

Simon Gorton QC

SILK: 2011 | CALL: 1988

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Overview

Simon Gorton QC is a barrister specialising in all aspects of employment law. Simon's expertise is in Employment Tribunals, the High Court and at all appellate levels.

Simon regularly appears for and advises clients as diverse as banks, police forces, PLC's, trade unions, hospital trusts, universities, individual claimants and direct access clients.

He has appeared in numerous reported cases that are wide ranging including equal pay and victimisation (*Derbyshire v St Helens MBC*, *Fox Cross Claimants v Glasgow City Council*), the lead authority in respect of contractual rights conferred by custom and practice (*Shumba v Park Cakes Ltd*), TUPE (*Wilson v St Helens MBC*, *Housing Maintenance Solutions v McAteer*, *Arch Initiatives v Greater Manchester West Mental Health NHS Foundation Trust*), whistleblowing (*Noon Jhutti v Royal Mail Group*), worker status (*Hospital Medical Group Ltd v Woodward*) the legality of strike ballots (*Metrobus v Unite the Union*), working time issues (*South Manchester Abbeyfield Society v Hopkins*) and unfair dismissal and wrongful dismissal (*Nugent Care Society v Boardman and Nunn v Royal Mail Group*).

He is recommended as a leader in employment law both in *Chambers & Partners* and *The Legal 500*. Endorsements attributed to Simon include that he has **"the right touch with clients"** and is a **"very practical and shrewd operator"** who earns top marks for his expertise on equal pay and TUPE litigation; **"incisive, determined"**. Simon lectures regularly on a variety of employment law issues.

Employment & Discrimination

Restrictive covenants and linked commercial work

Heavy advisory and court-based practice for claimants and defendants in connection with breach of employment obligations including actions concerning breach of confidence and restrictive covenants. Ongoing cases include High Court springboard injunction proceedings for various large companies including 2 PLCs.

Regularly advises on issues relating to bonuses. Recently successfully mediated a bonus case on behalf of a Claimant involving dismissal prior to the accrual of a substantial bonus. The Claimant's case was put on the basis that it was a breach of an implied term to dismiss without good cause when doing the same deprived the Claimant of the accrued but as yet unpaid bonus.

Successfully represented former employee sued for conspiracy to defraud in the High Court and successfully pursued claim in the Employment Tribunal resulting in an award of damages and costs against the employer.

Involved in football litigation and recently involved in High Court and Employment Tribunal proceedings against Chelsea Village Plc.

Happy to accept instructions on a CFA basis.

Discrimination

Simon has substantial experience of appearing in, and particularly advising on, equal pay issues for employers and employees.

Expertise

- Insurance
- Retail and Consumer
- Media and Entertainment
- Clinical Negligence
- Commercial Law
- Education & Safeguarding
- Employment & Discrimination
- Environment
- Finance
- Health & Safety & Environmental Law
- Personal Injury
- Public Law
- Sport

Recommendations

Simon Gorton, who divides his time between Atlantic Chambers in Liverpool and Old Square Chambers in London, is "outstanding at building a case and excellent at cross-examination." Chambers & Partners

"The impressive Simon Gorton QC is another vastly experienced employment specialist at the set and a real force to be reckoned with." Chambers & Partners

His "tactical approach to proceedings" and "formidable" advocacy style give him an edge. one commentator noted: "His polite cross-examination technique is deadly." Chambers & Partners

Key contacts

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Paul Adams

He has experience of advising on settlement of Employment Tribunal claims on a collective basis and also appearing in ETs with regard to attempts to overturn COT3 agreements.

Simon is currently advising a prominent local authority in connection with single status, pay protection and the effects of the *Redcar & Cleveland* decisions. This is very much an evolving issue.

He has been in two high-profile reported decisions for both employers and claimants:

- *Derbyshire v. St Helens*. House of Lords dealing with the legitimate boundaries of an employer's ability to persuade equal pay litigants to compromise their claims. This is now *the* definitive authority on victimisation in discrimination law.
- Appeared for the claimant in *Kells v. Pilkington Plc [2002] IRLR 693 EAT* in connection with identification of proper comparators in equal pay cases.

Recently reported case of National Probation Service for England and Wales (Cumbria Area) v Kirby on what conduct is covered by anti-victimisation legislation.

Represented the employers/pub owners in the Commission For Racial Equality supported test case of *O'Leary & Others v. Allied Domecq*, which determined that Irish Travellers were an ethnic group within the meaning of the Race Relations Act.

Regularly instructed in multi-week sex, race and disability claims (employer and employee mix). Recently completed a successful three week disability claim for a claimant against the Prison Service in which the claimant was awarded damages and her costs.

Regularly instructed to advise and represent solicitors' partnerships in relation to sex discrimination and related matters.

Recently lectured on Sexual Orientation, Religious and Other Belief Regulations to the Liverpool Law Society.

TUPE

Appeared as junior counsel in the House of Lords in the landmark TUPE case of *Wilson v. St Helens MBC*.

Regularly advises on and represents parties in respect of all aspects of TUPE.

Recently successfully represented legal fee earners in a TUPE case against Manchester solicitors, John Hardman & Co, leading to an award of damages in excess of six figures. This case is on appeal to the EAT.

Recent reported decision on TUPE avoidance following multi-week hearing *Astles & Others v. Cheshire County Council and another*. Other reported cases include *RCO Support Services v. Unison* and *P & O Trans European Ltd v. Initial Transport Services Ltd*.

General Employment

Handles all types of employment disputes and regularly appears in the Employment Tribunal and has a substantial appellate practice in the EAT.

Recently represented a managing director of a large company for unfair dismissal in the Employment Tribunal. The Claimant was awarded the maximum compensatory award and his costs.

Regularly instructed in appellate matters. Cases include: Court of Appeal case of *Ind Coope v. Alboni* on determining the reason for dismissal; EAT case of *Constantine v. McGregor Cory* on reinstatement and remedy; Court of Appeal case of *Whitbread Plc v. Hall* on the band of reasonable responses.

Personal Injury

Simon has extensive experience of all aspects of personal injury work including brain, spine and complex psychiatric cases.

Simon recently represented a claimant in a tetraplegia case instructed by Thompsons Solicitors. This case was contested on liability and quantum. The claimant was successful on all counts and received a multi-million pound settlement as well as a periodical payments order in respect of the claimant's ongoing care well in excess of £200,000 annually.

Simon's employment work also overlaps with his personal injury work in cases particularly relating to the Protection from Harassment Act and stress claims.

Senior Team Leader

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General Civil Litigation

Simon is regularly instructed by police forces in respect of civil claims involving mainly false imprisonment and malicious prosecution. He was recently involved in a 3 week High Court trial defending Lancashire Police.

Recent and current work

- Simon is heavily involved in English Scottish Equal Pay litigation both at an ET and an appellate level including the Highland Council litigation. Appeared successfully against Edinburgh City Council in lead case on the meaning of establishment under the Equal Pay Act;
- Has been advising trade unions and employers on all aspects of equal pay litigation;
- Currently representing UNITE in industrial action litigation in connection with strike action on London buses in the summer of 2008. One matter progressing to the Court of Appeal;
- Advising North West of England Councils on TUPE and other related employment aspects in connection with local government reorganisation;
- Heavy advisory based practice in restrictive covenants and restraint of trade work. Appeared several times in the High Court in respect of Springboard applications; applications to enforce express restrictions; full trials in respect of enforcing restrictive covenants.

Notable Cases

- [CSC Computer Sciences Ltd v. McAlinden & Others \(Court of Appeal\)](#)
The Court of Appeal held that the practice of paying employees at least RPI wage increases could crystallise into a contractual term, even if the practice had been based on...
- [Metrobus Limited v. Unite The Union](#)
The requirements imposed on trade unions by the Trade Union and Labour Relations (Consolidation) Act 1992 s.226A, s.231A and s.234A were not disproportionate restrictions on rights under the European Convention...
- [MPG Contracts Ltd v. \(1\) Mr A England \(Junior\) \(2\) Mr A England \(Senior\)](#)
The EAT's decision in MPG Contracts Ltd v. Mr A England and another (UKEAT/0488/08/DM) judgment handed down on 8 May 2009, concerned, as the EAT described it, the well worn...
- [Highland Council v. \(1\) TGWU & UNISON \(2\) GMB \(3\) All individual claimants](#)
A trade union, which wrote to a local authority to complain about pay inequalities suffered by its members, had not lodged a collective grievance for the purposes of the Employment...
- [Derbyshire & Others v. St Helens Borough Council](#)
- [St Helens MBC v. J E Derbyshire & Ors](#) See all cases