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DAVID SHEARD

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Areas of Practice

- Construction & Engineering
- Professional Negligence
- PFI/PPP
- Energy & Natural Resources
- International Arbitration
- Adjudication
- Rail
- Offshore Construction & Marine Engineering

Clerks' Details

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Practice Overview

David Sheard has developed a busy and wide-ranging practice, encompassing all key areas of Chambers' expertise including construction, adjudication, energy and professional negligence work. He has been recommended as an "astronomically clever" and "gifted" barrister by The Legal 500 (Professional Negligence) and as a leading junior who is "absolutely brilliant" by Who's Who Legal (Construction).

David has worked with numerous standard-form and bespoke contracts, including FIDIC, NEC3, PFI, SFA/99, ACE, RICS and many of the JCT forms (past and present), providing advice to various clients ranging from private home-owners to large property-development companies. He also has substantial court experience as sole counsel, representing clients in the County and High Courts both for interim applications and at trial, as well as being instructed on numerous occasions as junior counsel in larger construction disputes, both in international and domestic arbitrations and in the TCC.

In addition to Chambers' core areas of expertise, David also has significant experience in the context of rail disputes, including claims made in arbitration in accordance with the ADR concerning Restrictions of Use and Sustained Poor Performance.

Recent Cases

Construction & Engineering

- Instructed by a major property developer in connection with a £5m+ TCC claim against a contractor arising out of various fire-safety defects including the use of combustible materials for the building façade and inadequate cavity barriers.
- Instructed by a housing partnership to pursue a claim in the TCC against a major contractor in respect of the use of combustible insulation for the building façade and other fire-safety defects (claim value c £8m).
- Instructed by a property developer to pursue proceedings against a joint venture partner following the failure of the joint venture (claim value c £1m).
- Instructed to pursue proceedings in the TCC against a major contractor in respect of numerous defects at a student accommodation block (claim value c £8m).
- Instructed to defend TCC proceedings in connection with allegedly defective concrete slabs in a multi-storey car park (claim value c £1.8m).
- Instructed by homeowners in a TCC claim for defects at new-build residential properties (claim value c £500,000).
- Instructed to represent a major energy provider in connection with a claim for allegedly defective cavity wall insulation (Bristol TCC).
- Instructed (as junior counsel to Simon Hargreaves QC) in significant multi-party proceedings in the TCC concerning alleged defects in a warehouse slab giving rise to settlement.
- Instructed (as junior counsel to Simon Hughes QC) to represent a Local Authority in connection with a claim for defective cladding and firestopping on a large estate (claim value in excess of £100m).
- Instructed (as junior counsel to Simon Hughes QC) in connection with a TT\$1.4 billion dispute concerning the construction of a number of roads in Trinidad, one of the biggest claims to ever be issued in the Trinidadian High Court.
- Instructed (as junior counsel to Fionnuala McCredie QC) in connection with a substantial multi-party TCC dispute concerning the termination of a waste PFI contract.
- Instructed as junior counsel in connection with a substantial dispute concerning the operation of a waste PFI contract.
- Instructed (as junior counsel to Vincent Moran QC) to draft pleadings in connection with a substantial TCC dispute concerning leakages within the Brunswick Centre, London.
- Instructed as junior counsel in connection with an ICC arbitration concerning the construction of an LNG plant Ras Laffan, Qatar (claim value in excess of \$100 million).
- Instructed as junior counsel to Marcus Taverner QC in *Accolade Wines Limited v GJ3 Limited and others*, a claim arising out of defects at a wine distribution warehouse which was listed for an 8 week TCC trial with sums in issue in excess of £150 million. The claim settled during the second week of trial.
- Instructed as junior counsel to Stephen Furst QC to prepare urgent proceedings to injunct a call on a performance bond in excess of EUR 24 million.

“David is a terrifically thoughtful and impressive advocate, with top notch cross-examination skills. He has a superb court manner.”

The Legal 500 UK Bar 2023

- Instructed as junior counsel to Marcus Taverner QC to provide advice in connection with termination for Contractor Default under a PFI contract.
- Instructed as junior counsel in an ICC arbitration concerning a construction project in Doha, Qatar (claim value £350m).
- Instructed as junior counsel in arbitration proceedings arising out of delays and cost overruns on a wind farm project (claim value £300 million), focussing in particular on expert evidence in respect of delay and quantum.
- Instructed as junior counsel in arbitration proceedings concerning various disputes arising out of a wind farm project (claim value £100 million).
- Instructed by the Government Legal Department to prepare various aspects of the defence

- in a long-running arbitration against a government department.
- Instructed to advise in respect of the application of a full range of JCT contracts and sub-contracts including Design and Build, Standard Form, Intermediate and Minor Works.
- Instructed to appear in fast and multi-track trials in the county and high courts concerning various issues including allegedly negligent project supervision, defective stonework and defective tiling works.
- Instructed to appear in a wide range of interlocutory applications in the county and high courts including for summary judgment, strike out, case and costs management, relief from sanctions, setting aside default judgment, stay of execution, stay to arbitration and security for costs.

“David has an incredible eye for detail, he is very thorough and has built an excellent rapport with the client.”

The Legal 500 UK Bar 2024

Professional Negligence

- Instructed by a major property developer in connection with a £5m+ claim against an architect in respect of various fire-safety defects including the use of combustible materials for the building façade and inadequate cavity barriers.
- Instructed to pursue a claim against an engineering consultancy in the TCC in connection with defective tender estimates / drawings (claim value c £1.2m).
- Representing an engineering consultancy in an adjudication concerning allegedly defective design of an air conditioning system in a substantial residential property.
- Instructed (as junior counsel to Simon Hargreaves QC) to pursue a claim against structural engineers in connection with structural defects in a number of residential developments.
- Representing an architect in a substantial TCC claim concerning the construction of a residential property.
- Instructed (as junior counsel to Jonathan Selby QC) to pursue the professional team in a multi-party negligence claim arising out of the construction of a defective development in Manchester (claim value £16 million).
- Instructed to defend professional negligence proceedings in the High Court against an architect concerning allegations of inadequate advice, design and project management (claim value £500,000).
- Instructed as junior counsel to Marc Rowlands QC in connection with a domestic arbitration against an architect (who was contractually responsible for a multi-disciplinary team) for allegedly inadequate design, M&E design co-ordination and preparation of bills of quantities (seeking to pass on elements of a larger settlement with the contractor, with a claim value in excess of £4 million).
- Advising on and defending proceedings in a six-figure professional negligence claim against an architect and project supervisor.
- Instructed on behalf of a school in connection with a domestic arbitration against an architect for various defects in the construction of a new building (claim value c £300,000).
- Instructed in a TCC claim against a quantity surveying firm for negligence in the negotiation and conclusion of a construction contract (sum in issue c £500,000).
- Settling proceedings in a professional negligence claim against an architect and an engineer in respect of a defective retaining wall (claim value £50,000).
- Settling loss of a chance proceedings against a solicitor in respect of a claim which had been allowed to become time barred.

PFI/PPP

- Instructed in connection with adjudication proceedings brought under a PFI contract in respect of numerous alleged internal fire-safety defects at a hospital.
- Instructed (as junior counsel to Simon Hughes QC) to represent a Local Authority in connection with a claim for defective cladding and firestopping on a large estate (claim value in excess of £100m).
- Instructed in connection with claims for significant firestopping defects in a number of buildings.
- Instructed to defend TCC proceedings in connection with allegedly defective concrete

slabs in a multi-storey car park (claim value c £1.8m).

- Instructed (as junior counsel to Fionnuala McCredie QC) in connection with a substantial multi-party TCC dispute concerning the termination of a waste PFI contract.
- Instructed as junior counsel in connection with a substantial dispute concerning the operation of a waste PFI contract.

“His cross-examination is superb. David is brilliantly responsive and client focused with fantastic attention to detail.”

The Legal 500 UK Bar 2021

Energy & Natural Resources

- Instructed (as junior counsel to Marcus Taverner QC) in connection with a TCC claim (claim value c £18m) arising out of defective engineering in connection with the development of an offshore oil platform.
- Instructed by a major oil and gas company in connection with a claim for defective engineering .
- Instructed as junior counsel in connection with an ICC arbitration concerning the construction of an LNG plant Ras Laffan, Qatar (claim value in excess of \$100 million).
- Instructed as junior counsel in arbitration proceedings arising out of delays and cost overruns on a wind farm project (claim value £300 million).
- Instructed as junior counsel in arbitration proceedings concerning various disputes arising out of a wind farm project (claim value £100 million).

“He is quite brilliant in conference with clients and solicitors whilst also being able to dissect issues quickly and get to grip with the key points quickly.”

The Legal 500 UK Bar 2022

International Arbitration

- Instructed by a major train operator (as junior counsel to Marc Rowlands QC) to pursue a claim for compensation in respect of a major Restriction of Use (claim value c £25m).
- Instructed (as junior counsel to Simon Hargreaves QC) to seek a stay to arbitration of proceedings brought by a local authority in connection with a PFI contract.
- Instructed as junior counsel in a DIFC-LCIA arbitration concerning the operation of a dewatering system during the construction of a major development in Dubai (FIDIC Red Book).
- Instructed as junior counsel in arbitration proceedings covering delay, disruption and valuation disputes in connection with a major airport construction in the middle east (with a sum in issue in excess of £1 billion)
- Instructed to appear as sole counsel in the trial of a DIAC arbitration with claims for disruption and prolongation and other related claims (claim value in excess of £8 million)
- Instructed as junior counsel in connection with an ICC arbitration concerning the construction of an LNG plant Ras Laffan, Qatar (claim value in excess of \$100 million).
- Instructed as junior counsel in arbitration proceedings arising out of delays and cost overruns on a wind farm project (claim value £300 million).
- Instructed as junior counsel in arbitration proceedings concerning various disputes arising out of a wind farm project (claim value £100 million).

- Instructed as junior counsel in connection with an ICC arbitration concerning a construction project in Doha, Qatar (claim value £350m).
- Instructed by the Government Legal Department to prepare various aspects of the defence in a long-running arbitration against a government department.
- Instructed as junior counsel to Marc Rowlands QC in connection with a domestic arbitration against an architect (who was contractually responsible for a multi-disciplinary team) for allegedly inadequate design, M&E design co-ordination and preparation of bills of quantities (seeking to pass on elements of a larger settlement with the contractor, with a claim value in excess of £4 million).
- Representing a contractor in an application seeking a stay to arbitration.
- Applying to Court for urgent relief under s. 44 of the Arbitration Act 1996.

“David is exceptionally bright and hard-working, and he tackles complex and demanding tasks thoroughly and seemingly with ease.”

Chambers & Partners UK Bar 2023

Adjudication

- Instructed in connection with adjudication proceedings brought under a PFI contract in respect of numerous alleged internal fire-safety defects at a hospital.
- Adjudication enforcement proceedings in the TCC (claim values up to £1.8m).
- Instructed to draft the Notice of Adjudication and Referral Notice for a contractor in adjudication proceedings against its M&E subcontractor.
- Instructed to appear on behalf of the employer at a 6-day hearing in an Irish adjudication connected with the construction of a large data centre (claim value €18 million).
- Preparing various aspects of the response and a witness statement in connection with a final account dispute which was referred to adjudication (claim value £5 million).
- Drafting the Response to a referral claiming damages for termination of a contract for the construction of a basement conversion (claim value £45,000).
- Drafting the Notice of Adjudication and Referral Notice for an adjudication arising out of a final account dispute under an NEC3 Contract (claim value £150,000).
- Drafting the Notice of Adjudication and Referral Notice for an adjudication in respect of compensation events and release of retention under an NEC3 Contract (claim value £80,000).
- Drafting the Notice of Adjudication and Referral Notice for an adjudication arising out of the termination of a contractor’s employment under a JCT Design and Build Contract (sum in issue £600,000).
- Drafting the Notice of Adjudication and Referral Notice in a claim for certified sums which remained unpaid under a JCT Minor Works Contract.
- Drafting the Response in an adjudication arising out of a final account dispute (claim value £85,000).
- Instructed in proceedings to enforce adjudicators’ awards and to advise on the prospects of resisting enforcement.
- Seeking a stay of execution against the enforcement of an adjudicator’s award in circumstances in which the successful party had become insolvent but had since assigned the benefit of the Order to a third party.

“David’s knowledge of the law and his ability to navigate complex claims and provide clear, reliable advice is exceptional.”

Legal 500 Middle East: The English Bar: Construction 2023

Rail

- Acting for a major Train Operating Company in arbitral proceedings concerning the calculation of RoU Liability following a Type 3 Restriction of Use under a Track Access Contract.
- Acting in arbitrations concerning Schedule 8 claims for Sustained Poor Performance.
- Acting in an arbitration concerning the operation of No Net Loss No Net Gain provisions under a Concession Agreement.

Offshore Construction & Marine Engineering

- Instructed as junior counsel in arbitration proceedings arising out of delays and cost overruns on a wind farm project (claim value £300 million), focussing in particular on expert evidence in respect of delay and quantum.
- Instructed as junior counsel in arbitration proceedings concerning various disputes arising out of a wind farm project (claim value £100 million).

Selected Reported Cases

Burgess v Lejonvarn [2017] EWCA Civ 254

BDW Trading Ltd v AECOM Infrastructure and Environment UK Ltd [2020] 10 WLUK 206

Surrey CC v Suez Recycling and Recovery Surrey Ltd [2021] EWHC 2015 (TCC)

BDW Trading Ltd v URS Corp Ltd [2021] EWHC 2796 (TCC)

Cameron Taylor Consulting Ltd v BDW Trading Ltd [2022] EWCA Civ 31

London Borough of Camden v Partners for Improvement In Camden Ltd & Ors [2021] EWHC 3547 (TCC)

Education & Professional Career

TECBAR-Accredited Adjudicator	2013
Tenant, Keating Chambers	2011- Present
Pupil, Keating Chambers	2010-2011
Bar Vocational Course, BPP (Very Competent)	2009-2010
LLM, St. John's College, Cambridge (1st Class, 4th in year)	2008-2009
Cunningham Scholarship, St. John's College, Cambridge	2009
Wright Prize, St. John's College, Cambridge	2009
Lord Denning Scholarship, Lincoln's Inn	2008
Hardwicke Scholarship, Lincoln's Inn	2008
MA (Law), St. John's College, Cambridge	2005-2008
Mears Scholarship, Warwick School	2005

Seminars and Publications

- Co-author with Sam Townend of "Architects, Engineers and Quantity Surveyors" in "Professional Negligence and Liability" pub. LLP, 2019.
- Blurred lines between liability in contract and tort, Practical Law Construction blog, 10 March 2016.
- Walker and the burden of proof: where are we after Aspect?, Practical Law Construction Blog, 18 August 2015.

- Adjudication: reversing the burden of proof?, Practical Law Construction bog, 11 March 2014.
- Keating on Construction Contracts 9th edition supplement, contributing author (2013).
- Bullen & Leake & Jacob's Precedents of Pleadings Hong Kong, contributing author (2013).
- Compromise agreement should be clear and comprehensive, Practical Law Construction blog, 28 November 2012.

Language

German (basic)

Additional Information

David is a keen musician and sportsman. He plays the piano and violin, played University tennis at Cambridge and also enjoys skiing.