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Legal 500 Asia Pacific 2021

*'Sharp, driven, and a pleasure to work with.'*

Legal 500 Asia Pacific 2020

*'Exceptionally capable and extremely versatile.'*

Legal 500 Asia Pacific 2019

David's practice spans across Chambers' specialisms in commercial dispute resolution, financial services, construction, public and regulatory law. Reflecting the breadth of his practice, over the past twelve months David has been instructed in, among other matters, proceedings in the Commercial Court, the Chancery Division and the Administrative Court and the Grenfell Tower Inquiry. 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 ICC, LMAA and SIAC rules. He is also a TECBAR accredited adjudicator and accepts appointments via the TECBAR adjudication scheme.

David is the contributing editor of the Auction and Bailment volumes of *Atkin's Court Forms* (2018 issue) and the chapter on determination clauses in *Wilmot-Smith on Construction Contracts* (4<sup>th</sup> edn, forthcoming). He has also written for a number of publications, including the IBA's Dispute Resolution International 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.



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## PRACTICE AREAS

- Commercial Dispute Resolution
- Banking & Financial Services
- Construction
- International Arbitration
- Administrative & Public
- Regulatory & Disciplinary

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## SECTORS

- Energy
- Sport
- Art & Cultural Property

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## PRACTICE AREAS

### COMMERCIAL DISPUTE RESOLUTION

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.

David's recent experience as part of a team of counsel includes:

- Led by Richard Harwood QC, advising a property developer in relation to a potential claim in professional negligence arising from services provided by a planning consultant
- Assisting in a potential claim brought by the owners of a building affected by cladding defects (non-fire)

related) against the underwriters of a latent defects policy who had declined coverage

- *Cheval Roc Residential Ltd & Anor v Zurich Insurance plc* (2019–2020), in the QBD: Acting, led by Neil Block QC, for an insurer resisting a £6.5m 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
- *Seadrill Ghana Operations Ltd v Tullow Ghana Ltd* [2018] EWHC 1640 (Comm): Junior counsel assisting Sean Wilken QC, Adam Robb QC and Stephen Kosmin in a USD 277m claim considering whether a provisional measure issued by ITLOS in Case No 23 between Ghana and Côte d'Ivoire was a force majeure within the contract for a deepwater drilling unit
- *Brent LBC v Davies & Ors* [2018] EWHC 2214 (Ch): Junior counsel assisting Hefin Rees QC and Jennifer Thelen in a £3m fraud claim in the Chancery Division brought by the London Borough of Brent against former school governors. Also instructed as sole counsel in relation to applications in the enforcement proceedings

Recent experience as sole counsel includes:

- Advising a lender as to the validity of a security expressed to have been given over a replica of an 18<sup>th</sup> century ship
- Advising the owners in a charterparty dispute regarding the charterers' bunkering obligations on redelivery. The charterparty was an amended NYPE 1946 form and the charter itself spanned the introduction of the IMO 2020 Regulation
- Acting on behalf of an entrepreneur and former employee of an AIM-traded cyber defence, intelligence and technology firm. The firm brought proceedings against its former employee for alleged breaches of a share purchase agreement. The claim raised issues, among others, in relation to the intellectual property in a privacy management service developed by the former employee
- Resisting an application for a freezing injunction brought in proceedings for a declaration that a valid partnership subsisted between the claimant and defendant in respect of a business valued at around £2m
- Advising pre-issue and acting for the former trustees of a local sports club, set up as an unincorporated association (ongoing in the Chancery Division). The claim seeks enforcement of an option agreement over the club's land and playing fields. The claim raises issues under the Law of Property (Miscellaneous Provisions) Act 1989 and undue influence
- Advising the owners of a caravan site as to liability following damage to and destruction of a large number of caravans stored at the site, as the result of a suspected arson attack. The potential claim raises issues of whether the caravans were bailed to the site's owners and whether a notice advising the caravan owners to obtain their own insurance was sufficient to exclude liability

## BANKING & FINANCIAL SERVICES

David brings practical experience of banking and financial services to his practice, having previously worked for five years as an FX and interest rates derivatives structurer. Latterly, he worked as a consultant to three major banks, advising them in relation to the FCA's review of sales of interest rate hedging products (IRHPs). In addition to fixed income, FX and commodities derivatives and structured products, David is familiar with, among others:

FX spot, swap and forward trading (including algorithmic trading); credit facilities; debt capital markets; and equity markets (including ETFs, equity swaps and other derivatives).

David has acted in a number of financial services matters, including:

- Advising pre-issue and drafting particulars of claim on behalf of a customer of a private bank in respect of claims brought pursuant to the Payment Services Regulations, breach of contract and the *Quincecare* duty, where the bank had refused to refund unauthorised payments made to a fraudulent scheme via a debit card
- Acting for a number of private equity funds in an SIAC arbitration regarding their foreign direct investment (FDI) in India via compulsorily convertible preference shares
- Drafting summary grounds of resistance on behalf of the Financial Ombudsman Service opposing a claim for judicial review of a final decision of one of its ombudsmen
- Representing a global payment services provider in an application for disclosure of confidential information brought by a UK regulatory authority
- Assisting Hugh Mercer QC (Essex Court Chambers) in his role as an expert witness on EU Law in an ICC investment treaty arbitration arising out of the Central Bank of Cyprus's decision to put FBME Bank into resolution

David also has a broad advisory practice in relation to financial regulation. Recent work includes:

- Advising a local authority as to the enforceability of an undertaking given to it by a Property Authorised Investment Fund (PAIF) set up under the Open-Ended Investment Companies (OEIC) Regulations 2001
- Advising the Financial Conduct Authority (FCA) 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
- Advising the FCA regarding the regulatory and legal implications of securitisation industry practice
- Advising the Financial Ombudsman Service regarding a number of complaints whose subject matters included life insurance, consumer credit and interest rate swaps

## CONSTRUCTION

David is frequently instructed to represent and advise clients in a variety of construction matters. He 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 is instructed in the Grenfell Tower Inquiry, led by Stuart Catchpole QC and Marcus Taverner QC, and as such has developed a deep understanding of cladding systems and building envelopes and the related legislation and statutory guidance.

His recent experience as part of a team of counsel includes:

- Assisting in a potential claim brought by the owners of a building affected by cladding defects (non-fire related) against the underwriters of a latent defects policy who had declined coverage

- Drafting a CPR Part 18 request for information on behalf of electrical and mechanical consultants defending a claim arising from the redevelopment of a large country house
- Advising the main contractor as to a potential claim arising from its subcontractor's failure to complete the laying of subsea communications cables in the contractually agreed period
- Advising as to potential remedies against the architect and contractor under the JCT Minor Works Building Contract following the construction of a hydrotherapy pool and associated buildings
- Drafting the employer's response to the main contractor's claims for extensions of time and additional costs of USD 55m arising from an EPC contract for a new facility at an oil refinery in Southeast Asia

Recent experience as sole counsel includes:

- Drafting particulars of claim on behalf of an employer faced with a situation in which the main contractor under a JCT contract had walked off site
- Acting for a contractor resisting a claim for allegedly unpaid invoices made by one of its electrical subcontractors. The claim was struck out and the subcontractor ordered to pay costs
- Advising the management companies of a large block of flats in central London with regards to a potential claim to be brought by a building services design consultant who had been engaged to assist with the complete rewiring and refurbishment of the block. David also represented the management companies at a mediation where the potential claim was settled pre-issue
- Acting for an electrical contractor defending a claim for allegedly defective works following the installation of an emergency lighting system at a large industrial R&D site
- Defending a structural engineering firm against a claim for professional negligence

## INTERNATIONAL ARBITRATION

David has built up a substantial amount of international arbitration experience for his level of call. He is particularly familiar with arbitrations under the ICC, LMAA and SIAC rules, including:

- Advising the owners in a charterparty dispute regarding the charterers' bunkering obligations on redelivery. The charterparty was an amended NYPE 1946 form and the charter itself spanned the introduction of the IMO 2020 Regulation
- Acting for a number of private equity funds in an SIAC arbitration regarding their foreign direct investment (FDI) in India via compulsorily convertible preference shares
- Assisting Hugh Mercer QC (Essex Court Chambers) in his role as an expert witness on EU Law in an ICC investment treaty arbitration arising out of the Central Bank of Cyprus's decision to put FBME Bank into resolution
- SIAC arbitration concerning the supply of mirrors manufactured and supplied by a European party to a solar power technology firm in China
- Acting for the respondents in a SIAC arbitration regarding disputed payments arising from a contract between a Chinese state-owned entity and various Indonesian companies
- ICC arbitration regarding a subcontractor's claim for retention monies arising from an expansion project at a hydroelectric power plant in Southeast Asia

## ADMINISTRATIVE & PUBLIC

David has a wide-ranging administrative and public law practice. Much of his recent experience directly complements his work in the commercial, financial services and construction spheres:

- *R (Soyege) v Solicitors Regulation Authority* (ongoing in the Administrative Court): Defending a claim for judicial review against the SRA in relation to its decision to impose conditions on a solicitor's practising certificate
- Advising the Black Owned Business Alliance on the Equality Act 2010 (pro bono)
- Drafting summary grounds of resistance on behalf of the Financial Ombudsman Service opposing a claim for judicial review of a final decision of one of its ombudsmen
- Instructed as junior counsel to Marcus Taverner QC and Stuart Catchpole QC in the Grenfell Tower Inquiry on behalf of Rydon Maintenance Ltd
- 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
- 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

## REGULATORY & DISCIPLINARY

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.

Recent legal regulatory work includes:

- In light of the SRA's 2020 Thematic Review on dubious investment schemes, advising a law firm on the potential legal and financial regulatory risks raised by its client's proposed property development scheme
- *R (Soyege) v Solicitors Regulation Authority* (ongoing in the Administrative Court): Defending a claim for judicial review against the SRA in relation to its decision to impose conditions on a solicitor's practising certificate
- Advising a global law firm partner under investigation by the SRA (ongoing)
- Advising a legal outsourcing company with regards to facilitating its clients' compliance with their confidentiality obligations under the StaRs
- *Akther v Solicitors Regulation Authority* [2019] EWHC 2650 (Admin): Acting on behalf of the SRA, successfully resisting a solicitor's appeal to the High Court, under section 49 of the Solicitors Act 1974, against an order of the SDT striking him off from the Roll
- *Solicitors Regulation Authority v Akther* (Case No 18117-2018): In relation to the original hearing before the SDT, successfully resisting the solicitor's application for a rehearing under rule 19 of the Solicitors (Disciplinary Proceedings) Rules 2007 (SI 2007/3588)
- Advising a law firm as to whether its work for various financial services parties was compliant with

conflicts of interest and confidentiality provisions of the SRA Handbook and the position in respect of the new SRA Standards and Regulations

Recent financial regulatory work includes:

- Advising the Financial Conduct Authority regarding the application of the Regulated Activities Order to peer-to-peer lenders such as Zopa, Funding Circle and RateSetter
- Advising the Financial Conduct Authority regarding the regulatory and legal implications of securitisation industry practice
- Advising the Financial Ombudsman Service regarding a number of complaints whose subject matters included life insurance, consumer credit and interest rate swaps

Recent healthcare regulatory work includes:

- *Professional Standards Authority v Health and Care Professions Council & Roberts* [2020] EWHC 1906 (Admin): Instructed by the PSA to carry out a detailed case review prior to appeal, and in respect of costs following the determination of the appeal
- *Professional Standards Authority v General Medical Council & Hilton* [2019] EWHC 1638 (Admin): Instructed by the PSA to carry out a detailed case review prior to appeal and to assist Fenella Morris QC following the PSA's successful appeal. The GMC had failed to issue a Warning to a surgeon who had dishonestly informed a patient he had known from his post-operative assessment of the patient that a screw used in the surgery was misplaced
- For the Professional Standards Authority, acting as legal advisor at a section 29 meeting and drafting detailed case reviews with respect to a number of potential appeals of healthcare regulators' decisions under the National Health Service Reform and Health Care Professions Act 2002
- Acting on behalf of the Health and Care Professions Council in numerous applications in the Administrative Court seeking extensions of interim orders made against registrants pending the final outcome of the disciplinary process

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## SECTORS

### ENERGY

Much of David's experience in commercial dispute resolution and construction matters has concerned the Energy sector, covering both fossil fuels and renewables. He is recommended as a Leading Junior for Construction, Energy and Infrastructure in Legal 500 Asia Pacific's 2019 and 2020 guides to outstanding juniors in Asia Pacific. Examples of recent work include:

- ICC arbitration regarding a subcontractor's claim for retention monies arising from an expansion project at a hydroelectric power plant in Southeast Asia
- *Seadrill Ghana Operations Ltd v Tullow Ghana Ltd* [2018] EWHC 1640 (Comm): Junior counsel assisting Sean Wilken QC, Adam Robb QC and Stephen Kosmin in a USD 277m claim considering whether a provisional measure issued by ITLOS in Case No 23 between Ghana and Côte d'Ivoire was a force

majeure within the contract for a deepwater drilling unit

- Acting for the respondents in a SIAC arbitration regarding disputed payments arising from a contract to build a coal-fired power plant between a Chinese state-owned entity and various Indonesian companies
- SIAC arbitration concerning the supply of mirrors manufactured and supplied by a European party to a solar power (concentrator photovoltaics) technology firm in China
- Drafting the employer's response to the main contractor's claims for extensions of time and additional costs of USD 55m arising from an EPC contract for a new facility at an oil refinery in Southeast Asia

## SPORT

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 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. Recent experience includes:

- Representing an athlete served notice by UK Anti-Doping of an apparent Domestic Testing Pool filing failure. UKAD chose to take no further action when it was successfully argued that no negligent behaviour on the athlete's part had caused or contributed to an inaccurate address for an overseas training camp having been filed
- Advising pre-issue and acting for the former trustees of a local sports club, set up as an unincorporated association (ongoing in the Chancery Division). The claim seeks enforcement of an option agreement over the club's land and playing fields. The claim raises issues under the Law of Property (Miscellaneous Provisions) Act 1989 and undue influence
- Advising in respect of defective services works at a large sports stadium

## ART & CULTURAL PROPERTY

David's art and cultural property practice builds on his expertise in commercial and public law. He has a particular interest in claims involving bailment and was the contributing editor of the Auction and Bailment volumes of *Atkin's Court Forms* (2018 issue). Recent experience includes:

- Advising a lender as to the validity of a security expressed to have been given over a replica of an 18<sup>th</sup> century ship
- Acting for the owner of a rare classic car which had been damaged by flooding whilst in storage
- Advising on public international law in relation to a Spanish galleon sunk by the British Navy in the Caribbean sea in the 18<sup>th</sup> century

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## RECOMMENDATIONS

David Hopkins has been ranked as a Leading Junior – Tier 1 for Construction, Energy and Infrastructure in Legal

500 Asia Pacific since 2019:

*'His particular strength is advising in a way that is very client friendly, he cuts out legal jargon and gets to the point.'*  
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*'Sharp, driven, and a pleasure to work with.'* [Legal 500 Asia Pacific 2020]

*'Exceptionally capable and extremely versatile.'* [Legal 500 Asia Pacific 2019]

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## QUALIFICATIONS

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

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