



## David Pollard

Call: 2017  
Solicitor: 1980

dpollard@wilberforce.co.uk

### Clerks' Details

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### Qualifications and Appointments

- MA, University of Cambridge (Maths and Law)
- Solicitor: England and Wales (1980 – ceased practising in 2017)
- Partner, Freshfields/Freshfields Bruckhaus Deringer from 1990 to 2015. Consultant to 2017
- Chairman, Association of Pension Lawyers (APL) 2001-2003
- Barrister 2017

## 'A "complete guru" in the pensions world'

Chambers & Partners 2017

### Memberships

- Chancery Bar Association
- Commercial Bar Association (COMBAR)
- Association of Pension Lawyers (APL) (Chair: 2001 to 2003)
- Insolvency Lawyers Association (ILA)
- Industrial Law Society (ILS)
- Trust Law Committee
- APL Communications Committee

### Publications

- [\*Pensions, Contracts and Trusts: Legal Issues on Decision Making\*](#) (Bloomsbury Professional, 2020)
- *The Law of Pension Trusts* (Oxford University Press, November 2013)
- [\*Corporate Insolvency: Pension Rights\*](#) (6th ed, December 2016, Bloomsbury Professional)
- [\*Corporate Insolvency: Employment Rights\*](#) (6th ed, December 2016, Bloomsbury Professional)

### Practice Overview

David is a leading and highly experienced lawyer in the pensions field and related areas. He switched to practice as a barrister at the end of 2017, after 37 years practice as a solicitor, including 25 years as a partner in law firm Freshfields Bruckhaus Deringer.

#### David's practice focuses on:

- Pensions law
- Insolvency law
- Employment law (involving pensions)

David's practice as a solicitor included advising employers and trustees in relation to pension law matters, including corporate transactions, scheme funding, scheme mergers, scheme changes, employer insolvency and Pensions Regulator issues.

David was chair of the Association of Pension Lawyers (APL) from 2001 to 2003.

David has published five books in the areas of pensions, insolvency and employment law: *"Pensions, Contracts and Trusts: Legal Issues on Decision Making"*; *"The Law of Pension Trusts"*; *"Corporate Insolvency: Pension Rights"*; *"Corporate Insolvency: Employment Rights"* and *"Employment Law and Pensions"*.

David is an editor of the quarterly journal "Trust Law International". He was also on the editorial board of the "Occupational Pensions Law Reports" and is on the advisory board for the Pensions section in Practical Law.

#### David is recommended in the directories (as a solicitor before 2018):

- 'David Pollard is described as a "complete guru" in the pensions world.' Chambers UK 2017
- 'David Pollard is a leading figure in the UK pensions law arena, ... "a legend" and a "serious class act".' Chambers UK 2016
- 'The "inventive" David Pollard "provides wise, sage advice".' Chambers UK 2015
- 'Leading light' The Legal 500 2015
- 'David Pollard ... is recognised as being "exceptionally knowledgeable".' Chambers UK 2014



## Publications continued

- [Employment Law and pensions](#) (Bloombury Professional, 2016)
- *Freshfields on Corporate Pensions Law 2015* (editor and main author - annual editions from 2012, Bloomsbury Professional)
- *The Guide to the Pensions Act* (editor: Tolley, 1995)
- [Applying Wednesbury reasonableness to legal review of trustee discretions after Braganza](#) (2020) 34 TLI 186
- [Some Oddities of the Law on Age: So You Thought You Reached Age 21 on Your 21st Birthday?](#) (2020) 34 TLI 21
- Insolvency and control: the impact of corporate insolvency on "control" under section 435(10) of the Insolvency Act 1986 (2019) 32 *Insolv. Int.* 127
- [Solving Defective Changes In Pensions And Commercial Trusts Seven Potential Easier Fixes](#) (2019) 33 TLI 22
- Connected or Associated? Some tricky issues on 'control' in section 435(10), Insolvency Act 1986 (APL conference, Dec 2017) (with Dawn Heath) (2018) 31 *Insolv. Int.* 33-57
- [The Shortform Best Interests Duty: Mad, Bad and Dangerous to Know](#) (2018) 32 TLI 106 & 176

**“one of the most eminent pensions lawyers around”**

Chambers & Partners 2011

## Practice Overview continued

- 'Sources have "huge respect for David Pollard; you have to admire him, he's an excellent lawyer" and "really stands out as a go-to guy who is regarded nationally as a leading authority". Chambers UK 2013
- 'pensions guru David Pollard' The Legal 500 2013
- 'The "very bright" David Pollard is praised for his knowledge and technical abilities and "is easily understood and breaks down advice well".' Chambers UK 2012
- 'David Pollard is "a top-class professional".' Legal 500 2012
- 'David Pollard is described by sources as "one of the most eminent pensions lawyers around".' Chambers UK 2011
- 'David Pollard has "a complete grasp of the complex regulatory framework underpinning UK pension provision, and the ability to translate said complexities to clients in a clear, authoritative but nevertheless pragmatic manner".' The Legal 500 2011

## Pensions

David's practice as a solicitor included advising employers and trustees in relation to pension law matters, including corporate transactions, scheme funding, scheme mergers, scheme changes, employer insolvency and Pensions Regulator issues.

### David's major work includes:

#### Corporate Transactions

Advising employers, trustees and shareholders on the pensions and employment implications of corporate transactions. Including dealing with section 75 debt implications (such as drafting and implementing scheme apportionment arrangements (SAAs) and flexible apportionment arrangements (FAAs)), funding issues, Take-over Code issues; trustee powers and implications of the powers of the Pensions Regulator (including numerous clearance applications and negotiations). Advised on transfer issues, setting up new schemes and issues under Tupe.

#### Scheme changes and mergers

Advising employers and trustees on issues arising from scheme changes, including equalisation (Barber), discrimination issues, scheme closures, external contracts, appointment and removal of trustees, changes to corporate trustee structures, employer consultation obligations (Tupe and Pensions Act 2004); taxation implications of changes. Advising on scheme mergers and bulk transfers.

#### Scheme funding

Advising employers and trustees on scheme funding and security issues, including guarantees, funding arrangements, grant of security, reservoir trusts and charged accounts; use of Scottish limited partnership structures and investment issues. Advised on the implications of various employer events (eg dividends, reduction of capital). Advised on salary sacrifice arrangements.

#### Employer Insolvency

Advising employers, trustees, insolvency practitioners and third parties on the implications of employer insolvency, including section 75 debt issues, arrangements with the Pensions Regulator and the Pension Protection Fund (including regulated apportionment arrangements).

#### Litigation

David's noteworthy litigation cases (as a solicitor) include:

- *Manning v Drexel Burnham Lambert* [1995] 1 WLR 32 (a decision of Lindsay J dealing in particular with conflict issues for trustees), acting for the trustees on the winding-up of a scheme;



## Publications continued

- [Member consent and pension trust benefit change \(2016\) 30 TLI 26 \(with Alison Chung\)](#)
- PPF Entry—Problems for Pension Trustees After Olympic Airlines (2016) 29 (4) Insolvency Intelligence
- [Statutory protections for employees acting as a pension trustee \(2015\) 29 TLI 71](#)
- [A "Two Steps" Tango: Amending Amendment Powers \(2015\) 29 TLI 16](#)
- [Trustees and Fiduciaries: the limits on any "no fetter" rule Part 1: \(2014\) 28 TLI 105 Part 2: \(2014\) 28 TLI 191](#)
- *Trustee companies and PSC Registers* (2016) 30 TLI 225
- *Myth vs reality (Four Legal Myths)* Pensions World Dec 2016
- *Application of the Proper Purpose Test to Pension Schemes* (2016) 30 TLI 159
- *Exercising Powers: Proper Purposes rather than Best Interests: Fiduciaries and Eclairs* (2016) 30 TLI 71

### Chapters in books:

- Chapter: 'Trustees, Fiduciaries and Fetters' in 'Trusts and Wealth Management in the Twenty-First Century' (Cambridge University Press, 2018)
- Chapters in *Tolley's Insolvency Law* and *Tolley's Employment Law*
- Chapter EIA: "Corporate Trustees" in *Tolley's Pensions Law*

## Pensions continued

- *BESTrustees plc v Kaupthing Singer & Friedlander Ltd* [2012] EWHC 629 (Ch) and [2013] EWHC 2407 (Ch) (separate decisions of Sales J and then Etherton C on two separate issues on how a s75 debt should be calculated). Acting for the administrators of the employer;
- *Re Nortel Networks Corpn* 2014 ONSC 6973 (a decision of Newbould J in Ontario on the ability of the Pensions Regulator to issue a financial support direction on a holding company). Advising the insolvency practitioners acting over the Canadian parent company.

Initial stages of dealing with the Pensions Regulator in relation to its use of statutory 'moral hazard' powers under the Pensions Act 2004.

### APL

David was chair of the Association of Pension Lawyers (APL) from 2001 to 2003.

He is currently on the APL Communications committee, having previously been on the APL's Education & Seminars and Legislative & Parliamentary committees.

The APL awarded David its 'Wallace Medal' in 1998 and again in 2015 (for excellence on communicating pensions issues).

David has a regular column in the newsletter of the APL, with monthly entries:

"Pollard's Picks" (a listing of recent legal articles of interest); and

"Add Spice to Your Advice" (regular quotes of interest, mainly from judgments).

## Insolvency

David practices in insolvency law – mainly on the pensions and employment side.

He has written two books on corporate insolvency issues – on the intersection of insolvency law with pensions and employment rights. The sixth editions were published in December 2016.

David has given talks to insolvency organisations and in the last few years has contributed to submissions by R3 on various employment and pensions issues.

He has published in Insolvency journals (*Recovery*, *Insolvency Intelligence*) and given talks at insolvency conferences (ILA, INSOL, R3).

### David's noteworthy litigation cases (as a solicitor) include:

- *BESTrustees plc v Kaupthing Singer & Friedlander Ltd* [2012] EWHC 629 (Ch) and [2013] EWHC 2407 (Ch) (separate decisions of Sales J and then Etherton C on two separate issues on how a s75 debt should be calculated). Acting for the administrators of the employer;
- *Re Nortel Networks Corpn* 2014 ONSC 6973 (a decision of Newbould J in Ontario on the ability of the Pensions Regulator to issue a financial support direction on a holding company). Advising the insolvency practitioners acting over the Canadian parent company.

## Employment

David has a strong reputation in, and knowledge of, employment law, in particular pensions and insolvency related issues.

David's book "Employment Law and Pensions" was published in by Bloomsbury Professional in 2016.



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## **Employment continued**

David has written articles for The Industrial Law Journal. David is a member of the Industrial Law Society (ILS) and has spoken several times at its annual conference and evening seminars.

He has a particularly interest in complex areas (eg pensions and tupe).

***“a complete grasp of the complex regulatory framework underpinning UK pension provision, and the ability to translate said complexities to clients in a clear, authoritative but nevertheless pragmatic manner”***

Legal 500 2011