

## Betsan Criddle KC

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### Overview

Betsan Criddle KC is a leading silk in employment and professional discipline law. Her expertise is recognised by her ranking by *Chambers & Partners*, *The Legal 500* and *Who's Who Legal*. Betsan is described by Chambers and Partners as "an absolutely outstanding advocate", and as being "exemplary in terms of her approach, preparation and advocacy. She has the ability to bring the judge around to her way of thinking and carries the confidence of the client". The Legal 500 describes Betsan as an "excellent advocate, well prepared and persuasive". Experienced at the full range of employment and professional disciplinary disputes, she has appeared in some of the cutting-edge cases of recent years. Her clients include financial and commercial institutions, leading independent schools and universities, NHS Trusts, local government, trades unions, senior executives and medico-legal defence organisations.

Betsan is particularly well regarded for the breadth and depth of her experience in medico-legal work. She is an acknowledged market leader in High Court disputes over doctors' disciplinary procedures, and she is regularly called upon to advise in the handling of complex disciplinary proceedings, particularly where there is a regulatory cross-over. Betsan also acts for medical professionals in proceedings before the MPTS, the GDC and the HCPC as well as in performers' list and ARCP cases.

Betsan has a thriving practice in primarily employment based commercial work, where she advises and represents clients in a wide range of disputes, including restrictive covenant cases, issues relating to termination of Board level employment and high value redundancy and negligent reference claims. Her High Court practice also involves acting regularly in strike injunction cases and associated trade union work.

She has extensive experience of discrimination claims involving complex and sensitive allegations, with a specific interest in pregnancy and maternity discrimination. She has expertise in goods and services disputes, particularly reasonable adjustments claims, in which she has advised organisations from banks to West End theatres.

Betsan regularly acts in public law cases, including the recent successful challenge to the Government's repeal of the prohibition on using agency workers to cover for striking employees.

She has expertise in conducting complex and sensitive investigations, chairing a cultural review team at a leading independent school in the wake of the Everyone's Invited expose of sexual harassment in the education sector.

Betsan speaks Welsh fluently and regularly advises on and conducts litigation through the medium of Welsh.

She is able to accept instructions under the Bar's Public Access Scheme in suitable cases.

### Memberships and publications

- Member of the Employment Law Bar Association
- Member of the Employment Lawyers' Association: former member of Training Committee and Management Committee
- Member of the Industrial Law Society
- Member of the Association of Regulatory and Disciplinary Lawyers
- Co-author of annual *Labour Law Highlights* (Institute of Employment Rights)

### Expertise

- Commercial Law
- Education & Safeguarding
- Employment & Discrimination
- Investigations
- Professional Regulatory & Discipline
- Public Law

### Recommendations

"Betsan is an outstanding advocate and clients love her with good reason. Her attention to detail and ability to advise on complex matters in very little time are astounding." Chambers & Partners 2024

"Betsan is a brilliant technical lawyer. She can turn her to mind to a case and piece of work very quickly, and gives clear advice on merits and strategy. She is very quick-witted, authoritative and knowledgeable." The Legal 500 2024

"Betsan is thoroughly prepared and a hugely skilful advocate - she is the barrister you don't want to be up against." "Betsan is exemplary in terms of her approach, preparation and advocacy. She has the ability to bring the judge around to her way of thinking and carries the confidence of the client." Chambers & Partners 2023

"Fantastic brain, great advocate, works really well with the client (solicitor and lay client), and particularly brilliant knowledge of case law for doctors' disciplinary cases. Her ability to ensure that a complex case is well presented and set out for tribunals and panels is a particularly great asset." The Legal 500 2023

### Key contacts

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#### Olivia Moliterno

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**Junior Team Leader Assistant**

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## Employment & Discrimination

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She has extensive experience of discrimination claims involving complex and sensitive allegations, with a specific interest in pregnancy and maternity discrimination. She has expertise in goods and services disputes, particularly reasonable adjustments claims, in which she has advised organisations from banks to West End theatres.

### Notable cases include

#### *High Court disputes: medico-legal work*

- *Burn v Alder Hey Children's NHS Foundation Trust* [2022] ICR 492, CA. Dispute concerning the scope of a doctor's right to disclosure in the conduct of a disciplinary investigation. Significant case with broader ramifications recognising the potential existence of an implied term of fairness in the conduct of disciplinary proceedings.
- *Rayner v Barnet, Enfield and Haringey Mental Health NHS Trust* [2022] IRLR 296 (QB). Successfully defended Trust in injunctive challenge, establishing that there is no requirement to stay internal disciplinary proceedings pending determination of a referral to the regulator.
- Acted for private sector consultant (not an employee) challenging the decision to suspend his practising privileges as involving a breach of the *Braganza* implied term of rationality.
- *Smo v Hywel Dda University Health Board* [2020] EWHC 727 (QB). First High Court dispute concerning the Welsh consultant contract. Successfully obtained permanent injunction to prevent Board from proceeding with working relationships investigation as side-stepping the contractual disciplinary process.
- *Chhabra v West London Mental Health NHS Trust* [2014] ICR 194 (SC). Successfully represented doctor in leading Supreme Court case establishing that an employment contract includes an implied contractual right to a fair disciplinary process and that an injunction may be granted to restrain an employer from charging an employee with gross misconduct where this is unwarranted by the findings of a disciplinary investigation.
- *Kerslake v North West London Hospitals NHS Trust* [2012] Med LR 568 (QB). Successfully represented Trust in significant case determining that dismissal of a consultant outside the MHPS disciplinary scheme is permissible where there is a breakdown of trust and confidence.
- *Lim v Royal Wolverhampton Hospitals NHS Trust* [2012] Med LR 146 (QB). Successfully represented doctor in important case establishing that an NHS Trust may not dismiss a doctor by reason of capability without first referring the case to NCAS (now PPA) for assessment and consideration of an action plan.

#### *High Court disputes: commercial disputes*

- Advising an NHS Trust on the ongoing employment of its Chief Executive in the wake of high-profile criticisms of the Trust by an external inquiry.
- Acting for a senior executive in a complex dispute involving allegations

of breach of confidence and their implications for his shareholding.

#### *Industrial action and other trade union work*

- *R (ASLEF and others) v Secretary of State for Business and Trade* [2023] EWHC 1781 (Admin). Successfully represented the NASUWT in its challenge to the lawfulness of the repeal of the statutory prohibition on using agency workers to cover for striking employees.
- *GE Steam Power Ltd v Unite the Union* (QB). First case to consider whether the requirement to set out the trade dispute on the ballot paper enables the Court to determine what is the 'true' dispute between the parties.
- *Watkins v BMA* [2023] EAT 23. Successfully acting for the BMA in challenge to the lawfulness of disciplinary action against union member, including whether the disciplinary rules were properly made.
- Acted for a major trade union in arbitration proceedings, successfully arguing that there could be no implied term requiring taking work equipment home when this gave rise to health and safety risks.

#### *Discrimination and equal pay*

- *Coneybeer and others v Natural England* (ongoing). Acting for the claimants in a multi-party equal pay claim challenging significant pay disparities arising from Natural England's payscales.
- *Anne and others v Great Ormond Street Hospital NHS Foundation Trust* (ongoing). Acting for the claimants in an innovative indirect race discrimination claim, arguing that not extending Agenda for Change benefits to outsourced workers is a PCP putting a group of Black African workers at a particular disadvantage.
- *Miles v DVSA* [2023] IRLR 630, EAT. Acted for the successful appellant: ET had erred in treating a driving examiner's fears about returning to work in summer 2020 because of the risk of Covid-19 to him as someone with as chronic kidney disease as an irrational belief and not an aspect of his potential disability.
- *Page v NHS Trust Development Authority* [2021] ICR 941. Successfully represented NHS TDA in religious discrimination claim challenging their decision to remove a Non-Executive Director from office because of critical comments he made about same-sex adoptions on Good Morning Britain.
- *Town v Chief Constable of Devon and Cornwall Police* [2021] IRLR 235. Acted for the successful officer before ET and EAT, establishing that the compulsory transfer of a pregnant police officer from front line duties amounted to pregnancy discrimination.
- *McNeil v Commissioners for Her Majesty's Revenue and Customs* [2020] ICR 515. Acting for the appellants in the first equal pay case to consider the approach to establishing "particular disadvantage" where pay is variable.
- *Galilee v Commissioner of Police of the Metropolis* [2018] ICR 634. Key decision on applications to amend in the ET: established that amendment takes effect from date of permission and that permission to amend can be granted subject to the time point being decided at full hearing. Significant authority in discrimination cases involving disputes over "continuing act".

#### *Other statutory employment claims*

- *Kassem v North Tees and Hartlepool NHS Foundation Trust* (ongoing). Acting for Associate Specialist doctor in whistleblowing and race discrimination claim, securing an award of nearly £100K for injury to feelings and personal injury on the basis that his career had been destroyed.
- *Mohammad v King's College Hospital NHS Foundation Trust* (ET, 2022). Successfully defended Trust in claim by consultant surgeon seeking career losses in alleged dismissal for making protected disclosures.
- *Uddin v London Borough of Ealing* [2020] IRLR 332. First appellate case to consider the implications of *Jhuti v Royal Mail* in determining whether a dismissal is fair.
- *Coletta v Bath Hill Court (Bournemouth) Management Co Ltd* [2020] ICR 703. Acting pro bono in the Court of Appeal, successfully establishing that there is no backstop on the recovery of compensation for a series of deductions from wages.
- *Vining v London Borough of Wandsworth* [2018] ICR 499. Important Court of Appeal decision recognising the right to consultation as a core aspect of Article 11 ECHR. Successfully represented UNISON and the individual appellants, establishing that the statutory exclusion of parks police from the scope of the Trade Union and Labour Relations (Consolidation) Act 1992 is an unjustified interference with Article 11 rights.
- *Edwards v Encirc Ltd* [2015] IRLR 528. Whether time spent by an employee on trade union duties is "working time" for the purposes of the Working Time Regulations 1998. Implications of case required specific guidance on whether trade union work meant that an employee

could not be furloughed.

## Judicial Review

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Betsan enjoys a thriving practice in public law proceedings which intersect with her employment and professional discipline expertise.

Notable recent work includes:

- *R (ASLEF and others) v Secretary of State for Business and Trade* [2023] EWHC 1781 (Admin). Successfully represented the NASUWT in its challenge to the lawfulness of the repeal of the statutory prohibition on using agency workers to cover for striking employees.
- *PF v Disclosure and Barring Service* [2020] UKUT 256 (AAC). Test case before Upper Tribunal (Administrative Appeals Chamber) on the scope of the UT's powers to interfere with the DBS' findings of fact in an appeal against barring.
- *Dr MS*. Acted for doctor in challenge to GMC Registrar decision to direct a review hearing without a change of circumstances as ultra vires and in breach of legitimate expectation.
- *Howard v Chief Constable of Greater Manchester Police*. Successfully represented Chief Inspector in challenge to Force's failure to pay him the value of his rest days in lieu as a breach of his legitimate expectations.
- *R (FBU) v South Yorkshire Fire and Rescue Authority* [2018] 3 CMLR 27. Successful judicial review challenge to Fire and Rescue Authority's continued use of a shift pattern breaching the Working Time Regulations 1998.

## Professional Regulatory & Discipline

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Betsan's practice is focused exclusively on representing registrants before their regulators. Her cross-over expertise between employment law, contractual disciplinary disputes and the regulatory arena gives her an acute understanding of the various considerations in play for doctors in difficulty.

### Notable Cases

- *PF v Disclosure and Barring Service* [2020] UKUT 256 (AAC). Acting for doctor in connection with decision to bar as unsuitable to work with vulnerable adults in connection with alleged misconduct in clinical practice.
- *Dr MS* (2020). Successfully argued before MPTS that decision of Registrar to direct a review hearing could not give rise to review in absence of change of circumstances and where substantive MPT had decided that there should be no hearing.
- *Dr LW* (2019). Whether dental records could be admitted in evidence before IOC when supplied to GDC in breach of GDPR.
- *General Dental Council v Ufodu* [2018] EWHC 3727 (Admin). Successfully established that admissibility of evidence before High Court on application to extend interim order is governed by CPR, not GDC Rules.
- *Dr UG* (2017). Successful defence of dentist charged with multiple counts of mixing private and NHS dental treatment.

## Commercial Law

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Betsan has a thriving practice primarily in employment based commercial work, where she advises and represents clients across a broad range of disputes, including

- Restrictive covenant cases;
- Data theft and database claims;
- Issues relating to termination of Board level employment;
- High value redundancy and negligent reference claims.

## Investigations & In-House work

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Betsan is a skilled investigator with a breadth and depth of experience in complex grievance, disciplinary and business disputes. Recent examples of her work include:

- Chairing a cultural review team at a leading independent school looking at issues arising from the Everyone's Invited expose of sexual harassment in the education sector.

- Conducting an investigation into complaints about pay disparity based on sex at a global philanthropic institution.
- Hands on advisory role in the conduct of an investigation into serious safeguarding concerns at an independent boarding school.
- Acting for a hedge fund in investigating multiple complaints about bonus payments
- Advising on the conduct of an investigation into a complaint of race discrimination by a pupil at a leading independent school.
- Acting for a university in the conduct of an investigation into alleged racist behaviour by students towards contractor staff during a protest.
- Conducting an investigation for a trade union into allegations of rape.
- Conducting an investigation into allegations and counter-allegations involving sexual assault, bullying, harassment and negligence at a well-known insurance company.
- Conducting an investigation into allegations and counter-allegations of sexual harassment, breach of confidentiality and mismanagement at an independent school;
- Conducting an investigation into an alleged breach of directors' duties at a leading cremation company.

She is regularly called upon to advise in the handling of complex disciplinary proceedings. She regularly presents disciplinary cases before internal panels, with specific expertise in the health and higher education sectors.

She also regularly sits on panels in a variety of internal hearings, including regularly acting as an independent panel member for stage 3 appeals in parental complaints against independent schools.

## Recent and current work

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- *R (ASLEF and others) v Secretary of State for Business and Trade* [2023] EWHC 1781 (Admin). Successfully represented the NASUWT in its challenge to the lawfulness of the repeal of the statutory prohibition on using agency workers to cover for striking employees.
- *Miles v DVSA* [2023] IRLR 630, EAT. Acted for the successful appellant: ET had erred in treating a driving examiner's fears about returning to work in summer 2020 because of the risk of Covid-19 to him as someone with as chronic kidney disease as an irrational belief and not an aspect of his potential disability.
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## Professional Recommendations

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"She's excellent; she's got a real encyclopedic knowledge."

### **Chambers & Partners 2024**

"Betsan is an outstanding advocate and clients love her with good reason. Her attention to detail and ability to advise on complex matters in very little time are astounding."

### **Chambers & Partners 2024**

"She is very pragmatic, robust in cross-examination and persuasive in submissions. She works well with us on strategy and client handling."

### **Chambers & Partners 2024**

"Betsan is extremely pragmatic and persuasive and able to distil complex issues in a supportive way."

### **Chambers & Partners 2024**

"Betsan is a brilliant technical lawyer. She can turn her to mind to a case and piece of work very quickly, and gives clear advice on merits and strategy. She is very quick-witted, authoritative and knowledgeable."

### **The Legal 500 2024**

"An absolutely outstanding advocate."

### **Chambers & Partners 2023**

"Betsan is exemplary in terms of her approach, preparation and advocacy. She has the ability to bring the judge around to her way of thinking and carries the confidence of the client."

### **Chambers & Partners 2023**

"Betsan is thoroughly prepared and a hugely skilful advocate - she is the barrister you don't want to be up against."

### **Chambers & Partners 2023**

"Her attention to detail is exemplary and she is up for a fight on all occasions. Her advocacy skills and client management are fantastic."

### **Chambers & Partners 2023**

"Betsan has encyclopaedic knowledge of MHPS case law and has represented practitioners in a number of key cases. Excellent advocate, well prepared and persuasive."

### **The Legal 500 2023**

"Fantastic brain, great advocate, works really well with the client (solicitor and lay client), and particularly brilliant knowledge of case law for doctors' disciplinary cases. Her ability to ensure that a complex case is well presented and set out for tribunals and panels is a particularly great asset."

### **The Legal 500 2023**

"A formidable advocate, whose advice is robust, practical, approachable, accessible, and extremely client friendly." "Betsan is phenomenally clever. She is great at coming up with new legal points and really knows her stuff."

### **The Legal 500 2022**

"Betsan is a true expert in her field and she is an investigations mastermind. She is responsive, she engages with clients and she is brilliant on her feet, and hugely in demand at all times because of it." "She is tough but she has a great bedside manner, she gets to the truth and she has real empathy." "She is so tenacious, she really gets to grips with complex issues and she makes it very simple for the tribunal to get to grips with." "A fiercely intelligent barrister who is delightful to work with."

### **Chambers & Partners 2022**

"She's supportive, on top of the detail, technically excellent and great to work with." "She's a persuasive and tremendous advocate." "She's an excellent lawyer and is impressive on her feet."

### **Chambers & Partners 2021**

"Betsan has a dazzling intellect, coupled with a smooth, calm and persuasive delivery which bowls over opponents and impresses Tribunals. She has established herself as a leading senior junior and his hugely popular with solicitors and defence organisations." "Incredibly knowledgeable about discrimination. She is a strong and passionate advocate, who is excellent with vulnerable clients and fights hard for her clients, whichever side she is on."

### **The Legal 500 2021**

"Tenacious, sharp and very user-friendly. She has a steely determination and is great to have in your corner during hard-fought litigation." "She has forensic attention to detail, and her advice is always very clear and focused on practical solutions." "Superbly responsive and very clear in her communication, style and approach. She takes no prisoners and is realistic in her advice."

### **Chambers & Partners 2020**

"She has a formidable courtroom presence and is particularly strong in both her written and oral advocacy." "Well known for representing medical professionals in disciplinary cases."

### **The Legal 500 2020**

"Immeasurably intelligent, with a razor-sharp eye for detail."

### **Chambers & Partners 2018**

**"She's very robust, incredibly hard-working and performs at a much higher level than her year of call would suggest. She's a real star for the future."** Betsan Criddle KC is praised by sources for her **"responsive, decisive and directional"** approach. **"She's very knowledgeable and difficult to be up against."**

### **Chambers & Partners**