

Daniel Clarke



Call: 2013

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Profile

Daniel has a wide range of experience across private law, public law and human rights work. His main areas of practice are housing, social welfare and community care, with a particular focus on discrimination, public law and human rights issues. He also undertakes work in civil actions against the police and other public authorities, and in media law.

He is regularly instructed to represent clients in claims for judicial review in the High Court, as well as parties – and third-party interveners – in a range of other proceedings from the County Court to the Supreme Court.

What others say

Chambers and Partners 2020:

- *“Cultivates a growing reputation for his representation of tenants in possession proceedings and homelessness appeals. He is particularly adroit at handling cases with elements of community care, and garners praise for his ability to engage with clients who lack capacity.”*

- *"He has excellent legal knowledge and is very good with clients."*
- *"Sharp intellect and ability to get the job done."*
- *"His work is very impressive. He is very thorough and makes good arguments. He is clearly very committed to representing vulnerable clients."*

Chambers and Partners 2019:

- *"An up-and-coming junior with a growing reputation for his representation of tenants in possession proceedings and homelessness appeals"*
- *"He impresses with his thoroughness, attention to detail and drafting skills."*
- *"He is really thorough, very good at spotting technical points, and very good tactically."*

Education

BA Archaeology (University of Cambridge), First Class
 MPhil Social Anthropology (University of Cambridge), Distinction
 Graduate Diploma in Law (BPP), Outstanding
 Bar Professional Training Course (BPP), Outstanding

Languages

Spanish

Related practice areas

Housing, Social Welfare & Property
 Actions Against the Police and Public Authorities
 Community Care and Health
 Administrative & Public Law
 Children's Rights Group
 Discrimination

Administrative and Public Law

Daniel has a wide range of experience in public law, both within his other practice areas and more generally. Examples include:

- **Arkin v Marshall [2020] EWCA Civ 620**: Court of Appeal case concerning the lawfulness of the stay of possession proceedings for 3 months during the COVID-19 under PD 51Z. Instructed by the Housing Law Practitioners Association (HLPA) as interveners in the Court of Appeal, led by Martin Westgate QC.
- **R (Joint Council for the Welfare of Immigrants) v Secretary of State for the Home Department [2019] EWHC 452 (Admin) and [2020] EWCA Civ 542**: Challenge to the “Right to Rent” scheme, prohibiting landlords from renting properties to people without leave to remain in the UK, on the grounds that the scheme was discriminatory and incompatible with the European Convention on Human Rights (ECHR). Instructed by Liberty as interveners in the in the High Court and Court of Appeal, led by Martin Westgate QC. (Application for permission to appeal to the Supreme Court pending).
- **R (X) v Ealing Youth Court [2020] EWHC 800 (Admin)**: A claim for judicial review of the Youth Court’s decision to order late release of a young offender convicted of terrorism. The first reported decision relating to the exercise of the power to order late release under section 102 of the Powers of Criminal Courts (Sentencing) Act 2000. Instructed by the claimant, led by Richard Thomas.
- **LB v Tower Hamlets LBC [2020] EWCA Civ 439**: Court of Appeal decision confirming that, in considering whether it would have been reasonable for a victim of domestic violence to continue to occupy her former accommodation (in order to determine whether she is to be treated as “intentionally homeless”), a local authority is required to take into account incidents of domestic violence which occurred after she left the accommodation. Instructed by the appellant, led by Jamie Burton.
- **R (DA) v Secretary of State for Work and Pensions [2019] UKSC 21**: Challenge to the Benefit Cap, as applied to lone parents, on the grounds that it was discriminatory and incompatible with the European Convention on Human Rights (ECHR). Instructed as junior counsel for Just Fair as interveners in the Supreme Court, led by Jamie Burton.
- **R (Harris) v Islington LBC**: Claim for judicial review relating to the application of the new provisions of the Homelessness Reduction Act 2017.
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T (Titiloye) v Southwark LBC: Claim for judicial review of Southwark's failure to recognise accommodation provided to destitute migrant families under the Children Act 1989 as being Houses in Multiple Occupation ("HMOs"), subject to the protection of the HMO licensing scheme. Settled with Southwark agreeing to accept that accommodation for destitute migrant families is subject to HMO licensing.

- **R (MD) v LB Waltham Forest:** Claim for judicial review of the local authority's failure to provide accommodation to a homeless teenage girl and, once she turned 18, to support her as a care leaver.

Housing and Social Welfare

Daniel undertakes a wide range of housing work in the county courts and High Court, including advising, drafting and advocacy in homelessness appeals and possession claims. Examples include:

- **R (Ahmed) v Sutton LBC:** Judicial review of one local authority's decision to refer the claimant's homelessness application to another authority at the "homelessness relief duty" stage.
- **R (Ward) v Hillingdon LBC:** Claim for judicial review in relation to the local authority's failure to comply with its duties to a homeless and vulnerable Traveller family under Part 7 of the Housing Act 1996, and its failure lawfully to consider her request for an allocation of a caravan plot under Part 6 of the Act.
- **R (Harris) v Islington LBC:** Claim for judicial review relating to the application of the new provisions of the Homelessness Reduction Act 2017.
- *Scarville v Lewisham LBC* (2017) October Legal Action 33: Successful appeal under section 204 of the Housing Act 1996 against Lewisham's decision to discharge its duty to the appellant on the basis of his refusal of accommodation in Bedford.
- **R (Edwards & others) v Birmingham City Council [2016] EWHC 173:** Instructed for the claimants in four, linked claims for judicial review relating to Birmingham's treatment of homeless applications under Part 7 Housing Act 1996, led by Zia Nabi.
- *Hosseini v Westminster CC* (2015) October Legal Action 42: Successful appeal under section 204 of the Housing Act 1996, on the basis that the local authority had not made

sufficient enquiry as to the support that would be available to a vulnerable appellant when homeless.

His possession work includes defending tenants on a range of public and private law grounds, and has involved dealing with new or unusual points of law, as well as dealing with clients suffering from disabilities or who lack capacity to litigate. Examples include:

- *Hackney LBC v Henry* (2017) June Legal Action 32: Successful defence to a possession claim against a potential successor to a secure tenancy, on the basis that, although the notice to quit was left at the property more than 28 days before it expired, it had not been sent to the Public Trustee until later.
- *Flagship Housing Group v McAllister* (2017) April Legal Action 38: Successful defence under Article 8 ECHR to a claim for possession brought under a mandatory ground, on the basis of offences relating to cannabis, with the court holding that a discretionary claim would have been the proportionate course.
- *Jhaver v Vatts* (2016) May Legal Action 40: Successful application to set aside a possession order, applying the principle in *Superstrike Ltd v Rodrigues* [2013] EWCA Civ 669 to a case where the deposit had been taken, and retained, by an agent who went out of business before the replacement tenancy was granted; the deposit was nonetheless held to have been “received” by the landlord in relation to the replacement tenancy.

Daniel also represents tenants in claims for injunctions and damages in relation to a range of issues including tenancy deposits, disrepair, harassment and unlawful eviction. Examples include:

- **Insalaco v One Room UK**: Claim for damages for unlawful eviction and harassment, resulting in an award of damages of over £36,000.
- *Chaudry v Cooley* (2016) November Legal Action 40: Claim for damages for disrepair and breach of tenancy deposit requirements, resulting in deposit compensation in relation to each of a series of 3 tenancies and damages in relation to disrepair equating to 70% of the monthly rent.
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Tyto v Narang (2016) July/August Legal Action 47: Claim for damages for unlawful eviction and breach of tenancy deposit requirements, resulting in a judgment for over £29,000 in damages.

He has given seminars on various aspects of housing law, including at the Housing Law Practitioners' Association annual conference.

Community Care and Health

Daniel has experience of a range of community care work, particularly in relation to securing accommodation outside the provisions of the Housing Act 1996.

He has conducted a number of judicial review claims against local authorities under the Children Act 1989, successfully securing urgent interim relief for vulnerable children and their families. Examples include:

- *R (JP) v Newham LBC*: Claim for judicial review of Newham's decision that the claimant – who suffered from paranoid personality disorder with delusional beliefs about the local authority – had capacity to refuse an assessment under the Care Act 2014.
- *R (OP) v Lewisham LBC*: Claim for judicial review of a local authority's failure to comply with its duties to a care leaver in prison, including securing accommodation in order to secure his early release on home detention curfew.
- **T (Titiloye) v Southwark LBC**: Claim for judicial review of Southwark's failure to recognise accommodation provided to destitute migrant families under the Children Act 1989 as being Houses in Multiple Occupation ("HMOs"), subject to the protection of the HMO licensing scheme. Settled with Southwark agreeing to accept that accommodation for destitute migrant families is subject to HMO licensing.
- *R (MD) v LB Waltham Forest*: Claim for judicial review of the local authority's failure to provide accommodation to a homeless teenage girl and, once she turned 18, to support her as a care leaver.

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R (JP) v Hackney LBC & East London NHS Foundation Trust: Claim for judicial review of assessments under the Care Act 2014 and section 117 Mental Health Act 1983 in relation to a young adult with autism and gender identity disorder.

- *R (LW) v Coventry CC*: Claim for judicial review of a local authority's refusal to failure to produce a pathway plan and provide accommodation to a 20-year-old care leaver with a history of non-engagement with social services.
- *R (DB & RD) v Lambeth LBC & Southwark LBC*: Claim for judicial review of two authorities' failure to conduct an assessment under section 17 Children Act 1989 and to provide interim accommodation to a homeless single mother and her young child, each instead blaming the failure of the other.

Daniel has also been instructed in relation to claims against local authority children's services departments in relation to failures to protect children and delays in bringing care proceedings.

He is a contributor to '*Disabled Children: A legal handbook*', 3rd edition (2020).

Media law, privacy and related work

Daniel developed an interest in media law before coming to the Bar. As a judicial assistant at the Court of Appeal, he worked on cases relating to contempt of court for publication of information on social media (**Attorney General v Harkins [2013] EWHC 1455 (Admin)**, **Attorney General v Davey [2013] EWHC 2317 (Admin)**). As a paralegal at Bindmans LLP, he worked on the case of **R (Miranda) v Secretary of State for the Home Department [2014] EWHC 255 (Admin)**, the judicial review challenge to the lawfulness of the detention of David Miranda under Schedule 7 of the Terrorism Act 2000 in connection with the disclosure of documents to the Guardian newspaper by Edward Snowden.

In 2019, he was awarded the **Times Newspapers Fellowship**, spending 2 months working with The Times' in-house legal team. He gained experience of the full range of work of the team, from advising journalists on a range of issues prior to publication through to dealing with post-publication complaints and litigation. A particular focus was work relating to court reporting restrictions. This included being instructed to represent The Times in an application to vary a reporting restriction order at the Old Bailey.

Recent work includes:

- ***Barclay v Barclay* [2020] EWHC 424 (QB)**: Instructed for the defendants in high-profile proceedings relating to covert recordings at the Ritz Hotel. Led by Heather Rogers QC.
- Advice to a national newspaper on a potential application for access to confidential arbitration documents on a matter of significant public interest.

He also regularly deals with anonymity issues arising in his housing, community care and police work, in relation to children and vulnerable adults.

Actions Against the Police

Before coming to the Bar, Daniel gained substantial experience in actions against the police and other authorities. As a paralegal at Bindmans LLP, Daniel worked on the case of ***R (Miranda) v SSHD* [2014] EWHC 255 (Admin)**, the judicial review challenge to the lawfulness of the detention of David Miranda under Schedule 7 of the Terrorism Act 2000. At Hickman & Rose, Daniel worked on a wide range of other private and public law actions.

Since joining Doughty Street, he has continued to build this experience, providing advice, drafting and advocacy in a range of cases, including:

- *PR v Commissioner of Police for the Metropolis*: Claim for damages for false imprisonment, assault, malicious prosecution and breach of Article 5 ECHR in relation to an arrest and prosecution for breach of a restraining order that had been revoked 6 months previously.
- *GK v Commissioner of Police for the Metropolis*: Claim for damages for false imprisonment, assault and malicious prosecution in relation to the arrest and prosecution of a protester.
- *R (Y) v Commissioner of Police for the Metropolis*: Claim for judicial review of the decision to issue a caution.