

## JOHN BOWERS QC

Silk: 1998 | Call: 1979



### Overview

Commanding the respect of the judges for many years, John Bowers QC is one of the premier employment barristers in the UK. Lauded by legal directories and the legal press for his intellectual and technical abilities, clients have praised John for his **“towering intellect”** while one was quoted as saying he has **“a brain the size of a planet”**. He has also been described as **“an employment law rock star”**. After a recent case in which John appeared for BP, Jeffrey Heller of BP Legal wrote how they **“... have rarely come across legal talent that could come close to comparison with John”**.

John is consistently rated as a Leading Silk in employment law by Chambers & Partners and the Legal 500, who describe him in the following terms:

- **“insightful, co-operative and confident”** (Chambers & Partners 2013)
- **“very bright and enormously experienced”** (Chambers & Partners 2012)
- **“lovely to deal with and goes over and above the call of duty for his clients”** (Chambers & Partners 2012)
- **“the world’s nicest man as well as a great lawyer”** (Chambers & Partners 2012)
- **“a good team player who delivers speedy responses”** (Legal 500 2012)

John was also awarded Chambers & Partners Employment Silk of the Year 2010.

A frequent lecturer on employment law, John has written 15 books including Bowers on Employment Law (now in its Eighth Edition), The Law of Industrial Action and Trade Union Recognition and Whistleblowing. He [co-wrote] Blackstones’ Employment Law Practice each year from 2006 until 2015 and is a frequent contributor to the Law Society Gazette, New Law Journal and the Industrial Law Journal. He is also a former editor of Atkins Court Forms and is listed as the 4th most reported advocate in the Industrial Relations Law Reports (IRLR).

A CEDR trained mediator, John was the coordinator of the Workplace Mediation Project which researched the use of mediation especially in sexual harassment cases.

After attending Matthew Humberstone Grammar then Comprehensive School, John gained a scholarship to Lincoln College, Oxford where he graduated with a First Class. He then completed a Bachelor of Civil Law at the same College. He was called to the Bar in 1979 and took silk in 1998. He has been in turn a Member of the Committee of the Industrial Law Society and the Employment Law Association and was Honorary Legal Advisor at Turnpike Lane Advice Centre and Public Concern at Work. He has carried out reviewing work for the Bar Pro Bono Unit. John has also been a member of the Governing Council at the University of Kent for two years and was formerly a member of the Standards Board for England (the ethical standards body for local councillors). He is currently Principal of Brasenose College, Oxford.

John is a former Chair of the Employment Law Bar Association and now sits as a Recorder on the Midlands Circuit and as a Deputy High Court Judge, primarily sitting in the Administrative Court. He was an Election Court Judge. He is an Honorary Professor at the University of Hull. He was a member of the Standards Committee of the Metropolitan Police Authority. Between 2001-2003 he was a Member of Home Office Task Force on Human Rights. Since 2005 he has been a Bencher of Middle Temple (and a member of its Estates and later its Students

Committee and Bench Selection Advisory Committee). He formerly sat as a chair on the Bar Disciplinary Tribunals and was for some years on the Bar Council's Race Relations Committees. He has also taught part time at the following Oxford Colleges: Christ Church, Lincoln and St Hughs, and at the Middlesex Polytechnic (now Middlesex University). He judges moots at Universities and has sat on university disciplinary bodies.

### Employment Law: General

**Acting for both employers and employees, John has a stellar employment practise with a recent emphasis on equal pay cases, and a significant experience of cases involving TUPE, human rights law, unfair dismissal, discrimination and the employment aspects of the reorganisation of companies.** He also practices in the fields of judicial review and education. In the latter field he is named in the legal directories as highly recommended.

**"Exceedingly well prepared and highly assured in court"** as well as having the ability to work **"sympathetically with his client and their objectives"**.

Landmark cases include a European Court of Human Right application on the employment of gay servicemen, House of Lords rulings on injury to feelings awards and the dates of outsourcing for TUPE purposes, **the Supreme Court decision on whether legal representation is required in internal disciplinary proceedings and the largest ever ET application by 12,000 retained firefighters**, which went to the House of Lords. His most recent Supreme Court outing is for the General Medical Council in the case of Michalak which considers the proper scope of the employment tribunal in discrimination cases where judicial review is available as a remedy for the same conduct.

He succeeded in the Supreme Court in resisting the suggestion that an employee was entitled to legal representation in internal disciplinary proceedings under Article 6 ***R (on the application of G) v X School and Y City Council*** [2011] UKSC 30. The Supreme Court overturned the unanimous decision of the Court of Appeal.

**He has the fourth largest number of reported cases in Industrial Relations Law Reports since the outset of that law report and the third highest in respect of those still practising.** John is a Member of Equality and Human Rights Commission panel of approved counsel.

### Strike Injunctions

As well as writing the leading book on strikes John has been involved in many of the leading reported strike cases such as:

- ***ABP v TGWU*** (1989 Dock Strike Injunctions [1989] IRLR 399 HL)
- ***RMT v Connex South East*** (acted for Trade Union in injunction concerning strike action [1999] IRLR 249)
- ***News Group Newspapers v SOGAT*** - Wapping picketing cases [1986] IRLR 227

He frequently advises on ballot and picketing issues and acted for the working miners in the 1984 Miners Strike. He also acted for the Ministry of Justice during outbreaks of strike action in prisons.

### Unfair Dismissal

John acts for both employers and employees and has been involved in many ground breaking cases such as:

- ***Dunnachie v Hull CC*** [2003] IRLR 843 - HL decision as to whether an employee may claim for injury to feelings in unfair dismissal claim
- ***Whitbread v Mills*** [1988] IRLR 388 EAT - leading case on role of appeals in unfair dismissal cases
- ***Crosville (Wales) v Tracey*** [1993] IRLR 60 - House of Lords decision on industrial action and contributory fault
- ***Wood v Cunard Lines Ltd*** [1990] IRLR 281 EAT - extent of unfair dismissal rights for merchant seamen

- **Hogg v Dover College** [1990] ICR 39 EAT - proper test of dismissal when one contract terminates and another is offered
- **Gale v Northern General Hospitals** [1994] IRLR 292 CA - continuity of employment in NHS Trusts
- **Connolly v Sellars Arenascene** [2001] ICR 760 Ct - appeal decision on whether a director may also be an employee of a company for insolvency purposes
- **Bunce v Postworth** [2005] IRLR 557 - Court of Appeal decision on meaning of employee in context of agency worker
- **Gover v Property Care Ltd** [2006] EW CA Civ 286 - CA case on Polkey reductions in unfair dismissal

### Employment Tribunal Procedure and Practice

As well as editing one of the leading textbooks on tribunal procedure (**Blackstones Employment Law Practice**) John has been involved in many of the leading cases including **Blockbuster Entertainment Ltd v James** [2006] IRLR 630; CA leading case on striking out in ETs.

He is very strong in advising on tactics and strategy to be used in employment tribunals, and frequently lectures on the subject. He has participated in many consultations on reform of employment tribunals.

### National Minimum Wage

John frequently advises on issues of working time and the minimum wage and was involved in **Leisure Employment Services v HMRC** [2007] IRLR 450: the first EAT and Court of Appeal case on minimum wage involving the accommodation offset.

### Discrimination

John has acted in the landmark case brought by gay servicemen to remove the ban on their serving in the armed forces:

- **R v Secretary of State for Defence ex p. Smith** [1996] IRLR 100 - action brought by gay servicemen to remove the ban on their serving in the armed forces; the ban was removed by the European Court of Human Rights
- **Wilkin & Chapman v Collins** - discrimination against transvestites
- **Anisetti v Tokyo-Mitsubishi International Plc** - race discrimination on grounds of non-Japanese nationality
- **Shepherd v N Yorkshire CC** [2006] IRLR 190 - EAT case on distinction between sex discrimination and equal pay
- **Chessington World of Adventures v Reed** [1998] ICR 97 EAT - transsexuals and sex discrimination
- **Rachel Anderson v The Professional Footballers' Association** - a sex discrimination claim brought by a footballer's agent who was refused access to the PFA dinner
- **Mathews v Kent & Medway Fire Authority** [2004] IRLR 697 HL - first case on part time workers regulations largest ever ET case involving about 11000 retained firefighters
- **Redfearn v Serco** [2006] IRLR 623 - CA leading case on meaning of direct discrimination
- **Skipper v BP** - a major age discrimination case brought by an in house solicitor of BP
- **Bijlani v Four New Square** - ground breaking case brought by a barrister against her set of chambers on grounds of race
- **Reynolds v Canada Life** [2014] ICR 907 - major age discrimination case brought by well-known insurance industry senior employee
- **X v Mid Sussex CAB** [2011] ICR 460 - whether volunteers have rights to claim for discrimination remedies (under appeal to the Supreme Court)

In 2010 he successfully defended a set of chambers in a multi-million-pound claim for race and disability discrimination from one of its own members and BP in an age discrimination case brought by a member of its legal department in relation to a failure to promote.

### Trade Union Recognition

John is probably the barrister who has advocated most frequently in the Central Arbitration Committee and indeed has acted as an amicus curiae to the Central Arbitration Committee itself. He has also appeared in two of the key judicial reviews of the CAC:

- ***R (Kwik Fit Ltd) v Central Arbitration Committee*** [2002] IRLR 395 - first challenge to Central Arbitration Committee in relation to trade union recognition; Court of Appeal
- ***R v CAC ex p BBC*** [2003] ICR 1542 - involving BBC wildlife camera crews

He regularly advises on recognition issues at an early stage and brings to bear his wide knowledge of industrial relations practice as well as “black letter” law. He is currently representing Jet 2 in a claim brought by BALPA and Quinn Glass in respect of a recognition application by UNITE. The former was heard in the Court of Appeal. He has also appeared in the Industrial Court which has a similar jurisdiction to the CAC in Northern Ireland.

### Equal Pay

John has been the prime defender of local authorities in the many thousands of claims brought by women for equal pay in Scotland England and Wales. Councils represented include Dorset, Gateshead, Glasgow, Hampshire, Newcastle, Rochdale, South Tyneside, Stockton and Sunderland.

John has been involved in many thousands of equal pay cases in Scotland, the North East and South of England relating to the local government single status from which there have so far been two leading cases: ***Allen v Newcastle City Council*** and ***South Tyneside MBC v Anderson*** [2007] ICR 1571. In the NHS equal pay litigation his case of ***Hartley v Northumbria Health Care NHS Trust*** was the lead case for the whole country; he successfully defended the case for the Health Care Trust and it was not appealed. He thus helped to save the NHS billions of pounds.

He conducted the appeal for the local authorities in ***McAvoy v South Tyneside MBC*** [2009] IRLR 796, the EAT decision on the role of male contingent equal pay claims and the ***NHS Trust in Brownbill v St Helens NHS Trust*** [2010] ICR 1383 which concerned what precise contractual terms fell to be compared in an equal pay case. He appeared successfully for the NHS Trust in ***Hovell v Ashford & St Peters Hospital NHS Trust*** [2009] IRLR 734, a test case heard in the Court of Appeal about the proper use of independent experts in equal value cases. He also appeared in the Court of Appeal in ***Sodexo v Gutteridge*** [2009] IRLR 721 which is the leading case about the interconnection of TUPE and equal pay.

He successfully also defended Glasgow City Council in the employment tribunal and EAT in a claim that the compromise agreements they had entered into with several thousand employees were invalid (***McWilliams v GCC*** [2011] IRLR 568). He represented a major City Council in responding to one of the first investigations by the Equality and Human Rights Commission into alleged discrimination in part of the job evaluation system adopted by the City Council. He is also defending the City Council in a challenge to their job evaluation scheme and recently defended an NHS job evaluation scheme in ***Forward v East Sussex NHS Trust***. Few barristers have as much experience as John in this specialist field and he is a master tactician and strategist in such litigation. One of his cases (***Aitchison v South Ayrshire Council***) was due to be heard in the House of Lords when it settled.

### Transfers of Undertakings

John has edited an encyclopaedia on the subject for Sweet & Maxwell and has been involved in the important case of **Celtec v Astley** [2006] IRLR 635: House of Lords & ECJ case on meaning of time of transfer in TUPE cases; on remission from ECJ.

### Whistleblowing

As well as co writing the leading textbook on the subject, John has been involved in these leading cases:

- **Edgar v Met Office** - retrospectivity of the public interest disclosure provisions
- **Kuzel v Roche** [2008] ICR 799 - burden of proof in whistleblowing cases
- **Blackburn v Huckstep & Oxfordshire PCT** EAT - decision on whether the tribunal should imply a contract between a Practice Nurse of a sole GP surgery and a Primary Care Trust where the GP was suspended

He also advises widely on the subject and is involved with Public Concern at Work, of which he was formerly the Honorary Legal Adviser.

### Judicial Review

John has been involved in many leading judicial review cases such as:

- **McLaren v Home Office** [1990] IRLR 338 CA - the role of judicial review in employment law
- **Porter v Queens Medical Centre** [1993] IRLR 486 EAT - dismissals of doctors following the Allitt Murders in Grantham Hospital
- **Dolphin v Pensions Ombudsman** - the first judicial review of a Pensions Ombudsman determination
- **R (ota G) v X & Y** [2011] IRLR 2011 ICR 1033 - leading case on legal
- **R (ota Puri) v Bradford NHS Trust** [2011] IRLR 582 - a claim that the disciplinary body should be independent and impartial (at present under appeal to the Court of Appeal)

He also sits as a Deputy High Court Judge in the Administrative Court and was an Election Court Judge.

### Strikes

John advised on the move of News Group and Times Newspapers Ltd to Wapping and was involved in several strike and picketing injunctions during that period. He was also engaged in the long running Gate Gourmet dispute and the 1984 Miners' Strike.

He acted for the Ministry of Justice in defending an application to lift a strike injunction by the POA. He is frequently consulted to advise on the use of injunctions in industrial disputes both in the public and private sectors.

### Police

John has written an introduction for an OUP book on Police Discipline and regularly advises and represents police authorities on a whole range of police matters. Many are too sensitive to refer to here.

He was involved in the discrimination case **Stubbs v Lincolnshire Police** which decided the status of police officers who are seconded to crime squads. He recently represented the Chief Constable of North Yorkshire Police who was disciplined for showing favouritism to relatives.

### Faith Issues

John acted for the first Methodist preacher who claimed unfair dismissal against the Church, Hayley Moore, and regularly advises on faith issues including rights to wear crosses. He also was involved for the vicar in the case of **Sharpe v Bishop of Worcester** [2015] IRLR 663.

## Investigations and inquiries

John has acted on several occasions as a designated independent person for adjudicating disputes between Chief Executives of local authorities and the respective employing Council notably involving these Councils: Angelsey, Conway, Derby, Swale, and Swansea, and has also acted as advocate and adviser in many such disputes. He is also regularly called on by the public and private sector to investigate internal issues, in particular in respect of sexual harassment and whistleblowing. He was Chair of appeals panels for the Citizens Advice Bureau and Reading University. Given his current role as College Principal, he is experienced in dealing with University and College disputes.

## Miscellaneous

John has also appeared in many sports cases (including one for the FA Premier League who were being sued by Vinnie Jones) and represented the Football Association in 2004 when they were considering the position of Sven Goran Erikson as England manager.

He has often acted on redundancy consultation cases in particular the EAT case of *Lancashire University v UCU* [2011] IRLR 4.

## Books

1. **Modern Law of Strikes** – 1987: now known as *The Law of Industrial Action and Trade Union Recognition* (with Michael Duggan; 2011)
2. **Atkins Court Forms Volume 38** – 1986 (with B A Hepple), Butterworths, and 1991, 1995, 2003, and 2007 (new edition forthcoming)
3. **Termination of Employment** - 1998, 1991 Second Edition Longmans; 2010 Third edition Wildys (with Carol Davis)
4. **The Employment Act** -1988, Blackstone Press
5. **Employment Tribunal Procedure** - 1987, 1994, 1999 Longmans, Second Edition (with D Brown & G Mead): regularly revised. Republished by OUP every year since 2005, as Blackstones Employment Law Practice (now edited by G Mansfield with John as Consultant Editor)
6. **The Employment Law Manual** - 1998 (Chapter on Tribunals) Sweet & Maxwell
7. **Transfer of Undertakings: The Legal Pitfalls** - 1996, now in Sixth Edition (with Elias LJ) - Sweet & Maxwell (now an Encyclopaedia edited by Jeremy Lewis)
8. **Getting a New Job** - Consumer Association - 1981
9. **Bowers on Employment Law**, Seventh Edition - 2004 OUP; now known as *Practical Approach to Employment Law*. Currently ninth edition 2017
10. **Basic Procedure in Courts and Tribunals** - Longmans, 1990; Second Edition 2011 (with E Misra)
11. **Textbook on Employment Law** - (with S Honeyball) Blackstone, Ninth Edition 2010
12. **Employment Law Update** - 1991 (with A Goraj)
13. **Whistleblowing the New Law** - 2006 (with J Lewis and J Mitchell; third edition forthcoming 2017)
14. **Employment Law and Human Rights** - (with J Lewis Sweet and Maxwell 2000)