



NEWSLETTER : July 2019

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,
2 July “Joint meeting Society of Construction Law/Society of Construction Arbitrators”
“Conflicts of Interest in the Spotlight”
Speaker: Calum Lamont & James Thompson, Keating Chambers
Chair: Mr Justice Waksman
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: london@scl.org.uk

(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Thursday,
25 July “Joint Organisations' Summer Boat Trip”
Venue: Festival Pier, River Thames, London 6.30pm
Organisers: ladams@atkinchambers.com, karim.mariev@whitecase.com & dcoyne@blackrockx.com

SCL Astra, ICE London G&S, & CIOB Novus present The Joint Organisations’ Summer Boat Trip on the Thames. This event provides all members an opportunity to attend a fun networking evening and build relationships with fellow industry members. Please note numbers are limited and places will be allocated on a first paid first served basis. Cost £40 including VAT.

Tuesday,
6 August “SCL Networking Event”
Venue: The Yacht London, Temple Pier, Victoria Embankment,
London WC2R 2PN 5.00pm

Please note: Cost £18 incl VAT per person. Numbers are limited and tickets will be sold on a first paid, first served basis.

Tuesday,
3 September “Murphy’s law: what rights do purchasers of new build properties really have against Building Control, warranty providers and others?”
Speakers: Jonathan Selby QC and Sam Townend
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm
Organisers: london@scl.org.uk

(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Thursday,
19 September “The Society of Construction Law London Conference”
Speakers: Lord Justice Coulson, Dr. Franco Mastrandrea, HKA, David Barry, Blackrock Expert Services; Shy Jackson, Pinsent Masons; Christopher Miers, Probyn Miers; Mark Wheeler, Diales; Hannah Wennell, Morgan Sindall; Richard Wilmot-Smith QC, 39 Essex Chambers, Karen Gough, 39 Essex Chambers, Ellis Baker, White & Case; John Hughes D'aeth, Bryan Cave Leighton Paisner; Alistair McLean, Brodies; Victoria Peckett, CMS,

Sir Rupert Jackson, 4 New Square Gwyn Owen, Chartered Arbitrator, Alexander Nissen QC, Keating Chambers Garry Borland QC, Axiom Associates, Katie Powell, Atkin Chambers Fiona Sinclair QC, 4 Pump Court Robert Stevenson, BLM, Paul Battrick, Diales, Craig Arnott, Managing Director Burford Capital; Nicholas Bacon QC, 4 New Square; Robert Hanna, Augusta Ventures Limited; Yasmin Mohammad, Head of International Arbitration Vannin Capital, Mrs Justice Cockerill DBE. Closing comments by Jonathan Cope, SCL Chair.

Chair: Hamish Lal, Akin Gump Strauss Hauer & Feld
Venue: IET, 2 Savoy Pl, London WC2R 0BL Registration 8.30am

Please note: Cost £195 including VAT and tickets will be sold on a first paid, first served basis.

(Please note that bookings must be made online for this event, and SCL will not take bookings by email)

Birmingham

Tuesday, 17 September “Current issues in construction law: What comprises a condition precedent? Triple Point: LDs after termination”
Speakers: Simon Hargreaves QC and James Frampton – Keating Chambers
Chairman: Michael O’Shea
Venue: Eversheds Sutherland, 115 Colmore Row, Birmingham B3 3AL 5.30 for 6.00pm
Organiser: ian.yule@shoosmiths.co.uk

For further enquiries please contact Grace.Sparkes@shoosmiths.co.uk

Cardiff

Wednesday, 3 July “Gosvenor London Ltd v Aygun Aluminium Ltd: staying judgments enforcing adjudicators’ decisions where there is a real risk of dissipation”
Speakers: Dr Tim Sampson and David Sawtell, Lamb Chambers
Venue: Blake Morgan LLP, One Central Square, Cardiff CF10 1FS 5.30 for 6.00pm
Organisers: rachel.gwilliam@blakemorgan.co.uk & sean.gibbs@hanscombintercontinental.co.uk

Cheltenham

Wednesday, 18 September “Design Liability & Professional Negligence –Contractors and Consultants perspectives”
Speaker: Sian Mirchandani QC, 4 New Square
Chairs: Sean Gibbs / Anna Wood
Venue: Queens Hotel, The Promenade, Cheltenham GL50 1NN 5.30 for 6.00pm
Organisers: sean.gibbs@hanscombintercontinental.co.uk

Eastern

Monday, 7 October “Professional Advice and Administration in Construction Projects: Scope of Duty and Scope of Responsibility”
Speakers: Patrick Clarke and Marc Lixemberg, Atkin Chambers
Venue: Mills & Reeve LLP, Botanic House, 100 Hills Road Cambridge CB2 1PH 6.00pm
Organisers: alison.garrett@mills-reeve.com, colinjones@hewitsons.com or alistair.cull@drivertrett.com

Ireland

Tuesday,
2 July “Construction law: regulatory compliance Some thoughts on present data, health and safety and building regulations”
Speakers: Robert Rooney & Charlotte Woolven-Brown
Moderator: Dr. David Sharpe B.L
Venue: A & L Goodbody, North Wall Quay N Wall Quay, North Wall, Dublin 1, D01 H104 6.00pm
Organiser: adhussey@lawlibrary.ie

Thursday,
26 September “Public works contract users: ADR strategies and tactics”
Speaker: James O'Donoghue
Chair: Arran Dowling-Hussey
Venue: RIAI, 8 Merrion Square, Dublin 2, D02 YE68 6.00pm
Organiser: adhussey@lawlibrary.ie

Friday,
29 November “SCL Lunch in Dublin”
Speaker: Marion Smith QC
Venue: Guinness Storehouse, The Arrol Suite, St James's Gate, Dublin 8 12 noon for 1.00pm
Organiser: adhussey@lawlibrary.ie

Leeds

Friday,
6 September “The SCL Lunch in Leeds”
Speaker: Sir Rupert Jackson
Venue: Leeds Marriott Hotel, 4 Trevelyan Square, Boar Lane, Leeds LS1 6ET 12.15 for 1.00pm
Organiser: jhawkswell@hklegal.co.uk

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

Scotland

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

South West

Tuesday,
16 July "Joint Expert Meetings: Purpose and Practice"
Speaker: Liam Holder, Managing Director of Secretariat International
Chair: Andrew Langmaid
Venue: Bristol Hotel, George White Room, Prince Street, Bristol BS1 4QF 5.30 for 6.00pm
Organiser: alangmaid@secretariat-intl.com

Friday,
11 October “The SCL Lunch in Bristol”
Speaker: Paul ‘Mungo’ Mungeam (Bear Grylls’ Cameraman)
Venue: Bristol Marriott Royal Hotel, College Green, Bristol BS1 5TA 12 for 1.00pm
Organiser: Jonathan.Spencer@simmons-simmons.com

Please note: Cost £75 per person including VAT. Block bookings by firms will be limited to 2 tables each. All places will be allocated on a first paid, first served basis.
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 re-elected as SCL Chair at the Council meeting in June, and I am very pleased to report that Jonathan Pawlowski and Rebecca Shorter have also been re-elected as Vice Chair and Secretary respectively. Shy Jackson has been elected as Treasurer, taking over from Richard Bailey. Shy has been on Council since 2012 and has done a great deal behind the scenes on matters such as the Society's liaison with universities and our GDPR policy. I have no doubt that Shy will be a great asset to the Officer team

After 12 years of dedicated service, Richard Bailey has not only stepped down as Treasurer, but also from Council. He has served as Treasurer, Vice Chair and Chair, and previously led what was then the Junior SCL. He has chaired the IT subcommittee, and has been heavily involved with the European Society of Construction Law, of which he remains Chair. The Society is indebted to him for his commitment and service.

After I was first elected Chair last year, I said that I wanted to focus on the Object of the Society, which is:-

“...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.”

That focus continues into my second year as Chair. For example, as many of you will already be aware, members of Council, led by Hamish Lal, have organised an autumn conference which is being held on 19th September 2019 (see further details in the attached flyer). Given the range of topics that will be covered and the high calibre of the speakers, I am confident that this conference will fulfil many aspects of the Object, and I hope that it will become a regular fixture in the SCL calendar, complimenting the enormously popular Spring conference held in Leeds each March.

Other initiatives over the next 12 months will include:

- Holding both a Court Skills Advocacy Course and an Adjudication Advocacy Course. The Society has held regular Adjudication Advocacy Courses in London and Dublin over the past few years, with the next one to be held in London in November 2019. However, the Society has not held a Court Skills Advocacy Course for some time, and our aim is therefore to run this course again in Spring 2020;
- Reviewing the format and content of this newsletter, together with a more general review of how the Society communicates with its members;
- Building on the work of the Equality and Diversity Sub-Committee to promote and encourage an inclusive culture, and to work with sister organisations to run joint events.

Looking to the more immediate future, in the month ahead we have lectures in London, Cardiff and Bristol, as well as the Joint Organisations Boat Trip in London on 25th July 2019. At the beginning of August we also have the SCL Summer Networking Event in London. This event was first held in 2017 after recognising that not all of our members holiday in August, and there are relatively few other events held that month. After the success of the 2017 and 2018 events, we decided to change venues in order to accommodate demand, and this year it will be held at The Yacht Club on Victoria Embankment. Tickets cost £18.00, which includes a light buffet, and I hope to see many of our members there.

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 suggestions, comments or queries please do not hesitate to contact me or any other member of Council.

I look forward to seeing you at a Society event soon.

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

FRANCES PATERSON SCHOLARSHIPS

<https://www.scl.org.uk/resources/news/frances-paterson-scholarships>

SCL awards for Ph.D candidates in Construction Law

As a tribute to her distinguished contribution to construction law, and to the work of SCL, the Society has decided to offer a scholarship bearing Frances Paterson's name. The purpose of the scholarship is to support doctoral research in the field of construction law at a UK university.

1. The Scholarship is intended to assist with the payment of university fees for the duration of a Doctorate and has therefore been set at 50% of the annual course fee, up to a maximum of £2,500 per year (£1,250 for a part-time candidate).
2. Applicants must be registered for a Doctorate, or for a Master's leading to transfer to a Doctorate, at a university in Great Britain or Northern Ireland, undertaking research in construction law, within the broad definition given in the SCL Hudson Prize guidance.
3. The intention is that the award will be renewed annually, based on confirmation of satisfactory progress being provided by the holder's supervisor. Subject to this, it is intended that the award will be for 3 years for a full-time candidate and for 4 years for a part-time candidate.
4. No extension of the duration of the award is envisaged. An application for an extension would only be considered if the candidate's supervisor could demonstrate exceptional circumstances which the University Liaison and Grants Sub-Committee regarded as justifying an extension.
5. Applications for award (and renewal of an existing award) must be made at least eight working weeks before the start of the term of the year of the award.
6. Applications must be on the pro-forma available on the SCL web-site, or from the SCL Administrators, Jill Ward and Frances Whitehead. Applications must be accompanied by a reference from the university supervisor, or prospective supervisor of the candidate as to: a) the academic record and quality of the candidate; b) the value of the research, including prospects for publication; and c) the prospects of completion within 3 years (full-time) and 4 years (part-time).
7. All decisions on awards, and renewal of awards, will be at the absolute discretion of SCL Council, on the recommendation of the University Liaison and Grants Sub-Committee. An independent academic reviewer may be used in the initial award process. The Society cannot enter into communication with applicants regarding the merits of decisions on applications and/or renewals.
8. On successful completion of the Doctorate, the holder of the award may be invited to make a presentation to a meeting of SCL and will be required to provide a written summary of the results within the format of a SCL paper.

To mark the launch of the scholarships, the Society proposes to offer TWO full-time awards (or part-time equivalents) for doctorates commencing in 2019. In future years, ONE further full-time award (or part-time equivalents) is intended, subject to suitable applications being received.

9th International Society of Construction Law Conference 2020 4-6 November 2020

SCL (New Zealand) welcomes the opportunity to host the 9th International Society of Construction Law Conference in Auckland New Zealand.

We invite you to register for updates at <http://www.constructionlaw2020.com/scl20>

SCL Astra London breakfast seminar host venues

SCL Astra's London breakfast seminar series is made possible by kind participation of members and their organisations. If your organisation would be interested in hosting SCL Astra for a breakfast seminar, or for more details of what hosting entails, please contact:-
swilliams@keatingchambers.com, rebecca.shorter@whitecase.com and ladams@atkinchambers.com for further details.

SCL Astra

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 established to provide tailored opportunities to develop these qualities for SCL members who fall within one of the following categories:

- Up to 10 years post-qualification experience
- Recently moved or returned to the construction legal industry
- Young at heart

We organise a range of activities for our members, including seminars, social events, site visits and our bi-annual international conference. Previous conferences have taken place in Paris, Madrid and Dubai; the next is planned for mid-2020. 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, on the website or 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.

SoCLA National Conference 2019

The Society of Construction Law Australia and the Conference Organising Committee are pleased to invite you to be part of the National Conference for 2019.

The National Conference will be held from 1 – 3 August 2019 in Perth, Western Australia.

The theme for the National Conference 2019 is “*Doing it Overseas - the legal tips and tricks for taking Construction Smarts to foreign jurisdictions*”.

The Organising Committee is planning an excellent program over the three days.

The Conference will kick off on Thursday 1st August 2019 with welcome drinks for all of our delegates to the conference. The welcome drinks will be held at Revelry – located on the Eastern Promenade of Elizabeth Quay overlooking Perth’s beautiful riverfront.

Our Patron, Justice Peter Vickery has been invited to present a welcome address. We are also currently investigating a keynote speaker to join us for the evening of the welcome function.

The Westin Hotel, Perth will be a fantastic setting for the formal conference program which will commence on Friday 2 August with a full day of presentations from our speakers who are eminent national practitioners in the construction industry who have been invited because of their knowledge, experience, reputation and their ability to cover the breadth of issues in the program. The Conference presents an ideal opportunity to learn of current trends and issues, and network with some of the nation’s leading industry practitioners. The conference format will continue through to Saturday 3 August with a morning of sessions and then networking drinks to conclude the program.

On the evening of Friday 2 August, we will be hosting the Conference Gala Dinner at the University Club of Western Australia. The evening will involve a spirited and entertaining debate by leading professionals, as well as a delicious meal. Further details on all speakers and presentations is available for download from the [conference website](#). Registration to the conference and social events are now open – [REGISTER NOW!](#)

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 and LinkedIn where you can find information, news and events:

LinkedIn group '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.

Papers Summary

Philip Britton's paper *A Stadium and its Defects: Liberty, Loss and the Limitation Period* (217) is based on his highly commended entry in the Hudson essay competition 2018 and is online and printed. In this paper, Philip Britton poses the question: when the owner of a commercial building rectifies problems which appear to derive from the period of its construction, what obstacles lie in the way of successfully claiming the cost of this work from the original construction parties, if the owner is not also the construction employer? The paper focuses on the first judgment of the TCC in *Swansea Stadium Management Co Ltd v City & County of Swansea* and the author examines the two main issues arising: (1) Does the would-be claimant have a cause of action against at least one solvent (or insured) defendant?; (2) Where litigation is considered long after construction took place but where previously-latent problems have become obvious, is it already too late to start legal action? In April 2019 the TCC gave judgment on the merits in the *Swansea* case; the author has added a postscript analysing this latest stage in the dispute.

Also online and printed is *Prevention or Cure? Delay Claims and the Rise of Concurrency Clauses* (218) by **The Rt Hon Lord Justice Coulson**. It is based on the Pinsent Masons Lecture given in Hong Kong on 15th November 2018 and presented to the Society of Construction Law at a meeting in London on 5th February 2019. The paper addresses a number of related issues which tend to arise in contested delay claims. In particular, The Rt Hon Lord Justice Coulson examines the scope and possible limits of the prevention principle and the importance of contractual extension of time provisions. He goes on to consider the problems caused by concurrent delay, the recent rise in the popularity of concurrency clauses and in particular the Court of Appeal's judgment in *North Midland Building Ltd v Cyden Homes Ltd*, the first reported case in which a concurrency clause has been considered by the court.

Waste Management Issues in the Construction Industry

Dr Francine Baker, an SCL member and member of the International Scientific Advisory Committee for WIT publications and conferences, is running a special session on Waste Management Issues in the Construction Industry to be held at WIT's international conference in Madrid, 7-9 of July 2020. Presented papers will be published.

Please submit abstracts/papers to bakerfrancine@hotmail.com or francine.baker@wolfson.ox.ac.uk The Abstracts only have to be 300 words, but please try to submit at least an abstract to her within the next six weeks. You will be sent a formal acknowledgment/acceptance. If you have any queries, please feel free to contact Dr. Baker by email, or mobile +44 7482464957 (whatsapp) before 10pm.

New Members

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

Shahin Avak, Armenia	Craig Bruce, London	Kunwar Chandresh, India	Ian Herbert, London
Roddy Cormack, Inverness	Vincent Cosgrove, Oman	Alexandra Cunliffe, Dartford	Mark Irish, UAE
Melanie Grimmitt, Leeds	Michael Hardy, Finland	Harriet Hawkins, London	David Hunter, Wirral
China Irwin, Switzerland	John Kelly, Nottingham	Young Yong Jeon, South Korea	Eddie Murphy, Ireland
Woojae Kim, Seoul	Ashley Pickin, UAE	Matthew Kidd, Saudi Arabia	Arnab Mukherjee, Berks
Kathleen McGrath, Scotland	Emmanuel Ninos, London	Colm Ó hUiginn, London	Pauline Page, London
Rob Palles-Clark, London	Andreas Parpottas, London	Soumen Podder, Oman	Grant Reid, South Africa
Dominic Sharman, London	Philippa Somerset, London	Mark Sunley, Crawley	Filippo Toniolo, London
Thomas Punshon Washington	Murdo Macaskill	Clyde Parasram	David Kenna, Surrey