

Tom Restall

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Tom enjoys a busy and varied civil and family practice.

He is regularly instructed in 6-figure civil claims as well as cases of personal, rather than financial, importance. His broad practice means that he has experience dealing with a wide range of people—experts, seriously injured claimants, vulnerable witnesses, business people. He is considered to be highly analytical and focused, yet personable and good with clients. He has developed significant advocacy expertise, having appeared in court/tribunals about 1500 times. He seeks to give clear, practical and realistic advice. While Tom’s main practice areas are set out below, he draws on an even wider legal background. As a junior in chambers he gained valuable advocacy experience in the Crown Court. He advised the Metropolitan Police on disclosure in the high profile ‘phone hacking’ cases. Before pupillage he was a Judicial Assistant in the Court of Appeal, working on matters ranging from terrorism and immigration cases to high value commercial litigation. His breadth has not been at the price of depth. His capability is reflected in his repeated appointment, following open competitions, as a member of the highly-respected Attorney General’s Panel of Counsel to the Crown. Tom was one of only two in his year to go to Oxbridge from his comprehensive state school. He has previously lived and worked in Australia and Kazakhstan.

Areas of Expertise

Personal Injury and Inquests

Tom has considerable experience in substantial multi-track personal injury litigation, as well as expertise in a wide range of inquests. He co-authors the ‘Personal Injury and Death’ chapter in the Civil Court Practice (i.e. the well-known Green Book) published annually by LexisNexis Butterworths. He is a contributing author of the APIL Guide to RTA Liability (3rd ed.).

Notable Personal Injury and Inquests cases

Av Ministry of Defence

Sole counsel for MOD in claim for £1.5million by service man injured during a vessel Board and Search by Royal Marines in the Arabian Gulf. 10 experts. Settled before 6-day High Court trial.

Walsh v CPHart [2020] EWHC 37 (QB)

Acted for the brain-injured claimant, against a QC for the defendants, at liability trial before the Designated Civil Judge, and on appeal to the High Court. The appeal was on the meaning of “reasonable practicability” and whether the Supreme Court in Baker v Quantum Clothing had changed the test. Appeal successful and judgment entered for the claimant.

B v L

Chronic pain claim for over £750,000.8 experts. Represented a serving police officer facing allegations he had actively attempted to mislead the experts and the court, based on surveillance and other evidence.

A v M

Acted for the claimant who sustained potentially life-threatening chest injuries, two distinct chronic pain conditions and an ongoing psychiatric condition. 7 experts. At trial the court preferred the claimant’s pain expert and awarded the claimant over £200,000.

Spencer v Bishop Wand School

Appeal on the correct application of the COSHH Regulations. Successfully defended the appeal on behalf of the claimant science teacher.

Roci v Bagshaw

3-day RTA trial, allegation that the collision was fraudulently induced as a result of a conspiracy between the 3 claimants.

Re Mohammed Shabol Ahmed (dec’d)

Represented HM Prison Service at the 7-day jury inquest into the death of a prisoner who died after taking illicit new psychoactive substances. Reported by the BBC.

Re McCrohan (dec’d)

Represented the family at the 2-day inquest before the Senior Coroner into the death of a voluntary psychiatric patient. Issues included the applicability of Article 2 ECHR in light of the Supreme Court decision in Rabone

Family and Court of Protection

Tom has particular expertise in care proceedings, acting for local authorities, parents and children / guardians. He deals with a full range of issues, such as non-accidental injuries, deprivations of liberty, sexual/physical/emotional abuse, international placements, domestic violence, mental health difficulties (including affecting litigation capacity) and substance misuse.

Tom is also instructed in a broader range of family matters. For instance, he has acted for the Queen's Proctor seeking to intervene in a divorce on public interest grounds and for the Secretary of State in child support enforcement appeals to the Family Court. He deals with disputes concerning the co-ownership of the family home / TOLATA cases (see Business, Property and Professional Negligence section below).

Tom accepts instructions in Court of Protection cases, including both finance and welfare cases, and has an interest in developing his practice in this field.

Notable Family and Court of Protection cases

Re D

5-day fact finding hearing before a Circuit Judge on allegations a step-father had repeatedly raped his step-daughter.

Re A

Successfully obtained findings that allegations of sexual abuse against the father were in fact due to the children having been coached by the mother.

Re B

6-day final hearing before Designated Family Judge seeking 9 findings of emotional and physical abuse of teenage girl by her mother and step-father.

Royal Borough of Kingston upon Thames v SK (a child) [2017] EWHC 2636 (Fam)

Applications under the High Court's inherent jurisdiction for declarations of date of birth and parentage, and for a Special Guardianship Order, in respect of a child who was the victim of human trafficking.

AH v Secretary of State for Work and Pensions [2017] EWFC 9

Child support enforcement case on whether, following Pomiechowski [2012] UKSC 20, the Human Rights Act requires the court to have an exceptional discretion to extend time for appealing a lump sum deduction order, despite the mandatory time limit in the Family Procedure Rules.

K v Prospective Adopters

Successful appeal against refusal of leave to oppose adoption, on grounds that the judge misdirected himself as to what constituted a 'change of circumstances'.

Business, Property & Professional Negligence

Tom has a particular interest in business and property work and is regularly instructed in such cases. His experience extends to contractual disputes, residential and business landlord and tenant cases, neighbour disputes (including on boundaries), beneficial interests in land cases, lease / licence issues and building disputes.

Tom was an editor of the Landlord and Tenant Reports, published by Sweet & Maxwell, in 2015-2020.

Tom also practises in professional negligence work, with experience in cases involving a variety of different professionals, including doctors, engineers, architects, surveyors and solicitors.

Notable Business, Property & Professional Negligence cases

STC v F

High Court professional negligence claim for £800,000 against mechanical and electrical engineers and investment surveyors.

Re S

£600,000 breach of contract claim against local authority.

W v HM Attorney General

High Court claim for a vesting order of freehold property where title had been extinguished following dissolution of a corporation and disclaimer by the Treasury Solicitor.

Poole v Scott-Moncrieff and Associates LLP [2020] Lexis Citation 346 (SCCO)

Substantial costs case, arising out of a commercial dispute, with point of law on the circumstances in which the Chorley principle applies to a solicitor representing himself.

Michael v Lillitos [2019] EWHC 2716 (QB)

Appeal against refusal of relief from sanctions in a landlord and tenant claim.

Ford v Olive Tree International Property

Trial concerning an international property purchase. Involved contractual issues, agency law, 'Quistclose' trusts and the applicability of foreign law.

French v Fletcher

Acted for judgment creditors seeking to enforce against former tenant. 2-day trial on beneficial ownership issue.

Re A

£100,000+ civil fraud claim against former employee.

Cosmichome v De Mendonca

2-day trial concerning alleged surrender of a commercial lease.

Re A

£250,000+ dispute relating to sale of a business, resolved at mediation.

Employment

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

Tom is a contributing author of Remedies in Employment Law, a practitioner text published by the Law Society.

Notable Employment cases

L v W; R v W

Linked discrimination, protected disclosure and constructive dismissal claims in which Tom acted for the respondent local authority. Factually complex cases, with evidence from 14 witnesses, the hearing running over a 3-week period, and the parties' written submissions extending to over 120 pages.

Oduko v Department for Work and Pensions: Acted for the DWP at 3-day hearing in which the claimant's dismissal for information security breaches was upheld.

E v LM

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 WBC

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’.

Moghal v Hudda

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.

Education

- Keble Advanced Advocacy Course
- MA (Hons.) (Oxon) –Jesus College, Oxford
- Queen Mother Scholarship, Middle Temple

Memberships

- PIBA, FLBA, PNBA

Appointments

- Deputy District Judge
- Attorney General’s Panel of Counsel (B Panel)