



## David Hopkins

Year of call: 2013

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### *"Exceptionally capable and extremely versatile."* The Legal 500 Asia Pacific 2019

David is a commercial, financial services, regulatory and public lawyer. David is regularly instructed in proceedings in the Commercial Court, the Chancery Division, the Technology and Construction Court (TCC) and the Administrative Court and before regulators' disciplinary tribunals. A substantial proportion of David's practice has an international element, particularly in the field of international arbitration, where he has acted in disputes subject to the International Chamber of Commerce (ICC), London Maritime Arbitrators Association (LMAA), Singapore International Arbitration Centre (SIAC) and Abu Dhabi Commercial Conciliation and Arbitration Centre (ADCCAC) rules. He is a Technology & Construction Bar Association (TECBAR) accredited adjudicator and accepts appointments via the TECBAR adjudication scheme.

David is recommended as a leading junior for Construction in Chambers and Partners, Legal 500 UK and Legal 500 Asia Pacific. He is a contributing editor of the Auction, Bailment and Banking and Bills of Exchange volumes of Atkin's Court Forms (2023 and 2018 issues) and the chapter on determination clauses in Wilmot-Smith on Construction Contracts (4th edn, 2021). He has also written for a number of publications, including the International Bar Association's (IBA) Dispute Resolution International, LawInSport and the Practical Law Arbitration and Dispute Resolution blogs. Prior to coming to the Bar, David worked in the City for five years as a foreign exchange and interest rates derivatives structurer.



## Areas of expertise

Administrative and Public  
Banking and Financial Services  
Commercial  
Construction  
Energy and Natural Resources  
Regulatory and Disciplinary  
Sport

## Administrative and Public

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David's administrative and public law practice is wide-ranging. He acts on behalf of claimants and defendants in judicial review claims, advises local authorities and other organisations on their public law duties and was instructed in the Grenfell Tower Inquiry. Much of his recent work directly complements his financial services, construction and regulatory practices.

### Cases of note

- ***R (Kneale) v General Medical Council (GMC)*** – Acting for the claimant, Dr Kneale, challenging the GMC's decision not to refer to its Case Examiners the conduct of Dr Aseem Malhotra, who Reuters Fact Check described as having used a BBC News interview to "spread misinformation about COVID-19 vaccines".
- ***R (Martin) v Professional Standards Authority (PSA)*** – Acting for the PSA, successfully defending a judicial review claim concerning medical education policy.
- ***R (Alexander-Theodotou) v Solicitors Disciplinary Tribunal (SDT) v Solicitors Regulation Authority (SRA)*** – Acting for the SRA, the interested party, responding to a solicitor's claim for judicial review of the SDT's decision to make no order as to costs following an interim hearing at the SDT.
- ***R (Goodall) v Financial Ombudsman Service*** – Acting on behalf of the Financial Ombudsman Service opposing a claim for judicial review of a final decision of one of its ombudsmen.
- ***R (Freeman & Ors) v Lincolnshire County Council*** – As junior counsel to John Pugh-Smith, acting for the claimant owners of a quarry in a judicial review of a planning authority's decision to take enforcement action under the Town and Country Planning Act 1990.
- ***Confidential Local Authority*** – Advising a local authority on public law matters in relation to education, health and care (EHC) plans and the drafting of their Trans Inclusive Education Guidance.
- ***The Black Owned Business Alliance*** – Advising the Black Owned Business Alliance on the Equality Act 2010 (pro bono).

## Banking and Financial Services

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David brings practical experience of banking and financial services to his work, having previously worked for five years as a foreign exchange and interest rates derivatives structurer. He has, for counsel, an almost uniquely deep understanding of financial markets and products across all asset classes.

He acts in claims both for and against banks and other financial institutions and advises both regulators and regulated persons on compliance with the relevant legislation and regulatory framework. David has previously been seconded to both the Financial Conduct Authority (FCA) and Financial Ombudsman Service (FOS), giving him a deep insight into the work of the regulator and ombudsman in practice.

### Cases of note

- ***FX dispute*** – Acting as sole counsel for a claimant holiday company seeking to recover around

£800,000 losses which arose as a result of its foreign exchange broker's unauthorised trading. Settled shortly after issue in favour of the claimant.

- ***Confidential cryptocurrency and FX dispute*** – Led by Charlie Manzoni KC SC, together with Anna Lintner, advising the victims of a USD 100 million cryptocurrency and foreign exchange (FX) fraud perpetrated across multiple jurisdictions. Particular issues include obtaining Norwich Pharmacal / Bankers Trust type relief, tracing cryptocurrency assets, and private international law issues of choice of law and jurisdiction.
- ***Illiquid exotic assets investment fund*** – Advising an investment fund proposing to open a new fund investing in illiquid exotic assets on compliance with Financial Services and Markets Act 2000 (FSMA) and issues concerning the FCA perimeter and the Financial Promotions Regulations, particularly with respect to collective investment schemes.
- ***SIAC arbitration*** – Acting for a number of private equity funds in a USD 350 million claim subject to the SIAC rules regarding the funds' foreign direct investment (FDI) in India via compulsorily convertible preference shares.
- ***Claim against private bank*** – Acting on behalf of a private bank's customer, bringing claims pursuant to the Payment Services Regulations, breach of contract and the *Quincecare* duty, where the bank had refused to refund payments made to a fraudulent scheme via a debit card.
- ***Financial Conduct Authority (FCA) regulation of peer-to-peer lenders*** – Advising the Financial Conduct Authority regarding the authorisation and regulation of peer-to-peer lenders, such as Zopa, Funding Circle and RateSetter. Particular issues included article 36H of the Regulated Activities Order and activities related to collective investment schemes (CIS), alternative investment funds (AIF) and deposit taking.
- ***Financial Ombudsman Service (FOS) complaints*** – Advising the Financial Ombudsman Service on legal issues raised in respect of a number of complaints referred to the ombudsman, whose subject matters included life insurance, consumer credit and interest rate swaps.

## Commercial

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David is frequently instructed to represent and advise clients in all types of commercial matters, both during the initial phase of disputes and through to litigation and arbitration. David developed excellent commercial understanding and insight in his career before the Bar, where his clients ranged from FTSE 100 companies to SMEs and from high street retailers to oil and gas conglomerates.

### Cases of note

- ***Perfect Smile Spa Ltd v Trans-Atlantic Securities Ltd & Ors*** – Ongoing. Sole counsel acting for the first and second defendants, a financial intermediary and an accountant who is a director of the first defendant, defending a claim seeking rescission of a loan agreement and damages of more than £1 million on the basis of the defendants' alleged misrepresentations and negligent misstatements.
- ***Bolton & Anor v Matthews & Anor*** – Ongoing in the Chancery Division. Sole counsel acting for the defendants to a claim seeking specific performance for transfer of real property and additional damages, raising the issue, among others, of whether a deed restating and amending the claimants' charge imposes a clog on the equity of redemption.
- ***Secretary of State for Health and Social Care & Ors v Lundbeck Limited & Ors*** – Ongoing in the Competition Appeal Tribunal, Case 1415/5/7/21 (T). Led by Duncan Sinclair, acting, together with Daniel Stedman-Jones, for NHS England and NHS Wales in a competition follow-on claim against the manufacturers of the antidepressant citalopram. The manufacturers were found by the European Commission to have entered into "pay for delay" agreements, which amounted to infringements of competition law by object under Art 101 of the Treaty.

- ***Downey & Anor v Stevens & Ors [2021] EWHC 752 (Ch)*** – Successfully acting as sole counsel for the defendant trustees of Magdalen Park Bowling Club in a seven-day High Court trial. The court found the contract under which the claimants alleged they were entitled to purchase the club’s land for £1 to be invalid pursuant to s 2 of the Law of Property (Miscellaneous Provisions) Act 1989 and that, even if it were valid, it would be unconscionable for the claimants to rely on its terms.  
Judgment  
Westlaw
- ***Confidential charterparty dispute*** – Advising the owners in a charterparty dispute subject to the LMAA rules regarding the charterers’ bunkering obligations on redelivery. The charterparty was an amended New York Produce Exchange (NYPE) 1946 form and the charter itself spanned the introduction of the International Maritime Organization (IMO) 2020 Regulation.
- ***Remy's Ltd v Peacock and Smith Ltd (2020–2021)*** – Led by Richard Harwood KC, acting for a property developer in a professional negligence claim arising from services provided by a planning consultant. Settled pre-trial.
- ***Cheval Roc Residential Ltd & Anor v Zurich Insurance plc (2019–2020)*** – Led by Neil Block KC, acting for an insurer resisting a £6.5 million claim brought following the partial collapse of a cliff near to the insured property. The claim was settled prior to the hearing of a trial to determine whether Zurich was liable to indemnify the claimants.

## Construction

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David is familiar with and has acted in and advised on matters involving all the standard forms of contract, including JCT, NEC, FIDIC and FMB, as well as many ad hoc contracts. He is also a TECBAR accredited adjudicator and accepts appointments via the TECBAR adjudication scheme.

Relatedly to his construction practice, David was instructed in the Grenfell Tower Inquiry from May 2018 to November 2022, led by Stuart Catchpole KC and Marcus Taverner KC. As such he has developed a strong understanding of building fire safety and the related legislation and statutory guidance.

### Cases of note

- ***Confidential ADCCAC arbitration*** – Instructed, led by Adam Robb KC, and together with a team of 39 Essex Chambers counsel, for the claimants in an arbitration claim worth over USD 1.4 billion arising out of a large infrastructure project.
- ***Keyline Civils Specialist Limited v Brown & Anor*** – Ongoing in the KBD. As sole counsel, acting for the defendants to a claim under a personal guarantee in relation to construction materials supplied to a company which subsequently entered into administration.
- ***FTH Limited v Varis Developments Limited [2022] EWHC 1385 (TCC); 203 ConLR 288*** – Led by Paul Darling KC, acting for the claimant contractor applying to enforce an adjudication decision in its favour. The defendant resisted enforcement on the grounds that the claimant was in a Company Voluntary Arrangement (CVA) and that enforcing the award would deprive the defendant of security for its alleged cross-claim.  
Judgment on the National Archives website  
Report in ConLR on LexisNexis
- ***Various confidential Building Safety Act matters*** – Following the passing of the Building Safety Act 2022, David has been and is instructed in various matters acting for leaseholders, housing associations and management companies considering potential claims in regards to fire safety defects.
- ***Red Key Concepts Limited v Breakshore Limited [2022] 5 WLUK 677*** – Led by Paul Darling KC, acting for a contractor seeking declarations that the employer has committed acts of prevention by, among other things, failing to use due diligence to obtain necessary planning permission.

- ***Slinger v Surewell Management Consultant Limited*** – As sole counsel, acting for a claimant builder in a TCC Part 8 claim for a declaration as to the terms of a contract under which the defendant property owner agreed to share the profits of a development carried out jointly with the claimant.
- ***Confidential delay dispute*** – Led by Paul Darling KC, advising the main contractor for a large mixed-use development in Singapore on the extension of time, delay and liquidated damages provisions of an amended Singapore Institute of Architects contract.

## Energy and Natural Resources

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Much of David's experience in commercial dispute resolution and construction matters has concerned the energy and natural resources sector, covering both fossil fuels and renewables. He has been recommended as a Leading Junior for Construction, Energy and Infrastructure in The Legal 500 Asia Pacific's guides to outstanding juniors in Asia Pacific since 2019.

### Cases of note

- ***Confidential ICC arbitration*** – Subcontractor's claim for retention monies arising from an expansion project at a hydroelectric power plant in Southeast Asia.
- ***Confidential SIAC arbitration*** – Acting for the respondents in a claim brought regarding disputed payments arising from a contract to build a coal-fired power plant between a Chinese state-owned entity and various Indonesian companies.
- ***Confidential SIAC arbitration*** – Acting for the claimant in a claim concerning supply of mirrors manufactured and supplied by a European party to a solar power (concentrator photovoltaics) technology firm in China.
- ***Seadrill Ghana Operations Ltd v Tullow Ghana Ltd [2018] EWHC 1640 (Comm)*** – Junior counsel assisting Sean Wilken KC, Adam Robb KC and Stephen Kosmin in a USD 277 million claim considering whether a provisional measure issued by the International Tribunal for the Law of the Sea (ITLOS) in Case No 23 between Ghana and Côte d'Ivoire was a force majeure within the contract for a deepwater drilling unit.  
Judgment
- ***Confidential EPC contract dispute*** – Drafting the employer's response to the main contractor's claims for extensions of time and additional costs of USD 55 million arising from an engineering, procurement and construction (EPC) contract for a new facility at an oil refinery in Southeast Asia.

## Regulatory and Disciplinary

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David's regulatory and disciplinary practice spans across the legal, financial and healthcare professions. He acts for both regulators and regulated persons. His trial practice covers first instance tribunal hearings, appeals to the High Court and judicial reviews. He also frequently advises clients on compliance with the relevant regulatory frameworks, regulators' practices and procedures and how best to respond to regulatory investigations.

### Cases of note

- ***Professional Standards Authority v Nursing and Midwifery Council (NMC) & Limbo***  
– Acting for the PSA, successfully appealing a decision of a panel of the fitness to practise committee of the NMC to suspend the registrant, rather than strike him off, notwithstanding his conviction of the offence controlling or coercive behaviour in an intimate or family relationship.
- ***Professional Standards Authority v Social Work England & JS [2023] EWHC 926 (Admin)***  
– Acting for the PSA, appealing a decision of a panel of adjudicators of SWE to suspend the registrant. The appeal was allowed on the ground of undercharging.

Judgment

- ***Solicitors Regulation Authority Limited v Pilkington (2023) SDT Case No 12377-2022*** – Acting for the SRA in a disciplinary hearing concerning an allegation that the solicitor, who was the sole director of the Firm, had caused or allowed payments made to the Firm in respect of disbursements to be used for the running of the Firm. The solicitor further admitted he had failed to notify the SRA of the Firm's serious financial difficulties. The SDT found both allegations proved and that the solicitor's actions had been dishonest.

Judgment

- ***Solicitors Regulation Authority Limited v Neilson (2022) SDT Case No 12347-2022*** – Defending a property solicitor against allegations of misconduct in the SDT. The SRA originally alleged that the solicitor had been dishonest or reckless, but dropped these allegations the day before the hearing. Nevertheless, the SRA sought an order suspending the solicitor from practice. The tribunal determined that a suspension would be excessive and awarded the SRA less than half of its claimed costs.

Judgment

- ***Confidential SRA investigations (2022)*** – Acting for and advising solicitors investigated by the SRA in relation to non-disclosure agreements which the SRA alleged breached its Principles. The investigations were closed without the SRA imposing any sanctions or referring any allegations to the SDT.
- ***GMC and PSA appeal under ss 40A and 40B of the Medical Act 1983 (2022)*** – Led by Fenella Morris KC, acting for the Professional Standards Authority (PSA) in an appeal concerning determinations of the Medical Practitioners Tribunal in respect of a number of doctors who were all members of a WhatsApp group in which they had shared racist, misogynist and otherwise offensive messages and images. The appeal raised a wide range of issues including, among others, the boundary between doctors' professional and private lives, the potential effect on patient safety, and, procedurally, whether the court should grant the doctors anonymity. The appeal was settled before hearing, with the doctors all agreeing to receive warnings.
- ***Institute and Faculty of Actuaries investigation (2021)*** – Acting for and advising a director of a corporate pension trustee under investigation by the Institute and Faculty of Actuaries.

## Sport

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David's sports law practice leverages on his specialisms in commercial, construction, regulatory and disciplinary law. He was one of seven chambers members to be appointed by the International Association of Athletics Federations (IAAF) to the panel providing legal advice and representation to athletes and officials in disputes arising out of the 2019 World Athletics Championships in Doha and is a member of chambers' team of advocates on Sport Resolutions (UK)'s Pro Bono Panel.

### Cases of note

- ***Confidential athlete*** – Ongoing. Acting in disciplinary proceedings for an athlete charged with use of a Prohibited Substance or Prohibited Method following alleged atypical findings in the athlete's Athlete Biological Passport record.
- ***Confidential former member of a world governing body*** – Led by Greg Treverton-Jones KC, advising a former member of a world governing body who was sanctioned by the governing body's disciplinary panel at a time when they were no longer a member of that body.
- ***Confidential athlete*** – Representing an athlete served notice by UK Anti-Doping (UKAD) of an apparent Domestic Testing Pool filing failure. UKAD chose to take no further action, accepting that no negligent behaviour on the athlete's part had caused or contributed to an inaccurate address for an overseas training camp having been file.



- ***Downey & Anor v Stevens & Ors* [2021] EWHC 752 (Ch)** – Successfully acting as sole counsel for the defendant trustees of Magdalen Park Bowling Club in a seven-day High Court trial. The court found the contract under which the claimants alleged they were entitled to purchase the club’s land for £1 to be invalid pursuant to s 2 of the Law of Property (Miscellaneous Provisions) Act 1989 and that, even if it were valid, it would be unconscionable for the claimants to rely on its terms.  
Judgment  
Westlaw

## Recommendations

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David is ranked as a Leading Junior – Band 4 for Construction in Chambers and Partners, a Leading Junior – Tier 1 for Construction, Energy and Infrastructure in The Legal 500 Asia Pacific and a Leading Junior – Tier 4 for Construction in The Legal 500:

- *“Solid application to the facts, and a good manner in applying the legal framework.”*The Legal 500 Asia Pacific 2023
- *“His particular strength is advising in a way that is very client friendly, he cuts out legal jargon and gets to the point.”*The Legal 500 Asia Pacific 2021
- *“Sharp, driven, and a pleasure to work with.”*The Legal 500 Asia Pacific 2020
- *“Exceptionally capable and extremely versatile.”*The Legal 500 Asia Pacific 2019

## Memberships

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- AllBar, supporting those with a disability who are practising at the Bar in England and Wales, or aspiring to do so
- Association of Regulatory and Disciplinary Lawyers (ARDL)
- Bridging the Bar mentor, 2022
- Chancery Bar Association (ChBA)
- Commercial Bar Association (COMBAR)
- Constitutional and Administrative Law Association (ALBA)
- Financial Services Lawyers Association (FSLA)
- International Bar Association (IBA)
- Inter-Pacific Bar Association (IPBA)
- London Common Law and Commercial Bar Association (LCLCBA)
- Professional Negligence Bar Association (PNBA)
- Society of Construction Law (SCL)
- Technology & Construction Bar Association (TECBAR)

## Qualifications

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### Education

- 2011–2013: BPTC, BPP Law School (part-time), Very Competent
- 2009–2011: GDL, BPP Law School (part-time), Distinction
- 2007–2009: MPhil, Economics, Oriel College, University of Oxford
- 2004–2007: BA, PPE, University of York, Starred First Class (first in year)

## Scholarships and Prizes

- 2011 Inner Temple Exhibition Scholar (BPTC)

## Additional Information

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### Appointments

- 2020–present: Member of the TECBAR adjudicators panel
- 2019: Member of panel appointed by the IAAF providing legal advice and representation to athletes and officials in disputes arising out of the 2019 World Athletics Championships in Doha

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