



Philip Stear

Year of call
2018 (Solicitor since 1997)

Email
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Philip Stear's practice involves the interaction of commercial trusts, insolvency and contract law, with a particular focus on disputes arising in relation to occupational pension schemes.

Philip joined Outer Temple Chambers on Call in November 2018, having been a solicitor in Travers Smith LLP's highly ranked pensions practice for more than twenty years, thirteen of them as a partner. In his early career he was a Lecturer in Law at the University of Bristol (specialising in the law of contract and the law of trusts) from 1992 to 1995, and then part-time (with a special focus on pensions law) from 2000 until 2004.

Philip is an acknowledged expert in relation to technical pensions law and regulatory practice, and combines this with long practical experience of occupational pension schemes and the practical challenges they face in relation to governance and trusteeship, benefit design and modification, funding and security and member communications and disputes. Reflecting his earlier academic career, he also maintains a wide and deep knowledge of the broader legal landscape, particularly in relation to property law (whether concerning trusts, land law, unincorporated associations or charities) and contract law. Clients prize him as a solution-oriented lateral thinker able to find ways to unlock the knottiest problems.

He is regularly instructed to advise in relation to questions of pensions-related taxation, including in relation to SSASs and SIPPs

As a result of his long experience at the coalface of occupational pension schemes (including acting for the trustees of some of the UK's largest pension schemes), Philip brings to his pensions practice:

- acute sensitivity to the practical challenges faced by pension scheme trustees and employers as

London

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Abu Dhabi

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a result of their different perspectives, and to the need to manage conflicts of interest arising from trustee roles pragmatically and to evaluate sensitively the pros and cons of court proceedings in relation to a matter;

- the ability to think “out of the box” and to originate and evaluate innovative approaches; and

the willingness to work collaboratively and inclusively as part of a wider team, including not only trustee committees and employer representatives but also other legal advisers, actuaries and covenant advisers.

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Pensions & Trusts

Acting as junior counsel for the representative member in ***Britivic plc v Britvic Pensions Limited & Simon Mohun*** at first instance ([2020] EWHC 118 (Ch)) and in the Court of Appeal ([2021] EWCA Civ 867)

This was a Part 8 application concerning the construction of a pension increase rule, and whether the employer's power to substitute "*any other rate*" for the RPI-based rate otherwise identified by the rule was (as a matter of construction) unlimited.

Advising the trustees of the **Metal Box Pension Scheme** in relation to GMP conversion.

Advising the future representative defendant in relation to contemplated proceedings concerning the equalisation of benefits under an industry-wide pension scheme.

Advising the Board of the Pension Protection Fund in relation to the exercise of its powers in the context of transfers to superfunds.

Advising the trustees of a £1bn+ scheme in relation to their obligations in relation to GMP reconciliation.

Advising the trustees of a £1bn+ scheme in relation to a merger proposal.

Advising an employer participating in an industry-wide occupational pension scheme in relation to an actuarial valuation under Part 3 of the Pensions Act 2004, and its options vis a vis the scheme trustee resulting from reliance upon negligently prepared instruments recording the contribution liability resulting from the valuation.

Advising (in the context of a corporate disposal) in relation to the construction of the pension increase rule, and in particular whether it required increases to be calculated by reference to RPI or CPI (in relation to a rule in substantially the same terms as that the subject of the decision of Nugee J (as he then was) in *Carr v Thales Pension Trustees* [2020] EWHC 949 (Ch))

Advising a number of individuals in relation to their SIPPs and the application of the provisions of the Finance Act 2004 relating to investment-regulated pension schemes and specifically investments in taxable property (including residential property).

Advising a number of individuals in relation to the options for tax-efficient devolution of benefit under a high value DC SSAS schemes.

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Advising a divorcing wife in relation to the assignment her husband had persuaded her to take from his company of the burden of his unfunded pension.

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Commercial & Chancery

Advising an incorporated trade association previously structured as an unincorporated association in relation to aspects of its incorporation.

Advising an employer in relation to its employee benefit trust and specifically in relation to an application to court to overcome difficulties with the rule against perpetuities.

Advising in relation to certain industry-wide trusts supporting savings vehicles, specifically in relation to an application to court under section 57 of the Trustee Act 1925 to facilitate merger and rationalisation.

Advising in relation to the availability of the assets of a charitable sports club, incorporated in succession to an unincorporated charity, to satisfy the vicarious liability of the former management of the unincorporated charity in relation to historic torts committed by a former coach at the club.

Advising the beneficiaries of will trusts of a family home in relation to a breach of trust claim concerning the trustee's sale of the trust property to a relative at an undervalue.

Advising the executor of an estate in the Caribbean in relation to the effect of transactions and claims between beneficiaries residing in England & Wales.

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Appointments & Memberships

- ChBA
- APL
- COMBAR

Publications

- Britvic: scheme employer could direct increases lower than RPI on the true construction of the scheme's pension increase rules (Court of Appeal) (published on *Practical Law* on 10 June 2021 ref w-031-3502)
- Touching the Void: The Amendment of COSR Pension Schemes Between 1997 and 2016: Section 37 of the Pensions Schemes Act 1993 (published on *LinkedIn* 27 May 2020)
- The Amendment of COSR Pension Schemes Between 1997 and 2016: Section 37 of the Pension Schemes Act 1993 [*TLI* 2020 Vol 33 Number 4 Pg 163-173]
- A new solution for distressed DB schemes? Restructuring pension liabilities for zombie employers (published on *LinkedIn* 15 Nov 2019)
- The concept of Accrual in English Pensions Law: Some Thoughts [*TLI* 2016 Vol 30 Number 2 Pg 126-141]

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Awards

In 2018, Philip was awarded the APL's Wallace Medal, an award recognising excellence in legal writing by members of the APL.

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Testimonials

“has an enormous mind for legal work, great ability and is charming to deal with” **Pensions, Chambers and Partners 2018**

“very thorough very focussed” **Pensions, Chambers and Partners 2017**

“genuinely exceptional” **Pensions, Legal 500 2016**

“a very able technical lawyer and a good communicator” **Pensions, Chambers and Partners 2015**

“able to simplify incredibly complex legislation” **Pensions, Chambers and Partners 2014**

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