

Marianne Tutin

CALL 2013



Areas of Expertise

• Employment • Dismissals & Employment Rights • Equality • Investigations • Industrial Relations • Restrictive Covenants & Injunctions • National Minimum Wage (NMW) • Pay, Incentives and Pensions • Tax • Off-payroll working (IR35) • Employment Income Taxation • Corporate Tax & Taxation of Businesses • Judicial Review • Commercial Litigation and Disputes • Alternative Dispute Resolution (ADR) • Human Rights

Marianne's areas of practice are Employment, Tax and Commercial Litigation.

She is adept at advocacy and appears regularly in the Employment Tribunal, Employment Appeal Tribunal, First-tier Tribunal (Tax), Upper Tribunal (Tax and Chancery), High Court and Court of Appeal in high-value and complex litigation for a wide variety of clients. She often appears unled against considerably more senior counsel, including silks, at first instance and appellate levels.

Marianne is ranked as a Leading Junior in Employment by Chambers UK and Legal 500, which highlights that she "works with clients brilliantly", is a "ruthless" and "very-skilled" cross-examiner, who marries "commercial and practical" advice with "technical knowledge", and is regarded as a "massive star in the making". Her expertise is particularly sought after in respect of industrial disputes and strike injunctions, whistleblowing and discrimination claims, as well as complex workplace investigations and disciplinary matters.

She was appointed to the Attorney General's Panel of Counsel (B Panel) in 2023, advising and representing the government in some of its most significant civil litigation. She is a Case Reviewer for Advocate, a Contributing Editor to Discrimination Law (Bloomsbury Professional) and Vice-Chair of the Employment Law Bar Association.

Before coming to the Bar, Marianne worked for an MP in the House of Commons and for Hanover Communications, a public relations firm with expertise in public affairs consultancy.

Recommendations

"Marianne is able to think on her feet and pivot in order to secure a good outcome for the client." "Marianne is top of our list. She is excellent on tough financial services work." "Marianne focuses on the real issues at hand. She is a really good intellectual but doesn't get bogged down in irrelevant detail." - Employment, Chambers UK Bar 2025

"A very impressive junior, who is always on top of the details and provides strategic advice." - Employment, Legal 500 2025

"Marianne is a go-to for any employment status strategic advice, as well as any knotty discrimination or whistle-blowing case, especially if brought by a litigant in person." - Employment, Chambers UK Bar 2024

"Fantastically clever and very user-friendly." - Employment, Chambers UK Bar 2024

'Marianne is a delight to work with - efficient; commercial; a ruthless cross-examiner, and all with a great sense of humour.' - Employment, Legal 500 2024

"As well as being all over the details, Marianne has a great warmth that really gets the best from anxious witnesses and gives her great integrity with the Tribunal." - Employment, Chambers UK 2023

"She works with clients brilliantly, putting them at their ease and making complex concepts seem simple and understandable." - Employment, Chambers UK 2023

"She gains the client's trust very quickly, she is very measured, she understands the legal risks quickly, she is a strong advocate and she is a very skilled cross-examiner." "She is very commercial and practical and she marries that with technical knowledge." "She is very organised, and she is confident and clear in her communication." - Employment, Chambers UK Bar 2022.

"Marianne is responsive, personable, technically superb, and a massive star in the making. Clients love her and she is a pleasure to instruct." - Employment, Legal 500 2022.

"She's a superb junior with in-depth knowledge and the ability to quickly get to grips with a case and achieve the client's commercial and strategic aims." "She's really approachable and responsive, and is able to distil a whole heap of information into a really good case." - Employment, Chambers UK Bar 2021

'A superb junior who is no doubt on her way to great achievements. Her in-depth knowledge and up-to-date advocacy on employment status issues is second-to-none at her level' - Employment, Legal 500 2021.

Expertise

Employment

Marianne is recognised as a Leading Junior by Chambers UK and Legal 500 in Employment.

She practises all areas of industrial relations and employment law. She has experience beyond her level of call relating to industrial disputes and strike injunctions. She also has considerable experience of high-value and complex ET litigation acting for both claimants and respondents, as well as substantive appeals in the EAT and Court of Appeal, in which she often appears unled against leading employment silks. Her recent cases include claims relating to discrimination, equal pay, whistleblowing, unfair dismissal, TUPE and the National Minimum Wage.

Her clients include multinational and FTSE 100 companies, government departments, local authorities, NHS trusts, charities, employers' associations and other trade groups, senior executives and individuals. She also undertakes pro bono employment work under the auspices of ELAAS, Advocate and FRU.

Industrial Disputes

Marianne has expertise in industrial disputes matters in the High Court and ET. She has substantial experience of advising on injunctive relief, the validity of strike ballots/notices, the use of agency workers, blacklisting and tactics for managing pay disputes, picket lines and protests. She frequently advises large employers about changing terms and conditions of employment, including strategies relating to termination/re-engagement, managing industrial action and restrictions on contractual changes in relation to collective bargaining (under s.145B TULRCA 1992), as well as proposed reforms to collective agreements. Her clients have included government departments, local authorities, NHS Trusts, transport providers, energy companies and global food and beverage companies.

Marianne is also experienced in advising on labour relations, including employers' associations, trade union recognition and time off for trade union duties and activities, and has represented clients in proceedings before the CAC and ET.

Recent work includes:

- **Jarvis and others v British Gas Services Ltd (2024)**: successfully represented the respondent in defending s.145B TULRCA claims brought by 3,100 GMB engineers, worth £13 million, following allegations that a direct offer of new terms and conditions of employment were a 'bung' to avoid collective bargaining (junior to Andrew Burns KC).
- **GMB members v British Gas Services Ltd (2020-24)**: advised a large employer about changing terms and conditions of employment (junior to Andrew Burns KC) and successfully defended ET litigation related to claims for unfair dismissal/discrimination (unled).
- **Secretary of State for Health and Social Care v RCN (2023)**: advised a government department in respect of the validity of strike ballots issued by the RCN in respect of the nurses' strike (junior to Andrew Burns KC).
- **Employers' Organisation v Trade Union (2023)**: advised a nationwide employers'

organisation about strike notices issued by a trade union to various employers in the healthcare sector (junior to Andrew Burns KC).

- *Trade Union v Employer* (2022): advised an umbrella organisation about changing industry-wide terms and conditions of employment (junior to Andrew Burns KC and Jesse Crozier).
- *Birmingham City Council v (1) Unite the Union (2) Unison* [2019] EWHC 478 (QB), [2019] IRLR 423: represented the claimant in an injunction application in respect of strike action brought by the Council's Waste Service workers (junior to Andrew Burns KC and Alice Carse).
- *Unite the Union v Birmingham City Council* (2019): successfully represented the defendant in an injunction application brought by the union to prevent the Council from implementing its contingency measures put in place in response to industrial action brought by workers in its Waste Service (junior to Andrew Burns KC).

Restrictive covenants and injunctions

Marianne has experience of advising both claimants and defendants in disputes relating to restrictive covenants, including issues concerning team moves, the use of confidential information and copyrighted work by ex-employees and alleged inducements of breach of contract. She has also advised on the construction of non-compete (and associated) covenants, scope of implied contractual terms and equitable duties. She is experienced in defending clients in relation to springboard and other injunctive relief in the fintech and cyber-security sectors, amongst others, both led and as sole counsel.

Marianne understands the need for early, tactical advice to avoid need for expensive proceedings.

Discrimination

Marianne has significant experience of conducting multi-week hearings on behalf of claimants and respondents in complex, high-value discrimination proceedings, including equal pay matters, in the ET, EAT and Court of Appeal.

Recent cases include:

- *Jones v Secretary of State for Health and Social Care* [2024] EAT 2, [2024] IRLR 275: represented the respondent (a government department) in a race discrimination appeal regarding the approach to evidential comparators and the exercise of the ET's discretion in extending time.
- *Ireland v UCL* [2024] EAT 68: successfully represented the respondent (a university) in a race discrimination appeal concerning a substantial costs order.
- *Lawyer v Legal Services firm* (2024): represented the respondent in an equal pay and sex/maternity discrimination claim brought by a former lawyer concerning an application for partnership.
- *S v Nanoavionics UAB UK Ltd* [2022] UKEAT 72: represented the respondent (a spacecraft engineering company) in the EAT concerning the correct approach to deposit order applications, in the context of ss.110-112 EqA 2010 claims.
- *B v C* (2022): successfully represented the respondent (a multinational company) in the ET in an unfair dismissal and disability discrimination claim arising out of changing terms and

conditions of employment.

- *O, L v FCDO* (2022): represented the respondent government department in the ET in a wide-ranging race/sex discrimination and equal pay claim.
- *W v CIBC* (2022): represented the claimant (a senior banking executive) in the ET in a race/sex discrimination, harassment and victimisation claim.
- *B-P v Palladium International Ltd* (2021): successfully represented the respondent (an international advisory company) in the ET in a maternity discrimination claim.

Marianne is a Contributing Editor to the chapter on Direct Discrimination in Discrimination Law (Bloomsbury Professional).

Whistleblowing

Marianne frequently acts for claimants and respondents in high value/complex whistleblowing claims. She has a particular interest in whistleblowing claims, having written extensively on the topic and contributed to ELA's Working Party addressing the European Commission's consultation on whistleblowing protection. She is experienced in defending interim relief applications.

Recent cases include:

- *H v UCL* (2023): successfully represented the respondent (a university) in a whistleblowing automatic unfair dismissal claim arising out of a dismissal following an irreparable breakdown in working relationships.
- *G v C* (2023): successfully defended an application for interim relief in respect of the summary dismissal of a senior employee following allegations of health and safety failures.
- *H v Chubb* (2021): represented the respondent (a global fire safety/security company) in a whistleblowing detriment and automatic unfair dismissal claim.
- *X & Y v Plc* (2018): represented the respondent as a junior to Andrew Burns KC in a highly sensitive whistleblowing case involving interim relief proceedings and injunctive proceedings in relation to a dispute about reliance on highly privileged and confidential material arising out of an internal investigation.

Employment status and IR35

Marianne has a keen interest in employment status and considerable experience of the area in the employment and tax context (see below), including appearances in the Court of Appeal in IR35 cases involving the media industry and public sector (*Kickabout Productions Ltd v HMRC* [2022] EWCA Civ 502; *Atholl House Productions Ltd v HMRC* [2022] EWCA Civ 501) and Upper Tribunal (*HMRC v RALC Consulting Ltd* [2024] UKUT 99 (TCC); *HMRC v Basic Broadcasting Ltd* [2024] UKUT 165 (TCC)). Her "in-depth knowledge and up-to-date advocacy on employment status issues is second-to-none at her level". In particular, she has advised both organisations and individuals regarding the application of 'worker' status to the workforce at large, as well as the IR35 reforms in the private sector.

National Minimum Wage

Marianne has experience in advising clients regarding the potential underpayment of the NMW, including throughout ongoing HMRC investigations in very high value matters. Her advice has concerned both substantive issues, such as the calculation of the hourly pay rate, and practical

matters, such as dealing with potential enforcement proceedings. She has also represented HMRC in NMW litigation in the ET.

She is also experienced in bringing proceedings on behalf of individuals in the ET and High Court against both employers and directors.

Other advisory work

Marianne has wide experience advising on employment-related issues, such as matters relating to TUPE, collective redundancies and holiday pay/working time. She has been instructed to review a number of workplace policies for multinational and FTSE 100 companies.

Disciplinary matters

Marianne has experience of advising on and participating in all aspects of disciplinary matters, including internal investigations, the preparation of disciplinary charges, disciplinary hearings and appeals. She has also acted as an impartial adviser to disciplinary panels and appeal panels. Recent matters have included allegations of serious sexual misconduct and harassment in a world-leading research company and the education sector.

Investigations

Marianne has a busy and successful practice in complex and high-profile workplace investigations, which complements her experience in employment litigation. She has investigated a wide range of allegations from harassment and bullying to financial and corporate misconduct for private and public sector clients across a range of industries, including for regulatory compliance purposes. She has considerable experience in interviewing the highest level of executive and non-executive management and conducting investigations in the public eye, which have been considered at Cabinet-level.

Marianne has particular expertise in investigating criminal allegations in the workplace, such as rape and serious sexual assault. She has undertaken specialist police training in respect of interviewing potential victims and witnesses of sexual offences and approaches such matters with sensitivity but robustness. She provides training on best practice in respect of the conduct of investigations in this area.

Tax

Marianne accepts instructions from both HMRC and taxpayers in a contentious and advisory capacity. She has substantial tax litigation experience in the First-tier Tribunal (Tax), Upper Tribunal (Tax and Chancery Chamber), High Court and Court of Appeal, and has appeared unled in complex appeals. Her practice is focused upon areas that cross over with her employment work, namely employment status and taxation of employment income, as well as residence matters and judicial review proceedings.

Employment income

She has particular expertise in IR35 and the agencies legislation, in which she is able to draw

upon her experience of employment status cases in the Employment Tribunal context (see above). She is instructed by HMRC as junior counsel to Adam Tolley KC (Fountain Court Chambers) and Christopher Stone KC (Devereux), as well as being instructed as sole counsel in a number of high-profile cases involving the media industry and public sector. She also has experience of advising clients, including high net-worth individuals, agencies and end-users, regarding the IR35 reforms in the private sector.

Significant recent cases include:

- *Cranham Sports LLP v HMRC* [2024] UKUT 209 (TCC): successfully represented HMRC in an appeal concerning the lateness of an appeal relating to the employment status of a Sky Sports presenter.
- *HMRC v Basic Broadcasting Ltd* [2024] UKUT 165 (TCC): successfully represented HMRC in an appeal concerning the employment status of an ITV sports and BBC radio presenter (junior to Adam Tolley KC).
- *HMRC v RALC Consulting Ltd* [2024] UKUT 99 (TCC): successfully represented HMRC in an appeal to the Upper Tribunal concerning the employment status of an IT consultant (junior to Christopher Stone KC).
- *Kickabout Productions Ltd v HMRC* [2022] EWCA Civ 502, [2022] STC 876; *Atholl House Productions Ltd v HMRC* [2022] EWCA Civ 501, [2022] STC 837: successfully represented HMRC in appeals to the Court of Appeal in two cases heard by the same panel, which raised important issues relating to the correct approach to the issue of employment status, mutuality of obligations and the 'business on own account' test (junior to Akash Nawbatt KC and Christopher Stone KC in *Kickabout*; junior to Adam Tolley KC and Christopher Stone KC in *Atholl House*).

Marianne also has experience of advising and representing HMRC in other employment income-related matters, such as the deductibility of employee expenses (*HMRC v Kunjur* [2023] UKUT 154 (TCC)), taxation of restrictive undertakings and settlement agreements (*Mrs A v HMRC* [2022] UKFTT 421 (TC)) and correct construction of s.15 ITTOIA 2005 relating to divers' income (*Corrigall v HMRC* [2022] UKFTT 163 (TC); *Lowe v HMRC* [2022] UKFTT 164 (TC)). She also has wider experience of income tax issues, having represented HMRC in the Upper Tribunal in *Qolaminejite v HMRC* [2021] UKUT 118 (TCC), [2021] STC 1169, a matter concerning the burden of proof in tax appeals.

Residence

Marianne has experience of very high value residence cases. She successfully represented HMRC in *Hargreaves v HMRC* [2022] UKUT 34 (TCC), [2022] STC 455, an appeal to the Upper Tribunal in a matter worth over £80 million concerning a high net-worth individual, which raised discovery issues, as a junior to Akash Nawbatt KC and Christopher Stone KC. She has also represented HMRC in proceedings relating to whether a high net-worth individual was entitled to claim the remittance basis.

Judicial review

She has unled public law experience, having represented and advised HMRC in respect of judicial review proceedings brought in the Administrative Court in the tax context. In particular, she has appeared in the Administrative Court in proceedings relating to the Social Security (Contributions) Regulations 2001, the Managed Service Company provisions within ITEPA 2003 and tax

investigations under Code of Practice 9. She has also provided independent, open advice to the Administrative Court concerning whether HMRC complied with its duty of candour in judicial review proceedings.

Commercial Litigation and Disputes

Marianne is regularly instructed in an advisory capacity and as an advocate in commercial litigation and disputes related to her employment work. Much of her commercial practice involves restrictive covenants (see above in Employment), shareholder and partnership disputes, and issues relating to directors' duties and executive remuneration. She has advised in respect of a variety of breach of contract, settlement agreement and confidentiality claims.

Her experience includes:

- Striking out and obtaining summary judgment in respect of a multi-million pound claim brought against a firm of solicitors.
- Appearing in the county court to defend a claim of misrepresentation and breach of contract against an energy company.
- Applying for civil restraint orders in respect of vexatious litigants.
- Setting aside default judgment.
- Making and resisting applications for relief from sanctions.
- Securing various orders in the Companies Court.

She has also been led on a variety of commercial cases and assisted members of chambers with international arbitrations and mediations. She also has experience of commercial injunctions. Notably, she assisted Shaen Catherwood in obtaining a without notice injunction and a costs order on the indemnity basis in the High Court (Chancery Division) against an ex-director of a large company in *Friendly Pensions Ltd v Austin*.

Appointments

Appointed to the Attorney General's Panel of Counsel (B Panel) in 2023

Appointed to the Attorney General's Panel of Counsel (C Panel) in 2019

Vice Chair, Employment Law Bar Association

Memberships and Associations

Employment Lawyers Association

Employment Law Bar Association

Industrial Law Society

Revenue Bar Association

Academic

LLM, specialising in Labour Law (Distinction), King's College London (2014)

GDL (Commendation) and BPTC (Very Competent), College of Law (2012-13)

BA, Philosophy, Politics and Economics (First Class Hons), University of Durham (2008-11)

Awards

Inner Temple Exhibition Award (2013)

Awards



For enquiries & instruction please contact



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