



## Ian Truscott KC

CALL: 1996

Email Clerk:

Telephone Clerk:



### Overview

Before being called to the Bar, Ian was a solicitor from 1973 to 1987.

Ian Truscott KC has appeared in the European Court of Justice, the House of Lords, the Court of Appeal, the Inner and Outer Houses of the Court of Session, the Employment Appeal Tribunal in Scotland and England, the Central Arbitration Committee and employment tribunals throughout Scotland, England and Northern Ireland.

Employment Tribunal Chair (England & Wales) in Newcastle ET.

Has appeared in the Piper Alpha Inquiry, the Ocean Odyssey Inquiry, the Orkney Inquiry and the Scotland/Northern Ireland Electricity Interconnector Inquiry.

#### Notable Employment Cases Include:

- *Transocean International Resources Ltd & Ors v. T L Russell & Ors*, EAT, LTL 4/12/2006
- *City of Edinburgh Council v. (1) C Wilkinson & Ors (2) A McLeod & Ors*, EAT, LTL 24/12/2009
- *Allan J MacDonald v. Free Presbyterian Church of Scotland*, EAT, LTL 29/3/2010
- *Aegon UK Ltd v. Roberts*, [2010] ICR 596, CA, calculation of pension loss
- *The Scottish Coal Company v. Employment Appeal Tribunal sub nom Crouch Mining Ltd*, IH, [2005CSIH68]
- *Prescription Pricing Authority v. Dr John Johnston Ferguson*, IH, [2005CSIH5]
- *Dignity Funerals v. William Douglas Bruce*, IH, (2005) IRLR 189
- *MacDonald v. Advocate General for Scotland: Pearce v. Governing Body of Mayfield School*, HL, (2004) 1 All ER 339
- *M P B Structures v. Employment Appeal Tribunal sub nom Munro v. M P B Structures Ltd*, IH, (2004) ICR 430
- *Albion Automotive Ltd v. Graham Walker & 20 Others*, CA, LTL 21/6/2002

#### Publications

- Co-author, Employment section, Stair Memorial Encyclopaedia
- Scottish Editor, Encyclopaedia of Employment Law

#### Appointments

- 2002 to present: Part-time Employment Tribunal Judge (England & Wales); sitting in Newcastle
- 1993 to 1997: Standing Junior Counsel, Scottish Natural Heritage
- 1980 to present: Chairman, Employment Law Group of the Law Society of Scotland

### Employment

Ian Truscott QC practises at both the English and Scottish Bars and inter alia has represented claimants and respondents in the most significant cases in Scotland throughout the 1990's and the early years of the 21st Century as outlined below.

#### Equal Pay

Between 1990 and 1995, Strathclyde Regional Council, then the largest local authority in Europe was faced with a series of 'class' type actions raised by various groups of employees, including teachers, nursery nurses, outdoor education instructors and instructors in special needs establishments who

### Expertise

### Recommendations

"Old Square are my preferred set of chambers and have been throughout my career. They will always try to accommodate needs and the set are very down to earth and approachable. We have developed very good working relationships with the team over the years." Chambers & Partners

### Key contacts

launched a series of ‘test cases’, namely;

- *Wallace and Others v. Strathclyde Regional Council*, [1998] IRLR 146 HL;
- *Lilley and Others v. Strathclyde Regional Council*;
- *Fowler and Others v. Strathclyde Regional Council*;
- *Fulker and Others v. Strathclyde Regional Council*;
- *Fernie and Others v. Strathclyde Regional Council*;
- *Rybarczyk and Others v. Strathclyde Regional Council*;
- *Marshall and Others v. Strathclyde Regional Council*.

The value of those claims was in excess of £100million. Two of these cases, *Wallace and Others v. Strathclyde Regional Council* and *Marshall and Others v. Strathclyde Regional Council* (sub nom *Glasgow City Council v. Marshall and Others*) were finally determined by the House of Lords.

The latter case remains the lead authority on section 1(3) of the Equal Pay Act 1970 (as amended) in respect of the scope of ‘objective justification’ in direct and indirect claims. Mr Truscott represented Strathclyde Regional Council in all the aforementioned cases (and for those cases which were the subject of appeal after local government reorganisation in 1996, Strathclyde Regional Council’s 11 statutory successors) at all stages from the employment tribunal to, in the *Wallace* and *Marshall* cases, appearance in the House of Lords. In all the aforementioned cases Mr Truscott, representing the employers was successful.

In 1998, all the primary school head teachers in state schools in the 32 local authorities in Scotland, with union backing, raised equal pay claims seeking parity of pay with secondary head teachers. The value of these claims was, nationally, approximately £3/4 billion. Three ‘test cases’ (*Morton, Nutt and Paterson v. South Ayrshire Council*) were selected by the claimants’ trades union on the basis that they raised all the issues necessary to cover all the circumstances disclosed in the cases which had been lodged nationally. Mr Truscott QC represented the employers. Evidence was taken over 58 days, making this case the longest running equal pay case to date in Scotland. Notwithstanding various issues of principle, such as the permitted scope of a cross-employer comparison and the validity of parasitic claims which were the subject of appeals to the Court of Session, the case was decided in 2003 and the employers were successful; the judgment was not appealed.

As well as representing employers in the cases referred to above, Mr Truscott also represented the successful claimants in *McGuinness and Others v. Scottish Power*, an equal value case backed by UNISON. He has appeared in a number of other equal pay cases over the years.

Mr Truscott is also Visiting Professor of Law at the University of Strathclyde and from time to time lectures to graduate and undergraduate students in various areas of employment law, including that relating to equal pay. In 2004, Mr Truscott was awarded the degree of Doctor of Philosophy for his thesis, entitled ‘The Equal Pay Act 1970 – An Act Suitable for the 21st Century? An analysis of the aetiology and origins of the Equal Pay Act 1970, its subsequent amendment and judicial interpretation and an assessment of whether this Act may still fulfil a relevant function and purpose in the 21st century.’

In addition to academic, representational and opinion work in the field of equal pay, Mr Truscott also regularly speaks on the subject to experienced legal practitioners, at various conferences and seminars.

#### **TUPE**

Ian undertakes a significant amount of work in the area of TUPE and has been involved in the following notable cases:

- *Lister v. Forth Dry Docks*, House of Lords in 1989.
- *Allen v. Sterling District Council*, Inner House of the Court of Session (Scotland equivalent of the CoA).
- *Kelman v. Care Contracts*, EAT.
- Jan ‘04 TUPE re: transfer of Passenger Ferry Services from P&O to Northlink (2 weeks in Aberdeen)

Ian is regularly in the tribunals on other TUPE cases.

## **Professional Recommendations**

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