



## Emily Campbell

Call: 1995

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*“A superb intellect and a highly impressive, logical manner.”*

Chambers & Partners, 2021

## Publications

- Numerous articles
- Editor of the *Wilberforce Chambers Private Client eBriefing*
- Contributor to *Halsbury's Laws of England, Volume 35, Perpetuities and Accumulations (2013)*
- Contributor to the pension chapters in *Transaction Avoidance in Insolvencies (OUP, 2010)*
- Author of *Changing the Terms of Trusts (Butterworths, 2002)*
- Contributor to *International Trust Laws, ed Glasson and the International Trust (Jordans)*
- Author of [tax commentary](#) articles on the Chambers website
- Emily is on the editorial board of the *Wills and Trusts Law Reports*
- Emily is a LexisPSL Expert Panel Author.

## Practice Overview

Emily's practice encompasses a broad range of chancery and commercial work. She is particularly experienced in both the litigation and advisory sides of the law relating to pension schemes, trusts, estates and taxation. Whilst her practice has an emphasis on matters involving complex technical issues, such as those with a significant actuarial or mathematical content, she has a reputation for giving clear, practical and commercial advice and being very user-friendly. Emily is a fluent German speaker.

In her spare time, Emily is in the final stage of a part-time BSc course in Mathematics. She is a member of the Institute of Mathematics and its Applications.

On the pensions side, Emily has significant experience of pensions litigation (including regulatory work, professional negligence and rectification claims) and she regularly advises on issues including scheme funding, the scope of powers in pension schemes and the effect of mistakes in pension scheme documents. Complementing her pensions practice, Emily has a broad private client practice. She acts in a range of contentious and non-contentious trust and estate litigation, including cases with a foreign element. She advises on a wide range of issues with an emphasis on private wealth planning, tax and the drafting of trust documentation.

Emily is recommended in the legal directories in the following categories: Pensions, Private Client: Trusts and Probate, Trusts, and Chancery: Traditional.

Emily featured in the 2022 edition of The Best Lawyers in the United Kingdom for her work in Trusts and Personal Tax Law. She was ACTAPS Contentious Barrister of the Year 2014.

The 2021 edition of Chambers & Partners highlights Emily by saying, *"She always has eyes for the ultimate position for the client."* Furthermore, Emily is described as having *"a superb intellect and a highly impressive, logical manner. She is very sharp and tough, although courteous in court. She is very hard-working, and prepared to be intensely involved when necessary. A friendly and approachable counsel."* Additionally, Emily is a *"no-nonsense practitioner with a very fine mind, who cuts through any amount of idiocy. She is so terribly clever and has this ability to scythe through endless reams of paper and muddled thinking to get to clear and sensible solutions."* The guide also notes that *"she is very committed and will not back down."*

The Legal 500 2021 edition notes that Emily has *'excellent analytical skills and intellect.'* Emily is *'able to grasp a lot of information and assimilate it quickly.'* Clients say *'we very much value her ability to explain complex issues clearly, in a way that clients can understand.'*

## Clerks' Details

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## Qualifications and Appointments

- MA (Oxon), BCL
- First in Jurisprudence, Christ Church, Oxford
- Lincoln's Inn Entrance Award
- Awarded the Leslie Walshaw prize by the Faculty of Science, Technology, Engineering and Mathematics at the Open University.

## Memberships

- Association of Contentious Trust and Probate Specialists
- Society of Trusts and Estate Practitioners (STEP)
- Association of Pension Lawyers
- Revenue Bar Association
- Chancery Bar Association
- LexisPSL's Expert Pensions Panel



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## Practice Overview continued

The Chambers & Partners 2020 edition describes her as *"really, really bright", "she's highly regarded at the Bar and she has a very good theoretical grasp of the law"*. Furthermore, *"she has a sharp intellect and notable attention to detail while maintaining a strategic overview. She has an outstanding ability to grasp and argue technical financial and actuarial issues"*. The Legal 500 2020 edition says Emily is *"a simply brilliant junior"*, who is *"very organised, highly intelligent, strategically sound and very accessible"*.

The Legal 500 2019 edition says *'she has a sharp intellect and provides silk-quality advice'*, also noting her as being *'insightful, wise and brilliant'*.

## Pensions

*"She provides really excellent technical pensions expertise and develops novel arguments on complex tax and overseas pensions matters."* – Chambers & Partners 2021.

### Litigation

Emily is ranked as a leading pensions junior in the legal directories and is currently a member of LexisPSL's Expert Pensions Panel. She acts in relation to all types of pension litigation (including non-contentious litigation such as 'Beddoe' applications and compromises), including:

- Claims relating to mistakes in pension scheme documentation (e.g. revaluation and pensions increase provisions, ineffective pension scheme closures and errors in the definition of 'pensionable service'), involving parallel rectification and professional negligence claims.
- Disputes between trustees and employers as to the funding of defined benefit schemes.
- Proceedings before the Pensions Regulator. Emily recently acted for a former company director in relation to an appeal in relation to the issue of a Contribution Notice by the Northern Ireland Pensions Regulator.
- Pensions Ombudsman complaints and appeals. Emily has represented the Pensions Ombudsman.
- Disputes as to the interpretation of pension scheme documents.
- Proceedings relating to pensions liberation.

### Advisory

Emily regularly advises trustees, employers and members of occupational pension schemes. She also advises in relation to personal pension arrangements, and arrangements which are not registered pension schemes (including employee benefit trusts), and advises in respect of the taxation of pension arrangements. She has particular expertise in relation to the interpretation of actuarial reports and evidence.

### Examples of areas upon which Emily advises are as follows:

- The cessation of accrual.
- The operation of legislation relating to the funding of pension schemes.
- The operation of the moral hazard provisions.
- Sex discrimination in pension schemes.
- Technical issues regarding the preservation legislation and the contracting-out legislation.
- The trustees' investment duties.
- The taxation of registered pension schemes.
- The taxation of unregistered pension schemes (ERFBS) and employee benefit trusts, including the disguised remuneration legislation.



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## Pensions continued

### Reported cases

These include:

- *BAV-TMW-Globaler-Immobilien Spezialfonds v HMRC* LTL 5/3/2019 (FTT) (lawfulness of discrimination by registered pension schemes legislation against German quasi-public service schemes).
- *Universities Superannuation Scheme v Scragg* LTL 21/1/2019 (Ch D) (Pensions Ombudsman appeal concerning meaning of early retirement rule regarding degree of incapacity).
- *Spirit Energy Resources v Marathon Oil* LTL 18/1/2019 (CA) (burden of pension deficit liabilities pursuant to oil joint venture).
- *Barnardo's v Buckinghamshire & ors* [2018] UKSC 55 (Supreme Court held that trustees did not have power to adopt RPI in place of CPI for indexation of pensions and deferred pensions).
- *Norman Charles Webber v Department for Education* [2016] EWHC 2519 (Ch) (LTL 18/10/2016) (Pensions Ombudsman appeal relating to the application of statutory limitation periods to complaints).
- *Merchant Navy Ratings Pension Fund Trustees Ltd v Stena Line Ltd & ors* [2015] PLR 239 (trustees' power to introduce new funding arrangement).
- *IBM v Dalgleish* [2015] PLR 99 (remedies for breach of employer's duty).
- *Garvin Trustees Ltd v Pensions Regulator & ors* [2014] PLR 9 (whether privilege can be asserted in relation to dissolved company in the context of Regulatory proceedings).
- *Archer v Travis Perkins LTL* [2014] PLR 311 (approval of a compromise in an equalisation dispute).
- *Konica Minolta Business Solutions (UK) Ltd v Applegate (No 2)* LTL 27/8/2013 (rectification of scheme documents).
- *Konica Minolta Business Solutions (UK) Ltd v Applegate* [2013] PLR 105 (application of preservation laws).
- *Misys Ltd v Misys Retirement Benefits Trustees Ltd* [2012] EWHC 4250 (Ch) (rectification of scheme documents).
- *Cemex v MNOPF* [2010] PLR 1 (meaning of employment cessation event).
- *Houldsworth v Bridge Trustees* [2010] PLR 101 (CA) (meaning of 'money purchase benefit', effect of contracting-out provisions, and treatment of AVCs in scheme winding-up).
- *Hodgson v Toray Textiles* [2007] PLR 129 (interim deeds and transfer payments).
- *Hodgson v Toray Textiles* [2006] PLR 253 (equalisation of pension scheme benefits).
- *Aon v KPMG* [2006] 1 All ER 238 (meaning of 'money purchase scheme').

## Trusts, Tax, Probate and Estates

### Litigation

Emily has been described by The Legal 500 as "**a trust law genius, who is incisive and practical**". She has extensive experience of both contentious and non-contentious private client work, including:

- Contentious probate actions and claims under the Inheritance (Provision for Family and Dependents) Act 1975.
- The trust aspects of divorce. Emily has recently been involved in two very high-value divorce cases, both of which involved offshore trusts. She also advises in relation to various other property aspects of divorce, such as applications under section 37 of the Matrimonial Causes Act 1973 and resource arguments post-*Prest*.
- Disputes relating to the interpretation of trust documents and wills.



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## Trusts, Tax, Probate and Estates continued

- Applications under the Variation of Trusts Act 1958, compromises, *Re Beddoe* applications, *Re Yorke* applications (estates of deceased Lloyd's Names), applications pursuant to section 57 of the Trustee Act 1925 and other applications by trustees for directions.
- Applications to the Court of Protection and the Charity Commissioners.
- Disputes between beneficiaries and trustees and protectors, and actions for breach of trust.
- Hastings-Bass applications, in relation to which she has been involved as junior Counsel in a number of important cases, and rectification claims.
- Defending professionals (including solicitors and counsel) in claims relating to this area of practice.
- A hearing in the Cayman Court involving the partition of a large trust fund using the Cayman equivalent of section 57 of the Trustee Act 1925: *MEP v Rothschild Trust Cayman Ltd* (2009).

### Advisory

Emily regularly advises trustees and private individuals in relation to wealth planning, including:

- Inheritance and capital gains tax planning, the taxation of offshore trusts, tax planning and the family home, reservation of benefit and pre-owned assets and business and agricultural property. Emily has advised on the application of the GAAR.
- Conflict of laws.
- Opinions pursuant to section 48 of the Administration of Justice Act 1985.
- Drafting trust documentation, wills, deeds of variation and documentation required to implement tax planning.

### Reported cases

These include:

- *AB v CD and others* [2019] EWHC 2323, 2324 (Ch) (Court intervention in exercise of trustee powers where trustees could not agree).
- *Barker v Baxendale-Walker* [2016] EWHC 664 (Ch) (negligence claim in relation to tax advice regarding an employee benefit trust).
- *Labrouche v Frey* [2016] EWHC 268 (Ch) (unsuccessful claim against former trustees, who were represented by Emily as advocate, in relation to a Liechtenstein Foundation, fees and retrocessions).
- *Frey v Labrouche* [2012] 1 WLR 3160 (procedural irregularity in considering strike out application).
- *Baynes v Hedger & ors* [2008] WTLR 1719 (Ch D); [2009] WTLR 749 (CA) (application under the Inheritance (Provision for Family and Dependents) Act 1975 by alleged dependant).
- *McClintock v Calderwood LTL* 4/5/2005 (Ch D) (probate claim).
- *Burrell v Burrell* [2005] STC 569 (Ch D) (Hastings-Bass claim).

Emily is also involved in numerous unreported cases heard in private.

## Tax

Emily has had an expertise in personal taxation throughout her practice, having taken the Personal Taxation course as part of the BCL degree at Oxford University and sat with members of Chambers specialising in taxation during her pupillage. As an established practitioner, she has lectured in personal taxation at the law faculty in Oxford. She has written numerous articles on tax, including in *Private Client Business*, the *British Tax Review* and on the Chambers website. Emily is also a member of the Revenue Bar Association.



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## Tax continued

The main focus of her tax practice is advisory. In the field of private trusts and estates, she regularly advises on inheritance tax and capital gains tax planning together with other tax issues facing trustees such as income tax (including the pre-owned assets tax) and SDLT. Often this is in conjunction with drafting documentation, such as deeds of variation or deeds of appointment or advancement.

In the field of pensions, she advises frequently on tax issues arising in registered pension schemes, such as unauthorised payments, transitional protections further to the Finance Act 2004, lifetime allowance issues and applications to discharge the scheme sanction charge. Her expertise covers both occupational pension schemes and personal pension schemes (in particular, SPPs). She also advises on unregistered pension schemes (EFRBS) and other employee benefit arrangements such as EBTs (including issues of disguised remuneration) and excepted group life insurance.

She is increasingly involved in tax litigation and disputes with HMRC, often involving pension schemes. Reported cases include:

- *BAV-TMW-Globaler-Immobilien Spezialfonds v HMRC* LTL 5/3/2019 (FTT) (lawfulness of discrimination by registered pension schemes legislation against German quasi-public service schemes); and
- *Barker v Baxendale-Walker* [2016] EWHC 664 (Ch) (negligence claim in relation to tax advice regarding an employee benefit trust).

## Professional Liability

Emily regularly advises claimants and defendants in relation to professional negligence claims relating to (i) occupational and personal pension schemes (ii) tax planning and drafting relating to trusts and estates and (iii) the administration of trusts and estates. The type of professional concerned includes accountants, actuaries, solicitors, barristers and benefit consultants.

Examples of recent work include:

- *Barker v Baxendale-Walker* [2016] EWHC 664 (Ch) (negligence claim in relation to tax advice regarding an employee benefit trust).
- Advising a professional indemnity insurer in relation to a claim against a legal adviser concerning the drafting of documents implementing a complex tax scheme.
- Advising the trustees of an occupational pension scheme in relation to a claim against an insurer for failure to renew death benefit cover.
- Advising the principal employer of an occupational pension scheme in respect of a claim against the scheme administrators for failure to document a reduction in future pensions accrual.