



Marianne Tutin
Year of Call: 2013



Marianne's areas of practice are Employment, Tax, Commercial Litigation, Professional Negligence, and Insurance & Reinsurance.

She is adept at advocacy and appears regularly in the Employment Tribunal, First-tier Tribunal (Tax), Employment Appeal Tribunal, Upper Tribunal (Tax and Chancery Chamber), and High Court. She appears frequently unled against considerably more senior counsel, including silks, at first instance and appellate levels. She is ranked in employment as an 'Up and Coming' junior by Chambers and Partners and a 'rising star' by Legal 500, which highlights that she is a "superb junior who is no doubt on her way to great achievements".

Before coming to the Bar, Marianne worked for an MP in the House of Commons and for Hanover Communications, a public relations firm with expertise in public affairs consultancy.

In 2019, she was appointed to the Attorney General's Panel of Counsel (C Panel).

Recommendations

Well-regarded junior recognised for her experience in the tribunals and the High Court. She has excellent knowledge of strike injunctions, in addition to the full range of equality and discrimination matters. **"She's a superb junior with in-depth knowledge and the ability to quickly get to grips with a case and achieve the client's commercial and strategic aims."** **"She's really approachable and responsive, and is able to distil a whole heap of information into a really good case."** Represented the respondent in *Loveland and Others v British Airways*, a large holiday pay claim involving 22,000 employees. - *Employment, Chambers UK Bar 2021*

'A superb junior who is no doubt on her way to great achievements. Her in-depth knowledge and up-to-date advocacy on employment status issues is second-to-none at her level' - *Employment, Legal 500 2021*.

Employment

Marianne is recognised as an 'Up and Coming' junior by Chambers and Partners and a 'rising star' by Legal 500 in employment.

She practises all areas of employment law and industrial relations. She has considerable experience of high-value and complex tribunal litigation acting for both claimants and respondents, as well as substantive appeals, in which she has appeared unled against leading employment silks. Her recent cases include claims relating to whistleblowing, discrimination, unfair dismissal, TUPE and collective issues. She also has experience of applications for interim relief.

Marianne has a keen interest in employment status and the gig economy, and has considerable experience of the area in the tax context (see below). Her "in-depth knowledge and up-to-date advocacy on employment status issues is second-to-none at her level". Her advisory work in this area includes the IR35 reforms in the private sector, National Minimum Wage issues and claims arising out of the furlough scheme.

Marianne also has significant experience in the High Court. She specialises in industrial relations work and has experience of advising on and preparing for strike injunctions, replacement of striking workers with other staff, blacklisting and tactics for managing picket lines and protests. She also has experience in advising and acting for both claimants and defendants in disputes relating to restrictive covenants, including issues concerning use of confidential information by ex-employees and inducing breach of contract.

Recent work includes:

High Court

- Trade Union v Employer (2020-21): Advising a large employer about changing terms and conditions of employment, including strategies relating to termination/re-engagement and managing industrial action (junior to Andrew Burns QC and Alice Carse).
- Unite the Union v Birmingham City Council (2019): represented the defendant as junior counsel in an injunction application brought by the union to prevent the Council from implementing its contingency measures put in place in response to industrial action brought by workers in its Waste Service, which was an alleged breach of a collective agreement (junior to Andrew Burns QC and Alice Carse.)
- Birmingham City Council v (1) Unite the Union (2) Unison (2019): represented the claimant as junior counsel in an injunction application in respect of strike action brought by the Council's Waste Service workers (junior to Andrew Burns QC.)
- Doctor v NHS Trust (2020): represented the defendant in a high value breach of contract claim.
- Secarma Ltd v Denny & others (2019): represented the defendant in an urgent application before Master Brown to extend the deadline for disclosure in respect of an expedited trial in proceedings related to a team move.
- X v UK LLP (2018): advised on construction of non-compete covenant and payment obligations. Provided early, tactical advice to avoid need for expensive proceedings.
- M v Ministry of Defence (2018): acting on behalf of the defendant in a high value claim involving sensitive allegations of bullying and discrimination against the Armed Forces.

Employment Appeal Tribunal

- F v Co-Operative Group (2019): represented the claimant at an appeal concerning whether the ET had erred in law in not allowing the cross-examination of a witness in a sexual harassment case.
- Loveland & others v British Airways Plc (2018): represented the respondent in an appeal concerning the impact of the CJEU holiday pay case of King v The Sash Windows Workshop Ltd [2017] All ER 213 on the Deduction from Wages (Limitation) Regulations 2014 (junior to Andrew Burns QC in the ET.)
- Chambers v Cerebra (2018): represented the claimant in a disability discrimination and unfair dismissal appeal, following a rule 3(10) hearing.
- Murdock v British Airways Plc (2017): represented the respondent in a disability discrimination and unfair dismissal appeal, after the ET dismissed the claims.

Employment Tribunal

- O, L v Foreign Office, Commonwealth and Development Office (2021): acting for respondent in a complex race and sex discrimination and equal pay claim.
- W v Westbury Hotel (2020): successfully represented the claimant in an unfair dismissal claim in the

hospitality industry.

- *M v Opus International Consultants (2020)*: successfully represented the respondent in a race discrimination claim.
- *P v Commissioner of Police of the Metropolis (2019)*: successfully represented the respondent in a whistleblowing and race/sex discrimination claim. Deposit order in respect of 95 allegations made and claim withdrawn.
- *W v Royal Bank of Scotland (2018)*: acted for the respondent in an equal pay matter.
- *B v Renaissance Capital (2018)*: acted for the respondent in a complex whistleblowing, age discrimination and breach of contract claim.
- *S v Capgemini UK Plc (2018)*: acted for the respondent in a redundancy, disability discrimination and breach of contract claim.
- *A v Lancaster Landmark Hotel (2018)*: successfully represented the respondent in an unfair and wrongful dismissal claim, which also raised employment status issues.
- *P & others v British Airways Plc (2018)*: successfully represented the respondent in an application to strike out group unlawful deduction from wages claims.
- *R v Golden Manor Health (2018)*: successfully represented the respondent in an unlawful deduction from wages and breach of contract claim concerning entitlement to overtime.
- *P v Menzies Aviation UK (2018)*: acted for the respondent in a constructive unfair dismissal and breach of Working Time Regulations claim.
- *D v Baxter Storey (2018)*: successfully represented the respondent in an application for strike out of discrimination and unfair dismissal claim brought out of time as a result of abolition of ET fees.
- *X & Y v Retailer (2017)*: acted in a highly sensitive whistleblowing case brought against a Plc, involving interim relief proceedings and injunctive proceedings in relation to a dispute about reliance on highly privileged and confidential material (junior to Andrew Burns QC and Jesse Crozier).
- *A & Others v Amey Plc & Others (2016)*: represented a respondent in a complex holiday pay dispute involving a local authority, appearing unled against a silk.
- *Nurmohamed v Chesterton (2015)*: assisted Alice Mayhew with the first case to consider the definition of 'public interest' under the new whistleblowing legislation in the EAT and Court of Appeal.

Tax

Marianne accepts instructions from both HMRC and taxpayers in a contentious and advisory capacity. She has significant tax litigation experience in the First-tier Tribunal (Tax), Upper Tribunal (Tax and Chancery Chamber), High Court and Court of Appeal, often appearing unled in complex appeals. Her practice is focused upon areas that cross over with her employment work, namely employment status and taxation of employment income, as well as residence and domicile matters.

She is currently instructed by HMRC as junior counsel to Akash Nawbatt QC (Devereux), Adam Tolley QC (Fountain Court Chambers) and Christopher Stone (Devereux), as well as being instructed as sole counsel in a number of high profile IR35 cases involving the media industry and public sector, in which she is able to draw upon her experience of employment status cases in the Employment Tribunal context (see above). In particular, she has acted in:

- *Kickabout Productions Limited v HMRC*: she successfully represented HMRC in an appeal to the Upper

Tribunal concerning the employment status of a commercial radio sports presenter, which raised important issues relating to mutuality of obligations (junior to Christopher Stone). An appeal in the Court of Appeal will be heard in 2022.

- RALC Consulting Limited v HMRC: she is representing HMRC in an appeal to the Upper Tribunal concerning the employment status of an IT consultant (junior to Christopher Stone).
- Basic Broadcasting Limited v HMRC: she is representing HMRC in an appeal concerning the employment status of an ITV sports and BBC radio presenter (junior to Adam Tolley QC).
- PSC v HMRC: she is representing HMRC in a number of other ongoing appeals concerning the application of IR35 to the engagement of BBC, Sky Sports and BT Sport presenters.

She also has experience of advising clients, including agencies and end-users, in preparing for IR35 reforms in the private sector.

Marianne has experience of very high value residence cases. She is presently instructed by HMRC as junior counsel to Akash Nawbatt QC and Christopher Stone concerning a high net worth individual, which raises discovery issues (*Hargreaves v HMRC*). An appeal will be heard in the Upper Tribunal in 2022.

She also has public law experience, having represented and advised HMRC in respect of judicial review proceedings brought in the Administrative Court in the tax context.

Commercial Litigation

Marianne is regularly instructed in an advisory capacity and as an advocate in commercial disputes. Much of her commercial practice involves professional negligence and insurance work (see below). Her more general commercial matters include business, property, consumer and other contractual disputes in the county courts and High Court. This includes:

- Striking out and obtaining summary judgment in respect of a multi-million pound claim brought against a firm of solicitors.
- Striking out and obtaining summary judgment with regards to a high value claim brought against the operators of the National Lottery.
- Appearing in the county court to defend a claim of misrepresentation and breach of contract against an energy company.
- Applying for civil restraint orders in respect of vexatious litigants.
- Setting aside default judgment.
- Making and resisting applications for relief from sanctions.
- Resisting applications to set aside statutory demands.
- Securing a winding up order on behalf of a creditor in the Companies Court.
- Restoring a company to the Register of Companies in the Companies Court.

She has been also led on a variety of commercial cases and assisted members of chambers with international arbitrations and mediations. She also has experience of commercial injunctions. Notably, she assisted Shaen Catherwood in obtaining a without notice injunction (from Birss J) and a costs order on the indemnity basis (from Mann J) in the Chancery Division against an ex-director of a large company in *Friendly Pensions Ltd v Austin*.

Professional Negligence

Marianne has worked on a range of professional negligence disputes and has particular experience of claims against solicitors, barristers, accountants, conveyancers, valuers and insurance brokers. She provides letters of claim and responses, pleadings, and advises on all aspects of a dispute (including policy coverage issues).

Marianne is an adept litigator and is regularly instructed to appear in application hearings and CCMCs in professional negligence matters. She has experience of striking out and obtaining summary judgment in respect of a multi-million pound claim brought against a firm of solicitors. She was also instructed as a junior to Richard Harrison in a high value accountant's negligence claim which raised complex points about accessory liability and unlawful means conspiracy.

As a pupil, Marianne assisted:

- Andrew Burns QC in a solicitor's negligence case involving the ex-Chairman of a Premier League football club.
- Robert Glancy QC in a barrister's negligence case.
- Richard Harrison in a high value mediation involving property valuers.

Insurance & Reinsurance

Marianne accepts instructions in insurance and reinsurance work. She has experience of both advisory and contentious work. She has been instructed to review commercial combined business insurance policies for multinational and FTSE 100 companies and brokers' agreements.

As a pupil to Richard Harrison, Marianne gained experience in cases involving:

- Professional indemnity and directors' and officers' policies.
- EL/PL insurance.
- Contractors' all risk insurance.
- Non-disclosure and misrepresentation.
- Aggregation.
- Third Party (Rights against Insurers) Acts.
- Insurance Act 2015.

In particular, she assisted him in respect of the construction of a professional indemnity policy in a dispute worth over £2 billion.

Investigations

Marianne has a broad practice with a particular focus on Employment, Tax, Commercial Litigation, Professional Negligence, and Insurance & Reinsurance work.

She has experience assisting leading and senior counsel, in chambers, with an internal investigation into bullying

and harassment complaints for a world leading research company. Marianne was instrumental in helping the smooth running of the process and conducted numerous interviews at the client's offices which provided the basis of the investigation.

She also has significant experience of advising employers through the grievance process, including in respect of allegations of serious sexual misconduct.

Memberships and Associations

ILS

ELA

ELBA

COMBAR

BILA

Appointments

Appointed to the Attorney General's Panel of Counsel (C Panel) in 2019

Academic

LLM, specialising in Labour Law (Distinction), King's College London (2014)

GDL (Commendation) and BPTC (Very Competent), College of Law (2012-13)

BA, Philosophy, Politics and Economics (First Class Hons), University of Durham (2011)

Publications

Contributing editor to Discrimination Law (Bloomsbury Professional)

Sexual harassment in the workplace (PILJ (June 2018) 7-9)

Vicarious Liability: An Ever Expanding Concept? (ILJ (2016) 45 (4): 556-564)

Awards and Scholarships

Inner Temple Exhibition Award (2013)

BLS Debating Competition: Winner (2012)