



## Rachel Barrett

Year of Call: 2012

Call Clerk on 020 7827 4000

### PRACTICE AREAS

Clinical Negligence | Discrimination & Equality | Employment | Human Rights | Professional Discipline | Public & Administrative Law

### HIGHLIGHTS

*"She's incredibly thorough and perceptive, and has great client skills." "She navigates through tricky legal issues in a down-to-earth manner and puts everything into getting the right result for the client."* **Chambers & Partners 2021**

### OVERVIEW

Rachel Barrett has a thriving and varied employment, discrimination and human rights practice, including inquests and public inquiry work. She is in demand in

legally complex and novel cases, such as:

- *McCann v State Hospitals Board for Scotland* [2017] UKSC 31; [2017] 1 WLR 1455 - human rights challenge concerning whether a ban on smoking in a forensic psychiatric hospital was lawful;
- *Kilraine v Wandsworth LBC* [2018] EWCA Civ 1436; [2018] ICR 1850 - an influential decision setting out what disclosures are 'protected' for whistle-blowing purposes;
- *NUPFC v Certification Officer* [2020] ICR 607 - whether foster carers have worker status and can register a trade union.

Rachel appears regularly in the Employment Appeal Tribunal and High Court, both led and as sole counsel, and has a busy practice up and down the country in the employment tribunals, county courts and Coroner's courts. She is part of the counsel team to the Infected Blood Inquiry. She also undertakes investigation work into sexual harassment matters for the Labour Party. Rachel is frequently instructed in lengthy trials and inquests raising complex and sensitive issues, and is adept in working with vulnerable clients to assist them to achieve their objectives. She provides perceptive, practical advice to her clients and is a highly effective courtroom advocate.

Rachel is the co-author of OUP's *Employment Law and Human Rights*, 3rd Edn, and a contributing author to *Supperstone, Goudie & Walker: Judicial Review*, *Bullen & Leake & Jacob's Precedents of Pleadings* and *Sweet and Maxwell's loose-leaf Human Rights Practice*. She also has a cover credit as a researcher for *Baroness Hale's Mental Health Law*, 6th Edn.

As a former judicial assistant (to Lord Wilson and Lord Hodge in the Supreme Court and Privy Council 2014-2015), Rachel brings invaluable experience of the judicial decision-making process at the appellate level.

Prior to coming to the Bar, Rachel worked on various projects to improve standards in mental health care, most recently managing a network for child and adolescent mental health services (CAMHS). She brings this prior experience to bear in many of her cases which feature mental health issues.

## AWARDS

Nominated for Chambers Bar Award 2020 - Future Leader: Diversity and Inclusion

Inner Temple - BPTC Exhibition Award, Duke of Edinburgh Scholarship, and GDL Exhibition Award

Philip C. Jessup International Law Moot Court Competition - Spirit of the Jessup Award

College of Law GDL Mooting Competition - First Prize

Arts and Humanities Research Council - Research Preparation Master's Award

School of Oriental and African Studies - School History Prize for Examination Results

University of Birmingham - Kendrick Prize for Examination Results

## REFERENCES

**Chambers & Partners 2020:** "Absolutely brilliant: very responsive and a tough cross-examiner." "A really smart barrister who really understands the dynamics of client relationships."

**Chambers & Partners 2019:** "Very responsive and easy to work with." "She has exceptional knowledge of employment and discrimination law." "She has the intellectual horsepower to tackle any issue and she is a natural team player."

## APPOINTMENTS AND MEMBERSHIPS

Fee-paid Employment Judge from 2020.

Appointed in 2019 to the Equality and Human Rights Commission Panel of Preferred Counsel (B-Panel).

BHRC

ELBA

ELA

DLA

ALBA

HRLA

FRU

Justice

INQUEST

Advocate

## PUBLICATIONS AND TRAINING

- Co-author of Employment Law and Human Rights, 3rd Edn with Robin Allen QC, Rachel Crasnow QC, Anna Beale and Claire McCann.
- Co-author of the 'Employment Tribunal' and 'Employment - Proceedings in the High Court and County Court' sections in Bullen & Leake & Jacob's Precedents of Pleadings, 18th Edn with Paul Michell.

- Co-author of the 'Human Rights Act' chapter in Supperstone, Goudie & Walker: Judicial Review, 6th Edn with Philip Engelman.
- Co-author of the chapter on 'Article 9: freedom of thought, conscience and religion' in Human Rights Practice loose-leaf from Sweet & Maxwell with Schona Jolly QC.
- Co-author of the 'Psychiatric injury' chapter in Lewis & Buchan: Clinical Negligence, 8th Edn with Andrew Buchan.
- Named researcher in Baroness Hale's Mental Health Law, 6th Edn.
- Contributing author to Lexis PSL (Claims Against the Police, 'Best Value' in Procurement and Public Sector Equality Duty practice notes).
- Contributing author to Practical Law Employment (Wrongful Dismissal practice note).

## QUALIFICATIONS

Bar Professional Training Course (Outstanding)

Graduate Diploma in Law (Distinction)

MA Chinese Studies (Distinction)

BA History (First Class)

## HIGHLIGHT CASES

- *Beaney v Highways England* (ET/2601027/2017, 23 December 2019) - Rachel acted for the Claimant in her successful and widely reported claim for sexual harassment and direct sex discrimination by her line manager and her employer.

- Gray v Mulberry Co (Design) Ltd [2019] EWCA Civ 1720; [2020] ICR 715 - the Court of Appeal considered the correct approach to philosophical belief discrimination. Rachel was led by Chris Milsom representing the appellant employee.
- National Union of Professional Foster Carers (NUPFC) v Certification Officer [2020] ICR 607 - led by Rachel Crasnow QC, Rachel acts for the NUPFC in this landmark case concerning whether foster carers have worker status and can register a trade union. Currently under appeal to the Court of Appeal.
- Inquest touching the death of Kenan Canalp, Southwark Coroner's Court, July 2019 - Rachel acted for the bereaved family of Kenan Canalp in this Article 2 jury inquest which concluded that serious failures by South London and Maudsley NHS Foundation Trust contributed to Kenan's death. A finding of neglect was made.
- Bilsbrough v Berry Marketing Services Ltd (ET/1401692/2018, 5 July 2019) - Rachel successfully argued that statutory protection for whistle-blowers can encompass acts preparatory to a whistle-blowing disclosure, in order to give effect to the Article 10 ECHR right to freedom of expression.
- Office for Gas and Electricity Markets v X [2019] ICR 715 - Rachel was led by Paul Michell. They argued that words ought to be read into the Utilities Act 2000 in order to give effect to the Claimant's Article 6 and Article 10 ECHR rights, allowing him to pursue a whistle-blowing claim in the employment tribunal.
- Starling v Epsom & St Helier University Hospitals NHS Trust (EAT, 29.11.18) - Rachel represented Mrs Starling, a nurse who was found to have been unfairly sanctioned by her employer when suffering from the effects of an undiagnosed brain tumour. She succeeded at first instance and on appeal, and obtained an order for re-engagement by her employer.
- BGC Brokers v Bou-Simon [2018] EWCA Civ 1525; [2019] 1 All ER (Comm) 955 - a contractual dispute arising out of an employment relationship, the issue was whether a high value sign-on payment made to broker Mr Bou-Simon was repayable in circumstances where he had left his job in breach of contract. Rachel was led by Schona Jolly QC in the High Court and the Court of Appeal.

- *Kilraine v Wandsworth LBC* [2018] EWCA Civ 1436; [2018] ICR 1850 - the Court of Appeal held that there should be no distinction between 'allegations' and 'information', removing a barrier to whistle-blowing protection. Rachel was led by Chris Milsom representing the appellant employee.
- Inquest touching the death of Robin Richards, Wells Coroner's Court, March 2018 - Rachel represented the bereaved family of Robin Richards in a two week jury inquest which resulted in local and national Reports to Prevent Future Deaths highlighting the lack of suitable care provision for people, like Robin, with Asperger Syndrome and other complex needs.
- *Gilham v Ministry of Justice* [2017] EWCA Civ 2220; [2018] IRLR 315 - an appeal concerning whether judges are "workers" for the purposes of bringing whistle-blowing claims, and whether the current legislative provision breaches judges' Article 10 and 14 rights. Rachel was led by Rachel Crasnow QC in the EAT and Court of Appeal.
- *Simpkin v Berkeley Group Holdings Plc* [2017] EWHC 1472 (QB); [2017] 4 WLR 11 - Rachel, led by Martin Griffiths QC and Iain Quirk, acted for the claimant in a complex application concerning legal professional privilege and confidentiality.
- *McCann v The State Hospital Board for Scotland* [2017] UKSC 31; [2017] 1 WLR 1455; 2017 SLT 451; (2017) 156 BMLR 35; 2017 GWD 12-169; Times, April 25, 2017 - a successful challenge by a patient in a high secure psychiatric unit against a policy prohibiting smoking throughout the grounds of the hospital. Rachel was led by Jonathan Mitchell QC and David Leighton representing the Appellant patient in this Supreme Court appeal which concerned the proper application of the Article 8 right to private life to individuals detained by the state.
- *Grant v Asda* [2017] ICR D17 - Rachel acted for the successful respondent in this EAT appeal, in which Simler P clarified the correct case management approach for employment tribunals to take when a claim has been sent to, but not received by, the employer.
- *Boxer v Excel Group Services* (ET 3200365/2016, 23 March 2017) - one of a string of 'gig economy' cases brought by the Independent Workers Union of

Great Britain, this claim was brought by a cycle courier who obtained a declaration that he was a worker for Excel and not a self-employed independent contractor. Rachel was led by Caspar Glyn QC, acting for the claimant.

- Inquest touching the death of Benjamin Arabin, Horsham Coroner's Court, March 2017 - Rachel, led by Patricia Hitchcock QC, represented the bereaved family of Benjamin Arabin, in an Article 2 jury inquest which highlighted care failings in the mental health ward where he had been an inpatient.
- *Blackwood v Birmingham and Solihull Mental Health NHS Foundation Trust* [2016] EWCA Civ 607; [2016] ICR 903 - Rachel was junior to Chris Milsom in the Court of Appeal, representing the successful appellant in a case that establishes students on training placements can bring discrimination claims in the Employment Tribunal. Rachel was commended by Underhill LJ for her “comprehensively analysed” and “helpful” contribution.
- *Renwick v Royal Mail Group Ltd* (ET/2202178/15, 21 April 2016) - Rachel acted for the claimant who succeeded in securing a recommendation for reinstatement or re-engagement as a remedy for her discrimination (not unfair dismissal) claim. This case is discussed in journal article "Reinstatement recommended for disabled employee" E.O.R. 2016, 268, 27-28 by Sue Johnstone.
- *XY v AB Ltd & ors* (ET/1302922/15, 7 December 2015) - Rachel acted for the claimant in a complex and serious sexual harassment case in which her client was awarded top band Vento compensation and aggravated damages.
- *Yumang v Emerald Global Ltd* [2014] EqLR 475 - Rachel acted for a Taoist claimant who was indirectly discriminated against by his employer when the company's unethical business practices caused him to lose karma.
- *Camurat v Thurrock Borough Council* [2014] EWHC 2482 (QB); [2015] ELR 1 - Rachel was led by Ed Williams in a claim for breach of contract, negligence, misrepresentation and malicious falsehood which concerned the interplay between public and private law duties arising where a Local Authority made safeguarding disclosures regarding a school teacher.