



## Naomi Cunningham

Year of call  
1994

Email  
[naomi.cunningham@outertemple.com](mailto:naomi.cunningham@outertemple.com)

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Naomi Cunningham has specialised in employment and discrimination law throughout her career. She acts for a mix of public and private sector employers, large and small, and individual employees and trade unions.

Naomi accepts instructions in goods and services discrimination as well as in the full range of employment matters. She has been instructed in a number of multi-claimant equal pay cases, including the ongoing mass equal pay claim against Asda (in which she is led by Andrew Short QC) described by the BBC as '[Made in Dagenham for the 21st Century](#)'. She is also instructed on behalf of thousands of claimants in similar litigation against Tesco, led by Keith Bryant QC.

Naomi is happy to accept instructions to act as an independent investigator or decision-maker in workplace disciplinary or grievance proceedings. She has acted in both capacities including in matters involving highly sensitive allegations, and has been praised for her clarity and balance.

Over the last couple of years, Naomi has developed a niche expertise in gender reassignment discrimination, the interaction between the Equality Act and the Gender Recognition Act, the single-sex exceptions in the Equality Act and the public sector equality duty, and as a result has a growing interest in public law in these areas. She gave evidence (on behalf of the Legal Feminist collective) to the Women and Equalities Select Committee on reform of the GRA in February 2021, and was instructed in Fair Play For Women's judicial review of ONS guidance on the sex question in the 2021 Census and by the Authentic Equity Alliance in its application for judicial review of the EHRC's *Code of Practice on Services, public functions and associations*.

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### London

Outer Temple Chambers  
The Outer Temple  
222 Strand  
London  
WC2R 1BA

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E Fax: +44 (0)870 220 3256  
DX: LDE 351 (Chancery Lane)

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### Abu Dhabi

24th Floor, Al Sila Tower,  
Abu Dhabi Global Market Square,  
Al Maryah Island  
Abu Dhabi, UAE

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### Dubai

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## Publications

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Naomi writes a popular and practical guide to employment tribunal proceedings, *Employment Tribunal Claims: tactics and precedents*, now in its 4th edition.

Several reviewers describe the book as essential, and a review in the ELA Briefing adds “*Every employment lawyer (including the tribunal judiciary) will learn something of value from reading this book.*”

Naomi also writes for the Legal Feminist blog.

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## Employment & Discrimination

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### Cases

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**Brierley & ors v Asda; Ahmed & ors v Sainsburys & anr; Fenton & ors v Asda** [2019] EWCA Civ 8

**Mansfield v Taran Microsystems Limited** UKEAT/0307/17

**Burdis v Dorset County Council** UKEAT/0084/18

**Awan v ICTS UK Limited** UKEAT/0087/18/RN

**Mbubaegbu v Homerton University Hospital NHS Trust** UKEAT/0218/17/JOJ

**Premachandra v HBOS PLC** UKEAT/0090/15/RN

**Azam v Ofqual** UKEAT/0407/14/JOJ

**Ros v Brighton & Hove City Council & others** UKEAT/0176/13

**Aspire Defence Services Limited v Hutchings** UKEAT/0442/12/LA

**Osoba v Chief Constable of the Hertfordshire Constabulary** UKEAT/0055/13/BA

**Lipinski v Ebbsfleet Autospray Centre Limited** UKEAT/0288/12/JOJ

**Governing Body of St Andrew's Catholic Primary School & ors v Blundell** UKEAT/0259/12/RN

**London City Airport Limited v Chacko** UKEAT/0013/13

**Birmingham City Council v Akhtar & ors** EWCA Civ 585

**Dziedziak v Future Electronics Limited** UKEAT/0270/11/ZT

**Segor v Goodrich Actuation Systems Limited** UKEAT/0145/11

**Mckerrow v The Princess Alexandra Hospital NHS Trust** UKEAT/0387/11

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**Hamilton & ors v NHS Grampian** **UKEATS/0067/10/BI**

Whether section 11 of the ERA can be used to determine the existence of an implied term; determination on a point of law without hearing evidence; costs.

**NHS Leeds v Lerner** **UKEAT/0088/11/CEA**

Whether an employee on long-term sick leave must take steps to exercise her right to annual leave in order to be entitled to holiday pay.

**Compass Group PLC v Ayodele** **UKEAT/0484/10/SM**

The scope of an employer's obligation to consider a request not to retire.

**Hussain v Acorn Independent College Ltd** **[2011] I.R.L.R. 463, EAT**

Temporary cessation of work; whether temporary cover provided by a teacher counted towards his continuous service.

**St Andrew's Catholic Primary School v Blundell** **[2011] EWCA Civ 427**

New evidence on appeal; application of rule in Ladd v Marshall.

**Vickers v London Fire and Emergency Planning** **[2010] EWHC 1855 (QB)**

Meaning of 'unable to drive for genuine reasons' in firefighters' contract.

**Blundell v Governing Body of St Andrew's Catholic Primary School** **[2007] ICR 1451, EAT**

The first appeal case on the definition of the 'job' to which a woman has the right to return following maternity leave.

**Moyhing v Barts & the London NHS Trust** **[2006] IRLR 860, EAT**

Sex discrimination against a male student nurse (funded by the EOC).

**Network Rail Infrastructure Ltd v Griffiths-Henry** **[2006] IRLR 865, EAT**

The burden of proof in discrimination cases.

**Comfort v Department for Constitutional Affairs** **(2006) (ET); (2005) (EAT); [2004] EWCA Civ 349**

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**(CA)**

Constructive dismissal case remitted by the CA for re-hearing after the original ET failed to deal with allegation of perjury by a senior civil servant giving evidence for the Respondent. The second appeal to the EAT concerned disclosure of the Respondent's notes of evidence from the previous hearing.

**Gdynia America Shipping Lines (London) Ltd v Chelminski [2004] ICR 1523, CA**

Time for appealing an employment tribunal decision.

**Kwamin v Abbey National plc [2004] ICR 841, EAT**

Delay in promulgation of ET decisions, Article 6.

**Addison & Addison v Ashby [2003] ICR 667**

Whether child workers entitled under the Working Time Regulations to paid annual leave.

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## Appointments & Memberships

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- Employment Law Bar Association
- Employment Lawyers' Association
- Discrimination Law Association

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## Recommendations



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## Testimonials

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“She displays an impressive ability to get to grips with the detail and is an impressive advocate.”

**Employment, Chambers & Partners 2021**

“She is extremely knowledgeable and experienced, and compelling in her legal arguments – and she delivers results. She goes above and beyond to support her clients.”

**Employment, Chambers & Partners 2021**

“A very intelligent barrister who always thinks outside of the box.”

**Employment, Legal 500 2021**

“A superb employment lawyer and a great advocate.”

**Employment, Chambers & Partners 2020**

“She’s very calm and is great on the detail.”

**Employment, Chambers & Partners 2020**

“A passionate and intellectually engaged lawyer who has an unusually creative approach to using the law in innovative ways.”

**Employment, Legal 500 2020**

“She is thorough and has a very good manner with clients.”

**Employment, Chambers & Partners 2019**

“She gets back to you quickly and she knows her stuff.”

**Employment, Chambers & Partners 2019**

“She has rare expertise in discrimination cases.”

**Employment, Legal 500 2019**

“Very good. Steady and persistent.”

**Employment, Chambers & Partners 2018**

“She will always go the extra mile.”

**Employment, Chambers & Partners 2018**

“She has assiduous attention to detail and flawless knowledge.”

**Employment, Legal 500 2017**

“She always makes clients feel at ease and explains things in a very clear way – she is very practical and pragmatic in her advice.”

**Employment, Chambers & Partners 2017**

“She has rare expertise in interim relief applications in union detriment cases.”

**Employment, Chambers & Partners 2017**

“Extremely thorough and professional, as well as personable and approachable with clients.”

**Employment, Legal 500 2016**

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“Very responsive and always willing to go the extra mile.” **Employment, Legal 500 2015**

“She has a very good bedside manner and is able to explain things to clients in a manner that allays their fears.” **Employment, Chambers & Partners 2014**

“A very effective practitioner.” **Employment, Legal 500 2014**

“Great depth of intellect and refuses to just accept the obvious interpretation of a piece of legislation.”  
**Employment, Chambers & Partners 2010**

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