

JOHN BOWERS QC

Silk: 1998 | Call: 1979



Overview

John Bowers QC was described by Chambers and Partners in 2009: *“The “extremely clever and cuttngly funny” John Bowers QC is recommended for his “second-to-none” interpretation of statutes. TUPE and equal pay are particular areas of expertise and he has been representing 15 councils, facing more than 15,000 equal pay claims between them.”* In the 2012 edition of Chambers, John is described as being *“very bright and enormously experienced”* and *“lovely to deal with and goes over and above the call of duty for his clients”*.

Commanding the respect of the judges for many years John Bowers QC is one of the premier employment barristers in the UK. Lauded by legal directories and the legal press for his intellectual and technical abilities, clients have praised John for his ‘towering intellect’ while one was quoted as saying he has ‘a brain the size of a planet’. He has also been described as “an employment law rock star”. He is also highly approachable and a team player. A client in a recent tribunal case commented: *“What a pleasure it has been for me to be acquainted with someone who so keenly demonstrates what the profession should be all about”*. (Jeff Heller, Associate General Counsel. BP Legal).

In 2010 he was Chambers Directory’s Employment Silk of the Year.

A frequent lecturer on employment law, **John has written 15 books including Bowers on Employment Law, now in its Seventh Edition, The Law of Industrial Action and Trade Union Recognition and Whistleblowing.** The latter two are recognised as the leading works in their field. He has been an author of Blackstones’ Employment Law Practice each year from 2006 until the present (and was formerly its General Editor) and is a frequent contributor to the Law Society Gazette, New Law Journal and the Industrial Law Journal. He was also the first general editor of the work The Law of Transfer of Undertakings published by Lexis Nexis. He is also an editor of Atkins Court Forms.

A CEDR trained mediator, John was the coordinator of the Workplace Mediation Project which researched the use of mediation especially in sexual harassment cases. After attending Mathew Humberstone Comprehensive School in Cleethorpes, John gained a scholarship to Lincoln College, Oxford where he graduated with First Class Honours. He then completed a Bachelor of Civil Law at the same College and later taught at weekends for four years at Lincoln and St Hughs College and Christ Church, Oxford. He was called to the Bar in 1979 and took silk in 1998. He has been in turn a Member of the Committee of the Industrial Law Society and of the Employment Law Association and Honorary Legal Advisor at Turnpike Lane Advice Centre. He currently carries out work for the Bar Pro Bono Unit and the ELAAS scheme.

John is a former Chair of the Employment Law Bar Association, and now sits as a Recorder on the Midlands Circuit and **a Deputy High Court Judge with an Administrative Court and Queens Bench Division “ticket”**. As such he tends to hear primarily employment, immigration and education disputes. Between 2001-2003, he was a Member of Home Office Task Force on Human Rights. He used to be Honorary Legal Adviser for Public Concern at Work, the whistleblowers charity. Between 2001-5 John was a Member of Standard Board for England (Regulator of ethical standards in local government). **Since 2003 he has been an Honorary Professor at the University of Hull** where he lectures each year and since 2005 a Bencher of Middle Temple (and a member first of its Estates Committee and later of the Students Affairs Committee). He used to sit as a chair on Bar Disciplinary summary Tribunals and **was for some years on the Bar Council’s Race Relations Committee.**

He was a member of the Standards Committee of the Metropolitan Police Authority until its abolition and remains a trustee of a charity for a school which educates both Jews and Arabs. He has also taught part time at the following Oxford Colleges: Christ

Church, Lincoln and St Hughs, and also at the Middlesex Polytechnic (now Middlesex University). He judges moots at Universities and has sat on university disciplinary bodies as well as regularly acting for universities.

Employment Law: General

Acting for both employers and employees, John has a stellar employment practise with a recent emphasis on equal pay cases, and a significant experience of cases involving TUPE, human rights law, unfair dismissal, discrimination and the employment aspects of the reorganisation of companies. He also practices in the fields of judicial review and education. In the latter field he is named in the legal directories as highly recommended.

'Exceedingly well prepared and highly assured in court' as well as having the ability to work *'sympathetically with his client and their objectives'*.

Landmark cases include an European Court of Human Right application on the employment of gay servicemen, House of Lords rulings on injury to feelings awards and the dates of outsourcing for TUPE purposes, **the Supreme Court decision on whether legal representation is required in internal disciplinary proceedings and the largest ever ET application by 12,000 retained firefighters**, which went to the House of Lords.

He succeeded in the Supreme Court in resisting the suggestion that an employee was entitled to legal representation in internal disciplinary proceedings under Article 6 R(on the application of G) v X School and Y City Council [2011] UKSC 30. The Supreme Court overturned the unanimous decision of the Court of Appeal.

He has the fourth largest number of reported cases in Industrial Relations Law Reports since the outset of that law report and the third highest in respect of those still practising. John is a Member of Equality and Human Rights Commission panel of approved counsel.

Strike Injunctions

As well as writing the leading book on strikes John has been involved in many of the leading reported strike cases such as:

- **ABP v TGWU** (1989 Dock Strike Injunctions 1989 IRLR 399 HL)
- **RMT v Connex South East** (acted for Trade Union in injunction concerning strike action)
- **News Group Newspapers v SO GAT**; Wapping picketing cases.

He frequently advises on ballot and picketing issues and acted for the working miners in the 1984 Miners Strike. He also acted for the Ministry of Justice during the last major outbreak of strike action in prisons.

Unfair Dismissal

John acts for both employers and employees and has been involved in many ground breaking cases such as:

- **Dunnachie v Hull CC** [2003] IRLR 843 (HL decision as to whether an employee may claim for injury to feelings in unfair dismissal claim)
- **Whitbread v Mills** [1988] IRLR 388 EAT (leading case on role of appeals in unfair dismissal cases)
- **Crosville (Wales) v Tracey** [1993] IRLR 60 (House of Lords decision on industrial action and contributory fault)
- **Wood v Cunard Lines Ltd** [1990] IRLR 281 EAT (extent of unfair dismissal rights for merchant seamen)
- **Hogg v Dover College** [1990] ICR 39 EAT (proper test of dismissal when one contract terminates and another is offered).
- **Gale v Northern General Hospitals** [1994] IRLR 292 CA (continuity of employment in NHS Trusts)
- **Connolly v Sellars Arenascene** [2001] ICR 760 Ct Appeal decision on whether a director may also be an employee of a company for insolvency purposes
- **Bunce v Postworth** [2005] IRLR 557 (Court of Appeal decision on meaning of employee in context of agency worker)
- **Gover v Property Care Ltd** [2006] EW CA Civ 286: CA case on Polkey reductions in unfair dismissal.

Employment Tribunal Procedure and Practice

As well as editing one of the leading textbooks on tribunal procedure (**Blackstones Employment Law Practice**) John has been involved in many of the leading cases including *Blockbuster Entertainment Ltd v James* [2006] IRLR 630; CA leading case on striking out in ETs.

He is very strong in advising on tactics and strategy to be used in employment tribunals, and frequently lecture on the subject. He has participated in many consultations on reform of tribunals.

Minimum Wage

John frequently advises on issues of working time and the minimum wage and was involved in *Leisure Employment Services v HMRC*: the first EAT and Court of Appeal case on minimum wage involving the accommodation offset.

Discrimination

John has acted in the landmark case brought by gay servicemen to remove the ban on their serving in the armed forces

- *R v Secretary of State for Defence ex p. Smith* [1996] IRLR 100 and other important discrimination cases such as
- *Wilkin & Chapman v Collins* (discrimination against transvestites)
- *Anisetti v Tokyo-Mitsubishi International Plc* (race discrimination on grounds of non Japanese nationality).
- *Shepherd v N Yorkshire CC* [2006] IRLR 190; EAT case on distinction between Sex discrimination and equal pay;
- *Chessington World of Adventures v Reed* [1998] ICR 97 EAT (transsexuals and sex discrimination).
- *Rachel Anderson v The Professional Footballers' Association* (a sex discrimination claim brought by a footballer's agent who was refused access to the PFA dinner)
- *Mathews v Kent & Medway Fire Authority*: [2004] IRLR 697 House of Lords first case on part time workers regulations; largest ever ET case involving about 11000 retained firefighters
- *Redfearn v Serco* [2006] IRLR 623; CA leading case on meaning of direct discrimination
- *X v Mid Sussex CAB* [2011] ICR 460; whether volunteers have rights to claim for discrimination remedies (under appeal to the Supreme Court)

In 2010 he successfully defended a set of chambers in a multi-million pound claim for race and disability discrimination from one of its own members and BP in an age discrimination case brought by a member of its legal department in relation to a failure to promote.

Trade Union Recognition

John is probably the barrister who has advocated most frequently in the Central Arbitration Committee and indeed has acted as an amicus curiae to the Central Arbitration Committee itself. He has also appeared in two of the key judicial reviews of the CAC:

- *R (Kwik Fit Ltd) v Central Arbitration Committee* [2002] IRLR 395; first challenge to Central Arbitration Committee in relation to trade union recognition; Court of Appeal
- *R v CAC ex p BBC* [2003] ICR 1542 involving BBC wildlife camera crews.

He regularly advises on recognition issues at an early stage and brings to bear his wide knowledge of industrial relations practice as well as "black letter" law. He is currently representing Jet 2 in a claim brought by balpa BALPA (?) and Quinn Glass in respect of a recognition application by UNITE. He has also appeared in the Industrial Court which has a similar jurisdiction to the CAC in Northern Ireland.

Equal Pay

John is presently involved in many thousands of equal pay cases in Scotland, the North East and South of England (Dorset and Hampshire County Councils) relating to the local government single status from which there have so far been two leading cases; *Allen v Newcastle City Council* and *South Tyneside MBC v Anderson* [2007] ICR 1571. In the NHS equal pay litigation his case of *Hartley v Northumbria Health Care NHS Trust* was the lead case for the whole country; he successfully defended the case for the Health Care Trust and it was not appealed. He thus helped to save the NHS billions of pounds.

He conducted the appeal for the local authorities in **McAvoy v South Tyneside MBC** [2009] IRLR 796, the EAT decision on the role of male contingent equal pay claims and the **NHS Trust in Brownbill v St Helens NHS Trust** [2010] ICR 1383 which concerned what precise contractual terms fell to be compared in an equal pay case. He appeared successfully for the NHS Trust in **Hovell v Ashford & St Peters Hospital NHS Trust** [2009] IRLR 734, a test case heard in the Court of Appeal about the proper use of independent experts in equal value cases. He also appeared in the Court of Appeal in **Sodexo v Gutteridge** [2009] IRLR 721 which is the leading case about the interconnection of TUPE and equal pay.

He recently successfully also defended Glasgow City Council in the employment tribunal and EAT in a claim that the compromise agreements they had entered into with several thousand employees were invalid (**McWilliams v GCC** [2011] IRLR 568). He is currently representing Glasgow City Council in responding to one of the first investigations by the Equality and Human Rights Commission into alleged discrimination in part of the job evaluation system adopted by the City Council. He is also defending the City Council in a challenge to their job evaluation scheme and recently defended a NHS job evaluation scheme in **Forward v East Sussex NHS Trust**. Few barristers have as much experience as John in this specialist field and he is a master tactician and strategist in such litigation. One of his cases (**Aitchison v South Ayrshire Council**) will soon be heard.

Transfers of Undertakings

John edits an encyclopaedia on the subject for Sweet & Maxwell and has been involved in the important case of **Celtec v Astley** [2006] IRLR 635: House of Lords & ECJ case on meaning of time of transfer in TUPE cases; on remission from ECJ.

Whistleblowing

As well as writing the leading textbook on the subject John has been involved in these leading cases:

- **Edgar v Met Office**; retrospectivity of the public interest disclosure provisions
- **Kuzel v Roche** [2008] ICR 799; burden of proof in whistleblowing cases
- **Blackburn v Huckstep & Oxfordshire PCT** EAT decision on whether the tribunal should imply a contract between a Practice Nurse of a sole GP surgery and a Primary Care Trust where the GP was suspended

Judicial Review

John has been involved in many leading judicial review cases such as:

- **McLaren v Home Office** [1990] IRLR 338 CA (the role of judicial review in employment law)
- **Porter v Queens Medical Centre** [1993] IRLR 486 EAT (dismissals of doctors following the Allitt Murders in Grantham Hospital)
- **Dolphin v Pensions Ombudsman**: the first judicial review of a Pensions Ombudsman determination
- **R (ota G) v X & Y** [2011] IRLR 2011 ICR 1033: leading case on legal
- **R (ota Puri) v Bradford NHS Trust** [2011] IRLR 582 ; a claim that the disciplinary body should be independent and impartial (at present under appeal to the Court of Appeal)

Negligence

John acted for a claimant who sued a local auction house which failed to identify that a picture was painted by Stubbs Luxmore, **May v Messenger May Baverstock**

He also appeared in the House of Lords in **Wright v BRB** (level of interest on personal injury awards) and **Baker v Kaye** [1997] IRLR 219 HC (duty of care of doctor carrying out pre-employment medicals)

Strikes

John advised on the move of News Group and Times Newspapers Ltd to Wapping and was involved in several strike and picketing injunctions during that period. He was also engaged in the long running Gate Gourmet dispute and the 1984 Miners' Strike.

He acted for the Ministry of Justice in defending an application to lift a strike injunction by the POA. He is frequently consulted to advise on the use of injunctions in industrial disputes both in the public and private sectors.

Education

John is mentioned as highly recommended in the legal directories for education law. He was involved in the equal pay claims against voluntary aided schools which reached the EAT in *Dolphin v Hartlepool Borough Council* and community schools which was dealt with by the Court of Appeal in *South Tyneside MBC v Anderson* [2007] ICR 1571. He has just been successfully engaged in the Supreme Court on the case deciding whether an employee who may be placed on a list preventing him working with children has a right to legal representation, *R (ota G) v X School*. He regularly advises on admissions matters, and has advised many universities and faith schools on judicial review, discrimination and employment issues.

Police

John has written an introduction for an OUP book on Police Discipline and regularly advises and represents police authorities on a whole range of police matters. Many are too sensitive to refer to here.

He was involved in the discrimination case *Stubbs v Lincolnshire Police* which decided the status of police officers who are seconded to crime squads. He recently represented the Chief Constable of North Yorkshire Police who was disciplined for showing favouritism.

Faith Issues

John acted for the first Methodist preacher who claimed unfair dismissal against the Church, Hayley Moore, and regularly advises on faith issues including rights to carry crosses.

Miscellaneous

John has acted on several occasions as a designated independent person for adjudicating disputes between Chief Executives of local authorities and the respective employing Council and has also acted as advocate in such disputes.

John has also appeared in many sports cases (including one for the FA Premier League who were being sued by Vinnie Jones) and represented the Football Association in 2004 when they were considering the position of Sven Goran Erikson as England manager.

He has often acted on redundancy consultation cases in particular the EAT case of *Lancashire University v UCU* [2011] IRLR 4.

Books

1. Modern Law of Strikes - (1987) now known as The Law of Industrial Action and Trade Union Recognition (with Michael Duggan; 2011).
2. Atkins Court Forms Volume 38 - 1986 (with B A Hepple), Butterworths, and 1991 1995 2003 and 2007 (new edition forthcoming)
3. Termination of Employment - 1998, 1991 Second Edition Longmans; 2010 Third edition Wildys with Carol Davis
4. The Employment Act -1988, Blackstone Press.
5. Employment Tribunal Procedure - 1987, 1994, 1999 Longmans, Second Edition with D Brown & G Mead: regularly revised. Republished by OUP every year since 2005, as Blackstones Employment Law Practice
6. The Employment Law Manual - 1998 (Chapter on Tribunals) - Sweet & Maxwell.
7. Transfer of Undertakings: The Legal Pitfalls - 1996, now in Sixth Edition (with Elias LJ) - Sweet & Maxwell.
8. Getting a New Job - Consumer Association - 1981.
9. Bowers on Employment Law, Seventh Edition - 2004 OUP; now known as Practical Approach to Employment Law. Currently eighth edition 2009
10. Basic Procedure in Courts and Tribunals - Longmans, 1990; second edition 2011 with E Misra
11. Textbook on Employment Law - (with S Honeyball) Blackstone, Ninth Edition 2010
12. Employment Law Update - 1991 (with A Goraj).
13. Whistleblowing the New Law - 2006 (with J Lewis and J Mitchell; new edition forthcoming 2012)
14. Employment Law and Human Rights - (with J Lewis Sweet and Maxwell 2000)