

# Kate Livesey

Call 2001



Kate Livesey has a commercial litigation and arbitration practice.

She has particular expertise in the following sectors:

- Commercial Disputes & Insurance
- Construction, Shipbuilding & Energy
- Professional Liability

## Commercial Disputes & Insurance

Kate acts and advises in a wide range of litigated and arbitrated contractual and commercial disputes for a variety of clients.

### Featured Commercial Disputes & Insurance cases

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Acting in disputes involving all manner of commercial contracts such as sale of goods and services contracts, share purchase agreements, charterparties, ship-building contracts, loan contracts, contracts of indemnity and guarantee.

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Acting in disputes raising coverage, policy interpretation, non disclosure, misrepresentation and fraud issues in relation to a variety of types of insurance and reinsurance contract.

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Acting in Construction All Risks coverage disputes, including (with leading counsel) representing Construction All Risks insurers in proceedings in the Belfast high court concerning the application of 'DE3' and other standard clauses in the context of pipework corrosion.

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Acting in disputes raising issues of civil fraud (including the successful defence of a claim to set aside a judgment on the ground of fraud), breach of trust and equitable remedies.

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Obtaining freezing orders and associated interim relief.

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Appeals from arbitration awards under the Arbitration Act 1996 in the Commercial Court and in the Court of Appeal including a reported case on ss67/68 and s69 appeals: Sumukan Ltd v The Commonwealth Secretariat [2007] 1 Lloyd's

Rep 370 (Comm. Ct, ss67/68), [2008] 1 Lloyds Rep 40 & The Times 18/12/07 (CA, ss67/68); [2007] 2 Lloyds Rep 87 (CA, s69 – conjoined).

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Attrill & Ors v Dresdner Kleinwort Ltd & Commerzbank AG [2012] IRLR 553 & [2011] IRLR 613: As junior counsel, representing 84 former employees who succeeded in contractual claims for unpaid bonus awards after a 17 day trial in February 2012.

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## Construction, Shipbuilding & Energy

Kate acts in litigated and arbitrated disputes in the construction, ship-building and energy fields, including acting for and against construction professionals in construction-related professional negligence disputes.

### Featured Construction, Shipbuilding & Energy cases

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Acting for contractors and sub-contractors in ICC and other international arbitral proceedings concerning off-shore construction, engineering and transportation contracts in the energy sector.

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Acting in various London-seat international arbitrations arising from ship-building disputes raising contractual termination issues and issues of defective design and workmanship and delay.

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Acting for and against contractors and specialist sub-contractors in Technology and Construction Court claims for payment and relating to defective design and workmanship, breach of warranty and delay.

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Defending ICC arbitration proceedings relating to the supply of the technology and know-how for the construction of a process plant.

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Acting in construction-related professional negligence disputes (see above).

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Disputes relating to the application of Construction All Risks insurance cover (see above).

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Marshalling (as Inn of Court Pegasus Scholar) for a six week period in the US Court of Federal Claims in Washington D.C. assisting the judge with disputes relating to US government construction contracts.

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## Professional Liability

Kate's professional liability practice covers claims against lawyers, insurance brokers, directors, valuers, financial advisers, accountants and construction professionals (engineers, architects, and quantity surveyors).

### Featured Professional Liability cases

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Kate is one of a panel of five adjudicators selected by the Chairman of the PNBA who is available to accept appointments to adjudicate professional negligence disputes under the pilot scheme promoted by the Ministry of Justice and the PNLA.

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Claims for and against lawyers: defending solicitors against allegations of negligence in the context of commercial and other litigation/arbitration; defending solicitors at trial in a claim concerning alleged negligence relating to a transaction to purchase a superyacht; acting for claimants and defendants in cases relating to allegedly negligent conveyancing; lender claims against solicitors; acting for a barrister in a reported professional disciplinary appeal: *P (A Barrister) v General Council of the Bar*; acting for the claimant at trial and on appeal in a reported 'lost litigation' claim: *Browning v Brachers*.

Claims for and against insurance professionals: acting for a major national insurance broker in a case concerning the placement of business interruption cover; acting against a major international broking firm in a £5.5m claim brought by underinsured commercial claimants; acting for loss adjusters accused of negligent claims handling.

Claims against valuers: acting in lender claims including acting for valuers raising the defence of *ex turpi causa* ('illegality') against the notoriously fraudulent bridging loan company, Lexi Holdings, and the defence of a claim concerning the valuation of a portfolio of luxury hotels.

Acting for offshore company administrators and directors defending a claim for over £120 million brought by the property development companies by which they were formerly appointed.

Acting for independent financial advisers challenging decisions of the FOS in pension transfer cases in judicial review proceedings before the Court of Appeal and challenging the lawfulness of FOS' case fee: *R v Financial Ombudsman Service ex parte Heather Moor & Edgecomb Ltd* (2008) Bus LR 1486 and *Financial Ombudsman Service v Heather Moor & Edgecomb* (2009) 1 All ER 328.

Acting for and against accountants in claims relating to tax advice.

Acting for and against professionals accused of negligence in their capacity as expert witnesses.

*Co-operative Group Ltd v John Allen Associates Ltd* (2012) 28 Const LJ 27: Claims against civil and structural engineers: includes representing defendant engineers in a claim by a contractor against engineers and specialist ground improvement contractors arising from the failure of vibro-replacement ground improvement works; representing engineers in connected multi-party actions arising from alleged failures of retaining walls at commercial premises; representing engineers bringing a contribution claim against geotechnical engineers in respect of the alleged failure of a remedial retaining wall at commercial premises; representing engineers in a case concerning the failure of a canal-side retaining wall; representing engineers in a multi-party dispute concerning the design and construction of a concrete floor slab in a large commercial warehouse unit; representing engineers in connection with failed foundations on a new-build housing estate; successfully defending engineers in a 4-week trial concerning specialist vibro ground improvement techniques used in the design and construction of a supermarket development.

Defending process plant designers in an ICC arbitration claim alleging fraud and breach of contract.

Acting for an employers' agent defending contribution proceedings (and bringing contribution proceedings against mechanical engineers) in a multi-party claim arising from failures in the design and construction of a boosted cold water system in a large residential development.

Defending a multi-disciplinary construction consultancy in claims relating to alleged defective lead design, mechanical engineering, architectural design and contract administration services on a project to build an academy school.

Acting for quantity surveyors defending allegations of under-costing and negligent valuation of work.

Claims for and against architects: acting for the claimant in a dispute relating to design and installation defects in an underground structure; acting for a claimant in connection with complaint proceedings against a registered architect before the ARB; acting for the claimant in a dispute resulting from the design of a building footprint that did not fit within

the development area; acting for architects in claims arising from multiple alleged defects in residential developments.

Advising the owner of a classic yacht engaged in arbitration proceedings with marine engineers in relation to the vessel's reconstruction.

## Additional Experience

Acting for parties seeking to set aside decisions on the grounds of judicial conflict of interest, bias, defective appointment and procedural unfairness (including breach of Article 6 E.C.H.R) in the context of disciplinary, court and arbitral proceedings.

### Featured Additional Experience cases

*P (A Barrister) v General Council of the Bar* [2005] 1 WLR 3019 & [2005] PNLR 32: Disciplinary decision set aside on the grounds of conflict of interest.

*Smith v Kvaerner Cementation Foundations Ltd & (intervening) Bar Council* [2007] 1 WLR 370; Times 11/4/06: Judgment set aside on the grounds of apparent bias.

*Sumukan v The Commonwealth Secretariat* [2007] 1 Lloyds Rep 370 (Comm. Ct); [2008] 1 Lloyds Rep 40 and The Times 18/12/07 (CA): Decision set aside on the grounds of lack of jurisdiction by reason of defective appointment.

*Clowes Developments Limited v Walters & Ors* [2005] 17 EG 123: Acting both for and against commercial landowners in relation to adverse possession claims raising human rights issues under Art 1 Protocol 1 of the European Convention.

*Mon Tresor & Mon Deser Ltd v (1) Ministry of Housing & Lands (2) Board of Assessment* [2008] 38 EG 140: Representing an overseas government in the Privy Council, successfully resisting an appeal concerning compulsory purchase of land.

## Awards

Awarded "Professional Negligence Junior of the Year" at the Chambers UK Bar Awards 2012 and 2020.

Awarded "Construction & Energy Junior of the Year" by the Legal 500 in February 2019.

Nominated for "Construction & Energy Junior of the Year" by Legal 500 in 2020.

Nominated for "Construction Junior of the Year" by Chambers & Partners in October 2015.

## Education

- MA (Cantab) History
- Dip Law (City)

## Recommendations

Kate Livesey is recommended in Legal 500 and Chambers & Partners.

Comments include:

- Very intelligent. She certainly knows the law. An exceptional lawyer.
- A star – destined to become a silk.
- Very impressive, very thoughtful and a great presence.
- Bright, hard-working and really thorough. I was very impressed.
- Careful, measured, meticulous and appreciates that the devil is in the detail.
- Clever, imaginative and hardworking; a first-class junior
- Very personable, fantastic with clients, very sharp, and incredibly good on her feet.