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**KEATING**  
CHAMBERS



## TOM OWEN KC

Call: 2011 / Recorder: 2022 / Silk: 2024

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### Areas of Practice

- Construction & Engineering
- Energy & Natural Resources
- Professional Negligence
- Infrastructure & Utilities
- Offshore & Marine Engineering
- PFI & PPP
- IT & Technology
- Health & Safety/Regulatory

### Clerks' Details

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### Practice Overview

Tom Owen KC is recognised as one of the leading silks for TCC litigation in the High Court, and as a formidable advocate on appeal and in international arbitration.

Tom is described as “an outstanding advocate, fierce and dedicated when fighting your corner” (Legal 500), and “a tenacious advocate and a trusted adviser” (Chambers & Partners).

Of Tom’s cross-examination: “he destroyed the other party’s case – such that they withdrew their claim before a decision was reached” (Legal Week’s ‘Stars at the Bar’). Tom has a “tenacious ability to deal with difficult cross-examinations and the talent of having just about every single fact to hand” (Legal 500).

Tom leads large teams in heavy and complex construction, energy, and related disputes. He conducts appeals in the Court of Appeal and Supreme Court.

Before taking Silk, Tom was Construction and Energy Junior of the Year (Legal 500 and Chambers & Partners), and recognised in ‘Stars at the Bar’ (Legal Week) and ‘The Hot 100’ (The Lawyer).

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## Recent Cases

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### High Court: Trials

Tom Owen KC is often Counsel of choice for heavy and complex High Court trials. Tom is known particularly for his meticulous case preparation and for his cross-examination.

Examples of past-listed and future-listed trials include:

- 12 week trial: professional negligence claim against cost consultants and others.
- 4 week trial: alleged mechanical defects at an iconic central London property.
- 4 week trial: alleged fire-safety defects at substantial residential tower blocks.
- 3 week trial: termination and delay dispute concerning a power plant.
- 2 week trial: defects dispute concerning a football stadium.
- 1 week trial: defending a claim under the Defective Premises Act 1972.
- 2 day Part 8 trial: income sharing arrangements in a waste management project.

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*“Tom is very eloquent and persuasive. He makes the right points at the right time and in a way that cuts to the heart of the key issues. He also keeps on top of the detail and often drives the work in the background, which is particularly helpful in complex and acrimonious cases.”*

Legal 500 UK Bar 2024

### High Court: Interim Hearings

Tom Owen KC appears regularly in substantial interim hearings in the High Court. He is highly experienced in appearing before a range of Judges on legally complex, sensitive and substantial hearings. Recent work includes:

#### **Injunctions:**

- To injunct the withdrawal of a call on a bond and/or to preclude the bank from paying.
- Resisting relief seeking to forbid a contractor accessing site.
- Seeking relief to exclude a contractor from a substantial Grade I site.

#### **Summary judgment and/or strike out:**

- Resisting summary judgment sought by an insolvent party in a CVA.
- Various high-value adjudication enforcements.
- Strike out of Part 8 and Part 7 statements of case.

#### **Jurisdictional challenges:**

- Part 11 jurisdictional challenges: seeking and resisting. A recent example concerned the legal effect of stays on taking the relevant step to serve proceedings, and of the late filing by the Defendant of the AOS.
- Section 9 Arbitration Act 1996 stay: seeking relief to stay proceedings to arbitration.

#### **Limitation and substitution:**

- Substitution of the core Defendant post-expiry of limitation.
- Amendments after expiry of the primary limitation period.

**Case-management orders**, applying for and resisting:

- Preliminary issues trials.
- Security for costs.
- Pre-action and specific disclosure, and disclosure guidance.
- Consolidation and trial together.
- Transfer between divisions.
- Part 18 orders for further information.

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*“An outstanding advocate, Tom is fierce and dedicated when fighting your corner.”*

Legal 500 UK Bar 2024

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### Appeals

Tom Owen KC conducts appeals in the Supreme Court and in the Court of Appeal.

In the Supreme Court Tom appeared recently for the Respondent in *Simply Construct v Abbey Healthcare*, having previously appealed successfully to the Court of Appeal.

Tom has appeared in Court of Appeal on many occasions. Recent examples include:

- Whether a collateral warranty is a construction contract for the purposes of Part II of the Housing Grants, Construction and Regeneration Act 1996.
- Whether, in a hybrid contract, for the purpose of section 111 of the Housing Grants, Construction and Regeneration Act 1996, a payment notice must identify the sum due in respect of construction operations separately from any non-construction or excluded operations.
- Whether a CPR Part 15 Defence is required to resist enforcement proceedings by summary judgment under CPR Part 24 for fraud.
- Whether an exemption clause “liability for any claim in relation to asbestos is excluded” barred the claims.
- Whether amendments after expiry of the limitation period were permissible, and whether a “new claim” under section 35 of the Limitation Act 1980 and CPR r.17.4.

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*“He’s very responsive, very good and gives great advice. Top marks for Tom all round, he’s a great barrister and is my first choice if available.”*

Chambers & Partners UK Bar 2024

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### International Arbitration

Tom Owen KC leads large teams in international arbitrations. Tom has appeared before a number of retired appellate justices and High Court judges. Recent cases include:

- 3 week ICC arbitration concerning a solar PV project.
- 1 week LCIA arbitration concerning civil fraud in respect of a London development.
- 1 week AASA arbitration concerning a power station.
- 1 week hearing concerning a food production facility.

## Construction & Engineering

Tom Owen KC has led some of the most substantial and high-profile cases in the TCC in recent times. Recent work includes:

- £100m proceedings concerning a mixed-use retail development.
- £60m proceedings concerning alleged defects at a residential development.
- £50m proceedings concerning alleged defects at a hospital.
- £20m proceedings concerning alleged defects in car parking facilities.
- £10m proceedings concerning alleged defects in care home facilities.

## Energy & Natural Resources

Tom Owen KC is highly experienced in energy disputes in the UK and internationally. Recent work includes:

- Nuclear: standing Counsel to the Employer at Hinkley Point C.
- Energy-from-waste: acted for the Main Contractor in a final account dispute.
- Wind: acted for the Employer in an offshore windfarm project.
- Solar PV: acted for the Contractor in a termination dispute.
- Biomass: acted for the Main Contractor in a termination dispute.
- Coal: acted for the Main Contractor in various defects and delay disputes.
- Oil: acted for the Contractor in proceedings concerning bridge-linked oil platforms.
- Gas: acted for the Company in a natural gas pipeline project.

## Professional Negligence

Tom Owen KC defends and pursues claims against construction and associated professionals. Recent work includes:

- Approved Inspectors: acted for and against in respect of building safety claims.
- Architects: acted for and against, particularly in relation to building safety claims.
- Project Managers: acted against in respect of negligent costs-control advice. Acted for in relation to building safety claims.
- Clerk of Works: acted against in respect of inspection and building safety claims.
- Quantity Surveyors: acted against in relation to negligent feasibility and costs advice. Acted for in respect of negligent certification.
- Monitoring Surveyors: acted against in respect of large funded developments.
- Cost consultants: acted against in respect of negligent estimation and viability claims.
- Mechanical engineers: acted against in respect of negligent design.
- Electrical engineers: acted for in respect of design advice.
- Structural engineers: acted for in respect of foundations designs.
- Acoustic engineers: acted against in respect of disputes concerning sound attenuation and acoustic separation.

## Infrastructure & Utilities

Tom Owen KC has substantial experience in the infrastructure and utilities sectors. Recent work includes:

- Airports: acted in respect of a Joint Venture fit-out of a major international airport.
- Roads: acted in respect of road and infrastructure works at the Olympic Park.
- Rail: acted in respect of rail repair and maintenance works.
- Grid: acted in respect of defective connection works.
- Flooding: acted for the contractor in respect of flood defence systems.
- Defence and security: acted in respect of various projects.

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*“Tom is an exceptional barrister. His ability to absorb complex technical information and translate this into simple yet effective pleading is testament to his talent.”*

Chambers & Partners UK Bar 2024

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#### Offshore & Marine Engineering

Tom Owen KC advises and acts in relation to offshore and marine projects, in addition to his energy practice. Recent work includes:

- Acted in a claim concerning infrastructure between oil drilling rigs.
  - Acted in a dispute concerning a substantial commercial port.
  - Advised in respect of non-assignment provisions in an offshore drilling rig contract.
  - Acted for the Company in a dispute concerning offshore heavy lifting vessels.
  - Acted for the Contractor in respect of defective installation of a subsea dynamic umbilical cable at a floating production storage and offloading vessel (FPSO).
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*“An outstanding advocate, Tom is fierce and dedicated when fighting your corner.”*

Legal 500 UK Bar 2024

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#### PFI & PPP

Tom Owen KC frequently acts for Authorities, Project Co, Contractors and Funders in respect of high-profile and complex PFI disputes. Recent work includes:

- Hospitals: acted for various parties, e.g. on payment and termination disputes.
  - Schools: acted for various parties, e.g. on defects, utilities benchmarking and termination disputes.
  - Leisure facilities: acted for the Contractor on the construction of pool and leisure complexes.
  - Police facilities: acted in relation to termination and defects disputes.
  - Prison facilities: acted in relation to defects disputes.
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#### IT & Technology

Tom Owen KC advises and acts in a range of IT and technology disputes. Recent work includes:

- Software: acted in a software dispute concerning flight training facilities.
  - Hardware: advised in a software and hardware dispute concerning GPS tracking.
  - Websites: acted for a leading advertising agency in respect of updates to its website.
  - Electronics: acted in a dispute concerning the supply and transport of such high voltage switchgear and associated electronics.
  - Satellites: advised in relation to distribution agreements for antennae.
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*“Tom Owen is a hugely accomplished barrister with*

# vast experience handling an array of construction disputes”

Who's Who Legal 2023

## Health & Safety / Regulatory

Tom Owen KC has experience in defending criminal and regulatory proceedings in the construction and related sectors. Recent work includes:

- Successful acquittal of the Defendant in a criminal prosecution of a national housebuilder for health and safety charges on a construction site.
- Acted in injunctive proceedings concerning liability under the Health and Safety at Work Act, Control of Substances Hazardous to Health Regulations, Control of Asbestos Regulations and Construction (Design and Management) Regulations.
- Advised in respect of a criminal prosecution for offences at a construction site under the Highways Act 1980.

*“Tom is friendly, clear, meticulous and has a fantastic mind for untangling thorny issues”*

Legal 500 UK Bar 2024

## Selected Reported Cass

- Clarion Housing v Crest Nicolson [2023] EWHC 620 (TCC)
- Sarkesian v Hutton Construction Ltd [2023] EWHC 311 (TCC)
- Balfour Beatty v Broadway Malyan [2022] EWHC 2022 (TCC)
- Abbey Healthcare v Simply Construct [2022] EWCA Civ 823
- FTH v Varis Developments [2022] EWHC 1385 (TCC)
- Standard Life v Gleeds and Others [2022] EWHC 1310 (TCC)
- Evolve Housing v Bouygues and Others [2022] EWHC 906 (TCC)
- Buckinghamshire Council v FCC Buckinghamshire Ltd [2021] EWHC 2867 (TCC)
- Toppan and Abbey v Simply [2021] EWHC 2110 (TCC)
- Boxwood Leisure Limited v Gleeson Construction Services Limited and Another [2021] EWHC 947 (TCC)
- Ceramic Works v B & K Building Services Ltd [2021] EWHC 17 (TCC)
- Ex Novo v MPS [2020] EWHC 3804 (TCC)
- Premier Engineering v MW [2020] EWHC 2484 (TCC)
- Stonewater v BAM [2020] EWHC 2226 (TCC)
- Fabricom v MW [2020] EWHC 1626 (TCC)
- Tomlinson v Balfour Beatty [2020] EWHC 1483 (TCC)
- J&B Hopkins v Trant Engineering [2020] EWHC 1305 (TCC)
- Taylor Wimpey v Harron Homes [2020] EWHC 1190 (TCC)
- PBS Energo A.S. v Bester Generacion UK Ltd [2020] EWCA Civ 404

- C Spencer Limited v MW High Tech Projects UK Limited [2020] EWCA Civ 331
- Engie Fabricom UK Ltd v MW High Tech Projects UK Ltd [2019] EWHC 1876 (TCC)
- BS Energo A.S. v Bester Generacion UK Ltd [2019] EWHC 996 (TCC)
- Midal Cables Ltd v AMEC Foster Wheeler Group Ltd [2019] EWHC 1155 (TCC)
- Swansea Stadium Management Company v Swansea and Interserve [2019] EWHC 989 (TCC)
- Swansea Stadium Management Company v Swansea and Interserve [2018] EWHC 2192 (TCC) and EWHC 2210 (TCC)
- Dixon v Radley House Partnership and Mr Christopher Reading and Others [2016] EWHC 2511 (TCC).
- Persimmon Homes Ltd & Others v Ove Arup & Partners Ltd & Another [2015] EWHC 3573 (TCC)
- Seeney v Gleeson Developments Ltd [2015] EWHC 3244 (TCC)
- Errington v David Brown Gear Systems Ltd [2014] EWHC 4255 (TCC)
- Co-operative Group Ltd v Birse Developments Ltd and Others [2013] B.L.R. 383, [2013] EWCA Civ 474

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## Education & Professional Career

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Silk	2024
Recorder	2022
CEDR Solve Adjudicator Panel	2013
TECBAR-accredited Adjudicator	2013
Tenant, Keating Chambers	2012
Pupil, Keating Chambers	2011-2012
Bar Professional Training Course, Nottingham Law School - ranked top in the year	2010-2011
MA (Hons) Law, University of Cambridge, Downing College	2007-2010
Loughborough Grammar School, Head Boy (2006/07)	2000-2007

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## Awards & Scholarships

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Chambers & Partners Construction and Energy Junior of the Year	2023/24
Hot100	2023
Legal 500 construction and Energy Junior of the Year	2022/23
The Baron Dr Ver Heyden De Lancey Prize, ranked top Middle Templar on the BPTC	2012
Certificate of Honour, Middle Temple	2011
Lord Taylor Prize, ranked top in the year at Nottingham Law School BPTC	2011
The Advocacy Prize, Nottingham Law School BPTC	2011
Winner of the Nottingham Law School Ropewalk Mooting Competition	2011
Queen Mother Scholarship, Middle Temple	2010
Finalist, University of Cambridge De Smith Mooting Competition	2010
Sporting Colours, Downing College	2010
Downing College Lovells Prize	2008
Finalist, representing the University of Cambridge at the International Roman Law Moot Conference	2008

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## Memberships

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Middle Temple

Society of Construction Law (SCL)

TECBAR

COMBAR

LCLCBA

TECBAR - accredited Adjudicator and, by invitation, a Member of the CEDR Solve Adjudicator Panel.

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## Seminars, Publications & Papers

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- Article: "How to get costs on the indemnity basis"
- Article: "Court fees in civil litigation: practical guidance"
- By invitation of King's College London, Tom is a lecturer and examiner on the MSc Construction Law & Dispute Resolution course.
- Tom lectures on all aspects of Civil Procedure and Civil Litigation.
- Article: "Late amendments and amendments after the expiry of the limitation period"
- Article: "Practical Guidance on Relief From Sanctions after Denton – July 2014"
- Article: "Construction Adjudication Enforcement"
- Article: "Liquidated damage: are they penal?"
- Article: "Who is the contract with: the director or his company?"
- Article: "Silence: unreasonable refusal of ADR."
- Article: "Liability for natural nuisances."
- Article: "Tree roots: causation in natural nuisance cases."
- Article: "Practical guidance on relief from sanctions after Mitchell and Durrant - January 2014."
- Co-Author of the 5th Edition of Halsbury's Laws of England: Income Taxation – Sub-contractors in the Construction Industry.
- Author of iSurv: Payment under Construction Contracts.
- "Amendments after limitation: limiting the amendments", KC Construction Update, Summer 2013 (pp.12-13).
- Sweet & Maxwell webinar Masterclass from Tom Owen: "Nuisance and Rylands v Fletcher: recent developments".
- Sweet & Maxwell webinar Masterclass from Tom Owen: "Commercial Property – pre-contractual representations, agents' duties and guarantees".
- By invitation of legal publishers, Sweet & Maxwell, Tom Owen is the author of "Defective Premises" and "Lis Alibi Pendens" for Westlaw UK Insight.
- Further, by invitation, Tom Owen is the author of: "Construction Adjudication: Enforcement" and "Construction Adjudication: Overview" for Westlaw UK Insight.

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## Languages

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English (native)

French (professional working proficiency)

German (professional working proficiency)

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## Additional Information

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Tom is a keen sportsman. He enjoys playing and watching football, rugby and cricket.