

Tom Day

"A highly responsive, efficient and effective advocate."
Chambers UK 2018



Year of Call: 2008

020 7353 5324

Tom is an experienced junior with expertise across a number of complimentary areas with a particular focus on serious crime and regulatory offences.

Tom defends individuals and corporate entities facing criminal charges with a particular focus on serious fraud, serious crime and Health & Safety offences. Tom appears in matters of the utmost complexity and gravity including offences of murder, violence, firearms, drugs, dishonesty and fraud. His experience in regulatory and licensing matters means he has a particular interest in criminal cases with a regulatory aspect.

Tom regularly appears before professional tribunals; defending at the MPTS and NMC and prosecuting at the GDC and the FA.

He 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:

"Thorough and very personable. He has clear judgement." - Chambers UK 2018

Location

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

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

Criminal Defence

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.

<http://www.thestar.co.uk/news/local/dad-s-plot-to-kill-his-enemy-1-6838592>

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.

Criminal Regulatory

Tom advises and acts in all matters involving alleged breaches of Health & Safety and Environmental Regulations. Tom regularly lectures on the topic of sentencing in Health & Safety cases. He is a member of the Health and Safety Lawyers Association.

Individual Cases:

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HSE v LP

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 on an employees leg, fracturing it in multiple places. Following Tom's detailed defence statement, the prosecution offered no evidence.

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.

HSE v Brentwood School

Tom advised and represented the school 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 Court imposed a fine of £40,000. Tom was instructed by David Rainey of BLM LLP. The case was covered in local press [here](#)

FCC v WBS

Advised and represented a company charged with three offences 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.

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 main contractor.

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.

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Inquests & Public Inquiries

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 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

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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

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.

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

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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.

Read the full news article [here](#)

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 articles [here](#) and [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 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.

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Professional Discipline

Tom is experienced in a number of professional disciplinary tribunals. He has 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 Nursing and Midwifery Council and the Medical Practitioners Tribunal Service. Additionally, he is an experienced case presenter on behalf of the General Dental Council and the Football Association. Tom is currently instructed by The FA in high profile disciplinary proceedings against a major English Football League Club. Tom has provided advice to the regulator upon issues such as the interpretation of the Contempt of Court Act 1981 in disciplinary proceedings.

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

Recent instructions in the field of healthcare include:

- Representing a nurse who was accused of a lack of competence following her employment at Great Ormond Street. The Conduct and Competence Committee dismissed the case as disclosing no case to answer regarding her impairment following submissions from Tom regarding whether there was a case to answer on facts and impairment.
- Persuading an interim orders panel at the MPTS to reverse the decision of an earlier IOP to restrict a Doctor's practice on the basis that the decision was wrong and disproportionate.
- Representing a nurse facing numerous charges arising out of her conduct as the manager of a care home that was closed by the CQC.
- Representing a psychiatrist before the MPTS regarding allegations relating to health, conduct and performance.
- Representing a GP before the MPTS regarding allegations relating to professional performance.
- On behalf of the GDC in relation to a dental technician who practised beyond his scope of practise.
- On behalf of the GDC in relation to a dental nurse who has allegedly dishonestly failed to declare convictions in their application to the register.
- On behalf of the NCTL in relation to a teacher accused of sexually touching boys of between 7 and 9 years of age. The panel found a number of charges proven after the teacher's acquittal in a criminal trial. Subsequently, the Secretary of State indefinitely barred the individual from teaching.
<http://www.birminghammail.co.uk/news/midlands-news/teachers-life-ban-classroom-over-11240402>
- On behalf of the NCTL in relation to a teacher who is accused of sexually motivated communications with a 15 year old student over Facebook.
- On behalf of the FA in relation to charges found proved and upheld at subsequent appeal proceedings, against Reading FC arising from a pitch incursion. The matter received national press

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coverage.

- On behalf of the FA in relation to an allegation of breaches of regulations involving against a sports agent, a major football club and senior officials at said football club.

Sports Law

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 [here](#) and [here](#).

Football Association v Arsenal FC and Alan Middleton

Prosecuted Arsenal FC and registered football agent regarding the transfer of Callum 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 [here](#) and [here](#).

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.

Accreditations

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Appointments & Memberships

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

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