



NEWSLETTER: DECEMBER 2017

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,
5 December “Kaleidoscope: all change in domestic and international standard forms”
Speakers: Ellis Baker and Professor Anthony Lavers
Chairman: Rachel Ansell QC
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

This talk will be followed by festive drinks and mince pies.

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

Thursday,
25 January “An introduction to quantity surveying”
SCL Astra Breakfast Seminar
Speaker: Gary Kitt
Venue: Vinson & Elkins RLLP, 20 Fenchurch Street,
London EC3M 3BY 8.15 for 8.45am
Organisers: ladams@atkinchambers.com, rebecca.shorter@whitecase.com &
swilliams@keatingchambers.com

Please note this event is open to SCL Members only and photo ID is required if you are attending this seminar.

Tuesday,
6 February “Design co-ordination”
Speakers: Stuart Macdougald-Denton, Matthew Cousins
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

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

Friday,
9 February “SCL Annual Lunch”
Speaker: Steph McGovern, BBC TV personality
Venue: Grosvenor House, A JW Marriott Hotel, Park Lane,
London W1K 7TN 12 noon for 1.00pm

Cost £99 per person (including VAT). Block bookings by firms will be limited to 3 tables each. All places will be allocated on a first paid, first served basis. Each table will seat 10 people.

Tuesday,
6 March 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

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

Tuesday
17 April “Planes, Drones and Autopilots: Site Inspection Revisited”
Speakers: Musa Werry & May Winfield
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

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

Birmingham

Wednesday,
10 January ““Who is my neighbour?” The circumstances in which a professional can assume responsibility in tort without any contractual responsibility”
Speaker: David Sears QC, Crown Office Chambers
Chairman: Michael O’Shea
Venue: Mills & Reeve, 78-84 Colmore Row,
Birmingham, B3 2AB 5.30 for 6 pm
Organisers: Ian.Yule@shoosmiths.co.uk & michael.o'shea@gowlingwlg.com

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

Ireland

Friday,
1 December “SCL Lunch in Dublin”
Speaker: Jim O’Callaghan SC TD
Venue: Guinness Storehouse, The Arrol Suite, St James's Gate,
Dublin 8 12 noon for 1.00pm
Organiser: adhussey@lawlibrary.ie

Please note: Cost €100 per person (including Irish VAT). Block bookings by firms will be limited to 2 tables each. All places will be allocated on a first paid, first served basis. Each table will seat 10 people. Bookings can only be made online and this event must be paid for in euros, via Paypal.

Thursday,
18 January “Expert determination in construction law”
Joint SCL Dublin/ Belfast lecture
Speakers: James O’Donoghue of Bluett & O’Donoghue Architects & Michael Humphreys Q.C, Bar Library, Dublin.
Chairman: John Tackaberry QC, 39 Essex Chambers,
Venue: Royal Institute of Architects, 8 Merrion Square, Dublin 2 6.00pm
Organiser: adhussey@lawlibrary.ie

Friday,
16 February “Construction 2020: (How well has it worked & what might follow?)”
SCL/SCL Astra Dublin Conference
Speaker: Rashda Rana S.C, Dr David-John Gibbs, Ralph Montague, Katie Lee, Deirdre Ni Fhloinn B.L, Andrew Singer, Dermot Flanagan S.C, Karim J. Nassif, China Irwin, Stephen Dowling, Charlotte Woolven-Brown & Dr Tariq Mahmood
Venue: Royal Marine Hotel, Dun Laoghaire, Dublin 9.30am
Organiser: adhussey@lawlibrary.ie

Cost: €100 per person and includes a light breakfast and lunch.

8th International Society of Construction Law Conference Chicago, Sept 2018: Call for Sponsors!

SCL North America

The SCL North America is excited to announce we are now ready to accept sponsors for the 8th International SCL Conference. <https://www.scl-na.org/events/call-sponsors-8th-international-society-construction-law-conference>

SCL North America has also extended the call for speakers for the 8th International SCL Conference to be held in Chicago, IL in September 2018 until February 2nd, 2018. To submit an abstract please register at <https://www.scl-na.org/news/call-speakers>

From the Chairman

Dear SCL Members,

As the year draws to a close, we can look back on another year of growth for the Society both in the UK and overseas. Our membership is now approaching 2,900, and there are already further applications being processed. We have seen the incorporation of a North American SCL - whose inaugural international conference will take place in September 2018 in Chicago. Nearer home, there have been some excellent lectures and papers mirroring the continual development of Construction Law as a discipline internationally, consistent with the Society's *raison d'être*.

May I draw attention this month to two regional events to be held before Christmas: David Sears QC's talk "Who is my neighbour?" to be held in Sheffield on 12 December, which should be of particular interest to construction professionals, and Sir Robert Akenhead's "Gamekeeper turning Poacher - the life of an ex-judge in the arbitral trenches" in Oxford on 14 December.

Please also note and support the Dublin Astra conference to be held on 16 February next year.

On the social front, the Dublin lunch on Friday 1 December will have taken place by the time this is circulated, with a capacity attendance. The London lunch on 9 February already has around 1,250 places booked, and it looks as if we should achieve our primary target capacity comfortably. However, as I have said previously the Grosvenor House can accommodate many more if the demand is there – provided sufficient notice can be given. Whilst there should always be room for late bookings, it would therefore be appreciated if we could have any further bookings as early as possible, before (say) the middle of January.

Best wishes to all members for the run-up to Christmas, and for the Christmas and New Year break.

Christopher Ennis – Chairman

[*Chris@tqef.uk.com*](mailto:Chris@tqef.uk.com)

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 Hudson Prize Competition 2017

Entries are now invited for the 2017 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 Tuesday 2nd January 2018. Any queries can be referred to the panel via Jill Ward in the first instance

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 T: 07730 474074

RIBA Adjudication Panel

'The RIBA is currently seeking expressions of interest from suitably qualified individuals who wish to apply to join the RIBA panel of Adjudicators. If you would like more information or if you would like to express your interest, please email carys.rowlands@riba.org'

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; Rebecca.shorter@whitecase.com or ladams@atkinchambers.com.

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; Rebecca.shorter@whitecase.com or ladams@atkinchambers.com.

SCL Astra / SoCLA Mentoring Programme

SCL Astra is excited to announce an initiative between the United Kingdom and Australia offering international mentoring for professionals moving between the two jurisdictions. We welcome expressions of interest from members of SCL Astra or the SoCLA Young Constructors who are looking to relocate jurisdictions and would like to be mentored by a practitioner in the new jurisdiction. We also welcome expressions of interest from SCL members who would be willing to act as mentors (though we ask that they have at least five years' post-graduate experience). Further details of the programme can be found at www.scl.org.uk

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.qmul.ac.uk/research/2018>>.

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)

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.

Papers

As well as having access to the papers on SCL UK's website, members may access those to be found at sclinternational.org, free of charge. To register on the site, email webmaster (webmaster@scl.org.uk) and ask for a code number.

As an example of the material that can be found there, published on the SCL website is a paper by **Julian Bailey**, *The Limits of Limitation Clauses* (D208). The paper focuses on the way in which construction contracts seek to limit a party's contractual liability for its own failure and the legal effectiveness of such provisions. Particular emphasis is given to clauses that seek to limit the *types* of loss or damage for which damages are recoverable. The paper looks at the law of Qatar and the United Arab Emirates but also considers the law of England and Wales. In particular it looks in detail at three TCC cases *Sabic v Punj Lloyd*; *Fujitsu Services v IBM* and *Bluewater Energy Services v Mercon Steel*; *Macmahon Mining* from Australia and *Transocean Drilling v Providence Resources* (Court of Appeal).

Also to go on the website shortly is a paper by Professor **David Mosey** of the Centre of Construction Law at King's College London, *Improving Value Through the FAC-1 Framework Alliance Contract* (D209). The paper introduces the FAC-1 Framework Alliance Contract, a new type of standard form. David Mosey explains how the document combines the features of a framework contract and an alliance contract to achieve a strategic and collaborative approach to procurement, connecting multiple projects, integrating team members and setting out new processes for improving value. He examines the concept of a multi-party framework alliance, highlighting recent examples of UK Government trial projects. He then focuses on the provisions of the FAC-1 Framework Alliance Contract, analysing how it manages the award of work, how it uses shared objectives, success measures and incentives and how it supports alliance activities and interactions. He goes on to detail how FAC-1 enables improved value through BIM and supports collaborative working and joint risk management. Finally he documents the experiences of some new users of the contract and how FAC-1 has attracted interest for use in other jurisdictions.

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>

New Members

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

Mahmoud Abu-Jaber, Wakefield	Sennan Al-Rehani, Reading	Seyaad Arif, London
Kyle Bell, Crowborough	Geoff Bewsey, London	Richard Black, London
Hazel Boland-Shanahan, London	Paul Bradley, Manchester	David J.A. Cairns, Spain
Chuah Christopher, Singapore	Julia Court, London	Shareena Edmonds, London
Ciaran Fegan, Hillsborough	Peter Finegan, Lancashire	Emma Fitzgerald, London
Armelle Floren, France	Vincent Fogarty, London	Matthew Friedlander, London
David Good, Japan	Dan Hall, London	Richard Hill, London
Steven Holman, Japan	John Hunter, Glasgow	Matthew Irvine, London
Waad Jakoub, London	Dominika Jędrzejczyk, Poland	Sarah McGuinness,
Jon Palmer, London	Jordi Recan, France	Ramalingam RK, UAE
Edward Ross, Oxford	Dan Ryde, Alcester	Tauqeer Nazim Siddiqui, Saudi Arabia
Andrei Soltan, London	Christopher Stacey, Leeds	Lizzy Stewart, London
Helen Stuart, London	Marc Wilkins, London	Ashley Yarwood, London
Faridokht Zamrou, London		