



NEWSLETTER : JULY 2018

Programme

Unless marked otherwise, the following meetings are free to members and guests.

Location maps are now available on the website.

To register for an event, please go to the SCL website (www.scl.org.uk) (under the tab “Participate” – “Meeting and events”) and where online booking is not available please contact the organiser directly.

London

Tuesday,
3 July “Privacy in arbitration - how far should we lift the curtain on what happens?”
A joint meeting of the SCL and the Society of Construction Arbitrators
Speaker: Lord Dyson
Chair: Lord Justice Coulson
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: rchampion@championpearce.com, jonathan.cope@mcms.co.uk,
karen.gough@39essex.com, hlal@akingump.com,
rebecca.shorter@whitecase.com & Sunderland@crownofficechambers.com
(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Thursday,
19 July “Joint Organisations' Boat Trip”
Venue: Festival Pier, River Thames, London 6.30pm
Organisers: ladams@atkinchambers.com, rebecca.shorter@whitecase.com &
swilliams@keatingchambers.com

SCL Astra, RICS Matrics London & CIOB Novus present the joint organisations’ Boat Trip on the River Thames. Cost £45 including VAT. The ticket price includes a Pizza Express dinner and a free bar of draft beer, cider, house wine and non-alcoholic drinks

Thursday,
9 August “SCL Networking Evening”
Venue: The Oyster Shed, The Observation Deck, Angel Lane,
London EC4R 3AB 5.00pm

Please note: The cost of the event is £12.50 plus £2.50 VAT = £15.00 per head, which will cover a light buffet.

Tuesday,
4 September “When the walls come tumbling down: Fraud in Adjudication, Arbitration and Mediation”
Speaker: Matt Molloy, MCMS Limited
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: rchampion@championpearce.com, jonathan.cope@mcms.co.uk,
karen.gough@39essex.com, hlal@akingump.com,
rebecca.shorter@whitecase.com & Sunderland@crownofficechambers.com
(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Birmingham

Wednesday, 19 September “MT Højgaard v E.On one year on: distinguishing ‘design’ and ‘works’ liability”
Speaker: Paul Buckingham, Keating Chambers
Chair: Michael O’Shea
Venue: Gateley LLP, One Eleven Edmund Street, Birmingham B3 2HJ 5.30 pm for 6 pm
Organisers: Ian.Yule@shoosmiths.co.uk

Please note this event will attract 1 CPD hour unless otherwise advised at the beginning.
For further enquiries please contact Grace.Sparkes@shoosmiths.co.uk

Cardiff

Wednesday, 4 July “NEC 4 – What's New – Evolution Without Revolution?”
Speaker: Lindy Patterson QC
Chair: Rachel Gwilliam
Venue: Blake Morgan, One Central Square, Cardiff CF10 1FS 5.30 for 6.00pm
Organiser: Rachel.Gwilliam@blakemorgan.co.uk

East Anglia/Milton Keynes

Thursday, 6 September “NEC 4 - What's new? Evolution or Revolution”
Speaker: Lindy Patterson QC, 39 Essex Chambers
Venue: Network Rail, Quadrant MK, Elder Gate, Milton Keynes MK9 1EN 6.00pm
Organisers: alison.garrett@mills-reeve.com, colinjones@hewitsons.com or alistair.cull@drivertrett.com

Ireland

Monday, 9 July “An Introduction to the 2017 FIDIC Suite of contracts”
Speakers: Siobhan Fahey, Chartered Engineer & Chartered Arbitrator, Rory Kirrane, Partner Mason Hayes & Curran, Dublin, Eoin Cassidy, Partner Mason Hayes & Curran, Dublin
Chair: William Frain-Bell, Thomas More Chambers
Venue: Engineers Ireland, Clyde Road, Ballsbridge, Dublin 4 8.30am
Organiser: adhussey@lawlibrary.ie

Thursday, 27 September “Mediation vs Conciliation: which is better and why do they fail?”
Speakers: Rosemary Jackson QC & Orla Fitzgerald, Architect & Conciliator
Chair: Eamonn Conlon, A & L Goodbody
Venue: A & L Goodbody, North Wall Quay N Wall Quay, North Wall, Dublin 1, D01 H104 6.00pm
Organiser: adhussey@lawlibrary.ie

Thursday, 4 October “SCL Advocacy Course - Dublin”
Joint SCL/Adjudication Society Event
Venue: William Fry, 2 Grand Canal Square, Grand Canal Dock, Dublin 2, Ireland 10.00am
Organiser: adhussey@lawlibrary.ie

Cost: €250 per person. Bookings can only be made online, and only PayPal can be used to make the payment.

Thursday,
29 November “Construction Arbitration: more transparency and less confidentiality?”
Speaker: John Tackaberry QC
Chair: Arran Dowling-Hussey
Venue: McCannFitzgerald, Riverside One, 37 - 42 Sir John Rogerson's Quay, Grand Canal Dock, Dublin 2 6.00pm
Organiser: adhussey@lawlibrary.ie

Friday,
30 November “SCL Lunch in Dublin”
Speaker: The Honorable Charles N Brower, Arbitrator (20 Essex Street).
Judge ad hoc at the International Court of Justice
Venue: Guinness Storehouse, The Arrol Suite, St James's Gate, Dublin 8 12 noon for 12.30pm
Organiser: adhussey@lawlibrary.ie

Leeds

Friday,
7 September “The SCL Lunch in the North of England”
Speaker: Andrew Parker FRCS Consultant & ENT Surgeon
Venue: Leeds Marriott Hotel, 4 Trevelyan Square, Boar Lane, Leeds LS1 6ET 12.15 for 1.00pm
Organiser: jhawkswell@hklegal.co.uk

Cost £75 per person. Block bookings by firms will be limited to 2 tables each. All places will be allocated on a first paid, first served basis.

Manchester

Friday,
13 July “The SCL Manchester Summer Lunch”
Speaker: Edwina Currie
Venue: The Lowry Hotel, 50 Dearmans Place, Chapel Wharf, Salford, Manchester M3 5LH 12.30 for 1.00pm
Organisers: fraser.askham@cms-cmno.com & LOsborne@ridge.co.uk

Cost £75 per person which includes a glass of Prosecco in the bar after lunch. Block bookings by firms will be limited to 2 tables each. All places will be allocated on a first paid, first served basis.

Wednesday,
5 September “Professional Liability for Construction Professionals: case law, trends and practical guidance”
Speakers: Sarah Hannaford QC and Tom Owen, Keating Chambers
Chair: Fraser Askham
Venue: CMS Cameron McKenna Nabarro Olswang LLP, 1 The Avenue, Spinningfields, Manchester M3 3AP 5.30 for 6.00pm
Organisers: fraser.askham@cms-cmno.com & LOsborne@ridge.co.uk

Scotland

Friday,
9 November “The SCL Lunch in Scotland”
Venue: The Supper Club, 29 Royal Exchange Square, Glasgow G1 3AJ 12 noon for 12.30pm
Organisers: louise.shiels@brodies.com & lhc@cdr.uk.com

Sheffield/Derby/Nottingham

Tuesday,
11 September “Construction/ADR update”
Speaker: Kim Franklin QC, Crown Office Chambers
Chair: Jocelyn Taylor
Venue: Hallmark Hotel, Midland Road, Derby DE1 2SG 6.00pm
Organiser: jocelyn1taylor@btinternet.com

South West

Thursday,
12 July “South West Summer Drinks Social”
Venue: Bristol Hotel, Shore Bar, Prince Street, Bristol BS1 4QF 6.00pm
Organiser: andrew.evans@gregglatchams.com

Cost £18 incl VAT for SCL Members and £21 incl VAT for non members.

SCL South West invites you to an evening at which SCL members and their guests can network, catch up and relax on the (hopefully sunny) terrace of Shore Bar by the harbour in central Bristol. It is also a chance for those considering SCL membership to find out a bit more about the Society and what it offers.

Rain or shine, we have exclusive use of the bar and ticket price will cover your first 2+ drinks and canapes. Please join us from 6pm on 12th July 2018 to celebrate British Summer Time!

Friday,
19 October “The SCL Lunch in Bristol”
Speaker: Alastair Humphreys
Venue: Bristol Marriott Royal Hotel, College Green
 Bristol BS1 5TA
Organiser: Jonathan.Spencer@simmons-simmons.com

8th International Society of Construction Law Conference

“Construction Law: Local Issues- Global Perspectives.”

September 26th -28th 2018, Chicago, IL- The Palmer House

The conference program is finalised and registration is now open. Please click below to register for the conference. www.scl-na.org

Further events are listed at www.scl.org.uk

We are keen to receive suggestions for speakers and topics both for the London and the Regional programmes. If you have any suggestions please send your ideas to: Keith Kirkwood (keithkirkwood@benningtongreen.co.uk); Ronan Champion (rchampion@championpearce.com); Jonathan Cope (jonathan.cope@mcms.co.uk) or Hamish Lal (hlal@akingump.com)

From the Chair

Dear SCL Members

I am honoured and delighted to have been elected as your new SCL Chair. My thanks go to the outgoing Chair, Chris Ennis; as well as representing the Society both in the UK and throughout the world (including Cape Town, Delhi, Mauritius and Santiago), as you can imagine there is a significant amount of ‘behind the scenes’ work the Chair needs to undertake, and Chris has put a considerable amount of time and effort into that. However, Chris’s pièce de résistance must be masterminding the move of the Annual Lunch from the Brewery to the Grosvenor House Hotel, which has proved to be immensely successful.

I am pleased to report that Jonathan Pawlowski has been appointed Vice Chair of the Society and Rebecca Shorter has been appointed Secretary. Both Jonathan and Rebecca have been very active members of Council in the past few years; Jonathan has served with distinction as Secretary and has taken a leading role in organising the social events, whilst Rebecca has worked tirelessly to develop Astra, together with Sarah Williams and Lauren Adams. I have no doubt that Jonathan and Rebecca will be great assets to the Officer team, which is completed by Richard Bailey who remains as Treasurer.

During my time as Chair I want to focus on 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.”

To that end I will encourage and support the good work done by all of the regions in organising lectures and producing papers. Council has also agreed to support a further SCL Conference in Autumn 2019; the SCL Conference in Leeds each Spring is always incredibly successful, but feedback from members is that there is an appetite for a further conference. Hamish Lal has agreed to lead a team organising this conference, and I will provide more details as and when they become available. However, if you have any suggestions as to the format and content of conference, please do let us know by contacting Jill Ward (jill.ward@scl.org.uk).

As set out in the events diary, there are a number of interesting meetings before the summer break, and I would like to highlight Lord Dyson's talk in London on privacy in arbitration, Lindy Patterson QC's talk in Cardiff on NEC4 and Siobhan Fahey and Rory Kirrane's talk in Dublin on the 2017 FIDIC Suite of contracts.

Socially, I would like to start by drawing your attention to a non-SCL event, namely the joint TECBAR and Bar Lesbian and Gay Group drinks later this week (more details below). I hope that next year the Society can be involved with this and other similar events as part of our commitment to promoting equality and diversity in the industry. The Equality and Diversity Sub-Committee, which is now being led by Sarah Williams, is working hard to develop the Society's Equality and Diversity Policy and other related documents, and we hope to publish them later in the summer.

I would also like to note the Joint Organisations' Boat Trip on 19th July 2018; this is a fantastic opportunity for Astra members to network with members from RICS Matrics and CIOB Novus. The numbers for the Manchester lunch are in excess of 250, but some space still remains if you want to join us for what will no doubt be an entertaining afternoon, not least because our distinguished speaker is Edwina Currie.

Internationally, I want to highlight the 8th International Society of Construction Law Conference in Chicago from 26th to 28th September 2018. There is a very strong mix of speakers from throughout the world and topics to suit everyone's interests. The social programme is also impressive and includes a gala dinner and the Inaugural Law Rocks Chicago. The link to the programme and registration is set out above.

Finally, I wish to thank all members for their continued and enthusiastic support of the Society's events; please remember that Council is here to serve the members, and if you have any comments or queries please do not hesitate to contact me or any other member of Council.

Jonathan Cope – Chair
jonathan.cope@mcms.co.uk

Papers

Online is **Richard Harvey's** Highly Commended Hudson entry entitled ***Good Faith, Contracts and Procurement: Analogous Means to Achieving Legal Certainty?*** (D211) The paper explores the question of whether the construction industry, through the use of intelligent procurement and contract models, is capable of achieving analogous means equivalent to the doctrine of good faith. The author examines the development of the concept of good faith in English case law and the turning tide towards an implied duty and suggests an appraisal of the limbs of such a duty. He goes on to assert that the express terms and processes of early contractor involvement might accomplish the same result as a good faith obligation.

SCL Hudson Prize Competition 2018

Entries are now invited for the 2018 Competition from all entrants with an interest in construction law and an idea which they wish to share. The judging panel places emphasis on originality of thought and approach. The length of essay is a maximum of 5000 words. (While footnoting or other methods of referencing sources does not count towards this total and is encouraged, some recent entrants appear to have tried to avoid the word limit by loading footnotes with matters of substance, sometimes running to several paragraphs, in a disproportionate and inappropriate way. This is almost always counter-productive).

Eligible subjects can be drawn from any part of construction law widely defined, including (but not restricted to) construction and engineering contracts, contract administration, claims, arbitration, adjudication and dispute resolution, construction litigation, the law of torts, company law, property law, procurement, professional negligence, taxation (although this must be related to construction) and any other aspect of law or procedure relevant to the construction industry. **First prize is £2,500 and Second prize is £1,250.** Entrants can also be Highly Commended or Commended. The award of prizes or commendations, or the decision not to award them, is in the absolute discretion of the Society through its judging panel. All who are awarded prizes or commendations receive a year's free membership of the Society. The Society may decide, at its discretion, to publish the successful papers, in hard copy and/or electronic format.

Past winners have included members of almost all the disciplines relating to construction law including barristers (including pupils), solicitors (including a trainee), quantity surveyors, engineers, academics, architects, and several hybrids qualified in more than one discipline.

Further information and entry details can be found on the website www.scl.org.uk or obtained from Jill Ward admin@scl.org.uk. The closing date for essay submission is Thursday 3rd January 2019. Any queries can be referred to the panel via Jill Ward in the first instance.

SCL Construction Advocacy Course

Thursday 22nd and Friday 23rd November 2018

Akin Gump, Ten Bishops Square, London, E1 6EG

The Society is pleased to announce that it will be holding its very popular Advocacy Training Course again on the evening of 22nd November and full day on 23rd November 2018.

The course is open to all members of the Society who have no, or little advocacy experience. This includes in-house counsel, junior counsel and pupil barristers as well as junior solicitors, together with construction professionals wishing to conduct their own advocacy at mediation or adjudication.

The Course will give each advocate the opportunity to present and oppose applications in a range of construction law scenarios, and the emphasis will be on hearings replicating an adjudication hearing.

The course is free of charge but **ONLY** open to SCL members.

We do have a limit on the numbers for this event, so early sign up is essential. Once your place has been secured further papers will be sent for you to prepare for the hearings. Please note the Course takes place on the evening of 22nd November between 6.00pm – 9.00pm and between 9:00am – 5:00pm on 23rd November.

For further details and/or to express an interest in securing a place, contact Jill Ward at admin@scl.org.uk and Hamish Lal at hamish.lal@akingump.com. This event carries 6 CPD points.

TECBAR and BLAGG Social Drinks

Thursday 28th June 2018, 6.00pm to 9.00pm, Atkin Chambers, Gray's Inn, London

The Technology and Construction Bar Association are hosting networking drinks in conjunction with the Bar Lesbian and Gay Group (BLAGG). The event is open to all, and in particular LGBT lawyers, industry professionals and law students. They will be welcoming the Rt Hon Sir Terence Etherton, MR and eminent members of the Bar and judiciary.

This is an informal social event for all who are interested and also an opportunity to speak to barristers from TECBAR about working in technology, construction commercial and related fields.

Any SCL members interested in attending are asked to book by email: events@atkinchambers.com

Introduction to Basics 2018 – Kings College, London

Wednesday 12th September 2018 at 2.00pm, Room K2.31, King's Building, Strand Campus

This annual seminar is for those considering specialising in construction and for junior or recently appointed staff encountering construction issues for the first time. It provides a general introduction to many of the widely encountered principles, as well as identifying some current 'hot topics'

The expected themes and speakers are:

Procurement and Tendering (Julie Teal – Withers LLP)

Claims (Liam Holder – Navigant)

Defects and their legal remedies (Sarah Williams – Keating Chambers)

Dispute resolution (Nicholas Gould – Fenwick Elliott LLP and Kings College London)

Development and Finance (Helen Garthwaite – Wedlake Bell LLP)

Presentations and discussions start at 2pm and end at around 6pm. The presentations will be followed by a drinks reception in Chapters, 1st Floor, King's Building.

For further details please contact Sue Hart on (+44)(0) 20 7848 2643 email susan.hart@kcl.ac.uk or <https://estore.kcl.ac.uk/conferences-and-events/academic-faculties/the-dickson-poon-school-of-law/centre-of-construction-law/introduction-to-the-basics-2018>

SCL Astra (formerly Junior SCL)

Two important qualities are required to succeed in the construction legal market (apart from avoiding hard hat hair):

1. Knowledge / an understanding of the wonderful world of construction law
2. A wide and varied network of contacts to assist in generating business and satisfying client demands

With that in mind, SCL Astra (formerly Junior SCL) was developed to provide tailored opportunities to develop these qualities for existing SCL members who fall within one of the following categories:

- Up to 10 years post-qualification
- Recently moved to a new field within the construction legal industry
- Young at heart

We organise a range of activities for our members, including social events, site visits, seminars and our bi-annual conference (planned for mid-2016). We adopt the mantra that there are no stupid questions and foster an environment of learning and development. We also maintain strong links with RICS Matrics and CIOB Novus which permits the sharing of insights into various aspects of the construction industry. There is no additional cost to be part of SCL Astra – once you are an SCL member and meet one of the above criteria; we welcome you to our ranks!

If you are interested in registering as an Astra member, please sign up on the Astra page of the SCL website (note that you need to opt-in to receive communications regarding Astra events). Otherwise, watch out for upcoming Astra events in the SCL newsletter and on the website.

SCL Astra Twitter handle (@SCLAstra). Finally, if you are interested in being part of the Astra committee in your region, we would love to hear from you. Please email swilliams@keatingchambers.com; Rebecca.shorter@whitecase.com or ladams@atkinchambers.com.

Social Media, E-mail and Keeping You Informed

In addition to keeping up to date via email, the newsletter and the website, the SCL has a presence on Twitter, LinkedIn and Facebook where you can find information, news and events:

LinkedIn group 'Society of Construction Law UK'

Facebook page 'Society of Construction Law UK'

Twitter name '@SCL_UK' SCL Astra Twitter handle (@SCLAstra)

We always welcome feedback and comments, including via tweets and postings on how we can improve the service the SCL provides to its members. Contact details for all Council members can be found on the SCL's website. We would also take this opportunity to remind all members to update their online details and preferences to ensure you only receive the information you want from the SCL.

General Data Protection Regulations (GDPR)

As many of our members will know, the GDPR comes into effect on 25 May 2018 and are aimed at improving data protection for individuals. The SCL takes data protection seriously and we refer you to the SCL Privacy Policy which can be found at <https://www.scl.org.uk/privacy-policy>.

In order to ensure that we can still keep in touch with members and let you have information about the SCL including details of events and published papers, we require members' consent for SCL to process their data. We would therefore be grateful if you would log on to your account and confirm agreement to being contacted. To do this, visit your Profile page (Profile tab on your user account page), tick the 'Data consent' box in the 'Region, mailing & data preferences' section near the bottom of the form, and save the form."

If you prefer to provide confirmation by post, please fill in the details below and post it to SCL. If you fail to do so we may not be able to contact you.

Data Consent – In confirm that the SCL can manage my data and contact me in accordance with the SCL Privacy Policy

Name (please print): _____ Signature: _____

Address: _____ Date: _____

New Members

Finally, we are pleased to welcome the new members who recently joined the Society:

Gary Adair, Belfast
David Bunch, Southampton
Alex Chenery, London
John Cleaveley, Manchester
Camil Dbouk, Qatar
Caroline Earnshaw, Edinburgh
Felix Hart, London
Tom Hunter, London
Paul Johnston, Dartford
Leor Mizrahi, London
Andre Naude, Portugal
Tony Sexton, St Albans
Sarah Phillips, London
Jan Rzedzian, Newcastle upon Tyne
Md Dalil Uddin, Bangladesh

Richard Allan, Manchester
Stuart Carmichael, Peru
Bulut Cinar, Turkey
Rory Connor, London
Simon Dunkling, Peterborough
William Franklin, London
Maninder Gogia, Hounslow
Salvatore Imparato, Italy
Jonathan Lloyd-Jones, London
Paddy Mohen, London
Derek Nelson, Glasgow
Christy Oommen, London
Adesh Ramnarine, Bahrain
Baltazar Ochoa Fernandez, Panama
Andreea-Teodora Georgescu, Romania

Amy Armitage, London
Samantha Cheesman, Coalville
Tony Clough, London
Carla Cummings, London
Greg Flett, Edinburgh
Andrew Glossop, Bicester
Philippa Hind, Chichester
Manzurul Islam, Essex
Conor Mac Aree, Ireland
Neil Mowat, UAE
Rory O' Brien, UAE
Paula Pattison, Gateshead
Natalie Warren, London
Maurice Wrenn, Ireland