

Landmark Chambers

Barrister CV

Brooke Lyne



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Brooke Lyne

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Brooke is a property barrister specialising in real estate matters and commercial and residential landlord and tenant disputes.



Expertise

Property

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Practice Summary

Brooke is a specialist property barrister with a successful practice covering real estate matters and commercial and residential landlord and tenant disputes. Brooke recently appeared (being led) for the successful landlord in the Supreme Court in *Aviva Investors Ground Rent GP Limited v Williams & ors* [2023] UKSC 6.

Brooke was recently described in the legal directories as "razor sharp in her legal analysis and advice, Brooke's advocacy style is pragmatic, attentive and highly effective."

She is frequently called upon to advise or act in complex matters often involving esoteric areas of property law. For example, Brooke has advised on security of tenure under the Rent (Agriculture) Act 1976 and the Rent Act 1977; and she advised and acted in a claim for possession of freehold land arising from non-payment of a rent charge. Brooke is also often called upon to advise on complex issues relating to the proper construction of leases or other documents.

In recent years, Brooke has worked on a number of cases involving trespass to the roofs and external parts of iconic buildings by urban explorers looking to obtain social media content and notoriety. In 2022 Brooke successfully obtained an interim injunction in the High Court to protect the Centre Point Tower in Central London from urban explorers. The matter is expected to proceed to a final hearing in 2023.

Brooke is regularly instructed in a wide range of commercial landlord and tenant disputes. Brooke has acted in numerous commercial rent arrears cases; lease renewals and dilapidations claims. Brooke is currently involved in several complex forfeiture claims involving high-value commercial premises.

Brooke has extensive experience of leasehold disputes in the First-tier Tribunal, particularly those involving cladding and remediation works. Brooke has been instructed to advise various clients on the implications of the Building Safety Act 2022 and is involved in some of the first applications for remediation orders to reach the tribunal in 2023.

Brooke recently appeared (being led by Simon Allison) for the successful landlord in the Supreme Court in ***Aviva Investors Ground Rent GP Limited v Williams & ors*** [2023] UKSC 6; a case concerning the scope of the tribunal's jurisdiction in leasehold service charge disputes about the apportionment of service charges.

In 2020, Brooke acted for the successful landlord in ***Trecarrell House Limited v Rouncefield*** [2020] EWCA Civ 760 (being led by Justin Bates); a case about whether a landlord's failure to provide a tenant with a gas safety certificate prior to occupation was fatal to the landlord's ability to ever serve a s.21 notice.

Brooke regularly films webinars, gives lectures and writes about property law issues. In the past year she has covered a range of topics including forfeiture, interim possession orders, orders for sale and possession and lease renewals of business tenancies.

Brooke is the co-author of *On Your Feet: A Practical Guide to Civil Advocacy*.

Property

Brooke has a wide range of experience in of real property matters, including disputes relating to easements, restrictive covenants, adverse possession, mortgages, land registration and co-ownership.

Brooke's notable court appearances include:

- Acting for the claimant in a dispute relating to the parties' respective equitable interests in respect of co-owned land. The claim involved allegations of fraud and undue influence.
- Successfully defeating a claim at trial arising from a purported breach of a restrictive covenant preventing the defendant from carrying out planting or fencing "along the boundary" of their land.
- Successfully obtaining a possession order in relation to freehold land following non-payment of a rent charge. Brooke had previously advised in relation to right to re-enter the property under 121(1), Law of Property Act 1925.
- Obtaining interim injunctions in the High Court against "urban explorers" seeking to climb the exterior surface of various shopping centres across the UK.
- Successfully obtaining a declaration of equitable ownership and order for sale under TOLATA.

Brooke has recently advised on the following issues:

- Whether a restrictive covenant prevented a freeholder from using parts of their house for holiday lettings.
- Ownership rights and rights of access over parts of the foreshore.
- Implied rights of way over development land.
- The prospects of successfully applying for the discharge or modification of a restrictive covenants that no longer appeared to be enforceable.
- The likelihood of a successful claim for adverse possession following 25 years of use of parking spaces.
- Whether a proprietary estoppel had arisen in relation to a land-swap arrangement that was not properly documented.

Commercial Landlord and Tenant

Brooke acts for both landlords and tenants in a wide range of commercial property disputes, including claims concerning forfeiture, lease renewals, rent reviews and dilapidations.

Brooke's notable court appearances include:

- Acting for a tenant of commercial premises in relation to breaches of repairing covenants, which had caused substantial damage to the premises.
- Acting for a landlord of commercial premises where the subtenant seeks relief from forfeiture in the form of a vesting order under s.146(4), Law of Property Act 1925.
- Acting for an intermediate landlord in proceedings alleging breach of covenant of a commercial lease.
- Obtaining a possession order and money judgment following forfeiture of a lease of commercial premises.
- Applying for permission to allow a landlord to forfeit a lease within insolvency proceedings.

Brooke has recently advised on the following:

- COVID-19 related commercial rent arrears cases, including those relating to the enforceability of covenants, rent cesser clauses and frustration of leases.
- Liability and quantum in a professional negligence dispute arising from loss of security of tenure under the Landlord and Tenant Act 1954.
- Whether a property used for short lettings fell within the provisions of the Landlord and Tenant Act 1954.
- A tenant's prospects of obtaining relief from forfeiture following breaches of covenant.

Residential Leasehold Management and Disputes

Brooke acts for landlords and tenants in all types of residential property matters, including possession claims; leasehold disputes; forfeiture proceedings; the right to manage; lease extension matters; rights of first refusal; unlawful eviction; disrepair; and other breach of covenant claims.

Having formerly been a member of a specialist housing set of chambers Brooke acquired an extensive knowledge of residential landlord and tenant law. In her first few years of practice Brooke gained practical experience of housing litigation during a six-month secondment at a large local authority.

Brooke's notable court appearances include:

- Brooke appeared in the Court of Appeal for the successful appellant (led by Simon Allison) in **Aviva Investors Ground Rent GP Ltd v Williams** [2021] EWCA Civ 27; [2021] 1 W.L.R. 2061. The case concerned apportionment in residential service charge cases and the meaning and effect of s.27A(6), Landlord and Tenant Act 1985.
- Acting as sole counsel, Brooke appeared in the Upper Tribunal in **Kowalek v Hassanein Ltd** [2021] UKUT 143 (LC). The appeal concerned the proper approach to quantifying rent repayment orders under the Housing and Planning Act 2016. An application for permission to appeal has been made to the Court of Appeal.
- Brooke appeared in **Trecarrell House Limited v Rouncefield** [2020] EWCA Civ 760 (being led by Justin Bates) on behalf of the successful appellant landlord. The case concerned whether a landlord's failure to provide a tenant with a gas safety certificate prior to occupation is capable of remedy, or whether it operates as a complete barrier to service of a valid s.21 notice. The Court of Appeal accepted the landlord's argument that non-compliance was capable of remedy if the relevant gas safety certificate had been provided to the tenant prior to service of the s.21 notice.
- In **Hook v Hawkins** [2019] UKUT 147 (LC); [2019] 2 P. & C.R. DG18, Brooke appeared as sole counsel on behalf of the respondent to an appeal in the Upper Tribunal (Lands Chamber). This case concerned the complex interaction between the Matrimonial Homes Act 1983 and protected status under the Rent (Agriculture) Act 1976.
- Obtaining urgent possession orders in the High Court against persons who had trespassed onto areas of land that were crucial to the proper functioning of the railways in London and the South East of England.
- Appearing in the First Tier Tribunal on behalf of a landlord in relation to a dispute about service charges and administration charges payable by a long leaseholder.
- Successfully obtaining a determination that a leaseholder was in breach of her lease following a contested hearing in the First Tier Tribunal.
- Successfully obtaining a possession order on behalf of a local authority following a fast-track trial. The case raised complex issues under the Equality Act 2010 as a result of the Defendant's mental health and hoarding behaviour.
- Successfully obtaining an injunction for re-entry following the unlawful eviction of a residential tenant.
- Obtaining a mandatory injunction requiring a tenant to provide access and carry out works in accordance with the terms of her tenancy agreement.
- Successfully applying to vary a suspended possession order to an outright order following new breaches of the defendant's tenancy.

Brooke has recently advised on the following issues:

- Whether forfeiture proceedings could be brought against a long leaseholder following the subtenant using the property for short-term lettings on Airbnb.

- Whether a tenant had protection under the Rent Act 1977 and the landlord's prospects of obtaining a possession order.
- The construction of repairing covenants in a long lease and whether a landlord was entitled to recover the costs of fire safety works.
- The prospects of applying for a management order under the Landlord and Tenant Act 1987.

Qualifications

- Bar Professional Training Course, City University, Outstanding
- Graduate Diploma in Law, City University, Commendation
- BA (Hons.) English, Girton College, University of Cambridge, 2.1

Recommendations

"An exceptional junior barrister." "Impressive on her feet, well prepared and inspires confidence." "Brooke is highly competent and is able to explain the law effectively to lay clients. Her advocacy is excellent and balances fighting her client's corner without being overly combative."

Real Estate Litigation, Chambers and Partners, 2024

"Brooke Lyne is a joy to work with. She is well liked by clients and willing to grapple complex and novel points." "Brooke Lyne is very impressive. Her advice is always spot on and clients really like her." "Brooke Lyne is a joy to work with. She provides clear advice to clients and is happy to take on novel and complex issues."

Social Housing, Chambers and Partners, 2024

"Brooke is not afraid to argue novel issues and she is excellent at client care. She provides clear and understandable advice."

Social Housing, Legal 500, 2024

"Brooke is an excellent advocate – she is very clear and good on her feet. She can hold her own against barristers with significantly more experience. She is extremely good with clients, giving advice to them in plain English and ensuring that advice is understood."

Property Litigation, Legal 500, 2024

"Brooke has always had an eye for detail and displays excellent drafting skills." "Brooke is an exceptional barrister and very knowledgeable." "Brooke can identify potential novel arguments and is very helpful in trying to strategise complex cases." "She shows poise and understanding with clients."

Social Housing, Chambers and Partners, 2023

"She is very helpful, approachable and capable." "Brooke Lyne is a fierce litigator." "She is very focused, clear and smart."

Real Estate Litigation, Chambers and Partners, 2023

"Razor sharp in her legal analysis and advice, Brooke's advocacy style is pragmatic, attentive and highly effective."

Property Litigation, Legal 500, 2023

"Brooke assimilates the detail of a case very rapidly and shows complete mastery of the material in court. Her advocacy is measured, clear and compelling."

Social Housing, Legal 500, 2023

"I have been impressed by Brooke Lyne of Landmark. She has a very good knowledge of housing and property matters. She is very approachable, responds quickly to emails and is always happy to assist if you have any questions."

Research for Chambers and Partners, 2022

Cases and inquiries

25 07 22 Kowalek v Hassanein Ltd [2022] EWCA Civ 1041

Publications

Author of *A Practical Guide to the Homes (Fitness for Human Habitation) Act 2018*, published by Law Brief Publishing in December 2019

Co-author of *On Your Feet: A Practical Guide to Civil Advocacy*, published by Sweet & Maxwell in 2019

Assistant Editor of the *Encyclopedia of Housing Law and Practice*

Editorial Assistant of the 11th edition of *Homelessness & Allocations* (2018)
