

KEN SHEARD MSC MCIARB MCIQB MAPM

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SKILLS

Expert witness – Programming & Delay

Planning and Project Management

Claims

Litigation

Arbitration

Adjudication

Mediation

PROFILE

Ken has over 25 years of experience in planning and project management across a range of sectors and industries both nationally and internationally. He specialises in the analysis of complex time-related issues on both live projects as well as forensic analysis.

Ken's experience includes the preparation and monitoring of complex programmes of work as well as the analysis of delay claims and preparation of expert reports. He has been appointed by adjudicators to provide advice on the temporal aspects of claims and has prepared expert reports for adjudication, arbitration, mediation and court. He has provided advice to clients to resolve difficult programme related issues with a view to avoiding formal dispute resolution.

Ken also has considerable experience on large international projects including both programme monitoring and delay analysis for clients and insurers with experience of Delay in Start-Up (DSU), Advance Loss of Profits (ALOP) and Business Interruption (BI) coverage. Many of these appointments have been through the major re-insurance providers and he has worked with loss adjusters, brokers and lawyers.

Ken has been appointed as an Expert Witness, prepared expert reports, exchanged reports and have represented clients in a number of significant claims. These have included *Costain v Haswell* [2009] All ER (D) 139 at the Technology and Construction Court (TCC), a national stadium project in England which was due to be heard at the TCC but which settled at mediation and a Professional Indemnity (PI) claim against a structural engineer by the main contractor on a PFI hospital which settled following mediation.

ACADEMIC

- BSc in Construction.
- MSc in Construction Law & Dispute Resolution

MEMBERSHIPS

- Member of the Chartered Institute of Arbitrators [MCI Arb].
- Member of the Chartered Institute of Building [MCIQB].
- Member of the Association for Project Management [MAPM] (and past chairman of the Planning Specific Interest Group).
- Member of the Society of Construction Law.



DISPUTE EXPERIENCE

- Analysis of delays and claims on two propane dehydrogenation and polypropylene plants in the Kingdom of Saudi Arabia. Instructed by insurers to review the impact of insured events upon the start-up of the project. The analysis was complicated by timing of the events which occurred in several periods of insurance cover which each had a separate time deductible. The commission involved a retrospective review of project progress leading up to the event and monitoring the remedial works following the event. (Polypropylene Plants, KSA).
- Planning and programming advice following a fire in a containment tank at a Liquefied Natural Gas intake facility that was being constructed at the time. The time analysis was carried out to enable insurers to understand the loss of income sustained by the owners due to the insured incident. (LNG Facility, Western Europe).
- Programme analysis of the reinstatement works schedule following a fire at a chemical plant. The focus was to look at programme options for expediting the works and returning to full production. (Rubber Plant, Western Europe).
- The evaluation of ramp up schedules following the loss of power at an aluminium smelting plant. The commission involved reviewing the rate of ramping up of aluminium pots prior to the power outage and establishing when the plant should have been back to their pre- incident position and how much lost production there had been. This advice was provided to loss adjusters and insurers. (Aluminium Smelting Plant, Middle East).
- Analysis of the impact of claimed delay incidents upon the start-up date for combined cycle gas fired power station in Italy. A series of incidents had occurred during the commissioning process and compensation was being sought from the DSU insurers of the project. The remit was to establish the impact due solely to each incident. (Gas Fire Power Station, Italy).
- Provision of expert advice of the reinstatement time following a fire in a switch room at an open cast copper mine in Africa. The fire occurred just days prior to when the production facility was due to complete. The likely completion date prior to the incident needed to be established together with the reinstatement time. The analysis enabled insurers and their advisors to understand the advance loss of profits due to the insured event. (Copper Mine, Africa).
- Analysis of the BI delays due to a number of incidents when re-commissioning a natural gas treatment works on the North West coast of the UK. The exercise involved reviewing the commissioning programmes and establishing the delays relating solely to specified events. (Natural Gas Facility, UK).
- Provision of planning and programming expert advice on a water treatment works in UK. Reinforced concrete structures were to be constructed to defined tolerances necessary for the operation of the plant. Analysis of the time related delays following the decision to change the foundation design. Expert reports were produced with meetings being held between the delay experts and the matter was heard in the Technology and Construction Court (TCC) in London. (Costain v Haswell, UK).
- Analysis of time related issues in connection with a partial blade liberation from a gas turbine in a power plant. This was a Business Interruption (BI) claim and insurers were seeking to verify that the reinstatement works were carried out as expeditiously as they should have been, and that the BI duration was purely a function of the insured event and its reinstatement. (Gas Fired Power Station, UK).
- Monitoring and analysis of the reinstatement schedules following a fire at a petrochemical plant in the USA. The commission required the detailed analysis of the rate of progress achieved month on month with the aim of returning the facility to full operation as quickly as possible. (Petrochemical Plant, USA).

DISPUTE EXPERIENCE CTD

- Analysis of the programming issues associated with reinstatement works on a hydro-electric plant. This followed an incident which damaged the penstock leading to the turbine hall on a dam in Western Europe. The analysis considered the time required to drain down the reservoir and execute the works during the summer. This enabled the identification of risk and duration of reduced output to the power generation for the insurers of the BI. (Hydro-electric, Western Europe).
- Preparation of a series of expert reports for client advice dealing with delay claims for a high end residential development in London. (Residential, UK)
- Client advisor role for a prestigious mixed-use development in central London. The role included the analysis of contractor detailed programmes for a key phase of the development. (Residential / Commercial / Retail / Leisure, UK)
- Client adviser role for programme related matters on a student accommodation project in London. (Student Accommodation, UK).
- Analysis of delay claims on two hotels and exhibition halls. The commission involved the detailed analysis of three connected projects all of which suffered delays during the course of the construction works covered by two separate contractors. One of the hotels was a landmark project for the country. The dispute was settled by negotiation following the programme and cost analysis exercises. (Exhibition Halls and Hotels, Middle East)
- Analysis and programme development for new hospital in UAE. (Hospital, Middle East)
- Programme analysis and development of reports for medical equipment supplier. (Hospital, Europe)
- Development of strategic programmes for the development of a new general hospital. Monitoring the performance of the contractor delivering the project. (Hospital, Europe)
- Expert analysis of delay claims on a city centre hospital project. (Hospital, UK)
- Expert witness on a series of disputes involving the cladding of an office building in the UK which settled in mediation following two adjudications. (Office Building, UK).
- Client adviser for programme issues for a complex university laboratory building. (University, UK).
- Development of programme templates for the Parliamentary Estates Department for the Houses of Parliament. (Government, UK)
- Retrospective analysis of the causes of critical delay experienced during the construction of a new parliament building. (Government, European)
- Analysis of the effects of extreme weather to the construction programmes at four Privately Financed (PFI) schools. This included the evaluation of reinstatement works programmes and a review of all the progress reports leading up to and following the incident on behalf of insurers. (Four PFI Schools, UK).
- Provision of programming and planning expert advice to client. The project was a PFI hospital with a novated design team. The contractor claimed that the design team caused delays to the project and the design team claimed that the critical delays were due to other factors. The dispute was mediated and settled shortly afterwards. This was a Professional Indemnity (PI) claim and the appointment was made by insurers. (PFI Hospital, UK).
- Provision of planning and programming expert advice on a national football stadium representing structural engineers on the project. There were a complex series of sequencing issues to resolve and reconcile giving due consideration to the progress of the works and the criticality of the breaches being claimed. This was a Professional Indemnity (PI) claim and the appointment was made by insurers. (Football Stadium, UK).

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DISPUTE EXPERIENCE CTD

- Analysis of the effects of flood resulting from a burst water main in London upon an office development that was nearing completion. The exercise included providing advice sequencing and how the delay could be mitigated, which was ultimately agreed, thus reducing costs to insurers (Office Building, UK).
- Monitoring of a new road project in Australia on behalf of insurers of the project. The project involved boring two road tunnels under the river dividing the North and South parts of the city. The commission was to review the rate of progress, compare this with the planned rate and report on the potential time related risks to the project. This included the analysis of production rates for the tunnel lining and the tunnel boring rates of progress. (Road Tunnels, Australia).
- Investigation of all time related matters following the collapse of a section of tunnel of a high-speed rail project during the construction phase. This also included the monitoring of progress following the incident. This necessitated a review of the planned excavation and lining methodology and comparing it to the way the works were actually carried out. Expert reports were produced insurers for an international arbitration hearing. (High Speed Railway, Far East).
- Evaluation of weather related delays to a number of sectional contracts on a high-speed rail link in the UK. This involved the evaluation of a series of programmes that existed at the time of the extreme weather and the likely impact of these weather events upon the contracts. (High-Speed Rail Link, UK).
- Seconded to a construction management consultant to retrospectively review the impact of compensation events, (NEC form of contract) on a complex series of station developments in London and Kent. (High Speed Rail Link Stations, UK).

ADDITIONAL

- Legal Experience Training Advanced Professional Award in Expert Witness Evidence LETAPAEWE
- In the past Ken has been chairman of the Association for Project Management (APM) Planning Specific Interest Group (SIG). Under his chairmanship the group published 'An Introduction to Project Planning'; 'An Introduction to Project Controls' and 'The Scheduling Maturity Model'. He has also spoken at project management conferences on planning and programming issues and presents to solicitors on delay analysis.
- In addition, he has been a part time lecturer at Anglia Ruskin University and lectured final year undergraduates on Construction Contract Law.