

# 12

King's Bench Walk

## David Sharpe QC

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Silk: 2020  
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### AREAS OF EXPERTISE

Personal Injury, Clinical Negligence, Industrial Disease, Professional Negligence, International & Travel, Product Liability, Inquests, Property, Construction, Mediation, Arbitration, Other

### JUDICIAL APPOINTMENTS

Legal Chair Valuation Tribunal: 2008 to present

David is a specialist practitioner focusing on clinical (and professional) negligence, industrial disease/personal injury, Coronial and property law. David practices within all areas of England & Wales but also within Northern Ireland (and the Republic of Ireland) and considers himself to be the Irish branch of 12KBW.

He practiced as a doctor up to Consultant level in Emergency Medicine prior to qualifying as a Barrister and is able to bring this additional expertise and knowledge to all cases relating to medical practice and/or trauma.

As a practitioner within multiple jurisdictions David has developed expertise of jurisdictional issues and has built an international aspect to his practice. He regularly receives instructions from overseas.

David has adopted ADR and is a qualified arbitrator and mediator. He is happy to act either as arbitrator/mediator or as counsel in such ADR process.

David has embraced modern technology into legal practice and is able to accept e-briefs and undertake video-conferencing.

### Personal Injury

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David acts in all areas of personal injury law, including road traffic, employers' liability, public liability, occupiers' liability, sexual abuse and other intentional torts. As a former hospital doctor he has a comprehensive appreciation of the effect of trauma and has developed a practice focusing upon complex injuries such as brain and spinal damage.

He acted in the Omagh Bomb civil action which has been reported as the largest civil trial in UK legal history. This was a Fatal Accident claim by 12 Claimants for unlawful killing arising out of the terrorist bomb in Omagh Town Centre on 15<sup>th</sup> August 1999. The trial heard evidence under EC Regulation 1206/2001 (and travelled to Dublin to hear evidence in the Irish Courts) and considered complex evidence and legal issues. The case is reported at *Breslin & Others v Murphy*

& Daly [2013] NICA 75 and [2013] NIQB 15.

## Clinical Negligence

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David is an expert in this area of law. As a former Emergency Medicine specialist doctor he has a complete understanding of medical practice and what goes wrong. David acts for both Claimants and Defendants (Trusts, NHSLA, MPS/MDU, MOD, and Private Hospitals/Consultants) in all aspects of clinical negligence and in particular complex liability and high value cases.

Recent cases include:

*CN v SE Trust (2014)* – Cerebral Palsy case settled at lump sum of £1.4m lump sum and PPO of £145,000 per annum;

*SR v RHB (2015)* – Cerebral Palsy case settled at £1.8m lump sum and PPO of £100,000 per annum. Claimant had a normal life expectancy and total case value was estimate in excess of £6.25m;

*VC v N Trust (2016)* – Cerebral Palsy case settled at £1.65m lump sum and £155,000 per annum;

*NL v B Trust (2015)* – Successful defence of a 'cauda equina' injury claim with discontinuance of claim at negotiations immediately prior to trial;

*AM v B Trust (2016)* – Settlement of £175,000 in respect of negligent use of long-term androgen therapy for angio-oedema causing virilisation of Claimant

*AB v IC Trust (2016)* - Settlement of £65,000 in respect of missed scaphoid fracture in a successful TV chef;

## Industrial Disease

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David has considerable experience of advising and advocacy in relation to both liability and quantum in industrial disease claims, particularly in the context of noise induced hearing loss, HAVS, mesothelioma and other asbestos-related diseases.

Over the past five years David has acted on behalf of the MOD, MOJ and Police in hundreds of claims from police officers, soldiers and prison officers who underwent regular weapons training without adequate hearing protection. In addition he has also been instructed on behalf of Claimants in respect of a large number of asbestos related disease cases arising mainly out of the ship-building industry.

David brings together a medical knowledge of the disease and a thorough understanding of the legal issues including causation issues and limitation.

## Professional Negligence

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David has extensive experience of bringing and defending claims involving a wide range of professional and other specialist advisers, including those operating in legal services, the insurance sector, the financial sector, the construction industry, energy and natural resources, accountants, and auditors.

## International & Travel

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David practices across different jurisdictions (England, Northern Ireland and Republic of Ireland) and is regularly instructed to advise on jurisdiction between the constituent parts of the UK and between the UK and other countries. He has recently received instructions from Australia, USA and South Africa in relation to jurisdictional issues and advice on International Arbitration, UK and Irish law. David also advises on claims arising out of accidents abroad, including those brought under the Package Travel Regulations, and maritime cases. This is a burgeoning area of work and David is keen to develop his international practice.

## Product Liability

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David has expertise in this practice area encompassing tortious and contractual, commercial and personal injury, claims involving defective products, regulatory proceedings and advising compliance with relevant consumer protection legislation.

## Inquests

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David is an authority on Coronial Law and Practice and is regularly instructed to appear at Inquests. He has experience of Article 2 compliant Middleton and jury inquests. He regularly acts for families, insurance companies, hospitals, doctors and state bodies such as the Police, MOD, and Prison Service. He also acts as Counsel to the Coroner in contentious and complex Inquests.

He specialises in hospital death Inquests and is currently engaged as Counsel to the Coroner in an Inquest which was directed by the Attorney General in which allegations of cover-up and unlawful killing have been made following treatment for cholangiocarcinoma.

David also has experience of Judicial Review proceedings related to Inquests and Coronial law.

## Property

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David has considerable experience in all areas of property law including boundary disputes, landlord and tenant, adverse possession, easements, business tenancies and property damage ranging from multi-million pound commercial premises to client's homes.

David is an author for Lexis PSL on Property Law Issues providing regular articles and advice.

Notable cases include:

*Sterritt v Allied Irish Banks Ltd & Others [2013] NICH 6* – Acted for bank in this action which considered the effect of registration of a Mortgage Debenture and Mortgage charge upon deposits paid by various purchasers of 47 apartments within a development;

*Patterson –v- Shaw & Anor [2010] NICH13; [2011] NIQB 46; [2014] NICA 70* – A case which started out as a right of way dispute and ended up as a treatise on vexatious claims in the Court of Appeal;

*Odyssey Cinemas Ltd v Village Theatres Three Ltd and Sheridan Millennium Ltd (Third Party) [2010] NICA 25, [2010] NICH 1* – acted unled in a £3.5m Chancery action relating to the largest sporting and entertainment complex in Northern Ireland;

*B v H* – Current case in which the Claimant who has an easement over defendant's land for passage of water pipes seeks a declaration and injunction to permit replacement with significantly larger pipes to supply intensified fish farm.

## Construction

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David is experienced in construction and engineering disputes. He is familiar with a wide range of contract types, including the various JCT and NEC forms, the RIBA standard forms of appointment, as well as bespoke construction contracts and PFI/PPP. David regularly undertakes resolution of construction disputes by arbitration, adjudication, and mediation.

## Mediation

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David has been an accredited mediator since 2004 and has undertaken mediations in a variety of legal practice areas including property, public law, personal injury and commercial law. He also has experience of representing clients at mediation and in the enforcement of mediation agreements.

## Other

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(A) Arbitration – David is a qualified Arbitrator (CI Arb) and undertakes Arbitration work both as Counsel and Arbitrator. He has experience of domestic arbitration (Arbitration Act) and International Arbitration (LCIA, UNCITRAL, ICC and Ad hoc).

(B) Judicial Review & Public Law – David regularly undertakes Judicial Review work related to his other areas of practice and on behalf of the Crown as a member of the AG's A panel. This ranges from reviewing a Coroner's decision, or that of a Planner, to defending the Police against claims for false arrest/imprisonment arising from defective warrants.

(C) Privacy & Confidential Information- David provides advice and advocacy in respect of confidential information, data protection and claims arising from breach of privacy.

(D) Professional Disciplinary/ Regulation – David acts for the BSB, Bar Council of NI, and Police. He also represents Doctors, Dentists, Pharmacists, Accountants, and Lawyers before their professional conduct committees and in respect of Appeals to the High Court arising thereof.

## Qualifications & Awards

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Called to the Bars of England & Wales, Northern Ireland and Ireland

International Bar Association

MCI Arb 2015

Direct Access Training Course 2014

Member Faculty of Forensic & Legal Medicine 2006

Accredited Mediator 2004

Fellowship of the Royal College of Surgeons 2000

Certificate in Professional Legal Studies 1999

Bachelor of Legal Science Hons (QUB) 1998

DPH (University of Cambridge) 1995

Membership of the Royal College of Physicians 1993

Bachelor of Medicine, Bachelor of Surgery, Bachelor of Obstetrics (Distinction) Queen's University of Belfast 1990

Finance Monthly UK Corporate Barrister of the Year 2016

## Appointments & Memberships

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Legal Assessor MPTS 2009 to present

Legal Assessor NMC 2011 to present

Attorney General's Panel of Counsel – Panel A (NI)

Non-Executive Director HTA 2005-09

Professional Negligence Bar Association

Personal Injury Bar Association

Chartered Institute of Arbitrators

London Common Law & Commercial Bar Association

British Irish Commercial Bar Association

Commercial Bar Association

## Publications

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Regular articles on Property Law Lexis PSL

Lawyer Monthly – Article on ADR December 2015

## Cases

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*Breslin & Others v Murphy & Daly* [2013] NICA 75 and [2013] NIQB 15 – Fatal Accident claim by 12 Claimants for unlawful killing arising out of the terrorist bomb in Omagh Town Centre on 15<sup>th</sup> August 1999. Reported by BBC as the largest civil action in UK legal history.

*The Commissioners for Her Majesty's Revenue & Customs –v- Aiga Spiridinova* [2014] NICA 63 – European law meets UK tax. This case considered the issue of right of residence and tax status.

*DHSSPS v The Information Commissioner and The Attorney General for Northern Ireland (EA/2013/0081)* – Case considered whether the Attorney-General's advices could ever be disclosed under FOI;

*The Public Inquiry into Hyponatremia-related Deaths* – 20/2/12 to 30/10/13. Acted for Department of Health and Former Chief Medical Officer in respect of deaths caused by hyponatremia and alleged cover-up of deaths.

*Donnelly v Police Service of Northern Ireland and Northern Ireland Court Service* [2011] NICA 66, [2010] NIQB 5 – Judicial Review in respect of police powers under POCA 2002

*Thiruvengadam v General Medical Council* [2010] NIQB 123 – successful appeal by doctor against strike-off by GMC.

*Twibill v Pharmaceutical Society of Northern Ireland* [2010] NIQB 41, [2011] NIJB 9– successful appeal against Pharmaceutical Society;

*Re PF's and JF's Application for Judicial Review* [2011] NIQB 20, [2011] NI 210- Successful JR in respect of payments for care of a severely disabled adult;

*Re Turley* [2013] NIQB 89 – Judicial Review of a Housing Association's allocation of housing including allegations of bias;

*McLarnon & Others, Re Judicial Review* [2013] NIQB 40 – successfully acted for police in defence of claim for false arrest/imprisonment;

*Atkinson v Police Service of Northern Ireland* [2015] NIQB 92– Noise Induced hearing loss test case in which quantum for police cases was considered;