

David Mold

Called: 2010
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PROFILE

David is a barrister at Five Paper specialising in Employment and Property law. He has acted in the High Court, frequently in tribunal and appeared for the successful Respondents in the Supreme Court in 2016.

David also sits as a qualified Chair of the England Boxing disciplinary panel and is qualified to accept instructions on a direct access basis.

EXPERTISE

Property litigation

David accepts instructions in a wide range of property matters both residential and commercial. These include easements, restrictive covenants, adverse possession, party wall matters, boundary disputes, nuisance and trespass, possession claims, forfeiture, enfranchisement, claims for new tenancies, service charges and construction of leases. He also deals with planning enforcement matters.

Recent work:

- Advising on garden boundary dispute
- Claim for an order vesting the freehold, where the company was dissolved and the freehold was disclaimed as bona vacantia and escheated
- Advising on whether licences to park amounted to easements or bound successors in title

- Defending a prosecution for breach of a planning enforcement notice
- Acting on behalf of the claimant in a party wall dispute involving nuisance and trespass
- A claim concerning an easement to access property to the rear
- Claim for a new lease under the 1993 Act on the basis of invalid counter-notice
- High court application for relief from forfeiture acting for a public house
- Application for the determination of the reasonableness of service charges
- Prosecuting a breach of a tree preservation order
- Advising on termination of lease under the 1954 Act
- Resisting an application in the tribunal for adverse possession under the transitional provisions
- Advising on whether a notice under s.5 of the Landlord & Tenant Act 1987 was required

Inheritance and trusts

David handles all types of probate claims, the range of claims under the Inheritance (Provision for Family and Dependents) Act 1975 and trusts disputes under TOLATA.

Recent work:

- Application for a beneficiary to recover property from deceased's home where PR's not agreeing to access terms
- Advising on effect of mutual wills and subsequent wills made by deceased
- TOLATA claim for an order for sale where defendant alleged the claimant had agreed to waive interest in property
- TOLATA claim against sibling seeking determination of the parties' respective interests in a property that had been inherited and where one party had been excluded
- Securing a sizeable sum for an adult child in a claim under the Inheritance (Provision for Family and Dependents) Act 1975
- Challenge to the validity of a will on the grounds that it was not validly executed and that the contents of it were not known or approved
- Claim for a vesting order under s.44 of the Trustees Act 1925
- Acting for an intervener in family proceedings on the basis that they had an interest in the matrimonial home

Social Housing

David's housing work covers homelessness appeals and judicial reviews, succession, assignment, sub-letting, disrepair and EPA prosecutions, licensing, anti-social behaviour, closure orders obtaining civil orders and committals. He has particular experience with mental health/capacity and Equality Act/human rights issues.

Recent work:

- *Ciftci v LB Haringey* [2021] EWCA Civ 1772; Led by Stephen Evans successfully resisted an appeal brought by an appellant found to be intentionally homeless but who alleged ignorance of a relevant fact when acting in good faith.

- Acting for a local authority in committal proceedings for breaches of interim and final injunctions involving serious threats of violence
- Appeal to the tribunal against a decision to impose a financial penalty for breach of HMO licence
- Securing a possession order after trial on the basis that the defendant was not occupying the property as their only or principal home where Equality Act 2010 defences were raised
- Resisting an appeal under s.204 of the Housing Act 1996 against a decision that the property offered was suitable
- Obtaining a closure order of a property which was being used in the use of and sale of illegal drugs
- Defending a prosecution brought under the Environmental Protection Act 1990
- Responding to a judicial review of a decision not to provide interim accommodation
- Defending a disrepair claim relating to a long lease in which sizeable damages were being claimed
- Claim for possession in which a defence that the occupier had succeeded to the tenancy was raised
- London Borough of Newham v Oscar, High Court (October 2017); *Acted for local authority in appeal by way of case stated from Magistrates' Court, refusing to grant adjournment. The case concerned a prosecution under the Housing Act 2004.*

Employment

David acts on behalf of both employers and employees and undertakes a full range of employment disputes. He has experience in unfair and wrongful dismissal, breach of contract, unlawful deduction of wages, TUPE, whistleblowing, wage and working time claims and has a particular focus on discrimination and cases involving aspects of immigration law. He deals with enforcement of restrictive covenants and is also instructed in partnership disputes.

Recent work:

- *Taiwo & Anor v Olaigbe & Ors [2016] UKSC 31 (22 June 2016)*; Led junior in the Supreme Court concerning whether discrimination on grounds of immigration status amounted to discrimination on grounds of nationality
- *Hoppe v Revenue and Customs & Ors [2021] UKEAT 2020-00009*; Acting for one of the respondents in the EAT concerning the issue of whether it was acting as the agent of HMRC (the Claimant's employer) for the purposes of a whistleblowing detriment claim.
- Advising about the application of TUPE in relation to in-sourcing services
- Claim for discrimination and constructive unfair dismissal following a protracted suspension of an employee
- Resisting a claim for automatic unfair dismissal and whistleblowing relating to concerns raised about coronavirus
- Acting for an employee director in a redundancy claim
- Resisting a claim for unfair dismissal and unfavourable treatment following a protected disclosure
- Acting for an employ in a claim for constructive unfair dismissal following a unilateral change to the location of the employee's normal workplace in the absence of a mobility clause
- Resisting a claim for pregnancy discrimination and an automatically unfair dismissal claim
- Resisting a claim for failure to consult before a collective redundancy
- Acting for an employee in a breach of contract claim relating to unpaid wages

FURTHER INFO

Qualifications

BVC, BPP Law School London
University College London, LLB (honours)

Professional memberships

South Eastern Circuit

Appointments

David sits as a legally qualified Chair of the England Boxing disciplinary panel.