



**Alice Carse**  
Year of Call: 2008



Alice is an experienced advocate who specialises in trade union, industrial relations and employment law; injunctive relief; professional negligence and insurance litigation. In 2016 Alice was appointed Junior Counsel to the Crown (C Panel) and has represented government departments in the courts and tribunals. In July 2019 she successfully represented the Home Office in the Court of Appeal in a case relating to costs awards in unlawful detention cases.

Alice's recent work includes:

- Junior to Colin Edelman QC on behalf of an insurer in Commercial Court proceedings relating to an insured's compliance with a hot works condition precedent.
- Junior to Colin Edelman QC on behalf of an insurer in arbitration proceedings arising from a contractual dispute about premium rebate and adjustment provisions.
- Junior to Colin Edelman QC representing an insurer in arbitration proceedings relating to aggregation in solicitors' negligence.
- Representing and advising employers on applications for injunctions to prevent industrial action in some of the largest industrial disputes in recent years including Royal Mail (Royal Mail Group Ltd v Communication Workers' Union [2017] EWHC 2548) and Birmingham City Council (Birmingham City Council v UNITE [2019] IRLR 423) (as junior to Andrew Burns QC).
- Advising numerous employer clients on industrial relations strategy including blacklisting, union recognition and claims under s. 145B TULRCA.
- Acting for a defendant employee at an interim relief hearing in a restrictive covenant dispute and obtaining an order that the claimant fortify the cross-undertaking of damages.
- Advising employer clients on changes to terms and conditions across large workforces, including changes to collective agreements and collective bargaining, both generally and in response to COVID-19.
- Junior to Andrew Burns QC for the successful Respondent in Walker v Co-operative Bank [2020] EWCA Civ 1075, a case on the material factor defence in equal pay claims
- R (WS) v Secretary of State for the Home Department, 3 July 2019, Court of Appeal – successful appeal against award of costs in an unlawful detention case.

## Recommendations

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Respected junior notable for her expertise across a range of employment matters, and a particular specialism in industrial relations matters. **"She's very smart, tenacious in cross-examination and always on top of her brief."** **"She's calm, measured, sharp and insightful."** Represented Birmingham City Council in a High Court application for interim injunction against two trade unions to stop a city-wide bin collection strike. - *Employment, Chambers UK Bar 2021*

**"An unshakeable, levelled and precise advocate. She is excellent with clients and translates complex legal matters into commercially focused solutions, enabling decisions to be made."** - *Employment, Legal 500 2021*

She offers experience acting in the Employment Tribunal and High Court. **"Her advocacy is a delight to watch: intelligent, robust and thorough."** **"She has incredible gravitas."** Defended a claim brought by the British Airline Pilots Association, alleging that British Airways was in breach of collective agreements by requiring pilots to take on various non-flying duties in excess of agreed hours. - *Employment, Chambers UK 2020*

**"She has a confident manner which instils confidence in clients."** - *Employment, Legal 500 2020*

**'A brilliant advocate for industrial relations work.'** - *Employment, Legal 500 2019*

## Employment

Alice has a busy employment law practice covering all aspects of employment work at first instance and on appeal, in the ET, EAT and High Court. She specialises in industrial relations and industrial action and has worked on some of the most high profile disputes in recent years. She has been recognised for her industrial relations work by both Legal 500 and Chambers and Partners.

Recent highlights include:

- Successfully representing Royal Mail in obtaining an injunction to prevent a national postal strike (junior to Andrew Burns QC) (*Royal Mail Group Ltd v Communication Workers' Union* [2017] EWHC 2548).
- Advising and acting for Birmingham City Council in its industrial dispute with its waste collection services (spring 2019).
- Advising a delivery company on tactics for managing unofficial industrial action (autumn 2018).
- Advising British Airways on industrial action by cabin crew in December 2016 (junior to Andrew Burns QC).
- Successfully representing a respondent in a two week discrimination claim and obtaining a costs award of £20,000 against the claimant.
- Junior to Andrew Burns QC in a Court of Appeal hearing listed for summer 2020 on the material factor defence in equal pay claims.
- Resisting an application for interim relief in the ET in a whistleblowing claim.
- Acting as junior counsel in a restrictive covenant dispute, including an application for springboard relief and obtaining an undertaking from the Defendant.
- Advising and representing high profile employers on equal pay, sexual harassment and #metoo claims.

## Industrial Relations

Alice has particular expertise in industrial relations and industrial action. She is experienced in making applications

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for injunctive relief to prevent strike action and in advising on coping strategies to manage industrial action. Alice is instructed to advise on industrial action matters either as sole counsel or junior counsel.

In late 2018 Alice was instructed to advise a waste collection company on a ballot for industrial action carried out by a trade union. In early 2019 she was instructed by Birmingham City Council (as junior to Andrew Burns QC) in its industrial dispute with its waste services department. This resulted in hundreds of missed bin collections since Christmas 2018. Alice acted as junior counsel in the injunction application and advised on industrial relations matters.

In October 2017 Alice was instructed as junior to Andrew Burns QC by Royal Mail and obtained an injunction to prevent a national postal strike set for October 2017 (*Royal Mail Group Ltd v Communication Workers' Union* [2017] EWHC 2548).

In December 2016 and January 2017 Alice advised British Airways on the industrial action taken by cabin crew (as junior to Andrew Burns QC). During summer 2015 Alice advised another airline on potential industrial action. During summer 2017 she advised a construction business on potential industrial action including balloting and strategy.

Alice advises on industrial action which involves a cross-border element (Viking and Laval type cases) and has also advised on blacklisting, collective agreements and employer membership of union-backed trade organisations. She has also dealt with protests by trade unions designed to disrupt the smooth running of a business without resorting to industrial action.

Alice has been involved in industrial relations cases in a number of industries including retail, delivery services, airlines and construction.

In 2016 she was instructed to assist with industrial relations matters arising in the Construction Industry Blacklisting litigation.

During pupillage she worked on a number of industrial relations cases including the *British Airways Cabin Crew Litigation - Malone & Ors v British Airways Plc* [2010] EWHC 302 (QB), [2010] All ER (D) 220 (Bruce Carr QC leading Andrew Burns QC) and *EDF Energy Powerlink v RMT* [2010] IRLR 114 (Timothy Brennan QC leading Andrew Burns QC).

### **Restrictive Covenants & Injunctions**

Alice is experienced in acting for both claimants and defendants in disputes relating to restrictive covenants, including the use of confidential information by former employees. Some recent examples include:

- Acting for the claimant in a High Court international restrictive covenant and confidentiality dispute in the High Court. Although led by Andrew Burns QC, Alice was instructed to make the application for permission for alternative service due to the defendant being outside the jurisdiction.
- Successfully resisting an application for injunctive relief sought against a bank by a former employee in respect of alleged breach of contract and failure to disclose personal data. The claim was struck out.
- Advising on a restrictive covenant in respect of an employee shareholder.
- Advising a solicitors' firm on injunctive relief for breach of confidentiality and inducing breach of contract.

### **Dismissals and Employment Rights**

Alice is experienced in representing employees and employers in claims for unfair and wrongful dismissal in the

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ET and the courts. She has represented senior employees in unfair dismissal and breach of contract claims against financial and City institutions and against more senior opponents. Alice has a wealth of experience in representing employers ranging from small businesses to international companies in a wide range of dismissal disputes. She can provide advice and representation on the whole range of employment rights including whistleblowing and TUPE cases and dismissals which engage Article 8 ECHR.

### **Pay, Incentives and Pensions**

Alice has experience of both contractual and statutory claims for wages, holiday pay and other incentives and payments. Her recent work includes:

- Advising a City bank on a claim for bonus and share payments upon termination.
- Advising on a High Court breach of contract claim in relation to a contractual redundancy scheme.
- Advising on a contractual claim for commission payments.
- Advising and drafting proceedings in a claim for recovery of severance pay withheld due to alleged misconduct.

### **Equality**

Examples of Alice's recent equality work include:

- *P x X* - successfully representing a construction company in a claim of alleged race discrimination against Polish workers.
- *T v B* - successfully representing a City commercial real estate company in a high value claim for unfair dismissal, age discrimination and disability discrimination.
- *C v O*  
- successfully representing an university in a constructive dismissal and age discrimination claim. The case received considerable press coverage.
- Representing appellants in the EAT in claims relating to the abolition of the default retirement age and extension of time for presenting an appeal.
- *B v BA* - led by Andrew Burns QC in successfully defending an equal pay claim.
- *X v L* - successfully representing a respondent at ET in a 2 day disability discrimination claim and obtaining an award of costs against the claimant
- *JK v MK* - successfully representing a Respondent in a 6 day race discrimination claim. The ET was persuaded to make a finding that the Claimant had fabricated a document.

Alice also has experience in advising on claims for discrimination in the provision of services on the multi-track in the County Court.

### **The Data Protection Act 1998**

Alice advises employers on data protection issues in the workplace and acts in disputes relating to the Data Protection Act 1998. This includes advising employers and recruiters on their data policies and litigating data subject access request disputes.

Recently Alice successfully represented an employer in resisting an application brought in the County Court by an employee for disclosure of information under the Data Protection Act. The case raised issues of confidentiality and human rights, in particular in relation to the right to practise one's profession and Article 6 ECHR. Alice has also successfully defended a data protection claim brought by a job applicant against his potential employer for the disclosure of references.

### **Other experience**

Alice gives seminars and lectures in employment. She was recently asked to co-contribute to and present a paper at a Labour Law seminar at Oxford University. The paper was incorporated into *The Autonomy of Labour Law* (Hart, 2015), a collection of essays on labour law by leading academics.

Alice's LLM specialised in Labour Law. She wrote her dissertation on the justification of direct age discrimination and her extended essay focused on claims for breach of contract, the manner of dismissal and the Johnson exclusion zone.

Alice writes articles and is a contributing author to books on Employment Law.

### **Insurance & Reinsurance**

Alice has experience of advising and representing parties in arbitration and litigation. Recent work as sole counsel involves successfully representing an insurer in arbitration proceedings in a notification dispute, advising on coverage issues, non-payment of premium and defence costs. She also represents insurers in substantive disputes including sale of goods, fatal accident and breach of contract claims.

Alice acts for insurers as junior to Colin Edelman QC in a number of cases including:

- Advising on two cases involving breach of hot works condition precedents by insureds. In one of these cases Alice represented the insurer at the CCMC in the Commercial Court.
- Representing excess layer insurers in a very high value arbitration arising from solicitors' negligence.
- Representing insurers in a high value arbitration relating to premium rebate provisions.
- Defending a claim brought by the family member of an insured, by challenging whether the claimant has an insurable interest.

Alice's other recent insurance work includes:

- Advising and representing an insurer in respect of an application that it be joined as a party under the Third Parties (Rights Against Insurers) Act 2020.
- Advising an employer on assignment of the right to recover under a group income protection policy.
- Advising and representing insurers (as junior counsel) on coverage in respect of an employers' liability policy in the context of personal injury proceedings.

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- Advising insurers on the consequences of non-payment of premium by insureds.

Alice is a former member of the BILA U35 committee. In 2014 she spent time working in-house at an insurer client in order to gain first-hand experience of the market. Also, in 2014, she completed a four month secondment at a solicitors' firm in the professional negligence and insurance team.

Alice assisted Colin Wynter QC with updating the reinsurance chapter of MacGillivray on Insurance Law (Centenary edition).

Alice was a co-contributor of an article to the British Insurance Law Association Journal (125th edition) entitled "Consumer Insurance: the risks of contracting on unfair terms". Alice has subsequently given a seminar on consumer insurance.

Alice has worked on the following cases as pupil to Andrew Burns QC:

- The Court of Appeal hearing of the Employers' Liability Policy Trigger Litigation [2010] EWCA Civ 1096
- *Aviva Insurance v Brown* [2011] EWHC 362 (QB). Alice worked on the preparations for the High Court trial of this property insurance dispute
- *Horwood v Argos & Ors* [2010] Lloyd's Rep IR 453. Alice worked on interim applications arising out of the insurance dispute in the "toxic sofas" litigation

## Commercial Litigation and Disputes

Alice has a busy commercial practice. She is instructed to act in and advise on general commercial disputes, professional negligence and insurance. Recent work includes:

- Drafting pleadings and representing an insurer in a construction and breach of contract dispute.
- Advising and representing an insurer in seeking a contribution for civil liability for a fatal accident against the manufacturer of defective machinery supplied to the insured.
- Drafting pleadings in a sale of goods dispute.

## General Commercial

Alice is an experienced litigator. She is often instructed to appear in applications and she has particular experience of making and resisting applications for relief from sanctions under CPR 3.9. Alice's recent cases include disputes arising from the steel, manufacturing and financial services industries.

## Professional Negligence

Alice accepts instructions in a wide range of areas in which professional negligence can arise. Recent work includes:

- Advising and representing at mediation a claimant in a claim against a valuer in respect of a HomeBuyer Report.

- Representing at mediation a claimant in a claim against a surveyor.
- Drafting a pleading in a claim against a conveyancer relating to a boundary dispute.

Please see Alice's Professional Negligence section for more details.

## **Insurance and Reinsurance**

Alice accepts instructions in insurance and reinsurance work. She has experience of advising on both insurance and reinsurance matters. Alice is acting as junior to Colin Edelman QC on an arbitration relating to an aggregation scenario arising from solicitors' negligence.

Recently Alice has worked for several days in-house with insurer clients in order to gain first-hand experience of the insurance market.

Alice acts for Claimants and Defendants. Her recent work includes advising on coverage, notification and construction issues, particularly in respect of professional indemnity insurance. She has also recently advised on the recovery of defence costs and drafted particulars of claim under the Third Party (Rights Against Insurers) Act 1930. Alice has also been instructed with senior members of Chambers to advise on a jurisdiction point in respect of a policy of reinsurance.

Alice and Alison Padfield contributed an article to the British Insurance Law Association Journal (125th edition) entitled "Consumer Insurance: the risks of contracting on unfair terms". Alice has subsequently given a seminar on consumer insurance.

As a pupil Alice worked on a number of commercial cases with Andrew Burns QC including:

- *The Court of Appeal hearing of the Employers' Liability Policy Trigger Litigation* [2010] EWCA Civ 1096
- *Aviva Insurance v Brown* [2011] EWHC 362 (QB). Alice worked on the preparations for the High Court trial of this property insurance dispute
- *Horwood v Argos & Ors* [2010] Lloyd's Rep IR 453. Alice worked on interim applications arising out of the insurance dispute in the "toxic sofas" litigation.

## **Professional Negligence**

Alice has particular experience of claims against solicitors, valuers, surveyors, architects, financial advisers and trustees. Alice is experienced at acting for both Claimants and Defendants. She can provide advice, letters of claim and response and pleadings and also advises on issues of policy coverage.

In 2014 Alice did a four month secondment at a solicitors' firm undertaking defendant professional negligence work. She now has a great deal of experience of working with insurers and defendants to defend claims.

Examples of Alice's work include:

- Drafting a claim against solicitors relating to the conduct of a medical negligence claim.
- Advising an IFA in respect of a contractual/employment dispute arising from a professional negligence claim.
- Drafting a defence in a claim against an IFA in respect of SIPP investments in offshore bonds.

- Advising and drafting pleadings in a claim against a solicitor for alleged negligent execution of a lease and failure to advise on a claim against the landlord.
- Drafting a letter of response on behalf of trustees in response to allegations of breach of trust relating to the disposal of trust property.
- Advising on a claim against a solicitor for alleged failure to advise on the tax implications of a SPA.
- Advising on claims against valuers in respect of RICS HomeBuyer Reports.
- Drafting a letter of response on behalf of a solicitor in response to allegations of negligence and breach of contract in relation to a personal injury case conducted under a CFA.
- Drafting a defence on behalf of an architect to a claim brought by an individual who had assigned his rights to claim professional negligence to another party. The claim was withdrawn in face of an application to strike out.
- Drafting a defence to allegations of professional negligence, as junior counsel, on behalf of an architect.
- Advising and drafting a defence to a claim brought against a university for alleged negligent teaching of a post-graduate qualification.

## Tax

In 2016 Alice was appointed Junior Counsel to the Crown (C Panel). She accepts instructions from both HMRC and taxpayers.

Alice was junior to Akash Nawbatt QC on behalf of HMRC in the successful appeal *HMRC v Hely Hutchinson* [2017] EWCA Civ 1075. This is a leading case on legitimate expectations between HMRC and the taxpayer.

She is currently instructed to represent HMRC in another set of judicial review proceedings based on legitimate expectations.

Alice successfully represented HMRC in the Upper Tribunal in *ETB v HMRC* [2016] UKUT 424. This related to the default surcharge pursuant to section 59 VATA 1994, in particular whether the taxpayer had a reasonable excuse for the non-payment of VAT.

She is currently instructed by the National Crime Agency in a high value case concerning appeals against a penalty determinations pursuant to section 100B TMA 1970.

Alice's experience of contentious tax matters includes residence and penalty determinations. She is also instructed to advise on issues of employment status and professional negligence relating to taxation.

## Appointments

Junior Counsel to the Crown (C Panel) 2016-2021

## Memberships and Associations

COMBAR (Executive Committee member 2016-2019)



BILA (BILA U35s Committee member 2018)

Employment Law Bar Association

CII (Chartered Insurance Institute)

Professional Negligence Bar Association

London Common Law and Commercial Bar Association (former committee member)

Employment Lawyers' Association

Free Representation Unit

Bar Pro Bono Unit

### **Awards and Scholarships**

Albion Richardson Award (Gray's Inn)

### **Education**

LLM (2008-09) London School of Economics

BVC (2007-08) BPP

BA Law (2003-6) St John's College, University of Oxford

The Maynard School, Exeter, Devon

St Joseph's School, Launceston, Cornwall