



## Philip Byrne

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Year of Call: 1999

“Recommended Expert” **Legal 500 2022**

Philip was called to the Bar in 1999 following 10 years' working within property management and development, both in private practice and social housing. He is uniquely qualified to advise upon disputes within commercial as well as public organisations, having had senior roles both environments.

Philip practises in almost all areas of Business and Property law, but particularly real property (both residential and commercial) including landlord and tenant, wills, trusts and construction disputes. He regularly advises individuals and companies in respect of contractual interpretation and enforcement. Philip brings a practical approach to his advice in respect of professional negligence work, particularly associated with or arising from property and construction matters.

Philip has a practical approach to problem solving. He focuses on commercial outcomes with a view to negotiating cost effective, sensible and prompt solutions

### Other Qualifications / Achievements

Philip attended Nottingham Law School where he was awarded 'Very Competent' on the Bar Vocational Course and was placed joint first in year in Civil and Criminal Advocacy and first in year in Landlord and Tenant. He has a degree in property management and development and is a one-time member of the Chartered Institute of Housing and Royal Institution of Chartered Surveyors.

- Middle Temple – Joseph Jackson Prize
- London Borough of Hammersmith and Fulham undergraduate scholarship
- SAUS (Bristol University) Dissertation Prize
-

TI student award

- One time member of the Chartered Institute of Housing and Royal Institution of Chartered Surveyors

## Memberships

- Middle Temple
- PLA

## Appointments

- Accredited for Direct Public Access instructions

## Legal Directory Recommendations

*“Analytical and incredibly detailed in his assessment of a matter, but also commercially astute, Philip adds more than other barristers can offer. He is excellent and affable with clients but direct when he needs to be without losing their trust. Good on his feet and introduces new lines of approach which others are unlikely to consider.”* **Legal 500 2021**

*“Quickly able to get to the root of a problem.”* **Legal 500 2020**

*“Known for handling property disputes in his Chancery practice.”* **Legal 500 2019**

*“Experienced in contract interpretation disputes.”* **Legal 500 2017**

*“Recommended for contractual interpretation disputes.”* **Legal 500 2016**

*“Polite, diligent and down to earth.”* **Legal 500 2015**

*“Knowledgeable across a wide range of commercial agreements.”* **Legal 500 2014**

Philip is described as *‘bright and thoughtful’* in The Legal 500 2013 and is recommended for land and property matters.

## Solicitor Recommendations

*“Philip Byrne – He is the man you want! He has excellent all round property knowledge – with a particularly emphasis on contentious L&T. He is extremely helpful with discussions and is always happy to talk through initial issues (without obligation).”* – **Alex Sandland, Partner, Butcher & Barlow**

*“Philip’s encyclopaedic knowledge of land law coupled with his approachability and pragmatism had a significant impact on the mediation process and on my job as mediator, helping the parties reach a satisfactory settlement. Here is a barrister who clearly knows his stuff and uses that knowledge*

*appropriately to fight his client's corner, in either a litigation or mediation context.” – Brian Dawson – Mediator and Senior Partner, Walker Smith Way Legal.*

## Articles

- Case Law Update (Faiz v Burnley BC [2021])
- Is the Party Wall Act now obsolete? (published in RICs Built Environment Journal)

## EXPERTISE

### Property and Private Client

Philip has developed considerable expertise in advising and representing a broad spectrum of clients, both ‘professional landlords’ with large portfolios as well as single business tenants with limited experience and budgets. He is focused on achieving the best commercial outcome for his clients; providing practical legal, tactical and technical advice.

Philip is very experienced at drafting contentious and non-contentious and transactional documents under tight timescales. He regularly drafts and reviews transactional and contractual documents for individuals and firms, both in his name and ‘white label’ work.

Philip’s Property work includes:

### Landlord and Tenant

- Advising landlords and tenants on documentation drafting, structuring complex transactions, tenancy management and enforcement, lease renewal and construction
- Lease renewals
- Break clauses
- Advising on rights of occupation including licences and tenancies at will
- Rent reviews including drafting Arbitration submissions on behalf of surveyors in disputed comparables
- Dilapidations
- Service charge disputes
- Interpretation and enforcement of agreements for lease and development
- Lease extensions
- Surrenders.

### Real Property

- Mortgage default and enforcement
- Advising in matters concerning the existence and enforceability of easements and restrictive covenants including Rights to Light
- Adverse possession
- Rectification
- Registration
- Advising on Party Wall issues.

## Trusts

- Creation of express and constructive trusts including TOLATA
- Advising trustees and beneficiaries in relation to dealings and disputes (including SIPPS).

## Housing

- HMO enforcement (including acting for defendants in prosecutions)
- Leases and tenancy agreements
- Rents and service charges
- Tenancy deposits
- Security of tenure and possession proceedings
- Introductory and demoted tenancies
- Housing conditions and disrepair
- Unlawful eviction and harassment
- Housing benefit fraud.

## Reported Cases

[BMR Bagshot Ltd v Dorchester Mansions \(1997\) Ltd](#)

[Peter Hulse and Josephine Hulse v Mr and Mrs Thompson, Mrs Duckett, Mr Fisher and Mr and Mrs Parry \[2021\] UKUT 0111 \(LC\)](#)

[Faiz v Burnley BC \[2020\] EWHC 407 \(Ch\)](#)

[James Anthony Dale v John Glyn Jones](#)

[Mott and another v Long and another \[2017\] EWHC 2130 \(TCC\)](#)

[Mr Ashar Rehman v Mrs Riffat Rehman, Mr Waqas Rehman, Mrs Zonera Rehman \[2017\] EWHC 2418](#)

(Ch).

## Professional Negligence

Acting in professional negligence claims relating to property professionals including surveyors, solicitors and architects. He frequently advises on transactional oversights, document drafting and conveyancing mistakes, together with building inspection and valuation errors.

Philip acts in construction disputes and has a detailed practical knowledge of construction methods, offering a relatively unique understanding and approach to resolving the wrangles that frequently arise.

## Company and Commercial

Philip acts in various contractual disputes including the interpretation of Contracts.

Philip regularly appears in the County and High Courts, The Property Chamber, Arbitrations, and the Magistrate's Court (HMO prosecutions). He also frequently appears in Mediations. His practice is evenly split between Claimant/Applicant and Defendant/Respondent work.

Philip is accredited by the Bar Council to undertake direct public access work and has advised and represented a significant number of individuals and small business on this basis.

## Cases

**B v W (2014):** Represented a vendor in a damages claim following a purported misrepresented relating to the description of a property, in a claim for damages and following an unsuccessful boundary dispute (three day hearing).

**S v S (2013):** Conversion. Represented a claimant against her ex-husband who had retained her car and other property.

**T v T (2013):** Acting for trustees relating to duties and enforcement of the trust.

**S v M (2013):** Acting for claimant purchaser in a negligent building survey.

**G v P (2014):** Lease forfeiture. Represented a well-known horse trainer in his High Court claim for illegal forfeiture of a mixed-use stables and residential accommodation, including obtaining an injunction to re-enter.

**H v W (2013):** Acrimonious boundary dispute. Mediation agreement achieved on favourable terms, following several months of hostile and protracted dealings.

**S v P (2013):** Acrimonious easement dispute. Mediation agreement achieved on favourable terms, following several months of interruption.

**L v Y (2014):** Construction Arbitration – initial claim valued at £213,000. Claim dismissed save £8,500 (being marginally more than settlement offer).

**MSD v FM (2014):** Wasted Costs Order against defendant solicitor where FM's case was 'doomed to fail from the outset'.

## ADR and Mediation

Philip has been practising as a barrister for almost 20 years specialising in property and commercial law. Before that, he was a member of the Royal Institution of Chartered Surveyors and the Chartered Institute of Housing, commencing practice in London in the late 1980s.

Philip has acted as a surveyor, property manager and property developer in both the private and public sectors, in London and elsewhere. He maintains a contentious and non-contentious practice; working on behalf of a broad spectrum of clients, helping them with resolving disputes and in their business dealings. His clients include private individuals and household names and large institutions. He is a respected advocate in property and commercial courts and tribunals.

Philip has a sharp eye, focusing on commercial and acceptable outcomes and is therefore frequently instructed at the earliest opportunity by his clients, steering them away from expensive litigation, wherever possible.

Philip has been recognised as a 'Leading Barrister' in the *Legal 500* for a number of years.

Over the last few years, Philip has also practised as a mediator specialising in property mediation (including construction disputes) and commercial mediation.

## Mediation

Philip has extensive experience, both as a barrister and as a mediator and brings a uniquely practical approach to:

- Landlord and tenant disputes (commercial and residential)
- Disputes involving boundaries, rights of way and other easements
- Conveyancing and misrepresentation claims
- Restrictive covenants
- Property joint ventures
- Co-ownership including trusts (TOLATA)
- Inheritance
- Property related negligence claims and other areas of property law
- Contract disputes
- Partnership disputes
- Construction disputes

Philip's skills as a mediator are enhanced as he has extensive experience acting as lawyer and agent on behalf of:

- Landlords and tenants – commercial or residential – including agricultural property
- Private individuals, businesses and large institutions
- Family disputes relating to wills and inheritance
- Small, medium and large businesses
- Clubs and associations
- Social landlords and social providers – including doctors (his wife is a GP)
- Neighbours in boundary disputes
- Property developers
- Property owners
- Buyers and sellers of a property
- Property managers

## Dispute Resolution

*“Mediation is a process that you control and allows you to agree solutions that the courts and tribunals may not be able to offer”*

*“It is an opportunity to achieve outcomes that the courts cannot offer”*

*“Mediation allows the parties to pause and take back control”*

## Property Disputes

Property disputes come in various guises and can be very expensive, stressful and protracted.

All these property disputes can be settled by mediation:

- Neighbour disputes
- Boundaries disputes
- Restrictive covenants
- Adverse possession and encroachment
- Rights of way
- Easements
- Party walls
- Conveyancing disputes such as misrepresentation
- Development disputes such as options and overage
- Partnership disputes
- Residential and Commercial Leases:

- Lease negotiations
- Lease renewals
- Lease enforcement and interpretation – including break clauses
- Possession claims
- Rent Reviews
- Dilapidations – including housing disrepair
- Forfeiture and possession
- Guarantees and Indemnities
- Rent deposits
- Service charges

## Family Disputes

Family disputes require special and sensitive care and attention. Time is spent on considering '*what is legal/what is fair*' exploring the '*rights and wrongs*' of competing arguments with a view of relieving the stresses and pressures of such disputes.

- Co-ownership
- Inheritance & administration of estates
- Family business disputes

## Professional Negligence

Disputes may arise between advisors and their clients:

- Professional negligence
- Surveyors
- Valuers
- Solicitors
- Architects
- Property managers

## Mediation Style

Philip's style is relaxed, friendly and empathic. He calms things down and listens carefully so as to understand what the parties really want and need.

Philip is quickly able to distill complex matters into simple and manageable steps, while focusing on acceptable solutions from an early stage in the mediation.

His 'hands-on' and practical background in property and commercial matters allows him to quickly grasp any technical issues, and suggest potential practical solutions.

Philip is exceedingly patient and personable, but will speak plainly when required; he is not afraid of putting 'the difficult questions' or challenging established positions.

Philip can help you to resolve your dispute using his practical background and experience gained 'on the job' and through his current role as a leading specialist property and commercial barrister. He is able to understand all of the technical issues that arise and speak the language of law and practical solutions to resolve disputes. He has a very impressive rate of success.

Philip is here to help.

## Public Access

Philip is accredited to receive instructions directly from members of the public through the Public Access Scheme.

[Click here to view our Public Access pages and details of the process for instructing public access accredited barristers.](#)