

## Tom Day

"A good legal mind and he is always abreast of legal developments."  
"He is an all-rounder and excellent for MPTS hearings." "Fiercely bright.  
He is well liked by clients and tribunals, and he gets great results which  
makes it look easy."  
Chambers UK 2021



Year of Call: 2008

020 7353 5324

Tom is recognised as a leading junior who specialises in defending individuals and corporate entities facing criminal charges with a particular focus on criminal regulatory offences and serious crime. Tom appears in matters of the utmost complexity and gravity including offences of murder, manslaughter, violence, firearms, drugs, dishonesty and fraud. His experience in regulatory, disciplinary and licensing matters means he has a particular interest in criminal cases with a regulatory aspect.

Tom is recognised as a leading junior representing professionals before their respective tribunals. He has experience defending professional at most tribunals but regularly appears at the MPTS and GDC. Tom also presents cases for regulators including the GOC, GPHC, The FA and other sporting bodies.

Tom also conducts many high profile and complicated inquests (including acting for The FA during the Hillsborough Inquests), often relating to medical professionals or possible breaches of Health & Safety legislation.

In addition to these areas Tom is an experienced practitioner in the field of licensing. He has particular experience in obtaining licences for, or defending charges arising in relation to, alcohol, live concerts and housing

Tom accepts **Direct Access** instructions.

## What Others Say:

"He has an easy charisma that puts clients at ease and charms panels and experts alike. He can also be ruthless in getting the result that he wants and will work incredibly hard to make sure that he gets it." – Legal 500 2021

### Location

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“He assimilates complex information into client friendly language, provides clear and comprehensive advice and presents arguments with authority.” – Legal 500 2021

“Provides sound, practical advice and turns requests around quickly. A real team player who impresses clients with his approach.” – Chambers UK 2020

“Always secures excellent results for his client.” Chambers UK 2020

“Very personable and an excellent communicator.” – Legal 500 2020

“Thorough and very personable. He has clear judgement.” – Chambers UK 2018

“A highly responsive, efficient and effective advocate.” – Chambers UK 2018

‘Thorough and very personable, with clear judgement.’ – Legal 500 2017

## Criminal Defence

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Tom is an experienced practitioner who has defended in cases of all levels of seriousness. As a led junior he recently secured the acquittal of the first on the indictment in a five handed conspiracy to murder heard at Sheffield Crown Court. As a junior alone he has experience of the most complex and serious cases including drugs, firearms and money laundering.

He has appellate experience and recently secured the immediate release of an individual who had received an imprisonment for public protection. He has been the subject of judicial praise from Lord Justice McCombe: “it is carefully and cogently argued by Mr Day, to whose submissions we also pay tribute... Mr Day has developed a sophisticated argument.”

### **Individual cases:**

#### **R v WF**

Sheffield Crown Court

Led by Ali Bajwa QC. A five handed conspiracy to murder. Tom’s client was first on the indictment and alleged to have planned the execution of an individual in Pakistan. The Crown’s case rested upon weeks of audio material recorded by a probe in the defendant’s car. The case also involved the use of an intermediary and expert evidence. The defendant was acquitted after a submission of no case to answer at the end of the defence case.

#### **R v CJ**

Court of Appeal Criminal Division

Tom represented an individual who had received a sentence of imprisonment for public protection in 2006. Having been advised on two occasions that there were no grounds for appeal, Tom advised and represented the individual at the Court of Appeal and secured his immediate release.

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# Criminal Regulatory

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Tom specialises in criminal regulatory related litigation and is recognised as a leading junior in the field of Health and Safety. He advises and acts in all matters involving alleged breaches of criminal regulations including alleged breaches of the Health and Safety Act 1974, Environmental Protection Act 1990 (including statutory noise nuisance), Regulatory Reform (Fire Safety) Order 2005, Housing Act 2004, Security Industry Act 2001 and Food Safety Act 1990.

Tom has particular experience defending prosecutions brought under the Health and Safety at Work Act 1974 representing directors, corporate entities, charitable bodies and individuals. He has particular experience in matters concerning the construction industry, the CDM regulations, and the Work at Height Regulations. He is also regularly instructed in inquests which touch upon potential breaches of health and safety legislation and represented The Football Association at the Hillsborough Inquests.

He is known for his ability to quickly identify the central issues, provide practical advice, and bring to bear excellent tactical judgment in the preparation and management of cases. As a result, he is often instructed by solicitors before charge to provide advice with an eye to future proceedings.

Tom is a regular contributor to the 2 Hare Court Criminal Regulatory newsletter and is a member of the Association of Regulatory and Disciplinary Lawyers and the Health and Safety Lawyers Association.

Individual cases and a selection of current instructions:

## **HSE v PLC**

Tom represents a company charged with health and safety offences arising from the dismantling of a lift. The charges arise out of an accident wherein a worker fell from the lift and suffered catastrophic injuries leaving him paralysed from the chest down.

## **HSE v MWJ**

Tom represents the Director and company charged with health and safety offences arising out an explosion which caused catastrophic injuries to an employee. The explosion occurred during the attempted decommissioning of underground petrol storage tank.

## **Inquest touching the death of FC**

Tom represents the local authority in relation to a part heard inquest. The death occurred as a result of road accident where the deceased's car left the road in wet conditions on a stretch of A road for which the local authority has responsibility.

## **Hyndburn Borough Council v TCH**

Tom represented a company charged with various offences under the HSWA 1974. The prosecution arose out an accident which occurred when the maintenance team attempted to remove a roller shutter door. The roller shutter door, weighing over 1.2 tonnes collapsed onto one of the maintenance team operatives who suffered catastrophic

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injuries including an amputation above the knee, a bleed on the brain and a fractured skull. The maintenance team had never, for this or any other operation, produced a written risk assessment or method statement. Tom negotiated acceptable pleas to some of the charges and produced with his solicitors a comprehensive mitigation bundle and documentation ahead of sentencing. The prosecution's contention was that the offence, for a "large" company within the guidelines, should be categorised as high culpability, harm category 1 so as to receive a starting point of a £2.4 million fine. After hearing detailed argument the Court agreed with Tom's argument and categorised the company as a "medium" company following the effects of COVID-19, and the offence categorised as medium culpability, harm category 2 and imposed a fine of £200,000.

### **West Yorkshire Fire Authority v JB**

Tom represented a Director of a national Corporate Approved Inspector in relation to charges brought by the West Yorkshire Fire and Rescue Service (WYFRS) against the Corporate entity under the [Regulatory Reform \(Fire Safety\) Order 2005](#). Tom's client was prosecuted on the basis that the offence was committed with the consent, connivance or attributable to the neglect of the Director. The case involved complicated and novel legal issues which were the subject of detailed legal argument. Legal arguments combined with sound tactical management of the case and disclosure requests led to representations drafted by Tom inviting the prosecution to offer no evidence. The prosecution offered no evidence on the first day of trial.

Further details: [2 Hare Court News Article](#)

### **Inquest touching the death of MS**

Tom represented the general manager of hotel during an inquest touching the death of one of its guests who fell from an open window to his death.

### **Inquest touching the death of NSC**

Tom represented Leeds Beckett University at the inquest arising out of the suicide of an undergraduate student. The case received national media coverage.

Please read news articles from [The Daily Mail](#) and [The Sun](#).

### **HSE v E**

Tom advised and represented a scaffolding company charged with breaches of health and safety legislation arising out of the collapse of a three-storey scaffolding tower onto Leicester High Street. The collapse injured two pedestrians and caused damage to passing vehicles. Tom secured a fine of £8,000. The matter received national press coverage from the BBC, ITV, Daily Mail among others.

Please read news article here [BBC News](#).

### **London Borough of Southwark v B**

Tom advised in relation to a criminal summons issued to this FTSE listed multinational company for an alleged breach of section 60 of the Control of Pollution Act 1974. The summons was withdrawn following Tom's legal advice and written representations to the prosecution asserting that the summons were invalid, proceedings were time barred and that the defect in the summons could not lawfully be amended. The prosecution withdrew the

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summons.

### **HSE v B**

Tom advised and represented a private education establishment following an accident where an employee fell while undertaking remedial work to a bay window roof. The Health and Safety Executive originally suggested that the ultimate fine ought to begin with a starting point of £950,000. Having considered detailed written and oral submissions the Crown Court imposed a fine of £40,000.

### **HSE v PSS**

Tom represented a national storage solution company who were charged with an offence contrary to section 3 of the Health and Safety at Work Act 1974. The charge arose out of an incident in Carlisle where the company, through its subcontractor, was installing 200kg racking. During unloading of a different item, one of the racks fell causing devastating injuries. Following Tom's detailed defence statement which particularly concerned the inherent stability or otherwise of the racking, the prosecution offered no evidence.

### **HSE v JP**

Tom represented a sole trader charged with health and safety offences arising out of a fall from height which caused serious injuries. The defendant was a painter/decorator who had been appointed principal contractor by a large organisation for the refurbishment of a building. Tom's client entered acceptable guilty pleas but maintained that he had not knowingly agreed to be principal contractor and that the organisation was seeking to use him as cover. Having heard submissions on the point the judge agreed that Tom's client had not knowingly agreed to appointments as principal contractor.

### **Lancashire Fire & Rescue v P**

Tom represented the former Chairman of Lancashire County Council who faced 12 charges relating to breaches of The Regulatory Reform (Fire Safety) Order 2005 placing one or more people at risk of death or serious injury. The prosecution arose as a consequence of a fire in a building owned by Tom's client and let out to tenants. Tom negotiated acceptable guilty pleas and the matter was committed for sentence to Preston Crown Court. The sentencing judge was persuaded to impose a suspended sentence of imprisonment and a fine.

Please read news article [here](#).

### **HSE v S and EK**

Tom represented the company and director of a solar panel company for offences under the HSWA 1974, Work at Height Regulations and breaches of a prohibition notice all arising from employees working unprotected on a roof. The Court disagreed with the HSE's submission of high culpability and agreed with Tom that this was a case of medium culpability before imposing a £10,000 fine.

### **DB v Newbury Town Council**

Tom advised and represented Newbury Town Council defending proceedings in the Magistrates' Court whereby the claimant alleged a statutory noise nuisance emanating from a play equipment and area owned and maintained by the Council. Experts were instructed by the claimant and the defendant. After cross-examination the claimant's

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expert conceded that he could not say that the noise amounted a statutory noise nuisance and the application was rejected by the District Judge

### **HSE v BL**

Tom advised and represented the company in a prosecution brought as a result of asthma developed by an employee owing to exposure to solder. The matter concerned the exposure to solder over period of decades and necessitated careful examination of the guidance applicable over those years, the remedial efforts undertaken by the company and the extent of the injury to the employee. After written and oral submissions the court imposed a fine of £12,000.

### **Flintshire County Council v WBS**

Advised and represented a company charged with three offences under the HSWA 1974 arising out of an incident on the company's premises that resulted in the amputation of a customer's fingers.

### **Environment Agency v H**

Tom advised and represented a waste management company charged with breaches of the Environmental Protection Act 1990. The case involved complex issues in particular the definition of hazardous waste in relation to various compounds of antimony.

### **Security Industry Authority v ES**

Tom represented one of the largest private security providers in the country and two directors in a prosecution brought by the Security Industry Authority. After careful negotiation the prosecution accepted pleas to only one offence by the company and one of the Directors and the other Director was found not guilty of all offences. Following mitigation the multi million pound turnover company was fined £500 and the Director recited a Band C fine (the equivalent of one week's salary).

### **London Borough of Newham v PP and KT**

Tom represented a company and director accused of numerous offences under the Housing Act 2004 and the Houses in Multiple Occupation Regulations 2006 after a property owner by the company was found to be in a poor state of repair and to be occupied by 10 – 15 individuals when licensed to provide accommodation to only one family of 5 individuals.

### **HSE v MC**

Tom advised and represented a roofing company, acting as sub contractor, in relation to charges arising out of a fall from height through a roof aperture. Tom secured a total financial penalty approximately a tenth of that imposed upon the principal contractor.

### **London Borough of Newham v FTC, FL and CM**

Tom represented a company and its two directors accused of offences under the Housing Act 2004 and the Houses in Multiple Occupancy Regulation. The prosecution offered no evidence on all charges after considering written representations.

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# Inquests & Public Inquiries

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Tom has substantial experience of Inquests. He advises and appears in inquests concerned with potential breaches of health & safety legislation. He is also regularly instructed to represent the interest of medical professionals and medical institutions such as NHS Trusts.

## **Individual cases:**

### **Inquest into the death of DL**

Tom appeared on behalf of a GP who prescribed paraffin based emollients to an elderly, bed-bound woman, who was known to smoke in bed, at an inquest concerning the death of the individual in a house fire. The inquest lasted one week and considered evidence from fire officers, fire investigation officers, medical professionals and care workers. Among the many issues considered at the inquest was whether the use of a paraffin based emollient may have contributed to the fire. The coroner recorded a conclusion of accidental death and made no criticism of Tom's client.

### **Inquest into the death of BH**

Tom represented Abbey Court Independent Hospital at an inquest into the death of a 77-year old patient suffering from dementia. The case involved complex issues including the medical cause of death and the pathological definition of starvation. The Court also heard from two expert independent psychiatrists about the consequences of dementia upon appetite, the potential alternatives for artificial nutrition and the appropriateness of any such treatment. The jury returned a conclusion of 'Natural Causes'.

### **Inquest into the death of PI**

Tom represented a GP in relation to the death of a young woman who suffered from anorexia nervosa. The case involved expert evidence on the effects of anorexia nervosa on the potassium levels in the body and on the consequent effects of severe hypokalaemia (low potassium) on cardiac function

### **Hillsborough Inquests**

Tom was instructed as led junior by The Football Association in the Hillsborough inquests. These Inquests in to the deaths of 96 people at Hillsborough Stadium in 1989 are the longest in English legal history and have produced in excess of 500,000 pages of evidence.

### **Other recent instructions include**

- Tom has advised a senior member of the Conservative Party
- Tom is currently instructed to represent an independent Hospital in relation to the death of one of its patients. The inquest is to be heard before a jury and will consider complicated

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questions of capacity, consent, Mental Health Act assessments and Deprivation of Liberty Safeguards.

- Tom represented a GP at a two week inquest into the death of young man who took his own life by inhaling propane. The GP's conduct in prescribing a different anti-depressant two weeks before his death had been the subject of a referral to the GMC. Having heard questioning of a number of consultant psychiatrists concerning the pharmacological effects of this change and the manner in which the change was conducted, the Coroner found that the actions of the GP were not inappropriate and had not caused or contributed to the death.
- Representing a prison GP in relation to the death of an inmate by hanging. The case lasted two weeks before a jury. The coroner, after receiving written submissions, did not leave any questions to the jury regarding the GP's conduct. The case also involved examination of an expert psychiatrist and two expert GPs: one instructed by the coroner, the other on behalf of the prison GP. The case also involved consideration of SystemOne.
- Representing a London NHS trust in relation to the death of a patient who was being treated by the trust – the case raised particular issues about the use of recreational drugs alongside prescription medication.
- Representing the GP and locum GP with care for a patient with a history of suicidal ideation who took an overdose of prescribed medication.
- Representing a GP in relation to the death of an elderly lady in hospital as after admission to treat a leg ulcer. There was a dispute of fact between the GP and the family of the deceased which was resolved in the GP's favour. Originally it had been suggested that the GP's failure may have contributed to the death but in conclusion the coroner rules that the death was inevitable and the treatment provided by the GP was appropriate.
- Representing a GP in relation to the death of an individual as a result of an overdose of quetiapine. The GP had prescribed Quetiapine – the case particularly concerned issues with SystemOne.
- Representing a GP in relation to the death of a 17 year old following a cardiac arrest in the context of an eating disorder and hypokalaemia.
- Representing a consultant in acute medicine in relation to the death of an individual arising out of anaphylactic shock. The coroner had indicated that consideration would be given at the inquest to a finding of a neglect in relation to the consultant's conduct. After early advice and obtaining expert reports in relation to immunology the coroner concluded that the death was inevitable and made no criticism of the consultant.

## Licensing

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Tom has significant experience in the field of licensing. He represents corporate entities in relation to all aspects of licensing under the Licensing Act 2003. He also appears on behalf of transports companies at Public Inquiries before Traffic Commissioners.

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## **Individual cases:**

### **Cliff Richard, Catton Hall**

Tom secured the licence for a Cliff Richard concert at Catton Hall in Derbyshire at a hearing before South Derbyshire District Council's licensing committee. The concert, held in the grounds of the stately home, is part of his 2017 tour of the UK and Ireland.

### **Bryan Adams, The Betley Concerts**

Tom was instructed on behalf of Cuffe & Taylor, the organisers of the annual Betley Concerts, at an application to vary the licence. The festival, held annually, has a capacity of 15,000 per night over three nights. The variation was to allow the event, usually held Friday to Sunday, to begin on Thursday 11 August 2016 with a performance from Bryan Adams.

Objections in writing, and in person, were received by the licensing sub-committee from local residents. The sub-committee, having heard detailed submissions, granted the variation.

### **Lancashire Constabulary v MACS Leisure Ltd**

Tom advised and represented MACs Leisure, operators of the most successful nightclub in Preston, in what is believed to be the first successful appeal against a closure order issued under the Anti-social Behaviour, Crime and Policing Act 2014. Tom also represented the company before the local council at a premises licence review brought by the police.

Read the full news article [here](#).

### **Greenwich Music Time – Royal Borough of Greenwich Council**

Tom was instructed on behalf of the Greenwich Music Time festival held at Old Royal Naval College, Greenwich. The festival, held annually, has a capacity of 20,000 people over four nights.

Various objections from local residents and other promoters had been made to the premises licence application, both in writing and in person at the hearing. Having heard all interested parties the local council's licensing sub-committee granted the application.

### **BarBurrito – Islington Borough Council**

Tom successfully obtained a premises licence for the sale of alcohol in the Clerkenwell cumulative impact area, which creates a rebuttable presumption that applications for new premises licences that are likely to add to the existing cumulative impact will normally be refused, unless the applicant can demonstrate why the operation of the premises involved will not add to the cumulative impact or otherwise impact adversely on the promotion of the licensing objectives. Numerous representations were received from local residents and businesses arguing against the granting of this licence.

### **Traffic Commissioner v JK Plc**

Tom advised and represented the UK arm of a large, multinational company who were at risk of losing their

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operator's licence after an inspection revealed there were no systems in place to conform to the regulations. As a result of early advice and representation at the public inquiry the company were able to retain their licence.

## Professional Discipline

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Tom has been recognised for a number of years as a leading junior in the field of professional discipline. He has considerable experience of all forms of Interim Order and Fitness to Practise proceedings involving issues of performance, health, and misconduct. He regularly defends registered medical professionals in the Medical Practitioners Tribunal Service and the General Dental Council. He is an experienced presenter on behalf of the General Optical Council, the Football Association and other sporting bodies. He also has appellate experience having successfully challenged the decisions of regulators in proceedings before the High Court.

### Individual cases

#### **FA v Arsenal FC**

Tom advised and represented The FA in disciplinary proceedings against Arsenal FC and Alan Middleton, a sports agent, in relation to the sale of Calum Chambers to Arsenal FC for £16m in July 2014.

This case was widely covered in the press, click [here](#) and [here](#) to view.

#### **FA v Reading FC**

Tom advised and represented The FA in proceedings against Reading FC following a pitch invasion at an FA Cup quarter final. This case was widely covered in the press, click [here](#) to view.

#### **FA v Leeds United FC and Massimo Cellino**

Tom advised and represented (led by Christopher Coltart QC) The FA in proceedings against Leeds United FC and its Chairman. This case was widely covered in the press, click [here](#) to view.

#### **Shah v GMC**

Tom represented a consultant surgeon before the High Court seeking to overturn the decision of the MPTS to impose an interim order of conditions after a number of concerns had been raised primarily regarding post-operative management of infection. The order was revoked by the High Court principally on the issue of proportionality.

### Recent instructions in the field of healthcare include:

- Representing a doctor who was accused of cheating during the MRCP exam after anomaly detecting software had identified suspiciously similar results between his and another doctor's exam papers.
- Representing a doctor accused of serious dishonesty regarding timesheets and attendance.

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- Representing accused of serious dishonesty in relation to their experience performing a procedure which led to serious harm to a patient.
- Representing the GOC in proceedings against an optometrist accused of sexual assault during a consultation.
- Representing the GOC in proceedings abusing a student optometrist accused of repeated dishonesty in relation to her university course.
- Representing a doctor in proceedings arising out of alleged drug use at work.
- Representing a dentist accused of assaulting their child and child neglect.
- Representing a doctor accused of assaulting their child.
- Representing a doctor under investigation for an offence of gross negligence manslaughter.

## Sports Law

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Tom prosecutes the most serious and high profile cases brought by the Football Association against its participants. He has experience of defending corporate entities and individuals facing criminal charges, particularly concerning Health & Safety offences.

### Individual cases:

#### **FA v Leeds United FC, Massimo Cellino and Derek Day**

Tom was involved as Junior alone at the early stages advising on evidence to be gathered, charges to be laid and drafting formal submissions and documents in this complex and very high profile case concerning breaches of the Agents' Regulations in relation to the £10 million + sale of Ross McCormack to Fulham FC.

The case was widely covered in the national press, to read more click [The Telegraph](#) and [The Guardian](#).

#### **Football Association v Arsenal FC and Alan Middleton**

Prosecuted Arsenal FC and registered football agent regarding the transfer of Calum Chambers from Southampton to Arsenal for £16 million. The transfer involved breaches of the Agency Regulations. The independent commission found the charges proved after a contested hearing. Arsenal FC was fined £60,000. Alan Middleton was fined £30,000 and given a three month suspended ban.

The case was widely covered in the national press, to read more click [The Telegraph](#) and [The Guardian](#).

#### **Football Association v Reading FC**

Instructed as Junior Alone in relation to a pitch incursion shown live on BBC TV at a Reading home cup tie. Advised at early stages in relation to evidence to be gather, drafting formal submissions and preparing the case. The matter was found proven and was subsequently upheld on appeal.

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## Accreditations

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## Appointments & Memberships

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- Criminal Bar Association
- Association of Regulatory & Disciplinary Lawyers
- Health & Safety Lawyers Association

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