

## Iris Ferber KC

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Iris is a specialist in Social Housing and Employment law, with a particular focus on litigation involving discrimination. She was called to the bar in 2005 and was recently appointed to Silk in 2023.

Iris often deals with high value, legally complex, factually difficult cases – and her cases often involve vulnerable parties and witnesses.

In her Employment practice, that includes all types of discrimination, whistleblowing, trade union detriment, health and safety detriment, historic and high value wages claims, and appeals. She appears in the Employment Tribunal, the High Court and the appellate courts.

In her Property practice, and particularly her specialism of Social Housing, Iris is often instructed in cases involving allegations of discrimination under the Equality Act. She also regularly acts in homelessness appeals and judicial reviews, in cases of tenancy fraud and serious criminal and anti-social behaviour, and in cases involving highly technical aspects of property law, such as forfeiture, service charges, boundaries and tenancies at will.

Iris has been recommended as a Leading Junior by both Legal 500 and Chambers UK, in both the Employment rankings and the Social Housing rankings, since at least 2018.

Iris writes on homelessness and allocations for LexisNexis's PSL service, and she regularly appears in the EAT under the ELAAS scheme.

## Employment Law

Iris conducts the full range of Employment Tribunal and appellate work, acting regularly for both employees and employers. She provides advice, and undertakes drafting work, in all aspects of Employment Law.

Iris works with a wide range of employers, from public sector employers and national companies with thousands of employees, to small businesses and individuals.

She has also represented claimants in many different types of case, from simple unfair dismissal claims, to complex, multi-

day trials involving a variety of different legal claims.

As a barrister who spends much of her working time in the Employment Tribunal, Iris is familiar with the way the system works, and can advise clients not only on the legal issues in their dispute, but also on practicalities, litigation tactics and appeal tactics.

Iris provides regular training to solicitors and companies: both seminars on current legal issues, and practical workshops on employee management and litigation.

## Recent Cases

- In mid-2022, Iris successfully defended an international corporation against 10 claims brought by a former senior employee, who had been dismissed following a breakdown in the working relationship between him and his managers. The trial took place over 3 weeks, and involved a wide variety of allegations, from unfair dismissal to disability discrimination and beyond. All the claims were dismissed.
- Through the ELAAS scheme, Iris is representing a Claimant in his ongoing appeal to the EAT against a decision that his capability dismissal was fair. Iris persuaded the EAT to grant permission at a rule 3(10) hearing, based on a proposed expansion of the principles in *Royal Mail v Jhuti* / *Uddin v LB Ealing*, by arguing that the ET failed to consider whether a capability dismissal decision was tainted by the actions of a former manager.
- Since 2019, Iris has been acting for a nationwide logistics company in a claim of disability discrimination brought by a warehouse employee. The ET decided at a preliminary hearing in 2019 that the claimant was not disabled and struck out his claim. He has now appealed against that decision, and Iris is representing the company in the ongoing EAT proceedings.
- *Kids Company v Smith* [2018] IRLR 484: Iris represented over 100 former employees of the charity Kids Company, seeking protective awards for the failure to consult them on redundancy before the charity's collapse. Iris won at the ET, and then successfully resisted an appeal to the EAT. The EAT decision is now a reported case, dealing with the "special circumstances" defence in protective award claims.
- *Hartley v Foreign and Commonwealth Office Services* [2016] ICR D17: Iris successfully represented the Claimant in an appeal to the EAT. She persuaded the EAT that the ET had been wrong – in a harassment claim – to focus on the perception of the person making the harassing remarks, rather than focussing on the correct legal test of harassment.

## Housing Law

Iris began her career in 2006 as a Housing specialist. Since then, she has always maintained a busy Housing practice, and a keen interest in Housing law.

Iris regularly deals with all aspects of Housing law, and has long experience in dealing with complex anti-social behaviour cases, including those involving mental health issues, on behalf of both landlords and tenants.

She is particularly good at dealing with vulnerable clients and witnesses, and managing the complex legal arguments involved in Equality Act and Human Rights cases.

Iris's expertise in discrimination law generally (because of her combined practice in Housing and Employment Law) makes her particularly adept at handling Equality Act defences.

Iris has extensive experience of homelessness litigation, including s204 appeals in the County Court, judicial review in the High Court, and appeals to the Court of Appeal. She regularly trains local authorities on homelessness law and procedure.

Iris also delivers very popular workshops, both online and in person to solicitors and clients at their offices, on all aspects of Housing litigation.

## Recent Cases

- In 2021 and 2022, Iris has been leading Robert Winspear (of 42BR), representing a local authority in a long-running, very high value disrepair claim brought by a tenant with serious physical and mental health vulnerabilities. The 6-day liability trial involved complex questions of the causation of condensation mould, and the cross-examination of surveyor expert witnesses.
- In 2021, Iris obtained permission from the Court of Appeal for a second appeal, in a case about whether a default judgment (for service charge arrears) is capable of forming the basis for the forfeiture of a long lease. Sadly, the case could not proceed after the grant of permission, but the Court was sufficiently persuaded by Iris's arguments about the need for clarity on this important point of law and practice to give permission on the papers, without an oral permission hearing.
- In 2021, Iris successfully represented an applicant for homeless assistance in his County Court s204 appeal. He had been judged not to be in priority need as a vulnerable person, despite suffering from multiple serious mental and physical health conditions – because the decision-maker had unlawfully focused on what the applicant could do, and on his lack of medical treatment, rather than on the comparative Hotak test.
- In 2021, Iris represented a local authority in a very unusual anti-social behaviour committal case. The Defendants had breached ASB injunctions by returning to their house (from which they had been excluded), allegedly to care for their 200 guinea pigs, but in reality to cause harm and distress to their neighbours and to the local authority's contractors. Iris persuaded the Court to deploy the little-used committal sanction of "asset seizure" to order the seizure of the guinea pigs, rehoming them to happier homes and removing the purported reason for the Defendants to breach the injunction.
- *R (Sambotin) v Brent LBC* [2018] EWCA Civ 1826: Iris represented the local authority in an appeal against a judicial review decision about whether the authority had the power to reconsider a homelessness decision which had already been communicated to an applicant, but which was still subject to an incomplete local connection referral