



Philip Stear

Year of Call: 2018 (Solicitor since 1997)
Direct Access: Yes

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Philip Stear has a broad (advisory and contentious) **Chancery** practice with a particular focus on **private trusts** and **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 contract law, trusts law and property law) from 1992 to 1995, and then part-time (with a special focus on pensions law) from 2000 until 2004.

Reflecting his earlier academic career, Philip 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.

Areas of Expertise

Pensions

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.

He advises in relation to the construction of pension scheme trust deeds, statutory and regulatory requirements, and breach of trust allegations. He is regularly instructed to advise in relation to questions of pensions-related taxation, including in relation to SSASs and SIPPs, being one of relatively few pensions barristers entirely comfortable in this area.

Notable Pensions cases

- Junior Counsel for Virgin Media (led by **Nicolas Stallworthy KC**) in **Virgin Media v NTL Pension Trustees II Limited & others** at first instance [2023] EWHC 1441 (Ch) and in the Court of Appeal [2024] EWCA Civ 843
This was one of the pensions cases of the decade: finally resolving the effect on amendments to contracted out

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schemes of any failure to obtain an actuarial confirmation under regulation 42 of the Contracting-out Regulations 1996.

- Junior Counsel for Atos (led by **Andrew Spink KC**) in *Railways Pensions TCL v Atos IT Services UK Ltd & another* [2022] EWHC 3236 (Ch) at first instance [2022] EWHC 3236 (Ch) and in the Court of Appeal [2024] EWHC Civ 98 Concerning the interpretation of the funding rules under the Railways Pension Scheme established on privatisation in the 1990s, and their interaction with the privatisation legislation.
- Junior Counsel [(led by **David E Grant KC**) in *McGaughey v USS Ltd* [2023] EWCA Civ 873 Concerning whether a pension scheme member has standing to bring a derivative action on behalf of its corporate trustee alleging breach of duty by its directors.
- Junior counsel for the appellants (led by Gerard McMeel KC) in *Dooley v Castle Trust & Management Services Ltd* [2022] EWCA Civ 1569 (In relation to a claim by investors who had transferred pension entitlements to a QROPS located in Gibraltar as a result of an alleged pensions scam) a claim establishing the jurisdiction of the High Court in England & Wales.
- Junior counsel for the representative member (led by **Keith Bryant KC**) in *Britvic plc v Britvic Pensions Limited & Simon Mohun* at first instance ([2020] EWHC 118 (Ch)) and in the Court of Appeal ([2021] EWCA Civ 867) Concerning the interpretation and scope of a pension increase rule permitting the employer to substitute “any other rate” of increase for the RPI-based rate otherwise identified by the rule.
- Acting as an expert witness (in proceedings before the Court of Session in Scotland) in relation to the practice of pensions solicitors in England & Wales.
- 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 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 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 loss suffered as a result of a negligently prepared actuarial 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.
- 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.

Chancery & Trusts

Philip understands the need to find solutions which are proportionate to the circumstances of the trust fund or estate and the parties. Where mistakes may have been made in the drafting of a will or a trust deed, Philip will always be alive to the possibility that techniques for the interpretation of legal instruments will permit a resolution without resorting to costly

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proceedings for their rectification.

Notable Chancery & Trusts cases

- Counsel for the appellants in *Jennison v Jennison & another* [2022] EWCA Civ 1682
Concerning whether an executor with an overseas grant which has not been resealed in England & Wales has standing to issue representative proceedings on behalf of the estate in respect of estate assets situated here.
- Counsel for the appellants in the related appeal on other points in *Jennison v Jennison & another* (HHJ Pearce, Manchester County Court, July 2022).
- Counsel for the claimant in *O'Sullivan v Ing & others* (October 2021, Chancery Division, Birmingham District Registry) a claim under the Inheritance (Provision for Family & Dependents) Act 1975.
- Counsel for the claimant in forthcoming rectification proceedings before HM Chief Land Registrar (and associated breach of trust claims) in relation to a sale by a trustee of settled land while the tenant for life was alive.
- Advising in relation to the trust arrangements applicable to various pre-paid funeral plans (in relation to applications to the FCA for authorisation).
- 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 as to the application of section 21 of the Administration of Justice Act 1982 in relation to the interpretation of a will (avoiding the need for rectification proceedings).
- 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.

Memberships

- APL
- ChBA
- COMBAR
- ConTra

Publications

- Britvic: scheme employer could direct increases lower than RPI on the true construction of the scheme's pension

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- 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]

Awards

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

Recommendations



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