

PETER AEBERLI

MA(Edin), BA(Oxon) Dip Arch, Dip ICArb, RIBA, ARIAS, ACE, FCI Arb.
Barrister, Chartered Arbitrator, Adjudicator, Accredited CEDR Mediator

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**Professional
Qualifications** Barrister (Middle Temple) Chartered Arbitrator, Chartered
Architect, Fellow of the Chartered Institute of Arbitrators,
Accredited CEDR Mediator
Diploma in International Commercial Arbitration

Work as counsel

Work as counsel includes advising on and appearing principally on construction and arbitration related matters in the Technology and Court Court (TCC) and the County Courts, has also appeared in the Court of Appeal (*TWF Printers Ltd v. Interserve Project Services* [2006] BLR 299). Receives instructions to draft contractual documentation including amendments to JCT contracts. Advises and represents parties in arbitration, adjudication and mediation proceedings.

Overseas work has included advising parties in Latvia, Vietnam and in South Africa on contractual (FIDIC) and arbitration matters.

Dispute Resolution Experience

Experienced arbitrator, adjudicator and mediator receiving appointments by party agreement and from bodies such as the ICC (sole arbitrator and president), LCIA (sole, presiding and wing arbitrator), FIDIC, Engineer's Ireland, the CIArb, RICS and RIBA. Has been invited by ICDR (American Arbitration Association) to chair a tribunal, but had to decline, for personal reasons.

Arbitrator on in excess of 70 construction disputes in both two party and multi-party matters, a few involving public bodies, conducting hearings from a few days to four weeks or so, disputes of up to about £10 million and projects up to about £100million: *"We would also like to convey our thanks to the Arbitrator ... We look forward to working again with the Arbitrator soon."* (London city solicitors).





Adjudicator on in the region of 300 construction disputes involving claims up to about £15 million and projects up to about £100 million: "*The adjudicator decided, in what both parties accepted was a thorough and well reasoned decision, that the defendant had to pay the claimant the sums for which I have given summary judgment.*" *Knight v. Urvasco* [2008] EWHC 3956. "*I would like to express my appreciation of the proficient approach and treatment by the one member DAB ...*" (Eastern European State entity).

Mediator on in excess of 60 construction and other disputes involving both two and multi parties, some involving public bodies, and claims up to about £5 million: "*Thank you very much indeed for your assistance yesterday. ... we could not have got there without your skill and persistence.*" (London city solicitors).

Disputes on which Peter has acted, have involved:

- Legal issues and contract interpretation.
- Development agreements.
- PFI Projects.
- Technical and scientific issues, such as paint, roofing, cladding, glazing, corrosion, mechanical and electrical and structural defects, fire resistance and compartmentation.
- Infrastructure and civil and structural engineering disputes including concrete structures, piles, roads, bridges, power stations, bio-mass facilities, airport runways, sewers, defence establishments, liquefied gas facilities, water treatment works, process engineering (biodiesel feed stock).
- Environmental (including nuclear) issues.
- Marine equipment and jetty; Railways (infrastructure, computer equipment and rolling stock).
- Professional negligence.
- Delay and programming issues and disruption and delay costs.
- Quantity surveying issues including interim and final account valuation.
- High value/specification (up to £40 million at 2000 prices) residential properties.
- Commercial agency agreements
- International commercial disputes including as arbitrator under ICC rules, LCIA rules and UNCITRAL Rules and as FIDIC dispute board.

Peter has also mediated disputes outside the construction sector, including in regard to wills, landlord and tenant, sale of goods, and passing off and is identified in the Bar Council list of mediators under the most experienced category.

Panel Listings

LCIA, CI Arb (including NHBC), Engineers' Ireland, Law Society, RIBA, CEDR, RICS (select and fast track) and Access Disputes Committee (railways) panels of arbitrators.

Bar Council panels of mediators.

CI Arb, RIBA, RICS (including Scotland), ICE, CEDR, TeCSA, Construction Confederation, Construction Industry Council, Association of Independent Construction Adjudicators Royal Incorporation of Architects in Scotland (RIAS) and CIOB panels of adjudicators.

ICC Canadian National Committee Panel of International Commercial Arbitrators.

ICDR (American Arbitration Association) roster of international arbitrators

International Institute for Conflict Prevention & Resolution (CPR) Roster of arbitrators and mediators.



FIDIC President's List of Dispute Adjudicators. RICS, accredited Dispute Board Member (Category A, party appointed, chair and sole member).

Named or listed as an adjudicator in respect of a number of high value and prestigious contracts, including a major development by a top premier league football club, a PFI waste management project in Wakefield, a biomass facility in the north of England, a Project Agreement, PFI Construction Contract, Interface Agreement and Facilities Management Contract for social housing on a number of sites in the North of England, London Crossrail, the London 2012 Adjudication Panel and T5 (Heathrow Terminal 5).

Professional Memberships and official positions held

RIBA, RIAS, ACE, FCI Arb, Barrister

Visiting senior lecturer at Kings College Centre of Construction Law and Management, teaching construction law, arbitration and dispute resolution and Course director for Module D of the MSc Course – Arbitration and dispute resolution module: 2002-2013.

Joint Secretary of the Joint Contracts Tribunal (JCT): 1995 to 1998.

Cases editor on the Arbitration and Dispute Resolution Law Journal: 1994 to 2000

Member of the drafting committee for the Construction Industry Model Arbitration Rules (CIMAR).

Member of ICC Commission on Arbitration and ICC Task Forces on Reducing Costs in Complex Arbitrations and on Maximizing the Probative Value of Witness Evidence.

Worshipful Company of Arbitrators (liveryman).

General Availability

Principally UK, Ireland and Europe, including eastern Europe.

Background and Career summary

Prior to reading law as a scholar at Hertford College, Oxford in the late 1980s, worked with a multi-disciplinary consultancy as a project architect on medium and large developments including hospitals, schools, housing, offices and structures for the Ministry of Defence.

Converted to reading Architecture at Edinburgh University after starting a degree in Science (Chemistry) at St Andrew's University.

1978-1987: Architect, principally with Building Design Partnership, but for a period as a Lecturer in Architecture at Edinburgh University in design and building construction.

1987-1989: Hertford College, Oxford, Scholar, Gibbs Prize, *proxime assessit*. Also during this time and for a year or so after, a part time lecturer in building construction at Oxford Polytechnic, now Oxford Brooks University.

1989-1991: Bar school and pupillage, including at Atkin Chambers, London.

Since 1991: In private practice as a barrister, arbitrator, mediator and adjudicator.

1995-2018: Visiting senior lecturer for the Kings College Centre of Construction Law MSc in Construction Law and Dispute Resolution, and sometime Course Coordinator for Part D: Arbitration and Dispute Resolution.

Notable projects

Projects on which Peter Aeberli has been appointed as tribunal or instructed as counsel have included port facilities in Ghana and in England; roads, sewers, including in Bulgaria; remediation

of nuclear contamination; hotels and office complexes, railway rolling stock, housing; the value of projects ranging in value up to about £100 million and disputes up to about £10 million. Peter Aeberli also devised and ran, on behalf of various professional bodies in Ireland including the RIAI, Engineers' Ireland and the Bar Council, the Adjudication Conversion Course in preparation for the introduction of statutory adjudication of construction disputes in Ireland and, for the Irish Law Society, a training course for representatives in Construction Adjudication. In 2018 he devised and ran for the BPP law school a five day course on international arbitration for a group of visiting Chinese lawyers.

Language Capability

English (mother tongue)

A selection of Arbitrations on which Peter Aeberli has been appointed within the last few years include:

LCIA appointment (sole arbitrator UNCITRAL rules): English Consultant; Civil law country local authority, about €200k.

LCIA appointment (wing arbitrator LCIA rules): Caribbean developers and contractors, multi-party dispute: Principally declaratory.

LCIA appointment (presiding arbitrator LCIA rules): Chinese supplier/developer, English distributor.

LCIA appointment (sole arbitrator UNCITRAL rules); Gibraltar and UK commercial parties.

ICC appointment (party nominated arbitrator). Construction of Hospitals in Africa, about £25 million in dispute.

CC appointment (sole arbitrator): English motor dealer, Italian organiser of sporting activities, about €120k

ICC appointment (chair): US ship-owner; Eastern European ship yard. About €300k. Withdrawn due to failure to pay advances shortly after provision of Terms of Reference and First Procedural Order.

ICC appointment (President): Israeli Power Company, US manufacturer, about US\$ 28 million. Appointment did not proceed as before confirmed parties resolved their difficulties over agreeing a president.

Agreed appointment: English local authority and contractor: About £300k.

Agreed appointment: English internationally renowned food emporium and contractor: About £200k.

Agreed appointment: English local authority and various tenants of facility subject to local authority closure orders, about £1.5million.



Agreed appointment: Joint Venture contractor and English local authority, PFI Schools project, about £800,000.

Engineer's Ireland Appointment. Civil law country train manufacturer and State Entity. Dispute about alleged defective trains and rolling stock: about €10 million.

RIBA appointment: Scottish Contractor and English Sub-contractor: Construction Dispute, about £3.5million.

RIBA appointment: English Developer and Contractor: about £100k claim, £400k counterclaim.

Engineer's Ireland Appointment. Spanish train manufacturer and Irish State Entity. Dispute about defective supply: about €10 million.

Law Society Appointment: English vendor and English purchaser of property in Soho.

RICS appointment: English developer and contractor: About £8 million

A selection of Adjudications on which Peter Aeberli has been appointed within the last few years include:

ICE nomination: Off-shore harbour works: FIDIC Dredging and Reclamation works: €16 million claimed.

RICS nomination: Scottish School: Alleged subsidence, about £4 million claimed; Reported at *Transform Schools (North Lanarkshire) Limited v Balfour Beatty Construction Limited* [2020] CSOH 19.

RICS nomination: Liquefied Natural Gas plant: Bespoke terms: Termination and account About £6.5 million claimed;

ICE nomination: Ground and landscaping works: NEC3 amended: Final account, about £4 million claimed;

Agreed nomination: £50 million Marine Jetty: NEC3 amended entitlement to levy liquidated damages; about £1.5 million in dispute.

Agreed nomination: Higher education facility: Engineering services; Bespoke agreement. About £3 million claimed for delays;

LCIA nomination: Station tunnelling: NEC3 amended; Account, about £12 million claimed;

RICS nomination: Residential accommodation; Bespoke vesting agreements: About £400k claimed as damages



Agreed nomination: Nuclear facility: NEC3 amended. Alleged compensation events, about £800k claimed;

TecSA nomination: Term contract for services: Bespoke terms: Account, about £350k claimed;

RIBA nomination: Professional services. Bespoke terms: About £200k claimed for services.

RICS nomination: Central London offices: JCT terms; Post termination account; about £6 million claimed;

ICE nomination: Tram facility: JCT terms: Declaratory as to alleged defects;

ICE nomination: Process plant: Bespoke EPCm contract: About £1.8 million claimed for alleged defects.

CIArb nomination: National infrastructure: Bespoke terms; Declaratory as to obligations;

Agreed nomination: Residential and commercial M&E services: Bespoke terms: £6 million claimed;

ICE nomination: Airport runway: NEC3 amended: Declaratory as to time;

RICS nomination: Office project: JCT as amended: Alleged glazing defects, about £650k claimed.

Agreed nomination: £50 million Materials Jetty associated with construction of a nuclear facility: NEC 3 amended. Declaratory.

TecSA nomination: £50 million Data Centre: JCT DB (2011) as amended: £6.5 million claimed.