

# David Pievsky KC

*"He shows incredible judgement and goes the extra mile for his clients."*

– CHAMBERS & PARTNERS, 2024

Year of call: 2001  
Appointed to silk: 2020  
Degree: MPhil (Cantab)  
Languages: French (working knowledge)



David Pievsky's practice encompasses Administrative and Public Law, Civil Liberties & Human Rights, Immigration & Nationality, Regulation and Professional Discipline, and Employment. He has substantial experience of appearing in the High Court, Court of Appeal, and Supreme Court.

David took silk in 2020 and was appointed a Deputy High Court Judge in 2021.

As a junior, David was on the Attorney General's panels of Civil Counsel to the Crown for over 10 years, and the A panel from 2013 onwards.

David is recognised for his expertise and ranked in both leading independent legal directories, Chambers and Partners and the Legal 500. Recent comments include:

- "An incredibly insightful silk, who is tenacious in fighting his client's corner."- Legal 500, 2024
- "He shows incredible judgement and goes the extra mile for his clients."- Chambers & Partners, 2024

Previous comments include:

- "David is very clever and very thorough. He's an exceptionally creative lawyer and he sees interesting points that others miss."- Legal 500, 2023
- "He is incisive, insightful and calm in his advocacy."- Chambers and Partners, 2023
- "A strong, smart advocate."- Chambers and Partners, 2023

## EXPERIENCE

### Public & Regulatory

*"He is incisive, insightful and calm in his advocacy."*

– CHAMBERS UK, 2023

In recent years he has appeared in the Supreme Court in cases relating to Crown Immunity, the reach of positive human rights obligations, taxpayer confidentiality, and public order law; and in the Court of Appeal in cases about legal professional privilege, the human rights compatibility of legislation designed to discourage illegal immigration, and the regulation of professionals who work in more than one jurisdiction.

David's current and ongoing cases raise issues about the boundaries of freedom of expression on social media, the fairness and appropriateness of Ofsted's judgments about religious schools, and the fairness at common law and under the ECHR of regulators' rules and procedures. David is currently instructed in an appeal to the Privy Council concerning an application for judicial review of aspects of the Anguillan government's response to the financial crisis.

## Cases

### **R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department**

[2020] EWCA Civ 542

The Court of Appeal allowed the Secretary of State's appeal against the High Court's conclusion that the "right to rent" scheme, set out in sections 20-37 of the Immigration Act 2014, is incompatible with Article 14 ECHR (read with Article 8). The case raised issues about the "ambit" requirement in Article 14 cases, the correct approach to justification in the context of social measures, and Parliament's responsibility (or otherwise) for the acts of private citizens. David acted for the successful Secretary of State.

### **R (AIMS) v DEFRA**

[2017] EWHC 1961 (Admin)

Acted as sole counsel against Hugh Mercer QC in high profile judicial review proceedings in the High Court, concerning the compatibility of UK Halal slaughter methods with European and domestic law animal welfare standards.

### **R (Black) v Secretary of State for Justice**

[2017] UKSC 81

Acted (with James Eadie QC) for the Secretary of State. The Supreme Court considered the question of Crown Immunity and whether it applied to the prohibitions on smoking set out in Part 1 of the Health Act 2006. The Court accepted submissions made on behalf of the Secretary of State to the effect that the Crown is not bound by Statute unless that is made clear expressly or by necessary implication.

### **R (DSD) v Met Police**

[2018] UKSC 11

Acted for the intervening Secretary of State for Justice in this case concerning whether the state (through the police) had breached duties to conduct reasonable investigations into allegations of ill-treatment, derived from Article 3 ECHR, to women who were attacked by a private citizen (the multiple rapist John Worboys).

**Mitsui and others v Mayor's Office for Policing and Crime**

[2016] UKSC 18 [2016] 1488

Acted (with Lord Pannick QC and Sam Grodzinski QC) for the London Mayor in litigation brought under the Riot Damages Act 1886 concerning the recoverability of damages for consequential loss. The Supreme Court allowed the Mayor's appeal, ruling that such damages are not recoverable under the 1886 Act.

**R (Lee) v General Medical Council**

[2018] EWCA Civ 99

Acted for the (successful) General Medical Council, in judicial review proceedings concerning the proper interpretation of the Council's rules about how to deal with the determinations of foreign regulatory bodies, and the '5 year rule' applicable to allegations of impaired fitness to practise. The case also raised questions of principle relating to the procedural rules on delay in judicial review proceedings.

**R (Morgan) v Secretary of State for Justice**

[2016] EWHC 106 (Admin)

Successfully defended a judicial review claim concerning the challenge for the authorities of assessing a prisoner's prospects of rehabilitation, where he continues to protest his innocence of the index offence.

**Bingham Centre v Home Office**

(EA/2014/0097)

Acted for the successful Home Office in a case about whether privileged legal advice concerning the admissibility of intercept evidence should be released under the Freedom of Information Act.

**Individuals Working with Children**

Currently advising the government as sole counsel on a number of claims brought in the European Court of Human Rights relating to the list of individuals who are barred from working with children or vulnerable adults (2015 and ongoing).

**R (Ingenious Media Holdings plc) v HMRC**

[2016] 1 WLR 4164

Acted (with James Eadie QC) in proceedings arising out of HMRC's treatment of film finance schemes.

**R (Greenwich Borough Council) v Secretary of State**

(2015)

Acted with James Eadie QC in this challenge to a Direction made under new legislative powers for regulating the publishing of publicity by local authorities. Case settled by consent.

**Smith, Ellis, Allbutt and others v Ministry of Defence**

[2014] AC 52

Acted with James Eadie QC in an appeal to the Supreme Court raising jurisdictional issues under the European Convention on Human Rights; the reach of the substantive obligation to preserve life under Article 2 in the context of active military operations; and the common law doctrine of combat immunity.

**AJA and others v Commissioner of Police for the Metropolis**

[2014] 1 WLR 285, CA

Acted (with Monica Carss-Frisk QC) for the successful Applicant Police Commissioner, in a human rights dispute about the proper jurisdiction of the Investigatory Powers Tribunal in a case raising allegations about the conduct of undercover police officers.

**Vieira v Secretary of State Justice**

(2014)

Appeared for the Secretary of State for Justice in a two week trial concerning a prisoner's allegations of homophobic treatment at the hands of both prison officers and other prisoners.

**R (D) v GMC**

[EWHC] 2839 (Admin)

Acted for the GMC in a case raising difficult questions about old allegations of child abuse, and whether they could be revisited in light of Rule 4(5) of the GMC's Rules.

**DIL v Commissioner of Police of the Metropolis**

[2014] EWHC 2186 (QB)

Acted (with Monica Carss-Frisk QC) in claims raising the status of the "neither confirm nor deny" approach to allegations made about alleged covert surveillance operations.

**Brooks v Ministry of Defence**

(EA/2014/0261)

Acted (with Charles Bourne QC) in a case brought by Private Eye seeking disclosure of information relating to the MOD's dealings with the Kingdom of Saudi Arabia. The Information Tribunal agreed with the MOD's argument that release of the requested information would undermine international relations between the UK and Saudi Arabia, and dismissed the complaint.

**Sittampalam v Criminal Prosecution Service**

(EA/2014/0001)

Appeared for the CPS in a case concerning the so-called "Twitter joke trial". The Tribunal accepted the CPS's argument that the information sought by the claimant should not be released under the Freedom of Information Act, despite it being of interest, as it was exempt by virtue of s30(1)(c) of that Act.

**R (SF) v Secretary of State for Justice**

[2013] EWCA Civ 1275

Appeared for the Secretary of State for Justice in a dispute about the circumstances in which judicial review claimants should be entitled to anonymity.

## Civil Liberties & Human Rights

David has also advised in cases concerning the procedures used to identify and assist victims of modern slavery.

Prior to his silk appointment in 2020, David was a member of the Attorney General's A panel, and regularly acted for the government in high profile cases brought by prisoners raising issues about the right to liberty, parole and rehabilitation opportunities, the conditions of detention, and freedom of expression; and for the police in high profile public order cases about maintaining public order (such as the "kettling/containment" litigation, and claims for riot compensation arising out of the London Riots in 2012).

***"A strong, smart advocate."***

– CHAMBERS UK, 2023

## Cases

**R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department**

[2020] EWCA Civ 542

The Court of Appeal allowed the Secretary of State's appeal against the High Court's conclusion that the "right to rent" scheme, set out in sections 20-37 of the Immigration Act 2014, is incompatible with Article 14 ECHR (read with Article 8). The case raised issues about the "ambit" requirement in Article 14 cases, the correct approach to justification in the context of social measures, and Parliament's responsibility (or otherwise) for the acts of private citizens. David acted for the successful Secretary of State.

**Harvey v UK**

[2017] (ECtHR, Judgment 21 November 2017)

Acted for the (successful) United Kingdom in an application brought in the European Court of Human Rights. The case concerns UK legislation designed to protect children and vulnerable people by creating lists of individuals who were not allowed to work in particular sectors (e.g. children's barred list, adults barred list).

**R (Black) v Secretary of State for Justice**

[2017] UKSC 81

Acted (with James Eadie QC) for the Secretary of State. The Supreme Court considered the question of Crown Immunity and whether it applied to the prohibitions on smoking set out in Part 1 of the Health Act 2006. The Court accepted submissions made on behalf of the Secretary of State to the effect that the Crown is not bound by Statute unless that is made clear expressly or by necessary implication.

**XYZ v MOD**

[2017] (settled proceedings)

Acted for the MOD in proceedings brought concerning the MOD's anti-piracy operations off the coast of Somalia. The case raised questions of domestic, ECHR and international law.

**R (DSD) v Met Police**

[2018] UKSC 11

Acted for the intervening Secretary of State for Justice in this case concerning whether the state (through the police) had breached duties to conduct reasonable investigations into allegations of ill-treatment, derived from Article 3 ECHR, to women who were attacked by a private citizen (the multiple rapist John Worboys).

**R (Gourlay) v Secretary of State for Justice**

[2016] EWHC 1957 (Admin)

Acted for the government in a claim concerning how to achieve the rehabilitation of a prisoner who is in total denial of the index offence of which he was convicted. The claim was based on Article 5(4) of the ECHR and in particular the so-called Kaiyam duty.

**R (Morgan) v Secretary of State for Justice**

[2016] EWHC 106 (Admin)

Successfully defended a judicial review claim concerning the challenge for the authorities of assessing a prisoner's prospects of rehabilitation, where he continues to protest his innocence of the index offence.

**Individuals Working with Children**

Currently advising the government as sole counsel on a number of claims brought in the European Court of Human Rights relating to the list of individuals who are barred from working with children or vulnerable adults (2015 and ongoing).

**R (Ingenious Media Holdings plc) v HMRC**

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(2014)

Appeared for the Secretary of State for Justice in a two week trial concerning a prisoner's allegations of homophobic treatment at the hands of both prison officers and other prisoners.

### **DIL v Commissioner of Police of the Metropolis**

[2014] EWHC 2186 (QB)

Acted (with Monica Carss-Frisk QC) in claims raising the status of the "neither confirm nor deny" approach to allegations made about alleged covert surveillance operations.

### **R (SF) v Secretary of State for Justice**

[2013] EWCA Civ 1275

Appeared for the Secretary of State for Justice in a dispute about the circumstances in which judicial review claimants should be entitled to anonymity.

## **Investigations & Inquiries**

David has experience of conducting sensitive and confidential internal investigations, including in relation to complaints made by an employee at work, and to sensitive complaints made in the context of the work of government departments.

## **Immigration**

David covers many Immigration and Nationality cases.

## Cases

### **R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department**

[2020] EWCA Civ 542

The Court of Appeal allowed the Secretary of State's appeal against the High Court's conclusion that the "right to rent" scheme, set out in sections 20-37 of the Immigration Act 2014, is incompatible with Article 14 ECHR (read with Article 8). The case raised issues about the "ambit" requirement in Article 14 cases, the correct approach to justification in the context of social measures, and Parliament's responsibility (or otherwise) for the acts of private citizens. David acted for the successful Secretary of State.

### **MJ (Nigeria) v Secretary of State for the Home Department**

(settled by consent)

Advising and representing the Secretary of State in relation to Court of Appeal proceedings concerning the interests of the child as a primary consideration.

### **Basma et al**

(ongoing)

Advising as to citizenship issues under s4B of the British Nationality Act 1981, in light of erroneously issued UK passports.

## Professional Discipline

David has substantial experience of acting in judicial review cases raising regulatory issues, and also in regulatory and/or disciplinary proceedings or appeals themselves.

***"A good communicator and a polished advocate"***

— LEGAL 500, 2016

## Cases

### **Negligent Investment Advice & Negligent Mortgage Advice**

Currently advising the Financial Services Compensation Scheme as to public law issues arising out of the distinction between negligent investment advice (which is not covered by the scheme) and negligent mortgage advice (which is).

### **R (Lee) v General Medical Council**

[2018] EWCA Civ 99

Acted for the (successful) General Medical Council, in judicial review proceedings concerning the proper interpretation of the Council's rules about how to deal with the determinations of foreign regulatory bodies, and the '5 year rule' applicable to allegations of impaired fitness to practise. The case also raised questions of principle relating to the procedural rules on delay in judicial review proceedings.



### **Khan v GMC**

[2014] EWHC 591

Appeared for the GMC in a case about the suspension of a doctor for the improper and dishonest use of prescriptions.

### **X v FCA**

(2013)

Acted (with Javan Herberg QC) for an individual who had referred a decision of the FCA to the Tribunal.

### **R (D) v GMC**

[EWHC] 2839 (Admin)

Acted for the GMC in a case raising difficult questions about old allegations of child abuse, and whether they could be revisited in light of Rule 4(5) of the GMC's Rules.

### **Qureshi v GMC**

(unreported, 30 April 2013)

Acted for the successful GMC in an appeal against a suspension decision arising out of complaints following two medical consultations.

### **Siddiqui v GMC**

[2013] EWHC 1083 (Admin)

Acted for the successful GMC in a case about dishonesty arising out of the alleged alteration of patient notes by a doctor.

### **Luthra v GMC**

[2013] EWHC 240(Admin)

Acted for the successful GMC in an appeal against a decision to erase a doctor for failing to maintain adequate professional standards.

### **Kumar v GMC**

[2013] EWHC 452 (Admin)

Acted for the GMC, successfully resisting a doctor's application to revoke an order imposing conditions on his registration, arising out of allegedly substandard treatment in relation to a number of patients.

## Employment

David acts for employers and employees in cases raising a wide range of employment law issues.

He has acted in many statutory tribunal claims and has also worked on restrictive covenant cases including injunctive work.

David's clients have included Barclays Capital, Commerzbank, the Law Society, Linklaters, Network Rail, Tesco, Carphone Warehouse, Vodafone, ABN AMRO, Barclays, the University of Warwick, Odeon Cinemas Limited, the National Association of Head Teachers, and Manchester Airport.

David is also a member of the ELAAS scheme (and has worked with the Bar Pro Bono Unit) and has appeared several times in the EAT on a pro bono basis.

***“Exceptionally bright with strong technical knowledge”***

– LEGAL 500, 2016

## Cases

### **Hixon v IBM UK Ltd**

(2014)

Acted (with Paul Goulding QC) in two whistleblowing claims brought in the Employment Tribunal. Claims settled during the trial.

### **Hattam v All England Law Tennis Club**

(2013)

Acted for the successful Respondent employer in this case about alleged age discrimination against an employee at the Wimbledon Tennis Championship.

### **Sud v London Borough of Ealing**

[2013] EWCA Civ 949; The Times, 23.10.13

Acted pro bono for the Claimant in an appeal to the Court of Appeal raising questions about disability discrimination (post-Malcolm, but pre-Equality Act) and about the proper exercise of the discretion to award costs in an Employment Tribunal.

## ACHIEVEMENTS

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### Education

BA in History (Cambridge University), 1st Class MPhil in Political Thought (Cambridge University), Distinction GDL (City University) and BPTC (ICSL)

## Publications

- What does taking into account Strasbourg jurisprudence really mean? [2012] JR 214
- Lester and Pannick, Human Rights Law and Practice (3rd Edn, Lexis Nexis, 2009) (co-author of chapters on Articles 3, 4, and 6 of the European Convention on Human Rights)
- Tolley's Discrimination in Employment Law Handbook (LexisNexis Butterworths, 2008) (chapters 5 (marital status and civil partnership) and 9 (sexual orientation))
- Public Law Update [2006] Solicitors Journal SJ Vol. 150 No. 19 pp. 636-7 (co-author with Mike Fordham)
- Three Rivers and its implications for legal professional privilege [2005] PTPR 7
- Focus on Article 3 ECHR [2005] JR 169
- Legitimate Expectations as a Relevancy [2003] JR 144
- The Impact of the Human Rights Act 1998 on Judicial Review [2003] JR 221 (co-author with Tom de la Mare).

## Appointments

David took silk in 2020, and was appointed a Deputy High Court Judge in 2021.

## Memberships

- Administrative Law Bar Association
- Employment Lawyers' Association

## Selected earlier reported cases

### Public & Regulatory

- R (Moos and McLure) v Commissioner of Police of the Metropolis [2012] EWCA Civ 12
- Grant and Gleaves v Ministry of Justice [2011] EWHC 3379 (QB)
- R (Garland) v Secretary of State for Justice [2011] Civ 1335
- Seldon v Clarkson Wright and Jakes [2011] ICR 60
- Fisher v Dorset PCT [2011] PHL/15323
- Bergonzi v Metropolitan Police Commissioner
- R (Milner) v South Central Strategic Health Authority [2011] EWHC 218 (Admin)
- R (Rowe) v Parole Board [2010] EWHC 524
- Attorney General's Reference (No. 3 of 1999) [2010] 1 AC 145
- R (Unison) v Monitor [2009] EWHC 3221 (Admin)
- R (Tabernacle) v MOD [2009] EWCA Civ 23, The Times 25 February 2009
- R (Gulliver) v Parole Board [2007] EWCA Civ 1386
- R (Gray) v Legal Services Ombudsman [2007] EWHC 215 (Admin)
- Blum and others v Director of Public Prosecutions [2006] EWHC 3209 (Admin)
- R (Singh) v Chief Constable of West Midlands Police [2006] EWCA Civ 532 [2006] 1 WLR 3374
- R (Haw) v Secretary of State for the Home Department [2006] EWCA Civ 532 [2006] QB 780

- R (Boughton and others) v HM Treasury [2006] EWCA Civ 504
- R (Elias) v Secretary of State for Defence [2005] EWHC 1435 (Admin), The Times, August 25, 2005
- R (T Mobile and others) v The Competition Commission and The Director-General of Telecommunications [2003] EWHC 1566 (Admin)

### Civil Liberties & Human Rights

- R (Moos and McLure) v Commissioner of Police of the Metropolis [2012] EWCA Civ 12
- Grant and Gleaves v Ministry of Justice [2011] EWHC 3379 (QB)
- R (Garland) v Secretary of State for Justice [2011] Civ 1335
- Seldon v Clarkson Wright and Jakes [2011] ICR 60
- R (Milner) v South Central Strategic Health Authority [2011] EWHC 218 (Admin)
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- R (Gulliver) v Parole Board [2007] EWCA Civ 1386
- R (Gray) v Legal Services Ombudsman [2007] EWHC 215 (Admin)
- Blum and others v Director of Public Prosecutions [2006] EWHC 3209 (Admin)
- R (Singh) v Chief Constable of West Midlands Police [2006] EWCA Civ 532 [2006] 1 WLR 3374
- R (Haw) v Secretary of State for the Home Department [2006] EWCA Civ 532 [2006] QB 780
- R (Boughton and others) v HM Treasury [2006] EWCA Civ 504
- R (Elias) v Secretary of State for Defence [2005] EWHC 1435 (Admin), The Times, August 25, 2005

### Immigration & Nationality

- OA (Nigeria) v Secretary of State for the Home Department [2009] EWCA Civ 1065
- OM (Returning Citizens, minorities, religion) Uzbekistan v Secretary of State for the Home Department [2007] UKAIT 00045
- AI (Nigeria) v Secretary of State for the Home Department [2007] EWCA Civ 707
- DK (Serbia) and others v Secretary of State for the Home Department [2006] EWCA Civ 1747 [2007] 2 All ER 483
- R (Refugee Legal Centre) v Secretary of State for the Home Department [2004] EWCA Civ 1481 [2005] 1 WLR 2219

### Professional Discipline

- Nwogbo v GMC [2012] EWHC 2666 (Admin)
- Uddin v GMC (unreported) 2 February 2012)
- Fisher v Dorset Primary Care Trust (2012), unreported
- Naheed v GMC [2011] EWHC 702 (Admin)
- R (Unison) v Monitor [2009] EWHC 3221 (Admin)

## Employment

- Seldon v Clarkson Wright and Jakes [2011] ICR 60, CA
- Grundy v Kier (ET)
- Brown v Epsom (ET)
- Parmar v Commerzbank (ET)
- Khan v Vignette Europe Limited (EAT, 22 April 2009)
- CAB Automative v Blake (EAT, 12 February 2008)
- D & H Travel v Foster (EAT, 2 August 2006)

## Previous experience

Before coming to the Bar, David graduated in History and then completed an M.Phil in Political Thought and Intellectual History at Cambridge University. He also worked as an employment lawyer for the Free Representation Unit (FRU) prior to joining Blackstone Chambers.

## Other interests

David has a strong background in music and plays in the leading non-professional orchestras in London.

VAT registration number: 447008068

Barristers regulated by the Bar Standards Board