



# Yvette Genn

Year of Call: 1991

Call Clerk on 020 7827 4000

## PRACTICE AREAS

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

## HIGHLIGHTS

*"Her judicial experience allows her to swiftly analyse the issues of real concern to the court and address authoritatively."* **Legal 500 2020**

## OVERVIEW

Yvette Genn specialises in employment law, with a particular emphasis on discrimination and equal pay, and personal injury law where she focuses primarily on neuro-trauma. Her ability and willingness to tackle difficult cases in both practice areas is well known. Yvette regularly acts for seriously

injured children and young people and is regularly instructed in very high value brain injury cases. She is particularly valued for her practical, client centred approach and assertiveness.

## **PERSONAL INJURY**

Yvette specialises in personal injury law where she focuses primarily on neuro-trauma, and in clinical negligence where she is noted in relation to cases concerning failure to diagnose. Yvette also maintains a specialist practice in employment discrimination law, particularly relating to disability, including claims concerning discriminatory provision of services particularly by public bodies which provides additional important complimentary expertise for seriously injured claimants and particularly in cases involving children with acquired special educational needs and disadvantage in the workplace

In her personal injury and medical work Yvette acts for claimants, and is instructed in all types of serious injury including workplace accidents. She is usually instructed as sole counsel but notably has been led in recent years by Patricia Hitchcock QC in *BXAX v University Hospitals Bristol NHS Foundation Trust* (2014) in which the child claimant received an award of almost £7 million and also with Patricia achieving successful settlement in a complex spinal surgical injury case where breach and causation were denied (*Hilder v Kings College Hospital London* (2015)). Yvette is known for her commitment to claimants in taking on difficult cases (in *Kolker v Queen Elizabeth Hospitals* liability was recently admitted following a very long period of trenchant denial in relation to failed diagnosis of fatal acute pancreatitis in respect of a very high earning professional with a young family (quantum yet to be resolved). She is currently instructed for a seriously injured cyclist who suffered a traumatic below knee amputation when hit by a bus, against multiple parties responsible for road construction (*Anderson v Norfolk County Council and Kier*), where again, liability was very hard fought. Yvette is also noted for achieving 0% contribution for the unseat-belted 16 year-old front-seat passenger at first instance and in the Court of Appeal in *Stanton v Collinson* [2010] C.P. Rep. 27 which also lays down an important guidance on the use of medical evidence in cases concerning serious brain injury. She is also instructed in regulatory work related to her areas of specialism. Her extensive judicial experience, as a Recorder in civil and private (and most recently public) family law matters and as a Deputy District Judge and a former part time judge in the Special

Educational Needs and Disability Tribunal (SEND), gives her an unrivalled understanding of the way in which judges make decisions and provides a valuable extra dimension to her advice and advocacy.

Yvette lectures and trains extensively in her areas of expertise. Recently for Stewarts Law at their specialist medical experts seminar on the duties and obligations of medical experts, and this year chairing the Stewarts Law Leeds office medical experts seminar which received very positive feedback from delegates; presenting an analysis of the Care and Support (Charging and Assessment of Resources) Regulations 2014 and the impact of the Regulations on claimants at the Stewarts law Injury Day and for Leigh Day delivering a liability update. Earlier this year she chaired AvMa's Medico-Legal Issues in Orthopaedic Surgery.

She regularly designs and delivers diversity training for the judiciary, and on various matters relating to litigating high value neuro-trauma claims for professionals involved in this area.

## **EMPLOYMENT**

Yvette specialises in employment law with a particular emphasis on discrimination and equal pay.

As an employment lawyer her expertise in equal pay and discrimination law is well recognised in this complex area in which she has successfully developed, as well as challenged, novel legal arguments. She has acted as leading counsel in the high profile equal pay litigation in the North East on behalf of thousands of women in the NHS and in Local Government.

Her ability and willingness to tackle difficult cases is well known both in employment law and in her personal injury practice. She is usually instructed as sole counsel. In both specialisms she is particularly valued for her practical, client centred approach and assertiveness. In the employment law field, Yvette has a wide client base including companies, local authorities and senior employees. She is also instructed on behalf of the Equality and Human Rights Commission.

## REFERENCES

**Legal 500 2020:** "Her judicial experience allows her to swiftly analyse the issues of real concern to the court and address authoritatively."

**Legal 500 2017:** "Her strengths lie in her sureness of judgement, her easy manner and her powerful courtroom presence."

**Legal 500 2016:** "A fantastic advocate who is very good with client care."

**Chambers & Partners 2015:** "Brilliant at sifting through irrelevancies, she really gets to the nub of claims without getting distracted by background detail."

**Meriel Schindler, Partner, Head of Employment, Withers LLP:** "Yvette is thoughtful and incisive with clients; liked by judges and skilful in cross examination." "She is impressive both in her razor sharp analysis of the legal position and the strengths and weaknesses of the case but also, equally importantly, she is immensely skilled at dealing sensitively with clients who are usually subject to the intense pressure (both commercial and emotional) an employment dispute often entails."

**Sarah Culshaw, Partner, Collyer Bristow:** "She always 'goes the extra mile' in supporting those who instruct her and has a very robust sense of humour, which makes working closely together an enjoyable experience."

## APPOINTMENTS AND MEMBERSHIPS

Yvette is a Deputy District Judge on the South Eastern circuit, and a Recorder in civil and private law family matters on the Midland circuit. She is also a former part-time judge in the Special Educational Needs and Disability Tribunal (SEND).

Member of ILS, ELA, ELBA, PIBA, ALBA

## PUBLICATIONS AND TRAINING

Yvette designs and delivers training on diversity issues for the judiciary across a number of different jurisdictions, and is regularly invited by a range of organisations and professional bodies to give presentations in her specialist areas of law.

Co-author with Dee Masters of Equal Pay chapter in Cloisters Guide to the Equality Act to be published 2010

Key note legal update on the implications of the Equality Act for the annual national conference of the Association of Colleges, February 2010

The Future of Case Management in Brain Injury cases for the national annual legal conference for Brain Injury Social Workers Group, October 2009

Regular contributor to Cloisters' annual seminar series. 2009 co-authored with Daphne Romney QC, Dee Masters & Anna Beale; Equal Pay: The Nuts and Bolts

Equal Treatment Bench Book 2007, update guidance on religious dress in court

Equal Treatment Bench Book 2004 - 2009 authored chapters on unrepresented parties, initiated inclusion of and early draft chapter on social exclusion, and made significant contributions to the overall text

Case notes for Kemp & Kemp, Legal Action Bulletin, Current Law and Solicitor's Journal on employment, personal injury and inquest law

Co-author with Professor Dame Hazel Genn "The Effectiveness of Representation at Tribunals" report to the Lord Chancellor 1989, which remains the most extensive survey into tribunal practice, procedure and representation.

## QUALIFICATIONS

BA (Hons)

Dip Law

## HIGHLIGHT CASES

*Susan Waller v Barts Health NHS Trust (2016)* A difficult claim concerning the staging assessment of a carcinoma where the claimant had been diagnosed and treated for breast cancer in 1991. In 2009 she presented at her GP with dry cough and breathlessness. The GP sent an urgent referral for a CT scan of her lungs. Instead a mammogram was performed which was clear. No further diagnostic tests were undertaken. In 2012 the claimant presented with dry tickly cough. X-ray scan showed a large mass on the lung. CT scan revealed inoperable bronchogenic cancer with spread. The Claimant was told her prognosis was poor. Diagnosis in 2009 would have resulted in treatment with good prognosis. The claimant died in early 2014. She had been a teacher and previously energetic 58 year old. Breach of duty has been admitted but causation denied. The claim is ongoing and the claimant did have time to benefit from proposed care and palliative therapies

*Re TD (2016)* Currently involved in a personal injury claim involving complex causation in which the claimant, who had a pre-existing non specific learning disability and complex family background sustained a serious brain injury (though not sufficient to remove his independence) when knocked off his bicycle. Not having any pre-morbid history of aggression, post accident he was involved in an altercation which resulted in him being pushed to the ground when he was not wearing a helmet he had been prescribed to wear to protect his brain with the result being a much more severe head injury and total loss of independence.

*Eve Mason (by her mother) v The Old Bond T/A The Reproduction Centre (2015)* Difficult claim concerning crush chest injury and consequent hypoxia when the marble surround of a fireplace collapsed on top of the claimant then aged 3.

Liability was long disputed. Once admitted there followed very protracted assessment of the claimant's physical and in particular cognitive ability. Given the severity of injury claimant was believed to have suffered cognitive deficits that would seriously disadvantage her employment prospects and were indicative of a need for substantial care. By the time she was in secondary school, recovery was such that her own experts were less convinced that there was substantial deficit, with the defendants considering there was none with the result that the claim was settled at a JSM shortly before the claimant was due to take her GCSE which she had been predicted to do well in for £543,250

*Hilder v Kings College Hospital NHS Foundation Trust* HQ13X01737 (2015) Led by Patricia Hitchcock QC on behalf of the claimant, a professional artist in his mid-seventies, suffered C3 incomplete tetraplegia following surgical treatment of progressive cervical myelopathy. Liability was complicated by a range of issues pertaining to adequacy of consent, causation and in particular whether in addition to the erroneous surgical procedure adopted, whether in fact the cause of the tetraplegia was spinal cord compression occurring in the course of the claimant being in turned in preparation for surgery. There were also significant issues on quantum both in terms of causation given the progressive nature of the claimant's presenting condition and his refusal to accept professional care in spite of the deteriorating health of his elderly wife. Claim settled following a RTM on the basis of lump sum and PPO giving a capitalised total of just over £800,000

*BXAX v University Hospitals Bristol NHS Foundation Trust* (2014) Claim relating to delay in diagnosis and treatment of a haematoma following open biopsy of a fibrosarcoma at T8 on 25 September 2003 when the claimant was then just 4 years old. She was 14 at the date of settlement. The haematoma compressed the Claimant's spinal cord. The damage caused to the spinal cord was such that the Claimant did not regain sensation to her legs. Subsequent decompression surgery was performed with rods inserted to stabilise the spine. She was been left with permanent and complete paraplegia, no sensation from level T6, loss of bladder and bowel control, poor trunk control and leg spasms. Because of her very small frame and recurrent urinary infections the claimant was unable to manage independent transfers. Quantum was agreed at a JSM at a capitalised figure of just a fraction under £7 million

*Kraft Foods Uk Ltd V Richard Hastie*, EAT 6 July 2010, UKEAT/0024/10ZT.

Acting for the employer in this important age discrimination claim determining that a capped redundancy scheme for workers nearing normal retirement age of 65 was not unlawful

Stanton (Proceeding By His Father & Litigation Friend Robert Stanton) v Collinson (Personal Representative Of The Estate Of Matthew Collinson, Deceased), [2010] EWCA Civ 81. Acting for the successful claimant who suffered major brain injury, CA upholding the judge's decision that there had been no contributory negligence on his part despite failing to wear a seat belt and carrying another person on his lap in the front seat. The guidance in *Froom v Butcher* remaining undisturbed, and upholding the decision that medical evidence was required in relation to causation in cases of serious injury to resolve the uncertainties. Led by Frank Burton QC

*Newman v Mohammad* (2010) Successful settlement of liability & subsequently quantum for the seriously brain injured claimant cyclist who sustained injuries when he collided with a car as he cycled against oncoming traffic on the slip road of a busy dual carriageway. Damages £1.6M

*The Queen on the application of Alma Lunt & Allied Vehicles Ltd v Liverpool City Council* (July 2009) CO/6158/2008. First successful challenge to the public functions provisions of the DDA, Yvette represented the Equality and Human Rights Commission who intervened and supported the successful applicant in this case concerning Liverpool City Council's decision not to license taxis that were more suitable and provided greater choice of transport for wheelchair users

*Dant v Taylor* (2009) £1 million settlement for a seriously brain injured teenage claimant with pre-accident existing learning difficulties and unwillingness to engage with or accept any care support or vocational guidance

*Re X* (2009) Six figure settlement in novel claim for a senior male executive following dismissal while on paternity leave

*Potter v North Cumbria Acute NHS Hospitals - EAT* [2009] IRLR 176  
Represented over 1500 successful women NHS employees who argued that there was no requirement for a single source in circumstances where s.1 (6) of the EPA 1970 was satisfied. Led by Robin Allen QC

Potter v North Cumbria Acute NHS Hospitals - EAT [2009] All ER (D) 24

Represented the successful women who argued that the introduction of Agenda for Change did not lead to the termination of their pre-existing contracts of employment. This case will have significant implications for all NHS equal pay litigation. Led by Robin Allen QC

Aynsley v North Tyneside Primary Care Trust [2009] UKEAT/0489/08

Represented the NHS women employees who had been battling to obtain information in relation to proposed comparators who succeeded at first instance in striking out the Respondent's response when the unless order that they had obtained crystallized. The EAT identified however that because it was a response rather than a claim that was in issue, the Employment Tribunal had not applied the correct test

Re J & ors v A. (2009) Represented large private manufacturing employer against equal pay claims brought by 21 women. Marshalling a range of legal arguments against a highly sensitive industrial background. Claim settled for fraction of potential cost to company

#### Other Notable Cases

McCabe v London Borough of Greenwich [2005] EWCA Civ 1364 -Employment, constructive dismissal. Yvette acted for the London Borough of Greenwich and was successful in the Court of Appeal

Adami v The Ethical Standards Officer of the Standards Board for England [2005] EWCA Civ 1754 Yvette represented the Ethical Standards Officer in this case which provides further guidance for Tribunals on the need for reasoned decision making

Welsh (Denise) v Parianzadeh (Ali) (t/a Southern Fried Chicken) [2004] EWCA Civ 1832-Yvette represented pro bono the successful appellant in her appeal against strike out. This case provides important guidance on the approach to strike out applications

Taylor v Chief Constable of Thames Valley [2004] EWCA Civ 858, July 2004  
Important challenge to the nature of the words used and notion of consent in relation to a 13 year old child detained by police

Rhind v Astbury Water Park [2004] EWCA Civ 756, June 2004 Important case on the proper interpretation of 'state of the premises' in relation to trespassers within the meaning of the Occupiers Liability Act 1984. Led by Brian Langstaff QC

Bolch v Chipman [2004] IRLR 140 represented the successful appellant in a case concerning intimidation of witnesses. Burton P provided guidance for Employment Tribunals on the steps to be taken when considering the draconian measure of striking out a claim or defence in these circumstances.

Hendricks v Commissioner of Police for the Metropolis, CA [2003] IRLR 96 Leading discrimination case on the proper meaning and identification of continuing acts. Led by John Hendy QC and Robin Allen QC