

David Fearon

Call 2013



Clerks' Details

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Appointments

- ADR Group accredited civil and commercial mediator
- TECBAR Panel
- Association of Northern Mediators
- ADR Group Mediator Panel

Memberships

- Gray's Inn
- Law Society
- Northern Circuit
- Fellow of the Chartered Institute of Arbitrators (FCIArb)
- Chartered Quantity Surveyor (MRICS)
- Chartered Builder (MCIQB)
- Technology and Construction Bar Association
- Society of Construction Law
- Adjudication Society
- Northern Circuit Commercial Bar Association

Construction CV

Overview

David is a specialist in construction, engineering and process engineering work, dealing with both contentious and non-contentious matters.

His professional qualifications, extensive experience and technical knowledge aid him in providing early case assessments and advise and dispute resolution support on all contractual and professional negligence matters.

David qualified as a solicitor in 1997 and as a solicitor advocate in 2004 and transferred to the Bar in 2013. Before qualifying as a solicitor he worked for many years in the construction, engineering and process engineering industries as a quantity surveyor, project manager and costs control manager with responsibility for a wide variety of projects throughout the UK, Ireland and the USA. He is a Chartered Surveyor (MRICS), Chartered Builder (MCIQB), Fellow of the Chartered Institute of Arbitrators (FCIArb) and accredited civil and commercial mediator.

David has acted for a wide variety of clients including international and domestic employers, developers, local authorities, consultants, major, medium and small contractors and specialist sub-contractors, individuals and insurers.

David has experience of and accepts appointments as adjudicator, arbitrator, legal adviser to arbitrator and mediator. He is a registered public access practitioner.

David was recently named *Construction Disputes – Barrister of the Year – UK* at the [Lawyer Monthly Legal Awards 2018](#).

Recommendations

David was named *Construction Disputes – Barrister of the Year – UK* at the [Lawyer Monthly Legal Awards 2018](#).

The Legal 500

“A real depth of experience and specialist knowledge of the construction sector. He is probably the most effective and formidable cross-examiner I have ever seen.”

“A tenacious advocate with strong industry experience.”

“Clients love his calm, smooth manner.”

“A great strategist with a good client manner.”

Chambers and Partners

“He is a fantastic construction lawyer, has a good presence with the clients and varied experience, and is able to relate to people.”

“He has huge experience. He was previously a quantity surveyor, which means he has fantastic technical knowledge, is very popular with clients and is pragmatic and commercial.”

“He understands and gets on with the client. He is very hard-working and is prepared to put in all the time necessary, even on holiday.”

“Has an advantage at the Construction Bar as he has had a career in the industry previously, so he understands how things work in practice.” “He has a technical background and knows the industry very well.”

“An excellent practical lawyer, who talks the language of the industry.” “His attention to detail and knowledge of the law is unmatched. He is great fun to work with.”

“His practice comprises both contentious and non-contentious matters, with his quantity surveying background giving him an advantage”.

“Because he’s been on both sides of the fence he knows how it all works.”

“Fearon has a background in construction as a quantity surveyor and project manager, and is known for his “pragmatic way of looking at things, carefully balancing the cost and the benefit”.

“A commercially sharp, able negotiator...”

“...he is experienced in dispute resolution, as well as non-contentious construction matters.”

Cases

Linnett v Halliwells LLP [2009] EWHC 319 (TCC) – an important case on adjudication under HGCRA where it was held that where a party had participated in an adjudication process, and thereby requested the adjudicator to adjudicate a dispute, this gave rise to a contract by conduct and accordingly the party was obliged to pay the adjudicator's reasonable costs and expenses, notwithstanding the fact that the party contended that the adjudicator did not have jurisdiction.

WYM v SC (2013) TCC (unreported) – enforcement of an adjudicator's decision in the TCC including consideration of issues relating to the successful party's ability to repay the judgement sum.

S v ME (2013) TCC (unreported) – a consolidation of two separate sets of proceedings including claims and counterclaims relating to lease obligations, rent claims, loss of profit, loss and expense, and liability for delays and disruption arising from refurbishment of hotel premises.

P v X (2013) (unreported) – a claim relating to development and operation of a website.

A v E (2013) (unreported) – a TCC claim (ultimately settled in mediation) arising from specialist environmental testing works carried out using a floating rig in a bay.
UK Construction v RMC Building [2016] EWHC 241 (TCC) – an important case on enforcement of adjudicator's decisions, stay of enforcement and manifest injustice defence

MAT v F (2017) (unreported) – consolidated TCC proceedings (settled immediately before commencement of trial) involving Part 7 enforcement of an adjudicator's decision and defence of Part 8 counterclaim

LITIGATION – PRIMARILY CONSTRUCTION

Advising major engineering contractor on numerous disputes including mining, nuclear power stations, hydro-electric power station, railways, and general engineering contracts.

Claim by owner of large recycling facility for damages arising from defective workmanship in building of refurbished facility

Claims from developer arising from installation and development of basement to townhouse

Claim by scaffolding contractor arising from repudiation of contract by contractor

Claim by adjudicator for unpaid fees

Claim by homeowner against insurer/warranty provider arising from defects to new-build property

Local Authority's claim against builder for major defects in prestige new-build LA premises

Claims in liquidations brought by liquidators for unpaid sums due to sub-contractors on various contracts

Consultant's claim for payment of fees from Major Utility

Cancer charity on dispute in relation to refurbishment to a number of its properties – pro bono.

Scaffolding contractor on sundry disputes including reported case on the proper interpretation of the standard method of measurement for scaffolding works and associated loss and expense claim.

Insurer and insured in dispute relating to alleged professional negligence of building surveyor

International client in respect of dispute about pharmaceutical plant.

Pharmaceutical client in disputes with contractors on a number of supply and installation projects

Specialist glazing subcontractor on sundry disputes on various housing and commercial projects.

Main contractor on disputes with client involving insolvency issues.

Second specialist glazing contractor on recovery of monies owed to it on various projects.

Consultant engineers on recovery of fees owed to it on various projects.

Steel supplier and fabricator on disputes including dispute arising from bridge collapse in Scotland.

Steel work supplier in respect of multi million pound dispute arising from supply and fabrication of galvanised steel to production plant in Mauritius.

Housing developer in relation to disputes arising from alleged defective works on various sites.

Specialist piling subcontractor on disputes with main contractor.

College on dispute with main contractor arising from the contractor's defective works.

Specialist mechanical and electrical subcontractor on sundry disputes including multi million pound claims against main contractor on multi use development.

Church diocese on claims made against it by contractor on school's developments.

Specialist electrical subcontractor on sundry disputes on various projects.

House builder client on disputes with NHBC.

Contractor in dispute with specialist environmental subcontractor.

Main contractor on claims arising from discovery of asbestos in tunnels and access ducts.

Insolvency practitioners in disputes to recover monies due to insolvent subcontractors.

Sundry clients on disputes involving warranties, appointments and other documentation.

Facilities management contractor on breach of duty of care claims.

Specialist roofing contractor on sundry disputes with main contractor.

EXAMPLES OF NON-CONTENTIOUS MATTERS INCLUDE:

Advising college on procurement, documentation and bonds for substitute contractor to complete new-build works on project following removal of original contractor for non-performance

Advising major consortium on proposed new multi-use sports stadium in Northern Ireland. Advising NHS Trust on non-contentious matters in relation to the construction of new mental health facility at one of its hospitals.

Advising owner of major manufacturing facility on construction matters relating to properties being developed for his pension fund.

Advising major infrastructure subcontractor on all documentation associated with framework agreement and contracts with city council.

Advising client on all legal issues associated with development of new modular housing system.

Advising NHS Trust on all facilities management documentation required for a multi-site PFI project.

Advising modular building company on multi million pound PFI project documentation and strategy; multiple sites for Ministry of Defence accommodation.

Drafting non-contentious documentation for use by supplier of specialist building materials of various types to various customers.

Advising specialist environmental subcontractor on project documentation.

Advising a private school on all construction issues relating to development of a new swimming pool and associated sport facilities

Advising retail client on sundry retail fit outs.

Advising Further Education College on documentation required for finance of construction works.

Advising various clients on bonds, warranties, guarantees etc. Advising Diocese on joint venture for development with local authority.

Acting for insolvency practitioner in providing advice on all construction documentation required for building out of the scheme to secure recovery of funds for creditors. Detailed review for modular building subcontractor on contract documentation for major city centre development.

Drafting bespoke suite of documents including contracts, sub-contracts and consultants appointments for major engineering contractor.

Drafting bespoke major works contract for mine owner and operator.