



Rawdon Crozier

Call 1984

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Practice Overview

Rawdon Crozier's practice has a strong emphasis on property, professional negligence and contract law. He has a particular affinity for cases involving unusual or esoteric points of law and has been involved in some of the leading cases on residential service charges, particularly in relation to holiday homes. He has a facility for document trails. Rawdon Crozier qualified as a mediator in April 2012 and his practice includes mediation advocacy. He is a regular contributor to the Landlord & Tenant Review and has written for a number of other legal journals. While his practice, with the erosion of Legal Aid, predominantly consists of privately paid work, Rawdon retains a principled commitment to publicly-funded work when it is available.

Qualifications and Appointments

- LLB (Hons) London (University College) 1983
- Blackstone Award, Middle Temple 1984
- Bar Finals 1984
- Called to the Bar: Middle Temple 1984
- Devon & Cornwall Representative on the Wine Committee of the Western Circuit 1998-2000
- Accredited Mediator, London School of Mediation, April 2012

Commercial & Insolvency

Rawdon's experience encompasses a wide range of contractual disputes, which extend from straightforward cases such as debt actions and claims relating to the supply of goods or services to complex commercial litigation, examples of which have been a quantum meruit claim for electrical mechanical design work against a major car dealership and a substantial claim by a taxi firm arising out of the supply of defective telecommunications equipment. In the wake of a previous recession, Rawdon was involved in multiple claims by an insurance company seeking to recover advances of commission from tied agents. Rawdon has been involved in a number of bankruptcy matters.

Specific Areas of Expertise

- Sale of Goods and supply of services
- Commercial contracts

Property Law

Rawdon acts in a wide variety of property-related cases and represents clients in the Courts, Lands Tribunal, in Land Registry adjudications and also on mediations. His familiarity with other specialist areas of law, such as professional negligence and trusts of land and experience of ancillary relief, are of particular use in a field in which overlaps with those disciplines are common.

Specific areas of expertise

- Sale of land
- Boundaries, easements and rights of way
- Claims for Possession
- Restrictive Covenants
- Adverse Possession
- Torts affecting land
- Proprietary estoppel

Rawdon appears for and advises both landlords and tenants in cases involving residential, business and agricultural/farm business tenancies and has been involved in some of the leading cases on leasehold holiday homes and service charges.

Specific areas of expertise

- Leasehold holiday homes
- Service Charges
- Construction of Leases
- Leasehold enfranchisement and/lease extensions
- Claims for breach of covenant and derogation from grant
- Claims for Possession
- Catering concessions - Lease/Licence
- Estoppels giving rise to security of tenure

Probate & Inheritance

Wills, Probate & Financial Provision on Death

- Contested wills
- Inheritance (Provision for Dependents) Act 1975 Act claims

Recent cases of Rawdon's have included:

- An Inheritance Act claim in which there was a trial of an issue as to whether a portrait painted by a noted Georgian painter and originally gifted out of the Royal Collection by George IV and sold for

half a million pounds at auction was a gift or formed part of an estate. The case also involved issues about disclosure, fabricated documents and mental capacity.

- An probate case in which the Administrator of an estate faced the difficulty that the primary beneficiary under an intestacy would neither accept nor disclaim his entitlement nor even communicate with the Administrator's solicitors. The case required the Chancery Master to consider disclaimer by conduct and to decide between two conflicting lines of authority stemming from *Re Birchall*, *Birchall v. Ashton* (1889) L.R. 40 Ch. D. 436 (CA) and *In re Cranstoun Decd.* [1949] Ch 523 about whether disclaimer required a change of position before becoming irrevocable. The Master decided that a change of position was not required, following the *Re Birchall* line of authority, which had not been cited in *Re Cranstoun* or later cases to similar effect; this enabled the estate to be distributed between the remaining beneficiaries on the basis that the uncooperative beneficiary had disclaimed.

Professional Liability

Rawdon has long of experience of professional negligence work, going back to pupillage in Carpmael Building (now 3 Serjeants' Inn). While there, he appeared in procedural stages of the whooping cough vaccine litigation and was involved as a pupil in the preparation of the respondent's case for the hearing in the House of Lords of *Sidaway v. Governors of the Bethlehem Royal Hospital and the Maudsley Hospital* [1984] 2 WLR 778. Although he has continued to do clinical negligence work, the majority of his professional negligence practice since joining these Chambers in 1986 has involved claims against solicitors and surveyors. His experience of Mundic block litigation dates back to that time and the case of *Marder v. Sautelle-Smith* (1986) QB unrep, which established the date of knowledge of the Mundic problem within the surveyors' profession. Rawdon's cases have included claims arising out of failed Spanish holiday home purchases, a double solicitor's negligence in a potentially significant personal injury claim and a claim against a local authority for failing to protect children.

TOLATA

Rawdon's practice in relation to property encompasses cases involving trusts of land, including disputes between former cohabitants about beneficial ownership under the Trusts of Land and Appointment of Trustees Act 1996. Rawdon has been involved in ToLATA cases in both the Family and Chancery jurisdictions.

Planning & Local Government

Rawdon has advised on and/or appeared in a variety of cases involving planning and local government, including cases on the licensing and regulation of private hire vehicles and commercial rating.

Rawdon has appeared in and/or advised on planning matters periodically. This has included representing objectors in an appeal before an inspector which related to an application to build an indoor riding school within the Dartmoor National Park.

Mediation/Mediation Advocacy

Rawdon qualified as a Accredited Mediator through the London School of Mediation in April 2012. Since that time his practice has primarily involved mediation advocacy in a variety of disputes involving among others issues, professional negligence, rights of way and the construction of leases. Rawdon has also participated in the training of mediators.

Cases of Note

Arnold v Britton Supreme Court, 10 June 2015; Court of Appeal (Civil Division), 22 July 2013
The case concerned the correct interpretation of the service charge provisions contained in long leases of holiday chalets on the Gower Peninsula. Rawdon first became involved in the case when he obtained permission for a second appeal to the Court of Appeal and subsequently appeared lead in both the Court of Appeal and the Supreme Court.
Supreme Court : [2015] UKSC 36; [2015] 2 W.L.R. 1593
Court of Appeal: [2013] EWCA Civ 902; [2013] L. & T.R. 24; [2013] 3 E.G.L.R. 37; [2013] 31 E.G. 50 (C.S.)

Caddick v Whitsand Bay Holiday Park Ltd Upper Tribunal (Lands Chamber), 16 February 2015
The case turned primarily upon whether the First-tier Tribunal had correctly exercised its power to dismiss an application to determine the reasonableness of a service charge under s.27A of the Landlord & Tenant act 1985. The Upper Tribunal held that it had but also decided (strictly obiter) that the chalet in question was not a building and therefore not a dwelling under the 1985 Act. Arguments regarding annexation were not therefore fully addressed.
[2015] UKUT 63 (LC);

Phillips v Francis Court of Appeal (Civil Division), 31 October 2014, Chancery Division, 21 December 2012
The case concerned (1) the correct interpretation of service charge provisions in long leases of holiday homes and whether they permitted double recovery and (2) the interpretation of the consultation provisions contained in the Landlord & Tenant Act 1985 and subordinate legislation in relation to “qualifying works”.
Court of Appeal: [2014] EWCA Civ 1395; [2015] 1 W.L.R. 741; [2015] H.L.R. 3; [2015] 1 P. & C.R. 9; [2015] L. & T.R. 4;
Chancery Division: [2012] EWHC 3650 (Ch); [2013] 1 W.L.R. 2343; [2013] L. & T.R. 19; [2013] 1 E.G.L.R. 47; [2013] 13 E.G. 76; (2013) 163 N.L.J. 40; [2013] 1 P. & C.R. DG16

Orme v Lyons Chancery Division, 12 October 2012
The case concerned a prescriptive right of way and the correct approach on an appeal from a Land Registry Adjudicator and upheld the principle that an Adjudicator’s knowledge and experience entitled particular regard to be given to their decisions on an appeal.
Ch. D: [2012] EWHC 3308 (Ch);
LR Adjudication: [2011] EWLandRA 2007/0007

Mortgage Express v Butcher & Martin Court of Appeal (Civil Division), 24 January 2012
The case concerned priorities as between a sell-to-rent-back vendor, M, who had sold his house to B at a substantial discount in return for the right to occupy the house rent-free for life. B, who played no part in the proceedings, having initially submitted bogus details of the purchase to the mortgagee, MX, was able nonetheless to submit a second application to MX and obtain a mortgage in excess of the purchase price. B. made no mortgage payments. At first instance the District Judge had held that MX had had constructive notice of B’s fraud and was bound by the agreement. MX initially sought to appeal but then formally gave notice that it was not proceeding with the appeal. MX then sought permission to appeal out of time after the first instance decision in *Re North East Property Buyers Litigation* [2010] EWHC 2991 (Ch). The permission application was adjourned and consolidated with the North East Property Buyer’s Litigation appeal to the Court of Appeal. Rawdon successfully opposed the granting of permission which was argued before the full court. The point upon which Rawdon had won at first instance remains unresolved at an appellate level notwithstanding the Supreme Court’s decision in *NEPB* [2014] UKSC 52; [2015] A.C. 385 because it had been abandoned at first instance in *NEPB*.
[2012] EWCA Civ 18, <http://www.bailii.org/ew/cases/EWCA/Civ/2012/18.html>

Turberville Smith v Hearn & others, Land Registry Adjudicator 30 April 2010
The case concerned a claim for adverse possession, there were issues as to the degree to which the applicant had assumed exclusive possession and for how long and whether there had been acknowledgment of title.
[2010] EWLandRA 2008/1205,
http://www.bailii.org/ew/cases/EWLandRA/2010/2008_1205.html

Phillips v Francis, High Court, QBD, Truro D.R. 24 March 2010

Leasehold holiday homes were held to "dwellings" for the purposes of the provisions relating to service charges contained in the Landlord and Tenant Act 1985 s.18 to s.30.

[2010] L. & T.R. 28; [2010] 2 E.G.L.R. 31; [2010] 24 E.G. 118; LTL 16/4/2010

Re G (A Child) sub nom MM v C and X Local Authority. 19 March 2008

In adoptions of United Kingdom children to foreign countries, the confirmation required by the Adoptions with a Foreign Element Regulations 2005 reg.10(b)(iv) before a parental responsibility order would be made in favour of the adopters, that the child was or would be authorized to enter and remain in the foreign country, was to be provided by the foreign adoption agency, not the foreign immigration authorities.

[2008] EWCA Civ 105 (2008) Fam 97 : (2008) 3 WLR 853 : (2008) 1 FLR 1484 : (2008) 1 FLR 1497

Plymouth City Council v CR (unreported) 13 June 2006 , High Court, Family Division, Truro DR

The case concerned whether the court could give approval under paragraph 19 for a child to be sent to Malta in order to assess a wide range of possible options without infringing the bar under Section 85(1) of the Adoption Act 2002 to removing a child from the United Kingdom "for the purpose of adoption". There were issues as to whether if it could not, the child's human rights would be infringed and the Secretary of State intervened by way of written submissions. Rawdon appeared for one of the parents. Coleridge held, following the arguments of both parents, that the Court had such a power and the human rights issue did not arise. The decision was subsequently applied in *In re A (A Child) (Adoption: Assessment outside Jurisdiction)* [2009] EWCA Civ 41, [2009] 3 W.L.R. 1169

R v McKinnon, Court of Appeal, Criminal Division, 19 January 2004

The case concerned the territorial ambit of the confiscation provisions under the Powers of Criminal Courts Act 1973. It was held that where a confiscation order was made in relation to proceeds from conspiracy to publish obscene articles for gain on the internet that order could cover profits from other jurisdictions where there had been no offence committed.

[2004] EWCA Crim 395 (2004) Crim LR 485

Published Articles

- **Fixing the Vicious Cycle**
Citation: Counsel, September 2016
Topic: Legislation; Public Policy; Marginal Gains and CORE value approach
- **Leasehold Ownership**
(Written with Ibraheem Dulmeer, Legal Adviser, Leasehold Advisory Service)
Citation: The Negotiator, September 2016, 52-53
Topic: Landlord & Tenant; Leaseholds; Leases; Service Charges
- **The Vindictive Beneficiary**
Citation: NLJ Vol 166, Issue 7710, 15 - 16
Topic: Wills & Probate; disclaimer by conduct; what amounts to disclaimer; intention required to disclaim.
- **HMO licensing costs as service charges**
Citation: L. & T. Review 2016, 20(3), 101-105
Topic: Landlord and tenant; Dwellings in houses in multiple occupation; Recovery of HMO licensing costs; Reasonableness; Service charges.
- **Arnold v Britton - why the tenants lost (Case Comment)**
Citation: L. & T. Review 2015, 19(5), 209-211
Topic: Landlord and tenant; Interpretation of Leases; Commercial Absurdity: Service charges
 - Rawdon's take on why the Supreme Court decided as it did.
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- Estoppel and elephant traps: section 2(5) of the Law of Property (Miscellaneous Provisions) Act 1989 (Legislative Comment)
Citation: Conv. 2015, 3, 240-244
Topic: Real property; Contracts for sale of land; Constructive trusts; Estoppel; Formalities; Legal history; Why the proviso to s.2(5) does not bar the operation of estoppel.
- A patchwork landscape: residential and holiday parks, leasehold lodges and mobile homes - Part II
(written with Aimee Hutchinson, Blacks Solicitors)
Citation: L. & T. Review 2015, 19(2), 64-67
Topic: Landlord and tenant; Real Property; Housing; Caravan Sites; Mobile Homes; Leaseholds; Anomalies as a result of recent legislation discussed.
- A patchwork landscape: residential and holiday parks, leasehold lodges and mobile homes - Part I
(written with Aimee Hutchinson, Blacks Solicitors)
Citation: L. & T. Review 2015, 19(1), 16-19
Topic: Landlord and tenant; Real Property; Housing; Caravan Sites; Mobile Homes; Leaseholds; Anomalies as a result of recent legislation discussed.
- Covered up?
(written with Anthony Eskander)
Citation: N.L.J. 2014, 164(7603), 15-16
Topic: Civil procedure; Insurance; Disclosure of Insurance Policies
- Small but perfectly regulated? Shutting the stable door on the sell-to-rent-back market
Citation: L. & T. Review 2014, 18(1), 15-17
Topic: Landlord and tenant; Real property; Consumer law, developments in; Sell-to-Rent-Back Transactions
- Daejan v Benson - misplaced intent? (Case Comment)
Citation: L. & T. Review 2013, 17(3), 86-89
Topic: Landlord and tenant; Service Charges; Consultation; Approach to dispensation after non-compliance with consultation provisions
- Qualifying works: assessing the Chancellor's contribution - Phillips v Francis (Case Comment)
Citation: L. & T. Review 2013, 17(2), 64-67
Topic: Landlord and tenant; Service Charges; Consultation
- A question of priorities: mortgages, sell-to-rent-back tenancies and overriding interests
Citation: L. & T. Review 2012, 16(6), 220-225
Topic: Landlord and tenant; Banking and finance; Real property; Equity; Estoppel; Sell-to-Rent-Back Transactions
- Service charges - who pays when a residents' management company fails to comply?
Citation: L. & T. Review 2012, 16(3), 92-94
Topic: Landlord and tenant; Service Charges; Right to Manage Companies; Leaseholders obligations as residents and shareholders compared.
- Upwardly mobile - can a mobile home be a dwelling?
Citation: L. & T. Review 2011, 15(5), 174-177
Topic: Housing; Real property; Annexation; Chattels; Mobile homes
- The sell-to-rent-back market revisited: a postscript (Case Comment)
Citation: L. & T. Review 2011, 15(1), 22-23
Topic: Landlord and tenant; Banking and finance; Real property; Equity; Estoppel; Sell-to-Rent-Back Transactions

- Kernott v Jones - Asking the Right Questions
Family Law Week; Articles (15/04/2011)
Topic: Real property; Co-ownership; Trusts of Land; Equity
- The sell-to-rent-back market revisited
Citation: L. & T. Review 2010, 14(6), 221-224
Topic: Landlord and tenant; Equity; Estoppel; Sell-to-Rent-Back Transactions
- Led astray by "dwellings" (Case Comment)
Citation: L. & T. Review 2010, 14(4), 138-141
Topic: Landlord and tenant; Holiday Homes; Whether Dwellings
- The fraudulent tenant: equity, estoppel and statutory purpose (Case Comment)
Citation: L. & T. Review 2010, 14(2), 63-66
Topic: Landlord and tenant; Real property; Proprietary Estoppel; Promissory Estoppel; Estoppel by Convention; Statutory Purpose
- Terms of art: why resulting, implied and constructive trusts?
Citation: The Barrister Magazine 2010
Topic: Real Property; Equity; Trusts; Agreements for the sale of land; Formalities.
- When damage occurs - limitation and pecuniary loss in tort - an examination of the courts' divergent approaches
Citation: P.N. 2009, 25(2), 68-75
Topic: Negligence; Damages; Personal injury; Torts; Limitation; Accrual of cause of action; Whether current law is consistent.
- A Lack of Care: Local authorities, care and negligence claims
Family Law Week Articles (02/04/2009)
Topic: Tort; Professional Negligence; Local Authorities; Duty of Care to Children; Negligent Failure to take Care Proceedings.
- Abuses in the sell-to-rent-back market - an estoppel response
Citation: L. & T. Review 2009, 13(3), 104-107
Topic: Landlord and tenant; Equity; Estoppel; Sell-to-Rent-Back Transactions
- Sell-to-rent-back
Citation: L.S.G. 2009, 106(19), 27
Topic: Landlord and tenant; Equity; Estoppel; Sell-to-Rent-Back Transactions