

Kate Livesey

Call 2001



Kate Livesey is a Commercial barrister with market-leading expertise in Commercial Litigation, Arbitration, Insurance, Construction, Energy and Professional Negligence disputes.

Commercial and Insurance

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

Featured Commercial and Insurance cases

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.

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

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;

Acting in Construction All Risks, business interruption and other project insurance disputes.

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.

Associated jurisdictional issues: e.g. instructed over the period 2022 to 2024 by War Risks Reinsurers challenging jurisdiction in both the Russian and Ukrainian 'operator policy' aviation reinsurance litigation proceeding before Henshaw J in the Commercial Courts;

Obtaining freezing orders and associated interim relief.

Appeals from arbitration awards under the Arbitration Act 1996 in the Commercial Court and in the Court of Appeal including reported judgments on ss67/68 and s69 appeals: **Sumukan Ltd v The Commonwealth Secretariat** [2007] 1 **Lloyds 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).

Construction, ship-building and energy

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

Featured Construction, ship-building and energy cases

Acting for and against contractors in TCC litigation and arbitration relating to defective design and workmanship.

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

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

Defending ICC arbitration proceedings relating to the supply of process plant technology.

Representing a specialist defence system supplier in a dispute under a government contract.

Disputes relating to Construction All Risks and other project insurance cover (see above).

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

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

Professional Liability

Kate's professional liability practice covers the full spectrum of non-medical disciplines including claims against lawyers, insurance brokers, directors, valuers, financial advisers, accountants and construction professionals (engineers, architects, project managers and quantity surveyors).

Featured Professional Liability cases

Claims for and against lawyers: claims involving allegations of negligence in the context of commercial and other litigation/arbitration; acting for the claimant at trial and on appeal in the reported 'lost litigation' claim, **Browning v Brachers**; defending solicitors at trial in a claim concerning alleged negligence relating to a transaction to purchase a superyacht; representing the claimant alleging negligence by solicitors Allen & Overy in the drafting of the commercial

contract granting West Ham United football club the right to host football matches at the former Olympic Stadium; advising a claimant regarding their solicitors' negligent drafting of a settlement agreement; acting for claimants and defendants in negligent conveyancing claims; lender claims against solicitors; related fraud allegations against solicitors; acting for a barrister in a reported professional disciplinary appeal: **P (A Barrister) v General Council of the Bar**;

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; acting for claimant insurers alleging negligence by an underwriting agency authorised as the claimant's cover-holder to underwrite and manage a large portfolio of construction bonds;

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 the 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;

Claims for and against professionals acting as expert witnesses;

Claims against civil and structural engineers: 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: **Co-operative Group Ltd v John Allen Associates Ltd (2012) 28 Const LJ 27**; defending engineers sued by the owner of an historic library in a dispute over the ability of the structure to withstand book loading; representing the claimant in a claim against structural engineers and contractors arising from the collapse of a tower crane on an East London development site attributed to the unsafe design of the crane's foundations;

Defending process plant engineers in an ICC arbitration claim alleging fraud and breach of contract;

Advising the owner of a classic yacht in an arbitrated dispute with marine engineers in relation to the vessel's reconstruction;

Representing the specialist (technology and software) engineering supplier of a complex defence system in an arbitrated dispute with the prime contractor under a government defence contract;

Claims for and against architects: acting for the claimant in a dispute relating to design and installation defects in an

underground structure; acting for the claimant in a dispute relating to the architect's design of a building footprint exceeding the limits of the development area; acting for architects in claims arising from multiple alleged defects in residential developments; defending architects retained as multi-disciplinary consultants in a dispute over alleged architectural and engineering defects in the roof and structure of a sports centre; acting for a claimant in connection with complaint proceedings against a registered architect before the ARB;

Acting for landscape architects in TCC litigation arising from the failure of a retaining wall system separating a housing development from an adjacent railway line;

Claims for and against construction professionals acting as employers' agent: Acting for an employers' agent in a multi-party claim arising from failures in the design and construction of a boosted cold water system in a large residential development; acting for the claimant owner suing the main contractor and employer's agent in respect of widespread defects following a £12 million project to develop and renovate a historic building;

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;

Defending project managers specialist in the management of renovation projects proceeding in working theatres in multi-party TCC litigation arising from the collapse of the auditorium ceiling of a London theatre during a public performance whilst under refurbishment;

Professional disciplinary proceedings: acting for a barrister in a reported professional disciplinary appeal (see below) and advising a claimant in connection with complaint proceedings against a registered architect before the ARB.

Other particular experience

Acting for parties seeking to set aside decisions on the grounds of 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. Reported cases in this area include:

- 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 in the Court of Appeal 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).

Has appeared in the Privy Council (for an overseas government successfully resisting an appeal): Mon Tresor & Mon Deser Ltd v (1) Ministry of Housing & Lands (2) Board of Assessment [2008] 38 EG 140.

Part time judicial sitting as a Recorder in the Crown Courts (London & South Eastern Circuit).

Appointments

- Kate sits as a Recorder in the Crown Court on the London and South Eastern Circuit.

Awards

- Awarded “Professional Negligence Junior of the Year”: Chambers and Partners, October 2012
- Nominated for “Construction Junior of the Year”: Chambers and Partners, October 2015
- Awarded “Construction and Energy Junior of the Year”: Legal 500, February 2019
- Nominated for “Construction and Energy Junior of the Year”: Legal 500, UK Bar Awards 2020
- Awarded “Professional Negligence Junior of the Year”: Legal 500, October 2022
- Nominated for “Professional Negligence Junior of the Year”: Chambers and Partners, 2023
- Nominated for “Professional Negligence Junior of the Year”: Legal 500, 2023 and 2024

Education

- MA History (Cantab. BA *1:1)
- Dip Law (City)

Recommendations

Kate is recommended in *Legal 500* and *Chambers and Partners* where rankings include:

- Band 1 for Professional Negligence
- Band 1 for Professional Negligence: Technology & Construction
- Band 1 for Construction (Chambers and Partners)
- Band 1 for Energy

Comments include:

- Kate combines profound knowledge of commercial legal issues with a highly effective advocacy style and an amiable, yet rationale approach.
- Kate is an incredible advocate. Her technical ability and passion is second to none.
- Kate is simply one of the best barristers in the market. She is fiercely intelligent, incredibly hardworking, and technically superb.
- Kate is an excellent lawyer; extremely bright, immensely hardworking and fantastic with clients.
- Kate is excellent – she is very thorough and quickly gets to grips with the difficult issues in the claim.
- Hard working, clever, and diligent. She thinks carefully and thoroughly about her cases, exploring every angle, and leaves no stone unturned. Her advocacy is very persuasive.
- A great tactician, user-friendly and offers great advice.

- Exceptionally good. She's very bright, quick to pick up the issues and a pleasure to work with. Good with clients too.
- Very impressive, very thoughtful and a great presence.
- Clever, imaginative and hardworking; a first-class junior.
- When I work with Kate I am completely confident that I am getting the best advice and the highest standard of pleading.
- Absolutely top notch in every regard. A pleasure to work with.
- Very personable, fantastic with clients, very sharp, and incredibly good on her feet.