

# ALLEN & OVERY

## Our Pensions Disputes practice

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2019

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Our Pensions Disputes practice specialises in advising on a broad range of pension disputes and has acted on some of the most high profile pensions cases.

The practice is comprised of lawyers from our top tier pensions and litigation practices as well as a full-time pensions disputes specialist. This wealth of expertise and experience allows us to advise on a broad range of pension-related disputes including:

<b>Pension Ombudsman</b> disputes on a wide range of issues from ill-health, to death benefits and overpayments cases	<b>PPF Ombudsman</b> disputes regarding PPF levies	<b>Regulator anti-avoidance powers</b> disputes concerning Financial Support Directions, Contribution Notices and other regulatory powers	<b>High Court actions</b> including rectification cases, applications to court concerning questions about a scheme's governing documentation or the interpretation of pensions legislation, and member disputes
<b>Professional negligence claims</b> acting for and against trustees, employers and pension professionals in relation to a myriad of issues	<b>Alternative Dispute Resolution</b> including mediation	<b>Internal Dispute Resolution Procedure</b> advising on complaints about a wide variety of issues	<b>Financial Ombudsman Service</b> disputes concerning advice in relation to the sale and marketing of individual pension arrangements

Our Pensions Disputes team has acted for all types of pension clients, including trustees, employers, life assurance companies, financial institutions, pension professionals and representative beneficiaries. It prides itself on its commercial approach to potentially contentious issues and, in the vast majority of cases, can assist clients in avoiding formal dispute proceedings.

[www.allenoverly.com/pensionsindispute](http://www.allenoverly.com/pensionsindispute) – your online resource base,  
Winner of 'Education Initiative of the Year' – UK Pensions Awards 2018

## Some of our notable cases

### Scania v Wager [2007]

A successful rectification case brought by our clients and one of the first pensions rectification cases to be resolved by way of summary judgment.

### Danks and others v QinetiQ Holdings [2012]

We successfully acted for QinetiQ in a case concerning the validity of a proposed switch from RPI to CPI for the purposes of pension increases and revaluation.

### Prudential Staff Pensions v The Prudential Assurance Company and others [2011]

We acted for the successful party (Prudential) in a leading case concerning breach of the implied duty of good faith and estoppel. Apart from being a leading authority in this area, the case is also noteworthy for the in-depth research that was required into the scheme's historic documentation and discretionary practices.

### BT Pension Trustee

We've also acted on another significant and complex GMP-related action: an application to the High Court to review the Government's decision on public sector pensions, which also affects the BT Pension Scheme. In particular, this case looked at how increases are applied to the GMP part of certain members' pensions. This will have a significant GBP100m+ impact on the Scheme and affects thousands of BTPS members.

This was a matter that played out on a vast scale. We drafted and organised a consultation with 70,000+ Section A and B members of the BTPS. We used our market-leading Belfast legal services team to collate responses from members in a form we could submit to Court, using cutting edge legal tech tools.

### Lloyds Banking Group Pensions Trustees Ltd v Lloyds Bank plc & Ors

Once every few years there's a case that changes the pensions industry. The Lloyds GMP equalisation case provides clarity after nearly 30 years' uncertainty about whether schemes have to equalise for the effects of unequal guaranteed minimum pensions (GMPs) and, if so, how.

We advised the Trustee of the major Lloyds schemes throughout on strategy, including the initial choice to seek directions from the Court rather than allowing matters to take their course in the Employment Tribunal. As a result the industry now has the Court's answer to that central question – scheme benefits in excess of GMP must be adjusted so that the total benefits received by male and female members with equivalent age, service and earnings histories are equal. We also have guidance on how to do it.

Working alongside the Scheme actuary, we considered and analysed all methods of achieving equalisation and the potential implementation issues with each; we reviewed the Schemes' rules and prepared benefit specifications, and advised on all aspects of the litigation.

In the more public sphere, we prepared and implemented a communications strategy including direct member communications, a new web portal with the latest Court case information, FAQs directed at members, videos from Trustee directors and statements from the Trustee to the press.

The issue is phenomenally complex in both cause and effects, with significant industry-wide implications estimated at up to GBP20bn. It requires outstanding technical knowledge and depth of understanding, the capability to manage a significant Part 8 Court application and, as lead legal advisers, co-ordination of multiple other advisers and parties.

## What does the market say about us?

*“Jason Shaw of Allen & Overy is highly knowledgeable in a wide range of pensions disputes, including rectification and professional negligence claims. He frequently acts for trustees and employers before the courts, Pensions Ombudsman and Regulator.”*

Chambers

*“Jason Shaw of Allen & Overy is commended for his strong litigation skills with respect to pensions disputes. Sources say: ‘He has excellent in-depth knowledge of rectification issues’.”*

Chambers

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FOR MORE INFORMATION, PLEASE CONTACT:

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## GLOBAL PRESENCE

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Allen & Overy is an international legal practice with approximately 5,500 people, including some 550 partners, working in 44 offices worldwide. Allen & Overy LLP or an affiliated undertaking has an office in each of:

Abu Dhabi	Bucharest (associated office)	Ho Chi Minh City	Moscow	Seoul
Amsterdam	Budapest	Hong Kong	Munich	Shanghai
Antwerp	Casablanca	Istanbul	New York	Singapore
Bangkok	Doha	Jakarta (associated office)	Paris	Sydney
Barcelona	Dubai	Johannesburg	Perth	Tokyo
Beijing	Düsseldorf	London	Prague	Warsaw
Belfast	Frankfurt	Luxembourg	Riyadh (cooperation office)	Washington, D.C.
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