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## David Matthias QC



QC 2006  
Year of call 1980

David Matthias Q.C. FCI Arb was called in 1980 and took Silk in October 2006. He is a qualified Arbitrator being a Fellow of the Chartered Institute of Arbitrators, and is a qualified and accredited Mediator.

David acts for a wide range of individual, corporate and local authority clients, specialising in licensing, judicial review, commercial and property dispute resolution, planning and compulsory purchase, and local government law. He has a wealth of experience and a strong reputation for advising and for conducting both litigation and arbitration in major cases in all those areas - recently, for example, on behalf of clients including the Sutton Harbour Group, Bristol Rovers FC, Capita, Datasharp UK, West Ham United, Westminster City Council, the London Boroughs of Camden, Havering and Hackney, and Casinos Austria International GMBH. David's overseas work has included appearing for a consortium of property developers before the Court of Appeal in the Turks and Caicos Islands, and appearing before the European Court of Justice in Luxembourg on behalf of Westminster City Council in *Hemming?* - the most important licensing case of recent times. He is instructed by major firms of solicitors and some of the busiest local authorities in the country, as well as acting directly for companies, individuals and pressure groups who choose to engage him on their own account on a Licensed Access or Direct Public Access basis.

As a qualified arbitrator since 1998 and a qualified mediator, David enjoys a high reputation for arbitration ? both as an advocate and a sitting arbitrator ? and for mediation

## Testimonials

"Leading silk", The Legal 500 UK Edition

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"An exceptional barrister, who is incredibly well clued up on the law" and "Hugely rated in the Supreme Court." The Legal 500 UK Edition

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"Strong both technically and legally... always prepared to muck in and work hard for the clients..." The Legal 500 UK Edition

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"Great technical barrister." The Legal 500 UK Edition

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"Has made a name for himself" for being "subtly persuasive in court." Chambers and Partners UK Guide

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"His broad practice includes an active public law portfolio, and he has conducted a number of important judicial reviews in the past year." Chambers and Partners UK Guide

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"He has unrivalled knowledge of licensing law." Chambers and Partners UK Guide

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"A top-notch barrister who is very easy to work with." Chambers and Partners UK Guide

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"He is a force of nature and incredibly effective in court - Judges are convinced by his arguments." Chambers and Partners UK Guide

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## Areas of Practice

Please click on the following areas of expertise to see more information.

- Licensing
  - Judicial Review
  - Commercial and Property Litigation and Arbitration
  - Planning and Compulsory Purchase
  - Local Government Law
  - ADR
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## Cases

Recent reported cases of note include:

- **R (UTAG & LTDA) v Transport for London & Mayor of London [2021] EWHC 72 (Admin) and [2021] EWHC 73 (Admin)**
  - Two conjoined claims for judicial review brought by two trade bodies representing the 'Black Cab' industry (the United Trade Action Group and the Licensed Taxi Drivers' Association) to challenge the Mayor of London's Streetspace Plan and associated Guidance, and a Traffic Management Order prohibiting the use of motorised vehicles, including Black Cabs on Bishopsgate in the City of London. Lang J. ordered the quashing of the Plan, the associated Guidance and the Traffic Management Order.
- **R. (on the application of We Love Hackney Ltd) v London Borough of Hackney [2019] EWHC 1007 (Admin)** Local authority's successful application for security for costs against an applicant seeking to challenge the authority's Licensing Policy for alleged breaches of the Public Sector Equality Duty under the Equality Act 2010, and the authority's successful opposition to the applicant's cross application for a Cost Capping Order.
- **London Borough of Havering v SPH Property Holdings 2 Ltd & Others - Claim No. BL-2019-001561** Local authority's urgent applications for injunctive relief under section 214A of the Town and Country Planning Act 1990 brought before the High Court (Business and Property Courts, Property Trusts and Probate List), in order to prevent further offences under sections 210 and 211 of the Act involving the largescale felling of mature trees in breach of tree preservation orders.
- **Big Country Ltd v Westminster City Council** ? Appeal by the company owning and running the famous Windmill lap dancing club against the decision by the licensing authority to refuse its application for the renewal of its Sexual Entertainment Venue Licence. The appeal ran for 3 days (8/10/18 ? 10/10/18) with the judgment of the Senior District Judge (Chief Magistrate) dismissing the appeal

being delivered on 17/10/18.

- **Wyldecrest Parks v London Borough of Havering [2018] UKUT 0354 (LC)** Local authority's successful appeal to the Upper Tribunal (Lands Chamber) raising important points of law under the Caravan Sites and Control of Development Act 1960 and the Mobile Homes (Site Licensing) (England) Regulations 2014.
- **LPHCA Ltd (t/a Licensed Private Car Hire Association) v Transport for London (TfL) [2018] EWHC 1274 (Admin)** Challenge by the LPHCA to TfL's decision to make changes to the fee structure for private hire operator licensing in Greater London under the Private Hire Vehicles (London) (Operators' Licences) (Amendment) (No.2) Regulations 2017, on the basis of an unlawful consultation exercise and an allegation that the new fee structure would involve the unlawful cross subsidisation of other licensees by private hire operators.
- **Hemming & Others v Westminster City Council [2017] UKSC 50** Licence fees; Sex establishments; Recoverability of costs of enforcement by licensing authorities; EU Directive 2006/123/EC ('the Services Directive'); Provision of Services Regulations 2009 (SI 2009/2999); Schedule 3 Local Govt. (Misc. Provisions) Act 1982.
- **R (on the application of Muir) v Wandsworth Borough Council [2017] EWHC 1947 (Admin)** Open Spaces; Local government powers; Local authority granting long lease of premises on common land to limited company; Whether facility for "public or recreational use"; Open Spaces Act 1906; Ministry of Housing and Local Government Provisional Order Confirmation (Greater London Parks and Open Spaces) Act 1967.
- **Hemming & Others v Westminster City Council - Case C-316/15 [2017] PTSR 325** Preliminary referral to ECJ in Luxembourg re compatibility of Westminster's sex establishment licensing scheme with EU Directive 2006/123/EC ("the Services Directive").
- **Sainsbury's Supermarkets Ltd v Bristol Rovers (1883) Ltd [2016] EWCA Civ 160** Conditional Contract for acquisition of real estate; obligation to procure acceptable planning permission; obligations of Good Faith and to use All Reasonable Endeavours; obligation to undertake s. 73 application and/or s. 78 appeal under TCPA 1990.
- **Sainsbury's Supermarkets Ltd v Bristol Rovers (1883) Ltd [2015] EWHC 2002 (Ch)** Conditional Contract for acquisition of real estate; obligation to procure acceptable planning permission; obligations of Good Faith and to use All Reasonable Endeavours; obligation to undertake s. 73 application and/or s. 78 appeal under TCPA 1990.
- **Hemming & Others v Westminster City Council [2015] UKSC 25** Licence fees; Sex establishments; Recoverability of costs of enforcement by licensing authorities; EU Directive 2006/123/EC ('the Services Directive?'); Provision of Services Regulations 2009 (SI 2009/2999); Schedule 3 Local Govt. (Misc. Provisions) Act 1982.
- **Dudley M BC v Dudley Muslim Association [2014] EWCA Civ 911** Abuse of power; Legitimate expectation; Local authorities; Particulars; Detrimental reliance; Specific performance; Striking out; Permission for second appeal.
- **R. (on the application of Bednash) v Westminster City Council - Divisional Court [2014] EWHC 2160 (Admin)** Interim authority notices; Local authorities; Premises licences; Statutory interpretation; Time limits; Transfers.

- **R. (on the application of Bean Leisure Trading A Ltd) v Leeds City Council [2014] EWHC 878 (Admin)** Lap dancing clubs; Sex entertainment licences; Local government policy; Revocation
- **R. (on the application of D&D Bar Services Ltd) v Romford Magistrates Court [2014] EWHC 344 (Admin)** Compliance with statutory requirements; Irregularities; Licensing authorities; Notices; Premises licences
- **Dudley Muslim Association v Dudley MBC [2014] EWHC 296 (Ch)** Abuse of power; Legitimate expectation; Local authorities; Particulars; Detrimental reliance; Specific performance; Striking out; Transfer of land.
- **R. (on the application of Merlot 73 Ltd) v City of Westminster Magistrates' Court [2013] EWHC 3416 (Admin)** Licensing appeals; Judicial decision-making; Proportionality; Licence conditions; Licensing committees; Magistrates' courts; Nightclubs; Premises licences.
- **Estates & Agency Holdings Ltd v Westminster Magistrates' Court [2012] EWHC 4637 (Admin)** Amendments to case stated; Concurrent judicial review; Premises licences; Revocation.
- **FCL (London) Ltd v Lisa Voice [2012] EWHC 3684 (QB)** Agency agreements; Fees; Financial advice; Financial services; Inheritance tax; Interpretation; Liability to tax
- **Franbar Holdings Ltd v Casualty Plus Ltd [2011] EWCA Civ 1364** Appeal notices; Compulsory winding-up; Permission to appeal; Striking out
- **Franbar Holdings Ltd v Casualty Plus Ltd [2011] EWHC 1161 (Ch)** Expert determination; Share sales; Share valuation; Summary judgments.
- **Franbar Holdings Ltd v Casualty Plus Ltd [2011] EWCA Civ 60** Shareholders' Agreement, option to purchase minority shareholding, valuation of minority shareholding.
- **R (on the application of A3D2) v Westminster City Council [2011] EWHC 1045** Licensing Policies, cumulative impact policies, the significance of surrendered premises licences
- **R (on the application of Albert Court Residents' Association) v Westminster City Council [2011] EWCA Civ 430** Variation applications under the Licensing Act 2003, legitimate expectation in relation to the conduct of licensing authorities in the performance of their statutory powers and obligations
- **Wollenberg v Casinos Austria International GMBH [2011] EWHC 103 (Ch)** Domestic and international commercial agency agreements, effective cause, solicitors' fiduciary duties to clients, repudiatory breach
- **R (Hope and Glory Public House Limited) v City of Westminster Magistrates' Court [2011] EWCA Civ 31** Licensing appeals, function of Magistrates' Court in licensing appeals, Human Rights Act  
**Franbar Holdings Ltd v Casualty Plus Ltd [2010] EWCA Civ 1618 (Ch)** Security for costs of an appeal.
- **Franbar Holdings Ltd v Casualty Plus Ltd [2010] EWHC 1164 (Ch)** Shareholders' Agreement, option to purchase minority shareholding, valuation of minority shareholding.
- **Stephen Barclay v Fairfax v Fairfax I.S. PLC [2010] EWHC (Ch)** Merchant banking, agency, commissions, effective cause.
- **Beauchamp Pizza Company v Coventry City Council [2010] EWHC 926 (Ch)** Company dissolution, administrative restoration - section 1028 Companies Act 2006, premises licence lapsing - section 27 Licensing Act 2003, status of premises

licence following administrative restoration.

- **Muffin Break and Others v Henry Boot Developments [2010] EWHC 358 (Ch)** Fraudulent misrepresentation, negligent misrepresentation, entire agreement clauses, rescission of contracts.
  - **Cyril Capron v Government of the Turks and Caicos Islands [2010] UKPC 2** Acquisition of development land, whether a concluded agreement for acquisition, proprietary estoppel, discovery, costs.
  - **Vtesse Networks v North West Wiltshire [2010] EWHC 3283 (Admin)** Non domestic rating, national network of optic fibre cabling, lawfulness and enforcement of liability orders, European competition law.
  - **R (on the application of Benjamin Banks) v Tower Hamlets LBC [2009] EWHC 242 (Admin)** Misfeasance in public office, contempt of court, local authority's law enforcement functions, licensed market trading.
  - **Hope & Glory PH Ltd v Metropolitan Stipendiary Magistrate [2009] EWHC 1996 (Admin)** Public nuisance in the context of the Licensing Act 2003, function of the Magistrates' Court in licensing appeals.
  - **London Borough of Camden v Makers UK Ltd [2009] EWHC 605 (TCC)** Construction contracts, right to institute adjudication, enforceability of adjudication awards.
  - **Eastleigh Borough Council v Town Quay Developments [2009] EWCA Civ 1391 and [2008] EWHC 1922 (Ch)** Land law, planning agreements, reserved rights of way, implication of terms.
  - **Makers UK Ltd v Camden LBC [2008] EWHC 1836 (TCC)** Adjudicators; Appointments; Bias; Construction contracts; Implied terms; Local government; RIBA conditions of engagement.
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## **Publications and Professional Associations**

### **Recent Publications include:**

- Contributing author to "Licensed Premises - Law and Practice" published by Bloomsbury Professional
- Contributing author to "Gambling for Local Authorities: Licensing, Planning and Regeneration" published by The Institute of Licensing
- "Urgent - Time Is Running Against The Victims Of MIs-sold Interest Rate Swap Products" published online by [www.almr.org.uk](http://www.almr.org.uk) - July 2012
- "Clamping Down, Chinese Walls and Human Rights" published in "The Journal of Licensing Law" - November 2012
- "Urgent Injunctive Relief and The Giving of Notice" published in "The Local Government Lawyer" - December 2013
- "The Curious Reluctance Of The Higher Courts To Resolve The Ongoing Interim Steps Debate" published in "The Journal of Licensing Law" - November 2014
- "The Duty To Consult" published in "The Solicitor's Journal" - December 2014
- "The Supreme Court and Hemming" published in "Local Government Lawyer" - May 2015

- ?Supreme Court Overturns Court of Appeal in Hemming? published in Journal of Licensing Issue 12 - 1 July 2015
- ?Where there?s a will, there?s a way ? the recovery of licensing costs? published in Journal of Licensing Issue 17 ? 30 March 2017
- ?Costs protection in public law and the *We Love Hackney* case? published in Journal of Licensing Issue 25 ? November 2019

## **Professional Association**

Fellow of the Chartered Institute of Arbitrators (FCIArb)

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