



Akash Nawbatt QC
Year of Call: 1999 Silk: 2017



Akash's principal areas of practice are employment and tax law. He is instructed in complex and high value litigation, in both tribunals and the High Court, by large employers (including global financial institutions and leading airlines), Government Departments and taxpayers.

Akash is a Member of the Panel of Counsel for the Equality and Human Rights Commission and, prior to his appointment as Silk in 2017, he was a member of the Attorney General's panels (A, B and C) for most of his career.

His expertise in both his specialist areas of practice has been recognised by the leading directories for a number of years: prior to his appointment as a QC both Chambers & Partners and Legal 500 ranked him as a leading junior in employment and tax law. He was awarded 'Employment Junior of the Year' by Chambers UK Bar Awards 2015.

Recommendations

'A good advocate.' - *Commercial, Legal 500 United Arab Emirates (English Bar) 2019*

Dedicated silk who handles discrimination, worker status and whistle-blowing cases at all court levels, including the High Court and the Court of Appeal. He is regularly instructed by large banking clients and government institutions. **"He has great attention to detail and he is great to work with." "He gives calm, sensible and commercial advice and he is always thinking ahead in terms of strategy."** Acted in *Guiney v Intel*, whistle-blowing and discrimination proceedings brought by a senior sales executive against senior managers of the technology company. - *Employment, Chambers UK Bar 2019*

A respected member of the Tax Bar who is well known for his work representing either HMRC or the taxpayer. He is particularly expert in matters concerning residence and domicile. **"He is a fearsome cross-examiner and I have suffered at his hands quite a lot. He is someone to be reckoned with; if you have him on the other side you need to be well prepared."** - *Tax: Private Client, Chambers UK Bar 2019*

Specialises in tax and employment law, and is a strong choice for employment tax and disguised remuneration matters. He also handles the full range of corporate tax issues. He acts for both the Revenue and taxpayers. **"A fearsome cross-examiner," who "really gets to grips with the detail of a case."** Successfully represented HMRC in a USD300 million dispute with Marathon Oil concerning the construction of Section 164 of the Capital Allowances Act 2001. - *Tax, Chambers UK Bar 2019*

'A tenacious advocate who has taken the jump to silk in his stride.' - *Employment, Legal 500 2019*

'His technical knowledge is first rate.' - *Private Client: Personal Tax, Legal 500 2019*

'Excellent legal analysis and advocacy.' - *Tax (Corporate), Legal 500 2019*

Akash Nawbatt QC is well regarded for his work in representing both HMRC and private clients in tax disputes. **"He is superb and his client care is very good; he's very responsive and very sensitive to clients who are getting bad news,"**

says an interviewee. **"He is a fearsome cross-examiner and I have suffered at his hands quite a lot,"** reports a fellow barrister, adding: **"He is someone to be reckoned with; if you have him on the other side you need to be well prepared."** - *Tax (Private Client), Chambers High Net Worth 2018*

Newly appointed silk who handles discrimination and whistle-blowing cases at all court levels, including the High Court and the Court of Appeal. He is regularly instructed by large banking clients and governmental institutions. **"An exceptionally bright and hard-working advocate. He is incredibly personable and fast on his feet. His ever-growing reputation and talent has been recognised in his recent promotion to QC. He is one of the leading silks of the future."** Represented Pimlico Plumbers in a test case involving the employment status of the plumbers engaged by Pimlico. - *Employment, Chambers UK 2018*

Specialises in tax and employment law, and is a strong choice for employment tax and disguised remuneration matters. He also handles the full range of corporate tax issues. He acts for both the Revenue and taxpayers. **"Expert at cross examination."** Acted in *Charman v HMRC*, judicial review proceedings challenging the Tax Dispute Resolution Board's refusal to approve a multimillion-pound settlement recommended by the HMRC's inspectors handling the case. - *Tax, Chambers UK 2018*

"A favourite corporate tax barrister among solicitors." - *Tax (Corporate), Legal 500 2017*

"An impressive trial lawyer, who easily navigates fact-heavy cases and cross-examination." - *Tax (Private Client), Legal 500 2017*

"An extremely proficient advocate." - *Employment, Legal 500 2017*

Specialises in tax and employment law, and is a strong choice for employment tax and disguised remuneration matters. He also handles the full range of corporate tax issues. **"Has an agile legal mind and is a very confident and measured advocate."** - *Tax, Chambers UK 2017*

Handles discrimination and whistle-blowing cases at all court levels, including the High Court and the Court of Appeal. He is regularly instructed by large banking clients and governmental institutions. Clients are impressed with his tribunal skills, noting his diligent and personable approach. **"He quickly grasps what the case is about and is insightful, technically strong and very client-friendly."** **"He is extraordinarily bright and very easy to work with - clients love him as he always puts the client at ease."** Instructed in *Chu and Others v British Airways*, a complex group race and age discrimination case brought by Hong Kong cabin crew surrounding the retirement age within British Airways. - *Employment, Chambers UK 2017*

Akash is ranked as a Leading junior in 'Employment'. **"He is bright, very hardworking and good with clients; one of the strongest junior counsel around at the moment."** *Legal 500 2016*

Ranked as a Leading junior in 'Private client - Personal tax', Akash is **"Approachable and calm with particular expertise in tax judicial reviews"** - *Legal 500 2016*

"An excellent cross-examiner" - *Legal 500 2016*

Akash won **Junior of the Year for Employment** at the 2015 Chambers UK Bar Awards. The leading legal directories **Chambers UK** and **Legal 500** have recommended him for a number of years as a leading junior in all his core fields of expertise. Most recently they have highlighted:

Has a well-developed tax and employment practice, and is widely regarded as one of the leading juniors at the Employment Bar. He acts for a range of parties, including government departments and high-profile financial services firms. **"A very effective and understated advocate who gets results."** **"Very thorough, he gets to grips with issues quickly."** Acted for British Airways in the Court of Appeal and the ET in a difficult disability discrimination case involving death in service benefits. - *Employment, Chambers UK 2016*

A well respected tax practitioner who works for the Revenue on a broad range of matters. In particular he has, over

the years, handled a good number of domicile cases. "He is really good and very hard-working. Nothing gets past him and he is a fearsome cross-examiner." Advised HMRC on a matter involving employee pension scheme tax legislation. - *Tax, Chambers UK 2016*

"He is a pleasure to work with and clearly knows his subject." - *Employment, Legal 500 2015*

"A fantastic litigator, who is very fluent, agile and persuasive." - *Private Client: Personal Tax, Legal 500 2015*

"He allies serious commercial litigation skills with a real understanding of tax issues." - *Tax: Corporate, Legal 500 2015*

Comes highly praised for his tactical acumen and is recommended for particularly difficult cases. He is highly rated for his work across the board, and has notable recent experience in the High Court advising on multimillion-pound breach of contract claims as well as team moves. - *Employment, Chambers UK 2015*

Acts for taxpayers and the Revenue at all levels of the court system. His tax work is focused on cases relating to employment, and typically involves questions of remuneration and the taxation of employees. Expertise: "He has a very sharp, agile intellect and is very good strategically. He is also very user-friendly and affable." Recent work: He acted for the Revenue in a significant case before the First-tier Tax Tribunal concerning group loss taxation. - *Tax, Chambers UK 2015*

Employment

Akash practises in all areas of employment law including restrictive covenants and breach of confidence, breach of contract, wrongful and unfair dismissal, whistleblowing, TUPE, issues of employment taxation and discrimination.

Prior to his appointment as Silk in 2017, Akash was ranked in Band 1 for Employment Law by both Chambers and Partners and Legal 500. He won 'Employment Junior of the Year' at the 2015 Chambers UK Bar Awards in recognition of his first-class employment litigation practice which saw him instructed in complex, high value employment disputes in all courts, including in the Supreme Court where he appeared without a leader.

He demonstrates an in-depth expertise in:

Pay, incentives and pensions

Akash regularly advises in claims relating to all aspects of employee and partnership pay, incentives and pensions. He has particular experience of claims concerning bonuses, share options and enhanced redundancy entitlements. He is regularly instructed by HMRC, employers and employees in cases involving the taxation of all aspects of employee remuneration (including the correct tax treatment of termination payments).

Significant cases include:

- *Moorthy v HMRC (2017)*: Court of Appeal hearing concerning the correct tax treatment of discrimination compensation.
- *John Mander Pension Scheme v HMRC (2015)*: Supreme Court appeal concerning the consequences of withdrawal of approval of an employer's pension scheme.
- *Kuehne & Nagel Drinks Logistics Ltd v HMRC (2012)*: Court of Appeal case concerning the correct tax treatment of payments made by an employer to 2000 employees following a TUPE transfer to avoid the threat of industrial action.

Dismissal and employment rights

Akash has extensive experience of claims concerning unfair and wrongful dismissal, public law challenges to the termination of employment and the enforcement of other employment rights under TUPE, the Working Time Regulations and the National Minimum Wage legislation. Akash has particular experience in dealing with issues of employment and worker status in both the employment and tax tribunals and of high value whistleblowing claims.

Significant cases include:

- *Pimlico Plumbers v Smith* (2016): Court of Appeal employment status case – worker / employment under the Equality Act 2010.
- *Fox v British Airways* [2013] ICR 1257: Court of Appeal case concerning the recoverability in unfair dismissal proceedings of compensation for the estate's loss of a death in service benefit.
- *Arrowsmith v Nottingham Trent University* [2012] ICR 159: Court of Appeal case on the correct approach to costs in cases of dishonesty.
- *R (Sharon Shoesmith) v Haringey LBC & Ors* [2011] ICR 1195: Public law challenge by Ms Shoesmith to the decision to summarily terminate her employment following a direction by the Secretary of State.

Equality

Akash is regularly instructed in high value discrimination claims in the Employment Tribunal. Akash also has experience of discrimination claims in the County Court in relation to the provision of services.

Significant cases include:

- *Crossland v OCS* (2015): Court of Appeal case concerning the appropriate comparator in disability discrimination cases.
- *X v Z* (2015): Represented an airline in religious discrimination proceedings conducted under the employment tribunal's national security closed procedure.
- *Lockwood v DWP and Cabinet Office* [2014] ICR 1257: Advised and represented the Cabinet Office in a series of test cases in the Employment Tribunal, Employment Appeal Tribunal and Court of Appeal involving age discrimination challenges to different aspects of the Civil Service Compensation Scheme.

Restrictive covenants and injunctions

Akash is regularly instructed in employment injunction proceedings and other High Court proceedings concerning the enforcement of restrictive covenants and claims of inducing breaches of contract, fiduciary duty and confidence. Akash has particular experience of cases involving team moves and has appeared in some of the leading team move and springboard injunction cases (eg. *UBS v Vestra Wealth and Others* [2008] IRLR 965).

Industrial relations

Akash has been involved in a number of claims arising out of industrial disputes. He has particular experience of claims for interim relief, trade union detriment and for failure to consult.

Tax

Akash has represented Her Majesty's Revenue and Customs and taxpayers in tax disputes before the Tax Tribunals, the High Court, Court of Appeal, House of Lords and the Supreme Court.

Remuneration structures and taxation of employees

Akash has extensive experience of advising and acting in cases concerning the correct tax treatment of employment income and other tax issues involving employee remuneration structures. Akash is also regularly instructed to advise on employment status issues, the correct tax treatment of termination payments and IR35.

Significant cases include:

- *John Mander Pension Scheme Trustees Ltd v HMRC* (2015): Supreme Court case on tax consequences of HMRC withdrawal of approval of a pension scheme.
- *Christianuyi and others v HMRC* (2015): Test case on Managed Service Company legislation.
- *ICM (UK) Limited v HMRC* (2015): Territorial scope and application of the Construction Industry Scheme.

Domicile, individual, corporate and treaty residence

Akash has appeared in all of the leading domicile, individual, corporate and treaty residence cases that have been litigated in the past 10 years including *Gaines-Cooper*, *Glyn*, *Grace* and *Lord Wrottesley*.

Significant cases include:

- *Glyn v HMRC* (2015): Appeared in Upper Tribunal and First-tier Tax Tribunal in first residence case following the Supreme Court judgment in *Gaines-Cooper* involving the application of the distinct break test.
- *Lord Wrottesley v HMRC* (2015): Appeared in Upper Tribunal and First-tier Tax Tribunal in domicile appeal.
- *Daniel v HMRC* [2014] UKFTT 173: Appeared in First-tier Tax Tribunal concerning alleged non-residence based on claimed full-time employment abroad.
- *R (Gaines-Cooper) (Davies and James) v HMRC* [2011] 1 WLR 2625: Appeared in Supreme Court, Court of Appeal and Administrative Court in the leading case on the interpretation and application of HMRC guidance on individual residence.

Assessments, discoveries and penalties

Akash has appeared in a number of the leading cases on the validity of discovery assessments and penalty determinations.

Significant cases include:

- *Hargreaves v HMRC* (2016): Court of Appeal case concerning the appropriate approach to discovery assessment appeals.
- *HMRC v Charlton* [2013] STI 259: Upper Tribunal appeal concerning the correct test for determining the validity of discovery assessments.
- *Stockler v HMRC* [2012]: STI 2765: First-tier Tax Tribunal appeal concerning quantification of penalty determination. Also appeared in leading Court of Appeal case on the validity and quantification of penalty determinations: *Stockler v HMRC* [2010] STC 2584.

Judicial Review

Akash has appeared in a number of recent public law challenges to decisions of HMRC and also the removal of individuals from public office (e.g. Sharon Shoesmith).

Significant cases include:

- *Hely-Hutchinson* (2015): Challenge to HMRC change of policy regarding Mansworth v Jelley losses. Court of Appeal hearing (2017).
- *City Shoes* (2016): Challenge to non-admission of Employee Benefit Trust appeals to the Lichtenstein Disclosure Facility.
- *Walapu* (2016): Challenge to Accelerated Payment Notice legislation.

Sports Law

Akash has experience of advising on and litigating sports law cases involving a wide variety of issues including the deduction of points for fielding ineligible players; alleged breaches of sporting regulations; imposition of regulatory fines and penalties; and issues involving sports agents.

Current cases include:

- *X v Y* (2016): Disputes involving off-shore remuneration structures used by Premier League football clubs.
- *McLaren Racing Ltd v HMRC* (2014): Case involving the £100 million penalty imposed by the World Motor Sport Council under Article 28 of the FIA Statutes.
- *Stretford v Formation Ltd and Rodford* (2012): High Court proceedings between sports agents arising out of breaches of the FA Regulations in the signing of a Premier League footballer.

Dubai International Financial Centre (DIFC)

Akash Nawbatt QC is an advocate of the DIFC Courts.

In December 2016 he appeared in the DIFC Court of Appeal in *Lys v Elseco Limited* a leading case on the construction and application of Article 18 (penalty for failure to pay all sums owing on termination) and Article 59A (termination for cause) of the DIFC Employment Law 2005.

He has also advised in contractual claims involving banks and other financial institutions.

Appointments

February 2017 - Appointed QC

2016 - Advocate, DIFC Courts, Dubai

2013 - Junior Counsel to the Crown (A Panel)

2011 - Member of the Panel of Counsel for the Equality and Human Rights Commission

2008 - Junior Counsel to the Crown (B Panel)

2004 - Junior Counsel to the Crown (C Panel)

2001-2002 - Judicial Assistant to the Senior Law Lord (Lord Bingham)

Memberships and Associations

ELA, ELBA, ILS, RBA

Awards and Scholarships

Prince of Wales Scholarship, Gray's Inn