



Douglas Maxwell

Call 2021

Tel: +44 (0)20 7583 9020
Email: dmaxwell@hendersonchambers.co.uk

Douglas has a broad practice, with experience as sole and junior counsel in commercial litigation, product liability, group actions, property law, public law, and financial services.

Recent instructions and work include acting for a German car manufacturer in the NOx Emissions Group Litigation, advising on a human rights representative action, giving evidence to a Parliamentary Public Bill Committee on human rights issues arising from the Leasehold and Freehold Reform Bill, and representing major banks in consumer credit disputes.

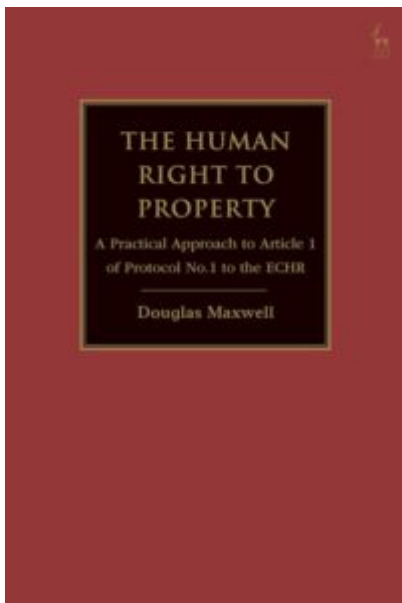
Before being called to the Bar, Douglas obtained a PhD from the University of Cambridge, worked in research roles at the Law Commission and Oxford University, and was awarded a Lord Astbury Scholarship from Middle Temple.

Douglas published his first book, *The Human Right to Property: A Practical Approach to Article 1 of Protocol No. 1 to the ECHR* (Hart Publishing, 2022) in July 2022.

Douglas welcomes instructions across all areas of Chambers' practice.

For more information about the way barristers at Henderson Chambers work, including our terms of engagement, fee transparency statement and our complaints process, please [click here](#). Barristers are regulated by the Bar Standards Board.

Please [click here](#) for a copy of Douglas Maxwell's privacy policy.



Group Actions

Douglas has experience in complex and high value Group Litigation Orders and representative actions concerning product liability, environmental law, and human rights.

Instructions include:

- Currently being led by Geraint Webb KC in a product liability and environmental group action.
- Advising on a proposed human rights representative action.

Douglas has assisted on group actions concerning mass tort, medical devices, and products. He contributed to the chapter “Product Liability: Medicines and Medical Devices” in Powers KC (ed) *Clinical Negligence* (Bloomsbury Publishing 2023) and is co-authoring a chapter on jurisdictional challenges in multi-party actions in the forthcoming edition of Hodges and Webb KC *Multi-Party Actions* (Oxford University Press (forthcoming)).

Property

Douglas’s practice covers the full range of real property and landlord and tenant-related advice, litigation, and ADR.

Instructions include:

- Acting on behalf of a leaseholder respondent in an application made by their landlord to the First Tier Tribunal (Property Chamber) to determine a breach of the repairing covenants.
- Advising the purchaser of a large commercial premises in London on the application and effect of the

Electronic Communications Code.

- Acting for a landlord in a dispute over the mutual enforcement of absolute covenants, including a preliminary issue hearing on the application and interpretation of *Duval v 11-13 Randolph Crescent Ltd* [2020] UKSC 18.
- Acting for a commercial tenant in an appeal against an alleged statutory nuisance under the Environmental Protection Act 1990 ss.79 and 80.
- Advising a charity on whether a structure on their land was a fixture or fitting.
- Advising a leaseholder in relation to a claim against the freeholder and management company for unreasonably withheld consent to an improvement under the Law of Property Act 1925 s.19.
- Acting for multiple tenants seeking to enforce their landlord's implied repairing obligations under the Homes (Fitness for Human Habitation) Act 2018, including a claim for contempt of court against a local authority.
- Drafting a defence and counterclaim in relation to an alleged repudiation of an AST.
- Regularly appearing in possession and forfeiture claims.

Douglas is a member of the Property Bar Association. He has an extensive publishing record in property law journals. He has spoken at the leading property and housing law conferences, such as Modern Studies in Property Law and the Association for Law Property & Society. He has in-depth knowledge of cases concerning property law and human rights, as is evidenced in his PhD from the University of Cambridge and his first book, *The Human Right to Property* (Hart Publishing 2022).

Banking and Consumer Credit

Douglas is regularly instructed as sole counsel on a broad range of consumer credit disputes.

Instructions include:

- Multiple claims brought under s.75 of the Consumer Credit Act 1974. Including claims concerning the alleged mis-selling of solar panels.
- Multiple claims brought under s.140A-C of the Consumer Credit Act 1974 for alleged undisclosed commission relating to PPI and motor finance.
- Mortgage possession proceedings.

Commercial

Douglas welcomes instructions on all commercial law matters. He has experience in debt claims and all claims concerning property law.

Representative Cases

- *Punjab Exotic Foods Ltd v Sira Superstore Ltd*
Successfully appearing as sole counsel in a 1-day debt claim for over 300 unpaid invoices.

- *S H Developments Ltd and S H Properties Ltd v Nadav - Defence and counterclaim for commission paid incorrectly to an estate agent for over 20 years*
Acting for a defendant landlord in a case brought by an estate agent for unpaid commission on rental income. Successfully pursuing a counterclaim for the re-payment of sums on the basis that payments had ceased as the contract was not enforceable and previous payments made over the last 20 years had been incorrectly made. This case concerned contractual interpretation, the application of *Office of Fair Trading v Foxtons Ltd* [2009] EWHC 1681 (Ch), unjustified enrichment, and the Unfair Terms in Consumer Contracts Regulations 1999.

Public and International Law

Douglas welcomes instructions on all public and administrative law matters, including environmental law, human rights, transport, procurement, local government, and planning.

He is uniquely placed to advise on all cases concerning the right to the peaceful enjoyment of possessions (the human right to property) in Article 1 of Protocol No.1 to the ECHR.

Douglas spent three months as a Judicial Assistant in the Administrative Court, where he worked on cases concerning environmental, EU, highways, contaminated land, protest, human rights, and planning law.

Instructions include:

- *B v Secretary of State for Work and Pensions* – Acting in the Upper Tribunal for a pensioner deprived of their state pension while held on remand and subsequently given a suspended sentence, raising statutory interpretation and human rights (Article 1 of Protocol No.1 and Article 6) issues.
- Acting for the Department for Levelling Up, Housing & Communities in relation to the UK Covid-19 Inquiry.
- Advising a non-ministerial government department on a potential consumer rights claim.

Douglas is a contributor to Lexis PSL Public Law. He has published a book on Article 1 of Protocol No.1 and has multiple articles in leading public law journals such as *Public Law* and the *European Law Review*.

Health & Safety and Construction Product Liability

Douglas has assisted on a range of health and safety matters, including cases concerning fatal accidents, construction products, and allegations of defective medical devices.

He has an in-depth understanding of the regulatory framework relating to fire safety. He has published articles and commentary on the Building Safety Act 2021, the new Building Safety Regulator, and the new construction product regulatory regime.

To mark the 150th anniversary of the TCC, Douglas was invited to write a chapter (with Rachel Ansell KC) titled 'Fire at the Palace: 150 Years of Fire Safety in Buildings' in Sir Peter Coulson and David Sawtell (eds) *The*

History of the Technology and Construction Law on its 150th Anniversary (Hart Publishing 2023)

Personal Injury

Douglas accepts instructions across the full range of personal injury law. He has assisted leading Counsel in high-value claims in negligence, advising on all areas of liability and quantum.

Instructions include:

- A claim concerning facial injuries and burns sustained at work.

He has previously worked on the regulatory reform of causation and admissions of fault in personal injury law with a particular focus on medical negligence claims in the Scottish Parliament. He has published in this area (see Douglas Maxwell ‘The Apologies (Scotland) Act 2016: An Innovative Opportunity in the Twenty-First Century or an Unnecessary Development’ (2016) *Journal of Personal Injury Law* 79-89).

Appointments

- Government Legal Department, Junior Junior scheme (Sept 2022 to 2026)

Publications

Books

- ‘*The Human Rights to Property: A Practical Approach to Article 1 of Protocol No. 1 to the ECHR*’ (Hart Publishing 2022)

Book Chapters

- (with Rachel Ansell KC) ‘Fire at the Palace: 150 Years of Fire Safety in Buildings’ in Sir Peter Coulson and David Sawtell (eds) *The History of the Technology and Construction Law on its 150th Anniversary* (Hart Publishing 2023) (*forthcoming*)

Practice Notes

- (with Adam Heppinstall KC) ‘ECHR Article 6 (Practice Note)’ *LexisNexis PSL Public Law*
- (with Adam Heppinstall KC) ‘ECHR Article 10 ‘Freedom of expression’ (Practice Note)’ *LexisNexis PSL Public Law*

Selected Articles

- ‘Building Safety: Still under construction’ (2022) 172 *New Law Journal* 11
- ‘(Not) going Dutch: compelling states to reduce greenhouse gas emissions through positive human rights’ (2020) *Public Law* 610-621
- (with David Elvin KC) ‘Food for thought when varying planning permission’ (2020) 4 *Journal of Planning and Environmental Law* 580-592
- (with Dr Matthew Bell) ‘(How) Can a Building Safety Regulator Help Cure the UK’s Defects Crisis? Analysing the Current Proposals in Light of Australia’s Experience’ (2020) 2 *Construction Law Journal* 3-17.
- (with David Sawtell) ‘Legal Perspectives on Putting Buildings Right Post-Grenfell: Learning Through Interdisciplinary and Comparative Approaches’ (2020) 1 *Journal of Housing Law* 15-20.
- (with Professor Susan Bright) ‘Housing After Grenfell’ (2019) 169 *New Law Journal* 15-18.
- (with Professor Susan Bright) ‘Human Rights and State Accountability for Fire Safety in Private Blocks of Flats’ (2019) *Human Rights Law Review* 1
- ‘The end of the road for proportionality review when hearing claims for possession by private sector landlords?’ (2019) *Journal of Planning and Environmental Law* 435-443
- ‘Broadening the human rights discourse, realising socio-economic rights, and balancing rights to property’ (2019) *Public Law* 121-145
- ‘Mistaken Rights to Property, Agricultural Tenancies, And Good Governance’ (2018) 10 *Journal of Planning and Environmental Law* 1076-1089
- ‘Reeling in Classifications of Interference Under Article I of the First Protocol: R (on the application of *Mott*) v *Environment Agency*’ (2018) 6 *Journal of Planning and Environmental Law* 639-647
- ‘Article I of the First Protocol and a Tenants Right to Compensation’ (2017) 81 *Conveyancer and Property Lawyer* 475-487
- ‘Article I of the First Protocol: A Paper Tiger in the Face of Compulsory Purchase Orders for Private Profit’ (2017) 12 *Journal of Planning and Environmental Law* 1337-1357
- ‘Disputed Property Rights’ (2016) 41 *European Law Review* 900-925
- ‘The Apologies (Scotland) Act 2016’ (2016) 61(8) *Journal of Personal Injury Law* 79-94

Memberships

- The Collective Redress Lawyers Association (CORLA)
- The Constitutional & Administrative Law Bar Association (ALBA)
- The UK Environmental Law Associations (UKELA)
- The Commercial Bar Association (COMBAR)
- The Property Bar Association (PBA)

Education

- PhD (Cantab)
- MPhil (Cantab)
- LLB (Hons) First Class
- Lord Astbury Scholar (Middle Temple)
- HSS PhD Scholarship (Cambridge University)