



Ted Lowery

Partner

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Ted joined Fenwick Elliott in 1991 as a paralegal. He qualified as a solicitor in 1997 and was made a partner in 2002. Since 1991 Ted has been involved in a wide range of projects across the construction and energy sectors, including housing, roads, hospitals, power stations, offshore structures, gas and oil pipelines, chemical process plants and leisure facilities. He has provided advice to an equally diverse range of clients, including contractors, fund managers, developers, local authorities, state corporations, PFI project companies, architects and engineers.

Ted's experience encompasses both contentious and non-contentious work in connection with most of the standard forms of contract, including the JCT, ICE, IChemE, CPA, SoPC and FIDIC forms. He has also worked on many other bespoke forms of contract and has prepared single and multiple draft agreements for clients to use on an ad hoc basis and as part of a suite of standard forms.

Specialist expertise

Ted specialises in dispute resolution at all levels in the construction and energy sectors and has considerable experience of representing clients in arbitration, both domestic and international, particularly under the ICC Rules. He has also been extensively involved in litigation, conducting cases in the County and High Courts, in the Court of Appeal and in the Technology and Construction Court. Since 1999 he has been involved in over 50 adjudications and he has participated in enforcement and Part 8 applications. On the ADR side he has represented clients in expert procedures and mediations.

Ted has been closely involved in a number of PFI projects, including in relation to disputes concerning the interpretation of the Paymech in connection with defects, service failures and unavailability. He has completed several PFI adjudications, including tripartite and name-borrowing proceedings, and has advised on the credit agreement implications in consequence of such proceedings.

Ted also specialises in the non-contentious aspects of construction and energy projects. He has particular experience of providing advice and drafting input into design and build contracts, infrastructure arrangements, gas sales agreements, shareholders' agreements, energy project contracts and licences for proprietary processes.

Since 2009 Ted has worked closely with a number of national energy companies in the Caspian Sea region and has provided advice in relation to a diverse range of legal issues connected with the hydrocarbon industry, including gas field development and gas pricing disputes.

Examples of Ted's expertise include:

- advising a PFI project company in relation to threats by an NHS Hospital Trust to commence adjudication and/or levy substantial retrospective deductions in respect of alleged fire-stopping defects and connected service failures;
- acting on behalf of the state gas concern of a Caspian Sea region country in connection with a proposed transnational gas pipeline project: negotiating the gas sales agreements, advising in relation to the corporate structure of the proposed pipeline company and the investment arrangements, and working with international funding bodies;
- acting for the PFI concession company in relation to a long-running dispute concerning defects in the asphalt pavement sections of a motorway in the north of England. The dispute is worth over £20m and was recently settled with the benefit of input from independent experts;
- acting on behalf of a national gas company in relation to disputes with a drilling and sub-surface works contractor. In addition to contractual advice this has involved liaising with local lawyers and the state legal administration, and commissioning technical and financial audits of the contractor's works;
- representing a state road authority in two ICC arbitrations against main contractors concerning disputed VAT liability under two highway expansion and improvement contracts in East Africa;
- advising and subsequently representing in mediation and adjudication a PFI project company in relation to the applicability of retrospective deductions under the Project Agreement Paymech;
- acting on behalf of a state gas concern in negotiations with licensors over the terms of various licences for the use of proprietary technologies in the chemical industry, including a polyethylene and polypropylene plant, a gas to gasoline facility and a desulphurisation process;
- acting for a Japanese chemical company in an ICC Rules arbitration concerning the construction of a copolymer production facility. The arbitration process took some four years to complete and disposed of claims exceeding £30m in aggregate;
- acting for a local authority in an adjudication arising out of a framework agreement with a contractor for public sector housing refurbishment works to meet the government's Decent Homes standard. By consent, the adjudication was extended to allow the adjudicator to consider each disputed valuation item in the contractor's claims for over £1.4m;
- advising and subsequently representing in adjudication a PFI project company in relation to a major dispute over the cause and extent of corrosion in the heating system pipework within a new hospital.

Other activities

Between 2009 and 2014 Ted was joint editor of the *Construction Industry Law Letter*. Between 2014 and 2016 he acted as general editor of Fenwick Elliott's bi-monthly Case in Focus feature for *Building* magazine's website. Since summer 2016 he has produced the monthly Case in Focus reports that appear both on the website and in the hard copy of *Building* magazine.

Ted has lectured at seminars organised by Fenwick Elliott and by the Chartered Institute of Building Services Engineers. He has prepared and participated in in-house training seminars provided to clients. He has also appeared in the Television Education Network series of programmes and more recently in webinars organised by LexisNexis, speaking on construction-related topics.

Ted's memberships/positions include:

- member of the Technology and Construction Solicitors' Association;
- member of the Society of Construction Law.