

## Robert Moretto

CALL: 2000

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### Overview

Robert is an expert in employment, discrimination, public law and human rights.

He is listed as a leading junior in Chambers & Partners and The Legal 500. Chambers and Partners has described him as **“extremely knowledgeable and approachable”** and **“a robust advocate and an experienced cross-examiner with a great eye for detail”**. **The Legal 500 says that he “conducts himself in accordance with the finest traditions of the Bar”**.

He has recently been involved in numerous high-profile and ground-breaking cases, in particular in cases of discrimination under both the Equality Act 2010 and the European Convention on Human Rights. Recent cases include:

- *A & B v CICA, Supreme Court [2021] UKSC 27* – whether the provisions of the Criminal Injuries Compensation Scheme breach the Article 4 rights of victims of trafficking or discriminates against them under Article 14 of the Convention.
- *NUPFC v Certification Officer and Others, Court of Appeal [2021] IRLR 588* – whether the Trade Union and Labour Relations Act 1992 breaches foster carers’ Article 11 rights to freedom of association and Article 14 discrimination rights.
- *McNeil & others v HMRC, Court of Appeal [2020] 2 All ER 33* – multi-party equal pay claim on the correct approach to establishing particular disadvantage under the Equality Act 2010.
- *Gourlay v Parole Board, Supreme Court, [2020] 1 WLR 5344* – whether the Parole Board is a Court for the purposes of costs in judicial review proceedings.
- *Gilham v Ministry of Justice, Supreme Court, [2019] 1 WLR 5905* – whether judges are workers and whether the exclusion of judges from the whistleblowing provisions of the Employment Rights Act 1996 breaches judges’ Article 10 human right to freedom of expression and Article 14 discrimination rights.

Robert has been on the Attorney General’s A Panel of Counsel since 2015 and represents and advises an extensive range of government departments and agencies. He also appears on behalf of trade unions and trade union-funded clients, as well as NHS Trusts.

#### Appointments:

- Appointed Junior Counsel to the Crown (A Panel). September 2015 –
- Appointed Junior Counsel to the Crown (B Panel). March 2010 – August 2015
- Appointed Junior Counsel to the Crown (C Panel). February 2006 – March 2010

#### Memberships:

- Administrative Law Bar Association
- Employment Lawyers Association
- Employment Law Bar Association
- Industrial Law Society
- ELAAS Scheme

### Expertise

- Administrative & Public Law
- Civil Liberties and Human Rights
- Education & Safeguarding
- Employment & Discrimination
- Finance
- Health
- Insurance
- Media and Entertainment
- Professional Regulatory & Discipline
- Public Law
- Retail and Consumer

### Recommendations

"He is an experienced cross-examiner who regularly appears in the appeal courts and he has a great eye for detail." "He gets to grips with the issues, he is very clear in terms of the merits and prospects of a case and he instils clients with confidence." Chambers & Partners 2022

"A credit to the profession." "He has an ability to understand the issues quickly and to focus on the key areas of importance in the case. Good at developing a strong working relationship with the client and their witnesses in preparation for the hearing and during the hearing. Lay clients are impressed with Robert’s conduct of the case at the hearing and the successful outcome." The Legal 500 2022

### Key contacts

#### William Meade

Senior Clerk

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#### Olivia Moliterno

Team Leader

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#### Paul Adams

Senior Team Leader

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Robert represents and advises clients across a whole range of employment matters, but his particular expertise is in equal pay, discrimination, whistleblowing and claims relating to cross-workforce issues. Reported cases include:

### Discrimination/European Law

- *Mackereth v DWP, October 2019, Employment Tribunal* – high-profile religious discrimination claim relating to treatment by a doctor of transgender customers.
- *Wilson v. Health and Safety Executive [2010] 1 C.M.L.R. 24, [2010] ICR 302, Court of Appeal*; service-related pay schemes.
- *Attridge Law v. Coleman [2007] 2 C.M.L.R. 24, [2007] IRLR 88, EAT*; associative discrimination.
- *Allonby v. Accrington & Rossendale College [2004] 1 C.M.L.R. 35, [2004] ICR 1324, European Court of Justice*: comparators in equal pay claims and access to occupational pension schemes.

### Equal Pay

- *Jermin & Williams v DVLA and Department for Transport (Central London ET)(2007-2013)*: multi-party equal pay claims brought by claimants working in the DVLA.
- *Highland Council v. TGWU and others [2008] IRLR 272, EAT (Scotland)* – multi-party equal pay proceedings concerning the extent to which unions had complied with the requirement to lodge grievances on behalf of their members.
- *Home Office v. Bailey & others [2005] ICR 1057, Court of Appeal*: the circumstances in which a Tribunal can determine that there is sufficient disparate impact to require an employer to objectively justify a difference in pay.

### Pay Systems

Robert also has extensive experience of public sector pay systems and has advised several government departments and agencies, and NHS Trusts, in respect of large scale pay and grading reviews, and claims relating to terms and conditions.

### Professional Discipline

Robert also has experience representing staff and employers in internal disciplinary hearings, including doctors, teachers and police hearings, as well as in injunctive relief proceedings in the High Court. E.g. *Sarker v Worcester Acute Hospitals NHS Trust [2015] EWHC 165 (QB)*

## Administrative & Public Law

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Robert appears in both the High Court and Upper Tribunal in particular in matters relating to human rights, employment, the Parole Board and the Criminal Injuries Compensation Scheme. Recent cases include:

- *Morris v Parole Board, Divisional Court [2020] ACD 119* – challenge to Parole Board's Guidance on Allegations published following the Worboys proceedings.
- *DSD & NVB, Mayor of London & News Group Newspapers v Parole Board, Secretary of State for Justice, & John Worboys [2019] QB 285* – judicial review of Parole Board's decision to release taxi cab rapist John Worboys.
- *JT v CICA, Court of Appeal [2019] 1 WLR 1313* – whether the same roof rule provisions of the Criminal Injuries Compensation Scheme breached the Article 1, Protocol 1 rights (possessions) and Article 14 rights of victims of childhood sexual abuse.
- *Criminal Injuries Compensation Authority v First-Tier Tribunal [2018] EWCA Civ 1175*: Judicial review of award of First-Tier Tribunal to firefighter injured whilst fighting a fire.
- *VG v First-Tier Tribunal and CICA [2017] UKUT 49 (AAC)*: Art 2 (right to life) challenge to a criminal injuries compensation decision.
- *RT v First-tier Tribunal and CICA [2016] UKUT 306 (AAC)* (29 June 2016). Judicial review of First-Tier Tribunal decision to reduce award where applicant has criminal convictions and/or fails to co-operate with police.
- *DT (Afghanistan) v. Secretary of State for the Home Department [2014] EWCA 259, Court of Appeal*. Appeal against the Upper Tribunal's judgment that an asylum seeker was not at risk on return to Kabul.

Robert has also advised a union on employment and human rights implications of the Prevent Duty under the Counter Terrorism and Security Bill 2015. The advice was reported in *The Independent* and *The New Statesman*, and referred to in

debate in the House of Lords.