



Karen Moss

Year of Call: 2002

Email Address: karen.moss@3pb.co.uk

Telephone: 020 7583 8055

Overview

Karen Moss has 17 years' experience as an employment law specialist, instructed on behalf of both respondents and claimants to undertake all aspects of employment and discrimination work. She is Deputy Head of 3PB's employment and discrimination law group.

Her areas of specialist knowledge include all forms of unfair and wrongful dismissal as well discrimination and harassment relating to all protected characteristics, victimisation, unlawful detriment and whistleblowing claims. She has particular interest in disability, race and sex discrimination, and regularly advises on TUPE, breach of contract, pensions, working time, stress at work claims, unlawful deductions from wages, equal pay claims, post-employment restrictions and injunctive relief. She regularly appears in the Employment Appeal Tribunal, and has represented clients in Court of Appeal on employment-related matters.

She has been instructed to draft a wide variety of employment pleadings and frequently advises parties pre- and post-action in industrial relations matters generally and tribunal and/or county court and/or High Court litigation,

Karen undertakes work via Direct Access for lay clients, on Conditional Fee and Damages Based Agreements and on a pro bono basis in appropriate cases. Additionally she has represented parties in judicial and other mediations regarding employment and wider commercial disputes.

She gives lectures, seminars and produces training material on the development of employment law to solicitors, human resources and other professionals.

Karen is known as having a down-to-earth and practical approach with clients, combined with being a knowledgeable, skilful and tenacious advocate.

Publications and seminars

- [Post Pnaiser Protection](#) - ((1st September 2017) NLJ 13) an update on discrimination arising from disability after Pnaiser v NHS England and another, published by the New Law Journal
- ['EAT Guidance in Pnaiser and Hampshire v Wyatt](#) - An update on knowledge and compensation in disability discrimination cases (from the 'Solent Employment Law Training Day')' ELA online resource 10th February 2017
- 'Keeping an eye on the Information' (23rd July 2004) 154 NLJ 11

Recommendations

Client testimonials

"Karen provided us with an excellent service in (a number of) cases. One case in particular involved two litigants in person and considerable documentation. The clients were extremely pleased with her handling of what was a sensitive case for them and of the successful result. Her manner with clients was good and put them at their ease. She has also performed well on cases where there was a need for greater intellectual input and skilful advocacy. Her reporting back is excellent. She is backed up by clerking at 3PB which is first class."

"Karen was outstanding over the two days and secured the very best possible outcome for us."

"I would also just like to say a massive thank you to you and to congratulate you on the excellent result yesterday, which I put entirely down to you. I am so impressed and I must say you have been a pleasure to work with throughout. I will 100% try and book you for any upcoming hearings I have in the future and cannot recommend you highly enough."

"your understanding of these matters and the manner in which you conveyed it to what appeared to be the most strict judge ever, was great. Furthermore, your cross examination of the cohort of (claimants) certainly taught them a lesson and was a pretty merry occasion for the three judges who could not contain themselves sometimes at the answers being received as well as the manner in which you had shown these (claimants) to be lying about various if not all statements they had made earlier. You had clearly shown (the first claimant) potentially what would happen to her when her case started and she was very fearful of your attendance at her hearing. Even more so, you obtained a costs hearing and costs against the claimants... Once again our heartfelt thanks and gratitude for your assistance."

"Karen's strategy, foresight in the approach and cross-examination seemed to me to be truly exceptional. I never for one moment expected that the Respondent would seek to settle part way through the hearing, and I am convinced their surprising haste to settle part-way through the hearing was completely due to Karen."

Academic qualifications

- LLB(Hons) from Sussex University
- BVC at Inns of Court School of Law

Scholarships

- Diplock scholar, Middle Temple

Professional qualifications & appointments

- ELAAS (the Employment Lawyers Appeals Advice Scheme)
- Accredited Mediation Advocate.

Professional bodies

- Employment Law Bar Association
- Employment Lawyers Association

Direct Access

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

Employment and discrimination

Karen is an employment law specialist with 17 years of experience. Employment tribunal work has included both Claimant and Respondent work relating to unfair dismissal (substantive and procedural, constructive or actual), wrongful dismissal, discrimination (sex, sexual orientation, race, age, disability, religion and belief; direct and indirect), harassment, victimisation, stress at work claims, unlawful detriment claims, equal pay claims, TUPE, breach of contract, PIDA/whistleblowing claims, working time and unlawful deductions from wages. She has a particular interest in disability discrimination claims, including failure to make reasonable adjustments, and race and sex discrimination claims.

She is also regularly instructed to appear or to advise in matters of employment-related insolvency and judicial or other employment mediations. She has been instructed to draft a wide variety of employment pleadings and frequently advises parties pre- and post-action in industrial relations matters generally and tribunal and/or county court and/or High Court litigation, including post-termination restrictions and injunctive proceedings. She regularly appears in the Employment Appeal Tribunal and has appeared in the Court of Appeal on employment matters.

Karen undertakes work via Direct Access for lay clients, on Conditional Fee and Damages Based Agreements and on a pro bono basis in appropriate cases. Additionally she has represented parties in judicial and other mediations regarding employment and wider commercial disputes.

She gives lectures, seminars and produces training material on the development of employment law to solicitors, human resources and other professionals.

Reported and interesting appellate cases:

Ahmed v Cardinal Hume Academies UKEAT/0096/18 29th March 2019

Successfully defended an appeal regarding disability harassment and direct discrimination because of disability. Mr Justice Choudhury (P) found that the tribunal had been correct to find that if it was not reasonable for the conduct to be regarded as violating the Claimant's dignity or creating an adverse environment for him, then it should not be found to have done so. Additionally, the tribunal had concluded that the Appellant had been suspended because of his difficulties with handwriting. That was a finding that treatment was because of the adverse effect of an impairment or of something arising from disability; it was not a finding that the treatment was because of the disability – whether dyspraxia or some other unspecified physical or mental impairment – itself.

Baldeo v Churches Housing Association of Dudley & District Ltd UKEAT/0290/18/JOJ 11th March 2019

HHJ Shanks determined that where the original decision to dismiss was for disability-related reasons, without knowledge of the disability, but the appeal decision, upholding the dismissal was for the same reasons, with the requisite knowledge of a disability, that was actionable by an employee claiming to have been dismissed because of something arising in consequence of her disability. The ET had failed to apply the correct thresholds for liability under s.15 Equality Act 2010 and so the matter was remitted to a fresh tribunal

Philcox v CGDM Ltd TA Andrew Wilson & Co A2/2016/2804

May 2017 Representing the successful Respondent in the Court of Appeal, Lord Justice Underhill set aside the permission to appeal granted last year by Lord Justice Elias in this factually complex case involving multiple allegations of sex discrimination and unfair dismissal (EAT in February 2017 EAT/0819/16/DA).

Hampshire County Council v Wyatt UKEAT/0013/16/DA

October 2016 Represented the successful Respondent before the President of the Employment Appeal Tribunal Mrs Justice Simler DBE who gave invaluable guidance in relation to the divisibility of injuries and proportionate reduction of ITF and personal injury awards and on the use of medical evidence in employment tribunals for personal injury claims.

Pnaiser v NHS England and Coventry City Council [2016] IRLR 170

November 2015 Represented the successful Appellant in showing that a prospective employer could be liable for

discrimination arising in consequence of a disability, by relying on a reference which itself was discriminatory, even if the prospective employer did not know of the link between negative reference and the disability. The decision of the Tribunal overturned and a decision upholding her claims for disability discrimination was substituted.

Scotthorne v Four Seasons Conservatories (UK) Limited UKEAT/0178/10/ZT

Whether the Tribunal was correct not to order disclosure of documented advice from "Employment Consultants" or HR professionals who were not legally qualified on the grounds of either legal advice privilege or litigation privilege and the application of *New Victoria Hospital v Ryan* [1993] IRLR 202 and *Three Rivers DC v Bank of England (No.6)* [2005] 1 AC 610.

Snows Motor Group Ltd v Palmerino UKEAT/1512/08DM

Whether the Tribunal had "slipped into the substitution mindset" following the Court of Appeal decision in *London Ambulance v Small* and the applicability of the statutory disciplinary procedures where detailed evidence had not been provided until the Step 2 hearing.

Lloyd-Briden v Worthing College [2007] 3 CMLR 27, EAT

The applicability and effect of the ECJ decision in *Mangold* on the age discrimination provisions before the implementation date in the UK.

London Borough of Camden v Price-Job UKEAT/0507/06/DM [2007] All ER (D) 259 (Dec)

Question of whether the Tribunal correctly considered all relevant circumstances of Respondent to a DDA claim, and whether they considered the effect of s.3A(6) appropriately. Additionally the application of the law in relation to whether an appropriate assessment of an employee is a necessary pre-condition to reasonable adjustments.

Roberts v Valleyrose Ltd T/A Fernbank Nursing Home UKEAT/03944/06/D [2007] All ER (D) 163 (Aug)

Question of whether the Tribunal was biased against the Appellant and whether the Appellant had had a fair opportunity to refute an allegation of bad faith in a PIDA claim.

Publications

When is an employer deemed to have knowledge of a disability for the purpose of s.15 EqA 2010?

[View Publication](#)

In a recent judgment in the Employment Appeal Tribunal – *Hampshire County Council v Wyatt* UKEAT/0013/16 (13 October 2016) – Mrs Justice Simler DBE gave important presidential guidance on the questions which frequently arise in discrimination remedy hearings when tribunals consider claims for non-pecuniary damages and/or where there might be competing causes of injury. Karen Moss

[View Publication](#)

Karen Moss has an article published on the impact of *Wyatt v Hampshire County Council* UKEAT/0013/16 on litigants claiming personal injury damages in the employment tribunal.

See www.pibriefupdate.com and the Personal Injury Brief Update Law Journal newsletter this month.

[View Publication](#)