

**Overview**

Banking and Financial Services  
Charities  
Consumer Credit  
Pensions  
Property  
Professional Liability  
Trusts  
Wills and Estates

## Profile: Overview

Starting from a traditional Chancery base of property, trusts and wills, Elizabeth's practice has developed to include substantial pensions, retail financial services and professional negligence work. She describes it as a varying and fascinating mix of case law and black letter law with regulatory overtones and a hint of charity.

## Experience and Expertise

Elizabeth's practice began with the traditional Chancery fare of property, trusts and wills and she still practises in those areas. Over the years she has also acquired experience and expertise in related but distinct areas, which now form a substantial part of her work.

This process began in her early years of practice as she undertook specialist building society work, involving the drafting of building society rules and mortgage conditions and advice on constitutional matters, particularly after the Building Societies Act 1986 came into force. Following the conversion of many leading building societies into public limited companies, she has continued to draft documents for, to advise and to conduct litigation for, building societies and other institutions, including major banks. This range of work now includes not only the original constitutional and mortgage-related matters, but also consumer credit legislation, unfair terms legislation, regulatory matters and dealings with the Financial Ombudsman Service.

Another early development was Elizabeth's first contact with pensions law, which related to a small local pension scheme for Nottinghamshire miners and took place against the background of the 1985 miners' strike. Since then, her work in the pensions field has expanded to cover the whole range of pensions law, from the trust-based issues relating to trustees' duties and powers to the legislation-based issues of scheme funding, taking in (among other matters) group and individual estoppel claims, claims by individual members, regulatory matters and the Pensions Ombudsman on the way.

Elizabeth's financial services and pensions work come together in a third significant area of work, professional negligence. Her involvement here began with the collapse of the housing market at the end of the 1980s and arose out of her mortgage work, as lenders looked for a solvent defendant to make good the shortfall when properties went into negative equity. That work developed into a much wider range of professional negligence work, both within the financial services field and outside it, particularly in relation to claims against solicitors, benefits consultants and actuaries. Her professional negligence expertise has been put to good use in the pensions context, where she has acted for both claimants and defendants in substantial professional negligence claims, frequently arising out of failed equalisation cases.

Elizabeth is also a part-time judge of the Upper Tribunal, which gives her an additional insight into the tribunal side of the Courts and Tribunals Service. Tribunals have become increasingly significant to the Chancery Bar in recent years as substantial areas of work which would previously have been dealt with in the High Court have been transferred to specialist tribunals. Financial services, pensions and charity matters are now all within the jurisdiction of tribunals. Elizabeth values the experience of sitting judicially both for that insight and for the different perspective to be gained from sitting in the Administrative Appeals Chamber, frequently dealing with social security claimants. Despite the wide difference in subject matter between social security law and traditional Chancery work, the ability to grapple with complex and detailed statutory material is required in both fields and her skills in that respect stand her in good stead.

Elizabeth is regularly involved in advising in connection with and attending mediations in her areas of practice.

## Cases and Work of Note

Significant cases include:

- *Danks v QinetiQ Holdings Ltd* (power of trustees to amend pension scheme with the effect of substituting CPI for RPI as the measure of inflation);
- *Prudential Staff Pensions Ltd v The Prudential Assurance Company* (employer's duty of good faith in relation to the exercise of non-fiduciary powers under a pension scheme);
- *Alitalia v Rotunno* (whether "to secure" benefits under a pension scheme means that the scheme should be funded on a full buy-out basis);
- *In re T&N and others* (directions application by administrators of Federal-Mogul Group raising issues as to the position of pension schemes);
- *Johnson v Gore Wood* (solicitors' negligence claim involving the application of the rule in *Henderson v Henderson* and what loss was recoverable by a shareholder when the company had a claim in negligence also);
- *Gunns v Par Insurance Brokers* (issues relating to alleged negligence by an insurance broker).
- *Cheltenham & Gloucester Plc v Booker* (exercise of court's residual discretion to permit mortgagor to stay in possession pending sale by mortgagee)
- *Davis v Richards & Wallington Industries Ltd* (whether definitive deed duly executed, executory trusts and ownership of pension scheme surplus)
- *Gibbon v Mitchell* (effect of mistake on trust document)

Significant recent work includes:

- Advising an industrial and provident society on possible conversion to a company;
- Advising pension scheme trustees in a dispute arising out of a misunderstanding of the effect of a pension earmarking order;
- Advising solicitors on the taking of legal charges to secure their costs;
- Involvement in continuing proceedings by a member of a pension scheme seeking to assert a contractual claim to a top-up pension;
- Mediation in claim by landlord of substantial commercial property for unpaid rent and service charges met with claim for damages for breach of covenant for quiet enjoyment and substantial loss of profits;
- Amending mortgage conditions following the Financial Services Authority's most recent guidance on unfair terms.

## Recommendations

Elizabeth Ovey is recommended as a leading junior by *Chambers UK*, *Chambers Global* and/or *The Legal 500* in six commercial and chancery fields: banking and financial; consumer credit; commercial chancery; traditional chancery; pensions; and professional negligence. Examples of recent directory comment are as follows:

- "She is technically very strong and she's thorough in her advice and clear in her conclusion." (Pensions, Chambers UK, 2017)
- "She is very measured and has a good style of communicating with clients; she gets points across in a way we can all live with given our different perspectives." (Pensions, Chambers UK, 2017)
- "She is very thorough and very conscientious, and a lot of people respect her." (Chancery: Traditional, Chambers UK, 2017)
- "She is a very surefooted advocate who is very bright and covers all the angles in her written advice. She's a really capable adviser to have on your team if you have a complex case." (Chancery: Commercial, Chambers UK, 2017)
- "A strong communicator on paper, and a capable and versatile advocate." (Banking and Finance, The Legal 500, 2016)
- she is very conscientious and has a monster legal brain.
- she has great strength in financial services matters.
- an excellent senior junior who has a great eye for detail and an outstanding grasp of the complexities of a case.
- very conscientious, empathetic and user-friendly.
- she is calm, balanced and has a considered air about her.
- she is very good with clients, who find her reassuring, and she gives a fantastic written opinion.
- she has a brilliant mind and is always a pleasure to deal with.

- she has a wonderful can-do attitude and is thorough and practical in her approach.
- regarded as pragmatic and responsive, [she] deals with matters quickly and commercially and always meet clients' expectations.
- she is thoughtful, sympathetic and understands clients concerns.
- her calm demeanour belies the fact that she has a tough side and is not one to stand for any nonsense from the opposition.
- she has won over many an instructing client with her terrifically thorough eye and ability to set out all the options.
- a very accomplished practitioner who doesn't miss a trick.
- solicitors favour her as she is super-bright and is excellent at giving immediate answers that are always to the point.

The directories have also noted that she “continues to impress for no-nonsense service delivery and commercial rigour”, is “very knowledgeable and thorough”, “very tough and highly able”, and is “highly thought of in terms of her level of client care. Nothing is too much trouble for a lawyer who proves highly conscientious in all her dealings”.

## Publications

- Joint editor of *Wurtzburg and Mills on Building Society Law* (looseleaf edition), Sweet and Maxwell
- Co-author of *Retail Mortgages: Law, Regulation and Procedure*, Sweet and Maxwell.
- Co-author of *The Law of Investor Protection* (2nd edition), Sweet and Maxwell
- Joint consultant editor of the mutual societies section of volume 18(1) of *Halsbury's Laws* (5th edition.): <http://lexisweb.co.uk/guides/sources/halsbury-s-laws-of-england>
- Co-author of the *Current Law Statutes Annotated edition of the Building Societies Act 1986*
- Member of the working party on the Standard Conditions of Sale (1st to 5th editions) and the Standard Commercial Property Conditions (1st and 2nd editions)
- Contributor of articles to the *Journal of International Banking and Financial Law*
- Member of the editorial board of the Lexis PSL pensions section.

## Seminars

Elizabeth has recently contributed to Radcliffe Chambers seminars on fairness issues in financial services, on the changes made by the 2011 edition of the Standard Conditions of Sale in the field of property law and on the Independent Schools case in the field of charity law.

She has recorded podcasts on fairness issues and on construction and rectification in the pensions law field and has recorded a webinar on pensions and insolvency.

She has been a speaker at a number of CLT conferences, principally on mortgage-related matters but most recently on the charity law review conducted by Lord Hodgson.

She also speaks on pensions matters, both at events organised by the Association of Pensions Lawyers and at in-house seminars.

## Qualifications

First class degree in jurisprudence (St. Anne's College, Oxford)

Deputy Social Security Commissioner 1998, becoming a deputy Judge of the Upper Tribunal in 2008

## Memberships

Chancery Bar Association; Association of Pension Lawyers; Charity Law Association; Professional Negligence Bar Association.

## Other Details

VAT Registration Number: 342102414

## For More Information

Please click on the links to the left or contact a member of the clerking team.