



## Construction and Engineering

As the cost and complexity of construction continue to dramatically increase, success depends on strategic advice that supports our clients' plans and mitigates risk.

The successful completion of any construction project depends on the quality of the project documents and ensuring that the project is delivered to the required standard, on budget and on time. We are experienced in all sectors of the construction and engineering industry including energy, infrastructure and development. We advise on all manner of procurement methods, from commercial developments to major international, domestic, civil and process engineering and energy projects.

We assist clients in analysing the risk profile of their projects and selecting the best type of delivery method for the project. After selection of the desired construction method, we assist clients in negotiating the contracts.

Disputes are a fact of life in the construction and engineering industry and we help clients avoid them by advising on potential issues at the earliest stages of projects. If a dispute does arise, we have skilled construction lawyers who can manage all of the litigation, arbitration, adjudication and alternative dispute resolution processes.

Find out more about our contentious capabilities.

### CAPABILITES

#### Contracts and advisory

Well-crafted contracts are key to legal risk management, minimizing the likelihood of disputes arising later in the project. Our contracts advisory service covers all aspects of contract drafting and negotiation, transaction due diligence and risk analysis and management. We have experience in the contracts used across all sectors including all the major standard forms of contract (including JCT, NEC, ICE, FIDIC and IChemE), adapting these to our clients' specific needs – controlling risk while maximizing profit.

#### Procurement

Procurement, tendering and competition procedures are vital components of construction and engineering projects. We assist clients in a wide range of sectors on the procurement, drafting, negotiation and management of alliancing and partnering arrangements and frameworks.

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- Litigation, Arbitration and Investigations
- Projects, Energy and Infrastructure
- Energy and Natural Resources

## Litigation and alternative dispute resolution

Disputes frequently arise in the construction industry. When our clients face a dispute situation that cannot be avoided, we help them develop the appropriate course of action. We advise and explore the wide range of alternative dispute resolution (ADR) methods with our clients before litigation becomes necessary. ADR is a cost-effective method of avoiding protracted and costly litigation proceedings, and many countries require parties to attempt ADR or mediation before taking a dispute to court. Should litigation be the only course of action, we guide our clients through the process.

## International arbitration

International arbitrations are often the preferred route for large, complex, cross-border construction disputes and we are familiar with all of the major institutions including the ICC, AAA and LCIA and in conducting UNCITRAL arbitrations. Using our extensive international network we work seamlessly with other jurisdictions and overcome barriers such as the need to work in two or more languages.

## Adjudication

Adjudication is a legally binding tribunal process. It is a fast, 28-day form of dispute resolution, but also one where both sides will incur legal and expert witness fees. There is also only one opportunity to present your case to the tribunal, with no opportunity to appeal decisions. Our contentious construction team includes lawyers with extensive experience of adjudication who can advise whether this is the right option for you, and navigate you through the complexities and nuance of the adjudication process.

## EXPERIENCE

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- One of the principal legal advisers for the Olympic Delivery Authority for the London 2012 Olympic Games and Paralympic Games, including procurement and construction advice on the numerous venues and many of the infrastructure and transport projects undertaken on and around the Olympic Park.
- Advising Leonhard Nilsen & Sønner AS, one of Norway's largest construction companies, in a final settlement dispute against The Royal Norwegian Ministry of Transportation and Communications in respect of outstanding claims for tunnel and road construction contract work.
- Advising Jack Hills Iron Ore Mine, Western Australia on an iron ore mine expansion in Western Australia, in relation to the contracting and procurement strategy and drafting the EPCM Contract, mining contract and preparation of a suite of standard construction and procurement contracts.
- Advising Standard Bank of South Africa on the Nungwa desalination plant in Ghana, the first desalination plant in western Africa.
- Advising Petroleo Brasileiro SA (Petrobras) on four large offshore oil field development projects in Angola.
- Acting for BP as the operator on the US\$4 billion Tangguh LNG project, including drafting and negotiating the EPC contract for the liquefaction plant and also for the two platforms and pipelines.
- Advising on the financing of the development, construction and operation of two port terminals on the Orinoco River, Venezuela.
- Advising two National Football League franchises in connection with the construction of their new football stadiums, including defense of two multimillion-dollar claims, negotiation of a complex closeout agreement and pursuit of substantial design claims.
- Advising both contractors and owners in connection with several renewable energy and power related projects.
- Advising contractors and owners in connection with several significant airport projects in multiple countries.

## INSIGHTS

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### Publications

#### Six ways the construction industry is innovating to deliver ESG demands

21 March 2022

Following COP26, national governments are enacting legislation to combat the effect of the climate crisis. The world's industries, construction among them, are reflecting and assessing how they can adapt to deliver the environmental, sustainability and governance

(ESG) demands of the marketplace.

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## Going for broke - The Court of Appeal decides the limits on insolvent party enforcement of adjudication awards

7 October 2021

This article outlines the recent Court of Appeal judgement in John Doyle v Erith Contractors which has highlighted the conflict between adjudication, as a provisional decision designed to keep cashflow moving with a "pay now, argue later" ethos.

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## Third time lucky: Triple Point in the Supreme Court

20 July 2021

The Supreme Court has handed down its long awaited decision on the question of whether delay liquidated damages (LD) provisions survive termination. The case related to a dispute between the parties as to how delay LD provisions apply where an English law contract is terminated prior to its completion, and the interpretation of contractual wording seeking to limit liability.

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## Episode 5: How is technology disrupting the construction industry?

2 June 2021

### THE DLA PIPER INFRASTRUCTURE PODCAST

In this episode, DLA Piper's Construction Disputes Partner, Suzannah Newbould is joined by Barry Lewis, Managing Director, Construction at ALEC, one of the UAE's leading construction groups and Petar Mladenovic, Enterprise Account Director from the construction tech company Disperse.

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## Levelling up the whole of the UK

7 December 2020

In the foreword to the NIS, the Prime Minister states that "*levelling up is my government's core purpose*". The intention is to level up communities and nations across the UK through investment in rural areas, towns and cities on a range of projects covering those of major national importance and those which address local priorities.

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## Contracting for the climate: The Climate Contract Playbook is a trove of climate clauses

11 November 2020

Contracts have become an essential vehicle for companies seek to mitigate their environmental risks and limit their carbon footprints.

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## DLA Piper Collaborative Contracting and Procurement Paper 2020

22 October 2020

The construction industry has suffered for ages from contracts and procurement processes that crudely allocate various risks resulting in misaligned incentives and consequent disputation.

It was from a desire to overcome this misalignment of interests that 'collaborative contracting' was born.

Read more in our paper.

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## The 2019 rail franchising litigation - procurement: Legal privilege and a duty to give sufficient reasons

4 August 2020

Mr Justice Stuart-Smith handed down judgment in the 2019 Rail Franchising Litigation, one of the largest and most complex procurement and commercial judicial review claims litigated to date in the UK. In this, our second article, we examine the Court's findings as they relate to legal privilege and the duty to give sufficient reasons.

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## Events

### Upcoming

#### FIDIC – Comparison to Nordics Forms

25 May 2022

#### [FIDIC – COMPARISON TO NORDICS FORMS](#)

Webinar

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### Previous

#### FIDIC – Comparison to Nordics Forms

19 May 2022

#### FIDIC – Comparison to Nordics Forms

Webinar

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#### Webinar: FIDIC in the context of COVID-19

3 November 2020

Webinar

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