

## KATHERINE APPS

Call: 2006



Katherine's practice spans public law, employment, EU, disciplinary/ regulatory and commercial law, especially where there is overlap. She has particular expertise in appellate advocacy.

Katherine is **“outstanding, confident, direct and eminently approachable”** (Legal 500 2015). **“A very intelligent and articulate barrister”** (Legal 500 2016). Chambers and Partners 2016 describes her as **“very impressive she really grasps the complexities in a case.”** Chambers and Partners 2015 describes Katherine as **“incredibly bright”** who is **“very good with clients”**; a **“pleasure to deal with”** who **“gives solid advice.”** Chambers 2014 said **“Multiple sources have been ‘very impressed with her,’ citing her ‘great crossover knowledge’”**

Katherine works for a wide range of clients: from Government Departments and local authorities to Trade Unions; individuals to multinational companies and Receivers. A graduate of Harvard Law School's LL.M programme and former stagiaire at the Court of Justice of the European Union, Katherine is unfazed by a case with cross border and international elements as she is with one “round the corner.”

Katherine regularly speaks at conferences and seminars, writes articles for the legal press and has contributed to a number of the leading text books (see below). Katherine is often happy to provide tailor made training for firms or clients.

### Public Law & Human Rights

Katherine is ranked by the directories in Civil Liberties and Human Rights (Legal 500) and Administrative and Public law (Chambers and Partners and Legal 500), Katherine has a growing public law and human rights practice. Legal 500 2015 describes Katherine as **“one of the best juniors in her field”**. Legal 500 2014 describes Katherine as **“an excellent public lawyer with a real feel for civil liberties and human rights issues”**. Chambers and Partners 2015 lists Katherine as **“an incredibly bright public lawyer who is very good with clients”**. **“Well liked by her peers, she handles a mix of public law cases for claimants and government bodies. She specialises in cases involving equality, employment and commercial law”** (Chambers and Partners 2016).

Katherine has experience both bringing and defending judicial review challenges, as well as advising on strategy. Katherine has a particular interest in cases where public law and other areas (particularly employment, equality, EU and commercial law) intersect.

Katherine's recent cases involve issues including:

- Government cuts;
- Public sector equalities duties;
- International, EU and domestic law duties of consultation;
- Legitimate expectations;
- EU free movement and state aid;
- ECHR and Human Rights Act;
- Procedural fairness;
- Public sector pensions;
- Trade union human rights;
- Procurement, outsourcing and government contracting;
- Television and equality;
- Immigration;
- Unlawful detention.

Her recent cases include:

- ***R(Coll) v Secretary of State for Justice*** [2017] UKSC 40: application of Equality Act 2010 to the distribution and provision of separate sex approved premises in the prison estate.
- ***Muhammad v Secretary of State for the Home Department*** (2017): represented successful party in judicial review challenging immigration detention of Pakistani national subject to a deportation order.
- ***RP v SSWP*** [2016] UKUT 422: Upper Tribunal appeal referring question to CJEU on EU Free movement law and scope of the Polish Accession Treaty.
- ***L'OL v SSWP*** [2016] UKUT 0010: Upper Tribunal appeal considering impact of *R(MM) v SSWP* on the Tribunal's powers and duties.
- ***Isle of Wight Council and others v HMRC*** [2015] EWCA Civ 1303: whether local authority off street parking required VAT to be charged as charges were accountable to the general fund.
- ***R(RC Venezuela) v Secretary of State for the Home Department*** (2015): judicial review concerning treatment of gay men in Venezuela.
- ***R(Aspinall, Pepper and Bracking) v Secretary of State for Work and Pensions*** [2014] EWHC 4134 (Admin): judicial review on public sector equality duty grounds to a decision to close the Independent Living Fund.
- ***R(MM) v Secretary of State for Work and Pensions*** (2013-2015 CA and UT): reasonable adjustments challenge to the system for Employment and Support Allowance brought by claimants with mental health problems.
- ***R(RG) v Secretary of State for the Home Department*** (2013) Court of Appeal: CA has no power to hold an oral hearing on a renewed permission application where the High Court has declared an application for judicial review to be totally without merit on the papers.
- ***W (brought by her litigation friend B) v M*** [2011] EWHC 2443 (COP): Instructed by the Official Solicitor in the first application to withhold and withdraw artificial nutrition and hydration from a person in the minimally conscious state (MCS).
- ***R (on the application of G) v X School and Y City Council*** [2011] UKSC 30; [2012] 1 AC 167 In which the Supreme Court considered the threshold test for a "determination of civil rights and obligations" under Article 6(1) ECHR (fair hearing), and how Article 6 ECHR is to be applied in the employment context.
- ***R(Peel) v Health and Safety Executive and Environment Agency*** (2013) Successfully defended an expedited judicial review challenge where the Claimants claimed they were entitled to consultation under

the Seveso II Directive, Aarhus Con-vention and common law.

- **Hammond v Ministry of Justice** (2011) Successfully represented Ministry of Justice in Data Protection claim against the Court Service, where a litigant had claimed judge's notes and a transcript of previous hearings.

Katherine is on the Attorney General's Panel of Counsel B Panel and on the Equalities and Human Rights Commission Panel of Approved Counsel (C Panel).

## Employment

Katherine regularly appears in a wide range of employment cases in Tribunals, the EAT and has appeared (both led and unled) in the Court of Appeal. She frequently advises employers, employees, trade unions and interest groups on both statutory and common law employment law issues.

Katherine has particular experience in cases involving:

- Difficult issues of contractual interpretation;
- Equality Law;
- Overlapping professional disciplinary and regulatory issues;
- High Court employment disputes;
- Cross border and international issues;
- Collective employment issues including strikes;
- Employment/ worker status;
- Procedural issues;
- Calculating damages;
- The Police;
- Immigration and Employment.

Katherine frequently lectures and conducts seminars on employment, most recently on where employment and immigration law meet, improving diversity and lawful positive action, cross border employment issues, using EU law in employment cases, equal pay, TUPE and whistleblowing.

Katherine has several published articles and has contributed to a number of leading text books in this field including a chapter on employer insolvency in Gore Brown on EU Company law (2015 and ongoing), The Equality Act 2010(2010), Trade Union Recognition and Industrial Act (2011).

Katherine's cases include:

- **McCloud v Ministry of Justice**: 17 January 2017 acting for Ministry of Justice in claim brought by 200 judges challenging the transitional provisions of the New Judicial Pension Scheme on age, sex, race discrimination and equal pay.
- **Govia Thameslink Railway Ltd v ASLEF** [2016] EWCA Civ 1309: represented ASLEF in the High Court and Court of Appeal successfully defending an injunction seeking to prohibit industrial action on Southern Trains.
- **Wentworth Wood v Maritime Transport Ltd** UKEAT/0316/15/JOJ: represented successful employees in appeal against striking out of their claims for holiday pay and under s 145B TULRCA.
- **C-423/15 Kratzer v R+V Allgemeine Versicherung AG** [2016] ICR 967: CJEU case concerning who can bring a claim under the EU equality framework directives and EU doctrine of abuse of right.
- **Strickland v Kier** UKEAT /0062/15/DM: territorial jurisdiction of the Employment Tribunal.

- **Petter v EMC** [2015] EWHC 1498: application for anti-suit injunction restraining claim related to restricted stock units brought against a former employee of US entity based in Boston.
- **Saad v Southampton University Trust** UKEAT 0184/14/DM: Compliance of Code of Practice on definition of Disability with EU law.
- **Panayiotou v Chief Constable of Hampshire Police** [2014] UKEAT 0436/13/1604: when detriment could be “separable” from whistleblowing and victimisation.
- **Halstead v Paymentshield Group Holdings Limited** [2012] EWCA Civ 524; [2012] IRLR 586: Principles which apply when an employee has an Employment Tribunal claim and a threatened but unissued High Court claim.
- **R(G) v X School and Y City Council**: [2011] UKSC 30 [2011] IRLR 756: Legal challenge by teaching assistant claiming right to legal representation at internal School disciplinary hearing under Article 6 ECHR. Katherine (with John Bowers QC of Littleton and Tim Kenward of 7 Harrington Street) represented the school and Local Education Authority.
- **K [an individual] v B [a company]** (2011) QBD: Claim against former employee for alleged breach of restrictive covenants and confidential information. Settled by undertakings.
- **Greenfield v the Royal Institution of Great Britain** (2010): with Andrew Clarke QC. Instructed by the Royal Institution in relation to a claim brought by Baroness Susan Greenfield.
- **British Airline Pilots Association v British Airways - High Court expedited trial** (May 2008). The first trial concerning the scope of trade unions’ right to strike and the free movement provisions of the EC Treaty since the ECJ judgments in Viking and Laval. The union’s claim and the employer’s counterclaim were discontinued during the trial.
- **Small & others v Boots Plc** [2009] IRLR 328: TUPE case concerning a profit share bonus scheme and TUPE transfer of the implied term of mutual trust and confidence.

## Disciplinary/Regulatory & Sports

Katherine is a member of Chambers’ Disciplinary and Regulatory Group (DRG) which litigates and advises across all areas of disciplinary and regulatory law. The DRG group focuses on the medical, education, financial and legal services sectors. Katherine has experience beyond these sectors. Katherine is also a member of Chambers’ Sports law group.

Katherine is ranked in Legal 500 2016 which describes Katherine as “**An excellent junior with experience above her level of call.**”

Katherine’s relevant recent experience in the disciplinary and regulatory field and in sports law includes:

- Injunctive experience.
- Acting for the Claims Management Regulator.
- Advising a doctor on EU rights and GMC Registration.
- **R (on the application of G) v X School and Y Council** [2011] UKSC 30: Judicial review considering Article 6 of the ECHR in the context of a school internal disciplinary hearing.
- **Dwain Chambers v British Olympic Association** [2008] EWHC 2028 (QB): Sprinter Dwain Chambers’ first challenge to rules preventing him from running in the 2008 Beijing Olympics.
- Advice to the Professional Interpreters Alliance.
- Representing an Associate Head Teacher at a 4-day school disciplinary hearing concerning child safeguarding and whistle-blowing.

- Advising a large accountancy firm in respect of procedural fairness requirements relating to the regulatory powers of the FSA, ACCA and ACA.
- Advising a barristers' chambers on the effect of the new professional rules for multi-disciplinary practices at the Bar, competition law and restraint of trade.
- Part of the team representing Michael Coughlan in the McLaren/ Ferrari case (2008).
- Advice to a sporting charity on their safeguarding policy.

In 2012 Katherine was selected for the Sports Advocacy Section of the Pro Bono panel for the London Olympics.

Katherine writes and lectures regularly in these areas, most recently on EU law in Sport and on Child Safeguarding in Sport. Katherine contributed a 6 monthly update on sports law for the Solicitors Journal, from 2008 – 2009.

## Commercial

Katherine has particular expertise where commercial law overlaps with international law, EU law, public law or employment law. Katherine understands the importance of fitting quickly into a team and can turn around drafting and advisory work at short notice.

Katherine carries out a variety of commercial work including advocacy, pleading and advice. She regularly conducts her own cases and applications, both in and out of London, in the County Court and the High Court as well as acting as a junior on more substantial matters. Katherine has contributed a chapter to Gore Brown on EU Company Law.

Her recent commercial work involves:

- **Petter v EMC** [2015] EWHC 1498: one of the first applications involving the Brussels Recast Regulation and availability of anti-suit relief since it came into force;
- Pleading a complex claim relating to a non-disclosure agreement entered into between two businesses as part of take over discussions;
- Mediation in complex commercial agents' regulation dispute;
- **An individual v HMRC**: Costs application in the Companies Court;
- **R(Peel) v Health and Safety Executive** (2013): A commercial judicial review challenge concerning the safety report for a major Terminal (with Martin Chamberlain QC);
- Advising on potential causes of action from a complex Share Option Scheme;
- A case concerning issues of interpretation and misrepresentation in the context of an agreement for the sale of a valuable three-day eventing horse;
- A defence and counterclaim arising out of the collapse of a joint venture;
- Advising and pleading a contractual and debt claim involving complex contractual issues and interplay with Icelandic insolvency law;
- Advising and pleading for a multi-track trial in the Queen's Bench Division concerning breach of contract, debt and declarations;
- Instructed by HMRC with Julian Ghosh QC on a multi-million-pound capital gains tax avoidance scheme.
- While a judicial assistant at the Court of Appeal, most of the cases Katherine assisted with were commercial cases. The case included **Abbey National v OFT** [2009] 2 W.L.R. 1286, the bank charges case.

## Crossover Cases

It can be difficult to find barristers with suitable expertise where legal areas overlap in the same case. Katherine is regularly instructed in cases where there are issues which cross over between the areas above.

Katherine has a particular interest in European and international law issues, having completed a stage at the European Court of Justice in Luxembourg and completed her LL.M at Harvard Law School. Katherine is an active member of a comparative antidiscrimination law study group at University of California, Berkeley and the Bar European Group.

Katherine's relevant recent experience includes:

- EU and domestic anti-discrimination issues in public law;
- Free movement, state aid and EU consultation duties in judicial review proceedings;
- Concurrent High Court and Employment Tribunal proceedings;
- Contractual interpretation, employee bonuses and share option schemes;
- EU employment law;
- Human rights and employment law;
- Immigration, equality and employment law;
- Areas regulated by international convention, EU law and domestic law;
- Cases involving transnational employment problems including posted workers;
- The right to strike, free movement, Article 11 ECHR and Viking and Laval;
- Commercial judicial review;
- Child safeguarding;
- Television and Equality;
- Trade Unions and Election funding.

## Panels/Appointments

- 2016-present: Member of the Board of Appeal of Table Tennis England.
- 2015-present: Attorney General's B Panel of Counsel.
- 2015-present: EHRC Approved Panel of Counsel (C Panel).
- 2012: Selected for the Pro Bono panel for the London 2012 Olympics: Sports Advocacy Section.
- 2011-2015: Attorney General's C Panel of Counsel.
- 2011-2015: EHRC Approved Panel of Counsel.

## Books

Katherine has contributed to the following books:

- Gore Brown on EU Company Law, (forthcoming; Jordans); a chapter on the Employment Insolvency Directive.
- Law of Industrial Action and Trade Union Recognition (OUP; 2011) chapters on EU law and Human Rights.

- Equality Act 2010 (Law Society, 2010).
- Brearley and Bloch on Employment Covenants and Confidential Information (Jordans, 2009).

Katherine frequently lecture and conducts seminars. Recent topics include Child Safeguarding in Sports; using European law in Employment cases; Human Rights and procedural fairness; cross border national employment cases.

## Journal Articles

Katherine's journal publications include:

- *A day in the life of an Attorney General's B-panel counsel: interview*: 15 February 2016 Lexis Nexis PSL.
- *Compass Group v Guardian News and Media*, [2015] Tolley's Employment Law Newsletter, 20(4)(32).
- *A high stakes defence: immigration-related illegality after Houna*, ELA Bulletin November 2014
- *Chhabra v West London Mental NHS Health Trust*, [2014] Tolley's Employment Law Newsletter 32.
- *Is there scope for "reasonable adjustment" in religious discrimination law?* (with John Bowers QC), (2013) Solicitors Journal 157(29), 12-13.
- *NetJets Management Ltd v Central Arbitration Committee* [2013] Tolley's Employment Law Newsletter 50.
- *Politics, rights and unfair dismissal: the BNP bus driver*, (2012) ELA Bulletin (Dec) 3.
- *C-477/09 Prigge v Lufthansa* [2011] Tolley's Employment Law Newsletter 32.
- *Making a Move, EU sporting cases since Bosman* (2009) 153 Solicitors Journal 42/10.
- *Damages claims against trade unions after Viking and Laval*, [2009] European Law Review 141.
- *Major Impact: the practical effect Impact v MAFF could have on employment cases*, [2008] New Law Journal 875.
- *Nationality Discrimination in football: FIFA's 6 + 5 Rule*, (2008) 152 Solicitors Journal Vol page 25, 18.
- *Commission v Council: "Pillars Askew: Criminal Law EC-Style,"* (2006) 12 Columbia Journal of European Law 625.
- *Good Faith Performance in Employment Contracts: A "Comparative Conversation" between the US and England*, (2006) 8 University of Pennsylvania Journal of Labor and Employment Law 883.
- Six monthly sports law update for Solicitors Journal 2008-2009.

## Education

Sept 2005- May 2006: Bar Vocational Course, Inns of Court School of Law, London: Outstanding.

Aug - June 2004/5: LL.M, Harvard Law School, Cambridge, MA.

Oct - July 2001/4: MA (Hons) Law New Hall College, Cambridge. Double First Class. 4th in year.

In 2005-6 Katherine tutored tort law at New Hall (now Murray Edwards) and Kings College Cambridge and assisted teaching the EU syllabus of the Introduction to Law Course at the School of Oriental and African Studies, London.

## Scholarships

2007: BEG Phoenicia Scholar (to Bar European Group Conference in Rome).

2005: Gray's Inn Bedingfield Scholar.

2004: First recipient of Baker McKenzie Cambridge Harvard Law School Exchange Scholarship.

2003 and 2004: College Scholar, New Hall (now Murray Edwards) College, University of Cambridge.

## Judicial Assistance

2008: Judicial Assistant to the former Vice President of Civil Appeals, Waller LJ for the Michaelmas Judicial term.

2006: Stagière to the Cabinet of Judge Schiemann at the European Court of Justice in Luxembourg.

## Memberships

2013 - present: Bar Council Disability Sub-Committee.

Member of ALBA, UKAEL, ELBA, ELAAS, Bar Pro-Bono Unit, the Free Representation Unit and BEG.

Member of the Comparative Anti-Discrimination study group at the UC Berkeley.