



## Brian Green QC

Call: 1980

QC: 1997

bgreen@wilberforce.co.uk

### Clerks' Details

+44 (0)20 7306 0102

practicemanagers@wilberforce.co.uk

### Qualifications and Appointments

- BA (Oxon) Jurisprudence (1977) 1st Class
- BCL (Oxon) (1978) 1st Class
- English Bar examinations (Michaelmas 1980) top in year
- Lecturer in Law LSE 1978-1985 (LLB (Property) and LLM (Restitution))

*“A powerhouse with a formidable reputation.”*

Chambers & Partners, 2018

## Practice Overview

- One of the leading QCs at the Chancery Bar
- Chambers & Partners Chancery QC of the Year
- Society of Trust and Estate Practitioners Barrister of the Year
- Consistently star and top rated in Chambers & Partners and Legal 500 directories
- Equally recognised and recommended for contentious and non-contentious work, and UK and offshore work
- Featured as Lawyer of the Week in The Times and listed as one of the "Top 50 lawyers" in the UK by The Sunday Times

Highlighted in the directories and by clients generally for his:

- Approachability, and inter-personal and client skills
- Incisiveness, practicality, commercial judgment and business sense
- Ability to handle the largest and most complex matters
- Ability to grasp and make key points quickly and effectively
- As Chambers & Partners put it: *"the Rolls-Royce of chancery barristers," "fantastically impressive" on difficult questions. "Highly approachable" he is "a brilliant advocate, measured in his delivery", "whom top-flight solicitors turn to time and again." "He has complete mastery of his subject." "Masterful, definitely at the top of his form!"*

Wide-ranging experience in Chancery matters Brian specialises in all aspects of:

- Commercial trusts and other property holding structures
- Pension schemes – occupational and public sector
- Private trusts and estates



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## Pensions

Brian is consistently Star Rated in this practice area in the Chambers & Partners and Top Rated in The Legal 500.

As Chambers & Partners put in under the Pensions heading in 2019: *"An intuitive lawyer who has a deep understanding of pensions law." "Excellent on his feet in court and very clear in his delivery of complex arguments. He commands the judge's attention." "Knowledgeable, supportive to clients and brilliantly innovative."*

As Chambers & Partners put in under the Pensions heading in 2018: *"He is extremely creative, energetic and excellent on his feet." "He is one of the leading pension silks out there, a go-to when you have a formidable technical issue as he has a great intellect, and is able to distil information into very practical, helpful advice."*

Brian advises and appears in cases in all the major areas in this practice area. Recent leading cases in which Brian has appeared are:

- *Safeway v Newton* (CA) – secured a reference to the European Court (pending) on the question of whether *Smith v Audel* prevented retrospective equalisation otherwise valid in domestic law (challenge to correctness of *Harland Wolff v Aon*).
- *Barnardo's v Buckinghamshire* (UKSC) – whether conditions for replacement of RPI were satisfied.
- *BT v BT Pension Trustee* (CA) – whether conditions for replacement of RPI were satisfied.
- *Thales v Thales Pension Trustee* – whether RPI could be replaced by CPI on the facts of that case.

Examples of other leading cases in which Brian has appeared are:

- *AMP v Barker* – rectification.
- *Aon v KPMG* (CA) – definition of money purchase schemes.
- *British Vita* – relationship of express contributions' covenants and scheme specific funding.
- *Equitable Life v Hyman* (HL) – with profits funds.
- *Foster Wheeler v Hanley* (CA) – equalisation.
- *Lansing Linde v Alber* – rectification.
- *MNRPF Trustees v Stena & Ors* – scope of amendment powers and propriety of their exercise in industry-wide scheme, definition of employer for S75 and scheme specific funding purposes.
- *PNPF v Taylor* – definition of employer for S75 and scheme specific funding purposes.
- *Stena v P&O* (CA) – scope of amendment powers.
- *Steria v Hutchinson* (CA) – limits of estoppel in pension schemes.
- *Stevens v Bell* (CA) – seminal case on construction of pension schemes.
- *Sea Containers, Telent, Nortel* (Determinations Panel of the Regulator) – financial support directions.

Examples of prominent decided cases where Brian has been fully engaged as an adviser behind the scenes, or been briefed to appear where for settlement or other reasons he has not done so are:

- *Entrust v Prospect Hospice* (brief for CA).
- *IBM* – both rectification and good faith.
- *IMG v German*.
- *Procter & Gamble v Svenska* (brief for CA).
- *Nortel* – adviser to EMEA.

Brian has extensive experience of Determinations Panel matters and is currently representing the Targets in several moral hazard cases.



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## Trusts, Tax, Probate and Estates

Brian is consistently star rated in the Chambers & Partners and Top Rated in The Legal 500:

Chambers & Partners 2019 (Trusts): *"Immensely clever, immensely bright and capable of moving hugely intractable cases along." "Lightning quick at grasping issues, he is a very persuasive advocate who has huge authority."*

Chambers & Partners 2019 (Chancery: Traditional): *"An extraordinarily brilliant man and one of the best advisers and advocates at the Chancery Bar. He is very good with clients and inspires confidence." "Incredibly intelligent, he deals with huge cases in a down to earth and sensible manner."*

Chambers & Partners 2019 (Tax: Private Client): *"He is brilliant and is definitely my go-to barrister. He always comes up with very pragmatic advice and always manages to put together seemingly incompatible strands of very complex matters. What sets him apart is that he always makes a point of making himself available to us and will drop everything so we can get everything done and satisfy our client."*

Chambers & Partners 2019 (Offshore): *"Incredibly intelligent, but also down-to-earth and sensible. He has just the sort of attitude you need."*

**Private trusts work covers the full range of trusts, estates and revenue related planning and practice, including:**

- The taxation of UK onshore and offshore trust structures, involving both out of court and in court arrangements
- Variation of Trusts Act applications
- Compromises and settlements
- Construction and rectification proceedings
- Trustee Act and Settled Land Act applications
- Like proceedings in offshore jurisdictions

**Commercial trusts work is exceptionally varied. Examples include advising:**

- Insurance company managers and custodian trustees on the governance and dispute resolution in the operation of real estate unit trust and related limited partnership structures faced with LTV and other related issues.
- International bondholders concerned to maintain their non-subordinated status under custodian and other trust documents subjected to offshore insolvency proceedings.

**Offshore work includes:**

- Ongoing advisory work in Australia, Bermuda, BVI, Cayman Islands, Guernsey, Jersey, and Hong Kong.
- Appearances in the Hong Kong Court of Final Appeal and Court of Appeal, Supreme Court of Bermuda, Grand Court of the Cayman Islands, and BVI Court.
- Recent advisory work has also involved trusts in the Bahamas, the Cook Islands, Gibraltar, Isle of Man, Mauritius and New Zealand.
- Expert opinion work.

Offshore work routinely involves working with professionals in other jurisdictions, including the domiciliary jurisdictions of settlors, US grantors and/or beneficiaries – and Brian's recent work has involved close association with Austrian, Canadian, Californian, New York and Swiss attorneys, often with a need to understand their relevant tax systems applicable to trust entities.