



Michael Uberoi

Year of call
2004

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Michael Uberoi practises in commercial and regulatory litigation, with a particular focus upon pensions and financial services. He is recommended as a Leading Junior by the legal directories in both Pensions and Financial Services – the 2021 editions describe him as “*very dynamic and bright*”, state that “*he has very thorough and well-founded knowledge*” (*Pensions, Chambers & Partners, Leading Junior*), and that he is “*personable, technically outstanding, and very hard working and responsive*” (*Financial Services Regulation, Legal 500, Leading Junior*). They also describe him as “*an exceptional advocate*”, who is “*very, very hard working*”, and as a “*bright junior with a strong intellect and good judgement*”.

Some recent pensions cases include:

- *Univar v Smith & Ors [2020] EWHC 1596 (Ch)* (involving rectification, and faulty indexation – the case is now the leading authority on pension scheme rectification);
- *Safeway Ltd v Newton* (Cases 1 and 2 in the Court of Appeal, and in the CJEU- *[2020] EWCA Civ 869; [2017] EWCA Civ 1482*) – Safeway was the highest value equalisation claim ever to come before the courts, and is one of the most high profile claims involving discrimination in pension schemes in recent years;
- *Sheffield v Kier Group plc [2019] EWHC 986 (Ch)* (a leading case upon the jurisdiction of the Pensions Ombudsman, and its limits).

Michael’s ongoing work includes rectification matters, indexation work, professional negligence matters (involving solicitors, actuaries, and administrators) and regulatory work involving both the Pensions Regulator (for example defending the Targets at a hearing before the Determinations Panel of the Regulator), and the Financial Conduct Authority.

Michael has particular expertise in cases involving the interaction between financial services regulation

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and commercial litigation (e.g. *Lampo v Royal Bank of Scotland* [2016] EWHC 3824), having previously undertaken a secondment to the Financial Conduct Authority.

Michael sits on the Education & Training Sub-Committee of the Association of Pension Lawyers. He is a member of COMBAR and the Chancery Bar Association. He is also called to the Bar of Northern Ireland.

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Pensions & Trusts

Michael acted for the Representative Beneficiary in *Univar v Smith & Ors* [2020] EWHC 1596 (Ch) This first contested pensions rectification case in over eight years, this fifteen day trial before Trower J concerned rectification, "South West Trains" contracts, estoppel, and exercise of powers. As stated in the recent case of *Iggesund* [2021], the principles of pension scheme rectification were "settled" by *Univar*, which case it is "unnecessary to look beyond."

Michael acted throughout the *Safeway* litigation (*Safeway v (1) Newton (2) Safeway Pension Trustees Ltd* [2020] EWCA Civ 869; [2017] EWCA Civ 1482), involving equalisation & discrimination arguments and the interpretation of EU case law (as well as being a leading authority on the interpretation of pension scheme documents). Believed to be the largest equalisation claim to have come before the courts (the claim was worth over £100 million), Michael (led by Andrew Short QC) was successful both in the Court of Appeal and in the CJEU in arguing that levelling down was prohibited even where the rules of the scheme allowed it.

Other cases (recent, or ongoing) that he has conducted as sole counsel include:

- Acting for the Defendant (a well-known firm of actuaries) in defence of proceedings brought alleging professional negligence during its appointment as Scheme Actuary of a well-known Scheme;
- Acting for a Claimant company in professional negligence proceedings against a well-known law firm for failing to properly ensure that the scheme's escalation and revaluation rules converted from RPI to CPI (and related loss of a chance arguments in the aftermath of these failings);
- Advising the trustees in relation to a scheme in the PPF assessment period, and the interaction of the PPF assessment period with the buying-out of scheme liabilities;
- Representing the Target trustees in a hearing before the Determinations Panel brought by the Pensions Regulator, at which Prohibition Orders were sought in the aftermath of a pensions liberation scandal;
- acting for individual trustees and former directors in Part 7 restitutionary proceedings brought regarding the *Bic UK Pension Scheme*, which alleged conflict of interest and breach of company articles in the awarding of future benefit entitlements;
- Several high-value rectification claims;
- acting for a major wealth management entity (and SIPP provider) in relation to multiple complaints before the FOS alleging breach of COBS rules and allegedly unenforceable arrangements to transfer DB benefits to SIPP structures. The claims have an aggregate value

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running to millions of pounds;

- Advising over 51,000 members in relation to an action against a major Bank, alleging age discrimination in its pension scheme;
- advising the employer in connection with a s.75 employer debt under the Employer Debt Regulations, and associated employment cessation events; and
- a High Court appeal involving the extent of the Pensions Ombudsman's jurisdiction, and legitimate expectations / A1P1 rights (*Sheffield v Kier Group plc [2019] EWHC 986 (Ch)*).

Michael frequently advises on matters before the Pensions Ombudsman, and on appeals from determinations of the Ombudsman (including in cross-over appeals from determinations of the Financial Ombudsman Service, in relation to pension misselling).

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Commercial & Chancery

Michael regularly acts in commercial disputes. Recent and ongoing cases include:

- acting for an international businessman in a claim for undue influence and breach of fiduciary duty, resulting in the loss of his controlling shareholding in a successful company;
- advising a major insurer in applications for freezing and disclosure injunctions (and Bankers Trust orders) against a marketing firm;
- acting for a Dubai based trading entity in its claim for breach of contract and misrepresentation over the contractual terms applicable a foreign exchange trading account, and a related decision to close out positions resulting in a multi-million pound loss for the Claimant (*breach of contract / misrepresentation*);
- acting for a major hotel food supplier in defending a high value claim involving the Commercial Agency Regulations and their disputed applicability to various commercial relationships with employees, fraudulent misrepresentation and deceit;
- obtaining a freezing injunction (in the sum of approximately £3 million) and acting in the underlying breach of loan agreement claim, on behalf of an Indian marketing firm. The case settled for its full value shortly after the freezing injunction was obtained;
- a claim for a holiday letting company against a major bank for breach of contract, misrepresentation, and failure to exercise a contractual lending discretion in a loan agreement in good faith, which settled in the claimant's favour for a sum of approximately £2.5 million.

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Financial Services

Michael's practice often covers the regulatory and civil aspects of financial services law, in which areas Michael is well placed to advise having previously undertaken a secondment to the Financial Conduct Authority.

Some recent or ongoing instructions include:

- advising the board of a major lending entity with regard to potential breaches of the Regulated Activities Order, and upon whether underlying loan agreements were consequently unenforceable under s. 28 FSMA;
- advising the CEO of a major wealth management firm with regard to his Senior Management Function responsibilities in the context of CASS breaches by the firm, and FCA whistleblowing;
- advising a major private wealth management firm in relation to an ongoing investigation by the regulator with regard to advice given upon client transfers out of DB schemes and into SIPPS, and alleged breaches of COBS;
- advising a mortgage credit business on perimeter questions;
- representing the owners of a mortgage brokerage in connection with disciplinary action being taken against them by the Financial Conduct Authority, relating to the extent of their permissions.

Michael is a contributing author to the publication *Encyclopaedia of Forms and Precedents (Financial Services)*, published by Lexis Nexis, and a previous contributing author to Lissack & Horlick on Bribery.

He is described by the legal directories (for Financial Services Regulation) as *"personable, technically outstanding, and very hard working and responsive"* (Legal 500, Financial Services Regulation), and as a *"highly thought of junior who represents professionals before the FCA Enforcement Division"* who is *"analytical, calmly persuasive and thorough..."* (Chambers & Partners).

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Disciplinary & Regulatory

Michael is an experienced regulatory advocate who frequently appears on behalf of professional individuals and regulated entities. Some recent or ongoing cases include:

- acting for a trustee and accountant during an investigation brought by the Financial Reporting Council, arising out of the Pension Regulator's investigations into the Coats Pension Plan / Guinness Peat Group;
- acting for the Target trustees in response to proceedings brought by the Pensions Regulator at a hearing before the Determinations Panel, at which hearing Prohibition Orders were sought to prevent the Targets from acting as trustees;
- acting for an SMF1 board member of a well-known trading firm in response to an investigation brought by the FCA.

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Appointments & Memberships

- Association of Pension Lawyers (APL) (Education & Training Sub-Committee)
- Chancery Bar Association
- COMBAR

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Recommendations



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Testimonials

“He has very thorough and well-founded knowledge, and he is very practical and very client-friendly.” **Pensions, Chambers and Partners 2021**

“Very dynamic and bright” **Chambers and Partners 2021**

“He is very commercially minded and knows the pensions practice area.” **Pensions, Chambers and Partners 2021**

“He is able to get to grips with technical issues and provide clear advice quickly.” **Pensions, Chambers and Partners 2021**

“Excellent senior junior who invests time to understand and address client concerns.” **Pensions, Legal 500 2021**

“Michael is personable, technically outstanding, and very hard working and responsive.” **Financial Services Regulation, Legal 500 2021**

“His written and oral advocacy is clear and persuasive and he is a pleasure to work with.” **Pensions, Legal 500 2020**

“A very talented barrister who has a keen eye for detail.” **Financial Services Regulation, Legal 500 2020**

“Approachable and easy to work with.” “An excellent senior junior.” **Chambers & Partners 2019**

“Very likeable and very good on his feet.” **Chambers & Partners 2018**

“He puts clients at ease, and is well prepared and easy to get on with.” **Chambers & Partners 2018**

“Exceptionally skilled in communicating with clients.” **Legal 500 2017**

“An exceptional advocate, who is doggedly determined to ensure fairness for his client.” **Legal 500 2017**

“Exceptionally good. Very, very hard-working, incredibly incisive, lots of panache and confidence. A really good advocate.” **Chambers & Partners 2017**

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“Highly thought of junior who represents professionals before the FCA Enforcement Division. Analytical, calmly persuasive and thorough; when you send him papers, you know he’ll have read, analysed and carefully prepared every aspect of the case.” **Chambers & Partners 2017**

“Michael is a very impressive junior barrister who is knowledgeable and accomplished beyond his years. He is sensible, realistic and pragmatic in his advice, whilst his care in presenting a case is notable.” **Chambers & Partners 2017**

“A great team player, who takes a sensible, pragmatic approach.” **Legal 500 2016**

“An excellent junior, who punches above his weight.” **Legal 500 2016**

“He adopts a firm but calm approach, and clearly sets out the reality of a case to clients. He is extremely well prepared for all his cases and employs imaginative arguments on behalf of his client to achieve the best results possible.” “He is knowledgeable and accomplished beyond his years.” **Chambers & Partners 2016**

“A good advocate who comes over very well.” “He is extremely hard-working, highly approachable and a good communicator.” **Chambers & Partners 2016**

“A bright junior with a strong intellect and good judgement; he will go far.” **Legal 500 2016**

“He did an extremely good job in difficult circumstances.” **Chambers & Partners 2015**

“He is already very good and in five years will be a major name in the field.” **Chambers & Partners 2014**

“Michael Uberoi appears regularly in public inquiries. [He] recently advised the former Director General of the BBC in connection with his appearance before the Pollard Inquiry.” **Chambers & Partners 2014**

Michael Uberoi “Also tackles sports-related cases...[he] has a growing practice in this field and is building a solid reputation amongst his peers.” **Chambers & Partners 2014**

“Knowledgeable beyond his years.” **Legal 500 2014**

“Michael Uberoi is making a name for himself.” **Chambers & Partners 2013**

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