



Tom Emslie-Smith

Called in 2016 020 7583 9241

Tom has a busy practice with particular specialism in personal injury, clinical negligence, employment, disciplinary, commercial and insurance.

Tom's Court practice is focussed on cases on the Fast Track and Multi-track, as well as Employment Tribunal and disciplinary proceedings.

Tom is a persuasive Court advocate and provides balanced yet decisive advice. He is frequently instructed in cases of high value and complexity.

Personal Injury

Personal injury is a core area of Tom's practice. He is regularly instructed on the Multi-track and Fast Track in trials, interlocutory hearings and disposals. Tom also provides advice on liability and quantum and drafts statements of case, schedules and counter-schedules.

Examples of Tom's recent cases include:

- A brain injury case in which the Claimant alleged that she had lost the chance to secure a job having recently completed a vocational course;
- A serious accident where the Claimant was knocked over by a rescue dog, the claim being presented under the Animals Act 1971;

Location

Farrar's Building,
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- A fatal accident claim by the widow of the deceased;
- A finding of 80% contributory negligence against a claimant cyclist where D had stepped from the pavement into his path, D had suffered a catastrophic spinal injury and C had been convicted of dangerous cycling.
- Numerous cases involving consideration of the legal duties owed by highway authorities and statutory undertakers in relation to street apparatus;
- Successful defence of a landlord in a mould induced asthma claim.

Tom frequently handles matters in Court and on paper across the range of personal injury issues, including:

- Employer's liability
- Public authorities
- Highways Act 1980
- Landlord's liability
- Defective Premises Act 1972
- Pet liability
- Fundamental dishonesty
- Low Velocity Impact Defences

Tom is happy to consider accepting instructions on a CFA basis.

Clinical Negligence

Tom takes regular instructions in clinical negligence matters. He has recent experience in claims involving the fields of oncology, ophthalmology, neonatal care, plastics and dentistry. He is thorough in his analysis of expert medical evidence and able to give cogent, practical advice on risks and strategy from an early stage onwards.

Examples of Tom's recent cases include:

- A fatal accident arising out of delayed cancer treatment;
- A claim for total loss of vision in one eye due to an alleged failure to diagnose a retinal detachment;
- An acute injury resulting in hospital admission arising from allegedly negligent dental treatment;
- A claim in respect of a baby who had a respiratory arrest and seizure shortly after birth.

Tom accepts instructions for claimants and defendants and is always willing to consider cases on a CFA.

Employment

Tom has a keen interest in employment law. With a core focus on unfair dismissal and discrimination, he advises and appears

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before the Employment Tribunal in disputes involving:

- Constructive dismissal
- Redundancy
- TUPE
- Unlawful deduction of wages
- Overnight workers and national minimum wage
- Psychiatric harm

Examples of Tom's recent cases include:

- A reasonable adjustments case concerning a performance management process drawn out over several years due to the Claimant's medical condition that arose from the requirements of the job;
- A race discrimination and whistleblowing claim involving protected disclosures about the management of public funds;
- A constructive dismissal case following a refusal to allow time off for jury service;
- A Covid-related unfair dismissal at a perfume store (receiving press-coverage)
- A claim by "sleep-in" overnight workers under national minimum wage legislation complicated by a TUPE transfer.

Tom is willing to take instructions for both claimants and respondents in interim and final hearings.

Tom's experience with disciplinary investigations, in both the employment and professional regulation contexts, give him an ideal skill set to conduct internal disciplinary investigations. He is able to conduct a thorough investigation in a manner that is sensitive and procedurally fair.

Regulatory & Disciplinary

Tom has experience before disciplinary tribunals and readily accepts instructions in sports and professional regulatory matters.

He has gained particular experience and training through representing the Nursing and Midwifery Council in fitness to practice proceedings, including those involving criminal offences and safeguarding issues.

Tom is also experienced in internal investigatory proceedings, having dealt with numerous disciplinary cases in the employment context.

Tom represents registrants and members as well as regulators and disciplinary bodies and aims to build expertise through representation on both sides.

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Travel & Tourism Law

Tom's practice includes travel and cross-border matters. He has recent trial experience in cases with issues on jurisdiction and applicable law. His expertise in personal injury combined with thorough knowledge of the travel law framework enable him to provide excellent advocacy on all aspects of his cases.

Insurance

Tom has a thorough knowledge of insurance law, frequently advising on claims involving insolvent companies, insolvent insurers and indemnity issues. Tom has appeared before Court in a number of cases centering on the interpretation of the European motor insurance framework.

Credit Hire

Tom has built up an extensive knowledge in credit hire matters through regular instructions. He undertakes work on both claimant and defendant sides and has dealt with cases covering a broad range of credit hire issues.

General Common Law

Tom has Court experience in a range of common law cases including the following areas:

- Landlord and tenant;
- Property;
- Product liability;
- Property damage;
- Household fires;
- Building disputes;
- Sale of goods and contractual disputes

Tom is happy to be instructed in interim and final hearings across Chambers' broad spectrum of common law work.

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Civil Fraud

Tom regularly represents parties in fundamental dishonesty trials, particularly those involving LVI and medical causation issues. He is well versed in arguments as to section 57, QOCS, and costs consequences upon findings of FD.

Tom has experience in cases involving fraud rings, a recent example being the ongoing litigation surrounding a ring of allegedly staged accidents involving Tesco delivery drivers.

Tom also has experience of suspected fraud in the running of credit hire matters. He is regularly instructed in matters where enforceability of credit hire agreements is in issue and has appeared in several cases, with some success, in which illegality is raised as a defence.

If you would like to instruct Tom Emslie-Smith or would like help or advice in doing so, please call and talk to our excellent clerking team, led by senior clerk Alan Kilbey MBE. Our phone number is +44 (0)20 7583 9241. Alternatively, please email us at chambers@farrarsbuilding.co.uk

For more information about our clerking team, please [click here](#) for the clerks page.

Appointments & Memberships

Personal Injury Bar Association

Employment Lawyers Association

Bar Pro Bono Unit Volunteer Panel

Lincoln's Inn

Education & Qualifications

Bar Professional Training Course, University of Law, Outstanding (2016)

Graduate Diploma in Law, Kaplan Law School, Commendation (2014)

MA (Hons) International Relations, University of St Andrews, 1st Class (2013)

Medical Protection Society Prize for Personal Injury and Clinical Negligence, University of Law (2016)

Buchanan Prize for BPTC Performance, University of Law (2016)

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Advocacy Scholarship, University of Law (2016)

Lord Denning Scholarship, Lincoln's Inn (2014)

Hardwicke Entrance Scholarship, Lincoln's Inn (2013)

Dean's List for Academic Excellence, University of St Andrews (2012 & 2013)

Personal Interests

Tom enjoys playing the guitar and has performed in a band in live music venues across London. He also enjoys playing and watching football, rugby, running and just about any other sport going.

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