



## Harry Sheehan

Year of Call: 2017

Harry has a busy practice which covers Personal Injury, Employment, and Tax.

Harry has been instructed as junior counsel in a number of large and complex cases. He is currently instructed in the Supreme Court proceedings in *Professional Game Match Officials Limited v HMRC* as junior Counsel to Jonathan Peacock KC and appeared in the Supreme Court as junior counsel to Robert Weir KC in the case of *Cape Intermediate Holdings Ltd v Dring* [2019] UKSC 38. He regularly acts as sole counsel in both the civil courts and employment tribunals.

Prior to commencing Pupillage, Harry read Philosophy at Cambridge and obtained a masters from UCL where he studied the nature of promises.

### Recommendations

**"Harry is a trusted advisor. He's highly intelligent and technically sound. The best thing is that he gives an honest and impartial view of a case – and provides a clear strategy, together with practical and client-focused solutions"** - *Stephen Hall, Lawyer, BT Legal.*

**"From a Solicitor's perspective, Harry is a great barrister to work alongside. Harry is flexible in his approach and takes on board the level of support and advice requested by the client and/or Instructing Solicitor."** - *Bronya Greatrex, Solicitor, Hempsons*

**"Harry strikes an incredibly important balance between robust and persistent when necessary whilst being respectful, charismatic and unprovocative and understands how to subtly tweak this balance to suit the preferences of the Judge he is before and based on the progress of the hearing"** - *Bronya Greatrex, Solicitor, Hempsons.*

### Employment

Harry has a broad practice covering all areas of employment law and acts for both claimants and respondents. He appears regularly in the Employment Tribunal and is commonly instructed in cases with complex factual backgrounds and cases that are of particular reputational importance to his clients. Harry has also been instructed on a number of occasions in the Employment Appeal Tribunal and is comfortable with appellate litigation raising novel issues of law.

Harry has a particular expertise in employment status. He is instructed as junior counsel in *Professional Game Match Officials Limited v HMRC*, which is the first case in over 20 years in which the Supreme Court will address the relevant common law test for employment status. He was also previously instructed as junior Counsel in *Kickabout Productions Limited v HMRC*, an IR35 case concerning employment status and the construction of contracts of employment.

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**Harry's recent instructions in the Employment Appeal Tribunal include:**

*British Telecommunications plc v Robertson*?(UKEAT/0229/20/RN) - Harry acted for the successful Respondent, appealing against the decision of the Employment Tribunal that the employee had been both unfairly dismissed and subjected to s.15 discrimination arising from disability. Auerbach J accepted that the Tribunal had failed to properly apply the test for causation under for the purposes of s.15 after reaching an unexpected finding in relation to disability. He also found that the Tribunal had erred in relation to the claim for failure to make reasonable adjustments, and dismissed that aspect of the claim without remitting it to the Tribunal.?

*Johnson vs Latchman*?(UKEAT/0239/19/OO) - Harry acted for the successful Claimant, responding to an appeal against a decision to extend the time for a Claimant to bring a claim for disability discrimination. Tucker J found that the ET's findings were open to it, and that, in any event, she would have made the same decision.

*Godwin Jumbo v Zonal Retail Data Systems*??(UKEAT/0275/19/LA) - Harry acted for the Respondent and responded to an appeal against a decision not to allow the Claimant to amend his claim to add four new causes of action where the Claimant had argued the ET had misapplied both the tests for extension of time and the balance of hardship test for applications to amend.

*Le Page v East London NHS Foundation Trust*?(UKEAT0161/19/OO) - Harry represented the Respondent who successfully applied for costs following withdrawal of the Claimant's appeal. Eady J accepted the Respondent's submissions and awarded costs having found that the appeal was both unreasonable and misconceived.

**Harry has recently been instructed in the following matters in the Employment Tribunal:**

- *Singh vs M&S plc*?- Harry acted for the Respondent in a seven-day hearing, dealing with numerous allegations of discrimination arising from the Claimant's disability which alleged to culminate with forcing the Claimant to resign. Harry successfully defended the Claim in its entirety
- *Black vs FCO Services*
  - A ten day trial for constructive unfair dismissal and disability discrimination in which Harry acted for the Respondent (led by Christopher Stone) and successfully restricted the scope of the Claimant's claim to the month prior to dismissal although the claim related to events took place several years beforehand.
- *Hall v BT plc* – Harry acted for the successful Respondent in a 6-day case for unfair dismissal, sex discrimination and sex discrimination. The Claimant was the sole-carer for his disabled daughter, and argued that the Respondent's decision to restructure the business without permitting him to work from home was discriminatory. The Claimant sought to apply s.19 of the Equality Act 2010, relying on his daughter's disability, by analogy with the comparable European case of CHEZ. The case involved a novel attempt to interpret s.19 in accordance with the Marleasing principle. Harry successfully defended the claim in its entirety.
- *Smith v The University of Brighton Academies Trust*
  - Harry acted for the Claimant in a 5-day whistleblowing claim. The Claimant was an Assistant Principal who complained that pupil safeguarding procedures were not being properly followed prior to being made redundant.
- *Voronov v University Hospital Southampton NHS Foundation Trust* – Harry acted for the successful Respondent at a 4-day case for race and sexual orientation discrimination. The Claimant had applied unsuccessfully for a role with the Respondent and did not accept that it was because of his performance in the application process.
- A highly contentious whistleblowing case (acting for the Respondent)?in?which anonymisation orders have been made and?the disclosures are said to have been made in bad faith which was listed for an 8 day hearing prior to settlement. Harry was successful in defending the anonymisation order despite challenge by the Claimant.

- *Sterling v Genesis Research Trust and Professor Lord Winston* - Harry acted for the successful Respondents opposing an application for interim relief on the basis that the redundancy exercise leading to the Claimant's dismissal was likely genuine.
- *Robertson v British Telecommunications plc* - Harry acted for the Respondent in the two-day remedy hearing, dealing with issues of pensions loss and loss of earnings over a period of two years following dismissal, and was successful in obtaining judgment in the sum contended for by the Respondent.

In addition to regular appearances in the Employment Tribunal and the Employment Appeal Tribunal, Harry's practice includes drafting witness statements, assisting in grievance and disciplinary investigations, and advising clients both in writing and in conference.

**Harry's recent advisory instructions include:**

- A case in which an employee who was based overseas had not received his normal bonus payment. Harry advised on the jurisdiction of the Employment Tribunal to hear a claim and on the proper construction and application of the employment contract and bonus scheme documentation.
- A case in which the same employee had brought two successive claims against the same employee. Harry was asked to advise as to the procedural consequences of the overlap between the two claims and to provide his strategic input on preparation of the latter claim for trial. Harry was also instructed on both claims and successfully defended both in full.
- A case in which a wasted costs application was made against the claimant's representative. Harry was instructed to advise the claimant's representative about the merits of the wasted costs application made against them.

## Personal Injury

Harry has experience in a wide range of multi-track personal injury matters. The majority of his instructions are in cases where the claimant has suffered a permanent or life-altering injury. He also has experience in attending inquests in matters where fatal accident claims are in prospect. Harry predominantly represents Claimants but also accepts instructions to act on behalf of Defendants.

Harry was instructed as junior to Robert Weir KC appeared in the Supreme Court (as junior counsel) in the matter of *Cape Intermediate Holdings Ltd v Dring* [2019] UKSC 38 Harry acted for the successful Respondent.

**Harry's recent instructions include:**

- A case in which a wrist injury at work led the claimant to develop complex regional pain syndrome, the symptoms of which will be permanent. The case involved substantial disputed medical evidence with varying diagnoses in the fields of psychiatry and pain management.
- A case in which the claimant was shot during a hunting accident. The bullet caused a large amount of tissue loss and nerve damage resulting in disability that is likely to be permanent.

- A case in which the claimant HGV driver was struck by a falling oak barrel which fell from the back of another driver's vehicle and landed on his ankle, causing a crushing injury to the end of the fibula, and a break to the outer fibula. Primary liability was admitted but contributory negligence was alleged. The case settled for £110,000.
- A two day inquest into the death of a person resulting from a pulmonary embolism whose prescription for anticoagulation medication ended after a review appointment was cancelled due to the Covid 19 pandemic. Harry was instructed on behalf of the bereaved family.
- A case in which the claimant was a captain on a seafaring vessel. The accident took place when he slipped and fell. Liability was denied, the Claimant averred that the fall was caused by a failure to maintain the stairway, on which he fell, in a safe condition, alleging that it was covered in oil and water at the time. The Defendant argued that the Claimant had failed to follow the correct disembarking procedures, was carrying a heavy load which caused the fall, and was himself responsible for the cleanliness of the vessel. The case settled on a full liability value of £55,000, subject to a 60% deduction for contributory negligence.
- A case in which the Defendant's unsafe working practices are alleged to have caused a serious spinal injury to the Claimant which renders him unable to work for the rest of his life. The Claimant requires ongoing pain management as a result of his symptoms.
- A case in which the Claimant was hit by a vehicle travelling at speed while using a zebra crossing, resulting in permanent injuries to her back, neck and hip as well as substantial scarring.
- A case in which the Claimant was struck in the head by a falling wooden plank, causing him orthopaedic, neurological and ophthalmic injuries as well as a consequential diagnosis of chronic pain.
- A case in which the Claimant suffered multiple lacerations to the face and a subcutaneous haematoma in her shin. The Claimant has been left with scarring in 3 locations, requiring extensive plastic surgery to resolve.
- An accident abroad in which a claim was pursued under the Package Travel, Package Holidays and Package Tours Regulations 1992. The Claimants became trapped in a burning hotel in Spain and were exposed to smoke for a prolonged period of time which exacerbated pre-existing medical conditions.
- A case in which the Claimant suffered a severe Orthopaedic Injury after which he was diagnosed with dementia, leading to issues with lack of capacity and potential Court of Protection involvement in the management of damages.

## Tax

Harry has a broad practice in tax. He has experience in both contentious and non-contentious matters, and acts on behalf of both taxpayers and the revenue. He has experience in Capital Gains Tax, Inheritance Tax, Stamp Duty Land Tax, and overseas issues such as the Transfer of Assets Abroad Regime.

Harry is currently instructed on behalf of the Taxpayer in the Supreme Court proceedings in *Professional Game Match Officials Limited v HMRC* (led by Jonathan Peacock KC).

Harry was instructed on behalf of the taxpayer in both the Court of Appeal and Upper Tribunal hearings in *HMRC v Kickabout Productions Limited*, which concerned the correct application of the Ready Mixed Concrete test in IR35 cases (led by Jonathan Peacock KC in the Court of Appeal and by Georgia Hicks in the Upper Tribunal).

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Harry was instructed on behalf of the revenue in the Upper Tribunal hearing in *Daarasp and anor v HMRC* which concerned the application of the *Ramsay* principles to determine whether expenditure was 'incurred on' the acquisition of software rights as well as the construction of a closure notice for the purpose of determining the jurisdiction of the First-tier Tribunal (led by Aparna Nathan KC).

**Harry's recent advisory work includes:**

- Advising on the SDLT consequences of the purchase of a property which included a number of separate buildings and an annex to the main building, giving rise to issues as to whether the property was non-residential and the extent to which it would qualify for multiple dwellings relief.
- Providing advice concerning the repayment of an interest free loan by an offshore trust, giving rise to issues under the Transfer of Assets Regime and the repayment of a debt, and the meaning of a "debt on a security" under the TCGA 1992.
- Advising (as junior to Marika Lemos) on the unwinding of a structure involving multiple offshore trusts, sub-trusts and companies, giving rise to numerous issues including the application of part 7A of ITEPA, the Transfer of Assets Regime, Capital Gains Tax and SDLT.

**Harry has recently been instructed in a number of tax cases in the First-Tier Tribunal on behalf of the revenue including:**

- An alleged tax avoidance scheme which sought to dispose of trust property in the UK and acquire similar trust property offshore to avoid a charge to inheritance tax of around 2.4 million pounds (led by Marika Lemos).
- An alleged tax avoidance scheme which sought to avoid capital gains tax by relocating a trust through different offshore jurisdictions shortly before and after disposing of valuable assets (led by Chris Stone).
- An alleged tax avoidance scheme which sought to artificially engineer capital losses to reduce a charge to capital gains tax of around seven hundred thousand pounds (led by Marika Lemos).
- An alleged tax avoidance scheme intended to circumvent capital gains tax in which the issues involve the identification of a "qualifying option" under s.143 TCGA 1992 and application of the Penalties Regime under both the Finance Act 2007 and the Taxes Management Act 1970 (led by Marika lemos).

## **Clinical Negligence**

Harry accepts instructions in all areas of clinical negligence. Although he most commonly receives instructions from Claimants, he is comfortable acting for both claimants and defendants and is regularly instructed on behalf of NHS trusts around the Country in the Employment Tribunal.

Harry's practice involves instructions on both County Court and High Court matters, as well as in disputed inquests. He is comfortable with matters that are both factually and legally complex.

**His recent instructions include:**

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- A fatal accident where the claimant died as a consequence of her GP refusing to prescribe her with anticoagulant medication. Harry represented the family of the bereaved at a 2 day inquest.
  - A case in which the Claimant alleges that the failure to seek appropriate specialist input led to the stillbirth of her child. The Claimant is said to have suffered severe psychiatric injuries as a result.
  - A case in which the Claimant's treatment while under anaesthetic is alleged to have been directly inconsistent with the treatment plan of her treating consultant and was not the procedure she was consented for.
  - A case in which the Claimant alleges that her severed tendons initially went undetected upon examination, which delay in diagnosis and treatment affected the severity of her long-term symptoms.

## Investigations

Harry has experience in conducting internal investigations.

### Recent investigations in which he has been instructed include the following:

- An investigation into an allegation raised by two employees that they were being bullied by their manager.
- An investigation into an allegation that an employee had been abusing drugs whilst at work. The same complainant also raised complaints about how she had been treated by her employer after previous disciplinary proceedings in which she was a witness, which Harry investigated as part of the same process.
- An investigation made by the mother of a young child after her request to change working hours was refused. The investigation included consideration of whether there had been maternity discrimination, given the recent changes to the complainant's childcare situation.

## Off-payroll working (IR35)

Harry is currently instructed on behalf of the Taxpayer in the Supreme Court proceedings in *Professional Game Match Officials Limited v HMRC* (led by Jonathan Peacock KC). That case concerns the employment status of football referees (for tax purposes) and gives rise to issues including the nature of mutuality of obligations and control for the purpose of the Ready Mixed Concrete test.

Harry acted for the taxpayer in *HMRC v Kickabout Productions Ltd* in the Upper Tribunal and the Court of Appeal (led by Jonathan Peacock KC). The case concerned a number of issues including the proper application of the *Ready Mixed Concrete* test and the proper construction of hypothetical contracts of employment for the purposes of IR35.

Harry has previously assisted Marika Lemos on behalf of a taxpayer in preparing pre-action correspondence in relation to a dispute with HMRC over the application of the IR35 provisions.

Harry also has experience of worker and employee status issues in the context of Employment Tribunal litigation and is able to draw upon experience of disputes in both revenue and employment cases.

## Academic

City University, Bar Professional Training Course (very competent)

City University, Graduate Diploma in Law (Distinction)

University College London, MPhil Stud. Moral and Political Philosophy

University of Cambridge (Selwyn College), MA (Double First Class Honours Degree) Philosophy

### **Awards & scholarships**

Dawes-Hicks Scholarship

Inner Temple Major Scholarship

Lifetime scholar of Selwyn College

### **Memberships & Associations**

PIBA; ELBA; ELA; RBA

### **Mooting**

Quarter-finalist - City University GDL Mooting competition

Semi-finalist - National Speed Mooting competition

Quarter-finalist - Crown Office Chambers Mooting Competition