

MICHAEL JONATHAN FOSTER

BSc(Hons) MSc MRICS

POSITION DIRECTOR

DATE OF BIRTH 1973

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KEY FACTS

- ✓ 20 years' experience in the construction and engineering industries
- ✓ MSc Construction Law and Dispute Resolution
- ✓ Numerous Quantum Expert Appointments
- ✓ Specialist in all aspects of commercial issues in construction
- ✓ Experience of forensic programme analysis techniques including time impact methods such as snapshot / window analysis and collapsed as-built programmes

SKILLS AND EXPERIENCE

Michael gained practical experience by initially working for a private practice of quantity surveyors and cost consultants. He has prepared and negotiated a substantial number of final accounts and claim documents for contractors on commercially difficult contracts. He has been responsible for live construction projects on behalf of various contractors from commercial risk assessments, through commercial management, to final account preparation and negotiation.

He has also acted as expert witness and expert advisor in the field of quantum and has built on his arbitration and litigation experience obtained by working closely with other high profile expert witnesses. He has extensive knowledge in the definition and valuation of variations to contract and the evaluation of delay, disruption and acceleration claims and has experience of working alongside lawyers and leading Counsel.

In general, sector experience includes building, civil engineering, rail, oil and gas, heavy engineering, utilities, power, process engineering, mechanical / electrical, telecommunications, off shore and nuclear under a variety of standard and 'bespoke' contracts.

Michael's particular specialisations are as follows:

- ⊕ Acting as Quantum Expert;
- ⊕ Preparation of final accounts and loss & expense claims including liaison with Delay Experts;
- ⊕ Preparation of Adjudication Referral & Response;
- ⊕ Advising clients & solicitors in respect of method & preparation of documents in Adjudication / Arbitration / Litigation.

RELEVANT EXPERT COMMISSIONS

A selection of appointments that Michael has been involved with are listed as follows:

EXPERT WITNESS COMMISSIONS

- ⊕ Appointed as quantum expert on a major waste from energy project that was constructed on the Isle of Man. Instructed to provide an independent assessment and to verify additional costs associated

with a change in foundation design. Also appointed to review the time impact and evaluate indirect additional cost (disruption and acceleration) arising from the impact of design changes on vendor and M & E installations;

- ⊕ Appointed as expert advisor on quantum and planning related issues on a major process plant dispute on Teesside. Prepared submissions and managed claims team on this major dispute;
- ⊕ Appointed as quantum expert on a major welding failure dispute on an offshore accommodation platform on Tyneside. Instructed to evaluate losses incurred as a consequence of the welding failure, including the direct cost of repair and the indirect losses that arose as a consequence of delay to the sail-a-way date, disruption and acceleration;
- ⊕ Appointed as quantum expert on a major university development in Scotland. Instructed to prepare a preliminary assessment of the loss and expense incurred by the main contractor. Closely worked alongside the planning expert to determine assessments on the loss and expense arising from delay, disruption and acceleration;
- ⊕ Prepared independent quantum evaluation on behalf of a major international engineering contractor, in relation to subcontractor claims it had received during the construction of a pharmaceutical plant in London;
- ⊕ Provided independent quantum advice on behalf of a major pharmaceutical client following receipt of a claim from a mechanical and instrumentation package contractor on a biotechnology facility in Ireland.

UTILITIES RELATED COMMISSIONS

- ⊕ Prepared a rate adjustment application on behalf of a major utilities contractor on a framework agreement with a London based water utilities provider. Involved in the collation of independent data required to support the rate increase. Utilities works involved service connections and mains laying works across London districts where the contractor incurred significantly greater costs than recovered via agreed rates and prices for works in unmade ground, footpaths and carriageways;
- ⊕ Responsible for commercial and contractual matters relating to the construction of the Northern section of a £200m fibre-optic telecom network. Duties included day-to-day dealings with subcontractors on variations/claims for additional entitlement, preparing adjudication documents, closing out final accounts and Section 74 council fines. The works were installed across agricultural land, verges, footways and carriageways;
- ⊕ Preparation of a multi-million pound disruption justification document on behalf of a subcontractor, responsible for undertaking a major telecoms diversion scheme. Diversionary works were required prior to the construction of a new Metro tram link in the North West;
- ⊕ Preparation of a major delay and disruption submission on a multi-utility ring main (gas, electricity, water, telecoms and cable TV) around a naval base in Scotland and spurs from the ring main to buildings within the base;
- ⊕ Framework agreement between a power distribution contractor and a Welsh utilities provider requiring the preparation of a submission calculating the insufficiency of its rates and prices and the presentation and justification of the reasons for additional entitlement.

NUCLEAR RELATED COMMISSIONS

- ⊕ Prepared and developed entitlement documents on a £50m dispute to a £225m radiological research facility. This involved investigating, demonstrating and presenting delays to the design and safety case on complex active area fit out issues to Highly Active Cells and a Mixed Oxide research facility;
- ⊕ Developed justification documents for variations and a delay and disruption claim for a Joint Venture, on an £180m Intermediate Level Waste Box Encapsulation Plant and Product Store. The main area of expertise included demonstrating significant changes to the safety case process;
- ⊕ Provided project related services to a specialist mechanical and electrical contractor undertaking decommissioning related operations at a facility in the North West.

INFRASTRUCTURE RELATED COMMISSIONS

- ⊕ Responsible for managing claims team and for delivering major final account and claim submission for delay and disruption on a major new build railway infrastructure, including bridges and stations in Scotland. Claims amounted to £15m on an original contract price of £25m;
- ⊕ Acted on behalf of two major infrastructure contractors on the West Coast Main Line Upgrade. Major delay and disruption claims on two separate sections of railway in the Midlands;
- ⊕ Provided advice on acceleration and other major contractual issues relating to another section of major improvements on the west coast main line in the Midlands;
- ⊕ Managed the claims preparation on a major road bridge construction dispute on Teesside.

POWER AND PROCESS RELATED COMMISSIONS

- ⊕ Advisor to major civils contractor on a CCGT power station dispute in Yorkshire, involving development of submissions pertaining to significant variations to the workscope and claims for acceleration, disruption and changed construction methods on a water treatment plant;
- ⊕ Provided quantum related advice in an adjudication on behalf of a major international contractor who had its contract terminated by its client. Provided advice and strategy on how to evaluate the termination certificate on this major new-build LDPE process plant on Teesside;
- ⊕ Provided quantum related advice in an arbitration on behalf of a national contractor undertaking EC&I and M&P related works on a bioethanol process plant on Teesside;
- ⊕ Employed to manage the development of a retrospective delay analysis on an energy from waste project on Teesside. Oversaw the production of an acceleration claim;
- ⊕ Advised major international pharmaceutical employer on claims it received from a mechanical and electrical package contractor on a biotechnology facility in Ireland;
- ⊕ Prepared independent quantum evaluation on behalf of a major international engineering contractor, in relation to subcontractor claims it had received during the construction of a pharmaceutical plant in London;

- ⊕ Responsible for the preparation of an extension of time claim on a £40m waste to energy incinerator plant. Supervised the production of time impact programmes and fractional networks, required to demonstrate the impact of design changes.
- ⊕ Involved in the litigation process acting on behalf of a mechanical contractor, defending a claim for delay, disruption and acceleration received from an insulation contractor on a pharmaceutical plant in Kent. Responsible for developing defences to increased complexity of work arguments and preparing counter-claims;
- ⊕ Member of a claims team investigating and preparing documents to demonstrate entitlement to variations and prolongation costs on a Downstream Processing Facility in the Middle East. This involved working alongside key members of a major South Korean Contractor on a project with an approximate value of US\$120m;
- ⊕ Provision of post contract quantity surveying services on behalf of a mechanical, electrical and instrumentation services contractor, who undertook specialist enabling works prior to the commencement of decommissioning works at a redundant nuclear facility at Sellafield;
- ⊕ Preparation of final account and claim document on behalf of a national process-engineering contractor, in connection with the removal and replacement of generators at a water treatment facility in Nottinghamshire;
- ⊕ Preparation of final account and claim document on behalf of a national process-engineering contractor, in connection with the installation of a UPS System at Television Centre, London.
- ⊕ Assisted quantum expert on major gas fired power station dispute. Involved in the production of quantum evaluation and evidence on variations and major delay and disruption claim on behalf of a mechanical contractor;

BUILDING RELATED COMMISSIONS

- ⊕ Prepared quantum report on major curtain walling subcontract dispute on a 30 plus storey mixed use project in Leeds. Subcontract was terminated, leading to disputes over the evaluation of completed works. Instructions included the evaluation of measured works and value of vested materials shipped from the Middle East to the UK and stored off-site;
- ⊕ Provided commercial and planning advice to a main contractor defending a multi-million pound claim received from its concrete frame subcontractor on a multi-story building in Leeds. Primary issues related to out of tolerance works creating interface issues, which resulted in significant delay and disruption to this multi storey and residential tower project. Prepared multi-million pound contra-charge account and counterclaim for defective work and delay;
- ⊕ Involved in the production of quantum submissions in support of prolongation and disruption claims on a multi-story office block in Sheffield. Responsible for production of as-built programmes and monthly snap shot delay analyses and preparation of snap shot delay narratives to demonstrate extensions of time;
- ⊕ Provision of post contract quantity surveying services to a mechanical services contractor, on a major theatre project in Manchester;
- ⊕ Provision of post contract quantity surveying services on behalf of a national building contractor, responsible for constructing an office block and technical research centre. Duties included pricing

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major variations to the works and developing claims for extensions of time, out of sequence working and disruption;

- ⊕ Provision of post contract quantity surveying services to a mechanical services contractor, on a Theatre project in the North West.