Ben Cooper KC

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Overview

Ben Cooper KC is listed as a **leading Silk** in *Chambers & Partners* and *The Legal 500*. *The Legal 500* describes Ben as **"a superlative technical lawyer, who can cut through difficult legal issues and really get to the heart of something complex quickly. He is also excellent with clients and approachable to lawyers of all levels within the team"**, while *Chambers & Partners* notes that Ben is a **"Formidable opponent and he has the judges eating out of the palm of his hand"**. Ben is described as an **"exceptional advocate"** who is **"very pleasant to deal with and… is able to weave together complex UK, human rights and domestic law".** Ben is **"renowned for his expertise in injunctive relief issues and TUPE cases"** with **"an increasingly prominent reputation for his work on discrimination matters".**

Ben's principal areas of practice are employment, discrimination and industrial relations. Ben acts for employers, employees and trade unions in all areas of employment, discrimination and industrial relations law. He regularly appears in the High Court, Court of Appeal, Employment Appeal Tribunal, employment tribunals and CAC.

Ben's clients include NHS bodies and private healthcare organisations, major trade unions, education institutions, major airlines, financial and other commercial organisations, central and local government, and claimants with complex or high-value claims.

Ben's other areas of practice include professional discipline, pensions, public law and human rights.

Within his principal and other areas of practice, Ben has particular expertise in:

• **Equal pay** – Ben is instructed on behalf of ASDA in the largest private sector equal pay claim of its kind, and acted for Claimants in multiple claims against HMRC, the Met Office and the MOD. He has appeared in a number of the leading appellate equal pay cases over the last 15 years.

• **Discrimination** – Ben has appeared in a number of significant appeals in discrimination claims, with a particular expertise in belief discrimination, and is frequently instructed in long or complex discrimination claims, especially those involving multiple discrimination strands.
• **Injunction proceedings** – Ben has extensive experience acting for both claimants and defendants in claims for interim and final injunctive relief to enforce rights arising from contracts of employment, including claims (especially by doctors) relating to compliance with disciplinary procedures, and restrictive covenant/breach of confidence claims.
• **Strike injunctions and industrial relations** – Ben has appeared in leading and high-profile cases in the High Court and Court of Appeal regarding strike injunctions, collective bargaining and related disputes. He also appears in recognition disputes before the CAC.
• **TUPE** – Ben appeared in the leading case on service provision change (Metropolitan Resources Ltd v Churchill Dulwich & others) and regularly acts in multiple claims concerning disputed transfers.
• **Human rights and public law** – Ben acted for Claimants in the group blacklisting litigation concerning the construction industry blacklist. He has appeared for claimants in successful claims under the HRA and for judicial review against public sector employers for breach of workers' human rights in the employment context.

Ben is a member of ELBA, ELA and ILS.

Expertise

- Civil Liberties and Human Rights
- Employment & Discrimination
- Industrial Relations
- Inquests & Public Inquiries
- Professional Regulatory & Discipline

Recommendations

"Ben Cooper is stellar leading counsel for complex employment litigation." Chambers & Partners 2026

"Ben is calm and a pleasure to work with. His knowledge of this complex area of law is second to none." Legal 500 2026

"Ben Cooper is incredibly clear-thinking and knows the law inside-out." Chambers & Partners 2026

"His written work is exceptional and his oral advocacy is clear and persuasive." Chambers & Partners 2026

Key contacts

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Employment & Discrimination

Ben is ranked as a leading silk by both *Chambers & Partners* and *The Legal 500.* Ben acts for employers, employees and trade unions across the whole range of employment, discrimination and industrial relations claims.

Ben appears regularly in employment claims in the High Court, Court of Appeal, EAT, employment tribunals and before the CAC.

As well as appearing regularly in long or complex discrimination claims in the employment tribunals, Ben has developed particular expertise, and has appeared in some of the leading cases, in the following areas:

• Equal pay;
• Belief discrimination and other complex or multiple discrimination claims and appeals;
• Employment status and associated claims for wages, holiday pay and national minimum wage claims;
• Claims for injunctive relief in relation to internal disciplinary and capability procedures;
• Industrial relations, including industrial action injunctions;
• TUPE;
• Employment claims involving breaches of human rights.

Notable cases

Equal pay

• *Brierley & others v ASDA Stores Ltd* (ongoing) – Acting for ASDA in largest private sector multiple equal pay claim of its kind. An appeal on comparability was heard by the Supreme Court in July 2020; litigation on equal value is ongoing before the ET.
• *McNeil & others v HMRC* [2020] ICR 515, CA – Acted for claimants in leading case on the test for "particular disadvantage" where disparate impact arises from length of service. At EAT stage ([2018] ICR 1529) Simler J also held that the Supreme Court's judgment in Essop & Naeem [2017] ICR 640, SC, meant that insofar as the line of authority based on Armstrong [2006] IRLR 124, CA had been understood as allowing employers to rebut a finding of particular disadvantage by showing that the underlying reason for the particular disadvantage was not itself related to the protected characteristic, that could no longer be regarded as good law.
• *Wilson v Health & Safety Executive* [2010] IRLR 59, CA – justification where difference in pay is due to length of service.
• *Gutridge v Sodexo Ltd* [2009] IRLR 721, CA – application of TUPE to equality clause and effect of transfer on equal pay limitation period.
• *Home Office v Bailey & others* [2004] IRLR 192; [2005] 369 & 757, EAT & CA – test for disparate impact; partial justification.

Discrimination

• *Bailey v (1) Stonewall (2) Garden Court Chambers Ltd & another,* ET (July 2022); EAT (ongoing) – Acted for successful claimant, a barrister, in her high-profile claim against her chambers for discrimination because of her gender critical beliefs.
• *Forstater v CGD Europe & others*, [2022] ICR 1, EAT; and ET (June 2022) – Acted for the successful claimant in leading case on the threshold for protection of beliefs under the Equality Act 2010, establishing in the EAT that a belief that biological sex is a material reality that should not be conflated with gender or gender identity, is protected. Subsequently acted for the successful claimant at the substantive final hearing before the ET, establishing that she was unlawfully discriminated against because of her beliefs in the termination of her visiting fellowship and the failure to offer her employment.
• *City of York Council v Grosset* [2018] ICR 1492, CA – Acted for claimant in leading case on the test for discrimination arising from disability under Equality Act 2010, s15.
• *Adeshina v St George's Healthcare NHS Trust & others* [2017] EWCA Civ 257; [2015] IRLR 704, EAT – Unreasonable conduct and minority protected characteristic insufficient to shift burden of proof in direct discrimination claim; correct test for bias in appeal panel for purposes of unfair dismissal (see EAT judgment).
• *Edie & others v HCL Insurance BPO Services Ltd* [2015] ICR 713, EAT – Indirect age discrimination claim arising from harmonisation of terms following TUPE transfer where longer-serving transferred employees lost more beneficial terms than others.
• *Okoro & another v Taylor Woodrow Construction Ltd & others* [2013] ICR 580, CA – application of limitation period to discrimination claim by agency workers in respect of a decision by the principal to ban them from its site.
• *Lisboa v Realpubs Ltd* [2011] EqLR 267, EAT – sexual orientation discrimination arising by requiring bar manager to work in environment that discriminated against gay customers.

Employment status, wages, etc

• *Harbron & others v Amazon & others* (ongoing) – Acting for claimants, who are Amazon drivers, in group action against Amazon and various delivery service providers, claiming holiday pay, national minimum wage and unauthorised deductions from wages.
• *Police Overtime Claims Litigation* (ongoing) – Acting for inspectors and sergeants who are controllers of Covert Human Intelligence Sources, and for a number of undercover officers, in this group litigation claiming for overtime pay arising from the particular requirements of their roles.
• *Aslam & others v Uber London Ltd & others* (settled, 2022) – Acted for claimants following remission to the ET by the Supreme Court to determine the extent and value of their entitlements to holiday pay and national minimum wage.

Industrial relations, including industrial action injunctions

• *National Union of Professional Foster Carers v CO & others* [2021] ICR 1397, CA– Acted for CO in appeal concerning the employment status of foster carers for the purposes of trade union listing under TULR(C)A, s2.
• *Brown v UCL*, [2021] IRLR 200, EAT– Acted for successful claimant in an appeal in a trade union detriment case concerning relationship between data protection law and union use of employer's email facilities and whether using of group email distribution lists for union communications involved misconduct which was properly separable from the trade union purpose of those activities.
• *Secretary of State for Justice v POA* [2018] EWHC 2897 (QB) – Inducement to strike; health and safety and strike action. (Substantive case was subsequently settled.)
• *Hartley & others v King Edward VI College* [2017] UKSC 39; [2017] ICR 774, SC – Application of the Apportionment Act 1870 to the collective agreement governing the terms of sixth form teachers and correct method of calculating deduction from pay for a day's strike action.
• *Argos Ltd v Unite the Union* [2017] EWHC 1959 (QB) – First case to consider the nature and extent of the information required to satisfy the new requirement for a summary of the trade dispute to be included on the ballot paper for industrial action. This case also upheld the union's right to strike in support of measures sought from a transferor with a view to protecting the position of employees post-transfer, distinguishing *UCLH v Unison* [1999] ICR 204, CA. An earlier hearing ([2017] EWHC 2046 (QB)) also emphasised the importance of giving 3 clear days' notice of an application unless there are exceptional circumstances – particularly in light of the increased notice of industrial action which employers now receive under changes introduced by the Trade Union Act 2016.
• *British Airline Pilots' Association v Jet2.com Ltd* [2017] ICR 475, CA – Case concerning the scope of statutory collective bargaining in respect of "pay, hours and holiday" pursuant to Schedule A1 of the Trade Union and Labour Relations (Consolidation) Act 1992.
• *Unite v Fowler Welch*– Coolchain Ltd TUR1/786/2012 (2013, CAC) – determining correct bargaining unit; method of collective bargaining
• *Ritchie v UCATT* [2011] EWHC 3613 (Ch) – derivative action; trade union election procedure.
• *Talbot v General Federation of Trade Unions* [2011] EWHC 84 (QB) – construction of trade union rules.
• *British Airways plc v Unite* [2010] IRLR 809, HC & CA – a leading strike injunction case.

Injunctive relief in respect of internal disciplinary procedures

• *Al Mishlab v Milton Keynes Hospital NHS Foundation Trust* [2015] Med LR 120, QB; (No. 2) [2015] EWHC 3096, QB – case concerning the proper exercise of the power to exclude a doctor under MHPS in circumstances where relationships between the doctor and his surgical team had broken down, and (in second claim) circumstances in which the Court will intervene to grant injunctive relief to restrain a hearing to consider dismissal on grounds of relationship breakdown.
• *Chakrabarty v Ipswich Hospital NHS Trust* [2014] Med LR 379, QB – case concerning the process to be followed under MHPS when deciding whether to dismiss a doctor on grounds of capability in circumstances where NCAS have not advised that he is irremediable.
• *McMillan v Airedale NHS Foundation Trust* [2014] IRLR 803, CA – whether employer can increase sanction on appeal; whether employee can withdraw appeal after re-hearing of facts but before sanction decision.
• *Rosenbaum v Ealing Hospital NHS Trust* (2014, QB) – claim by consultant urologist for injunction to prevent disciplinary proceedings and lift exclusion/restrictions on practice.
• *Lu v Nottingham University Hospitals NHS trust* [2014] EWHC 690 (QB) – extent of employer's power to impose requirements on doctor to disclose historic incidents when obtaining patient consent.
• *Makhdum v Norfolk and Suffolk NHS Foundation Trust* [2012] EWHC 4015 (QB) – claim by consultant psychiatrist to prevent disciplinary hearing proceeding.
• *Hussain v Surrey & Sussex Healthcare NHS Trust* [2012] Med LR 163, QB – claim by consultant paediatrician for injunction to prevent disciplinary hearing proceeding.

Whistleblowing

• *Stewart v Foreign Commonwealth and Development Office* (ET, ongoing) – Acting for FCDO in whistleblowing claim by an employee who leaked information and emails to the BBC.
• *Jahangiri v St George's University Hospitals NHS Foundation Trust & another* (ET, ongoing) – Acting for NHS Trust in high-profile whistleblowing claim by consultant surgeon.
• *Beatt v Croydon Health Services NHS Trust* (ET, October 2020) – Acted for NHS Trust in relation to remedy in high-value whistleblowing claim.
• *City of London Corp v McDonnell* [2019] ICR 1175, EAT – Acted for respondent in appeal concerning the correct structure for the tribunal's analysis and necessary findings in a whistleblowing dismissal claim.
• *Day v Lewisham & Greenwich NHS Trust & another* (ET, 2018) – Acted for Trust in high profile whistleblowing claim by a junior doctor. Following Ben's cross-examination of the Claimant, the claim was withdrawn on terms which accepted that the ET would have been likely to find that the Claimant had not been treated detrimentally on the grounds of whistleblowing.
• *Zia & others v Brighton & Sussex University Hospital NHS Trust* (ET, 2016) – Acted for NHS Trust in complex and sensitive claim (and associated appeals) arising from misuse by employees (doctors) of illicit recording of legally privileged meeting and to what extent their (mis-)use of that material constitutes protected disclosures.
• *Pennal v BL Law Ltd* (ET, 2013) – Successfully defended firm of solicitors against seven-figure whistleblowing claim by former senior litigator.

Human rights in employment and industrial relations law

• *Forstater v CGD Europe & others*, [2022] ICR 1, EAT – Acted for the successful claimant in leading case on the threshold for protection of beliefs under the Equality Act 2010, establishing in the EAT that the protected characteristic of belief must be construed so as to give effect to Article 9 rights and, in particular, that a belief that biological sex is a material reality that should not be conflated with gender or gender identity, is protected.
• *The Construction Industry Vetting Information Group Litigation* (Blacklisting group litigation: High Court, settled May 2016) – Claims for conspiracy, misuse of private information, breach of the Data Protection Act 1998 and defamation arising from the operation of the construction industry blacklist from the 1970s to 2009. Ben acted for around 250 Claimants who were former members of Unite the Union, who together shared compensation of approximately £10.4 million.
• *Oxer-Patey v Commissioner of Police for the Metropolis* [2013] EWHC 4751 (QB) – Provision in public sector pension scheme discriminating between legitimate and illegitimate children is contrary to ECHR, Art 14 and unlawful under the HRA.
• *Police Federation v Chief Constable of Cleveland Police* (2012, Admin) – JR of police force's improper use of informal employment process to take hair sample from officer for drugs testing.

TUPE

• *Argos Ltd v Unite the Union* [2017] EWHC 1959 (QB); [2017] EWHC 2046 (QB) – implications of pending/anticipated TUPE transfer for union's right to call a strike in support of changes sought from transferor to protect workers' terms post-transfer.
• *BT Managed Services Ltd v Edwards & another* [2015] IRLR 994, EAT – whether employee on long-term absence and in receipt of PHI is assigned to organised grouping of employees that transferred.
• *Metropolitan Resources Ltd v Churchill Dulwich & others* [2009] IRLR 700, EAT – leading case on service provision change.
• *Gutridge & others v Sodexo Ltd* [2009] IRLR 721, CA – application of TUPE to equality clause and effect of transfer on equal pay limitation period.

Professional Regulatory & Discipline

Ben has extensive experience of the healthcare sector and has acted for practitioners in professional regulatory proceedings as well as in related civil and employment proceedings.

Notable cases

• Advising St George's University Hospitals NHS Foundation Trust on management of difficulties in its Cardiac Surgery team and claims arising.
• *Al Mishlab v Milton Keynes Hospital NHS Foundation Trust* [2015] Med LR 120, QB; (No. 2) [2015] EWHC 3096, QB – case concerning the proper exercise of the power to exclude a doctor under MHPS in circumstances where relationships between the doctor and his surgical team had broken down, and (in second claim) circumstances in which the Court will intervene to grant injunctive relief to restrain a hearing to consider dismissal on grounds of relationship breakdown.
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advised that he is irremediable.
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• *Lu v Nottingham University Hospitals NHS Trust* [2014] EWHC 690 (QB) – extent of employer's power to impose requirements on doctor to disclose historic incidents when obtaining patient consent.
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• *Hussain v Surrey & Sussex Healthcare NHS Trust* [2012] Med LR 163, QB – claim by consultant paediatrician for injunction to prevent disciplinary hearing proceeding

Recent and current work

- *Harbron & others v Amazon & others* (ongoing) – Acting for claimants, who are Amazon drivers, in group action against Amazon and various delivery service providers, claiming holiday pay, national minimum wage and unauthorised deductions from wages.
- *Brierley & others v ASDA Stores Ltd* (ongoing)– Ben is instructed on behalf of ASDA in the largest private sector multiple equal pay claim of its kind. An appeal on comparability was heard by the Supreme Court in July 2020; litigation on equal value is ongoing before the ET.
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- *City of London Corp v McDonnell* [2019] ICR 1175 – Acted for respondent in appeal concerning the correct structure for the tribunal's analysis and necessary findings in a whistleblowing dismissal claim.
- *City of York Council v Grosset* [2018] ICR 1492, CA – Acted for claimant in leading case on the test for discrimination arising from disability under Equality Act 2010, s15.

Professional Recommendations





Ben Cooper KC

” He has a razor-sharp mind.”

The Legal 500 2025

“Superb and calm on even the most complex cases.”

Chambers & Partners 2025

“Ben is just a brilliant all-round advocate.”

Chambers & Partners 2025

“Ben’s advocacy is brilliant in terms of cross-examination.”

Chambers & Partners 2025

“Ben is the go-to KC for difficult cases, particularly High Court injunction cases as well as complex employment tribunals. He is hugely intellectual but also very practical, meaning he explains things clearly to clients and carries their confidence. His cross-examination is particularly compelling.”

Chambers & Partners 2024

“He is a first-rate advocate who presents legal arguments very effectively.”

Chambers & Partners 2024

“Ben is easy to work with and is solutions-focused. He’s really constructive and brilliant on the law. His written and oral advocacy is brilliant. He is the person you want on your case.”

Chambers & Partners 2024

“Ben is an exceptional advocate. He is a super bright technical lawyer.”

The Legal 500 2024