



James Brightwell

Year of Call: 2000

“Very measured and very bright, you are reassured when you know he is on your side. He is very user-friendly and can turn around advice quickly when required.” “Always sees the bigger picture and really gains the trust and confidence of clients.”

Chambers & Partners

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Practice Overview

James is top ranked by Chambers Global for his trusts and offshore work: *“he is quick and clever and he understands everything. You can count on him to do exactly what he says he will”*, he has *“strong tactical nous”* and *“marvellous attention to detail.”* Much of his work is offshore and almost all of it has an international aspect. He has particular experience of litigation in Jersey and Guernsey.

A co-author of the 20th edition of *Lewin on Trusts*, James is recognised as an expert in trusts law and is described in Legal 500 as a *“hardworking and enthusiastic trust specialist”*. He has acted in Jersey as an expert witness in English trust law. He is particularly sought after for advice on novel questions where the case law does not directly assist.

Areas of Expertise

Private Client Trusts and Probate

A co-author of the past two editions of *Lewin on Trusts*, James acts in contentious and non-contentious matters. He has particular experience of issues concerning trustee indemnities and the contractual arrangements involved on the retirement and appointment of new trustees. He also has significant experience of trust applications, particularly for rectification and for *Beddoe* relief.

James has been acting for several years in the Tchenguiz litigation in the Guernsey Royal Court, which has led to

two recent (2014) and high-profile decisions of the Guernsey Court of Appeal on the applicability and effect of Article 32 of the Trusts (Jersey) Law 1984.

In Chambers Global 2017 (Private Wealth: Trusts) it states that James is "*Modest and unassuming, he is always excellent on paper and with clients. He explains matters clearly, calmly and succinctly and is right when it comes to predicting the outcomes of cases.*"

James is described in Chambers UK Bar 2017 (Chancery Traditional) as "*James is always excellent on paper, and with clients he explains clearly, calmly and succinctly what needs to be done. He is right on his prediction of outcomes.*"

Legal 500 2016 (Private Client: Trusts & Probate) states him as "*An outstanding junior, who is great to have on board in any matter*".

Other recent work includes:

Glenn v Watson [2018] EWHC 2483 (Ch) – assessment of interest on equitable compensation following the setting aside of joint venture agreements; discussion of interest on trustee claims.

Oscatello v Investec Trust (Guernsey) Ltd, Royal Court of Guernsey – trial concerning former trustees' personal liability to creditors, Article 32 of the Trusts (Jersey) Law 1984, substantial claims for breach of trust. Guernsey Court of Appeal 2013-2015 (several hearings). Privy Council 2017. See (2015-16) 18 I.T.E.L.R. 1 (2015-16) 18 I.T.E.L.R. 30 and [2018] 1 W.R.L. 1465).

Rawlinson & Hunter Trustees SA v Investec Trust (Guernsey) Ltd, Guernsey Court of Appeal, September 2016 – strike out of claim for breach of trust as an abuse of process under the principle in *Henderson v Henderson*; summary judgment on claim concerning former trustees' conduct of litigation (Decision upheld by the Privy Council, see [2018] 1 W.L.R. 1465).

High Commissioner for Pakistan v National Westminster Bank plc [2016] EWHC 1465 (Ch) – James is currently acting for the Government of India in this dispute concerning funds transferred in 1948 and held ever since in the name of the first High Commissioner for Pakistan in the United Kingdom.

Gledhill v Arnold [2016] WTLR 653 – claim to rectification of will

Re A Settlement [2016] JRC 065 – appointment of new trustee where corporate trustee insolvent, and where trust instrument lost.

Lemos v Lemos [2015] EWHC 1537 (QB); [2016] EWCA Civ 1181 – freezing injunction granted over trust property in support of enforcement of foreign judgment.

Trustee N & Anr v Attorney-General & Ors [2015] SC (Bda) 50 – decision concerning the use of material disclosed within Beddoe proceedings.

In 2015, James advised beneficiaries of several trusts in relation to actions to be taken by the trustees in respect of French and US tax issues, led by Elizabeth Jones QC.

Schomberg v Taylor [2013] WTLR 1413 – James acted for the counterclaimant in a rare successful plea of undue influence in a probate claim.

Garnham v PC and others [2012] JRC 050 – dispute between executors and with beneficiaries as to administration of very substantial estate.

R v Walker [2012] 1 WLR 173 – James acted for the Crown as advocate in the Court of Appeal; application of confiscation order to an interest under a trust.

AA v B (2010) 13 ITEL 690 – effect of an exclusive jurisdiction clause in the context of an application by a trustee for directions.

Alhamrani v JPMorgan Trust Company – James represented the plaintiffs in this breach of trust claim in the Jersey

Royal Court, which settled after 100 days of trial.

Freeman v Ansbacher Trustees 2009 JLR 1 – James acted for the defendant trustees in a claim for breach of trust, where the Jersey Court considered the rule against reflective loss.

Nicholls v Hudson [2007] WTLR 341 – application of the presumption of revocation of a will in a contentious probate claim.

International and Offshore

Oscatello v Investec Trust (Guernsey) Ltd, Royal Court of Guernsey – trial concerning former trustees' personal liability to creditors, Article 32 of the Trusts (Jersey) Law 1984, substantial claims for breach of trust. Guernsey Court of Appeal 2013-2015 (several hearings). Privy Council 2017. See (2015-16) 18 I.T.E.L.R. 1 (2015-16) 18 I.T.E.L.R. 30 and [2018] 1 W.L.R. 1465).

Rawlinson & Hunter Trustees SA v Investec Trust (Guernsey) Ltd, Guernsey Court of Appeal, September 2016 – strike out of claim for breach of trust as an abuse of process under the principle in *Henderson v Henderson*; summary judgment on claim concerning former trustees' conduct of litigation (Decision upheld by the Privy Council, see [2018] 1 W.L.R. 1465).

Alhamrani v Alhamrani [2014] UKPC 37 – James was junior counsel in a claim in the BVI Commercial Division concerning the ownership of a Saudi company, and in appeals to the Eastern Caribbean Court of Appeal and to the Privy Council, and in related unfair prejudice proceedings.

Re A Settlement [2016] JRC 065 – appointment of new trustee where corporate trustee insolvent, and where trust instrument lost.

Consolidated Resources Armenia v Global Gold Corporation, Royal Court of Jersey, 2014 – application to stay a shareholders' dispute and an unfair prejudice petition relying on contractual jurisdiction and arbitration clauses.

Garnham v PC and others [2012] JRC 050 – dispute between executors and with beneficiaries as to administration of very substantial estate.

AA v B (2010) 13 ITEL 690 – effect of an exclusive jurisdiction clause in the context of an application by a trustee for directions.

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Chancery

Professional Negligence

Recommendations

Private Client (*Who's Who Legal: UK Bar, 2020*)

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Chancery: Traditional, Offshore, Trusts (*Chambers & Partners*)

Offshore, Private Wealth: Trusts (*Chambers Global*)

Offshore, Private Client: Trusts and Probate (*The Legal 500*)

Quotes

'an *"intelligent barrister with bags of knowledge"* in the field of private client. He stands out for his work on trusts and offshore matters.' (*Who's Who Legal, 2019*)

"First-rate. He is well recognised with a vast amount of experience in the offshore world." "He's super friendly, responsive and brings serious academic rigour." (*Chambers Global, 2019*)

"Extremely bright, calm, and knowledgeable." "He is a barrel of information for anything concerning trust law." (*Chambers Global, 2019*)

"Very measured and very bright, you are reassured when you know he is on your side. He is very user-friendly and can turn around advice quickly when required." "Always sees the bigger picture and really gains the trust and confidence of clients." (*Chambers & Partners, 2019*)

"An extremely able, very gifted and stunningly bright barrister." "He has an encyclopaedic knowledge of trust law and is very easy to work with." (*Chambers & Partners, 2019*)

"Technically excellent and has an encyclopaedic knowledge of trust law. He can think outside the box and you can rely on him totally." "Extremely user-friendly and flexible." "He is as knowledgeable as anyone on English trusts law, and has an instinctive feel for how trust cases will go." (*Chambers & Partners, 2019*)

"Very thoughtful and measured in his advice, which gives him a consistency solicitors can rely on." (*The Legal 500, 2019*)

"He is extremely cerebral with an intuitive grasp of trust law." (*The Legal 500, 2019*)

"Has very insightful knowledge of trust law and is involved in many high-profile proceedings." "Without doubt he is held in extremely high regard by the clients. He has consistently dealt extremely diplomatically with some very difficult situations and has never faltered in his approach." (*Chambers & Partners, 2018*)

"Technically excellent and has an encyclopaedic knowledge of trust law. He can think outside the box and you can rely on him totally." "Extremely user-friendly and flexible." "He is as knowledgeable as anyone on English Trusts law, and has an instinctive feel for how trust cases will go." (*Chambers & Partners, 2018*)

"An extremely able, very gifted and stunningly bright barrister." "He has an encyclopaedic knowledge of trust law and is very easy to work with." "Technically excellent and has an encyclopaedic knowledge of trust law. He can think outside the box and you can rely on him totally." "Extremely user-friendly and flexible." "He is as knowledgeable as anyone on English trusts law, and has an instinctive feel for how trust cases will go." (*Chambers Global 2018*)

"James is always excellent on paper, and with clients he explains clearly, calmly and succinctly what needs to be done. He is right on his prediction of outcomes." (*Chambers and Partners 2017*)

"He has a mastery of all the facts when handling complicated and complex cases. He's user-friendly and incredibly bright, and his knowledge of trusts law is encyclopaedic." (*Chambers and Partners 2017*)

"Modest and unassuming, he is always excellent on paper and with clients. He explains matters clearly, calmly and succinctly and is right when it comes to predicting the outcomes of cases."

(Chambers and Partners 2017)

'An outstanding junior, who is great to have on board in any matter.' (The Legal 500 2016)

"He is one of the leading trusts senior juniors at the Bar." "He's very practical, helpful and clear in his advice."
(Chambers and Partners 2016)

*"His mental abilities are just exceptional, and he is able to help with skeletons and research on an urgent basis."
"He has the ability to turn matters around pretty much yesterday." "His mental abilities are just exceptional and he's a calm and pleasant guy to deal with."* (Chambers and Partners 2016)

'He is highly intelligent and produces high-quality work.' (The Legal 500 2015)

"Very helpful and a very good tactician, he offers excellent advice throughout." "A good-quality person on tricky matters. He is good at explaining things in a user-friendly way, and wants to feel that you know the law and understand the practicalities." "Some people just get it, and he has the right instincts, so even if there isn't a statute or case he can help you through." (Chambers and Partners 2015)

'A hardworking and enthusiastic trust specialist.' (The Legal 500 2014)

Publications

20th Edition of Lewin on Trusts (Sweet & Maxwell) (January 2015) (with Lynton Tucker and Nicholas Le Poidevin QC) (2020)

Lewin on Trusts (Sweet & Maxwell) (January 2015) (with Lynton Tucker and Nicholas Le Poidevin QC), 4th supplement (2018)

Lewin on Trusts (Sweet & Maxwell) (January 2015) (with Lynton Tucker and Nicholas Le Poidevin QC), 2nd supplement (2016)

Halsbury's Laws, Income Taxation, vol. 58 (2014) (contributor)

Mezhprom v Pugachev: bold new approach or illusory development (2018) *Trusts & Trustees*, 24(5), 398-405 (with Luke Richardson)

Good riddance to the presumption of advancement? (2010) *Trusts & Trustees*, 16(8), 627-634

Atkin's Court Forms, Nuisance, (2004)

Halsbury's Laws of England, Betting, Gaming and Lotteries, (2003) (contributor)

Awards

1999-2000 Hardwicke Scholarship; Thomas More Bursary (Lincoln's Inn)

1998 Cambridge University George Long Prize for Jurisprudence

In the Press

Byline "Court Asserts How Jersey Law Applies in Trust Cases" *Wealth Briefing* with [Kathryn Purkis](#), 25 April 2018

Education & Qualifications

1995-1998 B.A. Emmanuel College Cambridge (1st class) (placed 2nd in year)

1998-1999 LL.M. Emmanuel College, Cambridge (1st class) (starred 1st in tax)

1998-1999 British Academy Studentship

1999-2000 Bar Vocational Course (Inns of Court School of Law)

Appointments

Deputy District Judge (Northern Circuit)

Memberships

Chancery Bar Association

Association of Contentious Trust and Probate Specialists
