

## Nigel Meares

Call: 1975  
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Nigel works in the mainstream of traditional Chancery Bar work, specialities including Trust and Real Property advisory work and Litigation; Contentious and non contentious probate and estate administration; drafting trusts wills and ancillary documents; Mortgage advisory work and litigation, drafting and advising in relation to large scale Commercial and residential property schemes; family provision and Court of Protection work.

His practice also encompasses commercial litigation; deceit and breach of warranty claims; and professional negligence.

### Property & Land:

Problems and disputes that involve the Law of Real Property, sale of land, land registration, restrictive covenants, rights of way and other easements, adverse possession, mortgages - have been a central part of his practice since 1977. He has wide experience in litigation involving commercial and residential property, for example disputes between landlord and tenant, vendor and purchaser, and neighbouring owners. Areas of specialist advice and drafting include freehold and leasehold conveyancing schemes and Housing Association work.

He deals with disputes arising from out of valuation provisions in sales of large scale residential property development land, in arbitration and litigation

### Trusts, Wills and Probate & Claims Against Estates:

A particular speciality is drafting and advising on settlements and will trusts. Offshore trust work has included successful litigation in England arising from foreign trusts governed by English law.

He tends to act for very high-net worth individuals introduced by niche firms of solicitors and tax consultants. He acts for high-profile clients where confidentiality and expertise are expected and required. His clients and cases have taken him off-shore to places such as Switzerland, Guernsey and Bermuda.

His advisory and Court work includes disputes between and trustees and beneficiaries - for example the removal of trustees and claims for breach of trust; Court applications sanctioning compromises on behalf of minors; transactions not authorised by the trust instrument; dealing with trustee investment powers and trustee charges.

Drafting wills, advising on the construction of wills, and contested probate matters has always been a substantial part of his practice. His specialist knowledge of equity and trusts is essential for dealing with claims against estates, which are often highly litigious.

### Family Provision Claims:

He has long experience in advising on and litigating family provision claims.

### Court of Protection:

He advises on Court of Protection matters and is experienced in applications to the Court of Protection.

### Notable Cases include:

*West Bromwich Building Society v Wilkinson (Court of Appeal [2004] EWCA Civ 1063, and House of Lords [2005] 4 All ER 97)*. This case settled the law on limitation of actions for mortgage arrears shortfalls and is one of the few real

property cases that have reached the House of Lords. Nigel accepted the brief for the Court of Appeal on a conditional fee agreement and won the Appeal. That win was successfully defended in the House of Lords, and determined the outcome of at least 75 pending cases in the lower courts.

*Benn v Hardinge 66 P & CR 246*. This case concerned abandonment of easements, and the successful appeal to the Court of Appeal caused a re-write of a passage in the fifth edition of Megarry and Wade's Law of Real Property in the following edition.

*Sampson v Floyd (1989) 2 EGLR 49*, a decision of the Court of Appeal on breach of the covenant for quiet enjoyment, and the heads and measure of damage.

### Unreported Recent Cases for Nigel Include:

A Trust Case in the Bahamian Supreme Court

Nigel was brought in by specialist tax counsel to advise the trustees of a Bahamian trust to advise on the application of the Hastings Bass principle, with the object of avoiding the seriously adverse tax consequences of the replacement of non resident trustee. This resulted in an Order of the Bahamian Supreme Court that the resignation of the non resident trustee and appointment of a replacement resident trustee was void ab initio.

A High Court case on the construction of a Land Option Agreement

This concerned a major house builder and probably the largest residential development in the UK. What was at issue was the correct interpretation of the payment formula, on which turned millions of pounds.