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**KEATING**  
CHAMBERS



## GAYNOR CHAMBERS

**Call:** 1998

**gchambers@keatingchambers.com**

### Areas of practice

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

### Clerks Details

**Declan Redmond**

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### Practice overview

Gaynor Chambers was called to the Bar in 1998 following an earlier career in building surveying and has since specialised in utilities, construction, energy and professional negligence disputes.

She has extensive experience in dealing with disputes arising under the Water Industry Act 1991, the New Roads and Street Works Act 1991, and associated legislation. Her construction practice is wide ranging and includes both assisting with adjudications and acting as an adjudicator (she is TECBAR accredited and is on IChemE Approved Panel of adjudicators). Gaynor is also well versed in dealing with disputes arising out of PFI and EPC projects, and those which concern various standard forms including the JCT, NEC, IChemE, ICE and FIDIC contracts.

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. Gaynor's strong reputation is built on her commercial and down to earth approach along with her previous background and experience in building surveying. She has considerable advocacy experience in the UK Courts (particularly the TCC), and practices in a wide range of forums including adjudication, mediation, expert determination and arbitration.

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## Recent Cases

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### Infrastructure & Utilities

- Extensive experience in relation to matters arising under the Water Industry Act 1991 and associated legislation, in particular disputes concerning:
  - pipe laying powers pursuant to sections 158 and 159 and compensation pursuant to section 180 and Schedule 12 of the Act;
  - the scope of statutory undertakers' obligations pursuant to section 94, including advising on the scope of reactive maintenance obligations;
  - the duty to provide sewers pursuant to section 101A, including dealing with referrals to the Environment Agency and advice on judicial review arising out of any such referrals;
  - the implications of the private sewer transfer regulations and the proper forum for claims; and bulk supply agreements.
- Acting and advising 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;
  - 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.
- Acting as junior counsel in a claim concerning defective design of a secondary treatment plant (£85 million claim). Advisory work, settled pleadings, and appeared as sole counsel at interlocutory hearings.
- Advising on product liability issues arising out of defective gas regulators.
- Advising on statutory undertakers' common law and other rights in relation to easements and wayleaves, including overbuilding and injunctions.
- Advice on disputes relating to contaminated land.
- Advising and acting in disputes concerning the environmental impact of dredging.
- Advising and acting in various cases concerning subsidence, landslip and coastal erosion.

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*“Very good, very hard working, easy to work with and down to earth”...“so bright it is hard to keep up with her”*

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### Construction & Engineering

General Construction (Litigation, Arbitration and Adjudication):

- Advice on bonds and guarantees (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).

- Advising and acting in relation to disputes arising out of PFI contracts, primarily in relation to the refurbishment and subsequent maintenance of UK hospitals.
- Advising on extension of time and final account disputes.
- Acting as junior counsel in a TCC case concerning defective welding of modular units. The case involved both technical issues and the proper construction of a sale and purchase agreement.
- Advising on matters arising out of partnering contracts such as PPC2000 and TPC2005, and the 2005 Suite of JCT Contracts, in particular the JCT Framework Agreement and JCT Major Projects Form.
- Advising and acting in disputes relating to asbestos releases in public and commercial buildings and other health and safety related matters.
- Advising local authorities and other employers on matters ranging from procurement to final account and defects claims.
- Instructed as a Treasury junior in a multi million pound arbitration relating to design responsibilities and defects on a new-build project.
- Appeals from arbitrator's decisions.
- Drafting of adjudication notices, referrals and responses, including specific sections on particular legal points.
- Adjudication enforcement experience including *Griffin v Midas Homes Limited* [2002] 78 Con LR 152, [2002] Col 18 No 1 Con LJ 67 and preliminary advice in *Davis McClean Contractors Ltd v Swansea Housing Association Limited* [2002] CILL 1811, along with *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) and *Viridis UK Ltd v Mulalley & Co Ltd* [2014] EWHC 268 (TCC)

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## “Sterling work in professional liability disputes, particularly with regard to oil and gas developments”

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### Energy & Natural Resources

- Acting as junior counsel for the owner in an international arbitration concerning the design of an onshore processing facility in Eastern Europe. Settled pleadings, advised and appeared as sole counsel at interlocutory hearings.
  - Four day arbitration held at Dubai International Arbitration Centre concerning cyclone damage to onshore and offshore facilities. Appeared as sole counsel against a silk and junior.
  - Advising on disputes arising out of Production Sharing Agreements in Indonesia and Eastern Europe.
  - Junior in \$100m dispute related to a gas processing plant in the Middle East.
  - Junior in a £9m dispute (and 28 day TCC trial) concerning process and vibration issues on a North Sea oil platform.
  - Advising in relation to commissioning and recovery of a North Sea oil platform.
  - Three week TCC trial in relation to dispute arising out of piping works at a UK biofuel plant (ICChemE Red Book).
  - 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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- Advice on disputes related to the construction and operation of wind turbines under contracts ranging from £500,000 to several million pounds.
- Advising in several disputes arising out of energy recovery and leachate treatment plants, with claims ranging from £200,000 to £260,000.

### Professional Negligence

- Advising and acting in arbitrations relating to the scope of cover under professional liability insurance policies.
- Junior in *Munckenbeck & Marshall v The Kensington Hotel Limited* [2000] 78 Con LR 71 (Architect's negligence).
- Junior in *Offer-Hoar v Larkstore Ltd* [2005] All ER (D) 45 TCC (a landslip case concerning negligence arising out of soil investigation report, issues on assignment of loss dealt with at first instance and in the Court of Appeal).
- Sole counsel in various Architect's negligence cases, ranging from domestic extensions to large scale commercial developments.
- Sole counsel and junior in various engineering related disputes, in particular those arising out of deficiencies in the provision of chemical engineering services.

*"She is able to drive a case forward."*

Legal 500, 2015

### Mining

- 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.

### Offshore Construction & Marine Engineering

- Advising and acting in disputes arising out of:
  - The design and construction of super-yachts;
  - An engine room fire during testing due to deficient design; and
  - Defective paint finishes and refitting.

### Selected Reported Cases

- *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)
- *Technotrade Ltd v Larkstore Ltd* [2006] 1 WLR 2926 (CA)
- *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

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## Education & Professional Career

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BSc (Hons) Building Surveying (1st)

Post Graduate Diploma in Law (Commendation)

Bar Vocational Course (Very Competent).

Harmsworth Scholarship, Middle Temple

Called to the Bar, Middle Temple	1998
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Pupillage, Keating Chambers	1998-99
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Keating Chambers	1999
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TECBAR accredited adjudicator	2008
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Public Access Training	2012
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(ICChemE) Approved Panel of Adjudicators

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## Memberships

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Society of Construction Law

Commercial Bar Association

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## Seminars, Publication & Papers

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- Researcher, Keating on Construction Contract - Ninth Edition (2012).
- Getting To Grips With Complexity, Dredging and Port Construction, July 2011.
- Keating on JCT Contracts [Looseleaf & CD-Rom] Member of Editorial Team.
- Commentary on the 2005 JCT Suite of Contracts to be published by Sweet and Maxwell.
- Engineer's Dispute Resolution Handbook Editor: Robert Gaitskell (Thomas Telford, 2006) Author of chapter on dispute avoidance.

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## Additional Information

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Gaynor's main interests are food, wine and cycling.

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