



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 spectrum 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, employers, local authorities, state corporations, project companies and project funders.

Since 2010 Ted has increasingly focussed on work in the PFI and PPP sector advising clients in relation to common issues within this sector including, PayMech disputes, fire safety issues, defects rectification, Unavailability and other service failures claims, credit agreement questions and termination risk. He has represented clients in numerous PFI contract disputes including bilateral and related dispute adjudications, arbitration and court proceedings.

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 and application of payment mechanisms. He has frequently provided advice concerning the management and resolution of claims for deductions and service failure points in consequence of defects and service failures. He has completed several PFI arbitrations and adjudications, including tripartite and name-borrowing proceedings, and has advised on the credit agreement implications in consequence of such proceedings.

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, proprietary licensing and gas pricing disputes.

Examples of Ted's expertise include:

- advising the project company for a new PFI funded hospital in Scotland in relation to disputes with its FM contractor over fire-stopping rectification works, the assessment of FM services performance, the allocation and validity of deficiency points, cash deductions, reporting failures, the issue of various categories of warning notices and the risk of termination;
- advising the project company in relation to disputes with the construction contractor and FM provider over corrosion in the heating system pipework within a new PFI funded high school in the north of England;
- 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;
- representing the FM and project companies in adjudication and then arbitration against a hospital Trust in north west England. The disputes in the adjudication and arbitration have concerned whether fire-stopping and other defects amounted to failure events and quality failures entitling the Hospital Trust to levy retrospective deductions and terminate the project agreement due to the accumulation of excess service failure points;
- advising the project company in relation to numerous complaints raised by the Authority over the provisions of hard and soft FM services at a PFI funded military training college in the midlands;
- 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 concessionaire in relation to a dispute with the construction contractor over defects in the road surface of a new dual carriageway and bridge in south east England;
- 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 de-sulphurisation process;
- acting for the concessionaire in relation to a long-running dispute concerning defects in the asphalt pavement sections of a motorway in the north of England.;
- acting on behalf of a national gas company in relation to disputes with a drilling and sub-surface works contractor including liaising with local lawyers, and the state legal administration and commissioning technical and financial audits of the contractor's works;
- advising the concession company in relation to disputes over the performance levels of two water treatment plants in the north of

Scotland and commencing arbitration leading to a commercial settlement with the services contractor that provided for amendments to the FM contract;

- acting for a Japanese chemical company in an ICC Rules arbitration concerning the construction of a copolymer production facility.

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 2016 he has produced the monthly Case in Focus reports that appear in Building magazine and in the Legal Briefing section on Fenwick Elliott's website.

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.