

Rachael O'Hagan

Call: 2006

"Rachael is a joy to work with. She is extremely personable, has good instincts and is superb on her feet."

Chambers & Partners UK Bar 2024



Clerk Details

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Practice Overview

- Described as : "an extremely bright and effective advocate, and a real hit with clients"; "very intellectual, she gets to the heart of a dispute quickly and is very engaging"; and "unflappable" barrister "who understands the issues straightaway".
- Specialises in high-value construction, engineering, technology, infrastructure, nuclear/energy along with professional negligence and insurance claims related to these sectors. She also acts in public procurement disputes.
- Has a real passion for oral advocacy at trials and evidentiary hearings, which is reflected in the client comments published in the legal directories (see the Recommendations section below). Her clients are domestic and international, and she has a wealth of experience in the English Courts and also representing parties under various international arbitral rules, including: ICC, LCIA, DIFC-LCIA, UNCITRAL and DIAC.
- Recommended in leading UK and Global directories, including for her work in construction, international arbitration, professional negligence and procurement. Reflective of her practice, nominated as "Junior of the Year" at the 2023 Legal 500 UK Awards and International Arbitration Junior of the year in 2019. Also, recognised as a Future Leader in the WWL

Global Guide and appears in the Lexology Index Thought Leaders: Global Elite 2024.

- Advises clients on all forms of commercial dispute resolution and has represented clients in mediations (including under the Court Scheme), adjudications and disputes under the Railway Industry Dispute Rules. She has been appointed as the legal nominee on a Dispute Advisory Board and is also a TECBAR Adjudicator. Also represented a Corporate Core Participant as part of the Grenfell Inquiry.
- Contributes to various construction legal texts, including: two chapters of Keating on Construction Contracts.

Practice Areas

Construction & Engineering

- Instructed in heavy-weight multi-party TCC litigation, including:
 - Acting for the owner of a space rocket testing facility in defending high-value claims from a prospective tenant (+£70m) and passing on claims to a professional design/construction team.
 - Acting for a project manager/Employer's Agent in relation to complex design and construction issues affecting a pig abattoir (listed in The Lawyer's Top 20 Cases of 2021).
 - Acting for a structural, mechanical and electrical engineer in the Standard Life Litigation.
 - Acting for an employer in relation to construction/design/payment claims arising in connection with a care/retirement community.
- Numerous multi-million-pound final account disputes in (TCC, arbitration and adjudication), involving (for example): leisure centres, residential homes, student accommodation, tower blocks, MOD sites, railway infrastructure.
- Acting for parties in cases concerning fire and fire/cladding defects and the Building Safety Act/Defective Premises Act including:
 - Advising parties on all aspects of disputes Building Safety Defects.
 - Representing a Corporate Core Participant in the Grenfell Inquiry, Phase 1.
 - Acting in two related sets of TCC proceedings arising out of a fire which broke out at a warehouse causing substantial losses.
- Instructed on TCC work, including:
 - Representing a claimant owner in TCC proceedings concerning (non-fire) defective render system on multiple tower blocks.
 - Acting for parties PFI disputes concerning end of contract issues.

- Representing a claimant owner in a multi-party TCC dispute (sole counsel) concerning an escape of water at a sewage treatment plant.
- High-value TCC proceedings relating to construction defects and claims under collateral warranties.
- Instructed by home owners and high net worth individuals in relation to construction disputes, including: termination; variations; final account; formation of contract etc.
- Instructed on construction arbitrations, including:
 - Successfully representing (sole counsel) an employer in a two-week evidentiary hearing concerning disputes (delay, payment and commercial, with a value of €150m) arising in relation to a major PPP infrastructure project.
 - Representing a supplier (sole counsel) in a 5-day (international) arbitration hearing concerning disputes about electrical equipment supplied for a cooling plant, and a 2-day arbitration hearing on delay and quantum.
 - Representing a main contractor (sole counsel) in a 5-day international arbitration hearing concerning mechanical and electrical works to a car park.
 - Arbitration (domestic) proceedings on a multi-million-pound construction dispute concerning payment issues and delay and disruption claims.
 - Domestic arbitration (5-week hearing) concerning a final account dispute and issues arising following termination of a sub-contract.
- Domestic arbitrations in relation to constructions disputes arising in connection with a nuclear facility.
- Instructed in connection with engineering disputes concerning (for example): bridges, piles, sea walls, mechanical and electrical issues; corrosion; geotechnical design.
- Adjudications concerning disputes arising under major facilities contracts and in relation to termination/final account/payment disputes.
- Member of dispute avoidance board (DAB) for major infrastructure projects.

Offshore Construction and Marine Engineering

- Successfully representing (sole counsel) an EPC contractor at a two-week international arbitration hearing concerning a de-salination plant.
- Representing supplier in defending claims (TCC proceedings) brought against it in connection with a performance warranty and works carried out at a hydro-power facility.
- £30m insurance coverage dispute (sole counsel) concerning construction works for a quay wall.
- Significant dispute concerning the expansion of existing harbour facilities in Africa.
- Acting for major international telecommunications organisation in relation to a dispute (TCC proceedings) concerning a sub-sea fibre optic cable in Indonesia.

- Lengthy proceedings (arbitration) concerning the construction of a nuclear jetty facility.
- High-value arbitration relating to the design/construction of a LNG jetty facility in South America.

Domestic / International Arbitration

- ICC arbitration (English law, English Seat)– instructed (sole counsel) by an EPC contractor at a two-week hearing concerning a de-salination plant. Issues in dispute included: delay, payment and final account issues.
- ICC arbitration (Slovak law, Vienna Seat) –instructed (sole counsel) by an employer in relation to a two-week hearing concerning a €150m infrastructure dispute. Issues in dispute concerned delay, financial relief and claims for compensation.
- UNCITRAL arbitration – instructed (sole counsel) in relation to proceedings concerning points of principle on the proper interpretation of the contract.
- UAE, ICC arbitration (UAE law, Dubai Seat) –instructed (sole counsel) by a main contractor in relation to electrical/payment disputes with a sub-contractor.
- ICC arbitration (English law, London Seat) –instructed (junior counsel) by EPC contractor in relation to design/construction defects and payment disputes.
- ICC arbitration (English law, Geneva Seat) – the disputes concerned complex design and engineering issues.
- ICC arbitration – instructed in respect of delay and payment disputes concerning a project in West Africa.
- UAE, DIFC-LCIA arbitration (UAE law, Dubai Seat) – instructed as sole counsel at 5-day hearing.
- UAE, DIAC arbitration (UAE law, Dubai Seat) – instructed multiple arbitrations as sole counsel in relation to construction disputes.
- Domestic arbitration - AMEC Group Ltd v Secretary of State for Defence (2013) (as a junior), acted for SSD and successfully successfully resisted AMEC's application pursuant to section 69 of the Arbitration Act 1996 for permission to appeal against the majority decision of an arbitral dispute review board.
- Domestic arbitration - Proceedings in the TCC (Secretary of State for Defence v Turner Estate Solutions Ltd (2014) brought under section 68 of the Arbitration Act 1996 where the claimant challenged an arbitral award on the basis of serious irregularity.

Adjudication

- Representing parties in various multi-million pound adjudications concerning disputes arising under major facilities contracts and in relation to termination/final account/payment disputes.
- Acting (junior counsel) for a major employer organisation which successfully defeated (in its entirety) a claim brought by a contractor for some £40m. Also, instructed in respect of a directions/jurisdiction hearing as sole advocate.
- Acted (junior counsel) for the defendant and successfully defended a contractor's claim for a multi- million-pound payment.

- City Basements Ltd v Nordic Construction UK Ltd (Unreported, 14 April 2014) – successfully enforced (sole counsel) an adjudicator's decision in the TCC. The case also considered relief from sanctions in the context of an adjudication enforcement timetable.
- *Lanes Group v Galliford Try Infrastructure Ltd* (2011) – instructed as a junior in the Court of Appeal proceedings.
- Multi-million-pound delay and disruption dispute which was referred to adjudication.
- Various disputes referred to adjudication under NEC3 and NEC4.
- TECBAR Adjudicator.

Professional Negligence

- Instructed on heavy-weight construction disputes concerning professional negligence issues (see, Construction & Engineering Section above).
- Multi-million-pound professional negligence claim concerning a train derailment and liability for the design of railway infrastructure.
- Multi-million-pound professional negligence case involving design issues and termination disputes on a substantial leisure complex.
- Instructed in respect of various cases concerning fire-stopping defects and negligent design regarding fire / smoke safety issues.
- TCC proceedings concerning defective render system on multiple tower blocks.
- Court of Appeal proceedings on important issues concerning the scope of a sub-sub-contractor's duty of care and liability for economic loss in tort: *Southern v How Engineering* (2010).

Rail Infrastructure

- Appointed as legal representative on Network Rail's Dispute Avoidance Panel.
- Acted (sole counsel) in respect of a derailment and proceedings brought under the Railway Industry Dispute Rules.
- Arbitration concerning a final account dispute in relation to works carried out at a railway depot.
- Procurement disputes concerning major railway franchising contracts.
- Advising in respect of limitation and defects arising in relation to substantial railway contracts.

Nuclear and Energy

- Advised on disputes (sole counsel) concerning the decommissioning of a nuclear power plant and attending hearings.
- Acted (junior counsel) in connection with disputes concerning a Liquefied Natural Gas (LNG) Terminal.
- Acted (junior counsel) in connection with disputes concerning a construction project at a nuclear site.
- Acted (junior counsel) in connection with project with complex nuclear related design issues.

- Proceedings concerning the construction of power plants (hydro, electric, nuclear).
- Advised (junior counsel) in respect of claim concerning the proper interpretation of an oil and gas contract.

Procurement

- Acting (junior counsel) for an unsuccessful bidder in connection with the provision of communications and other technological support/equipment for emergency response vehicles. The litigation also concerned allegations relation to breaches of contract, misfeasance in public office and conspiracy.
- Acting (junior counsel) for an unsuccessful tenderer in connection with challenges arising out of the tender for property management related services and in relation to an application to lift an automatic suspension (Kellogg Brown & Root Limited v MOPAC & MPS [2021] EWHC 3321 (TCC)).
- Instructed (junior counsel) on behalf of the government in the high-profile public procurement dispute concerning the 2019 Railway Franchising Litigation ([2020] EWHC 1568 (TCC)). The case was recognised by the Lawyer as being in the Top 20 cases of the year.
- Instructed (junior counsel) on behalf of the government in the high-profile public procurement challenge concerning the procurement of diagnostic software for the mass testing of COVID-19.
- Junior counsel for a contractor in a public procurement dispute concerning the provision of medical services.

Commercial Law

- In relation to bonds:
 - Claims on bonds.
 - Claims for sums due under bonds.
 - Advising in connection with bonds.
- Substantial commercial dispute which turned on the proper construction of a contractual payment mechanism.
- Impact of the Bribery Act 2010 on international commercial transactions.

Property

- Rights to light dispute in the TCC/advised developers in relation to various rights to light issues.
- Metropolitan Housing Trust Ltd v RMC FH Co Ltd (2017) – A case which resulted in substantial commentary in the fields of rights to light and property disputes and was identified as being in the top 10 most important property cases of 2017.
- Property disputes including property damage, nuisance claims, interpretation of leases and contractual claims.

Reported Cases

- Standard Life Assurance Limited v Gleeds [2021] EWHC 2081 (TCC)
- Kellogg Brown & Root Limited v MOPAC & MPS [2021] EWHC 3321 (TCC)
- 2019 Rail Franchising Litigation [2020] EWHC 1568 (TCC)
- AMEC Group Ltd v Secretary of State for Defence EWHC 110 (TCC); [2013] All ER (D) 93 (Feb)
- Metropolitan Housing Trust Ltd v RMC FH Co. Ltd [2017] EWHC 2609 (Ch)
- City Basements Ltd v Nordic Construction UK Ltd 27 June 2014 (summary reported on Westlaw) (unreported, 14 April 2014, TCC).
- Secretary of State for Defence v Turner Estate Solutions Ltd [2014] EWHC 244 (TCC)
- Lanes Group Plc v Galliford Try Infrastructure Ltd (t/a Galliford Try Rail) [2011] EWCA Civ 1617; (2012) CILL 3116; [2012] Bus LR 1184, 141 ConLR 46, [2012] BLR 121, [2012] 13 Estates Gazette 92, [2011] All ER (D) 179 (Dec)
- Lanes Group Plc v Galliford Try Infrastructure Ltd [2011] EWHC 1696 (TCC) 137 Con LR 1 also Court of Appeal [2011] EWCA Civ 1617
- Southern Insulation (Medway) Ltd v How Engineering Services Ltd & How Group Ltd [2010] EWCA Civ 999; [2010] ALL ER 99 (Aug)

Other information

Education & Professional Career

- TECBAR Committee Member – (ongoing appointment)
- TECBAR Adjudicator 2020
- Keating Chambers, Barrister 2019
- 39 Essex Street, Barrister 2009 – 2019
- Called to the Bar 2006
- Bar Vocational Course, Nottingham Law School (Very Competent): 2005-2006
- LLB, Law with French, Birmingham University (2.1 (Hons)): 2001-2005
- Diplôme d'Etudes Juridiques Françaises, L'Université de Limoges: 2003-2004

Memberships

- Society of Construction Law

- TECBAR
- COMBAR

Seminars & Publications

Publications:

- Keating on Construction Contracts
- *"Construction Law, Costs and Contemporary Developments: Drawing the Threads Together – A Festschrift for Lord Justice Jackson"*, Edited by Julian Bailey (2018)
- Wilmot-Smith QC on Construction Contracts (3rd Edition) – Contributor, Oxford University Press (2014)
- The Law of Waiver, Variation and Estoppel, Sean Wilken QC and Karim Ghaly, 3rd Edition OUP 2012 (assisted with research)
- Knowing your rights to light, by Rachael O'Hagan, (October 2009)
- RICS Case in Point: Rights to Light, by Sarah Hannaford Q.C., Jessica Stephens and Rachael O'Hagan (October 2008)
- L' expert et le tribunal en Angleterre: Les réformes Post-Woolf, by Dr. Robert Gaitskell Q.C and Rachael O'Hagan (2007)
- Efficiency Drive (2007) N.L.J 837 (contributor)
- Assisted with research for the First Supplement to Keating on Construction Contracts (8th Edition)
- Assisted with the commentaries for the Construction Law Reports
- Assisted with the editing of Halsbury's Laws of England, Volumes 19 (1) to (3) on Fuel and Energy

Recent Seminar Topics

- Current Hot Topics in Public Procurement
- Common Pitfalls in International Arbitration
- Issues arising in International Arbitration – Civil Code vs Common Law Code
- Energy Disputes
- Contract Interpretation
- Interactive adjudication workshops
- Discussing issues that arise with Expert Witnesses
- JCT vs NEC
- Rights to light disputes

Articles

- Oops! Sent out the wrong attachments to the contract? A helpful reminder of when you can claim rectification, Practical Law (2017)
- But what about my adjudication costs? Practical Law (2016)
- Beware: the TCC takes a hard line to relief from sanctions in adjudication enforcement proceedings (2014)

Recommendations

"Rachael's open but no-nonsense manner means that she builds good rapport with the tribunal and even opposing counsel. She is particularly effective at sorting the wheat from the chaff, and only cross-examining on the points that really mattered."

Construction, Legal 500 UK Bar 2025

"She is able to dive into very complex matters really quickly."

Construction, Chambers & Partners UK Bar 2025

"Rachael possesses an impressive ability to quickly grasp and navigate complex legal challenges, process vast amounts of information and articulate this in a manner that is both concise and persuasive."

Construction, Chambers & Partners UK Bar 2025

"Rachael has the ability to pick up detail very quickly and she has a pragmatic approach."

Construction, Chambers & Partners UK Bar 2025

"Rachael is meticulous in her analysis of fact and evidence, and very pleasant to work with."

Construction: Professional Negligence, Chambers & Partners UK Bar 2025

"Rachael O'Hagan does an absolutely fantastic job building rapport with a tribunal."

International Arbitration: Construction/Engineering, Chambers & Partners UK Bar 2025

"Her professional demeanour is matched by her personal integrity, making her an asset in any legal project."

International Arbitration: Construction/Engineering, Chambers & Partners UK Bar 2025

"Rachael's insights are invaluable, reflecting her profound understanding of the field."

International Arbitration: Construction/Engineering, Chambers & Partners UK Bar 2025

"She is tremendously fun to work with, but she's also able to dive into very complex matters really quickly and then present the case to a tribunal incredibly effectively."

International Arbitration: Construction/Engineering, Chambers & Partners UK Bar 2025

"Rachael is a great team player and a technical expert in her field."

Public Procurement, Chambers & Partners UK Bar 2025

"She is very thorough."

Professional Negligence, Legal 500 UK Bar 2025

"Really good to work with, hardworking, and excellent written advocacy."

Public Procurement, Legal 500 UK Bar 2025

"She is very accessible and can convert highly technical information to make it user-friendly."

Public Procurement, Chambers & Partners UK Bar 2025

"She has excellent written drafting skills."

Public Procurement, Chambers & Partners UK Bar 2025

"A diligent and bright junior."

Public Procurement, Legal 500 UK Bar 2024

"Easy to work with; thorough and conscientious."

Professional Negligence, Legal 500 UK Bar 2024

"Rachael is a joy to work with. She is extremely personable, has good instincts and is superb on her feet."

International Arbitration, Legal 500 UK Bar 2024

"Rachael is collaborative but also clear and directive; a flexible advocate who adapts her style as required for the circumstances. As an advocate, she builds rapport with the tribunal, the witnesses and even the other side."

Construction, Legal 500 UK Bar 2024

"Rachael is incredibly hard-working, a real team player, and someone who produces excellent written submissions."

Public Procurement, Chambers & Partners UK Bar 2024

"Rachael sees the case as a whole, focusing on the most important points and achieving the outcome the client wants."

Construction, Chambers & Partners UK Bar 2024

"Rachael is a joy to work with. She's very smart and good on her feet, and she also works really well with her instructing solicitors."

Construction, Chambers & Partners UK Bar 2024

'Rachael is incredibly easy work with. She integrates fully into the legal team, and combines a sharp mind with excellent interpersonal skills. She is good on her feet, and excellent at building relationships with Tribunals.'

The Legal 500, International Arbitration

'Rachael is incredibly hardworking and has a great mind to get to the heart of the dispute. She is a real team player, gets to grips with detail quickly, and is good on her feet. Her approach is always commercial and practical.'

The Legal 500, Construction

"Excellent team player - arguments are clear and logical. Very personable, and developed rapport with tribunal despite a remote hearing and a language barrier."

The Legal 500, International Arbitration

"Rachael has an affable character and a very sharp mind. She is both able to integrate into the solicitor team and lead on complex technical and legal matters. She is highly recommended."

The Legal 500, Construction

"Rachael is superb - she is one of the best juniors going. She is really down to earth and clients really like her."

Chambers UK Bar, Construction

"Her drafting is excellent - incredibly detailed and frames complex arguments in an unfussy way."

The Legal 500 International Arbitration

"A complete star."

The Legal 500 Professional Negligence

"Highly intelligent and brilliant with clients. She has a strong domestic and international practice."

The Legal 500 Construction

"She is extremely proficient pulling thing together and producing good advocacy." "She produces really good and imaginative arguments."

Chambers & Partners

"Very responsive and a real team player with a can-do attitude."

Chambers & Partners

"An extremely bright and effective advocate, and a real hit with clients."

The Legal 500

"Rachael O'Hagan is a top-rated individual in the construction space, due to her extensive experience in high-profile construction claims and international arbitrations."

Who's Who Legal

"Highly intelligent and brilliant with clients"

The Legal 500

"Gifted junior increasingly instructed in valuable litigation and arbitration for a diverse client base..."

Chambers & Partners

"Calm, thorough and hard-working" junior who impresses peers with her "attention to detail, commitment, and proactive, client-focused approach"

Who's Who Legal
