

Ashley Serr

Call 1996



Clerks' Details

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Appointments

- Junior Counsel to the Crown (Regional Panel A)
- Panel Counsel to EHRC
- Counsel to HMRC
- Fitness to Practice Panel of the HCPC
- Fitness to Practice Panel of GDC
- Court examiner appointed under CPR 35 by the Lord Chancellor
- Recorder (2020)

Employment

Overview

- Ashley specialises in all aspects of employment law including TUPE, equal pay, restrictive covenants, discrimination and unfair dismissal.
- Appears in all Courts from the Employment Tribunal to the Supreme Court and has been involved in some of the key cases in TUPE, equal pay, National Minimum Wage and discrimination over the last 10 years.
- Appeared in *Key2Law v D'Antiquis* determining that TUPE will apply in the context of administration, *MOD v Fletcher* leading case on aggravated and exemplary damages and *MOJ v Parry* - the leading case on the application of HRA Article 6 to Unfair dismissal.
- His expertise in other related areas allows him to take a holistic approach to employment law. He has significant expertise in post termination restriction cases, directors disqualification, business immigration including (Tier 2 and 4 sponsorships) where he was counsel in the leading case of *Raj and Knoll v SoS* and Regulatory work (he is a legal assessor for both the HCPC and GDC fitness to practice panels).

Recommendations

Chambers and Partners 2022

“He’s well regarded, a standout and well-known barrister.”

Chambers and Partners 2021

Possesses an enviable employment law practice in which he tackles many of the more cutting-edge issues in the field. He has recently developed expertise in areas including the National Minimum Wage and religious belief discrimination.

Strengths: “His advice is brilliantly sharp and strategic.” “His main strength is his ability to grasp the nuts and bolts of a case and really make a great presentation of it in tribunal.”

Chambers and Partners 2020

Respected for his holistic practice and expertise in TUPE, discrimination and unfair dismissal matters as well as his involvement in handling restrictive covenant and complex judicial review cases. He has extensive experience of appearing on behalf of high net worth and business clientele before employment tribunals, the ECtHR and the Supreme Court. He also acts for public bodies.

Strengths: “Ashley has excellent attention to detail and has a firm grasp of complex legal issues arising in relation to employment law claims.” “He is really pragmatic and commercial, gets straight to the point and tells you what his opinion is concisely and directly.”

Chambers and Partners 2019

Respected for his holistic practice and expertise in TUPE, discrimination and unfair dismissal matters as well as his involvement in handling restrictive covenant and complex judicial review cases. He has extensive experience of appearing on behalf of high net worth and business clientele before employment tribunals, the ECHR and the Supreme Court. He also acts for public bodies.

Strengths: “Straightforward, easy to work with and really smart. We really value his opinion and experience.” “Very knowledgeable.”

Chambers and Partners 2018

“Respected for his holistic practice and expertise in TUPE, discrimination and unfair dismissal matters as well as his involvement in handling restrictive covenant and complex judicial review cases. He has extensive experience of appearing on behalf of

high net worth and business clientele before employment tribunals, the ECHR and the Supreme Court.”

Strengths: “He’s extremely good in court. He gets to the point concisely and makes his case forcefully.” “Ashley Serr is very smart. He gets to the nub of an issue very quickly and advises appropriately.”

Recent work: Appeared in *Frost v Ministry of Defence*, a whistle-blowing claim involving allegations of controlled drug loss at an army base.

Chambers and Partners 2017

Strengths: “He’s a very strong court performer and doesn’t pull any punches. He’s a good person to have on your side.” “Intellectually strong and has a clear understanding of what is necessary for the client, whether it be an individual or organisation.”

Recent work: Appeared in *Country Court Care and Others v Secretary of State for the Home Department*, which discussed what extent the Human Rights Act is relevant when making considerations of whether to revoke Tier 2 Sponsorship licences of a care home facility when this may affect the welfare of the residents therein.

Chambers and Partners 2016

“His caseload covers the full spectrum of employment law matters, from restrictive covenant and working time claims to discrimination and unfair dismissal cases. He receives frequent instruction from public sector entities, such as local authorities.”

Strengths: “He is always able to identify and highlight the most important points and dispense with any unnecessary ancillary issues.”

The Legal 500 2022

“Ashley Serr has substantial experience in handling TUPE, equal pay, and unfair dismissal and discrimination claims.”

The Legal 500 2021

“Ashley has a great ability to get to the heart of the legal issues in a case. He is a tenacious Tribunal advocate with a will to win.”

The Legal 500 2020

“Ferocious in cross-examination and eloquent in argument.”

The Legal 500 2018/19

“Experienced across a broad range of employment matters.”

The Legal 500 2017

“A direct and smooth-spoken advocate.”

Cases

Gan Menachem v De Groen (2019) IRLR 410

In *Gan Menachem v De Groen* an important decision of the Employment Appeal Tribunal Swift J has confirmed that in a religious discrimination case the treatment must have been caused by the employees belief. The employers belief is irrelevant. Ashley Serr being led by John Bowers QC successfully acted for the appellant nursery.

Raj and Knoll v Secretary of State for the Home Office (2015) EWHC 1329 Admin

First case to come before the courts on approach to take when challenging decision to revoke a Tier 2 sponsorship license.

Country Court Care v Secretary of State for the Home Department [2015] EWHC 2054 (Admin)

Considered what applicability the HRA had when revocation of a Tier 2 licence of a care home may impact on the welfare of the residents.

HMRC v Jones and Others (2014) ICR D43

EAT provides for the first time a comprehensive guide to the principles in identifying a contract of apprenticeship at common law. Ashley successfully represented HMRC.

Ministry of Justice v Parry (2013) ICR 311

Leading case on legal representation at internal disciplinary hearings in the context of unfair dismissal.

Secretary of State for Justice v Hibbert (2013) All ER (D) 295 (Nov)

Establishes when an ‘ambiguous’ resignation takes effect for the purposes of EDT in a constructive dismissal.

The Department for Works and Pensions v Conyers UKEAT/0375/13/KN

EAT summarises the legal and medical requirements for the recurring effects provisions of the Equality Act in relation in particular to depression.

R (oao Golding) v General Commissioners of Income Tax (2011) EWCH 2435 Admin

A decision by the General Commissioners of Income Tax not to issue a closure notice in relation to an inquiry into a taxpayers return was lawful as there was no bias or procedural unfairness. Ashley successfully acted for HMRC.

Key2Law v D'Antiquis (2011) EWCA Civ 1567

Court of Appeal upholds decision of EAT that administration can never fall within Regulation 8 (7) TUPE in that it is not an insolvency proceeding instituted with a view to the liquidation of the assets of the transferor. Ashley again acted for the Secretary of State as intervenor. Appeal to the Supreme Court was dismissed in 2013.

OTG Ltd v Barke & Others (2011) IRLR 272

Interpretation of TUPE Regulation 8. EAT determines that administration can never fall within Regulation 8 (7) TUPE in that it is not an insolvency proceeding instituted with a view to the liquidation of the assets of the transferor. Ashley successfully acted on behalf of the Secretary of State for Business Innovation and Skills.

Molaudi v Ministry of Defence (2011) ICR D19

The EAT held that an ET has no jurisdiction to consider a discrimination claim where the MOD has ruled the internal grievance invalid. Ashley successfully acted for the MOD.

EAGA v Tideswell UK EAT/007/11/SM

EAT address issue of substitution in an unfair dismissal case.

Ministry of Defence v Fletcher (2010) IRLR 25

Leading case on the appropriate approach to aggravated and exemplary damages in the Employment Tribunal.

Guellard v Ministry of Defence (2009) All ER (D) 50 (Dec)

Proper approach to the issue of contributory fault in the Employment Tribunal.

R (oao) Spicer v Secretary of State for Justice (2009) EWHC 2142 (Admin)

Judicial review in respect of a challenge to a decision of the parole board not to release a prisoner on an IPP. Considered rationality of decision and delay.

Jatto v Godloves Solicitors (2008) All ER (D) 169 (Jan)

Guidance for striking out discrimination at PHR stage.

Thomas v The Home Office (2006) EWCA Civ 1355

Leading case on what can and cannot be agreed between the parties without a court order under the CPR and what constitutes a valid agreement for the purposes of rule 2.11.

Connor and Hine v DTI (2006) All ER (D) 61 (Feb)

Burton P in the EAT rules Part XII ERA is compatible with EC insolvency directive and refuses to refer the matter to the CJEU.

Home Office v Lowles (2004) EWCA (Civ) 985

Correct approach to Regulation 12 (3) workplace (Health, Safety and Welfare Regulations 1992).

Logan v Commissioners for Customs and Excise (2004) IRLR 63

Leading Court of Appeal decision on striking out at half time in the ET. Ashley successfully acted for the Claimant Mrs Logan.

Bewley v Prison Service (2004) ICR 422

Leading case on meaning of collective agreement and contracting out for the purposes of the Working Time Regulations.

Miller v Secretary of State for the Home Department (2004) All ER (D) 109 (Jun)

Employment status of a prison chaplain.

Wainwright and another v Home Office (2003) UKHL 53

Landmark decision of the House of Lords on whether a free standing tort of invasion of privacy exists. Ashley acted for the Claimants throughout from the High Court. The case eventually reached the ECHR where the Claimants were successful.

Stott and Others v Prison Service (2003) All ER 25 (Jun) Date of assessment for 'prejudice' when extending time limits.

Hill v Prison Service (2003) All ER (D) 267 (Dec) - Identifying correct EDT.

De Keyser v Wilson (2001) IRLR 324 - Leading case on use of experts in the ET including appropriate manner of instruction.