



## Daniel Laking

Year of Call: 2015

### Practice Areas

- Civil Fraud
- Costs
- Credit Hire
- Health & Safety
- Inquests
- Personal Injury

### Email:

[dlaking@tgchambers.com](mailto:dlaking@tgchambers.com)

### Experience

Daniel practises principally in the fields of Personal Injury, Costs and Litigation Funding, Inquests and Inquiries, and Health and Safety. He has a busy Court practice in the County and High Courts alongside an active advisory and paperwork practice in his key specialisms.

He is currently instructed as junior counsel to the Grenfell Tower Inquiry alongside his court practice.

### Personal Injury

Daniel is frequently instructed in fast- and multi-track personal injury work for both claimants and defendants. His multi-track practice includes several six-figure claims in which he is instructed as sole counsel. He is frequently instructed to draft pleadings, Schedules and Counter- Schedules in high-value cases.

Daniel appears in court on a regular basis before both District and Circuit Judges on trials and interlocutory hearings. He is frequently instructed in trials involving fraudulent elements such as low-velocity impact, phantom passenger and staged accident claims. He is in particular demand from Defendant insurers in motor fraud and fundamental dishonesty cases.

Due to his experience both as a pupil under the supervision of Marcus Grant and previously as a paralegal to a senior junior practising solely in catastrophic personal injury, Daniel is

proficient at drafting complex Schedules in personal injury and Fatal Accident Act cases. He is fully conversant with large heads of loss such as dependency, care, accommodation and loss of earnings. He has a particular interest in Ogden 7 claims. Daniel has a wealth of experience beyond his year of call in multi-track litigation, derived from assisting with a number of high-profile cases such as *Cockerill v CXK Ltd* [2018] EWHC 1155 (QB) and *Swift v Carpenter* [2018] EWHC 2060 (QB) (awaiting appeal in the Court of Appeal with PIBA intervening).

### **Costs and Litigation Funding**

Daniel has a niche practice in costs law and has been instructed in cases dealing with a wide range of costs issues. For example, he has been instructed in cases regarding recoverability of ATE Premiums and is familiar with the law both pre- and post-LASPO. Most recently, the Paying Party accepted the Receiving Party's Part 36 offer after service of his skeleton argument.

As a Personal Injury lawyer, Daniel is familiar with all aspects of costs as they relate to PI and Clinical Negligence cases. He is frequently instructed in CCMCs and applications that relate directly to costs. He has a full understanding of the exceptions to QOCS and has been successful in recovering costs under both CPR r44.15 and CPR r44.16 in bespoke applications.

On a more general basis, as a member of the PIBA Executive Committee, Daniel has been involved in recent submissions on Fast Track fixed costs, and the proposed 'intermediate track' costs for cases valued between £25,000 and £100,000.

### **Health and Safety**

Daniel is instructed to defend organisations and individuals in health and safety cases arising out of HSE and Local Authority prosecutions in both the Crown and Magistrates' Courts. For example, he has recently represented a leading rail company during an ORR prosecution and has dealt with procedural hearings in a number of cases proceeding to trial in the Crown Court. He has a particular interest in sentencing practice in H&S cases. He has recently advised on the new Definitive Guideline for Reductions in Sentence for a Guilty Plea and how this may impact sentencing of large and very-large organisations. He has further advised on the merits of remaining in the Magistrates' Court for trial and sentencing.

During pupillage with Dominic Adamson (Health and Safety Junior of the Year 2018) he assisted on a wide range of health and safety cases, including *R(HSE) v Tata Steel UK Limited* [2017] EWCA Crim 704 (the first Court of Appeal case under

the new HSE sentencing guidelines) and *R(HSE) v Whirlpool UK Appliances Limited* [2017] EWCA Crim 2186. He has further been involved in cases arising out of accidents in factories, warehouses, care homes and appeals to the Employment Tribunal in respect of Improvement and Prohibition Notices.

### **Inquests and Inquiries**

Daniel has a significant practice in Inquests and Inquiries, both in his own right and as a junior. Most notably, he has since 2017 been instructed on the Grenfell Tower Inquiry as junior counsel, led by Kate Grange QC (39 Essex Chambers) and Richard Millet QC (Essex Court Chambers). He is familiar with the specific challenges that acting in ongoing cases can pose and has been involved, for example, in designing and managing large-scale disclosure exercises. He is instructed in inquests in his own right, most recently acting for the family in respect of a death of a diabetic patient (in which the Trust subsequently admitted civil liability) and in which the Senior Coroner made a Regulation 28 Prevention of Future Deaths report.

During pupillage with Nick Moss, Daniel assisted on a number of high-profile Inquests, including the Sean Benton Inquest (one of the Deepcut Inquests), an MOD inquest into a death in Iraq, and a judicial review into deaths in custody (*R(Scarfe & Ors) v Governor HMP Woodhill & SoS Justice* [2017] EWHC 1194 (Admin)). After pupillage, he assisted Dominic Adamson in the Westminster Bridge Inquests.

### **Further Information**

During his legal studies Daniel volunteered for the South West London Law Centres Network and Greenwich Housing Rights, providing pro bono representation to members of the public facing possession proceedings in his local community. Outside of the law, Daniel is a keen musician and frequently undertakes concerts and tours as a singer (when time permits).

### **Appointments**

Lexis Nexis Personal Injury Panel Expert  
Personal Injury Bar Association Committee Member

### **Education**

New College, Oxford University: BA (Hons) Music  
City University, London: CPE/GDL (Commendation)  
City Law School, London: BVC/BPTC (Outstanding)

### **Memberships**

Health and Safety Lawyers' Association

## Cases

### **Inquest touching upon the death of Jonathan McCarthy**

30.04.2019

Barristers involved: Daniel Laking

Daniel represented the family of Jonathan McCarthy in the inquest into his death.

Mr McCarthy died whilst an inpatient at the Tunbridge Wells Hospital at Pembroke in October 2018. He was a Type 1 diabetic who had been successfully maintaining his insulin regime for the entirety of his adult life. During admission, his insulin regime was managed by clinical and nursing staff. His blood sugar was allowed to increase to such levels as to be unreadable for a period of almost twenty-four hours. He subsequently died of Diabetic Ketoacidosis, an acute condition caused by extremely high blood sugar levels.

Mr Roger Hatch, Senior Coroner for North West Kent, found that the Trust failed to correctly monitor Mr McCarthy's blood glucose levels, failed to undertake ketone testing when it was clearly indicated, failed to administer the correct doses of insulin, failed to provide adequate nursing care and failed to escalate to the on call medical team when it was clear this should have been done.

He recorded a narrative conclusion that the death was due to the failure of Maidstone and Tunbridge Wells Hospital Trust to check frequently for high blood sugar levels or ketones and as a result of no action being taken, Mr McCarthy developed Diabetic Ketoacidosis from which he died. The Coroner also made a Preventing Future Deaths report pursuant to Schedule 5 Paragraph 7 Coroners and Justice Act 2009.

Further information can be found [here](#).

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