

Ian Wright

Called: 1983
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"An informed strategist and tenacious advocate with a personable court manner." The Legal 500



Profile

Ian is a specialist Employment and Regulatory practitioner with more than twenty years of experience of practice at the Bar. He acts for both Claimants and Respondents in all types of employment work. His employment work has a particular focus on unfair dismissal and discrimination claims. He is recognised by many duty holders and public sector bodies, including the Health & Safety Executive, as having particular expertise and experience in advising and representing parties to appeals against Prohibition and Improvement Notices. This work takes him to all regions of Great Britain.

Over the past few years Ian has developed his business immigration work by delivering seminars concentrating in particular on the Points Based System of entry routes, Routes outside the PBS and the Right to work and prevention of illegal working.

In 2016 Ian Wright was listed in the Legal 500 for his health and safety work with the observation that 'His intuition on strategic and evidential issues is unnervingly accurate', and in 2017 that he is 'an informed strategist and tenacious advocate with a personable court manner'.

In 2012 he was appointed to List A of the new List of Specialist Regulatory Advocates in Health & Safety and Environmental Law.

Ian is licensed to accept direct access work in appropriate circumstances.

Recently Ian received the following unsolicited comments from clients at the end of successful cases. 'A devastatingly brilliant job. Thank you so much for all of your work which, in my view, was over and above the bar!'

'Many thanks for your guidance and calm approach. It was much appreciated. The right result in the end, very much down to your endeavours.'

Description of Practice

Employment (particularly unfair dismissal and discrimination claims)

Regulatory including health & safety.

Other sectors of work covered in appeals:

- Many licensed asbestos works at medium and large sites
- Maintenance of quarry faces
- Pyrotechnic content of fireworks
- Traffic routes in city bus station
- Construction of points on railway network
- Roster of drivers by train operating company
- Corrosion of pipe work at a petrochemical refinery
- Asbestos waste at permitted transfer stations

Qualifications

- BSc Biochemistry
- LLB Law

Important Cases

HSE (Conner) v Chevron North Sea Ltd [2016] CSIH 29

The Court of Session recently decided that subsequently obtained evidence may be relied on by a tribunal hearing an appeal under section 24 of the HSWA. The judgement is at odds with the Court of Appeal decision in *Hague v Rotary Yorkshire Ltd* (below).

Permission was granted to appeal to the Supreme Court. Ian has been instructed as junior counsel in the case which will decide whether the approach in *Chevron* or *Rotary Yorkshire* is preferred. The hearing is expected to be listed in 2017.

Rotary Yorkshire Ltd v Hague [2014] EWHC 2126 (Admin) and [2015] EWHC 696 (CA)

In this appeal the High Court held the Employment Tribunal had been wrong to uphold the service of a prohibition notice when inspectors had found exposed high voltage conductors which they thought could have been live. Collins J held that the inspectors should have allowed the company an opportunity to prove the conductors dead and in the meantime could have issued a direction to leave undisturbed under section 20(2)(e) of the HSWA.

On 11 June 2015 the Court of Appeal allowed the Inspector's appeal and set aside the orders made by Collins J. I acted for the successful Appellant.

The Court found that the learned judge had not identified an error of law by the Tribunal and so should not have substituted his own opinion for that of the Tribunal. The Tribunal's order affirming the notice with a modification was therefore reinstated.

In addition the Court approved the approach to an appeal under section 24 HSWA set out in *Chilcott v Thermal Transfer* (below) at paragraphs 10, 11 & 21 of the judgment of Mr Justice Charles and also as approved at paragraph 22 of the judgment of Mr Justice Popplewell in *MWH UK Ltd v Wise [2014] EWHC 427*.

In the course of its judgement the Court of Appeal made two further points: (1) when considering an appeal under section 24 a Tribunal should not consider any commercial disadvantage consequent on the fact of registration of the notice and (2) the power to issue a direction under section 20(2)(e) HSWA was not an alternative lesser action to be considered when an inspector has formed the opinion there is a risk of serious personal injury arising from an activity.

This is the first time the Court of Appeal has considered the approach by a Tribunal to an appeal under section 24 and so becomes the leading authority on the point.

See Ian's article on the Court of Appeal's Judgment [here](#)

Dhunna v Creditsights Ltd [2013] ICR 909

An appeal against a decision of an employment tribunal judge finding that the Claimant had no jurisdiction to bring a claim of unfair dismissal because he was working in Dubai at the date of dismissal.

The EAT applied the principle from *Lawson v Serco*, *Duncombe v Secretary of State for Children and Ravat v Halliburton Manufacturing and Services Ltd* and decided that the ET had applied the wrong test.

Slade J took the view (in *Dhunna*) that the decisions in *Duncombe* and *Ravat* had not just added qualifications to the initial authority of *Lawson* but have in fact pointed to a different approach particularly in the case of expatriate workers'. (Harvey on Industrial Relations & Employment Law, Division D1 [69]).

Sibelco UK Ltd v Gill CO/2283/2012

A health and safety appeal against a notice served following the fatality of a worker during a railway operation at a private quarry. A second appeal was brought against the tribunal's decision but then withdrawn.

Keane v Investigo Ltd & ors (UKEAT/0389/09)- Underhill J

One of the first English decisions of the EAT to consider whether an applicant for a job could suffer a detriment and claim age discrimination if it was found as a fact that she had no genuine interest in accepting the job if offered.

Chilcott v Thermal Transfer Ltd [2009] EWHC 2086 QBD.

Perhaps the most important decision under section 24 HSWA in recent years. The Court held that an appeal under section 24 is a true appeal and not a limited challenge on the ground of perversity or a lack of a genuine belief. Instead the tribunal is required to consider whether it would have served the enforcement notice itself on the date it was actually served by the Inspector.

Transocean Offshore (North Sea) Ltd & ors v Thomson & anr ET/S/110249/2007 & ors

These related appeals were brought against enforcement notices served by Inspectors of the HSE following the capsizing of the vessel 'Bourbon Dolphin.' Perhaps the most complicated set of health and safety appeals brought under section 24 of the HSWA.

A feature of the case was the willingness of the Employment Tribunal at Aberdeen to permit witnesses to give evidence in chief from witness statements.

Pola v R (CA) CLR 603

The Court of Appeal considered the meaning of 'employee' for HSWA purposes in circumstances where casual workers were engaged at a building site.

Pendragon plc v Copus [2005] ICR 1671

The EAT considered the test to be applied for the review of a default judgement by an employment tribunal.

Seminars and Training

Ian Wright regularly delivers training to lawyers, HR professionals and enforcement officers. During 2016 he has so far delivered seminars on the following topics:

- Appeals against enforcement notices
- Hague v Rotary Yorkshire Ltd- the law after the Judgment of the Court of Appeal
- Business Immigration

See also Ian's article 'Legal brief: when to take notice' in Health + Safety at Work [here](#).

Appointments

Legal Experts 2007 – present

Attorney General's List of Approved Counsel and List of Specialist Regulatory Advocates
2004 – present

Professional Memberships

Employment Law Bar Association (ELBA)

Health and Safety Law Association (HSLA)

The London Common Law & Commercial Bar Association (LCLCBA)

Social Media

LinkedIn