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## SIMON TAYLOR

Call: 1987, returned to Bar 2012

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## Areas of practice

- Procurement & Competition
- Public Law
- Regulated Industries
- Mediation

## Clerks' Details

Declan Redmond  
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## Practice Overview

Simon Taylor is a competition and procurement specialist, recommended in Legal 500 and Chambers and Partners as a leading junior in public procurement. He returned to the Bar in 2012 after 20 years of practising as an EU and competition lawyer, including 7 years as a partner in a leading firm of solicitors and 5 years in Brussels.

He has a busy contentious practise, acting both for bidders and buyers in public procurement disputes and also provides strategic advice on the conduct of tenders.

He advises companies, utilities and public bodies on competition, state aid and regulatory issues arising from disputes, transactions such as mergers or joint ventures and commercial agreements or conduct. He has specific expertise in regulated sectors such as healthcare, communications, rail and water.

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## Recent Cases

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### Procurement

- Acting for NHS England in a challenge brought to a dental services tender by Accessible Orthodontics. Application to amend and for security for costs. *Accessible Orthodontics (O) Ltd v National Health Service Commissioning Board* [2020] EWHC 785 (TCC).
- Acting for HS2 in a challenge brought by Bechtel to the procurement relating to the construction of Old Oak Common station. Trial in October 2020, judgment reserved.
- Acting for MSI-Defence Systems Ltd in a challenge brought against the procurement of maintenance services of Naval gun systems by the MOD. Successfully resisted a strike out application. *MSI-Defence Systems Ltd v Secretary of State for Defence* [2020] EWHC 164 (TCC).
- Acting for East Birmingham Community Forum Ltd in a challenge to the award of an education training services contract by the West Midlands Combined Authority.
- Acting for the Secretary of State for Justice on a procurement challenge brought by Mitie Ltd in relation to facilities management services for HMCTS.
- Acting for the Lord Chancellor in a procurement challenge brought by Dylan Conrad Kreolle Solicitors in the Administrative Court relating to legal aid services. Permission refused on the basis that the claim was brought out of time. *R (Dylan Conrad Kreolle Solicitors) v Lord Chancellor* [2019] EWHC 3334.
- Acting for Circle Nottingham Ltd in its challenge against NHS Rushcliffe CCG in relation to the elective services contract for the Nottingham Treatment Centre, including on the application to lift, *Circle Nottingham Ltd v NHS Rushcliffe CCG* [2019] EWHC 1315 (TCC).
- Acting for HS2 in separate challenges brought by Construcciones y Auxiliar de Ferrocarriles SA and Patentes Talgo SLU to the pre-qualification stage of the HS2 procurement for rolling stock.
- Acting for Asia TV Ltd in a challenge to the award of a regeneration contract.
- Acting for DAI Europe Ltd in a challenge to the award of an international development contract by DfID.
- Acting for Epsom and St Helier University Hospitals NHS Trust as interested party in *Central Surrey Health Ltd v NHS Surrey Downs CCG* [2018] EWHC 3499 (TCC).
- Acting for the successful defendant in *R (Hersi & Co Solicitors) v The Lord Chancellor (as successor to the Legal Services Commission)* [2017] EWHC 2667 (TCC), a claim relating to the 2010 round of legal services tenders.
- Acting for Healthcare Environment Services (“HES”) in a third party disclosure application in *SRCL v NHS England*.
- Acting for Virgin Care Services in a procurement dispute with a various Surrey based CCGs in relation to a community health care services tender.
- Acting for NHS Dartford, Gravesham and Swanley Clinical Commissioning Groups in successfully lifting an automatic suspension (junior to Sarah Hannaford QC): *Kent Community Health NHS Foundation Trust v NHS Swale Clinical Commissioning Group and NHS Dartford, Gravesham and Swanley* [2016] EWHC 1393 (TCC).
- Acting for Sunderland City Council in a challenge to a tender for substance misuse services, including representing the Council on an application to lift: *Counted4 CIC v Sunderland City Council* [2015] EWHC 3898 (TCC).
- Acting for Geodesign in a challenge to a tender procedure for flood barriers, including a successful application for specific disclosure (junior to Sarah Hannaford QC): *Geodesign Barriers Limited v The Environment Agency* [2015] EWHC 1121 (TCC).

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“A truly excellent advocate and his writing is beautifully polished.”

Legal 500, 2021

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- Acting for NATS (junior to Sarah Hannaford QC) on its successful application to maintain an automatic suspension of a tender procedure for the provision of air traffic control services to Gatwick Airport: *NATS (Services) Limited v Gatwick Airport Limited* [2014] EWHC 3133

(TCC).

- Acting for the Defendant in *Medical Services Limited v North West London NHS Hospital Trust* on a procurement challenge relating to a tender for patient transport services, including successfully striking out part of the claim.

#### Competition (including EU, merger control and state aid)

- Advising a public sector provider of framework services on the competition implications of forming a joint venture with another provider of similar services.
- Advising BRE Group and other clients on a range of state aid matters relating to ERDF and other grant funding applications.
- Assisting Basildon & Thurrock University Hospitals NHS Foundation Trust and Southend University Hospital NHS Foundation Trusts on gaining CMA Phase 1 approval for their pathology joint venture with IPP.
- Acting for InHealth on a challenge to a national tender for the provision of PET-CT scanning services under the EU and NHS procurement rules and EU competition law.
- Advising a R&D company on the treatment of eligible costs for the purposes of the state aid General Block Exemption Regulation.
- Advising a development company on the state aid implications of a regeneration project.
- Advising a coffee retailer on the competition law implications of franchising and other distribution methods, on pricing and marketing and the implications of mergers in related sectors.
- Advising the Labour Party on the public interest exemption for mergers under UK and EC law and its application to the proposed Pfizer/Astrazeneca merger and on options for reforming the rail regulatory structure.
- Advising an English university on the state aid implications of ERDF grant funding for the construction of a science park.
- Advising an English university on the state aid and competition implications of a joint venture with a private provider of higher education services.

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“Calm, measured and respectful in his submissions, he always secures the judge's trust.”

Chambers UK Bar, 2021

#### Mediation

- Successfully mediating a procurement dispute relating to a construction contract.
- Representing clients in several mediations relating to procurement claims and NHS commercial disputes.
- Acting as assistant mediator on a competition damages follow on claim involving multiple parties.

#### Judicial Review

- Advising a rail franchise operator on a possible judicial review of a decision by the ORR on a recalibration request further to Schedule 8 of the Track Access Contract.
- Acting for the Lord Chancellor in a procurement claim brought by Dylan Conrad Kreolle Solicitors in the Administrative Court. *R (Dylan Conrad Kreolle Solicitors) v Lord Chancellor* [2019] EWHC 3334.
- Acting for British Orthodontic Society as interested party in *British Dental Association v NHS England*, a judicial review relating to a decision to start a tender for NHS orthodontics services using a dynamic purchasing system and without engaging first in a consultation process.
- Acting for Transport for London as interested party (junior to Marc Rowlands QC) in *Heathrow Airport Ltd v Office of Rail And Road* [2017] EWHC 1290 (Admin) (26 May 2017), a case relating to charges payable by the Crossrail service for accessing the Heathrow spur.
- Acting for NHS England on successfully defending an application for judicial review on a market access

case - a decision not to contract with a provider of stereotactic radiosurgery services (SRS) during an interim period pending a national procurement for SRS. Judgment is the first case based on the NHS (Competition, Procurement and Patient Choice) No 2 Regulations 2013: QSRC v NHS England [2015] EWHC 3752 (Admin).

- Acting for the Legal Aid Agency on a strike out application in the Admin Court against a claim brought by Mr Hersi challenging the 2010 tender for legal aid services: Hersi v Legal Aid Agency (unreported).

#### NHS Commercial and Regulatory

- Advising a major IT services company on disputes relating to a Government contract following a tender procedure.
- Advising a Commissioning Consortia Group on a contractual dispute and mediation relating to a 5 year Community services contract.
- Advising a local council on disputes arising under a theatre management contract.
- Advising a GP practise on restrictions relating to the sale of goodwill.
- Advising a commissioning body on the contractual and regulatory implications of the 2014/15 Monitor tariff changes.

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“Very knowledgeable in the field of public procurement. He gets to grips with complicated instructions quickly and provides clear and helpful advice. His attention to detail is meticulous.”

Chambers UK Bar, 2020

#### Pro Bono Work

- Representing a buy to let tenant in a dispute with a local authority over service charges and on a successful counterclaim for damage caused by breach of repair covenant. Case included notable Housing Act issues as well as a significant distress and inconvenience award. (Camden v Elshami - for Bar Pro Bono Unit).
- Representing company directors in a two day unfair dismissal hearing before the employment tribunal, including preparation of witness statements and settlement negotiations (Free Representation Unit).
- Advising the Labour Party on a range of matters in the run up to the 2015 election including the EU free movement law implications of changes to welfare laws and policy, the use of strategic and social criteria in public procurement and the options for changes to rail franchising policy.

#### Selection of Previous Experience

- Acting for a major UK plc on gaining OFT approval for the acquisition of a global airport noise monitoring systems operator.
- Acting for a rail franchise company (MTR Laing) on gaining OFT approval for its bid for the Thameslink/ Great Northern Rail Franchise.
- Advising the Department of Health on the competition law and policy implications of opening up NHS provision to free choice and competitive from independent sector providers, including the Ofcom investigation under the Competition Act 1998 into agreements between NHS Trusts and providers of bedside communication systems.
- Advising Cemex on its appeal to the Court of First Instance in relation to the EU Commission’s decision adopting the UK carbon trading plan.
- Acting for an electricity supply business in gaining OFT approval for the acquisition of a street lighting business.
- Advising the Strategic Rail Authority in a range of rail regulatory matters, including implementation of EU Directives, state aid and competition.
- Advising Western Power Distribution on the regulatory, competition and procurement issues arising out of the take-over of Hyder plc and the establishment of Dwr Cymru.

- Advising Cable & Wireless Communications on a range of competition investigations by European Commission, OFT and OFTEL.
- Acting for Iberia and Olympic Airways on European Commission investigations into airport ground handling services.
- Acting for Stena Sealink on Commission investigation into access to port facilities at Holyhead.

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## Selected Reported Cases

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- Accessible Orthodontics (O) Ltd v National Health Service Commissioning Board [2020] EWHC 785 (TCC).
- MSI-Defence Systems Ltd v Secretary of State for Defence [2020] EWHC 164 (TCC).
- Circle Nottingham Ltd v NHS Rushcliffe CCG [2019] EWHC 1315 (TCC).
- R (Dylan Conrad Kreolle Solicitors) v Lord Chancellor [2019] EWHC 3334
- R (Hersi & Co Solicitors) v The Lord Chancellor (as successor to the Legal Services Commission) [2017] EWHC 2667 (TCC).
- Heathrow Airport Ltd v Office of Rail And Road [2017] EWHC 1290 (Admin) (26 May 2017).
- Kent Community Health NHS Foundation Trust v NHS Swale Clinical Commissioning Group and Others [2016] EWHC 1393 (TCC).
- QSRC v NHS England [2015] EWHC 3752 (Admin).
- Counted 4 CIC v Sunderland City Council [2015] EWHC 3898 (TCC).
- Geodesign Barriers Limited v The Environment Agency [2015] EWHC 1121 (TCC).
- NATS (Services) Limited v Gatwick Airport Limited [2014] EWHC 3133 (TCC).
- Covanta Energy Ltd v Merseyside Waste Disposal Authority [2013] EWHC 2922 (TCC).

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## Education & Professional Career

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Keating Chambers	2012
Wragge & Co LLP – Antitrust Partner	2004-2011
Allen & Overy LLP – Associate	2000-2004
Enrolled as a Solicitor	1999
Cable & Wireless Communications – Regulatory counsel	1996-2000
Norton Rose (Brussels) – Associate	1992-1996
Squire Sanders & Dempsey (Brussels) – Associate	1990-1992
Université Libre de Bruxelles (Licence Spéciale in EU Law)	1989-1990
Pupillage, 2 Temple Gardens	1987-1988
Called to the Bar	1987
University of Oxford (BA Hons Jurisprudence), Magdalen College	1983-1986

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## Memberships

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Procurement Lawyers Association  
 Royal Society of Arts  
 Society of Labour Lawyers  
 Association of London Welsh Lawyers

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## Seminars, Publications & Papers

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- Construction law Reports – Editor
- Keating on Construction Contracts Eleventh Edition – Procurement Contributor
- Various 2020 Keating Virtual Procurement Surgeries and Webinars

- Public Procurement in the UK – Practical Law Practice note (Maintained)
- JCN Webinar May 2020 – Procurement and Covid
- Abandonment after Amey v West Sussex – Practical Law, October 2019
- April 2019 Society of Construction Lawyers – Brexit and Procurement
- October 2018 Lawyers in Local Government Seminar – the Lancashire case
- Paper on Procurement in the Health Sector , Judge on Community Benefits for Welsh National Procurement Awards - Wales Procurement Week, Bangor June 2016
- NHS Procurement and Competition: An obligation to tender NHS services? – Nottingham University, Global Revolution VII, June 2015
- Challenges and Opportunities of the New Procurement Directive - Wales Procurement Week, March 2015
- Socially Responsible Procurement - Co-authored Report by the Labour Finance and Industry Group/ Society of Labour Lawyers Task Force on Public Procurement, March 2015
- The New Procurement Directive - Bangor University, December 2014
- Chapter on Public Procurement in “Law Reform 2015 - A Manifesto for Change” (with Samuel Townend)
- Chaired and spoke at the CLT Procurement and Competition Issues in the Health Sector Conference June 2014
- New procurement regulations for NHS healthcare services: big bang or evolutionary competition? – PLC, June 2014
- Giving procurement the competition law treatment: Arriva v Luton - Practical Law, March 2014
- The challenge of competitive neutrality in public procurement and competition policy: the UK health sector as case study – Competition Policy International, July 2011
- Cloud computing: challenges from a competition law perspective - Computers and Law Magazine, October/November 2011

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## Languages

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French (fluent)

Spanish (conversational)

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## Additional Information

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Simon enjoys the theatre, travel, hillwalking, skiing, rugby, food and wine.