



Graham Sinclair

LL B (Hons) (Lond)

Call date: 1979

Inn: Gray's

Appointments:

Part-time Chairman,
Residential Property
Tribunal Service

Memberships:

South Eastern Circuit

Chancery Bar
Association

Professional
Negligence Bar
Association

Publications:

*Neighbours and the
Law* : Pugh-Smith,
Sinclair & Upton
(Sweet & Maxwell,
5th ed – 2009)

Graham deals mainly with landlord and tenant, contract (including employment covenants and confidentiality), partnership, negligence (including professional negligence), nuisance and other property-related torts, boundaries and easements, trusts of land and constructive or resulting trusts, contested probate and family provision, mental capacity, personal insolvency, local government and judicial review.

He has lectured and written articles on property-related subjects and on ADR, and is mentioned for his property work in *Legal 500* and *Legal Experts 2010*.

Some typical cases

- disputes arising from the dissolution of partnerships between NHS general practitioners
- judicial review proceedings concerning the decision of an NHS Primary Care Trust to shut a hospital ward without proper consultation
- housing homelessness appeals under Part VII of the Housing Act 1996
- possession proceedings founded on alleged anti-social behaviour, including by vulnerable persons claiming protection of the Disability Discrimination Act 1995 and/or who lack mental capacity
- terminal leasehold dilapidation claims in respect of light industrial and commercial units
- boundary and public and private right of way disputes, including rights over registered common land
- misrepresentation claims arising on sales of land
- a claim by an estranged daughter against her sister and sole beneficiary of their mother's estate under the Inheritance (Provision for Family & Dependents) Act 1975
- successfully defending a substantial claim by a mother against her son, alleging undue influence in his handling of her investments and denying that transfers were by way of gift
- claims against trustees of land for losses suffered by estate beneficiaries arising from their wilful refusal to join in a sale of the trust property
- advising a highways authority about the Advance Payments Code for street works under Part XI of the Highways Act 1980
- representing a school in a bitter and complicated contractual dispute involving occupation of part of its premises by an outside body

Reported cases

Hale v Norfolk County Council [2001] Ch 717 (CA) – Dedication of land as highway under New Streets Orders, and the proper application of the "hedge to hedge" presumption

Marlton v Turner [1998] 3 EGLR 185 – Hedgerows and fencing obligations arising from private Inclosure Awards

Clarke v Smith [1995] EGCS 122 (CA) – Building case about term to be implied in contract concerning sufficiency of foundations

Little v Courage Ltd [1995] 69 P&CR 447 (Ch D) – Test case on whether brewer landlord could frustrate option to renew 5 year lease by refusing to enter into linked business agreement

Mediation

First introduced to the subject of ADR and trained as a mediator as long ago as 1995, Graham came to realise that litigation over points of “principle” is often the result of parties’ failure to make a dispassionate assessment not only of the legal merits but also their genuine interests, and of a reluctance to appreciate that the use of objectively justifiable criteria can assist negotiation.

As a director of adroit Dispute Resolution Ltd and Mediators in East Anglia (a company limited by guarantee) he practises as a general or commercial mediator. Graham is accredited as a mediator by ADR Chambers (UK) and is a member of its Specialist panel of mediators. He also appears on the Bar Council list of Barrister Mediators.

In his role as a mediator Graham has applied skills learnt as a barrister and tribunal chairman and also from his previous mediations to help resolve disputes covering a wide range of subject areas, including landlord & tenant, building disputes, partnership, breach of contract (from equipment leasing to an introduction agency), rights of way, interests in land, boundary disputes, wills and family provision, and professional negligence.