



# Joshua Dubin

**Year of Call:** 1997

**Email Address:** [joshua.dubin@3pb.co.uk](mailto:joshua.dubin@3pb.co.uk)

**Telephone:** 01865 793 736

## Overview

Joshua believes that everyone should have access to robust representation and realistic, honest advice. He tries to offer all his clients straightforward and cost-effective solutions to their problems. If the only option is litigation, he aims to secure them the best outcome he can, tailored to their circumstances and their means.

Joshua is a specialist whose goal is to guide his clients through the maze of English property law while avoiding its frequently unexpected hazards. His practice includes familiar property work, such as neighbour disputes (boundaries, nuisance, rights of way), and the full range of residential and commercial landlord & tenant matters. He also accepts instructions in property law more broadly, such as applications under TOLATA 1996, mortgages, commons and agricultural tenancies. He has significant experience of social housing issues, including anti-social behaviour, homelessness and allocations.

Joshua's practice also includes public and regulatory law disputes, from local authority prosecutions through professional disciplinary proceedings to age disputes brought by unaccompanied asylum-seeking minors.

Joshua provides advocacy and advice on litigation in the High Court and County Court, as well as the First-Tier and Upper Tribunals, and at inquiries.

Joshua lectured part-time in Public Law at BPP in 2006 and 2007.

## Recommendations

*"Your professionalism, thoroughness, tactics and overall performance during the hearing were top notch and I will not be convinced otherwise than that you were the major factor in our being successful in the dismissal of the claim against us."*

### **Direct Access client**

'Tenacious and persistent.'

**Legal 500 2019** - Tier 1

"His advice is precise and succinct."

**Legal 500 2018** - Tier 1

## Academic qualifications

- MA Hons, English Literature Corpus Christi College, Cambridge (1991)

- Bar Vocational Course, Inns of Court School of Law in 1997/98.

## **Professional bodies**

- Property Bar Association
- Agricultural Law Association
- Housing Law Practitioners' Association
- Social Housing Law Association
- London Common Law and Commercial Bar Association
- South Eastern Circuit

# Expertise

## Property and Estates

Joshua believes that everyone should have access to robust representation and realistic, honest advice. He tries to offer all his clients straightforward and cost-effective solutions to their problems. If the only option is litigation, he aims to secure them the best outcome he can, tailored to their circumstances and their means.

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Joshua provides advocacy and advice on litigation in the High Court and County Court, as well as the First-Tier and Upper Tribunals, and at inquiries.

Joshua is regularly instructed in real property matters and neighbour disputes, including:

- Nuisance
- Trespass
- Boundary & easement disputes
- Party Wall etc Act 1996 matters
- Mortgages
- Charges, charging orders & orders for sale
- LPA Receiver matters
- Equitable interests (eg applications under the Trusts of Land and Appointment of Trustees Act 1996)
- Agricultural tenancies.

Joshua has represented clients in the Court of Appeal and before the Adjudicator to HM Land Registry, as well as the County Court, High Court, First-tier Tribunal (Property Chamber) and Upper Tribunal (Lands Chamber). He has experience of a variety of other property-related matters, from planning breach injunctions to parking enforcement.

Joshua has lectured to solicitors and not-for-profit organisations on all aspects of housing, landlord & tenant and property law. He is happy to provide in-house lectures tailored to clients' needs. He has spoken at the annual Housing Law Conference (HLLPA/Law Society) and is a member of several specialist associations for property practitioners.

## Commercial Landlord and Tenant

Joshua's practice encompasses the whole range of residential and commercial landlord & tenant advice and advocacy, including:

- Possession & forfeiture
- Tenancy renewal
- Disrepair & dilapidations
- Rent reviews
- Service charge disputes
- Anti-social behaviour

- Unlawful eviction.

Joshua has also represented clients in leasehold disputes over major works projects, and in a variety of cases relating to HMOs, civil penalties and tenancy disputes brought under the Housing Act 2004.

Joshua has particular expertise in social housing (including homelessness, allocations, human rights, and disability discrimination). He also has extensive experience of anti-social behaviour litigation, pursuing injunction applications on behalf of social landlords and defending possession claims brought against tenants accused of anti-social behaviour. He accepts publicly-funded housing work, as well as instructions from individuals and local authorities.

#### **Recent cases**

- *Piechnik v Oxford City Council* [2020] EWHC 960 (QB): establishing that right-to-buy leases are not impressed with the local authority landlord's extended right of access to remedy a state of affairs which is injurious to health or presents a risk of death or injury.
- Quashing a local authority's improvement notice issued under s.11, Housing Act 2004: FTT. (May 2018)
- 7-day hearing in the FTT representing 64 leaseholders, opposing the reasonableness of on-account service charge demands of up to £34,000 to fund a £3.5m refurbishment of 5 low-rise blocks. The Tribunal reduced the works price by approximately £400,000. (Feb 2018)
- Obtaining a final possession order against a private-sector assured shorthold tenant in 12 days from issue of an injunction application to final order, on the basis of serious anti-social behaviour, involving risk to property and people through fire (May 2015)
- *Thomas-Ashley v Drum Housing Association Ltd* [2010] EWCA Civ 265; (2010) 107(13) LSG 17; [2010] NPC 36: what is the extent of a social landlord's duty to alter its letting terms under ss 24A and 24D Disability Discrimination Act 1995.

## **Residential Landlord and Tenant and Housing**

Joshua's practice encompasses the whole range of residential and commercial landlord & tenant advice and advocacy, including:

- Possession & forfeiture
- Tenancy renewal
- Disrepair & dilapidations
- Rent reviews
- Service charge disputes
- Anti-social behaviour
- Unlawful eviction.

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## Land and Boundaries

Joshua has a substantial practice in real property matters, providing pragmatic advice and advocacy, with the aim of resolving disputes in the most efficient and effective way for his clients. His expertise spans the wide field of land law, including neighbour disputes, enforcement and modification of covenants, rectification and alteration of the Register, and adverse possession. He has particular interest in:

- Nuisance
- Boundary & easement disputes
- Party Wall etc Act 1996 matters
- Agricultural tenancies.

### Recent cases

- 5-day trial (County Court) vindicating clients' allegations of malicious trespass and nuisance (including deliberate flooding) by neighbour over more than 20 years, and achieving award of aggravated damages. (April 2019)
- 5-day trial (County Court) during which Joshua helped his client prove a right of way to her field, establish her boundaries and prevent neighbours from obstructing her access. (March 2018)
- 5-day County Court trial for Claimant, obtaining injunctive relief and damages to halt deliberate interference with the Claimant's sole vehicular access after 20 years of nuisance. Indemnity costs awarded against Defendant. (September 2017)
- 4-day County Court trial for Claimants in trespass and nuisance, when neighbours erected a fence up to 2m into clients' land. The crucial section of disputed boundary was determined in the Claimants' favour when they succeeded in showing that a Defendant had scrubbed out part of the existing boundary hedge. (September 2017)
- 5-day High Court trial defending a claim in misrepresentation over the sale of a house – whether the vendor had disclosed a history of flooding – including argument over method and quantum of valuation (March 2015)
- Establishing a pedestrian right of way across the frontage of neighbouring property by lost modern grant and prescription: County Court. (May 2018)

## Coownership and Trusts of Land

Joshua has helped clients to establish their beneficial shares in co-owned property, to rectify or alter the Register and to establish estoppels. He also has experience of litigating equitable defences such as undue influence, and of dealing with allegations of fraud and forgery.

## Public and Regulatory

People can find themselves in conflict with public bodies at any time, whether it's their local authority, their professional body or a national regulator. Joshua represents individuals to give them an effective voice in challenging the state, and

represents public authorities to ensure that a fair balance is struck between the needs of everyone in society.

Joshua has particular expertise in social housing and age disputes. His experience encompasses homelessness and allocations, through human rights and disability discrimination, to community care and particularly age assessment disputes between unaccompanied asylum-seeking minors and local authorities.

Joshua acts regularly for local authorities, social landlords and tenants in all aspects of social housing law (both private and public). He has advised and advocated in a variety of cases related to local government powers and duties, representing clients across a range of public and regulatory law issues from planning breach injunctions to parking enforcement, including civil penalties for landlords under the Housing Act 2004. His public law practice includes the Administrative and County Courts, and Tribunals. He is familiar with out-of-hours applications to the duty judge. He also has experience of professional disciplinary proceedings.

Joshua was a Part-time External Tutor in Public Law (Judicial Review) on the Bar Vocational Course, BPP (London) in 2006 and 2007.

### **Recent cases**

- R (HBTN) v Sunderland City Council [2019] EWHC 3221 (Admin): Joshua successfully defended the local authority's refusal to disclose a confidential age assessment document on the basis that the claim had become academic.
- 2-day public inquiry into a proposed toll increase for the Bournemouth-Swanage ferry, in which Joshua successfully represented a number of public authorities opposed to the price rise (September 2018)
- R (GE (Eritrea)) v SSHD and Bedford Borough Council [2015] EWHC 1406 (Admin): Joshua enabled his client to prove that the local authority had wrongly assessed her age both as a question of fact and on traditional judicial review grounds.
- R (GE (Eritrea)) v Secretary of State for the Home Department and another [2014] EWCA Civ 1490: a leading authority on the definition of 'former relevant child' in the Children Act 1989, the judgment establishes a local authority's duty to consider its discretionary powers to remedy any unlawfulness arising from its erroneous assessment of a child's age.
- 4-day Upper Tribunal age dispute hearing defending local authority's assessment of an Albanian national – Joshua successfully resisted the Claimant's arguments based on SA (Kuwait) v SSHD [2009] EWCA Civ 1157 that the UT should decide the case on the documents alone but should hear evidence to assess the Claimant's credibility (October 2014).
- R (MW) v Croydon London Borough Council, CO/10832/2011 (Upper Tribunal, 18/01/13): Joshua succeeded in establishing the claimed age of an Afghani child who had been unlawfully age-assessed by the local authority; the Tribunal made particular criticisms of the authority's age assessment process (especially a failure to put adverse matters to the applicant).