



## Robert Ham QC

Call: 1973

QC: 1994

rham@wilberforce.co.uk

### Clerks' Details

+44 (0)20 7306 0102

practicemanagers@wilberforce.co.uk

### Qualifications and Appointments

- BCL, BA (Oxon)
- Deputy high court judge

*“Excellent and first-rate.”*

The Legal 500, 2020

*“An intellectual giant, who always finds a pragmatic solution and is brilliant with clients.”*

The Legal 500, 2020

## Memberships

- Association of Pension Lawyers
- Chancery Bar Association
- Commercial Bar Association
- STEP

## Publications

- *Thy will be done: construction and rectification of wills in the Supreme Court* (2014)  
*Trusts & Trustees* 20 (9): 988–970

## Practice Overview

Robert has a litigation and advisory practice, largely related to trust law. It covers not only traditional private client work, and associated tax law, but also pension schemes together with professional negligence in those fields.

He enjoys devising complex transactions and drafting the documents to give effect to them, as well as sorting out the legal effect of complex transactions for which others were responsible.

Robert Ham has been ranked as a leading silk in the areas for Pensions, Trusts and Traditional Chancery in Chambers & Partners for many years. He is described as *“incredibly charming, extremely receptive, relaxed and easy to work with”*. He combines this amiability with a skill for providing *“clear, concise advice”* that brings him instruction after instruction. *“Able to refine issues in a commercial way”*, he creates *“a very reassuring atmosphere for the client and gets to the heart of the matter in a non-technical way”*.

The Chambers & Partners 2020 edition describes Robert as *“a leading authority for years; he is very forceful and persuasive without overstepping the mark”*. The Legal 500 2020 edition hails him as *“an intellectual giant, who always finds a pragmatic solution and is brilliant with clients”*. He *“has a superb mind and provides wonderfully clear advice”*. The previous Chambers & Partners 2019 edition describes Robert as *“absolutely fabulous. He’s incisive, commercial and brilliant with clients. His addresses in court combine great sophistication with elegant simplicity of language”*. The Legal 500 2019 edition hails him as *“a master of trust law”*.

Chambers & Partners, 2020 (Trusts): Robert offers significant expertise in trusts law as part of his broad private client law practice. He handles both contentious and non-contentious mandates in the UK and abroad. Ham is particularly adept dealing with offshore disputes for wealthy families and trust companies. *“Robert Ham is one of the most respected barristers for difficult trust matters. He gives concise and clear advice and he is a real authority in the area.”* *“He’s just wonderful. He’s very straightforward, very user-friendly and immensely bright.”*

Chambers & Partners, 2020 (Pensions): An experienced silk with a very strong reputation in the field of chancery and associated trusts work, both at home and overseas. He is frequently sought out to provide counsel on complex pension scheme matters. He also offers expertise in associated professional negligence issues. *“He is pragmatic, clear and commercial.”*



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## Pensions

Robert was one of the first trust practitioners to specialise in occupational pension work. He appeared in the first modern case in the Court of Appeal – *Kerr v British Leyland* – and the first modern case to go to the House of Lords – the National Grid case.

More recently, he appeared in the first case in which the Pensions Regulator issued an FSD – Sea Containers. He also appeared in the first case in which the Regulator sought a contribution notice – *Bonas* – both before the Determinations Panel and the Upper Tribunal, as a result of which a multi-million pound claim against his clients was settled for a nominal £60,000.

Robert has been involved in other moral hazard cases, several of which settled shortly before a Determinations Panel hearing, while others were disposed of at an earlier stage. He regularly advises on transactions where the parties are concerned that the Regulator might wish to invoke its moral hazard powers.

Robert has acted as an expert witness in the American and Canadian insolvency proceedings relating to the Nortel Group, where the trustees of the UK scheme and the PPF are seeking to prove in respect of an FSD. The Determinations Panel issued an FSD but the North American courts have declined to recognise it. The Canadian court is about to consider the matter and to make its own assessment of the Canadian parent company's liability to an FSD and a contribution notice enforcing it.

Robert continues to be actively engaged in all aspects of pensions advisory and litigious work, now that it has moved on from working out how trust law principles operate in the pensions field, to working out how to apply complex and often imperfect primary legislation. He recently persuaded a judge that a notice given by an employer (*Dresser-Rand*) could be treated as a valid exercise of a power to make interim amendments by notice created by a subsequent deed that did not exist at the date of the notice itself.

## Trust, Tax, Probate and Estates

Robert Ham is experienced in all areas of trusts and private client law, both contentious and non-contentious. In England a judge has called him a "*leading expert in the law of trusts*".

In 2013 he appeared in both private client cases heard by the UK Supreme Court: *Futter v Futter*, joined with and reported as *Pitt v Holt* [2013] 2 AC 108, about the rule in *Re Hastings-Bass*, and *Marley v Rawlings* [2014] 2 WLR 213, the first probate case to go to the highest court in England since 1958, about the correct approach to the construction of wills and rectification.

He has been described as "*a heavyweight figure in international trusts litigation*" and has appeared in trust cases all over the world, from Borneo to the BVI. He is a bencher of the Middle Temple and a deputy high court judge.