Mark Holden-Smith LLB(Hons) FCIArb MRICS PCILEX MCIOB DipAdj DipArb

Chartered Quantity Surveyor | CILEX Chartered Paralegal
Forensic Delay Analyst | Chartered Construction Manager
Expert Witness | Registered Adjudicator | Registered Arbitrator

Holden Smith Consultancy
Construction Contract Consultant



Specialisms

- Quantification of Claims.
- Forensic Delay Analysis.
- Independent Expert Reports.
- Adjudication Party Representative.
- Adjudication Decision Writing.
- Arbitration Party Representative.
- Arbitration Award Writing.
- Contract Drafting.
- Legal Analysis.

Professional Qualifications

- Chartered Quantity Surveyor (MRICS).
- Chartered Construction Manager (MCIOB).
- Professional Dispute Resolver (FCIArb).
- Registered Adjudicator (RICS, CIArb, CIC).
- Registered Arbitrator (CIArb).
- CILEX Chartered Paralegal (PCILEX).

Academic Qualifications

- Bachelor of Laws Honours Degree[1].
- Diploma in Senior Construction Management.
- Diploma in Higher Education in Law.
- Diploma in Construction Adjudication.
- Certificate in Higher Education in Law.
- Diploma in Arbitration (UK).
- Level 7 BTEC in Advanced Professional Forensic Delay Analysis in Construction.
- RICS Expert Witness Certificate.

[1] Upper Second Class Honours.

OVERVIEW

Mark has over 30 years of experience in construction. As a Chartered Quantity Surveyor with the RICS, a Chartered Construction Manager with the CIOB, and a Professional Dispute Resolver with the CIArb, Mark specialises in the field of Construction Claims, Forensic Delay Analysis, and Dispute Resolution.

Mark has successfully handled over 600 claims for Employers/Clients, Contractors, and Subcontractors in respect of quantum, delay, and resolution of disputes arising under JCT, NEC and bespoke forms of construction and engineering contracts.

Mark accepts appointments to act as Delay & Quantum Expert, is a Registered Adjudicator on panels for the RICS and CIArb, and is a Registered Arbitrator for the CIArb.

Experience Summary

- Acting as the Adjudicator and issuing awards under the RICS Consumer Dispute Service, CIArb Low Value Construction Adjudication service, and the UK Adjudicators panel of Adjudicators.

- Acting as a Delay & Quantum Expert in the Adjudication of construction and engineering disputes.

- Acting as Adjudication Party Representative for the Referring Party or Responding Party, for Employers, Main Contractors, and Sub-Contractors.

- Experience in construction claims quantum includes but is not limited to claims concerning internal partitioning, ceilings, mechanical and electrical, joinery, painting, external cladding, structural steel framing, warehouse racking, concrete reinforcement, screeding, rendering, glazed balustrading, groundworks (including excavation, piling and concrete reinforced slabs).

- Non reserved legal advice including contract drafting, risk registers, contract amendments and negotiations, legal analysis, and contract interpretation.

Selected Relevant Experience

Adjudicator Appointments

- Acted as the Adjudicator under the CIArb Low Value Construction Disputes Service, between a Contractor and its Client, which concerned a dispute over the true value of disputed variations.

- Acted as the Adjudicator under the CIArb Low Value Construction Disputes Service, between a Contractor and its Client, which concerned a dispute over the payment dates and whether the Contractor was entitled to sums claimed in relation to a notified sum.

- Acted as the Adjudicator under the RICS Consumer Home Improvement Disputes Service between a Consumer and a Trader, which concerned whether the Consumer was entitled to their claims for damages for breach of contract, and their claims for various works to be remediated.

- Acted as the Adjudicator under the Scheme, between a Contractor and its Client. The dispute concerned whether the Contractor was entitled to its claim for the notified sum, and whether the notified sum should be corrected in accordance with the Clients contentions.

- Acted as the Adjudicator under the RICS Consumer Home Improvements Disputes Service, in respect of a dispute between a Trader and a Consumer, concerning whether the Consumer was entitled to its claims against the Trader for remediation works.

Advocacy – Adjudication Representative

- Acted as the Adjudication party representative for a concrete reinforcement contractor, Referring Party, who was in dispute with its client over the extent of its liability for design and whether it was entitled to its claim for £700,000 in variations. I quantified the claims, drafted all submissions, represented the contractor throughout the Adjudication, and the Adjudicator found in favour of my client.

- Acted as the Adjudication party representative for a structural framing contractor Responding Party, who was in £1.7M dispute with its client over whether it was entitled to terminate the contract on grounds of an anticipatory breach of contract by its client, and what sum was due

to whom following termination to include a valuation for contract works, variations, claims for defects, and damages arising from the termination. I quantified the claims, drafted all submissions, represented the contractor throughout the proceedings, and the Adjudicator found in favour of my client; my client was not entitled to terminate for anticipatory repudiatory breach, but the Adjudicator agreed with our case that the contractors case for causation for loss caused by the termination failed.

- Acted as the Adjudication party representative for a structural framing and partitioning & ceilings contractor, Referring Party, who was in a £245,000 dispute with its client over the true value of the payment due for contract works, variations and loss & expense. I quantified the claims, drafted all submissions, represented the contractor throughout the proceedings, and achieved a settlement which ended the Adjudication early.

- Acted as the Adjudication party representative for a drylining and plastering contractor, Referring Party, who in a £725,000 valuation dispute concerning the true value of the works carried out to include contract works, variations and whether the contractor's payment application was validly served in accordance with the contract. I quantified the claims, drafted all submissions, represented the contractor throughout the Adjudication, and matter resolved by settlement which ended the Adjudication early.

- Acted as the Adjudication party representative for a cladding contractor, Referring Party, who was in a £285,000 dispute with its client concerning the true value of the payment due following termination for repudiatory breach, to include works carried out up to the date of termination, variations, damages caused by the termination, and the existence of a wrongful repudiation by the contractor's client. I quantified the claims, drafted all submissions, represented the contractor throughout the proceedings, and the Adjudicator found in favour of my client.

- Acted as the Adjudication party representative for a structural framing and drylining contractor, Referring Party, who was in dispute with its client over whether it was entitled to payment of £56,000 as the notified sum. I quantified the claims, drafted all submissions, represented the contractor throughout the Adjudication, and the Adjudicator found in favour of my client.

- Acted as the Adjudication party representative for a Fire stopping and partitioning contractor, Referring Party, who was in a £220,000 dispute with its client concerning the true value of works carried out to include contract works, variations, and additional prelims & labour disruption costs as damages. I quantified the claims, drafted all submissions, represented the contractor throughout the Adjudication, and matter resolved settlement which ended the Adjudication early.

- Acted as the Adjudication party representative for an insulation and fire-stopping contractor Referring Party, who was in dispute with its client over whether it was entitled to payment of £33,000 as the notified sum. I quantified the claims, drafted all submissions, represented the contractor throughout the Adjudication, and the Adjudicator found in favour of my client.

- Acted as the Adjudication party representative for a Masonry contractor, Referring Party, who was in dispute with its client concerning the existence of a contract by conduct and a claim for £96,000 in damages for the Responding Party's repudiation. I made a case for the existence of a contract through the parties' conduct, quantified the claims, drafted all submissions, represented the contractor throughout the Adjudication, and the Adjudicator found in favour of my client.

Expert Witness

- Acted as Quantum and Delay Expert, under instruction from the Responding Party in an Adjudication, who was the Employer in a £300,000 dispute concerning the payment due to the contractor for compensation events claimed under a construction & engineering contract. I drafted an independent expert report on matters concerning quantum & delay to assist the Adjudicator.

Quantum and Delay Analysis Claims

- I was instructed by a contractor to provide a claim for extension of time and delay costs as loss & expense. I carried out a retrospective delay analysis based on the As-Planned vs As-Built method, and I quantified £600,000 of prolongation costs as loss & expense pursuant to the applicable contractual provisions. I provided the claim as a standalone document in report format and submitted the claim document to the contractor's client. My claim assisted the contractor in avoiding a formal dispute by achieving a settlement by agreement.

- I was instructed by a contractor to respond to its clients' contentions that the contractor was responsible for delay. I managed the procurement of the evidence and drafted a delay notice and a loss & expense notice in accordance with the contractual provisions. I carried out a delay analysis and quantified a claim for £550,000 as loss & expense to include prolongated preliminary costs, preliminary thickening costs, and disrupted labour costs as a loss of productivity. My claim supported the contractor in reaching a settlement of the matter with its client.

Professional Memberships

- Chartered Member of the Royal Institution of Chartered Surveyors (MRICS).
- Chartered Member of the Chartered Institute of Legal Executives (PCILEX).
- Fellow of the Chartered Institute of Arbitrators (FCIArb).
- Chartered Member of the Chartered Institute of Builders (MCIOB).
- Member of the Conflict Avoidance Pledge.
- Member of the Conflict Avoidance Coalition.
- Member of the Adjudication Society.
- Joint Author of Construction Industry Collective Voice (CICV) Practice Notes https://cicvforum.co.uk/downloads/
- Chartered Institute of Arbitrators Committee Member.
- Fellow of the Institute of Construction Claims Practitioners.
- Chartered Institute of Arbitrators Vice Chairman of the Northwest Branch.

Panel Memberships

- Low-value disputes Adjudicators panel for the CIArb.
- Consumer Home Improvements disputes Adjudicators panel for the RICS.
- Business Arbitration Scheme panel of Arbitrators for the CIArb.
- Construction Industry Council panel of Adjudicators for LVD MAP construction disputes.
- UK Adjudicators panel of Adjudicators.

Employment History

- **2020-Current**: **Managing Director** - *Holden Smith Consultancy Ltd*.
  - Construction Contract Consultant specialising in Claims Quantum, Forensic Delay Analysis, Dispute Resolution.

- **2018-2020: Commercial Manager** – *GWN Contracts Ltd.*
  - Commercial management, Construction Management, and Quantity Surveying activities.

- **2015-2018: Managing Director** – *GWN Contracts Ltd.*
  - Commercial management, Construction Management, and Quantity Surveying activities.

- **2012-2015: Commercial Director** – *GWN Contracts Ltd.*
  - Commercial management, Construction Management, and Quantity Surveying activities.

- **2003-2012: Contract Manager**: – *GWN Contracts Ltd.*
  - Commercial management, Construction Management, and Quantity Surveying activities.

- **1996-2003: Plasterer Supervisor** – *Medium sized Contractor.*