

Richard Walmsley

FRICS, FCIArb



Director

Richard Walmsley is a Director of Fairway with over thirty years' experience of construction projects in the United Kingdom, the Middle East and Europe. Richard is a chartered quantity surveyor, a qualified arbitrator and adjudicator. He is included on the adjudication panel and expert witness registration scheme of the Royal Institution of Chartered Surveyors ('the RICS'). He is a member of the Expert Witness Institute and an accredited adjudicator with the Technology and Construction Solicitors Association.

Richard is periodically appointed by the RICS and also the parties for the purposes of expert determination. He is routinely appointed as an independent expert by one of the parties on disputes involving all aspects of quantum and negligence matters. Richard is also appointed as a single joint expert. He is currently a member of a dispute resolution board involved in a significant engineering project. Richard has given evidence in the Technology and Construction Court, to Arbitral Tribunals and also to a planning inquiry.

Richard has extensive experience in building, civil, engineering, infrastructure and process projects worldwide. He has benefited from working in contracting, private practice and government environments, using standard and bespoke main contracts and sub-contracts including JCT, ICE, NEC and FIDIC.

Career Synopsis

Examples of the commissions that Richard has undertaken are:-

Arbitration or Litigation Where Richard Walmsley Has Been Appointed As An Expert

Building

- On an Embassy Building in the Middle East, Richard was appointed by the Employer as a quantum expert. Richard produced an expert's report, supplementary report and 2 joint statements. Richard attended experts' meetings and the trial at the High Court in London. The dispute settled around two/three weeks into the trial prior to Richard giving evidence.
- On a residential complex in London, Richard was appointed by a local authority as a quantum expert. Richard produced an expert's report and supplementary report. He then gave expert testimony for around three days during the trial at the High Court in London.
- On a national sports stadium in London, Richard has been appointed on behalf of the Contractor to assist in disputes concerning steelwork and movement joints. The dispute is ongoing.
- On a large property in Essex, Richard was appointed by the Employer as a quantum expert. Richard produced an expert's report and a number of joint statements over a six month period which assisted in identifying the key issues during the Arbitration. Richard gave expert testimony and the subsequent Award was in favour of the Employer.

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- On a large wine distribution warehouse, Richard was appointed by the operator as the quantum expert on remedying extensive defects to piling and ground slabs. The dispute is ongoing.
- On a significant residential and retail complex in Sheffield, Richard was appointed by the Developer to review the final account and consider issues of measurement, pricing and loss and expense. Richard prepared a joint statement and an expert's report. The dispute settled favourably just before trial in the High Court in London.
- On a residential development at Docklands involving defects, particularly flooring, Richard was appointed as quantum expert by a Contractor. Richard prepared an expert's report and attended numerous experts' meetings. The matter proceeded to trial and Richard gave expert evidence at the High Court in London.
- On a commercial development in the North of England, Richard was appointed by a firm of quantity surveyors to prepare an independent report on the accuracy of a cost plan which gave an estimated out-turn cost. Richard prepared a substantial report which was then used in a mediation. Richard attended the mediation and gave a presentation to the mediator and subsequently the parties. Richard was retained as the quantum expert and attended numerous experts' meetings. Prior to issuing the joint statement the dispute settled.
- The valuation of various residential, commercial and retail properties for developers using historic pricing levels. Richard prepared a number of expert reports to the Land Tribunal. The disputes settled prior to Richard giving evidence.
- On a residential development in Central London involving significant basement works with swimming pools, Richard prepared an expert's report incorporating an historic valuation and gave evidence to a Planning Inquiry.

Transportation

- On a dispute associated with substantial remedial works to the track works of the Docklands Light Railway and station cladding. Richard was appointed by insurers on behalf of the Consultant Engineer and prepared 3 joint statements and an expert's report. Richard gave expert evidence to a Tribunal.
- On part of the Channel Tunnel Rail Link, Richard was appointed as quantum expert by the Joint Venture in a dispute involving hand-over of part of the tunnel. Richard prepared 2 joint statements with the Employer's expert, which required visiting the Joint Venture's accounts department and auditing the claimed costs. Arising from this exercise, the joint reports were presented during the Arbitration and the Arbitrator's Award was extremely favourable to the Joint Venture. As a result of this, Richard was retained by the Joint Venture as quantum expert on the remainder of the Channel Tunnel Rail Link, involving the valuation of substantial compensation events and disallowed costs.
- On a main vehicular tunnel running under the Thames, Richard was appointed by the Contractor to consider significant mechanical and electrical claims from a specialist sub-contractor. Richard prepared a joint statement and the dispute settled favourably.

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- On a major rail upgrade project, Richard was appointed as quantum expert to advise on the final account. The dispute is ongoing.
- On a road project in Ireland, Richard was appointed by insurers on behalf of the Consultant Engineer to provide independent opinion on variations and claims. The dispute is ongoing.

Process

- Richard was appointed as a quantum expert by the owner of a large process installation in the North of England. Richard prepared 3 joint statements, two expert's reports and gave evidence in the High Court. The trial judge was complimentary in his judgement (BAILII 2013 EWHC 2916 TCC - Paragraphs 393 to 395, 402, 441 to 450, 486 to 495 and 499 to 507).

Marine

- On a defective quay in the North of England, Richard was appointed by insurers on behalf of the Engineer in a negligence claim. Richard, in consultation with the geotechnical and dredging experts, produced a quantum report on various engineering solutions to stabilise and rectify the defects. Following meetings with the Employer's expert, favourable joint statements were prepared and the matter settled only days into the trial.
- On a floating pontoon to receive ocean liners, Richard was appointed by insurers on behalf of the Engineer in a negligence claim. Richard, in consultation with the engineering experts, produced several quantum reports on issues associated with steelwork, reinforcement and concrete. The final quantum report was used in a mediation which resulted in an extremely favourable settlement.

Agricultural

- On an epidemic in East England involving a highly contagious disease associated with pigs, Richard was appointed by a government department to provide expert opinion on discrete issues of custom and practice in the construction industry. Richard gave evidence at the High Court in London and the trial judge was complimentary in his judgement (BAILII 2006 EWHC 3426 TCC – Paragraphs 223 and 225).

Richard has been involved in around 200 no. adjudications in the following capacities :-

Richard is an experienced adjudicator who has been on the RICS panel for over 15 years and the TeCSA panel for almost the same period. The following disputes provide the variety of disputes that Richard has dealt with.

Building

- On a Central London auction house involving disputes with the stone floor to the reception and adjoining galleries.
- On a Central London office block involving a dispute with defects to a substantial installation of glazed partitions.

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- On a large residential development in South-West England, which included a prolongation claim together with associated loss and expense claims in the sum of £2 million pounds.
- On a substantial residential property in London, involving an engineering dispute associated with flotation of a basement and dewatering. Around three years later Richard was nominated to consider when practical completion had been achieved and other associated issues.
- On numerous disputes associated with residential and commercial properties involving all aspects of the final accounts.

Transportation

- On Tower Bridge involving additional costs associated with the design of scaffolding.
- On extensions and upgrading to a significant tram system, involving various on and off-road installations.

Others

- On various disputes involving issues of payment, abatement, withholding and contractual matters.

Dispute Resolution

Richard has provided independent consultancy services in numerous disputes which have included:-

Building

- For a German contractor constructing one of the largest office and shopping centre complexes in Europe, Richard was retained to provide independent advice on the contractor's entitlement to various claims against the Employer. The appointment included preparation of a substantial claim for variations, prolongation and loss and expense, drawing upon the knowledge of the contractor's key site personnel. The matter settled in favour of the contractor.
- The construction of a significant office, hotel and residential complex in central London.
- The valuation of various office and residential schemes in London, using historic pricing.
- The refurbishment and fitting-out of part of a 5 star hotel in Central London.
- For a developer constructing a significant retail development with pedestrian access in Central London, Richard was retained to provide independent advice on issues of measurement and in particular various contractual claims.
- The extension and refurbishment of a theatre with associated facilities in London.
- The construction and fitting-out of two substantial residential complexes in London including flats, houses and penthouses.

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- On the 'Shard' building in London, Richard was appointed by a major tenant to provide advice on various claims initiated by the developer.

Transportation

- Richard is currently appointed on a Dispute Resolution Board for a significant transportation project in the United Kingdom. The project is around one billion pounds.
- Appointed project quantity surveyor for two fitting-out contracts and the replacement of a failed earth embankment adjacent to a main railway line. Richard gave factual evidence in the High Court regarding the final account and professional fees.
- On a commercial development in Central London built adjacent to an underground station, Richard was appointed as quantum expert. The assignment included claims made by LUL for various works undertaken within the underground station. The dispute is on-going.

Marine

- Appointed by insurers on various disputes including fire damage, remedial works to defective fire protection, steelwork and concrete, marine structures and cladding replacement.

Hospital

- On a hospital involving substantial mechanical and electrical installations, Richard was appointed to prepare an independent report setting out his opinion on the final account. This in particular focused on substantial loss and expense claims and numerous commercial settlements which had been reached by the quantity surveyor. Richard's report enabled a settlement to be reached.

Educational

- On a school in the North of England, Richard was appointed to comment on the extent of variations and the implications on consultants fees.
- On a University in the South of England, Richard was appointed by the contractor to prepare an independent report on the final account, in particular the extent of defects.

Power

- On a power plant in the Middle East, Richard was retained to prepare an independent report on the performance of the 3 Joint Venture partners. This involved a joint meeting with the parties in London and thereafter visiting individually each party in Scotland, Italy and Germany. Richard submitted a report and the parties reached an amicable agreement.

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Other Assignments

- Between 1975 and 1979 Richard was seconded to a firm of consulting engineers in the Sultanate of Oman. He worked on a wide range of building and civil engineering projects including residential, guest palace, military and government installations.
- Between 1982 and 1990 Richard worked for a contractor in Saudi Arabia and then joined the Saudi Industrial Development Fund as an independent consultant.

Seminars, Presentations, and Publications

Richard has presented mock mediations, seminars on alternative dispute resolution, preparation and defence of contractual claims, procurement strategy and adjudication to various professional and educational organisations. These have included :-

- Civil Service.
- Buckingham Palace Household.
- Various architectural practices.
- Various legal companies in London, focusing on adjudication from a technical perspective and how best to present the dispute to an adjudicator.

Richard has written various articles on adjudication and other topics of interest to the construction industry.