

## Helen Gower

**CALL: 1992**

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## Overview

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Helen Gower's practice is currently focussed in the field of professional regulation. In 2010, Helen was appointed as a Legal Assessor for the Health and Care Professions Council. Her current appointments for regulators include:

- Legal Adviser ACCA
- Legal Adviser General Dental Council
- Legal Adviser Social Work England
- Legal Adviser General Optical Council
- Legal Assessor Health and Care Professions Council
- Legal Assessor Farriers Registration Council
- Legal Adviser General Chiropractic Council

Helen advises on procedural and legal issues in fitness to practise hearings and registration appeal hearings and she prepares draft decisions. She advises on a wide range of issues including proceeding in the absence of the Registrant, admissibility of evidence, applications relating to vulnerable witnesses, issues relating to discrimination and the Equality Act 2010, discontinuance, voluntary removal, interim order applications and reviews, reviews of substantive orders and restoration to the register.

Helen's practice also includes discrimination law. In 2022 Helen was appointed as lawyer for an Independent Review Board set up by a political party to review decisions relating to complaints involving protected characteristics. This role involves making decisions as to whether decisions are compliant with the relevant constitutional rules and the Equality Act 2010.

Helen's area of practice within employment law includes unfair and wrongful dismissal, TUPE, maternity and paternity rights, victimisation on the ground of trade union activities, failure to consult on collective redundancies, TUPE, working time, deductions from wages and employment-related contractual disputes. Helen is recommended in *Chambers & Partners UK* for the South West. Helen undertakes equal pay work including drafting, advisory and advocacy work including multi-party claims. She has been currently instructed in several claims involving local authorities and other government organisations such as the Audit Commission.

Helen also has experience in County Court and High Court employment related disputes. She successfully defended a union in a claim for negligent advice relating to the termination of employment.

Helen is an accredited mediator.

## Appointments

- Legal Adviser ACCA
- Legal Adviser General Dental Council
- Legal Adviser Social Work England
- Legal Assessor HCPC
- Legal Adviser General Optical Council
- Legal Adviser Farriers Registration Council
- Legal Adviser General Chiropractic Council
- Lawyer for a political Party's new Independent Review Board

Helen is a member of ILS, ELA, ELBA, ARDL.

## Expertise

- Education & Safeguarding
- Employment & Discrimination
- Finance
- Health
- Insurance
- Mediation
- Professional Regulatory & Discipline
- Public Law
- Retail and Consumer

## Recommendations

"Very thorough in her preparation and has a good track record of winning cases for us." *Chambers & Partners 2022*

"She is eloquent before the court and has a very good manner with clients and the other side." *The Legal 500*

## Key contacts

### Samantha Jones (Maternity leave)

**Deputy Senior Clerk**

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### Jordan Bater

**Team Leader Assistant**

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## Employment & Discrimination

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Helen is regularly instructed in complex discrimination, equal pay and PIDA (whistleblowing) claims. Her practice also includes unfair and wrongful dismissal, TUPE, maternity and paternity rights, victimisation on the ground of trade union activities, failure to consult on collective redundancies and TUPE, working time, deductions, negligence claims relating to employment issues, contractual disputes and deductions claims.

Helen represents Claimants including Claimants supported by their trade union, and a wide range of Respondents including local authorities, police authorities, educational institutions, health service bodies, and commercial and financial organisations.

Helen has experience of a huge range of discrimination claims. This includes handling claims where there is a long history of attrition between employer and employee. For example, she represented a local authority Respondent in a disability discrimination claim which included more than forty different allegations of disability discrimination which were alleged to have occurred over more than three years. Helen has also represented a GP practice in defending a claim for discrimination because of religion. Helen is particularly interested in discrimination cases exploring the relationship between UK law and EC law. This was one of the important themes in *Rhys-Harper v Relaxion* where Helen represented Ms Rhys-Harper throughout the appeal process up to the Supreme Court.

Helen also has experience in claims for discrimination on grounds of trade union activities and blacklisting.

In equal pay cases, Helen undertakes drafting, advisory and advocacy work including multi-party claims. She has been instructed in several claims involving local authorities. The issues in these cases include compliance with the grievance procedure, identification of comparators and possible use of a hypothetical comparator, whether "Agenda for Change" (a job evaluation scheme in the NHS is discriminatory). Helen has represented claimants in cases relating to the material factor defence such as the investigation of different types of bonus, whether the particular bonus can be justified on the ground of productivity benefits for an employer and whether the extent of the differential in pay is proportionate.

Helen represents Claimants and Respondents in protected disclosure (whistleblowing) claims. The subject matter is very broad including a claim relating to safety in motorway maintenance and a claim raising alleged accounting fraud.

In TUPE cases, Helen has experience of representing Respondents and Claimants in multi-party claims. She recently represented a group of print workers in a claim that included issues of whether there was a TUPE transfer, whether dismissal was transfer related, special circumstances defence, failure to consult on redundancy and failure to consult on TUPE. Helen also represented the successful Claimants in the failure to consult on redundancy claim of *Leicestershire v Unison* where Leicestershire terminated contracts and offered new contracts of employment.

Helen advises and represents parties in employment-related disputes in the County Court and the High Courts. She successfully defended a trade union in a claim relating to alleged negligent advice relating to an employment matter.

Helen has been appointed as lawyer for the Independent Review Board of a political party. The role involves the review of decisions relating to disciplinary decisions taken by the party involving protected characteristics.

Helen is a member of ILS, ELA and ELBA. She undertakes pro bono work through the EAT ELAAS scheme.

## Discrimination and Equal Pay

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- *Rhys Harper v Relaxion* IRLR 484 HL, 460 CA, 810 EAT - discrimination claims after termination of the employment contract;
- *Haq v Audit Commission* EWCA 1621; IRLR 203. Equal pay, material defence and justification;
- *Dattani v Chief Constable of West Mercia Police* - IRLR 327 burden of proof and whether inference should be drawn from inaccurate response to questions not in the form of a statutory questionnaire;
- *Catherall v Mchelin Tyre plc* IRLR 61 whether DDA applies to constructive dismissal;
- *Vernon v LBHFEqLR 527*. Race discrimination failure to promote and victimisation relating to communications to ACAS.

## Failure to consult

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- *Leicestershire County Council v Unison* – IRLR 810 CA and IRLR 920 – failure to consult on collective redundancies – effect of EC law;
- *Optare Group v TGWU* IRLR 931. Failure to consult on collective redundancies. Whether volunteers for redundancy included in the requirement for a minimum of 20 redundancies.

## Procedural issues and bias

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- *Khudados v Leggate* IRLR 540 principles relating to applications to amend appeal in EAT;
- *De Haney v Brent Mind* ICR 348 composition of the EAT – whether parties should be advised of status of member if not a full panel;
- *Swansea v Honey* UKEAT/0030/08/RN. Bias and procedural irregularity;
- *Ippoma v BFAWU* UKEAT 0007/13/RN. Inadequate Tribunal reasons in unfair dismissal case.

## Professional Regulatory & Discipline

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Helen is a legal assessor for health profession and social worker disciplinary panels.

Helen also represents practitioners in professional conduct proceedings.

As a legal assessor, Helen has experience of a full range of conduct, competence and health cases including issues relating to convictions, sexual misconduct, dishonesty, clinical errors and record keeping. Helen advises panels on procedural issues including adjournments, proceeding in the absence of the Registrant, sitting in private, and evidential issues.

Helen has represented nurses and midwives in disciplinary proceedings. This included a case where Helen preserved the registrations of four nurses in a case where a patient had committed suicide.

Helen is a member of ARDL.

## ADR / Mediation

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Helen is an accredited mediator through the ADR Group.

## HR Professional Support

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Helen's special area of expertise is advising disciplinary panels and helping disciplinary panels to draft the written decisions. She currently holds appointments as Legal Adviser for fitness to practice proceedings involving a range of professions including ACCA, the General Dental Council, General Optical Council, Social Work England, and the Health and Care Professions Council.

She has considerable experience of the practical issues arising in disciplinary hearings, including applications for adjournments, arrangements for witnesses giving evidence including handling potential conflict of interest, vulnerable witnesses, "half-time" submissions, and matters relating to admissibility of evidence.

She assists panels to draft concise structured decisions that address all relevant issues. She is able to prepare written decisions based on the reasons of the panel on the day of the hearing. She has experience in ensuring that hearings are fair, both for those represented by experienced legal representatives and for those who are unrepresented.

Helen's advocacy experience in the field of employment law and discrimination gives her a sound knowledge base for conducting disciplinary hearings and investigations.

Helen is an accredited mediator.

## Recent and current work

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- *Haq v Audit Commission* EWCA Civ 1621; IRLR 203. Equal Pay, material factor defence and justification;
- *Vernon v LBHFE* LR 527. Race discrimination failure to promote and

victimisation claim relating to communications to ACAS;

- *Yilmaz v LBTH* ET. 8 day hearing. Claim for unfair dismissal – some other substantial reason, race discrimination and harassment, disability discrimination and harassment;
- *John v LB Newham* (ET). Claim for unfair dismissal, race discrimination, harassment on grounds of race and sex, and breach of contract.

## Professional Recommendations

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“Very thorough in her preparation and has a good track record of winning cases for us.”

### Chambers & Partners 2022

“A real expert in this area.”

### Chambers & Partners 2021

“One to watch.”

### Chambers & Partners 2020

“She is eloquent before the court and has a very good manner with clients and the other side.”

### The Legal 500 2020

“She has an impressive ability to process complex documents.”

### Chambers & Partners 2018

“Her technical knowledge is brilliant.”

### The Legal 500 2017

“Knows the law inside-out on discrimination and equal pay matters.”

### Chambers & Partners