



Janick Fielding – Barrister

Called 1997

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**Practice summary – Regulatory, Judicial Review, Tribunal and Police Actions:**

Janick's skills as an experienced criminal defence counsel translate well into the litigious realms of judicial review, regulatory and tribunal work. Increasingly called upon to deal with local government and executive matters as well as complaint or disciplinary procedures, Janick is alive to the fact that these cases are likely to have exceptionally serious consequences for individuals, their careers and businesses. Janick deploys the same thorough and ruthless approach in dealing with each of these cases as he would to a jury trial.

With his keen eye for detail, Janick heads straight for the core elements of each action, directing the approach around the salient issues and ensuring the best chances for success. Many of the cases in which he is instructed collapse against his clients before the hearing occurs.

As a specialist in criminal law, Janick comes regularly into contact with the police. His detailed knowledge of codes of practice, policing policies, methods and evolving issues make him well placed to offer tactical advice, draft pleadings and execute actions in this area.

Unlike many practitioners, Janick has no personal or political bias toward either the executive or a civilian complaining of wrongs occasioned by them, preferring instead to throw his weight behind any cause where justice should be done. Janick has represented serving officers, individuals assaulted and injured by the police and those who have a grievance arising from a failure by the police to act in accordance with their duties.

Janick accepts instructions in these areas from all funding sources.

Janick Can be instructed for a preliminary conference and / or written advice where the client wishes to receive an indication of their prospects ahead of launching any action.

**Notable cases:**

**Guildford Borough Council and Epsom and Ewell Borough Council v Heather - (2022) – breach of s.179 enforcement notice**

The defendant was served with an enforcement notice, barring him from keeping trade waste at his residential property after neighbours who had previously intimidated other residents, made unwarranted complaints to the council. The defendant challenged the notice through the council's internal procedures, asserting that he had only held materials which came from the renovation of that residential property, but was knocked back. Subsequently and investigator came, took photos and instituted the prosecution.



The defendant and his family were so incensed that they decided to fight the unjust prosecution in its entirety. Counsel was instructed and identified immediately the multiplicity of evidential failings that beset the prosecution case. In addition, it was plain that the usual safeguards that preclude prosecutions that have no merit had been ignored.

The prosecution was eventually discontinued and the defendant formally acquitted. The prosecution then tried to resist the application for the defendant's legal costs to be paid directly by them. They failed, and the defendant was awarded his costs in full, nearly £20k. – Guildford Crown Court.

### **Channer v the Chief Constable of Thames Valley Police - (2021) – removal of prohibition on possession of firearms**

Because the Applicant had been given a suspended sentence exceeding three months, he was required by statute to surrender his firearms, held lawfully under license. The ban was automatic under the Act and precluded him even shooting with other people's guns, even at authorized events. This was particularly difficult for the defendant as he was a keen shot and an experienced one who had participated at a high level for many years.

Counsel settled argument for a removal of the ban and succeeded in persuading the Court that the same should be lifted with immediate effect. – Reading Crown Court.

### **Inquest into the death of XX – (2020)**

Counsel represented an IP (the husband of the deceased). The deceased, a tetraplegic for some years before her death, had sustained a C4 spinal fracture following an RTA when her partner had run her over following an argument in 2012. Her subsequent condition and treatment was exceptionally complex, as reflected in the substantial medical notes and expert reports. In the months before her death she had been beset by numerous, potentially life-threatening difficulties, many recurrent and most requiring hospital stays. She died in January 2016 following a suspected, illicit administration of insulin. The police had investigated the IP as a suspect for murder, during which an eminent consultant concluded that the only explanation for the medical findings was poisoning, highlighting in his report previous hypoglycaemic episodes and excluding all other possibilities. The only common presence was the IP. None of the served evidence appeared to exculpate the IP. Eight consultants and two professors provided reports.

Through extensive cross-examination over several days, it was demonstrated that there were other possible causes of death, alone or in combination, resulting in unlawful killing being excluded. The narrative verdict absolved the IP completely. He was never charged with murder.

Counsel was instructed only three weeks before the inquest and had immediately got to grips with the complexities of the case, including instructing and having served a crucial expert report from a professor of biomedical science, despite not even having the full records of the deceased before the day of trial.



Counsel conducted detailed cross-examination of numerous consultants through areas they were specialist in, demonstrating on the final day that the expert consultant who had alleged poisoning had ignored key, exculpatory material, declined to consider medical accounts that undermined his own preferred theory and had wedded himself to a conclusion that was not the only explanation for death.

The IP had for four years lived with the incorrect suggestions and allegations that he had killed his partner of 30 years. He was publicly exonerated. – Woking Coroners Court.

**Environment Agency v Channer & or – (2019-20) – deposition of controlled waste, failing to prevent breaches of s.33 EPA, incineration of waste, failing to provide descriptions with transfer, failing to provide transfer notices**

The defendant, a farmer who had previously been convicted and sentenced for like offences, found himself again facing prosecution by the Environment Agency for repeated and flagrant breaches of the Environmental Protection Act. In short, he was storing and burning substantial quantities of waste, without license and incinerating a large proportion of it on farmland. He was jointly charged with his son, who had conducted most of the activities giving rise to the breaches, and over whom the defendant had ever-decreasing control, notwithstanding his ownership of the land.

Counsel advised on the compilation of mitigation, including vast amounts of character references together with evidentially supported accounts of the difficulties, financial and physical, in the management and removal of such waste for farmers. He advised too on how to separate evidentially the defendant from his wayward son. Counsel subsequently ran an argument submitting that the defendant and his son could be severed, the lesser position of the father entitling him to remain in the lower court for sentence. The District Judge agreed with the submissions, and the defendant was subsequently sentenced but avoided immediate imprisonment. His son was sent to the Crown Court, where he was sentenced to imprisonment. – High Wycombe Magistrates Court.

**Trading Standards v Karetnikov and Karetnikova – (2018-19) - sale of counterfeit goods**

Counsel acted for both husband and wife who had set up an online Ebay shop trading particularly in counterfeit Disney stock and falsely branded electrical goods, the majority sourced from the Far East.

The case was difficult to manage, featuring a complicated financial background and issues relating to potentially relevant previous conduct.

During the course of proceedings counsel secured the award of wasted costs against the prosecution in relation to their dilatory and generally unacceptable conduct, in particular failing to prepare and present their case in a timely manner.

Despite the overwhelming evidential position presented initially by the prosecution, counsel secured the acquittal of the husband on all eleven charges and the wife, having pleaded to limited offences, avoided immediate imprisonment. – Croydon Crown Court.



### **Trading Standards v Weller & ors – (2017-19) – sale of counterfeit goods**

Counsel represented the ringleader of a group selling significant quantities of luxury counterfeit goods on a number of internet sites, even after Trading Standards had identified what was happening and attempted to close down the operation. Monies generated by the operation was said to have been in six figures.

The defendant was alleged to have enlisted both his partner and other women with whom he had been in a relationship into his scheme and set up a network covering a significant area.

In spite of the overwhelming evidence, continuation after cease and desist requests and the plea being entered very shortly before trial, counsel managed to secure a sentence that avoided immediate imprisonment and kept the confiscation penalty limited to £20k. – Reading Crown Court.

### **R v Price**

#### **Price v The Chief Constable of Essex - (2011 - 2016) - Claim for damages**

After an argument with his then girlfriend, the police were called to her address in respect of a minor criminal damage. Subsequently, having spoken with the client, they attended his address in the small hours of the morning. Purporting to effect an arrest, the four officers subjected the client to a savage assault that left him with multiple injuries including a lung punctured by his own broken rib. He suffered long term physical and mental harm.

The police managed to compound their position by providing sub-standard care in the aftermath. Thereafter, they charged him with four assaults on police, who had suffered trivial injuries at most, and in one case, no discernible injury at all.

Counsel contested the criminal trial in the magistrates court, securing acquittals on all four assault allegations and the criminal damage matter. The client was awarded his costs.

Counsel is oversaw and challenged the IPCC investigation, into both the conduct of the officers and the conduct of Southend Police who failed to deal with the client's timely complaint.

High Court proceedings in respect of the damages, arising from various heads, sought by the client were concluded late in 2016 with the defendant accepting liability for significant damages and costs.

### **Milton Keynes Council v The Original Smoke Shack – (2015) – criminal breaches of planning regulations**

The clients had leased a Grade II listed building, a former coaching inn, that had at the turn of the last century been transformed into a pub. They in turn transformed the same into a burger restaurant, undertaking some significant works on all floors of the property. This annoyed the local council who had not been provided, let alone granted, any consent to the works being undertaken. A criminal prosecution was launched by the council, who argued that the special historic and architectural



interest of the building had been affected and that the same constituted a number of offences against both directors and the company itself.

Initial legal arguments removed much of the emotive material that the council had sought to deploy. With the case refocused on its core ingredients, the defence challenged the basis of the council's assertion as to affectation of character. Following a number of hearings, the council's case was withdrawn in its entirety on the morning of trial.

#### **Anderson v Guildford Justices – (2015) – Judicial Review**

Counsel led Naomi Carpenter in a complex and urgent application to preclude the Court from hearing a case in which the Crown were not only significantly at fault with their disclosure obligations but had chosen also to ignore key material and lines of enquiry that tended to exculpate the defendant. With trial fast approaching, mandatory time limits needed to be met in short order to ensure the matter was before the Administrative Court and thus preclude the risk of the trial proceeding in the lower court.

The application was a success, costs were awarded in favour of the client and the case against him in the lower court collapsed shortly thereafter.

#### **Conn v the Chief Constable of Surrey – (2015) – Judicial Review**

The defendant had purportedly accepted a caution for an offence he could not have committed. On discovering that he had a criminal record and that the same would preclude works he wanted to undertake in the financial services industry, he contacted solicitors with a view to inviting the police force that had administered the caution to expunge it. They refused.

Counsel was instructed to draft a detailed letter before claim. The same was met with stiff opposition. Counsel accordingly settled pleadings, renewing all points identified in the original correspondence. The resistance to the application collapsed wholesale, the client's caution was expunged and the police agreed to pay costs.

#### **Price v the Commissioner of the IPCC – (2013-14) - Judicial Review**

Following on from his successful defence to four fabricated assault charges by Essex Police, a complaint was made to the IPCC prior to the issuing of civil proceedings for damages. The long overdue report they produced was little more than an exercise in excusing the police. On the advice of counsel, judicial review proceedings were commenced. Despite IPCC grandstanding and threats as to costs, counsel's written submissions secured leave. The IPCC then capitulated in full just days before the final hearing. They also conceded costs.

#### **R v XM (2006–7) – Jury trial**



Counsel led Edward Culver in the defence of a serving police officer accused of perverting the course of justice and possession of illegal ammunition. The case was exceptionally serious, attracting attention from very high-ranking officers and resulting in a significant police presence at court.

Despite the intimidating atmosphere, counsel conducted several weeks of detailed legal argument in respect of psychiatric, confession, forensic and disclosure material.

The trial lasted 52 days, resulting in a hung jury.

**Contact Details**

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