



“The sort of advocate that most clients dream of instructing.”

### The Legal 500

Karen Gough practises internationally as counsel, attorney-at-law, arbitrator, adjudicator and ADR neutral. She specialises in complex construction, engineering, professional negligence and general commercial disputes whether resolved by litigation, arbitration or ADR. She represents a wide range of clients including governments, government agencies, local authorities, educational institutions, contractors, sub-contractors, and major commercial organisations. Her construction practice includes disputes concerning private domestic and commercial industrial and retail developments, major public works and infrastructure projects including water, sewage and power plants, nuclear facilities, hospitals, prisons, schools, roads, rail, and sea defences.

She has undertaken a number of high profile commercial disputes including *Azevedo and Alvarez v Imcopa Importacao, Exportacao E Industria De Oleus Ltda and Others*, concerning the legality of consent payments in corporate debt restructuring proposals; a number of disputes arising from share purchase agreements; a substantial and long-running banking dispute arising out of an international commodities transaction in Jamaica; and a number of other complex disputes involving financing and guarantees for major commercial developments. In 2015 she appeared in the Privy Council case of *National Housing Trust v Y P Seaton & Associates Company Limited* a case about the power of an arbitrator to award compound interest under a commercial agreement governed by Jamaican law. Karen also acts for clients in insolvency/insolvency related disputes. She is the immediate past chairman of the Institute of Chartered Accountants Insolvency Licensing Committee, being the first lay chairman of this important RPB for the regulation of insolvency practitioners in the UK, and in 2017 was elected as a Council Member of the UK Society of Construction Law.

Karen has a strong commercial practice in the Caribbean. In April 2016 she completed a course at the Norman Manley Law School at UWI in Jamaica and was awarded a Legal Education Certificate giving her an entitlement to be admitted to practise across the wider Caribbean. In July 2016, Karen was admitted to practise as an Attorney-at-Law in the Courts of Jamaica and in November 2016, in Trinidad and Tobago.

She has more than 30 years' experience of domestic and international commercial arbitration, both as counsel and as arbitrator. She is a recognised expert on disputes arising out of projects governed by the FIDIC forms of

contract and acts as an expert “Friendly Reviewer” for FIDIC. In 2017 she was also appointed to, and is a member of, the KLRCA panel of experts advising on the KLRCA new standard forms of building contract launched in August 2017. Karen is a past President of the Chartered Institute of Arbitrators; a Chartered Arbitrator; a Fellow of the Asian Institute of ADR, and an accredited TECBAR and CEDR adjudicator.

She is described in Chambers UK as being *“Just the person you want if the battle is going to be hot”* in construction claims, and having *“immense arbitral experience”*, and by Legal 500 as *“outstanding in her detailed and analytical grasp of her field and fearless in her protection of the client”*.

Karen was shortlisted for The Legal 500 UK Awards 2018 ‘International Arbitration Junior of the Year’.

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## PRACTICE AREAS

- Alternative Dispute Resolution
  - Construction
  - Commercial
  - Civil Liability
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## PRACTICE AREAS

### ALTERNATIVE DISPUTE RESOLUTION

*“A prominent arbitration barrister, who is great at handling clients.”*

The Legal 500 2017

Karen was President of the Chartered Institute of Arbitrators from 2001-2002. She is a Chartered Arbitrator and is recognised for her vast experience of both domestic and international arbitration law and practice, acting as counsel or as arbitrator (the latter since 1991) in both construction and commercial disputes. She has practiced in the field of international commercial arbitration (since 1987), and holds a Diploma in International Commercial Arbitration. She has worked under and/or gained knowledge of the workings of all the principal domestic and international arbitration and ADR rules. She and has long experience both of common law and civil law procedures.

### CONSTRUCTION

*“Very experienced and very approachable.”* Chambers & Partners

*“She has a no-nonsense approach, good tactical nous and gravitas to her name.”*

The Legal 500 2017

In her construction and engineering practice Karen has litigated or arbitrated disputes over a period of more than 30 years under most of the recognised standard forms of building and engineering contract and she has a particular expertise in the arbitration of disputes under the FIDIC forms of construction and engineering contract.

Karen is an accredited TECBAR adjudicator and a CEDR “super adjudicator” and has undertaken many

adjudications both as counsel and adjudicator.

## COMMERCIAL

Karen has undertaken many high value and high profile commercial disputes both in the UK and abroad, and successfully conducted claims/defences in a range of general commercial matters involving debt restructuring, share purchase agreements, project finance, banking and insolvency claims. Karen also has particular experience dealing with claims arising from and relating to the recognition and enforcement of international arbitration awards in different jurisdictions.

## CIVIL LIABILITY

*"She has a no-nonsense approach."* The Legal 500 2017

In her professional liability practice she has advised and/or prosecuted and defended architects, engineers, surveyors, quantity surveyors, construction management professionals, accountants and solicitors. In addition, Karen has extensive experience of advising arbitrators and parties concerning matters of conduct and procedure in commercial arbitrations (she appeared recently in the case of *Cofely Limited v Bingham and Knowles* [2016]), and represents barristers, solicitors and construction professionals on professional conduct charges before regulatory tribunals.

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## CASES

### ***Construction & Engineering***

#### **PBS Energo a.s. v Bester Generacion UK Limited [2018]**

Advising and representing PBS Energo in adjudication proceedings [as the successful respondent] and in adjudication enforcement proceedings [as the successful claimant].

Advising and representing an Airports Authority in the Caribbean in claims arising from an airport refurbishment contract [2015 – 2015] – on-going.

Arbitration – advising employers on disputes arising from a substantial commercial development in Ghana.

#### **NHT v Y P Seaton & Company Associates Limited [2014-16]**

Advising Jamaican company in connection with disputes arising from terminated development agreement including final account claims under a construction contract.

#### **Y P Seaton & Associates v Housing Association of Jamaica [2014]**

Advising Jamaican company in connection with claims on final account agreements and summary judgment application.

#### **2014**

Advising UK Health Trust on potential claims arising in connection with alleged breaches of PFI agreement.

#### **2014**

Advising as a consultant to Trinidad and Tobago Attorneys on disputes arising in connection with a public procurement process between a government agency and substantial international developer.

**Lanes Group Plc v Galliford Try Infrastructure Ltd** [2011] EWHC 1696 (TCC) 137 Con LR 1 also Court of Appeal [2011] EWCA Civ 1617

Adjudication enforcement: the consequences of a refusal to serve a notice of referral.

**Lanes Group Plc v Galliford Try Infrastructure Ltd (2012)**

Arbitration of construction dispute.

**Pilon Ltd v Breyer Group Plc** 23 April 2010 [2010] EWHC 837 (TCC)

Adjudication enforcement – The court set out the law in relation to the enforceability of an adjudicator’s decision where he had taken an erroneously restrictive view of his jurisdiction, with the result that he decided not to consider an important element of the dispute referred to him.

(See also under Arbitration, Adjudication and ADR below).

**Commercial**

**LCIA Arbitration** between Central European and Russian parties involving disputes arising from a major share purchase agreement.

**LCIA Arbitration** between BVI and Cayman Islands registered companies involving a commercial contract dispute and claims amounting to more than USD120 million.

**RBTT Bank Jamaica Limited by Y P Seaton and Ors [2014] JMSC Civ 34**

Acting as international legal consultant to Jamaican group of companies in long-running litigation concerning funds seized from bank accounts of customers by predecessors to the Claimant bank in the early 1990s,

Currently advising on appeal proceedings. Whether bank entitled to take money from account of customer – Allegation of overpayment – Quistclose trust – Mistaken payments – Money had and received – Abuse of process.

**Ibid. [2014] JMSC Civ. 139**

Acting as international legal consultant on related and parasitic claims for specific disclosure, compound interest, costs on the indemnity basis, interim payment on account of costs and interest on costs.

**Jamaica Mortgage Bank Limited v Ebony View Limited and Ors [2014]**

Advising Jamaican clients on proceedings commenced by the Bank concerning loan agreements and guarantees.

**Addestone Properties & anr v Gohil [2014]**

Proceedings for freezing injunction and claims arising from commercial loan agreement.

**Azevedo and Alvarez v Imcopa Importacao, Exportacao E Industria De Oleus Ltda and Others [2012] EWHC 1849 (Comm) & CoA.**

The legality of consent payments in corporate debt restructuring proposals.

**Frontera Eastern Georgia Limited v Arar Inc and Ors [2013] Comm Ct**

Commercial Arbitration, resisting enforcement of international arbitration award.

**Ali Marzook Ali Bin Kamil Al Shamshi & Ors v Terna Bahrain Holding Company Wll [2012] Comm Ct**

Resisting enforcement and anti-suit proceedings and challenging international arbitration award involving disputes arising from a substantial share purchase agreement.

**Arbitration, Adjudication and ADR**

## **Counsel in arbitration**

Acting for Trinidadian government agency in case remitted by the Privy Council **[2015 – ongoing]**

**Acting for Trinidadian state entity in major commercial construction arbitration, including related court proceedings [ongoing].**

**Cofely Ltd v Bingham and Knowles [2016]** application to the Commercial Court to remove an arbitrator on the grounds of apparent bias, significance of the IBA guidelines on conflicts.

**The National Housing Trust v Y P Seaton & Associates Company Limited [2015]** UKPC 43

Acting as lead counsel in an appeal to the Privy Council from the Jamaica Court of Appeal The appeal concerned a dispute about the jurisdiction of an arbitrator to award compound interest on an award which had been upheld by the Jamaican Court of Appeal.

**Party nominated arbitrator (2014)**

Appointed to resolve disputes arising from a substantial construction project in Dubai under the FIDIC 1999 conditions of contract for construction and DIAC arbitration rules.

**Adjudicator of disputes arising from major construction contract (2013-2014)**

Acting as adjudicator appointed by TECBAR in 3 related construction adjudications.

**Counsel in substantial private adjudication proceedings (2013)**

Acting as counsel for major UK company in proceedings brought by local authority concerning alleged breaches of a waste management contract.

**Lanes Group Plc v Galliford Try Infrastructure Ltd (2011-2012)**

See above under “construction” acting as counsel in arbitration and adjudication proceedings arising from the termination of a construction contract.

**Lead Counsel in an International Arbitration**

Between a government agency in Trinidad and Tobago and contractor in US\$30m dispute concerning a major hospital construction project (2007-2011)

**Acting as counsel in an International Arbitration between major Irish/Spanish JV and Employer**

Concerning a major motorway upgrading scheme in the Republic of Ireland, value of some €200 million.

**2009/10 Acting as an arbitrator appointed by the Government of Botswana**

In a dispute between the Government and a major contractor concerning a major infrastructure project in Botswana.

**2006-2008 Acting for a member of a substantial group of companies based in Turkey**

Engaged in the provision of power generating facilities in Turkey in (a) a dispute with a major international construction company over an EPM contract under ICC Rules; and b) in a dispute with an Italian company in connection with a contract for the design, supply and installation of plant and equipment under CPR Rules for Non-Administered International Arbitrations 2005.

## **Professional Negligence**

**McGowan v Sense of Space Limited and Anr [2014]**

Claim for professional negligence and breach of contract brought against architects and contractors.

**Gibson v L M Associates Limited [2012]**

Substantial claim for damages against a firm of architects.

**Co-operative Group Limited v John Allen Associates and Ors [2010]** EWHC 2300 TCC, and Court of Appeal (2011)

Engineers design duties and ability to rely on advice from specialist sub-contractors in discharge of those responsibilities.

**Charles Church Developments Ltd v Stent Foundations Ltd & Anor (2006)/(2007)** [2006] EWHC 3158 (TCC)

Engineers negligence; limitation, failure of Claimants to comply with pre-action protocol for construction and engineering disputes.

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## RECOMMENDATIONS

**Chambers & Partners**

International Commercial Arbitration – Construction/Engineering  
Construction

**Legal 500**

International Arbitration  
Construction

**Chambers & Partners Global****Quotes**

‘She has a no-nonsense approach, good tactical nous and gravitas to her name.’ Legal 500 2017

‘A prominent arbitration barrister, who is great at handling clients.’ Legal 500 2017

‘She has a no-nonsense approach.’ Legal 500 2017

“Very approachable and easy to get on with.” Legal 500 2017

“Very experienced” Legal 500 2017

“The kind of advocate that most clients dream of instructing.” Legal 500 2016

“She gives clear, concise advice, is extremely easy to deal with and has tremendous rapport with clients.” “She is good at changing the format of something with a long view.” Chambers & Partners 2016

“She provides all-round excellence through her super technical knowledge and practical approach.” Legal 500 2015

“She has superb technical knowledge, and is excellent all-round.” Legal 500 2015

“Has a wealth of experience in the construction law arena, both domestically and abroad. Offers first-rate advice and puts an emphasis on practicality.” “She’s superb with clients, achieving real understanding and empathy.” Chambers & Partners Global 2015

"Has considerable expertise in construction-related contractual disputes... Very experienced and very approachable." Chambers & Partners 2015.

"Just the person you want if the battle is going to be hot." Legal 500, 2014, (construction).

"Superb skills in a variety of areas and the first port of call on complex arbitration issues." Legal 500 2014, (international arbitration).

"Offers first-rate advice and puts an emphasis on practicality." "She's superb with clients, achieving real understanding and empathy." Chambers & Partners 2015

"Always impressive." "She is utterly indefatigable." "Offers first-rate advice and puts an emphasis on practicality." "She's superb with clients and achieves real understanding and empathy with clients." Chambers & Partners 2014

Instructing solicitors are full of praise... recalling that she "instantly earned the respect of the building trade professionals who formed our interdisciplinary team." She is "always meticulously prepared and is never caught off-guard by either counsel or arbitrator," sources say, while others are impressed by her "immense arbitral experience.": Chambers and Partners 2013

Construction expert Karen Gough spends much of her time acting as counsel in arbitrations and has extensive experience of a range of institutional proceedings... offers particular expertise in disputes arising from the Caribbean. Sources point to her "formidable arsenal of legal knowledge" and her "excellent advocacy skills." Chambers & Partners 2013

Who displays 'great knowledge and leadership': Legal 500 2012

Is 'outstanding in her detailed and analytical grasp of her field and fearless in her protection of the client': Legal 500 2012

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## APPOINTMENTS

Fellow of the Asian Institute of ADR (2018)

Council Member of the UK Society of Construction Law (2017)

Panel Arbitrator with the Kuala Lumpur Regional Centre for Arbitration (2014)

Chairman of the Institute of Chartered Accountants' Insolvency Licensing Committee 2013-2016

ICAEW Lay member Insolvency Licensing Committee: 2008; Vice Chairman 2011-2012

CEDR "Super Adjudicator" Panel: 2008

Committee Member of South Eastern Circuit of the Bar: 2005-2011

Secretary to the Sole Practitioners' Group: 2005-2011

Panel Arbitrator/Adjudicator CI Arb. London Housing Panel

Committee Member TECBAR: 2004-2012

President of the Chartered Institute of Arbitrators: 2001-2002

Chairman of the Council of the Chartered Institute of Arbitrators 2001-2002

Chairman of the Executive Board of the Chartered Institute of Arbitrators: 1997-2000

Member of the Council of the Chartered Institute of Arbitrators: 1992-2003

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## MEMBERSHIPS

- COMBAR
- TECBAR
- LCLBA
- CIArb
- LCIA
- AIADR
- SCL
- IBA
- Inner Temple
- ICC United Kingdom
- The South Eastern Circuit of the English Bar
- Attorney-at-law of the Jamaican Bar
- Attorney-at-law Trinidad and Tobago

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## QUALIFICATIONS

- FAIADR 2018
- Admitted as Attorney-at-Law in Jamaica 2016
- Admitted to the Bar of Trinidad and Tobago: 2008; 2009, 2016 (with full rights of audience)
- CEDR "Super Adjudicator" Panel: 2008
- TECBAR Accredited Adjudicator: 2004
- FCI. Arb.; Dip ICArb; Chartered Arbitrator: 1999
- Diploma in International Commercial Arbitration, Dip ICArb:1998
- Fellow of the Chartered Institute of Arbitrators: 1991

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## ADDITIONAL INFORMATION

Karen lectures and speaks regularly on the FIDIC forms of contract and is a "Friendly Reviewer" for FIDIC and a



member of the Expert Advisory Board of the AIAC in Malaysia. In addition, she is also a sometime lecturer, speaker and contributor to papers and conferences in the UK and around the world on construction law, arbitration and ADR law and practice; qualifications and standards for arbitrators and ADR neutrals. She is a past tutor, assessor and past examiner for membership courses leading to entry into membership of the Chartered Institute of Arbitrators. She was a contributor to revisions of membership and training requirements of the Chartered Institute of Arbitrators and the drafting of a Code of Ethical conduct for Arbitrators and ADR neutrals.

Other interests include health and education; she is a former non-executive director of Dartford, Gravesham and Swanley PCT and currently the Chairman of the Institute of Chartered Accountants Insolvency Licensing Committee.

## PUBLICATIONS

Wilmot-Smith on Construction Contracts 3rd Edition – Contributor, Oxford University Press 2014

Construction Contracts: Law and Practice. Richard Wilmot-Smith QC, 2nd Edition (Contributor) Oxford University Press 2010

Bernstein's Handbook of Arbitration and Dispute Resolution Practice 4th Edition (Contributor) Sweet & Maxwell 30 October 2003

## ARTICLES

The Legal Consequences of BIM (February 2014, Lexus Nexus Webinar)

BIM – the UK Experience (as presented to the IBA Conference in Boston in October 2013)

Hot issues In Fidic (April 2013)

The Management of Costs Before, During and After an Arbitration Hearing (November 2010)

The Proper Basis of Assessment of Compensation Events under NEC3

Seminar Paper: Chartbrook v Persimmon Homes (July 2010)

Arbitration vs Other Forms of Dispute Resolution – Which Horse For Which Course? (2009)

Judicial Supervision and Support for Arbitration and ADR (September 2006, Karen Gough)

The New TCC Guide – ADR, Adjudication, Arbitration and the New TCC Mediation Initiative (May 2006, Karen Gough)

Recent Cases in Arbitration (February 2005, Karen Gough)

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### LONDON

81 Chancery Lane,  
London  
WC2A 1DD  
Tel: +44 (0)20 7832 1111  
DX: London/Chancery Lane 298  
Fax: +44 (0)20 7353 3978

### MANCHESTER

82 King Street,  
Manchester  
M2 4WQ  
Tel: +44 (0)16 1870 0333  
Fax: +44 (0)20 7353 3978

### SINGAPORE

Maxwell Chambers,  
28 Maxwell Road,  
04-03 & 04-04, Maxwell Chamber  
Suites  
Singapore 069120  
Tel: +65 6320 9272

### KUALA LUMPUR

#02-9, Bangunan Sulaiman,  
Jalan Sultan Hishamuddin,  
50000 Kuala Lumpur,  
Malaysia  
Tel: +60 32 271 1085