



## Michael Tennet QC

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### Clerks' Details

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### Qualifications and Appointments

- First Class degree in Law from New College, Oxford

### Memberships

- Commercial Bar Association
- Chancery Bar Association

**“A highly skilled advocate who garners accolades for his management of cases”**

Chambers & Partners, 2015

### Publications

- Co-writes the chapter on actuaries in *Professional Negligence Law and Practice (LLP)*, of which Lord Hoffman is consultant editor.
- Contributed to *Ellison's Pensions Law and Practice* (Longman) and to *Glasson on International Trust Law* (Jordan).

### Practice Overview

Michael's practice encompasses litigation and advice in the fields of pensions (including professional negligence), financial services and private trusts. Has appeared in many of the most high profile and complex pensions cases of recent year.

He has a particular knowledge of the work of actuaries, both in relation to pension funds and life assurance funds and is co author of the chapter on actuaries in *Professional Negligence Law and Practice (LLP)*.

Michael has a first class degree in law from Oxford.

#### Chambers and Partners 2016:

*"He is thorough and bright and a forceful advocate." "He is user-friendly, supportive and collaborative, and has both an ability to think laterally and a good head for the maths involved in pensions."*

#### Chambers and Partners 2015:

*"A highly skilled advocate who garners accolades for his management of cases and his actuarial knowledge."*

*"Very hands-on and good at leading a team of juniors, he's a strong advocate who puts points across forcefully."*

#### The Legal 500 2014:

*"Fantastic tactical insight" (Professional Negligence)*

*"A solid choice for complex cases." (Pensions)*



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## Pensions

### Litigation concerning employers' contribution obligations under scheme rules

- *MNRPF V Stena Line* [2015] 046 PBLR 169 [2015] EWHC 448 (Ch). Acted for successful Trustee in Merchant Navy Ratings Pension Scheme, which successfully sought approval of as to the exercise of its powers to allocate liability for contributions between employers and former employers in multi-employer industry wide scheme.
- *PNPF v Taylor* [2010] 060 PBLR (Ch). Acted for successful Trustee in Pilots Pension Scheme in seeking directions as to its ability to seek contributions from employers and former employers.
- *MNOPF Trustees v Everard* [2005] PLR 225 Acted for claimant Trustee which successfully sought approval of the exercise of its powers to seek contributions from employers and former employers.

### Employers' statutory contribution obligations

- *Re EMI*. Acted for Pensions Regulator in first case on the use of its powers under s.231 of the PA 2004 to impose schedule of contributions on an employer.
- *PNPF v Taylor* [2010] 060 PBLR (Ch). See above. The case raised important issues as to the interrelationship between the statutory contribution regime and the regime under the rules of the scheme, and the limits of the former regime.

### Trustee's duties to employers

- *MNRPF V Stena Line* [2015] 046 PBLR 169 [2015] EWHC 448 (Ch). See above. Successfully acted for Trustee in a case dealing the extent to which Trustees could and should take account of the interests of employers in decision making.
- *British Airways Plc v Spencer*: Acting for the employer in an ongoing case concerning the Trustees powers to award discretionary increases above CPI while the scheme is in deficit and their duties to the employer. Application to adduce expert evidence reported at *British Airways Plc v Spencer & Ors* [2015] Pens. L.R. 519

### Employers' duties to the beneficiaries

- *IBM United Kingdom Holdings Ltd v Dalglish* [2014] EWHC 980 (Ch); (2014) IDS Pensions LR 335, paras 353-478. Successfully acted for the claim based beneficiary in establishing a breach of the employers Imperial duty to maintain trust and confidence in reducing scheme benefits.
- *Prudential Staff Pension Trustee v Prudential* [2011] 055 PBLR – [2011] EWHC 960 (Ch) successfully defended employer against claims of breach of the employer's Imperial duty to maintain trust and confidence.

### Trustees, duties in relation to the PPF

- *Independent Trustee Services Limited v Hope* [2009] 75 PBLR (Ch), the Times 10 November 2009, (successfully acted for the Pensions Regulator in a dispute as to Trustee's duties in relation to the interests of the PPF.

### CPI /RPI increases

- *The Qinetiq Pension Scheme* [2012] 036 PBLR (025) – [2012] EWHC 570 (Ch). Acted for Trustees seeking Court Approval to change the basis of indexation of benefits from RPI – CPI. Have subsequently advised other schemes in relation to this issue.
- *BA v BA Pensions Trustees (see above)* Acting for the employer in an ongoing case concerning the Trustees powers to award discretionary increases above CPI while the scheme is in deficit and their duties to the employer.

### Moral Hazard

- Regularly instructed by both the Regulator, trustees and employers in relation to FSD and Contribution Notice and other regulatory proceedings including:



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## Pensions continued

- *Re Nortel Networks UK* [2010] 066 PBLR (Ch). Acted for Trustee of scheme in successful proceedings for a FSD before Determinations Panel of the Regulator.
- [Trustees of the Nortel Scheme v NNL](#) (in administration) and *NNI* (in administration) [2015] Acting for the trustees of the Nortel scheme in enforcing FSD claims against Nortel group companies in Europe, the US (Chapter 11 insolvency proceedings) and Canada (CCAA proceedings).
- *Re Telent* [2008] 05 PBLR. Acted for the Pensions Regulator in successful proceedings for the appointment of independent trustees.

### Pension claims in insolvency proceedings/section 75

- *Gleave v PPF* [2008] EWHC 1099 (Ch). Successfully represented the Pension Protection Fund in insolvency proceedings as to the correct way to quantify a section 75 debt in the T&N insolvency.
- *Bloom v Pension Regulator* [2014] AC 209 (Supreme Court) [2012] 1 All ER 1455 (Court of Appeal) The Times 4 March 2011, acted for trustee of scheme in proceedings which established the priority of a FSD in the Nortel insolvency.
- [Trustees of the Nortel Scheme v NNL](#) (in administration) and *NNI* (in administration) [2015] Acted for the trustees of the Nortel scheme in enforcing claims against Nortel group companies in the US (Chapter 11 insolvency proceedings) and Canada (CCAA proceedings). Proceedings took place in Toronto and Delaware June – September 2014. Successfully argued for pro rata allocation of dispute over division of \$US 7.9 billion sale proceeds of Nortel's global business in proceedings in Toronto and Delaware.

### Variation of pension benefits by contract

- *SWT v Wightman* [1998] PLR 114. Successfully acted for an employer in leading case as to the variation of pension entitlements by contract.

### Winding up / restructuring

- Advised on numerous occasions (and acted in confidential proceedings) as to the legality of restructuring arrangements designed to reduce pension scheme liabilities.

### Pension Scheme rectification

- *Lansing Linde v Alber* [2000] PLR 15. Successfully represented a beneficiary in first reported rectification case in relation to a pension scheme.
- *AMP v Barker* [2001] PLR 77. Successfully represented the employer in first successful rectification claim in relation to a pension scheme.
- *Gallaher v Gallaher Pensions Ltd* [2005] PLR 103 Successfully represented an employer in contested rectification proceedings.
- *Drake Insurance plc v MacDonald* [2005] EWHC 3287 (Ch) [2005] EWHC 3287 (Ch); [2005] O.P.L.R. 395; [2005] Pens. L.R. 401 Successfully acted for the Claimant in early reported case on the use of non-contested procedures to decide rectification cases.
- Has acted on numerous other summary applications for rectification e.g. *Merchant Navy Officers Pension Fund Trustees v Watkins* [2013] EWHC 4741 (Ch)

### Recovery of assets

- *NBC Pension Trustees Ltd v Harrod* [1999] 2 All ER 993. Successfully represented the trustees of the National Bus pension schemes in their action against the UK Government, which led to the recovery of almost £300m for pensioners and to various application for directions as to the distribution of that sum.

### Winding up – Disposals of surplus

- *NBC Pension Trustees Ltd v Harrod* [1999] 2 All ER 993. (see above) Successfully represented the trustees of the National Bus pension schemes in their action against the UK Government, which led to the recovery of almost £300m for pensioners and to various application for directions as to the distribution of that sum.



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## Pensions continued

### Money purchase benefits

- *Aon Trust Corporation Ltd v KPMG* [2006] 1 WLR 97 (CA). Successfully represented a member of scheme in successful proceedings to establish the "money purchase" nature of scheme and the employer's funding obligation.
- Have advised subsequently on the implications of *Houldsworth v Bridge Trustees and Secretary of State for Work and Pensions* [2011] 078 PBLR - [2011] UKSC 42 and the consequential amending regulations.

### Public sector pensions

- Advises regularly on the Local Government Pension Scheme especially in relation to admitted bodies and admission agreement
- Advised the Department of Constitutional Affairs in relation to its discussions with the judges as to the impact of the 'A-day' changes on their pensions.

### Early retirement / redundancy

- *Agco v Massey Ferguson Works Pension Trust Limited* PLR 241 (CA). Successfully represented employer in dispute as to an entitlement of employees made redundant to early retirement pensions. Leading case on the meaning of "retirement".

### Pension Ombudsman

- *Henderson v Stephenson Harwood* [2005] 03 PL. Successfully represented an employer in an appeal from pensions ombudsman.

## Trusts, Tax, Probate and Estates

As well as being regularly instructed and involved in trust disputes arising under occupational pension schemes, Michael also undertakes private client trust work in the UK and in offshore jurisdictions, including Cayman and the Bahamas.

Michael's reported cases include:

- *Anker-Petersen v Christensen* [2001] EWHC B3 (Ch), [2002] WTLR 313
- *Trustee Corporation v Asil Nadir* [2001] 21 PBLR - The Independent, 29 January 2001.

## Commercial

### Financial Services

Michael has acted for both the Jersey FSA and the Guernsey FSA. He is regularly instructed by life assurance companies in their dealings with the UK Financial Services Authority in relation to the operation of their with-profits funds.

He also advises the interpretation of with profits policies and other investment contracts.

Reported cases include: *Cocking v The Prudential Assurance Co Ltd* [1996] PLR 235.