

Daniel Brown

Year of Call: 2012

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Overview

Daniel is a specialist Employment and Discrimination barrister. He represents individuals, businesses and other organisations in Tribunal, Court and Professional Regulatory/Disciplinary proceedings.

Daniel has particular expertise in the healthcare sector, having advised and represented professionals including doctors, nurses and midwives as well as NHS Trusts, Regulators and Care Homes.

Academic qualifications

- LLB (Hons) University of Nottingham
- BPTC Nottingham Law School – Very Competent
- Shoosmiths’ Prize (2010) – awarded by the University of Nottingham for an outstanding contribution to the School of Law

Professional bodies

- Employment Law Bar Association
- Employment Lawyers Association
- Association of Regulatory and Disciplinary Lawyers
- Member of the British Fencing Disciplinary Panel

Expertise

Employment and discrimination

Daniel has broad experience of ET proceedings, including unfair dismissal, wages, breach of contract and whistleblowing claims. He has particular expertise in discrimination claims and is experienced in handling cases involving multiple Claimants and/or Respondents.

Daniel's TUPE experience includes acting for employers, groups of employees and the Claimant in a case in which it was argued that the reason for dismissal was a TUPE transfer 10 years before the effective date of termination. He has also worked with ACAS to deliver 'TUPE in a day' training to managers, company directors, HR professionals and others.

In the EAT, Daniel's previous cases include appeals concerning: discrimination and victimisation, unfair dismissal, Regulation 14 of the Working Time Regulations 1998, costs and amendment, some examples of which are below. Daniel's appellate experience also includes drafting applications for permission to appeal to the Court of Appeal.

Daniel also has experience of defending employment claims in the civil courts, as well as representing both claimants and defendants in Goods and Services discrimination claims.

EAT cases

Daniel's EAT cases include:

Leeds Teaching Hospitals NHS Trust v Dearing & Others UKEAT/0344/16/LA

Daniel represented three Claimants in an appeal concerning the law on victimisation (section 27 Equality Act 2010). The appeal was brought by the Respondent against three successful claims. The EAT dismissed the appeal in respect of one of the claims and remitted the other two claims back to the same ET.

Beaumont v Costco Wholesale UK Ltd UKEAT/0080/15/DA

Daniel represented the Claimant in an appeal against the ET's judgment dismissing his unfair dismissal claim. The EAT allowed the appeal and ordered a fresh hearing of the unfair dismissal claim before a differently constituted ET.

Dr Rajaratnan v Care UK Clinical Services Ltd UKEAT/0435/14 & UKEAT/0076/15

Appeal involving various legal issues including indirect sex discrimination and costs.

Thomas v Samurai Incentives and Promotions Ltd UKEAT/0006/13/RN

Appeal concerning the principles governing applications to amend an ET1.

Articles

Daniel has had the following employment law articles published:

- Overview, Employment law (2015) 6 UK Supreme Court Yearbook 370
- Overview: Employment law (2015) 5 UK Supreme Court Annual Review 318
- Overview: Employment law (2014) 3(1) UK Supreme Court Review (Cambridge Journal of International and Comparative Law) 272

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Articles

Daniel Brown analyses the landmark case of *Forstater v CGD Europe & Others* UKEAT/0105/20/JOJ, in which the London EAT found Maya Forstater's view of transgender people to be protected as a "philosophical belief" under the Equality Act.

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Can an individual be a 'worker' if they are not obliged to accept any work at all?

Daniel Brown analyses the decision in *Nursing and Midwifery Council v Somerville* UKEAT/0258/20/RN(V), which puts the spotlight on the Uber judgment and its impact on determining employee/worker status, in this case for one of the numerous regulatory bodies that operate panels of individuals to determine allegations of professional misconduct.

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Can a dismissal without any procedure be fair?

Daniel Brown reviews *Gallacher v Abellio Scotrail Limited*, a relatively rare case in which the employer decided, prior to dismissal, that a procedure would serve no useful purpose and the ET agreed.

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Post-termination Restrictive Covenants & Constructive Dismissal - *Square Global Limited v Leonard* [2020] EWHC 1008 (QB)

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Following the recent decision of *Re Debenhams Retail Ltd (In Administration)* [2020] EWHC 921 (Ch) which applied *Re Carluccio's Limited* [2020] EWHC 886 (Ch), 3PB's specialist Employment and Commercial Barristers Daniel Brown and Rebecca Farrell join forces to review the Carluccio's decision.

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EAT Case Summaries by Daniel Brown and Naomi Webber.

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Is a belief that there are only two sexes and that it is impossible to change sex a belief protected by the Equality Act 2010? - Daniel Brown analyses *Forstater v CGD Europe & Others*

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Forbes v LHR Airport Limited UKEAT/0174/18/DA: Offensive image shared on Facebook not 'in the course of employment' (s.109 Equality Act 2010) - An analysis by Daniel Brown.

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Tillman v Egon Zehnder Ltd [2019] UKSC 32: The Supreme Court gives its view on restrictive covenants - an analysis by Daniel Brown

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Series of deductions: a new chapter? Daniel Brown analyses *Chief Constable of the Police Service of Northern Ireland & Northern Ireland Policing Board v Agnew & Others* [2019] NICA 32

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Injury to feelings and the need to focus on the particular Claimant: Daniel Brown analyses *Base Childrenswear Limited v Otshudi* UKEAT/0267/18/JOJ

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Public and Regulatory

Professional Regulatory/ Disciplinary proceedings

Daniel's experience spans the full spectrum of fitness to practise concerns including cases involving allegations of: misconduct, lack of competence, ill-health and criminal convictions and cautions. He has handled numerous serious, lengthy and complex cases involving: patient deaths or serious harm, dishonesty, CQC inspections, multiple parties and contested expert evidence.

During a secondment with the Nursing and Midwifery Council, in addition to substantive matters, Daniel gained experience of interim order applications, reviews, restoration applications, registration appeals and fraudulent entry cases.

Daniel has advised and represented a wide range of healthcare professionals including doctors, nurses and midwives as well as NHS Trusts, Regulators and Care Homes and he has experience of investigations and/or proceedings before regulators including the General Medical Council, the Nursing and Midwifery Council, the Health and Care Professions Council and others.

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