

# Construction and Engineering

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**DWF has a full national and international reach and the ability to service our clients' needs across the globe. Construction and engineering policy indemnity disputes handled by our teams have ranged from the relatively modest to complex multi-million pound, multi-party claims on JCT, NEC and other forms of standard construction and engineering contracts in building and civil engineering projects. We advise insurers on coverage issues including under CAR and EAR policies and the interrelated contractual obligations in substantial and often complex claims.**

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## What we do

Our construction and engineering experts act for insurers on:

- First Party policy indemnity issues and disputes, including under PL, CAR and EAR policies
- Third Party Property Damage claims – defending third party liability claims pursued against contractor policyholders
- Subrogated Recoveries – pursuing claims to recoup insurers' outlays paid under their own policies. [this should hyperlink to the Subrogated Recoveries webpage]

## We provide

- A partner led service, with experienced and dedicated client teams.
- Value added services to policyholders including Warranty reviews, attractively priced Adjudication schemes under the Housing Grants etc Act, on-site training and help with development of risk management & improvement programmes.
- Dedicated experts well versed in dealing with construction-related liability claims up and down the contracting chain, acting for the insurers of Employers, Main Contractors and Sub-Contractors, as well as the full suite of construction professionals including [hyperlink for each of these, to the applicable webpage for each] architects, engineers and surveyors.
- Engineering specialists spanning a wide variety of engineering contracts, and plant & machinery claims.
- Wide ranging CAR and other Project Policy indemnity expertise, in London, the Regions and internationally with multi-jurisdictional expertise
- Renewable energy expertise across the spectrum including wind, solar, wave, and biomass.

## Examples of our work include:

On international claims our team members' experience spans multiple jurisdictions including advising insurers:

- Brazilian mining operation. Advising under a combined single limit property damage and business interruption policy for multiple complex claims arising from the failure of business critical assets at the facility and third party liability.
- Construction project for hydroelectric power station in Peru. Advising under a construction all risks (CAR) policy on the failure of a vertical structure that is a business critical asset to the operation of the plant. Advice includes London Engineering Group clause, potential Business Interruption and international tunnelling code of practice issues.
- Expansion of power plant in Bolivia involving engineering and installation of new turbines. Advising under construction/erection all risks (EAR) policy for claims in respect of the material liberation from blades during tests.
- Construction project for oil refinery plant in Dubai. Advising under a CAR policy on damage to a series of transformers fitted to a high pressure train and low pressure train at a Dubai Power Station.
- Construction and engineering project for oil pipeline installation in Colombia. Advising on liability under CAR/EAR policy for issues arising from a failed horizontal directional drilling operation for the installation of an oil-pipeline beneath a major river crossing.
- Construction of Saudi Arabian power plant. Advising on cross-liabilities provision and cover under multiple sections of a CAR policy arising from a flue gas desulphurisation unit fire loss.
- Advised insurers on coverage in relation to a claim under a delay in start-up policy arising out of the installation of new oil refining plant in Canada.

- Acted on behalf of cargo owners in relation to a \$100 million arbitration in Malaysia following an explosion at an oil storage terminal.

### On UK policy indemnity disputes:

#### Handling indemnity disputes include:

- Retained and advising on indemnity issues following damage to a substation at a Hospital on which the insured contractor was engaged on works (a North Bristol NHS Trust Hospital). Coverage issues included the exclusion of the cost of repair of defective works under the PL cover, but possible indemnity under a separate CAR policy subject mainly to whether damage had occurred during the DLP.
- Acting in litigation over the application of a CAR policy cover to a number of incidents concerning the building of the second runway at Manchester Airport where total claims of over £26m were asserted by the contractors. Hotly contested TCC litigation. Settled at £7.5m.
- Advising insurers as to the application and effect of standard defect exclusion clauses, including a matter concerning the application of a DE3 Exclusion in a CAR policy in the context of a failed piling wall comprising part of a quayside development.
- Advising insurers on £42m claim, concerning interpretation and application of Explosion Exclusion following (alleged) implosion and explosion damage to a spray dryer vessel at a powdered milk production plant in late 2015.
- Acting on behalf of insurers in advising on policy response arising from a c £1.5m claim for crane damage occasioned in a Multiple Lifting Operation, including advising on the compliance with and application of BS 7121 and other relevant industry standards.

### Our defence work on Third Party Property Damage (TPPD) liability claims includes

- **Fire:** acting for insured contractors on many claims for fire damage. Some examples of recent and matters include:
  - £8.5m claim against insured electrical contractors on alleged failure to re-lamp a warehouse's luminaires with the correct lamps with protected shrouds
  - Acting for an insured developer who was sued (along with the electrical contractor) by multiple claimants in relation to fire damage and spread following an alleged electrical fault in light fittings at a new build residential apartment block.
- **Flood / EOW:** a wide variety of water damage claims following events at industrial, commercial and domestic premises, including for alleged failures to keep culverts or other water courses in good repair and clear of debris, various claims against insured contractors and also national building developers for flooding arising from the construction of often large scale developments.
- Acting on a £75m recovery claim resulting from flooding to a factory caused by inadequately designed/constructed flood

defences, with potential claims against the EA and the designers and constructors of the flood defences.

- Claim against insured contractor for water damage part way through contract works in Scotland at the local Council's building. Specified Perils issues in particular arising and a successful recovery of £350,000 made.

**Specialist M&E contractors:** dealing with numerous claims on behalf of insurers of specialist M&E contractors.

#### For example:

- Defending a +£3.5m claim for alleged negligent design of an automated Carbon Dioxide fire extinguishment system at a large aluminium strip mill complex; secured drop hands exit with the claimant a month before trial after substantial, highly contested and complex litigation.
- Acting for an Insured engineering company in defence of an £8m action within which the claimants, financial brokers based in the City, contended that the insured's failure to maintain the Uninterruptible Power Supply at their offices caused the fire and complex financial losses.
- **Subsidence and landslip:** claims across domestic, commercial and industrial premises. Examples include:
  - Retaining wall failure where the Insured was sued by multiple claimants, both the employer and various third parties affected by retaining wall collapse in Sheffield. Liability claims dealt with and then a £1.675 million recovery was secured from the negligent project engineers.
  - Defending claim against an insured contractor (and others including project engineers) following a landslip at a well-known UK college.
  - Advising on landslip claim in France being made directly against the indemnifying project insurers by third party property owners.
- **Extraction Ductwork:** acting on past and present matters for insurers of contractors on numerous restaurant and hotel kitchen extraction duct fire claims, including in the defence of an ongoing £8m claim relating to the allegedly negligent design and installation of a kitchen extraction system in a restaurant.
- **Utility strikes:** acting on many claims for the insurers of construction companies nationwide in the defence of negligence/ breach of contract claims brought against them by utility suppliers (water, gas and electricity) as a result of utility strikes.
  - These include a recent matter where we acted on behalf of an insured sub-contractor responsible for the damage to an oil filled 132kV cable, with quantum put at over £515,000
- **Property damage / nuisance / works defects:** a wide spectrum of claims, for example:
  - Acting for a national contractor said to have caused nuisance and trespass to the claimant (a local art gallery) to the extent that it allegedly lost £1.6m of business due to the public / footfall customers not being able to walk past and enter. Settled at under £300k at mediation.

- Acting for the insured industrial roofing and cladding contractor in defence of a claim for alleged defects following its design, supply and installation of siphonic roof drainage system.
- Defending a £3m claim made against insured contractor and employer under a CAR policy arising out of the refurbishment of the former patent office in London.
- **Crane overturns:** acting on various crane overturn claims, including multi-party matters. Examples include:-
  - Various claims concerning crawler crane overturns and mobile crane damage incidents both on and off site.
  - £1.4m claim arising from a crane, which caught fire, on a motorway, leading to the motorway's closure.
  - Claims being pursued against the German crane manufacturers and the UK distributors / repairers.
- **Plant loss and damage claims:** aside from many routine (often on CPA hire conditions) claims for plant loss / damage / theft, also acting for insurers on claims involving the loss and destruction of specialised/high value plant such as industrial shredders and mobile, luffing and other cranes.

## Why DWF?

We have an outstanding, proven track record of successfully dealing with a wide range of construction and engineering matters for insurers, loss adjusters and corporates. Our team provides national and international coverage, and deals with a wide range of disputes including first party, third party property damage and subrogated recovery claims.

We have strong expertise in jurisdiction and applicable law disputes, and lawyers seasoned in resolving disputes through litigation, mediation and arbitration.

## Contacts



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