

James Marwick  
Barrister



YEAR OF CALL: 2008

INN: LINCOLN'S INN

“ A very tenacious advocate with a strong work ethic. ”

LEGAL 500, 2020  
PERSONAL INJURY

## Practice Overview

James specialises in the following practice areas:

- ▶ Personal Injury
- ▶ Clinical Negligence
- ▶ Insurance
- ▶ Litigation Funding & Costs
- ▶ Town and Village Green

James deals with all aspects of personal injury work but with a particular focus on cases involving the construction industry and public liability together with those cases where dishonesty is alleged. Complementing his personal injury work, James has significant experience in recovery and contribution claims, and he is frequently retained to act in relation to property damage matters.

James is instructed on insurance and litigation funding related matters extending from advising on indemnity issues, policies and CFA enforceability to all aspects of costs litigation. He is often engaged to deal with matters with novel costs or procedural issues.

His clinical negligence work includes both claimant and defendant work. Recent cases have covered the full spectrum of issues including limitation, consent, late amendments to pleadings, advising on the claw back of legal aid fees in a failed dependency claim.

In to his central areas of practice, James is a village green specialist and he has a busy practice acting for registration authorities as an independent inspector as well as acting for parties at public inquiries.

## Areas of Expertise

### Clinical Negligence

James has a burgeoning clinical negligence practice acting for both claimants and defendants, which overlaps with medical inquest and court of protection work. He is frequently instructed to deal with cases with procedural or costs issues together with the drafting of all pleadings. He regularly deals with CCMCs in both the County Court and High Court.

Recent cases have covered the full spectrum of issues including limitation, consent, late amendments to pleadings, advising on the claw back of legal aid fees in a failed dependency claim and a successful application as sole junior for settlement of a multi-million pound compensation award into a personal injury trust for a catastrophically injured claimant.

### Clinical Negligence Costs

James has a particular specialism in clinical negligence litigation funding and costs. He regularly lectures and provides training on common issues in such claims. He undertakes the full range of costs work including detailed assessments, costs and case management hearings and wider advisory work in relation to retainers and funding.

Recent work has included both pre- and post-laspo assessments, an audit of a major regional firm's CFA arrangements and discrete issues which may arise in relation to QOCS.

### Personal Injury

James accepts instructions in all areas of personal injury work acting for both claimants and defendants. He is presently conducted as sole counsel in a number of cases worth up to £1 million and in others where there are complex liability and quantum issues.

Particular specialisms include construction industry, road traffic accidents, fraud and public liability. James is regularly instructed to act where there are allegations of fraud or fundamental dishonesty and he is an experienced trial advocate particularly where there are causation concerns. He is a specialist in all procedural matters and has recently acted in several cases concerning, inter alia, the deployment of surveillance evidence, stand-alone fundamental dishonesty hearings and the disapplication of QOCS.

This work complements instructions in the full range of road traffic accidents, public liability and employer's liability (including industrial disease) matters together with recovery contribution claims. James has a significant advisory and drafting practice dealing with all aspects of liability, quantum and procedure.

James is instructed in the full range of workplace claims including claims involving work-related stress and occupational stress as well as classic six pack claims. He is frequently instructed on behalf of local authorities and other public bodies including highways claims, actions against the police, and assault cases.

James has a strong focus on disease work and is regularly instructed in NIHL and asbestosis cases particularly where there are limitation or other procedural concerns.

James undertakes all aspects of inter-parties costs work, whether arising in a personal injury context or otherwise. This includes costs management, detailed assessments and dealing with technical issues such as the validity of retainers. He is also regularly instructed with costs issues in general litigation, particularly arising out of the portal or fixed recoverable costs regime. James conducts regular seminars dealing with costs updates, such as the budgeting regime and subsequent changes, and fixed costs under Part 45 & the Portal.

### Personal Injury Costs

James has a substantial personal injury costs practice complementing his core personal injury work. He undertakes the full range of costs work for paying and receiving parties. James is regularly retained by a major insurer to act in relation to the application of the low value costs regimes (in particular Portal and FRC matters).

Recent work has included detailed assessments in pre-LASPO multi-million settlement cases, frequent cost and case management work and advising on the validity of retainers.

### Personal Injury Fraud

James accepts instructions in all areas of personal injury work acting for both claimants and defendants. He is presently conducted as sole counsel in a number of cases worth up to £1 million and in others where there are complex liability and quantum issues.

A significant proportion of personal injury work is where dishonesty or causation is in issue. James is principally instructed by insurers and local authorities and a typical month will involve a number of trials in such matters. He acts in all aspects of fraud related personal injury work including LVI claims, exaggerated injury claims and staged fraud.

He frequently acts in cases involving the disclosure of social media evidence and the use of surveillance evidence. James is comfortable dealing with all procedural issues (not only in relation to fundamental dishonesty but also where third party costs orders or wasted costs orders ought to be considered) and is very robust in court.

### Property Damage & Insurance

James has a busy practice acting in property damage claims, including in multi-party litigation and contribution proceedings. He is often instructed where there is an issue as to the extent of any tortious and/or contractual duty said to be owed to a party. He is presently instructed in a number of multi-track high value property damage disputes and he is frequently retained by local authorities to act in relation to flooding and nuisance claims.

### Town & Village Greens

James has always had an interest in village green work alongside his main areas of practice. He maintains a discrete practice acting for interested parties in all matters relating to village greens, parks and open spaces. The substantial core of his work is acting as an independent inspector for registration authorities in relation to applications for registration of land as a town or village green.

#### Recent and ongoing cases for village green and open space work:

- ▶ Instructed as Inspector on four-day non-statutory inquiry for Vale of Glamorgan Council in the matter of land at Sully Sports Field.
- ▶ Advisory work for a number of local authorities both as inspector and landowner.
- ▶ Instructed on behalf of individuals and parish councils to act in registration and development disputes.

### Related Cases

- ▶ PH v City of Wolverhampton Council
- ▶ Apfel v London Borough of Hackney
- ▶ Edwards v Bristol City Council
- ▶ Issa v Bristol City Council
- ▶ Trussler v Surrey County Council

## Professional memberships

- ▶ LLB (Hons) Durham & BVC Nottingham

## Contact James:

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