



GARDEN COURT CHAMBERS

# David Emanuel KC

YEAR OF CALL: 1996 | YEAR OF SILK: 2019



David Emanuel KC is one of the country's most sought-after criminal defence barristers, having appeared in some of the most complex and high-profile cases to feature in the criminal courts in recent years.

## Crown Court

These have included his successful representation of professional footballer Ched Evans ([see news](#)) and match.com serial rapist Jason Lawrance ([see news](#)), two of the most important cases featuring the law on consent and evidence of a complainant's previous sexual history.

David has an enviable record of successfully defending in cases of the utmost seriousness.

In February 2024, David represented a man of good character on a charge of rape at his retrial at Hove Crown Court having successfully appealed his conviction. The jury

acquitted unanimously.

In March 2023, David's client was acquitted of murder and section 18 GBH after stabbing two men in a fight, and in July 2023 at the Old Bailey, his client was acquitted of murder in the course of a robbery.

In September 2022, David represented another man of good character accused of rape at Wolverhampton Crown Court. The jury acquitted unanimously.

In June 2022, he secured the acquittal of a young man who spent five years in detention for a murder he was wrongly convicted of ([see news](#)). David successfully argued the man's original conviction was unsafe on appeal and won him the right to a retrial.

In 2021, having fought to obtain justice for 8 years for his client, a High Court judge threw the case out against a man who had served 18 years in prison for a murder he did not commit ([see news](#)).

In those eight years, David forced the CCRC to reopen their investigation into his case after he judicially reviewed them, then won the appeal before succeeding in a submission of no case to answer at the retrial. The prosecution then appealed the judge's terminating ruling which David successfully repelled leading, finally, to the release of his client.

## **Court of Appeal**

It is not just in the Crown Court that he excels, David is regarded as one of the leading appeal lawyers in the country. He has appeared in the Supreme Court and has a remarkable record of success in the Court of Appeal, and in persuading the Criminal Cases Review Commission to refer possible miscarriages of justice.

In 2022, David was contacted by the father of a young man of good character who had been convicted of rape. David identified failures by the judge and trial counsel and obtained leave to appeal out of time. In June 2023, the Court of Appeal quashed the conviction and ordered a retrial and this took place in February 2024 and ended in a not guilty verdict.

David regularly accepts instruction under the [Public Access Scheme](#) to advise in second opinion appeal cases.

"David is meticulous and has an eye for detail that puts other counsel to shame. His ability to consume and digest large and complicated cases in a short space of time is second to none. He finds needles in haystacks that open up cases and win appeals. He is hugely respected."

LEGAL 500, 2024 (CRIME)

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"David made complex submissions look and sound easy for the jury and drafted his submissions in a way that meant the judge could adopt them for his legal rulings."

CHAMBERS UK, 2024 (CRIME)

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"David provided a masterclass in advocacy."

ANONYMOUS CLIENT

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"An excellent and meticulous advocate with an easy style."

CHAMBERS UK, 2023 (CRIME)

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"It is evident that Mr Emanuel KC put his best into writing the Grounds - best effort, best time, best skills, best knowledge and expertise."

ANONYMOUS CLIENT

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"Not often in life do you come across an individual who exemplifies his profession as David does. Everything was calm, controlled and delivered quite brilliantly."

ANONYMOUS CLIENT

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If you would like to get in touch with David please contact the clerking team:

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**CRIMINAL DEFENCE**

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Since taking Silk, David has continued to be instructed in high profile and complex cases including representing individuals tried for serial rape (Nottingham Crown Court), murder - historic baby shaking death (Chelmsford Crown Court) and murder and robbery (Central Criminal Court).

In the last two years, he has successfully defended in trials for murder, rape, historic sexual assault, conspiracy to supply Class A drugs and firearms possession.

High-profile cases have included the successful appeal of the so called 'match.com rapist', acquittals of professional footballer Ched Evans for rape and ex-professional boxer, Anthony Small for encouragement of terrorism.

In February 2024 and in September 2022, David represented two different young men of good character who were separately charged with rape. In both cases the jury acquitted the defendants unanimously.

In March 2023 and July 2023, juries acquitted David's clients of murder after trials at Croydon Crown Court and at the Old Bailey.

## **NOTABLE CASES**

Past notable cases can be viewed below. [Click here to see a list of recent notable cases.](#)

### **2023**

In July 2023, after a trial at the Old Bailey, the jury acquitted David's client of murder after his alleged joint enterprise involvement in a robbery of a drugs house during the course of a robbery.

In March 2023, David represented a man accused of murder and attempted murder after he stabbed two men in a fight in a car park in South London. After a four-week trial at Croydon Crown Court involving the cross-examination of multiple eyewitnesses and a detailed analysis of CCTV evidence, the jury acquitted the defendant on both charges.

### **2021/2022**

In September 2022, David represented a 22-year-old man of good character accused of rape. The Defendant and Complainant had met on Tinder and had engaged in consensual sexual relations over the course of the evening. The complainant alleged that on the final occasion she had withdrawn her consent and the Defendant maintained that he had not realised this and had a reasonable belief in consent. Despite lying in his interview about what happened on the third occasion, the jury unanimously acquitted him.

David Emanuel KC represented the Defendant, who was not legally aided, at his trial at Wolverhampton Crown Court. He was instructed by Shaun Draycott of Draycott Browne Solicitors, Manchester.

In June 2022, David conducted the retrial of a 19 year old who had been convicted of murder on the basis of joint enterprise at a trial five years earlier. He was subsequently diagnosed with Autism Spectrum Disorder and David was instructed to appeal the conviction on the basis that this amounted to fresh evidence that undermined the safety of the conviction. The Court of Appeal agreed and quashed the conviction directing a retrial which took place in June 2021. At that trial the jury took just half an hour to acquit the Defendant who had spent five years in prison for a murder he should never have been convicted of ([see news](#)).

In December 2021, David secured the acquittal of a man convicted of murder in 2004. Having represented him since 2013, the case has a unique history. David applied to the CCRC to refer the case to the Court of Appeal in 2014 and successfully obtained permission to judicially review their refusal in 2018. The CCRC then reconsidered the application and eventually referred the conviction to the Court of Appeal in 2020. In 2021, David persuaded the Court of Appeal to quash the conviction and they ordered a retrial. At the retrial, David successfully argued there was no case to answer, due to deficiencies in the prosecution's medical evidence relating to causation. The trial judge agreed, but the prosecution appealed that decision. The case, therefore, came before the Court of Appeal for the third time in December 2021, the prosecution's appeal was refused and the defendant was acquitted and released from prison after spending 18 years in custody for a crime he did not commit ([see news](#)).

## **2020/2021**

In December 2021, David secured the acquittal of a man convicted of murder in 2004. Having represented him since 2013, the case has a unique history. David applied to the CCRC to refer the case to the Court of Appeal in 2014 and successfully obtained permission to judicially review their refusal in 2018. The CCRC then reconsidered the application and eventually referred the conviction to the Court of Appeal in 2020. In 2021 David persuaded the Court of Appeal to quash the conviction and they ordered a retrial, At the retrial, David successfully argued there was no case to answer due to deficiencies in the prosecution's medical evidence relating to causation. The trial judge agreed, but the prosecution appealed that decision. The case, therefore, came before the Court of Appeal for the third time in December 2021, the prosecution's appeal was refused and the defendant was acquitted and released from prison after spending 18 years in custody for a crime he did not commit. [See news](#).

## CRIMINAL APPEALS

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David is a very experienced criminal appellate lawyer with an extraordinary track record of success in the Court of Appeal Criminal Division. He is highly ranked by the Legal 500 in this category and is the Vice Chair of the Criminal Appeal Lawyers' Association.

He regularly advises on the merits of conviction and sentence appeals where trial counsel has advised there is no appeal. He has undertaken this specialist work throughout his career and always advises comprehensively in writing to clarify uncertainty which often exists post-conviction. He has obtained leave to appeal out of time and has succeeded in having convictions quashed on a number of occasions where original counsel advised there was no appeal in cases as serious as murder and historic rape.

In June 2023, he successfully obtained leave to appeal out of time for convictions of rape and other serious sexual offences in a case where the Defendant had pleaded guilty to all charges, a 2014 conviction for a Serious Crime Act offence where the Defendant's trial counsel (now a judge) failed to ensure the proper jury directions were given and he has obtained leave to appeal out of time from the Full Court in an attempted rape case where a submission of no case to answer should have been made.

In 2021, David successfully appealed a conviction for murder, a conviction for section 18 GBH (after obtaining leave to appeal 18 years out of time), a sentence for manslaughter on the basis it was manifestly excessive and the terms of a Sexual Harm Prevention Order (SHPO).

He is unflappable in high-pressure situations, regularly drawing praise from their Lord and Ladyships for his written submissions and persuasive advocacy.

David regularly drafts CCRC applications and has succeeded in having four murder convictions referred to the Court of Appeal. His most recent CCRC success came in December 2022, when they referred a rape conviction. David's initial application was initially refused, but after David made further representations a new case review manager was appointed and the referral was finally made.

David is registered with the Bar Council to undertake public access work, meaning he can be instructed directly by members of the public to advise on the merits of appeals/CCRC applications.

## NOTABLE CASES

Past notable cases can be viewed below. [Click here to see a list of recent notable cases.](#)

## Recent Cases

### (Jump to: Reported and Important Cases)

June 2023: David was instructed to advise in a case where a man of good character had been convicted of rape. He identified a number of flaws in the legal directions and drafted grounds of appeal and an application to extend the time in which to make it. At a full appeal hearing in June the Court of Appeal concluded that the cumulative effect of the failings rendered the conviction unsafe and they quashed the conviction.

June 2022: David was instructed in the case of a man who had pleaded guilty to rape and serious sexual assault when unrepresented five years earlier. After obtaining fresh evidence in the form of psychological and psychiatric reports David obtained an extension of many years in which to bring the appeal, arguing that the pleas were equivocal. The Court accepted his arguments and quashed the convictions, refusing to direct a retrial.

March 2022: After successfully applying to the CCRC to refer the conviction as unsafe, David argued that the Defendant had been let down by his trial counsel and the judge by the provision of defective directions to the jury in a case involving the assistance of serious criminal activity abroad. The Court agreed and quashed the conviction refusing to direct a retrial.

December 2021: David successfully resisted a prosecution appeal against a terminating ruling (submission of no case to answer) in a murder trial leading to the Defendant's immediate acquittal.

### **Reported and Important Cases**

***R v L* [2023] EWCA Crim 710:** Conviction for rape quashed where Judge's directions were flawed in numerous respects and where Judge had effectively cross-examined defendant at the end of his evidence.

***R v NJ* [2022] 2 Cr. App. R. 13:** Convictions for rape and sexual assault quashed where unrepresented Defendant had made comments before arraignment which rendered his guilty pleas equivocal. No retrial ordered.

***R v Hanif Patel* [2022] EWCA Crim 451:** Conviction for encouraging or assisting serious crime quashed here judge failed to direct the jury properly on requisite mens rea in joint enterprise case.

***R v Gary Walker* [2021] EWCA Crim 1956:** The Court of Appeal upheld the trial judge's ruling to accede to a submission of no case to answer in a complex and highly unusual murder trial and refused the prosecution's appeal against that terminating ruling.

***R v Philippe Sossongo [2021] EWCA Crim 1777:*** Conviction for murder on the basis of secondary party joint enterprise quashed where fresh evidence of the 14 year old Defendant's undiagnosed autism and ADHD could have affected the jury's consideration of the issues in the case.

***R v Dunne 24th September 2021:*** The Court of Appeal granted leave to appeal out of time and deleted some of the Sexual Harm Prevention Order and reworded other parts on the basis that the sentencing judge had made an order that was disproportionate and lacked precision.

***R v Doak [2021] EWCA Crim 536:*** The Court of Appeal quashed the conviction for section 18 GBH in a baby shaking case and extended by 18 years the time in which to appeal and then reduced the recent sentence for manslaughter on the basis it was manifestly excessive.

***R v Gary Walker [2021] EWCA Crim 3:*** The Court of Appeal quashed the 2004 conviction for murder in a case described as "highly complex and difficult" on the basis of fresh neuropathological and pathological expert evidence and flawed legal directions on causation.

***R v Waqaar Khan [2021] EWCA Crim 142:*** The Court of Appeal granted leave out of time where original trial counsel had failed to obtain proper directions from the trial judge on the issue of complaint evidence.

***R v Lawrance [2020] 2 Cr. App. R. 29:*** The Court of Appeal quashed the convictions for rape of a man who had deceived a woman into having unprotected sex by lying about whether he had had a vasectomy. In the first case of its kind in this country, the trial judge's decision to leave the case to the jury was overturned in a judgment handed down by the Lord Chief Justice. The Court held that to uphold the trial judge's decision would be to endorse "*a sea change in the meaning of consent*" and that such a change could only take place after "*public debate as a matter of social and public policy.*"

***R v KK and others [2020] 1 Cr. App. R. 29:*** The Court of Appeal gave a leading judgment on the correct procedures to be followed when serious jury irregularities are brought to the court's attention before a verdict has been returned.

***R v JS [2019] EWCA Crim 2198:*** The Court of Appeal quashed the convictions for historical sexual offences on the basis that the trial judge's failure to give a direction as to the relevance of the complainant's distress in the witness box rendered the convictions unsafe.

***R v Eniola Balogun [2018] EWCA Crim 2933, [2019] CLW 42/10:*** Court of Appeal reduced the sentence of an 18 year old serial rapist on the basis that his immaturity and youth deserved a larger reduction.



***R v David Sellu* [2017] 1 Cr. App. R. 24:** Consultant surgeon's conviction for gross negligence manslaughter quashed. Guidance on proper directions on meaning of gross negligence.

***R v Evans (Chedwyn)* [2017] 1 Cr. App. R. 13** (Note: Strict reporting restrictions apply regarding the naming of certain witnesses in this case): Conviction for rape quashed. Fresh evidence and consideration of the exceptional circumstances when a defendant can call evidence regarding a complainant's previous sexual history.

***R v Rashid* [2016] EWCA Crim 1677:** Sentence for rape reduced from 12 years to 9 and a half years.

***R v Murray* [2016] 2 Cr. App. R. 31:** Guidance given on when directions as to defendant's lies in police interviews are necessary.

***R v Hunter and others* [2015] 2 Cr. App. R. 9:** Leading authority on good character directions - specially convened five judge Court of Appeal, Lord Chief Justice presiding, heard conjoined appeal of five appellants (two of them represented by David) - guidance provided to all courts.

***R v RT* [2014] EWCA Crim 743:** Conviction for rape quashed due to defective directions on good character, distress/demeanour of complainant and complaint evidence.

***R (on the application of Nunn) v Chief Constable of Suffolk* [2014] 2 Cr. App. R. 22:** Supreme Court decision on the ambit of post-conviction disclosure duties. David acted for interveners.

***R v S.B.* [2013] EWCA Crim 899:** Convictions for historic sex abuse against appellant's sister quashed by Court of Appeal as judge's directions on complaint evidence, good character, delay and standard of proof were all deficient. Prosecution application for retrial refused.

***R v Khan (Mohammed Hanif)* [2012] EWCA Crim 2361:** Sentence of Imprisonment for Public Protection quashed in case of an Imam convicted of raping a young boy in his care. The Court stated "*we think that there is great force in the submission made by Mr Emanuel both in his written advice and orally that, if the appellant continues to deny responsibility for his offences, and if imprisonment for public protection is imposed, he will either not be eligible to take part in courses and/or he will never be regarded as having addressed the problems in fact. He would then never be regarded by the Parole Board as being eligible for release on licence and he will be 'stuck in the system'*".

***R v AC* [2011] EWCA Crim 1430:** It is of fundamental importance that where there is evidence of recent complaint that the jury are given a direction that the complaint evidence does not come from any independent source. Conviction quashed. No retrial ordered.

***R (on the application of Arshad) v Southwark Crown Court* [2011] All ER (D) 31:** The Administrative Court, in allowing the claimant's application for judicial review, held that the judge's order extending the claimant's custody time limit would be quashed in circumstances where there had been delay in the production of evidence by the crown prosecution service contrary to an order of the court.

***R v Joseph and Others* [2011] EWCA Crim 894:** Where a defendant has a very low IQ it may not be appropriate to impose an IPP despite an assessment of dangerousness in circumstances where the individual may not be capable of completing educational and rehabilitative courses as he may end up stagnating in the system and never being released. IPP quashed.

***Attorney General's Reference No.19 of 2008 (Dexter Andrews and Others)* [2009] 1**

**Cr.App.R.(S.) 397:** Prosecution's argument that determinate sentence of imprisonment for hijacking of a lorry by defendant with previous convictions for robbery was unduly lenient on the basis a sentence of IPP should have been imposed was rejected by the court.

***R v MW* [2008] EWCA Crim 3901:** Where a judge fails to give proper directions on good character, lies, and delay, and where a judge fails properly to sum up the defence case, the conviction cannot be regarded as safe.

***R v Wheeler* [2008] EWCA Crim. 688 (Criminal Law Week 08/15/2):** Where a defendant, as part of his defence to a charge of rape, had relied on a number of factual assertions that were not in dispute, but which he had not mentioned prior to giving evidence, the judge had been incorrect to direct the jury, pursuant to section 34 of the Criminal Justice and Public Order Act 1994 that they could rely on his failure to mention those facts as capable of founding an inference of guilt.

***R v Barwell* [2007] EWCA Crim 2561:** A sentence of imprisonment for public protection was inappropriate where there was evidence to suggest that a defendant's repressed paedophilic tendencies could be controlled and minimised with effective treatment.

**Att.-Gen.'s References (Nos 24, 25, 26, 27, 28 and 29 of 2006) (*R v Artan and others*) [2007] 151 S.J. 1299, C.A.:** Guidance on appropriate sentences for offenders committing robbery on the transport system.

***R v Boyle and Ford* [2006] 150 S.J. 1151 CA:** Effect of a fundamental misdirection in section 34 CJPOA 1994 cases on safety of conviction.

***R v Wingrove* [2006] 1 Cr.App.R.(S.) 232(41), C.A.** : Importance of credit for guilty plea in sexual offences cases.

***R v Feuer* [2005] All ER (D) 95:** Extended sentence (licence period) unnecessary and quashed where licence period of the determinate sentence is long enough to manage risk in the community.

***R v Gibson* [2004] 2 Cr. App. R. (S.) 451 (84), CA:** Where a legitimate expectation is given that a defendant will receive a drug treatment and testing order, it will be unjust to impose a mandatory minimum sentence of three years for domestic burglary under section 111 of the Powers of Criminal Courts (Sentencing) Act 2002.

***R v Birchall* [1999] Crim LR 311 CA:** The first domestic authority to recognise that a failure to give accurate directions in adverse inferences from silence cases could amount to a breach of Article 6 European Convention on Human Rights.

## FINANCIAL CRIME AND CONFISCATION

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David is regularly instructed in complex fraud and money laundering trials involving analysis of bank accounts and business records and working closely with forensic accountants.

In January 2019 he defended in a complicated car ringing fraud and money laundering trial at Hove Crown Court.

Autumn 2018: David led in a multi-handed large scale housing benefit fraud at Southwark Crown Court.

February 2018: David successfully argued that the case should be thrown out due to serious prosecution disclosure failings, three weeks into a complex Customs prosecution for tobacco smuggling and money laundering.

Leading counsel for defendant at Southwark Crown Court in 2016 in complex money laundering prosecution involving allegation of fake company records over a number of years as a front for large scale duty evasion conspiracy.

## NOTABLE CASES

May 2018: After a six week duty evasion trial at Wood Green Crown Court, and after a successful submission of no case to answer on money laundering charges, the jury acquitted David's client of the main allegation.

At Aylesbury Crown Court on 22nd February 2018, the prosecution of five men for money laundering and evasion of duty offences collapsed three weeks into the trial due to the prosecution's failure to comply with its disclosure obligations. All five defendants were acquitted. David was leading counsel for the main defendant and took the lead in submissions that led to the case collapsing: [Read more here](#).

February 2016 Multi-handed money laundering trial involving fake business records as cover for large scale alcohol importation. Case involved cut-throat with co-defendant and instruction of intermediary to assist with defendant's severe dyslexia.

Represented the first of seven defendants in five month trial at Snaresbrook Crown Court in 2015 relating to prosecution of defendant's business practices over previous six year period, defendant's acquittal led to the acquittal of other defendants.

## YOUTH JUSTICE & CHILD RIGHTS

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David has regularly been instructed to represent young and vulnerable defendants. Notable cases include the successful defence of a 12-year-old on an attempted murder charge at the Central Criminal Court. He has a particular interest in the way the criminal justice system treats those who have only just passed the age of 18 at the time of the offence. Having successfully appealed the sentence of such an offender in the ground-breaking case of *R v Balogun* where the Court of Appeal stated that the principles that apply to children and young offenders still had relevance to young adults, David has written and lectured on the subject of the sentencing of young adults.

In 2021, the *Criminal Law Review* published an article, '[The sentencing of young adults: a distinct group requiring a distinct approach](#)', that David co-authored with Dr Laura Janes and Claire Mawer. The article sets out the way in which the criminal courts have slowly but surely recognised the relevance of youth and immaturity as significant mitigation when it comes to sentencing young adult offenders. It reviews the significance of *R. v Clarke (Morgan)* (CA) and subsequent cases which have taken account of a defendant's youth and vulnerability with relevance to culpability, how maturity is to be assessed, and relevant guidance from the Sentencing Council.

He has lectured on the subject in two prestigious online webinars:

“[Timely Justice: Turning 18](#)”, the Youth Justice Legal Centre’s launch of its [legal guide and policy briefing](#) on turning 18 in the criminal justice system.

“Sentencing Young Adults: Getting it right first time”, a joint London Criminal Courts Solicitors' Association and Criminal Appeal Lawyers Association lecture.

## BACKGROUND

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David studied law at Bristol Polytechnic before going to the University of Cambridge where he gained a Masters in Criminology.

Having always been fascinated with all matters related to the criminal justice system, particularly the impact it has on the individuals who come into contact with it, David gained experience with a number of agencies as a volunteer before studying for the Bar.

He worked for JUSTICE as a case worker examining possible miscarriage of justice cases before the CCRC had been set up. David worked for the Knightsbridge Crown Court Witness Service advising and supporting witnesses in Crown Court trials and he has been involved in training new volunteers. He also worked in the Visitors' Centre at Feltham Young Offenders Institute with inmates and their families. While studying for his Bar exams David worked part-time in a mental health resource centre where he organised activities for those users living in the community.

## PUBLICATIONS

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'The sentencing of young adults: a distinct group requiring a distinct approach' [2021] 3, 203-217, *Criminal Law Review* (co-authors Dr Laura Janes, Claire Mawer)

'Good Character, Misdirected', Published on [Crimeline](#), November 2017. See the article: [Crimeline News](#)

Practice Note explaining the Court of Appeal guidance on good character directions; PracticalLaw.com  
September 2015

'Legal advice to remain Silent' [2004] 5 Archbold News 6 (co-author Anthony Jennings QC) (Updated June 2005)

'Adverse Inferences from Silence- an update' [2001] 9 Archbold News 6 (co-author Anthony Jennings QC)

## TRAINING AND SEMINARS

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Regularly lectures on developments in criminal appeal law most recently:

“[False Beliefs and Consent to Sex](#)”, part of the prestigious annual Assize seminar hosted by the University of Oxford and the Criminal Bar Association (May 2021)

“[Sentencing Young Adults: Getting it right first time](#)”, a joint London Criminal Courts Solicitors' Association and Criminal Appeal Lawyers Association lecture (July 2020)

“[A perspective from the Court of Appeal Criminal Division](#)”, part of the prestigious RLC lecture series where he was in conversation with the Registrar of Criminal Appeals (June 2020)

“[Timely Justice: Turning 18](#)”, the Youth Justice Legal Centre’s launch of its [legal guide and policy briefing](#) on turning 18 in the criminal justice system (June 2020)

## AWARDS

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David is a winning member of the Crime Team of the Year award at the prestigious 2018 Modern Law Awards ([Modern Law](#)) for work in the successful appeal against conviction in the case of David Sellu, consultant surgeon whose manslaughter conviction was quashed: [See News](#)

## PRESS

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David Emanuel KC shared his his top tips on how to win an argument for an article in *The Guardian*, entitled '[Don't steamroll, and go easy on the stats: how to win an argument – without making things worse](#)'

## EDUCATION

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LLB (Hons)

M.Phil in Criminology (Cantab)

## PROFESSIONAL MEMBERSHIP

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**Fraud Lawyers Association**

**Criminal Bar Association**

**Criminal Appeal Lawyers Association (Committee Member)**

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