

## KATE DAVENPORT QC

### Contact

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Shortland Street  
Auckland 1140  
New Zealand

LLB (Hons), Auckland University (1982)

M Jur (Distinction) Auckland University

Post Grad Certificate in Health Science (Ethics) 2011

Appointed Queen's Counsel 2013

Admitted to the UK Bar 2015



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**LINKEDIN:**

### AREAS OF PRACTICE

Kate Davenport QC is a civil and commercial litigator in cases involving:

- contracts and torts
- equity and trusts
- insolvency and company law
- land law
- construction law
- relationship property
- health law, inquests, coronial enquiries
- profession regulation – including harassment and sexual misconduct
- investigations of disputes

### BRIEF BACKGROUND

Kate was admitted to the Bar in 1983. She became a Barrister sole in 1990.

Kate is President of the New Zealand Bar Association October 2018 to October 2020.

Kate is a member of the Rules Committee.

Kate was admitted to the UK Bar by the Middle Temple in July 2015. Kate is a member of Outer Temple Chambers, 222 The Strand, London.

In 2019 Kate was appointed an Ordinary Bencher of the Middle Temple, where she is known as Master Davenport QC.

Kate took Silk in 2013.

Kate was awarded the New Zealand Lawyer Barrister of the Year Award in 2013.

Kate is a civil and commercial litigator with 30 years' experience at the bar. She is also a qualified mediator.

Kate also practices in the area of professional regulation.

Kate writes extensively in the area of Trust Law and is a contributing editor to NZ LexisNexis Law of Trusts. Kate has published articles in the Oxford Journal, Trusts & Trustees Advance Access:

- Published February 2018 – *Caught between a rock and a hard place: examining the Court's ability to assist or replace deadlocked trustees.*
- Published February 2018 – *Recoverability of Trustee Litigation Costs.*
- Published January 2017 – *The courts role in assisting trustees: Re Beddoe orders and other directions.*
- Published July 8, 2016 – *Piercing the trust structure at a relationship's end: interesting developments in trust law from the New Zealand Supreme Court.*

Recent examples of her cases include:

- *McCallum v McCallum (Beddoe)* [2020] NZHC 907
- *Family First* decision awaited
- *Dawson v Snedden* [2019] NZHC 736.
- *Dawson v Snedden (As Purported Trustees of Gallais Family Trust)* [2019] NZHC 1208.
- *RHH Ltd v Anderson* [2018] NZHC 2177
- *Ormerod v Ormerod* [2018] NZHC 527C
- *Kiwi Trustee Ltd v Lin* [2017] NZHC 1342
- *McCallum v McCallum* [2017] NZHC 1218
- *Butterfield v Public Trust* [2017] NZCA 367
- *Re Burnett Mount Cook Station Charitable Trust* [2017] NZHC 169 [February judgment].
- *da Silva v da Silva* [2016] NZHC 2064
- *Re Burnett Mount Cook Station Charitable Trust* [2016] NZHC 2214 [September judgment].
- *Re Burnett Mount Cook Station Charitable Trust* [2016] NZHC 2669 [November judgment].
- *H v S (No. 2)* [2015] NZHC 696.
- *Seales v Attorney General* [2015] NZHC 1239
- *Carrington v Carrington* [2014] NZHC
- *Public Trust v LB-B* [2014] NZHC 2497
- *Public Trust v B-B* [2013] 1995
- *S v D* [2013] NZHC 2839; *S v D* [2013] NZHC 1617
- *Shaw v Haven Trustee Ltd* [2013] NZHC 2961
- *Carmine v Ritchie* [2012] NZHC 1514
- *Laver v Public Trust (CIV-2010-404-6332)* 14 July 2011
- *Public Trust v Public Trust* [2009] 27 FRNZ 554 (HC)

Kate has extensive experience in chairing Disciplinary Tribunals and writing judgments.

Kate was for 9 years Deputy Chair of the Health Practitioners Disciplinary Tribunal.

Kate was Deputy Chair of the Real Estate Agents Disciplinary Tribunal until 2018.

Kate was a member and then President of the Film & Literature Board of Review until 2017 (appeals from the Censor).

Kate is a member of the New Zealand Law Society Prosecution Panel. Kate is a former Vice President of the New Zealand Law Society.

Kate is an accredited advocacy trainer accredited by International Advocacy Training Council.

## PROFESSIONAL

- Barrister and Solicitor of the High Court of New Zealand (1983).
- Solicitor of the High Court of England and Wales (1988).
- Appointed Queen's Counsel (May 2013).
- Called to the Bar by the Middle Temple UK (July 2015).
- Appointed Ordinary Bencher of the Middle Temple (2019).

## CURRENT PRACTICE AND PRINCIPAL AREAS OF PRACTICE

**Civil and commercial litigation** at all levels: including Judicial Review; Land Law; Trust Law; Will and Estate litigation; Trusts, Contractual disputes; Leases; Equity; Negligence; Construction Law; Family Law; Professional Discipline; Health Law.

### Privy Council cases:

Privy Council [2012] *The descendents of U + A Tumu v The descendents of I Tumu* [2012] UKPC 34 (on appeal from Court of Appeal, Cook Islands).

Privy Council [2012] *Baudinet v Tavioni & Ors* [2012] UKPC35 (Land Law).

### Supreme Court, Court of Appeal and High Court – some recent cases include:

- *Butterfield v Public Trust* NZCA [2017] 367
- *Re Ormerod* [2017] NZHC 2259
- *Kiwi Trustee v Lin* [2017] NZHC 108 and [2016] NZHC 595
- *Seales v AG* [2015] 3 NZLR 556.
- *H v S (No. 2)* [2015] NZHC 696.
- *Re Clapham* [2015] NZHC 210.
- *Body Corporate 198900 Ltd v Bhana Investments Ltd* [2015] NZHC 1620.
- *A v Standards Committee 2 of the NZ Law Society* [2015] NZHC 1896.
- *Seales v AG* [2015] NZHC 828.
- *Collins v Collins* [2014] NZHC 2121.
- *Carrington v Carrington* [2014] NZFLR 571.
- *S v D* [2013] NZHC 2839; *S v D* [2013] NZHC 1617.
- *Carmine v Ritchie* [2012] NZHC 1514; [2012] NZHC 2279.
- *S v W* (2012) 28 FRNZ 796 (CA); *S v W* [2011] NZHC; *Alt. cit.: Y v B* [2012] NZHC 2287.
- *Deliu v Hong* [2013] NZHC 3329.
- *Shanly v Dunsford* (2010) 28 FRNZ 299 (FC); *Dunsford v Shanly* [2012] NZHC 2375; [2012] NZHC 257.
- *Featherstone Park Developments Ltd (In Receivership & Liquidation) v Bradley & Ors* [2012] NZHC 300.
- *Crown Money Corporation v Hertzke* HC Auckland CIV 2007-404-4943, 22 March 2011 Lang J.
- *Shaw v Haven Trustee Ltd* [2013] NZHC 2961.
- *Humphries v Edinborough* [2010] NZCA 416.
- *Scott v Scott* [2009] NZSC 111; [2009] NZCA 417.
- *Kerridge v Kerridge* [2009] 2 NZLR 763 (CA); *Kerridge v Kerridge* [2009] 1 NZLR 264 (HC).

### Mediator

Member pilot scheme High Court mediation from 2009.

### Weatheright Homes Mediation Panel

Member of the panel of mediators appointed to carry out work for the Ministry of Building and Housing. Former member Fletcher Homes Building Dispute Panel, trained LEADR 1993.

#### **Author**

LexisNexis Law of Trusts; responsible for chapter on **Trustees Liability**.

Oxford Journal, Trusts & Trustees Advance Access; *Clayton, The Law of Trusts*, - published July 8, 2016.

Oxford Journal, Trusts & Trustees; *The courts role in assisting trustees: Re Beddoe orders and other directions*, published January 2017.

#### **GOVERNMENT APPOINTMENTS**

- Chair, National Ethics Committee Assisted Reproductive Technology (ECART) (July 2008 – August 2015).
- Deputy Chair, Health Practitioners Disciplinary Tribunal (2004 - July 2013).
- Member and Chair, Film and Literature Board of Review (2011 - 2017).
- Deputy Chair, Real Estate Agents Disciplinary Tribunal (2011 - 2018).
- Deputy Chair, Registered Architects Board (August 2008 - May 2011).

#### **OTHER APPOINTMENTS**

- President NZBA 2018 – 2020.
- Council Member, NZ Bar Association (2006 - 2012) - Vice President Auckland (2012).
- President, Auckland Medico Legal Society (2014).
- Appointed to High Court Pilot Mediation Panel (2009 - 2010).

#### **Health:**

- Director of Proceedings for Health and Disability Commissioner (1998 – 1999).
- Deputy Chair Health Practitioners Disciplinary Tribunal (2004 – present).
- Legal assessor for Medical Practitioners Disciplinary Committee (1991- 1995).
- Legal assessor for Medical Practitioners Disciplinary Tribunal (1995 – 1996).
- Appeared as counsel for the MPDC and MPDT as required in High Court and District Court.
- Member Audit Group Royal College Obstetricians & Gynaecologists (2003 - 2005).
- Legal Assessor to Complaints Assessment Committees (1999 - 2004).
- Counsel for the CAC's in prosecutions before the MPDT (until 2004) and before District Court, High Court and Court of Appeal.
- Inquest before the Coroners Court.

#### **Architects:**

- Deputy Chair of NZ Registered Architects Board (2008 - 2011).

#### **Legal:**

- Convenor Ethics Committee Auckland District Law Society (2002 – 2005).
- Current member of the New Zealand Law Society prosecution panel.

#### **Other Organisations:**

- Chair, ECART National Ethics Committee for Assisted Reproductive Technology.
- Sensitive issues training – New Zealand Law Society (November 2018)

#### **GOVERNANCE TRAINING ROLES**

- CCMau – Massey University Governance Training May 2008.
- Massey University 2009 – NZRAB Training.
- Deputy Chair Registered Architects Board.
- Board member Bankside Chambers Ltd.
- Chair, Bankside Chambers (2017 – 2018).

- Director private company, Mothercare NZ (1989 – 91).
- OFFICES PREVIOUSLY HELD**
- Vice President, New Zealand Law Society Board (March 2004 – March 2007).
  - Vice President, Auckland District Law Society (March 2004 – March 2006).
  - Treasurer, New Zealand Bar Association (1998 – 2000).
  - President, Auckland Women Lawyers Association (1993 – 1995).
  - Member, Chief Justice's Working Group on Gender Equity (1995 – 1996).
  - Member, NZLS Women's Consultative Group (1994 – 1995).
  - Member, Law Society's Complaints Committee Panel (1997 – 2005).
  - Convenor, Ethics Committee Auckland District Law Society (2002 – 2005).
- PROFESSIONAL DEVELOPMENT**
- Harvard Law School "Programme of Instruction for Lawyers"; Summer School 1993.
  - Leadr Mediation training, (Sydney) 1992.
  - Certificate of Comparative Advocacy - McGeorge School of Law (Washington) 1987 - conducted at the Inns of Court London, United Kingdom.
- PRIZES AND SCHOLARSHIPS**
- The Alexander Johnson Scholarship in Law (1981).
  - The Annual Prize in Equity and Succession (1981).
- EDUCATION**
- St Cuthbert's College, Auckland.
  - Auckland University – LLB (Hons).
  - Auckland University – Master of Jurisprudence (Distinction).
  - AUT Auckland – Post Graduate Certificate in Health Science (Ethics).
- PUBLICATIONS AND SEMINARS**
- Publications**
- Caught between a rock and a hard place, Examining the Court's ability to assist or replace deadlocked trustees, co-author, 25 February 2019
  - #Timesup for the Legal Profession, February 2019
  - LexisNexis Law of Trusts co-author (current); responsible for chapter on **Trustees Liability**
  - *A trustees guide to litigation pitfalls*, co-author
  - Oxford Journal, Trusts & Trustees; *Recoverability of Trustee Litigation Costs*, published February 2018
  - Oxford Journal, Trusts & Trustees; *The courts role in assisting trustees: Re Beddoe orders and other directions*, published January 2017
  - LawTalk 895; *It's our problem not theirs*, 26 August 2016
  - Oxford Journal, Trusts & Trustees Advance Access; *Clayton, The Law of Trusts*, published July 8, 2016.
  - LawTalk; numerous articles including article on the situation of the Supreme Court (October 2002) and time recording (January 2003)
  - Auckland District Law Society Legal Practice Manual, 4<sup>th</sup> Edition (1996); editor
  - District Courts Procedure, Wellington, Brooker's, 1995, Hansen, Beck, Davenport, Dhyrberg, McQueen
  - Tutor; Wills and Trusts, Auckland University Professional Studies Course 1984 – 1986
  - 1982 Auckland University Law Review; editor

## Seminars

- Being an Expert Witness NZLS 2020
- Advanced Litigation Skills – current trainer
- NZLS Seminar – *Clayton v Clayton*, November 2016
- Being and Expert Witness 2020
- Advanced Litigation Skills
- NZLS Seminar – *Clayton v Clayton*, November 2016
- ADLS Seminar – *Re Beddoe* applications, November 2016
- ESHRE – Poster Presentation, Rome 2010
- ADLS Seminar – drafting 2008
- LexisNexis Seminar – Construction Mediation 2007
- National Centre for Health and Social Ethics Presentation December 2007
- ADLS Seminar – Conveyancing/Caveats Seminar 2003
- NZLS Health Law Seminar – speaker 1998

## EMPLOYMENT DETAILS

**May 2013 to current**

**Queen's Counsel**

**October 1989 to May 2013**

**Barrister Sole, Auckland**

Civil litigation in Court of Appeal, High Court, District Court and Tribunal level including:

Commercial and Civil litigation (Tort, Contract, Judicial Review, Wills and Trusts, Construction Law, Trust Law, Land Law, Professional Discipline), Medico-Legal Litigation, Deputy Chair Health Practitioners Disciplinary Tribunal, Building and Construction disputes, Mediator, Family Law.

**April 1988 - April 1989**

**Solicitor, Masons**, 10 Fleet Street, London, United Kingdom.

**October 1987 - December 1987**

**Solicitor**, Peter Fraser, Solicitor, Melbourne, Australia.

**July 1985 - October 1987**

**Barrister and Solicitor**, Holmden Horrocks, Solicitors, Auckland.

**February 1984 - July 1985**

**Barrister and Solicitor**, Shieff Angland Dew & Co, Solicitors, Auckland.

**1983 - February 1984**

**Solicitor**, Nicholson Gribbin & Co, Solicitors, Auckland.