



Janick Fielding – Barrister

Called 1997

Practice summary – Education Law

Profile:

With over 25 years' experience in the unforgiving arena of heavyweight criminal defence, Janick is ideally placed to defend the interests of students and teachers who have been accused of offending against rules or codes of conduct in an education setting. More often than not, these cases will involve allegations of serious criminality or have consequences or potential consequences that will affect the client far beyond their immediate surroundings.

Janick's tactical and legal skillset make him a highly sought counsel, whether as a first-choice tactician directing the management and evolution of proceedings from the earliest stages or as a last line of defence when contested hearings, often brought at short notice, need to be fought and won. Able to operate fluidly in multiple jurisdictions, Janick is adept at controlling all manner of cases; where there are simultaneous proceedings in crime, before governors, at appeal panels, through judicial review, in mediation and beyond. He understands the demands of each and demonstrates an unerring ability to take and maintain control of the entire theatre of operations, dictating shape to cases and carving success through a combination of hard graft and a determined focus.

In both crime and mediation, Janick's practice has focused significantly on the provision of assistance to those with mental health or social difficulties, particularly those with autism spectrum disorders, PTSD or a history of having endured traumatic abuse or misfortune. This wisdom is readily transferable to any education setting, often providing him with experience and advantages over the opposition. Whilst his considerate and informed approach provides reassurance to clients, affording them a professional shield in times of undoubted stress, his demonstration of a solid and ruthless approach in contested hearings gives comfort that they are in the safest of hands.

Instructing Solicitors have long been able to rely on Janick as an experienced sounding board. He is always accessible and easy to get on with. Workload permitting, he is available to work at short notice and long into the night when needed.

As one senior consultant put it recently;

'What Janick did to their case was what Godzilla did to Tokyo.'



Notable cases:

XY v A school in Essex (2023) – allegations of possession of a knife

Counsel represented a year nine student when the GDC reviewed a permanent exclusion following the discovery of a Gurkha Kukri knife that had allegedly been taken into school by the boy, only days after his readmittance following off-site tuition directed as a result of violent conduct. Counsel was instructed only days before the hearing and assisted Instructing Solicitors through a number of conferences and in the construction of documents seeking disclosure ahead of the set date.

Following extensive negotiation preceding the commencement of the review, counsel persuaded the head teacher to withdraw the permanent exclusion, this notwithstanding the schoolboy was imminently to be arrested and interviewed for an alleged rape of a pupil at the same school.

XR – First Tier Tribunal case (2023-4)

Counsel drafted complex particulars of claim in preparation for representing an extremely vulnerable primary school child, a PLAC with very substantial care requirements, who had been wrongly excluded from school following a violent incident triggered by the mismanagement of playtime behaviour involving a degree of permissible physical contact by senior members of staff. Having worked long into the early hours of the morning dealing with very late-received material, counsel made a successful emergency application to adjourn the hearing following traumatic incidents immediately before the hearing that precluded the key family witnesses from being able to attend. Rehearing pending...

TX v A free school in southeast England (2022-3) – multiple allegations of indecent assault and possession and transmission of illegal images of children

Instructed on behalf of a permanently excluded 15-year-old, accused for a second time of a string of sexual allegations against fellow pupils, both of which he denied, Janick swiftly found the nefarious nexus between the two seemingly independent sets of incidents, identified the investigational failings of the school and put in train the preparation of a detailed defence, together with required disclosure from the school.

This was a good example of a case in which the client had been on the backfoot and the case was being rushed through by the governors. Janick prepared argument, highlighting the procedural failings evident to date, and advanced a cogent defence. Knowing the governors



would likely favour the headmaster, who had been with the school since its creation, Janick also laid the groundwork for the inevitable IRP hearing.

Despite a variety of difficulties caused by the school, Janick ensured that key disclosure was obtained and that, at the hearing, significant damage could be done to the evidence of both the headmaster and the chair of the governors.

The IRP quashed the permanent exclusion and sent the matter back to the school for reconsideration.

A London University v Student B (2023) – *allegations of rape*

A high-achieving student approaching the end of his degree was accused by his occasional partner of a violent drunken rape. The police were not involved and the university took it upon themselves to deal with the matter in perfunctory manner, as a breach of the own code of conduct. The ramifications of the same would have been disastrous; summary expulsion of the student without any proper investigation, resulting in the end of his degree, career and promising future.

What made this worse was the university knew of the special needs of the student, having commissioned of their own volition a report the previous year to ensure that those teaching him could interact with him effectively. Curiously, this appeared to have been ignored during the robust and prejudicial way in which this matter was approached by them before the parents of the student sought legal assistance.

Counsel was instructed only days before the university planned to hold a half-hour hearing, without the calling of evidence and with limited scope for submissions, before determining the student's future. Applications for a directions hearing and an adjournment were refused. The university were plainly keen not to engage in any meaningful manner.

Counsel settled judicial review grounds. Although the university protested that this was not a matter in which the same could be engaged, instructing solicitors nonetheless initiated the process. Within two hours of service, the university folded.

Thereafter, the university relented in relation to the need for a directions hearing. Counsel dealt firmly but robustly with the obtuse approach of the tribunal, a body still determined to conduct a brief hearing on the limited and highly prejudicial material available. Preparation of a second judicial review on a similar basis was required, which again the university conceded, albeit this time before it had even been launched.

Thereafter, having secured sufficient time for the case to be properly and fairly presented, and after disclosure of further expert material, the university withdrew proceedings and closed the matter. The University also agreed a substantial figure in damages for losses accrued by



the student during their ill-handled proceedings against him. Importantly, the student graduated, on time, with the grade he expected.

A&A v Suffolk Council (2022) - allegations of failing to ensure a child attends school

Instructed on behalf of parents facing a local authority prosecution for failing to ensure their daughter attended school, Janick identified swiftly the core elements of their defence and deployed them against the LA. In summary, their daughter had been injured by the actions of a teacher during a physical education lesson, thereafter developing complex mental health difficulties not immediately apparent, but suggestive of some level of brain injury and requiring a long process of recovery. Disjointed communication between teachers and the LA, coupled with a general ambivalence toward the child resulted in both parents being prosecuted, in circumstances where they were doing no less than they thought best for their daughter.

Janick identified the core areas and served a detailed defence statement taking on both the school and the LA's positions head on. Requiring extensive disclosure and relying on early sourced experts, Janick was then able to put the prosecution in a position where their chances of success were effectively nil, even before a trial date had been set, thus saving the clients significant expenditure.

In addition to dealing with the legal and evidential positions, Janick also deal with the conduct of the prosecution, who took every opportunity to pressure the clients by informing them of the costs bill they would need to meet on conviction. Able to provide realistic reassurance, the clients held their nerve and secured acquittals on all charges, as well as costs in their favour.

Contact Details

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