



Wendy Mathers

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Barrister

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RECOMMENDATIONS

"She has great intellectual ability presented in a down-to-earth manner, making her accessible to both clients and solicitors."

Pensions, Chambers UK Bar 2018

Wendy Mathers is a versatile advocate with a broad Chancery practice, she has particular expertise in pensions, private client and property work. Wendy is recommended as a leading junior in both *Chambers UK Bar* and *The Legal 500 UK Bar*.

PENSIONS

Wendy is recommended as a leading junior in both Chambers UK Bar and The Legal 500 UK Bar, having been described as possessing "great intellectual ability presented in a down-to-earth manner, making her accessible to both clients and solicitors". She has also been described as "an incisive operator with forensic attention to detail", "A junior known for her strong oratory skills and assertive advocacy style... she impresses solicitors with her energy and commitment" and "user-friendly and very bright".

Wendy accepts instructions concerning all aspects of pensions law including equalisation, closure of schemes to future accruals, bulk transfers, the Employer Debt Regulations and the Preservation of Benefit Regulations, conduct of pension trustees, rectification of scheme documentation, winding-up and professional negligence of professionals associated with the administration and operation of schemes. She also advises in relation to matters coming before the Pensions Ombudsman and the Pensions Regulator and has extensive experience of statutory pension schemes including the LGPS.

Wendy is a member of the Association of Pension Lawyers.

Her cases include:

- *Capita ATL Pension Trustees Ltd & Ors v Sedgwick Financial Services Ltd & Ors* [2016] EWHC 214 (Ch) – Acting as junior counsel for the trustees in an application concerning section 14A of the Limitation Act

PROPERTY

Wendy accepts instructions in all property related matters including residential and commercial landlord and tenant, claims for relief against forfeiture, adverse possession claims, claims relating to easements and covenants and mortgages and is used to appearing before the property tribunals.

Wendy is often instructed to assist in drafting notices as a pre-cursor to possession proceedings in relation to both residential and commercial tenancies, she has extensive experience in cases relating to Rent Act tenancies.

Wendy has a particular interest in easements, having spent time as a Research Assistant at the Law Commission working with the Property and Trusts team on the Easements, Covenants and Profits a Prendre Consultation Paper.

Her recent work includes:

- *Manorshow Ltd v Boots Opticians Professional Services Ltd* [2017] EWHC 2751 (TCC) – Acted for the Claimant landlord in a dilapidations claim involving substitution of defendants.
- *Elgin Wright & Ors v Building Heritage & Ors* [2013] UKPC 10 (Privy Council on appeal from The Bahamas) – Acting as junior counsel for the successful appellant in this appeal which concerned the admission of fresh evidence in (1) Court of Appeal in The Bahamas and (2) in the Privy Council in a case centred on an action under the Quieting Titles Act 1959 for declaratory relief as to ownership of various land in the Bahamas.
- *Kensington Mortgage Company Ltd v Nicholas Dynes Gracey and Anor* [2010] EWHC 103 (Ch) – Appearing in multiple applications in relation to mortgagors subject to a Limited Civil Restraint Order.
- *Craggs v Fast Homes (UK) Ltd* – LVT – LON/00BA/LBC/2010/075 – Acting for the respondent in a claim by the landlord for a determination of breach pursuant to section 168(4) of the Commonhold and Leasehold Reform Act 2002.
- *R and S v T* – Acting for a freeholder of commercial premises in the High Court in a claim for injunctive relief on a *quia timet* basis to restrain a breach of covenant restricting use to certain specified use 1980 in the context of a multi-million pound professional negligence claim.
- *Ascham Homes Limited v Hassett Auguste* [2015] EWHC 3517 (Ch), [2016] I.C.R. 359 – Acting for the successful appellant in an appeal from a determination of the Deputy Pensions Ombudsman turning on the construction of Regulation 19 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (SI 2007/1166) as amended, resulting in the first High Court decision to consider the meaning of “business efficiency” for the purposes of the regulations.
- *Re Gleeds Retirement Benefit Scheme* [2014] EWHC 1178 (Ch), [2015] Ch. 212 – Acting as junior counsel for the trustees in an 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 section 1(3) of the Law of Property (Miscellaneous Provisions) Act 1989.
- *Ainslie v Sun Life Assurance Company of Canada (UK) Ltd* [2014] EWHC 453 (Ch), [2014] 030 PBLR (14) – Acting for the respondent in an appeal from a determination of the Deputy Pensions Ombudsman in relation to a number of issues including the member’s entitlement (or lack thereof) 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.
- *Alexander Forbes Trustee Services Ltd. v John Doe & Richard Roe* [2011] EWHC 3930 (Ch), [2012] 19 PBLR – Acting for the trustee in seeking a determination of the effect of Regulation 13 of the Occupational Pension Schemes (Winding Up) Regulations 1996 (SI 1996/3126) on section 73 of the Pensions Act 1995 in the context of a hybrid scheme.
- Settling particulars of claim against scheme advisers in respect of a negligently drafted top-up pension scheme and ancillary documentation which erroneously gave the member the right to take both the top-up pension and the scheme pension without actuarial reduction at 60.
- Settling proceedings in a rectification claim to correct an error introduced during a scheme amendment where the error has been replicated in a subsequent scheme amendment.
- Advising a local authority in relation to an allegation of negligent misrepresentation about whether specified sums were capable of superannuation for the purposes of the LGPS.
- Advising a member in relation to a possible claim about a mis-sold personal pension.
- Settling a claim for rectification of a pension scheme to correct a drafting error which inadvertently increased the accrual rate for a significant number of members, with the employer obtaining summary judgment without the need for a hearing.
- Advising (together with leading counsel) an employer facing a potential winding-up petition on the validity of Schedules of Contributions served under both the MFR and SSF regimes which were to form the basis of the petition debt.
- Advising trustees in relation to a discrepancy between

classes under the Town and Country Planning (Use Classes) Order 1987.

- *Kensington Mortgage Company Ltd v Saddique* (HHJ Barrie, Nottingham County Court, 17/8/11-19/8/11) – Acting for the successful claimant lender in the trial of a mortgage possession claim together with a counterclaim against the lender for alleged defects in relation to the execution of a previous possession order and the treatment of chattels.
- *Cormorant v Frankel* – LVT – LON/00AY/LSC/2010/0117 – Acting for the tenant in a service charge dispute and successfully challenging the recoverability of both management charges and legal fees under the lease.
- Acting for a mortgagee before the Land Registry Adjudicator where a charge had been removed as a consequence of a fraudulently executed DS1.
- Acting for a freeholder in a complex adverse possession claim and achieving an agreeable settlement at mediation.
- Advising a charity as to whether it could bring proceedings against its former solicitors where they failed to advise that a sub-tenant (who was a poor covenant) would be entitled to the protections and security of tenure provisions within Part II of the Landlord and Tenant Act 1954 causing a potentially valuable dilapidations claim against the tenant to be lost by reason of section 18 of the Landlord and Tenant Act 1927.
- Advising a mortgagee as to whether it could claim in negligence against its former solicitors where a consent to lease was granted with an alienation clause drafted such that the mortgagee did not have to approve any assignment.

COMMERCIAL DISPUTES

Wendy has a wide range of commercial experience and is happy to accept instructions concerning contracts, guarantees, share purchase agreements, agency agreements, franchise agreements and other commercial disputes.

Recent and notable work includes:

- *Central Tenders Board & Anor v White (t/a White Construction Services)* [2015] UKPC

the scheme rules and the booklets sent to members concerning the basis of calculating pension increases.

- Settling (together with leading counsel) particulars of claim against former scheme advisers in relation to negligent advice provided in response to the proposed termination of employer contributions to the scheme.
- Advising a firm of solicitors as to whether they had provided negligent advice concerning the effect of *Foster Wheeler Ltd v Hanley and Ors* [2009] EWCA Civ 651.
- Acting for the trustees (together with leading counsel) to secure *Beddoe* relief in relation to anticipated proceedings against former scheme advisers.

TRUSTS

Wendy accepts instructions relating to trusts including construction and rectification of trust instruments, breach of duty by trustees and other fiduciaries, the appointment, retirement and removal of trustees, trustee remuneration, exercise of trustee powers, tracing and variation of trusts. She has particular experience of pension trusts and *Beddoe* applications.

Her recent work includes:

- Settling a claim for rectification of a pension scheme to correct a drafting error which inadvertently increased the accrual rate for a significant number of members, with the employer obtaining summary judgment without the need for a hearing.
- Acting for the trustees (together with leading counsel) to secure *Beddoe* relief in relation to anticipated proceedings against former scheme advisers.
- Advising the trustees of a Jersey trust concerning their power of appointment in relation to residential property in London and Spain.
- *Re Gleeds Retirement Benefit Scheme* [2014] EWHC 1178 (Ch), [2015] Ch. 212 – Acting as junior counsel for the trustees in an 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 section 1(3) of the Law of Property (Miscellaneous Provisions) Act 1989.

WILLS AND ESTATES

Wendy has experience of non-contentious probate including caveats, citations, applications and summonses and is happy to advise in these areas in addition to appearing in the Principal Registry.

Wendy accepts instructions in contentious probate matters relating to the validity of wills and has particular experience of claims involving will forgery in addition to the more commonly encountered issues of want of knowledge and approval, lack of testamentary capacity and undue influence.

Wendy also has extensive experience of proceedings under the Inheritance (Provision for Family and Dependents) Act 1975.

Her recent work includes:

39, [2015] B.L.R. 727 (Privy Council on appeal from Montserrat) – Acting in an appeal concerning tender process and repudiation.

- Advising as to whether a contract incorporated the BIFA standard terms and assisting in the settlement of the claim.
- Appearing in a trial relating to the payment of agent's commission.
- Acting in a claim concerning shipment of goods to Iran.

- Acting in a will forgery case currently listed for a 5 day trial in the Chancery Division.
- Acting for the executors and beneficiaries in a 1975 Act claim by a grandson who was alleged to have been treated as a child of the family and was alleged to have been maintained.
- Advising executors as to whether a deed of settlement relating to agricultural land constituted a gift with reservation for the purposes of the Inheritance Tax legislation.
- Advising an adult child as to the prospects of bringing a 1975 Act claim.
- Acting for a creditor in its application for a grant of letters of administration with will annexed.

INSOLVENCY

Wendy is a former member of the panel of junior counsel acting for the Department for Business, Innovation and Skills in Directors' Disqualification hearings. She has extensive experience of this area and has acted both for the Secretary of State and Directors.

Wendy has a wide range of experience in relation to insolvency matters. She has appeared on contested and uncontested winding-up and bankruptcy petitions (she has experience of representing petitioners, supervisors of failed CVAs/IVAs and debtors), annulment applications and applications to set aside statutory demands. In addition, she has experience of litigation relating to charging orders under the Insolvency Act and claims for possession and sale of the bankrupt's home.

Her work of note includes appearing in *Malik v Malik* (Chancery Division, 15-16 20-21 February 2012), a 4-day hearing before John Jarvis QC sitting as a judge of the High Court. Wendy acted for the Trustee in Bankruptcy and successfully resisted an application to lift 23 year old stays in complex property and partnership proceedings that had generated ancillary litigation in Pakistan.

COURT OF PROTECTION

Wendy is experienced in Court of Protection matters and accepts instructions in relation to contested appointments of deputies, EPAs and LPAs, statutory wills and other matters relating to property and affairs.

- Drafting a statutory will.
- Appearing for an objector in contested proceedings to appoint a deputy.
- Acting for a local authority in its application for the cancellation and revocation of an EPA where the attorney was unsuitable. Wendy secured the appointment of a local authority deputy.
- Acting for the professional litigation friend of P's grandchildren in a case where they needed separate representation owing to the contents of the proposed statutory will.
- Acting for the donor in a contested application to register LPAs in respect of property and affairs and health and welfare.
- Acting for the deputy in a hearing to determine whether interest was payable on costs that had been subject to detailed assessment.
- Acting for the deputy in a hearing to ascertain whether P should remain in a nursing home or return to the family home.

MEDIATION AND ARBITRATION

Prior to Wendy undertaking pupillage she worked as an assistant to Sir Christopher Staughton's arbitration practice at 20 Essex Street where she obtained valuable experience of various forms of ADR.

Wendy has acted for clients in mediations in cases covering a wide range of areas; from adverse possession to commercial disputes. She accepts instructions to mediate across all of her practice areas.

RECOGNITION

- *“She has a prodigious memory and appetite for work, as well as a good practical and tactical sense.” “She’s bright, proactive and diligent.”* (Pensions, Chambers UK Bar 2020)
- *“A real fighter and someone you would want on your side.”* (Pensions, The Legal 500 UK Bar 2020)
- *“She provides clear, well-argued analysis.” “User-friendly and very bright.”*(Pensions, Chambers UK Bar 2019)
- *“A determined barrister who is not afraid of running creative arguments.”* (Pensions, The Legal 500 UK Bar 2019)
- *“She has prodigious memory for facts, cases and procedure, and she is very approachable, a great team player and fun to work with.” “She has great intellectual ability presented in a down-to-earth manner, making her accessible to both clients and solicitors.”* (Pensions, Chambers UK Bar 2018)
- *“She has a prodigious memory and appetite for work, as well as a good tactical sense.”* (Pensions, The Legal 500 UK Bar 2017)
- *“She’s not simply a street fighter, she’s a good technical trusts and pensions lawyer.”* (Pensions, Chambers UK Bar 2017)
- *“She’s very attentive to the client’s commercial requirements and is also a technically excellent barrister.”* (Pensions, Chambers UK Bar 2017)
- *“An incisive operator with forensic attention to detail.”* (Pensions, The Legal 500 UK Bar 2016)
- *“She is technically excellent, has tremendous knowledge of the legislation and shows a great eye for detail.”* (Pensions, Chambers UK Bar 2016)

- *“A bright but personable junior.”*
(Pensions, *The Legal 500 UK Bar 2015*)
 - *“A junior known for her strong oratory skills and assertive advocacy style... she impresses solicitors with her energy and commitment.”* (Pensions, *Chambers UK Bar 2015*)
 - *“Acquiring an enviable reputation.”*
(Pensions, *The Legal 500 UK Bar 2014*)
 - *“An up and coming junior with a rapidly developing pensions practice, she is able to handle a wide range of pensions issues and is recognised for her diligence and commitment.”* (Pensions, *Chambers UK Bar 2014*)
 - *“Bright and Enterprising.”* (Pensions, *Chambers UK Bar 2013*)
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PUBLICATIONS

- (2007) NLJ 574 - “Natural Cunning” - Wendy co-authored this article relating to will forgery with Tom Dumont.
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QUALIFICATIONS

- MA (Oxon) Jurisprudence - St Catherine’s College; College Exhibitioner 2001-2002 and 2002-2003; Hammond Suddards Edge prize for best Finals Paper in Copyright and Moral Rights 2003; Bar Vocational Course - Inns of Court School of Law - 2005 (Very Competent)
- Formerly Junior Counsel to the Department for Business, Innovation and Skills for Directors’ Disqualification hearings.

Prior to coming to the Bar, Wendy worked as a research assistant at the Law Commission in the Property and Trusts team. At the Law Commission Wendy worked on the Easements, Covenants and Profits a Prendre project.

Wendy also worked as an assistant to Sir Christopher Staughton’s arbitration practice at 20 Essex Street where she obtained valuable experience of various forms of ADR, which has greatly assisted her when acting for clients in mediations.
