



**HAWKSWELL
KILVINGTON**

Specialist Construction Solicitors



Specialist solicitors to the construction and engineering industries

Hawkswell Kilvington is a niche and award-winning law firm, one of only a handful of firms in the UK whose sole focus is on providing legal services to the construction and engineering industries. We work for a diverse range of domestic and multinational employer, main contractor, sub-contractor and supply chain clients on contracts across the UK and beyond.

Our team of professional and highly experienced lawyers have an up-to-date and in-depth knowledge of the latest legal developments, and always adopt a pragmatic, commercial and cost-effective approach. We offer an incredibly personal service, and a high level of partner involvement.

Our contentious team is renowned for understanding objectives and developing effective, practical and commercial dispute resolution strategies. Where formal disputes cannot be avoided, the team have vast experience of dealing with construction related disputes under all forms of construction contract (including JCT, NEC and FIDIC), and in a wide range of forums including adjudication, litigation and arbitration,



direct negotiation, early neutral evaluation, and mediation. The team have also successfully enforced and resisted enforcement of many adjudication decisions through the Technology and Construction Court.

Our non-contentious team is known for providing a straight-forward approach to project documentation, always with a view to minimising client risk. We support clients by drafting, advising on and negotiating amendments to all standard forms of construction contract including JCT, NEC and FIDIC, along with more bespoke forms of contracts. They also deal with professional appointments, novation agreements, letters of intent, performance bonds, parent company guarantees, framework and joint venture agreements and warranties. Finally, they provide practical advice on procurement options and regularly help with negotiating project reset documentation, including deeds of variation.

The firm is recognised and ranked in the top tier of Legal 500 for construction, and also receives regular glowing reviews in Chambers & Partners. The firm has been described as providing an *“unparalleled service across the full range of contentious and non-contentious matters”* and boasting *“an enviable client roster of leading companies in the construction space”*.



Areas of expertise

When problems and disputes arise, we are renowned for understanding our clients' objectives and providing constructive, proactive and commercial advice and dispute resolution strategies.

We have a significant team of lawyers whose sole focus is on resolving the variety of disputes which arise in relation to construction and engineering projects. We have a vast amount of knowledge and experience in resolving disputes through:

Adjudication

In the UK construction industry, adjudication is by far the most common form of dispute resolution forum/procedure. We have successfully handled hundreds of adjudications on behalf of both claimants and respondents, ranging in scope from straightforward recovery of outstanding payments, through to the presentation and defence of extremely complex claims dealing with:

- Failure to serve requisite payment and/ or pay less notices
- Extensions of time
- Loss and expense



- Loss of productivity
- Valuation of change(s)/variations
- Interim and final payment disputes
- Wrongful withholding of monies (including retention)
- Declarations concerning contract formation
- Termination
- Liquidated damages
- Building Safety

In terms of value, claims we have handled have ranged from tens of thousands to multi-million. Our specialist and experienced solicitors advise on tactics and strategy, and proactively manage the adjudication process throughout. Typically, our input will cover the preparation and drafting of the necessary submissions including (where required) the Notice of Adjudication, Referral Notice, Response, Reply and any Rejoinder(s). We also regularly attend and represent clients at adjudication hearings.

We have also successfully enforced various adjudication decisions through the Technology and Construction Court, and have also successfully resisted enforcement of decisions.

Mediation

We have resolved a number of complex disputes through mediation, including a good number of professional negligence claims. Naturally, our professional involvement includes every aspect of preparation for and client representation throughout the mediation process.

Negotiation

We recognise the importance of seeking to resolve disputes via negotiation before taking more costly action. We will always consider whether it is appropriate for clients to try negotiation, with or without solicitors, before exploring more formal dispute resolution options.

Arbitration

We have successfully handled numerous arbitrations for contractors, sub-contractors and employers in the UK and internationally. These have included complex and high value claims relating to (for example) energy projects, process and heavy engineering projects and chemical projects.



Litigation

We have extensive experience of successfully bringing and defending claims, particularly in the Technology and Construction Court. These have included a number of complex multi-party disputes.

Conciliation and early neutral evaluation

We have extensive experience of representing both claimants and defendants in the conciliation processes and early neutral evaluation hearings.



Other specialist areas of expertise

Insolvency

We regularly advise employers, contractors, sub-contractors, banks and insolvency practitioners on the impact of insolvency on construction contracts, termination of those contracts and resolving claims relating to the same.

Insurance

We have experience of representing insurers, brokers and underwriters in relation to professional indemnity claims and subrogated recoveries.

Construction plant and machinery

We act for some of the major crane and plant hire companies, as well as engineering insurers. We have been involved in numerous recovery cases concerning damage to plant or delays or disruption arising out of the hire and supply of plant. We have considerable experience of the CPA Model Conditions.



Contract Solutions

Our non-contentious team is renowned for its straightforward, no-nonsense approach to construction and engineering project documentation. We believe it is of paramount importance to minimise client risk(s) at all times. The firm has a dedicated team of solicitors with a wealth of experience in drafting, advising on, negotiating and drafting amendments to:

- All standard forms of construction contract, including JCT, NEC3, NEC4, Infrastructure Conditions of Contract and FIDIC
- Bespoke construction contracts and warranties (including those relating to energy and nuclear projects)
- Bespoke and standard form sub-contracts more formal dispute resolution options.
- All standard forms of professional appointments, including RIBA and ACE
- Bespoke professional appointments
- Novation agreements
- Collateral warranties and third party rights memorandums
- Letters of intent, performance bonds and parent company guarantees
- Framework agreements and joint venture agreements



- Retention bonds
- Terms and conditions for the sale and purchase of goods
- PFI construction documentation

Contract Reviews

When entering into a new contract, it is essential that you fully appreciate your responsibilities and potential liabilities, and take steps to ensure that your contractual position is adequately protected. This can be difficult, as you may consider that you have limited bargaining power, or do not wish to appear inflexible or uncooperative.

We can assist your contract negotiations by reviewing prospective contracts, pointing out the key risk areas and categorising the issues in order of importance; usually by adopting a “traffic light system” in which we highlight risk in high (red), medium (amber) and low (green) categories. We can also suggest suitable amendments which seek to protect your contractual position, without alienating your potential client. We always aim to provide such contract reviews within a timescale to suit you.



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A list of directors' names is available for inspection at the registered office. We use the term partner to refer to a director of the company, or an employee or consultant with equivalent standing and qualifications.