



Stuart Brittenden



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Profile

Stuart is an employment law specialist with extensive experience in the full spectrum of individual and collective employment law, appearing at first instance and at appellate levels. He is ranked as a Band 1 leading Employment Junior by both *Chambers & Partners* and *Legal 500*, and his expertise in this field is also acknowledged by *Who's Who Legal*.

He was shortlisted by *Chambers & Partners* as Employment Junior of the Year (2017), and has been named UK Employment Junior of the Year by *Legal 500* (2018). Stuart has been commended by the former for being "... able to analyse complex matters in an extremely practical and commercial way" and is someone who "thinks ten paces ahead and is very good on his feet." *Who's Who Legal* highlight "his strong expertise in the Equality Act 2010 and equal pay matters".

His practice areas include **Employment & Discrimination, Industrial Relations, Professional Discipline, and Judicial Review.**

Prior to joining Old Square Chambers, Stuart attained a Masters in Labour Law (distinction) at the London School of Economics (LSE), and worked as an Employment Law Advisor to the British Dental Association (BDA). He has lectured in Labour Law at the LSE and has published in the employment field.

Stuart is instructed from a variety of sources, including but not limited to the banking/financial, health, higher education sector, hospitality, legal, and, local authorities, as well as undertaking work of strategic importance for and on behalf of a number of trade unions.

Positions of Responsibility:

- Employment Lawyers Association (ELA): Director and Management Committee Member (2012-14)
- Bar Standards Board Qualifications Committee (2005- 2012), latterly Chairman of Transferring Qualified Foreign Lawyers Panel
- International Paralympic Committee (IPC) *ad hoc* disciplinary panel member, Anti-Doping Rule Violations (ADRV)

Professional Memberships:

- Employment Law Bar Association (ELBA)
- Employment Lawyers Association (ELA)
- Institute of Employment Rights (IER)
- Industrial Law Society (ILS)



Recent and current work

- *Kostal UK Limited v Dunkley & 56 others* [2019] EWCA Civ 1009
- *Birmingham City Council v Unite the Union and another* [2019] IRLR 423
- *Reading Borough Council v James and others* [2018] ICR 1839; [2018] IRLR 790
- *Ministry of Justice v Prison Officers' Association* [2018] EWHC 3672 (QB) (collective agreements)
- *Coyne & Brooks v Unite the Union D/12-20/18-19*
- *Ministry of Justice v Prison Officers' Association (POA)* [2018] ICR 181 (industrial action)
- *Kostal UK Ltd v Dunkley & Ors* [2018] IRLR 428 (successfully represented Unite members in seminal decision on s. 145B inducements)
- *London Care Ltd v Henry & Ors* UKEAT/0219/17/DA (TUPE, largest group NMW litigation in care sector))
- *Reading Borough Council v James & Ors* UKEAT/0222/17/JOJ (equal pay, choice of comparator, operation of equality clause)
- *Blakely v On-Site Recruitment Solutions Ltd* UKEAT/ 0134/17/DA (test litigation on worker status; service companies; construction sector)
- *Fleming v East of England Ambulance Service NHS Trust* UKEAT/0054/17/BA (admissibility of covert recordings, legal professional privilege)
- *Thomas Cook Airlines Ltd v BALPA* [2017] EWHC 2253 (QB); [2017] IRLR 1137: successfully represented the pilot union in the first decision under s. 229(2D) TULR(C)A 1992 concerning the amount of information which needs to be included within ballot paper (junior counsel to O. Segal QC)
- *Ministry of Justice v Prison Officers' Association* [2018] ICR 181: inducement of prison officers to withhold their services, s. 127 CJPOA 1994; High Court accepted that the collective withdrawal from non-contractual duties did not constitute actionable inducement at common law (junior counsel to J. Henty QC)
- *Govia Thameslink Railway Ltd v ASLEF (No. 3)* [2017] 2 CMLR 24; [2017] ICR 497; [2017] IRLR 246 CA: art 49, 56 TFEU (seminal decision examining the reach of the TFEU fundamental freedoms to industrial action, and the application of *Viking*, *Laval*, *Holship* to industrial action on Southern)(junior counsel to O. Segal QC)
- *BALPA v Jet2.com Ltd* [2017] EWCA Civ 20; [2017] ICR 457; [2017] IRLR 233 CA: instructed by BALPA in the Court of Appeal successfully overturning the High Court ruling [2015] IRLR 543 as to the scope of negotiating rights for the purposes of para 3(3) Sch A1 of the 1992 Act in respect of pay, hours and holidays (junior to B. Carr QC)
- *Govia Thameslink Railway Ltd v ASLEF (No. 2)* [2016] EWHC 1320 (QB); [2016] IRLR 686 (Supperstone J): 'prior call' (s. 233), ballot constituency (s. 228A), trade dispute (s. 244) (junior counsel to J. Henty QC)
- *Govia Thameslink Railway Ltd v ASLEF (No. 1)* [2016] EWHC 985 (QB) (Langstaff J): inducement to breach contract (junior counsel to J. Henty QC)
- *Secretary of State for Education v NUT* [2016] EWHC 812 (QB); [2016] IRLR 512 (Kerr J): seminal decision on trade dispute with Minister of the Crown (s. 244(2)(b)), interim declarations (junior counsel to J. Henty QC)
- *McFarlane & Ambacher v EasyJet Airline Co Ltd* [2016] IDS Brief 1058: test litigation concerning adjustments to rostering arrangements to permit breastfeeding mothers to express milk, indirect sex discrimination, H&S, s. 63 ERA 1996.
- *Osborne & Ors v Capita Business Services Ltd* UKEAT/0048/16/RN: TUPE; outsourcing of local authority functions; ETO reason for dismissal.
- *Vodafone Ltd v Winfield* UKEAT/0016/16/JOJ; [2016] EOR 271: disability discrimination, just and equitable extension of time, employer's conduct of grievance procedure.
- *Barnes v Lewisham LBC* [2016] EWCA Civ 582: successfully represented Lewisham concerning constructive dismissal and whistleblowing detriment.
- *Plumb v Duncan Print Group Ltd* [2016] ICR 125: accrual of right to paid annual leave during long-term sickness absence - EAT held that the carry over period was subject to an 18 month temporal limit
- *Land Registry v Houghton* [2015] IDS Brief 128: one of the first EAT decisions to examine the scope of s. 15 EqA 2010 (unfavourable treatment arising in consequence of disability; withholding of bonus payments; sickness absence)
- *Mosekari v Lewisham LBC* [2015] ELR 31 (Admin): successfully represented Lewisham resisting a judicial review challenge brought by a teacher seeking exemption from mandatory induction period following award of QTS
- *Virulite LLC v Virulite Distribution Ltd* [2015] 1 All E.R. (Comm) 204 (QBD): represented defendant in multi-million pound commercial action - wrongful repudiation of distribution agreement for cold sore treatment; promissory estoppel; repudiation; termination; variation clauses; waiver (junior to O. Segal QC).
- *Thorne v House of Commons Commission* [2014] EWHC 93 (QB); [2014] IRLR 260: public sector pay freeze; breach of



contract - progression payments; incorporation

- *Brighton & Sussex University Hospitals NHS Trust v Zia & Ors*: successfully obtained ex parte injunction in the Chancery Division to restrain use of covertly recorded privileged material and delivery up of recording/transcripts
- *Vaughan v London Borough of Lewisham* [2013] IRLR 720: concurrent ET and High Court proceedings; refusal to stay High Court proceedings; defamation – justification defence
- *Anderson & Ors v LFEPA* [2013] EWCA Civ 321; [2013] IRLR 459 CA: collective agreement 3 year pay deal; construction; incorporation (junior to O. Segal QC)
- *Dunn v Basildon & Thurrock University Hospitals NHS Foundation Trust* [2013] EWHC 3636 (QB): successfully represented Trust to resist application for interim relief; alleged breach of disciplinary procedure
- *Working Links (Employment Ltd) v PCS* UKEAT/0305/12/RN; [2013] IDS Brief 971: collective redundancy consultation; trade union recognition for collective bargaining; s. 188
- *Vaughan v LB Lewisham* UKEAT/0534/12/SM: admissibility of covert recordings
- *HM Land Registry v Benson* [2012] ICR 627; [2012] IRLR 373: early retirement; age discrimination; justification