



Claire McCann

Year of Call: 2000

Call Clerk on 020 7827 4000

PRACTICE AREAS

Discrimination & Equality | Employment | Human Rights | Regulatory

HIGHLIGHTS

A case in the Supreme Court in 2017 concerning privacy rights. Described as "excellent" with "superb client-handling skills", Claire is particularly regarded for her tenacity in court, her sharp cross-examination skills, meticulous preparation and her ability to put clients at ease. She gives sound, commercial advice and is quick to respond.

OVERVIEW

The legal directories rate Claire as a highly regarded junior in all areas of employment and equality law, as well as for her civil liberties and human rights

work.

Claire represents both claimants and defendants/respondents and is instructed by solicitors firms, in-house lawyers & HR professionals and directly via Public Access. She regularly advises NHS Trusts, financial institutions, retailers, airlines and FTSE 250 companies and other corporate clients as well as Trade Unions, local and central government and individual claimants.

She has a particularly strong reputation for her equality work, including non-employment discrimination cases whether by way of judicial review proceedings in the Admin Court or claims in the High Court and County Court. She is also instructed in High Court employment-related litigation concerning restraint of trade and directors' duties.

She has a strong advisory practice: she is regularly instructed by an airline to advise on complex employee relations issues (EG: age-based rules for pilots; and rostering requirements in respect of disabled cabin crew); and she has recently advised a large national charity on its liability in respect of holiday pay.

Claire is a sought-after junior in complex and high profile litigation, particularly in cases raising issues of reputational risk. In the past year, she has been instructed by a global luxury car manufacturer in relation to a whistleblowing claim brought by one of its senior in-house lawyers; by two police officers in national security proceedings alleging race discrimination on the basis of their nationality; and by central Government in respect of multiple equal pay claims.

Claire also practises in regulatory and disciplinary work. She was recently instructed to present the management case to a large NHS Trust in relation to serious disciplinary allegations against five doctors accused of claiming payment for work done during NHS paid time. And she has been instructed to investigate or review internal disciplinary or grievance investigations. Claire has also been instructed to assist disciplinary or grievance panels with their internal hearings, giving guidance on the scope of the internal investigation and/or legal issues in relation to the outcomes of such investigations.

Claire accepts certain cases under direct Public Access: she recently acted for a claimant seeking to claim sexual orientation discrimination against a foreign embassy based in London; she represented an in-house lawyer claiming

maternity discrimination against her employer; and she advised a transgender woman attempting to get her DBS Certificate amended so that it no longer reveals her trans status.

As a legal research consultant for the Public Law Project (1998-2000), Claire worked on a number of projects, including a Lottery-funded publication on access to health records and the Data Protection Act 1998.

Claire regularly contributes articles to legal journals and lectures widely on employment and equality law and has recently co-authored OUP's textbook, *Employment Law and Human Rights* (3ed) (2018).

AWARDS

Pegasus Scholar (2005) to work for 3 months for the Human Rights Team at Crown Law Office in New Zealand

Princess Royal Scholar (Inner Temple, 1999/2000)

Major Scholar (Inner Temple, 1998/99)

Scholar, Wadham College, Oxford University (1994 - 1996)

REFERENCES

Chambers and Partners 2018: "Extremely well prepared, thoughtful and clever. She builds excellent relationships with clients." "Excellent and hard-working. She masters complex and detailed cases very well."

Legal 500 2017: (Civil Liberties and Human Rights) "Extremely capable and committed" (Employment) and "Absolutely committed to understanding her clients' needs and representing their interests"

Chambers and Partners 2017: "...bright and determined, with strong client care skills"

Who's Who Legal 2017: "Her cross-examination is always focused and robust; and her client handling skills are also superb"

Legal 500 2017: (Employment) "She provides a solution-focused service and understands the way in which in-house lawyers need to be advised"

Chambers and Partners 2016: "A go-to advocate for tricky cases"

Legal 500 2016: (Civil Liberties and Human Rights) "A brilliant barrister; responsive and compassionate" Legal 500 2015 (Employment) "...hugely clever and hardworking, and can be guaranteed to leave no stone unturned"

Chambers and Partners 2015: "...very user-friendly, very intelligent and noticeably authoritative"

APPOINTMENTS AND MEMBERSHIPS

Appointed from 1 September 2015 to the Attorney General's B Panel of Counsel

Appointed in October 2015 as a Specialist Advisor to the House of Commons Women and Equalities Select Committee to advise in connection with its Transgender Enquiry

ELA; ELBA; HRLA; ILS; DLA; TELI

PUBLICATIONS AND TRAINING

Claire regularly presents seminars and webinars and has been a contributor for Legal Network TV. For example:

- Speaker at Health and Wellbeing at Work Conference, NEC, Birmingham (March 2018)
 - Discrimination Law & Strategy - ELA two-day conference (March 2018)
- Speaker at the Industrial Law Society on Privacy in the Workplace (January 2018)

- Speaker at ELA Annual Conference 2017 on Transgender Equality at Work and in the Provision of Goods & Services
- Speaker at Pangea Net Employment Conference (at Browne Jacobsen) on data protection (January 2017)
- Update on Data Protection - Cloisters' Employment Law Conference (November 2016)
 - Transgender Equality: Recent Issues - Discrimination Law Association Annual Conference (November 2016)
 - Equal Pay Audits & Gender Pay Gap Mandatory Reporting - seminar (EEF July 2015); webinar (Lexis Nexis, February 2015)
 - Holiday Pay: A Ticking Time Bomb (Seminar presented with Caspar Glyn QC to Allen & Overy; Farrer & Co; and Pennington Manches)
- TUPE: Service Provision Changes "Back to the Future"? (In-house seminar for Maclay Murray Spens)
- Update on Collective Consultation (Norton Rose In-house Seminar)
- Presenter of "Redundancy Update: Consultation & Selection" and "Religion/Belief Discrimination: an Update" for Legal Network TV

Claire also authors and contributes to legal textbooks, journals and other publications, as well as Government and EU Commission consultations, including:

- Co-Author of OUP's Employment Law and Human Rights (3rd ed. to be published in March 2018)
 - Member of ELA Working Group - Response to Equality & Human Rights Commission Consultation on its draft policy, "Closing the Gap: Enforcing the Gender Pay Gap Regulations" (Feb 2018)
 - Regular contributor to Equality and Diversity Forum (EDF) Newsletter (most recently a two-part update on trans equality issues)
 - Contributor to ELA Briefing (articles published on volunteer workers and the meaning of "establishment" in relation to collective consultation)
 - Contributor to LAG Discrimination in Employment Handbook (2013)
- Co-Author of JUSTICE's Response to G.E.O. Call for Evidence on the Public Sector Equality Duty (with Catherine Casserley, Declan O'Dempsey and Angela Patrick) (2013)
- Co-author of AGE CONCERN's: "Addressing Age Barriers: An international comparison of legislation against age discrimination in the field of goods, facilities and services" (2004) which paved the way for the European

Commission's proposals (in July 2008) for an Anti-discrimination Directive to combat discrimination in the provision of goods and services based on religion or belief, disability, age or sexual orientation

QUALIFICATIONS

BA Joint Honours (English & French) (Oxon): 1st Class

PGDip Law (City University)

BVC (Inns of Court School of Law)

HIGHLIGHT CASES

Jay v Secretary of State for Justice [2019] 2 WLR 37

(Successful appeal against refusal to grant gender recognition certificate by the Gender Recognition Panel, in which the High Court decided to issue the certificate itself)

Judicial review (NB: anonymised) [2017] (Supreme Court)

(Challenge to data retention policies which interfered with right to respect for private life)

Escargueil v Medicines and Healthcare Products Regulatory Agency [2016] (ET)

(four-week trial in which Claire successfully defended the MHRA from allegations of sex, race and disability discrimination, whistle-blowing detriment and unfair dismissal)

A v An NHS Trust [2016] (County Court)

(data protection, equality and human rights claims on behalf of trans claimant against NHS Trust, with Court concluding that the Trust had harassed the Claimant in respect of the unwanted retention of data on a Care Plan which disclosed her gender history)

Ostlere v Oxford University Hospitals NHS Trust [2016] (ET)

(successfully defended NHS Trust from breach of contract and dismissal claim brought by consultant radiologist)

Armstrong v Metropolitan Police Commissioner [2015] (ET)

(high profile claim concerning allegations of sectarian hostility against a Catholic police inspector and disability discrimination in the Met)

Schaathun v EBAS Ltd [2015] (ET & EAT)

(whistleblowing claim and appeal raising allegations of procedural impropriety and bias and the burden of proof where the employer denies knowledge of the employee's protected disclosure)

Surtees v Middlesbrough Council [2009] ICR 141

(Court of Appeal & EAT: the ambit of the material factor defence under the Equal Pay Act 1970 in respect of a pay protection scheme and separate collective bargaining arrangements)

R (Elias) v. Secretary of State for Defence [2006] 1 WLR 3213

(Court of Appeal & Admin Court: meaning of discrimination on grounds of "national origins"; test to be applied in relation to justification of indirect race discrimination; ambit of general statutory duty under s.71 of Race Relations Act 1976; whether the public law principle against fettering discretion applies to non-statutory ex gratia payment schemes)