

# Pensions

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**“Those individuals acknowledged for pensions work are of the highest calibre. The set acts on both litigious and advisory matters, from the practical operation of pensions schemes and their regulatory framework to equalisation issues and professional negligence claims.”**

**Pensions section, Chambers UK**

From QCs to established junior practitioners, all members of the Pensions team are able to draw on wide-ranging experience in the field and we have been involved in many of the leading pensions cases in recent years.

Our expertise in pensions law is complemented by our experience in important related areas of the law such as trusts, professional negligence, corporate insolvency and commercial disputes, in which we also practise. We deal with large and small occupational pension schemes; personal pension schemes including small self-administered schemes (SSASs) and self-invested personal pensions (SIPPs); pension schemes created by statute such as the Local Government Pension Scheme and the Teachers Pension Scheme; and pension schemes in overseas jurisdictions as well as the United Kingdom. Our barristers appear regularly before the Appellate Courts, the High Court, the Pensions Ombudsman and the Determinations Panel of the Pensions Regulator.

We are also frequently instructed to provide advice in respect of non-contentious issues, including issues which arise as part of larger corporate transactions, and to assist in drafting pension schemes and other pensions-related documentation.

## Cases of Note

***Arcadia Group Ltd. v Arcadia Group Pension Trust Ltd.*** [2014] EWHC 2683 (Ch) – power to select a different index implied into scheme definition of “Index”. The judge also followed *Danks v QinetiQ Holdings Ltd* (see below) on Pensions Act 1995, s.67 (Keith Rowley QC, Elizabeth Ovey)

***Spencer v Fielder*** [2014] EWHC 2768 (Ch) – trustees of the Airlines Pension Scheme granted Beddoe relief to enable them to defend, at the expense of the Scheme, proceedings brought against them by British Airways challenging the validity of their decision to grant a discretionary increase to deferred pensions and pensions in payment, the Chancellor holding that the defence of the claim was in the interests of the members of the Scheme (Keith Rowley QC)

***The Pensions Regulator v A. Admin Ltd. (Re LPA Umbrella Trust)*** [2014] EWHC 1378 (Ch) – preliminary issues in proceedings relating to pension liberation allegedly achieved through five schemes. Two of the points concerned the scope and construction of Pensions Act 1995, s.91, prohibiting the assignment or surrender of pension benefits (Keith Rowley QC, Elizabeth Ovey)

***Re Gleeds Retirement Benefit Scheme*** [2014] EWHC 1178 (Ch) – application for directions concerning the validity of amendments to a scheme purportedly made by deed in circumstances where the documents executed did not comply with Law of Property (Miscellaneous Provisions) Act 1989, s.1(3) (Keith Rowley QC, Wendy Mathers)

***Vaitkus v Dresser-Rand UK Ltd*** [2014] EWHC 170 (Ch) – equalisation claim in which the Court held that a notice issued to female members of a contributory pension scheme seeking to equalise benefits following Barber was sufficient to amend not only the original interim deed but also a subsequent definitive deed (Keith Rowley QC)

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**Ainslie v Sun Life Assurance Company of Canada (UK) Ltd** [2014] EWHC 453 (Ch) – member's entitlement to a TFCLS and to exercise an open market option in relation to a protected rights policy which had previously been the subject of a settlement agreement (Wendy Mathers)

**Re Rigid Containers Group Staff Pension Fund** [2013] EWCA Civ 1714 – the trustees of a pension scheme which provided that on a winding-up the members' benefits had to be provided as nearly as practicable the same as their entitlements under the scheme were, by implication, permitted to buy-out the members' entitlement in a two-stage process in order to maximise the value of the scheme assets (Keith Rowley QC)

**Danks v QinetiQ Holdings Ltd** [2012] EWHC 570 (Ch) – power for trustees to select CPI rather than RPI as the relevant index for increases to pensions in payment and revaluation without infringing Pensions Act 1995, s.67 (Keith Rowley QC, Elizabeth Ovey)

**Hugh Mackay Retirement Benefits Scheme** (Determinations Panel, 2011) - whether the Determinations Panel should exercise its powers to prohibit trustees from acting as trustees of any pension schemes on the grounds of persistent and serious breaches of pensions legislation and breaches of trust law (Keith Rowley QC, Frances Ratcliffe)

**Alexander Forbes Trustee Services Ltd. v Doe** [2011] EWHC 3930 (Ch) – determination of the effect of Occupational Pension Schemes (Winding Up) Regulations 1996 (SI 1996/3126), reg.13, on Pensions Act 1995, s.73, in the context of a hybrid scheme (Keith Rowley QC, Wendy Mathers)

**Bridge Trustees Ltd. v Yates** [2011] UKSC 42 – trustee's application for directions as to the application of the priority provisions in Pensions Act 1995, s.73, and the meaning of "money purchase benefits" as defined by Pension Schemes Act 1993, s.181 (Keith Rowley QC)

**Prudential Staff Pensions Ltd. v Prudential Assurance Co Ltd** [2011] EWHC 960 (Ch) – employer's duty of good faith in relation to the exercise of the employer's non-fiduciary powers

under a pension scheme (Keith Rowley QC, Elizabeth Ovey)

**Re IMG Pension Plan [2010] EWCA Civ 1349** (reversing [2009] EWHC 2785 (Ch)) – effect of Pensions Act 1995, s. 91, on power to compromise (Keith Rowley QC, Elizabeth Ovey)

**DP Dental Laboratory Retirement Benefits Scheme** (Determinations Panel, 2009) - whether the Panel should appoint an independent trustee with exclusive powers on the grounds that the existing trustees lacked the necessary knowledge and skill to administer the scheme properly because of inter alia conflicts of interest (Frances Ratcliffe)

**Independent Trustee Services Ltd. v Hope** [2009] EWHC 2810 (Ch) – whether trustees should take into account compensation available under the Pension Protection Fund when making decisions in relation to the assets of an occupational pension scheme (Keith Rowley QC)

**Walker Morris Trustees Ltd. v Masterson** [2009] EWHC 1955 (Ch) – proviso to power of amendment requiring actuarial certificate not satisfied by certificate given under Pensions Act 1995, s.67. Decision in *Courage* followed in determining meaning of "benefits secured" (Keith Rowley QC)

**Alitalia-Linee Aeree Italiane SpA v Rotunno** [2008] EWHC 185 (Ch) – meaning of "to secure" benefits under a scheme and trustees' entitlement to indemnity for costs (Keith Rowley QC, Elizabeth Ovey)

**Cripps v Trustee Solutions Ltd** [2007] EWCA Civ 771 – priorities on a scheme wind-up under Pensions Act 1995, s.73(3) (Keith Rowley QC)

**British Vita Unlimited v. British Vita Pension Fund Trustees Ltd** [2007] EWHC 953 (Ch) – relationship between trustees' powers under a scheme's contributions rule and the scheme specific funding regime contained in Part 3 of the Pensions Act 2004 and the Occupational Pension Schemes (Scheme Funding) Regulations 2005, following acquisition of FTSE 250 company by a US private equity house and employer/trustee funding dispute (Keith Rowley QC)

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