



## 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

## Administrative and Public

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*"Good at thinking on his feet."* The Legal 500

Duncan Sinclair acts across a broad range of matters, with a particular specialism in regulatory decisions.

**Areas covered**

- Business and human rights
- Consultation
- Equalities
- EU Law
- Healthcare
- Inquiries
- Local government
- Procurement
- Regulation

## 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.
- ***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.
- ***Community R4C Ltd v Gloucestershire CC* [2020] EWHC 1803 (TCC)** - In this public procurement dispute, Duncan acted for a community common interest company and established as a preliminary issue that time had not started running for some two years due to a long period of deliberate obfuscation by the county council in respect of its largest ever (over £600m) project for an energy from waste facility.
- ***Wood Boilers LLP v Gas and Electricity Markets Authority* [2020] EWHC 3576 (admin)** - At a successful permission stage renewal for a judicial review, Duncan acted for the claimants in obtaining permission to proceed with a rolled up hearing to trial of the issues including whether a legitimate expectation (a possession under A1P1 under the Human Rights Act 1998 (A1P1)) could defeat a provision of secondary legislation or alternatively the relevant secondary legislation must be read so as to ensure compliance.  
Mr Justice Fordham opined that it was arguable (the applicable test) and even "strongly arguable" that secondary legislation must follow the primary legislation – in this instance the Human Rights Act 1998 – in the event of conflict.  
The case was then settled before final hearing.
- ***Npower Direct Ltd v GEMA (CMA intervening)* [2018] EWHC 3576 (admin)** - Duncan acted for the claimant in this complex and expedited judicial review (following a contested order in the TCC) examining the duty to consult and provide reasons and proportionality in imposing a direction under licence conditions.
- ***R. (on the application of Oxford Aviation Services) v Secretary of State for Defence and the Civil Aviation Authority* [2015] EWHC 24 (Admin)** - In this judicial review, Duncan acted for the claimants in establishing the boundaries of and considerations relevant to the regulation of

RAF airports for civil aircraft (potentially distorting competition and leading to unequal regulatory/safety criteria).

- ***R. (on the application of Lumsdon) v Legal Services Board* [2014] EWCA Civ 1276** - Duncan acted for the successful defendant in this judicial review and then before the Court of Appeal in a case with some 10 grounds of claim under public law, including irrationality, proportionality and alleged failures to take into account or understand relevant facts and law.
- ***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

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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

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- British Institute of International and Comparative Law (member)
- Liberty (Patron)

## Qualifications

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### 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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