

David Sheldon QC

Year called: 1998
Year of silk: 2013
Email: david.sheldon@compasschambers.com
Qualifications: Standing Junior to the Scottish Government (2002 - date)
Lecturer in Scots Law, University of Edinburgh (1990 - 1998)
Associate Dean (1994 – 1997)
Legal Assistant to the Scottish Law Commission (1987)
LL.B (Hons)(Aberdeen) (1987) - Davidson & Garden prize for best student in final honours year
Dip.LP(Aberdeen) (1988)



Practice

David is highly experienced in a wide range of civil and criminal litigation and opinion work. He has appeared in the Supreme Court, as well as the Court of Session, Sheriff Court, Lands Tribunal, Employment Tribunal, and Mental Health Tribunal. He is ranked in the Legal 500 as a leading silk in Property, Construction and Agriculture.

His principal fields of practice include:-

- Reparation (property damage, professional negligence, personal injury, andn nuisance including statutory nuisance)
- Property and Construction Law
- Contract and Commercial disputes

- Public and Administrative Law including Human Rights

- Planning Law and PLIs
- Fatal Accident and Public Inquiries

He also has experience in immigration and extradition cases, mental health, child and family law, and employment law.

As Standing Junior Counsel to the Scottish Executive he has provided advice and representation to the Scottish Ministers in a number of complex and difficult cases, including the long-running prison conditions litigation, pioneering proceeds of crime work, complex stress at work and harassment cases, judicial review, diligence, planning cases, mental health work, and land registration. He has also acted as an Ad Hoc Advocate Depute,

From 1990 to 1998 David was a lecturer in law in the Department of Scots Law (later the Department of Private Law) at the University of Edinburgh. In 1994 he was appointed Associate Dean (Admissions) for the Faculty of Law. He taught a number of courses at Ordinary, Honours and Masters levels, including aspects of Commercial Law, Delict, Criminal Law and the law of Evidence. He published widely in peer reviewed and other journals, and is the author of a number of well known legal textbooks.

Representative cases

Reparation

Rorrison v West Lothian College 2000 SCLR 245 - early stress at work/bullying case, cited in a number of important English cases on this topic.

Agnew v Scott Lithgow Ltd (No 1) 2001 SC 516 - reparation/time bar.

Macdonald v Scottish Ministers 2004 Rep LR 16 - reparation/roads.

Leanne Hendry v Alexander Taylor and sons [2007] CSOH 178 - ground breaking case on recovery of medical records

Kenneth Donaldson v Scottish Ministers [2009] CSOH 8 - stress at work, relevancy

Kaj Anderson v Mohammed Hameed and Esure [2010] CSOH 99 – uninsured driver case, for party minuter

Pratt v Scottish Ministers [2011] CSOH 86; [2013] CSIH 17 – unusual case on failure to provide counselling re stressful incident

Ruth MacDonald v Aberdeenshire Council [2012] CSOH 101 – relevancy of duty of care re maintenance of road signs

McKenna v O'Hare [2017] SAC (Civ) 16

Till v Tayside Public Transport Co Ltd [2017] CSOH 6

Regulatory

Trustcare Ltd v Security Industry Authority unreported Ayr Sheriff Court, 7th September 2011 – statutory appeal under the Private Security Industry Act 2001

Garner v GTCS [2012] CSIH 39 – appeal to Inner House from decision of GTCS, requiring examination of very extensive evidence.

Tredinnick v GTCS [2012] CSIH 21

Land Law

Willemse v French and others [2011] CSOH 51 – Land Registration, servitudes, relevancy

Braes v The Keeper of the Registers of Scotland [2009] CSOH 176 – Land Registration, general property law, negligence, personal bar, unilateral obligation

Turnberry Homes Limited v The Keeper of the Registers of Scotland LTS/LR/2007/01 – this was one of a pair of cases (the other being PMP, below) dealing with very complex questions of Registration of common parts arising from the splitting up of large housing developments

PMP Plus v The Keeper of the Registers of Scotland LTS/LR/2007/02

Yaxley v Morrison and others [2007] CSOH 90 – Land Registration, servitudes

John and Joanna McCoach v The Keeper of the Registers of Scotland and City of Edinburgh Council LTS/LR/2006/03 – unusual case about carelessness in the Registration of a tomb!

FAI/PI

Brent Bravo FAI – Aberdeen, Determination 18th July 2006 – lengthy and very complex Inquiry into accident on oil rig

Kevin Lowe FAI – Ayr, 12th November 2007 – police officer in fatal road accident while on duty

ICL (Stockline) Inquiry – Lord Gill’s report 1st July 2009

Laura McDairmant FAI – Kircudbright, Determination 24th June 2010 – lengthy FAI dealing with outdoor industry

Penrose Inquiry – Edinburgh, March 2011 – April 2012. Inquiry under the Inquiries Act 2005 into the supply of contaminated blood in the NHS from 1972 to 1991.

Contract and commercial litigation

West Castle Properties Limited v Scottish Ministers 2004 SCLR 53 - high value dilapidations claim involving very large volume of legal and factual material and necessitating a high degree of organisation

ITS Drilling Services v Qualitank Services Limited 23rd June 2004, Sheriff Principal Sir Stephen Young - appeal/contract/commercial

Forbes v Scottish Ministers [2012] CSIH 44 – alleged breach of copyright in major construction project

UCB Ltd v Spooner Industries and another [2012] CSOH 111 – supply of goods/breach of contract, reparation, high-value property damage

Note for Directions in the Liquidation of Scottish Coal Co Ltd [2013] CSOH 124

Judicial Review

Principal Reporter v K [2010] UKSC 56 – Supreme Court case on compatibility with Convention Rights of aspects of the Children’s Hearing system

William Grant & Sons Distillers Ltd v Scottish Ministers [2012] CSOH 98 - judicial review of consent granted to wind farm development

Butt and Duncan v PF(Dundee) [2012] HCJAC 107 - competency of devolution issue post sentencing.

Remit of a Trial Judge into possible contempt of court by Aamer Anwar 1st July 2008, High Court of Justiciary - appearance for "Liberty" as third party intervener on human rights grounds

William Beggs v The Scottish Ministers 16th March 2006, Extra Division - judicial review/prisons.

Prison conditions ("slopping out" cases) - numerous slopping out cases in both the Sheriff Court and Court of Session, extensive drafting both in ordinary actions and judicial reviews, made numerous appearances at procedural hearings seeking to defend the Ministers' position in this highly protracted, difficult and complex set of litigations.

Norman Robert Duncan v The Scottish Ministers 20th July 2004, Lord Macfadyen - complex judicial review on interpretation of statutory provisions in relation to prisons/sentencing.

Leighton v Lord Advocate 2003 SLT 800 - judicial review of Sheriff's determination in FAI

Other

Jaqui Smith v The Highland Council [2009] CSOH 149 – note of objections to auditor's report in important case re taxation of "solicitors" fees charged by claims company

Montgomery v HM Advocate [2003] 1 AC 641 - appeal to Privy Council

DTL Gas Supplies v Protan SRL 1999 SLT 397 - appeal procedure

D v D (Parent and child: residence) 2002 SC 33 - international private law/child abduction

EC and another v Miller 2004 SCLR 55 - child law/human rights case

Munro and McClure, Applicants 2000 SCLR 920 - ground-breaking case on construction of legal aid regulations

M74 Public Local Inquiry, Glasgow

Upper Forth (Kincardine Bridge) Second Crossing Public Local Inquiry, Alva

Lord Advocate v Bell 2002 SLT 527 - vexatious litigant/human

rights

Professional Memberships

Member of the Scottish Criminal Courts Rules Council (1996 -1997)

Member of the Editorial Board of the International Journal of Evidence and Proof (1996 -1997)

Member of the Faculty of Advocates Civil Procedure Committee

Publications

“Scots Criminal Law” (Butterworths) 2nd Ed. 1998, with Prof. R.A.A. McCall Smith;

“Evidence: Cases and Materials” (W. Green) 2nd Ed. 2002;

Sections in “Stair Memorial Encyclopaedia: The Laws of Scotland” on the Law of Obligations and Criminal Law;

Sections in Lexis/Nexis “Court of Session Practice Manual” (ed. The Hon. Lord Macfadyen)

Articles for Scots Law Times, Journal of the Law Society of Scotland, Juridical Review, Edinburgh Law Review, and Criminal Law Review.

Lectures and seminars

David has spoken at a number of conferences on a variety of legal issues, and given CPD seminars inter alia on stress at work and asbestos related illnesses. He has taught at the National University of Lesotho, and studied and audited courses at the University of California at Berkeley.

Personal/MISC

David is a very keen cyclist and has taken part in a number of cycling events including the Etape du Tour