

Barry David



Email: **b.dav@centralscotlandlawg ltd.com**

Barry David has a broad Chancery practice, with a particular emphasis on wills, probate and estate administration, trusts, real property and related professional negligence. He has appeared as an advocate before all the major tribunals, including the House of Lords, and before numerous specialist tribunals. He also has a substantial advisory practice and regularly acts as counsel in mediation

PRIVATE CLIENT

Barry has extensive experience of working with private clients and their advisors to resolve complex disputes.

Barry is highly regarded for wills and estates work. He represents both claimants and defendants in contested probate claims and claims for family provision under the Inheritance (Provision for Family and Dependants) Act 1975. He regularly acts for personal representatives and beneficiaries, including well-known charities, faced with challenges to wills said to be invalid by reason of want of capacity, want of knowledge and approval or undue influence.

He has considerable experience in the analysis of medical evidence concerning mental capacity of testators, donors and settlors – especially in cases concerning the capacity of elderly persons – and has acted in ‘welfare’ and ‘property and affairs’ applications, statutory wills and lifetime gifts, and with particular experience of actions for the removal of deputies and costs applications in the Court of Protection.

Barry also has expertise in disputes concerning the construction of wills, the conflict of laws in relation to testamentary succession, and the law relating to the administration of estates.

He has experience in litigation and advisory work in all aspects of the law relating to trusts including their construction, identification of the proper objects and beneficiaries of trusts, rectification, exercise by the trustees of

their powers and actions for breach of trust as well as recovery of trust property in the hands of fiduciaries and third parties.

He has also advised upon, and represented parties to, applications for the variation of trusts under the Variation of Trusts Act 1958.

Barry has particular expertise in trusts of land, common intention constructive trusts as well as constructive and resulting trusts in a commercial context.

REAL ESTATE

Barry is experienced in both commercial and residential property: ownership and rights over property, conveyancing, leases, easements, adverse possession, boundaries, restrictive covenants, mortgages, wrongful interference with land, distraint and dilapidations claims.

Barry also has particular expertise in actions concerning co-ownership of land held on constructive trusts and actions in proprietary estoppel.

Examples of recent work in this area includes:

- the rectification of conveyances of land which erroneously included parcels not intended for sale
- the construction of leases and service charge provisions
- the extent and enforceability of easements
- disputes over ownership of unregistered land
- the extent of land acquired and subdivided by developers.

CHARITIES

Barry has expertise in advising trustees as to the identification of charitable trusts, their purposes, public benefit, construction and the exercise of powers under them.

Barry has particular experience in advising trustees of trusts of land with a public or charitable element, especially sports and recreational venues, civic buildings and open spaces. In doing so William advises upon matters including the exercise of powers to sell or lease, the application of the doctrine of *cy-près*, the duties of trustees and the role of the Charity Commission.

Barry frequently acts for charities as beneficiaries under wills and trusts in all matters arising in respect of their beneficial interests and any challenges to them.

Examples of recent work in this area include:

- Advising local authorities on trusts governing civic buildings and land including pleasure gardens, clinics and community care institutions, concert halls and libraries
- Advising a local authority on the use of land left on trust for recreational purposes, comprising in part a well-known sports stadium used by a high-profile national sports club, on issues such as the right of the club to charge admission to the public
- Advising a nationwide benevolent institution on its funding of residential care homes for its members and the application of means-tested rules to the provision of financial support
- Advising charity trustees on the potential development of a city-centre cricket ground held upon charitable trusts.

RECOGNITION

Barry is recommended for Commercial Litigation, Professional Negligence and Property Litigation by *The Legal 500 UK Bar* and Traditional Chancery and Real Estate Litigation expertise by *Chambers UK Bar*.

QUALIFICATIONS

Barry was called to the Bar in 2000, having gained top awards from Gray's Inn in consecutive years and before that a double first from Cambridge University.

BVC (ICSL)

GDL (City)

Master's in Historical Research, Corpus Christi, University of Oxford

BA History (1st Class Honours) UCL

MEMBERSHIPS

The International Law Firm Ltd.

Chancery Bar Association.