

## Daniel Tatton Brown QC

Silk: 2016 | Call: 1994

### Queen's Counsel

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Daniel specialises in all aspects of employment law. He was appointed a QC in 2016. He is cited in all the leading directories (Chambers and Partners, Legal 500, "Who's Who Legal") as a leading silk in employment law. In the most recent edition of Chambers and Partners he is described as an

***"Impressive silk who centres his practice on employee competition litigation, tribunal claims and appellate work in the EAT and the Court of Appeal. He has knowledge of a raft of different issues including discrimination, whistle-blowing, collective labour law and redundancy."***

Daniel prides himself on working closely and effectively with clients and solicitors. Recent unsolicited client feedback has included the following:

***"I am extremely grateful to you for everything you have done, the way you have always made yourself readily available and approachable not to mention your outstanding leadership in the case, without which I would have been completely overwhelmed a long time ago..."***

Daniel's instructing solicitor in a substantial team move case, acting for individual and corporate defendants. The case settled on good terms shortly before the start of a 10 day High Court trial.

***"There are no words adequate to describe our gratitude for your professional excellence, humanity, humour and integrity."***

Lay client for whom Daniel acted in successfully resisting all claims for injunctive relief following a speedy trial in the High Court. The client was awarded all his costs.

***"We simply cannot thank you enough for what you did for us last week. Thank you and ultimate respect for uncovering the reality that sat beneath their rhetoric."***

Husband and wife entrepreneurs for whom Daniel acted in high value employment-related litigation that arose following the sale of their business.

Other recent Legal Directory comments include the following:

***"He is fantastic, both as an advocate and with clients, and he cross-examines witnesses in an extremely effective but polite manner."*** Chambers and Partners 2022

***"He gives very astute and commercial advice, he turns things round very quickly and he is very approachable."*** Chambers and Partners 2022

***“He’s my secret weapon: he is very understated, very steely and, because he is such a nice guy, he often catches people unawares as they can mistake his pleasant demeanour for not being a real fighter or someone who will stand his ground for his clients. I save my most complex employment work for him.”*** Chambers and Partners 2022

***“A really excellent barrister.”*** Legal 500 2022

***“Incredibly attentive, responsive and supportive.” “He’s incredibly quick on his feet and exudes authority”.*** Chambers and Partners 2020

***“Through, conscientious, deals sensitively and calmly with clients but also very hands-on and extremely responsive”.*** Legal 500, 2020

***“Technically strong and provides very considered, robust advice”.*** Legal 500, 2018

***“Extremely measured and calm with a determined and proactive approach and very good client skills.”*** Chambers and Partners 2017

***“Recommended for his rapid grasp of the issues and methodical approach.”*** Legal 500 2017

***“Singled out by sources for his sensitive and lucid approach to lay clients.” “A very good and incisive advocate.”*** Chambers & Partners 2015

***“An extremely good advocate - tenacious and accomplished without coming across as heavy-handed or aggressive.”*** Legal 500 2015

***“He came up with the most imaginative and fabulous argument in a recent discrimination claim.”*** Chambers & Partners 2014

He has experience of a wide variety of business sectors, with particular knowledge and expertise of disputes within the financial services sector.

Daniel is often instructed to carry out complex or sensitive work place investigations. Recent instructions include investigating an allegation of bullying brought against a senior equity partner in a niche firm of City solicitors; investigating allegations of misconduct brought against a CEO in a multinational business and hearing an appeal against dismissal brought by a senior executive.

Daniel is an ADR qualified Mediator with an excellent record of successful mediations

Daniel accepts instructions on a direct access basis in appropriate cases.

## **RECOMMENDATIONS**

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"He is fantastic, both as an advocate and with clients, and he cross-examines witnesses in an extremely effective but polite manner."

**Chambers & Partners**

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"He's my secret weapon: he is very understated, very steely and, because he is such a nice guy, he often catches people unawares as they can mistake his pleasant demeanour for not being a real fighter or someone who will stand his ground for his clients. I save my most complex employment work for him."

**Chambers & Partners**

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"A really excellent barrister."

**Legal 500**

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"Daniel is the complete package: great on his feet, great on paper and great with clients. He is clear on the strategy and formulates persuasive arguments to achieve it."

## AREAS OF LAW

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### Employee Competition

Daniel is regularly instructed – both for Claimant employers and departing employees – in cases involving employee competition. In a recent edition of Chambers and Partners it said that his **“broad-based employment practice is founded on his core expertise in relation to restraint of trade issues”**.

Recent work includes:

- Acting on behalf of multiple individual defendants in a team move case (listed for trial in 2020);
- Successfully defending an interim injunction application made against multiple defendants in another team move case;
- Advising in relation to, and successfully securing a Search Order against departing employees;
- Securing “without notice” Orders against former employees in a confidential information case, and subsequently making successful committal applications following breaches of the Orders;

More generally Daniel regularly advises and acts in cases involving: the enforcement of restrictive covenants (in employment contracts and in share sale or partnership agreements); garden leave, the legality of team moves, breaches of fiduciary duties and the misuse of confidential information.

Other recent work includes:-

- Being instructed on behalf of the corporate defendant in a multi-million pound City team move case. The case settled shortly after disclosure.
- Securing an injunction to prevent the sale of shares in the context of substantial boardroom battle.
- Successfully securing injunctive relief following a 3 day speedy trial in the High Court. Daniel’s client was awarded all his costs.
- Getting leave to appeal to the CA against an adverse costs order following a without notice application made against a departing employee. The case would have addressed important issues of principle concerning the costs in such applications but settled once leave to appeal was granted.

Daniel successfully defended in full the substantial claim for interlocutory relief brought against his client in **Capita Plc v Darch** and others [2017] IRLR 718. He appeared for the successful Claimant in **J M Finn v Holliday** [2014] IRLR 102 (QB), the leading garden leave case in which a 12 month garden leave injunction was granted following a speedy trial. Daniel also appeared in **SG & R Valuation Service Co LLC v Boudrais and others** [2008] IRLR 770, another leading High Court authority on garden leave injunctions.

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### Discrimination and Whistleblowing

Daniel acts for employers and employees in high value and high stakes discrimination and whistleblowing claims. In a recent edition of Chambers and Partners one of the testimonials records that **“He came up with the most imaginative and fabulous argument in a recent discrimination claim.”**

His recent work includes:

- Acting for a corporate defendant in a high profile and sensitive whistleblowing claim in the financial services sector that necessitated an application for an anonymity order to protect the identity of a bank’s high- profile customer.
- Securing the dismissal of a £20 million whistleblowing claim following a 2 week long PH that held that none of the 14 protected disclosures relied upon by the Claimant were protected disclosures.

- Acting for the successful appellant in **Reynolds v CLFIS (UK) Ltd** [2015] ICR 1010. This is an age discrimination case in which the CA provided authoritative guidance on how to approach allegations of direct discrimination involving “tainted information”.
- Acting for a Respondent in a substantial (5 week) claim brought by multiple claimants alleging race and religious discrimination (direct, indirect and harassment) as part of a work-place dispute which resulted in industrial action and allegations of intimidation and corruption. The litigation generated an earlier appeal to the EAT following a Preliminary Hearing dealing with proposed amendments to the claims. Virtually all the multiple claims were successfully defended.
- Advising and acting on behalf of a senior banker whose claims against a well-known bank for sex discrimination and equal pay resulted in a substantial settlement. This litigation too resulted in an (unsuccessful) appeal by the Respondent against a case management decision. The client provided this unsolicited feedback: **“You have been such a formidable victorious opponent to such a giant organisation. Your wit, confidence, and brilliant strategy have made it all possible whilst navigating these muddy waters.”**

Other recent cases include being instructed by a leading City law firm to defend race and sex discrimination claims brought against it by a senior solicitor and acting for a full equity partner in her claims for sex discrimination against another leading firm of solicitors. He has also recently acted for a well-known University in connection with a series of discrimination claims brought against it, its Vice Chancellor and senior academics.

Daniel acted for the Respondent in **J v DLA Piper LLP UK** [2010] ICR 1052, [2010] IRLR 936, an Equality and Human Rights Commission backed appeal before the EAT President which addressed important aspects of the definition of “disability” for the purposes of the Disability Discrimination Act 1995, in the context of depression.

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### Employment Related Contractual Disputes

Daniel is frequently instructed in employment related contractual disputes, typically concerning such matters as bonus claims, enhanced redundancy payments, PHI related claims, claims arising out of the implied duty of trust and confidence and shareholder disputes, often of high value.

Examples of this work are **Silvey v Pendragon** [2001] IRLR 685, [2002] PLR 277 CA, which was a successful appeal in the CA on the assessment of damages for wrongful dismissal in the context of pension loss; and **Marlow v East Thames Housing Group Ltd** [2002] IRLR 798 a PHI claim in which the High Court considered the duty of an employer, as a facet of the implied duty of trust and confidence, to sue an insurance company which refuses to make PHI payments in respect of one of its employees.

As well as substantive claims Daniel is also highly experienced in employment related High Court applications – e.g. applications for pre-action disclosure under CPR Part 36.16.

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### Appellate Work

Daniel has appeared in many of the leading appellate cases in employment law in recent years. For instance, he acted on behalf of the successful appellant in one of the most significant recent CA discrimination decisions: **Reynolds v CLFIS (UK) Ltd** [2015] ICR 1010.

His recent appellate work includes advising on and formulating appeals in two recent cases in which he had not appeared at first instance. Both appeals succeeded. He is often instructed to respond to appeals in cases in which he did not previously appear.

According to a recent edition of Chambers and Partners Daniel is **“recognised for his strength at appellate level”**.

- **Reynolds v CLFIS (UK) Ltd** [2015] ICR 1010 – A very important decision concerning the approach to claims for direct discrimination in “tainted information” cases. The CA overturned the decision of the EAT.
- **Dhunna v CreditSights Ltd** [2015] ICR 105 CA – Whether a tribunal had jurisdiction to hear a claim for unfair dismissal brought by an employee based in Dubai.
- **Cockram v Air Products Plc** [2014] ICR1065, [2014] IRLR 672 – An important decision concerning the novel point of post resignation affirmation in constructive dismissal.
- **Tayeh v Barchester Healthcare Ltd** [2013] IRLR 387 CA – Whether the tribunal had erred by substituting its own

views about the fairness of dismissal for those of the employer.

- **Adamson v Swansea University** [2010] All ER (D) 38 (May)- Daniel successfully defended an “appearance of bias” appeal brought by a claimant on the basis of allegations of irregular conduct on the part of (other!) counsel and the tribunal judge. Following cross examination before the EAT the appeal was dismissed with a substantial costs order made against the appellant.
- **Software 2000 Ltd Andrews** [2007] ICR 825, [2007] IRLR 568 EAT – Elias J gave guidance, in what has become the most frequently cited authority on the correct approach to possible Polkey reductions, following a multi-claimant tribunal hearing.

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## Partnership & LLP

Daniel has significant experience of advising on and acting in disputes regarding partnership and LLP agreements. He has successfully secured interim injunctive relief restraining breaches of a partnership agreement; acted on behalf of a departing senior equity partner in dispute with a City firm of solicitors; advised on the enforceability of post termination restrictions in Partnership/LLP agreements, and on partnership status, expulsions and discrimination. He appeared in the recent decision of the CA in **Cheema v Jones and others** [2017] EWCA Civ 1706 which concerned the terms on which an expanded partnership was concluded in the absence of a new signed partnership deed.

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## Investigations

Daniel has been extensive experience carrying out complex and sensitive work-place investigations swiftly, effectively and fairly, as well acting on internal disciplinary panels or appeals. Recent work includes:

- Carrying out an investigation into allegations of serious sexual harassment made by two complainants against a senior equity partner in a well-known UK law firm;
- Carrying out an investigation into two separate grievances raised in a multi-national pharmaceutical company against a very senior executive. The investigation involved interviews with witnesses in the UK, South Africa, Australia and the US;
- Advising an internal disciplinary panel considering allegations of professional misconduct against a senior academic in a well-known UK university;
- Investigating allegations of misconduct (including breaches of fiduciary duty, expense fraud, and harassment) against a CEO of a multinational energy company.

For recent articles about independent investigations see the [Dyson Report](#) and the [Bercow Report](#).

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## Personal Background

Daniel was educated at Winchester College, Hampshire, and Oriel College, Oxford University. He graduated from the latter with First Class Honours in PPE. He then completed a post graduate diploma in law at City University before being called to the Bar at Middle Temple in 1994. He was awarded the Diplock Scholarship by Middle Temple.

Daniel is a member of the Employment Lawyers Association, for whose Briefing Newsletter he is an occasional contributor. He is also a member of the ELAAS scheme under which advocates appear pro-bono to assist litigants in person with apparently hopeless appeals in the EAT

Daniel lives with his wife, a Consultant at St Georges Hospital, Tooting, and their three children in South London, within striking distance of Tooting Bec Lido. Although he once cycled to Istanbul, he rarely now finds time to pedal further afield than Richmond Park, normally with a child in tow.

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