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## BIOGRAPHY

Marcus is a Consultant in our Contentious Construction and Engineering practice group. He is experienced in arbitration, litigation and ADR, with a focus on Construction and Engineering disputes, including domestic, cross-border and international litigation and arbitration. He has acted for a range of clients, from individuals to state bodies to listed companies, in a range of industries and sectors, including construction, energy, manufacturing, investment, and financial services.

Marcus has acted as counsel in international commercial and investor-state arbitrations administered under the rules of the major arbitral institutions, including the International Court of Arbitration of the International Chamber of Commerce (ICC), the London Court of International Arbitration (LCIA), and the International Centre for Settlement of Investment Disputes (ICSID) as well as in ad hoc proceedings. He has also represented international corporations and private clients in complex cross-border litigation and court applications in support of arbitration proceedings.

Marcus has provided advice in relation to high value and complex disputes involving parties from and assets in a wide range of countries including Costa Rica, France, India, the Netherlands, Russia, Saudi Arabia, Singapore, Switzerland, the United Kingdom and the United States. He speaks fluent English, French and Spanish.

## ADMISSIONS

- England and Wales

## RELATED CAPABILITIES

- Construction Disputes
- Litigation & Dispute Resolution
- Real Estate

## RELATED INSIGHTS

Insights

Mar 11, 2025

### **Building Safety Act: new TCC case on building information orders**

Section 130 of the Building Safety Act 2022 (BSA) allows the High Court to make building liability orders (BLO) if it considers it just and equitable to do so. Section 132 allows the court to make an information order to enable applicants to decide whether to apply for a BLO. In this Insight, Marcus Birch considers the recent TCC decision in *BDW Trading Ltd v Ardmore Construction Ltd & Ors* [2025] EWHC 434 (TCC), which provides guidance on the circumstances in which the court will entertain an application for an information order, and the types of information and documents which it will include in such an order.

Insights

Feb 12, 2025

### **Building Safety Act: application of the “just and equitable” test for remediation contribution orders**

Section 124 of the Building Safety Act allows the First Tier Tribunal to make remediation contribution orders (“RCOs”) where it considers it “just and equitable” to do so. In this Insight, Marcus Birch considers the recent First Tier Tribunal decision in *Grey GR Limited Partnership v Edgewater (Stevenage)* and others which provides long-awaited guidance on how the Tribunal will apply the “just and equitable” test in fire safety cases involving large numbers of respondents.

Insights

Jan 26, 2023

## **Building Safety Act 2022: changing the rules on the landlord and tenant relationship, Part 2 – qualifying lease certificates**

In a previous blog, I explored one aspect of the statutory reallocation of risk for the costs of works to remedy building safety issues in the Building Safety Act 2022 (BSA 2022). The focus of that blog was the new landlord's certificate, designed as a tool for the landlord to communicate with leaseholders as to whether it is "responsible" for defects, or whether it meets the "contribution condition" in the BSA 2022. In this blog, I will focus on the second element of this new framework, the "qualifying lease certificate" or "leaseholder certificate". The relevant provisions of the BSA 2022 came into force on 28 June 2022, and the related regulations have been in force since 21 July 2022.

Insights

Nov 17, 2022

### **Building Safety Act 2022: changing the rules on the landlord and tenant relationship**

The Building Safety Act 2022 (BSA 2022) creates a whole new world of building safety regulation and litigation. A key legislative objective was to regulate and direct responsibility for the cost of works to remedy building safety issues, so that the risk of such costs could no longer be the subject of agreement between landlord and tenant, but would (in defined circumstances) be apportioned in advance, by law, to the landlord. To support that statutory reallocation of risk, the BSA 2022 created a new procedural framework for the paperwork needed to identify which landlords must carry the remedial costs and which tenants benefit from the new rules. In this blog, I'll focus on the new landlord's certificate, setting out financial information about the landlord and its corporate group, which must be sent to all long leaseholders. The relevant provisions of the BSA 2022 came into force on 28 June 2022, and the related ...

Insights

Jul 14, 2022

### **Gama Aviation v MWWMMWM: the problem of contractual formalities and informal novation**

The problem of what happens when parties do not act in accordance with contractual formalities is a hardy perennial in commercial disputes. Certain instances of the problem are peculiar to the construction industry, notably absent or inadequate notices of events giving rise to time and money, or absent or inadequate payment or pay less notices. Each of these has given rise to complex caselaw. Other instances are common to all commercial contexts. One is the practice of including a "no oral modification" clause in a contract, but then informally agreeing an amendment. This situation has proved sufficiently difficult to require a thorough review and restatement of the law by the Supreme Court in *MWB Business Exchange Centres Ltd v Rock Advertising Ltd*. The recent case of *Gama Aviation v MWWMMWM* shows the issues thrown up by an informal novation of an agreement that one side said prohibited such info...

Awards

October 5, 2021

### **Legal 500 UK 2022**

Insights

Apr 20, 2021

### **Can an exclusion clause or liability cap apply to a deliberate or fundamental breach? (Mott MacDonald v Trant Engineering)**

In *Mott MacDonald Ltd v Trant Engineering Ltd* [2021] EWHC 754 (TCC), the TCC held that a clause in a professional services agreement containing a cap on liability, exclusions on liability, and a net contribution clause applied even to fundamental, willful or deliberate breaches of contract. In this casenote, first published by LexisPSL, Marcus M Birch takes a closer look at this case.

Insights

Oct 26, 2020

## **Assignment of sub-contracts – benefit and burden, risk and reward in the TCC**

When a project goes so poorly that an employer feels obliged to terminate its main contractor, the employer will often take an assignment of various sub-contracts. But what exactly does it mean to “assign a sub-contract”? Of course, the employer may also claim against the main contractor for delay damages, additional costs to complete and so on, and the main contractor may wish to pass down its liability to the sub-contractor(s) whom it blames for the problem. But can it do so? These questions, and more, were addressed by O’Farrell J in the recent TCC case of *Energy Works (Hull) Ltd v MW High Tech Projects UK Ltd*.

Awards

Oct 02, 2020

## **Legal 500 UK 2021**