



Non-contentious construction

Who we are

Sharpe Pritchard's expert non-contentious construction lawyers have substantial strength and depth of experience in the field.

Acting for a variety of public sector clients on a wide range of construction and infrastructure projects, our practice spans new builds, large-scale refurbishments, town centre regenerations, highways and bridges, commercial and mixed-use schemes, education and leisure facilities and social care schemes. We also advise on current policy matters as well as national and global issues affecting all in the industry, including MMC, net zero, health & safety, hyper-inflation, force majeure events and the impact that these have on existing and upcoming construction projects. We have a strong command of commercial issues and seek to provide solution focused legal advice to enable projects to be delivered successfully within tight timeframes.

A full list of our lawyers and details of their experience can be found on pages 9-11 of this brochure.

Sharpe Pritchard has unrivalled knowledge and experience of delivering legal services to the public sector. Our team, many of whom have previous in-house experience, utilise their wider public sector knowledge and experience to sign-post and address wider issues, such as procurement and governance in the delivery of our non-contentious construction services. We are also well versed in working with both internal technical officers and in-house lawyers, and we provide our services in a manner that best suits the project and our instructing officers.

How can we help?

- We can help you select the appropriate form of construction contract for the job. Our team has extensive experience of advising on and working with all standard form construction contracts including JCT, NEC, PPC, FIDIC, ICE and GC/Works.
- Many clients are seeking to use established frameworks to expedite the procurement of their contractors. We are familiar with all of the major construction frameworks (CCS, SCF, LHC, Fusion21, Pagabo). We can advise on the relevant call-off documentation including in respect of any implications from a procurement or project specific perspective, and update the documents to ensure your project hits the ground running.
- We have an extensive precedent bank of amendments to standard form contracts. We frequently produce sets of amendments for our clients ensuring that they are tailored to meet the needs of a specific client and/or project whether as a precedent bank for them or on a one-off basis. We have an established "pick and mix" style set of options as set out below:





Our clients

Our client base includes:



Pricing and client commitments

We put our clients at the heart of everything we do. We provide regular updates on progress and adopt a commercially astute approach, to ensure that matters proceed economically and at pace.

We offer our clients complete transparency when it comes to pricing. We provide flexibility and choice, offering fixed fees where possible, to ensure value for money and a package of services at a price that best suits our clients.

The depth and breadth of our team means that we can resource projects at the right level, so that you receive the most efficient service from us. This also allows us to flex resources so as to offer support in a resilient and sustainable manner.

Our projects

The types of project we frequently advise on include:

- · School expansion programmes and education projects;
- · High-profile and politically sensitive new builds and large-scale refurbishments;
- Major infrastructure and engineering projects (including many of national significance);
- · Higher educational facilities;
- · Commercial premises;
- · Mixed-use schemes;
- Small and large-scale housing schemes;
- Student and affordable accommodation, and historic restorations;
- Housing maintenance.



Sharpe Pritchard have been absolutely fantastic.
Really attentive and helpful. They have been eager
to assist and accommodating, which has been
particularly helpful setting up these contracts."

They are just great people to work with, always upbeat, with a smile, no question too much trouble."



Case studies

Higher Education Provider – Contract Amendments

We have recently prepared a mission critical review and update of a Higher Education Provider's existing suites of JCT 2016 and NEC4 contract amendments which will be used on many of its major projects moving forward. We are also providing updates and advice on the implications of the changes and how these have been captured in the updated documents. This also involves advising on risk allocation for Brexit, force majeure events and inflationary uplift of the cost of materials as these matters are and continue to be pertinent. We are required to adapt and update their documents swiftly in order to allow projects to progress as these matters develop. It is important to work with the client's existing documents to preserve client team familiarity with the documentation, whilst also ensuring that the necessary updates are successfully incorporated and implemented by the client team. We are also updating a colourcoded set of amendments which we had previously prepared with the client to signify the level of necessity attributed to each clause from a joint legal and internal policy perspective and to ensure that these remain aligned with the client's requirements. This is important to allow the client's project team to quickly and easily identify the importance of clauses whilst in the heat of negotiations with contractors, in an attempt to streamline the process.

County Council - Planned **Maintenance Contract**

We advised on the procurement of a strategic service supplier for internal planned maintenance works across the entirety of the council's housing stock, corporate estate and council-owned commercial business premises utilising the competitive procedure with negotiation. This is a strategically important contract for the council as it sets out a potential 8 year relationship with the service provider for a critical and high value workstream of an anticipated value of up to £48 million. The contract is intended to make services available for all councilowned built assets and for services delivered by the council to privately-owned property. This will allow works to council office accommodation, community buildings, council-owned commercial and business premises to be carried out under the contract as well as work to the council's housing stock.

Our involvement included reviewing the council's pre-existing form of contract, a NEC3 Term Service Contract, and upgrading this to the NEC4 Term Service Contract to reflect current council requirements, practices and policies as well as current market conditions. Part of this work also necessitated the provision of detailed advice in

respect of the council's TUPE and Pensions options and associated drafting of suitable provision to capture the council's requirements. We have also provided detailed guidance and ongoing support to assist the council in its transition between the two contract forms, as well as during the procurement process.

Local Authority – New Homes **Programme**

We act as legal adviser to the Authority's New Homes delivery team. The programme consists of 43 direct delivery schemes, with a cumulative value of c£200-400m. We have provided amended forms of the JCT PCSA 2016, Minor Works (with Contractor's Design), D&B 2016, and ancillary documents. We negotiate contract terms and advise on legal issues that arise during construction. We also provide support regarding execution of agreements and issues arising. We deliver this through a dedicated team, which is also specifically engaged to formalise the agreements for each scheme at the end of the procurement process.

In the past 12 months we have been instructed to prepare engrossments for all of the professional appointments related to this programme, and used an amended form of the JCT Consultancy Agreement 2016 for these. We advise on requested amendments to the form of appointment and complete the execution process. Since Brexit and the COVID-19 pandemic, we have advised on and assisted the client with the practical and technical implications arising from the same and we provide up to date advice regarding the current inflationary challenges.

Local Authority – Housing **Development**

Instructed to draft and advise on a Pre-Construction Services Agreement and accompanying JCT Design and Build Contract 2016 for a two-stage tender under a framework in connection with a highprofile redevelopment. This is one of the council's biggest projects which proposes the construction of over 935 new homes over seven phases. Phase 2C involves the construction of 93 new mixed tenure homes, together with a new energy centre serving the whole of the new estate as well as a new community centre, communal courtyard and landscaped pedestrian routes with pocket parks.

Our involvement included reviewing and ensuring compliance with the framework agreement, utilising the council's existing documentation and contract amendments where possible to ensure consistency from a contract management perspective and to ensure proper integration of the council's policies and information modelling requirements. The main works contract also needed to cater for two possible options being put to tenderers for delivery of an energy centre for the development, whether by the contractor themselves or separately by an

energy supply company. This required a thorough understanding of the client's requirements in this regard, so as to provide the required advice on and inclusion of the relevant contractual machinery, and a review of the terms to ensure they sufficiently captured these two possibilities in a user-friendly way when it comes to contract finalisation.

Housing Arm's Length Management Organisation – Responsive Repairs & Major Works Frameworks

Advised on two multi-lot procurements for both a responsive repairs and a major works programme. We were initially instructed to prepare the draft contract documentation for the two programmes for issue as part of the respective tender packs. The suites of contract documents comprised a mixture of framework agreements, JCT 2016 Measured Term Contracts (with amendments), service contracts and an overarching collaboration agreement. We also gave specialist advice on the approach to TUPE to ensure protection of the client's commercial position. During the course of the two procurement exercises, we also assisted with ad hoc queries and bidder clarifications. Following award of the various contracts, we were involved in dealing with contractor queries and negotiations as well as contract finalisation.

This work sets up the contracts for the housing provider's responsive repair and planned maintenance works to its housing stock for a number of years and so it is high value and important to get the contractual machinery in place to enable them to utilise these contracts effectively. There were also a number of challenging commercial issues that added to the complexity of the projects from both a procurement and construction perspective.

Water Company - Reservoir Project

We are instructed by a water company to advise on the project delivery of the first reservoir in their area of the country since the 1970's. We have been working with the client on the procurement of the two main works contracts for this project, both of which are governed by the Utilities Contracts Regulation 2016, and have also been advising the water company on a suite of enabling and ancillary works, as well as professional services contracts. Both the main works contract use an amended form of the NEC suite of contracts. This was also one of the first major projects to utilise the UK's new Find a Tender Service, and we advised on its use. We also provide advice which covers a wide range of issues which our client is encountering, including construction, commercial and procurement issues. Our wide range of expertise within the team allows us provide this advice swiftly, whilst taking into account the novel regulatory mechanism which is associated with this specific project.

Water Industry - Major Infrastructure Project

We are assisting with the largest infrastructure project that has ever been undertaken by the UK water industry; this is thought to be one of the biggest and most complex engineering and construction projects in Europe.

We have had a long relationship with this client, which stretches back to April 2012, and our strong relationship is embodied by our continued instruction in 2022. We have most recently advised on complex legislative, regulatory and contractual issues which span the project documentation. Our client values the team's pragmatic and practical approach, we understand the importance of realistic advice and adjust our style to suit the business's need.

Local Authority – Adjudication

We worked with a local authority client on a high value adjudication in relation to the design and build contract for the construction of a flagship municipal building, with a contract value of £14m. The parties were £1.1m apart in their valuation of the final account, and with the contractor being completely intransigent in negotiations we worked with the council to take the matter to adjudication. This was a complex and multifaceted dispute involving delay (and arguments regarding concurrent delay), workmanship and defect rectification issues, payment of liquidated damages and consequential loss. We prepared a lengthy Referral notice dealing with every issue in dispute as well as proving critical input into the council's settlement negotiation strategy. The Contractor refused to engage reasonably, and we therefore proceeded with the adjudication, where the adjudicator found almost entirely in the council's favour, and the council recovered all but £70k of the money it had claimed a great result for the council and its stakeholders.

NHS Trust – PFI Dispute Resolution

We were instructed by an NHS Trust in relation to a dispute with its PFI Project Co. The Trust had discovered that almost all of the fire doors in the hospital building maintained by the Project Co were defective, with many in such a poor state that they required immediate replacement, putting vulnerable patients at risk. When faced with the report the Project Co denied responsibility and argued that almost no deductions were due as a result.

The case was highly complex, requiring specialist technical and financial expert input. We worked with the Trust, its experts and consultants to put together a powerful case and took it through adjudication under the PFI dispute resolution procedure. The result was a huge success for the Trust, with the Project Co found to be liable for all the costs of maintenance of the fire doors, and ordered to repay £10m in deductions to the Trust.

Dispute resolution How can we help?

We routinely work with public sector clients to resolve construction disputes without the need for formal proceedings. Our team is extremely well practiced in advising employers of their position in relation to issues with the contractor, and is able to recommend the most appropriate way forward.

Our team is mindful of the fact that it is often commercially more viable to settle disputes through negotiation, without the need for formal proceedings. We have extensive experience in advising on and negotiating settlements, and have drafted numerous settlement agreements for clients. We take a pragmatic, commercial approach to resolving disputes, and our focus is to achieve the best outcome for our client rather than unnecessarily prolonging the dispute.

We are clear on costs. Dispute resolution can feel like an uncertain process, and with some firms you may feel like you have no idea what your final bill will be. We provide clear estimates at each stage, but if you need certainty on price we can also provide fixed fee quotes for our dispute resolution work.

We have real strength in depth, with lawyers specialising in construction dispute resolution at all levels of seniority.

We have particular expertise in mediation, allowing clients to resolve seemingly intractable disputes without the need for formal proceedings. We also have SP Mediation, a dedicated team of qualified mediators spread across a range of practice areas, who are able to assist in resolving a wide variety of disputes. The SP Mediation Microsite can be found at spmediation.co.uk

We are extremely familiar with the disputes that commonly arise from construction projects, such as latent or patent defects, extension of time claims, loss and expense claims; professional negligence, final account disputes and interim valuation disputes. We are particularly well versed on the relevant contract terms in all the standard form construction contracts including JCT, NEC, PPC, FIDIC, ICE and GC/Works and are able to advise clients accordingly.

In the event that the parties are unable to reach agreement or settle disputes, our construction team is on hand to assist with all stages of the dispute resolution process, from pre-action discussions with the other party to formal dispute resolution proceedings. The construction team has vast experience in all types of construction disputes, including adjudication, mediation, litigation, expert determination, and arbitration. We can help client with all manner of disputes. from complex claims running into the hundreds of millions of pounds to straightforward enforcement proceedings on adjudication decisions. We are very familiar with the dispute resolution mechanism in standard form contracts such as the JCT and NEC, and also with using novel or bespoke contractual dispute resolution procedures.

Our team has very considerable experience and strength in depth in advising on PFI dispute resolution and we are very familiar with how PFI projects work and the underlying contractual mechanisms, including those relating to deductions, service failure points, self-reporting, time bars and the payment mechanism as a whole. We act for several public sector clients in relation to PFI disputes, including those relating to waste, hospitals, housing and schools and are well practiced in acting for such clients in formal PFI dispute procedures, with an extremely high success rate.

Adjudication

Our team has particular expertise when it comes to adjudication, and can assist should you find yourself on the receiving end of an adjudication referral. We are able to work quickly to pick up and deal with adjudication referrals and can:

- Advise on the strengths and weaknesses of both yours and the other party's case;
- Map out an adjudication strategy;
- · Draft the defence; and
- Liaise with experts, such as architects, quantity surveyors and delay experts, who may be needed to provide technical advice. We have developed a network of experts who we can call upon if needed.

We are also able to advise on and act for public sector clients in referring adjudications, if that is the best route to resolving the dispute.

Sharpe Pritchard has a dedicated Adjudication microsite - SP Adjudication. For further information on how we can help when it comes to adjudication, please visit adjudicationadvice.co.uk

Our team

Justin Mendelle, Senior Partner and Head of Construction



Justin is the firm's senior partner, a construction law specialist and head of the construction group. He also launched SP Adjudication, the firm's dedicated adjudication unit, which has enjoyed a success rate of over 85%

since its launch in 2015. Having trained and taught as an economist before qualifying as a lawyer, Justin brings a unique aptitude for commercial and financial issues to both contentious and non-contentious work.

Rachel Murray-Smith, Partner



Rachel has an in-depth knowledge of PFI and DBFO contracts as well as JCT, NEC3 and NEC4 standard form contracts. Regularly advising on the use of the latter, Rachel's construction law expertise is complemented by

a strategic, commercially astute and pragmatic approach to project-delivery honed during her three years as an in-house contracts and procurement solicitor. Rachel also takes an active role in the firm's dedicated adjudication unit and has advised on issues such as interim application disputes, final payment disputes and defects liability claims.

David Owens, Partner



David is a dispute resolution specialist in the construction and projects sector. With a razor-sharp focus on his clients' commercial interests, David takes an open-minded and pragmatic approach to his work;

never unnecessarily prolonging a dispute when his clients' strategic aims could be achieved through other means. In recent years, David has successfully resolved numerous complex high-value PFI disputes in the health, waste and housing sectors, and construction disputes relating to infrastructure, council offices, housing, and schools.

Roseanne Serrelli, Partner



Roseanne has a wealth of experience in construction contracts, procurement, and infrastructure having worked on some of the UK's most innovative and complex projects for the public sector. This includes rail,

waste, energy and health infrastructure. Roseanne is an NEC and EPC specialist with extensive knowledge of government policy and public law. With over 30 years' experience, Roseanne is widely regarded as a leader in her field and is regularly asked to speak at national events and has spoken with civil servants on a number of foreign government delegations visiting the UK.

Nicola Sumner, Partner



Nicky is head of Sharpe Pritchard's infrastructure group and specialises in advising on complex procurement and delivery of UK infrastructure projects. Nicky is known for her work on government major projects

and programmes, including the New Hospital Programme, the Houses of Parliament Restoration & Renewal Programme, and the Thames Tideway Tunnel. Nicky's expertise is recognised in both Chambers & Partners and Legal 500. She is a panel member of the ICE's Procurement Advisory Group. Sectors include local government, central government, waste, energy, water, rail and road.

Steve Gummer, Partner



Recognised as a 'recommended lawyer' and 'up and coming leader' by the Legal 500, Steve has a breadth of experience working in construction law. He is knowledgeable in various forms of contract having drafted

multiple agreements on major projects including using the NEC, FIDIC, IChem E and JCT forms of contract. Steve also excels working in complex regulatory environments. Steve has experience advising regulators and companies, amending licence conditions, and working on major construction projects.

Sally Stock, Partner



Sally is a partner who advises on all aspects of public procurement which arise during the procurement and contract preparation process. Sally is well trusted by clients and often works on-site at clients' offices to

provide support when it is most needed.

Jane Crees, Partner



With over 15 years' experience, Jane specialises in the procurement and delivery of complex infrastructure and construction projects, mainly on behalf of public sector (including central and local government) and

utilities clients. She has particular experience advising on contracts for the design, build, financing, operation and maintenance of major infrastructure and has worked on a number of government major projects, including the Thames Tideway Tunnel, the New Hospitals Programme and a nationally significant rail project. She also has general interest in construction, systems procurement and NEC-based projects (she is an accredited NEC Project Manager) and has advised on the reprocurement of numerous highways projects.

Deborah Down, Legal Director



Deborah is a member of the firm's commercial and construction team specialising on public law issues and construction and infrastructure projects. With extensive experience in the leisure

sector, Deborah provides expert advice to her clients from procurement to delivery, advising both leisure operators and local authorities on a plethora of complex issues in the context of tight deadlines and onerous risk allocation.

Peter Jansen, Legal Director



Peter is a highly experienced commercial construction lawyer who has advised public sector clients for over 25 years on contractual disputes, PFI and other major projects and

complex commercial issues both in the UK and internationally. Peter has a close understanding of the principal sectors involved in construction and has detailed knowledge of the industry standard forms of contract and other bespoke legal documents which are routinely used.

Juli Lau, Legal Director



Juli is a public procurement and public contracts specialist with particular expertise in infrastructure projects, covering the fields of waste, energy and utilities. She has acted for

public authorities on a number of PPP/PFI projects and is familiar with industry-standard construction contracts such as JCT and NEC. She is also well-versed in public procurement law under both the Public Contracts Regulations 2015 and Utilities Contracts Regulations 2016, and is closely following, and keeping clients appraised on, reforms to the procurement regime.

Helen Batter, Senior Associate



Recognised as an 'associate to watch' by Chambers UK, Helen has a range of construction expertise across both the public and private sectors. She has considerable experience

advising on non-contentious construction and regularly drafts and negotiates standard form construction contracts for her clients' flagship projects. With a keen eye for detail, Helen provides clear and concise advice to her clients on all aspects of contractual interpretation and is highly valued for her ability to find innovative and pragmatic solutions to project-specific issues.

Radhika Devesher, Senior Associate



Radhika has experience advising on complex procurements and infrastructure projects with a range of central and local government clients. Radhika works across a number of sectors

including health, waste, energy and education. She frequently advises on the procurement side for construction projects, from exploring competition and evaluation strategies, preparing procurement documentation, evaluating tenders, awarding contracts, debriefing bidders and risk management throughout the procurement.

Allan Owen, Senior Associate



Allan works on public procurement, construction, and project finance (including PPP and other RAB regulatory structures) matters. Allan has worked with both regulated

bodies and public sector authorities assisting them with their projects. He has a breadth of experience across all major construction contract forms, in particular the NEC, and regularly advises clients on robust, client favourable, and crucially market acceptable commercial positions. Previous work includes advising HS2 Limited, Portsmouth Water Limited, and the Department for Health (New Hospitals Programme) on construction contracts and public procurement processes.

Laura Campbell, Associate



Laura advises public authorities on a wide variety of construction contracts using the JCT and NEC forms of contract; providing astute, pragmatic advice on projects which

invariably involve multiple-stakeholders and tight deadlines. Laura also assists public sector, employer clients with a range of procurement issues and the appointments of consultants and contractors at every stage of a construction project.

Melanie Blake, Associate



Melanie is experienced in advising on projects using standard form construction contracts, from the JCT and NEC suites, to bespoke construction contracts and PFI Agreements. Acting for a range of

clients including employers, contractors and sub-contractors, Melanie has also advised on a multitude of construction disputes including those which relate to fire safety liability, delay claims, loss and expense claims and final settlement disputes.

Gonzalo Puertas, Associate



Gonzalo has amassed both national and international expertise throughout his eight years of experience. Before joining Sharpe Pritchard in 2022 he completed a Construction Law

MSc in King's College London. Since then, he has worked on behalf of Hertfordshire City Council having made amendments to a JCT Minor Works with Contractor's Design 2016 contract for the conduction of drainage and car park works in Hertfordshire, England.

Ellen Painter, Associate



Ellen has a broad practice working across the Infrastructure team, advising and assisting clients on complex infrastructure projects, PPP/PFI projects, waste management projects and public

procurement matters (including under the PCR and UCR). She continues to advise on the restoration and renewal of the Palace of Westminster, including on their first framework agreement for intrusive surveys (utilising the NEC4 suite) and on the procurements for a number of waste collection and waste disposal contracts.

Michael Comba, Solicitor



Michael is a solicitor in our construction team. Since his qualification in 2021, Michael has accumulated considerable experience advising public sector clients on construction contracts,

ancillary documentation, and professional appointments. Michael also has considerable contentious experience and has brought and defended several claims and adjudications, achieving successful results in both. Michael has also advised on several nationally significant infrastructure projects covering major transport schemes and heritage projects.

Lore Millward, Solicitor



Lore is a newly qualified solicitor in the Construction team, developing their practice in both contentious and non-contentious construction law. Prior to their training contract Lore worked

in the public sector. Lore adopts a friendly, collaborative and pragmatic approach to ensure that the client's objectives are met. Lore has assisted in drafting amendments to standard form construction contracts, with particular experience and expertise in relation to the JCT suite of contracts. In addition, Lore has experience of reviewing and advising on development agreements and professional appointments for new developments.

Sophie Drysdale, Solicitor



Sophie specialises in major projects, construction, and procurement. She advises central and local government clients, regulators and other public bodies on a wide range

of projects across the infrastructure sector, including on large-scale and complex infrastructure projects, commercial contracts and public procurement matters in transport, energy, waste and water. Sophie is skilled in advising on projects using standard form construction contracts, including both NEC3 and NEC4 suites. She has advised on a multisupplier framework agreement and call-off contracts for a high-profile heritage project and has advised on, drafted and negotiated NEC contract condition amendments for a national rail project.

Natasha Barlow, Solicitor



Natasha advises on matters across construction, infrastructure and procurement. She has wideranging experience advising local authorities and central government. Natasha has worked

on the New Hospitals Programme and the construction of schools in several London boroughs, and is comfortable with JCT and NEC forms of contract.

Harnaek Rahania, Solicitor



Harnaek is a solicitor in our construction team, who qualified in 2021. Since his qualification he has accumulated experience in handling contentious claims, acting for both public and private

sector clients, which include councils and universities, as well as property developers, owners, building contractors, property management companies and for professionals within the construction and property sectors. Harnaek has experience advising on disputes arising from both JCT and bespoke contracts, which include payment disputes, retention disputes, disputes regarding quality of work or delays as well as disputes relating to mechanical and electrical faults. Harnaek works with his clients to achieve the best practical and commercial solution for them.

SHARPE PRITCHARD

For further information, or to discuss how we can help you, please contact us:

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Sharpe Pritchard, solicitors and parliamentary agents, focus on public law and act for a large number of public sector bodies and corporate clients. Our experienced team of lawyers, many of whom have worked within the public sector, advise on:

- · Academies and free schools
- Commercial
- Construction
- Education
- Elections
- Employment
- · GDPR and data law
- · General public law
- · Litigation and dispute resolution
- · Parliamentary agents
- · Planning, highways and environmental law
- PPP projects
- Procurement
- · Real estate
- · Technology and telecommunications
- · Waste and energy







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