

# Emma McIlveen

**Year of Call:** 2016
**Email Address:** emma.mcilveen@3pb.co.uk
**Telephone:** 020 7583 8055

## Overview

Emma McIlveen is a public law and employment barrister, qualified and practising in four jurisdictions: Northern Ireland (2016), New York (2016), the Republic of Ireland (2019) and England & Wales (2020).

Emma graduated first in her year at Queen's University Belfast, was awarded a Harvard scholarship, and was named in the Forbes *30 Under 30 Europe list for Law & Policy* in 2018.

Her public law practice is centred on judicial review in the High Court in Belfast, in cases turning on vires, statutory interpretation and the limits of the powers of public bodies. Recent instructions include a systemic challenge to the call-in procedure used in local government decision-making, a challenge to the powers of the Chief Commissioner of the Northern Ireland Human Rights Commission, litigation arising from the legacy of the Troubles, proceedings concerning the determinations of the Parades Commission, and an intervention in judicial review proceedings on the reach of the Ministerial Code and section 20(4) of the Northern Ireland Act 1998. She acts for applicants, respondents and interveners, and appears both unled and as junior counsel in led teams.

Alongside her public law work she has a substantial employment and discrimination practice with appellate experience, appears before professional regulators, and is instructed at coronial inquests including in Article 2 cases. She sits as a fee-paid Employment Judge in Scotland and as a Legal Chairman of the Special Educational Needs and Disability Tribunal in Northern Ireland, and is instructed to conduct independent investigations into workplace and organisational complaints.

She is a member of the Government Legal Service Civil Counsel Panel (B Panel) and the Coroners Service Counsel Panel, and holds direct access accreditation. She is known for intellectual rigour and creative case strategy, and much of her work involves vulnerable individuals or carries significant reputational and regulatory exposure.

## 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.

# Expertise

## 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.

## Employment and discrimination

Emma McIlveen has spent ten years in tribunals and courts and is regularly instructed by both claimants and respondents across the full range of employment law matters. She has particular expertise in complex and overlapping claims, acting for both employees and employers, involving whistleblowing, trade union detriment, equal pay and discrimination, including disability, race and victimisation. Instructions include claims for doctors and for claimants supported by the Equality Commission for Northern Ireland, and the defence of GP surgeries and NFU Mutual.

Emma handles both hearings and paper-based work, including complex and multi-jurisdictional matters. She works across a wide range of sectors including health (including doctors, GP surgeries and NMC/HCPC regulatory work), sport (FA and Premier League), education (SEND), public bodies and agriculture.

Her practice frequently involves cases at the intersection of employment law and public law, regulatory obligations or criminal allegations, requiring careful management of parallel proceedings and heightened standards of procedural fairness. She advises a wide range of clients, including charities, public bodies and churches, particularly in matters concerning governance, discipline, safeguarding, internal decision-making and compliance with equality legislation.

Emma is also experienced in employment disputes raising constitutional and public law issues, including proportionality, procedural fairness and the lawful exercise of statutory powers. In addition to Tribunal litigation, she is regularly instructed in employment-related civil proceedings, including contractual disputes, injunctive relief and professional negligence claims arising from failures to advise on limitation, appeal rights or statutory remedies.

She has represented claimants supported by the Equality Commission for Northern Ireland in discrimination proceedings before the County Court and is experienced in cases involving significant public interest or policy considerations.

Emma has substantial appellate experience in employment law and has acted as sole junior counsel in a number of appeals before the Court of Appeal in Northern Ireland. Most recently she appeared as sole counsel in *McGreevy v NFU Mutual [2025] NICA 66*, the current Northern Ireland authority on employment status in discrimination claims.

Emma has a specialist interest in sports law and has been appointed to sit on disciplinary and regulatory panels, including the Anti-Discrimination Panel for the Premier League. She has also served as Chair of the Appeals Committee of the Irish Football Association in Northern Ireland, and has represented a number of Irish League football clubs in disciplinary and regulatory matters.

Emma has experience advising on and appearing in urgent applications for interim relief across a range of practice areas. In the employment context, she has been instructed in interim relief hearings arising from automatically unfair dismissal claims, including whistleblowing and trade union cases. She is also experienced in applications for interim and injunctive relief in the civil courts, including urgent applications to preserve confidential information, enforce restrictive covenants and prevent ongoing commercial harm. In public law, Emma regularly acts in urgent and time-sensitive judicial review proceedings, including applications for interim and emergency relief, where the court must balance the public interest with the need to prevent irreparable prejudice pending determination.

Emma is a prolific trainer and author on employment law. The founder of the Advanced Employment Law course (IPLS, Queen's University Belfast), Emma is Vice-Chair of the Employment Lawyers Group NI and produces a monthly newsletter, *McIlveen on Employment* and another, *Leave to Apply*. She is a trained pupil supervisor and is a current pupil master of a trainee.

## Professional Discipline

Emma McIlveen has developed significant expertise in professional discipline and regulation and regularly appears before regulatory bodies including the Nursing and Midwifery Council (NMC) and the Health and Care Professions Council (HCPC).

She is frequently instructed in complex cases where employment, regulatory and criminal issues overlap, including disciplinary proceedings arising from alleged criminal conduct, safeguarding concerns or matters carrying serious reputational risk. Her work often requires careful strategic management of parallel processes and close consideration of procedural fairness and evidential standards.

Emma is highly experienced in advising on and navigating the interaction between criminal investigations, regulatory proceedings and employment claims. Recent work includes successfully representing a registrant in regulatory proceedings involving allegations of dishonesty and serious misconduct, resulting in the registrant being wholly exonerated. She is valued for her calm, rigorous approach to high-stakes cases and her ability to protect clients' professional standing while advancing robust and principled defences.

## Investigations

Emma is regularly instructed to carry out independent workplace investigations for organisations in the UK, Ireland and the UAE.

Most of her work begins when something has gone wrong at work and the organisation needs someone with no stake in the outcome. That might be a complaint against a senior executive, a whistleblowing concern, allegations of harassment or bullying, or an appeal that needs a neutral chair and a reasoned decision.

Emma's instructions can be summarised as conducting:

- Independent investigations: terms of reference, interviews, evidence and written findings
- Chairing grievance, disciplinary and appeal panels
- Mediation of workplace disputes
- Practical, scenario-based training for boards, in-house legal, HR and compliance teams
- UK and Irish employment law input for organisations working with GCC counsel

This sees Emma conducting independent investigations into complaints of bullying, harassment and sexual harassment, and into related governance and safeguarding failures. Recent work includes an independent investigation into complaints of sexual harassment and bullying within a church organisation.

She takes evidence from complainants, respondents and witnesses, makes findings of fact, and reports on process, governance and the adequacy of an organisation's own complaints handling.

The work draws on her discrimination and employment expertise and on her judicial experience of hearing contested evidence, and she is regularly instructed where the subject matter is sensitive or where the organisation is exposed to regulatory or reputational risk.

## Inquests

Emma McIlveen has considerable experience in coronial work and regularly appears in inquests, including complex, sensitive and high-profile cases. She has acted as Counsel to the Coroner in a number of inquests, including deaths in custody, and has been appointed to the Coroners Service Counsel Panel for Northern Ireland.

Emma is also instructed by public authorities in inquest proceedings, including acting for the Northern Ireland Prison Service in the Colin Bell inquest. She has extensive experience in cases engaging Article 2 ECHR obligations, disclosure and evidence management, and the conduct of inquests involving intense public scrutiny, institutional accountability and the interests of bereaved families.

She is valued for her careful, measured approach in emotionally challenging cases and for her ability to assist coroners and parties in navigating complex legal, procedural and human issues arising in deaths in custody and other state-involved deaths.

# International Services

Emma is an employment barrister and arbitrator who litigates and arbitrates in the common-law courts as well as tribunals. Ten years of practice for employers and employees have taken her from first-instance hearings to the Court of Appeal and the UK Supreme Court, on claims framed in contract, statute and discrimination law. She is equally at home with the contractual questions that drive most DIFC employment disputes (bonus, notice, restrictive covenants, termination and gratuity) and with the employment-rights layer the DIFC Employment Law now adds: discrimination, victimisation and whistleblowing-type protection.

Alongside her advocacy she runs independent workplace investigations and chairs appeal and disciplinary panels for boards, partnerships and employers, and sits on a binding dispute resolution panel deciding contractual code disputes in the energy sector. She is available as sole counsel or as junior to a KC.

## What she brings to DIFC and UAE employment work

**Employment contract litigation**

Pleadings, disclosure, cross-examination and appellate argument in adversarial courts, not only tribunals. Reported Court of Appeal win in 2025 as sole counsel.

**Employment rights**

Discrimination, equal pay, whistleblowing, unfair dismissal and harassment, for claimants and respondents, including Equality Commission instructions.

**Independent investigations**

Terms of reference, interviews, evidence and reasoned findings, delivered promptly after the final interview. A private route for sensitive allegations that firms may prefer to DIFC litigation.

**Decision-making and arbitration**

Six years on a three-member panel issuing binding, reasoned decisions on contractual code disputes. Accredited arbitrator and mediator.

**Selected Cases**

- Court of Appeal NI Dec 2025: *McGreevy v NFU Mutual Insurance Society Ltd [2025] NICA 66*. Sole counsel for the respondent. Appeal on employment status in a discrimination claim dismissed on all five grounds; now the leading Northern Ireland authority. Won below in the Fair Employment Tribunal.
- High Court E&W 2021: *Crowter v Secretary of State [2021] EWHC 2536 (Admin)*. For the claimants, with Jason Coppel QC: disability-rights challenge under the Human Rights Act.
- Industrial Tribunal 2021: *McEldowney v Randox Farming*. The first case in which the Tribunal appointed a Registered Intermediary to support a vulnerable claimant. Unfair dismissal won for the claimant, unled against Queen's Counsel.

- High Court NI 2026: *In re McClure [2026] NIKB 16* (Belfast City Council call-in procedure; appeal to the Court of Appeal November 2026) and *In re Murray* (NI Human Rights Commission; sole counsel, leave on all grounds).
- Public inquiry: Junior counsel to the Independent Neurology Inquiry.

**Independent Investigations and Appeals**

- Bullying allegations between partners at an international professional services firm
- Board-commissioned complaint about the conduct of a senior official in the education sector
- Sexual harassment and bullying allegations within a church organisation
- Independent appeal chair, grievance appeal, Irish League football club

**Arbitration and Dispute Resolution**

- Capacity Market Dispute Resolution Board: three-member panel deciding binding disputes on the interpretation of the Capacity Market Code for the all-island electricity market
- Construction contract disputes as counsel
- Accredited mediator (Mediation Forum Ireland)
- Chartered Institute of Arbitrators: Member (MCIArb), November 2026; Diploma in International Commercial Arbitration planned for 2027 as the route to Fellowship

**Teaching and Writing**

- Founder and co-convenor, Advanced Employment Law Course, Institute of Professional Legal Studies, Queen's University Belfast (since 2021)
- Author, *McIlveen on Employment*, a monthly employment law newsletter (since 2020), and Leave to Apply, on public law (since 2026)
- Contributor, 3PB Employment Law Newsletter and 3PB blogs on AI
- Taught the judicial review module at Queen's University Belfast

**DIFC Courts**

- Meets the five-year advocacy requirement for full rights of audience on the Part II Register of Practitioners; application under way
- Available for a first DIFC appearance, including through the DIFC Courts Pro Bono Programme

## Articles

Emma McIlveen considers the case of Hancox v Sutherland and others [2026] EAT 139, which highlights the potential for AI to reshape or embellish evidence and the resulting need for caution about the reliance placed upon it.

Emma suggests four practical safeguards that employment practitioners could adopt to preserve the reliability of evidence.

View Article

Emma McIlveen analyses the 2025-2026 decisions that have turned the Higgs framework into a working machine, with results less predictable than either side of the debate would like.

View Article

Emma McIlveen, writes about the new breed of platform, which is quietly reshaping employment tribunal practice. Grapple Law, marketed as an AI-powered legal platform for individuals and small businesses, allows users to generate ET1 claims, draft

legal letters, and respond to disputes without instructing a solicitor. It is slick, it is accessible, and it is entirely unregulated.

View Article

Emma McIlveen examines how emotional support animals, once a personal coping mechanism, are finding their way into legal arguments and into the courtroom, carrying legal significance as part of the evolving duty to make reasonable adjustments.

View Article

Following her recent attendance of the Dublin medico-legal conference, Emma McIlveen reflects on the unique legal and ethical minefields that the new perk of egg freezing can create for businesses who offer it to their employees.

View Article