
David Bedenham

David has a broad practice encompassing both litigation and investigations. He has been described in the legal directories as “*approachable and highly intelligent*”, “*excellent to work with*” and “*down to earth and decent*”.

Investigations

Between 2016 and 2021, David was instructed as the senior member of the counsel team assisting Clive Sheldon QC in the *Independent Review into Child Sexual Abuse in Football*.

David has been involved with investigations where concerns about misconduct, impropriety or other wrongdoing were in issue, as well as cultural/practice reviews. He is adept at interviewing witnesses and preparing accessible and user-friendly investigation reports.

David is a member of the National Safeguarding Panel and the Panel of Arbitrators administered by Sport Resolutions.

Litigation

David’s litigation work includes public law, indirect tax, regulatory and disciplinary, inquests, claims against directors and penalty appeals. Often (although not exclusively) the cases he deals with involve allegations of misconduct, wrongdoing, negligence and/or breach of regulatory requirements/duties.

Indirect tax

David is a former editor of the Customs Duties chapter in De Voil Indirect Tax Service and has contributed numerous articles to De Voil Indirect Intelligence. He has been described in Chambers and Partners as having “*a compendious knowledge of indirect tax law*” and being “*very experienced and knowledgeable on indirect tax matters*”

David has appeared in many significant indirect cases relating to VAT, Excise Duty, Customs Duty ranging from customs classification appeals to approval revocation appeals to appeals against multi-million pound assessments. He has dealt with countless cases in which fraud and/or abuse is alleged (MTIC/Kittel/Mecsec/Halifax/Fini).

David has also secured numerous injunctions/temporary approvals to allow businesses in the regulated sector to continue to operate pending the determination of their appeal by the FTT.

David also acts for directors in penalty appeals and/or where breach of duty/misfeasance proceedings are brought often involving allegations of negligence, recklessness or fraud.

Additionally, David has knowledge and experience of criminal law which is useful when there are parallel civil/criminal proceedings.

Public law and Inquests



Professional Summary

Called 2005

Contact Details

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Clerk Michael Smith

Clerk Hannah Rayner

Contact Clerks

David has advised and acted for local and central Government on a variety of issues including complex points of statutory interpretation, judicial reviews (including age assessments) and prosecutions (regulatory and health and safety).

David has appeared in numerous inquests involving a variety of issues and ranging from single days to several weeks.

Regulatory and Disciplinary

David has advised and appeared in a variety of regulatory matters involving a range of regulators including the GMC, the BSB, the FCA and the IET. He also has experience of sitting as a legal assessor in regulatory/disciplinary proceedings.

Other

As well as being admitted in England and Wales, David is admitted in the High Court of Australia and the Supreme Court of Western Australia. In addition, he has experience of the American legal system having completed an LL.M in Virginia. David has also appeared before the Court of Appeal of Northern Ireland (having been granted temporary admission).

David also holds appointments as a Judge of the Tax Tribunal and a Deputy District Judge.

Specialisms

Tax Litigation

David deals with a wide variety of VAT, excise and customs duty litigation. He is especially well known for his work in cases where allegations of fraud or abuse are made by HMRC (Kittel/Mecsec/Halifax/Fini).

David's cases include:

Ulster Metal Refiners v HMRC [2021] UKFTT 0286 (TC)

Acted for the taxpayer in this appeal against a denial (on the Kittel basis) of input VAT incurred on purchases of soft drinks. The Tribunal allowed the appeal in relation to the vast majority of the denied input tax, finding that HMRC had not properly traced the transaction chains and had therefore not established a connection with fraud.

HMRC v Martyn Perfect

Acted for the taxpayer (in the Upper Tribunal, Court of Appeal and CJEU) in this case relating to the liability of "innocent agents" for unpaid excise duty.

R Ltd v HMRC [2021]

Acted for the taxpayer in this appeal against a penalty for alleged breach of the AWRS Regulations. The Tribunal allowed the appeal in full finding that there had been no such breach.

Casa Di Vini v HMRC [2021] UKFTT 0011 (TC)

Acted for the taxpayer in this appeal against a decision refusing to grant registration under the AWRS. The Tribunal allowed the appeal finding the decision was one that could not reasonably have been arrived at.

Logfret v HMRC [2020] EWCA Civ 569

Acted for the taxpayer in the Court of Appeal in this case relating to the liability of a guarantor in respect of goods moved under duty suspension arrangements.

R (OAO JJ Management) v HMRC [2020] EWCA Civ 784

Acted for the Claimants in the Court of Appeal (and High Court) in this judicial review challenge to HMRC's powers to conduct "informal investigations".

HMRC v Smart Price [2019] EWCA Civ 841

Acted for the taxpayers in the Court of Appeal (and Upper Tribunal and FTT) in this case concerning the circumstances in which HMRC can be required to disclose all documents reviewed by the decision making officer (rather than simply the documents relied on).

OWD and Anr v HMRC [2019] UKSC 30

Acted for the traders in the Supreme Court and Court of Appeal in this case relating to the ability of HMRC to grant (or the High Court to order) a temporary approval to a trader pending an appeal to the FTT against a decision that would otherwise prohibit trading.

Following this decision, the law was changed to introduce a statutory temporary approvals regime for certain trade sectors.

Ulster Metal Refiners v HMRC [2017] NICA 26

Acted for the taxpayer in this Court of Appeal case relating to HMRC's pleading obligations. David was called to the Bar of Northern Ireland on a temporary basis specifically to deal with this case. The Court of Appeal allowed the appeal and referred the case back to the FTT for a rehearing.

Abbey Forwarding Ltd

Acted for Abbey and its directors in various aspects of this long running litigation (including the successful defence of the misfeasance claim brought against Abbey's directors and the successful challenge to excise and VAT assessments raised against Abbey)

R (OAO) Millennium Cash and Carry v HMRC

Acted for the successful taxpayer in this judicial review of HMRC's decision to detain in excess of £1m of trading stock.

Swanfield and QN Hotels v HMRC [2017] UKUT 88

Acted for QN Hotels in the Upper Tribunal. QN was successful in arguing that payments made to HMRC can be allocated to a current VAT period (even if that VAT period has not yet closed) which can greatly reduce the level of default penalties a taxpayer is liable for.

Lycatel v HMRC

Acted for HMRC in this VAT appeal about the correct treatment of pre-paid telephone calling cards.

HMRC v Asda Stores Ltd [2013] UKUT 223 (TCC)

Acted for HMRC in this Upper Tribunal customs duty appeal concerning articles 29 and 32 of the Community Customs Code and valuation of imported goods.

GFT UK Retail Ltd v HMRC [2012] UKFTT 481 (TC)

Acted for HMRC in this excise duty appeal about whether alcoholic spirits in 'gel' form are exempt from Article 27 of Directive 92/83/EEC.

HMRC v Roll Your Own Ltd

Acted for the taxpayer in this challenge to a seizure of tobacco and 'rolling' machinery worth in excess of £400,000. In issue was whether tobacco products produced by RYO were 'smokeable' such as to create a duty point.

Orlight Ltd v Revenue & Customs [2013] UKFTT 732 (TC)

Acted for the taxpayer in this Customs duty appeal relating to the correct classification of LED light bulbs.

Iford Cellular v HMRC [2013] UKFTT 435 (TC)

Acted for HMRC in this VAT appeal against a denial of input tax on the basis that the relevant taxable supply was connected with MTIC fraud and the Appellant should have known of that connection.

Big Mistrs Shipping Co v HMRC [2011] UKFTT 790 (TC)

Acted for HMRC in this appeal relating to import VAT and eligibility for Onward Supply Relief.

Opticare Ltd v Revenue & Customs [2013] UKFTT 266 (TC)

Acted for HMRC in this VAT appeal concerning s26A VATA and disallowance of input tax where consideration not paid.

TL Smith Properties Ltd & Anor v Revenue & Customs [2011] UKFTT 528 (TC)

Acted for HMRC in this VAT appeal relating to whether building works constituted an extension or enlargement of an existing building for the purposes of Group 5 of Schedule 8 of VATA.

R (OAO Seabrook Warehousing Ltd & Ors) v HM Revenue and Customs

[2010] EWCA Civ 140

Acted for the Claimants in this Judicial review of HMRC's decision to abolish the WFE scheme in relation to alcohol export.

HMRC v Livewire Telecom Limited [2009] EWHC 15 (Ch)

Acted for HMRC in this VAT appeal concerning the circumstances in which input tax can be denied where the relevant supply is connected with fraud.

Public

David receives instructions both from Claimants and Defendants.

On the Defendant side, David has acted for a wide range of Government Departments and regulators.

On the Claimant side, David has acted for a variety of individuals and businesses.

Examples of his work in this field include:

R (S) v Secretary of State for the Home Department and Oxfordshire County Council

[2017] EWHC 1295 (Admin), [2017] 1 WLR 3641, QBD, May 26 2017

David acted for Oxfordshire County Council in this judicial review concerning age assessment and whether it was unlawful for the SSHD to detain pending transfer to a safe third country.

R v AB and others

[2017] EWCA Crim 534, [2017] 1 WLR 4071, CA, April 28 2017

David acted for the Legal Aid Agency in this Court of Appeal case concerning whether a local authority had power to prosecute solicitors (based outside of the local authority's area) for conspiracy to defraud the Legal Aid Agency.

Bruton v Governor of Swaleside Prison

[2017] EWHC 704 (Admin)

David acted for the Defendants in this judicial review relating to legally privileged mail in the prison estate.

R (OAO) Millennium Cash and Carry v HMRC

Judicial review of HMRC's decision to detain in excess of £1m of trading stock on the basis of a suspicion that it was not duty paid.

R (OAO Seabrook Warehousing Ltd & Ors) v HM Revenue and Customs

[2010] EWCA Civ 140 (25 February 2010)

Judicial review of HMRC's decision to abolish the WFE scheme in relation to alcohol export.

Mathew v Attorney-General

[2013] EWHC 3009 (Admin)

Appeared for the Attorney-General in this application to the Divisional Court to discharge a vexatious litigant order made under s. 42 of the Senior Courts Act.

R (OAO SF) v Secretary of State for Justice

Acted for the SSJ in relation to a judicial review challenge to a decision to move a prisoner back

to closed conditions.

A v Secretary of State for Justice

Advised the SSJ in relation to a judicial review of a decision to recall a convicted terrorist to prison for breach of a 'computer condition' of his licence.

Watson v HMCTS National Taxing Team

[2012] EWHC 2865 (Admin) (3 October 2012)

Acted for the National Taxing Team in this Divisional Court challenge to its approach to calculating a payment pursuant to an order under s.16 of the Prosecution of Offenders Act.

R (OAO Southern Drinks) v HM Revenue and Custom

Acted for an alcoholic drinks wholesaler in a judicial review challenge to a decision by HMRC refusing to grant interim reinstatement of a WOWGR approval pending the substantive determination by the FTT of an appeal against the revocation.

Lord Chancellor v Woodhall

[2013] EWHC 764 (QB)

Appeared for the Lord Chancellor in this appeal pursuant to Article 31 of the Criminal Defence Service (Funding) Order 2007 relating to circumstance in which a guilty plea fee rather than a cracked trial fee will be payable to counsel.

Lord Chancellor v Ian Henery Solicitors

[2011] EWHC 3246 (QB)

Appeared for the Lord Chancellor in this appeal pursuant to Article 31 of the Criminal Defence Service (Funding) Order 2007 relating to the point at which a trial can be said to have commenced.

R (OAO Brayfal) v HMRC

[2009] EWHC 3354 (Admin)

Judicial review of HMRC's decision not to allow a trader to file its VAT returns on a monthly (as opposed to quarterly) basis.

Inquests & Inquiries

The inquiries, inquest and investigation work that David has been instructed in includes:

- The FA review into non-recent child sexual abuse.
- Various coroner's inquests (ranging from 1-11 days) and involving a variety of issues including deaths in custody.
- Advising on various investigations conducted by Government Departments.

Professional Discipline & Regulatory

David has advised on/acted in various matters involving:

- Director disqualification (CDDA) proceedings;
- Pensions Ombudsman (particularly in relation to 'pension liberation');
- Financial Services Ombudsman;
- Financial Conduct Authority;
- Nursing and Midwifery Council;
- Office of Fair Trading;
- General Medical Council.

Local Government Litigation

David advises and appears both for and against local authorities in a wide range of matters including:

- Public Procurement
- Age Assessments
- Health & Safety
- Planning Enforcement
- Criminal Prosecutions

Recommendations

“A valued junior specialising in indirect tax matters including cases involving fraud allegations.”

Chambers & Partners

“He is approachable, highly intelligent and has a compendious knowledge of indirect tax law.”

Chambers & Partners

Recent Cases

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News, Articles & Publications

Former editor of the Customs Duties Chapter in De Voil Indirect Tax Service

Carbon Dating: Emissions Trading, MTIC Fraud and Assessment Time Limits, De Voil Indirect Tax Intelligence (December 2015)

The Alcohol Wholesaler Registration Scheme – Fit and Proper?, Solicitor’s Journal (August 2015)

Excise Approvals and Interim Relief, De Voil Indirect Tax Intelligence (September 2017)

The Default surcharge regime and the power to appropriate payments, De Voil Indirect Tax Intelligence (June 2017)

Education

LL.B (Hons.) University of London

Other

Albion Richardson Award (BVC)

Drapers' Company Scholar (LL.M)



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