



Marianne Tutin
Year of Call: 2013



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

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 a leading junior by Chambers and Partners and by Legal 500, with the latter highlighting that she is a "superb junior who is no doubt on her way to great achievements".

She was appointed to the Attorney General's Panel of Counsel (B Panel) in 2023. She is a Case Reviewer for Advocate and a Contributing Editor to Discrimination Law (Bloomsbury Professional).

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.

Recommendations

"Marianne is a go-to for any employment status strategic advice, as well as any knotty discrimination or whistle-blowing case, especially if brought by a litigant in person." - Employment, Chambers UK Bar 2024

"Fantastically clever and very user-friendly." - Employment, Chambers UK Bar 2024

'Marianne is a delight to work with - efficient; commercial; a ruthless cross-examiner, and all with a great sense of humour.' - Employment, Legal 500 2024

"As well as being all over the details, Marianne has a great warmth that really gets the best from anxious witnesses and gives her great integrity with the Tribunal." - Employment, Chambers UK 2023

"She works with clients brilliantly, putting them at their ease and making complex concepts seem simple and understandable." - Employment, Chambers UK 2023

Ranked as a Leading Junior - *Employment, Legal 500 2023*

A prominent junior barrister in the employment law field, who is 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 gains the client's trust very quickly, she is very measured, she understands the legal risks quickly, she is a strong advocate and she is a very skilled cross-examiner."** **"She is very commercial and practical and she marries that with technical knowledge."** **"She is very organised, and she is confident and clear in her communication."** - *Employment, Chambers UK Bar 2022.*

"Marianne is responsive, personable, technically superb, and a massive star in the making. Clients love her and she is a pleasure to instruct." - *Employment, Legal 500 2022*.

"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 a leading junior by Chambers and Partners and Legal 500 in employment.

She practises all areas of industrial relations and employment law. She has experience beyond her level of call relating to industrial disputes and strike injunctions. She also 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 discrimination, equal pay, whistleblowing, unfair dismissal and the National Minimum Wage.

Her clients include multinational and FTSE 100 companies, government departments, local authorities, NHS trusts, charities, employers' associations and other trade groups, senior executives and individuals. She also undertakes pro bono employment work under the auspices of ELAAS, Advocate and FRU.

Industrial Relations

Marianne has expertise in industrial relations matters in the High Court and Employment Tribunal. She has substantial 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 frequently advises large employers about changing terms and conditions of employment, including strategies relating to termination/re-engagement, managing industrial action and restrictions on contractual changes in relation to collective bargaining (under s.145B TULRCA 1992).

Recent work includes:

- *Trade Union v Employer (2022)*: advising an umbrella organisation about changing terms and conditions of employment across the industry (junior to Andrew Burns KC and Jesse Crozier).
- *Trade Union v Employer (2020-22)*: advising and representing a large employer about changing terms and conditions of employment and defending Employment Tribunal litigation related to claims for unfair dismissal/discrimination and inducements relating to collective bargaining (junior to Andrew Burns KC).
- *Birmingham City Council v (1) Unite the Union (2) Unison [2019] EWHC 478 (QB), [2019] IRLR 423*: represented the claimant in an injunction application in respect of strike action brought by the Council's Waste Service workers (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 KC).

Restrictive covenants and injunctions

Marianne has experience of advising both claimants and defendants in disputes relating to restrictive covenants, including issues concerning team moves, the use of confidential information by ex-employees and inducing breach of contract, as well as the construction of non-compete (and associated) covenants. She has assisted senior counsel in defending clients in relation to springboard and other injunctive relief. She understands the need for early, tactical advice to avoid need for expensive proceedings.

Discrimination

Marianne is a contributing editor to the chapter on Direct Discrimination in *Discrimination Law* (Bloomsbury Professional).

She has significant experience of conducting multi-week hearings on behalf of claimants and respondents in complex, high-value discrimination proceedings, including equal pay matters, in the Employment Appeal Tribunal and Employment Tribunal.

Recent cases include:

- *S v Nanoavionics UAB UK Ltd* [2022] UKEAT 72: represented the respondent (a spacecraft engineering company) in the EAT concerning the correct approach to deposit order applications, in the context of ss.110-112 EqA 2010 claims.
- *B v C* (2022): representing the respondent (a multinational company) in the ET in an unfair dismissal and disability discrimination claim arising out of changing terms and conditions of employment.
- *O, L v FCDO* (2022): represented the respondent government department in the ET in a wide-ranging race/sex discrimination and equal pay claim.
- *W v CIBC* (2022): represented the claimant (a senior banking executive) in the ET in a race/sex discrimination, harassment and victimisation claim.
- *B-P v Palladium International Ltd* (2021): represented the respondent (an international advisory company) in the ET in a maternity discrimination claim.

High value/complex unfair dismissals

Marianne frequently acts for claimants and respondents in high value/complex automatic and ordinary unfair dismissal claims. She has a particular interest in whistleblowing claims, having written extensively on the topic and contributed to ELA's Working Party addressing the European Commission's consultation on whistleblowing protection. She has experience of interim relief applications. She has also participated in related wrongful dismissal/breach of contracts proceedings in the Employment Tribunal and High Court.

Recent cases include:

- *H v Chubb* (2021): represented the respondent (a global fire safety/security company) in a whistleblowing detriment and automatic unfair dismissal claim.
- *W v Westbury Hotel* (2021): represented the claimant (a Michelin starred chef) in an unfair dismissal claim in the hospitality industry.
- *Doctor v NHS Trust* (2020): represented the defendant NHS trust in a high value breach of contract claim.

- *X & Y v Plc* (2018): represented the respondent as a junior to Andrew Burns KC in a highly sensitive whistleblowing case involving interim relief proceedings and injunctive proceedings in relation to a dispute about reliance on highly privileged and confidential material arising out of an internal investigation.

Employment status and IR35

Marianne has a keen interest in employment status and has considerable experience of the area in the employment and tax context (see below), including recent appearances in the Court of Appeal (*Kickabout Productions Ltd v HMRC* [2022] EWCA Civ 502; *Atholl House Productions Ltd v HMRC* [2022] EWCA Civ 501). Her “in-depth knowledge and up-to-date advocacy on employment status issues is second-to-none at her level”. In particular, she has advised both organisations and individuals regarding the application of ‘worker’ status to the workforce at large, as well as the IR35 reforms in the private sector.

National Minimum Wage

Marianne has experience in advising clients regarding the potential underpayment of the NMW, including throughout ongoing HMRC investigations in very high value matters. Her advice has concerned both substantive issues, such as the calculation of the hourly pay rate, and practical matters, such as dealing with potential enforcement proceedings. She has also represented HMRC in NMW litigation before the Employment Tribunal.

She is also experienced in bringing proceedings on behalf of individuals in the Employment Tribunal and High Court against both employers and directors.

Other advisory work

Marianne has wide experience advising on employment-related issues, such as matters relating to TUPE, collective redundancies, claims relating to the furlough scheme and holiday pay/working time. She has been instructed to review a number of workplace policies for multinational and FTSE 100 companies.

Tax

Marianne accepts instructions from both HMRC and taxpayers in a contentious and advisory capacity. She has substantial tax litigation experience in the First-tier Tribunal (Tax), Upper Tribunal (Tax and Chancery Chamber), High Court and Court of Appeal, and has appeared 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 matters and judicial review proceedings.

Employment income

She has particular expertise in IR35 and the agencies legislation, in which she is able to draw upon her experience of employment status cases in the Employment Tribunal context (see above). She is instructed by HMRC as junior counsel to Adam Tolley KC (Fountain Court Chambers) and Christopher Stone (Devereux), as well as being instructed as sole counsel in a number of high-profile cases involving the media industry and public sector. She also has experience of advising clients, including high net-worth individuals, agencies and end-users, regarding the IR35 reforms in the private sector.

Significant recent cases include:

- *Kickabout Productions Ltd v HMRC* [2022] EWCA Civ 502, [2022] STC 876;
Atholl House Productions Ltd v HMRC [2022] EWCA Civ 501, [2022] STC 837: she successfully represented HMRC in appeals to the Court of Appeal in two cases heard by the same panel, which raised important issues relating to the correct approach to the issue of employment status, mutuality of obligations and the ‘business on own account’ test (junior to Akash Nawbatt KC)

and Christopher Stone in Kickabout; junior to Adam Tolley KC and Christopher Stone in Atholl House).

- *RALC Consulting Ltd v HMRC*
[2019] UKFTT 702 (TC): 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 Ltd v HMRC*
[2022] UKFTT 48 (TC): she is representing HMRC in an appeal concerning the employment status of an ITV sports and BBC radio presenter (junior to Adam Tolley KC).
- She has experience of advising and representing HMRC in other employment income-related matters, including the deductibility of employee expenses, treatment of student loan deductions and correct construction of s.15 ITTOIA 2005 relating to divers' income. She also has wider experience of income tax issues, having represented HMRC in the Upper Tribunal in *Qolaminejite v HMRC* [2021] UKUT 118 (TCC), [2021] STC 1169, a matter concerning the burden of proof in tax appeals.

Residence

Marianne has experience of very high value residence cases. She successfully represented HMRC in *Hargreaves v HMRC* [2022] UKUT 34 (TCC), [2022] STC 455, an appeal to the Upper Tribunal in a matter worth over £80 million concerning a high net-worth individual, which raised discovery issues. She has also represented HMRC in proceedings relating to whether a high net-worth individual was entitled to claim the remittance basis.

Judicial review

She has public law experience, having represented and advised HMRC in respect of judicial review proceedings brought in the Administrative Court in the tax context. In particular, she has appeared in the Administrative Court in proceedings relating to the Social Security (Contributions) Regulations 2001, the Managed Service Company provisions within ITEPA 2003 and tax investigations under Code of Practice 9. She has also provided independent, open advice to the Administrative Court concerning whether HMRC complied with its duty of candour in judicial review proceedings.

Commercial Litigation and Disputes

Marianne is regularly instructed in an advisory capacity and as an advocate in commercial litigation and 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.

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- 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/liability disputes and has particular experience of claims against solicitors, barristers, accountants, conveyancers, valuers and insurance brokers. In particular, she has experience in negligence/liability cases involving solicitors and barristers in employment- and tax-related disputes, drawing upon her experience of these areas.

Marianne provides letters of claim and responses, pleadings, and advises on all aspects of a dispute (including policy coverage issues). She is an adept litigator and regularly instructed to appear in application hearings and CCMCs in professional negligence/liability 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/liability claim which raised complex points about accessory liability and unlawful means conspiracy.

As a pupil, Marianne assisted:

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

Investigations

Marianne has experience of conducting investigations for large multinational employers into grievances and whistleblowing claims brought by senior employees for regulatory compliance purposes. She has been involved in investigations concerning bullying and sexual harassment complaints for a world leading research company.

Marianne has also acted as an independent legal adviser to disciplinary panels in high profile and highly sensitive matters, involving allegations of serious sexual misconduct and discrimination. She frequently advises employers about ongoing grievance and disciplinary investigations prior to litigation.

Memberships and Associations

ILS

ELA

ELBA

COMBAR

Appointments

Appointed to the Attorney General's Panel of Counsel (B Panel) in 2023

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

Secretary, ELBA Management Committee

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 (2008-11)

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)