



David Brook

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## David Brook

"Clients adore him and always say how delighted they are to have him on their side... 'He is able to grasp issues quickly, summarise them succinctly and give the clients confidence in his knowledge of the subject...' 'He has very broad experience and is very good at looking at the commercial issues and what the client is trying to achieve.'"

- Legal 500 2016 & Chambers UK 2017

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With a practical background in commerce and industry, David Brook acts in employment, commercial, contract and business related matters. Principally instructed by companies, employers, senior employees and local authorities he undertakes advisory work, mediation, litigation in tribunals/courts, and takes matters on appeal. He accepts instructions from solicitors and on direct access, is an employment tribunal Judge and an accredited mediator.

## Employment

Experienced in both commercial and employment law with particular expertise in unfair/wrongful dismissal, discrimination, restrictive covenants, whistle blowing, restructuring the workforce, TUPE, individual and large scale redundancies, drafting/variations of contracts and consultancy agreements. He regularly negotiates exit agreements and has extensive practical experience in obtaining/resisting injunctive relief.

David is ranked as a leading lawyer in Chambers UK Bar 2019.

## Representative Cases

- *Tyshna v MOT (2015 High Court hearing pending)*  
Scope/extent/interpretation of REC Regs to industry norm method of fees charged by employment agencies.
- *Cliffe v T Systems Plc (2014 Employment Appeal Tribunal)*  
Appeal from first instance re correct method of remedy calculation where unfair dismissal but redundancy pending.
- *Ojikutu v London Borough of Camden (2012 ET and on Appeal)*  
Claims in unfair dismissal, sex and race discrimination brought by dismissed senior in house lawyer against employer and former colleagues. Proceedings and subsequent appeal successfully resisted.
- *H v J (2011 Reporting Restrictions)*  
Highly sensitive matter involving allegation of systematic rape of claimant by employer client over three

year period.

- *Lister v Taylor & Others (2011 ET and on Appeal)*  
Housekeeper for prominent business person and family suspected of impersonating family member and dismissed. Proceedings, including interim relief and appeal, successfully resisted.
- *Clarke v NIBC Bank 2010*  
Director dismissed for some other substantial reason – his claims that true reason for dismissal “whistleblowing” disclosures dismissed.
- *Onwuka v Spheron (3) (Employment Appeal Tribunal December 2007)*  
Claimant’s Appeal on grounds of perversity, Tribunal finding Claimant did not TUPE Transfer. Whether TUPE Regulations engaged, weight to be placed on ‘key’ documents, meaning of economic entity and employee’s assignment to same.
- *Onwuka v Spheron (2) (Employment Appeal Tribunal April 2007)*  
The extent and relevance of the two step ‘Igen’ analysis in determining whether adverse treatment racially motivated.
- *Astbury v Gist and Pertemps (2005)*  
On referral back to the Tribunal from EAT – whether necessary or appropriate to join an employment agency in order for Tribunal to examine tri partite employment arrangement as identified by the EAT prior to referral back to ET.
- *Glidepath BVI v JThompson (High Court April 2005 and in Court of Appeal)*  
Intervenors’ action for disclosure of court file for related employment action, jurisdiction in issue, limit of confidentiality within arbitration proceedings.
- *Onwuka v Spheron & Others (2004 EAT)*  
Powers of a Tribunal to review interlocutory judgments and orders under Rule 10 of the 2004 Regulations.
- *Lake v Larco Ltd (Employment Tribunal Appeal November 2004)*  
‘Calderbank’ offer made by employer for each side to walk away, based on “overwhelming” documentary evidence against employee, made before exchange of witness statements and rejected by employee – whether Tribunal right to award Respondent’s full costs against employee for unreasonably rejecting offers.
- *Olatokun v Ikon (Employment Tribunal Appeal May 2004)*  
Race discrimination – whether employer’s insistence that employee produce her passport or be dismissed was discriminatory act.
- *Steen v Ikon (Employment Tribunal Appeal February 2003)*  
Whether direct written reference to a revised Commission Pay Plan constituted adequate notice of unilateral variation of contractual terms and conditions.
- *Simon v Pertemps (Employment Tribunal Appeal May 2003)*  
Relevant considerations when awarding costs in Employment Tribunal – effect of ‘Calderbank’ offer in Tribunal proceedings.

- *Elliott v Pertemps (Employment Appeal Tribunal 2003)*  
Whether impairment condition should relate to cause or effect where initial injury not, in itself, falling with Section 1 of the DDA.
- *Clarke v Crown Prosecution Service (Employment Tribunal Appeal 2002)*  
Direct Sex Discrimination case against the CPS by Crown Prosecutor allegedly denied promotion by reason of gender – whether words “Mad Mary” discriminatory in themselves.
- *Pertemps v Moore (High Court 2002)*  
Injunctive Relief – whether restrictive covenants extended to pre-existing Clients of employee director.

## Commercial, Insurance & Arbitration

David has held senior positions in business and has wide practical experience of contract, commercial and business related matters. In his commercial practice he predominantly acts for commercial and professional clients, in both non-contentious and litigious matters, arbitration, and in mediated resolutions. He has particular expertise in obtaining/resisting injunctive relief, particularly involving commercially sensitive/confidential information requiring urgent interlocutory relief. Recent work includes negotiated settlements in high value director/shareholder disputes acting for the senior executive of an international bank, and as mediator in a multiparty employee/employer dispute involving a national hotel group.

“Takes a commercial view and is good at finding solutions to apparently impenetrable problems” “has bundles of experience and provides high level commercial advice” Chambers and Partners

### Representative Cases

- *Mes - Dea (Switzerland) v Frazer Nash (High Court June 2010)*  
Supply of bespoke electric batteries – whether ‘outright sale’, on ‘sale or return’ or supplied on a ‘joint venture’ basis – construction of contractual clauses, liability for damage in transit, duty to mitigate.
- *In the Matter of Fuji (London 2009)*  
Mediation of substantial trade debt; Interpretation of ‘claw back’ and ‘percentage discount’ clauses in sole distributor Agreement.
- *Intournet & Dolce Vita v Marcou (High Court June 2000)*  
Agreement for the sale of entire majority shareholding in UK company – whether enforceable or frustrated – whether repudiatory breach by purchaser and whether accepted by seller.

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### Appointments

- Employment Judge (2002)
- Accredited Mediator

## Memberships

- Employer Lawyers Association
- Employment Lawyers Bar Association

## Education

- Dip Law London
- BA Phil London

## Awards & Recognitions

