

HOWARD KENNEDY



International Construction



About us

Our leading international construction team specialise in the avoidance and resolution of disputes arising in the construction and engineering sector. In addition, we advise on procurement, drafting and negotiating contracts.

Our experience covers all major sectors including airports, roads, railways, bridges, complex buildings, power and energy (including hydro and wind), and ports and dredging.

We act for, and advise, employers (owners, including governments), consulting engineers and international contractors in relation to large international construction and engineering projects all over the world.

We have cross border expertise and, where necessary, work with co-counsel if issues of local law arise.

What sets us apart?

FIDIC expertise:

The team have specialist knowledge of the FIDIC forms of contract having been involved in the drafting of several of them. The team have also written two books on FIDIC contracts: "FIDIC 4th: A Practical Legal Guide" and "FIDIC 2017: A Practical Legal Guide" and have contributed to other publications.

Acting as adjudicators, arbitrators and mediators:

We have experience hearing disputes as adjudicators, arbitrators and mediators. Members of the team sit as FIDIC Certified Adjudicators and on the FIDIC President's List of Approved Adjudicators. Members of our team have also been appointed to act as arbitrator and are also accredited mediators.

Technical construction knowledge:

Many of our lawyers have Masters degrees in construction law and dispute resolution, which provides an in-depth, technical knowledge of the sector that many other firms don't have. We pride ourselves on our ability to understand the most complex projects and to provide creative and effective solutions to what can sometimes be very difficult problems.

Dual qualification:

Many of our lawyers are qualified (or have worked) in jurisdictions outside of England and Wales, which serves to enhance our international expertise and the service that we are able to offer to clients.

Sectors



Transport, infrastructure and civil engineering



Ports and dredging



Power and energy



Water



Residential and commercial property

Services



Arbitration and litigation



Dispute boards, mediation and other forms of ADR



Risk management and advisory



Contracts



Bonds and guarantees

International reach

We advise the construction and engineering sector on projects all over the world. We have cross border expertise and work with local co-counsel if issues of local law arise. A selection of our work and the jurisdictions we work in have been highlighted on the map below.



Transport, infrastructure and civil engineering

Our team has extensive experience advising on a range of transport, infrastructure and civil engineering projects from airports and roads to railways and bridges.

We can assist with the procurement of the project, preparing and advising on the contract documentation, and when a dispute arises.

Our client base includes governments, engineers and contractors and we have worked on projects in Europe, Africa, the Middle East and Asia, including some of the world's most high-profile airports and bridges.

When it comes to resolving disputes, we take a hands-on approach by working with clients on site to understand how the problems have arisen in order to propose effective solutions.

Our lawyers are highly experienced in dealing with claims for delay and disruption, extension of time, suspension, additional quantities and variations. We have also advised on numerous technical issues including unforeseen ground conditions and force majeure events, as well as economic issues such as price escalation.

We work closely with a range of experts including programming and quantum experts, engineers and local lawyers to provide a seamless service to each client, tailored to their individual needs and those of the project.

"An excellent specialist construction arbitration firm that punches above its weight."

LEGAL 500 2021

Ranked for Construction: International Arbitration

CHAMBERS & PARTNERS 2023

Our experience includes:

- Acting for the Government of Gibraltar in litigation against a contractor in a £30 million contract concerning the construction of an airport.
- Acting for an employer in SIAC arbitration proceedings in a US\$60 million contract concerning the airport infrastructure and terminal improvement works at a major international airport.
- Advising on delay and disruption to the construction of nineteen bridges and culverts on a motorway in Europe.
- Advising the contractor on dispute avoidance and resolution on a bespoke turnkey contract for the construction of a US\$1 billion railway.
- Acting for a subcontractor in an ICC arbitration against a contractor relating to a multi-million-euro road construction and rehabilitation project in the Balkans.
- Advising a consultant joint venture on claims concerning the design and construction supervision of an urban upgrading project.
- Acting for a contractor in an ICC arbitration relating to a baggage handling system at a European airport.
- Advising a sub-contractor in relation to an airport dispute in Saudi Arabia with a value of US\$0.5 billion.
- Acting in relation to a railway project in North Macedonia before a disputes board and then engaging personally in complex negotiations with the Deputy Prime Minister to facilitate a favourable settlement.
- Acting for a contractor in dispute board proceedings and an ICC arbitration relating to a rail rehabilitation project in eastern Europe.

Ports and dredging

We are experts in this field, with Edward Corbett having assisted in the drafting of the FIDIC Dredging & Reclamation Blue Book.

We have experience in ports and dredging works across Europe, India, Asia and Australia.

We advise across all stages of a project, from procurement, drafting and reviewing specific conditions of contract under FIDIC's Blue, Yellow and Orange Books, to representing clients before dispute boards and in arbitration.

The team has worked on a variety of projects from land reclamation and beach nourishment to maintenance and capital dredging works.

We have experience of all types of dredging equipment such as submersible dredgers, trailer hopper suction dredgers and cutter-suction dredgers.

We have also assisted in the preparation of claims and counterclaims relating to delays caused by the discovery of unexploded ordnance and unforeseen ground conditions.

Our experience includes:

- Acting for an employer in dispute board proceedings concerning a dispute arising from a US\$100 million port development project in Iraq.
- Acting for a government employer in a series of dispute board referrals relating to port works.
- Advising the employer on claims on the construction of a cruise ship pier in the Caribbean.
- Acting for a developer in an ICC arbitration against consulting engineers relating to a spur groyne in a port development project.
- Advising an employer on delays caused by the discovery of an unexploded World War 2 ordnance when dredging a port in the Balkans.

"The firm has a very good ability to mobilise teams to handle complex matters. They're attentive and provide practical solutions."

CHAMBERS & PARTNERS 2022





Power and energy

We have acted in some of the largest energy construction projects in the world including hydroelectric power stations, nuclear power stations, wind farms and waste to energy plants.

We have particular experience in hydroelectrical power stations and the associated construction of dams across the world with clients including governments, operators and contractors in Africa, Asia, and Europe.

Our experience in the energy sector covers all stages of work. We have assisted in drafting particular conditions of contract for projects as well as acting as advocates in dispute board proceedings, arbitrations and litigation.

Whilst some of these projects had bespoke contracts, many were heavily amended FIDIC forms, including the FIDIC Yellow and Silver Books.

“This practice has unique knowledge within the industry on the practical application and resolution of disputes under the FIDIC suite of contracts.”

LEGAL 500 2023

Our experience includes:

- Acting for the employer on dispute board and ICC arbitration proceedings in excess of €900 million on a large hydroelectric power project in Africa.
- Assisting three African governments in the procurement of a study assessing the environmental and social impacts of a large gravity dam.
- Advising the contractor during appeal of two arbitral awards against the same employer at the regional court. The arbitrations related to a hydropower project in South Asia.
- Acting for an employer on issues and disputes relating to a hydropower scheme and collapsed transfer and head race tunnels in Europe.
- Acting for a sub-contractor in ICC arbitration proceedings arising from a US\$35.8 million contract for the construction of a new unleaded gasoline / low sulphur gas oil plant in the Middle East and enforcing the Award.
- Assisting a contractor in document only adjudication proceedings against an English power generation company concerning a UK nuclear power station.
- Advising an employer on issues and disputes arising out of a hydropower project in east Africa.



Water

We have a broad range of experience in the construction of water supply and waste water treatment plants throughout Europe and Asia and have been involved in various types of claims.

Water supply projects are often large and complicated, involving many parties. They may give rise to environmental, social and economic issues as well as specialist technical issues relating to the design and/or construction and matters concerning delays. We are able to build the teams necessary to avoid and/or resolve any disputes which may arise.

We have a broad range of experience in the construction of waste water treatment plants throughout Europe and Asia and have been involved in various types of claims, from the termination of a contract for breaches of health and safety, defective work claims and the valuation of variations.

Our experience includes:

- Acting for an employer in SIAC arbitration proceedings under a USD60 million amended FIDIC form contract to supply a capital city with 60% of its water.
- Acting for an employer in an ICC arbitration relating to the design, supply and installation of new process plant for a facility in Europe.
- Acting for contractor in an ICC arbitration relating to a defective sewer network.
- Acting for a joint venture contractor in dispute board proceedings, and then ICC arbitration proceedings in relation to a dispute arising out of a sewerage network in Cyprus.
- Preparing dispute board referrals in relation to a water network and a wastewater treatment plant in Georgia.

“The team is very skilled and has very strong skills in FIDIC and the background law of common law. Where the issue is of more technical character, the team has a strong technical understanding and is very thorough.”

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Residential and commercial property

We have worked on a diverse range of projects including luxury apartments, hotels, administrative complexes and manufacturing buildings.

We have advised on projects as far apart as Malta, Kosovo, Egypt, Ukraine, the Seychelles, Sudan, Romania, Kuwait, Russia and Gibraltar. Most recently we have worked on the development of residential complexes and hotels, but we have also been involved with administrative buildings, manufacturing buildings, restaurants, museums, television studios, nurseries, student accommodation and shopping centres.

We are experienced in using many different forms of building contract, including the FIDIC forms of contract, and have represented clients in litigation, arbitration, dispute board proceedings, mediation, expert determination as well as in negotiation.

“Fresh technical approach and constructive views on the legal cases.”

LEGAL 500 2023

Ranked for Construction: Contentious

LEGAL 500 2023

"All members of the team have a very good command of the details of the dispute as well as a well-coordinated system between themselves to tackle the problem at hand."

LEGAL 500 2022

Our experience includes:

- Acting for a contractor in MAC arbitration proceedings in Malta concerning the termination of a €13.5 million contract and associated claims related to the refurbishment of a five-star hotel in Europe.
- Acting for a joint venture contractor in ICC arbitration proceedings in Brussels, against the European Union concerning disputes arising from a €22 million contract for the design and construction of a multi-building administrative complex in the Balkans.
- Acting for an employer in dispute board proceedings to settle disputes arising from a €62 million contract for the construction of luxury apartments in a European capital city.
- Acting for a joint venture contractor in UNCITRAL arbitration proceedings in London to settle delay and defect disputes arising from contracts totalling €28.5 million for the construction of a four-star hotel in Ukraine.
- Acting for a joint venture contractor in ICC arbitration in London to settle disputes arising from a US\$14.6 million contract for the design, supply and erection of the steel structure for a steel manufacturing plant in Africa.

Services

Arbitration and litigation

Our team act in complex, cross-border construction and engineering disputes concerning issues of delay and disruption, defects and damage claims, contract termination and disputes arising from different forms of contract, including FIDIC and other standard forms as well as bespoke contracts.

We appear as counsel and advocates in both domestic and international arbitrations including under the ICC, LCIA, SIAC and UNCITRAL rules, as well as in ad hoc arbitrations. We have also appeared before the Technology and Construction Court and the Court of Appeal of England and Wales.

Most of our lawyers have advocacy experience, some having first qualified as barristers and others holding rights of audience in the civil courts. This gives us an advantage over many other firms in that we have direct experience of how cases should be presented in the highest courts.

We have excellent working relationships with all the leading sets of construction barristers in London. However, unlike many firms, we do not simply hand over cases to barristers. We remain involved from start to finish and provide significant input into the preparation of a claim.

Dispute boards, mediation and other forms of ADR

We provide clients with advice, representation and advocacy services in dispute board proceedings, mediations and other forms of ADR. These include Dispute Adjudication Boards (including FIDIC Adjudication Boards), Dispute Review Boards and enforcement proceedings.

We react to our clients' needs quickly and effectively, ensuring that the best possible advice is given within very tight timescales. We pride ourselves on our partner-led service but where work can be effectively prepared by an associate, it is delegated to ensure a cost-effective service.

Risk management and advisory

We have a wealth of experience in giving pragmatic, commercial advice to clients throughout the life of a project to prevent problems from becoming disputes. When claims are imminent, or are first presented, we advise on strategy to help limit our clients' liability and even avoid a full-blown dispute resolution procedure. We provide tactical advice on limitation issues, conditions precedent, evidence and jurisdiction, which can have a significant impact on the outcome of a dispute.

Contracts

We are experts in the FIDIC forms of contract, having been involved in the drafting of many of them. We regularly provide advice on amendments to the standard FIDIC forms of contract to suit our clients' own individual needs. We have also had experience with many of the other forms of contract including the NEC, JCT, ICE and bespoke agreements.

Bonds and guarantees

We advise employers and contractors on the drafting and enforcement of bonds and guarantees. We have acted in the enforcement of bonds and guarantees both in England and abroad and have served claims through diplomatic channels. We have also acted to prevent on-demand bonds being improperly called or paid out in various jurisdictions.

“The team understands the realities of construction issues and how the challenges associated can both arise and be resolved through the use of FIDIC contracts, depending on how these are used.”

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Meet the team

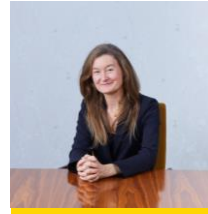
Find out more about us by visiting the website [here](#).



Edward Corbett
Consultant

+44 (0)20 3755 5900

edward.corbett@howardkennedy.com



Joanne Clarke
Partner

+44 (0)20 3755 5732

joanne.clarke@howardkennedy.com



Victoria Tyson
Partner

+44 (0)20 3755 5733

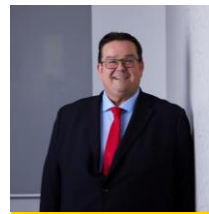
victoria.tyson@howardkennedy.com



Taner Dedeade
Partner

+44 (0)20 3755 5731

taner.dedeade@howardkennedy.com



James Reader
Senior Associate

+44 (0)20 3755 5728

james.reader@howardkennedy.com



Gabriel Mulero Clas
Senior Associate

+44 (0)20 3755 5729

gabriel.muleroclas@howardkennedy.com



Anzelle Ford
Registered Foreign Lawyer

+44 (0)20 3755 5716

anzelle.ford@howardkennedy.com

"This practice is unique in their knowledge, skills, client care and attention to detail. It is the best legal practice I have come across."

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Our pledge to the environment:

As a firm we are committed to reducing our environmental impact and promoting environmental awareness and responsibility amongst our people. This includes in relation to our document production, as all our front/back covers are 100% plastic free and fully recyclable with paper, biodegradable and compostable. Our binding materials are not only completely recyclable, but if they did somehow end up in either a landfill or marine environment, they biodegrade completely, leaving no microparticle within around 2 years (down from the usual 500+ years of regular plastic). Finally, the paper we use is all Forest Stewardship Council (FSC) and Programme for the Endorsement of Forest Certification (PEFC) certified, which essentially means that all of our paper comes from correctly managed renewable forests.

Chambers
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**Best Law
Firms 2023**

No.1 London Bridge
London SE1 9BG

T: +44 (0)20 3755 6000 F:
+44 (0)20 3650 7000

DX 144370 Southwark 4
www.howardkennedy.com

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