency matters. Strengths: 'Reliable, efficient and commercial.' 'Persuasive on his feet and great with clients.' 'His excellent grasp of the law is combined with a very practical and commercial approach.' Recent work: Acted in the Canary Wharf v Lehman litigation, a high-value dispute concerning repudiatory breach and repudiatory damages in the leasehold context." *Chambers UK Guide 2019 (Real Estate Litigation)*

Kester stands out for his work on trusts and mortgages, adverse possession and easements. He is recognised as "utterly charming" and someone who "definitely deserves to be on the list". *Who's Who Legal UK Bar 2019 Guide*