



Michael Ashdown

Call: 2013

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Clerks' Details

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Qualifications and Appointments

- Lecturer in Law, Somerville College, Oxford
- MA, Christ's College, Cambridge, First Class (with prize for the best paper in Equity and Trusts)
- BCL, Merton College, Oxford, Distinction
- DPhil, Merton College, Oxford

“Michael’s intellect, attitude and accessibility are extremely impressive.” The Legal 500 2022

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 has a busy chancery practice, with a particular focus on trusts and estates, pensions, and professional liability matters. He appears regularly in the High Court and County Court, as sole counsel and as a junior, and is also an experienced mediation advocate. In recent years many of Michael’s instructions have had an international element, including in Jersey, Guernsey, the Isle of Man, and BVI.

Michael’s trusts and estates practice includes all aspects of litigation, advice and drafting relating to commercial, offshore and domestic trusts, estates and cross-border succession, and related private client tax. His pensions practice builds on his trusts expertise, and encompasses both occupational and private pensions, as well as regulatory and ombudsman matters. He has extensive experience of advising employers, trustees and members, and of being instructed in large-scale pension litigation, including in some of the most important recent cases such as *British Airways* and the ongoing *Silentnight* regulatory matter. Michael also has wide experience of professional liability disputes (both for claimant and defendant), typically arising in connection with trusts, estates and pension schemes, and including setting up domestic and offshore trust structures, and negligent tax advice.

Alongside his practice Michael also speaks and writes widely on the law of trusts, is lecturer in law at Somerville College, Oxford, and is the author of [Trustee Decision Making: The Rule in Re Hastings-Bass](#). Before coming to the Bar, Michael spent six years as an academic in the law faculty of the University of Oxford, working on trustees’ powers and duties and remedies for breaches of trust, with a particular focus on *Hastings-Bass* and mistake claims, and teaching the law of trusts, land law, and Roman law.

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

What the directories say

Michael is ranked both as a Rising Star in The Legal 500 2021 (Private Client: Trusts and Probate) and as a Rising Star in The Legal 500 2021 (Pensions). Michael is described in the following terms:

- *‘Has extraordinary technical knowledge and a keen eye for detail – he has an exceptional understanding of trust law in particular and is able to grasp and advise upon extremely complex matters quickly.’*
- *‘Exceptionally bright far beyond year of call.’*



Practice Overview continued

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 Eстера 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.
- 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 Inheritance (Provision for Family of Dependents) 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.

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.



Commercial continued

- 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.
- 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.