



## NEWSLETTER : MARCH 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](http://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,  
6 March “Does good faith have any role in construction contracts?”  
Speaker: Lord Justice Jackson  
Chairman: Christopher Ennis  
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm  
Organisers: [rchampion@championpearce.com](mailto:rchampion@championpearce.com), [jonathan.cope@mcms.co.uk](mailto:jonathan.cope@mcms.co.uk),  
[karen.gough@39essex.com](mailto:karen.gough@39essex.com), [hlal@akingump.com](mailto:hlal@akingump.com) &  
[rebecca.shorter@whitecase.com](mailto:rebecca.shorter@whitecase.com)

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

Thursday,  
8 March “SCL Astra Event - Careers in Construction Law”  
*International Women’s Day*  
Speakers: Chantal-Aimée Doerries QC, Atkin Chambers Maria Fisentzou, Driver Trett / Diales, Mrs Justice Jefford DBE, Technology and Construction Court, Helen Mason, Morgan Sindall Group plc, Caroline Pope, Berwin Leighton Paisner LLP  
Venue: White & Case LLP, 5 Old Broad Street, London EC2N 1DW 6pm for 6:30pm  
Organisers: [ladams@atkinchambers.com](mailto:ladams@atkinchambers.com), [rebecca.shorter@whitecase.com](mailto:rebecca.shorter@whitecase.com) &  
[swilliams@keatingchambers.com](mailto:swilliams@keatingchambers.com)

Please note this event is open to SCL Members only.

Tuesday  
17 April “Planes, Drones and Autopilots: Site Inspection Revisited”  
*This is a Joint talk with CIOB*  
Speakers: Musa Werry & May Winfield  
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm  
Organisers: [rchampion@championpearce.com](mailto:rchampion@championpearce.com), [jonathan.cope@mcms.co.uk](mailto:jonathan.cope@mcms.co.uk),  
[karen.gough@39essex.com](mailto:karen.gough@39essex.com), [hlal@akingump.com](mailto:hlal@akingump.com) &  
[rebecca.shorter@whitecase.com](mailto:rebecca.shorter@whitecase.com)

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

Wednesday,  
2 May “The Society’s AGM”  
Venue: Middle Temple Hall, Middle Temple Lane, London EC4Y 6.30pm

Wednesday, “The Society’s Annual Dinner”  
2 May Venue: Middle Temple Hall, Middle Temple Lane, London EC4Y 7.30pm

**Please note:** Cost £120 including VAT per person to include pre-dinner drinks & wine with dinner. This event is open to SCL members and 1 guest per member only.

Tuesday, “Challenging a payment notice in the absence of a pay less notice”  
5 June Speaker: Justin Mort QC  
Chairman: Mrs Justice Jefford  
Venue: National Liberal Club, Whitehall Place, London SW1 6.30pm  
Organisers: [rchampion@championpearce.com](mailto:rchampion@championpearce.com), [jonathan.cope@mcms.co.uk](mailto:jonathan.cope@mcms.co.uk),  
[karen.gough@39essex.com](mailto:karen.gough@39essex.com), [hlal@akingump.com](mailto:hlal@akingump.com) &  
[rebecca.shorter@whitecase.com](mailto:rebecca.shorter@whitecase.com)

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

Thursday, “SCL Networking Evening”  
9 August Venue: The Oyster Shed (the Observation Deck) 5.00pm  
1 Angel Lane, London, EC4R

**Please note:** Cost £15.00 including VAT per person to include a light buffet

## **Ireland**

Tuesday, “Multi-Party and Multi-Contract Arbitration in the Construction Industry”  
20 March *41st CI Arb Ireland ADR Forum in association with Society of Construction Law*  
Speakers: Alan Brady Law Library Dublin; Dr Dimitar Kondev - White & Case  
LLP Paris and Jamie Ritchie L K Shields Dublin  
Venue: Merrion Hotel, Merrion Street Upper, Dublin 2 6 for 7.00pm  
Organiser : [adhussey@lawlibrary.ie](mailto:adhussey@lawlibrary.ie)

Monday “Dispute Boards: An Overview”  
30 March Speakers: Dr Cyril Chern, Crown Office Chambers & Martin Cooney,  
Byrne Wallace  
Chairman: Brian Hutchinson, School of Law, UCD  
Venue: Byrne Wallace, 8 Harcourt Street, Dublin 2, D02 DK18 6.00pm  
Organiser: [adhussey@lawlibrary.ie](mailto:adhussey@lawlibrary.ie)

## **Leeds**

Friday, “The Society of Construction Law Annual Conference 2018”  
9 March Speakers: The Honourable Mr Justice Fraser, HH Judge Mark Raeside QC,  
Dennis Baldwin, Steven Walker QC, Frances Pigott, Mathias Cheung,  
Tom Owen, Sean Brannigan QC & Paul Darling QC  
Venue: The Royal Armouries, Leeds LS10 1LT 8.15 for 9.00am  
Organiser: [jhawkswell@hklegal.co.uk](mailto:jhawkswell@hklegal.co.uk)

**Please note:** Cost £144 per head including VAT.

## 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,  
followed by a glass of Prosecco  
Organisers: [f.askham@nabarro.com](mailto:f.askham@nabarro.com) & [LOsborne@ridge.co.uk](mailto:LOsborne@ridge.co.uk)

**Please note:** Cost £75.00 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.

## Scotland

Thursday  
8 March "NEC4"  
Speaker: Lindy Patterson QC  
Venue: RICS, 125 Princes Street, Edinburgh EH2 4AD 5.30pm for 6pm  
Organisers: [louise.shiels@brodies.com](mailto:louise.shiels@brodies.com) & [lhc@cdr.uk.com](mailto:lhc@cdr.uk.com)

## South West

Tuesday,  
20 March "Professional liability for construction professionals: case law, trends and practical guidance"  
Speakers: Piers Stansfield QC and Tom Owen, Keating Chambers  
Chairman: Jonathan Spencer  
Venue: Bristol Hotel, Prince Street, Bristol BS1 4QF 5.00pm for 5.30pm  
Organiser: [Jonathan.Spencer@simmons-simmons.com](mailto:Jonathan.Spencer@simmons-simmons.com)

Piers Stansfield QC and Tom Owen of Keating Chambers will discuss: (1) key recent professional liability cases; (2) trends (including post Grenfell liability issues and the Carillion liquidation); and (3) practical guidance for 2018.

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

## Dubai

Astra SCL International Conference and Networking Event

Sunday 22 and Monday 23 April 2018

Conference hosted by the UK Society of Construction Law  
and organised by the Society of Construction Law Astra, supported by Clyde & Co, Pinsent Masons and the  
DIFC Dispute Resolution Authority and DIFC Courts.

For full details [www.scl.org.uk/events/astra-dubai-conference-2018](http://www.scl.org.uk/events/astra-dubai-conference-2018)

This is a member only event with one ticket per member. The fee is £150.00 (including VAT)

## SCL Singapore

"SCL(S) Construction Expertise 101 Workshops"

A comprehensive crash course on Project Management, Civil & Structural/ Geotechnical/Mechanical & Electrical Engineering, Building Surveying & Construction Programming Consulting (8, 13, 15, 20, 22 March)

Orchid Ballroom, 6 Eu Tong Sen Street, #04-86/87, The Central (Clarke Quay), Singapore 059817

For more details and to secure your place, please [REGISTER ONLINE](#) via our website by **1st March 2018**.

Further events are listed at [www.scl.org.uk](http://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](mailto:keithkirkwood@benningtongreen.co.uk)); Ronan Champion ([rchampion@championpearce.com](mailto:rchampion@championpearce.com)); Jonathan Cope ([jonathan.cope@mcms.co.uk](mailto:jonathan.cope@mcms.co.uk)) or Hamish Lal ([hhal@akingump.com](mailto:hhal@akingump.com))*

## **From the Chairman**

Dear SCL Members,

I think I can say confidently that the London lunch on 9 February was a great success. We had 1,453 people attending. I had enthusiastic feedback from everyone I spoke to, with particular plaudits for Steph McGovern. Victoria Russell was presented with the SCL President's Medal by our President, Lord Justice Jackson.

The Dublin Astra conference held on 16 February 2018 at Dun Laoghaire was attended by 48 people plus speakers, and was also very successful, with interesting discussions between panellists and audience. The thought-provoking keynote speech by Rashda Rana was an in-depth and wide-ranging review of the current state of the Construction Industry in Ireland.

The Leeds Conference on 9 March now has 226 confirmed bookings. There is room for up to 250. As I said last month, this is always a popular conference which was at full capacity last year, so book now to avoid disappointment.

The Dubai SCL Astra Conference to be held on 22 and 23 April currently has 18 people signed up; the total capacity is 50.

Our total membership has now topped the 3,000 mark. This does not include lapsed members – that is, those who have not yet renewed their subscriptions. Please check and renew if you have not already done so.

As was stated in a general notice earlier this month, the SCL has formed an Equality and Diversity Committee. The SCL Council Members on the Committee are Jessica Tresham, Sarah Williams, Jonathan Cope and Shy Jackson. Any SCL member having concerns about equality/diversity issues, including inappropriate behaviour at any SCL meeting or function, is encouraged to contact any member of the Committee in confidence.

Finally, a further reminder of the Valedictory for our President, Lord Justice Jackson, on Wednesday 7 March 2018 at 4:30 pm in Court 4 of the RCJ.

Christopher Ennis – Chairman  
[Chris@tqef.uk.com](mailto:Chris@tqef.uk.com)

## **The Construction Industry Council Users Guide to Adjudication**

The Construction Industry Council has recently published a new 'Users' Guide to Adjudication', which replaces the Construction Umbrella Bodies Adjudication Task Group "Users' Guide to Adjudication" produced in April 2003. The updated guide provides a general introduction to adjudication and takes readers through the essential steps in the adjudication and decision making process. Although many SCL members will already have a level of knowledge of the adjudication process beyond that set out in the guide, it will be useful to refer clients, trainees, etc., to the updated guide as an explanation of the adjudication process.

The Guide is available to download from the CIC website ([www.cic.org.uk](http://www.cic.org.uk))

## **Council Election on 2 May 2018 - Would you like to stand for Council?**

Council's work embraces a whole range of activities necessary for running the Society including: organising the London programme, regional meetings, the ongoing ethics review, TCC, CIC, the social calendar, papers and publications, the advocacy programme, university grants, young SCL, liaison with SCL overseas and other organisations, the SCL Hudson prize, policy matters and IT. We share these responsibilities between us in sub-committees and would welcome fresh blood and fresh thinking from new members. Typically, Council members attend up to six Council meetings during the year and join one or more sub-committees.

If you would like to know more about the work of the Council before deciding whether or not to stand, please contact the Chairman Christopher Ennis ([chris@tqef.uk.com](mailto:chris@tqef.uk.com)), or contact any other officers of the Society, who will be happy to give you further information.

If you decide to stand, the procedure is as follows:

- 1 You must be a paid-up member of the Society.
- 2 You must be nominated and seconded by paid up members of the Society.
- 3 You must provide the following information:
  - (a) Your name
  - (b) Your work/practice address
  - (c) Your profession
  - (d) The names of your proposer and seconder
  - (e) The year you joined the Society  
(admin can supply this information if you can't remember)
- 4 You must also provide an election statement, not exceeding 100 words. (If your statement exceeds 100 words we will ask you to resubmit it and a revised election statements is not received the candidate will not be able to put forward a statement for the election)

The deadline for receiving names and election statements is Wednesday 21 March 2018. Please send by email to Jill Ward: [admin@scl.org.uk](mailto:admin@scl.org.uk)

Paid up members will be able to vote by postal ballot or, alternatively, at the AGM to be held at 6.30pm at Middle Temple Hall on Wednesday, 2 May, 2018.

## **SCL Australia Brooking Prize, 2018: entries now invited**

The Society offers the Brooking Prize annually for the best essay submitted in the field of construction law.

It is named after The Hon Robert Brooking AO QC in recognition of his Honour's pioneering contribution to the study and practice of construction law in Australia. Papers are now invited for the 2018 Brooking Prize

The Society is delighted to announce the following prize offering for 2018:

Brooking Prize – A\$5,000  
Brooking Student Prize – A\$1,500  
High Commendation – A\$1,000 (General), A\$500 (Student)  
Commendation – A\$500 (General), A\$250 (Student)

All entrants awarded a prize or commendation will, in addition, be granted complimentary membership of the Society for one year. Entries must be submitted in Microsoft Word or .pdf format and received by 4.00pm Sydney time on Wednesday 13 June 2018

Further information can be found in the Rules. <https://www.scl.org.au/what-we-do/brooking-prize>

## **SCL Hudson Prize 2017**

The Judging Panel of the SCL Hudson Prize has announced the following results for the 2017 competition

- First Prize: “How is that even possible? Raising construction regulation from the ashes of Grenfell Tower” by Matthew Bell, Senior Lecturer in Law, University of Melbourne.
- Joint Second Prize: “Hanging by a slender thread: design obligations in construction contracts following MT Højgaard v E.ON ” by Ryan Turner, Pupil Barrister, Keating Chambers.
- Joint Second Prize: “Proven by computer? System dynamics and disruption claims” by Ralph Goodchild, Solicitor, Associate at White & Case LLP, London.
- Highly Commended: “The Defective Premises Act strikes back” by Kort Egan, Pupil Barrister, Keating Chambers.
- Highly Commended: “Good faith, contracts and procurement: analogous means to achieving legal certainty?” by Richard Harvey, Engineer, Legal Advisor, Ramboll UK Ltd.
- Commended: “Court and tribunal appointed experts in construction disputes under Civil Law and Common Law – ‘hired gun versus inquisition’” by Dr Peter Heink, Rechtsanwalt, Wüterich-Breucker, Stuttgart.

The Judging Panel offers congratulations to all recipients of awards and thanks to all who entered the 2017 SCL Hudson Prize. Details of the 2018 competition will be circulated soon.

Anthony Lavers, Professor of Law  
Chair, SCL Hudson Prize  
Judging Panel.

## **Government publishes consultations on the 2011 amendments to the Housing Grants, Construction and Regeneration Act 1996 and on retention practices**

As many of you will be aware, at the end of October 2017 the Government published a consultation on the 2011 amendments to the Housing Grants, Construction and Regeneration Act 1996, as well as a consultation on retention practices. These consultations are obviously relevant to the work of many of our members, and we would encourage as many of you as possible to respond. Although many of the questions are directed at parties to construction contracts, the consultation document makes it clear that the consultation is also relevant to lawyers and adjudicators.”

## **SCL Astra London committee (formerly Junior SCL)**

The SCL Astra London committee are looking for non-lawyer committee members. We are looking for two committee members to diversify the committee to represent the membership fully. If you are interested in applying for one of these roles, Please email [swilliams@keatingchambers.com](mailto:swilliams@keatingchambers.com); [Rebecca.shorter@whitecase.com](mailto:Rebecca.shorter@whitecase.com) or [ladams@atkinchambers.com](mailto:ladams@atkinchambers.com).

## **SCL Astra ‘Opting In’ to receive communications**

If you wish to receive communications regarding Astra events, you will need to opt in to receive them. The option to become an Astra member is in addition to all the other SCL benefits our membership offers. To become an Astra Member, you need to meet at least one of the following criteria:

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

<https://www.scl.org.uk/participate/astra/register>

## **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. 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](mailto:swilliams@keatingchambers.com); [Rebecca.shorter@whitecase.com](mailto:Rebecca.shorter@whitecase.com) or [ladams@atkinchambers.com](mailto:ladams@atkinchambers.com).

## **NBS 2017 National Construction Contracts and Law Survey**

In past years SCL members have contributed to the Bi-annual NBS National Construction Contracts and Law Survey. The results of past surveys, found online, offer a valuable source of data on usage of contract forms, procurement methods and project types. NBS would be grateful if members assisted again by completing the survey at: <http://surveys.ribaenterprises.com/wh/s.asp?k=150089688417>

## **2018 Queen Mary / International Arbitration Survey**

The reports from the Queen Mary annual international arbitration survey provides useful insight for students and practitioners into aspects of international arbitration. This year the focus is on evolution and development of international arbitration. Members are asked to contribute to this year's survey, run by the Centre for Commercial Law Studies at Queen Mary University of London. The questionnaire takes about 20 minutes to complete and is available both in digital and in PDF format here<<http://www.arbitration.qmulac.uk/research/2018>>.

## Papers

Printed and online is the paper by **Ben Patten QC and Siân Mirchandani**, *Contribution Claims: Sharing pain after IMI v Delta* (presented in London in November - 2018). The authors look at section 1(4) of the Civil Liability (Contribution) Act 1978 Act (which permits a right of contribution where two persons are both liable to a third person for the same damage). The section provides that if A enters into a *bona fide* settlement with B, A is entitled to recover contribution against C if the facts asserted in B's claim are assumed to be true. The case of *IMI v Delta*, which clarifies the law, is considered as are the questions which it leaves unanswered.

## SCL, Social Media, E-mail and Keeping You Informed

As the Society grows both here and around the world and as Social Media, in all its forms, becomes increasingly important the SCL Council is pleased to announce that the SCL now has a presence on Twitter, LinkedIn and Facebook where you can find information, news and event. The SCL will continue to send you e-mails, but, you can now keep up to date with the SCL through Social Media as well.

We hope you will find these of use:

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, now 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.

## ESCL Book - Studies in European Construction Law

Editors: **Monika Chao-Duivis, Giovanni Iudica, Benoît Kohl, Anthony Lavers, Hugues Périnet-Marquet, Hubert Stöckli & Panagiotis Verveniotis**

International projects and other cross-border activity have become a common part of the European construction scene. As well as opportunities, this phenomenon brings challenges and risks. It has become vital for those working outside their own national boundaries to have some appreciation of the legal environment in which they are operating, not as a substitute for specialist legal advice, but as a basis for understanding.

This book, prepared under the auspices of the European Society of Construction Law, contains accounts of the law of twelve major European jurisdictions in relation to a range of construction matters. Some are general, such as standard form contracts and sub-contracting, and the respective obligations of employer and contractor. Others are specific aspects of contractual performance: the duty to warn, payment, subsoil conditions, delay and disruption and liquidated damages. Issues of liability and dispute resolution are also considered.

The work offers students and practitioners the opportunity to make comparisons between different approaches to common construction law issues in the jurisdictions represented. These are: Belgium, Denmark, France, Germany, Greece, Italy, The Netherlands, Romania, Slovak Republic, Sweden, Switzerland, United Kingdom. 766 pages.

£75 (excluding shipping) UK: £5 / overseas £10

Order via Society of Construction Law UK, 234 Ashby Road, Hinckley, Leicestershire LE10 1SW

<http://www.scl.org.uk/resources/shop/escl-book> E: [admin@scl.org.uk](mailto:admin@scl.org.uk) T: 07730 474074



## **New Members**

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

Conor Aiken, London	Khalid Algublan, UAE	Lauren Andrée Wiltens, London
Ebony Alleyne, London	John Burgess, Enfield	Kirsteen Cacchioli, London
Antonio Cavallucci, Spain	Jess Connors, London	Thomas Crangle, London
Andrew Cuthbert, Birmingham	Susannah Davis, London	Dan Easom, London
Kort Egan, London	Caitlin Ervine, London	Clifford Fearnley, Lincoln
Phil Garlick, London	Richard Harvey, London	John Hayes, Wokingham
Alexander Hickey, London	Lauren Hutchison, London	Stephen Jackson, Cambridge
Christopher Jones, London	Chris Kent, London	Joan Margaret Kennedy, London
Daniel Khoo, London	Chloe Knight, London	Hadley Lenthall, London
Kate Livesey, London	Mark London, London	Marcel Marquardt, London
Ashley Milroy, Whitehaven	Kenneth Monson, USA	Beatriz Moran, Spain
Toal O Muiré, Ireland	John Packer, UAE	Claire Packman, London
Adrian Parsonage, Singapore	Sanjay Patel, London	Alex Pattihis, London
Nicholas Penny, USA	Anastasia Pojoga, London	Lucy Preston, London
Sahir Rahim, London	Alexandra Reid, London	David Shearman, Northampton
Adam Temple, London	Henry Whitten, London	Mark Winterburn, Northampton