



Patrick Maxwell



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Patrick specialises in construction, professional negligence, insurance and commercial disputes. Much of his work is in the High Court (particularly the TCC) and he has also appeared before the Court of Appeal. Patrick is experienced in alternative dispute resolution and is regularly instructed in relation to adjudications and arbitrations.

Alongside his commercial practice, Patrick maintains a distinct interest in prison law. He represents interested parties at inquests and works on related civil and public law disputes.

Having frequently appeared in court since commencing practice, Patrick is an accomplished advocate and very effective in cross examination. He is highly regarded by instructing solicitors for the quality of his advice and drafting.

Construction & Engineering

Patrick deals with the wide range of claims that arise in the context of construction and engineering disputes. His experience ranges from residential disputes to major international projects. He is comfortable dealing with the standard forms of contract as well as bespoke agreements. He is instructed by employers, contractors and subcontractors.

Alongside his court practice, Patrick is frequently instructed in relation to adjudications. He provides strategic advice on complex linked adjudications as well as effective drafting in a wide variety of disputes.

Selected Cases

- **LB Harrow v Engie [2018] EWHC 2575 (TCC)** Acting (with Andrew Rigney QC) in successful claim for a declaration as to the extent of the claimant's obligation to take out a policy of latent defects insurance.
- Successfully defending, at 3-day trial, a claim involving multiple allegations of defective work against a contractor. Indemnity costs awarded.
- Acting (with Roger ter Haar QC) in ICC arbitration proceedings arising from a major construction

- project in the Middle East. Particular focus on extensions of time and liquidated damage provisions.
- Achieving a favourable settlement in a dispute arising from the specification and supply of cranes at a number of major London construction sites.
 - Assisted Andrew Rigney QC, counsel for the successful Respondent in *Mears v Costplan Services et al* [2019] EWCA Civ 502, in which the Court of Appeal considered the meaning of “practical completion” for the first time in 50 years.
 - Acting for a main contractor in a number of linked adjudications brought by a subcontractor that concerned various “smash and grab” arguments and allegations of defective workmanship.
 - Acting in a dispute arising from the supply of allegedly defective insulation boards which raised various issues concerning the incorporation of standard terms and the application of the Unfair Contract Terms Act 1977.
 - Acting for a number of contractors in cases arising from the negligent design and/or manufacture of prefabricated bathroom units (with Andrew Rigney QC).
 - Adjudication concerning the payment mechanism of a non-standard form construction contract.
 - Adjudication concerning a dispute over the proper basis of payment for variations.
 - Acting for a subcontractor involved in a large construction project at a major national airport in a claim concerning various allegations of breach of contract and delay.

Commercial

Patrick provides advocacy, advice and drafting on a wide variety of commercial cases. Much of his work involves contractual disputes and he also has experience of company law, passing off and the economic torts.

Selected Cases

- Acting in a high value claim concerning the negligent provision of tax advice to multiple parties in which there are allegations of fraudulent misrepresentation, bribery and breach of fiduciary duty (with Roger ter Haar QC).
- Pursuing a successful claim for a major London restaurant franchiser against a franchisee for various breaches of contract.
- Acting in dispute arising from the supply of allegedly defective insulation boards which raised various issues concerning the incorporation of standard terms and the application of the Unfair Contract Terms Act 1977.
- Acting for multiple claimants in claims arising for the sale of off plan properties in Cyprus. The claims involved allegations of misrepresentation and mortgage misselling alongside complex jurisdictional issues.
- A claim under the CMR concerning the theft of goods during carriage with issues of agency and estoppel.
- Acting in a claim concerning the adequacy of the design of an online engine for providing insurance quotations, which also involved arguments about the payment mechanism of the contract between the parties.
- Advising on a dispute between competing businesses concerning bribery and unlawful means conspiracy.



Insurance & Reinsurance

Patrick is frequently instructed by insurers in all the areas in which he practices. He has substantial experience of fraudulent claims as well as disputes concerning policy interpretation, avoidance of cover for nondisclosure, misrepresentation and breach of notification clauses.

Selected Cases

- **LB Harrow v Engie (2018) (TCC)** Acting (with Andrew Rigney QC) in successful claim for a declaration as to the extent of the claimant's obligation to take out a policy of latent defects insurance.
- Acting for the defendant insurer in a coverage dispute that arose from a fire at business premises.
- Advising (with Andrew Rigney QC) on interpretation of a combined Public and Product Liability policy in c.£3m property damage claim.
- Successfully achieving, at trial, the dismissal of the entirety of a claim under a travel insurance policy on the basis of a representation that exaggerated the value of a modest element of the claim.
- Acting in a claim concerning the validity of a settlement agreement in which it was alleged that a loss adjuster had acted without or in excess of the authority of its principle.
- Advising in a claim for contribution arising out of damage caused by defective construction machinery. The case turned on the interpretation of the Construction Plant-hire Model Conditions for the Hiring of Plant.

Professional Liability

Patrick is instructed in professional negligence matters involving a wide range of professionals. His experience across a variety of legal disciplines is invaluable in this area. He frequently acts for construction professionals. In addition, Patrick's experience of property litigation is put to use claims concerning mortgage brokers, managing agents, conveyancers and solicitors.

Selected Cases

- Acting for the claimants in a dispute concerning the negligent provision of accountancy services and tax advice which also involves allegations of breach of contract, fraudulent misrepresentations, bribery and breach of fiduciary duty (with Roger ter Haar QC).
 - Acting for a high net worth individual in a claim against a contract administrator arising out of extensive residential project.
 - Acting for the defendant solicitors firm in response to allegation that it had failed properly to conduct a substantial personal injury claim.
 - Advising in a case concerning the allegedly negligent construction and/or design of a residential property's foundations.
 - Advising in a case concerning the negligent conveyance of a residential property involving the failure of the vendor to discharge a mortgage.
 - Acting for the defendant firm in a case concerning the adequacy of pre-conveyance surveys and advice.
 - Acting for the defendant accountancy firm in a claim concerning the allegedly negligent provision of
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- advice in respect of a share-buy-back agreement.
- Acting for the defendant solicitors firm in response to allegations that a personal injury claim was settled under value.
- Acting for the claimant in a dispute arising where the defendant firm failed adequately to identify the property subject to a conveyance leading to extensive litigation with the proprietors of a neighbouring property.
- Advising in a claim arising from solicitors allegedly negligent instruction of a surveyor to proceed with an expert determination.

Property

Patrick has substantial experience of property law and often appears in courts and the First Tier Tribunal (Property Chamber) in disputes relating to land. Patrick frequently acts in commercial landlord and tenant matters and is happy to advise on questions of real property.

Selected Cases

- Instructed (with Christopher Pymont QC) in proceedings under section 30(1)(f) of the 1954 Act concerning the interests of two major high-street banks.
- Acting as sole counsel in a c.£1m dispute between landowners and property developers about the extent of a right of way over a railway bridge and related maintenance obligations.
- Achieving, at mediation, the favourable settlement of a claim concerning the extent of a reserved right of way which involved construction and rectification arguments.
- Defending proceedings regarding numerous historic breaches of a long residential lease before the First Tier Tribunal (Property Chamber).
- Advising on the prospects of successfully appealing the decision of a rent review arbitration.
- Application for adverse possession of commercial premises before the First Tier Tribunal (Property Chamber).

Property Damage

Patrick is frequently instructed in claims arising from damage to property. He has extensive experience of claims where damage has been caused by floods, fires, storms and trees. Patrick is adept with dealing with the technicalities of expert evidence as well complex questions of causation that often arise in such disputes. Many of his cases involve issues of business interruption. He is comfortable advising on related issues of insurance policy coverage.

Selected Cases

- Acting (with Ben Quiney QC) in a £multimillion claim arising from fire damage caused by defective insulation in new build homes.
- Advising in a £1m claim arising from a fire caused by the negligence of a subcontractor at the premises of a major national bank that raised complex points of joint insurance.
- Acting in a claim in which substantial damage was caused to high value premises by reason of

defective plumbing.

- Acting for a major national television broadcaster in a claim arising from a fire at its premises that caused an interruption to programming.
- Advising in a number of claims concerning subsidence caused by tree root damage.
- Acting for a restaurateur who suffered substantial loss from business interruption as a result of flooding caused by negligent contractors.
- Instructed on behalf of an insurer seeking an injunction to carry out urgent works to mitigate structural damage caused by flooding.
- Acting in a claim for damage to a residential property caused by falling trees.

Inquests & Public Inquiries

Patrick is regularly instructed to represent interested parties at inquests with a particular focus on deaths in custody and the engagement of Article 2 of the ECHR. Patrick also represents health care providers and employers in relation to notifiable accidents at work.

Patrick frequently acts in civil and public law proceedings arising from and related to inquests. He has particular experience in claims arising out of the treatment of people in custody.

Selected Cases

- Acting for custody officers in an inquest concerning a prisoner who sadly died shortly after being admitted to prison.
- Acting for prison healthcare staff in an inquest concerning a death by suicide.
- Acting for nursing staff in an inquest arising from a death in a care home.
- Successfully acting for a prison operator in a case concerning the rights of transgender prisoners under Articles 3, 8 and 14 of the ECHR had been infringed.
- R. (on the application of Smith) v Secretary of State for Justice [2014] EWCA Civ 380. A case concerning smoking in prisons and the application of Articles 8 and 14 of the ECHR (with Scott Matthewson).

Qualifications

- BA Hons (First Class), University of Oxford
- GDL, City University
- BPTC, City University
- David Karmel Award, Grays Inn
- Holt Scholarship, Grays Inn
- Academic Scholarships, Lady Margaret Hall, University of Oxford



Memberships

- SCL
- COMBAR
- PNBA