

# Cover page: RM6179 Legal Services Panel

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**Lot 1 – General Legal  
Advice and Services**

DWF Law LLP

[dwfgroup.com](http://dwfgroup.com)

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# Contents:

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DWF are able to advise on all of the following:

## Mandatory specialisms:

- [Competition law](#)
- [Construction law](#)
- [Contracts](#)
- [Corporate law](#)
- [Dispute resolution and litigation](#)
- [Employment law](#)
- [Environmental law](#)
- [Information law including data protection law](#)
- [Information technology law](#)
- [Intellectual property law](#)
- [Non complex finance and investment.](#)
- [Outsourcing](#)
- [Partnership law](#)
- [Pensions law](#)
- [Planning law](#)
- [Projects/PFI/PPP](#)
- [Public law](#)
- [Public procurement law](#)
- [Real estate and real estate finance](#)
- [Restructuring/ Insolvency](#)
- [Retained EU law and EU law](#)
- [Tax law](#)

## Optional specialisms:

- [Aviation and airports](#)
- [Charities](#)
- [Children and vulnerable adults](#)
- [Education law](#)
- [Energy and natural resources](#)
- [Food, rural and environmental affairs](#)
- [Franchise law](#)
- [Health and healthcare](#)
- [Health and safety](#)
- [Immigration](#)
- [Life sciences](#)
- [Maritime and shipping](#)
- [Public inquiries and inquests](#)
- [Public international law](#)
- [Telecommunications](#)
- [The law of International trade, investment and regulation](#)



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# Introductions:

## Global reach

DWF is a leading global provider of integrated legal and business services, operating across eight key sectors in over 30 global locations with over 4,000 people. Our purpose is to deliver positive outcomes with our colleagues, clients and communities.

## A comprehensive track record

Our Government and Public Sector team works for over 250 UK central government bodies, regional and local authorities, police authorities, charities, education and healthcare providers. We also work for private sector providers and businesses that work with the public sector such as developers, construction companies, outsourced services providers, inward investors and port and transport authorities.

## Why our approach works for UK Government

### Government and Public Sector experts

Our Government and Public Sector team is experienced in acting for government departments, combined and local authorities and the European Commission in complex matters. We are at the forefront of your key agendas. We regularly publish key insights and thought leadership (e.g. Levelling Up, Net Zero, Covid-19, Brexit) and our views are sought at the highest levels (e.g. Select Committees on progress of Subsidy Control Bill).

### Results-driven approach

We work with our clients to deliver the outcomes they are seeking in the most effective manner, balancing efficiency and speed with detail and risk, always with an appreciation of the particular governance, political and prevailing social responsibility context in which the Government and Public Sector operates.

### Local teams on the ground

Many of our Government and Public Sector team have worked for sector bodies and they operate through all 12 of our UK offices including Edinburgh, Glasgow and Belfast.

### Driving social value and ESG

We go beyond being a responsible business. We are pioneering ESG across both our advice to clients and the running of our own business. All our lawyers have ESG objectives and are trained to support our clients in the delivery of social value.

### Data driven foresight

Integrated with our legal advisory service, we offer Mindcrest, our outsourced and process led legal services which standardise, systemise, scale and optimise legal workflows. Our data analytics service is helping clients anticipate and mitigate many of the risks their legal teams are facing today.

250+  
Sector clients

250+ clients across Government and the public sector.

239  
partners

239 partners across all disciplines in the UK with a core team of over 50 partners focussed upon Government and the Public Sector.

1000  
lawyers

1000 lawyers immediately available for volume and complex matters.

12 UK  
locations

12 UK locations and local expertise across the UK with lawyers on the ground in Scotland and Northern Ireland.

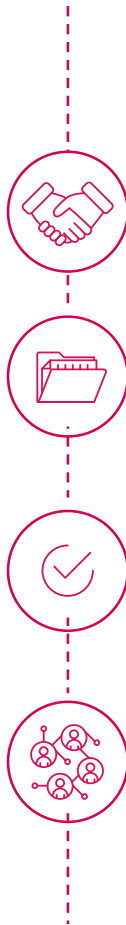
# Team structure:

## Dedicated resources

From our 12 UK offices we employ nearly 1000 lawyers including 239 partners across 8 practice areas including: Commercial and Competition, Regulatory and Data; Corporate; Banking, Finance and Restructuring; Dispute Resolution; Real Estate; Tax, Employment and Pensions; and Insurance. Our core team of 100+ lawyers who are dedicated to Government and the Public Sector regularly draw upon the expertise of this wider team.

In addition we can draw upon our Mindcrest service which offers volume managed services across compliance, contracts management, legal analytics, litigation and investigations. Mindcrest can deploy legal teams of between 2 and 200 within 24 hours.

Please contact [Debbie Greig](#), Contract Manager for further details about DWF's service offering.



## Our three offerings

### Legal Advisory



Premium legal advice and excellent client service. Our teams bring together commercial intelligence and industry sector relevant experience including a stand-out Government and Public Sector team.

### Mindcrest



Outsourced and process led legal services, which standardise, systematise, scale and optimise legal workflows.

### Connected Services



Products and business services that enhance our legal offerings.

## PANEL RELATIONSHIP MANAGER



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## CORE PANEL TEAM



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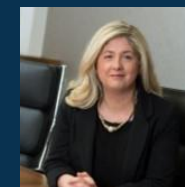
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## Equality and Diversity

Tackling inequality and improving diversity is embedded in our recruitment, retention and promotion, and all key business decisions. We joined the UN's *SDG Ambition*, a global accelerator initiative challenging companies to set ambitious targets into core management. Our global strategy to 2025 focuses on gender, ethnicity, LGBT+, disability and mental health, and actions for #BlackLivesMatter. Our targets include gender diversity on PLC Board with 3+female (achieved); 33%+ female on Executive Board by 2022; 30%+ female senior leadership by 2022; 10%+ BAME senior leadership by 2022.



## DWF Foundation

The DWF Foundation is an independent charity with the sole aim of providing funds, resources and support to help our communities achieve their full potential. We have supported over 100 charities to date, donating £500k+ in 299 grants. Through our IPO, the DWF Foundation received 1.8m shares of investment to build upon the work we have done with charities and our local communities.



## 5 STAR Futures

5 STAR Futures is our community education programme which enables aspirational young people to unlock their potential by developing their confidence and employability skills to become more work ready. This involves groups of volunteer coaches from DWF delivering workshops to school children on topics such as workplace behaviour, effective communication and resilience.



## UN Global Compact

We support the principles of Human Rights set out in the Universal Declaration of Human Rights and the International Labour Organisation core labour standards and launched our Global Human Rights Policy in February 2018. We are a signatory to the UN Global Compact and its business principles covering human rights, employment standards, environment and anti-corruption. In 2016 we also became a signatory to the UN Women's Empowerment principles. We are accelerating our contribution to address the worst impacts from climate change as an integral and deliberate part of our business strategy aligned to the UN's 2030 agenda and a 1.5C pathway.



## Environment

We are proud to be a member of the Legal Sustainability Alliance, a group of law firms and related organisations committed to taking action to improve the environmental sustainability of their operations. DWF achieved a 24% reduction in its carbon footprint between 2015 and 2018. We have an established environmental management system in place, accredited to the ISO14001:2015 certification in the UK.

# Social value:

Our ambition is to make DWF a world leader at responsible business, mobilising our collective strength and strategic commitments not only for the benefit of all our clients through our services but also as a force for good in society.

For CCS and the Government and public sector clients we work with we will demonstrate value in two ways:

- through our business activities – as an enabler, our panel team will proactively support clients with the ESG challenges they face and constantly look for innovative and effective ways to secure improvements;
- as an exemplar, we communicate on our progress as a responsible business in our own right both transparently and authentically.

## Our priorities

Reporting against clear indicators, we have identified six sustainability issues most relevant to our people, our clients, our communities and our business success – enabling us to prioritise where we can have the greatest impact. Our ESG Leadership Group oversees the effectiveness of our ESG strategy and governance in place and determine actions needed to improve our ESG performance.

1. Climate action
2. Diversity and inclusion
3. Empowering colleagues & our communities
4. Supporting and connecting with our clients
5. Acting with integrity in everything we do
6. Building trust and increasing transparency

# Competition law

## How we can help you

Our Competition Law team is at the forefront of public sector Competition Law, with Jonathan Branton and Alexander Rose recently appearing at the recent Subsidy Control Bill Select Committee as expert witnesses.

What sets us apart is our particular focus on Government and Public Sector and that our advisers have day to day experience of working within the Public Sector including at the European Commission on designing State aid regulations, in the Government Legal Department writing national guidance and advising on WTO disputes, at the Competition and Markets Authority in handling merger control and in house at former Regional Development Agencies.

We also have extensive experience of living and working in Brussels and our UK team is part of a pan European network of Competition Law experts covering all the primary jurisdictions of the EU.

Our team advises on the full range of Competition Law issues, including:

- Subsidy Control and EU state aid advice, including NI Protocol and all aspects of the EU/UK Trade and Cooperation Agreement 2020;
- WTO law (including the Agreement on Subsidies and Countervailing Measures);
- training on identifying and managing all Competition Law issues, including subsidy and antitrust management;

- all aspects of UK and EU merger control and related notifications and procedures with the CMA and the European Commission;
- the new National Security Investment Act 2021;
- the proposed EU Foreign Subsidies regime;
- all aspects of anti-competitive agreements and abuse of dominance within the Competition Act 1998 and EU law counterparts, and related CMA and European Commission investigations;
- advising and defending clients in regulated sectors;
- advising clients on Competition Law remedies and related litigation and disputes (including Subsidy Control and EU State aid law matters);
- Competition Law-based litigation and proceedings before the Competition Appeals Tribunal; and
- advising clients during dawn raids and in relation to other audits and investigations such as ERDF

In handling the above our team deals with all government funds and related bid administration, for example the Levelling Up Fund, for which we dealt with many successful bids for Round 1. We are currently very active in relation to Round 2 and the new UK Shared Prosperity Fund in addition to various other funds.

GET IN TOUCH



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## Case studies

### Subsidy Control adviser for the £1 billion Automotive Transformation Fund

Our specialist Subsidy Control team have advised upon the delivery of the £1 billion *Automotive Transformation Fund* since 2019. The fund is led by the Advanced Propulsion Centre and provides public funding for projects that accelerate the development of the UK's automotive capability, especially with regard to net zero. This includes advising upon inward investment projects, gigafactories and cutting edge R&D investment.

### EU State aid law adviser to DBEIS in respect of eRGF manufacturing grant

Advised the Department for Business, Energy and Industrial Strategy on the EU State aid law compliance of a large grant to incentivise the construction of a new manufacturing plant in Northern England. We identified a successful route for funding to proceed and the plant is in the process of being built. We have also advised numerous large corporates on State aid and Subsidy Control compliance from a beneficiary perspective in large eRGF and other awards (including advice on application of the Northern Ireland Protocol).

### Merger Control advice in CMA investigations

Advised on multiple merger investigations before the CMA recently, including advising software company Autocab in its proposed merger with Uber, ultimately cleared under Phase I. Other recently concluded cases include Adevinata/eBay, Glennon Bros/Balcas and ION/Broadway.

### Subsidy Control training for public bodies

We provided specialist and bespoke Subsidy Control training for officials from over 50 public bodies (central and local), helping them understand the steps to be taken to check compliance and make awards of public funding safe from challenge and recovery.

### The Arts Council

We advised the Arts Council on the Subsidy Control and State aid issues related to the administration of the £1.57 billion *Culture Recovery Fund* and dealing with loans and grants across the arts and culture sector to assist it in dealing with the negative effects of the COVID-19 pandemic, including particular regard to when arts and culture funding may classify as subsidy and when not.

# Construction law

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## How we can help you

We advise on all aspects of contentious and non-contentious construction for Government and the public sector. We provide a fully integrated cradle to grave approach to contracting and construction solutions; from feasibility to procurement, from construction through to handover and asset management, our team is there every step of the way to advise.

There is a pressing need for the construction of a range of commercial and public projects in both prosperous and disadvantaged markets across the UK as the pace of globalisation continues and *Levelling Up* progresses. Our construction practice advises sponsors, government bodies, construction companies and lenders, on projects and project financings throughout the UK and indeed the world. This genuinely international approach sets us apart, and provides insight as to how to best to advise government clients.

Our multi-faceted and multi-disciplinary team has extensive knowledge of construction and engineering contracts, working on major infrastructure and development projects for public agencies and local authorities, as well as contractors, consultants and supply chains. Our experience of working for both

sides of major projects assists us understanding the risks that exist at all levels of feasibility, procurement, project delivery and handover. Our cradle to grave approach provides seamless input and advices to government bodies.

Since our lawyers specialise in both contentious (including litigation, arbitration and adjudication) and non-contentious advice, the same team is able to play a valuable role in ensuring that your infrastructure project is delivered smoothly, providing live project support if required, to assist in maximising entitlement/minimising risk, and providing strategic advice to manage disputes as and when they do develop

Whether working on a renewables, utilities, roads and bridges, ports and harbours, retail, education or residential project - our experience and industry knowledge will deliver the results our clients need in the timescales they need them.

Our team also offers specific specialisms, notably with the NEC3/4 form of contract, with qualified CPD trainers, working alongside many construction institutions within the UK to promote proper use.

GET IN TOUCH



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## Case studies

### Wirral Waters – Legacy Project

Advising Wirral Borough Council on the development of 500 residential units and associated works at North Bank West (c. £90m). Our Construction team works closely with the procurement business, ensuring there is a seamless delivery between procurement and project delivery. The Legacy Project is part of the largest regeneration scheme in the UK (£4.5bn).

### Go Neutral Renewable Energy Framework

Our expert construction lawyers have been advising the Greater Manchester Chamber of Commerce on the £300m framework for the supply, installation and maintenance of renewable power and battery power installations.

### Royal Borough of Greenwich

Our construction team is working alongside colleagues in the firms procurement and real estate teams to help deliver significant regeneration to the Borough including the redevelopment of the Tramshed Theatre, the development of a new Leisure Centre in Woolwich and the

redevelopment of the Plumstead Power Station.

### Rail contractor

Acting for major rail contractor involved in Crossrail / HS2 project, valued at over £1bn. Advised on contentious matters relating to provision of rolling stock, rolling stock maintenance and development and delivery of Depot. Involved in a series of multi-million NEC3 Option C Adjudications relating to delay damages/take over, ground conditions, Pain/Gain shares and contract interpretation.

### Liverpool City Council

Advising the infrastructure team on all aspects of procurement, contract delivery and dispute resolution. Matters include drafting entire suites of JCT and NEC4 contracts (for major projects between £1m-50m), NEC4 training, on-going advices relating to contract delivery, advising on all aspects of Contractor's entering administration, adjudication and litigation.

# Contracts

## How we can help you

We regularly advise public authorities and private sector suppliers on all aspects of contract drafting, negotiation and contractual interpretation related to Government and Public Sector matters. Our team brings decades of experience of dealing with a wide variety of arrangements across a wide variety of sectors and with a substantial team of UK commercial contracts advisors at all levels.

Examples of the types of advice include:

- drafting and negotiating agreements on all kinds of commercial activities for works, services and supplies, including large scale outsourcing;
- drafting concession contracts, shared services arrangements, joint ventures, alliancing options and grant funding arrangements;
- advising on contracting strategies, best practice and innovation;
- Advising on pricing / payment, risk and reward options, change management, insurance, performance management, programme & planning;
- marking up, advising on and negotiating the GLS model form contract terms and conditions;
- advising on data protection, freedom of information and other regulatory compliance issues;
- advising on dispute resolution, mediation and ADR procedures;
- advising on the process and forms of implementing deeds of variation and other CCNs, including the interface with procurement and procurement risk;
- advising on novation, assignment and changes in ownership;
- advising on exit arrangements (both from early termination and expiry) and assisting pre and post transition with the process;
- advising on transfers and licensing of intellectual property rights and related rights, protections and obligations;
- advising on complex business and contractual reorganisation and restructuring projects;
- dealing with specific contractual frameworks such as PFI; and
- drafting playbooks and providing training on contract documents, as well as contractual processes.

Our advice can be tailored to the specific sub-sector, whether that is the education, health, defence, culture, energy, water, transport, telecommunications or other industries, introducing experts as necessary to support commercial transactions and/or arrangements.

GET IN TOUCH



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## Case studies

### Greater Manchester Combined Authority – Waste PFI

Advised on the options for making significant savings in their £4bn Waste PFI Contract. It involved the development of bespoke terms for the winding up of c. 1,200 contracts, repayment of £550m of capital investment, the TUPE and pensions arrangements for over 600 staff and the renegotiation of the Runcorn EfW project, ultimately resulting in savings to GMCA of around £290m.

### Welsh Government – GCRE Project

Advised WG on the contracting strategy and implementation process involved in the delivery of an ambitious and complex £150m railway test track on a disused opencast mine, together with provision of linked maintenance arrangements and a research facility. It included aggregation/disaggregation of various work and services packages, the drafting and negotiation of base contract documents, advice on price and payment options, analysis and advice on risk and reward as well as specific training for the delivery team on feedback from early procurements.

### Scottish Government – R100

Advised Scottish Government on its Reaching 100% (R100) broadband programme. It involved advising on the

drafting, negotiation and award of contracts for a £600m broadband infrastructure project. The contracts were based on a template form published by DCMS for broadband rollout projects, which we tailored to reflect the Scottish Government's key strategic objectives and policies, then negotiated with multiple bidders as a competitive dialogue procurement.

### Walsall Metropolitan Borough Council – Phoenix 10

Advised on the Phoenix 10 grant funding agreement with Henry Boot Development for the regeneration and development of up to 58,000m<sup>2</sup> in the West Midlands on contaminated land, with support from the Black Country LEP, and Homes England via Walsall (together with a conditional property sale contract, developer services agreement and PCG).

### Greater Manchester Combined Authority - Go Neutral

Advising GMCA on the contractual arrangements needed for a c. £300m multi supplier, multi-lotted framework delivering solar, solar with battery, wind, EV charging hubs, hosting arrangements and strategic partnering agreements.



# Corporate law

## How we can help you

With a team of over 250 corporate lawyers, we regularly advise public sector clients looking to set up wholly/partly-owned subsidiaries or joint ventures with the private sector, thus providing corporate law advice but having regard to public law context.

We advise on the advantages and disadvantages of the various different corporate forms:

- Limited or Limited Liability Partnerships;
- Companies limited by shares (CLS);
- Companies limited by guarantee (CLG);
- Community interest companies (CICs);
- Charitable incorporated organisations (CIOs).

As an increasing number of public sector bodies look to commercialise, we regularly advise on:

- ownership structures
- tax, procurement policy and Subsidy Control issues arising from setting up a corporate entity;
- governance issues (including how best to deal with potential conflicts of interests, deeds of indemnity for directors);
- public law powers required to form such corporate entities;
- employment and pension issues arising from transferring employees into and out of corporate entities;

- transfer of assets and land to corporate entities in a managed way;
- dissolution and orderly winding up of corporate entities owned by the public sector in a managed way; and
- ongoing legal compliance with regulatory requirements (Modern Slavery, Living Wage, ESG, conduct and probity);
- transfer and disposal of public sector entities into the private sector to generate a financial return for the public sector.

Our dedicated company secretarial team provide initial set up advice, ongoing secretarial and governance support to ensure that public sector bodies comply with all of their private company duties and obligations in a timely and efficient manner. Many public sector clients find this a very cost efficient and helpful means of outsourcing all of the administrative obligations arising from both the formation and operation of a corporate entity and value the peace of mind which that brings and which allows the directors to focus on the day to day management and operation of the corporate entity.

We have also conducted training on directors' duties for new directors of corporate entities so that they are aware of their responsibilities and duties.

GET IN TOUCH



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## Case studies

### Greater Manchester Waste Disposal Authority ("GMWDA")

We advised the councils on their taking over ownership of a corporate entity operating two mechanical biological treatment plants processing around 600,000 tonnes of the county's household waste. The entity was put in place under a £2bn 25 year PFI contract with construction firm Lend Lease and Global Renewables Lancashire Limited. Our corporate, financing, public sector and tax teams advised on the complex corporate acquisition, funding and State aid.

### Scottish Further and Higher Education Funding Council ("SFHEFC")

We advised SFHEFC (the national strategic body responsible for funding teaching and learning research in Scotland's 41 colleges and 19 universities/higher education institutions) in connection with the proposed merger of Stevenson College,

Jewel & Esk and Edinburgh's Telford College.

### Visit Scotland

We advised in context of Visit Scotland hosting the 2023 Cycling World Championships, we act for the delivery body which is a new SPV which is a wholly-owned subsidiary of Visit Scotland, negotiating Long Form Host Nation agreement between the Scottish Government and UCI, the rights holder as well as advising on the governance structure for the event incorporating Scottish Cabinet Ministers etc.

### Capita plc

We acted for Capita on its acquisition from The Department of Communities and Local Government of the UK Fire Service College, the Moreton-in-Marsh based national training centre for fire and rescue workers.

# Dispute resolution and litigation

## How we can help you

We operate an extensive commercial litigation offering throughout England, Wales, Scotland, Northern Ireland and the Republic of Ireland (as well as globally) advising an array of public and private sector bodies.

From a Government and Public Sector perspective our team has been particularly involved in public procurement and State aid / Subsidy Control challenges in recent years, alongside dealing with public inquiries such as Grenfell.

Our team has expertise in all aspects of dispute resolution including arbitration (domestic and international) and mediation (including a team of trained mediators).

The team is backed by a large scale insurance claims division dealing with high value and volume claims. The team is further augmented by an ability to deploy volume and technology resource from our Mindcrest division at short notice.

### Claimant litigation

We have a strong claimant practice and represent parties seeking to recover damages from opponents, for example:

- arising as a result of fraud;
- contractual / supply disputes;
- asset recovery;

- competition litigation / follow on damages

### Areas of expertise

Acting for both claimants and defendants, our work spans every forum and form of commercial dispute including:

- complex contractual arrangements (including strategic exit from distressed/underperforming projects and public/private sector contracts);
- procurement and State aid or Subsidy Control challenges and judicial review;
- public funding disputes including audits and claims for clawback of funding (including ESIF and other international funding streams and dealing with related institutions);
- outsourcing and logistics contracts disputes;
- employment disputes including trade union matters;
- public law challenges and any issues related to governance and vires at judicial review;
- competition law disputes including administrative proceedings with CMA;
- insurance and all insurance-related claims and procedures;

GET IN TOUCH



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## Case studies

### Leeds City Council

We defended Leeds City Council in a High Court litigation case brought by Montpelier Estates Limited alleging breach of the Public Contracts Regulations and related breach of public law allegations against the Council concerning the development of a new large scale indoor entertainment arena. We acted for the Council on all procurement and real estate matters for the delivery of the new arena and defended the Council successfully at trial including the recovery of costs.

### Greater Manchester Waste Disposal Authority (now Greater Manchester Combined Authority)

We acted for GMCA in its judicial review of the Department for Environment and Rural Affairs ("DEFRA") decision to withdraw a grant worth £124.5m (NPV) following GMCA's termination of a £4.762bn PFI contract for waste and recycling disposal Greater Manchester. The matter was resolved in July 2019 with a significant settlement in GMCA's favour.

### Cornwall Council

We acted on behalf of Cornwall Council defending public procurement proceedings brought under the Public Contracts Regulations 2015 ("the Procurement Challenge") and Judicial Review proceedings brought by the Royal Cornwall Hospitals NHS Trust ("The Trust"), the incumbent principal local NHS healthcare provider of sexual health services.

We successfully struck out the Procurement Challenge and enabled the Judicial Review claim to be discontinued, resulting in the Council's costs being paid by the Trust for both claims. We also successfully dismissed the Trust's application for early specific disclosure.

# Dispute resolution and litigation (page 2)

- mediation and ADR procedures;
  - contractual / supply chain litigation;
  - asset recovery;
  - fraud;
  - company law, shareholders' and directors' duties and mergers and acquisition disputes;
  - shareholders' and directors' duties;
  - mergers and acquisition disputes;
  - customs and taxation (including rules of origin) and HMRC enquiries;
  - health and safety, environmental protection and liabilities for pollution;
  - data breaches and related access to confidential information;
  - EU law and rights and liabilities emerging now from the UK's Free Trade Agreements post Brexit, in particular the EU/UK Trade and Cooperation Agreement, including Northern Ireland Protocol issues;
  - EU Court proceedings whether on reference from the national court or challenges to the acts of the EU institutions;
  - professional negligence; and
  - regulatory approvals and licensing across different goods and services sectors, and barriers to trade.
- We routinely form multi-disciplinary teams of leading non contentious public sector lawyers and commercial litigators to analyse risks faced and adopt a strategic approach in both bringing and defending claims for government and public sector bodies.
- By acting on both sides of disputes related to the public sector (including long experience of acting both for and against public sector bodies), we understand both sides' strategies and are able to demonstrate our technical expertise of the relevant substantive law (eg. procurement) alongside a strategic approach to dispute resolution and judicial review.
- We build our relationships on trust and this includes our pricing. We welcome discussions on alternative pricing structures, incentivising delivery of best outcomes and enabling you to budget your costs and cash flow.

GET IN TOUCH



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## Case studies

### Durham Council

We acted for Durham Council in its successful reverse summary judgment regarding a claim brought by a private sector waste company for damages and declaratory and injunctive relief arising from alleged unlawful State aid regarding the Council's arrangements for its collection of commercial waste.

This was a critical and high profile claim for the client, who was also facing a parallel complaint arising from the same matter to the European Commission, and running through the period of the UK's withdrawal from the European Union. The Council was awarded 95% of its costs at the hearing. The claim is awaiting appeal at the Court of Appeal in January 2022.

### Serco Limited

We acted for Serco in its successful, complex and high profile procurement challenge against the Ministry of Defence. This related to the MoD's £1.15bn "first generation" outsourcing contract regarding its fire and rescue services. The contract was critical to

Serco's Defence business and followed a 4 year procurement process.

Highlights of the case included winning two highly contested interim applications in the Technology and Construction Court, successfully defending the MoD's application to strike out Serco's claim and winning Serco's application for specific disclosure. Serco was awarded 100% indemnity costs.

### Education dispute (confidential)

Advised on the resolution of a major multi-million pound dispute between a bank, a leisure provider, a voluntary aided school and a Local Education Authority. Mediation was successful in vastly reducing the public sector's financial liability and to achieve an orderly settlement and closure of a long running dispute. The solution enables the school and the pupils to regain control over the sporting facilities in the building and facilitate academisation.

# Employment law

## How we can help you

The team acts for a broad range of Central, regional and Local Government clients, advising human resources teams, in-house lawyers, as well as the business directly. We have one of the largest employment teams in the UK as well as an international offering. We offer a full range of specialist services.

Our advice for employers includes:

- large scale business transfers, takeovers and transfers of undertakings (TUPE) on the outsourcing/insourcing of key public services;
- audits;
- atypical workers – including agency workers, fixed term workers and contractors;
- disputes and litigation (including tribunal litigation and settlement);
- discrimination and equality;
- employment policies and procedure, plus Employment status;
- executive compensation and employee benefits;
- executive severance, team moves and injunctions;

- gender pay gap reporting;
- global mobility and business immigration;
- investigations and inquiries;
- IR35 and off-payroll working rules;
- M&A;
- partnerships and LLPs;
- pay issues (including pay transparency, National Minimum Wage, holiday pay and sick pay);
- recruitment, employment contracts (including updated written statement requirement for workers);
- restructuring, re-organisations and redundancy; and
- trade union and collective issues.

We recognise that employment issues need to be handled with extreme care and sensitivity to ensure that core functions and services continue to be delivered.

GET IN TOUCH



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## Case studies

### A unitary authority

Advising a unitary authority over the removal of a judicial office holder from tenure. Involving consideration of administrative and constitutional law over forced removal under statute as leverage for a negotiated exit on a commercial basis, the ultimate outcome.

### A business outsourcing from Government

Advising a plc on a second generation outsourcing from Central Government on a change of service provision with associated restructure on multiple TUPE dismissal and failure to consult claims over 20 days at ET.

### A local authority

Supporting a CEO of a local authority on multiple investigations connected to sleaze allegations of former Leader and associated with resulting and longstanding criminal investigations on corruption. Advice included navigating changes of council members.

### A metropolitan borough council

Advising a Metropolitan Borough Council in a long running claim from a dismissed employee who subsequently brought claims for unfair dismissal and discrimination on the basis of disability, race, religion, and sex together with a detriment claim for whistleblowing. The case generated an exceptionally large amount of paperwork and the Claimant has sought to appeal to the Employment Appeal Tribunal on 3 different basis during the course of the litigation (all unsuccessful).

### Public sector employees

Advising on numerous discrimination in services claims arising out of the ability of customers to obtain services due to the pandemic and the obligation to make reasonable adjustments. DWF worked with various public and private sector employees on possible adjustments (under the Equality Act 2010) including collaborating with other businesses affected and responding to claims launched.

# Environmental law

## How we can help you

As one of the UK's leading environmental compliance and regulatory practices we advise regularly on the full range of environmental issues for a wide range of public sector clients including:

- on public inquiries and investigations with regulators such as the Environment Agency;
- on the Contaminated Land Regime and water, air and noise pollution issues, including those involving significant damage to the environment;
- drafting environmental provisions in contracts for sale and purchase of land which allocate liabilities for ongoing remediation and development and transfer or retain liability for historic or future developments, corporate and property transactions, including environmental due diligence, drafting and negotiating environmental provisions in contracts including the allocation of liabilities and development costs for contaminated sites, environmental warranties and indemnities and the transfer of permits as well as environmental due diligence; and
- grant funding for the removal and remediation of environmental liabilities and the "polluter pays" principle in State aid and Subsidy Control.
- Contentious matters including prosecuting and defending

environmental criminal charges, regulatory appeals, judicial reviews and civil claims, including claims under environmental provisions in corporate and property contracts;

- Forthcoming and recent environmental legislation and seeking amendments to environmental legislation as it progresses through the legislative process.

The DWF team offers a full service by providing both contentious and non-contentious environmental advice.

The teams acts for clients where serious water pollution incidents have occurred and assists clients in managing investigations by the Environment Agency.

The team provide advice to business and public sector clients on the full range of environmental regulations including the Environmental Permitting Regulations 2016, REACH and COMAH.

The team also act for numerous Councils and different Combined Authorities as well as other public bodies on developments involving the regeneration of Brownfield Land.

We work tirelessly on behalf of public sector clients to reach agreements with development partners to achieve their aims to redevelop contaminated land for public housing and commercial logistics purposes.

GET IN TOUCH



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## Case studies

### Walsall Metropolitan Borough Council

We acted for Walsall MBC in relation to the Phoenix 10 environmental regeneration project located at Junction 10 of the M6 Motorway. We worked with the client alongside their private sector development partner to draft the contracts and environmental liability agreements to ensure that remediation and development works can commence. We also assisted with drafting agreements regarding sourcing bespoke environmental insurance. This is a huge regeneration scheme and will provide a major positive economic impact for the West Midlands economy.

### A water company in relation to sewage leaks

We acted for a water Company which had suffered unintentional leaks of raw sewage which polluted local streams. We drafted substantial written representations which led to an Enforcement Undertaking being agreed. This led to a substantial donation being made to an environmental water charity which contributed to improvements being made to the local water environment.

### A water company in relation to recycling

We acted for a water Company in relation to a recycling project. We

provided advice on the regulatory consents required for recycling and re-use of waste streams. This will be a major innovation in recycling and reuse of waste.

### West Midlands Combined Authority

We acted for the West Midlands Combined Authority in relation to the purchase of a site contaminated by raw sewage which is intended for future remediation and development for housing. We negotiated and agreed environmental clauses with the seller. This is a major housing redevelopment project.

### Advice to a telecoms company on the Habitats Regulations

We advised a major telecoms company on the proposed installation of infrastructure in a National Site protected under the Habitats Regulations.

### Advice on the Environmental Information Regulations

We advised a major privatised company on whether it is obliged to provide environmental information under the Environmental Information Regulations.

# Information law including data protection law

## How we can help you

DWF's Data Protection and Cyber Security (DPCS) Team provide public sector clients with insightful UK and global support. Our team includes legal advisors and management consultants, who combine to provide truly holistic, end-to-end solutions, across all of DPCS and Freedom of Information (FOI/FOIA) and Environmental Information Requests (EIR).

We help Government in these areas:

**Big litigation and dispute resolution** – whether acting on leading data breach claims or high volume lower value compensation claims, we provide you with the confidence you need at all stages and with the right strategic approach.

**Regulatory investigations and enforcement actions** – with a wide range of active regulators including those in data protection, we help our clients navigate pathways with them. We act on some of the leading regulatory enforcement cases.

**Incident response and data breach support** – We begin with prevention, through to embedding appropriate controls, but when incidents happen we can support you through all steps of the investigation and response, including the legal follow-up.

**Organisational DPCS transformation, DPO support and risk management** – we provide end to end support for public sector clients in: (a) Strategy Development; (b) Transformation Project Planning, Assurance and Risk Assessments; (c) controls design and implementation; (d) education, training and awareness; (e) staff augmentation; (f) cyber security maturity and vulnerability assessments (g) legal advice and opinions, including on emerging technology; (h) Data Protection Officer (DPO) support and service provision; (i) contracting and data sharing; (j) support on corporate transactions and vendor selection and due diligence; and (k) ongoing compliance e.g. trends analysis/compliance toolkits/ PrivacyTech deployment.

**Data subject rights handling** – we advise on optimising the strategic approach, and have developed toolkits for our clients as well as a DSARs Resolved service which delivers outsourced DSAR responses for volume and contentious DSARs.

**FOI and EIR** – we advise on the strategic approach as well as the handling and response approach to many FOI and EIR requests.

GET IN TOUCH



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## Case studies

### A healthcare services provider

We seconded two of our expert team members on an emergency basis to support our client in meeting the challenges of Covid-19.

At the heart of the UK's response to the pandemic, they advised on the data protection aspects of the vaccinations programme, alleged data breaches, complex cross-public sector data sharing for research purposes and more, so that data was able to be shared to save lives.

### Setting up new cycle hire schemes

We worked with our procurement and commercial colleagues on the data protection aspects of various new cycle hire schemes in cities. We assessed the organisations involved and their respective data protection status, the vires of the public bodies concerned, reported on our findings and prepared appropriate data sharing arrangements including with transport smartcard providers, and advised on the requirements for transparency to individuals about the different organisations and their roles in the scheme. The result was a compliant scheme.

### A tourism and business development organisation

We support this client in many of its data protection matters, including cross-Government collaboration for festivals and events, marketing, webinars and data transfers compliance. The result is that its awareness is increasing across the organisation of data protection matters and standard operating procedures to increase consistency and manage risk effectively are being deployed.

### Forensic device assessment regarding an alleged breach

We undertook a forensic review of a device to support a client's response to an ICO investigation and provide analysis of the results to drive the approach to the ICO.

### FOI, EIR and Data Protection Requests Support

We assist our client in respect of many of its FOI, EIR and data subject rights requests on a helpline basis. After triaging the requests we then assess the scope, exemptions/exceptions and the wider context to respond appropriately.

# Information technology law

## How we can help you

We act for a variety of public sector bodies as well as suppliers to the Government on matters which span the entire spectrum of information technology law. We understand the challenges faced by both sides and are able to provide pragmatic, commercial advice in a timely and efficient manner.

Innovation is a central part of our client focused approach. This often involves using technology to add value and deliver continuous improvement. We are also able to use Mindcrest, part of our integrated legal management function, to carry out volume and process driven tasks.

We are able to advise on a wide range of Information Technology matters including:

- complex system supply arrangements (including hardware, software and SaaS);
- IT outsourcing projects, from discrete business functions to entire telecommunications portfolios;
- advising on and assisting with

procurement under the G-Cloud framework and PSN compliance;

- app development, website support and maintenance, and software development (both waterfall and agile methodology);
- drafting and advising on software licences;
- telecoms procurement (including DAS, WiFi and LoraWAN);
- data centre and hosting arrangements;
- terms and conditions for a variety of services (including those provided to consumers and on websites); and
- hardware/software reseller agreements and End User Licence Agreements.

We enjoy guiding clients through what can be complex and involved projects and use our experience of acting for both customers and suppliers of technology to achieve mutually beneficial outcomes.

GET IN TOUCH



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## Case studies

### Liverpool John Moores University

We advised Liverpool John Moores University on the compliant public procurement process and contracting of two SaaS (software as a service) systems involving different vendors. Our work included advice on public procurement issues, service levels and risk apportionment mechanisms and data protection issues relevant and appropriate to large scale business critical SaaS services. The agreements required input from a range of stakeholders and were successfully concluded within a tight timescale necessitated by the need for implementation before the academic year.

### BAI Communications Limited

We acted for BAI Communications Limited in relation to its successful bid to partner with Sunderland City Council in respect of the delivery of its Smart City Project. This is a long term agreement for the provision of 5G, public Wi-Fi and LoRaWAN networks to establish Sunderland as a leading digital city. We led on contractual negotiations and tender strategy and provided procurement and state subsidy advice.

### EE

We advised EE in relation to the drafting and negotiation of its agreement with Ericsson for the provision of its Mobile Cloud Core solution, a project which is central to BT's move to a single converged IP network. This technology will power both its 4G and 5G networks, enabling the deployment of enhanced communication services and allowing BT to take advantage of innovations within the industry.

### Police

We advised on the structuring and negotiation of a significant IT back office and middle office reorganisation, the first of its kind in the UK police force, resulting in savings for the client in excess of £50m over the life of the project.

### Serco

We assisted Serco with procurement of enterprise wide telephony (including specialist end-customer facing technology) for use in prisons.

# Intellectual property law

## How we can help you

Protecting and helping our clients to maximise value from their technologies, brands, products, data and services is at the core of our intellectual property offering.

Our team of specialist IP lawyers are experienced in advising a range of organisations across the public sector on all areas of IP, providing commercial and strategically focussed advice ranging from the creation and protection of IP rights through to exploitation and enforcement.

### IP litigation and risk management

We provide a full legal service in relation to all aspects of IP infringement including trademarks, passing off, copyright, design right, database right, patents, advertising disputes and domain name disputes.

We support our clients with management of IP litigation risk on the launch of new products and brands, providing clear and concise risk assessments and advice on steps to mitigate litigation risk.

Where litigation is unavoidable or the preferred direction, we act decisively and quickly to support our clients in the enforcement of their IP rights. Our team is experienced in enforcing and defending IP claims in the relevant UK courts as well as through alternative dispute resolution forums.

We are experienced in delivering process mapped solutions and implementing policies and procedures for dealing with claims (both incoming and outgoing) in relation to brand and IP protection/infringement matters. By scoping the types of claims and issues which a business typically faces and developing standardised means of reporting and responding, we have seen clients dramatically reduce wasted costs, improve litigation risk profile and combat brand damage.

### Acquisition, exploitation and disposal of IP

Our non-contentious IP experts support and advise our clients on all contractual and transactional aspects relating to the acquisition, exploitation and disposal of IP, and are recognised for their skill in putting together complex agreements, designed to prevent disputes and present opportunities for growth. This includes agreements relating to research and development as well as the acquisition, transfer and licensing of IP rights.

### Registration of IP

Where clients require support in the registration of IP rights, we work in partnership with a specialist firm of Trademark and Patent Attorneys. Working together, we provide a seamless service to our clients for the registration and management of UK and global IP rights.

GET IN TOUCH



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## Case studies

### Medical nutrition company

Acting in a trademark and passing off dispute for a medical nutrition company who produce and supply oral nutritional supplements. The claim involves the enforcement of our client's UK trademark rights (which protect its product names) against a competitor. As well as pursuing a claim against the third party infringer which resulted in it agreeing to change and abandon the infringing product names, we also arranged for cancellation proceedings to be filed at the UK Trademark Registry, resulting in the competitor surrendering its UK trade mark registrations.

### Global games producer

Acting as a strategic IP adviser to a global producer and supplier of toys and games. This includes providing strategic risk advice on brand and product designs and defending and pursuing disputes relating to trademarks, design rights and copyright. We have provided bespoke IP training to the in-house design team on the development of new products and brands. Our work with this client has resulted in an overall improvement in its IP litigation risk profile.

### Gateshead Council

Supporting Gateshead Council on their investment in the development of an Ibis and Novotel branded hotel complex comprising part a major arena development at Gateshead Quays. This includes arrangements with the brand owner Accor for brand licensing and brand management and support, including development and design sign-off, operational protocol development, IP protection commitments and subcontracted manager brand protection flow-down arrangements.

### Council supplier

Advising a company which manages a number of entertainment and exhibition centres on behalf of a Council on a range of IP issues. Recent examples of work include advice in relation to a copyright dispute with a film company and advising on new naming rights for a venue with associated sponsorship rights.



# Non complex finance and investment

GET IN TOUCH



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## How we can help you

We regularly advise a variety of central and local government, Combined Authorities, LEPs and other stakeholders and bodies on the following key areas:

- loans, lending and borrowing generally;
- guarantees and security arrangements;
- prudential borrowing;
- equity investment and grant funding;
- funding and security structures for property transactions, including residential and commercial property development finance;
- project finance, including PFI and PPP projects;
- environmental, social and governance (ESG) aspects of lending and investment transactions;
- Subsidy Control and the market economy operator principle;
- trade and export finance;

- securitisation, bonds and debt capital market transactions;
- transfers of loan assets;
- restructuring of loans, insolvency, security enforcement and recoveries;
- finance litigation generally;
- fraud prevention, detection and recovery;
- FCA regulatory advice; and
- data protection, GDPR, confidentiality breaches.

Our expertise in public sector finance enables us to deliver a wide range of services linked to lending, borrowing and investment transactions by local and combined authorities, government departments and agencies and other public sector bodies and our work for financial institutions enables us to adapt private sector funding solutions for public sector finance transactions and processes.

## Case studies

### Greater Manchester Combined Authority

We acted for the Greater Manchester Combined Authority on the transfer of the central government-funded Greater Manchester Housing Investment Fund from Manchester City Council, including the negotiation of novation agreements with the MHCLG and the legal transfer of loans to private sector developers. Our problem-solving skills were key to resolving technical legal issues for the successful delivery of the project.

### Department for Transport

We advised the Department for Transport on a loan investment to enable the remobilization of a biofuels commissioning plant following the failure of the original project operator. Our work included advice on the structure and documentation for secured loan facilities, and subsidy control compliance, alongside private sector investment.

### Manchester City Council

We advised the Council and GM Combined Authority on the structure and documentation for a mixed equity, loan and grant investment in a medical joint venture start-up as part of a strategic partnership with regional health authorities and education institutions.

Our project management capabilities ensured the efficient delivery of legal and commercial services across multiple work streams in line with project timelines and cost parameters.

### Manchester City Council

We acted for the Council on the negotiation and completion of loan and security documents for site acquisition and redevelopment of a city centre campus for the UK's largest further education provider, alongside public sector grant funds and private sector development finance. Our experience of both public and private sector objectives was critical to the delivery for our client of a funding structure which was robust but workable for all parties in practice.

### Warrington Borough Council

We advised the Council on its infrastructure funding arrangements for the Omega project, one of the largest mixed-use developments in the North West of England, which was implemented with the private developer, Homes England and the Local Enterprise Partnership. Our work included the successful negotiation and completion of a bespoke funding structure through our understanding of the strategic objectives of all partners.

# Outsourcing

## How we can help you

Our multi-disciplinary outsourcing team regularly advises Government and the public sector in these areas:

- the statutory basis for the delivery of services/functions;
- procurement strategy when outsourcing services;
- the implementation of procurements to select preferred suppliers (and how to deal with challenges);
- compliance with public sector equality duties, consultation and other regulatory requirements;
- the governance arrangements required to support new delivery arrangements;
- the contractualisation of outsourced services (often working hand in glove with other external advisors and in house teams) in a plain English contract that is clear, understandable and enforceable;
- change management to record variations to contracts and compliance with the procurement regulations applicable in the circumstances;
- the incentivisation of service providers to deliver carbon efficient solutions;
- the delivery of social value, Levelling Up priorities, prompt payment of providers and local employment;
- contract maximisation (ensuring service delivery/value is as anticipated);
- data analytics (using our Mindcrest services) to inform KPIs and other performance mechanisms; and
- the winding up/exiting from outsourced arrangements and procurement of replacement providers or insourcing of previously outsourced services.

We understand that the outsourcing of sensitive services to third parties needs to be handled with care and withstand scrutiny from third parties. It needs to deliver for service users, and as such we know the importance of getting the commercial deal right and we will work hard to align the commercial, financial and legal documents.

## GET IN TOUCH



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## Case studies

### Scottish Government

We advised Scottish Government on its Reaching 100% (R100) broadband programme. It involved advising on all aspects of a £600m outsourcing for the rollout of next generation broadband infrastructure, including the design and conduct of the regulated procurement process and the award of contracts across three Lots, in line with applicable Subsidy Control requirements and deadlines.

### Welsh Government

We advised Welsh Government on the outsourcing of the delivery of its Global Centre of Rail Excellence project to a NewCo in order to attract significant investment from the private sector and deliver hundreds of new jobs.

### Cornwall Council

We advised the Council on the procurement and contract documentation involved in a second generation £300m outsourcing, including c. £35m of new assets, the transfer of 17 different depots and bespoke storage facilities, the merging of 3 separate arrangements, the transfer of around 600 staff and a novel pensions arrangement.

### Severn Trent Water Limited (STW)

We advised STW in relation to the outsourcing of its entire telecommunications estate. This was a multi-year, multi-million (8 figures) project that involved two parallel procurements for the provision of: (i) managed core network telecommunications services encompassing WAN, LAN (fixed and wireless) and fixed voice; and (ii) mobile telecommunication services.

### Serco

We advised Serco on its bids, operation, variation and exit of material outsourced services. These have included advising on the DFRMO bid (MoD), Asylum Accommodation Seekers Contracts (Home Office), various Ferries Contracts (Transport for Scotland), Cycle Hire (Transport for London), FM contracts, waste collection, citizen services (various Central Government departments), various prison and immigration centre contracts (Home Office).

# Partnership law

## How we can help you

We are the first and only law firm to be listed on the main London Stock Exchange and therefore have a unique perspective of the intricacies of corporate partnership law, and the regulatory requirements to operate limited partnership structures within a listed company.

Our corporate team can advise on:

- formation and operation of a LLP and LP ownership structures;
- partnership disputes, which require the application of specialist knowledge of partnership law and its impact on the partners and the members;
- mergers and acquisitions of LLP/LPs;
- tax, procurement policy and Subsidy Control issues arising from setting up a LLP/LP;
- governance issues (including how best to deal with potential conflicts of interests, deeds of indemnity for directors);
- public law powers required to form a LLP/LP;
- employment and pension issues arising from transferring employees into and out of a LLP/LP;
- transfer of assets and land to a LLP/LP

in a managed way;

- dissolution and orderly winding up of a LLP/LP owned by the public sector;
- ongoing legal compliance with regulatory requirements (Modern Slavery, Living Wage, ESG, conduct and probity);
- transfer and disposal of a LLP/LPs into the private sector to generate a financial return for the public sector.

Our dedicated company secretarial team provide initial set up advice, ongoing secretarial and governance support to ensure that LLP/LPs comply with all of their duties and obligations in a timely and efficient manner. Many public sector clients find this a very cost efficient and helpful means of outsourcing all of the administrative obligations arising from both the formation and operation of a LLP/LP and value the peace of mind which that brings and which allows the directors to focus on the day to day management and operation of a LLP/LP.

We have also conducted training on partners' duties for new partners so that they are aware of their responsibilities and duties.

GET IN TOUCH



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## Case studies

### Greater Manchester Waste Disposal Authority ("GMWDA")

We advised the councils on their taking over ownership of a corporate entity operating two mechanical biological treatment plants processing around 600,000 tonnes of the county's household waste. The entity was put in place under a £2bn 25 year PFI contract with construction firm Lend Lease and Global Renewables Lancashire Limited. Our corporate, financing, public sector and tax teams advised on the complex corporate acquisition, funding and State aid.

### Scottish Further and Higher Education Funding Council ("SFHEFC")

We advised SFHEFC (the national strategic body responsible for funding teaching and learning research in Scotland's 41 colleges and 19 universities/higher education institutions) in connection with the proposed merger of Stevenson College, Jewel & Esk and Edinburgh's Telford College.

### Visit Scotland

We advised in context of Visit Scotland hosting the 2023 Cycling World Championships, we act for the delivery body which is a new SPV which is a wholly-owned subsidiary of Visit Scotland, negotiating Long Form Host Nation agreement between the Scottish Government and UCI, the rights holder as well as advising on the governance structure for the event incorporating Scottish Cabinet Ministers etc.

### Capita plc

We acted for Capita on its acquisition from The Department of Communities and Local Government of the UK Fire Service College, the Moreton-in-Marsh based national training centre for fire and rescue workers.

# Pensions law

## How we can help you

Our pensions team covers the whole of the UK, advising on the full range of private and public sector pension arrangements, both contentious and non-contentious. Examples of the areas that we can help you in are as follows:

- providing advice on all of the UK public sector pension schemes on a broad range of issues including construction of benefit provisions, overriding pensions law and investment matters;
- negotiation of pension matters with trade unions;
- advising on the pensions aspects of public sector outsourcing, including New Fair Deal, risk sharing, project agreement negotiation and TUPE/Beckmann rights;
- the drafting of statutory instruments and primary legislation;
- provision of analysis and advice in relation to government intervention in the private sector and negotiation with key stakeholders;
- advice in relation to the application of legislative change to public sector pension schemes, such as future changes to schemes in light of the employer cost cap and the *McCloud* judgement relating to age discriminatory practices;
- advice in relation to pension scheme governance matters, including best practice and compliance with the requirements of the Public Sector Pensions Act 2013;
- advice in relation to pension scheme investment matters, such as fund formation, risk analysis, compliance with investment regulations and the negotiation of investment documentation;
- minimising the risk of members losing benefits as a result of pension scheme transfers to fraudulent or high risk pension arrangements through DWF's *PenGuard* enhanced due diligence product;
- pensions related litigation matters, including in relation to member benefit claims, investment issues and court proceedings; and
- interaction with the Pensions Regulator including in relation to information requests, improvement notices and inspections.

GET IN TOUCH



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## Case studies

### Government

Advising Government on strategy in relation to the British Steel Pension Scheme. The extent of BSPS' liabilities made it difficult to secure the continued investment in Tata Steel's UK operations in Wales. Highly technical legal advice was provided on a variety of options including the eventual solution. This was brokered by the Government with numerous stakeholders with assistance from a member of the pensions team and led to a significant reduction in pension liabilities. This enabled investment in TSUK to be secured and the at risk plants to remain open.

### A defence contractor

Advising a major defence contractor in relation to the renegotiation of a long standing contract with the MOD. The original project agreement dated back to the 1990s and was vague on the apportionment of pension liabilities. The contractor had set up a "mirror image" pension scheme to provide benefits for ex-MOD employees. This scheme had a substantial funding deficit. The original project agreement was not clear on how this should be treated either on

an ongoing basis or at termination. We assisted with negotiations and in finding a solution which was amenable to all parties.

### A project company

We advised a Project Company in relation to the termination of a sub-contractor and retender for services. This involved negotiation with the Authority, the outgoing contractor and the new contractor on the apportionment of pension liabilities. We were able to secure the correct treatment of exit liabilities from the outgoing contractor and ensure that liabilities under the original project agreement were seamlessly passed down to the new contractor.

### Cornwall Council

Advising Cornwall Council on all aspects from procurement to completion of the largest waste collection contract in the UK. We worked closely with the in-house team at every stage of the process and helped ensure a smooth process to completion.

# Planning law

## How we can help you

- planning strategy - options and planning appraisals to support business cases;
- stakeholder engagement strategies, including negotiation of statements of common ground and planning performance agreements (PPAs);
- development consent orders (DCO), transport works act orders (TWAO), compulsory purchase orders (CPO), side road orders (SRO), and marine management organisation (MMO) licences - including appeals/examination and public inquiries, hearings and written representations and implementation of confirmed orders;
- promotion of town and country planning (TCPA) applications, including on appeal and secretary of state call-in for operational development and change of use;
- screening, scoping and production of EIA including legal review of environmental statements and other supporting planning/DCO/TWAO application documents;
- permitted development rights including promotion of certificates of lawfulness;
- planning conditions advice, negotiation and discharge;
- negotiation of s106 planning obligation agreements and unilateral undertakings;
- Habitat Regulations (HRA) screening, scoping and legal review;
- biodiversity net gain advice, strategies and related agreements;
- town and village greens advice and defending applications;
- special category land advice, strategies and special parliamentary procedure;
- assets of community value and crown land advice;
- high court litigation, including judicial reviews and statutory challenges;
- negotiation of highway agreements and promotion of stopping-up orders;
- land compensation claims, including references to Lands Chamber; and
- negotiation of asset protection measures, including asset protection agreements, interface, crossing, termination and diversion agreements.

## GET IN TOUCH



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## Case studies

### York Central – for Homes England, Network Rail, York City Council

Devising a planning and highway closure strategy for a politically sensitive significant and part Housing Infrastructure Funded multi-owned mixed use regeneration scheme with 2,500 new homes and enabling infrastructure as part of collaborative site promotion including partnership working, viability assessment, legal review of application documents including EIA, successful promotion of an outline planning permission and negotiation of s106 agreement.

Promotion of a capacity upgrade to **A5036 Princess Way** dual carriageway between Port of Liverpool and M58 Motorway for **National Highways** as part of DfT's Road Improvement Scheme (RIS) providing strategic planning advice on options appraisal (including supporting DfT's successful defence of judicial review challenge by host authority).

### Metro Futures Programme

Advising **Nexus** on its consenting strategy to a time limited Transforming Cities Fund redevelopment of the Metro network (depots, track and stations) including application of TWAO, TCPA

and permitted development rights powers and successful promotion of certificates of lawfulness minimising the need for express planning applications and successfully screening out EIA and HRA.

### West Bar CPO

Advising **Sheffield City Council** in relation to land acquisition strategy, promotion of a successful outline planning permission and promotion of a CPO at inquiry and associated SUO to deliver a landmark office led city centre redevelopment and as part of wider major road and pedestrian/cycle connectivity.

### National Grid, Cadent and Highways England

Advising in relation to strategy and negotiation of a number of asset protection and interface, crossing, termination and diversion agreements against the effects of third party major infrastructure projects promoted under DCO, TWAO and CPO powers comprising transport and energy related schemes on its gas, electricity and strategic road network assets.

# Projects/PFI/PPP

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## How we can help you

The DWF Projects team is a national multi-disciplinary team which provides advice to Central and Local Government clients and other sector bodies in the procurement, modification, termination and delivery of major PPP/PFI projects.

We have a proven track record of guiding our clients through the legal and commercial issues which arise at each stage of a public procurement.

In addition to advising on projects and infrastructure matters, the contractual arrangements, the procurement, early termination and expiry of such arrangements, the DWF Projects team can co-ordinate expert legal advice, during the end to end process, from the following disciplines:

- environmental law;
  - banking and finance law;
  - property real estate;
  - IP/IT and data protection;
  - litigation and dispute resolution;
  - tax: SDLT, VAT and corporation tax;
  - employment and staff reorganisation, together with business process re-engineering and secondment arrangements;
  - pensions;
  - corporate, including corporate joint venture arrangements;
  - restructuring and insolvency; and
  - administrative and public law.
- State aid / Subsidy Control;
  - energy;
  - insurance;

GET IN TOUCH



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## Case studies

### Greater Manchester Combined Authority (GMCA)

We have advised GMCA on the options for making significant savings in their £4bn Waste PFI Contract. It involved the development of bespoke terms for the winding up of c.1,200 contracts, repayment of £550m of capital investment, the TUPE and pensions arrangements for over 600 staff and the renegotiation of the Runcorn EfW project, ultimately resulting in savings to GMCA of around £290m.

### Serco

We have advised Serco on a number of its PFI/PPP projects, with the MoD, the Home Office and the NHS advising on bids, operation, variation and exit, together with a number of local authority PPPs, ranging from transport to waste. We have also advised Serco on a number of complex disputes that have arisen in respect of the operation of a number of PFI/PPP projects.

### Cornwall Council Waste Collection and Street Cleansing PPP

We advised the Council throughout the CD process on the procurement and contract documentation involved in a

second generation outsourcing. The project involved the acquisition of c. £35m of new assets, the transfer of 17 different depots and bespoke storage facilities, the merging of 3 separate arrangements, the transfer of around 600 staff and a novel pensions arrangement. The project also needed to dovetail with the Council's waste PFI disposal arrangement.

### Aberdeen City Council

We are advising Aberdeen City Council on the Torre District Heating Project. This is a follow on to the advice DWF provided to Aberdeen City Council, Aberdeenshire and Moray Councils on the procurement of their £120m joint energy from waste development in Aberdeen.

### Wrexham CBC Waste PFI

Advising Wrexham CBC on the implementation of a Change in Law, requiring the development and modification of their Waste PFI Project. This was the second major variation to the Waste PFI Project.

# Public law

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## How we can help you

We regularly advise on administrative and public law matters in order to safeguard decision making and ensure that public bodies can deliver policies and priorities.

We advise on:

- the powers (and procedural compliance) that public bodies can rely on in order to deliver their functions;
- vires opinions on complex legal structures to deliver major infrastructure, regeneration and outsourced projects;
- consultation and public sector equality duties to safeguard decision making;
- effective decision making and changes to existing arrangements;
- effective reporting and building of evidence to enable reliable decisions to be taken;
- challenge-proofing intended decisions to safeguard against risk of litigation;

- conducting investigations and audits into officer and elected member conduct, and decision making on major projects;
- reputational matters arising from individual incidents using our 24/7 *Crisis Response* service supported by public law experts;
- defending and prosecuting clawback claims in public funding situations (including dealing with EU institutions);
- responding to challenges to public bodies' decision making (JR, Ombudsman, independent enquiries, procurement challenges); and
- responding to public inquiries and police investigations.

Our administrative and public specialists are supported by lawyers from our litigation, procurement, Subsidy Control, regulatory, data protection, health and safety teams.

GET IN TOUCH



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## Case studies

### Royal Borough of Kensington & Chelsea (RBK&C) on Grenfell

Advising RBK&C in relation to the Public Inquiry and Metropolitan Police Investigation arising from the fire at Grenfell Tower on 14 June 2017, including advising on an extensive collection and disclosure process involving over 14 million documents, disclosure therefrom of around 60,000 relevant documents and preparing over 70 witness statements, responding to 15 complex and wide ranging document requests, advising on and assisting with a large number of FOI requests, providing a substantive document provided to the Police responding to over 100 questions, advising Executive Officers and elected members, as well as managing and guiding RBK&C and its employees through Phase 1 and 2 of the Public Inquiry. This was all undertaken whilst applying an open, transparent approach in line with RBK&C's commitment to candour, which is helping the client to rebuild trust with residents of the Borough.

### Greater Manchester Combined Authority (GMCA)

Advised GMCA in developing and bringing innovative judicial review proceedings in respect of review of DEFRA's decision to withdraw Waste Infrastructure Credits ("WIC") upon termination of their £4bn Waste PFI. The Judicial Review involved an claim by GMCA for an enforceable legitimate interest as a result of a breach of process and resulted in a payment of £15m in settlement by DEFRA.

### Durham Council

Acting for Durham Council in the defence of a claim for damages by Max Recycle arising from alleged breach of State aid rules issued concurrently with a complaint to the European Commission. The High Court emphatically rejected the claim.

### South Yorkshire Police

DWF advised South Yorkshire Police ('SYP') in a high-profile case regarding the credibility of police force's employees. Our work resulted in securing a favourable judgment for the SYP in a claim brought by Sir Cliff Richard against the BBC and SYP for infringement of his privacy rights.

# Public procurement law

## How we can help you

We regularly advise public and private sector bodies on compliance (and associated challenges) with the Public Contracts Regulations 2015, the Utilities Contracts Regulations 2016, the Concession Contracts Regulations 2016, and the Defence and Security Regulations 2011 (and other supporting guidance and caselaw including at EU level).

We advise on:

- soft market testing prior to formal procurement;
  - procurement strategies;
  - conducting compliant procurement procedures (from start to finish);
  - the incentivisation of service providers to deliver carbon efficient solutions through evaluation criteria;
  - the delivery of social value/ ESG, Levelling Up priorities, prompt payment of providers and local employment through evaluation criteria;
  - the contractualisation of outsourced services (often working hand in glove with other external advisors and in house teams) in a plain English contract that is clear, understandable and enforceable;
  - change management to record variations to contracts and compliance
- with the procurement regulations applicable in the circumstances;
  - responding to challenges to procurement decisions;
  - safeguarding in-house provision of services (e.g. regulation 12 structures and collaboration agreements between public bodies);
  - land deal exemptions relating to regeneration and housing projects and related risk mitigation strategies;
  - sub-threshold procurements;
  - subsidised contracts and related obligations on beneficiaries of public funds;
  - concession, defence, and/or utilities procurements;
  - audits and inquiries into alleged procurement irregularities (and clawback); and
  - investigations into public procurement procedures.

We can advise to ensure that procurements deliver government priorities (Levelling Up, social value, local employment, prompt payment, and carbon efficient solutions), alongside maximum competition to ensure value for money outcomes on a risk-managed basis.

GET IN TOUCH



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## Case studies

### North East Combined Authority (NECA)

Advising NECA on the setting up of a £50m recycling Commercial Property Investment Fund involving a competitive dialogue procurement of an operating agent to administer the fund.

### Cornwall Council

Advising Cornwall Council on its successful defence of a procurement challenge from the Royal Cornwall Hospitals NHS Trust.

### States of Jersey and various Local Authorities (RB Greenwich, Swansea, Conwy, Wirral MBC, Wakefield, Bradford, Manchester Council)

Advising various Contracting Authorities on the procurement strategies and delivery of major regeneration/ infrastructure projects, office accommodation projects, leisure/library and other public buildings, Future High Street Fund and other Levelling Up grant funded projects across the UK.

### Welsh Government

Advising Welsh Government on the procurement implications arising from the largest privately funded development in Wales, Cardiff Central Square, in partnership with Rightacres Property and Legal and General the £400m regeneration scheme of Cardiff Interchange will include 100,000ft<sup>2</sup> of Grade A office space; the much anticipated new bus station; and 318 'build to rent' apartments.

### Scottish Government

Advised Scottish Government on its Reaching 100% (R100) broadband programme. It involved advising on the procurement, drafting, negotiation and award of contracts for a £600m broadband infrastructure project. The contracts were based on a template form published by DCMS for broadband rollout projects, which we tailored to reflect the Scottish Government's key strategic objectives and policies, then negotiated with multiple bidders as a competitive dialogue procurement.



# Real estate and real estate finance

## How we can help you

DWF's global real estate team includes over 135 solicitors and over 30 paralegals advising across all UK jurisdictions.

We advise a wide range of Government and Public Sector clients and the multiple other stakeholders engaging with them in relation to:

- grant funding programmes such as the Levelling Up Fund and related agreements for improvement of place and new investment;
- office rationalisation and office accommodation projects;
- property development including regeneration projects;
- all aspects of property management including leases, lease renewals, applications for consent, licences, re-gears and disposals, surrenders, and notices;
- port and airport infrastructure;
- rail and road infrastructure;
- energy (including renewable energy) infrastructure;
- commercial, mixed use and residential real estate including industrial, retail, office, leisure, student accommodation and affordable housing;
- acquisition and disposal (freehold and leasehold including relevant tax advice);
- tax efficient structures for real estate investment and disposal;

- public buildings and emergency services;
- sports, leisure and entertainment venues;
- health and education services;
- culture and heritage investment and protection; urban/infrastructure regeneration projects;
- housing (including social housing);
- real estate finance;
- planning, CPO, land assembly strategy and s.106 agreements;
- investment/real estate finance and restructuring;
- International finance and related securities; and
- real estate litigation including dilapidation claims, repair obligations, adverse possession, prescriptive easements, exercise of break clauses and serving of notices.

Our Real Estate team work hand in glove with our Government and Public Sector experts to ensure that transactions satisfy vires, fiduciary duties, procurement and Subsidy Control requirements.

Our Asset Management Centre works alongside our real estate team to deliver volume, routine asset management transactions across the UK – delivering value for money and flexibility through experienced paralegals.

GET IN TOUCH



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## Case studies

### Greater Manchester Housing Investment Fund

Advising on loans to private sector developers for residential development in Greater Manchester, including negotiation of loan and security documentation and real estate and construction due diligence.

### Public body

Advising in relation to a £102m infrastructure and link road project and the delivery of over 4000 homes, including acquisition of land through Option Agreements, Conditional Contracts and associated deeds of easement - including a collaboration and equalisation agreement with adjoining land owners and developers.

### Selby District Council

Advising on land acquisition, compulsory purchase and planning strategies to support a multi-modal transport led connectivity improvement scheme at Selby Train Station to stimulate wider city centre regeneration to a challenging TCF programme.

### Severn Trent

Appointed as a supplier for their c. 4,000 site property portfolio supporting the in-house team on all aspects of property management and strategic acquisitions together with more specialist and strategic advice on prescriptive easements and adverse possession registrations to protect the network, advice on their

extensive capital projects programme and litigation matters including exercising break clauses, dilapidations claims and the exercise of statutory powers.

### Wolverhampton City Council

Advising on its Interchange Project including the construction of £150m new railway station entrance, multi-storey car park extension and continuation of the Midland Metro line extension works to the railway station. Provided various commercial real estate advice including property transfers, land assembly and option, clawback, overage, development, funding and grant agreements together with a full construction package.

### Welsh Government

Advising on its Global Centre of Rail Excellence project. Advising on real estate and a procurement to deliver a rail testing complex with 2 electrified oval tracks. It will allow for testing speeds of up to 110mph with the option for a tunnel section and a full platform environment for testing and training. Proposals include: a large, well-equipped maintenance facility, secure storage for around 400 vehicles, a decommissioning facility and an R&D innovation accelerator, education centre with labs, and office space and training facilities in a dynamic environment.

# Restructuring / insolvency

## How we can help you

We have experts in areas that often prove crucial for public sector organisations in distressed situations, such as finance, litigation and dispute resolution, regulation, real estate, pensions, tax and employment.

We work with clients across multiple sectors, including retail, technology, hospitality, public sector and regulatory financial services and real estate. Our team advises lenders, management teams, boards, capital investors and other key stakeholders across a wide range of complex domestic and international restructuring matters.

This includes covenant breaches/other facility agreement defaults; security reviews; government backed schemes; debt restructuring and capital restructuring; formal insolvency processes; pre-packs; administration sales and acquisitions; distressed financing and asset based lending; new moratorium and restructuring plans; and insolvency litigation fraud and asset tracing.

We regularly advise local authorities and other public bodies on restructuring and insolvency matters. Our key principles and recent experience involve the following:

- the insolvency of a supplier in any supply chain can be devastating. We have experience of dealing with small and large failures;
- major projects sometimes need restructuring to avoid insolvency. Our experts work as one team to deliver effective solutions;
- prevention is better than cure. We help structure projects to reduce insolvency risk and protect assets from the outset; and
- extensive public sector experience helps us put advice in a regulatory, practical and commercial context, leading to realistic and achievable solutions.

## GET IN TOUCH



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## Case studies

### Liverpool City Council

We advised in making demand and enforcing corporate and personal security against a £250k facility for a local festival. This involved the liquidation of various companies connected to the borrower on behalf of the Council and enforcement of a personal guarantee against the director resulting in a significant return for the Council.

### Salford City Council

Acted with regards to its creditor claim in the CVA of Salford Red Devils Rugby League Team which included negotiations with various parties relating to use of the AJ Bell Stadium, of which the Council are a major stakeholder.

### Liverpool John Moores University

Advised on some solvent liquidations of group entities as part of a wider restructuring of its intra-group debts and property, resulting in a improved balance sheet for the university.

### Avro Energy Limited

The team advised the joint administrators of Avro Energy Limited and worked with OFGEM to transfer the supply of gas and electricity to a new supplier of last resort. We drafted the transitional arrangement and debt purchase documents required to procure the smooth transition of the accounts of over 560,000 customers to regularise their supply and honour their credit balances.

### Dolphin Financial

Advised the joint administrators of Dolphin Financial (UK) Limited and worked with the FCA and FSCS to assist the return of client investments and funds to thousands of investors. This matter also involves our working with and advising The Insolvency Service in claims against directors and the former management and ultimate owners of the company.

# Retained EU law and EU law

## How we can help you

Our EU law specialists provide the full range of advisory services, including EU regulatory and non-tariff barriers to trade, EU and WTO trade law, Competition Law, State aid and UK Subsidy Control, Public Procurement, trade defence investigations, customs and EU Funds advice, with a long history of advising in these areas pre-Brexit and across the withdrawal period and now since the conclusion and implementation of the EU/UK Trade and Cooperation Agreement (plus Northern Ireland Protocol), and now the Subsidy Control Act 2022.

What sets us apart, particularly in the UK, is that our advisers have significant personal experience of working within the European Commission (including on secondment from MHCLG/DLUHC) or for UK public bodies applying EU law, appearing before the European Court of Auditors, successfully pleading before the European Courts in Luxembourg, and working with the European Commission in a wide variety of different investigations and procedures, from clearing State aid notifications to pursuing regulatory complaints, to handling anti-dumping investigations to representing the Commission in European Court cases. As a result we not only have insight into the detail of relevant law, but also the procedures and political contexts around it, and how it may be handled from inside government, and between national governments and the Commission. We

also have experience acting on behalf of sovereign governments engaging with the EU from the outside, as the UK is now required to do.

Our team includes several lawyers with long experience of living and working in Brussels and being immersed in EU law for over 20 years. Our UK team also retains dual EU/UK qualifications. The UK team is also bolstered by a team of EU law experts across the European continent, through Brussels, Paris, Madrid, Warsaw, Berlin and Dublin.

The team has advised on the full range of issues related to “Brexit” since the 2016 referendum and has advised and spoken substantively on the new EU/UK Trade and Cooperation Agreement and related enactments into national law. Such work has included detailed work on rules of origin trade requirements and subsidy control. Our lawyers recently appeared before the House of Commons Select Committee to give expert evidence in the development of the new Subsidy Control Bill, particularly with reference to past EU law. Our team of lawyers is particularly highly sought after in relation to any questions of Subsidy Control and related elements of retained EU law (eg. Northern Ireland Protocol and State aid) and our work in harness with our EU-based colleagues ensures we retain the highest level of EU law expertise post-Brexit.

GET IN TOUCH



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## Case studies

### Successfully defending ERDF project before European Court of Auditors

We advised a private sector developer accused of breaching EU law (procurement) following an audit, from which a claim for 100% clawback ensued. We acted for the developer in issuing national court proceedings against MHCLG to demonstrate no material breach of EU law and no damage to the fund. This resulted in withdrawal of the claim for clawback. This work also included engaging with the European Commission and Court of Auditors to defend the State aid analysis and work done at the time of the project to remain compliant.

### Successful defence of parallel UK court and European Commission proceedings

We successfully defended Durham Council in parallel High Court and European Commission proceedings alleging use of unlawful State aid and claiming *Franovich* damages (see *Max Recycle v Durham Council*). We were successful in having all claims struck out and securing full costs. The case contained particular points of interest from a jurisdictional perspective, crossing through the period of withdrawal from the EU and transition to a new regime. This includes some of the first addressing of the UK's new Subsidy Control regime by the UK national court.

### Advising an EU Member State Government on compliance in ERDF audit

Our EU audit response team was instructed by an EU Member State government to assist it to prepare for a European Commission audit. Our review identified compliance issues but also advised on steps that could be taken to avoid an interruption to the programme. This included providing training and advice on how to change monitoring arrangements. The Commission were assured by the steps taken and an interruption was avoided.

### Advising a leading dairy manufacturer to defend labelling

Our client was subject to a series of challenges (found to be baseless) to the legality of its product by a competitor. This included being the subject of proposed EU infraction proceedings against the UK government. Drawing on our industry leading regulatory experience, we compiled evidence including expert and former CJEU Judges' opinions to support the legality of our client's product. We met with regulators, not only from the EU but also domestic and other member states, to persuade them of our client's product and its legality. After 2 years of negotiations we persuaded the EU that the product was lawfully named and labelled and no action was taken.

# Tax law

## How we can help you

We have extensive experience advising public bodies on all aspects of taxation arising on a wide range of projects, either acting independently or as part of a wider joint venture with a private sector partner. Our industry recognised multi-disciplinary team of tax specialists, which includes four partners, is located throughout the UK including Scotland. The tax team acts as a coherent single team on a UK-wide basis to provide a seamless service to all of DWF's national and international clients.

Our areas of specialism include:

- tax issues and efficiencies arising on public sector corporate structuring (including joint venture structures) or transfer of assets;
- tax issues that arise on investment and development projects including SDLT, LTT, LBTT, VAT, capital allowances (including special rules relating to Freeports) and the Construction Industry Scheme;
- employment taxes including IR35 and off-payroll working rules, termination payments and settlement agreements;
- customs procedures and liabilities including inward processing, preferential rules of origin and classification; and

- tax issues arising in commercial contracts.

We properly consider the various (and sometimes competing) tax implications from the perspective of the public body.

Where relevant, we also consider if there may be tax implications arising on other stakeholders engaged on a project to pre-empt any risk of a project not proceeding.

We also have extensive experience in:

- drafting and negotiating tax provisions;
- advising on the availability of any statutory reliefs;
- registering entities for VAT and/or preparing and notifying HM Revenue and Customs of options to tax over land;
- applying to HM Revenue and Customs for clearance where the statutory position is unclear;
- tax litigation, including enquiries and investigations; and
- providing legal opinions and reports.

We act closely with our colleagues in other practice areas using our sector knowledge to ensure that our tax advice takes into consideration the commercial context.

## GET IN TOUCH



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## Case studies

### Welsh Government – Cardiff Bus Station Redevelopment

We advised the Welsh Government on the tax aspects of the site assembly and complex redevelopment of an integrated transport hub at Cardiff including a new 14-bay bus station; c. 100,000 sq ft of office space above the interchange; a PRS scheme of over 318 luxury apartments; and car and cycle parking facilities. We successfully navigated complex tax issues including LTT and VAT on the different aspects of the development for different (public and private sector) parties.

### Gateshead Council – Arena Development

Advising Gateshead Council on the tax aspects of the structure and funding of the regeneration of an area of waterfront in Gateshead by the development of an arena complex and associated commercial leisure, retail and offices, with an anticipated development cost of c. £300m involving a funding lease structure and substantial grant funding from the North of Tyne Combined Authority.

### Public/Private Joint Venture – Mixed Use Development

Advising the substantial property development subsidiary of a fully-listed PLC on the tax aspects of a complex joint venture development structure with a local authority pension fund, with the aim of regenerating an area of a substantial Northern city through development of an office-led mixed use development with an anticipated development cost of c. £100m.

### Homes England – Large site assembly and Development

We advised Homes England on the tax aspects of a site assembly and development of infrastructure for a substantial site in the Midlands. We ensured that the tax position of both Homes England and its counterparties were considered to ensure that the project remained viable.

# Aviation and airports

## How we can help you

We can advise Government and Public sector bodies on these key areas:

- planning, policy and construction of infrastructure projects;
- funding for airport infrastructure including related Subsidy Control;
- conclusion of public service obligations (PSOs) and related contracts;
- international trade issues including customs, sanctions legislation and related procedures;
- consent orders;
- liability and risk;
- insurance programmes;
- regulation;
- complex transactions;
- operational arrangements;

- management arrangements;
- project finance, including PFI and PPP projects; and
- disputes.

Our expertise includes advising governments on strategic and often politically significant investment programmes, as well as regulatory and compliance matters.

We advise airlines and airports on development and planning issues, development and redevelopments, on matters in connection with aircraft and all aspects of the management and operations of airports. We have recently advised on disputes and judicial reviews involving aircraft and airports, including those arising from expansion projects.

## GET IN TOUCH



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## Case studies

### UK government on Heathrow expansion

We advised the Department for Transport (DfT) on the high profile and politically significant Airport Capacity Programme, advising throughout the process since the Airport Commission's Report in 2015, considering the airport capacity in the South East of England and whether this should take place at Heathrow or Gatwick.

### Dublin Airport Authority

We advised Dublin Airport Authority on its €40m, 4 year project which includes a cargo handler warehousing redevelopment project. We advised on the range of project risks and on appropriate contracting model to ensure an appropriate risk allocation throughout. NEC4 was selected for the construction contracts.

### British Airways

We advised British Airways on its strategy, land negotiations and response to Heathrow Airport Limited's proposed development consent order for the third Runway, Heathrow associated with the relocation of its £1m sq ft HQ office village and reconfiguration of its operational assets at Terminal 5.

### UK airport expansion project

We acted for the main civils contractor in relation to a c. £75m dispute arising out of a major UK airport expansion project. We supported the client's commercial team on a day to day basis for a period of c. 12 months, preparing all claims documents, including all delay and quantum analysis, resulting in a successful commercial outcome for the client without the need for formal proceedings.

### Dublin Airport Authority (now DAA)

We advise DAA through its subsidiaries daa International Limited (daal) and Aer Rianta International (ARI) on its Middle East (all Saudi Arabia) airport management bids and contract negotiations, including the management arrangements for a newly constructed terminal at Riyadh International Airport (and subsequent service extension across the airport generally) and retail and customs management at Riyadh International Airport.

# Charities

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## How we can help you

We have a multi-disciplinary team who advise and assist charities, not for profit organisations and their counterparties.

Our experience includes advising on English charity law, corporate, governance, compliance, powers, procedure and operational management, including in the context of structuring/restructuring their activities and investments, the incorporation of charities, and tax and trust aspects.

Our extensive experience across everyone from corporates, local government, banks, trusts, individuals, families and family offices, on their charity law needs ensures joined-up advice.

Our clients have encompassed substantial educational and other exempt charitable bodies, corporate charities with substantial “primary purpose” trades and charitable

trusts with extensive investment portfolios.

Our Private Capital team advises high-net worth individuals and families on the creation of new charities, and we also provide charity tax return and compliance services as required. We regularly advise on the establishment of charities for individuals and families and the options available.

More recently, we have advised a number of substantial existing charities on a conversion from an unincorporated association or charitable trust to a charitable incorporated organisation or charitable company, offering greater protection to charity trustees, as well as other benefits.

## GET IN TOUCH



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## Case studies

### Life Leisure

Life Leisure is a charitable company comprising the operation of a number of sports centres in the North West of England. DWF advised on the multi-million pound acquisition in corporate form of the freehold to one of its leasehold sports centres, enabling them to realise significant savings. Working with Life Leisure’s executive team and its board, our advice included corporate finance, vires, charities, real estate and tax aspects in structuring and realising the acquisition.

### Magenta Housing Association

Advising Magenta Housing Association, the charitable recipient of a large-scale voluntary transfer of local authority housing stock, of the corporate, vires, tax and charities regulatory aspects of the incorporation of subsidiary entities for development for market sale, development for market rent, charitable letting and repair and refurbishment of housing stock. The proposed structures enabled Magenta to generate a greater return and maintain the tax advantages of charitable status.

### A charitable secondary school

Advising the trustees of a charitable private secondary school regarding their ability to enter into a loan facility, including the necessary consolidation and ratification of aged and incomplete trust documentation. Our advice enabled the loan to be taken and provided the trustees with greater certainty as to their powers.

### South Tyneside Housing Ventures Trust Limited

Advising South Tyneside Housing Ventures Trust Limited (“STHVTL”), a local authority-controlled company, as to whether it satisfied or could satisfy the requirements of charitable status, the identification and process for conversion to a suitable charitable body and the regulatory framework and additional compliance obligations which would be required following conversion. Our advice enabled STHVTL to access the benefits of charitable status.

# Children and vulnerable adults

## How we can help you

We have a specialist team of lawyers who have long experience advising and supporting public bodies on the following matters:

- sexual abuse (care and none care setting);
- physical assault by or upon children or vulnerable adults;
- child sexual exploitation (CSE);
- claims under the Modern Slavery Act 2015 (Human trafficking/exploitation);
- consent, particularly in the case of vulnerable adults;
- claims against social services professionals including failure to remove, Human Rights Act claims and claims relating to the negligent provision of the local authority's social welfare function to children once accepted into care;
- failure to diagnose;
- claims under the Equality Act 2010;
- stress/bullying/harassment claims from social work/education professionals;

- inquests and civil claims involving death of service users (in residential care, or those being managed, for example, by mental health services and take their own lives);
- inquests and civil claims involving service users causing the death of another person;
- deprivation of liberty claims - service users being detained in care;
- specialised advice on subject access requests, data protection, freedom of information issues, judicial review and public inquiries, health and safety and other regulatory issues; and
- personal injury and insurance.

The service provision extends to advice prior to receipt of a claim, pre-litigation investigation and claims handling, advice on liability, quantum and strategy working alongside in-house legal teams and the handling of litigation on behalf of public sector clients on direct instructions or in conjunction with instructions from insurers. We can handle cross jurisdiction/countries including Scotland and International.

GET IN TOUCH



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## Case studies

### Coventry City Council

Acted for Coventry City Council and its insurers in successful defence of the first civil trial ever to consider the question of whether a duty of care is owed by a local authority in the conduct of its social care function to children in the community – also the largest failure to remove claim ever pleaded (in excess of £40m).

### Adult social services

Acted on behalf of Adult Social Services and Social workers employed by the local authority to represent them at an Inquest following the death of a member of the public when a mental health patient tragically assaulted this innocent party in a frenzied attack during an episode of psychosis. Managed to control and limit impact of adjournment and contribute to bringing matter to a swift conclusion following a late change of representation from in-house legal to DWF.

### Local authority in connection with the death of a service user

Acted on behalf of local authority which in partnership with the local health board provided social and psychiatric

service in connection with the death by suicide of a young service user. DWF was instructed to support the in-house legal team through the Inquest process and to work with their Adult and Social Services Care Team with responsibility for coordinating the deceased's care and treatment plan. Advice and support was also provided to the Interim Head of Legal Services post-inquest with the response to the prevention of future death report issued by the Coroner.

### Local authority claim under the Human Rights Act

Instructed directly prior to litigation by local authority clients to act in connection with claim under the Human Rights Act and/or in negligence for failing to protect a young vulnerable adult who was formerly looked after and detained in secure accommodation from abuse and/or exploitation by a drugs gang and who was considered to be a victim of modern slavery.

# Education law

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## How we can help you

Our education team has extensive experience in advising universities, schools and other higher and further education organisations on a number of issues. We work collaboratively with other Teams within DWF Law LLP so we can provide our education sector clients with solutions and advice on any legal issue they face.

Our offering includes advising state and independent schools, and further education providers on the following matters: early years, health and safety, crisis management, school workforce, special educational needs, admissions, exclusions, equalities issues, pupil/student related litigation, clerking independent review/appeal panels, governance, abuse, safeguarding insolvency and reorganisation issues, inspection and regulation, regulatory compliance advice and support with investigations, mediations, policy review and governance, finance and funding issues, higher and further education, student finance, and education-focused charity, contract and property law issues relevant to the educational sector.

Specifically for universities and research organisations (eg. catapults) we have a leading niche practice advising on

government funding in particular for R&D projects and programmes including major collaborations with industry. Such work includes working for and with Innovate UK and with multiple parties in EU programmes FP7 and H2020, including commercial contracts (consortium agreements) and Subsidy Control.

We also act for a large number of independent schools across the UK and run 24/7 crisis helpline for them dealing with a range of crises mainly around safety events, abuse, and reputational concerns.

We have a dedicated team with experience in representing and advising schools on cases dealt with in the First Tier Tribunal for Health, Education and Social Care also known as the SEND Tribunal and the law/guidance around treatment of pupils, including prospective pupils, with additional needs in respect of admissions/exclusions, or concerns over the implementation of EHC Plans and EOTAS support.

We are regularly instructed on complex matters often involving incidents of a sensitive nature and work efficiently and respectively with our clients to resolve those issues.



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GET IN TOUCH

## Case studies

### Leading North West University

We acted for two leading universities collaborating in the development of state of the art sensor and Internet of things technology with an international reputation. The funding was from domestic and ERDF sources and we had to ensure the State aid, corporate governance and real estate advice was within the parameters of strict ERDF requirements including cost eligibility, meeting of deliverables, aid intensity and match funding. The project had central government support in terms of match (DBEIS) and we had to ensure the match was clearly aligned to the ERDF funding terms.

### Large comprehensive school, Barnet, London

We advised in respect of a claim for damages for breach of GDPR and in negligence arising out of an allegation that a former employee of the school recorded members of staff when they were using the changing rooms. The claim was defended and ultimately discontinued before trial.

### Advanced Manufacturing Supply Chain Initiative (AMSCI)

Advised Finance Birmingham (subsidiary of Birmingham City Council) on State aid and Subsidy Control compliance and administration of related grant funding agreements for the c. £500 million grant fund (via the *Regional Growth Fund*) administered for primarily R&D collaborations across industry and the research and education sectors, including many universities and (catapult) research organisations across England.

### An independent school

We received a call via our Crisis Response line following an attempted suicide of a student at an independent school. The student had known serious mental health diagnoses and was receiving ongoing hospital treatment. Despite this, she had been allowed to leave the classroom unaccompanied. We advised the school, who were cooperating with multi-agency Local Authority-led safeguarding investigations, along with separate investigations by NHS England and the CQC. The school maintained good relations with the family and no further action has been taken in respect of their involvement.



# Energy and natural resources

## How we can help you

Our energy team is composed of 150+ fee earners covering the whole gamete of energy law, regulation and practice. We have experienced partners and fee earners covering: public subsidy and procurement law, planning, real estate, energy regulation, energy finance, project/commercial, employment, dispute resolution, tax, corporate and insurance.

Our energy team works as a seamless body to deliver advice in connection with energy related matters. Whether it is energy project structuring; assisting with public subsidy, procurement law; or vires, formation of project-specific special purpose vehicles, advising on energy regulation; such as Electricity and Gas Act licensing for generation and/or supply, market-standard approaches to routes to market; such as power purchase agreements (direct wire, virtual or sleeved), energy purchase and sale, aggregation or arbitrage of energy prices, funded or financed schemes (with public/private sector investment), security arrangements for such funded schemes; or construction, commissioning, operation and maintenance; and associated disputes in connection with the delivery of or ongoing operation and maintenance of an energy generation scheme.

Key attention is always given to current and future regulation, law and market trends. Advice on future-proofing any energy related advice will always be at the fore; such as technological developments (for instance, energy storage, carbon capture use and storage, hydrogen, zero emissions vehicles and associated charging/refuelling infrastructure, behind the meter energy generation, use and management).

We are one team and are well-versed in attending to cross/multi jurisdictional issues, with a strong track record of attending to English and Scots law projects. For instance (see Case Study 1) where our team has delivered key energy projects in Scotland with reference to English law project documents; whilst attending to Scots real estate law. Equally, differing vires and governance rules are considered when attending to devolved government's energy projects (see Case Study 2).

We are energy sector experts – Many of our team have worked in the energy industry, have a detailed understanding of how energy markets operate and know how to ensure energy schemes are “*deliverable*” and “*bankable*”.

GET IN TOUCH



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## Case studies

### **Aberdeen City Council (CC) – Torry Heat Network**

We advised Aberdeen CC on their development of an energy from waste generation project, focusing on project structuring, outsourcing of design, development, construction and operation of the facility. Associated support on the development of a 3 phase district energy scheme covering Torry Region. Focus on project structuring, vires, procurement strategy, heat supply (residential/commercial), design, construction and operation of heat network, application of Heat network Delivery Unit (HNDU) templates to apply to specifics of this scheme. Application of Heat Trust Rules and Heat Networks Scotland Act; associated Scots law real estate issues with access to heat infrastructure in off-takers' premises. Scheme is under procurement.

### **Welsh Electric Vehicle/National Framework**

Following Welsh Government's announcement of its Electric Vehicle (EV) strategy, we have been lead advisor on the development of their road map for implementation of this strategy. Key focus has been on vires, project structuring, use of self-

generated and private-funded renewable energy generation to support EV infrastructure roll out across the County. Development of EV infrastructure hosting arrangements, real estate and planning, electricity licensing support and interface with distribution network operators for connection and supply. Developing national framework for Wales EV infrastructure.

### **Welsh Carbon Capture Utilisation and Storage (CCUS) Road Map**

We are advising on a regulatory road map for Wales to implement CCUS. Applying BEIS' CCUS flow charts and road map to apply to Wales with specific focus on devolved Government's role in connection with planning, development, subsidy control/funding and support for encouraging CCUS in Wales.

### **Greater Manchester Combined Authority (GMCA) Go Neutral**

We are providing strategic advice to structure a 5 year framework to permit GMCA districts to promote low/zero carbon energy generation. Focus on procurement law, energy policy, decarbonisation and creating a flexible framework to facilitate integrated smart energy solutions for GMCA members.

# Food, rural and environmental affairs

## How we can help you

What makes us stand-out is the team's detailed knowledge of the law to assist with compliance **and** when necessary litigate. This, aligned with our knowledge of how the industry works, our work with the OPSS Better Regulation Business Reference Panel, regulators and trade associations as well as private companies, provides us with unparalleled influence in this area - whether in the UK or abroad.

We do not boast about the cases we have taken to court but rather those we have resolved without the need to litigate. We believe the influence of our team in this area is unparalleled. Our members are called upon to give evidence for reviews such as Elliott Review, commentate on matters for BBC and Sky News, and teach EU food law for the EU Commission to Chinese students. Since 2014 the team leader has been recognised by WhosWho which is unprecedented for a solicitor.

As the UK's leading food compliance and litigation practice we are uniquely placed to advise on all farm to fork issues for a wide range of public sector clients including:

- advising on trade disputes between different bodies including Governments and trade associations and private parties;
- supporting with public inquiries and investigations with regulators;

- advising on the Contaminated Land Regime and water pollution issues, including those involving significant damage to the environment;
- advising GLD solicitors in relation to EU food regulation infringement proceedings and trade disputes under WTO;
- advising on all aspects of TCA preferential tariff issues (rules of origin) for EU/UK trade post-Brexit;
- deal with outbreaks of food poisoning, inquest, recalls and the resulting civil claims; and
- assisting suppliers to schools and prisons to understand their food supply chain.

The team carefully scans developments (publishing a weekly update) to ensure clients are aware of the next big issues whilst being able to help navigate the implications of current issues such as the circular economy on government, advising on how it can be leveraged to provide clean energy, and reduce business impact.

GET IN TOUCH



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## Case studies

### A leading dairy product producer

Our client, one of Europe's leading dairy product producers was notified that its product was the subject of proposed infraction proceeding, against the UK government. We met with EU Commission and other member state regulators to demonstrate our client's product and its legality. By doing so we also ensured that no action was taken against the UK Government..

### A leading caterer to public bodies

Our client was one of the leading caterers/suppliers to public bodies (schools/prisons etc.) Multiple branches of our client's operations simultaneously suffered a norovirus outbreak. Civil claims and a regulatory investigation followed. We provided a full crisis response service, worked through the day-to-day issues and devised a common strategy. No regulatory action was taken. The number of claims and financial loss were significantly reduced, recovery opportunities against the supplier were considered and reputation was protected.

retailer and food manufacturers across the UK, EU and US to understand what had happened, deal with recalls and media and public concern. We represented one of the large retailers present evidence to the Parliamentary Select Committee. We also participated in the Elliot Review to provide insights to the law and supply chain to help prevent future incidents.

### Walsall Metropolitan Borough Council (MBC)

We acted for Walsall MBC in relation to the Phoenix10 environmental regeneration project located at Junction10 of the M6 Motorway to recover a major strategic site for the benefit of the West Midlands economy. We helped draft the contracts and environmental liability agreements to ensure that remediation and development works could commence. We also assisted with drafting agreements regarding sourcing bespoke environmental insurance (and dealt with remediation funding and related State aid issues).

# Franchise law

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## How we can help you

We advise public and private sector clients on franchising agreements. Our team has a wealth of experience in advising our clients from a wide range of sectors including rail, hotels, retail and food. Franchises vary significantly depending on the sector, value, risk and level of control retained by a franchisor. Our advisory teams are multi-disciplinary to advise on the many facets that are relevant to a franchise operation including IP, real estate, regulatory, tax and commercial specialists to ensure an integrated service offering.

We support our clients through:

- drafting bespoke franchise agreements to cater for the business being franchised, including master franchise arrangements that provide for sub-franchises;
- reviewing and marking up any standard franchise agreements supplied by the other party including any terms and conditions;
- advising on the interpretation of franchise agreements;
- negotiating franchising agreements to finalisation;
- advising on complex intellectual property rights that arise within franchising relationships including brand protection and ownership of IP;
- advising on any commercial property interests that can arise within a franchise business;
- advising on deed of variations to franchise agreements;
- advising on dispute resolution, mediation and ADR procedures;
- advising on data protection, freedom of information and other regulatory compliance; and
- bringing franchise agreements to an end whilst avoiding expensive litigation disputes; and
- we can also bring to bear our legal process specialists and the use of standard form documents and contract management tools to simplify and create efficiencies. For example creation of automated documents and standardised contract processes.

## GET IN TOUCH



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## Case studies

### Scottish Government (Transport Scotland)

We acted for the Scottish Government in the award and renewal of the ScotRail and Caledonian Sleeper franchises. The ScotRail franchise is the single biggest contract led by the Scottish Government and is worth a total of £7bn over 10 years. We advised on procurement and State aid issues and drafted and negotiated the commercial agreements in connection with the franchises.

### Gateshead Council

We acted for Gateshead Council in the award of a dual branded franchised hotel (Ibis and Novel) in respect of a new development in Newcastle Gateshead Quays. The development is part of a £260m regeneration scheme that is a first for Gateshead council.

### Fico Holding and S Hotels and Resorts

We acted for private clients Fico Holding and S Hotels and Resorts in relation to the outsourcing the management of 31 franchised hotels to Interstate Hotels and Resorts. This involved negotiating the hotel management agreements, master agreements and key money agreements and project managing the deal through to completion.

### Investor and banking clients

We are advising multiple investor clients and banking clients on the purchase (or refinancing) of hotels and negotiating the applicable franchise agreements with well-known brands (Hilton, IHG and Accor) and management agreements.

# Health and healthcare

## How we can help you

Our team of specialist healthcare lawyers have expertise to support you in: Commissioning and contracting initiatives; Procurement challenges; Drafting and negotiation of commercial agreements; Judicial Review proceedings; Inquests; Regulatory and criminal investigations; Public Inquiries supported via a disaster response network; Civil Claims including group action medical products, manufacture and distribution claims; Advising on confidentiality, GDPR issues and data breaches in a healthcare context.

Our Regulatory, Compliance and Investigations team has an in depth understanding of issues which arise in the healthcare sector; from abuse allegations and safeguarding concerns to fatal/serious incidents, coroner's inquests and criminal prosecutions.

DWF specialises in crisis management. We understand that your crisis requires far more than a "legal" response. Upholding your reputation and media management is key. We have an unparalleled reputation and experience in working with our clients

in the early stages of investigations. In devising a crisis management strategy at the early outset following an incident, we respond to safeguarding concerns and help clients to avoid prosecution where ordinarily it would have been expected.

We have extensive experience in the following types of cases:

- police/HSE/CQC investigations and prosecutions including fatalities and manslaughter prosecutions;
- CQC inspections and gradings;
- inquests;
- H&S training to senior managers/providers of care and support services;
- abuse and safeguarding;
- professional disciplinary in a wide range of professions; and
- protection of vulnerable adults.

## GET IN TOUCH



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## Case studies

### Healthcare at Home

Healthcare at Home on supply and distribution agreements with pharmaceutical companies to secure best terms.

### Health and social care regulator

Acting for the Regulator in health and social care sector successfully defending JR proceedings where dispute as to timing of fitness to practise procedures when disciplinary investigations are in process.

### A healthcare professional

Successfully defending a healthcare professional in criminal proceedings involving allegations of willful neglect of a care home resident.

### Investigation into private hospital self harm death

We have been instructed to act in relation to the tragic death of a young lady who died by way of a self-harm ligature whilst she was detained under Section 3 of the Mental Health Act at a private hospital run by our client. DWF continues to guide the client through a CQC criminal investigation, a wide-scope "Article 2" Coroners inquest (due to take place next year), the NHS Serious Incident Investigation Framework, a claim under the Human Rights Act, and a Safeguarding Adults Review.

### Investigation following anaphylactic shock

Our team were instructed via our 24/7 Crisis Response service to act following the inquest verdict relating to the death of a pupil who died at a secondary school. The pupil suffered an anaphylactic shock after eating in the school canteen. At the inquest, our client was issued with a Prevention of Future Deaths report, which DWF provided a response to. Subsequently, we were instructed to act in relation to the criminal prosecution. Through various discussions and work undertaken to set out to the Prosecution that there were multiple failures on behalf of numerous duty-holders, we were able to agree a very favourable agreement that this was a case of low culpability and, more significantly, that our Client's breach was not causative of the death.

### COVID-19 Public Inquiry

We are currently working with a key healthcare advisor preparing the organisation and their staff for this inquiry, managing the significant disclosure exercise and witness preparation.

# Health and safety

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## How we can help you

Our nationwide team includes over 40 lawyers including a former HSE prosecutor. The team benefits from support from paralegals and access to a range of consultants, giving us unrivalled ability to service clients across the country and in the aftermath of any scale of event or incident.

By utilising our Mindcrest service we are also able to optimise, systematise and scale legal work in the aftermath of an incident and deliver cost and time efficiencies.

We support our clients through:

- compliance (auditing; risk analysis; corporate support; and training);
- our *24/7 Crisis Response* service;
- internal investigations;
- enforcement Notice appeals;
- defending investigation and prosecution by police and regulators; and
- health and safety training and gap analysis work.

## GET IN TOUCH



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## Case studies

### Royal Borough of Kensington & Chelsea - Grenfell

We continue to be instructed in relation to the fire at Grenfell Tower on 14 June 2017. The incident, ongoing police investigation and coverage of the Public Inquiry is well publicised. The Inquiry, involving no fewer than **592 core participants**, will examine wide-ranging issues including construction, design and modification of the premises, fire safety measures and the aftermath of the incident.

### Cornwall Council

We are on the Council's panel and have provided training to them in the form of a half day seminar on private prosecution process and procedure. We are yet to be instructed on any H&S defence cases. However, we have advised them (albeit briefly) in relation to a CQC matter and an import/export/Brexit matter.

### Liverpool City Council

We acted for LCC following a fatal incident in 2012 on a road resurfacing project. We managed to manage the outcome in such a way that LCC were fined only £15k which was outstanding given it was a fatality. We also advised LCC on the risk strategy going forward in relation to road re-surfacing projects.

### Birmingham City Council

We acted on behalf of Birmingham City Council following two serious separate pedestrian/FLT collisions at a large market site owned by the Council. The Council was landlord and funder of the site development, although responsibility for day to day management of the site lay with a wholly owned BCC subsidiary. Through our efforts and submissions, no further action was taken and prosecution was avoided.

# Immigration

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## How we can help you

Our experienced immigration team has a specialism in business immigration advising multi-nationals, FTSE 100 and AIM listed businesses, financial sector leaders and public bodies.

We provide a comprehensive offering including the obtaining of Home Office sponsorship licences and subsequent assistance in respect of migrant sponsorship applications, together with advising on Home Office reporting obligations.

We also advise in respect of right to work checks, securing a “statutory excuse” from civil fine and penalty and are able to assist with appeals against Home Office fines for unlawful working.

Following Brexit and the ending of the transition period we can also advise in respect of:

- the EU Settlement Scheme;
- all applications under the revised UK Points Based System; and
- permitted activities under the Visitor

Visa (including corporate).

We advise both academic institutions and students in respect of worker and study visas together with available options post-graduation.

For individuals we are able to assist in settlement/indefinite leave to remain applications following satisfaction of requisite residency and are further able to assist with citizenship applications.

We also have niche experience in sports immigration having advised in respect of prestige international events as well as acting for football clubs and governing bodies.

We also have offices across Europe and are able to advise in respect of visa and immigration issues in the Schengen area.

Areas we do not presently provide advice or assistance over relate to asylum and refugee issues, applications and appeals.



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## Case studies

### **A business with a lapsed sponsorship licence**

Advising a business whose sponsorship licence had lapsed by reason of administrative oversight over the urgent application for a new licence in order to preserve the sponsorship of existing migrants whose leave was being curtailed. Licence secured and migrants’ residency and employment in UK preserved.

### **A major supermarket**

Advising one of the major supermarkets over securing 200 migrant abattoir workers/butchers in respect of the amended Seasonal Worker Visa.

This is strategically important to the business and involves the application of legislation immediately on publication of latest “Statement of Change” from Home Office and advance notifications from DEFRA.

### **An academic institution**

Advising a major academic institution over right to work checks and sponsorship duties. On completion of a “dummy audit” we identified significant failings in the processes adopted which

placed the client at risk of civil fine and penalty. We then advised as to remedial steps to correct/negate future risk.

### **A FTSE listed retailer**

Advising a “household name” high street FTSE listed retailer, in respect of the EU Settlement Scheme, the options and extent to which it could advise its UK staff over the Scheme and mandatory registration for EEA nationals. We then subsequently are assisting in implementing a new right to work check regime for the business from 1 July 2021.

### **A public body**

Advising a public body in connection with its application for a Home Office sponsorship licence. This was in order to secure the employment of a highly skilled non-settled national that it required to head up the organisation of a prestigious international sporting event. The licence and migrant’s visa were both obtained.

# Life sciences

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## How we can help you

DWF provides a fully integrated team focused on delivering comprehensive assistance to clients in all areas of life sciences product and healthcare regulation: from research and development through to commercialisation and product recalls.

Our clients include manufacturers of pharmaceuticals, medical devices, and cosmetics; healthcare professionals; universities and research organisations; and leading trade and professional organisations. Our practice supports virtually every aspect of our clients' regulated business activities, including:

- product liability claims;
- intellectual property rights issues including exploitation and defence, and handling of foreground and background in R&D programmes;
- state funding of R&D and related Subsidy Control and grant funding agreements;
- healthcare protocol and risk management advice;
- insurance coverage and advice;
- corporate M&A;
- venture capital advice;
- research and Pharmacovigilance;
- data protection;
- competition compliance and challenges;
- commercial contracts
- regulatory requirements; and
- Brexit challenges.

## GET IN TOUCH



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## Case studies

### A medical device manufacturer

We are advising a well known medical device manufacturer in the defence of their global product liability claims and product recall. One particular incident concerned a trial in Scotland following a fatality allegedly caused by a defect in the electrical wheelchair.

### London market insurers

We are acting for London market insurers in a \$200m coverage dispute in the Federal Court, Memphis arising from the bringing to market of a medical device without obtaining the appropriate FDA approval. One of our experts in this case was the former Commissioner of the FDA, David Kessler.

### Setting up an investment vehicle

We assisted in connection with the setting up of an investment vehicle and incentive equity tools as well as in connection with the drafting and negotiating of an exclusive patent license agreement in the field of treatment of ophthalmic diseases.

### Medicines Discovery Catapult

We have advised the Medicines Discovery Catapult (among many others) on a series of central and local government funding packages for R&D programmes including collaborative R&D development and knowledge transfer and related commercial contracts for handling of IPRs and grant funding agreements.

### Immutep

We advised Immutep, a French biotech company specialised in the development of T-cell response based immunotherapeutics against cancer and infectious diseases, on two fund raisings. Including the fund raising led by Paris-based firm, Innoven Partenaires, involving a new investment from venture capital fund H2I, a specialist Biotech fund managed by Equitis.

# Maritime and shipping

## How we can help you

Our Marine and Trade team focuses on commodities, shipping, insurance, cargo, freight and logistics both in respect of contentious and non-contentious matters. We have multi-jurisdictional experience, dual-qualified and bilingual lawyers who are able to help clients with all the specialist legal issues which arise across a broad spectrum of the marine and shipping sector, enhanced by our well-placed office locations. Our areas of expertise include:

- operational and commercial contracts, (including advising local authorities on new contracts and operating agreements, shipbuilding contracts);
- litigation and dispute resolution (including international arbitration and mediation);
- shipping documentation;
- marine finance and leasing;
- marine insurance (cargo, hull and machinery, P&I, FD&D, war risks, general liability, negligence including full policy reviews, coverage advice, claims handling);
- ports and terminals (e.g. handling disputes relating to container demurrage, advising ports on compliance with relevant legislation);
- cargo claims;
- restructuring and insolvency;
- corporate;
- employment and Immigration;
- competition, regulatory and Subsidy Control, including public support for port infrastructure investments including dredging, access roads and terminals;
- real estate;
- sanctions (eg. implications of shipping goods to countries trading within a sanctions framework);
- customs issues such as classification of goods and preferential rules of origin for Free Trade Agreement purposes, and related procedures and investigations;
- international trade and soft commodities (e.g. advising on missing consignments of goods; advising on and drafting documents such as Storage Agreements, Holding Certificates and Cargo Surveying Contracts); and
- piracy.

## GET IN TOUCH



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## Case studies

### A local authority

We are representing a local authority in a claim involving a fishing vessel being declared a constructive loss after foundering overnight while at our client's harbour in the UK. We advised the client on the strengths of its arguments and presented a strong case to the lawyers representing the opponents. We assessed analytically the contractual provisions between the parties. We are working together with Counsel to defend this action to obtain the best outcome for our client and their insurers.

### A UK port

Acting for a well-known port in the UK to provide clear legal analysis on the applicability of (then) incoming EU legislation on the activities conducted at the port to ensure compliance, including in respect of the transparency of fees.

### Operating Agreements

Advising a public body on the renegotiation of a ferry service contract with a private ferry operator to ensure provision of reliable and resilient ferry services for residents and tourists and which also meets business freight requirements. With our extensive knowledge and work in the shipping

industry and having advised ports and other entities on shipping related contracts, our experience is invaluable in assisting the client to achieve its objectives in a beneficial and workable manner.

### Wreck Removal

We were instrumental in acting for an engineering company in a dispute relating to the dismantling of a rusty oilrig hull in the waters off Shetland. The case involved the break up of the hull, which broke free from its berth due to high winds in November 2019.

### Insurance claims

Acting for marine insurers and their insured in a complex matter relating to erosion to the banks of a sluicing pool which is damaging the public footpath and could, in the future, lead to damage to residential property. This has included a review of the historical background to sluicing operations and considering key planning documents. Our department's experience in this area has been central to supporting insurers through their assessment of the claim as well as guiding the insured in their response to the claimant.



# Public inquiries and inquests

## How we can help you

Drawing on our experience of working on and being actively involved in some of the most significant public inquiries in the UK such as Grenfell, COVID, Brook House, Muckamore and Hillsborough our expert lawyers can navigate through the importance of handling the requirements of an inquiry with candour, sensitivity and transparency.

Across our national team we appear at Inquiries and Inquests on a weekly basis, be they work related incidents including disasters, abuse, industrial and other accidents, governance and public law propriety investigations, health and safety violations or road traffic collisions.

We can also offer a fast, cost-effective review, collection and disclosure of huge volumes of evidence and documents (up to millions) – we can quickly scale our capacity by utilising Artificial intelligence software and our Relativity product, coupled with our ability to undertake 24/7 day and night document review.

In addition, we can provide:

- access to scaling up resource to assist with document review, advocacy, statement taking and the like;
- lawyers who understand large scale document reviews, QA logs and legal privilege reviews;

- the support of relevant Government & Public Sector experts on key public law issues such as Brexit, public procurement and State aid / Subsidy Control;
- in house IT Relativity/Epiq/Egress document collection, technology review and paralegal capacity through our Mindcrest division to undertake significant and large document reviews swiftly and efficiently;
- in house paralegal and barrister team to help review documents and assemble question sets and analysis;
- a network of specialist expert witnesses and QCs to support our Inquiry team; and
- strong media and reputational management support.

GET IN TOUCH



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## Case studies

### Royal Borough of Kensington & Chelsea - Grenfell

We are acting on behalf of The Royal Borough of Kensington and Chelsea (RBKC) in relation to the Public Inquiry and Metropolitan Police Investigation arising from the fire at Grenfell Tower on 14 June 2017, which resulted in 72 fatalities.

Results:

- extensive collection and disclosure process involving over 14 million documents;
- disclosing around 60,000 relevant documents and preparing over 70 witness statements;
- responding to 15 complex and wide ranging document requests;
- a substantive document provided to the Police responding to over 100 questions;
- advising Executive Officers and elected members, as well as managing and guiding RBKC and its employees through Phase 1 and 2 of the Public Inquiry;
- advising on and assisting with a

large number of FOI requests; and

- application of an open, transparent approach in line with RBKC's commitment to candour, which is helping the client to rebuild trust with residents of the Borough.

### The Brook House public inquiry

The inquiry was initiated in order to investigate and report on the circumstances surrounding the mistreatment of detainees in the BBC Panorama programme "Undercover: Britain's Immigration Secrets" broadcasted on 4 September 2017.

We are acting for G4S Care and Justice Services (UK) Ltd. who operated the Brook House Immigration Removal Centre. As G4S have been granted Core Participant status by the Chair to the Inquiry,

DWF has been nominated as the client's official legal representative. We are advising G4S accordingly to very strict instructions and were able to scale up and carry out legal work including the preparation of a substantial number of detailed witness statements.

# Public international law

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## How we can help you

Our expert disputes team has experience advising a wide range of clients, both public and private sector, on administrative and public law matters, including in highly contentious and high value situations.

This includes:

- advising as to rights and obligations under international trade treaties;
- enforcing arbitration awards both against states and utilising powers granted under Public International Law;

- representing parties in trade disputes before International Tribunals; and
- litigating points of public international law before competent Courts, including the English High Court.

We have conducted a large number of matters within these areas and the case studies give a flavour of the kinds of matters and range of work we undertake.

## GET IN TOUCH



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## Case studies

### The SKAT Litigation

£1.5bn claim brought by *Skatteforvaltningen*, the Danish Tax authority) alleging fraud arising out of “cum-ex” trading in the period 2012-2015. We represent three alleged ringleaders, who deny any liability.

Following trial of a Preliminary Issue the Court dismissed all of SKAT’s claims on grounds that they infringed the Revenue Rule, essentially comprising an “act of state”. The case is currently pending appeal.

Outcome and Impact: pending appeal we have defeated an enormous claim brought by a foreign state with near-infinite resources against private individuals.

### Polish-Macedonian Investment Treaty Dispute

Advising a Polish private company from construction sector on a potential investment arbitration against Macedonia under the Polish-Macedonian Agreement (“Polish-Macedonian BIT”). Questions focused on whether the Macedonia Courts denied Polish company justice (and

thus, breached fair and equitable standard of protection under the Polish-Macedonian BIT) by refusing to enforce an ICC award, in violation of the provisions of the New York Convention.

Outcome and Impact: payment of award.

### ICSID(AF) investment arbitration

Member of the team successfully representing Central European state in ICSID(AF) investment arbitration commenced by US investors from vegetable fat industry. The investors alleged that it entity bankrupted due to tax measures imposed by state tax authorities. The state contended that the tax measures were lawful, and in any case, the bankruptcy was not caused by the imposition of tax measures.

Outcome and Impact: The Tribunal decided in favour of the state.

### Government of India

Advising the GOI in the context of EU anti-subsidy investigations and related consultations with the EU.

# Telecommunications

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## How we can help you

We have a large legal team dealing with telecoms work, with recognised and sustained expertise in this fast-paced and demanding sector. Our team spans the whole of the UK, with lawyers based in England, Scotland and Northern Ireland.

Our work covers telecoms network infrastructure projects, industry specific commercial work, regulatory and competition advice.

We have a wide range of experience in dealing with legal agreements for telecoms networks, having acted for clients in the mobile telecommunications sector for approximately 25 years on the full range of cell site acquisition and asset management activities.

We act for clients on large complex IT and telecoms projects of regional and national significance.

We are also involved in various initiatives in the sector, including the government round tables that were hosted by DCMS to discuss issues in the sector following the introduction of the 'new' Electronic Communications Code in December 2017.

We have a diverse client list which includes the private and public sector giving us a unique insight into the telecoms sector. Our clients include Scottish Government, community broadband companies, local authorities, Telefónica UK (O2), giffgaff, Telefónica Digital, BT, EE, 3, Arqiva, MBNL, BAI Communications and China Unicom.

Our sector lead, Catherine Haslam, sits on the RICS Telecoms Expert Working Group, a position she has held for over 10 years. She also sits on the National Connectivity Alliance Steering Group that was borne out of the DCMS round tables in the telecoms sector in 2021.

## GET IN TOUCH



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## Case studies

### Scottish Government

Advising the Scottish Government on the delivery of the Reaching 100% programme which aims to make superfast broadband available to all premises in Scotland by 2021. DWF has been advising the Government team on all aspects of the project including the Open Market Review, liaison with BDUK, compliance with the State aid rules which apply to this sector, procurement strategy, development of project specific contract terms and competitive dialogue.

### Landmark decisions under the Code in the Upper Tribunal

We led some of the first landmark decisions under the Code in the Upper Tribunal (Lands Chamber) ("UT") and have achieved successful results for our clients. These include decisions in the *London Borough of Islington* case (dealing with the valuation of consideration and compensation under the Code), and the *Meyrick Estate* case (dealing with what a site provider needs to show to demonstrate an intention to redevelop). We advise our clients on proceedings in the UT under all provisions in the Code.

### BAI Communications Limited

We recently advised BAI Communications Limited in relation to its successful bid to partner with Sunderland City Council in respect of the delivery of its Smart City Project. This is a long term agreement for the provision of 5G, public Wi-Fi and LoRaWAN networks to establish Sunderland as a leading digital city.

### Various local authorities

We advise clients in relation the consenting and protection of statutory assets, including the installation/retention of fibre, masts and other above ground installations utilising Code powers, including installation under the News Roads and Street Works Act. We have secured certificates of lawfulness to evidence the application of permitted development rights and have addressed local authority contested installations where there are alleged constraints due to existing crowding of other third party apparatus on/under the public highway.

# The law of International trade, investment and regulations

## How we can help you

DWF's WTO and International Trade team is led by highly experienced trade lawyers particularly with decades of experience of handling the highest level of EU and international trade matters from Brussels and with respect to the UK and its interests, prior to more recently advising on all aspects of the EU/UK Trade and Cooperation Agreement (TCA) and related issues such as the Northern Ireland Protocol.

The team combines core trade experience with DWF's sector-specific focus on areas like food and agriculture to provide rounded advice on all levels of trade barriers (tariff and non-tariff) alongside regulatory compliance.

The DWF team has hands-on experience in WTO Dispute Settlement, WTO accession negotiations, WTO advisory, trade remedies (all types of anti-dumping, anti-subsidy and safeguard proceedings and reviews), the TCA and other related agreements such as the Northern Ireland Protocol, free trade negotiations and treaties, GSP, customs law on classification, preferential and non-preferential rules of origin and valuation and tariff quotas. This experience has been gained from many years of working in Brussels and dealing with the EU institutions in particular, and representing a wide variety of exporters and national governments in different procedures such as anti-dumping, anti-subsidy and safeguards and in many different sectors such as steel, chemicals,

electronics and others.

The team has advised on tariff suspensions and UK (HMRC) and other procedures for customs relief including Freeports.

The team has a strong record with EU Courts on trade remedies and sanctions, having taken and won a number of landmark judgments, including securing the annulment of trade defence measures imposed by the European Commission on behalf of exporters.

The experience of the team is global, having represented exporters and sovereign governments from across the world including Russia and the CIS, India, China and other Asia-Pacific nations plus North, Central and South America.

The capabilities of our team include also export controls and economic sanctions, foreign direct investment screening, as well as foreign subsidies. Most recently, the team has been busy advising a range of clients on Brexit-related strategies, including management of TCA rules of origin, required changes in supply chains, the impact upon existing and future trade remedies and potential issues within the UK/Australia Free Trade Agreement.

GET IN TOUCH



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## Case studies

### **Securing a protective measure (anti-dumping)**

We have represented a European trade association responsible for a significant sector of activity in bringing a complaint and securing initial protection from dumped imports. This has extended to handling requests for interim reviews from particular exporters and into considering how the UK section of the industry will secure its future protection in view of Brexit.

### **Defending US government's subsidy programmes against EU countervailing duties (anti-subsidy proceeding)**

Members of the DWF team have represented and advised a US national association of biofuels in the first EU anti-subsidy proceeding against the US. Our assistance included analysis of US subsidy programmes and their susceptibility to countervailing measures according to WTO rules. As a result, several US programmes remained unaffected by EU action.

### **Leading a WTO proceeding to the panel stage (WTO dispute settlement)**

Members of the DWF team have advised a foreign government in bringing a WTO dispute against EU trade measures. This has included all key elements of a dispute settlement proceeding, including consultations, request for establishing a panel and the first written submission. The proceeding reached the panel stage and had an effect on the EU position.

### **Achieving a duty free quota for agricultural goods (free trade negotiations)**

Members of the DWF team have advised a Central American agricultural association on the legal aspects and negotiating strategy for a duty free quota as part of a free trade deal with the EU. The agricultural product obtained a favourable duty free quota in



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Our Integrated Legal Management approach delivers greater efficiency, price certainty and transparency for our clients.

We deliver integrated legal and business services on a global scale through our three offerings; Legal Advisory, Mindcrest and Connected Services, across our eight key sectors. We seamlessly combine any number of our services to deliver bespoke solutions for our diverse clients.

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