

MALCOLM WARNER

CALL: 1979

"Methodical, rigorous, and proactive, in addition to working very well with solicitors."
LEGAL 500 2021

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Malcolm predominately has a High Court practice, in chancery and commercial law.

PRACTICE AREAS

- Property & Estates
 - Commercial
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PROPERTY & ESTATES

Malcolm's property & estates experience includes:

- Options
- Mortgages
- Rights of way
- Boundary disputes
- Conveyancing & title
- Commercial landlord and tenant, 1954 Act
- Restrictive covenants
- Proprietary estoppel
- Wills & probate
- Inheritance Act 1975
- Partnership
- Property litigation
- Remedies including injunctions & receiverships

SIGNIFICANT CASES

- **Fox v Jewell [2013] EWCA Civ 1152** - A successful appeal from a case management decision of the chancery judge - where the Court of Appeal agreed it was wrong to split a proprietary estoppel's claim off from claims involving testamentary capacity, want of knowledge & approval, mutual wills etc.
- **Dashfield & Shepherd v Davidson & Ruddy (2007 & shortly to be reported in the BCC)** Proper interpretation of Section 164 of the Companies Act 1985 distinguishing R W Peak (Kings Lynn) Ltd [1998] 1 BCLC 193.
- **Patrick v Marley Estates [2007] EWCA Civ 1176 [2007] NPC 122**- Covenants to repair in leases, meaning of "building" and "structure" and applicability of Section 20C(3) of the Landlord and Tenant Act 1985.
- **Northstar v Brooks [2006] EXCA Civ 756**- Purchaser's failure to be ready willing and able to comply with their own notice to complete; time of day for completion; estoppel by conduct.
- **Wessex Reserve Forces v White [2006] EGLR 55**- Section 30(1)(f) of the Landlord and Tenant Act 1954 and whether the landlord could show he needed access to the demise for demolition purposes when the tenants intended to clear the site at the end of the tenancy if the tenancy was determined but not if continued under the Act.
- **Shepherd v Turner [2006] EWCA 8, [2006] 2 EGLR 73**
- **Grace v Biagioli [2006] BCC 85** - Minority shareholder & unfair prejudice; appropriate relief in the context of a small international group of companies.
- **Gully v Dix [2004] EWCA CIV 139 S.I (1) (1A)**- "Common Law" spouse / partner whether living in same household as partner as husband or wife when had left 3 months before death due to partner's behaviour (Alcohol related). Determination by court of Appeal: applicant within section.
- **Atkins v Dunn & Baker [2004] EWCA CIV 263**- Solicitor sending draft will to client who signs but does not execute it. Solicitor fails to send reminder (admits good practice) Court of Appeal held solicitor not negligent.
- **Jennings v Rice [2003] 1 P & CR 8**- Proprietary Estoppel. How far court should see to satisfy expectations raised. Court of Appeal lays down guidelines as to exercise of discretion and relevance of detriment.
- **Michael Furriers v Askew 127 S7 597**- Court of Appeal maintaining grant of injunction against all members of unincorporated body campaigning against far trade.
- **Airways Ltd v Bowen & Reid [1985] BCLC 355**- Authority to sue in name of company, proceedings brought without authority. Action struck out by court of appeal with indemnity costs.
- **Faith Panton Property Plan Ltd v Hodgetts [1981] 1 WLR 927**- Court of Appeal Early Mareva Case Determined on whether grant of injunction relief just and convenient within S.37 Supreme Court Act 1981.

COMMERCIAL

Malcolm's commercial experience includes:

- Contractual disputes
- Construction of contracts
- Guarantees
- Partnership
- Solicitor's negligence
- Company
- Banking

RECOMMENDATIONS

LEGAL 500 2021

Chancery, Probate and Tax

'Methodical, rigorous, and proactive, in addition to working very well with solicitors.'

Ranked: Tier 1

CHAMBERS UK 2019

Chancery

Long-standing traditional chancery and commercial specialist. He is experienced in dealing with cases arising from options, mortgages, rights of way, wills and probate, and boundary disputes. His commercial practice includes partnership and contractual disputes, solicitor's negligence and the construction of contracts.

"He really understands the detail of the case. He gets into it really quickly and thoroughly and has a very clear steer on strategy. His written work is thorough, right on the point and comprehensive."

LEGAL 500 2019

Commercial, Banking, Insolvency & Chancery

'Very experienced across a broad range of traditional Chancery and commercial matters.'

CHAMBERS UK 2018

Partnership

Leading Junior - Band 2

A well-known and respected senior junior in the partnership space who draws on a wealth of experience in the commercial and, in particular, property sectors to inform the matters he handles. He is especially noted for his handling of issues involving medical and farming partnerships.

Chancery

Leading Junior - Band 3

Long-standing traditional chancery and commercial specialist. He is experienced in dealing with cases arising from options, mortgages, rights of way, wills and probate, and boundary disputes.

Strengths: "He's a very senior, very experienced, very wily and able practitioner who has been around for a long time. He's a formidable opponent." "He's a very long-established chancery practitioner."

Recent work: Represented the defendants in a high-profile proprietary estoppel case concerning a valuable farm in West Wales, which settled before an appeal hearing.

LEGAL 500 2017

Commercial, Banking, Insolvency and Chancery Law

Leading Junior

'Recommended for traditional Chancery and commercial matters.'

CHAMBERS UK 2017

Partnership

Leading Junior - Band 2

A well-known and respected senior junior in the partnership space who draws on a wealth of experience in the commercial and, in particular, property sectors to inform the matters he handles. He is especially noted for his handling of issues involving medical and farming partnerships.

Strengths: "Very much a partnership specialist - which gives him an edge - and my go-to to bounce things off."

CHAMBERS UK 2016

Partnership

Leading Junior - Band 2

Frequently acts on partnership matters within the context of a broad chancery and commercial practice and has extensive High Court and Court of Appeal experience. His recent instructions include matters involving medical practices and a number of farming partnership disputes.

CHAMBERS UK 2015

Partnership

Leading Junior - Band 2

A strong practitioner who engages in partnership work as part of a broader commercial and chancery practice. He has particular expertise in disputes involving medical partnerships.

CHAMBERS UK 2014

Chancery

Maintains a thriving chancery practice, striking a balance between traditional and commercial work. He is routinely instructed on property and probate disputes, as well as partnerships and professional negligence matters.

Expertise: "Highly experienced in this field. Very incisive, prompt and effective."

Recent work: He was involved in a High Court case, defending a third party in relation to a vexatious Beddoes application brought by the executors of an estate.

Partnership

Handles partnership work as part of a wider chancery and commercial practice, with a number of instructions pertaining to partnerships in the medical field.

Expertise: "He is very user-friendly and a very polished advocate."

Recent work: He acted for the claimants in *Dashfield & Shepherd v Davidson*, a case concerning directors' duties and the price payable for shares on a buyout.

CHAMBERS UK 2013

Chancery

Property and trusts expert Malcolm Warner is praised for being "highly experienced in this field. He is also very incisive, prompt and effective."

Recent work: *Lewis v Parsons*, heard in the Cardiff County Court. This case concerned claims to farmland based on proprietary estoppel.

Partnership

Malcolm Warner has recently been instructed on cases dealing with disputes concerning both medical and legal partnerships. Sources say: "He is a very modern barrister", who is "a good operator in court."

CHAMBERS UK 2012

Chancery

Clients "love" traditional chancery practitioner Malcolm Warner and his "steadfast" advocacy. Commentators admire his ability to "paint the big picture in court - he sets out his case clearly." In more adversarial situations, he is "a terrier who never lets go once he's got his teeth in."

Partnership

Malcolm Warner is "a good team player and an effective advocate." He has extensive commercial and chancery experience, and a fine reputation for handling tricky partnership disputes.

CHAMBERS UK 2011

Chancery

Traditional chancery concerns are also the bread and butter of Malcolm Warner. He handles landlord and tenant issues, rights of way, inheritance and contractual disputes. According to sources, "he takes a terrier-like attitude to cases," such that "once he has gotten hold of a winning point he doesn't let go."

Partnership

The team includes Malcolm Warner, an old-school chancery expert, who is admired for his "practicality, approachability and sound assessment of partnership cases." Lately, he has been involved in dissolutions and other contentious matters for legal, medical and estate agent partnerships. "He does not shirk from awkward clients," according to peers, who consider him a respectable role model for younger practitioners.

CHAMBERS UK 2010

Chancery

Malcolm Warner, a staunch favourite with clients who value his "highly tenacious approach."

Partnership

Malcolm Warner is seen by some as "the smartest man on the planet." Commentators note that his vast experience means that he has "the ability to see new angles in a case time after time."

CHAMBERS UK 2009

Chancery

Malcolm Warner is rated for his "doggedness and perseverance - he will not give you an easy ride". He appeared in the Court of Appeal in *Pattflier v Marley Estates*, a case dealing with the construction of a lease of part of a subdivided country house.

Partnership

Acknowledged as a "fighter for his client", Malcolm Warner has built up a practice advising on medical partnerships and solicitor disputes. Sources express their utmost regard for his "hands-on, enthusiastic and user-friendly" manner, not to mention his "excellent judgement and clear advice."

LEGAL 500 2006

Partnership

Malcolm Warner of Guildhall Chambers "instils confidence in his clients" and frequently comes up against silks as a leading junior.

MEMBERSHIPS:

- Chancery Bar Association
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EDUCATION:

- BSc Econ Hons, University College of Wales, Cardiff
 - City of London University
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RECENT NEWS

- Introducing ADR + Plus. It's Covid-proof, quick, economical & cost/benefit positive
 - Malcolm Warner successful in the Court of Appeal in dispute
 - Welcome to another edition of the Guildhall Chambers Property & Estates Team Newsletter, June 2016
 - Property & Estates E-News - Court Of Appeal Decision In Parmar v Upton - December 2015
 - Guildhall Chambers quiz night goes down a "sturm" - September 2015
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