

## David Kendall

Partner



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David Kendall is a partner in Cooley's London office and focuses on all aspects of insurance and reinsurance, including coverage, delegated authorities, run-off and insolvency. His cases include insurance coverage disputes (including third-party liability, marine, financial institutions, political risk, D&O and property insurance), reinsurance disputes, insurance/reinsurance run-off and insolvency, arbitration and commercial court litigation. He has extensive experience of Bermuda form arbitrations in London.

David was the Chairman from 2012 to 2014 of the British Insurance Law Association. He is Visiting Professor in the Centre for Commercial Law Studies, Queen Mary University of London.

David is currently listed in two Legal Media Group 'Expert Guides' publications, specifically: *Litigation and Insurance and Reinsurance Lawyers* (2015 editions) and *Best of the Best* (2016) (Insurance and Reinsurance). The latter notes David as being amongst the top 10 legal practitioners for the insurance industry in the UK and one of the top 30 practitioners worldwide. David is also named as one of the top five insurance and reinsurance lawyers in EMEA in the *Who's Who Legal: Insurance & Reinsurance 2017* and *Who's Who Legal: Thought Leaders 2017* (for Insurance and Reinsurance). David is "described as "a cerebral lawyer" who enjoys "an outstanding reputation in the market" for his first-class work in this practice area."

David is also recommended in the current edition of the established legal directory *The Legal 500* (UK) where the team is described as "thorough and professional, with a keen sense of the issues and the relevant industry". In *Chambers & Partners Guides to the World's Leading Lawyers* (UK), he is ranked in the top tier (Band 1) in the categories of Insurance: General Claims and Insurance: Reinsurance. Clients say they will "never pass up the opportunity to laud his exceptional ability and impeccable judgement" and also describe him as a "very impressive all-round lawyer," *Chambers UK 2017*.

David is also included in the latest edition of *Best Lawyers in the United Kingdom*.

All of these publications are based on independent research processes.

### Notable Experience:

- Represented insurers in many Bermuda Form arbitrations in London and Bermuda concerning coverage for matters including plant explosions; product liability for herbicides, pesticides, drugs, cars and medical implants; D&O liability for failed banks, fraud and nuclear generators; pollution;

oil rigs; and medical malpractice

- Advising Lloyd's Market Association on the Insurance Act 2015 and the Enterprise Act 2016
- Acted in many insurance and reinsurance insolvencies, including: KWELM, English & American, Sovereign, Highlands and Lehman Re. He represented Lloyd's Syndicate 991 in the groundbreaking litigation concerning jurisdiction in insolvency matters culminating in the Supreme Court judgment in *New Cap Re A.E. Grant* [2012] UKSC 46. This case was ranked in The Lawyer Top 20 cases for 2012
- Acted for AXA Group Companies in advising on insurance and reinsurance coverage issues and disputes in relation to numerous London court cases and arbitrations arising out of AXA's participation in film finance risks. These cases included two hearings in the Court of Appeal and one in the House of Lords (*HIH v Chase Manhattan* [2003] 4 Lloyd's Rep IR 230) and in monitoring litigation in France, the United States and Australia
- Represented various reinsurers in London arbitrations concerning personal accident reinsurance, and insurers in product liability and professional indemnity coverage disputes, including for the successful insurers in the landmark decision of *Lumbermen's Mutual Casualty Company v Bovis Lend Lease* [2005] 1 Lloyd's Rep 494
- Acted for Lloyd's in its 1987 settlement with 2,500 PCW Names and for Lloyd's and Lioncover in establishing the right of PCW syndicates to collect under an extensive and complex reinsurance programme: Court of Appeal decision reported at [1996] 1 Lloyd's Rep 241
- Acted for the local companies and public shareholders in the eight-month *BFMIC v BF&M* trial in Bermuda in 1999

David speaks extensively on current issues in insurance and reinsurance law in the UK and overseas. In recent years, he has spoken on European regulatory developments, insurance law reform, brokers' duties, the subscription market and recent reinsurance cases at seminars in London, New York, Bermuda and Paris.

**Recent speaking engagements include:**

- Speaker: "That was the year that was," IRLA Congress, May 2017
- Speaker: "Delegated Authority Underwriting," British Insurance Law Association, February 2017
- Speaker: "The Hundred years' "law" enters the 21st century," IRLA Members Breakfast Briefing, December 2016
- Speaker: "Brexit Briefing for International Insurers," Cooley, New York, December 2016
- Speaker: "Insurance Act 2015: A Delegated Authority Underwriters' Briefing," LMA Academy, July 2016
- Speaker, "Insurance Act 2015: Placing Matters," LMA and LIIBA, London, April 2016
- Speaker, "Insurance Act 2015," Conyers Dill & Pearman Seminar, Bermuda, March 2016
- Speaker, "Mock Bermuda Form Arbitration," Claims & Litigation Management Alliance, Bermuda, March 2016
- Speaker, "Insurance Act 2015: Application to Reinsurance," Lloyd's Market Association and International Underwriting Association Seminars, London, May and June 2015
- Speaker, "Insurance Act 2015," ABIR, Bermuda, March 2015
- Speaker, Lloyd's Market Association Lawyers Forum, March and December 2014, June 2015 and

September 2016

- Speaker, "Insurance Linked Securities," ABIR, Bermuda, March 2014
- Speaker, "Bermuda Form Mock Arbitration," British Insurance Law Association, November 2013
- Speaker, "Aggregation," AIDA/FERMA Conference, Paris, June 2013
- Speaker, "Choice of Law," CPCU and ABIR seminars, Bermuda, March 2013

**Recent publications:**

- Author, "Damages for Late Payment of a Claim: Impact on Reinsurance," Zeitschrift für Versicherungswesen, Issue 21/16, November 2016
- Co-author, "Solving the EU Competition Conundrum," Insurance Day, July 2016
- Co-author, "Legal Issues Concerning Implantable Communicating Medical Devices," chapter in book on "The International Comparative Legal Guide to Pharmaceutical Advertising 2016" published by Global Legal Group Ltd, 2016 edition
- Co-Author, "Insurers and brokers should start making Brexit contingency plans," Insurance Day, February 2016
- Co-Author, "Was Lloyd's CRO right in Brexit speech?" Actuarial Post, February 2016
- Author, "The Insurance Act 2015 and the run-off market," 2016 Run-off Restructuring Yearbook
- Author, "Impact of the Insurance Act 2015 on London Market Brokers," Zeitschrift für Versicherungswesen, November 2015
- Author, "Insurers lose out on liability for late payments," Insurance Day, October 2015
- Author, "Brokers Beware: Impact of the UK Insurance Bill," FC&S Legal: The Insurance Coverage Law Information Center, March 2015
- Quoted, "Bigger equals better," Intelligent Insurer, February 2015
- Author, "Impact of English Insurance Law Reform on Reinsurance," Zeitschrift für Versicherungswesen, November 2014
- Co-author, "What are the risks of Insurance Linked Securities?" Zeitschrift für Versicherungswesen, November 2013

## Education

Guildhall University  
MA, 1981

College of Law  
LSF, 1977

University of Birmingham  
LLB (Hons), 1976

## Bar Admissions

England & Wales

## Memberships

British Insurance Law Association (Chairman 2012 to 2014)

Commercial Court Users' Committee

Insurance Scoping Forum, Financial Markets Law Committee

Development Board, Centre for Commercial Law Studies, Queen Mary University of London

AIDA Reinsurance and Insurance Arbitration Society

The Chartered Insurance Institute

Insurance & Reinsurance Legacy Association

Lloyd's Market Association

The London Court of International Arbitration

London Maritime Arbitrators Association