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GAYNOR CHAMBERS

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Areas of practice

- Infrastructure & Utilities
- Construction & Engineering
- Energy & Natural Resources
- Professional Negligence

Clerks Details

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Practice overview

Gaynor Chambers had a previous career in building surveying and spent several years in the construction industry. Recently described as “a highly knowledgeable and intelligent barrister who combines excellent academic knowledge with strong commercial nous”, Gaynor has been ranked in the directories for construction for over 15 years.

Her construction practice is wide ranging. She regularly appears in the Technology and Construction Court and is experienced in arbitrations under the UNCITRAL, LCIA, ICC and ad hoc rules. Gaynor has dealt with disputes arising out of most standard form contracts, including the JCT, I Chem E and FIDIC forms. She is well versed in adjudication related matters not only as a barrister but also as an adjudicator, having produced over 30 decisions to date.

Water related disputes are a core specialism. Gaynor is the first port of call for one of the largest national water utility companies in the UK. She has extensive experience in disputes arising under the Water Industry Act 1991 and associated legislation, including matters arising out of the exit from the non-household retail market.

A further specialist area is subsidence related matters, ranging from mining subsidence claims to sinkholes, particularly those affecting highways and adjacent areas.

Gaynor’s UK and international energy practice focuses on both upstream and downstream disputes, including matters arising out of new technologies. She is regularly instructed by professional indemnity insurers in claims against Architects and engineers.

Recent Cases

Construction & Engineering

- Advising and acting in various disputes arising out of defectively designed and installed fire resistance measures in public buildings and both social and private housing developments.
- Advising and acting in disputes relating to asbestos releases in public and commercial buildings and other health and safety related matters.
- Numerous final account and extension of time disputes arising out of both standard form and ad hoc contracts including the JCT, NEC, I Chem E and FIDIC forms.
- Appointed as an Adjudicator in over 30 disputes to date.
- Drafting of adjudication notices, referrals and responses, including specific sections on particular legal points.
- 20 years of experience in adjudication enforcement, including *Griffin v Midas Homes Limited* [2002] 78 Con LR 152, [2002] Col 18 No 1 Con LJ 67; *Westminster Building Co Ltd v Andrew Beckingham* [2004] BLR 163; *Air Design (Kent) Ltd v Deerglen (Jersey) Ltd* [2008] BLM Vol.26 No 1 TCC; *YCMS Ltd v Grabiner* [2009] EWHC 127 (TCC); *Viridis UK Ltd v Mulalley & Co Ltd* [2014] EWHC 268 (TCC); and *Babcock Marine (Clyde) Ltd v HS Barrier Coatings Ltd* [2019] 6 WLUK 448, [2019] BLR 495, [2019] C.L.Y.559.
- Advice on bonds and guarantees. Gaynor appeared as junior to Marc Rowlands QC in *Simon Carves Limited v Ensus UK Limited* [2011] EWHC 657 (TCC); [2011] B.L.R. 340; 135 Con. L.R. 96 and has extensive experience in relation to bond calls both in the UK and abroad, most recently appearing in *A2 Dominion Developments v J-Ross Developments Limited* [2018] EWHC 1159 (TCC).
- Acting and advising in a number of cases about the design and construction of hotels.
- Advising in various tunnel related disputes, ranging from the supply of concrete rings to the discovery of unforeseen ground conditions.
- Acting as junior counsel in a claim concerning defective design of a UK secondary wastewater treatment plant (£85 million claim), using Biological Aerated Filters. Advisory work, settled pleadings, and appeared as sole counsel at interlocutory hearings.
- Acting and advising in a claim arising out of the defective design and construction of membrane bioreactors.
- Four-day hearing arising out of the defective design of an on and offshore desalination plant (arbitration pursuant to the Rules of Arbitration of the Abu Dhabi Commercial Conciliation and Arbitration Centre). Acted as sole counsel against a silk and junior for a Korean client.

“Her understanding of the industry is second to none
and her advocacy again is first class”

Chambers and Partners 2020

Infrastructure & Utilities

- Acting for statutory undertakers in various arbitrations relating to the scope of Schedule 12 compensation following the exercise of statutory undertakers’ pipe laying powers pursuant to sections 158 and 159 of the Water Industry Act 1991 (“WIA 1991”).
- Acting for statutory undertakers and claimants in disputes arising out of section 209 WIA 1991, including *Mortimore v United Utilities Water Limited* (Unreported, 13th July 2018), in which the Claimant claimed almost £1.5 million as damages arising out of flooding at business premises. The net liability of the Defendant was found to be £8,545.
- Acting for the Intervener in *Rochdale Boroughwide Housing Limited v Esther Izevbigie, United Utilities Water Limited (Intervener)* 2017 EWHC 790 (CH), one of a series of cases arising out of the Water Resale Order 2006 and water service charges levied on social tenants by housing associations and local authorities following *Jones v Southwark Council* [2016] EWHC 457 (Ch). The Judge held that there was no assumption

of responsibility by the Claimant to pay charges directly to the Intervener and that the underlying agreement was concerned with the Claimant's right to collect money owed by the tenants to the Intervener, distinguishing that underlying agreement from the one considered in Jones.

- Acting and advising on statutory undertakers' common law and other rights in relation to easements and wayleaves, including overbuilding and injunctions.
- Acting and advising on various matters arising out of the Water Supply (Water Fittings) Regulation 1999.
- Advising on the implications of the private sewer transfer regulations.
- Advising on the scope of statutory undertakers' proactive and reactive maintenance obligations.
- Advising on the duty to provide sewers pursuant to section 101A WIA 1991, including dealing with referrals to the environment agency and advice on judicial review arising out of any such referrals.
- Advising in relation to the matters arising out of retail exit and the withdrawal from the non-household retail market.
- Advising in relation to the responsibility of various parties for the maintenance of laterals and risers in tower blocks.
- Advising a gas transporter in relation to damage to a gas main caused by construction works and, in particular, the scope of damages available following such damage.
- Advising on product liability issues arising out of defective gas regulators.

Gaynor has also acted and advised in relation to disputes between arising under the provisions of the New Road and Street Works Act 1991, including:

- reinstatement disputes pursuant to section 71 and/or the Street Works (Reinstatement) Regulations 1992;
- failure by an undertaker to adequately identify the measures required in relation to apparatus pursuant to section 84;
- disputes as to liability pursuant to section 82 NRSWA 1991;
- disagreements in relation to cost sharing pursuant to section 85 of the Act and/or the Street Works (Sharing of Costs of Works) (England) Regulations 2000;
- the interpretation of specific paragraphs of the Street Works (Recovery of Costs) (England) Regulations 2002;
- references to HAUC and to arbitration.

“Knows the water and wastewater industries like the back of her hand, she is a real grafter; very smart and retains a great sense of humour”

Chambers & Partners 2018

Professional Negligence

- Acting for and advising geotechnical and civil engineers in relation to disputes arising out of defective foundations, subsidence and/or landslip.
- Sole and junior counsel in various Architect's negligence cases, ranging from domestic extensions to large scale commercial and public developments.
- Sole counsel and junior in various engineering related disputes, in particular those arising out of deficiencies in the provision of chemical engineering services.
- Advising and acting in arbitrations relating to the scope of cover under professional liability insurance policies.

“Impressive senior junior, particularly in respect of complex technical and engineering related litigation”

Legal 500 2021

Energy & Natural Resources

- Advising and acting in a dispute arising out of defective high voltage equipment at an oil refinery, and the effects of a flashover caused by that defect (including loss of production).
 - Junior in \$100m dispute related to a gas processing plant in the Middle East.
 - Three week TCC trial in relation to dispute arising out of piping works at a UK biofuel plant (ICChemE Red Book).
 - Junior in a £9m dispute (and 28 day TCC trial) concerning process and vibration issues on a North Sea oil platform.
 - Advice on disputes related to the construction and operation of wind turbines under contracts ranging from £500,000 to several million pounds.
 - Advising on disputes arising out of Production Sharing Agreements in Indonesia and Eastern Europe.
 - Advising in relation to commissioning and recovery of a North Sea oil platform.
 - Junior in a £10m dispute related to an innovative gas turbine in the UK.
 - Junior in adjudication relating to defective design of bioethanol plant (amended ICChemE Red Book).
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“Very detailed and forensic.”

Chambers & Partners, 2019

Mining and Subsidence

- Advising in relation to compensation claims pursuant to the Coal Mining Subsidence Act 1991. Gaynor recently acted for the Claimant in *Ian White v Coal Authority* [2018] UKUT 134 (LC), in which the Claimant recovered the costs of demolition and rebuilding of a house which had noticeably tilted as a result of coal mining operations.
- Advising in relation to a mining surveyor’s negligence and/or breach of duty under the Mines and Quarries Act 1954 and the Management and Administration of Safety and Health in Mines Regulations 1993, and mining subsidence claims under the Coal Mining Subsidence Act 1991.
- Appeared as a junior in *Mason v The Coal Authority* (QBD, 15/3/2001, unreported) dealing with the Coal Authority’s liability in negligence when preparing reports on mineshafts and adits.
- Advising and acting in various cases concerning damage arising out of sinkholes, in particular those concerning the effect of leaking or broken water pipes on subsidence to the highway.
- Advising and acting in various cases arising out of subsidence caused by defectively designed or constructed foundations.
- Advice on disputes relating to contaminated land.

Selected Reported Cases

- JSM Construction Ltd v Western Power Distribution (West Midlands) Plc [2020] EWHC 3583 (TCC); [2020] 12 WLUK 448.
- Babcock Marine (Clyde) Ltd v HS Barrier Coatings Ltd [2019] EWHC 1659 (TCC); [2019] 6 WLUK 448; [2019] BLR 495; [2019] CLY 559.
- Ian White v Coal Authority [2018] UKUT 134 (LC)
- Viridis UK Ltd v Mullaley & Co Ltd [2014] EWHC 268 (TCC)
- Vivergo Fuels Ltd v Redhall Engineering Solutions Ltd [2013] EWHC 4030 (TCC); [2013] All ER (D) 156 (Dec)
- WW Gear Construction Ltd v McGee Group [2012] EWHC 1509 (TCC); [2012] B.L.R. 355; [2012] CILL 3204
- Simon Carves Limited v Ensus UK Limited [2011] EWHC 657 (TCC); [2011] B.L.R. 340; 135 Con. L.R. 96
- Elliott Group Ltd. v GECC UK Ltd [2010] EWHC 409 (TCC)
- YCMS Ltd v Grabiner [2009] EWHC 127 (TCC), [2009] BLR 211, [2009] CILL 2692 TCC, 123 Con LR 202
- Air Design (Kent) Ltd v Deerglen (Jersey) Ltd [2008] BLM Vol. 26 No. 1 TCC
- Cubitt Building and Interiors Ltd v Richardson Roofing (Industrial) Ltd [2008] BLR 354 TCC, All ER (D) 106 TCC,
- Maersk Oil UK Ltd (formerly Kerr-McGee (UK) Plc v Dresser-Rand (UK) Ltd [2007] EWHC 752 (TCC)
- Offer-Hoar v Larkstore Ltd [2006] All ER (D) 419; [2005] EWHC 2742 (TCC)
- Westminster Building Co Ltd v Beckingham [2004] 94 Con LR 107 and [2004] BLR 163 TCC (adjudication enforcement)
- Harvey Shopfitters Ltd v ADI Ltd [2004] 91 Con LR 71 CA
- John Mowlem Construction plc v Secretary of State for Defence [2002] 82 Con LR 140 TCC
- Griffin v Midas Homes Ltd [2000] 78 Con LR 152 TCC
- Munkenbeck & Marshall v The Kensington Hotel Ltd [2000] 78 Con LR 71 TCC

Education & Professional Career

(IChemE) Approved Panel of Adjudicators

Public Access Training	2012
TECBAR accredited adjudicator	2008
Keating Chambers	1999
Pupillage, Keating Chambers	1998-99
Called to the Bar, Middle Temple	1998
Harmsworth Scholarship, Middle Temple	
Bar Vocational Course (Very Competent).	
Post Graduate Diploma in Law (Commendation)	
BSc (Hons) Building Surveying (1st)	

Memberships

Society of Construction Law
Commercial Bar Association

Additional Information

Gaynor's interests include dogs, horses and wine.