



CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE  
ENERGY, RENEWABLES AND OFFSHORE INSTALLATIONS  
TRANSPORT  
PROFESSIONAL NEGLIGENCE

## Frances Pigott

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## PRACTICE

Frances Pigott is described in Chambers & Partners as always *"thorough and efficient, and excellent at cross-examination and in court"* with *"substantial experience, being a solicitor-turned-barrister"* and a *"down-to-earth approach"*. She is described as *"a formidable advocate"*. Market commentators consider her to be *"practical, helpful and good value"*. Solicitors see her as *"thorough, efficient and an excellent cross-examiner in court"* and *"more than comfortable dealing with the most complex of cases"*.

She is described as *"technically excellent and absolutely diligent in her approach"* and is appreciated for *"mucking in and making herself available to discuss strategy"*.

Frances is appreciated for her ability to get to grips with technically complex issues and to present key points in a clear and persuasive manner. She is more than happy taking on the most challenging of cases even at short notice, and has earned her reputation as *"a good strategist"* who is *"very intellectually sound"* and *"very good at getting to the nub of the problem"*. Also valued is her adroit handling of negotiations and mediations, as well as her written and oral advocacy.

Frances was briefed to represent the council in a 16-week trial in the Technology and Construction Court. The dispute arose out of a contract based on the Manual of Contract Documents for Highways Works to provide highways maintenance services, **Amey LG Ltd v Cumbria County Council** [2016] EWHC 2856 (TCC) and [2016] EWHC 2946 (TCC).

In **Bluewater Energy Services BV v Mercon Steel Structures BV** [2014] EWHC 2132 (TCC) Frances was briefed to represent a Dutch sub-contractor in a six-week trial in the Technology and Construction Court. The dispute arose out of a contract based on the BASIC form, and involved disputes about a tower-based soft yoke mooring system that was constructed to form part of an offshore oil installation in the Caspian Sea.

Frances has appeared in the High Court, Court of Appeal and in international and domestic arbitrations. She has attended mediations and adjudication hearings.

## CONSTRUCTION, ENGINEERING AND INFRASTRUCTURE LITIGATION

Frances is an experienced court advocate acting in construction, engineering and infrastructure disputes. Frances acts for clients on disputes under the main standard form contracts including JCT, NEC, FIDIC, IChemE, BASIC and ICE standard forms. She has experience in delay and loss and expense claims, final account and defects disputes, including:

- Acting for an employer in a claim in the Technology and Construction Court (TCC) concerning the meaning of a contract for the supply, installation, testing, commissioning, handover and maintenance of a High Pressure Water Mist System.
- Acting in a final account dispute under a design and build contract for a developer of a shopping centre including claims by the contractor relating to the acoustic specification and design for a cinema.
- Acting for a contractor in relation to a claim about the design and installation of a drainage system in a development.
- Acting for a subcontractor in a claim for rectification of a subcontract ordered on the grounds of unilateral mistake: **Traditional Structures Limited v HW Construction Limited** [2010] EWHC 1530 (TCC).
- Acting for a builder in a claim that the building contract was determined by frustration: **Atwal v Rochester** [2010] EWHC 2338 (TCC).
- Acting for a local authority in connection with compensation events claimed by the contractor arising from the construction of a major public building project.
- Appearing at trial for a contractor where the court found deliberate concealment of building regulation breaches for the purposes of limitation.
- Acting for a subcontractor's insurer in a multi-party action following the collapse of guttering on a large warehouse.
- Advising a football club on its claim in respect of design and workmanship problems at its new football pitches.
- Acting for a contractor's insurer facing claims for damage to an adjacent property during the demolition phase of the development. The claim included allegations of nuisance, negligence, breach of contract, breach of statutory duties, trespass, misrepresentation, directors' personal liability and deceit.
- Advising in respect of a contract for mechanical and electrical engineering services provided as part of a golf and ski resort development in Bulgaria.

## ARBITRATION

Frances' international and national arbitration experience includes:

- A claim about an offshore and onshore development, with disputes including structural engineering, design, mechanical and engineering, groundwork and piling.
- A claim about the design and construction of a multi-purpose development, including time and financial claims, tenant and business-related losses involving civil and structural engineering cladding, glazing and mechanical and engineering claims.
- Claims arising from defective design and workmanship in the refurbishment of a mansion.

## ADJUDICATION

Frances has been instructed in a number of adjudications, and her experience includes strategic and procedural advice, drafting, advocacy at meetings with adjudicators and enforcement advice and proceedings. Topics covered include:

- Multi-million-pound claims for extensions of time, loss and expense, extensions of time and a disputed variations account.
- Final account disputes.
- Declaratory adjudications relating to the date of practical completion and rights to extensions of time and the effect and validity of notices.

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## ENERGY, RENEWABLES AND OFFSHORE INSTALLATIONS

Frances has a broad range of experience in the UK energy and renewables sector including:

- Advising on a £30m final account dispute with a contractor for the design and construction of a biomass bulk terminal biomass building with ancillary works to receive, store and offload imported wood pellets.
- Advising on a dispute with a contractor concerning the construction and operation of a new 30 MWe net output biomass plant under an EPC contract.
- Acting in an adjudication concerning the construction of a biomass plant.
- CCGT plant – claims concerning the design and construction of a combined heat and power system by which waste heat from the CCGT Plant cooling water system was to be exported for use in the vaporisation of natural gas
- Renewables – claims involving subsea export cables for an offshore wind farm, damage to fibre optic and power cables during shipment.
- Renewables – claims involving the design and execution of on-site remedial works to the foundations and structures of wind turbines on an offshore wind farm
- Renewables – licencing and use issues concerning a monitoring system at land based wind farm
- Renewables – claims about design related defects in the design and construction of wind turbine blades
- Adjudication enforcement in the Technology and Construction Court concerning a contract for the supply and construction of a new gas pipeline in the UK: **Wales and West Utilities Ltd v PPS Pipeline Systems GmbH** [2014] EWHC 54 (TCC)
- Application in the Technology and Construction Court to stay proceedings to arbitration in a case concerning scaffolding and insulation works at Pembroke CCGT power station. There was a conflict between the dispute resolution provisions contained in the subcontracts and a subsequent settlement agreement **Interserve Industrial Services Ltd v ZRE Katowice SA** [2012] EWHC 3205 (TCC).
- Acting in a dispute about a £9m a contract for the design, procurement and installation of solar modules, frames and associated electrical infrastructure at the site in the UK.
- Acting in a dispute concerning the construction of a new waste disposal recycling plant.

- Six week trial in the Technology and Construction Court concerning a contract based on BASIC, involving disputes about a tower-based soft yoke mooring system forming part of an offshore oil installation in the Caspian Sea: **Bluewater Energy Services BV v Mercon Steel Structures BV** [2014] EWHC 2132 (TCC).

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## TRANSPORT

Frances has wide ranging experience in the UK transport sector:

- Advising on a dispute under an EPM call-off contract incorporating the NEC 3 conditions of contract concerning the design, construction and completion of an over railway bridge scheme in the UK.
- Acting in a dispute between a contractor and local authority concerning a traffic signals maintenance term contract incorporating the NEC3 Term Service Contract and the SHW as amended. The dispute concerned the scope of coverage provisions for rates: **Dynniq UK Ltd v Lancashire County Council** [2017] EWHC 3173 (TCC).
- Acting for local highways authorities in respect of claims by developers under Section 278 agreements.
- 16-week trial in the Technology and Construction Court concerning a contract based on NEC2 incorporating the Manual of Contract Documents for Highways Works, involving disputes about highway repair, reinstatement and maintenance **Amey LG Ltd v Cumbria County Council** [2016] EWHC 2856 (TCC) and [2016] EWHC 2946 (TCC). One of the main issues was whether it was possible to prove loss and damage by sampling. Both parties alleged loss and damage arising from Amey's road patching works and based their pleaded claims on extrapolated outcomes from random (probabilistic) samples. This is the first reported case where the court has accepted the validity of sampling as a method of proving loss in a multi-million-pound construction dispute.
- Adjudication concerning the design and installation of track for a UK tram system.
- Advising on a dispute concerning the design and construction of a motorway.

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## PROFESSIONAL NEGLIGENCE

Frances has been instructed to act in a number of professional negligence claims. Advice has covered issues such as the general principle in tort that loss classed as pure economic is not recoverable, the current position relating to the complex structure theory, the scope of duties of care between the client and the construction professional and whether those duties have been breached, the scope and interpretation of contractual duties owed by construction professionals to first purchasers, funds and tenants, and the liability of construction professionals where there is no enforceable collateral warranty.

Advice has included consideration of limitation periods, whether defects complained of are to be classified as latent or patent and the identification of the date when a cause of action accrued, as well as the position of construction professionals in contribution proceedings. She has been involved in litigation involving issues about the measure of compensable damage, and issues of remoteness, betterment and mitigation.

Frances has been instructed in a number of professional negligence claims involving:

- architectural services;
- building surveyors;
- structural engineer's foundations design;
- structural engineer's design for floor slabs in a warehouse built on reclaimed land;
- solicitors' contract drafting;

- solicitors' conveyancing and the identification of a boundary when carving out and conveying a parcel of land;
- solicitors' advice and the conduct of an adjudication;
- a geotechnical report on the stability of a sloped canal embankment; and
- the project management of the refurbishment and conversion of a building into a dental surgery.

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## REPORTED CASES

- **Dynniq UK Ltd v Lancashire County Council** [2017] EWHC 3173 (TCC)
- **Amey LG Ltd v Cumbria County Council** [2016] EWHC 2856 (TCC)
- **Amey LG Ltd v Cumbria County Council** [2016] EWHC 2946 (TCC)
- **CIP Property (AIPT) Ltd v Galliford Try Infrastructure Ltd** [2015] EWHC 481 (TCC)
- **CIP Property (AIPT) Ltd v Galliford Try Infrastructure Ltd** [2015] EWHC 412 (TCC)
- **CIP Property (AIPT) Ltd v Galliford Try Infrastructure Ltd** [2014] EWHC 3546 (TCC)
- **Wales and West Utilities Ltd v PPS Pipeline Systems GmbH** [2014] EWHC 54 (TCC)
- **Bluewater Energy Services BV v Mercon Steel Structures BV** [2014] EWHC 2132 (TCC)
- **L G Blower Specialist Bricklayer Ltd v Reeves** [2010] 5 Costs LR 828 (CA)
- **Dutta v Hayes** [2012] EWHC 1727 (Ch)
- **Interserve Industrial Services Ltd v ZRE Katowice SA** [2012] EWHC 3205 (TCC)
- **Traditional Structures Limited v HW Construction Limited** [2010] EWHC 1530 (TCC)
- **Atwal v Rochester** [2010] EWHC 2338 (TCC)
- **Turner v Pryce** [2008] 1 P&CR DG 20 (Ch)
- **Hurst Stores and Interiors Ltd v ML Europe Property Ltd** [2004] EWCA Civ 490

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## LEGAL TEXTS

*"Proof By Sampling"* SCL Paper, D206 July 2017

*"Equitable Set-Off – A New Direction After Geldof?"* SCL Paper, D180 August 2015

*"Heartless: The case of a builder sued for having a heart attack"* Building July, 2010

*"On turning a blind eye: Traditional Structures vs HW Construction"* Building November 2010

*"Economic loss, transmissible warranties and extensions to the boundaries of Murphy v Brentwood"* (2005) 21 Const.L.J.95 (referred to in footnote 56 at 9-057 and 62 of 9-058 of Jackson & Powell's Professional Liability, 6th edition).

*"Sharing the pain-contributions in construction disputes"* In House Lawyer, August 2002

*"Unforeseen ground conditions-the power of SMM7"* In House Lawyer October 2002

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## QUALIFICATIONS AND AWARDS

1990	LLB (Hons) 1 <sup>st</sup> Class
1992	Sweet & Maxwell Prize
1992	Sweet & Maxwell Prize
1992	Runner-Up Observer Moot Final
1992	Winner Jessop International Moot
1992	Represented the UK in Washington DC in the Jessop International Moot
1994	Called to the Bar
1996	Admitted to the Roll of Solicitors
2004	Commenced practice at the Bar*

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## OTHER PROFESSIONAL INTERESTS

Frances is an associate of the CI Arb and a member of the SCL and TECBAR.

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## RECOMMENDATIONS

"Knowledgeable and calm, which is reassuring for clients." "She was always willing to speak at all times and did a great job in pleadings and in guiding the clients."  
Construction, Chambers UK Bar 2019

"Extremely bright and quickly gets to grips with complex contractual issues."  
Construction, Legal 500 2019

"Always thorough and efficient, and excellent at cross-examination and in court." "Has substantial experience, being a solicitor-turned-barrister, and has a down-to-earth approach."  
Construction, Chambers UK Bar 2018

"She is always thorough, efficient and an excellent cross-examiner in court." "She's a machine: technically excellent and absolutely diligent in her approach."  
Construction, Chambers UK Bar 2017

"She's very compelling when she's on her feet and very good at getting to the nub of the problem." "She provided sound, straight and precise advice which was well written and delivered."  
Construction, Chambers UK Bar 2016

"Very intellectually sound. She's good at drafting, she's a good strategist and she works well with other leading counsel."  
Construction, Chambers UK Bar 2015

"A formidable advocate with the ear of the judges."  
Construction, Chambers UK Bar 2014

For a full list of legal directory endorsements please download the separate document 'Recommendations'.