3PB BARRISTERS



Michael Smith

Year of Call: 2009
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Employment and discrimination

Michael is a specialist employment barrister providing practical and effective advice to a broad spectrum of clients, ranging from employees and individuals through to small and medium sized businesses as well as UK FTSE listed companies, international corporations, local authorities and NHS Trusts.

Michael has extensive experience in discrimination cases (in particular sex, race, disability, religion and belief). He often acts for well-known UK and international companies and is accustomed to appearing in multi-week hearings involving all forms of discrimination, including claims of direct and indirect discrimination, victimisation and harassment.

Michael advises employers and employees on all aspects of the employment relationship, and is regularly instructed in relation to issues arising out of the termination of employment, including breach of contract and restrictive covenants, bonus disputes, unfair dismissal and redundancy. He is especially experienced in county court litigation and is entirely familiar with all issues arising from the Civil Procedure Rules.

Michael has a particular interest in the law relating to employment agencies and recruitment agencies. He is the author of *"Employment Agencies, Recruitment Agencies and Agency Workers – A Practical Guide to the Law*" (published December 2016, LexisNexis) and regularly represents recruitment and employment agencies in tribunal claims.

Notable Cases:

British Airways v Pinaud [2019] All E.R. 186: Michael acted for the Claimant in the Employment Tribunal, Employment Appeal Tribunal and Court of Appeal in successfully establishing that a long-standing cabin crew contract treated part-time workers less favourably, contrary to the Part-Time Workers Regulations 2007.

OV v HR: Michael was instructed by a leading recruitment agency in a ten-day claim in which it was alleged that the agency had aided in racial discrimination and unlawful deduction of wages against the Claimant.

BB v MB: Michael achieved a six-figure settlement for the Claimant in a claim of unlawful discrimination involving a leading financial institution.

B v NCRP: Michael acted for the Respondent in an 8-day tribunal claim with over 20 separate allegations of discriminatory conduct against multiple individuals.

Articles

Michael Smith analyses the case of Odusanya v Pennine Care Foundation Trust & Others [2026] EAT 5, in which the EAT's decision provides helpful clarification of the boundary between a witness's obligation not to discuss their evidence while under oath and their right to take legal advice on a procedural matter arising in the course of proceedings.

View Article

Michael Smith analyses the case of Mr A and Ms B v C Ltd and Others [2025] EAT 165, a case that illustrates the complexity of assessing psychiatric injury in discrimination claims and the importance of applying correct legal tests.

View Article

Michael Smith on F v J [2025] EAT 34, in which the EAT found that the Employment Tribunal had applied the wrong legal test, set the evidential bar too high, and failed to give due weight to the Claimant's reasonable concerns regarding future professional harm when assessing their application for anonymity.

View Article

Michael Smith reviews the case of Jones v SoS for Health and Social Care [2024] EWCA Civ 1568, in which the CoA found that an ET acted perversely in deciding that it was not just and equitable to extend time for a race discrimination claim to be brought outside the primary limitation period and expressed doubts as to whether suspicion would ever be a relevant factor in the assessment of whether it was just and equitable to extend time.

View Article

Academic qualifications

- BA Hons English Language & Literature, King's College London
- Graduate Diploma in Law, BPP Law School, London
- Bar Vocational Course, BPP Law School, London

Professional bodies

- Employment Lawyers Association
- Employment Law Bar Association

Direct Access

Michael Smith is qualified to accept instructions directly from members of the public and professional clients under the Direct Public Access scheme.