



JAMES KIRBY

Call: 2017

”CONSPICUOUSLY CLEAR AND COGENT SUBMISSIONS.”

Zacaroli LJ in *Nazir v Begum* [2025] EWCA Civ 587

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James Kirby is a Chancery barrister with a practice focused on Trusts and Estates, Court of Protection and Private Client Tax.

He is ranked as a ‘Rising Star’ by the [Legal 500 2025](#) for Private Wealth and Probate.

James’s recent cases include:

- [Nazir v Begum](#) [2025] EWCA Civ 587 (trusts, estates and adverse possession), in which he was commended by the Court of Appeal for his “conspicuously clear and cogent submissions”
- [HMRC v BlueCrest Capital Management \(UK\) LLP](#) [2025] STC 247 (partnership income tax)
- [James v Scudamore](#) [2023] Ch 391 (a leading case establishing for the first time that a probate claim may be barred by delay)

James was appointed to the Attorney General’s C Panel in 2023.

James is an editor of *Williams on Wills* (11th edition, 2021), a contributor to the [Court of Protection Law Reports](#) and answers [Questions for Counsel](#) on mental capacity issues for *Practical Law*.

Before becoming a barrister, James was a Fellow in History at Trinity College, Cambridge.

EXPERTISE

CONTENTIOUS TRUSTS & ESTATES

James has a wide experience of trust and estate disputes, both domestic and offshore.

Notable cases include:

- [Nazir v Begum](#) [2025] EWCA Civ 587. Whether registered land held by personal representatives is “subject to a trust” for adverse possession purposes. James acted as sole counsel in the Court of Appeal.
- [Re H’s Estate](#) (2024). Acted for the successful applicant in a claim under the Forfeiture Act 1982. The applicant had forfeited her



inheritance by assisting her godmother to travel to Switzerland for the purposes of assisted dying.

- [James v Scudamore](#) [2023] Ch 391. James acted for the defendant executor and beneficiary. The judge accepted his argument that a probate claim could be barred by the claimant's delay in bringing the claim.
- [Bridgmont v Zammit](#) (2022): Represented the claimant in a 3-day trial at Central London County Court concerning the beneficial ownership and sale of a property formerly owned by the client's deceased parents. The claim received media coverage in *The Times* and other newspapers.
- The [Hinduja](#) litigation, a multi-jurisdictional dispute within one of Britain's wealthiest families. This included [Hinduja v Hinduja](#) [2020] 4 WLR 93, concerning the appointment of a litigation friend.

James's trust litigation experience includes:

- Applications by trustees for directions, including *Public Trustee v Cooper* applications and *Beddoe* applications
- Claims relating to constructive trusts and/or proprietary estoppel
- Breach of trust claims
- Applications under the Trusts of Land and Appointment of Trustees Act 1996 (TOLATA).
- Applications for declarations as to the interpretation of trust documents
- Applications under the Variation of Trusts Act 1958
- Applications to remove trustees
- Applications for provision of trust accounts
- Claims to set aside or rectify deeds, wills and other documents

James's probate and estates litigation experience includes:

- Probate claims.
- Inheritance (Provision for Family and Dependents) Act 1975 claims.
- Applications to remove executors under s 50 of the Administration of Justice Act 1925.
- Applications for relief from forfeiture for unlawful killing under the Forfeiture Act 1982
- Claims concerning the interpretation of wills
- Applications for directions concerning the administration of estates
- Claims against executors for devastavit

PRIVATE CLIENT (NON-CONTENTIOUS)

A significant part of James's practice involves advising clients in relation to wills, trusts and estates, as well as drafting trust documents and other instruments. His experience includes:

- Advising on the interpretation of wills and trusts
- Advising trustees on the exercise of their powers
- Advising trustees and executors on the administration of trusts and estates
- Drafting declarations of trust
- Drafting deeds of appointment and other documents exercising dispositive powers
- Drafting deeds of variation under s 142 of the Inheritance Tax Act 1984
- Applications under the Variation of Trusts Act 1958

James also writes occasionally as a private client expert for [LexisNexis](#).

COURT OF PROTECTION



James has significant experience in Court of Protection applications, acting for deputies, attorneys, private individuals and the Official Solicitor.

James's notable cases in the Court of Protection include:

- *Re MC* (2024): Representing the Official Solicitor at the final hearing of an urgent statutory will application.
- *Hinduja v Hinduja* [2022] EWCA Civ 1492 (permission to appeal hearing and skeleton argument; led by John McKendrick KC), concerning reporting restrictions in the Court of Protection
- *Re H* (2021): Representing the respondent in an expedited statutory will application involving a disputed will and allegations of undue influence (with [Richard Dew](#)).
- *Re A*: Representing a deputy in an application for the calling in of a previous deputy's bond on grounds of professional negligence.
- *Re C*: Representing the Official Solicitor in an application for an interim, and then final, statutory will.

TAX

James is frequently instructed in private client tax matters, both contentious and non-contentious. His work here includes:

- Estate planning for individuals (including gifts, wills and the use of trusts)
- Tax issues for trustees and personal representatives
- Drafting trust instruments and other documents with a tax planning element
- Private client tax disputes with HMRC
- Advising on tax issues arising in trust and estate disputes (such as the tax-efficient settlement of claims under the Inheritance Act 1975)

James also has significant experience of tax litigation. He has appeared four times in the Court of Appeal in tax disputes, each worth tens or hundreds of millions of pounds, and has addressed the court as junior counsel on two of those occasions. He has also appeared in the First-tier Tribunal (Tax Chamber) and Upper Tribunal (Tax and Chancery Chamber). He is currently instructed in a tax appeal to the Supreme Court. His reported cases include:

- *HMRC v BlueCrest Capital Management (UK) LLP* [2025] STC 247 (partnership income tax)
- *HFFX LLP v HMRC* [2024] STC 1371 (taxation of LLP profits; appeal to the Supreme Court pending)
- *HMRC v BlueCrest Capital Management LP* [2024] STC 92 (taxation of LLP profits)
- *BCM Cayman Ltd v HMRC* [2024] 1 WLR 1980 (Ramsay principle and taxation of LLPs and limited partnerships)

PROPERTY

James has significant experience in advising and representing clients in relation to real property, often in relation to trusts and estates.

Key cases include:

- *Nazir v Begum* [2025] EWCA Civ 587: Whether registered land held by personal representatives is "subject to a trust" for adverse possession purposes.
- *Re the W Trust*: Advising a trustee in relation to a settlement under the Settled Land Act 1925.
- *Bridgmont v Zammit* (County Court at Central London): Representing the claimant in a 3-day trial at Central London County Court concerning the beneficial ownership and sale of a property formerly owned by the client's deceased parents. The claim received media coverage in *The Times* and other newspapers.
- *G v G*: Striking out a TOLATA claim over a family home as an abuse of process in light of related family court proceedings (and



representing the client successfully on appeal).

- *UBS AG v Rose Capital Ventures Ltd* [2019] 2 BCLC 47: high-value mortgage possession claim (with [Jonathan Gavaghan](#)).

CHARITIES

James is regularly instructed to advise on issues of charity law, often in the context of wills, trusts, tax or property issues. His experience includes:

- Advising and representing a large charity in a claim brought against it by one of its members in relation to a ticket scheme operated by the charity.
- Advising and representing a charitable company in a claim brought against it by a donor seeking recovery of a donation on the basis of mistake.
- Acting for charitable legatees in probate and estate disputes.
- Advising a government department on whether a charity was an exempt charity or not.
- Representing HMRC in a dispute with a charity.
- Advising on whether a claim by a charity for an injunction constituted “charity proceedings” under s 115 of the Charities Act 2011.
- Advising on the interpretation and effect of charitable gifts in wills.
- Advising on whether a substantial lifetime transfer to a foreign charity might qualify for an exemption from IHT.

OFFSHORE & INTERNATIONAL

James has significant experience of offshore trusts litigation, including complex and high-value multi-jurisdictional disputes. His experience includes:

- Acting for the settlor in a disputed *Public Trustee v Cooper* application in very high-value trust proceedings in Jersey.
- Drafting amended pleadings in a complex offshore trust dispute.
- Drafting a skeleton argument in opposition to an anti-suit injunction in a trusts dispute.
- Drafting written contentions in opposition to an application for permission to appeal in a privacy application.
- Drafting a statement of case in a breach of trust claim relating to an employee benefit trust in the financial services industry.

PARTNERSHIP & LLP

James advises on partnership and LLP law, especially in relation to trusts and estates.

He has also acted as junior counsel in LLP tax cases, including *HFFX LLP v HMRC* [2024] EWCA Civ 813, [2024] STC 1371, *HMRC v BlueCrest Capital Management LP* [2023] EWCA Civ 1481, and *BCM Cayman Ltd v HMRC* [2024] 1 WLR 1980. These appeals raise significant points of law concerning profit allocations and the nature of a member’s interest in an LLP.

DIRECTORIES & AWARDS



ASSOCIATIONS & MEMBERSHIPS

- Member of the Chancery Bar Association
- Member of the Court of Protection Bar Association and CoPPA (Court of Protection Practitioners' Association)
- Member of ConTrA (Contentious Trusts Association)
- Fellow of the Royal Historical Society

EDUCATION & QUALIFICATIONS

- Bar Professional Training Course (Outstanding), City Law School (2017)
- Graduate Diploma in Law (Distinction; Equity & Trusts Prize), City Law School (2016)
- DPhil in History, Balliol College, Oxford (2014)
- MSt in History (Distinction), Balliol College, Oxford (2011)
- BA in History (First Class – highest of year; Gibbs Prize and Arnold Prize), Balliol College, Oxford (2010)

PUBLICATIONS

Williams on Wills (11th edition, 2021) (with Francis Barlow KC, Susannah Meadway and James MacDougald).

'Drawing a Veil? Privacy and Anonymity in Trusts and Capacity Proceedings', *Trusts & Trustees*, 2023, vol. 29, 760-768 (with Georgia Bedworth).

'Can delay defeat a probate claim?', *Private Client Business*, 2023, 4, 158-164.

'Statutory Wills and Probate Disputes: Contested Wills in the Court of Protection', *Private Client Business*, 2022, 3, 104-111 (with Richard Dew).

'Tax Planning in the Court of Protection', *Lawskills* (Sep. 2018).



REGULATORY INFORMATION

James Kirby is a self-employed, independent barrister whose practice is regulated by the Bar Standards Board [Bar Council Ref 69244]. He is fully insured with the Bar Mutual Indemnity Fund [BMIF Ref 2360/079] to provide legal services, please refer to the [BMIF website](#) for full details of the world-wide cover provided. He is registered for VAT under the reference 304589790.