



Simon Atkinson

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Clerks' Details

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Qualifications and Appointments

- BA (History)/BSc (Chemistry) – Melbourne University
- MA (Law) – Trinity College, Cambridge University

“He is very bright and his knowledge of the law is second to none.”

The Legal 500 UK, 2021

Memberships

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

Publications

- [You raise me up: but for how much longer? CGT and the uplift on death](#) (2021) *Wilberforce Chambers Tax Commentary*
- [International charitable trusts and IHT exemption](#) (2019) *Wilberforce Chambers Tax Commentary*
- [Rules of the DIFC Courts](#) (2018) *Wilberforce Chambers, 5th edition*
- [Approaches to applying a pension increase underpin \(FDR v Dutton\)](#) (2017) *Lexis®PSL*

Practice Overview

Simon is an experienced and in demand practitioner. He has a broad Chancery practice; the core of his work comprises property, trusts and estates, pensions and commercial litigation.

Simon believes that the giving of practical and clear advice, combined with persuasive and fearless Courtroom advocacy and an eye for detail, are qualities which clients rightly demand and which he brings to the cases on which he is instructed.

Simon regularly appears in the higher courts as well as in the country court and in various tribunals. He is frequently instructed in alternative dispute resolution processes such as mediations and expert determinations (in which he has acted variously as both advocate and expert).

Cases with an international element form a significant part of Simon's practice. Recent instructions have concerned matters in Hong Kong, Singapore, the Channel Islands, Bermuda, the British Virgin Islands and Dubai. He has particular experience of disputes concerning assets and/or parties based in the Middle East. He is a co-author of Wilberforce's publication of the Rules of the DIFC Courts.

Notable cases in which Simon has been instructed include:

- *National Stadium Project (Grenada) Corp v NH (Caribbean) Ltd* [2020] UKPC 25: This dispute arose out of the construction of a sports stadium in Grenada in the late 1990s and concerned the entitlement to a multi-million dollar fund which had been frozen when the dispute first arose back in 1999. After 20 years, an arbitration, and multiple court proceedings, the matter was finally resolved by the Privy Council in 2020. It is an important recent authority on the law of Quistclose trusts and equitable assignment.
- *Asturion Foundation v Alibrahim* [2020] 1 WLR 1627: These ongoing proceedings concern a multimillion-pound property on "Billionaire's Row" in North London. The fiercely contested claim raises multiple questions of Liechtenstein, English and Shari'a Law. Simon acts for Ms Alibrahim, a wife of the late King Fahd of Saudi Arabia, in proceedings brought by a Liechtenstein foundation seeking to set aside a conveyance of the property. The Court of Appeal judgment is now the leading authority relating to the striking out of proceedings for abuse of process where a party is alleged to have "warehoused" proceedings.



Publications continued

- [Where different legal systems collide: the decision in *Labrousche v Frey & Ors*](#) (2016) *Trusts & Trustees* 22 (7): 741-752
- [‘Away with words: LPA 1925, s. 62’](#) (2016) *Wilberforce Property Update* (Issue 2) April 2016
- [‘Self-dealing: rigours and risks’](#) (2013) *Trusts and Estates Law & Tax Journal* 149 TEL&TJ 8 – 11
- [‘Talking on sub-tenants: lessons for unwilling landlords’](#) (2013) *Wilberforce News Alert*
- News alert: *Ansa Logistics Ltd v Towerbeg Ltd* (with [Martin Hutchings QC](#))

Practice Overview continued

- *Long v Rodman* [2019] EWHC 753 (Ch), [2019] EWHC 2451 (Ch): Simon was instructed (along with [Andrew Mold QC](#)) on behalf of two of four beneficiaries of a c. USD130m estate who successfully sought the removal of the professional administrator following a bitterly contested dispute, in which the professional administrator was, unusually, held not to be entitled to recover the majority of his costs from the estate as a result of the way the litigation had been conducted.
- *PS Independent Trustees Ltd v China Shipping (UK) Agency Co Ltd* [2019] ICR 1375: Simon acted for the defendants in a claim for the recovery of a multimillion-pound debt allegedly owed by the defendants in respect of the funding of a defined benefit pension scheme. The claim raised novel questions concerning the interpretation of pensions legislation governing the circumstances in which companies who sponsor multi-employer pension schemes may be liable for debts where another sponsoring company enters into insolvency.
- *Catalyst Housing Limited v Martin* [2018] EWCA Civ 1206: Simon appeared as sole counsel for the appellants in both the renewed oral application for permission to appeal and the substantive appeal in proceedings concerning contractual succession to an assured tenancy under the Housing Act 1988.
- *Interactive Technology Corp Ltd v Ferster* [2017] EWHC 1510 (Ch); [2017] EWHC 1799 (Ch): Simon appeared (with [Clare Stanley QC](#)) in litigation concerning the beneficial ownership of an offshore, web-based business, the admissibility of Part 36 offers in split trial proceedings, and the availability of summary judgment in response to a purported defence of causation where equitable compensation for loss is claimed.
- *Dutton v FDR Ltd* [2015] EWHC 2946 (Ch); [2017] EWCA Civ 200: Simon acted (with [Paul Newman QC](#)) for the successful appellant in proceedings concerning how an underpin operated in relation to the increases applicable to pensions in payment. The underpin arose as a result of a defective trust deed executed in 1991 which purported to change the rate at which pensions in payment were increased from 3% to 5%LPI.
- *Pollock v Reed* [2016] Pens LR 129: Simon acted (with [Edward Sawyer](#)) for the trustees of an occupational pension scheme seeking court approval of a proposed bulk transfer of the scheme’s assets and liabilities without individual member consent to a new scheme.
- *Labrousche v Frey; Re Olga Martin-Montis Will Trusts* [2016] EWHC 268 (Ch): Simon acted (with [Emily Campbell](#)) for the professional trustees in a seven-week High Court trial concerning the administration of multi-million pound will trusts created in 1980. The claimant alleged various breaches of trust over decades by the professional trustees and against his own mother, a former lay trustee. The claim raised a number of complex issues of Liechtenstein, Swiss and English trust law.
- *Wood v Waddington* [2014] EWHC 1358 (Ch); [2015] EWCA Civ 538: Simon acted for the successful appellants in a right of way dispute between neighbouring landowners. The claim is now one of the leading authorities concerning the grant of rights of way by operation of law under section 62 of the Law of Property Act 1925.
- *Spencer v Fielder* [2015] 1 WLR 2786: Simon acted for the representative beneficiary in Beddoe proceedings relating to litigation between British Airways and the trustees of the Airways Pension Scheme arising out of the decision of the trustees to grant discretionary benefit increases to members.
- *Cosmetic Warriors Ltd v Amazon.co.uk Ltd* [2014] FSR 31; [2014] EWHC 1316 (Ch): Simon acted for the successful claimant in a trademark dispute between the owner of the ‘Lush’ cosmetics brand and the well-known online retailer.
- *Ansa Logistics Ltd v Towerbeg Ltd* [2012] EWHC 3651 (Ch): A landlord and tenant dispute concerning whether the tenant had breached a covenant against parting with possession and whether the landlord had unreasonably withheld consent to underlet the premises to a third party, Ford Motor Company Ltd.



Pensions

Simon's pensions work encompasses contentious and non-contentious instructions relating to both defined benefit and defined contribution schemes. Simon has advised upon and has acted in numerous pensions matters: from regulatory proceedings to ombudsman disputes, from claims for rectification of governing documentation to professional negligence actions. Simon has acted for individual and institutional trustees, companies, members and representative beneficiaries; he has also acted for and against the Pensions Regulator.

Notable instructions include:

- Appearing for the defendants in *PS Independent Trustees Ltd v China Shipping (UK) Agency Co Ltd* [2019] EWHC 1222 (Ch). This claim was for the payment of substantial debts under s. 75 of the Pensions Act 1995 and concerned the proper interpretation of regulations governing multi-employer defined benefit pension schemes and the circumstances in which there may be a deemed segregation of such a scheme upon the insolvency of one or more employers.
- Appearing (with [Paul Newman QC](#)) for the employer in *Dutton v FDR Ltd* [2015] EWHC 2946 (Ch); [2017] EWCA Civ 200. This claim concerned how an underpin operated in relation to the rate of increases for pensions in payment under a pension scheme's rules. The underpin arose as a result of a defective trust deed executed in 1991 which purported to change the rate at which pensions in payment were increased from 3% to 5% LPI.
- Appearing (with [Edward Sawyer](#)) in *Pollock v Reed* [2016] Pens LR 129 on behalf of the trustees of an occupational pension scheme seeking court approval of a proposed bulk transfer of the scheme's assets and liabilities without individual member consent to a new scheme. This case concerned whether a scheme actuary, when undertaking the statutory certification process, was required to take into account the security of members' benefits under the respective schemes.
- Acting (with [Brian Green QC](#), [Edward Sawyer](#), [Sebastian Allen](#), [James McCreath](#) and [Bobby Friedman](#)) for target respondents in proceedings brought by the Pensions Regulator seeking to impose a Contribution Notice in relation to a defined benefit pension scheme following the purchase out of administration of the business and assets of the scheme's employers.
- Appearing for third-party defendant solicitors in a professional negligence claim brought by the trustees of a pension scheme against its actuarial advisers concerning the equalisation of normal retirement dates.
- Appearing in *Spencer v Fielder* [2015] 1 WLR 2786 for the representative beneficiary. These were Beddoe proceedings relating to litigation between British Airways and the trustees of the Airways Pension Scheme concerning the decision of the trustees to grant discretionary benefit increases to members.
- Acting (with [Brian Green QC](#), [Jonathan Hilliard QC](#), [Emily McKechnie](#), [Emer Murphy](#) and [Bobby Friedman](#)) for target respondents in proceedings brought by the Pensions Regulator seeking to impose a Financial Support Direction in relation to three defined benefit pension schemes.
- Acting (with [Jonathan Hilliard QC](#)) for the defendant actuarial advisers in a professional negligence claim concerning the equalisation of normal retirement dates.
- Acting for a complainant in proceedings before the Pensions Ombudsman in respect of alleged maladministration by the trustees of a defined benefit pension scheme.
- Acting for companies holding investments on behalf of an occupational pension scheme in circumstances where the replacement trustee of the scheme alleged that the investments, which had been made by the previous trustee, were or may have been improper.
- Advising (with [Jia Wei Lee](#)) upon the pensions entitlements of a member of the Armed Forces dismissed in the 1990s as a result of his sexual orientation.