

BENJAMIN GRAY

Call: 2011



“We enjoyed working with Ben. He has great attention to detail” – A Magic Circle firm

“He did a first class job. His skills for thorough preparation and gaining an in-depth knowledge of a case in a short time were amazing. Even if I had not won the case I would at least know that everything had been done to put things right” – a successful Claimant

Benjamin is an experienced junior barrister with a practice encompassing employment, commercial, insolvency and public law. He has a busy practice with a significant amount of time doing advocacy in Courts and Tribunals. He is experienced and good at conducting short-notice and complex advocacy, including in injunction proceedings and through duty schemes such as ELIPS and ELAAS. His experience ranges from high-value commodities arbitration through Judicial Review to complex whistleblowing and discrimination cases.

He is forensically-minded, but able to step back and see the bigger picture in a case. He is equally comfortable handling both complex document-heavy matters and cases that turn on little more than witness credibility. He is able to give clear advice, focussed on practical, commercial solutions.

Benjamin is a thorough and diligent advocate, committed to the successful resolution of cases and willing to go the extra mile for clients.

Benjamin was appointed to the Attorney General's C Panel of Junior Counsel to the Crown in February 2017.

He graduated from King's College London with a First in War Studies, obtained a Distinction on the Graduate Diploma in Law, and received a Major Scholarship from Inner Temple.

Commercial

Benjamin's commercial practice includes commercial litigation, fraud, misrepresentation, unjust enrichment, insolvency, banking and arbitration. Experience includes:

- Multi-million dollar commodities arbitration;
- Obtaining interim injunctive relief in the Chancery Division as sole counsel;
- Acting for a shareholder in a fraud claim against a company director;
- A dispute over foreign exchange traders' bonuses;
- Construction of banking contracts;
- Breach of confidence claims;
- A contractual dispute between television companies;

- Advice in claims for breach of contract, misrepresentation and fraud; and
- Advocacy at all stages, including summary judgment, interim applications and trials.

Benjamin is instructed in commercial disputes in both the County Court and High Court, including breach of contract, fraud, unjust enrichment and enforcement proceedings. He also has experience of international arbitration, and is a Member of the Chartered Institute of Arbitrators.

Insolvency

Benjamin is an experienced insolvency barrister with a particular focus on fraud and asset tracing. He acts for debtors, creditors and office holders in both personal and corporate insolvencies and across the range of insolvency procedures, including administrations, liquidations and bankruptcies. He is familiar with enforcement proceedings, both in the insolvency and enforcement contexts.

Relevant experience includes:

- ***Simmonds v Pearce*** [2017] EWHC 35 (QB) the leading case on the correct procedure to use to commit a bankrupt to prison for contempt of court for breaches of the Insolvency Act 1986. The case also deals with the cross-admissibility of statements made under compulsion in Public Examinations in subsequent proceedings. Benjamin acted unled for the Trustee in Bankruptcy and obtained an order for committal to prison of the bankrupt for 12 months for an “extremely serious” case of persistent failures to comply with, and attempts to frustrate, the Trustee’s inquiries. Benjamin was also involved in the underlying bankruptcy proceedings, including identifying and setting aside a chain of transactions defrauding creditors.
- Obtaining Proprietary Injunctions in the Chancery Division unled to restrain disposal of disputed assets.
- Appearing on behalf of HMRC in the winding up list.
- Validation orders, administrations, and enforcement proceedings.

Employment

Benjamin has a comprehensive employment practice, appearing for both employers and employees at all stages and in all venues (including the EAT). He has extensive experience across the full spectrum of employment law, and has gained significant experience of TUPE cases in all their forms.

His practice includes the crossover between employment, commercial and insolvency law, with experience including High Court employment claims, overlapping fraud cases, and the interaction between TUPE and insolvency. He has experience dealing with claims regarding Restrictive Covenants and misuse of confidential information.

Benjamin is the General Editor of the *Employment Tribunal Remedies Handbook*.

Recent cases include:

- ***Tirkey v Chandhok***: the UK’s first case dealing with allegations of caste discrimination;
- ***Khan v HGS Global Ltd*** and anor [2015] UKEAT/0176/15: appearing as sole counsel in the EAT on the law of mutually agreed termination;
- ***Awojobi v London Borough of Lewisham*** [2017] UKEAT/0243/16: dealing with the scope of the obligation to consider redeployment in capability cases. Submissions described as “excellent” by HHJ David Richardson;

- Successfully defending a firm of accountants against a complex claim involving employee status, wages and constructive unfair dismissal;
- Construction of contracts of employment concerning Forex traders' bonuses;
- Successfully defending a complex whistleblowing claim involving Crossrail;
- Acting for a transferee in a series of consolidated claims involving TUPE, equal pay, pregnancy discrimination and other claims, running over a number of years;
- Disability discrimination claims involving detailed expert and other medical evidence;
- An overlapping sexual harassment and fraud claim;
- Unlawful detriment/dismissal for health and safety activities.

Benjamin participates in both the ELIPS and ELAAS schemes, with experience of short-notice advocacy in both the Employment Tribunal and Employment Appeal Tribunal.

Administrative, Public Law and Human Rights

Benjamin was appointed to the Attorney General's C Panel of Junior Counsel to the Crown in February 2017, and accepts a wide range of work from the Government Legal Department. He practises in public and immigration law, including claims for Judicial Review and false imprisonment. His appointment to the panel does not prevent his being instructed to act against the government.

Arbitration

Benjamin has significant experience of arbitration. He is a full member of the Chartered Institute of Arbitrators. He has acted as Tribunal Secretary in a high-value commodities dispute.

Healthcare, Disciplinary and Regulatory

Benjamin has developed a practice in healthcare and related disciplinary law out of his employment practice. He has acted both for and against NHS Trusts. Experience includes disputes over doctors' contracts, whistleblowing in a healthcare context (including both NHS Trusts and Care Homes), and allegations of negligence and misconduct against health workers.

Cases include:

- Acting for a whistleblowing doctor in a claim against an NHS Trust. He successfully argued that a Doctor provided through a Temporary Contractor Agreement fell within the extended definition of "worker" to entitle him to whistleblowing protection;
- Representing a nurse accused of negligence leading to the death of a patient in high-profile circumstances;
- Complex whistleblowing claims against care homes; and
- Construction of Doctors' contracts regarding pay, banding and allowances.

Qualifications and Memberships

- Attorney General's C Panel of Junior Counsel to the Crown
- General Editor, *The Employment Tribunal Remedies Handbook* (since 2016)
- BA War Studies, King's College London (First Class Honours)
- Graduate Diploma in Law, Distinction

- Major Scholarship, Inner Temple
- ADR Group Accredited Civil and Commercial Mediator
- Member, CI Arb
- Member of COMBAR, ELBA, ELA, ILS and ALBA