



Dee Masters

Year of Call: 2004

Call Clerk on 020 7827 4000

PRACTICE AREAS

Discrimination & Equality | Employment | Regulatory

HIGHLIGHTS

Dee has been ranked in the legal directories since 2010 as a leading employment barrister. "She has established a reputation as an adviser with a formidable knowledge of discrimination law." **Chambers and Partners.** "An all-round class act and technically excellent in discrimination and equal pay cases." **Legal 500**

OVERVIEW

Discrimination law

Dee is a recognised expert in discrimination law. Her practice primarily consists of multi-week trials involving multiple and complex claims. She is instructed by employers, employees and unions. Due to her expertise, she regularly advises NGOs and government agencies on the development of discrimination law and she has delivered judicial training on discrimination law at ERA in Trier funded by the European Commission. She is also Head of Employment within Cloisters.

Employment field

Over the past 14 years, Dee has acted in matters covering all forms of discrimination in the employment field. She has represented and advised clients in the following sectors:

- Financial services
- Technology
- Education (including universities)
- Transport
- Logistics
- NHS
- Private healthcare
- Housing
- Policing
- Local government
- Retail

She has particular expertise in equal pay having represented both employers and employees in complex equal pay claims since 2006. At the beginning of her practice, she acted as a junior in the public sector equal pay litigation which started in the North of England representing large multiples of female claimants in low paid roles in the NHS. This led to appearing, at appellate level, in some of the defining equal pay cases which arose from the public sector pay disputes such as *Bainbridge (no 2)*. More recently, she has represented private companies in potentially valuable equal pay litigation including the recent wave of claims in the retail sector. She also regularly represents well-paid women in banking and other sectors who are suing their employers for underpayment in relation to contractual and bonus pay.

Alongside equal pay, Dee has particular expertise in age discrimination law. She

appeared in the Supreme Court in *Seldon*, led by Robin Allen QC, which was a ground breaking age discrimination case. Subsequently, she has advised the Equality Commission of Northern Ireland (ECNI) and the Northern Ireland Commissioner for Children and Young People (NICCY) on its response to proposed legislation extending the existing prohibition on age discrimination. In August 2015, she was the keynote speaker at a conference attended by politicians and policy makers in Belfast concerning age discrimination. Dee has also been advising AGE PLATFORM, an NGO, on a proposed European Directive which will extend the prohibition on age discrimination. She is also advising them on the content of a proposed new UN Convention on age discrimination. She drafted the Technical Guidance accompanying the ban on age discrimination in goods, facilities and services on behalf of the Equality and Human Rights Commission in GB alongside colleagues in chambers. In 2018, she gave evidence as an expert witness to the Women and Equalities Committee on older people in the workplace.

Education sector

Dee has particular interest in the education sector having advised on discrimination issues in the employment field as well as claims in the County Court. In 2014, she advised the Equality and Human Rights Commission on the extent to which gender segregation was permitted within university campuses. She has also advised on the use of retirement ages in an education setting. Dee is also a governor for a school in Twickenham.

Goods, facilities and services including discriminatory tech

Beyond the employment sphere, Dee advises on discrimination issues in the goods, facilities and services space including private clubs. She is also involved in the growing debate concerning the interplay between the Equality Act 2010 and discriminatory technology. She has co-authored two papers in this growing area: "Algorithms, Apps & Artificial Intelligence: The next frontier in discrimination law" (2018) and "Algorithms, Apps & Artificial Intelligence: Can data protection laws be used to challenge discriminatory tech?". She has spoken at DLA on this topic and at the Public Law Project's annual conference in the winter of 2018 on the interplay between discriminatory technology and judicial decision making. Along with Robin Allen QC, she hosts www.ai-lawhub.com which contains information on how service providers can ensure that

technology complies with the Equality Act 2010.

Appellate work

Dee has extensive appellate experience. In 2017 and 2018, Dee has been instructed in five appeals at EAT and Court of Appeal level. Her highlight cases are outlined below.

Internal investigations

Dee has conducted independent investigations into sensitive employment matters.

REFERENCES

"She provides strategic advice and is very insightful". "She possesses excellent advocacy skills and she instils total confidence with her clients. She is a pleasure to work with", "Organised, client-friendly and well rounded". Chambers and Partners, 2019

"An all-round class act and technically excellent in discrimination and equal pay cases". Legal 500, 2019

"A really good advocate". "Very thorough, well prepared and on top of the detail". Chambers and Partners, 2018

"An impressive advocate." Legal 500, 2017

"... extensive knowledge of discrimination issues, with particular focus upon age discrimination issues. Clients praise her impressive client-handling skills, especially her ability to outline risks and explain concepts to lay clients. Strengths: 'She is practical, diligent and thorough, with a good eye for the key issues at hand.' 'She is bright, responsive and commercially astute.'" Chambers and Partners, 2017

"She can hold her own against some of the employment silk heavyweights and

can create novel arguments." Legal 500, 2016

"... she has established a reputation as an adviser with a formidable knowledge of discrimination law." Chambers and Partners, 2016

"She has a rare combination of deep insight, commercial nous and clever tactical ability." Legal 500, 2015

"Acknowledged for her impressive client service, she is praised for stringently fighting her client's corner. She is very experienced in acting on complex and high-profile cases, and regularly advises on a diverse range of subjects including TUPE and all forms of discrimination". "Very on the ball, she thinks outside the box." "She's thorough and grasps the papers quickly. She's also user-friendly and clients like her." Chambers and Partners 2015

"Excellent cross-examination skills." Legal 500, 2014

"She's a supremely able advocate, who really charms the tribunal." "She is an expert in age equality law." Chambers and Partners, 2014

"... continues to impress sources with her 'thorough preparation, excellent performances in tribunal and the confidence she instils in instructing solicitors.' " Chambers and Partners, 2013

"... well respected ... 'impressive beyond her years.' She exudes confidence and is able to tackle very tricky arguments and get brilliant results." Chambers and Partners, 2012

"confident but never arrogant, Dee Masters has had a great year, topped off by being chosen as the junior on Wilson and Bainbridge" Chambers and Partners, 2011

APPOINTMENTS AND MEMBERSHIPS

ELA, ELBA

Member of the Management Committee of ELA (2016 - 2018)

Head of Employment within Cloisters (2016 -)

Member of the Bar Council's Equality Diversity & Social Mobility Committee

PUBLICATIONS AND TRAINING

"Algorithms, Apps & Artificial Intelligence: Can data protection laws be used to challenge discriminatory tech?" (July 2018)

"Algorithms, Apps & Artificial Intelligence: The Next Frontier in Discrimination Law" (July 2018)

"Identifying direct discrimination in “proxy cases” after R (on the application of Coll) v Secretary of State for Justice" (Blog, May 2017)

"The Conseil d'État in France has recently overturned a ban on “burkinis”: Is French secularism now under attack?" (Blog, August 2016)

"Identifying secondary victims: discrimination by association vs discrimination by ricochet" (ELA, July 2016)

"Equal pay: equal value claims and procedure" (PLC, maintained note)

"CJEU confirms that certain retirement schemes can discriminate on the grounds of age" (Blog, June 2016)

"Challenging stereotypical assumptions: age discrimination and student loans" (Blog, June 2016)

"Privacy at work: monitoring employee communications" (PLC magazine, March 2016)

"Age discrimination and the taxation of pension income" (Blog, February 2016)

"The European Accessibility Act: A proposed new duty to make reasonable adjustments in relation to services / products for disabled people and certain age groups" (Blog, January 2016)

"Age discrimination in goods, facilities and services" (Legal Island, 10th Equality Law Update, Belfast, December 2015).

"Goods, facilities and services: Age discrimination problems arise in unexpected places" (Blog, November 2015)

"Strengthening protection for all ages: proposals for reform of age discrimination in goods, facilities and services" (Belfast ECNI Conference, August 2015)

"Taming sweeping discrimination claims: could a staged approach work?" (ELA, July 2015)

"Indirect associative discrimination: a regressive step?" (Michael Rubenstein blog, April 2015)

"Moving towards equality: Justifying transitional schemes" (ELA, November 2014)

"Equality Act Update" (LexisNexis webinar, October 2014)

"Age discrimination, collegiality and leaver provisions" (Michael Rubenstein blog, September 2014)

"Leaver provisions in bonus schemes: avoiding age discrimination" (PLC Magazine, June 2014)

"Proving discrimination: The Shifting Burden of Proof" (Judicial training session at the ERA, Trier, May 2014)

"Protection for all ages: Protecting Children and Young People against Unlawful Discrimination in Goods, Facilities and Services" (Expert Paper for ECNI and NICCY, April 2013)

"Handling employee disputes: watch your step" (PLC Magazine, August 2013)

"Seldon and compulsory Retirement: the final chapter" (PLC Magazine, July 2013)

"Legal Advice Privilege: an update following Prudential?" (ELA Magazine, May 2013)

"Discrimination in Employment (a claims handbook)" (co-author, LAG, April 2013)

"Collective redundancy law shake up: reducing the burden on employers?" (PLC Magazine, Jan/Feb 2013)

"End to gender based discrimination in the financial sector" (Cloisters view point, 2012)

"Should retirement ages be linked to pension eligibility?" (ELA Magazine, September / October 2012)

"Beginner's guide to the ban on age discrimination in goods and services" in the Law Society Gazette (2012)

QUALIFICATIONS

University College, London (LLB)

London School of Economics (LLM) specialising in employment law

HIGHLIGHT CASES

- Reuters Ltd v Cole (January 2018, UKEAT/0258/17/BA): Applications to amend.
- Pets at Home v Mackenzie (January 2018, UKEAT/0146/17/RN): Affirmation of

repudiatory breaches and the final straw.

- *Rochford v WNS Global Services (UK) Ltd* (October 2017, Court of Appeal): Interplay between disability discrimination and unfair dismissal.
- *Leicester City Council v Sansome* (August 2017, UKEAT/0257/16/LA): Whether suspension is a breach of the implied term of trust and confidence.
- *Waiyego v First Great Western Limited* (February 2016, UKEAT/0298/15/JOJ): Strike out and wasted costs.
- *Mist v Derby Community Health Services* [2016] ICR 543: Early conciliation procedure, TUPE and applications to amend.
- *John Charles v NHS Business Services Authority* (December 2015, UKEAT/0105/15/BA): Natural justice and unfair dismissal.
- *Fathers v Pets at Home Ltd* (June 2014, UKEAT/0424/13/DM): Correct approach towards determining disability.
- *Seldon v Clarkson Wright and Jakes* [2012] ICR 716 (SC): This ground breaking case was the first time that the Supreme Court considered the law relating to direct age discrimination. It clarifies the conceptual basis of direct age discrimination and the test of justification. Led by Robin Allen QC.
- *Sheffield City Council v Gibson* (SC): This was to be the leading case of 2011 concerning the burden of proof in equal pay cases. The matter was resolved shortly prior to the Supreme Court hearing.
- *Wilson v HSE* [2010] ICR 302 (CA): This is the leading case on the impact of the ECJ judgment in *Cadman* and the use of length of service criterion in pay systems. Led by Robin Allen QC.
- *Redcar & Cleveland Borough Council v. Bainbridge* [2009] ICR 133 (CA): Equal pay case which examined the lawfulness of pay protection arrangements which perpetuated historic sex discrimination. Led by Robin Allen QC.
- *Potter v. North Cumbria Acute NHS Hospitals* [2009] IRLR 900 (EAT): Equal

pay case which examined whether the introduction of Agenda for Change led to the termination of contracts of employment within the NHS. Led by Robin Allen QC.

- *Potter v. North Cumbria Acute NHS Hospitals* [2009] IRLR 176 (EAT): Equal pay case which explored the requirement for a “single source” where s.1 (6) of the EPA 1970 was satisfied. Led by Robin Allen QC.
- *Shaw v. CCL Ltd* [2008] IRLR 284 (EAT): This was a leading case of 2008 involving allegations of indirect sex and pregnancy discrimination.
- *Bainbridge v Redcar & Cleveland Borough Council* [2008] ICR 238 (CA): Equal pay case which considered whether the claimants could bring an equal pay claim under section 1(2) (b) of the EPA 1970 in circumstances where the male comparators were rated less favourably under a JES. Led by Robin Allen QC.