

Angus Burden

Call: 1994

" He really is the leading light in his field in the West Midlands." "He has an almost encyclopedic knowledge of probate law; he is in these parts a towering figure in the discipline." "He's technically really good but he is also practical and good at using the resources around him."

Chambers UK 2021



Angus Burden is an experienced specialist Chancery barrister.

He was called to the Bar in 1994 and undertook pupillage at 7 Stone Buildings, Lincoln's Inn (now Maitland Chambers) and 24 Old Buildings, moving to the Midlands in 1995 where he has practised ever since.

He was educated at Exeter University graduating with First Class honours. In addition to his undergraduate qualifications, he has post graduate certificates (forming part of the LLM course awarded by Bristol University) in Insolvency Law, Restitution and Company Law, and a Diploma in the Taxation of Trusts and Estates (through STEP).

He is a member of the Midland Chancery Bar Association and sat on the STEP technical committee for 2 years.

He regularly lectures on trusts and estate matters, and recently gave a lecture for the Association of Contentious Trusts and Probate Specialist (ACTAPS) on the court's control of the exercise of trustees' discretions.

Expertise

Business & Property

During the course of his practice Angus has acted in upwards of 100 mediations as advocate and in January 2017 qualified as a mediator with the London School of Mediation. He has been recommended to act and has acted in a number of mediations this year and is rapidly developing this area of his practice as something to which he is well suited. This year he has been instructed by Freeths Solicitors, Sydney Mitchell, HCB Solicitors and Kerwoods.

Whilst sympathetic to the high emotions that are often generated in probate and trust disputes, his approach is to encourage participants to look for their own practical solutions to issues, and to move away from positions and personalities. Further, his thorough and detailed knowledge of the law and understanding of the approach of Judges enables him to assist participants in focusing on solutions that are anchored in the realities of the claims being considered.

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Notable Cases

Hill v Haines [2008] Ch. 412 CA

An insolvency case which considered the relationship between insolvency law and matrimonial property adjustment order

Perrins v Holland [2010] WTLR 95 and [2011] 2 Ch. 270 CA

A leading case on the validity of wills in particular the requirement for knowledge and approval

Hope v Knight [2011] WTLR 583

An Inheritance (Provision for Family and Dependents) Act 1975 claim

Breslin v Bromley [2016] WTLR 219

A claim concerning the procedural requirements for execution of a will

McGuinness v Preece [2016] EWHC 1518 (Ch) McGuinness v Preece [2016] EWHC 1518 (Ch)

A substantial proprietary estoppel claim

Mediation

Angus qualified as a mediator in 2017 with the London School of Mediation. Since that time, he has mainly specialised in mediations concerning all forms of will and trust disputes, including claims under the Inheritance (Provision for Family and Dependents) Act 1975.

His focus on this area of work as a mediator reflects his initial training in specialist London Chancery Chambers, and 25 years of experience acting for clients in will and trust disputes. He has been involved either as mediator or Counsel in many hundreds of mediations, and for more than 15 years has been ranked in the legal directories as a leading specialist in his field (see the directory comments below). In addition to his legal expertise, Angus has a First class degree in Psychology and a particular interest in counselling skills and techniques.

Angus's commitment to mediation stems from observing over many years the very particular stress, unhappiness and financial cost caused by disputes of this nature, associated as they usually are with bereavement and family discord. On the occasions when these cases go to court for a final decision, the financial and emotional damage is hard to overstate, whatever the outcome.

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Angus therefore aims in mediation to create a confidential, safe, and empathetic environment to allow the parties to explore potential solutions to the individual issues they face. He obviously works impartially, but more importantly collaboratively and with humour to help them find a realistic alternative to going to a court hearing.

In short, Angus sees the purpose of mediation as giving the parties a properly informed choice about the best path for them to follow. Sometimes the right choice will be to proceed to court at least with the comfort that all has been done to avoid it. Often however the outcome is a negotiated resolution of the dispute and the chance to consign it (and all that goes with it) to the past.

There is a lot at stake, and it is always difficult to decide who to select as your mediator! However, whoever you choose, it is wise to pick someone who not only understands the legal technicalities of the case and has experience of the ebb and flow of negotiation, but perhaps more importantly someone who also recognises that disputes are less about dry legal tests, but more about people, their values and their aims.

Angus is always happy to have a brief initial free of charge zoom meeting with Solicitors and their clients if it will assist in making a choice.

Either way, good luck.

Inheritance Act Disputes

Angus is one of very few barristers practising outside London who specialises almost exclusively in contentious trusts and probate work. For many years he has been ranked as a leader in this field, and in the most recent edition of Chambers and Partners, published in November 2017, he was ranked in Band 1 with the following comments made about him:

“A pure traditional chancery barrister whose practice focuses on contentious trusts and probate. He has an excellent reputation for his technical skill and advocacy, as well as approachability and client care”

“Really persuasive and highly regarded by the judiciary. Utterly brilliant. For difficult contentious probate, he is the only barrister I’d use. He lives and breathes this. He is extremely responsive and knows the law better than anybody else I deal with”

Very many cases now settle at mediation and Angus has wide experience of acting as the advocate in upwards of 100 mediations often in claims under the Inheritance (Provision for Family and Dependents) Act 1975. He is also a fully qualified mediator and accepts instructions in that capacity.

The types of cases in which Angus is regularly instructed in the High Court and the Court of Appeal include:

- Claims for financial provision pursuant to the Inheritance (Provision for Family and Dependents) Act 1975
- Disputes as to the substantial and procedural validity of wills
- Applications for the removal of executors and trustees
- Applications for the rectification of wills
- Breach of trust/breach of fiduciary duty claims
- Administration actions in particular disputes as to the construction of wills or directions from the court
- Proprietary estoppel, undue influence and constructive trust claims
- Disputes concerning charitable trusts
- Professional negligence actions relating to wills and trusts work

A highly contentious application for the removal of professional executors ending in a three- day hearing on written evidence in the High Court involving allegations of undue influence and conflicts of interest, A proprietary estoppel trial relating to promises made to leave by will land with a potential value of 13m, A claim concerning the due execution of a will.

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A substantial claim under the Inheritance (Provision for Family and Dependents) Act 1975 in relation to a farmland also involving allegations of proprietary estoppel, A trial concerning the disputed dissolution of a charitable trust, A claim concerning constructive trusts and secret trusts, Angus's most well-known case is *Perrins v Holland* [2011] 2 Ch. 270 CA a contentious probate trial in which the Court of Appeal reviewed the law concerning the requirement of knowledge and approval and the application of the rule in *Parker v Felgate*.

Angus also undertakes general non-contentious estates work, including construction questions and inheritance tax issues. He passed the STEP Diploma in the Taxation of Trusts and Estates in 2012 and has sat on the STEP technical committee.

In addition, Angus has postgraduate qualifications from Bristol University in Insolvency Law, Restitution and Company Law, and enjoys lecturing. His recent lectures include one to the Association of Contentious Trusts and Probate Specialists on Trustees' powers and duties, and an in-house seminar on valuing Inheritance Act claims for a national law firm.

In terms of Angus's approach, he believes a detailed knowledge of the transactional aspects of private client work is an essential feature of being an effective contentious practitioner. No less importantly, he recognizes the importance of being sensitive to the underlying family and factual context in disputes of this nature as an essential part of providing an effective service.

Angus is married with three children. In his spare time, he likes to indulge a love of tennis and an ambition (unfulfilled) to hit a half-decent backhand which he in turn inflicts on his children at every opportunity.

Notable Cases

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Awards



Memberships

- Midland Chancery Bar Association

Education

- Diploma in the Taxation of Trusts and Estates, STEP
- LLM in Insolvency Law, Restitution and Company Law, Bristol University
- LLB Hons (First Class), Exeter University

Comments from Leading Law Firms in contentious probate disputes:

Lucy Howard – Partner at Mills & Reeve (2021)

“Angus is an excellent mediator. His approach is well suited and makes clients feel at ease”

Michael Henry – Senior Lawyer at Debenhams Ottoway (2021)

“Angus is professional and an excellent mediator”

Official Solicitor (2021)

“Angus is professional and an excellent mediator”

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Tom Russell – Barrister/Mediator at KCH Garden Square (2021)

“Angus has was chosen to mediate a multi-jurisdictional technical dispute involving Court of Protection capacity and estate planning issues with the most complex of dynamics and high values. This included the Official Solicitor amongst the parties. Angus mediated this matter to the satisfaction of all parties, which saved significant sums to those involved”

“I have been involved in two cases in which Angus has been instructed as mediator. Both were property disputes involving family members, which required a sound grasp of legal principles but also sympathetic handling of emotional issues. On both occasions, the parties were able to reach compromise. I found Angus to be extremely professional, combining detailed knowledge of the law with a sensitive grasp of the clients’ needs. I would recommend Angus as a mediator without hesitation”

“I was extremely impressed with Angus. He was alive to, and managed the tricky dynamics between the parties extremely well; without his firm yet sensitive style I doubt the common ground that eventually led to an agreement being made in this case would have been reached. At the key moments in what was a very long day he read the mood of the parties extremely well.”

“I genuinely thought Angus is an excellent mediator. His approach is well suited to these sorts of family disputes, he was firm when he needed to be, yet also made the clients feel relatively at ease in what was a difficult and rather stressful process for them. We were very pleased with him, including our client for whom it was a very difficult and emotional day. His calm approach helped us keep negotiations on track”

“It’s the first time I have used Angus on a mediation and I was very impressed with him. He had a good knowledge of the papers and had a very calm, yet firm, mannerism in what was a very difficult and emotional family dispute. His handling of both sides was appropriate and I would definitely use him again.”

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