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**KEATING**  
CHAMBERS



## PAUL DARLING OBE QC

Call: 1983 / Silk: 1999

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### Areas of practice

- Arbitration
- Adjudication
- Construction & Engineering
- Energy & Natural Resources
- IT & Technology
- PFI/PPP
- European Union Procurement

### Clerks' Details

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### Practice overview

Since joining Keating Chambers in 1985, Paul Darling has established a formidable reputation as an advocate in all types and levels of tribunals all over the world. He specialises in complex cases which feature multiple parties, large teams, and high volumes of material, and is often brought in by clients at short notice, late in proceedings. An ability to work with colleagues from any jurisdiction, and to grasp detail, strategy, and tactics quickly has allowed Paul to develop a practice which has taken him to every major jurisdiction, appearing in a wide variety of construction, energy, and commercial matters. Adaptability and focus have contributed to Paul's reputation as a gamechanger, brought in to direct some of the construction and commercial world's most difficult cases. Paul has represented diverse clients in tribunals such as the Commercial Court, the Technology and Construction Court, and the Court of Appeal in London, the High Court and the Supreme Court in Dublin, the High Court in Northern Ireland (he is a member of the NI Bar) and Arbitration Tribunals globally. Since the early 1990s he has conducted many arbitrations in Hong Kong, Singapore, and the Middle East. He has acted in ICC, LCIA HKIAC, SIAC and DIAC Arbitrations.

Paul has developed particular expertise in complex, multi-handed cases requiring extensive cross-examination, often of several expert witnesses. He also sits as an arbitrator, adjudicator and mediator.

Paul's commercial instincts and skills and his understanding of corporate governance have informed his litigation work. They are drawn from direct experience of the private and the public sector.

A substantial part of Paul's practice relates to property damage and professional negligence: between 1991 and 2003, it was dominated by the *McAlpine v Panatown & Unex* dispute.

The dispute involved all aspects of construction law and professional negligence, and after many Court appearances culminated in a 14 week TCC trial.

His practice has included all aspects of construction and engineering projects and property damage. An area of particular expertise is mining subsidence, landslip, and other forms of nuisance including noise, vibration and dust in construction operations.

He has fought several cases regarding housing developments in which the purchasers launched a group action against the developers, who in turn sought to claim against the contractors and consultants. One example was the Rossory Quay litigation in Northern Ireland which dealt with the failure of a load transfer platform on a development of 80 flats.

Paul represented a quarry owner in the Pyrite litigation in Dublin. In the High Court in Dublin, a building contractor sued the quarry owner for supplying material containing pyrite which was said to have expanded and damaged the structures under which it was placed. The case went on appeal to the Supreme Court. The trial occupied 60 days and the hearing in the Supreme Court, 5 days. The issues included whether the cause of damage to the building was defective design and construction or the expansion of pyrite, whether the pyrite in fact expanded, whether there were breaches of the Sale of Goods Act about merchantable quality and fitness for purpose, whether contractual terms applied and whether there were limitations on liability.

Paul appeared in the Court of Appeal in Belfast on an appeal about the notice provisions under the NEC 3 Variation Clauses.

A huge number of his cases has been reported; they reflect his wide-ranging expertise and adaptability. Paul has appeared in many of the leading cases on contractual claims: *Temloc v Erill* (Enil as liquidated damage); *Plc v McAlpine* (Overhead & Profit Guide Formulas); *Chestermount v Balfour Beatty* (Extension of Time); *Tilebox v McAlpine* (Penalties) and *Mackay v Walter Lilly* (Global Claims).

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## Recommendations

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### Construction Silk of the Year 2006

#### Construction

"A great guy and A1 for construction"... "A legend in construction, he puts everyone at ease in court." ... "An instinctive advocate who knows which points to press and which to leave." "Creative and stunning in cross-examination." ... "A heavyweight QC with a lifetime of construction experience," he is "sensible, reliable, knowledgeable and fair". Observers speak highly of his "dramatic flair" as an advocate, adding that "he is especially highly regarded for his expertise in Hong Kong and Singapore"... "a huge name at the Bar"... "excellent at all he does, he is a good bet for the unusual cases as he thinks of new angles that don't occur to others"... "it's a pleasure to instruct someone of his intellect and experience"... "he always sees the angle - he can come in, add his vision and implement the strategy to get you ahead of the game"... "a reputation that extends beyond the bounds of the practice area"... "Paul has an unparalleled ability to turn a case round quickly".

**Chambers & Partners and Legal 500**

#### International Arbitration

"Sought after for his expertise in construction, engineering and energy disputes."

**Chambers Asia Pacific**

#### Professional Negligence

"Strategically very good"... Has excellent understanding of the workings of the Court of Appeal and of the Appellate judges. He's an instinctive advocate who knows which points to press and which to leave"... "No one comes close to him in turning in stylish performances"... "impressive courtroom skills"... "energetic approach combined with the calming influence"... "brilliant advocate"... "highly effective powerful advocacy style"... "positive and constructive approach"... "he is a good man if you have a seemingly lost cause and "is well placed to handle any negligence claims"... "fantastic advocate"... "one of the best".

**Chambers & Partners and Legal 500**

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## Recent Work

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### Areas of the World

Paul has worked in the following jurisdictions:

England and Wales, Scotland, Northern Ireland, Ireland, Hong Kong, Singapore, Brunei, Australia, New Zealand, Dubai, Qatar, UAE, Trinidad, Barbados, Cayman, Tanzania, Nigeria, South Africa,

### Expertise Includes

- **Arbitration Practice & Procedure**

- **Adjudication Practice & Procedure**

- **Court Practice & Procedure**

- Pre-Action Protocol
- Disclosure
- Costs
- Privacy of Court Proceedings
- Name borrowing
- Champerty

- **Construction & Energy**

- Power Plants, Offshore Plants, FPSO
- Pipelines
- Cracks and corrosion in metal structures
- Sports Stadia, Playing surfaces
- Dredging
- Local Authority Projects
- Shopping Centres, Theatres, Cinemas and Hotels
- Asbestos
- Wind Farms
- Chemical slag
- Cladding
- Foundations and Load Transfer Platforms
- Ground Improvements Schemes
- Temporary Earthwork Retaining Structures
- Unforeseen Ground Conditions
- Defective Foundations
- Large Housing Developments
- Airports
- Nuclear Energy
- Nuclear Waste Reprocessing
- Collateral Warranties
- Mechanical and Electrical Sub-Contracts
- Open Cast Mining Disputes

- **Contractual Claims**

- Loss and Expense, Prolongation and Disruption
- Global Claims
- Overhead and Profit, Emden Formula
- Extension of Time and Time at Large
- Liquidated Damages and Penalties and Float

- Termination and Forfeiture

- Exclusion and Limitation Clauses

- Standard Form Insurance Clauses

- FIDIC Contracts

- NEC Contract

- Contract, no Contract

- **Information Technology**

- Software Disputes

- Claims for under performance

- Disputes about price escalation

- Disputes about delays in delivery and performance

- **Nuisance & Mining**

- Mining Subsidence

- Landslips

- Damage to adjoining property

- Contaminated and reclaimed land

- Street works

- Noise vibration and construction operations nuisance

- **Surface and Underground Railways**

- **Professional Negligence & Fee Claims**

- Claims against Architects, Surveyors, Engineers and Solicitors

- Claims for fees

- Construction of Professional Engagement Terms

- **Commercial & Sale of Goods**

- Disputes about quality of goods rights to reject

- Bonds and Guarantees

- Construction of Solicitor's Fee Sharing Agreements

- Claim about Introducing Broker Agreements

- Hotel Management Contract'

- **PFI & PPP Contracts**

- Dispute about quality

- Complaints about non-performance

- Disputes about operation of agreements

- **European Union Procurement**

- France, Senegal, Spain, Portugal, Italy, Romania, Turkey.

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## Selected Reported Cases

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- *James Elliott Construction Ltd v Irish Asphalt* [2014] 1 ESC 74 (Supreme Court of Ireland)
- *Noreside Construction Ltd v Irish Asphalt* [2014] 1 ESC 68 (Supreme Court of Ireland)
- *Northern Ireland Housing Executive v Healthy Buildings (Ireland) Ltd* [2014] NICA 27; 153 Con LR 87 (Court of Appeal of Northern Ireland)
- *Walter Lilly & Co Ltd v Mackay and another* [2013] EWCA Civ 142 (Court of Appeal)
- *Shepherd Construction Ltd v Pinsent Masons LLP* [2012] EWHC 43 (TCC); BLR 213; 141 Con LR 232
- *Mirador International LLC v MF Global UK Ltd* [2012] EWCA Civ 1662; [2012] All E.R. (D) 142 (Dec)
- *Community Gateway Association Ltd v Beha Williams Norman Ltd* [2011] EWHC 2311 (TCC); [2011] All E.R. (D) 59 (Sep)
- *Community Gateway Association Ltd v Beha Williams Norman Ltd* (Costs) [2011] EWHC 2994 (TCC); [2011] All E.R. (D) 120 (Dec)
- *James Elliott Construction Ltd v Irish Asphalt Ltd* [2011] IEHC 269
- *Fitzroy Robinson Ltd v Mentmore Towers Ltd* [2010] EWHC 98 (TCC); [2010] All ER (D) 84 (Oct)
- *Vector Investments v J D Williams* [2009] EWHC 3601 (TCC)
- *Byblos International Fund LLC v IFX Markets Ltd* [2009] EWHC 346 (QB); [2009] All E.R. (D) 08 (Mar)
- *Crowley (t/a Crowley Civil Engineers) v Rushmoor Borough Council* [2009] EWHC 2237 (TCC); [2010] All E.R. (D) 208 (Jan)
- *Fitzroy Robinson v Anglo Swiss Holding Ltd* (No 3) [2009] EWHC 3365 (TCC) 128 Con LR 103; [2010] BLR 165 (TCC)
- *Coal Authority v (1) F W Davidson (2) W E Davidson* [2008] EWHC 2180 (TCC); [2008] C.I.L.L. 2621
- *London & Regional (St. George's Court) Ltd v Ministry of Defence* [2008] CILL 2651 and [2009] BLR 20 CA
- *Sampla & Ors v Rushmoor Borough Council & Anor* [2008] EWHC 2616 (TCC); [2008] All E.R. (D) 335 (Oct)
- *Hiscox Syndicates v The Pinnacle* [2008] EWHC 145 (Ch); [2008] 5 E.G. 166 (C.S.)
- *R (on the application of the Law Society) v Legal Services Commission & the Lord Chancellor* [2007] EWCA Civ 1264; [2008] 2 W.L.R. 803; [2008] 2 All E.R. 148
- *British Nuclear Group Sellafield Ltd v (1) Kernkraftwerk Brokdorf GMBH & Co OHG (2) Gemeinschaftskernkraftwerk Grohnde GMBH & co OHG (3) e.on Kernkraft GMBH* [2007] EWHC 2245 (ch)
- *Enterprise Managed Services LTD v East Midland Contracting Ltd* [2007] EWHC 727 (TCC)
- *Ringway Infrastructure Services Ltd v Vauxhall Motors Ltd* [2007] EWHC 2421 (TCC); [2007] All ER (D) 333 (Oct)
- *Yorkshire Electricity Distribution plc v Telewest Ltd* [Court of Appeal] [2006] EWCA Civ 1418; [2006] All E.R. (D) 369 (Oct)
- *BFS Group Ltd v (1) Secretary of State for Defence (2) Purple Foodservice Ltd* [2006] EWHC 1513 (Ch); [2006] Eu. L.R. 1101
- *Plymouth and South West Co-operative Society Ltd v Architecture Structure and Management Ltd* [2006] EWHC 5 (TCC); 108 Con LR 77; [2006] CILL 2366 (also reported on costs at [2006] EWHC 3252 (TCC); 111 Con LR 189; [2007] Lloyd's Rep. I.R. 596)
- *Alfred McAlpine Capital Projects Ltd v SIAC Construction* [2005] EWHC 3139 (TCC); [2006] BLR 139; 105 Con LR 73
- *Blair & Anor v AWG Residential Ltd & Ors* [2005] NIQB 68
- *Coal Authority v Trustees of the Nostell Trust & Ors* [2005] EWHC 154 (TCC); [2005] Arb LR 16

- *David McLean Contractors Ltd v The Albany Building Ltd* [2005] Lawtel 10/1/2006
- *Eileen Anthony & 6 ORS v Coal Authority* [2005] EWHC 1654 (QB) Lawtel 07/10/2005
- *Birse Construction Ltd v McCormick (UK) Ltd* [2005] EWCA Civ 940; [2005] B.L.R. 523; [2005] All E.R. (D) 366 (Jul)
- *Lafarge Aggregates Ltd v Newham London Borough Council* [2005] EWHC 1337 (Comm); [2005] 2 Lloyd's Rep. 577
- *Yorkshire Water Services Ltd v Coal Authority* [2005] R.V.R. 99
- *Alfred McAlpine Capital Project Ltd v Tilebox Ltd* [2005] EWHC 281 (TCC); [2005] B.L.R. 271; 104 Con. L.R. 39
- *Severn Trent Water Ltd v Coal Authority* [2005] R.V.R. 21
- *Hurst Stores and Interiors Ltd v ML Europe Property Ltd* [2004] EWCA Civ 490; [2004] B.L.R. 249; 94 Con. L.R. 66
- *CIB Properties Ltd v Birse Construction Ltd* [2004] EWHC 2365 (TCC); [2005] 1 WLR 2252; [2005] BLR 173
- *Mowlem plc v Phi Group Ltd* [2004] B.L.R. 421; (TCC)
- *Simons Construction Ltd v Aardvark Developments Ltd* [2003] EWHC 2474 (TCC); [2004] BLR 117; [2004] TCLR 2; 93 Con LR 114; [2003] CILL 2053; [2003] All ER(D) 482 (Oct)
- *Van Oord ACZ Ltd and Harbour & General Works Ltd Joint Venture v The Port of Mostyn* [2003] Lawtel 19/09/2003; (TCC)
- *Wärtsilä France SAS v Genergy Plc* [2004] EWHC 1966 (TCC); 92 Con. L.R. 112
- *Clegg v Anderson (t/a Nordic Marine)* [2003] EWCA Civ 320; 1 All E.R. (Comm) 721; 2 Lloyd's Rep 32, (Court of Appeal) 11 March 2003
- *Langley v Coal Authority* [2003] EWCA Civ 204; [2005] R.V.R. 111; Times, March 31, 2003
- *Langley & Others v Coal Authority (No. 2)* [2002] RUR 233, (Lands Tribunal)
- *Miller Construction Ltd v James Moore Earthmoving* [2001] EWCA Civ 654; [2001] 2 All ER (Comm) 598; [2001] BLR 322
- *Birse Construction Ltd v St David Ltd (No. 2)* [2000] 78 Con LR 121 (TCC)
- *Shepherd Construction Ltd v Mecright Ltd Queen's Bench Division* [2000] BLR 489 (TCC)
- *KNS Industrial Services (Birmingham) Ltd v Sindall Ltd* [2001] 3 TCLR 10; 75 Con LR 71; (2001) 17 Const. LJ

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## Seminars, Publication & Papers

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- Bullen & Leake & Jacob's Hong Kong Precedents of Pleadings, Paul Darling QC Nerys Jefford QC David Sheard October 2013
- Bullen & Leake & Jacob's Precedents of Pleadings 17th Edition, Paul Darling QC, Elizabeth Repper, Thomas Lazur and Sarah Williams December 2011
- Who do you want? Who do you get? Appointing the right arbitrator, Paul Darling QC January 2010

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## Education and Professional Career

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Paul Darling lectures regularly to the Society of Construction Law, leading law firms, and industry bodies on a range of topics. He has regularly lectured at FIDIC Conferences and has frequently chaired the IBC Construction Law Summer School. He is an accredited Advocacy Trainer, and regularly teaches on Middle Temple advocacy courses, for barristers and aspiring barristers, whether to the commercial or the criminal Bar. He has been a trustee of the Free Representation Unit, and contributed to their training programme.

His chairmanship of the Technology and Construction Bar Association was a time of huge change; Paul oversaw the development and implementation of new practice guidelines, and led a comprehensive programme of seminars and training days for all members of the Association. He was instrumental in the move to the Court being staffed solely by High Court Judges.

BA in Jurisprudence, St. Edmund Hall, Oxford	1978-1981
Bachelor of Civil Law	1981 - 1982
Called to the Bar (Middle Temple)	1983
Pupillage: 20 Essex Street, 1 Atkin Building, Keating Chambers	1983 - 1985
Joined Keating Chambers	1985
Queen's Counsel	1999
Chairman, Technology and Construction Bar Association	2004
Benchler, Middle Temple	2004-
Trustee Bar Free Representation Unit	2004-2012
Construction Silk of the Year	2006
Called to the Bar of Northern Ireland	2004
Director of The Tote	2006-2008
Chairman of Bar Council's Access to the Bar Committee	2007-2009
Government Member, Horserace Betting Levy Board	2008-2014
Chairman, Football Licensing Authority	2009-2015
Chairman, Middle Temple Estates Committee	2011-2014
Chairman, Association of British Bookmakers	2014 -
OBE for services to safety at sports grounds and to horseracing	2015
Public Access Training	2015

Paul is a member of the Technology and Construction Bar Association, the London Common Law and Commercial Bar Association, the Society of Construction Law (and was a member of its Council, 1999-2001), the Professional Negligence Bar Association, and the Commercial Bar Association.

He is a member of the Chartered Institute of Arbitrators, the London Court of International