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Institute of Actuaries

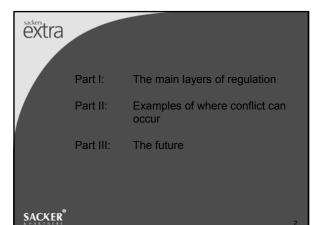
Client Care for Consulting Actuaries

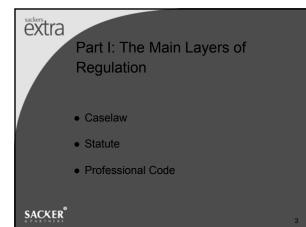
15 March 2005

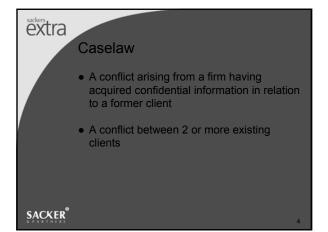
Conflicts of Interest

Katherine Dandy Partner - Sacker & Partners









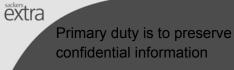
extra Lord Millett in Prince Jefri Bolkiah v **KPMG** • Where the court's jurisdiction is sought by a former client, however, the position is entirely different. The court's jurisdiction cannot be based on any conflict of interest, real or perceived, for there is none. The fiduciary relationship which exists between solicitor and client comes to an end with the termination of the retainer. Thereafter, the solicitor has no obligation to defend and advance the interests of his former client. The only duty to the former client which survives the termination of the client relationship is a continued duty to preserve the confidentiality of information imparted during its SACKER subsistence

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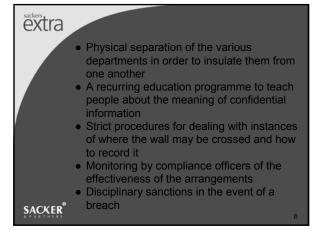
Mr Justice Collins in *Marks and* Spencer v Freshfields

"So far as confidential information is concerned, [there] is obviously a huge amount of confidential information within Freshfields in relation to Marks and Spencer's affairs through acting for it over the three years, some of which may be material to the bid, if only to be discarded. I cannot see, even with a firm the size of Freshfields, that effective information barriers can be put in place given the very large number of people involved, even on the two matters."



- Chinese walls need to be erected
- Need to be put in place at the outset
- Must be an established approach not an ad hoc arrangement
- Good internal conflicts system in place.

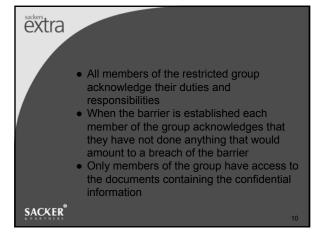
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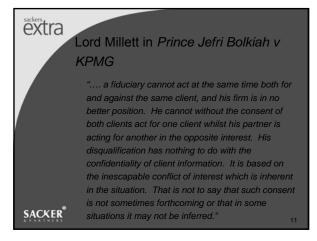


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- The interested client acknowledges in writing that the confidential information held by the firm will not be given to them
- The members of the firm who hold the confidential information (" the restricted group") are identified and have no involvement with the client
 No-one in the restricted group is
- No-one in the restricted group is supervised or managed by someone outside the restricted group

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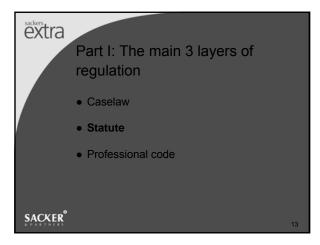
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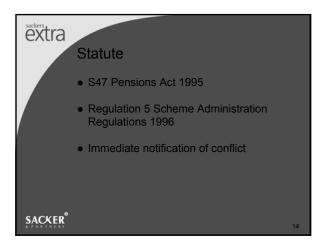
Cannot act for both "without the consent of both clients":

- informed consent
- must still act in best interests of client consent does not undermine this duty
- confidential information

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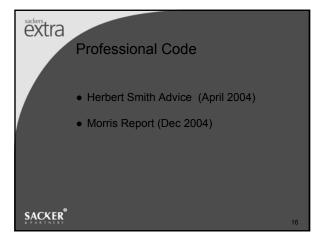
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Professional Code

Section 5

"If there is or might appear to be a conflict of interest between two or more clients of a member or of the member's firm, or a conflict between a client and the member or the member's firm, the member must consider the nature and extent of the conflict and whether it is such as to make it improper for the member to give advice to one or more of the clients involved in the conflict".



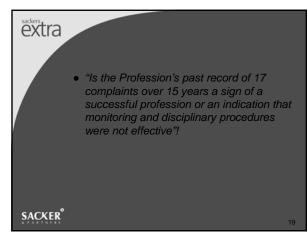
• " Do pension scheme trustees have the expertise and information to question and challenge the advice of the Scheme Actuaries? In the absence of effective challenge from the trustees are Scheme Actuaries effectively making policy decisions by default on the distribution of benefits between different generations of pensioners and on funding strategies?"

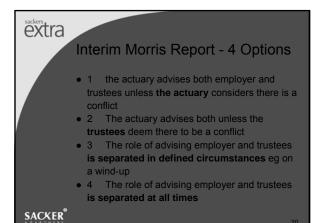
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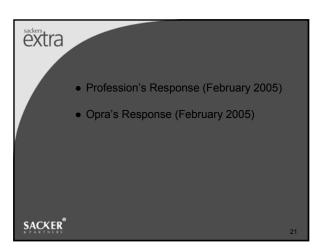
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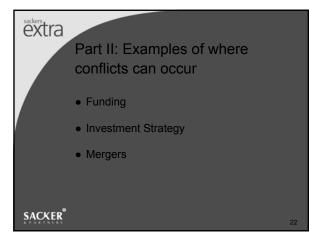
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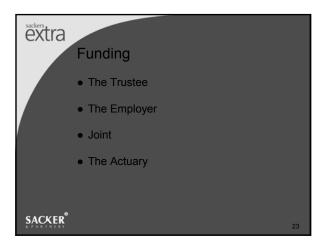
• "To whom should the Scheme Actuary be accountable? What will be the effect of the intended removal of the minimum funding requirement on the potential for conflicts of interests if the same Scheme Actuary is advising both the trustees and the pension scheme sponsor? Is there a need for a separation of these roles?"

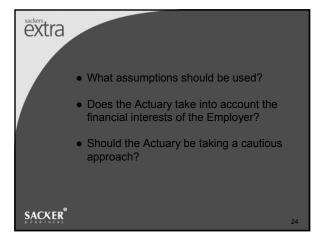


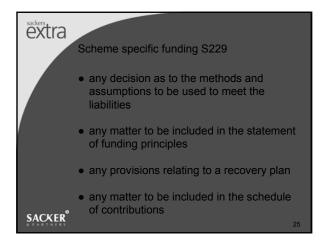


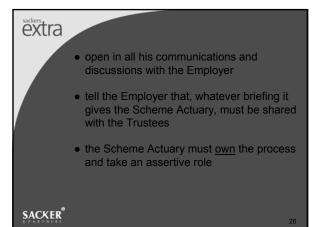












ëxtra Investment Strategy

- Traditional tensions between Employer and Trustee
- Winding up Regulations and Pensions Act 2004 new powers to Trustees
- Same principles openness, transparency

