



Society of Construction Law

Since its foundation in 1983, The Society of Construction Law has worked to promote for the public benefit, education, study and research in the field of construction law and related subjects (including ADR Arbitration and Adjudication) both in the UK and overseas.

The Society of Construction Law now has over 1600 members from all sectors of the construction industry. Further information at: <http://www.scl.org.uk>

Chairman's Report

13 May 2004

Stop Press

We are delighted to welcome our new President The Right Honourable Lord Justice Anthony May but at the same time we are sad at news of the retirement of The Right Honourable Sir Philip Otton after eight years as President.

Summary

We have enjoyed another very active year with many talks and presentations being given all around the UK. A particular feature this last year has been several very successful joint seminars with other construction related organisations. We plan to expand these joint events, particularly in the Regions.

We have also continued to embark on some high profile initiatives including a briefing paper in September 2003 for the new Construction Minister (Nigel Griffiths MP). We also embarked on another key policy project, this time on the subject of Construction ethics.

However we do also recognise that we have areas for improvement. For example we have been conscious for some time that some regions are more active than others and we have taken initiatives in recent months to see how this can be improved. We are always open to suggestions, particularly those of a practical nature. Certainly we would welcome hearing from any member who can help to arrange an event in his or her area.

Finances

It is pleasing to report the healthy financial situation in which we now find ourselves. At last years meeting it was noted that expenditure in 2002 had risen above income by £41,000. However in 2003 the situation was reversed and we had an excess of income above expenditure of £36,000. This surplus is primarily a consequence of three factors, (i) increasing our subscriptions (ii) membership growth and (iii) in some areas such as grants not incurring our planned expenditure. Please refer to the annual financial report for more details.

Response to the Construction Minister

At the beginning of September we received an invitation from the Construction Minister to: *"...provide a concise briefing note on the issues, which you and your members feel are vital to making Britain world leaders in construction. I also expect the note to raise with me your main concerns."*

The timescale for response was very tight, however thanks to the wonders of email we consulted our membership and received over 50 responses. Great credit is due to Vicky Russell for co-ordinating the consultation exercise and producing an excellent summary. The SCL response, which was sent to the Minister, can be found at our web site www.scl.org.uk

Membership

We are delighted that current membership recently reached 1,600. Currently almost 60% of our membership is legally qualified and almost 50% of our membership are construction professionals of one discipline or another. A significant proportion of our members are dual qualified.

Meetings

Meetings were held throughout the United Kingdom and the Republic of Ireland, a summary table follows below:

	2002	2003	2004	Total
Belfast	0	1	0	1
Birmingham	3	2	2	7
Bristol	2	1	1	4
Cardiff	1	1	0	2
Cork	1	3	0	4
Derby	2	0	0	2
Edinburgh	0	1	0	1
Leeds/Wakefield	1	4	5	10
London	13	14	14	41
Manchester	2	2	1	5
Newcastle	1	1	0	2
Nottingham	1	3	1	5
Oxford	2	3	1	6
Sheffield	1	1	1	3
Totals	30	37	26	93

Council thanks all of the many speakers, chairmen and organisers who have contributed to these events.

A full list of all our past events is now permanently archived at the SCL website <http://www.scl.org.uk>.

Administration, Website and IT

The backbone of our Society is a mix of key people and systems, without the people we could not begin to operate. Our administrator Jackie Morris is the key link to so many of our activities. We would all like to extend special thanks to Jackie, without whom we could not possibly cope!

In the last year we have made further strides forward in developing the SCL website. We encourage all members to regularly visit the website. Please do take time to register, as this will allow you to see considerable information, which is kept only for members. We now record about 7500 visitors per month, almost 50% of which are from overseas.

We would like to extend special thanks to the Society's webmaster, Edward Peters and to the Society's Postman, Simon Hogg, for their continuing support and development of all the IT aspects of the Society.

Papers

We are extremely grateful to Frances Paterson for her continuing work on behalf of the Society in editing, coordinating and preparing for publication these papers both in hard copy and on the website. A table of our publication record since 2000 follows below

Year	2000	2001	2002	2003	2004	Total
No. of Papers	6	21	29	21	9	86
Printed Papers	4	14	11	5	1	35
Web only Papers	6	21	29	21	9	86

SCL Ethics Group

In July 2003 SCL Council set up a group under the Chairmanship of Peter Higgins to look into the question of ethics in the construction industry. The group's brief was to

pick up on the suggestion made by Professor John Uff QC CBE in 2003, that *ethical rules are needed for the industry, and specifically that 'an effective sanction in respect of an ethical code for construction law professionals requires ... some form of registration which is capable of being revoked or withheld by an appropriately empowered body'*.

The ethics group comprises almost 50 SCL members and is seen as widely representative of our membership as a whole. Its remit has been to consider the need for action and what SCL's involvement should be, if any; to undertake research, investigate, review and make assessments. The group has had several meetings over the last few months and recently concluded that (a) there is a need for action, and (b) SCL should promote discussion and debate on ethical issues and publish guidance to increase awareness and understanding. The group also recently decided that for the present, regulation and sanctions of the kind suggested by John Uff was not something the Society should be considering. The ethics group is currently drafting a paper for presentation to Council.

Universities: Book Grants and Other Donations

As with previous years, the Society has actively sought to encourage universities and other educational establishments to seek funding from SCL for appropriate proposals. During 2003 we gave donations totalling over £1,000 for grants and awards. This is a disappointment as in previous years we have regularly given grants of £10,000+ per annum.

We recognise that links with regions and academics could be improved and so we invited 4 academics, as well as all the Regional co-ordinators to the AGM and Dinner. We hope this initiative will prompt better links with academia. It certainly produced an active brainstorm before the AGM! We hope next year to provide essay prizes for many of the Universities involved with construction law.

We have also recently set up an on line database of all UK courses in the field of construction law at the SCL web site. We believe this feature will considerably enhance our links with Universities and be of value to all who wish to undertake further study in this growing subject area.

Hudson Prize

As with recent years, entries this year were submitted from all around the world. The winner of the 2003 SCL Hudson Prize was again Philip Britton for his paper entitled "The architect, the banker, his wife and the adjudicator: unfair contract terms and construction". This is the second year in a row that Philip has won 1st prize, he now assures us that he is retiring!

Commendations were awarded for the following three entries:

- "Joint and Several Liability in the Construction Industry: Is it Time for (Proportionate) Law Reform in the UK?" by Adrian Baron
- "Parallel Partnering: Background and Benefits" by David Evans

- "Completion is the key to liquidated damages. But what is completion? And what should it be?" by John Nestor

Our thanks go to the Hudson Prize panel, for their judging of the submissions, and in particular to Anthony Lavers for his continuing chairing of the judging panel.

Consultant to the Society - Regional Project

Earlier this year Charlotte Blake was asked to assist with a review of the regions and we will keep all members posted on the results of this review via the newsletter and web site. It is hoped the membership in the regions will see a tangible benefit resulting from this initiative.

SCL Abroad

SCL continues to develop strong links with Societies of Construction Law elsewhere. We were delighted that Judge Robert Smellie who specialises in adjudication and construction work in New Zealand was able to join us at the Dinner. SCL Hong Kong is now well established and SCL Singapore was set up in 2002; and SCL Latin America is becoming a little closer at this stage.

European Society of Construction Law

The European conference was held in Barcelona in October 2003 and covered the subject of Construction and Housing in Europe. Judge Humphrey LLOYD gave an excellent paper on the UK perspective to the 200 delegates present. Richard Bayfield, John Burgess, Keith Kirkwood and John Redmond represented the UK Society at the Conference.

In addition, an annual meeting took place between ESCL members immediately after the conference. For more information go to the ESCL website <http://www.escl.org> At the 2003 meeting the Poland and Portugal Societies were elected to full membership.

The meeting reaffirmed the importance of a bibliography and directory initiated by His Honour Judge Humphrey LLOYD QC, with the objective of publishing the information in electronic form. It was agreed the ESCL website will be the main vehicle for this exercise: ESCL website <http://www.escl.org>

Our thanks go to Professor Alfonso Hernandez-Moreno of Spain for his Presidency. Alfonso stood down as President of the ESCL, in October 2003, and the new President is Professor Hubert Stöckli who is based at the University of Fribourg in Switzerland. The next ESCL conference is due to take place in October 2004 in Switzerland. The conference is open to all members and it is hoped that UK representation may increase this coming year.

Brewery Lunch

We held our annual lunch at the Brewery in Chiswell Street on 28 February 2004. The event was oversubscribed once again despite moving from a room capacity of just over 200 to one of almost 400. Perhaps next year we should hire the Albert Hall? Judge Frances Kirkham spoke on "Adjudication - the Future". We are

grateful for the organisation of Helen Garthwaite, Jackie Morris and Elaine Corne who ensured that this event was such a success.

Junior Committee of SCL

Following an initiative from Nicholas Gould, a Junior Committee of SCL has been established. Its first event took place in September 2003 and attracted over 130 attendees. We hope this aspect of the Society's activities will continue to expand and flourish.

Advocacy Classes

It is with regret that despite the continuing support and availability of HHJ Humphrey LLoyd QC we were unable to organise an advocacy class in 2003. This failure on the part of Council is something I will deal with below.

Areas for improvement

It is true to say that by many measures the Society is thriving. Membership is growing and now represents over 1600 in number. We are now regularly asked to consult our membership in broad areas of policy. However we must not be complacent and we must listen to, and be empathetic, to our membership.

Many members will be familiar with the phrase "growing pains of a small business". We are moving through a period of transition from a small Society primarily run by Volunteers to a medium sized business with a £200,000+ turnover. It is in the success of our growth that we are experiencing some "pain".

We should be honest with ourselves in the areas where we have not done so well. In particular we have not managed to put on an advocacy course this year (despite having a willing and supportive Judge to help us) and some regions have not put on a meeting in over 12 months.

These are areas where the new Council will be fully exercised when it meets for the first time shortly after the AGM. It may be that as time pressures on us all seem to get ever greater, that we will need to extend the scope and number of the Consultants who help us.

Members of Council and Officers

I would like to say a particular thanks to all members of Council who have supported me in my role as Chairman throughout this past year, and who have actively enabled the Society to move forwards so positively. In particular, I thank the Officers, Anthony Lavers, Julie Forsyth and Corrina King. I would also like to give my personal thanks to the Society's President Sir Philip Otton, for his continuing leadership and support in all areas.

I would also like to thank the Regional Coordinators and Charlotte Blake, who continue to work with Council to ensure that the Society's operations do not remain solely London focused, and for the co-opted members to Council, John Marrin QC, and Nicholas Gould.

Council Retirements 2004

This year we have 1 founder member and 5 elected members of Council retiring. The founder member retiring is Alan Shilston who tells us that whilst his arthritis limits his visits to London it has not yet reached his brain and he promised to contribute to the ethics debate! Nigel Jones QC, Fenella Mason, Dr Derek Ross, David Risbridger and Vicky Russell are also stepping down. We are sad to see them depart as each has contributed in their own inimitable way, we are sure that all will continue to support the Society. We are particularly sad to be losing Vicky Russell whose 14 years on Council have been marked by strong friendships and effective leadership during her time as both Chairman of the UK Society and as President of the European Society.

Honorary Members

This year we have welcomed the Right Honourable Lord Justice May and Sir Patrick Garland as honorary members. The Constitution provides that Council may elect Honorary Members on account of their distinction and eminence, and we are delighted to welcome these new Honorary Members.

New President - Right Honourable Lord Justice Anthony May

At the Annual Dinner we were delighted that the Right Honourable Lord Justice Anthony May agreed to become the new President of the Society. Lord Justice May has a long and distinguished career in Construction Law. He has been a Lord Justice of Appeal since 1997 and Vice President of the Queen's Bench Division of the High Court since 2002. He is also President of the Technology and Construction Bar Association, and was Editor of Keating on Building Contracts for both the fifth and sixth editions. The Society is honoured that Lord Justice May has accepted this post and we all look forward to moving onwards and upwards with him in the years to come.

Retiring President

The retirement of the President, The Right Honourable Sir Philip Otton, was announced at the Annual Dinner of the Society. I would particularly like to give my personal thanks to the Society's President Sir Philip Otton, for his continuing leadership and support in all areas. Sir Philip has lead and served the Society in a way that has allowed the Society to grow very significantly. His leadership has allowed our professional and academic interests to flourish. His style has also enabled the Society to maintain an essentially friendly nature to its activities, be they social or academic. This has been no mean achievement in an arena of so many high achieving and successful individuals.

We will all miss you Philip!

Richard Bayfield

13 May 2004