

Emma McIlveen

Year of Call: 2016
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Public and Administrative Law

Emma is instructed in judicial review proceedings in the High Court in Northern Ireland, acting for applicants, respondents and interveners. She has appeared unled against senior counsel at contested leave and directions hearings, and is instructed as junior counsel in heavyweight constitutional and legacy litigation. Her practice covers:

- Devolved government and the Ministerial Code — whether a ministerial decision is significant or controversial, or cuts across departmental responsibilities, such that it must be brought to the Executive Committee under section 20(4) of the Northern Ireland Act 1998, and the consequences of a failure to do so.
- Local government, vires and decision-making — challenges to the lawfulness of council standing orders and procedures, including the operation of the call-in mechanism under the Local Government Act (Northern Ireland) 2014, and to the adoption of council strategies and policies.
- Legacy and Troubles-related public law — the powers, independence and statutory functions of legacy institutions, including the Independent Commission for Reconciliation and Information Recovery and the Northern Ireland Human Rights Commission, and the lawfulness of non-criminal police reviews.
- Parades, protest and public order — judicial review of Parades Commission determinations, and the Article 9, 10 and 11 ECHR rights engaged by them.
- Equality, consultation and language policy — equality screening, section 75 duties, consultation adequacy, and the protection of minority interests in local government decision-making.
- Education and special educational needs — placement, provision and unlawful delay challenges affecting children with special educational needs, informed by her role as a Legal Chairman of the SEND Tribunal.
- Health, social care and vulnerable adults — decisions affecting the care and treatment of vulnerable individuals, including procedural impropriety and delay.
- Urgent and interim relief — expedition, interim relief and injunctive applications brought at short notice, including in the run-up to fixed events and decision deadlines.

Notable Public Law Cases

In the matter of an application by Ann McClure for leave to apply for judicial review and in the matter of the call-in process applied to the decision of Belfast City Council of 1 October 2025. Court reference 2025/99304/01. High Court (McLaughlin J), 16 April 2026, rolled-up leave and substantive hearing; appeal listed in the Court of Appeal for 24-25 November 2026.

Challenge to Belfast City Council's standing orders 48(8)-(9), said to be ultra vires section 41 of the Local Government Act (Northern Ireland) 2014 and Schedule 3 to the Local Government (Transitional, Supplementary, Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014, and to defeat the qualified majority mechanism in section 41 and Standing Order 25. The issue was whether a call-in requisition may be filtered by reference to a legal opinion on community impact

before the qualified majority requirement is engaged. The proceedings arose from four call-in requisitions, including those concerning the Council's Irish Language Policy approved on 1 October 2025 and the flying of the Palestinian flag from City Hall, and the case was opened as a systemic challenge to local government decision-making rather than a challenge to any single decision, the standing orders in question being replicated across nine of the eleven district councils. The Department for Communities and Derry City and Strabane District Council were notice parties. The application was dismissed, the court holding the standing orders not ultra vires; the matter is now under appeal.

In the matter of an application by Gary Murray for leave to apply for judicial review and in the matter of a public statement made by the Chief Commissioner of the Northern Ireland Human Rights Commission.

Judicial review brought by the brother of Leanne Murray, killed in the 1993 Shankill Road bombing, challenging public statements made by the Chief Commissioner of the Northern Ireland Human Rights Commission, Alyson Kilpatrick, in an interview reported on 14 July 2025, questioning the independence of the Independent Commission for Reconciliation and Information Recovery and the tenability of the position of its Legacy Lead by reason of his former RUC service. The respondent is the Commission itself. The grounds concerned vires, the absence of corporate authority and the limits of the Commission's statutory functions. Leave was granted for Mr Murray to pursue the case on all three grounds.

In the matter of an application by Martin Marchant for leave to apply for judicial review and in the matter of Operation Denton and Operation Kenova. High Court (McLaughlin J).

Challenge to the lawfulness of Operation Denton, the review into approximately 130 murders attributed to the so-called Glenanne gang, including the 1974 Dublin and Monaghan bombings. The applicant is the son of the late William Marchant, and brings the application on his own behalf and in the interests of his father's family. The respondents are the Chief Constable of the Police Service of Northern Ireland and Sir Iain Livingstone, head of Operation Kenova and Operation Denton. The proceedings raise whether the police may lawfully commission a non-criminal review under the Police (Northern Ireland) Act 2000, obligations under Articles 2 and 8 ECHR, the disclosure of intelligence material outside the jurisdiction, and the lawfulness of releasing extracts and briefings making findings amounting to criminal culpability against a deceased man without notice to or consultation with his family, including the risk of jigsaw identification. An application to restrain publication of the summary report was refused on the balance of convenience on 8 December 2025. Substantive decision is awaited.

In the matter of an application by Alan Hynes for leave to apply for judicial review. Court of Appeal allowed the appeal and remitted the case to Humphreys J.

The determination was quashed after the Parades Commission accepted that it had not been considered in its final form by all Commissioners, the court describing the Commission's procedures as not standing up to scrutiny, with costs awarded against the Commission. The Convention grounds were argued but not determined, the case having been conceded on the procedural ground. This followed the Parades Commission's restriction of a Portadown parade of 5 July 2026, refusing a return route from Drumcree along the Garvaghy Road; and their refusal to review that determination on the basis that there was no new or additional material. Relief sought included certiorari, declarations that the determination was unlawful and in breach of the applicant's Articles 9, 10 and 11 ECHR rights, and mandamus directing the Commission to review the determination according to law.

In the matter of an application by Jamie Bryson for judicial review. High Court (McAlinden J); leave granted.

Successful judicial review of the decision of the Minister for Infrastructure of 14 March 2025 to direct the implementation of Irish language signage, physical and on electronic ticket vending machines, at Belfast Grand Central Station without referral to the Executive Committee, and of the Minister's further decision of around 2 September 2025 in the exercise of her continuing duty to keep the question of referral under review. The respondent is the Department for Infrastructure. The challenge engages the cross-cutting and controversial nature of the decision under sections 20 and 28A of the Northern Ireland Act 1998 and paragraph 2.4 of the Ministerial Code, together with the constitutional significance of the Part 7B identity and language scheme; equality screening under section 75 is also in issue, and the projected cost of implementation rose in evidence from GBP 150,000 to between GBP 1m and GBP 3m. Emma appears for Timothy Gaston MLA, who was granted permission to intervene in support of the applicant, alongside separate interventions by the Communities Minister and by Conradh na Gaeilge.

Harassment, Personal Injury and Injunctive Relief

Emma has extensive experience of claims where workplace and personal conduct crosses into civil wrongdoing. She acts in claims under the Protection from Harassment (Northern Ireland) Order 1997, which is Northern Ireland's version of the Protection from Harassment Act 1997, and brings that experience to claims under the 1997 Act in England and Wales. Her work includes urgent and interim applications for injunctions to restrain harassment. She also acts in personal injury claims for psychiatric injury and stress at work, where she is well versed in the foreseeability, breach and causation issues that decide these cases. She has particular expertise in damages claims arising from sexual harassment and sexual assault, including vicarious liability. She advises on how discrimination, harassment and personal injury remedies fit together: injury to feelings, psychiatric injury, aggravated and exemplary damages, and the choice of forum and cause of action where statutory, tort and contract routes overlap. Her Crown Court prosecution practice gives her a practical understanding of how parallel criminal proceedings affect the civil claim. She acts for both claimants and respondents.

Recommendations

"Excellent discrimination barrister. Hard working, skilful and a great person to instruct." **Instructing solicitor**

"Very driven and successful in everything she does, yet she has a very personable nature and gets on well with clients in every walk of life." **Instructing solicitor**

"Emma is undoubtedly leading the way in shaping how employers and respondents deal with AI in the tribunals; from directions on AI disclosure, to employer AI use policies, data rules, and grievance handling built for AI drafted complaints. Highly recommended for expert, practical training or advice on employment law and AI." **Elliott English, Employment and Sports Lawyer, Ogletree Deakins**

"I have worked closely with Emma for more than six years on a wide range of employment litigation cases, including complex holiday pay and TUPE matters. Emma's preparation is very comprehensive and her judgement is excellent. She is perceptive and level-headed when difficult strategic calls have to be made and is a skilled and tireless advocate for her clients. She also has a rare ability to put witnesses at ease in emotionally charged circumstances and to bring calm to proceedings." **Frederick Reilly, Managing Associate, Lewis Silkin LLP**

"Emma assisted with a matter that required the application of both professional discipline and Employment law. Emma provided succinct and helpful advice not only in relation to the matter at hand but in respect of any similar future matters, which was very welcomed." **Avnish Ghoorbin, Professional Disciplinary Principal Associate, Capsticks**

"Emma chaired the Irish FA Appeals Committee, having served as a committee member for several years before that, and I saw how well she ran it. She was scrupulously fair to both sides, made sure everyone was properly heard, and dealt with procedural points and jurisdiction with real care. Anyone looking for someone to conduct a fair and rigorous workplace investigation, or to bring sound judgement to a governance role, would be in very safe hands with Emma. I recommend her without hesitation." **Patrick Nelson, Chief Executive, Irish Football Association**

"Having personally worked with Emma as my instructed Counsel I genuinely could not recommend her enough. She is extremely knowledgeable and an excellent person to have at your side." **Morgan Pennie, Associate, Gateley Legal NI**

"Emma is an excellent Employment Counsel who we instruct for both employer and employee clients before the Tribunals and the High Court. She is well versed in employment and contract law, adopts a client-centred pragmatic approach and is always willing to put in the hard work. Formidable when on opposing sides but has the benefit of experience on both sides of the table which can make all the difference in resolving employment disputes." **Louise McAloon, Partner, Worthingtons Solicitors**

"Emma is most definitely my go to Counsel for all matters relating to Employment Law. Her depth of knowledge and experience is very reassuring for both instructing solicitors and clients alike. She is very approachable and inspires confidence through her advice and steady grasp of all elements of cases which she handles." **Diarmuid McKeown, Senior Partner, McKeowns Solicitors**

"I have had experience of Emma both advising our clients and being on the other side of cases. I have always found Emma to be a knowledgeable and skilled advisor and advocate. She is well prepared and demonstrates excellent client care. I would have no hesitation in recommending Emma to anyone seeking an employment law barrister." **Mark Mason, Director, instructing client**

"Emma is an excellent barrister. I have instructed her on a number of issues and she was knowledgeable, commercial and a pleasure to work with. If you need a barrister who will give you sound advice with a quick turnaround, I recommend Emma." **Simon Robinson, Employment Solicitor**

Academic qualifications

- LLB Law with Politics, 1st Class, Queen's University Belfast (Ranked 1st in Class), 2009-2012
- Bar Course, Distinction, IPLS, Belfast (Ranked 1st in Class), 2015-2016

Scholarships

- Kennedy Scholar, Harvard University, 2013-2014
- JPB Maxwell Scholarship, Top Bar School student, 2016

Professional qualifications & appointments

- Employment Judge (fee paid), Employment Tribunals in Scotland
- Government Legal Service Civil Counsel Panel (B Panel)
- Coroners Service Counsel Panel (C Panel)
- Member, Bar of Northern Ireland AI Pilot Focus Group
- Vulnerable Witnesses course, Institute of Professional Legal Studies (IPLS)
- Member, Chartered Institute of Arbitrators (ClArb) and accredited Mediator, Mediation Forum Ireland
- STEP qualification (Society of Trust and Estate Practitioners), with distinction (prize for top mark in Admin of Estates NI)
- Future Leaders Connect, University of Cambridge, funded by British Council
- Advanced Diploma in Applied Employment Law, Republic of Ireland, Honourable Society of King's Inns
- LLM, Ulster University, graduating in December 2026

Professional bodies

- Vice Chair, Employment Lawyers Group NI
- Member, Public Law Bar Association Committee
- Legal Chairman, Special Educational Needs and Disability Tribunal, Northern Ireland
- Member, Independent Appeals Panel for Labour Relations Agency, Northern Ireland
- Member, Anti-Discrimination Panel for Premier League
- Treasurer, Northern Ireland Medico Legal Society
- Secretary, Immigration Bar Association (NI)

Direct Access

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