



**SOCIETY OF CONSTRUCTION LAW
CHAIR'S AGM UPDATE
12th May 2020**

1. ***Astra:*** Astra has continued to organise a range of events in the past year, including breakfast seminars on subjects ranging from offshore wind power to the increased use of technology in construction. A successful evening seminar was organised in partnership with ICC YAF on construction arbitration. Astra also partnered with ICE and CIOB for its annual boat party on the Thames. After the success of the International Conference in Dubai in 2018, the next Astra conference will be held in Paris. A provisional date has been set in September 2020, but is subject to confirmation depending on the developing COVID-19 situation. Most recently, Astra organised and hosted a sell-out online quiz, which brought together 79 contestants from the membership located in Europe, Asia and Africa, and is in the process of organising webinars to ensure there is continued content available online during the lockdown.

2. ***Educational events – London:***
 - (i) ***Lectures:*** Up to the UK going into lockdown, the regular lectures at the National Liberal Club proved as popular as ever, with lectures including, amongst others, “*The implications of Brexit on UK construction procurement*” by Sarah Hannaford QC, “*Murphy’s law: what rights do purchasers of new build properties really have against Building Control, warranty providers and others?*” by Jonathan Selby QC and Sam Townend and “*Due Process And Issues Which Prey On The Minds Of Arbitrators and Clients Alike*” by Richard Wilmot-Smith QC;

- (ii) *Conference:* The Society's autumn conference at the IET in London on 19th September 2019 was a resounding success, with over 350 people attending. We were honoured to have our President, Lord Justice Coulson, open the conference, and we had a variety of highly regarded speakers throughout the rest of the day, concluding with Mrs Justice Cockerill. The conference will return in 2021.
- (iii) *Mock hearing:* On 21st January 2020 the Society held a mock Supreme Court hearing of the *S&T v Grove* appeal in conjunction with TECBAR. The event was a great success, with both sides' counsel (Alexander Nissen QC, Anthony Speaight QC, William Webb and Matthew Thorne) expertly putting their case before Sir Vivian Ramsey and the 240 delegates in attendance.
- (iv) *Advocacy training:* In January 2020 the Society held another successful Advocacy Training Course in London. This fully booked course, which focused on advocacy in adjudication, was open to all members of the Society who have little or no advocacy experience. No charge was made for members attending.

3. *Educational events – Regional:*

- (i) *Lectures:* Circa half the membership are based outside of London, and the regions are of vital importance to the Society. We have held almost 50 lectures throughout the regions during the year, and for the first time a lecture in the South West Region was held in Exeter. A notable success was a panel debate titled "*Making and Defending Claims for Time and Money*" which attained outstanding numbers in both Galway and Cork. My thanks go to the panellists Nael Bunni, Dermot Flanagan S.C, Denise Kennedy, John Lyden, Terry McLoughlin, Bill Morroissey and John Trainor SC, as well as the chair, Hamish Lal.
- (ii) *Conferences:* The always popular Spring Conference in Leeds took place on 6th March 2020, where almost 200 people listened to an outstanding line-up of speakers. Although it was necessary to postpone the conference planned for Dublin in June 2020 due to the COVID-19 outbreak, it has been rearranged for 3rd December 2020, which is the day before the Dublin lunch.

- (iii) *Advocacy training*: Although no advocacy courses have been held outside of London in the past 12 months, an Advocacy Course is planned for the first time in Scotland in late 2020 or early 2021, depending on the travel and social distancing measures that are in place.
4. **Hudson Prize**: The judging panel of the SCL Hudson Prize awarded joint First Prizes to Anson Cheung, a Pupil Barrister at Atkin Chambers, and Serena Lee, an Associate at Quinn Emanuel Urquhart & Sullivan LLP. The title of Anson’s paper was “*Triple Point Technologies – pointing to confusion*”, and the title of Serena’s paper was “*An employer’s (dis)entitlement to liquidated damages for delay where the contractor never completes: defending ‘orthodoxy’*”. The other prizes included Second Prize for John Steel, a Pupil Barrister at Keating Chambers, for a paper titled “*A Ticket to the South of France or Rough Justice? Construing Ambiguity in Manchikalapati v Zurich Insurance*”, and Highly Commended for a paper titled “*Controlling Contractual Discretions: The Limits Placed on Discretionary Powers in Construction Contract*” by Paul Tamburro, a solicitor at King & Wood Mallesons. Some of these papers will be presented at the National Liberal Club in due course.
5. **International – Europe**: The European Society of Construction Law (ESCL) President for 2019 was Professor Dr Monika Chao-Duivis of the Netherlands. The ESCL General Assembly was held at the Instituut voor Bouwrecht in the Hague on 23rd October 2019, and 14 member countries took part. The UK SCL was represented by Jonathan Pawlowski, Vice-Chair. Adriana Spassova of Bulgaria, a graduate of King’s College, London, was elected ESCL President for 2020. The ESCL Annual Conference was held on 24th Oct 2019 at the Technical University in Delft. The subject of the Conference was *Legal Implications for Climate Change: the Case for Circularity*. There were presentations from the Netherlands, Belgium, the Czech Republic, Denmark, Germany, Italy, Spain, Switzerland and the UK. During the Conference, the ESCL Masters Thesis Prizes were presented. First Prize went to Sacha Stephanson of the University of Copenhagen, for a thesis on the concept of knock-for-knock in on-shore contracts, and Second Prize to Louise Hall of King’s College, London for a thesis on security of payment. The Conference was delighted to learn that Prof Chao-Duivis had been awarded a civil honour (the Dutch equivalent of the MBE) by the Royal Court for her services to construction law.

6. ***International – excluding Europe:*** The year has been extremely busy assisting prospective member organisations reach affiliate status; since the last AGM interest has been shown from Bangladesh, Ethiopia, Iran, Israel, Kenya, Pakistan, the Philippines, South Korea, Turkey (renewed interest) and Vietnam. Of these countries South Korea, Turkey and Vietnam are likely to be granted affiliate status by the SCL International Committee in the near future. The bi-annual SCL International Conference was scheduled to take place in New Zealand in November 2020 (we are providing committee members and support for this event). However, due to the current COVID-19 outbreak the event has been postponed until November 2021. Our President, Lord Justice Coulson, is to be one of the key note speakers.
7. ***IT and Social Media:*** The Society is continuing to address its IT capability in order to enable it to operate more efficiently, transform how the Society communicates with its members and to raise its profile. Recent developments include:
- (i) A new look online newsletter, allowing members to book directly from the newsletter;
 - (ii) Following on from training given to a number of members of the IT and Social Media Sub-Committee and our administrators, increased LinkedIn and Twitter presence and use of visuals to promote the Society’s activities.
 - (iii) Upgrading the Society’s website to improve functionality and appearance, which is currently ongoing; the planning stage of migrating the website to a new platform is well underway.

The Society is keen to use its website and social media platforms on LinkedIn and Twitter to communicate events and updates to its members. Those who do not already follow the Society on these platforms can do so by following these links to our [LinkedIn](#) and [Twitter](#) pages. The Society encourages all members to engage on its social media platforms in accordance with a new policy which is currently being finalised. Please feel free to send us photos of events, ideas for talks and seminars or any other matter which may benefit the Society and its members.

The website remains the Society's main method of communication. Recent data indicates that in the last quarter visits to the website were up 5.2%. The most popular

pages are Events, Delay and Disruption Protocol, Papers and Courses. Thank you to everyone who contributed to our survey in relation to improving the website. We hope that, once launched, your visitor experience to our website will be more streamlined and user friendly enabling you to find what you want within just a few clicks.

8. **Membership:** The UK Society currently has 2,749 members from 83 different countries (2,115 UK members and 634 overseas members). Further details of the membership can be found in the statistics sheet attached to this report.
9. **Papers:** Since last year's AGM we have published 18 papers covering a wide range of topics, and a full list is set out in the attached statistics sheet. The production of papers is key to furthering the object of the Society, namely to "*...promote, for the public benefit, education, study and research (and publication of the useful results of such research) in the field of construction law and related subjects both in the United Kingdom and overseas*".
10. **Social:** This has been another bumper year for the Society's social events, with regional lunches held in Southampton, Manchester, Leeds, Bristol, Glasgow and Dublin, as well as other regional networking events. Around 1,700 people attended the London lunch at the Grosvenor House Hotel on 7th February 2020. Although it was sadly necessary to cancel the Annual Dinner at Drapers' Hall, we hope to be able to hold a President's Reception in the autumn, subject to the social distancing and travel restrictions that may be in place.
11. **University Liaison and Grants:** The University Liaison and Grants Sub-Committee received applications for grants in 2019-20 in support of the teaching of construction law. These were for books, forms of contract and other materials, and also for Prizes for excellent performance in examinations, projects or case studies. Grants were made to seven universities: Cambridge, Cardiff, Central Lancashire, King's College London, Loughborough, Salford and Wolverhampton and the total awarded was £7,574.00. This compares with grants to eleven universities totalling £3,479 in the previous year. The Sub-Committee considers this a satisfactory outcome in both respects, though it is unlikely that either figure shows a trend. Experience has shown that the needs of most institutions are cyclical, so that they do not need help with the purchase of major text books or contract forms annually and may only apply for a

grant every second or third year. Nevertheless, the task of liaison with the universities is continuous. One way in which this is achieved is through attendance by Sub-Committee members at Awards ceremonies where the Society's funded Prize is presented to the successful student. For example, Dr Hamish Lal attended the University of Salford in July 2019 and Peter Filippo attended the University of Cambridge School of Architecture in December 2019. Shy Jackson has recommended the organisation of an academic conference to spotlight current construction law issues, which is being planned for 2021 with the intention of further strengthening the links between the Society and those engaged in teaching and research in the field.

12. Two further points should be made in conclusion on the Sub-Committee's work. First, a grant of £3,000 was made to BAILII to support free access to court judgments and other legal sources. The same amount was given in the previous year. The Sub-Committee is also pleased to be able to report the first awards under the Frances Paterson Scholarship scheme at the start of the 2019-20 academic year. An award was made to Shou Yu Chong to study full-time for a Ph.D at King's College, London on co-existing and conflicting jurisdiction and arbitration clauses, and an award was made to Nigel Aqui to study part-time for a Ph.D at the University of the West of England in Bristol on a conceptual framework and maturity model for best practice in construction law. These awards combined added a further £3,750.00 to the total educational grants made by the Society in the past year. It is intended to offer a further doctoral scholarship in the academic year 2020-21 under the Frances Paterson Scholarship scheme.

My thanks go to all of the Society's members, Council members and staff involved with the running of the Society, which would be unable to function without their hard work and dedication.

Jonathan Cope, Chair

12th May 2020

SCL Statistics (30th April 2020)

(Figures in brackets are from 12 months previously)

A. Membership

a. **Total members** at 30th April 2020: 2,749 (2,800)

b. **Members from UK:** 2,115 (2,112)

c. **Members from Overseas:** 634 (688)

Ireland: 83 (82), Argentina: 0 (1), Armenia: 1 (0), Australia: 39 (42), Austria: 2 (2), Bahrain: 11 (9), Bangladesh: 2 (2), Barbados: 0 (1), Botswana: 4 (4), Brazil: 7 (8), Brunei: 2 (2), Bulgaria: 1 (1), Cambodia: 1 (1), Canada: 9 (10), Chile: 3 (4), China: 1 (3), Colombia: 1 (1), Cyprus: 7 (7), Denmark: 3 (4), Djibouti: 1 (0), Dominica: 1 (1), Egypt: 6 (10), Ethiopia: 2 (1), Finland: 0 (3), France: 29 (28), Georgia: 0 (2), Germany: 16 (19), Ghana: 3 (3), Gibraltar: 2 (2), Greece: 4 (2), Hong Kong: 5 (8), Hungary: 1 (0), India: 10 (14), Indonesia: 3 (3), Israel: 2 (3), Italy: 8 (11), Japan: 13 (13), Jordan: 1 (1), Kazakstan: 4 (5), Kenya: 4 (2), Kuwait: 7 (8), Lebanon: 2 (5), Lesotho: 1 (0), Lithuania: 1 (0), Luxembourg: 0 (1), Malaysia: 7 (6), Malta: 2 (1), Mauritius: 0 (1), Mexico: 1 (0), Netherlands: 7 (10), New Zealand: 3 (2), Nigeria: 3 (5), Norway: 2 (1), Oman: 12 (14), Pakistan: 5 (2), Panama: 2 (2), Peru: 6 (5), Philippines: 3 (4), Poland: 1 (2), Portugal: 2 (2), Qatar: 38 (42), Romania: 2 (4), Russian Federation: 1 (0), Rwanda: 1 (0), Saudi Arabia: 16 (18), Singapore: 16 (17), South Africa: 25 (28), South Korea: 5 (6), Spain: 12 (9), Sri Lanka: 4 (6), Swaziland: 0 (1), Sweden: 1 (2), Switzerland: 8 (7), Tanzania: 3 (2), Thailand: 4 (4), Trinidad and Tobago: 3 (3), Tunisia: 1 (1), Turkey: 6 (7), Uganda: 2 (3), United Arab Emirates: 94 (100), United States: 35 (36), Vietnam: 4 (2), Zambia: 2 (3)

d. **Members by region**

Please note that a member can affiliate to more than one region, and some are overseas members

Belfast: 54 (62)

Birmingham: 180 (194)

Cardiff: 77 (79)

Eastern: 145 (155)

Eire: 147 (139)

Kent: 85 (79)

Leeds: 156 (149)

London: 1,013 (1,010)

Manchester: 203 (193)

North East: 72 (74)

Oxford: 118 (123)

Reading: 75 (69)

Scotland: 159 (164)

Sheffield, Derby Nottingham: 97 (101)

South West: 181 (174)

Southern: 198 (202)

Surrey/Sussex: 51 (21)

e. Members by profession

Note: this is the main profession given for each member

Academic: 16 (120)
Accountant: 5 (5)
Adjudicator: 38 (31)
Arbitrator: 29 (30)
Architect: 48 (45)
Barrister: 256 (260)
Claims consultant: 369 (377)
Contractor: 84 (89)
Engineer: 143 (132)
Mediator: 5 (6)
Project manager: 55 (57)
Pupil barrister 1 (0)
Solicitor: 930 (950)
Student: 1 (1)
Subcontractor: 5 (7)
Surveyor: 284 (287)
Other construction consultant: 197 (177)
Other lawyer: 97 (93)
Other: 143 (161)

B. Papers

Recent Developments in Interpretation of Contracts: A Picture of Consistency and Clarity?

Isabel Hitching QC
April 2020, printed and online (Nr: 223)

Good Faith and Relational Contracting – Do Enterprise Contracts Offer a Way Through the Woods?

Professor David Mosey and Shy Jackson
March 2020, online (Nr: D228)

Due Process and Issues Which Prey on the Minds of Arbitrators and Clients Alike

Richard Wilmot-Smith QC
March 2020, printed and online (Nr: 222)

Winners, Losers and a Coda on Good Faith

Sir Rupert Jackson
March 2020, online (Nr: D227)

Who should have won S&T v Grove in the Supreme Court?

Anthony Speaight QC, Alexander Nissen QC, Matthew Thorne and William Webb
February 2020, online (Nr: D226)

When Insolvency Trumps Rough Justice: Injunctions and Stays of Execution of Adjudication Proceedings

David Sears QC, Crispin Winser and Joshua Brown
January 2020, printed and online (Nr: 221)

Developments in Arbitration – An International Perspective

Gwyn Peredur Owen

November 2019, online (Nr: D225)

Construction Law: Recent Highlights and Greatest Hits

The Rt Hon Lord Justice Coulson

October 2019, printed and online (Nr: 220)

Insolvency and its Relevance to the Construction Industry

Bridget Williamson

October 2019, online (Nr: D224)

Wall Ties, Cavity Barriers and the Dog that did not Bark in the Night: Design Co-ordination and the Challenge of Culture Change

Matthew Cousins

October 2019, online (Nr: D223)

The Interplay between Judges and Arbitrators

Sir Rupert Jackson

October 2019, printed and online (Nr: 219)

Security of Payment for Subcontractors – Lessons for England from Around the World

Louise Hall

September 2019, online (Nr: D222)

Economic Torts and Construction Disputes – Palmer Birch v Lloyd

Andrew Singer QC and Kelly Pennifer

August 2019, online (Nr: D221)

Payment in the Construction Industry – where are we now?

Rudi Klein

June 2019, online (Nr: D220)

Prevention or Cure? Delay Claims and the Rise of Concurrency Clauses

The Rt Hon Lord Justice Coulson

June 2019 printed and online (Nr: 218)

A Stadium and its Defects: Liberty, Loss and the Limitation Period

Philip Britton

June 2019 printed and online (Nr: 217)

Securing Payment and Adjudicating Under a ‘Hybrid’ Contract

Rachel Gwilliam

May 2019, online (Nr: D219)

To what Extent can the Contract Control its own Interpretative Method?

Omar Jassam

May 2019, online (Nr: D218)