



Duncan Sinclair

Year of call: 1996

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"He is really good and approachable. His written work is really good."
Chambers and Partners Global Guide 2024

"He is a very hard-working and persuasive advocate." Chambers
Global and UK Bar editions 2022

Duncan Sinclair maintains a broad practice including in judicial review, competition law, commercial disputes and public procurement which often involves technical or heavily regulated sectors (including for instance energy regulation, environmental issues, and the healthcare/pharmaceuticals and renewables sectors). Duncan has been praised by clients for his ability to grasp complex facts and issues quickly and to understand the commercial context as well as the law.

A former head of legal at the energy regulator and concurrent competition authority Ofgem, on returning to the Bar in 2010, Duncan was one of The Lawyer's "Hot 100" lawyers across the UK. Duncan acts before regulatory bodies, in judicial reviews or commercial disputes in the High Court (Queens Bench Division and Technology and Construction Court (TCC)), and before competition authorities and the Competition Appeal Tribunal (CAT). Equally, a large part of his practice involves advisory work and dispute resolution by representation (for instance in statutory or informal tribunals), with a successful outcome being achieved without the need for litigation in appropriate cases.

Areas of expertise

Administrative and Public

Commercial

Energy and Natural Resources

Environment

Energy and Natural Resources

"He understands the law – not just the dry legal stuff, but the context around it" Chambers and Partners
2019

Duncan acts regularly in the energy sector and has an expertise built up over some 25 years including five years as head of legal at the energy regulator Ofgem.

Areas covered

- Biomass and energy from waste
- Electricity
- Nuclear
- Oil and Gas
- Renewables
- Water

Cases of note

- ***R. (EO.N Next) v Gas and Electricity Markets Authority* [2023] EWHC 2891 (Admin)**
- Duncan acted for the Claimant in this successful judicial review of an Ofgem (GEMA) decision relating to the correct interpretation of standard licence conditions relating to appointments of the Claimant as 'Supplier of Last Resort' during the Energy Crisis. The case also raised issues as to the potential scope of a legitimate expectation and irrationality.
- **The CMA Energy Market Investigation** (published 9 February 2016) - Duncan was instructed by the CMA in relation to its investigation under the Enterprise Act 2002 into the regulatory, commercial and economic functioning of the energy markets in Great Britain.
- ***R. (on the application of Gravis Solar 1 Ltd and ors) v Gas and Electricity Markets Authority* [2021] EWHC 490 (Admin)** - Duncan acted for the claimants in this judicial review which established that the regulator had interfered with possessions of a solar farm such that A1P1 of the Human Rights Act 1998 was engaged. The case raised issues of proportionality and the status of companies as a 'victim'.
Whilst the result of the judgment turned ultimately on the judge's assessment of fraud, the matter is one example of some eight disputes with Ofgem in which Duncan had achieved a successful result for a number of clients, including a change in the regulator's 'minded-to' positions affecting accreditations.
- ***R. (on the application of British Gas Trading Ltd and ors) v GEMA* [2019] EWHC 3048 (admin)** - In this successful judicial review of aspects of Ofgem's 'price cap', Duncan acted for one of the intervening parties arguing that there had been a failure to properly consult and to take into account material facts.
- ***R. (on the application of RWE Generation UK Plc) v GEMA* [2016] 1 C.M.L.R 17** - Duncan acted for the claimant in a complex judicial review relating to infrastructure charging changes, raising legal issues of discrimination under EU law and state aid.
- ***R. (on the application of HomeSun and Friends of the Earth) v Secretary of State for Energy and Climate Change* [2012] EWCA Civ 28** - Duncan acted for a claimant in this successful expedited judicial review and its defence in the Court of Appeal. The 'target' was a consultation (not a final decision) with the obvious and intended effect on the claimants. This success led to several further cases for damages under A1P1 (including *Breyer* in which Duncan acted for an interested party).

Recommendations

Duncan has been consistently (every year since returning to the Bar in 2010) recognised as a leading practitioner in competition and energy law by clients and the leading directories.

Memberships

- British Institute of International and Comparative Law (member)

- Liberty (Patron)

Qualifications

Education

- 1991-1994 Cambridge University (Downing) Law (B.A)
- 1994-1995 Cambridge University (LL.M)
- 1995-1996 Inns of Court School of Law (Lincoln's)
- 2002 Economics (diploma) Open University

Scholarships and Prizes

- 1996 Lincoln's Inn EU Scholarship (stage in the European Commission)
- 2010 The Lawyer 'Hot 100'

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