
John Cavanagh QC

John is the Joint Head of Chambers and a leading silk who is rated by Chambers & Partners as a Star Performer in Employment Law. He practises in all areas of Employment law, Business Protection, Public law, Local Government law, and Human Rights law, and in areas of European law, Pensions law, and Commercial law that touch upon or overlap with those areas. His work encompasses high-profile and high-value claims, covering multiple claims and claims by individuals, and he regularly appears in the Court of Appeal and the Supreme Court. He has appeared in over 100 reported cases. In May 2017, John was appointed a part-time Deputy High Court Judge. John was Chambers & Partners' Employment Silk of the Year in 2009, and was shortlisted for Silk of the Year in Employment in the Legal 500 Bar Awards for 2017 and 2016. John has been shortlisted Employment Silk of the Year in the 2018 Chambers Bar Awards.



Professional Summary

Called 1985
Appointed QC 2001

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Clerk Harry Gilson

Clerk Martin Pownall

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Specialisms

Commercial

John regularly advises and appears in commercial law matters, or matters that raise issues of commercial law, especially those relating to business protection and the financial sector. Reported cases include **Brogden v Investec Bank** [2014] IRLR 524 (Comm Ct), and his clients include major banks and hedge funds.

Employment

Employment law is the mainstay of John's practice. His work encompasses high-profile and high-value claims, covering multiple claims and claims by individuals, in the Employment Tribunal, the High Court and the appellate Courts. John acts for an unusually broad range of clients, consisting, mainly, of businesses, especially in the financial sector, local authorities, universities, other public authorities, central government, trade unions, and individuals. The subject matter of the Employment law work that John regularly undertakes spans the whole range of Employment law, including injunction work (industrial action, restrictive covenants and confidentiality cases), bonus cases, cases relating to changes to terms and conditions, discrimination, equal pay, collective redundancy consultation etc.

Recently, John has been involved in a substantial number of cases concerning employment law and pensions, concerning matters such as the closure of Defined Benefit schemes, and age discrimination issues. So, for example, he has been instructed to act for Lloyds' Bank in the high profile Guaranteed Minimum Pension litigation, and has recently been instructed as part of the Counsel team for the Representative Beneficiaries in the appeal to the Court of Appeal in **IBM v Dalgleish**. In addition, in January 2017, he acted for the Home Office in large-scale age discrimination claims that have been brought by firefighters in relation to the transitional provisions in the new Firefighters' Pension Scheme 2015.

Public

John has a substantial public law practice, acting for and advising a wide range of public authorities, including central Government, police forces, including the Civil Nuclear Constabulary, local authorities, fire and rescue authorities and others. He regularly appears in

the Administrative Court.

Media & Privacy

John used to be a part-time Night Lawyer on one of the major national newspapers and frequently advises on confidentiality issues. He acted for Trevor Rhys-Jones, the bodyguard who was injured in the accident in which Princess Diana and Dodi Fayed was killed, in proceedings brought by Mohammed Al Fayed in relation to the book that Mr Rhys-Jones wrote after the accident.

Education

John advises and acts for education authorities and independent schools. He recently acted for a well-known independent school in its successful defence of a disability discrimination claim by a former pupil in the First-Tier Tribunal, and he acted for the successful defendant in **Oldbury Academy v Sandwell MBC** (High Court, 2013), a dispute about a local authority's funding obligations towards a school that had become an academy.

European Union

Much of what John does involves difficult issues of EU law, and he has appeared several times in the Court of Justice of the European Union, most recently in **British Gas Trading v Lock (C-539/12)** [2016] ICR 503 (the holiday pay case). He has also frequently argued EU law points in the Supreme Court, for example in **United States of America v Nolan** [2015] 3 WLR 1105 (about collective redundancy consultation and the relationship between EU law and domestic law), **Ministry of Justice v O'Brien** [2013] ICR 499 (about objective justification in discrimination cases), and **Russell v Transocean** [2012] ICR 185 (about what counts as 'working time'). In January 2017, he acted for five police forces in the Court of Appeal in an important case about the correct approach to objective justification in age discrimination cases: **Harrod and others v Chief Constable of West Midlands Police and others**.

Human Rights

John regularly advises on Human Rights matters and appears in Court in cases that raise Human Rights issues, such as Article 1 of Protocol 1, Art 11 and Art 14.

Local Government

John has, for many years, acted for local authorities in relation to a wide range of employment and public law issues. For example, since the mid 2000s he has acted for very many local authorities in England and Wales in relation to the manual worker equal pay claims that were brought during this period.

Public International

John has substantial experience in International Administrative Law, ie the internal law that applies to regulate the relationship between Treaty Organisations and their employees in circumstances in which the Organisations are not subject to the domestic law of the countries in which they are based.

He is a judge of the Administrative Tribunal of the Bank for International Settlements, in which capacity he is responsible, with his colleagues, for deciding employment disputes and grievances as and when they arise between the Bank and its employees. He has also for a number of years been Standing Counsel to the European Bank for Reconstruction and Development, advising and acting for the Bank from time to time in relation to particularly substantial internal disciplinary and grievance matters between the Bank and Bank employees.

Sport

John's expertise in employment law, public law and regulatory matters means that he is well-

suiting to advise upon and represent parties in sports matters. During the course of his career he has acted for several professional football clubs in disputes with their managers, and has acted for and advised a number of sporting bodies (including national bodies for judo and snooker).

Recommendations

“An exceptional adviser. He combines unrivalled technical and analytical skills with a very clear communication style and a charming manner.” **Chambers & Partners**

“Very authoritative and persuasive.” **Chambers & Partners**

“He is exceptional. His legal advice is always very clear no matter how complex the subject matter is. He is incredibly thorough, balanced with a very commercial and client-focused approach.” **Chambers & Partners**

“At the top of his game.” **Chambers & Partners**

“A leading silk, who works incredibly hard and is a fantastic advocate” **Legal 500**

“Sensational” **Who's Who Legal UK Bar** (placed top in list of silks in Labour and Employment Law)

“Outstanding; he has a brilliant mind, superb advocacy skills and is incredibly likeable” **Chambers & Partners**

“If you need an equal pay adviser, you won't get anyone better than John Cavanagh” **Chambers & Partners**

“A leading silk particularly recommended for his work in the financial sector” **Who's Who Legal**

“He is a joy to work with and is not afraid to roll his sleeves up” **Legal 500**

“He is extraordinarily good, he has an encyclopaedic knowledge of the law and he is happy to roll up his sleeves.” **Chambers & Partners**

“A first port of call if you need to instruct top-drawer leading counsel.” **Chambers & Partners**

“He is able to reel cases off the top of his head, and is very commercial. He's absolutely fantastic in terms of his legal analysis and judgement.” **Chambers & Partners**

“Thoroughly commercial” “He immediately inspires confidence. He grasps everything then presents it back well to the client” **Chambers & Partners**

“fantastic brain” “superb advocate who judges the mood of the tribunal or court perfectly” **Chambers & Partners**

“The complete package” “Exceptionally down to earth, blessed with an encyclopaedic knowledge of the law and powerful advocacy skills. He is a delight to introduce to clients” **Chambers & Partners**

“his encyclopaedic knowledge, crystal-clear advocacy and ability to manage the shifting priorities of large-scale litigation are sublime” **Chambers & Partners**

“brilliant understanding of the intricate workings of major companies” **Chambers & Partners**

“a true gentleman and a superb tactician” **Legal 500**

“Very assured and confident, excellent with complex matters and a good communicator with clients” **Legal 500**

“[his] analysis of very complex legal issues is tremendously impressive” **Legal 500**

John Cavanagh QC was Chambers & Partners' Employment Silk of the Year in 2009, and was shortlisted for Silk of the Year in Employment in 2016's Legal 500 Bar Awards.

Recent Cases

Lloyds Banking Group Pension Trustees Ltd v Lloyds Bank Plc and others (Chancery Division, July 2018)

John is one of two QCs acting for Lloyds Bank in important test litigation in the Chancery Division to determine the long-running issues as to whether Guaranteed Minimum Pensions give rise to breach of the law of equal pay and, if so, how pensions should be equalised.

O'Brien v Ministry of Justice (Court of Justice of the European Union, 13 June 2018)

John acted for the UK Government in this case, which will be one of the last ones to be heard by the Court of Justice of the European Union before Brexit means that the CJEU will no longer hear cases from the UK

Newcastle Upon Tyne NHS Trust v Haywood (Supreme Court, [2018] ICR 882; [2018] IRLR 644; [2018] 1 WLR 2073)

John was leading counsel for the Appellant in an important appeal concerning the point at which service of notice of termination of employment takes effect.

Hallett v Derby Hospitals NHS Foundation Trust

[2018] EWHC 796 (QB), [2018] 3 All ER 895, QB, [2018] Med LR 45, April 19 2018
John acted for a group of doctors in a claim about their contractual entitlements in relation to breaks. He was instructed by the British Medical Association.

Jones and others v Ineos Infrastructure (Grangemouth) Ltd (ET Glasgow, February 2018)

John acted for Ineos in an important case about the scope of s145B of the Trade Union and Labour Relations (Consolidation) Act 1992

Sergeant v London Fire and Emergency Planning Authority and McCloud v Ministry of Justice

(EAT, [2018] IRLR 302 and [2018] IRLR 284)

John is leading counsel for the Home Office, Welsh Government and Ministry of Justice in these appeals, which concern age discrimination claims arising from the transitional provisions which accompanied the recent public sector pension reforms. The appeals are to be heard by the Court of Appeal in November 2018.

Thomas Cook Airlines v British Airline Pilots Association

[2017] EWHC 2253 (QB), [2017] IRLR 1137

The court declined to grant an injunction restraining a trade union from calling a strike, as the strike ballot indicated with sufficient particularity the period within which the strike was expected to take place.

O'Brien v Ministry of Justice (No 2)

[2017] UKSC 46, [2017] ICR 1101; 2017] IRLR 939

This is the part-time judges' pension litigation. The case raises important issues of principle of EU and pensions law, which the Supreme Court has referred to the Court of Justice of the European Union.

Simpkin v Berkeley Homes

(High Court, Summer 2017)

John was leading counsel for Berkeley Homes in a major multi-million pound claim by a former Finance Director. The case settled a couple of days before trial.

IBM v Dagleish

[2018] IRLR 4, [2017] EWCA Civ 1212

John was one of a team of counsel acting for the Representative Beneficiaries in this pensions case which was heard over an almost unprecedented nine days in the Court of Appeal in May 2017. Among the many issues addressed in this case were the scope of the implied term of trust and confidence in employment contracts and the Imperial duty of good faith in pensions.

Harrod and others v Chief Constable of West Midlands Police and others

Court of Appeal, [2017] IRLR 539; [2017] Pens LR 11

The Court of Appeal has upheld ruling of the EAT, [2015] IRLR 790, in which the EAT allowed the police forces' appeal against a finding that compulsory retirement arrangements for police officers amount to unlawful age discrimination.

Govia Thameslink Railway v ASLEF

High Court, [2016] EWHC 1320, [2016] IRLR 686, and Court of Appeal, 2016 and Court of Appeal [2016] EWCA Civ 1309; [2017] 2 CMLR 24; [2017] ICR 497.

John has been acting for GTR in the various injunction proceedings arising out of the Southern Railways dispute in the High Court and the Court of Appeal.

Lokhova v Sberbank

(ET, December 2016)

John acted for the claimant in a high value sex discrimination claim against the respondent Bank.

British Gas Trading v Lock

[2016] IRLR 946 (CA, 2016)

This is the leading case on the current 'hot topic' of holiday pay. The case concerns whether commission payments must be taken into account when calculating holiday pay.

Civil Nuclear Police Federation v Civil Nuclear Police Authority

(Admin Court) [2016] EWHC 2186 (Admin)

John acted for the CNPA in a judicial review concerning the retirement age of officers in the Civil Nuclear Constabulary.

Armstrong v Bannatyne

(High Court 2015-16)

John acted for Duncan Bannatyne and his company in a high value breach of contract claim brought by the company's former chief executive.

Windstar Management Services v Harris

(EAT 2016) [2016] ICR 847; [2016] 2

Lloyd's Rep 109 An employment tribunal had jurisdiction to hear an unfair dismissal claim by a seafarer who was a peripatetic employee where his periods of work began and ended in the UK and not at the port from which his ship embarked.

Mattu v University Hospitals Coventry & Warwickshire

(High Court, CA and ET, 2012-16)

John acted for the Hospital Trust in an appeal against the Trust's successful defence of a claim by a Consultant for alleged breach of contract and for breach of Art 6 of the European Convention on Human Rights ([2013] ICR 270) and subsequently acted for the Trust in related Employment Tribunal proceedings.

United States of America v Nolan

(Supreme Court, 2015) [2015] UKSC 63, [2015] 3 WLR 1105

This is the latest stage in the well-known Nolan litigation, raising important questions about the extent to which UK legislation should be given a purposive interpretation to bring it into line with EU law.

The Grangemouth Industrial Dispute

(2013-14)

John advised and acted for Ineos in proceedings resulting from the industrial dispute at the Grangemouth plant in late 2013.

Fetherston v University of Bradford

(ET, October 2014)

John acted for the University in a substantial claim concerning allegations of disability discrimination and victimisation.

Brogden and Reid v Investec Bank plc

(Commercial Court, 2014) [2014] IRLR 524

John acted, with Amy Rogers, for derivatives traders in a multi-million pound bonus claim.

Natalie Douglas v Idis Group plc

(ET, 2014)

This was a case about whether the former Chief Executive of a company could bring claims for unfair dismissal and whistle-blowing in the ET, notwithstanding that she had spent the last few years working mostly in the US.

Norris v London Fire & Emergency Planning Authority

(EAT, 2013) [2013] IRLR 42

This was a case about the jurisdiction of tribunals to deal with unlawful deduction from wages claims arising out of industrial action.

TTG Pension Trustees v Board of the Pension Protection Fund

(Ch Div, 2014) [2014] EWHC 174 (Ch)

John acted for the pension trustees in an appeal against a decision of the PPF.

George v Ministry of Justice

(CA, 2013) [2013] EWCA Civ 324

This was a case about the incorporation of terms set out in a Collective Agreement into contracts of employment.

R (Superintendents' Association) v Chief Constable of Bedfordshire Police

(Admin Court, 2013) [2013] EWHC Admin 2173 (Admin)

John acted for Bedfordshire Police in its successful defence of a judicial review claim arising from the decision to require police officers to retire when they qualify for a full pension. The case raised important issues about the decision-making processes of public authorities, and Article 1 of Protocol 1 of the ECHR.

Dionne Knight v London Legacy Development Corporation

(ET, 2013)

John acted for the LLDC in its successful defence of a race discrimination and unfair dismissal claim by a senior employee who was dismissed for accepting payment by West Ham during the Olympic stadium bidding process.

Woodford v Olympus Corporation

(ET, 2012)

John acted for Olympus in a very high profile claim by its former President and Chief Executive which raised issues about the extra-territorial jurisdiction of employment Tribunals.

Halliburton v Ravat

(Supreme Court, 2012) [2012] ICR 389

This was an appeal from the Court of Session concerning the extra-territorial jurisdiction of the law of unfair dismissal.

Russell v Transocean

(Supreme Court, 2012) [2012] ICR 185

John acted for a group of employers in a case about the application of the annual leave provisions of the Working Time Regulations to offshore oil and gas workers.

Cooksey v Trafford MBC

(EAT, 2012) [2012] EqLR 744

This was the latest in the series of appeals from large scale equal pay claims concerning bonuses paid to male local government workers.

Appointments

Deputy High Court Judge

Crown Court Recorder

Judge of the Administrative Tribunal of the Bank for International Settlements in Basel

Standing Counsel to the European Bank for Reconstruction and Development

Bencher of Middle Temple

News, Articles & Publications

Formerly one of the Editors of Harvey and of *Tolley's Employment Handbook*

Brexit: Bonanza or Catastrophe? The Outlook for UK Business Lawyers, Bloomberg Big Law Business website (US). July 2016

Education

New College, Oxford, MA (Jurisprudence), First-class

Clare College, Cambridge, LL.M

Other

Residential Social Worker, St Philip's School, Airdrie, 1979 and 1980

Instructor-in-Law, University of Illinois College of Law, 1983-4

Part-time College Lecturer in Law, New College, Oxford, 1984-6

Chair of Employment Law Bar Association, 2005-2007

Member of ELBA, Combar, ALBA and ELA



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