

Landmark Chambers

Barrister CV

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David Blundell KC

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David specialises in all areas of public law, human rights, European Union law, environmental and planning law.



Expertise

Public and Administrative, Environment, Planning

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Practice Summary

David regularly appears in the High Court, Court of Appeal and Supreme Court. He frequently acts as sole counsel on behalf of the United Kingdom Government in proceedings before the Court of Justice of the European Union (CJEU) and has represented the United Kingdom in proceedings before the European Court of Human Rights.

David is ranked as a leading barrister in six different areas in the main legal directories: Administrative Law, Environment, EU Law, Immigration Law, Local Government Law and Planning Law.

The 2015 Planning Magazine survey ranked him as a top-rated planning junior. The 2009 Planning Magazine survey ranked him in the top 10 planning barristers in the country under 35.

David was named the Immigration 'Silk of the Year' at The Legal 500 UK Bar Awards 2023. David was shortlisted for the Chambers and Partners Human Rights and Public Law Junior of the Year award in both 2018 and 2016, and for the Legal 500 Public Law Junior of the Year award in 2018.

In 2015, he was appointed to the Attorney General's A Panel of Junior Counsel to the Crown, after 5 years on the B Panel and 3 years on the C Panel before that. He was also on the Treasury Solicitor's former list of counsel specialising in Freedom of

Information issues until its incorporation into the main Attorney General's Panels. He regularly works on national security cases.

David began practice in 2004, after spending a year working as a Judicial Assistant to the Law Lords (Lord Nicholls and Lord Rodger).

He is the Joint Editor of the leading public law journal *Judicial Review* and was a Visiting Lecturer in European Community law at City University.

David is fluent in French, and has good German, basic Czech and Slovak and is learning Farsi.

Public and Administrative

David practices in all areas of administrative law. He frequently represents and advises on behalf of central government departments, claimants and other public authorities. He has extensive experience in immigration, human rights, national security and counter-terrorism, social security, child support, social services, prisons, local government, freedom of information, environmental and planning law. David has experience of all associated EU law issues, including in particular EU law issues arising from the interaction between immigration and social security law. David has been instructed in cases before all courts and tribunals in administrative law cases, from the First-tier Tribunal to the Supreme Court, Court of Justice of the European Union and the European Court of Human Rights.

David was consistently ranked as a leading junior in this area in both the *Legal 500* and *Chambers and Partners*. Recent comments include:

- Administrative and Public Law, *Chambers and Partners*, 2016 – “He’s a solid advocate and barrister who is very thoughtful and precise and produces great written work.” “He’s particularly good at understanding what we need as solicitors. He’s always user-friendly and happy to help.”
- Administrative and Public Law, *Legal 500*, 2015 – “Combines excellent judgement with solid all-round skills across a wide array of public law matters.”
- Administrative and Public Law, *Chambers and Partners*, 2015 – “In cases that have an overlap of public law and immigration, he is very solid and has great judgement.”
- Administrative and Public Law, *Legal 500*, 2014 – “A bright barrister with an excellent feel for the strength of a claim and how it will be received in court.”
- Administrative and Public Law, *Chambers and Partners*, 2014 – “He is exceptionally bright, has solid judgement, and is extremely hard- working.”
- *Chambers and Partners*, 2013 – David Blundell “embodies that most often sought-after combination in a public law counsel: a quick legal mind and attention to detail”. He offers “practical, thoughtful and prompt advice”.

Notable significant public law cases in which David has appeared include:

- ***In the matter of the Northern Ireland Human Rights Commission*** [2015] NIQB 96 – acted for the Commission, in its successful challenge to the legality of the prohibition on abortion in Northern Ireland in cases of rape, incest and serious foetal abnormality (led by Nathalie Lieven KC).

- ***R (XH) v. Secretary of State for the Home Department*** [2015] EWHC 2932 (Admin) – acted for the Secretary of State in leading case on the use of the Royal Prerogative to cancel passports of terrorist suspects, and one of the first challenges to the use of closed material procedures in national security proceedings (led by James Eadie KC and Tim Eicke KC).
- ***R (Richmond Pharmacology Ltd) v. Health Research Authority*** [2015] EWHC 2238 (Admin), (2015) 146 BMLR 160 – acted for the claimant in a commercial regulatory challenge to imposition of conditions on clinical trials, examination of the principle of transparency and certainty in public law (led by David Lock KC).
- ***TN (Afghanistan) v. Secretary of State for the Home Department*** [2015] UKSC 40, [2015] 1 WLR 3083 – acted for the Secretary of State, three linked Supreme Court cases on the compatibility of domestic judicial review with EU law and the *Rashid* principle (sole counsel in two cases in Court of Appeal, led by Jonathan Hall KC in the Supreme Court).
- Joined cases C-165/14 and 304/14 ***CS (Morocco) v. Secretary of State for the Home Department and Rendon Marin v. Spain*** – sole counsel for the United Kingdom in the Grand Chamber of the CJEU, references on the application of the *Zambrano* principle in cases of serious criminality.
- ***DIL and others v. Commissioner of the Police of the Metropolis*** – acted for the Metropolitan Police in claims concerning alleged relationships with undercover officers (led by Jonathan Hall KC).
- ***R (Cotton) v. Secretary of State for Work and Pensions*** [2014] EWHC 3437 (Admin), [2015] ACD 20 – acted for the Claimants, instructed by Liberty, in challenge to the legality of the bedroom tax (led by Nathalie Lieven KC).
- ***Chaudhry v. United Kingdom***, application no. 17489/12 – sole counsel for the United Kingdom in the European Court of Human Rights, challenge to the compatibility of domestic immigration appeal rights with Article 13 ***JD (Congo) v. Secretary of State for the Home Department*** [2012] EWCA Civ 327, [2012] Imm AR 719, [2012] INLR 412, *The Times*, 28 May 2012 – acted for the Secretary of State in leading case on the second appeals test where an appellant has won before the First-tier Tribunal and lost in the Upper Tribunal.
- ***R (Shoemith) v. Ofsted and others*** [2011] EWCA Civ 642, [2011] PTSR 1459, [2011] ICR 1195 – represented Sharon Shoemith in her successful appeal to the Court of Appeal against the decision of the Secretary of State to remove her from post and of Haringey LBC to sack her (led by James Maurici KC).

David is currently instructed in a number of significant on-going public law challenges, including the following:

- Case C-573/14 *Lounani* – sole counsel for the United Kingdom in its intervention in a reference from the Belgian courts, involving a challenge to the operation of the exclusion clause in Art 12(2)(c) of the Qualification Directive to a Moroccan convicted of terrorism offences in Belgium (hearing listed before the CJEU on 16 February 2016).
- ***R (Galdikas) v. Secretary of State for the Home Department and Secretary of State for Work and Pensions*** – challenge to the application of the “genuine prospect of work test” to victims of trafficking.
- ***R (Dan) v. Secretary of State for the Home Department*** – challenge to the legality of the Government’s “ship regime of “deport first, appeal later” regime under reg. 24AA of the Immigration (European Economic Area) Regulations 2006 (heard by Walker J on 18 November 2015, judgment pending).
- Counsel to the Department of Transport in its response to the Airports Commission’s report on airport capacity (led by James Maurici KC).

- Counsel to the Secretary of State for the Home Department in a series of challenges to decisions to revoke or cancel their passports under the Royal Prerogative, on the grounds of suspected involvement with terrorism (led by James Eadie KC and Tim Eicke KC).
- Civil law damages action against the Security Services and various government departments relating to alleged actions abroad (led by Lisa Giovannetti KC).

David is the Joint Editor (with David Lock KC) of the leading public law journal *Judicial Review*. He is also a contributing editor to Westlaw's online legal encyclopedia "Insight", having written the articles on irrationality, habeas corpus and legitimate expectation. He is a member of ALBA.

NHS, Health and Community Care

David regularly advises claimants, public bodies, interested parties and charities on the law of social services and community care. He has been involved in a number of test cases challenging central and local government policies on access to benefits in this field.

Among the most significant cases in which David has been involved in this field are the following:

- ***R (Project 17) v. Lewisham LBC*** – counsel to the Claimant in challenge to the legality of Lewisham LBC's policy on the provision of support under section 17 of the Children Act 1989 (led by Nathalie Lieven KC, due to be heard on 20 and 21 January 2016).
- ***R (SN and LS) v. Secretary of State for Work and Pensions*** – challenge to the exclusion of *Zambrano* carers from mainstream benefits and the extent of their ability to rely on local authority support under section 17 of the Children Act 1989 (led by Richard Drabble KC). Currently stayed behind similar proceedings in the Supreme Court.
- ***R (Cotton) v. Secretary of State for Work and Pensions*** [2014] EWHC 3437 (Admin), [2015] ACD 20 – counsel to the Claimants in challenge to the legality of the bedroom tax (led by Nathalie Lieven KC).
- ***R (Sanchez) v. King's College Hospital NHS Trust and R (Sanchez) v. Greenwich LBC*** – challenges to funding of NHS care for residents without leave to remain and also to decisions on local authority support under section 21 of the National Assistance Act 1948.
- ***R (Galdikas) v. Secretary of State for the Home Department and Secretary of State for Work and Pensions*** – challenge to the application of the "genuine prospect of work test" to victims of trafficking. The case involves an examination of the intricate domestic framework of social security and social services support for victims of trafficking.

In addition, David regularly advises claimants on challenges to the refusal to support under section 17 of the Children Act 1989. His work in this area often involves difficult related questions about immigration status.

Human Rights and Civil Liberties

David has considerable experience in civil liberties and human rights work. He has represented claimants, public authorities and interested parties in cases involving cutting edge human rights issues in courts at all levels, both domestically and in the

European Court of Human Rights.

David was recommended as a leading junior in Civil Liberties and Human Rights in the 2015 edition of the *Legal 500*, which describes him as having “in-depth knowledge of the law and first-class drafting skills.”

Amongst the most significant recent cases in which David has appeared are the following:

- ***In the matter of the Northern Ireland Human Rights Commission*** [2015] NIQB 96 – represented the Commission in its successful challenge to the legality of the prohibition on abortion in Northern Ireland in cases of rape, incest and serious foetal abnormality (led by Nathalie Lieven KC).
- ***R (XH) v. Secretary of State for the Home Department*** [2015] EWHC 2932 (Admin) and other cases – represents the Secretary of State in leading case on the use of the Royal Prerogative to cancel passports of terrorist suspects, and one of the first challenges to the use of closed material procedures in national security proceedings (led by James Eadie QC and Tim Eicke KC).
- ***DIL and others v. Commissioner of the Police of the Metropolis*** – counsel to the Metropolitan Police in claims concerning alleged relationships with undercover officers (led by Jonathan Hall KC).
- ***R (Cotton) v. Secretary of State for Work and Pensions*** [2014] EWHC 3437 (Admin), [2015] ACD 20 – represented the Claimants in challenge to the legality of the bedroom tax (led by Nathalie Lieven KC).
- ***Chaudhry v. United Kingdom***, application no. 17489/12 – sole counsel for the United Kingdom in the European Court of Human Rights, challenge to the compatibility of domestic immigration appeal rights with Article 13.

Significant on-going cases in which David is involved include:

- ***R (Project 17) v. Lewisham LBC*** – counsel to the Claimant in challenge to the legality of Lewisham LBC’s policy on the provision of support under section 17 of the Children Act 1989 (led by Nathalie Lieven KC).
- ***R (Dan) v. Secretary of State for the Home Department*** – challenge to the legality of the Government’s flagship regime of “deport first, appeal later” regime under reg. 24AA of the Immigration (European Economic Area) Regulations 2006). The case involves a comparison of the application of the proportionality principle under the ECHR with the same principle under EU law.
- ***R (Galdikas) v. Secretary of State for the Home Department and Secretary of State for Work and Pensions*** – challenge to the application of the “genuine prospect of work test” to victims of trafficking.
- ***Abdul v. Secretary of State for the Home Department*** – leading case on Article 24(2) of the EU Charter of Fundamental Rights and Article 8(2) in the context of deportation and family splits.

David has lectured both in this country and abroad on a broad range of human rights issues, including fair trial rights, the right to liberty, human trafficking and terrorism. With Lord Slynn of Hadley, he lectured the judiciary in the Czech Republic and Zambia. He has delivered ECHR training on behalf of the Council of Europe to the judiciary in Turkey and Albania. He has delivered extensive training sessions to local authorities in the UK as a consultant trainer with the British Institute of Human Rights.

International

David has considerable experience of advice and litigation in public international law. He has particular expertise on the UN Refugee Convention, the Council of Europe Convention on Action Against Trafficking in Human Beings, the UNECE Aarhus Convention on access to environmental justice, the UNECE Espoo Convention and the Kiev Protocol on environmental assessment in the transboundary context, as well as public international law issues arising out of their application and interpretation.

Additionally, David has experience of the law of other commonwealth jurisdictions, most recently, the Turks and Caicos Islands (planning law) and Kenya (national security).

In the UK courts, David is regularly involved in cases raising issues of public international law, in particular in the national security field.

Amongst the notable significant cases in this area in which David has been involved are the following:

- Advising the Attorney General of the Turks and Caicos Islands on a possible appeal to the Turks and Caicos Court of Appeal against a decision of the Chief Justice declaring amendments to the Development Manual to be *ultra vires*.
- ***In the matter of the Northern Ireland Human Rights Commission*** [2015] NIQB 96 – acted for the Commission, in its successful challenge to the legality of the prohibition on abortion in Northern Ireland in cases of rape, incest and serious foetal abnormality (led by Nathalie Lieven KC). The case involved detailed arguments on the Convention on the Elimination of All Forms of Discrimination against Women, the International Covenant on Civil and Political Rights, the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment and Punishment), the Council of Europe European Social Charter and Resolution 1607 (2008) and the United Nations Convention on the Rights of the Child, and the extent to which those Treaties could be relied on in the domestic courts.
- ***Lawrence, Nabil, Nasser v. Attorney General*** – High Court civil damages action against the Attorney General alleging complicity in torture abroad by the security services (led by Lisa Giovannetti KC). The claim raises significant issues concerning foreign act of state and state immunity, and is currently stayed behind the leading case of *Belhaj v. Straw* in the Supreme Court.
- ***R (Galdikas) v. Secretary of State for the Home Department and Secretary of State for Work and Pensions*** – challenge to the application of the “genuine prospect of work test” to victims of trafficking. The case involves detailed arguments concerning the Council of Europe Convention on Trafficking and the extent to which it can be relied on in the domestic courts.
- ***Abdul v. Secretary of State for the Home Department*** – leading case on Article 24(2) of the EU Charter of Fundamental Rights in the context of deportation and family splits.
- ***AM and BM*** (Trafficked women) Albania CG [2010] UKUT 80 (IAC) – the case remains the leading examination of the domestic role in immigration cases of the Palermo Protocol on trafficking and the Council of European Convention on Trafficking.

David regularly appears in cases relating to European Union law issues, both in the domestic courts and the Court of Justice of the European Union. He has particular experience in cases involving EU issues in the context of national security, immigration, social security and environmental law.

Notable and ongoing EU law cases in the CJEU in which David is involved as sole counsel include the following:

- Case C-165/14 *Rendon Marin* – intervention in Spanish reference on the scope of citizenship rights under Article 20 TFEU and the decision in *Zambrano*, specifically whether it is possible to derogate from such rights in the public interest in situations of criminality – heard by the Grand Chamber on 30 June 2015, awaiting judgment.
- Case C-304/14 *CS (Morocco)* – reference from the Upper Tribunal on the same point as in *Rendon Marin* – heard by the Grand Chamber on 30 June 2015 with *Rendon Marin*, awaiting judgment.
- Case C-573/14 *Lounani* – intervention in Belgian reference concerning exclusion from international protection under Directive 2004/83/EC owing to involvement in terrorism offences – hearing listed on 16 February 2016.
- Case C-133/15 *Chavez Vilchez* – intervention in Dutch reference on the scope of citizenship rights under Article 20 TFEU and the decision in *Zambrano*, specifically whether such rights arise in situations where the EU citizen parent is present but may not be willing or able to look after the child.
- Case C-554/14 *Ognyanov* – intervention in Bulgarian reference on the scope of Framework Decision 2008/909/JHA, the Prisoner Transfer Framework Decision. The case concerns the question whether the Prisoner Transfer Framework Decision precludes an executing state from reducing the time spent in prison there on account of time spent working while in prison in the transferring state. There is also a broader question as to whether Framework Decisions can have direct effect.
- Pembroke Power Station infraction (European Commission infringement number 2012/4149) – advising multiple government departments in relation to threatened infraction proceedings against the UK over alleged failures to comply with the Habitats Directive, the IPPC Directive and the EIA Directive in respect of the construction of Pembroke Power Station. The case raises significant issues about the UK's approach to the construction of major infrastructure projects and its compatibility with various EU environmental law regimes.
- Recent and ongoing EU cases in which David has been involved in the domestic courts include the following:
 - ***R (Richmond Pharmacology Ltd) v. Health Research Authority*** [2015] EWHC 2238 (Admin), (2015) 146 BMLR 160 – represented the claimant clinical trials company in this challenge to the regulation of Phase 1 clinical trials by the HRA (with David Lock KC). The case involved consideration of the EU regulatory regime relating to clinical trials, in particular in Directive 2001/20/EC (the Clinical Trials Directive) and Regulation 536/2014/EU (the Clinical Trials Regulation). The judicial review succeeded on grounds of a lack of legal certainty in the HRA's regulatory materials.
 - ***R (XH) v. Secretary of State for the Home Department*** – acted for the Secretary of State in defending this challenge to the exercise of the Royal Prerogative to withdraw passports from terrorist suspects, including arguments about the impact of EU free movement and citizenship rights on the use of the Royal Prerogative and on the reasons and evidence which are required to be disclosed to subjects of such decisions following *ZZ (France)* (led by James Eadie KC and Tim Eicke KC).
 - ***R (Dan) v. Secretary of State for the Home Department*** – instructed on behalf of the Secretary of State in case concerning the interpretation and application of reg. 24AA of the Immigration (European Economic Area) Regulations 2006, the provision which allows the interim deportation of foreign national offenders who otherwise have EU rights of residence in the UK. Heard by Walker J on 18 November 2015, judgment awaited.
 - ***Abdul v. Secretary of State for the Home Department*** – important case on the scope of Article 24(2) of the EU Charter of Fundamental Rights. Heard by the President of the Upper Tribunal (Immigration and Asylum Chamber) on 9 December 2015, judgment awaited.

- ***TN (Afghanistan) v. Secretary of State for the Home Department*** [2015] UKSC 40, [2015] 1 WLR 3083 – represented the Secretary of State in the Supreme Court in three joined appeals challenging the compatibility of judicial review with the requirements of Article 39 of Directive 2005/85/EC relating to effective remedies in EU law (led by Jonathan Hall KC in the Supreme Court, sole counsel in the Court of Appeal in two of the appeals). The case also raised issues concerning the EU Charter of Fundamental Rights. The appeals were dismissed and a reference to the CJEU was refused.
- ***R (FCC Environment (UK) Ltd) v. Secretary of State for Energy and Climate Change*** [2015] EWCA Civ 55, [2015] Env LR 22 – represented the Secretary of State in defending this challenge to the compatibility of Special Parliamentary Procedure with the requirements of the EIA Directive. The appeal was dismissed.
- ***R (SN and LS) v. Secretary of State for Work and Pensions*** – counsel to the claimants in this judicial review challenge to the legality of the various “*Zambrano* regulations” designed to remove entitlement to mainstream benefits from *Zambrano* carers (led by Richard Drabble KC). Currently stayed behind similar proceedings awaiting a decision on permission to appeal to the Supreme Court.
- David was formerly a Visiting Lecturer in European Union law at City University and, prior to commencing practice, he undertook a stage at the European Commission in the Internal Market Directorate General, dealing with the free movement of services. He has also published on EU law issues. He has previously worked as a volunteer with the AIRE Centre (Advice on Individual Rights in Europe), providing advice on European human rights law and European Union law.

In addition to practising in this field, David has also published on matters concerning international law. He is the author of the chapter on access to environmental information in Banner, *The Aarhus Convention: A Guide for UK Lawyers* (2015), Hart. He has lectured extensively in foreign jurisdictions on matters of international law, including international money laundering, fair trial rights, the right to liberty, human trafficking and terrorism. With Lord Slynn of Hadley, he delivered lectures to the senior judiciary of the Czech Republic and Zambia in 2003 and 2005. He delivered ECHR training on behalf of the Council of Europe to the judiciary in Turkey and Albania in 2006 and 2007.

Immigration

David has significant experience in immigration cases at the highest levels. He has appeared in many of the most important immigration cases in recent years in the High Court, Court of Appeal, Supreme Court and Court of Justice of the European Union. The 2016 edition of *Chambers and Partners* describes him as “the young barrister of choice” for important immigration cases.

Other comments in the legal directories about David include the following:

- Immigration, *Chambers and Partners*, 2016 – “A “high-class” practitioner who has deep experience of advocacy before the highest courts, both domestically and abroad, on behalf of government and claimants. He is regarded as one of the go-to experts for human rights and EU law.” “When you look at important immigration cases, he is the young barrister of choice.”
- Immigration, *Legal 500*, 2015 – “He takes a common-sense approach which is focused on the client’s needs and priorities.”
- Immigration, *Chambers and Partners*, 2015 – “Straight and decent, he’s very fair and a skilled barrister. Briefed by the government in a wide range of cases, he is always a pleasant person to work with. A really fantastic junior, who is hard-working and gets the job done.”

- Immigration, *Legal 500*, 2014 – “Acts for both claimants and defendants.”
- Immigration, *Chambers and Partners*, 2014 – “Known for doing government work in this area.” “He is very good and well liked by solicitors.”

Among the cases in which David has appeared are the following:

- ***Ganesharajah v. Secretary of State for the Home Department*** [2014] EWHC 3497 (QB) – unlawful detention claim, concerning one of the longest ever periods of detention under immigration powers.
- ***TN (Afghanistan) v. Secretary of State for the Home Department*** [2015] UKSC 40, [2015] 1 WLR 3083 – represented the Secretary of State in three linked Supreme Court case on the compatibility of domestic judicial review with EU law and the *Rashid* principle (sole counsel in two cases in Court of Appeal, led by Jonathan Hall KC in Supreme Court).
- Joined cases C-165/14 and 304/14 ***CS (Morocco) v. Secretary of State for the Home Department and Rendon Marin v. Spain*** – sole counsel for the United Kingdom in the CJEU, references on the application of the *Zambrano* principle in cases of serious criminality.
- ***Singh and Khalid v. Secretary of State for the Home Department*** [2015] EWCA Civ 74, [2015] Imm AR 704 – leading case on transitional provisions and the Immigration Rules.
- ***Patel v. Secretary of State for the Home Department*** [2013] UKSC 72, [2014] AC 651 – leading case on the “enforcement gap” and immigration appeal rights (led by Jonathan Swift KC).
- ***R (FI) v. Secretary of State for the Home Department*** [2014] EWCA Civ 1272, [2014] HRLR 30 – challenge to compatibility of the domestic regime of training on the use of restraint on aircraft removals and refusal to disclose the domestic training manual (led by James Eadie KC).
- ***Chaudhry v. United Kingdom***, application no. 17489/12 – sole counsel for the United Kingdom in the European Court of Human Rights, challenge to the compatibility of domestic immigration appeal rights with Article 13.
- ***JD (Congo) v. Secretary of State for the Home Department*** [2012] EWCA Civ 327, [2012] Imm AR 719, [2012] INLR 412, *The Times*, 28 May 2012 – leading case on the second appeals test where an appellant has won before the First-tier Tribunal and lost in the Upper Tribunal.
- ***R (SG (Iraq)) v. Secretary of State for the Home Department*** [2012] EWCA Civ 940, [2013] 1 WLR 41 – leading case on the jurisdiction to grant stays pending appeal in country guidance determinations.
- David has also appeared in a number of Country Guidance cases in the Upper Tribunal (Immigration and Asylum Chamber):
- ***AA (Article 15(c)) Iraq CG*** [2015] UKUT 00544 (IAC) – current country guidance on Article 15(c) and Iraq.
- ***BM and others (returnees – criminal and non-criminal) CG*** [2015] UKUT 00293 – current country guidance on returns to the DRC, both criminal deportees and non-criminal returns, including consideration of comments made by DRC Ambassador in London (led by Nathalie Lieven KC).
- ***AK (Article 15(c)) Afghanistan CG*** [2012] UKUT 000163 (IAC) – application of Article 15(c) of the Qualification Directive to Afghanistan.
- ***AA (unattended children) Afghanistan v. Secretary of State for the Home Department CG*** [2012] UKUT 00016 (IAC) – whether section 55 of the Borders, Citizenship and Immigration Act 2009 can determine whether a child is a refugee,

application of Article 15(c) of the Qualification Directive to unaccompanied children in Afghanistan.

- **HM and others (Article 15(c)) Iraq CG** [2010] UKUT 331 (IAC) – application of Article 15(c) of the Qualification Directive to Iraq.
- **GS (Article 15(c): indiscriminate violence) Afghanistan CG** [2009] UKAIT 00044 – application of Article 15(c) of the Qualification Directive to Afghanistan.
- **AM and BM (Trafficked women) Albania CG** [2010] UKUT 80 (IAC) – protection for former victims of human trafficking in Albania.

Current significant cases in which David is involved include:

- Case C-573/14 *Lounani* – challenge to the operation of the exclusion clause in Art 12(2)(c) of the Qualification Directive to a Moroccan convicted of terrorism offences in Belgium (hearing before the CJEU on 16 February 2016).
- **R (Galdikas) v. Secretary of State for the Home Department and Secretary of State for Work and Pensions** – challenge to the application of the “genuine prospect of work test” to victims of trafficking.
- **R (Dan) v. Secretary of State for the Home Department** – challenge to the legality of the Government’s flagship regime of “deport first, appeal later” regime under reg. 24AA of the Immigration (European Economic Area) Regulations 2006.
- Prior to commencing practice, David completed a six-month internship with the United Nations High Commissioner for Refugees, London Office, in the Legal Protection Department, where he was involved in drafting the organisation’s commentary to the Nationality, Immigration and Asylum Act 2002. At the same time as working at UNHCR, David worked as a part-time legal researcher at the Medical Foundation for the Care of Victims of Torture.

Local Government including Local Government Finance

David has considerable experience of a wide range of local government matters. He acts on behalf of local authorities, individuals, local residents and commercial organisations affected by the exercise of local authority powers.

David was ranked as a leading junior in local government law in the 2016 edition of *Chambers and Partners*, which describes him as:

“A solid advocate and barrister who is very thoughtful and precise, and produces great written work.” “A real all-rounder who has gained a strong reputation in Administrative Court work.”

Among the notable ongoing cases in this field in which David has been involved, are the following:

- **R (Project 17) v. Lewisham LBC** – counsel to the Claimant in challenge to the legality of Lewisham LBC’s policy on the provision of support under section 17 of the Children Act 1989 (led by Nathalie Lieven KC, due to be heard on 20 and 21 January 2016).
- In *re X Council* – advised local residents on a potential challenge to a local authority land disposal under section 123 of the Local Government Act 1972.
- **R (Cotton) v. Secretary of State for Work and Pensions** [2014] EWHC 3437 (Admin), [2015] ACD 20 – counsel to the Claimants in challenge to the legality of the bedroom tax – the case concerned local authority housing benefit legislation and

the scope of local authorities to make discretionary payments to avoid hardship (led by Nathalie Lieven KC).

- ***R (Tower Bridge Yacht and Boat Company Ltd) v. Secretary of State for Transport*** – represented Claimant in challenge to the consultation process on amendments to speed limits set by the Thames Byelaws.
- ***R (Dimon) v. North Devon Healthcare NHS Trust*** – represented local resident in challenge to the closure of a local hospital ward, in a case which concerned the mechanisms of reorganising NHS local care provision (led by David Lock KC).
- ***R (Sanchez) v. King's College Hospital NHS Trust and R (Sanchez) v. Greenwich LBC*** – challenges to funding of NHS care for residents without leave to remain and also to decisions on local authority support under section 21 of the National Assistance Act 1948.
- ***R (Gleeson Developments Ltd) v. Secretary of State for Communities and Local Government*** [2014] EWCA Civ 1118, [2014] PTSR 1226, [2014] JPL 1386 – represented Claimant / Appellant in high profile challenge to the Secretary of State's exercise of his recovery jurisdiction following the promulgation of an appeal determination by an Inspector (led by John Litton KC).
- ***R (SN and LS) v. Secretary of State for Work and Pensions*** – challenge to the exclusion of *Zambrano* carers from mainstream benefits and the extent of their ability to rely on local authority support under section 17 of the Children Act 1989 (led by Richard Drabble KC). Currently stayed behind similar proceedings in the Supreme Court.
- *In re X local authority* – advised local planning authority on the implications of a locum planning officer granting planning permission without authority.

Environment

David has a wide-ranging environmental law practice. He frequently advises on, and appears in cases relating to, all aspects of EIA, SEA, the Habitats Directive and the Birds Directive. David is currently advising the Government in relation to infraction proceedings in the Court of Justice of the European Union.

Significant environmental law cases in which David has appeared include:

- ***R (DC21 Ltd) v. Secretary of State for Communities and Local Government*** – counsel to the Secretary of State in successful defence of challenge to the written ministerial statement on onshore wind policy, which implemented an important election manifesto pledge.
- ***R (FCC Environment (UK) Ltd) v. Secretary of State for Energy and Climate Change*** [2015] EWCA Civ 55, [2015] Env LR 22 – counsel to the Secretary of State in challenge to the compatibility of special parliamentary procedure with the EIA Directive.
- ***R (Greenpeace) v. Secretary of State for Energy and Climate Change*** – acted as junior in successful defence of the Secretary of State's National Planning Statement on the construction of new nuclear power stations.
- ***City and District of St Albans v. Secretary of State for Communities and Local Government*** [2009] EWHC 1280 (Admin), [2010] JPL 70 – challenge to the East of England RSS on SEA grounds.

- ***R (on the application of Davies) v. Secretary of State for Communities and Local Government*** [2008] EWHC 2223 (Admin) – EIA, publication and consultation on additional material produced during an inquiry.
- ***R (on the application of the Noble Group) v. Thanet DC*** [2005] EWCA Civ 782, [2006] Env LR 8 – EIA, screening and collateral challenges.

David has a particularly busy advisory practice in the environmental sphere, which includes environmental issues relating to nuclear power stations, fracking, offshore oil and gas, waste and recycling issues for local authorities and responses to requests under the Environmental Information Regulations regime. He regularly advises in relation to SEA, Habitats and Birds Directives issues.

As well as practising in this area, David edits (with David Elvin KC) those parts of the Planning Encyclopedia dealing with EIA, SEA, Habitats and Birds Directives, as well as validity, human rights and EC law. He is the author of the chapter on access to environmental information in Banner, *The Aarhus Convention: A Guide for UK Lawyers* (2015), Hart.

Planning

David has appeared in a number of significant cases in the planning sphere. These include:

- ***R (West Berkshire DC) v. Secretary of State for Communities and Local Government*** [2015] EWHC 2222 (Admin), [2015] BLGR 884, [2016] JPL 35 – high profile challenge to the written ministerial statement on affordable housing – currently on appeal to the Court of Appeal (led by Richard Drabble KC).
- ***R (DC21 Ltd) v. Secretary of State for Communities and Local Government*** – counsel to the Secretary of State in successful defence of challenge to the written ministerial statement on onshore wind policy, which implemented an important election manifesto pledge.
- ***R (FCC Environment (UK) Ltd) v. Secretary of State for Energy and Climate Change*** [2015] EWCA Civ 55, [2015] Env LR 22 – counsel to the Secretary of State in challenge to the compatibility of special parliamentary procedure with the EIA Directive.
- ***R (Moore) v. Secretary of State for Communities and Local Government*** [2015] EWHC 44 (Admin), [2015] BLGR 405, [2015] JPL 762, [2015] PTSR D14 – challenge to the legality of the Secretary of State’s recovery policy in gypsy and traveller appeals (led by Rupert Warren KC).
- ***R (Gleeson Developments Ltd) v. Secretary of State for Communities and Local Government*** [2014] EWCA Civ 1118, [2014] PTSR 1226, [2014] JPL 1386 – high profile challenge to the Secretary of State’s exercise of his recovery jurisdiction following the promulgation of an appeal determination by an Inspector (led by John Litton KC).
- ***R (Vale of White Horse DC) v. Secretary of State for Communities and Local Government*** [2009] EWHC 1847 (Admin) – guidance on the correct approach to the interpretation of policy in planning cases.
- ***Bovale v. Secretary of State for Communities and Local Government*** [2008] EWHC 2143 (Admin) – guidance on the provision of defences and evidence by defendants in s288 challenges.

- ***R (on the application of Wates) v. Surrey County Council*** [2008] EWHC 706 (Admin) – Green Belts and very special circumstances.
- ***Satnam Millenium v. Warrington BC*** [2007] EWHC 2648 (Admin), [2008] JPL 763 – Green Belts and UDPs.

In 2015, he was named as one of the top 50 planning barristers in the country in the annual Planning Magazine survey. In April 2009, the same survey named him in the Top 10 planning barristers under 35.

As well as practising in this area, David edits (with David Elvin KC) those parts of the Planning Encyclopedia dealing with EIA, SEA, Habitats and Birds Directives, as well as validity, human rights and EC law. He is the author of the chapter on access to environmental information in Banner, *The Aarhus Convention: A Guide for UK Lawyers* (2015), Hart.

Qualifications

- Modern Languages (French and German) at Trinity College, Cambridge, and the Ecole Normale Supérieure, Paris.
- M.Phil in International Relations at Trinity College, Cambridge. Thesis: minority rights in the EU accession process, with particular focus on the Czech Republic and Slovakia.
- Law at City University, awarded MA in Law. Dissertation: material error of fact as a ground of judicial review.
- Major Scholar of the Inner Temple
- Inner Temple Bursary holder
- Bar Council Stage Scholar

Recommendations

"David is absolutely outstanding in written submissions, but is also really good on his feet." "He is impressive and pragmatic in his approach." "He is really on top of the law; he's just got an encyclopaedic knowledge when it comes to immigration-related judicial reviews."

Administrative and Public Law, Chambers and Partners, 2023

"David has sound judgement and strong legal ability." "David is a proper old-fashioned advocate - he is cool, collected and technically able." "David is well liked by judges and clients alike." "His advice is sensible and commercially focused."

Administrative and Public Law, Chambers and Partners, 2024

"David is a real star. He is absolutely outstanding on written submissions, but is also really good on his feet."

Planning, Chambers and Partners, 2023

"He has wide knowledge of the law in many areas and is extremely nice to deal with." "David is brilliant and a go-to person for the government."

Immigration, Chambers and Partners, 2024

"He is a very persuasive advocate and is very respected by the Bar and Bench." "He's instructed on complex and sophisticated cases. He is very well liked by clients and an outstanding advocate."

Local Government, Chambers and Partners, 2023

"He has always been impressive and totally across complex facts."

Local Government, Chambers and Partners, 2024

"He is bright, effective and a delightful opponent in terms of being fair, reasonable and honest." "Good with very difficult cases. He's very calm and non-threatening to clients."

Immigration, Chambers and Partners, 2023

"He is delightful and really realistic, which is what you need: he says what's a good point and what is not. I really trust him and his judgement."

Civil Liberties and Human Rights, Chambers and Partners, 2024

"A very reasonable and sensible advocate in whom the court has confidence, he is very technically able."

Environment, Legal 500, 2023

"David is fantastic to work with. His advice is sensible and commercially focused."

Planning, Chambers and Partners, 2024

"David is a very reasonable and sensible advocate. That means that the court has confidence in him. He is also a very technically able."

Immigration, Legal 500, 2023

"David is a formidable advocate. He contributes a superb technical knowledge of immigration law and with a very astute strategic sense for difficult and complex litigation. He is trusted by clients for the most difficult, sensitive and complex cases."

Immigration (including Business Immigration), Legal 500, 2024

"David is a very reasonable and sensible advocate. That means that the court has confidence in him. He is also a very technically able."

Administrative Law and Human Rights, Legal 500, 2023

"David is an expert in administrative law. He is calm, articulate, and very persuasive in the court room. He creates authoritative and compelling arguments."

Administrative Law and Human Rights, Legal 500, 2024

"David does not overplay his hand, and his balance convinces courts of his judgement."

European Union Law, Legal 500, 2024

"An extremely tenacious and very knowledgeable lawyer with a nice advocacy manner." "Clients absolutely adore him."

Administrative and Public Law, Chambers and Partners, 2022

"David is a very reasonable and sensible advocate, always winning the confidence of the Court."

Energy, Legal 500, 2023

"David is exceptionally bright, with expert knowledge and understanding of public law issues. He is diligent, his advice is always considered and his drafting skills are second to none." "He is always on top of the issues and has consistently provided solid advice."

Civil Liberties and Human Rights, Chambers and Partners, 2022

"A rising star who is extremely effective in difficult and complex cases. He is measured, careful, and has outstandingly good judgement." "He has got a very impressive advocacy style and is very on top of cross-examining. He is confident and knows the right questions to ask."

Immigration, Chambers and Partners, 2022

"He is really strong on the law and very well respected."

Local Government, Chambers and Partners, 2022

"David is extremely knowledgeable in the areas of international human rights and EU law and has provided solid written and oral advice in respect of complex and politically sensitive litigation."

Civil Liberties and Human Rights, Legal 500, 2022

"He is a fair, careful and also formidable opponent. His judgment – which points to press, which to concede – is excellent."

Immigration, Legal 500, 2022

"David is outstanding: a brilliant advocate, both in court and on paper; extremely clever; he has outstanding judgement and is a pleasure to work with."

Planning, Legal 500, 2022

"Deep knowledge of the law coupled with a forensic mind."

Local Government (including Rating Law), Legal 500, 2022

"He is brilliant and is surely on his way to becoming one of the best public law silks."

Environment, Legal 500, 2022

"Deep knowledge of the law. Forensic mind. Very polite and collegiate."

Administrative and Public Law, Legal 500, 2022

"David is outstanding: a brilliant advocate, who is extremely clever, and has excellent judgement."

Court of Protection and Community Care, Legal 500, 2022

"[A] Q[K]C of choice for the government in challenges to the EU settlement scheme."

European Law, Legal 500, 2022

"Judges like him and trust him, and respond well to him, and he has a really nice way of engaging with people and explaining complicated concepts. His advices are really easy to read and easy to give to clients." "A joy to work with and a long overdue silk."

Administrative and Public Law, Chambers and Partners, 2021

"He's excellent with clients and his research is fantastic."

Civil Liberties and Human Rights, Chambers and Partners, 2021

"He is great: affable, very effective and very organised." "He is a very safe pair of hands with very good judgement."

Immigration, Chambers and Partners, 2021

"He can get to grips with matters quickly and can spell them out in a sensible, practical way that his clients can understand."

"He's no-nonsense, very knowledgeable and fantastic with clients." "A very calm and measured advocate."

Local Government, Chambers and Partners, 2021

"He is affable, and very effective and organised."

European Law, Chambers and Partners, 2021

"He is incredibly clever and judges love him."

Community Care, Chambers and Partners, 2021

"Deep knowledge of the law. Forensic mind. Very polite and collegiate."

Administrative and Public Law, Legal 500, 2021

"A new silk who definitely should've been made a silk some years earlier. He is willing to take on difficult points for the government."

Civil Liberties and Human Rights, Legal 500, 2021

"I can pick up the phone to have a quick chat with him and he will always be willing to give advice." "He is very easy to work with" and is "flexible in his way of thinking."

European Law, Chambers and Partners, 2020

"An exceptional barrister who drafts in an extremely clear and persuasive fashion. He is always diligent and thorough, and has real empathy for his clients."

Local Government, Chambers and Partners, 2020

"A perfectly safe pair of hands."

Civil Liberties and Human Rights, Chambers and Partners, 2020

"He's very good on the technical side and produces an aggressive, clear type of advocacy with an academic flair." "He's a sound, balanced and clear lawyer who always takes good points in a clear and cogent way for government and claimants alike."

Administrative and Public Law, Chambers and Partners, 2020

"He has a brilliant mind and great attention to detail. He's great with clients, calm under pressure and someone you want on your team."

Administrative and Public Law, Chambers and Partners, 2020

"A very good government barrister and one of the go-to individuals for EU-related issues." "Very pleasant to work with and very, very competent."

Immigration, Chambers and Partners, 2020

Cases and inquiries

12 03 24	Does a child born in the UK to an EU national exercising free movement rights automatically acquire British citizenship?
11 03 24	Admin Court rejects challenge to EU Settlement Scheme
01 03 24	Marks and Spencer plc v SSLUHC [2024] EWHC 452 (Admin)
23 02 24	Shamima Begum loses deprivation of citizenship appeal
23 02 24	High Court hands down judgment in first Russian sanctions case on association
22 02 23	Shamima Begum loses deprivation of citizenship appeal
07 12 22	Supreme Court upholds safe spaces legislation banning protests outside abortion clinics

24 11 22	R. (on the application of O3) v Secretary of State for the Home Department [2022] EWHC 2986 (Admin)
20 07 22	Supreme Court hears challenge to Bill banning protests outside abortion clinics
14 10 21	High Court finds Secretary of State acted unlawfully in failing to ensure expeditious availability of abortion in Northern Ireland
20 07 21	International travel Green-Amber-Red list system found lawful by High Court
05 07 21	International travel traffic-light system to be challenged in High Court this week
26 05 21	Northern Ireland Abortion Challenge Heard in High Court
02 03 21	Northern Ireland Human Rights Commission challenges government over lack of abortion services in Northern Ireland
17 10 19	Heathrow expansion judicial review hearings to begin in the Court of Appeal
15 10 19	Heathrow expansion judicial review hearings to begin in the Court of Appeal
13 03 19	Supreme Court hears important case about proportionality and EU law
18 12 18	Supreme Court gives strong hint that it may convene larger panel to reconsider Cheshire West tests for deprivation of liberty
06 06 18	Judicial Review sought by Fladgate Fielder regarding Westminster Council's Decision to grant planning consent to a Land Sec project
05 06 18	R (on the application of Axon) v. Secretary of State for Health
04 06 18	R (Hayes) v. Secretary of State for Communities and Local Government [2009] EWHC 3520 (Admin)
04 06 18	GS (Article 15(c): indiscriminate violence) Afghanistan CG [2009] UKAIT 00044
04 06 18	R (on the application of Hayes) v. Secretary of State for Communities and Local Government
01 06 18	Pedro v. Secretary of State for Work and Pensions [2009] EWCA Civ 1358, [2010] 2 CMLR 20
31 05 18	City and District of St Albans v. Secretary of State for Communities and Local Government [2009] EWHC 1280 (Admin), [2010] JPL 70

31 05 18	R (SO) v. Barking and Dagenham LBC [2010] EWCA Civ 1101
31 05 18	HM and others (Article 15(c)) Iraq CG [2010] UKUT 331 (IAC)
31 05 18	R (ZA (Nigeria) and SM (DRC)) v. Secretary of State for the Home Department [2010] EWCA Civ 926
31 05 18	R (S) v. Social Security Commissioner [2009] EWHC 2221 (Admin), [2009] 12 CCL Rep 654
31 05 18	R (Vale of White Horse DC) v. Secretary of State for Communities and Local Government [2009] EWHC 1847 (Admin)
31 05 18	R (WJ) (China) v. Secretary of State for the Home Department [2010] EWHC 776 (Admin)
31 05 18	R (Wiles) v. Social Security Commissioner [2010] EWCA Civ 258
31 05 18	AM and BM (Trafficked women) Albania CG [2010] UKUT 80 (IAC)
31 05 18	R (on the application of Lenin) v Secretary of State for the Home Department [2008] EWHC 2968 (Admin)
30 05 18	R (Mirza) v. Secretary of State for the Home Department [2011] EWCA Civ 159, The Times, 2 March 2011
30 05 18	R (Daley-Murdock) v. Secretary of State for the Home Department [2011] EWCA Civ 161, The Times, 2 March 2011
30 05 18	JD (Congo) v. Secretary of State for the Home Department [2012] 1 W.L.R. 3273
30 05 18	Court of Appeal upholds legality of removal regime in Article 2 challenge
30 05 18	R (Cotton and others) v Secretary of State for Work and Pensions [2014] EWHC 3437 (Admin)
29 05 18	CJEU Grand Chamber hears important case about the retained rights of EU dual national citizens
29 05 18	Important Judgment on the application of rule 353 of the Immigration Rules to Human Rights and Protection Claims
29 05 18	CJEU Grand Chamber hears important case about burden sharing arrangements for asylum claims
29 05 18	High Court delivers judgment in important EU human trafficking case
29 05 18	Landmark barristers win ground-breaking Northern Irish abortion rights challenge

29 05 18	Court of Appeal upholds legality of enforcement gap policy
29 05 18	Tribunal hears country guidance case about Iraq and ISIS
29 05 18	Court of Appeal gives judgment in important case on the scope of the Zambrano principle
29 05 18	Supreme Court hands down judgment in leading case on appeal rights
29 05 18	Supreme Court delivers important judgment on EU law, judicial review and the Rashid principle
25 05 18	Court of Justice hands down judgment in European Arrest Warrant case under urgent procedure
25 05 18	Divisional Court hands down judgment on existence of Royal Prerogative in terrorism cases
25 05 18	Court of Appeal hears discrimination challenge to the bereavement damages regime
25 05 18	Airports NPS Update
25 05 18	Advocate General Sharpston delivers Opinion in important case about burden sharing arrangements for asylum claims
24 05 18	High Court dismisses judicial review challenge to land access authorisation for Sizewell C surveys
24 05 18	Court of Appeal hands down important judgment on proportionality and EU law
24 05 18	High Court hands down judgment on scope of ZZ (France) disclosure obligations in Royal Prerogative passport case
24 05 18	[2017] EWHC 121 (Admin): Airports judicial review struck out
24 05 18	Divisional Court hears argument on continuing existence of the Royal Prerogative
24 05 18	CJEU delivers judgment on the Dublin III Regulation and discretionary decisions
24 05 18	Advocate General Bot delivers Opinion in CJEU case on detention pursuant to the Dublin III Regulation
24 05 18	CS (Morocco) returns to the Upper Tribunal from the CJEU
14 05 18	CJEU Grand Chamber hears conjoined claims on Procedures Directive and Dublin III Regulation

17 11 17	CJEU Grand Chamber delivers landmark judgment in case about the retained rights of EU dual national citizens
01 03 16	Affordable Housing Contributions: West Berks in the Court of Appeal
10 07 14	R (Gleeson Developments Ltd) v Secretary of State for Communities and Local Government [2014] P.T.S.R. 1226
21 10 13	R (Gleeson Homes Ltd) v (1) Secretary of State for Communities and Local Government and (2) The Planning Inspectorate [2014] P.T.S.R. 135
01 08 11	R (on the application of Shoemith) v OFSTED and others
01 09 08	Bovale v SSCLG [2008] EWHC 2143 (Admin)

Publications

Book: Author of the chapter on access to environmental information in Banner, *The Aarhus Convention: A Guide for UK Lawyers* (2015), Hart Publishing.

Book: Author of the human rights chapter in Bickford-Smith and Francis *Rights of Light: The Modern Law* (2007) 2nd Ed., Jordan Publishing.

Book: Updated the Social Services chapter of Drabble, Maurici and Buley *Local Authorities and the Human Rights Act* (2004), Blackstone Press.

Published article: "Top 10 Public Law Cases 2015-2016?" [2016] JR Vol 21, Issue 3."

Published article: "Irrationality", "Habeas corpus" and "Legitimate expectation": author of articles in Westlaw's Insight online legal encyclopedia (regularly updated).

Published article: "Ultra Vires Legitimate Expectations" [2005] JR Vol 10, Issue 2.

Published article: "Material Error of Fact: Where Are We Now?" [2004] JR Vol 9, Issue 1.

Published article: "Surinder Singh and the Immigration (European Economic Area) Regulations 2000: A Step in the Wrong Direction?", *Columbia Journal of European Law*, August 2002.

Editorial work: Joint Editor of *Judicial Review* (with David Lock KC), Routledge.

Editorial work: Editor of the Planning Encyclopedia (with David Elvin KC), Sweet and Maxwell.

Editorial work: Case digester for the Administrative Court Digest, 2002-2011.
