

David Mohyuddin QC

Call 1999 | Silk 2016



Clerks' Details

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Appointments

- Recorder (2019)
- Junior Counsel to the Crown (Regional Panel) 2007 - 2016
- Deputy High Court Judge (chancery division)

Memberships

- Chancery Bar Association
- Northern Chancery Bar Association
- Northern Circuit Commercial Bar Association
- Association of Business Recovery Professionals (R3) (Fellow)
- Insolvency Lawyers' Association
- COMBAR
- Professional Negligence Bar Association

Education

- Bolton School
- LLB University of Birmingham
- Bar Vocational Course, Inns of Court School of Law

Insolvency CV

Overview

A “renowned insolvency barrister” who is “technically excellent” and a “pleasure to work with” with over 20 years’ specialist insolvency experience, David was amongst the first of his generation to be appointed Queen’s Counsel.

In Silk, he has maintained his extensive and highly-regarded practice covering all aspects of insolvency and insolvency-related litigation. David acts for office-holders (including dealing with professional negligence type claims against them) and those subject to and affected by insolvency proceedings in whatever type of regime. He has vast experience of appearing on routine, controversial and urgent applications and of advising on complex and technical matters arising in the conduct of insolvencies. He is popular with his clients, who describe him as ‘extremely user-friendly’ and ‘clever, authoritative and willing to buy into the case and be part of the team.’

Recent examples of David’s work include:

- advising defendant directors faced with claims alleging breach of duties and dishonesty
- advising administrators with regard to the true construction of documents imposing obligations on the company and with regard to the impact on the distribution of funds to creditors
- advising an IVA provider about its standard terms
- advising and representing an administrator and those who appointed him in response to a challenge to the validity of his appointment
- advising Guernsey liquidators about the true meaning of a document and its impact on the outcome of the liquidation
- advising and representing defendants to a liquidator’s claim

- alleging a £14m fraud including dealing with assertions of de facto and shadow directorships; freezing injunctions, security for costs and committal applications
- an administration order application brought by a peer-to-peer lender
 - defending a £2m claim brought by a liquidator alleging breach of directors' duties when entering into employee benefit trusts
 - advising on the true construction of purported fixed charges in the context of a proposed administration of a group of companies
 - contested recovery actions in both corporate and personal insolvency. For example, David successfully defended a company director accused of wrongful trading where the liquidator sought to recover more than £2m (*Nicholson v Fielding*, 2017) and represented the trustee in bankruptcy in the only reported case on the recovery of excessive pension contributions in bankruptcy (*Stanley v Wilson* [2017] BPIR 227);
 - advising one of the stakeholders in the insolvency of a trading company owned in the Isle of Man with regard to the interface between Isle of Man and English insolvency law;
 - advising and representing the English administrators of a Cypriot company with regard to the exit route from administration;
 - advising former fixed charge receivers as to the recovery of their fees.

Having been Junior Counsel to the Crown from 2007 until his appointment to Silk, David has vast experience of work for the Secretary of State and the Official Receiver with particular emphasis on public interest and directors disqualification. He advised and represented the Official Receiver throughout the liquidation of Sahaviriya Steel Industries (UK) Limited, which operated the Redcar Steelworks. That work included making the first application under the then very recently reframed Insolvency Act 1986, section 233 [2015] EWHC 2877 (Ch) and advising on all aspects of the liquidation.

In 2017, David became the General Editor of Schaw Miller and Bailey on Personal Insolvency. He is a regular speaker at R3 seminars.

Recommendations

Chambers and Partners

“He works very well in a team, adopting a collaborative approach. He has great attention to detail and is also very effective with clients and their expectations, giving them the necessary robust advice to calm them down. He also adapted quickly to the changes from COVID.”

“David is very commercial and is popular with clients. He is intelligent, outcome-focused and thoughtful.”

“He is a pleasure to work with – always happy to chat through any issues.”

“A strong performer in court.”

“He got to grips with the detail of the case very quickly and quickly won the confidence of the clients.”

“He has an easy presence in court and he gives good commercial advice.”

“A pleasure to work with - he ‘s quick to respond to queries and is unflappable in court. His written submissions are always succinct, and his cross-examination is thorough and tenacious.” “He’s really bright, a good team player and very approachable.”

“He is really respected by the judges and he has a lot of gravitas.”

“He is very good at analysing a case and getting down to the core essentials.” “He is superb on the law and has a practical approach.” “He is very quick to grasp the issues and to give you a clear and well-rounded view.”

“Very bright and a great team player. He is very personable and gets the right balance between being aggressive but also pragmatic and sensible when needed.” “David is fantastic to work with – on top of being technically excellent he is extremely user-friendly and very quickly builds up a great rapport with clients.” “Technically sound and very aware of the practical and commercial context of his advice.”

“He produces good skeleton arguments.”

“He sets a position out very clearly and his advocacy is excellent in court. He is easy to get on with and takes a very collaborative approach, which is refreshing for a silk.”

“Technically excellent in his advice while providing a commercial focus.” “My go-to: very considered, calm and easy to work with.”

“A relatively young silk who’s highly knowledgeable and a good choice if you need some aggression to be injected into a case.”

“David is fantastic to work with – on top of being technically excellent, he is extremely user-friendly and very quickly builds up a great rapport with clients.” “He is extremely personable, bright and gets to the heart of issues very quickly.”

“He’s very down to earth and happy to take calls at any time.” “He’s very useful as he gets you over any initial hurdles you might have.”

“He’s extremely bright, but at the same time has the ability to engage with clients.” “He’s absolutely fantastic - he’s a real team player.”

“He is clever, authoritative and willing to buy into the case and be part of the team.”

“Extremely precise in court.”

“He is very forensic and analytical in his approach and his arguments are very well put together.” “A very personable type and he is good on his feet.”

“He’s very well prepared and his papers are immaculate - he thinks outside the box.”

“He’s excellent, very proactive, bright, tactical and frankly very cost-effective.”

“Decisive and thorough, he displays an intricate knowledge of the law and applies it brilliantly.” “An excellent strategist.”

“A renowned insolvency barrister with a strong reputation in the adjacent field of commercial chancery.”

“He has the gift of being able to condense an argument where others would be overly verbose. His skeleton arguments are always spot-on and to the point and he has a very persuasive advocacy style.”

“Proficient senior junior adept in a variety of commercial and insolvency work, including commercial fraud matters. Assists with high-value cases of legal importance, including Court of Appeal briefs.”

“He has in-depth knowledge. He is also very straightforward and very down-to-earth.”

“Really user-friendly. He rolls up his sleeves, gets involved and is prepared to put his neck on the line and back his judgement, which he always comes through on.”

“He is decisive and thorough, he displays intricate legal knowledge and he crafts the perfect legal strategy for the client.”

“He is at the top of our list for instructing.”

“He is always very thorough and well prepared, and he is fantastic on his feet. He is a match for any insolvency barrister on the Northern Circuit.”

“He is superb on his feet, very bright and highly recommended for commercial matters.”

“A real expert in insolvency matters.”

Legal 500

“Extremely approachable, responsive and hands on. Very much a team player. Legal and strategic advice is always clear and robust and advocacy is first rate.”

“David is intelligent, quick to understand the issues yet able to simplify them to assist the client. David is also decisive, and doesn’t look to avoid giving an opinion on difficult questions.”

“David does not shy away from the merits of the cases. He actively takes part in mediations. It is a pleasure to work with David on this matter and solicitors look forward to doing so again – he is an excellent barrister.”

“David is a pleasure to work with. He quickly gets to the heart of complex issues and provides sound and clear strategic advice. He is also a reassuringly thorough and tenacious advocate.”

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“David is an excellent silk and a pleasure to work with.”

“A silk who gets his hands dirty.”

“A forceful advocate with a great client manner.”

“A star performer.”

“An extremely capable and forceful advocate.”

“Tactically excellent; he is liked and respected by clients.”

Cases

Secure Mortgage Corporation v Harold and others – appearing on behalf of the respondents to an application challenging the validity of an administrator’s appointment or seeking his removal [2020] EWHC 1364 (Ch)

2020: Ongoing advice and representation of directors faced with claims for breach of duty and dishonesty

2020: Ongoing advice to administrators about the true construction of various documents and the impact on distributions to creditors

2020: Advice to an IVA provider about its standard terms

Toone v Ross [2019] EWHC 2855 (Ch) – representing the defendants to a £2m claim brought by liquidators arising out of the entry by a company into employee-benefit trusts and an interest-in-possession fund

Gwinnutt v George – Court of Appeal case on whether barrister’s fees were property passing to his trustee in bankruptcy [2019] EWCA Civ 656

Horler v Rubin – successfully defending insolvency practitioner accused of having obtained earlier judgment by giving false evidence at trial [2019] EWHC 660 (Ch) and [2019] EWHC 2487 (Ch)

Absolute Living Developments Ltd (in liquidation) v DS7 Ltd: Allegation of £14m fraud brought by a liquidator [2018] EWHC 1432 (Ch); [2018] EWHC 1717 (Ch)

2018: Resisting application by peer-to-peer lender for administration order

2018: Advising on the true construction of purported fixed charges in the context of a proposed administration of a group of companies

2018: Representing defendant directors resisting allegation of breach of duties by reason of entering into employee benefit trusts

2018: Advised one of the stakeholders in the insolvency of a trading company owned in the Isle of Man with regard to the interface between Isle of Man and English insolvency law

2018: Advised and represented the English administrators of a Cypriot company with regard to the exit route from administration

Nicholson v Fielding [2017]: Successfully defended a company director accused of wrongful trading where the liquidator sought to recover more than £2m

Stanley v Wilson [2017] BPIR 227: Appeared for the trustee-in-bankruptcy in the only reported case on the recovery of excessive pension contributions

2017: Advised former fixed charge receivers as to the recovery of their fees

Secretary of State for Business, Innovation and Skills v PLT Anti-Marketing Ltd [2015] EWCA Civ 76: Appeared for Secretary of State in appeal against refusal to vary undertakings.

SoS v Doherty [2014] EWHC 2816 (Ch): directors disqualification alleging misrepresentation in obtaining finance; disqualification order made after eight day trial

SoS v PLT Anti-Marketing Ltd [2013] EWHC 3625 (Ch), [2015] EWCA Civ 76: represented SoS on application for appointment of provisional liquidator; injunction granted instead; application by company to vary undertaking rejected; appeared in Court of Appeal on company's appeal against refusal to vary undertaking.

Utilise TDS Limited v Davies & Bolton College [2014] EWCA Civ 906: appeared for one of the respondents in the Court of Appeal when three cases were heard together and fresh guidance was issued on the way in which CPR 3.9 was to be applied on applications for relief from sanction, following the decision in Mitchell v News Group Newspapers Ltd. (Reported as Denton v TH White Ltd and other appeals.)

Certain Exhibitions Ltd [2013] EWHC 4165 (Ch); [2014] 2 All ER 1019; [2014] Bus LR 597; [2014] BCC 143; [2014] BPIR 416; [2014] RA 123: representing supervisor of CVA on application for directions whether non-domestic business rates accrued for the whole year or instalment-by-instalment.

Solar Energy Savings Ltd [2013]: representing liquidators of solar panel supplier following its winding-up in the public interest, dealing with customer monies and recovery actions.

Official Receiver v Wild: directors disqualification [2012] EWHC 4279 (Ch); [2012] BPIR 1073.

Willett v Economy Power [2012] EWCA Civ 1164; [2012] BPIR 1298

Oxford Fleet Management Ltd [2011]: resisting application for security for costs where office-holder has the benefit of an ATE insurance policy.

Graf [2011]: contested application under section 236.

Official Receiver v Ferguson [2011]: contested application for bankruptcy restrictions order.

SoS v Okeford Properties Ltd [2011]: public interest winding-up proceedings against 13

companies involved in a scheme in respect of non-domestic rates.

SoS v Davies [2011]: application to commit for making false witness statement.

SoS v Ahmed (2011): directors disqualification in the context of VAT fraud; heard over 5 days.

Williams v Mohammed [2011] EWHC 3293 (Ch); [2011] B.P.I.R. 1787: appeal against order made in favour of trustee in bankruptcy for production of file note of solicitor's advice; legal professional privilege was overridden by fact that the advice was sought to further fraud.

Williams v Mohammed (No 2) [2012] B.P.I.R. 238: obtaining warrant for the seizure of documents.

Halliwells LLP [2010]: advising together with Leading Counsel in respect of a major firm of solicitors.

Booth v Mond [2010] EWHC 1576 (Ch); [2010] BPIR 1111 : an application for a direction whether arrears of payments due under an income payments agreement fell within a subsequent bankruptcy.

BA Peters PLC [2010] 1 BCLC 110.

Suburban Style Bar Company Ltd [2009]: acting on behalf of administrators to recover c £3m worth of assets.

Cathedral Court (Blackburn) Ltd [2009]: acting on behalf of administrators and their appointor in resisting application to remove them pursuant to para 81 of Sch B1 to the Insolvency Act 1986.

Abacrombie & Co Ltd [2008] EWHC 2520 (Ch): acting on behalf of Secretary of State in a public interest winding up petition heard over 5 days.

OMP Leisure Ltd [2008] BCC 67.

Quinn v Mehta [2006] All ER (D) 163 (Jun). Re a Company [2005] All ER (D) 60 (Feb). Kwik Save Group of Companies.

Homeform Group of Companies (Sharps, Möben, Dolphin). Almidani (for the bankrupt) [2006] B.P.I.R. 620.

The Accident Group Ltd