



## Michael Furness QC

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### Clerks Details

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### Qualifications and Appointments

- First Class degree in Law from Cambridge
- Bachelor of Civil Law from Oxford

### Memberships

- Association of Pension Lawyers
- Chancery Bar Association
- Revenue Bar Association

*“Outstanding technician – absolutely unparalleled technical knowledge he is someone Judges listen to. One of the most highly respected individuals in this area.”*

The Legal 500 2022

## Practice Overview

Michael's practice has three main strands:

- Contentious trusts and estates litigation
- Advice and litigation concerning occupational pension schemes
- Tax litigation

He also undertakes professional liability litigation in areas related to the three main areas of his practice.

Michael has wide litigation experience, at all levels and in a variety of jurisdictions.

In this jurisdiction he has appeared several times in the House of Lords and in the Supreme Court (in the revenue case of *DCC Ltd v HMRC*). His appearances in the House of Lords include the leading tax cases of *Ingram*, *McNiven v Westmoreland Investments and Arctic Systems*, and the important pensions case of *National Grid v Mayes*.

Overseas, he has a substantial contentious and non-contentious trust practice mainly in Hong Kong (including three appearances in the Court of Final Appeal) and Bermuda.

Michael is ranked as a 'leading silk' in Chambers and Partners 2022 for Chancery: Traditional, Charities, Offshore, Pensions and Tax: Private Client who describe him as "extremely clever and highly logical in his approach." "Thoughtful, intelligent, user-friendly and particularly strong on technical matters." "He has a very good forensic manner. He's got an attractive courtroom manner and is popular with judges."

Michael is also ranked in The Legal 500 2022 for Professional Negligence, Private Client: Trusts & Probate, Charities, Offshore and Pensions who praises him as "a top, top silk with vast experience who delivers concise and commercial advice." "Michael is simply superb. His advice is technically brilliant, but also commercial and pragmatic." He is an "outstanding technician – absolutely unparalleled technical knowledge he is someone Judges listen to. One of the most highly respected individuals in this area."

The 2021 edition of Chambers & Partners describes Michael as "Never anything less than extremely impressive in both his written advice and in conference." "very experienced and a great technical lawyer." "he is very careful and meticulous." "He's a lovely team player and a fantastic technical lawyer. He's very, very clever." "happy to get his hands dirty and into the detail of the case." "He is brilliant for trust matters."



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## Practice Overview continued

The Legal 500 2021 edition describes him as "*highly respected by judges and opponents alike.*" "*Hugely experienced.*" "*An excellent barrister particularly for difficult technical questions and questions where pensions law is interfacing with another type of law*" "*very responsive and knowledgeable*" he "*provides very practical solutions to complicated issues.*" and is "*Intelligent, curious and with a deep knowledge of his subject. Incredibly hard working.*"

Michael handles trusts and estates, pensions and tax litigation to a very high standard. He regularly appears in offshore jurisdictions. Michael is said to be "*very good at knotty, intellectually demanding trust matters. The more complex it is, the more likely he will be the only person who can deal with it in a reasonable and effective manner*". He "*has a very nice manner with both the client and the court and possesses impressive gravitas*".

He is an experienced litigator, who has a strong focus on work relating to both onshore and offshore trusts and estates and is well equipped to deal with matters concerning clients from overseas. "*Very experienced, excellent on paper and a strong advocate. He has real gravitas.*" Chambers & Partners, 2019

## Pensions

Much of Michael's work involves occupational pension schemes.

He advises on all aspects of pensions law, including:

- Scheme funding
- PPF issues
- Investment related issues
- Equalisation
- Pension scheme taxation
- S 75 debts
- Insurance company products
- Construction of scheme rules
- Local Government Pension Scheme issues

His litigation practice includes regulatory litigation (FSDs and CNs), issues of interpretation of statutes and scheme rules, and claims for rectification of scheme rules.

He frequently advises insurance companies and Sipp providers on tax and regulatory issues.

Recent cases include:

- Appearing on behalf of the employer company in three week rectification action – the first fully contested claim for many years (*Univar v Smith* 2020, judgment awaited).
- Appearing for the representative beneficiary in hearings relating to the compromise of the long-running dispute between BA and its pension scheme trustees [2018] and [2019]
- Representing companies in ITV Group in the ongoing FSD reference to the Upper Tribunal, including appearing in the UT on the hearing of the FSD references in early 2018 – judgment awaited and appearing on the interlocutory appeal to the CA: *ITV v The Pensions Regulator* [2015] and
- Appearing for the representative beneficiary in *BT v BT Trustees* [2018] – successfully resisting BT's claim to be able to change the pension increase to an index other than RPI. This case is now going to the Court of Appeal
- Representing the BBC in the Court of Appeal in *Bradbury v BBC* [2017] – an ombudsman appeal arising out of a benefit re-structuring which involved SWT-type contracts.



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## Pensions continued

- Appearing for the claimant in *Granada Group Ltd v Law Debenture* [2015] – case about the potential application of section 320 CA 1985 to directors' top-up pension arrangements.
- Representing the trustees of a group within a utility pension scheme on a claim for a section 75 debt due on an employer cessation event (settled shortly before trial).

Reported cases in recent years cases also include:

- *Federated Flexiplan Scheme* [2012 and 2013]
- *PNPF Trust Co Ltd v Taylor* [2010]
- *Eastearly v Headway plc* [2009] (CA)
- *South Tyneside MBC v Lord Chancellor* [2009] (CA)
- *Walker Morris Trustee Co v Masterson* [2009]
- *Allied Domecq Holdings Ltd* [2008] (CA)
- *National Bus Pension schemes* [2008]
- *St Gobain v Davies* [2008] (CA)
- *Sovereign Trustees Ltd v Glover* [2008]
- *Scania GB Ltd v Wager* [2008]

and also *Betafence v Veys*; *Pitmans Trustees v The Telecommunications Group*; *AGCO v Massey Ferguson Pension Trustees (CA)*; *Re John Holt Pension Scheme*; *Bradstock Pension Trustees v Bradstock and Redrow v Pedley*.

Michael has also appeared in many unreported applications for trustee directions or compromises.

He advises The Pensions Regulator, The Pension Protection Fund and the FSA on technical pensions issues.

An important part of his practice involves advising on and conducting professional negligence litigation arising out of erroneous advice and drafting.