
David Bedenham

David acts for individuals, corporations, regulators, Government departments, and local authorities in the following areas:

- tax litigation;
- public law;
- commercial litigation;
- inquests, inquiries and investigations;
- professional discipline and regulatory law; and
- local government litigation.

In tax, regulatory, and commercial work he is especially well known for dealing with cases where serious allegations of wrongdoing or fraud are made.

David also has experience of criminal law which experience assists him in dealing with civil work (public, commercial or tax cases or investigations) where there are existing or potential parallel criminal proceedings.

David is also admitted in the High Court of Australia and the Supreme Court of Western Australia and 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 is a former editor of the Customs Duties Chapter in De Voil Indirect Tax Service and regularly contributes to De Voil Indirect Intelligence.

David is public access accredited which means that, in appropriate cases, he can receive instructions direct from members of the public.

Specialisms

Tax Litigation

David receives instructions both from taxpayers and from HMRC.

He is especially well known for his work in cases where allegations of fraud are being made.

David's cases include:

ABC Ltd, X Ltd and Y Ltd v HMRC

[2017] EWCA Civ 956

David acted for the traders in this Court of Appeal case which established that (1) HMRC do have power to grant interim approvals to traders pending appeal to the FTT against AWRS refusals and (2) the High Court can grant an injunction to a trader pending appeal to the FTT if the trader can show that it has good grounds of appeal in the FTT and that, without interim relief, it will not be able to survive long enough to see through its FTT appeal.

Abbey Forwarding Ltd

David acted for Abbey and its Directors in various aspects of this long running litigation



Professional Summary

Called 2005

Contact Details

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Clerk Michael Smith

Clerk Hannah Rayner

[Contact Clerks](#)

(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

David acted for the successful taxpayer in this 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.

Smart Price Ltd and OWD Ltd and Ors v HMRC

[2017] UKFTT 411 (TC)

David acted for the successful taxpayers in this application 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).

Ulster Metal Refiners v HMRC

[2017] NICA 26

David acted for the successful taxpayer in this appeal which related to HMRC's pleading obligations when making allegations of fraud. David was called to the Bar of Northern Ireland on a temporary basis (specifically to deal with this case)

Swanfield and QN Hotels v HMRC

David acted for QN Hotels in the Upper Tribunal (not having been involved in the FTT). 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.

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.

HMRC v Asda Stores Ltd

[2013] UKUT 223 (TCC)

Upper Tribunal customs duty appeal concerning articles 29 and 32 of the Community Customs Code and valuation of imported goods.

Lycatel v HMRC

VAT appeal about the correct treatment of pre-paid telephone calling cards.

GFT UK Retail Ltd v HMRC

[2012] UKFTT 481 (TC)

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

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)

Customs duty appeal relating to the correct classification of LED light bulbs.

Iford Cellular v HMRC

[2013] UKFTT 435 (TC)

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 Mistery Shipping Co v HMRC

[2011] UKFTT 790 (TC)

Appeal relating to eligibility for Onward Supply Relief.

Opticare Ltd v Revenue & Customs

[2013] UKFTT 266 (TC)

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) (4 August 2011)

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.

HMRC v Livewire Telecom Limited

[2009] EWHC 15 (Ch)

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.

Commercial

The bulk of David's commercial work involves allegations of fraud or other serious wrongdoing. He has acted in misfeasance proceedings, deceit claims and white-collar criminal cases.

Examples of his work in this field include:

Abbey Forwarding Ltd (in liquidation) v Hone & Ors

[2010] EWHC 2029 (Ch)

Defence of misfeasance proceedings brought by Abbey against its former directors. The background to the case was an alleged excise fraud.

X v Lord Chancellor

Acting in this (and several other) challenges to decisions made by the Lord Chancellor in relation to the Duty Provider Crime Contracts. The challenges are brought pursuant to the Public Contracts Regulations 2006.

Sunlea v Pollock [No 2]

[2015] WASC 102

Successful application to strike out the Claimant's pleadings that contained allegations of unlawful means conspiracy and dishonest assistance (second limb of *Barnes v Addy*).

FM v X

Represented a social housing association that was induced to transfer in excess of £1 million to a third party that had no entitlement to that money. The claim involved applications for freezing orders and disclosure orders.

Millennium Cash and Carry v HMRC

Represented a trading company in a damages claim following HMRC's unlawful detention of its trading stock.

X Ltd (in liquidation) v Y and Z

Advised in relation to misfeasance proceedings brought by X Ltd against its former directors. The background to the case was that the directors had caused X Ltd to enter into an

unsuccessful tax avoidance scheme. Corporation tax assessments were eventually raised against X Ltd which X was unable to pay these resulting in a liquidator being appointed.

RE X

Advising the former director of a well-known bonded warehouse in relation to misfeasance claims.

AstraZeneca v HMRC

Long running dispute relating to transfer pricing and controlled foreign company issues. The matter settled shortly before the commencement of a 12 week hearing.

X Ltd v Y Ltd

Advised the Claimant in relation to an unlawful means conspiracy claim. The Defendant is a multinational that conspired with an employee of the Claimant to divert £5 million of business to a new entity controlled by the employee's spouse.

S v X Ltd

Advising the Defendant in this knowing receipt claim (first limb of **Barnes v Addy**).

The Serious Organised Crime Agency v Azam

[2013] EWCA Civ 970 (31 July 2013)

Successful appeal to the Court of Appeal resulting in a variation of a Property Freezing Order so as to allow Mr Azam to fund the defence of civil recovery proceedings brought against him by SOCA.

X Ltd

Represented a UK company that had had millions of pounds of its assets restrained under the Proceeds of Crime Act following a request by the Indian Authorities who had commenced proceedings in India arising out of a banking corruption investigation.

R v X

Advised the spouse of a well-known tax advisor who was accused of assisting her husband to fraudulently manipulate the tax relief available on charitable donations resulting in significant losses to the revenue.

Bouziane

Appeared (both at first instance and on appeal) for an individual from whom a significant quantity of cash had been seized.

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

Recent Cases

ABC Ltd, X Ltd and Y Ltd v HMRC

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QN Hotels v. HMRC

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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

LL.M (College of William and Mary, Virginia)

Other

Albion Richardson Award (BVC)



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