



# Caroline Musgrave-Cohen

Year of Call: 2008

Call Clerk on 020 7827 4000

## PRACTICE AREAS

Clinical Negligence | Discrimination & Equality | Employment | Human Rights | Personal Injury | Professional Discipline

## HIGHLIGHTS

*"She is extremely thorough and has a well-deserved reputation for dealing with complex equal pay claims." "She has authority, so the tribunal listens to her and the clients love her." "Caroline is an incredibly hard-working barrister who is supportive and approachable. She has a great skill of analysing detail and distilling it into simple arguments."* **Chambers & Partners 2022**

*"Good attention to detail and easy to work with - she becomes part of the team."* **Legal 500 2022**

## OVERVIEW

Caroline Musgrave-Cohen specialises in employment and discrimination, personal injury and clinical negligence law.

### **Employment**

Caroline is instructed across the full range of employment disputes with particular expertise in discrimination, whistleblowing and equal pay. She represents clients from all sectors advising on one off matters through to representation at multi day trials where she skilfully breaks down multiple allegations and complex legal arguments.

In practice since 2009 and recognised as a leading practitioner in the legal directories since 2014, Caroline is particularly regarded for her strategic approach, personable style and excellent witness handling.

Caroline is experienced in conducting independent internal investigations into the full range of employment disputes.

### **Equal pay**

Caroline has particular expertise in equal pay matters having been instructed in long running litigation representing thousands of claimants in the case of Brennan v Sunderland City Council as well as one off matters representing women complaining of unequal pay in sectors ranging from education to financial services.

In what is thought to be the first class action representing men, Caroline represented 18 male caretakers and tradesmen in the case of Barry and others v University of Wales Trinity St Davids. The men successfully claimed equal pay with their female comparators working as secretaries and library assistants.

### **Discrimination**

In her discrimination practice, Caroline acts for employees and employers from

sectors as diverse as management consulting, charity, housing, NHS, transport, construction, local government and financial services. Caroline is a member of the Equality and Human Rights Commission's Panel of Counsel.

In *Islam v HSBC* Caroline acted for the Respondent before the Employment Appeal Tribunal considering the obligations on the Tribunal to ensure a fair hearing for a Claimant with a physical disability throughout the preparations and during Tribunal proceedings.

Caroline has particular expertise in representing members of the armed forces both through solicitors and on a public access basis. She has a detailed knowledge of the service complaint procedures and supports members through the internal process and in subsequent litigation before the Employment Tribunal. In the case of *Williams v MOD*, Caroline represented the most senior nurse in the RAF in her claim of sex discrimination. In *Duncan v MOD*, Caroline was instructed at appellate level contending that the Employment Tribunal were wrong to dismiss a claim for procedural reasons.

## **Whistleblowing**

Caroline is regularly instructed in complex legal arguments about the parameters of whistleblowing legislation considering what amounts to a protected disclosure in law and on the facts, what amounts to a detriment and whether the causation tests are satisfied.

Caroline has frequently represented NHS Trusts facing whistleblowing claims pertaining to health and safety concerns. In *Patel and Metcalf v SCC*, Caroline was instructed in the Employment Appeal Tribunal in part to consider the correct legal test applicable to a whistleblowing constructive dismissal.

## **Public access**

Caroline is licensed to accept Public Access instructions. She is particularly experienced at representing members of the armed forces through service complaint and Employment Tribunal procedures. Caroline will always openly discuss with clients whether they are best served with Caroline acting on a Public Access basis or whether they should consider engaging a solicitor.

## **Clinical negligence**

Caroline's clinical negligence practice includes advising clients on prospects of success and case management, drafting pleadings, compiling high value schedules of loss and pursuing matters to trial.

Caroline has experience of a wide range of clinical negligence matters such as negligent management of a psychiatric young person, failure to properly diagnose fractures, cerebral palsy and failure to identify cancer at the earliest stage.

She has been led in maximum severity cases including brain injury at birth resulting in multi million pound settlements.

Caroline has represented families pursuing negligence claims on behalf of their deceased relatives and at inquests into deaths in hospital.

## **Personal injury**

Caroline settles the full range of pleadings and schedules and advises and acts on claims covering RTAs, workplace claims, highways claims, construction accidents, tripping and slipping and others. She has experience of both liability and quantum trials as well as complex case management matters.

As with her clinical negligence practice, Caroline has been led in maximum severity cases including motorbike accidents leading to limb amputation. She is experienced at drafting schedules of loss using excel in multi million pound cases.

Caroline brings her advocacy and negotiation experience as an employment practitioner to bear in her personal injury and clinical negligence practice giving her confidence and skill in negotiation and Court work.

## **International Experience**

After graduating from Clare College, Cambridge University, Caroline worked as a relief and development professional for six years in the UK, Pakistan, Indonesia and Rwanda. In 2010, Caroline was instructed to visit Afghanistan to

prepare witness statements in preparation for an inquest. In 2013 Caroline spent three months as a visiting research associate at the Harvard Law School Project on Disability focusing on how the UN Convention on the Rights of Persons with Disabilities can be used to further the rights of the disabled.

## REFERENCES

**Chambers & Partners 2022:** "She is extremely thorough and has a well-deserved reputation for dealing with complex equal pay claims." "She has authority, so the tribunal listens to her and the clients love her." "Caroline is an incredibly hard-working barrister who is supportive and approachable. She has a great skill of analysing detail and distilling it into simple arguments."

**Legal 500 2022:** "Good attention to detail and easy to work with - she becomes part of the team."

**Chambers & Partners 2021:** "First-class analytically and great when you've hundreds of pages of evidence to go through." "She's skilled in advocacy, helpful in preparation and has good client management skills."

**Legal 500 2021:** "A forensic mind, with a fantastic work ethic and great client care skills; she is also always very supportive."

**Chambers & Partners 2020:** "A formidable employment lawyer who is very, very bright, very competent and knows her stuff inside out." "Offers a meticulous approach to preparation, the ability to cut through complex data, accomplished advocacy and exemplary client care."

**Legal 500 2020:** "Excellent on her feet and punching above her weight in terms of her year of call."

**Chambers & Partners 2019:** "Employment law specialist with strong knowledge of whistle-blowing, disability discrimination and parental rights disputes. She is regularly involved in cases concerning local authorities, the professional services and the armed forces. She is undertaking an increasing number of appellate cases." "Strong on her feet and a pleasure to work with." "A

brilliant advocate who engages with clients and works night and day for them."

**Legal 500 2019:** "She is always on top of the case law and provides a clear and practical approach."

**Chambers & Partners 2018:** "Caroline gives pragmatic, clear advice and is great on her feet in court. She is good with clients and clearly well prepared in all matters. A very impressive advocate", "Her legal and factual analysis in relation to complex cases is spot on."

**Legal 500 2018:** "Very calm under pressure and an absolute pleasure to work with."

**Chambers & Partners 2017:** "She is seen as a reliable, confident member of counsel who can hold her own against senior barristers", "She establishes a great rapport from day one with both solicitors and clients, and she exudes a persona of capability and confidence", "She is an outstanding junior who punches above her weight."

**Who's Who Legal 2017** name Caroline as one of the top ten most highly regarded employment law juniors and say: "her abilities defy her number of years' call". Sources add that she is "clear, succinct and inspiring on her feet" and note her "incisive and compelling advocacy style", as well as her "exemplary client care".

**Chambers & Partners 2016:** "Has a strong reputation in the market as a counsel who adds value to a team. She primarily handles employment, discrimination, personal injury and clinical negligence disputes, and is very well known for the excellence of her client service." "She is very good on her feet and very down-to-earth as well."

**Chambers & Partners 2015:** "An impressive young barrister who is capable of turning her hand to all areas of employment law." "She's reassuring and calm, and does not get into a flap."

**Chambers & Partners 2014:** "An up and comer with a specialism in equal pay litigation. Her strong courtroom presence and impressive client-handling skills are said to belie her relatively recent year of call." "She has the desire to work

with clients so as to ensure the best outcome”, “Absolutely first-class”, “She's very logical in how she approaches cases.”

## APPOINTMENTS AND MEMBERSHIPS

Member of the Equality and Human Rights Commission's Panel of Counsel

Member of the Employment Lawyers Association, Employment Law Bar Association, Industrial Law Society and Advocates for International Development.

## PUBLICATIONS AND TRAINING

Caroline is an excellent presenter and trainer stemming from her experience training managers around the world prior to coming to the bar. Recent topics include TUPE 2014, family rights in the workplace, disability discrimination and employment tribunal procedure and practice:

- “Disability and Absence Management”, Cloisters Employment Law Conference, November 2016.
- TUPE training for University Colleges Union, March 2016
- Penalty Clauses and Mistake, BBC, September 2015
- Contributor to the AvMA Clinical Negligence Conference 2013 Legal Update.
- Contributor to the Legal Action Group's textbook ‘Discrimination in Employment’ published by LAG in 2013.
- Contributor and interviewee for the DVD programme “Employment: Equal Pay” produced by Legal Network Television.
- Co-author and presenter of “The Right to Strike Reborn” at the Cloisters 2011 annual Equality Law lecture series alongside Jason Galbraith-Marten.

## QUALIFICATIONS

MA (Cantab)

## HIGHLIGHT CASES

Patel and Metcalf v SCC [2018] UKEAT/0178/16/LA, UKEAT/0179/16/LA. Caroline successfully represented Mrs Metcalf in her appeal against the 110 page whistleblowing judgment of the Employment Tribunal. The Tribunal had adopted a “rolled up” approach to the protected disclosures and had failed to apply the correct legal test of causation.

Islam v HSBC [2017] UKEAT/0264/16. Right to a fair hearing for persons with disabilities. The EAT determined that the appellant, as an individual with a visual impairment, had had a fair hearing.

Rabess v London Fire and Emergency Planning Authority [2017] IRLR 147, CA. Led by Ed Williams. Whether calculating time limits for unfair dismissal should be governed by the common law (per *Societe Generale v Geys*) or by statute.

Sandle v Adecco UK Ltd [2016] IRLR 941. Led by Ed Williams. Whether there can be dismissal by omission in relation to an agency worker.

Barry and others v University of Wales Trinity St Davids. In what is thought to be the first class action of its kind, 18 male workers (caretakers and tradesmen) successfully claimed equal pay with female workers (secretaries and library assistants). See the associated press coverage from the BBC and the Guardian. Cost application included in the Equality Law Reports [2014] EqLR 482

Flynn v Warrior Square [2014] EWCA Civ 68, CA. In these whistleblowing proceedings, Caroline represented the respondent in the successful appeal to the Employment Appeal Tribunal and the successful defence of Mr Flynn's appeal against the EAT decision in the Court of Appeal.

Wendy Williams v MOD [2013] EqLR 856. Caroline represented Wendy

Williams, the most senior serving nurse in the RAF, in her successful claim of sex discrimination. The Tribunal agreed that the MOD had discriminated against Ms Williams both directly and indirectly when recruiting to senior military roles preferring doctors over nurses, men over women. In the remedy judgment of April 2014 the tribunal made far reaching recommendations including the dissemination of the judgment to all nurses in the MOD. See the Cloisters press release and associated news coverage at the Telegraph for more details.