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CALLUM MONRO MORRISON

Call: 2018

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Areas of Practice

- Advocacy
- Construction & Engineering
- Professional Negligence
- Energy & Natural Resources
- Insurance
- Offshore & Marine Engineering
- Adjudication and Adjudication Enforcement
- International Arbitration
- General Commercial

Clerks' Details

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Practice Overview

Callum is a commercial practitioner specialising in disputes arising from construction, engineering, energy, infrastructure and offshore/marine projects. Acting as either sole counsel or as junior counsel in larger legal teams, he is engaged in both international and domestic work and particularly relishes disputes involving complex engineering issues. Callum is a contributor to Keating on Construction Contracts and the Construction Law Reports, and is familiar with all common standard forms, including the JCT, NEC, FIDIC, IChemE and RIBA forms. He is ranked by The Legal 500 as a 'rising star' in construction: "Callum is an exceptionally diligent counsel who focuses a great deal on preparation and achieves a quick grasp of the technical nature of our work."

Callum regularly represents clients in the High Court, County Court and in adjudications in his own right. He is currently being led in substantial multi-party TCC litigation and in an international arbitration. Recent highlights include acting:

- in a multi-million-euro international arbitration concerning the use of a pioneering anaerobic digestion technology at a waste-to-energy plant (led by Fionnuala McCredie KC);
- on behalf of a public authority in a c. £81 million adjudication concerning the authority's entitlement under a PFI contract to make substantial deductions from the contractor's monthly payments (led by Paul Buckingham KC);
- as sole counsel in a c. £1.7 million adjudication concerning a project manager's entitlement to payment of a development profit fee following practical completion of a high-end residential development;

- on behalf of a shipbuilder in two international arbitrations concerning the termination of contracts for the construction of two state-of-the-art semi-submersible offshore drilling rigs (led by Adam Constable KC);
- on behalf of an investment fund in TCC proceedings concerning a multi-million-pound retail and residential development, in which the fund was successful in the Court of Appeal (led by Jonathan Selby KC – see [2022] PNLR 10);
- on behalf of a public authority in TCC proceedings concerning unsafe cladding and other fire safety defects in residential tower blocks (led by Simon Hughes KC); and
- as sole counsel for a defendant insurer in a series of fast- and multi-track trials concerning repairs to highway assets.

Callum accepts instructions to advise, draft pleadings and represent clients in relation to their commercial disputes, with a focus on building and engineering contracts and associated professional negligence matters.

Recent Cases

Advocacy

Oral

- Application for an extension of time for service of the Claim Form (TCC). Successfully resisted the application on behalf of the defendant, securing a tactical victory for the client – see [2021] EWHC 972 (TCC).
- Application for a stay of proceedings pursuant to section 9 of the Arbitration Act 1996 (Commercial Court). Successfully obtained the order sought, together with a costs order in favour of the client.
- Appeared on behalf of the defendant insurer in a series of fast- and multi-track trials concerning claims by highway repair contractors for the costs of repairing damaged highway assets (County Court, various hearing centres). The trials included cross-examination of factual and expert witnesses. Successfully obtained significant reductions in the quantum of damages awarded in each case (liability had been admitted, such that the only issues were quantum-related).
- CMC (County Court at Central London). Successfully obtained substantial approval of the claimant's costs budget and several reductions in the defendant's costs budget.
- Dispute Resolution Hearing (County Court at Southend). The claim concerned allegedly defective paint supplied by the defendant. Successfully obtained an 'unless' order requiring the claimant to file and serve a witness statement in compliance with a previous order or the claim be struck out.
- Represented two claimant homeowners in a mediation with a well-known defendant housebuilder. The claim concerned widespread defects in a new-build residential property. Successfully obtained a substantial settlement payment on behalf of the claimants.
- Disposal hearing (County Court at Canterbury). Appeared on behalf of the claimants in a claim against a landlord for the cost of building repairs. Successfully obtained all monetary relief sought, together with a substantial costs award.
- Strike-out application (County Court at Watford). Successfully obtained dismissal of the claim on grounds of contractual exclusion and limitation.
- Application to set aside default judgment (County Court at Leicester). Successfully resisted an application to set aside a default judgment and associated interim charging order, further obtaining an order that the defendant pay a substantial part of the claimant's costs.
- Final hearing (County Court at Kingston-Upon-Thames). Appeared on behalf of the defendant and successfully obtained dismissal of a claim for business interruption losses.
- Application to reinstate a Defence (County Court at Slough). Appeared on behalf of the Applicant and successfully obtained an order granting relief from sanctions, thus reinstating a Defence which had been struck out for failure to serve a directions questionnaire on time.
- Application for a stay for arbitration (County Court at Northampton). Appeared on behalf of the Applicant and successfully obtained a stay of the proceedings under section 9 of the Arbitration Act 1996.

Written

- Prepared written and oral submissions to resist a High Court (TCC) application to strike out large parts of the Particulars of Claim which advanced a claim based on sampling and extrapolation (led by Jonathan Selby KC). Successfully obtained dismissal of the application – see [2021] BLR 126.
- Drafted the claimant's response to a defendant's note on a draft judgment, in which the defendant had sought to re-argue substantial parts of an application which the judge had dismissed (led by Jonathan Selby KC). Successfully obtained a refusal by the judge to amend the relevant parts of his judgment.

- Prepared written and oral submissions on behalf of the Respondent in a legally significant appeal concerning the use of sampling and extrapolation in professional negligence claims (led by Jonathan Selby KC). Successfully obtained dismissal of the appeal – see [2022] PNLR10.
- CMC (international arbitration). Assisted in drafting the claimant’s skeleton argument and oral submissions (led by Adam Constable KC). Successfully obtained the procedural orders sought.
- Drafted the Grounds of Appeal and accompanying skeleton argument for an appeal against a judgment on quantum where the judge had erred in law.
- Drafted a skeleton argument in support of an application to the High Court to obtain an interim prohibitory injunction to prevent threatened trespass and property damage.
- Drafted a Respondent’s statement of why permission to appeal should be refused.
- Drafted a skeleton argument in support of an application for (a) a mandatory interim injunction to obtain delivery up of certain design materials, and (b) an order that the proceedings be stayed for arbitration.
- Drafted a skeleton argument for an application to strike out a substantially defective pleading, alternatively to obtain summary judgment against the claimant.
- Drafted a skeleton argument on behalf of a defendant seeking to strike out the re-amended Particulars of Claim at a directions hearing.

“An excellent team player, Callum delivers clear, concise advice and can always be relied upon to put forward robust arguments even in difficult situations.”

Chambers & Partners 2024

Construction & Engineering

- Advised an employer on its prospects of successfully defending a c. £1m final account claim being pursued by a litigation funder which had allegedly taken an assignment of the insolvent building contractor’s rights under a building contract which prohibited assignment. Issues included assignment, declarations of trust and the employer’s payment obligations under a building contract which pre-dated the amendments to the Housing Grants, Construction and Regeneration Act 1996 introduced by the Local Democracy, Economic Development and Construction Act 2009. Drafted the Defence and Counterclaim on behalf of the employer (led by Alice Sims).
- Advised a defendant design and build contractor in substantial multi-party TCC proceedings as to the potential consequences of its prospective agreement to discontinuance of the claim.
- Advised an employer on its prospects of successfully defending a contractor’s ‘smash and grab’ claim for payment of a notified sum. Once the claim proceeded to adjudication, drafted the employer’s submissions and successfully obtained an adjudicator’s decision that the contractor was not entitled to any payment at all.
- Drafted a Defence on behalf of a defendant building contractor in a claim concerning allegedly negligent installation of windows in a large residential property. The claim was discontinued upon service of the Defence.
- Advised a claimant property company on the correct procedure for service of the claim form and particulars of claim in circumstances where the claimant’s solicitor had intended to serve the claim form himself but by default the court had served the claim form instead, and had mistakenly served all three defendants at the same address. Drafted correspondence on behalf of the claimant’s solicitor which regularised the procedural position and obviated the need to make any application to the court.
- Advised a public authority in the north of England as to who bore responsibility under an amended NEC3 contract for interaction with statutory undertakers, which interaction had caused delay to the works and had led to time and money claims against the authority by the building contractor. The advice turned on the interpretation of bespoke ‘Z’ clauses, the Works Information and various technical documents governing interaction with statutory undertakers in respect of highways works.
- Drafted the Defence and Counterclaim on behalf of a building contractor in a RICS fast-track arbitration concerning alleged defects in a high-end residential property.
- Advised an employer as to whether it was entitled to terminate a building contract on the basis that the contractor had suspended the works.
- Advised an employer as to whether its termination notice had been valid or in fact constituted a repudiatory breach of the building contract.

- Drafted pleadings, advised on contractual issues and appeared at mediation on behalf of a public authority seeking to recover substantial damages for an evacuation and remedial works caused by unsafe cladding (led by Simon Hughes KC).
- Advised on, and drafted the Defence to, a claim against a jacuzzi company for negligent construction of a swimming pool. The claimant discontinued the claim upon receipt of the Defence.
- Drafted two Defences to claims against a homebuilder for breach of contract in relation to various new-build properties. Following receipt of the Defences, the claimants settled the claims.
- Drafted Particulars of Claim on behalf of a building owner for a breach of contract/negligence claim against an earthworks contractor for defective piling at an industrial warehouse.
- Drafted a Defence on behalf of a bathroom fit-out contractor, against whom liability for various bathroom defects had been alleged by the owners of several apartments.
- Assisted in drafting Particulars of Claim on behalf of an unpaid demolition contractor.
- Advised a building contractor on the status of various notices for the purposes of an interim application under a JCT Design & Build Contract (2011 edition).
- Advised an investment management firm on its prospects of success, the likely measure of damages and whether to accept a Part 36 offer in respect of a claim arising from defective cladding at an office building.
- Advised a groundworks subcontractor on its prospective claim against a main contractor for the costs incurred repairing a warehouse floor slab.
- Advised a glazing subcontractor on (a) whether it had formed a binding contract with a main contractor, (b) the terms of that contract and (c) whether those terms permitted adjudication.
- Advised on the merits of an appeal against a decision refusing a request for default judgment. The advice included detailed consideration of CPR 12 and relevant authorities.
- Assisted in advising a prospective claimant on the optimum procedure for its claim (Part 7, Part 8, shorter trial scheme, flexible trial scheme).

“Callum is an exceptionally diligent counsel who focuses a great deal on preparation and achieves a quick grasp of the technical nature of our work.”

Legal 500 2023

Professional Negligence

- Drafting the Points of Claim in a c. £4m domestic arbitration between a building contractor and an allegedly negligent architect’s insurer. The claim concerns cladding and fire safety defects in a residential tower block in southern England (led by Paul Bury). Ongoing.
- Advised a property developer on its prospects of successfully recovering c. £1.7m from a project manager and monitoring surveyor for negligent pre-contract advice and negligent monitoring of the building contractor’s works during the course of the project. Issues included scope of duty, a contractual liability cap and whether this term was unfair, limitation and expert evidence.
- Advised a restaurant developer on its prospects of success in a c. £2m negligence claim against a project manager. Issues included limitation, scope of duty, breach, causation and remoteness. Subsequently assisted in drafting correspondence.
- Advised an employer on its prospects of success and recovery options in a prospective claim against its employer’s agent for negligent over-certification in the sum of c.£400,000. The project concerned a new medical facility in the north of England. The claim proceeded to adjudication, in which Callum drafted the employer’s submissions and successfully obtained a substantial settlement payment for the client before the adjudicator had reached his decision.
- Drafted an amended Defence, appeared at the PTR, drafted the skeleton argument for trial and successfully negotiated and agreed a settlement on behalf of a defendant lighting supplier in a claim concerning the supply of an allegedly defective lighting system for a mansion in Chelsea, London.
- Drafted pleadings on behalf of an investment fund in a multi-million-pound professional negligence claim against its design team (led by Marcus Taverner KC and Jonathan Selby KC). Successfully defended (i) a strike-out application in respect of those pleadings and (ii) an appeal in respect of the High Court’s decision refusing to strike out the said pleadings – see [2020] EWHC 3419 and [2021] EWCA Civ 1793.
- Provided ongoing advice and assistance and worked with the client (main contractor) to draft claim

documents for consideration by the expert team in a c. £40 million prospective claim against a construction manager and a consultant building services engineer. The prospective claim concerned negligent cost planning and design for a new hospital.

- Drafted a Scott Schedule in defence of a million-pound claim against architects for allegedly negligent design of home refurbishment works (led by Richard Coplin).
- Drafted a Defence on behalf of a property management company against whom it was alleged that negligent failure to provide an out-of-hours emergency telephone service had led to severe flooding at a residential property.
- Drafted a Pre-Action Protocol Letter of Claim on behalf of a local authority seeking damages in respect of a collapsed floodlight at a rugby stadium.
- Drafted Particulars of Claim on behalf of a public utilities supplier for a claim against a water-cooling specialist whose products had caused a leak at a telephone exchange.
- Assisted in advising an NHS trust on its prospects of success (liability and quantum) in a prospective claim against (a) a contract administrator and (b) a specialist water treatment firm.
- Assisted in advising a defendant to a substantial multi-party claim on whether it was bound by court decisions in related proceedings (res judicata and issue estoppel).
- Advised on whether there had been a breach of CPR 3.13 regarding the time for filing cost budgets and accordingly whether an application for relief from sanctions needed to be made.

Energy & Natural Resources

- Assisted in the preparation and drafting of the respondent contractor's counterclaim in a multi-million-euro international arbitration concerning the use of a pioneering anaerobic digestion technology at a waste-to-energy plant (led by Fionnuala McCredie KC). Ongoing.
- Assisted in drafting pleadings, prepared written and oral submissions and appeared on behalf of the claimant at the hearing of the Respondent's jurisdictional challenge in an international arbitration concerning a water desalination plant in the Middle East (led by Simon Hughes KC).
- Drafted Particulars of Claim and the Reply in a substantial claim against a maintenance contractor for costs incurred as a result of the destruction of a flue gas desulphurisation unit during a fire at a power station.
- Advised an oil rig decommissioning firm and drafted a Pre-Action Protocol Letter of Response in relation to a sale of goods dispute with the buyer of a reclaimed turbine.
- Drafted a Pre-Action Protocol Letter of Claim on behalf of a power generation company seeking substantial business interruption losses from a power station maintenance contractor.

Insurance

- Drafted a Letter of Response to the NHBC on behalf of a builder being pursued by the NHBC for sums paid out to the homeowner under a Buildmark policy. The Letter was drafted after consultation with a civil engineering expert to formulate the builder's defence to allegations of non-compliant groundworks/landscaping.
- Advised two insurers on litigation strategy and prospects of successfully obtaining a stay of proceedings following the insured claimant's entry into administration. The claimant was a building contractor who had brought proceedings against the defendant design professionals in order to recover losses which a third-party building owner had threatened to recover from the claimant under a collateral warranty. Issues considered included limitation, insolvency and standstill agreements (led by Rachael O'Hagan).
- Advised 43 leasehold owners of a large apartment building in London on their prospective claims in respect of extensive water ingress damage against two insurers under building warranty policies. The principal issue was limitation.
- Drafted Particulars of Claim on behalf of an insurer for a claim against a guarantee bond. The bondsman paid out upon receipt of the draft Particulars.
- Advised an insurer on the validity of various grounds for declinature against an insured under a legal expenses insurance policy.
- Advised a main contractor on its claim against an insurer under the Third Parties (Rights Against Insurers) Act 1930 in relation to demolition and asbestos removal works.
- Assisted in advising an employer on its claim against the PI insurer of an insolvent groundworks subcontractor.
- Drafted a Part 20 contribution notice seeking an indemnity/contribution from five other defendants.

Offshore & Marine Engineering

- Drafted very substantial pleadings, witness statements and CMC submissions and provided day-to-day advice and assistance in relation to two international arbitrations concerning the termination of construction contracts for the design and construction of two state-of-the-art semi-submersible offshore drilling rigs (led by Adam Constable KC). The case involved working closely with Norwegian experts on regulatory compliance.

- Drafted witness statements to support the referral to adjudication of two substantial claims against a main contractor for undervaluation of interim payments and mobilisation and delay costs. The claims related to a large marine engineering project in Scotland. Also advised on quantum, the NEC3 compensation event provisions and assisted in drafting the Referrals. The claims were ultimately successful in litigation in Scotland, in part thanks to English authorities that Callum had identified to the Scottish legal team, which proved to be persuasive – see [2020] CSOH 87 and [2021] CSIH 50.

“Callum is intelligent, good with clients, responsive, approachable and expresses his views very clearly.”

Legal 500 2024

Adjudication and Adjudication Enforcement

- Advised an electrical sub-sub-contractor on its prospects of successfully recovering c. £2m of loss and expense from a sub-contractor in adjudication. Drafted the Notice and Referral and reviewed and edited witness statements. Ongoing.
- Drafted written submissions on behalf of a public authority in a c. £81 million adjudication concerning the authority’s entitlement under a PFI contract to make substantial deductions from the contractor’s monthly payments (led by Paul Buckingham KC). Ongoing.
- Acted as sole counsel in a c. £1.7 million adjudication concerning a project manager’s entitlement to payment of a development profit fee following practical completion of a high-end residential development. Obtained a significant payment of c. £1.3 million for the client.
- Drafted the Responding Party’s submissions in a ‘smash and grab’ adjudication concerning a large residential development in Kent. Successfully obtained an adjudicator’s decision that the Referring Party was not entitled to any payment whatsoever and directing that the Referring Party pay the adjudicator’s fees and expenses in full.
- Drafted the Referring Party’s submissions in a c. £1 million dispute concerning delay to the construction of a large residential development and the liquidated damages payable in consequence of that delay. Succeeded on all legal issues, including (i) the existence, terms and effect of an alleged settlement agreement and (ii) arguments about partial possession.
- Drafted the Notice of Adjudication and Referral in a claim by a firm of architects for unpaid fees. The fees were paid upon receipt of the Referral.
- Advised a main contractor as to whether various matters raised by its subcontractor in adjudication constituted *res judicata* owing to a previous adjudicator’s decision.
- Drafted the Response and Rejoinder in a final account dispute concerning a groundworks subcontract for a Lidl supermarket in Yorkshire. Successfully obtained a 62% reduction in the payment which had been sought by the Referring Party.
- Appeared on behalf of the defendants and successfully resisted an application to enforce an adjudicator’s decision, on the grounds that the adjudicator lacked jurisdiction because there was no contract between the parties, and the case was not amenable to summary judgment in any event.
- Appeared on behalf of the Referring Party (main contractor) and successfully obtained an adjudicator’s decision to the effect that no further sums were owing to a sub-contractor, since allegedly additional works were in fact within the agreed scope of the subcontract.
- Drafted the Response and Rejoinder in a final account dispute concerning ground remediation works at a mixed retail and industrial site (led by Tom Coulson). Successfully obtained a 91% reduction in the payment which had been sought by the Referring Party.
- Drafted the Rejoinder in a final account dispute concerning the construction of a dance studio. Legal issues included global claims and liquidated damages. The contract between the parties was in the JCT Standard Building Contract Without Quantities (2011) standard form.
- Assisted in advising a property developer on contract administrator’s duties and the crystallisation of a ‘dispute’ for the purposes of adjudication under the statutory Scheme for Construction Contracts.
- Assisted in advising a civil engineering subcontractor on the scope of the Notice of Adjudication and whether matters outside that notice could be raised in its defence.

International Arbitration

- As sole counsel, advised a supplier of building materials as to its prospects of successfully recovering c. £2m in wasted storage charges from an international developer who failed to accept/take delivery of materials within a reasonable time. Drafted the Request for Arbitration (ICC Rules) and advised the client on jurisdictional arguments raised by the respondent.
- Drafted pleadings, witness statements and CMC submissions and provided day-to-day advice and assistance in relation to two international arbitrations concerning the termination of construction contracts for the design and construction of two state-of-the-art semi-submersible offshore drilling rigs (led by Adam Constable KC).
- Reviewed and edited pleadings, prepared written and oral submissions on jurisdiction and appeared on behalf of the claimant in a billion-dollar international arbitration concerning pricing indexation under a power and water supply agreement (led by Simon Hughes KC). The agreement related to a water desalination plant in the Middle East. The jurisdictional arguments concerned the definition of a government body under local law (ground 1) and the interpretation of a tiered dispute resolution clause (ground 2). The claimant succeeded on ground 1.
- Drafted pleadings on behalf of the defendant in a Mauritian arbitration concerning the construction of a luxury villa (led by Jennie Wild). The case settled before the close of pleadings.
- Drafted the Respondent's closing submissions on English law in a Hong Kong arbitration concerning the construction of a leisure park in the Far East.
- Drafted part of the Opening and Closing Submissions, assisted with trial preparation and drafted a List of Issues for an international arbitration (UNCITRAL rules) concerning delays to the construction of a coal-fired power station (led by Simon Hughes KC). The subcontract between the parties was in the FIDIC Yellow Book (1999) standard form.
- Assisted with trial preparation for an international arbitration (LCIA rules) concerning the scope of works in a contract for the decommissioning of a nuclear power plant.

General Commercial

- Provided advice to and drafted the Request for Arbitration on behalf of a supplier of building materials in a sale of goods case concerning ss. 27 and 37 of the Sale of Goods Act 1979.
- Advised a consumer on the merits of a potential claim against a utilities provider for incorrect invoicing. The advice included consideration of whether billing data could be obtained from the utilities company under the Data Protection Act 2018.
- Assisted in drafting the Defence to a claim brought by a recruitment agency against an engineering consultancy for alleged breach of a personnel assignment agreement.
- Drafted a skeleton argument for a defendant's application to set aside default judgment in a claim for alleged wrongful registration of a default.

Education & Professional Career

Tenant, Keating Chambers, 2019

Pupil, Keating Chambers, 2018-2019

Called to the Bar, Inner Temple, 2018

Paralegal, Energy & Natural Resources Group, Reed Smith LLP, 2018

BPTC, City Law School (Outstanding in Commercial Law, Civil Advocacy, ADR), 2016-2017

MSc Cognitive & Evolutionary Anthropology, St Cross College, University of Oxford (Distinction), 2015-16

GDL, City Law School (Distinctions in Contract Law, Public Law, Criminal Law), 2014-2015

BA Archaeology & Anthropology, Hertford College, University of Oxford (First Class Honours), 2010-2013

Memberships

Technology and Construction Bar Association (TECBAR)

Commercial Bar Association (COMBAR)

Society of Construction Law

Awards & Prizes

Best Team, WCA Arbitration Competition, 2019

Vocalise Debating Prize, Gray's Inn, 2017

Dr Nicola Knight Prize, University of Oxford, 2016

Hertford College Final Honours Prize, University of Oxford, 2013

Junior and Senior Academic Scholar, St Paul's School, 2010

Four-time Senior Academic Prizewinner, St Paul's School, 2008-2010

Languages

French (conversational).

Additional Information

Callum is a keen rock climber, Japanese art enthusiast and record collector/DJ.