


	<p>Shepherd+ Wedderburn</p> <p>Pensions: Current Legal Issues</p> <p>LOUISA KNOX</p>
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	<p>Current Legal Issues:-</p> <ul style="list-style-type: none"> • Pensions Act 2004 • TUPE • Caselaw
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	<p>Pensions Act 2004</p> <ul style="list-style-type: none"> • Pensions Act <ul style="list-style-type: none"> – enacted 18 November '04 – late '04 – draft regulations for consultation – timetable of implementation now issued
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The Pensions Regulator

- New kind of regulator?
- OPRA's powers and new powers
- Lighter regulatory touch?



The Pensions Regulator

- Objectives
 - protect benefits
 - reduce risk to PPF
 - promote understanding of good administration of pension schemes



The Pensions Regulator

- Codes of practice
- Improvement notices
 - remedial action
 - timescales

	<h3 style="text-align: center;">The Pensions Regulator</h3> <hr/> <ul style="list-style-type: none"> • New powers <ul style="list-style-type: none"> – contribution notices – financial support directions – freezing orders – restoration orders – prohibition orders – “fit and proper”
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	<h3 style="text-align: center;">The Pensions Regulator</h3> <hr/> <ul style="list-style-type: none"> • Key Powers <ul style="list-style-type: none"> – Contribution notices (6 April 2005) <ul style="list-style-type: none"> • Act or omission on/after 27 April 2004 • Notice issued to “person” that liability to pay • “Person” was party to act or failure to act with main purpose:- <ul style="list-style-type: none"> – prevent recovery of statutory debts – (not good faith) – prevent debt becoming due or reduce/compromise debt – ‘Person’ is employer, or connected to employer – Clearance statements
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	<h3 style="text-align: center;">The Pensions Regulator</h3> <hr/> <ul style="list-style-type: none"> • Financial support directions (6 April 2005) <ul style="list-style-type: none"> – Direction to meet pension liabilities within a group of companies – Issued where employer in relation to scheme is: <ul style="list-style-type: none"> • A service company; or • Insufficiently resourced – Issued to – employer or associate of employer or connected to employer – Clearance statements
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	<div>Trustees</div> <hr/> <ul style="list-style-type: none"> • One-half MNTs – 6 April 2006 (2007?) • No opt-out • More flexible
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	<div>Trustees</div> <hr/> <ul style="list-style-type: none"> • MNT arrangements must be in place within reasonable period • Selection process within reasonable period • Repeated until slots filled • MNTs scheme members unless employer consents • Enforcement
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	<div>Trustees</div> <hr/> <ul style="list-style-type: none"> • Knowledge and understanding • Familiar with <ul style="list-style-type: none"> – scheme documentation – SIP / SFP – other trustee policy documents
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	Trustees
	<ul style="list-style-type: none"> • Must know and understand <ul style="list-style-type: none"> – pensions and trust law – principles governing pension scheme funding – principles governing investment • No penalties but improvement notices

	TUPE
	<ul style="list-style-type: none"> • Pensions exception • <i>Beckmann/Martin</i> • Pensions Act 2004 – April 2005 • DB <ul style="list-style-type: none"> – reference scheme test • DC <ul style="list-style-type: none"> – 6%

	Scheme Amendments
	<ul style="list-style-type: none"> • Scheme Amendments <ul style="list-style-type: none"> – Consultation prior to major/significant changes (April 2006) – Modification of pension rights (April 2006) <ul style="list-style-type: none"> • Protected modifications • Detrimental modifications • Consent requirements • Actuarial equivalence

	<p style="text-align: right;">Miscellaneous</p> <hr/> <ul style="list-style-type: none"> • Transfers – 3 months' pensionable service • Pension disputes – one stage procedure (September 2005) • Adoption and paternity leave (April 2005)
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	<p style="text-align: right;">Caselaw</p> <hr/> <ul style="list-style-type: none"> • Ombudsman – Ill health cases • Kelly v Mersey Docks and Harbour Co
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