

Trustees of employee benefit trusts advised to take legal advice after Rangers ruling

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Trustees of employee benefit trusts faced with attempts to recover money following the Rangers ruling last month should take legal advice before taking any action, says trusts specialist Katherine Neal.

Katherine, a Counsel in Ogier's Jersey private client and trusts team, said that following July's Supreme Court ruling in favour of HMRC over the former owners of the football club, many employers who had established employee benefit trusts (EBTs) were facing enforcement notices in respect of income tax and National Insurance contributions.

Employers were in some cases claiming that the liability fell on the EBTs themselves, or even the former and current employees who are meant to benefit from them.

Katherine said that in all cases, trustees should take clear advice from English counsel and from lawyers qualified in the law of the jurisdiction governing the trust.

"The circumstances of each individual case will be different, depending on the wording of the trust documents," said Katherine.

"What we have seen is that these trusts have been set up very differently with different approaches to the trust deeds which affect the positions in terms of rights of restitution, and whether sponsoring employers are specifically prohibited from benefitting from the assets of the trust.

"Advice should be sought, at a minimum from English Counsel, but also from lawyers qualified in the law of the jurisdiction that governs the trust."

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