



## Michael Ashdown

Call: 2013

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### Clerks' Details

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### Qualifications and Appointments

- MA, Christ's College, Cambridge, First Class
- BCL, Merton College, Oxford, Distinction
- DPhil, Merton College, Oxford
- Awarded a number of University and College prizes, including the James William Squire Scholarship and the prize for the best paper in Equity and Trusts
- Lecturer in Law, Somerville College, Oxford

## “One to watch”

Legal Week Private Client Global Elite 2018

### Memberships

- Chancery Bar Association
- Association of Pension Lawyers
- ConTrA
- Society of Legal Scholars

### Publications

- [‘English Trust Law Principles’](#) in S Kempster, M McMillan and A Meek (eds) *International Trust Disputes* (OUP 2020)
- [‘Disorder & delayed discovery’](#) (2019) 169 (7840) *New Law Journal* 16
- [‘A modern approach to fraud on a power’](#) (2018) 24 *Trusts & Trustees* 653 (with [Tiffany Scott QC](#))
- [‘Professional Advice’ in PS Davies, S Douglas and J Goudkamp \(eds\), Defences in Equity](#) (Hart Publishing 2018)
- [‘Trustee Decision Making: The Rule in Re Hastings-Bass’](#) (OUP 2015)
- [‘Laches and limitation’](#) (2014) *Trusts & Trustees* 20 (9): 958-965 (with [Clare Stanley QC](#))

### Practice Overview

Michael's practice spans traditional and commercial chancery work, with a particular focus on pensions, private client and professional liability matters. He appears regularly in the High Court and County Court, both as sole counsel and as a junior in a larger team.

Michael's pensions practice encompasses both occupational and private pensions, and he has extensive experience of large-scale pension litigation and of advising employers, trustees and members. His private client practice includes all aspects of litigation and advice relating to domestic trusts and estates, offshore and commercial trusts, cross-border succession, and related private client tax matters. His professional liability experience is typically concerned with the conduct of trustees (including pension trustees) and their advisers, or with negligent tax advice given in connection with setting up domestic and offshore trust structures.

Michael was recognised by the Legal Week Private Client Global Elite 2018 as “One to Watch”.

Recent notable instructions include:

- *British Airways v Airways Pension Scheme Trustee Ltd*. Acting for British Airways in a long-running claim against the trustees of the Airways Pension Scheme for alleged breaches of trust in the exercise of discretionary powers, culminating in a 7-week trial before Morgan J, followed by a successful appeal to the Court of Appeal (reported at [2018] EWCA Civ 1533) (with [Michael Tennet QC](#) and [Sebastian Allen](#)).
- *FSCS and others v Esera Corporate Trustees (Guernsey) Ltd*. Acting for a Guernsey trustee company in relation to claims for breach of trust, breach of fiduciary duty and negligence arising from the failure of the Freedom Bay resort development in St Lucia (with [John Wardell QC](#)).
- *Silentnight Group DB Scheme*. Acting for the trustees of the Silentnight occupational pension scheme in a regulatory investigation by the Pensions Regulator (with Jonathan Hilliard QC and Jamie Holmes).
- *Gaskin v Chorus Law Ltd* [2019] EWHC 616 (Ch) Appearing for the claimant in a claim for the removal of an administrator which was radically reshaped when a valid will was discovered appointing one of the defendants as sole executor. A two-day High Court hearing was required just to resolve the complex costs consequences.
- Advising on and drafting proceedings before the BVI Commercial Court in relation to extending the powers conferred on a trustee, and authorising trustee remuneration.



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## Practice Overview continued

- Acting (as sole counsel) for a pension scheme trustee in its successful application to the High Court for summary judgment in a dispute about the independent advice requirement in section 48 of the Pension Schemes Act 2015.
- Acting (as sole counsel) for a minor beneficiary in two sets of contested High Court proceedings, first pursuant to *Schmidt v Rosewood Trust Ltd* to obtain trust accounts and other information to explain the diminution of the trust fund, and secondly to remove and replace the existing trustees.
- Advising the defendant administrator on claims under the under the Inheritance (Provision for Family of Dependants) Act 1975 concerning overseas property, the validity of UK and foreign marriages and divorces by both claimant and deceased, and the recognition in England of foreign polygamous marriage.
- Advising trustees on the CGT treatment of a chose in action when the trust is exported from England to Australia.

Michael is also Lecturer in Law at Somerville College, Oxford, where he teaches property law to undergraduate students. Before coming to the Bar, he spent six years as Fellow and Tutor in law at Somerville College. His research concerned trustees' powers and duties and the remedial consequences of breaches of trust, with a particular focus on the so-called "rule in *Re Hastings-Bass*", and was cited in the Court of Appeal in *Pitt v Holt* [2011] EWCA Civ 197. He lectured, examined and gave tutorials on the law of trusts, land law and Roman law. He continues to write widely on the law of trusts.

## Commercial

Michael has a busy practice in commercial, insolvency and business disputes, acting both in his own right and as part of a larger team, and for clients ranging from individuals to global businesses.

Michael's experience includes:

- Acting (with [Marcia Shekerdemian QC](#)) for a company director in proceedings brought by the company's liquidator for dishonest breaches of director's duties and misapplication of the company's money pursuant to s212 Insolvency Act 1986.
- *FSCS and others v Eстера Corporate Trustees (Guernsey) Ltd*. Acting for a Guernsey trustee company in relation to claims for negligence and breach of fiduciary duty arising from the failure of the Freedom Bay resort development in St Lucia (with [John Wardell QC](#)).
- Acting (as sole counsel) for eBay and PayPal, successfully resisting applications for mandatory and prohibitory injunctions in relation to the claimant's use of the eBay platform.
- Acting (as sole counsel) for the successful respondent in resisting an appeal against the setting-aside of a mandatory injunction improperly obtained ex parte in the context of a dispute about enforcement of a judgment debt.
- Acting (as sole counsel) for a defendant borrower and his solicitors in a High Court dispute about the identity of the parties to a loan agreement, and related undertakings alleged to have been given by the defendant's solicitors.
- Acting (as sole counsel) for the defendant in striking out an enforcement claim, in a dispute about the identity of the proper claimant, and the bankruptcy of the sole director and shareholder of one possible claimant.
- *British Overseas Bank Nominees Ltd v Analytical Properties Ltd* [2015] EWCA Civ 43. Appearing in the Court of Appeal for the respondent purchaser in a dispute about the construction of a sale and purchase contract.
- Advising on investment bonds, including in relation to the validity of trust nominations, and the bankruptcy of the holder.
- Advising on the taking of trust accounts in the context of very substantial insolvency proceedings.



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## Commercial continued

- Advising on and drafting pleadings in a wide variety of commercial contract disputes, with subject matters ranging from the installation and commissioning of complex electrical equipment, to share sales, unpaid solicitors' fees, and set building and props for a theatrical production.