



Tom Restall

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Call: 2007

Education: Jesus College, Oxford University (MA Hons Philosophy and Theology), City University (GDL Law), Queen Mother Scholarship from Middle Temple, Keble Advanced Advocacy Course



Practice Summary

- Clinical Negligence
- Commercial Disputes
- Contract Disputes
- Costs
- Employment
- Family
- Personal Injury
- Police Law
- Professional Negligence
- Property
- Public Law

Memberships

- Personal Injury Bar Association
- Employment Law Bar Association
- Family Law Bar Association
- Professional Negligence Bar Association

Tom has a busy and varied civil practice.

Personal injury and clinical negligence

Tom has considerable experience in personal injury litigation. He acts in multi-track and fast track cases, as well as appearing before the Coroners Court and the First Tier Tribunal - Criminal Injuries Compensation. He has a growing clinical negligence practice.

- *F v H* [2012]. Ongoing complex brain injury case with a substantial number of experts.

- *M v S* [2011]. Difficult case where credibility of Claimant in issue after disclosure of surveillance footage. Settled for £181,500 net.
- *E v R* [2011]. Tom's involvement as counsel for the claimant led to the instruction of forensic accountants. Schedule of Loss totalled over £250,000.

Commercial, property and professional negligence

In his broad commercial, property and professional negligence work, Tom's experience extends to cases such as contractual disputes, landlord and tenant cases, neighbour disputes, estate agency and letting agency commission claims, building disputes and various professional negligence cases.

- *South Tyneside Council v FHP* [2012]. Ongoing High Court professional negligence claim against mechanical and electrical engineers and investment surveyors.
- *G v C* [2012]. TOLATA dispute over co-ownership of family home worth c. £350,000-£400,000. Listed for 2 day trial at the Principal Registry of the Family Division. Settled at the door of court.
- *Ford v Olive Tree International Property* [2010]. Sole counsel for the claimant in a multi-track trial concerning an international property purchase. Involved contractual issues, agency law, trusts law and the applicability of the law of Cape Verde.

Employment

Tom enjoys appearing regularly in employment tribunals on behalf of claimants and employers. He has experience in the Employment Appeal Tribunal.

- *E v LM* [2012] (ET). Acted for the Claimant in this unfair dismissal claim. Although the Tribunal found that the Claimant had committed gross misconduct (caught on CCTV), the disciplinary hearing was "so egregiously procedurally unfair that no dismissal based on it could be regarded as fair". The Respondent was a "dysfunctional organisation", such that, had it followed a fair procedure, "almost any decision is within the bounds of possibility".
- *Gould v Wandsworth Borough Council* [2012] (ET). Acted for the Respondent in a 4 day disability discrimination and unfair dismissal case. The Claimant had sustained an injury at work causing long term sickness absence. In their 30-

page judgment the Tribunal accepted that the Claimant had been fairly dismissed for capability while at the same time had not been "disabled".

- *Aliane v WBC* [2011] (ET). Unfair dismissal and race discrimination case. The Tribunal accepted that the Claimant had been fairly dismissed for redundancy notwithstanding that she had been the only person in the pool from which the employer was selecting for redundancy. Tom acted for the Respondent.

- *Moghal v Hudda* [2008] All ER (D) 109 (Sep) (EAT). Acted for the Claimant in her successful appeal to the EAT in a constructive dismissal case. Went on to obtain judgment for the Claimant at the remitted 3-day hearing before the Tribunal.

Family

Tom undertakes work in a range of family cases, including care proceedings (for local authorities, parents and children/Guardians), applications for non-molestation and occupation orders and private law children cases. Example cases include:

- *V v B* [2012] (PRFD). Acted for applicant father in long running contact dispute with heavy CAFCASS involvement.

- *LB Southwark v S* [2011] (PRFD). Acted for the local authority in care proceedings where concerns related to mother's learning difficulties and risk-taking behaviour, neglect, child's sexualised behaviour and father's drug use.

- *LB Haringey v R* [2011] (North London FPC). Acted for mother in care proceedings brought due to domestic violence. Proceedings concluded with a written agreement and no order.

Other experience and expertise

Tom has broad legal experience, from acting in the Administrative Court to advising on complex disclosure issues. He previously incorporated criminal work within his practice, and he is therefore able to draw on his experience of criminal law and advocacy in the Crown Court and magistrates courts as appropriate. He continues to act in civil behaviour order and cash forfeiture cases.

- *R(Tevlin) v Medway Magistrates Court* [2012] (Administrative Court, Richards LJ and Treacy J). Acted for Claimant in judicial review claim in respect of a Magistrates Court's decision to proceed in the defendant's (judicial review claimant's) absence despite the provision of medical evidence to explain his

non-attendance.

- *Various Claimants v News Group Newspapers* [2011]. Advised and assisted the Metropolitan Police concerning a complex disclosure and redaction exercise in the 'phone hacking' cases.

- *London Borough of Bromley v W* [2011] (Administrative Court, Blake J). Acted for a 16 year old defendant during a 5-day 5-defendant ASBO hearing in the Bromley Magistrates Court. Then conducted the appeal by way of case stated to the High Court, firstly obtaining an order from the Administrative Court that the Bromley Justices amend the case they had stated, and then appearing at the hearing where the appeal was allowed in part.

In 2007/8, prior to joining chambers, Tom was a Judicial Assistant in the Court of Appeal to Arden LJ and Sir Anthony Clarke MR. He also gained experience acting in a number of cases through the Free Representation Unit. He has previously travelled and worked in Australia and Kazakhstan.

Publications

Tom is a contributor to a forthcoming practitioners' textbook on employment tribunal remedies

'*Feeling the judicial chill*' (on the Jackson reforms), *The Lawyer*, 18 March 2013

'*Are you up-to-date?*', 9 Gough Square Employment Newsletter, March 2013

'*Part 36: a legal quagmire*', 9 Gough Square PI Legal Update, October 2012

9 Gough Square Costs Update, Summer 2012

'*Introduction to the New Family Procedure Rules*', 9 Gough Square Family Bulletin, March 2012

'*Foxtons: to be followed or forgotten?*' (examination of the current position on letting agents commissions), *News@9*, February 2011

9 Gough Square Costs Group Legal Update, February 2011

'*Mutual Trust and Confidence: An Update*', 9 Gough Square Employment Law Bulletin, Autumn 2009

