

## Siân Mirchandani QC

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**An excellent advocate – tenacious and extremely detailed, identifying potential problems and arguments even before they arise” - *Legal 500 2019***

**“She always gets straight to the key legal points. She provides good, clear written advice and is excellent on her feet. She has a well-earned and deserved reputation as a construction specialist.”**  
– *Chambers & Partners, 2020*

**"Siân Mirchandani QC is "a tenacious advocate", and "highly respected" for her impressive handling of professional negligence and disciplinary proceedings." - *Who's Who Legal 2020***

### Profile

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Siân Mirchandani is a barrister practicing in England and Wales, based in London chambers at Four New Square – London’s premier set for Professional Negligence. Siân has practiced at the English Bar since 1997 and was appointed Queen’s Counsel in 2019.

Siân specializes in commercial cases, technology & construction litigation, arbitration and adjudication. A significant proportion of her practice comprises complex construction cases, of all types, often involving professional negligence claims, insurance coverage issues, insolvency and contribution claims. Siân also has a specialist practice in regulatory & drug product testing claims and feed claims, both stemming from her previous career and qualification as a veterinary surgeon (Cambridge).

Siân is a qualified Technology & Construction Bar (TECBAR) adjudicator. Siân has recently undertaken the Chartered Institute of Arbitrators’ (CIArb) Advanced Fellowship programme and is now building a practice as an arbitrator.

### Qualifications & Memberships



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M.A. Vet M.B. Emmanuel College, Cambridge University  
Diploma in Law, City University, London  
BTC, Inns of Court School of Law, London  
Member of Chartered Institute of Arbitrators – qualification as Fellow (pending)

## What the Directories say about Siân Mirchandani QC (Chambers, Legal 500, Who's Who Legal)

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*"utterly tenacious in fighting for her client"*

*"If you want someone to get the best for a client backed into a corner she would be a marvellous choice of advocate"*

*"Great analytical skills - excellent drafting and advocacy skills".*

*"an excellent advocate – tenacious and extremely detailed, identifying potential problems and arguments even before they arise"*

*"tremendously bright, has a tenacious eye for detail, and brings a new level of strategic thinking to the table".*

*"She's fantastic: just brilliant to work with and very easy-going and responsive. Very hard-working and diligent."*

*"Very bright and incredibly determined and tenacious."*

*"She's incredibly bright, good on the detail and clear and concise with her advice."*

*"She's a great advocate – very considered and measured."*

*"Tenacious, with a sharp and incisive legal mind."*

## Commercial Dispute Resolution

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### Examples of work as Counsel in court and arbitration proceedings include:

- Acted on an arbitration between insurer and insured, over whether the scope of cover in a policy year included combustible cladding claims
- Advising Counsel retained to draft submissions and appear at oral hearing(s) in domestic arbitrations concerning Government advertisement for IT contract(s)
- Advising Counsel for paper arbitrations between insurance companies as to liability for claim(s)
- Informal arbitration between two separate arms of the same multi-national insurance company as to the meaning and operation of design and operator error exclusions following damage of a food waste digester due to process 'run away' leading to over pressurisation damage.
- Defending a UK software developer and two companies against claims of alleged overcharging, fraudulent misrepresentation and deceit, procuring or inducing a breach of contract and conspiracy to injure by unlawful means.
- Claims arising out of UK and EU securitisation transactions known as 'commercial mortgage backed securities' (CMBS) against major firms of valuers following their valuation of commercial properties packaged as 'tax efficient' investments in Germany, Denmark and the UK: *K/S Lincoln et al v CBRE Richard Ellis* - hotels; *Capita Alternative Fund Services & Matrix Securities v Drivers Jonas* - factory outlet centre; *Titan Europe 2006-3 Plc v Colliers International UK Plc* - a large multi-use warehouse and department store in Germany; *Whitetower 2006-3 Plc v Colliers International UK Plc* - a group of commercial buildings in London; *LRC Holdings v BNP Paribas* - a group of four substantial office buildings near the Tower of London.
- A claim for damage to business following disruption of telecommunications' cables.
- Advising on claim for alleged breach of contract and negligence in conduct of laboratory testing as part of a pharmaceutical product licence application; pursuit of lost opportunity to obtain pharmaceutical product license; loss of market lead.
- Defending farm food supplier in claim for alleged contamination of animal feed leading to herd deaths and loss of profit.
- Defending farm nutrition adviser in claim for allegedly negligent advice about feeding to a pedigree closed herd.
- A claim for recovery of payments made to a Dutch company for waste recycling plant, following the Dutch company's insolvency.
- A claim against US events lighting company for recovery of fees due to a consultant engaged to assist in acquiring contracts for the Olympic Games.



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- A fraud claim against property development company arising out of avoidance of sale on contracts for apartments, Manchester, UK.
- Advised Scottish Power plc in respect of injunctive proceedings brought by new occupier

## Construction & Engineering

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### Examples of work as Counsel in court and arbitration proceedings include:

#### ***Cladding, fire, flood nuisance, subsidence***

- Advising employer's agent & insurers facing claims brought by social housing associations concerning cladding, render & fire safety defects
- Defending architect in cladding detachment claim brought by contractor, arising out of landmark refurbishment project, City of London
- Sole leading counsel in 'Premier Inn' cladding & fire safety litigation (claims relating to 4 hotels) for architects (*Premier Inn v McAleer & Rushe and Others*)
- Sole leading counsel in 'New Capital Quay' cladding & fire safety litigation (claims brought by 81 leaseholders against developer & contractor) (*Elaine Naylor & Ors v (1) Galliard Homes Ltd (2) Roamquest Ltd (3) Galliard Construction Ltd*)
- Advising (another) hotel chain in relation to its liability as developer following discovery of cladding & fire safety defects
- Advising leasehold tower block management companies in relation to claims options against developers/contractors following discovery of cladding & fire safety defects
- Advising local authority on liability following discovery of defects in external cladding (Expanded Polystyrene System, EPS) installation to private owners' properties
- Advising insurers on routes of recovery following failure to install fire stopping and cavity barriers in a newly refurbished aparthotel development
- Advising insurers on routes for recovery following failure of cavity barriers to contain fire in newly built and refurbished building
- Advising insurers on investigations and routes for recovery following catastrophic gas boiler explosion in block of flats in Kensington
- Advising insurers on claims arising from spread of fire following pipework soldering by metalwork sub-contractor



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- Advising and pursuing claims by insurer under Contractors' All Works policy following fire during refurbishment of a nightclub
- Advising insurers on routes of recovery following fire in fast food restaurant
- Advising insurers on routes of recovery following fire in wooden building housing a restaurant
- Advising and pursuing claims following Buncefield explosion
- Acting for designing mechanical engineer defending a claim by M&E contractor following fire in back up power system installed during commercial property refurbishment
- Advising insurers on claims following explosion of a food waste digester
- Numerous subrogated tree root subsidence claims brought by household contents' insurers, including Tree Preservation Orders, planning permission application and appeal from decision.
- Numerous subrogated claims by residential household insurers against contractors:
  - Following poor installation of sanitary ware leading to leak claims.
  - Of adjoining construction of housing estate where re-profiling led to water run-off and inundation of adjoining houses.

### ***Commercial construction***

- Advising contractor and insurers in respect of proposed action against project manager and building services engineer where apartments in tower blocks overheat
- Advising road building contractor on pursuit of claims against designer, under indemnity clauses following adjudication of employer's claim against contractor
- Advising employer on early termination of long term maintenance contracts
- Defending contractor's claim against specialist screed flooring sub-contractor relating to design responsibility issues for floor installed in a care home.
- Defending Employer's claim against contractor for design defects relating to glass façade and M&E installation at a tertiary education college.
- Contractor's claim against sub-contractor installing flooring to a building constructed for the London Olympics: NEC3 contract, issue over whether the adjudication clause was effective.
- Claims arising from detachment of cladding panels from university buildings where installation design had been amended on site
- Contractor's claims against employer for non-payment and repudiation following internal offices fit out contract
- Contractors' claims against employers in large scale construction and re-furbishment contracts concerning government department and educational buildings.



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- Contractor's claims against project manager following discovery of defects in demountable buildings in various schools.
- Acting for housebuilder in respect of a group action pursued by home owners arising from defective piling on a large housing estate.
- Employer's claims for early termination of multi-year NEC3 Term Service Contracts
- Employer's claim against project manager and main contractor in construction of process plant including design, management and delay issues.
- Employer's claim against designer, project manager and contractor for negligent design and construction of a commercial showroom.
- Employer's claim against specialist contractor for excessive noise resulting from plant installation for a swimming pool complex.
- Developer's consequential claims against a series of architects for planning breaches in construction of new care home
- Developer's claims against consulting engineers arising out of the heating installation for a multi-unit residential development
- Defending warranty and other claims brought against architect - designer of a multi-use commercial City centre development
- Defending counterclaim against architect brought by housing development company alleging oversized properties were designed

### ***Residential construction***

- Considerable experience of residential construction disputes advising and acting for employers, architects, contractors and sub-contractors involving:
  - Failures to advise on obtaining guarantees and certificates on a recently refurbished building
  - Failures to comply with design brief
  - Planning breaches resulting in enforcement action
  - Overrun on costs
  - Disciplinary actions following complaints
  - Disputes arising in construction of new replacement building following fire destruction of original listed building

### ***Adjudications***

- Considerable experience with adjudications including:
  - Pursued a claim arising out of defects in a major UK dual carriageway, following entire replacement
  - Defending civil engineers facing claim for failure to detect a live drain across a housing estate construction site in Northern Ireland.

- Claims brought by M&E main contractor against sub-contractors and consulting engineers
- Acting for large contractor against subcontractor concerning final account following the installation of a flue gas desalination plant at a power station.
- Defending architect in claim concerning design and project management of extension to Grade II listed building
- Defended a claim by a developer against the employer's agent for calculation errors in certificates
- Delay and claims for expense and loss of profit arising from alleged loss of contracts for construction and refurbishment of tertiary education buildings
- Claims brought by liquidator following contractor's insolvency
- Multiple connected disputes referred to single adjudicator.
- Passing claims down chains of adjudications following total destruction of a bespoke wooden building on South Coast by fire
- Claims brought by steelwork contractors against consulting engineer/designers for underscale design in a supermarket building
- Claim by interior fitting out sub-contractor against contractor based overseas

### ***Insolvency context***

- Advising insurers of insolvent main contractor on joinder to the construction dispute to pursue an active defence whilst reserving insurers' defences under the insurance policy.
- Advising insurers of architect on pursuit of Part 20 contribution proceedings against sub-contractor via assignment of cause of action from contractor (in liquidation)
- Advising international building contractor on pursuit of claims under the Third Party (Rights Against Insurers) Act 1930, against a concrete subcontractor (for defective slipform design, delay and expense) following sub-contractor's insolvency (Landmark building in City of London)
- Acting for insurers facing claim under Third Party (Rights Against Insurers) Act 1930 following explosion and fire at steel fabrication plant
- Advising and acting for insurers seeking to join action brought against insured following insolvency
- Advising and acting for excess layer insurers in defending claim under Third Party (Rights Against Insurers) Act 1930, arising from construction of a supermarket

### ***Specialist & unusual buildings***

- Led strike out of claim against approved inspector by developer & purchaser of refurbished coach house (after ***Herons Court v Heronslea***)
- Defending project manager against employer's claims (delay & expense) arising out of refurbishment of educational and performing arts premises in **Liverpool, UK**
- Defending architect in multi-party dispute following catastrophic collapse of granite table in school playground, London
- Advising insurers on a claim due to knotweed contamination of a construction site in **Wales** by a ground clearance contractor

- Employer's claim against planning and design architect for failure to advise adequately on budget for a 'Grand Design' type conversion of a dis-used water tower, **England**.
- Employer's claim against design architect following delays and budget overrun on **UK premier league** football training facility
- Acting for a waste recycling company in a claim concerning **recovery of payments made to a Dutch company** for construction of a **waste recycling plant** following its insolvency.
- Advising **Japanese plant engineering company** in respect of claims proposed against the project manager and contractors for an **engineering project based in Eire**.
- Employer's claim against contractor and architect for negligent design and construction of a **swimming pool complex** (arbitration and adjudication), **UK**
- A claim by a farmer against a local authority landlord concerning the **negligent farm design** by a farm designer engaged by the local authority, **UK**
- Acting for design and build contractor (and insurer) in a claim concerning deficient **installation of cow cubicles** resulting in injury, lameness and loss of production, **UK**
- Defending developer's claim against architect arising from window design for high-end **beachside property, UK**
- Acting for sub-contractor (M&E) in defence of claim for indemnity arising out of alleged flue fire in a **completely wooden residential building**, South Coast, **UK**

## Insurance & Reinsurance

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### Examples of work as Counsel in court and arbitration proceedings include:

- Advised and acted for insurer in 'QC clause' arbitration over scope of architect's professional indemnity policy
- Advised professional indemnity insurers on a successful claim for reimbursement under a Minimum Terms policy from an insured for material non-disclosure and late notification.
- Acted for excess layer insurers who successfully avoided cover and a claim under the Third Party (Rights Against Insurers) Act 1930 in a multi-million pound multi-party insurance dispute arising from the construction of a supermarket
- Advised on proposed wording of policies for public liability in public houses and nightclubs, advising on vicarious liability claims.
- Advised and acted for insurers of domestic and commercial properties on claims raised, accepting and declining cover, policy repudiation in public liability, fire, explosion and domestic insurance situations, including subsidence and tree root claims.

- Claims concerning legal expenses insurance, conditional fee agreements and success fee uplifts, pursuit policies and premiums and material non-disclosures to insurers leading to insurers accepting cover in respect of undisclosed liabilities.
- Acted in a variety of multi-party disputes concerning film finance insurance (contingent expenses insurance and time variable contingent policies).
- Acted in claim for payment under health cover plan concerning reference to the Insurance Ombudsman.
- Advised insurers on a 'spread of fire' claim.
- Advised & acted for insured on pursuit of a claim for under settlement and errors in loss adjustment following a flood claim.
- Advised professional liability insurers on wholesale declinature of cover due to dishonesty by a firm of solicitors over a number of years.

## Professional negligence

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### Examples of work as Counsel in court and arbitration proceedings include:

#### **Lawyers**

- X v Y Defending solicitor appointed as arbitrator from challenges under sections 24, 33 and 68 Arbitration Act 1996 & allegations of partiality.
- Nagvi v Harris Cartier Ltd & Others [2019] EWHC 3042 (QB) - Acting for a barrister sued following unsuccessful claim in Employment Tribunal. Pursued strike out for collateral attack on Tribunal Decision
- Ahmad v Wood [2018] PNLR 28 –striking out certain allegations for abusive collateral attack, which resulted in the claim value being dramatically reduced
- Right to Buy ‘lead cases’ litigation – large scale judge-managed litigation involving numerous firms of solicitors. Siân acted for one of the major defendants, facing thousands of claims arising from their role as conveyancing solicitors acting for council tenants exercising their ‘Right to Buy’ their rented property. The litigation ended in discontinuance by the Claimants at the start of trial.
- AIB Group (UK) Limited v Mark Redler & Co Solicitors [2014] UKSC 58 – Supreme Court decision which confirmed that causation of loss must still be proved in a claim for equitable compensation for breach of trust, and the recoverable loss is confined to the loss actually caused by the breach of trust.
- Arthur J.S. Hall v. Simons [2002] 1 AC 615 – House of Lords’ decision which considered the question of when an attack on a previous court’s decision was an impermissible ‘collateral attack’. This led to the abrogation of barristers’ immunity from suit in England & Wales, a victory for Siân’s clients (the defendant solicitors), who following this decision, if sued by a former client are now able to pursue a contribution from the barristers they had instructed.
- *re. Sambala* Multi-claimant litigation arising out of a failed development scheme in Cape Verde–defending the conveyancing solicitors from claims by purchasers of holiday homes ‘off plan’
- Multi-claimant litigation arising out of a failed development scheme for a care home with assisted living apartments in Northamptonshire – defending the conveyancing solicitors.

#### **Accountants**

- Acted in a lost litigation case against accountants for negligent advice on payment of VAT for EU cross border business activities, resulting in company insolvency
- Acted against accountants alleged to have failed to advise correctly about ‘research & development’ tax relief for a waste management company



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- Acted for accountants alleged to have mis-handled tax returns for a property owning professional over a number of years
- Acted for accountants alleged to have negligently prepared accounts for a dissolving partnership
- Acted for accountants alleged to have negligently prepared accounts in the context of a farming partnership dissolution.
- Acted against accountants who advised a 'Lloyds name' negligently about tax mitigation advice
- Acting on the disclosure exercise for the Chase Manhattan Bank v HIH Insurance.
- Acted on professional disciplinary proceedings arising out of allegedly negligent advice on tax planning
- Acted for various accountants on negligent tax advice allegations.

#### **Financial advisers**

- Acted for defendant financial advisers in a secure capital bond mis-selling claim.
- Acted on various claims involving tax avoidance schemes involving film finance
- Acted on pension mis-selling claims.
- Acted on investment mis-selling and client mis-classification claims
- Acted on insurance mis-selling claims – involving claims against insurance brokers & agents
- Acting on an appointed representatives' claim brought under the Commercial Agents(Council Directive) Regulations 1993 against the represented insurers.

#### **Insurance brokers & agents**

- Acted for a ship owner against insurance broker for misplacement of risk via an introducing broker and failure to advise of a premium warranty clause.
- Acted in a trial concerning the insurance broker's role as agent for passing on information relating to a claim and advising client as to whether an "event" within the policy had occurred.
- Advised a leading insurance brokerage on a potential claim arising from a dispute over premium refund on a hotels' package commercial combined insurance policy.
- A claim involving insurers' avoidance due to breach of 'deep fat frying' warranty where breach was due to nature of construction of the building housing the restaurant business.
- A dispute amongst brokers in the broking chain over obligations to review incorrect policy documentation for a property portfolio.

#### **Surveyors & Valuers**

- LRC Holdings v BNP Paribas - a claim brought by an investment & litigation vehicle that had taken an assignment of the cause of action against the valuers arising from the valuation of a linked group of four substantial office buildings located near the Tower of London. The Claimant's case was withdrawn shortly before trial.

- *Whitewater 2006-3 Plc v Colliers International UK Plc* - a high value claim concerning the valuation of a portfolio of central London commercial properties valued at c. £1.5b. The Claimant's case collapsed at trial before final submissions.
- *Titan (Europe) 2006-3 plc v Colliers* - The Court of Appeal overturned the decision of Blair J (reported at [2014] EWHC 3106, (Comm)), that the defendant valuer had negligently overvalued a large commercial property in Germany, for the purpose of inclusion in a portfolio of loans to be securitised by Credit Suisse. For a more detailed note on this case, written by instructed counsel, please [click here](#).
- *Capita Alternative Fund Services & Matrix Securities v Drivers Jonas* - A claim concerning valuation of a factory outlet centre in Kent.
- *K/S Lincoln; K/S Chesterfield; K/S Wellingborough v CB Richard Ellis Hotels Ltd* - Coulson J, in the successful defence of claims concerning hotel valuations brought by Danish property owning vehicles.
- Claims brought by lenders
- Claims concerning overvaluation of properties including farms and commercial valuations based on rental income and yield.
- Structural survey claims, e.g. failure to detect defects; failure to detect and advise on additional parts; failure to advise of need for additional specialist surveys; failure to advise property based on red shale foundations; property development overvaluations.
- Claims relating to new build properties involving NHBC and other 'structural' guarantee policies of insurance

## **Appointments & Publications**

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Society of Antiquities, Ethical Conduct Panel – 2021

Council of the Inns of Court, Disciplinary Tribunal – 2010 to 2013

Editor, Professional Negligence & Liability, Surveyors & Valuers chapter – 2017 to date

Equality & Diversity Officer, TECBAR Committee – 2013 to date

Mentor, Bridging the Bar – 2020 to date