

# Daniel Bovensiepen

CALL: 2004

✉ enquiries@twentyessex.com

☎ +44 (0)20 7842 1200



## Overview

Daniel's practice covers a broad range of international commercial work, with a particular emphasis on shipping, commodities, energy and natural resources, and related international disputes. Daniel also accepts appointments as an arbitrator.

He has extensive experience, including in the Supreme Court and Court of Appeal, and before a wide variety of arbitral bodies. He has an outstanding reputation as a friendly and approachable team player. Beyond his impressive skills as an advocate, he is happy to assist at all stages of litigation, providing advisory and drafting services, strategic input and any other required support. Daniel is one of the few junior counsel to be ranked in Tier 1 in both the shipping and commodities practice areas by The Legal 500, and is also highly ranked in Chambers & Partners, Chambers & Partners Global, and Who's Who Legal. He received the award for "Shipping Junior of the Year" at the Chambers UK Bar Awards in 2016, and was nominated for the award of "Shipping Junior of the Year 2018" by The Legal 500.

Daniel has further significant experience in interim applications; as an SCMA trained counsel in mediations; and providing expert opinions for foreign courts. He is also registered as a public access practitioner qualified to accept direct instructions from corporations and in-house legal departments.

Daniel has previously worked as a Research Assistant at the Law Commission of England and Wales, in the Hong Kong office of a leading City law firm, and as a Judicial Assistant to Lord Justice Dyson in the Court of Appeal.

## Publications

- Co-author of 'The Restrictions on Multiple Arbitral Appointments under English Law', (2020) 7 BCDR Int.Arb.Rev. 2
- Co-author of 'Oil & Gas: case law review, reasonable and prudent operator' on *Practical Law (Energy)*.

## Professional memberships

- Commercial Bar Association
- London Common Law and Commercial Bar Association
- London Shipping Law Centre

## Lectures / talks

- Recent commercial case law update: In-house solicitor training (12 January 2023)
- 'Disclosure Pilot update': Piraeus (4 May 2022)
- 'Subjected to Broking Practice: Are We Agreed Yet?': In-house solicitor training (5 March 2020).
- 'No Oral Modification and Entire Agreement Clauses: Some Recent Developments': The UK P&I Club (7

## Education

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- University of Cambridge, St John's College: BA in Law, First Class (2003); LLM in Public International Law, First Class (2005).

August 2018).

- 'Recent Limitation Issues under the Hague and Hague-Visby Rules': London Shipping Law Centre (6 December 2017).
- 'The Global Santosh: Secret Agent or a Good Pal?': London Shipping Law Centre (21 July 2016).
- 'Security for Costs': In-house solicitor training (21 March 2016).
- 'Bunge v Nidera: The Importance of Merits on Appeal': In-house solicitor training (14 January 2016).

## Example cases

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- *The Miracle Hope (No 5)* [2022] EWHC 2234 (Comm): acting for Trafigura in a series of related charterparty claims and counterclaims under maritime letters of indemnity (LOIs) in the Commercial Court, arising out of alleged mis-delivery of a cargo of crude oil, with over US\$80 million at stake (led by Michael Ashcroft KC).
- *The Leonidas* [2020] EWHC 1986 (Comm): acted as sole counsel for the successful Defendant, the commodities giant Trafigura, in this leading case on the effect of "subjects" in commercial negotiations, which contains a number of significant points of interest to those negotiating contracts, particularly in the charter market.
- *The Maersk Tangier* [2018] EWCA Civ 778; [2018] 3 ALL ER 981: acting on behalf of the giant container line Maersk. The case is the leading Court of Appeal authority in respect of the package or unit limitation in the context of containerisation under both the Hague and Hague-Visby Rules, and the compulsory applicability of the Hague-Visby Rules to seaway bills (led by Sara Masters KC).
- *The Global Santosh* [2016] UKSC 20; [2016] 1 WLR 1853: acting for the successful appellants in the Supreme Court in a case raising important points on the NYPE form and agency in the context of delegated or vicarious performance of contractual rights and obligations (led by Simon Rainey KC).
- Instructed as sole counsel in five related arbitrations in claims totalling at least about US\$31 million under bareboat charterparty guarantees.
- Acting for an oil major in a US\$200 million dispute in arbitration arising out of a contract for the testing and potential long-term charter of a new technological solution in dynamic positioning for utilisation in the offshore oil and gas industry (led by Simon Rainey KC).
- Acted for the claimant in an arbitration concerning disputes under shipbuilding contracts in respect of defective and delayed construction of two container ships with contractual values totaling about US\$175 million (led by Michael Ashcroft KC).
- Acting for the respondent in an LCIA arbitration and multiple related court proceedings under the Arbitration Act 1996 arising out of disputed claims in excess of US\$81 million under contracts for the sale of crude oil (led by Simon Rainey KC).
- Acting for ship owners in arbitration disputes with a total value of over US\$33 million arising out of a charterparty and a contract of carriage, following a vessel casualty rendering the ship a constructive total loss after a fertiliser cargo caught fire (led by Timothy Hill KC).
- *Golden Ocean Group Ltd v (1) Salgaocar Mining Industries PVT Ltd (2) Mr Anil V Salgaocar* [2012] EWCA Civ 265; [2012] 1 WLR 3674 (CA): acting for the successful claimants in the Court of Appeal in a landmark case on the Statute of Frauds arising out of a claim in the region of US\$54 million under a guarantee of a long term charterparty (led by Timothy Young KC).
- Acting for the respondent in a very high value LCIA arbitration concerning disputes in connection with a large residential and commercial property development in Moscow, with claims and counterclaims for fraudulent misrepresentation, unlawful interference and unlawful means conspiracy, unlawful procurement of breach of contract, breach of equitable and contractual duties of confidence, dishonest assistance, breach of settlement agreement, and breach of arbitration agreement.
- Acting as counsel for a specialist ship design company in a Commercial Court claim against a world-leading corporate in the energy and telecom cable systems industry for alleged breach of a design contract in respect of a new class leading

cable laying vessel.

- Acting as sole counsel in an LMAA arbitration concerning a multi-million dollar superyacht dispute raising issues of delayed delivery and force majeure.
- Acting for the claimant in an arbitration in respect of a complex web of claims and counterclaims in tort and under a variety of service and IT contracts, against one of the world's largest shipping companies, and its chairman personally, in connection with a new business (led by Duncan Matthews KC).
- Acted for the claimant in a dispute worth in excess of €21 million arising out of the sale of one of the world's largest superyachts (led by Michael Ashcroft KC).

## General commercial

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Daniel's practice covers a broad range of international commercial work. In addition to specialist work in the fields of energy and natural resources, shipping, commodities, insurance, and banking and finance, his work has encompassed fraud, misrepresentation, substantial shareholder and joint venture disputes, exclusive distribution agreements, breach of confidence, professional negligence, and claims under commercial loans and guarantees in a variety of contexts.

Daniel regularly acts and advises in connection with interim applications, including in respect of freezing injunctions and interim injunctions in support of arbitrations, and interpleader relief and the appointment of court receivers. Daniel also frequently encounters jurisdictional and proper law issues in the course of his practice, including cases concerning anti-suit injunctions and related declaratory relief and damages claims.

Examples of Daniel's work include:

- Acting for the Claimant, led by Duncan Matthews KC, in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies, and its chairman personally, in connection with a new ferry service.
- A LCIA arbitration concerning a claim in excess of US\$23 million arising out of termination of a joint venture agreement and alleged loans, involving allegations of fraud.
- A very high value LCIA arbitration concerning disputes in connection with a large residential and commercial property development in Moscow, with claims and counterclaims for fraudulent misrepresentation, unlawful interference and unlawful means conspiracy, unlawful procurement of breach of contract, breach of equitable and contractual duties of confidence, dishonest assistance, breach of settlement agreement, and breach of arbitration agreement.
- Acting as sole counsel in an LCIA arbitration in respect of disputed claims in the region of US\$4.5 million under a services contract in connection with Ghanaian oil imports.
- Claims arising out of alleged breach of a shareholders' agreement relating to companies in East Asia, raising issues of the enforceability of restrictive covenants and public policy and illegality.
- A claim in the region of US\$8 million in respect of a guarantee of a loan facility for the financing of commodities trading.
- Successfully acting in a claim in the region of US\$4 million under a loan agreement in LCIA arbitration.
- A claim in excess of US\$2 million arising out of an alleged guarantee of a business loan.
- A claim for breach of an exclusive distribution agreement in respect of fine wine.
- Advising in respect of alleged breaches of confidence arising out of the departure of a senior employee of a large private equity manager to another international private equity manager.
- Advising in relation to a share purchase agreement in connection with the sale of a substantial business.
- *Fuerst Day Lawson Ltd v Nature Food Import Warenhandelsges mbH* – successfully obtaining an interim anti-suit injunction.
- Resisting a claim for an anti-suit injunction in respect of Brazilian proceedings.

## Energy and natural resources

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Daniel has a growing practice in the energy and natural resources sector. Daniel's wider experience in complimentary areas of his practice makes him well equipped to handle international disputes arising in the energy industry. His broad exposure to complex and technical commercial litigation, and his knowledge of international arbitration, international trade and finance, conflict of laws, and public international law, are all assets in this respect. His experience includes:

- Acting for an oil major in a disputed claim in the region of US\$200 million arising out of the development of a new

technological solution in dynamic positioning for utilisation in the offshore oil industry.

- Advising in disputes arising out of the OW Bunkers insolvency.
- Acting in a dispute concerning alleged contamination of a cargo of unleaded MOGAS, raising interesting questions about the application of a certificate final and binding provision.
- Acting in a dispute arising out of the transportation of 2 jack up drilling rigs on the Heavycon 2007 form.
- Acting as sole counsel in an LCIA arbitration in respect of disputed claims in the region of US\$4.5 million under a services contract in connection with Ghanaian oil imports.
- Acting as sole counsel in a dispute concerning alleged contamination of a cargo of gasoil.
- An arbitration, led by Christopher Hancock KC, concerning a claim in excess of US\$47 million for substantial damage to a very large ore carrier caused by design and/or structural defects.
- Acting in a series of related arbitrations with claims totalling around US\$4 million concerning a dispute arising out of the operation of a VLCC tanker pool.
- An arbitration acting for charterers of a VLCC tanker in a claim in the region of US\$4 million for alleged breach of an oil major approvals clause.
- Instructed in a claim for damages arising out of the breakdown of a LNG carrier.
- An arbitration, led by Andrew Baker KC, concerning piracy attacks during offshore STS operations to discharge gasoil from a product tanker.
- An arbitration led by Charles Kimmins KC in respect of a claim for sums due under a spot sale of LPG by a state entity.
- A series of ICC Arbitrations, led by David Lewis KC, in relation to claims of approximately US\$6 million following alleged repudiation of contracts for the sale of coal.
- Advising in a dispute concerning STS operations between VLCCs.
- Obtaining interpleader relief on behalf of BP Singapore in relation to multiple freight claims.
- Acting in a Commercial Court claim concerning alleged short delivery of gasoil.

## Shipping

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Daniel has undertaken a wide variety of work in shipping matters, and received the award for “Shipping Junior of the Year” at the Chambers UK Bar Awards in 2016, and was nominated for the award of “Shipping Junior of the Year 2018” by The Legal 500.

His work has included disputes under charterparties (bareboat, time, voyage and trip charters) and COAs; cargo claims under bills of lading (including multimodal transport bills); and ship sale and shipbuilding contracts. His cases have covered a disparate range of industry sectors, with cases concerning, for example, VLCCs, product tankers, LNG carriers, iron ore carriers, container ships, bulk carriers, heavylift vessels, superyachts and cruise ships. He has been instructed in disputes involving, for instance, IMO 2020, oil major approval, “Rightship” approval, piracy, Conwartime, safe port warranties, seaworthiness, cargo damage/contamination, laytime and demurrage, detention, letters of indemnity, deadfreight, off hire, speed and consumption, contaminated bunkers, the NYPE Interclub Agreement, early/late redelivery, redelivery notices, general average, dangerous cargo, liens, and the Hague and Hague Visby Rules.

Notable cases include:

- *The Miracle Hope (No 5)* [2022] EWHC 2234 (Comm): acting as junior counsel, led by Michael Ashcroft KC, for Trafigura in a series of related charterparty claims and counterclaims under maritime letters of indemnity (LOIs) in the Commercial Court, arising out of alleged mis-delivery of a cargo of crude oil, with over US\$80 million at stake. The decision addresses important points for the shipping market and wider commercial sphere concerning the effect of “deemed” contractual indemnities; hybrid indemnities on combined charterparty and International Group of P&I Clubs standard wording; the distinction between discharge and delivery, the scope of losses recoverable under the indemnity, and contracts inferred from intention and implied by conduct.
- *The Leonidas* [2020] EWHC 1986 (Comm): a Commercial Court decision which is now the leading case on the effect of “subjects” in commercial negotiations, particularly in the charter market.
- *The Global Santosh* [2016] UKSC 20; [2016] 1 WLR 1853 – a Supreme Court case raising important points on the NYPE form and agency in the context of delegated or vicarious performance of contractual rights and obligations.
- Acting for the Claimant, led by Michael Ashcroft KC, in disputes under shipbuilding contracts in respect of defective and delayed construction of two container ships with contractual values totaling about US\$175 million.

- *Maersk Tangier* [2018] EWCA Civ 778 – acting on behalf of Maersk in respect of claims against them for damage to a cargo of frozen bluefin tuna loins, led by Sara Masters KC. The case is the key Court of Appeal authority in respect of the compulsory applicability of the Hague-Visby Rules where seaway bills are issued, marking a significant legal development since the well known decision of the House of Lords in *The Rafaela S*, and also in respect of the package or unit limitation in the context of containerisation under both the Hague and Hague-Visby Rules.
- Instructed as sole counsel in five related arbitrations in claims totalling at least about US\$31 million under bareboat charterparty guarantees, arising out of multiple alleged Events of Default.
- Acting for ship owners, led by Timothy Hill KC, in arbitration disputes with a total value of over US\$33 million arising out of a charterparty and a contract of carriage, following a vessel casualty rendering the ship a constructive total loss after a fertiliser cargo caught fire. The disputes encompassed misrepresentation, liability for dangerous cargo, and unseaworthiness.
- Claims in the Commercial Court with a value of about US\$10 million, including allegations of fraud. Daniel obtained a rare interim prohibitory injunction preventing the owners from using the vessel otherwise than in accordance with the time charter.
- An arbitration in respect of disputes arising under a time charter trip, including in respect of novel issues of interpretation of the BIMCO 2020 Fuel Transition Clause in circumstances where IMO 2020 entered into force during the charter period.
- An arbitration arising out of a second-hand ship sale pursuant to an MOA on the Norwegian Saleform 2012, involving statutory, tortious and contractual claims for fraudulent or negligent misrepresentation or misstatement.
- Acting for the Claimant, led by Duncan Matthews KC, in respect of complex claims totalling in excess of US\$12 million arising out of alleged breaches of a charterparty and related contracts, and negligent misstatement, against one of the world's largest shipping companies and its chairman personally, in connection with a new ferry service.
- An arbitration, led by Christopher Hancock KC, in respect of a claim in excess of US\$15 million arising out of a collision between a bulk carrier and a conveyor jetty at an iron ore terminal in Brazil.
- An arbitration acting for charterers of a VLCC tanker, led by Christopher Hancock KC, in a claim in the region of US\$4 million for alleged breach of an oil major approvals clause.
- *Golden Ocean Group Ltd v (1) Salgaocar Mining Industries PVT Ltd (2) Mr Anil V Salgaocar* [2012] EWCA Civ 265; [2012] 1 WLR 3674 (CA); [2011] EWHC 56 (Comm); [2011] 1 WLR 2575 (HC) – acting for successful claimants led by Timothy Young KC in the Court of Appeal in a claim in the region of US\$54 million under a guarantee of a long term charterparty. This is a landmark case on the Statute of Frauds.
- An arbitration, led by Christopher Hancock KC, in respect of a claim in excess of US\$16 million arising out of a collision between a large container vessel and a berth and gantry crane in South America.
- An arbitration concerning a collision between a bulk carrier and a berth at Aden, Yemen.
- An arbitration, led by Christopher Hancock KC, concerning a claim in excess of US\$47 million under a shipbuilding contract on an amended SAJ form for substantial damage to a very large ore carrier caused by design and/or structural defects.
- A claim in excess of Euros 21 million arising out of the sale of one of the world's largest superyachts.
- *Fair Wind Navigation SA and others v Ace Seguradora SA* – acting for the Defendant in a claim for a final anti-suit injunction on a 'quasi-contractual' basis.
- Arbitrations led by Michael Coburn KC in respect of total claims of around US\$62 million under refund guarantees arising out of delayed delivery under two shipbuilding contracts.
- An arbitration led by Philip Edey KC in respect of a claim of around US\$25 million for repudiation of a MOA on the Norwegian Saleform 1993.
- Advising in respect of claims in excess of US\$12 million for alleged repudiation of shipbuilding contracts (led by Charles Kimmins KC).
- A series of related arbitrations with claims totalling around US\$4 million concerning a dispute arising out of the operation of a VLCC tanker pool.
- Successfully challenging the tribunal's jurisdiction in relation to a claim in excess of US\$11 million for unpaid hire under a charterparty.
- Related arbitrations concerning charterparty disputes, including in respect of off hire, speed and consumption, and claims under the ICA, including interesting questions of interpretation of the ICA when intermediate parties have not settled a cargo claim passed along the chain by owners.
- Acting for the owners of a tanker in a dispute with technical managers of the vessel concerning alleged negligent management over a prolonged period, with approximately US\$2.5 million at stake.
- An arbitration arising out of the sale of high speed ferries pursuant to MOAs on the Norwegian Saleform 1993 concerning

alleged breach of warranties.

- An arbitration involving multiple disputes in respect of cargo claims under the ICA, off hire, early redelivery, and non-compulsory pilotage expenses.
- An arbitration dispute concerning alleged off specification bunkers and the effect of a conclusive evidence provision.
- A Commercial Court claim under a contract of carriage concerning alleged contamination of a cargo of gasoil.
- A charterparty dispute in arbitration concerning alleged contamination of a cargo of gasoil.

## Commodities

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Daniel has a strong commodities practice which includes cases under a variety of specialist trade arbitral bodies. Notable experience includes:

- Acting for the Respondent in LCIA arbitrations and multiple related proceedings under the Arbitration Act 1996 arising out of disputed claims in excess of US\$81 million under contracts for the sale of crude oil.
- A Commercial Court dispute between two major petroleum products commodities traders with about US\$15 million at stake, arising out of a quality dispute under a sale contract in respect of a cargo of Russian crude oil.
- Related arbitrations with disputed sums totalling in the region of US\$12.5 million arising out of arrests of vessels and a cargo of ethanol during an STS operation.
- Acting for the Claimant led by Timothy Young KC in a disputed claim in excess of US\$25 million, subject to arbitration in Singapore, arising out of the alleged repudiation or renunciation of a multi shipment sale contract for iron ore fines.
- *Common Market Fertilisers SA v Kisan International Trading FZE* – led by Charles Kimmins KC, a case concerning claims in the region of US\$16 million arising out of alleged repudiation of a contract for the sale of prilled urea.
- A series of FOSFA Arbitrations – led by Philip Edey KC – claims in the region of US\$25 million arising out of alleged repudiation of contracts for the sale of Brazilian Soya beans.
- A series of ICC Arbitrations, led by David Lewis KC, in relation to claims of approximately US\$6 million following alleged repudiation of contracts for the sale of coal.
- A GAFTA Arbitration concerning a claim in excess of Euros 1.5 million arising out of alleged failure to deliver a quantity of Hungarian feed barley against the background of a Greek public tender under an EU food assistance programme.
- *China Aviation Oil (Singapore) Corporation Ltd v Kolmar Group AG* - a Commercial Court claim arising out of a failure to deliver a parcel of paraxylene under a long term supply contract.
- An ICA Arbitration concerning a CIP contract for the sale of cotton, involving alleged failures to obtain import and transit licenses and deliver in time, and raising the issue of whether “invoicing back” under the ICA Bylaws was applicable.
- A RSA arbitration for claims arising out of the late presentation of documents under letters of credit in connection with contracts for the sale of refined sugar.

## Banking and finance

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Daniel’s practice encompasses banking and financial services, with a particular emphasis on derivatives. He is familiar with issues concerning the ISDA Master Agreement. Examples of Daniel’s work include:

- Advising in relation to OTC derivatives transactions in connection with disputes arising out of the insolvency of OW Bunkers.
- *Camerata Property Inc v Credit Suisse Securities (Europe) Ltd* [2013] EWHC 29 (Comm) – led by Christopher Hancock KC, the case concerned a claim in respect of alleged unauthorised investment and mis-selling of structured products, through a financial advisor, to a high net worth individual.
- A high value LCIA Arbitration, led by David Owen KC, concerning the valuation of CDO and CLO securities on close out under a Global Master Repurchase Agreement.
- Acting for Pioneer Freight Futures in half a dozen very large derivatives claims under forward freight agreements, largely turning on the application of the ISDA Master Agreement. The cases were all connected to the substantial litigation arising out of the liquidation of Pioneer Freight Futures which was formerly one of the largest players in the FFA market.
- Advising in relation to judicial review of a decision of the Financial Ombudsman Service in relation to mis-selling of a structured investment product issued by Lehman Brothers International (Europe) Ltd before Lehman’s landmark bankruptcy.

## Insurance and reinsurance

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Daniel's expertise extends to insurance and reinsurance and he is a former co-editor of MacGillivray on Insurance Law. His recent experience includes:

- A Commercial Court claim, led by Christopher Hancock KC, concerning disputed coverage under an excess layer professional indemnity policy.
- Advising in relation to a Lloyd's Italian medical malpractice policy on issues of broker negligence and fraud.

## International arbitration

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A large proportion of Daniel's work is in arbitration under a wide variety of different arbitral rules (for instance, Daniel has been instructed in cases under LMAA, LCIA, ICC, SIAC, ICA, GAFTA, FOSFA and RSA rules). Daniel's practice also encompasses appeals and interim applications under the Arbitration Act 1996.

## Recommendations

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Daniel has a great eye for detail, is very strong on the law and comes up with some very clever and innovative solutions to legal problems. [The Legal 500 UK Bar 2024](#)

Daniel is devastatingly clever, always puts in phenomenal effort on every case and leaves no stone left unturned. [Chambers UK Bar 2024](#)

Exceptionally bright. [The Legal 500 UK Bar 2024](#)

He is extremely capable and understands the commercial considerations of the case. [Chambers UK Bar 2024](#)

Daniel is super intelligent and will leave no stone unturned. His written work is as good as any Silk's. [Chambers UK Bar 2023](#)

Daniel is quick, precise and professional. [Chambers UK Bar 2023](#)

He is obviously extremely intelligent and very diligent, and shows good attention to detail. [The Legal 500 UK Bar 2023](#)

Exceptionally bright. [The Legal 500 UK Bar 2023](#)

A great mathematical brain, he is a junior at the very top of his game and his written work is absolutely top-notch. [The Legal 500 UK Bar 2022](#)

Daniel's depth of analysis is breathtaking. [Chambers UK Bar 2022](#)

Dedicated and very hard working with fantastic judgment. [The Legal 500 UK Bar 2022](#)

He is ferociously clever. [Chambers UK Bar 2022](#)

He is extremely thorough and extremely quick [Chambers UK Bar 2022](#)

A clever and thoughtful advocate for shipping and commodities cases. [The Legal 500 UK Bar 2021](#)

Daniel Bovensiepen pays good attention to detail, and has a client-friendly demeanour and strong commercial understanding. [Chambers UK Bar 2021](#)

He is outstanding and is very good on paper. [The Legal 500 UK Bar 2020](#)

A cerebral advocate. [The Legal 500 UK Bar 2020](#)

Brainy and reassuring, he has all the hallmarks of a future silk. [Chambers UK Bar 2020](#)

He's commercial and very user-friendly. [Chambers UK Bar 2020](#)

A thinker - very user friendly and smart. [The Legal 500 UK Bar 2019](#)

He is very talented. [The Legal 500 UK Bar 2019](#)

Brilliant with detail and always easy to get on with. [Chambers UK Bar 2019](#)

Outstandingly bright and very hard-working. [Chambers UK Bar 2019](#)

He is fantastic. He is very clear on his presentation and has real attention to detail. [Chambers UK Bar 2018](#)

A very impressive advocate. [Chambers UK Bar 2018](#)