



Kate Balmer
Year of Call: 2009



Kate has a substantial practice and is regularly instructed in both tribunals and higher courts. Kate handles all manner of employment cases and her clients include banks, high street retailers, FTSE 100 companies, government bodies and high profile individuals.

Her experience is recognised by the Legal 500 2021, in which she is ranked as a leading junior for both Employment and Tax and described as: "A great advocate who is diligent, sharp and hard-working" and "robust and impressive in cross-examination". Kate is also ranked as a leading junior for Employment and Tax by Chambers UK 2021: "a great advocate", "extremely bright and hard-working" and "extremely client-friendly".

Kate is on the Attorney General's B Panel of Civil Counsel to the Crown.

Kate is a contributing author to 'Discrimination Law', published by Bloomsbury Professional. She is also a member of ELA's Race Equality Committee.

Recommendations

"A first-choice junior for whistleblowing claims with great worklevels – a solid person to have on the team." - *Employment, Legal 500 2022.*

Ranked as a Leading Junior - *Tax: Corporate and VAT, Legal 500 2022.*

An established junior accomplished at representing the Revenue in a variety of corporate tax cases. Her expertise includes matters involving tax schemes, income tax, corporation tax and employment taxes. **"Very clever and extremely client-friendly."** **"She is a great advocate."** Acted in *Atherton v HMRC*, appearing for the Revenue in a group of related appeals concerning a marketed tax avoidance scheme. - *Tax, Chambers UK Bar 2021*

Represents high-profile employers, including government departments and large banking institutions, in all manner of employment matters, with specific focus on issues involving tax complications. Her cases concern a variety of issues including alleged discrimination and whistle-blowing. **"Always fully prepared and her cross-examination is excellent."** **"She's very client-friendly and extremely bright and hard-working."** Acted on behalf of the House of Commons in defending a race discrimination claim in the Employment Tribunal. The respondent was successful in defending all claims. - *Employment, Chambers UK Bar 2021*

"Robust and impressive in cross-examination. Diligent, sharp and good with clients; it is also evident just how much she cares." - *Employment, Legal 500 2021*

'A great advocate who is diligent, sharp and hard-working.' - *Tax: Corporate, Legal 500 2021*

"A very clear-sighted barrister who is able to see through to the crux of really complex matters." Acted for HMRC in the first case to test the new Managed Service Company legislation, which was designed to prevent employees from falsely operating as self-employed contractors. - *Employment, Chambers UK Bar 2020*

'Extremely diligent and all over the detail as well as really good and patient in cross-examination.' - *Employment, Legal 500 2020*

"A pleasant and approachable barrister who can be quite ferocious in court when it's justified." Acted for the Revenue in *Esprit & Others v HMRC*, the first case to consider the income tax and corporation tax treatment of directors' loan account waivers. - *Tax, Chambers UK Bar 2020*

'Once she enters the room, she is a ferocious advocate.' - *Tax: Corporate, Legal 500 2020*

"Responsive, conscientious and well prepared. She is good with clients, approachable and good on her feet" - *Chambers UK Bar 2019*

"She is an effective barrister" and "always well prepared" - *Legal 500 2019*

"She is endlessly knowledgeable, always on top of the documents and a barrister who engages well with solicitors and clients" - *Chambers UK 2018*

"Her advocacy compares favourably even to more senior practitioners" - *Legal 500 2017*

"She is an excellent junior counsel who keeps on growing in her practice" "she is exceptionally good with clients - she puts them at ease and is responsive" - *Chambers UK 2017*

"Her forensic analysis and eye for detail are excellent" - *Legal 500 2016*

"Diligent, clever, good with clients and great at cross-examination, she's everything you want in a junior barrister" - *Chambers UK 2016*

"Absolutely fantastic and very tenacious in cross-examination", "has a very nice style with witnesses and judges, and always delivers." - *Employment, Chambers UK 2015*

Employment

Kate is ranked as a leading Employment practitioner in both Legal 500 2021 and Chambers & Partners 2021. Kate regularly represents clients in high value and multi-day tribunal claims, as well as hearings in the EAT and High Court. Her work covers the full spectrum of employment related issues including, but not limited to, the following.

High value/complex unfair dismissals

Kate regularly acts in high value and complex unfair and wrongful dismissal claims in the Employment Tribunal, as well as related bonus claims in the High Court. Kate's recent unfair and wrongful dismissal claims have included:

- **B v C (2021)** – representing the respondent bank in a high value unfair dismissal, unlawful deduction from wages and bonus case (circa £500,000 claimed);
- **Y v EL (2021)** - representing the respondent, against a QC, in an unfair dismissal claim involving the use of artificial intelligence;
- **S v O (2021)** – representing an IT company in a complex and high value unfair dismissal claim (circa £500,000 claimed);
- **X v BBC (2021)** - representing the BBC in an unfair dismissal claim being brought against it;
- **G v H (2021)** – representing the respondent investment bank in a complex and high value unfair dismissal

claim (circa £300,000 claimed);

- **M v H (2021)** – representing the respondent bank in a high value automatic unfair dismissal claim (circa £250,000 claimed);
- **F v X LLP (2021)** - represented a solicitor in an unfair dismissal claim against her former firm.
- **X & Y v M&S (2021)**
- representing M&S in a series of related unfair dismissal claims arising out of collective redundancies.

Discrimination

Kate is highly experienced at dealing with all manner of discrimination cases, including complex and high value claims. She is also a contributing author to 'Discrimination Law' published by Bloomsbury Professional. Kate's recent discrimination cases have included:

- **X v House of Commons (2021)** - representing the House of Commons in an equal pay claim;
- **G v H (2021)**
– representing the respondent investment bank in a high value (£300,000) unfair dismissal and race discrimination claim;
- **S & S v M (2021)**
- representing the respondent technology company in two joined claims for religious belief and race discrimination;
- **M v H (2021)**
– representing the respondent bank in a high value (£250,000) automatic unfair dismissal and race discrimination claim;
- **S v O (2021)** – representing an IT company in a complex and high value unfair dismissal and sex discrimination claim involving allegations of serious sexual assault subject to restricted reporting orders (circa £500,000 claimed);
- **H v W (2021)** - representing a senior executive in a claim for race discrimination against her former employer;
- **X & Y v M (2021)** - representing the respondent in a claim for sex discrimination and equal pay involving multiple claimants.

Whistleblowing

Kate has acted in a large number of whistleblowing claims, both in the Employment Tribunal and Employment Appeal Tribunal. Her notable cases in this area include:

- **C v M (2021)** - successfully defending an application for interim relief made by a former construction engineer on whistleblowing grounds;
- **S v O (2021)** – representing the respondent in a high value unfair dismissal and whistleblowing claim (£500,000 claimed);

- **E v C (2021)** - representing the respondent in a claim for automatic unfair dismissal and detriments on whistleblowing grounds;
- **A v V (2021)** - representing a senior executive bringing claims for automatic unfair dismissal and whistleblowing/health and safety detriments against his former employer;
- **X v CS (2021)**
- representing the respondent bank in a claim for whistleblowing being brought by two former banker employees.

Interim Relief and Injunctions

Kate has advised and represented clients in a large number of interim relief proceedings, including claims related to breaches of restrictive covenants and industrial relations issues. Kate's recent cases in this area have included:

- **X v Y (2021)** - advising and representing the respondent in respect of proceedings to prevent a former employee from breaching his restrictive covenants;
- **R (Unite The Union) v Chief Constable of North Yorkshire (2020)** – sole counsel for the employer on a judicial review and interim injunction application relating to the right to strike during the Coronavirus national lockdown. Two of the other parties were represented by James Eadie QC and Oliver Segal QC;
- **Cadent Gas v Singh [2020] IRLR 86** - represented the respondent, both as sole counsel and also (on appeal) led by a QC, in a TU dismissal claim;

Employment status and IR35

Kate has extensive experience of employment status issues, including IR35, from both an employment and tax perspective. Kate's notable cases in this area include:

- **X v HMRC (2021)** – representing the respondent without a leader, and leading a more junior barrister, on a series of high profile employment status cases involving celebrity sportspeople;
- **X v BBC (2021)** - representing the BBC in a claim involving issues of employment status;
- **X v HMRC (2019)** – represented the respondent, as junior to a QC, on a high profile employment status case involving a sports presenter;
- **Christianuyi [2019] EWCA Civ 474** – instructed on behalf of HMRC in a Court of Appeal case involving managed service companies.

National Minimum Wage

Kate has significant experience advising on issues pertaining to the National Minimum Wage (NMW). Her recent advisory work in this area has included advising several FTSE 100 companies on multi-million pound NMW enquires being brought by HMRC.

Other advisory work

Kate has broad experience advising on all manner of employment related issues, both in conference and in writing. Examples of Kate's recent advisory work include:

- **X Local Authority (2021)** - advising a local authority on equal pay issues pertaining to a potential strike by care workers;
- **X v Y (2020-2021)** – advising the victim of a sexual assault at work on a potential negligence/breach of statutory duty claim against her former employer;
- **O (2020)**
 - Advising a government department on issues relating to flexible working, employment status and IR35.

Tax

Kate has a substantial tax practice, appearing in the FTT and UT on many occasions without a leader and, as a junior, in both the Court of Appeal and Supreme Court.

Kate's expertise is recognised by Legal 500 2021, in which she is ranked as a Leading Junior for both Corporate Tax and VAT. Kate is also ranked by Chambers UK 2021 for Tax. The directories particularly highlight Kate's strong advocacy skills, as well as her expertise on the cross-over between employment and tax.

Kate's recent tax cases without a leader have included:

- **X v HMRC (2021)**
 - representing HMRC without a leader, and leading a more junior barrister, on a series of high profile employment status cases involving celebrity sportspeople;
- **V v HMRC (2021)** - representing HMRC in a claim involving issues of employment status;
- **Whyte v HMRC, UT/2018/01174** – representing HMRC in the UT against a QC. UTJ Andrew Scott made reference to “the considerable force in the detailed submissions ably made by Ms Balmer” (at [45]);
- **Corte Diletto v HMRC [2020] UKFTT 75 (TC)**
 - represented HMRC in a VAT matter concerning the correct classification of vegan food items. The case was widely reported including in the Tax Journal in in February 2020;
- **Atherton v HMRC [2019] UKUT 0041 (TCC)** – representing HMRC at a full multi-day Upper Tribunal hearing on a tax avoidance scheme;

Kate has also done numerous tax cases as a junior, including the following:

- **DSJ v HMRC (2020)** – appearing as sole junior for HMRC in a three day Court of Appeal hearing on a significant and widely reported company residence case. Kate also appeared at both the FTT and UT hearings below;
- **CBS v HMRC [2019] EWCA Civ 474** – sole junior to Akash Nawbatt QC in the Court of Appeal in the first case to consider the new Managed Service Company legislation in s 61B ITEPA 2003;

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- **Morrison Trust v HMRC [2019] EWCA Civ 93** – sole junior to HMRC in a widely reported case involving a capital gains avoidance scheme;
 - **Credit Suisse v HMRC [2019] EWHC 1922** – sole junior to Akash Nawbatt QC in the first case to consider the Bank Payroll Tax legislation;
 - **X & Y v HMRC (2019)** – sole junior to Adam Tolley QC in a series of related cases involving employee benefit trusts.

Commercial Litigation and Disputes

Kate has extensive experience of commercial matters in the County Courts and High Court. Kate has provided advice and assistance in respect of claims involving breach of contract, restrictive covenants, breach of settlement agreements, breaches of confidentiality, stress at work and other issues.

Kate has also advised and represented clients in claims involving the non-employment provisions of the Equality Act 2010. This includes housing; education; the provision of goods and services; and transport.

Off-payroll working (IR35)

Kate has extensive experience in employment status and IR35, both in the public and private sectors. Her work in this area has included litigating high profile IR35 cases for HMRC, as well as providing written advice to private clients on IR35 issues. Kate's recent work has included:

- **X v HMRC (2021)** – representing the respondent without a leader, and leading a more junior barrister, on a series of high profile employment status cases involving celebrity sportspeople;
- **V v HMRC (2021)** - representing HMRC in a claim involving issues of employment status;
- **X v BBC (2021)** - representing the BBC in a claim involving issues of employment status;
- **X v HMRC (2019)** – represented the respondent, as junior to a QC, on a high profile employment status case involving a sports presenter;
- **Christianuyi [2019] EWCA Civ 474** – instructed on behalf of HMRC in a Court of Appeal case involving managed service companies.

Appointments

Government Developed Vetting Clearance

Appointed to the Attorney General's Panel of Counsel (B Panel) in 2020.

Appointed to the Attorney General's Panel of Counsel (C Panel) in 2013.

Awards and Scholarships

Harmsworth Scholarship, Middle Temple

Clyde & Co Prize for the Highest Mark in Tort

Award for Outstanding Achievement in Undergraduate Studies

Education

BA in Politics and History (First Class)

Graduate Diploma in Law (Distinction)

Bar Vocational Course (Very Competent)

Personal Interests

Kate is a keen amateur actress and sports enthusiast. In 2015, she ran the London Marathon on behalf of Barnados. She also enjoys skiing and sailing.