

Andrew Short KC

Year of Call: 1990

Year of Silk: 2010

Direct Access: Yes

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Andrew Short KC's practice centres on **pensions**, **employment**, and general **commercial** work.

His "*practical*" and "*realistic*" approach together with his "*great understanding of the commercial issues in a case*" makes his strategic advice and his advocacy highly sought after by his clients, whether they are national or international companies or organisations, public bodies, trustees, trade unions or individuals.

He is able to bring years of experience as a trial lawyer in hostile and contentious claims to bear whenever necessary. He has been recommended for Pensions and for Employment in both *Legal 500* and *Chambers & Partners* for many years.

Andrew has lectured on pensions, discrimination and employment issues and is on the Consultation Board of *Practical Law: Pensions*.

Areas of Expertise

Employment & Discrimination

Andrew's employment practice covers everything from complex or sensitive dismissal and discrimination cases through TUPE to high value contract, restrictive covenant, fiduciary duty and equal pay claims. He has acted in many of the leading cases relating to discrimination in pay and pensions, including **Abdulla v Birmingham City Council**, **Brierley v Asda**, **McCloud v Lord Chancellor**, and **Sargeant v LFEPA**.

Recent work includes:

- acting on behalf of thousands of claimants in relation to vast private sector equal pay claims against Asda and Sainsbury's
- acting on behalf of 200 judges and 6,000 firefighters challenging the public sector pension reforms
- securing the release of a non-executive director from litigation arising out of the Weinstein / #metoo litigation
- securing many millions of pounds in settlements in various public sector equal pay claims
- advising major airlines in relation to restructuring and terms and conditions

London (Main Office)

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- advising various employers in relation to working time issues
- acting for employers and others seeking to stave off Beckmann or similar claims relating to pension rights
- advising employers in relation to Share Incentive Plans.

Notable Employment & Discrimination cases

Sainsbury's Supermarkets v Clark [2023] EWCA Civ 386

Early conciliation, group claims and rejection.

Secretary of State for Work and Pensions v Beattie [2022] UKEAT 163

Age discrimination, Brexit, the EU (Withdrawal) Act 2018 and the PPF

Johnson v Transopco [2022] EAT 6

Worker status

Clark v Sainsburys Supermarket [2022] EAT 143

Early Conciliation and multiple claims.

Asda Stores v Brierley [2021] UKSC 10

Comparability: use of comparators at different establishments under the same employment and single source tests.

London Fire Commissioner v Sargeant [2021] UKEAT 0137

Age discrimination and the non-discrimination rule.

McCloud v Lord Chancellor; Sargeant v LFEPA [2018] EWCA Civ 2844

Direct age discrimination and pensions; objective justification; equal pay.

Parker v MDU [2017] UKEAT/0113/17/DA

Equal pay, part-time workers, indirect discrimination, material factor and objective justification.

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Birmingham City Council v Abdulla [2012] UKSC 47

Landmark decision of Supreme Court as to the jurisdiction of High Court and County Court in relation to Equal Pay Claims.

British Airways v Williams [2012] UKSC 43

Construction of UK regulations in context of EC Directive. Referred to ECJ.

Commercial & Chancery

Andrew has experience of large financial services and other commercial disputes. Recent matters include:

- upholding a stay of proceedings where the appropriate forum was Ethiopia despite an allegation that a previous judgment in Ethiopia had been obtained by fraud
- achieving his client's release from a series of thirty year Bermudan swaps
- fending off a breach of fiduciary duty claim in the music industry, involving one of the foremost international recording artists of recent years.

Notable Commercial & Chancery cases

McGaughey & Davies v USS Ltd [2023] EWCA Civ 873

Common law derivative claim, valuations, trustee duties, indirect discrimination, costs and expenses, fossil fuels and ESG

Mengiste v Endowment Fund for the Rehabilitation of Tigray [2017] EWCA Civ 1326

Conflict of laws, forum non conveniens, refusal to lift a stay, fraud.

Pensions

Andrew's pensions work encompasses both private and public sector schemes and includes issues of construction, funding issues, preservation and revaluation, Beckmann claims and various regulatory issues including contribution notices and financial support directions. He is particularly sought after in cases that require a knowledge of both pensions and employment or discrimination law, including some of the most significant equalisation cases of recent years. In addition to his advisory work, recent contentious work includes cases involving:

- GMP equalisation, in the landmark case of Lloyds Banking Group Pension Trustee v Lloyds Bank
- the effect of the statutory requirements for altering terms of contracted-out schemes in section 37 of the Pension

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Schemes Act 1993

- whether scheme closed to future accrual but with a final salary link is 'open' or 'frozen' for the purposes of the Employer Debt Regulations
- the effect of retrospective alterations to scheme provisions, under EU and domestic law
- equitable recoupment, limitation, the Pensions Ombudsman and the need for a court order
- acting on behalf of 200 judges and 6,000 firefighters challenging the public sector pension reforms
- acting on behalf of a company facing an application for a FSD by the Pensions Regulator arising out of a very high-profile company failure
- acting on behalf of both claimants and defendants in cases involving claims of negligence made against advisers to schemes (including solicitors, actuaries and consultants)
- acting on behalf of various companies successfully fending off Beckmann type claims.

Notable Pensions cases

Virgin v NTL Pension Trustees II Ltd & O's [2024] EWCA Civ 843

The operation and effect of section 37 of the Pension Schemes Act 1993 in relation to the amendment of contracted-out pension schemes.

McGaughey & Davies v USS Ltd [2023] EWCA Civ 873

Common law derivative claim, valuations, trustee duties, indirect discrimination, costs and expenses, fossil fuels and ESG

Secretary of State for Work and Pensions v Beattie [2022] UKEAT 163

Age discrimination, Brexit, the EU (Withdrawal) Act 2018 and the PPF

CMG Pension Trustees v CGI IT UK Limited

Forfeiture clauses, construction and the archaeology of a scheme, recoupment, section 91(6) of the Pensions Act 1995 and the status of the Pensions Ombudsman

In the matter of the Axminster Carpets Group Retirement Benefits Plan [2021] EWHC 1652 (Ch)

Forfeiture, construction, exercise of discretion by trustees, interest, Re Benjamin orders, limitation, section 37 Pension Schemes Act 1993.

Britvic PLC v Britvic Pensions Ltd & Mohun [2021] EWCA Civ 867

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Construction of a pension increases rule.

[Lloyds Banking Group Pensions Trustees Limited v Lloyds Bank & Others \[2020\] EWHC 3135 \(Ch\)](#)

GMP Equalisation, transfer payments, limitation.

[Safeway Ltd v Newton & Anor \[2020\] EWCA Civ 869](#)

Equalisation, levelling down, the equal treatment rule.

[Safeway Ltd v Newton & Anor C-171/18 \[2020\] ICR 673, CJEU](#)

Equalisation, levelling down, the equal treatment rule.

[McCloud v Lord Chancellor; Sargeant v LFEPA \[2018\] EWCA Civ 2844](#)

Direct age discrimination and pensions; objective justification; equal pay.

[Lloyds Banking Group Pensions Trustees v Lloyds Bank \[2018\] EWHC 2839 \(Ch\)](#)

GMP equalisation, forfeiture clauses, limitation.

[G4S Plc v G4S Trustees Ltd \[2018\] EWHC 1749 \(Ch\)](#)

Closure to accrual, the final salary link, when is a scheme frozen for the purposes of the Employer Debt Regulations.

[Burgess & Ors v BIC UK Ltd \[2018\] EWHC 785 \(Ch\)](#)

Retrospectivity: the effectiveness of a retrospective effective date in a definitive deed; equitable recoupment, limitation, the need for a Court order and the status of the Pensions Ombudsman.

[Safeway v Newton \[2017\] EWCA Civ 1482](#)

Retrospectivity: levelling down and EU law.

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IBM v Dalglish [2015] EWHC 389 (Ch)

Remedies hearing covering many issues, including interplay between redundancy and retirement.

Vaitkus v Dresser-Rand UK [2014] EWHC 170 (Ch) In the [2014] 021 PBLR (018)

Construction of the governing provisions of a pension scheme; equalisation.

Pell Frischmann v Prabhu & Lamb [2013] EWHC 2203 (Ch)

Access to Pensions Ombudsman; prospective costs.

ICM Computer Group v Stribley [2013] EWHC 2995 (Ch)

Construction of the governing provisions of a pension scheme; corrective construction and omissions.

Urenco UK Ltd v Urenco UK Pension Trustee Co Ltd & Mossop [2012] EWHC 1495 (Ch)

Statutory pension protection following a transfer in the nuclear industry.

Woodcock v Cumbria Primary Care Trust [2012] EWCA Civ 330

Age discrimination, entitlement to early retirement benefits, justification: avoidance of wind-fall and cost.

Professional Negligence

Andrew undertakes professional negligence work, often though not always related to employment or occupational pension schemes.

Memberships

- Association of Pension Lawyers
- Commercial Bar Association
- Employment Lawyers Association
- Employment Law Bar Association

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- Financial Services Lawyers Association
- Industrial Law Society

Awards

- Recommended by Legal 500 for Employment and Pensions
- Recommended by Chambers & Partners

Recommendations

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Privacy Policy

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