

A legal mind in a changing pensions world

➤ From founding a pioneering legal practice and advising governments to championing trusteeship and tackling regulatory overreach, Robin Ellison sits down with Francesca Fabrizi to look at the past, present and future of the pensions landscape



Robin Ellison

Your career spans both UK and international pensions law, and you've also served as a trustee for various pension schemes. Could you give us a brief overview of your pensions journey?

'Journey' suggests there was a plan, which there has never been. I was

fortunate to be given a series of lucky breaks, first by failing my A-levels and avoiding university, so that I had no option but to pass my solicitor's finals if I wanted to earn a living. Second, in having a father who was also a solicitor and encouraged me to write; then in having a mentor (who later became a Supreme Court judge) who accepted me for a Cambridge fellowship despite my lack of qualifications and so on. Finally, when I started my own practice in London, within a month I was blessed through a series of happy accidents by gaining two amazing clients: The then

major industrial company ICI, and the privatisation of the water industry. Being an imposter was not merely a syndrome in my case, and I also took some false turns into exploring careers in the rabbinate and in being a professional sailor. But I have just been unbelievably fortunate in the timing of opportunities and in meeting people

who were generously supportive: My wife, my family, my friends and professional colleagues.

➤ Looking back, what have been the standout moments of your career?

Again, 'career' gives it too much standing. But moments include being given the opportunity in Cambridge to write the first legal pensions textbook, then being given a monthly legal column for 40 years in a now-deceased trade periodical, and then starting the first pensions-only boutique law practice. I have also acted for several governments, including the UK, in a matter where getting the pensions issue wrong could have led to war. I chaired what is now Pensions UK, and with a friend founded the Association of Pensions Lawyers – and very nearly succeeded (but failed) in dealing with HMRC to create a simple tax pension system. I also established the first 'pensions freedom' insurer, London & Colonial, as a SIPP and annuity provider many years ago. And I wrote the original specification for OPDU, now the leading trustee defence organisation. Both successes and the many failures (which I have now forgotten) have all been both fun and instructive.

➤ And what have been the most significant challenges you've faced along the way?

There have been both technology and financial challenges common to many UK startups. The Perspective Pendragon

system, which I started with a friend of mine, Simon Freeman, (probably a little too early before the internet was up and running) was saved by broadband and some technology developed in the US; while starting London & Colonial was faced with the challenges of incessantly changing government policy and the nightmare of finding funding. Pendragon was nearly killed by the government's stated intention to simplify the pensions legislative framework at the time (hollow laughs are permitted), and London & Colonial nearly died by the change of a few words in the tax legislation. And in trusteeship, managing the Carillion episode, which was a company with an allegedly underfunded pension scheme – and which became a political football a few years ago – was educative and gave me additional political skills. Then, when starting my law practice, a major client (the major client) gave us the contract after a beauty parade, subject to inspecting our offices – and we didn't have an office or even notepaper. Fortunately, they forgot about the inspection, and we later won a design award for our letterhead – a minor triumph.

➤ **How has the UK pensions landscape evolved during your time in the industry?**

Obviously, the move from DB to DC has and is being transformative. The changes have been a curate's egg: The revolution in scheme design has been driven partly by economics and demographics, but also by well-meaning but adverse regulation in the accounting and compliance spheres. Nor were the old days utopian: DB coverage was patchy, transfers and inflation protection were uncertain etc. Nonetheless, with only modest government intervention, employers had built, provoked only by the market and paternalism, a pretty decent workplace pension system. But nowadays we have been in danger of making the best the enemy of the good;

every Pensions Minister wishes to leave their mark like a dog on a tree. To have 6,000 pages of HMRC rules, and 200,000 pages of regulation and legislation etc, is clearly overkill – and only some small part of it can demonstrate any improvement in member outcomes as a consequence. We also struggle with poorly trained and over-zealous regulators.

➤ **In your opinion, what does the pensions industry need to remain strong and sustainable in the future?**

The demographics suggest that half the newborns will live to 100. It seems improbable that an old-age pension system can cope with providing a retirement income for 30 years; at the same time moving a pension age to say 80 would be tough for manual workers. We are going to need to move from old-age pensions to disability pensions, with the expectation of society that most of us will need to work as long as we are able, but will enjoy incapacity pensions when we need them. No one, and that includes especially government, knows how the system will develop – but it needs to be allowed to change subject to minimal

interference to meet changing market and demographic conditions.

➤ **You've authored several books, most recently the 8th edition of**

***The Pension Trustee's Handbook*, in collaboration with the PMI. Could you tell us more about this resource?**

There wasn't a suitable text available for those wanting to gain the PMI trustee qualifications – and the seventh edition was over 15 years old and horribly out of date. What came as a bit of a shock when writing it was the degree of change in that time and the amount of stuff that trustees theoretically needed to know about. The book was written to comfort trustees that they shouldn't feel intimidated, to encourage them to accept they could not know everything (and were not expected to know everything) and to be happy to act as lay trustees rather than professionals, contrary to TPR expectations. It is hopefully written in simple but adult language and gives details of resources for those who have particular interests.

➤ **Finally, what would you say to someone who was thinking about becoming a trustee?**

The point of the book was to take the disquiet away from being a trustee, and to encourage trustees to rely on advisers wherever possible. Being a lay trustee is a form of public good, like a parish councillor, magistrate or charity trustee, and should be thoroughly encouraged. In real life there is not much to be apprehensive about – but ensuring there is proper protection both in the trustee documentation and through dedicated insurance (which should continue to provide cover even after retirement) is essential.

➤ **Written by Francesca Fabrizi**

