

Dominic Preston



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Profile

His housing practice is centred on homelessness, allocations and disputes concerning residential premises, whether rented or leasehold and it necessarily strays into immigration law, community care, EU law, discrimination law, and human rights law. His Court of Protection work specialises in the cross-over between mental capacity and housing, with a particular expertise in hoarder cases and the related deprivation of liberty issues that arise. His community care work centres on obtaining accommodation and assistance under the Care Act 2014. He appears regularly in the lower courts, the High Court and the appellate courts.

Dominic is recognised as a leading junior in social housing by **Chambers and Partners 2023** which recommends him as *"one of the most tenacious and brilliant advocates"* (2024), *"simply a go-to for any credible housing lawyer"* (2023), *"a highly impressive advocate with an encyclopaedic knowledge of the law"* (2022), *"very intelligent and creative and he really fights the client's corner."* (2021), *"a fearless fighter, not afraid of tackling a contentious case."* (2015), *"always accessible, appropriate and effective"* (2014), *"thorough, thoughtful and reliable," a "really good opponent to have"* (2013), known *"for his technical ability and excellent judgment, as well as his straightforward and easy manner"* (2012) and *"... his sharp mind and impressive workload were both highlighted by peers ..."* (2011).

Legal 500 2023 recommend Dominic in both social housing and court of protection work naming him: *"A formidable advocate" (2024), who "is a very intelligent and articulate man who has excellent analytical skills".* Dominic is a *"fearless and determined advocate who works tirelessly on behalf of clients and often achieves spectacular results. His fierce intellect enables him to come up with novel arguments and creative solutions to get the very best for clients."* (2021).

He has previously been on the executive of the Housing Law Practitioner's Association and was team leader of Doughty Street's Housing and Social Welfare Team.

Publications

As well as regularly speaking on housing, community care and mental health law topics, Dominic has a strong commitment to writing on housing issues. He has previously co-written the Housing title of Atkins Court Forms and wrote the Harassment and Anti-Social Behaviour title in the same volume. Between 2005 and 2007 he co-wrote the quarterly Housing Law Update for the Solicitors Journal and he has written for a number of other legal journals.

What the directories say

"Dominic comes at things with compassion, pragmatism and thoroughness. He is well-prepared and puts in the work." - **Legal 500 2024**

"A formidable advocate. His unique style combines great humour with huge intelligence and he always goes the extra mile to achieve the right results for clients." - **Legal 500 2024**

"Dominic Preston is one of the most tenacious and brilliant advocates. His attention to detail coupled with a strong focus on the overall strategy of the case ensures that he often gets outstanding results for clients." - **Chambers and Partners 2024**

"Dominic Preston identifies important points of law relating to the Equality Act early on, putting public bodies onto the back foot. Dominic is very responsive and sympathetic to vulnerable homeless clients." - **Chambers and Partners 2024**

"Dominic Preston is a walking textbook. It's always a delight to work with him and learn from him, discussing our complex cases over with him, and he breaks them down easily." - **Chambers and Partners 2024**

Education

BA (Lond)

Dip Law (City)

Related practice areas

Housing, Social Welfare and Property
Court of Protection & Mental Health
Mediation
Children's Rights Group
Anti-Trafficking

Housing and Social Welfare

Dominic's housing practice covers homelessness, allocations, right to buy, anti-social behaviour, disrepair, unlawful eviction and possession matters. In that context his housing work covers the crossover with immigration, discrimination, human rights, public law, and community care and child care law. He also writes and lectures on those topics. Significant cases include:

- *Alibkhiat v Brent LBC* [2019] HLR 15 CA. A challenge to Brent's practice of housing homeless applicant's in borough's other than its own often at some distance to Brent.
- *Ajilore v Hackney LBC* [2014] HLR 46 CA. A challenge to the priority need test being erroneously applied by local authorities and to the use of statistics in such cases (**transcript**).
- *Farah v Hillingdon LBC* [2014] HLR 24 CA. Homelessness; intentionality; finding by local authority that accommodation was affordable quashed for failure to give adequate reasons in the face of the explanations given by the applicant (**transcript**).
- *Hanoman v Southwark LBC (No. 2)* [2009] UKHL 29; [2009] 1 WLR 1367. Tenant in receipt of housing benefit exercising right to buy; tenant serving operative notice of delay on council and claiming price reduction; Whether housing benefit 'payment of rent' for purpose of reducing price as a consequence of landlord's delay (**transcript**). In the court of appeal ([2008] EWCA Civ 624 CA; [2009] 1 WLR 374; [2009]) the case also considered the jurisdiction of court to intervene and the creation of collateral contracts (**transcript**).
- *Ahmed v Leicester CC* [2008] HLR 6 CA. Homelessness; discharge of duty; whether it was reasonable to accept accommodation that was refused (HA 1996, s. 193(7F)); test to be applied when assessing reasonableness of applicant's decision to refuse (**transcript**).

- *Desnousse v Newham LBC & others* [2006] QB 831; [2006] HLR 38 CA. Eviction of homeless applicants from temporary accommodation provided by private landlord; application of Protection from Eviction Act, s. 3(2B) and meaning of 'occupied as a dwelling'; whether court proceedings were required to evict such applicants; whether evictions in absence of proceedings breach of Articles 6 or 8 of European Convention on Human Rights (**transcript**).
- *O'Connor v Kensington & Chelsea RLBC* [2004] HLR 37 CA. Intentionality; good faith defence; definition of ignorance of a relevant fact; obligations of reviewing officer to consider good faith defence (**transcript**).
- *Southwark v Sarfo* [1999] 32 HLR 602 CA. Eviction; set aside of warrant on ground of oppression; discretion whether to set aside warrant.

Administrative and Public Law

In the Housing or Community Care context, Dominic is available for emergency judicial review applications for interim relief, whether to the duty judge or for drafting papers for urgent consideration. Dominic's emergency work includes cases brought under Part VII of the Housing Act 1996 and Sections 17 and 20 of the Children Act 1989. Dominic's public law practice includes allocation cases under Part VI of the Housing Act 1996 and public law and Human Rights defences in the county court.

Equality and Discrimination

Housing law has and is being profoundly influenced by developments in discrimination law, particularly disability discrimination in breach of the Equality Act 2010 and breaches of the Public Sector Equality Duty (section 149 of the EA 2010). The interplay with Articles 8 and 14 of the ECHR and the concept of proportionality have also come to the fore.

Dominic's recent cases in this field include:

- A hoarder with hoarding syndrome who defended proceedings on the basis that a better alternative to possession was to secure assistance from social services to resolve the conditions in the property and provide ongoing care to avoid recurrence.

- A challenge to the 2006 Eligibility Regulations on the ground that they discriminated in breach of Article 14 against those from abroad who had been given leave to remain in the UK by reason of Article 8 factors, notably where applicants have 'access to public funds' despite which they were excluded from applying for housing assistance. The case settled following the redrafting of the regulations to account for the anomaly.
- An alcoholic with underlying depression who, although subject to a possession order caused by anti-social behaviour, had the order stayed until such time as suitable alternative accommodation was available. The authority, being unable to find such alternative accommodation, conceded that he was entitled to remain notwithstanding the possession order.
- A schizophrenic who conceded that he could no longer live in sheltered accommodation because of the harassment he had caused his neighbours, but in respect of whom the court required a managed transfer to alternative accommodation, failing which no eviction would be allowed. The client was rehoused in self-contained accommodation with a support package and a care plan in place.
- A tenant with difficult social problems but who was the sole carer of her disabled father. Her anti-social behaviour was limited and in the context of the father's dependence on his daughter, the local authority conceded that possession was disproportionate in the circumstances.

Court of Protection

Dominic principally acts on behalf of the Official Solicitor, Accredited Legal Representatives and local authorities in cases involving capacity, residence, deprivation of liberty and Article 5 issues. His main area of interest is the overlap between the Court of Protection jurisdiction and housing law, arising most often in the context of hoarder or anti-social behaviour cases. His expertise in Mental Capacity is particularly useful in his wider practice where he acts for (or is involved in cases with) vulnerable clients. Dominic is also instructed in property and affairs cases.

Examples of recent COP cases include:

- *LT (2023)* – a young adult with complex caring issues requiring a placement in self-contained accommodation with multiple carers. An application for a community DOLS order was complicated by withdrawal of services from carers and by a possession claim

from the landlord. Dominic represented LT and her ALR and was able to assist in both the county court to prevent possession and in the COP to pursue alternative options and best interest decisions.

- *GG v Barking and Dagenham* (2023). GG had the mental age of a four year old and considerable care needs. On turning 18 his parents were accused of abusing his siblings and care proceedings in the family court were begun. Dominic represented the authority in GG's case which was transferred to the COP. Complex factual issues were resolved and a comprehensive plan of care by both adult and children's social services resulted in the COP authorising a trial return to the parent's home and a subsequent final community DOLS order at the family home.
- *Milton Keynes v SO* (2022). SO had significant cognitive deficits. He often absconded from his care home placement. The authority put together a care package that did not impose any deprivations of liberty on SO but simply sought to persuade him to return to the placement voluntarily. No alternative options were identified and no deprivation of liberty were sought, despite which the authority sought a finding that SO was unable to make decisions about his residence. Dominic represented SO and his ALR and successfully argued that the psychiatric evidence was mixed and that it was premature to make any findings on that issue in the absence of identified alternative options.

Land and Property

Dominic is well versed in residential property law and his practice in the Leasehold Valuation Tribunal includes service charge disputes and leasehold enfranchisement. He also deals with undue influence cases and disputes between former cohabitees under the Trust of Land and Appointment of Trustees Act 1996. Dominic also regularly lectures on these topics. Recent cases include:

- representing multiple Claimants on a large estate in South London built by a housing association in which extensive damages and injunctions were claimed as a consequence of a considerable number of causes of action arising out of inherent defects and disrepair. Following a complex settlement conference the housing association agreed to carry out extensive work and to pay damages (2022).
- representing a client (and his litigation friend, the Official Solicitor) who lacked capacity and whose sister stole money from him. The Client and his sister also inherited their

mother's home. The client had been persuaded to sell his interest in the home to his sister and to become her assured shorthold tenant. In subsequent possession proceedings, the brother is defending on grounds of fraud, undue influence and lack of capacity. The case is ongoing (2024).

Mediation

Dominic has been a mediator since 2012 when he was accredited by the London School of Mediation. He is registered with the Civil Mediation Council as an Associate Mediator. He undertakes mediations in any civil matter and in particular in disputes in housing, landlord and tenant, Court of Protection, community care and public law.

Dominic has nearly 30 years' experience as an advocate in a range of civil cases and he draws on his legal expertise to complement his mediation work. Chambers & Partners describe him as '*a highly impressive advocate with an encyclopaedic knowledge of the law*' (2022). He is known for his ability to look at problems objectively and creatively. His understanding of the mediation process and his negotiating skills also result in his being instructed as an advocate in settlement conferences and mediations.

Chambers has also commended him for his '*technical ability and excellent judgment, as well as his straightforward and easy manner*' (2012), and for being '*engaging, adaptable, appropriate and effective*' (2014).

His recent experience includes:

- A large commercial property dispute involving 15 occupiers (of which 8 attended online). Issues included rights of occupiers and disrepair as well as homelessness and high emotion. Common ground was found leading to a successful compromise.
- Acting as an assistant mediator in public sector dispute involving a multi-million pound construction project between a department of state and insolvency practitioners. Issues included extensive factual disputes and considerable divergence in perception of legal merits. Successfully resolved.
- Facilitating a settlement conference in a hoarder case in which issues included disability defences and Court of Protection. Multiple participants included the parties, social services and medical professionals. Resolved through support from social services and resources from the landlord. Possession avoided.

- A high value property dispute where issues included (i) consent for substantial alterations to the property by a leaseholder; and (ii) causes of disrepair to the property. Concluded with settlement.

As a member of the Doughty Street Mediation Team Dominic accepts instructions to mediate across the UK and is happy to conduct mediations in person, online or hybrid. In recent years he has taken part in a number of meetings on remote platforms (Zoom and Teams) and is comfortable helping participants navigate them if needed. His management of multiple in-person and online participation has been assisted by Doughty Street's comprehensive conference and IT facilities.