



**FENWICK
ELLIOTT**

The construction &
energy law specialists

**Our services
& expertise**

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About Fenwick Elliott

Fenwick Elliott is the UK's largest specialist construction and energy law firm. For more than three decades we have been delivering first class service to clients around the world in the building, engineering and energy sectors.

Our lawyers are available around the clock to provide you with expert, timely advice wherever in the world you are based. No matter how demanding the time frame or how complex the challenge our dedicated team will be on hand to advise you.

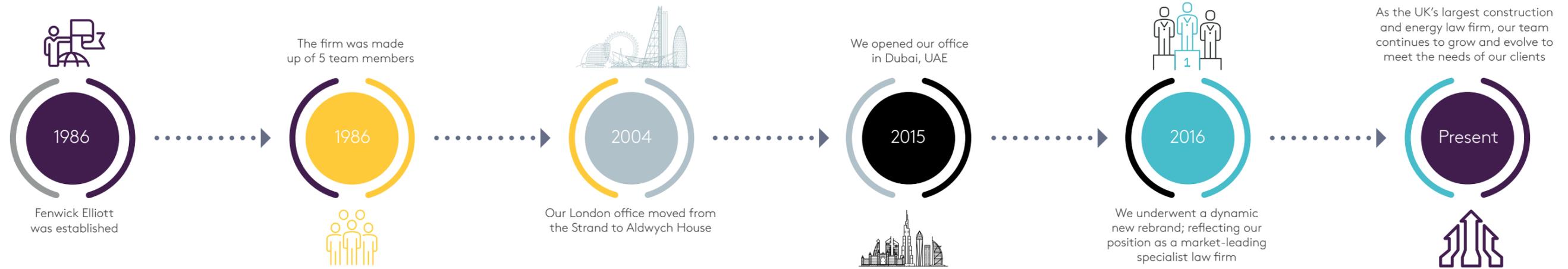
With offices in London and Dubai, and a solid network of local lawyers in jurisdictions across the globe, Fenwick Elliott is led by highly experienced partners who are backed by talented associates and solicitors and a committed team of support staff.

_2 Our firm

Since our formation in 1986 our philosophy has been to build and nurture strong relationships with our clients, working with them to achieve their commercial objectives.

Our partners are more than just project managers, directing matters from afar. They relish the challenges of front-line legal advice, of forging close, trusted working relationships with clients; of rolling up their sleeves and tackling complex legal issues their clients are facing.

We are proud of our collegial culture, as unlike most large multidisciplinary law firms, all of our partners maintain close involvement in the cases for which they are responsible, keeping in day-to-day contact with the team at all times, engaging with clients, advising on issues and attending meetings. These factors mean that you benefit from a cohesive, reliable team, with a high level of trust, understanding and mutual support.



Leaders in our field



Our experienced team means

- ✓ We do not over-lawyer matters.
- ✓ We know how and when to capitalise on your own internal expertise.
- ✓ We do not charge for administrative work, cost reports, routine queries, etc.
- ✓ We only charge for assistants, paralegals and trainees where the work involved has genuinely been for the benefit of the client and progressed the matter in question.
- ✓ We know when to bring in external consultants with specialist skills – and lower costs. We have an extensive network of highly regarded construction experts who can advise on project management, programming and commercial issues.

Our effective process management means

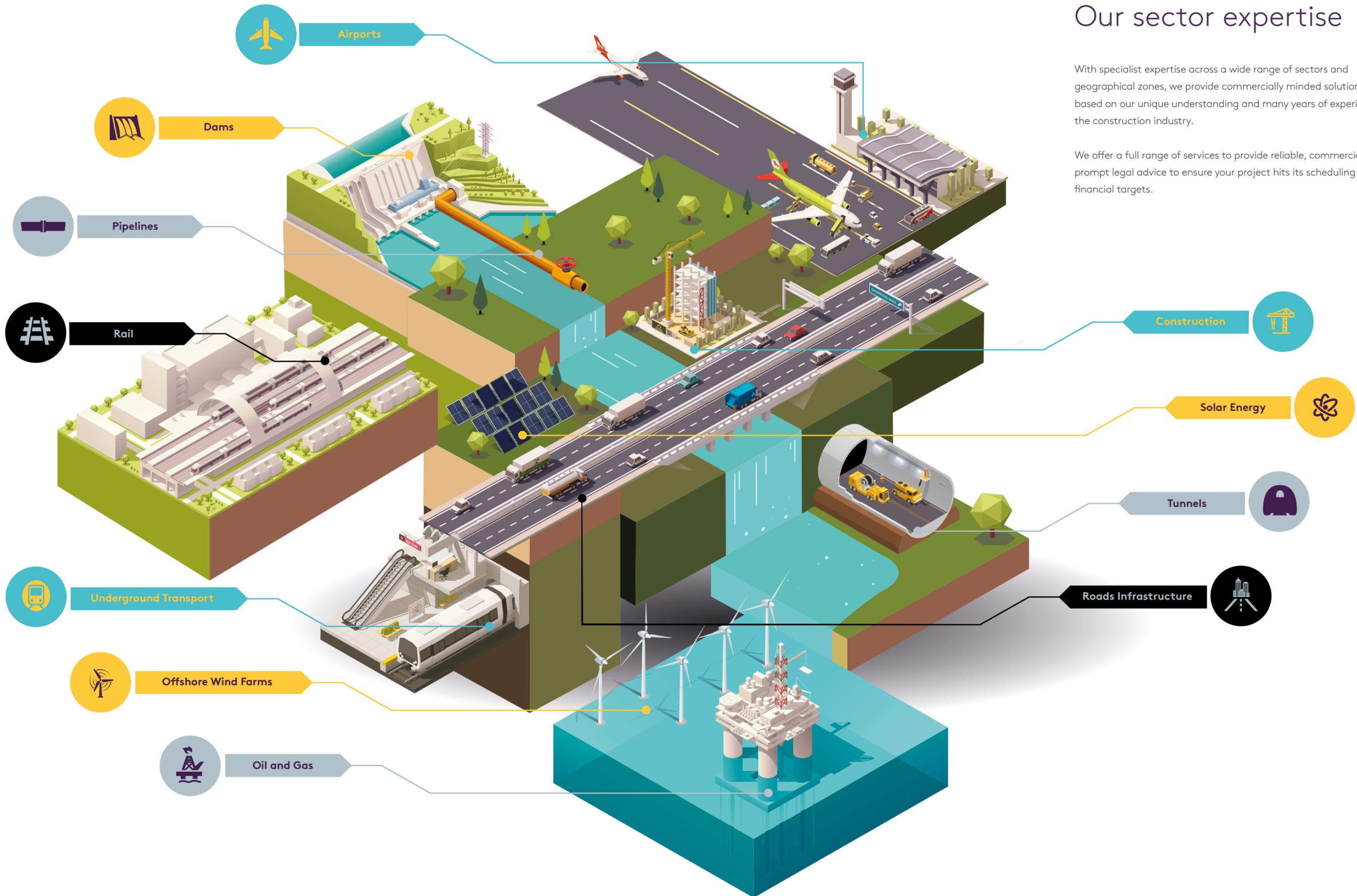
- ✓ We give clear advice on costs and review that advice regularly.
- ✓ We are able to control the cost of experts, counsel and other external consultants.
- ✓ We do not charge where there is any duplication of work between fee earners.
- ✓ We establish clear lines of communication and authority before any unnecessary expenditure.

_3 Expertise

Having advised on a vast number of landmark projects around the world, we have earned a reputation for providing cost-effective, specialist advice.

The breadth of our legal expertise, commercial awareness and sector insights allow us to consistently deliver exceptional service across a comprehensive range of legal matters. Our specialist focus sets us apart from other traditional multi-disciplinary firms, with our clients benefiting from a depth of industry knowledge and construction law expertise not found in a typical multi-disciplinary practice. We understand all types of construction and energy projects; how they are managed, where and why problems occur and, importantly, the underlying commercial objectives.

We are also highly experienced in public/private financing models and corporate and commercial documentation.



Our sector expertise

With specialist expertise across a wide range of sectors and geographical zones, we provide commercially minded solutions based on our unique understanding and many years of experience in the construction industry.

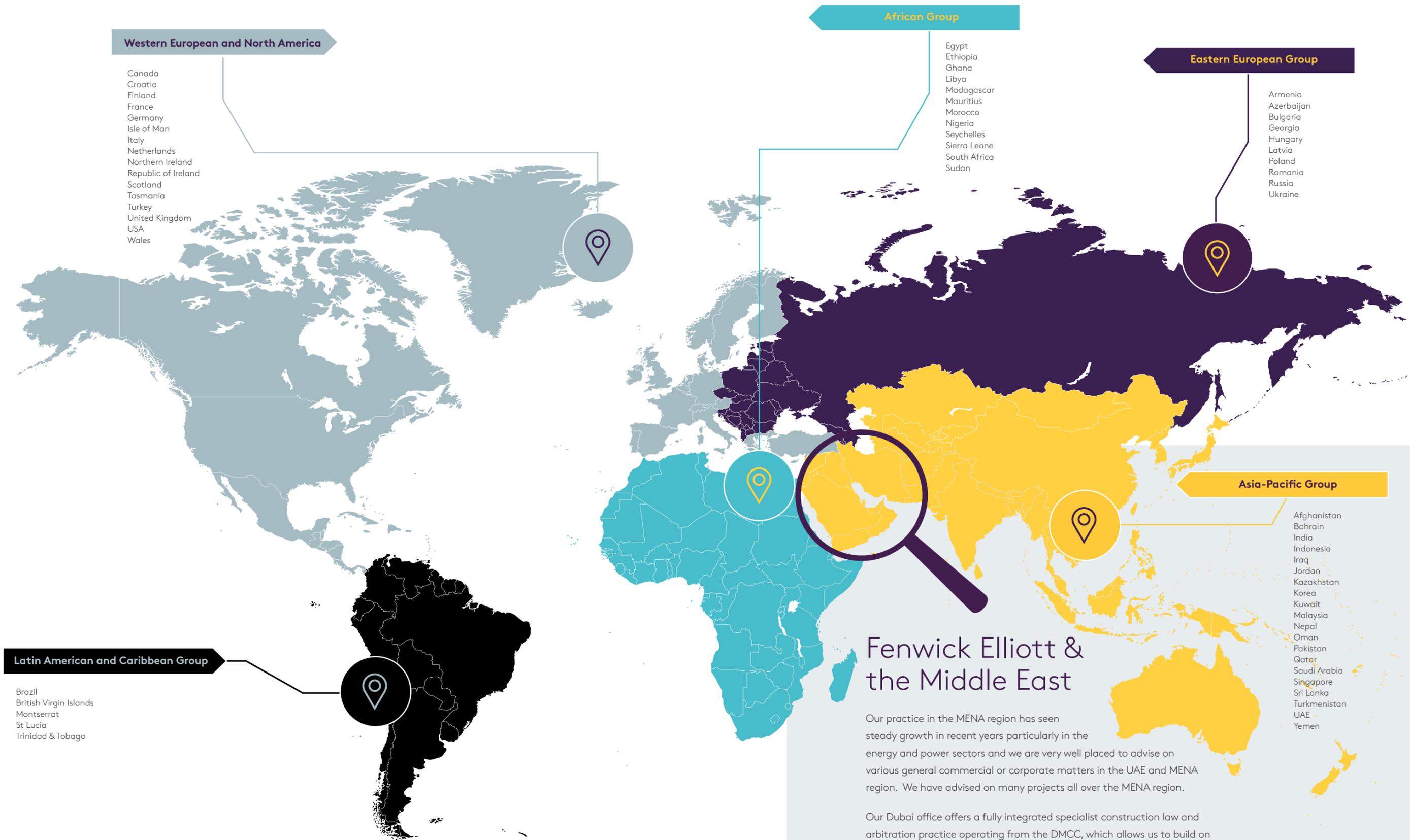
We offer a full range of services to provide reliable, commercial and prompt legal advice to ensure your project hits its scheduling and financial targets.

_4 Territories

We are committed to providing legal services which exemplify the highest standards of specialist expertise, commerciality and professionalism to build and maintain strong relationships with our clients in the UK and around the world.

Our geographical spread includes advising on large-scale and cross-jurisdictional construction and energy projects in the UK, throughout Europe, Middle East, the Caspian and CIS region, Asia and Africa.

The firm's international practice began in the early 1990s with a concentration on international arbitration particularly in Asia and the Middle East. Over time, our international practice has expanded significantly.



Western European and North America

- Canada
- Croatia
- Finland
- France
- Germany
- Isle of Man
- Italy
- Netherlands
- Northern Ireland
- Republic of Ireland
- Scotland
- Tasmania
- Turkey
- United Kingdom
- USA
- Wales

Latin American and Caribbean Group

- Brazil
- British Virgin Islands
- Montserrat
- St Lucia
- Trinidad & Tobago

African Group

- Egypt
- Ethiopia
- Ghana
- Libya
- Madagascar
- Mauritius
- Morocco
- Nigeria
- Seychelles
- Sierra Leone
- South Africa
- Sudan

Eastern European Group

- Armenia
- Azerbaijan
- Bulgaria
- Georgia
- Hungary
- Latvia
- Poland
- Romania
- Russia
- Ukraine

Asia-Pacific Group

- Afghanistan
- Bahrain
- India
- Indonesia
- Iraq
- Jordan
- Kazakhstan
- Korea
- Kuwait
- Malaysia
- Nepal
- Oman
- Pakistan
- Qatar
- Saudi Arabia
- Singapore
- Sri Lanka
- Turkmenistan
- UAE
- Yemen

Fenwick Elliott & the Middle East

Our practice in the MENA region has seen steady growth in recent years particularly in the energy and power sectors and we are very well placed to advise on various general commercial or corporate matters in the UAE and MENA region. We have advised on many projects all over the MENA region.

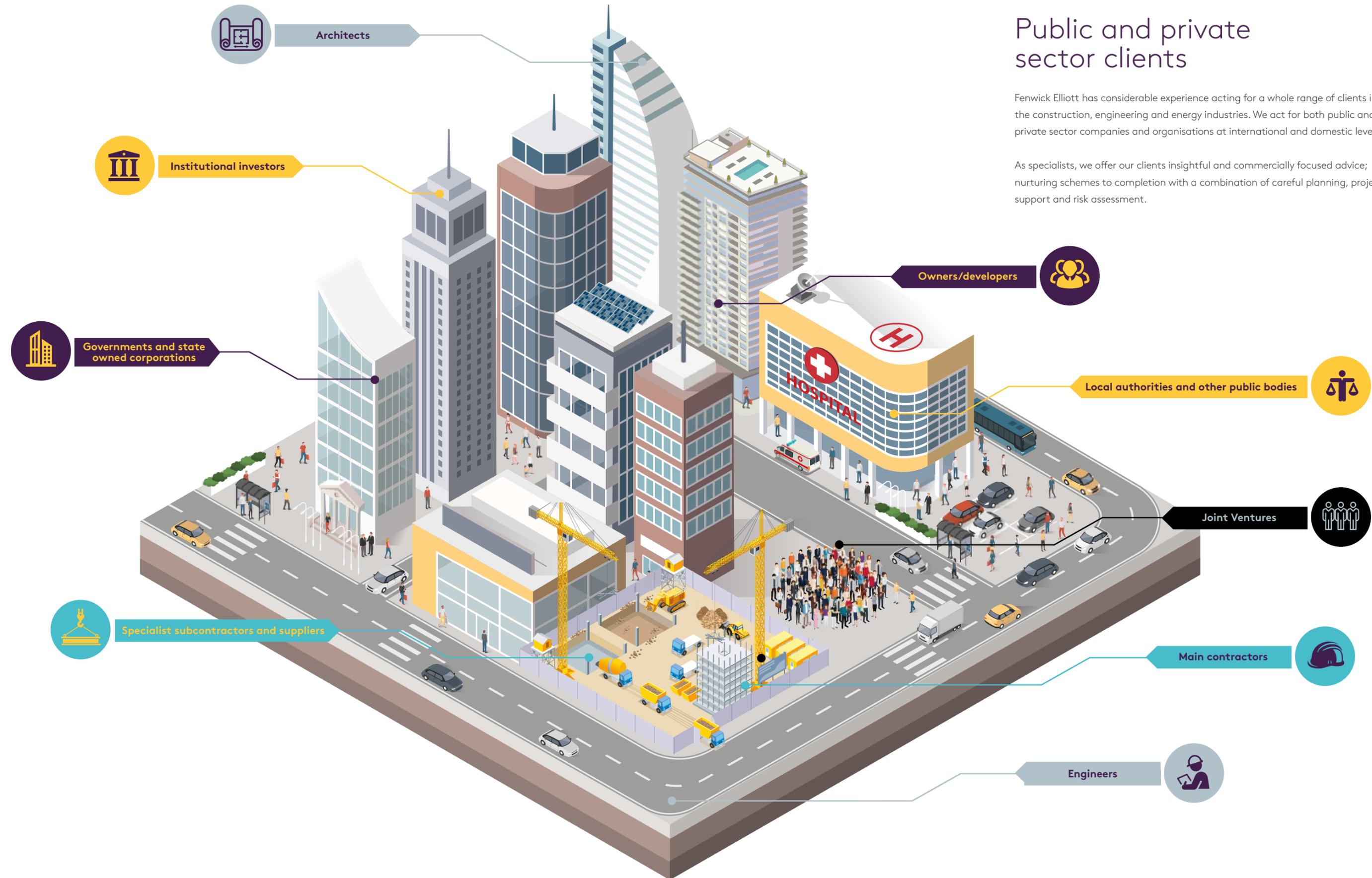
Our Dubai office offers a fully integrated specialist construction law and arbitration practice operating from the DMCC, which allows us to build on our vast experience advising clients in the region. It also enables us to offer our clients a team that includes native Arabic speakers, equipped with extensive knowledge of local laws and practices, as well as international expertise in construction law.

_5 Our clients

As a firm, we adopt a partner-led, hands on approach to client work, with a high degree of partner involvement and supervision. The very nature of our practice means that our skilled lawyers are accustomed to delivering results under tight deadlines, whilst maintaining exceptional levels of quality and professionalism.

The recognition we receive from our clients is a point of great pride for us as a firm. We are consistently ranked top amongst the industry's leading legal publications. In a recent edition of *The Legal 500 UK* we were described by clients as an "outstanding practice" with others commenting that we "always display the highest level of professionalism" and are "an excellent niche construction and energy firm".

These comments are testament not only to the incredible level of talent we offer our clients but the great relationships we have with them. They reflect our client-centric approach and the first class service that is delivered day-in day-out across the firm.



Public and private sector clients

Fenwick Elliott has considerable experience acting for a whole range of clients in the construction, engineering and energy industries. We act for both public and private sector companies and organisations at international and domestic level.

As specialists, we offer our clients insightful and commercially focused advice; nurturing schemes to completion with a combination of careful planning, project support and risk assessment.

_6 Our services

Our specialist focus means we understand all types of construction, energy and engineering projects including how they are managed, where and why problems occur and, importantly, the underlying commercial objectives.

As a firm, we regularly advise our clients on all major industry standard form construction and engineering contracts and professional appointments, including but not limited to NEC, FIDIC and JCT. These contracts are frequently supplemented by bespoke amendments and additional provisions tailored to specific projects. In addition, we regularly work and assist in drafting bespoke project specific contract documentation when required.

Our unique specialist construction expertise allows us to provide a hands-on approach to smooth the development of your project, covering your project from inception to completion.



Project management

The complexity of procurement, contracts and professional appointments documentation is increasing every year. Along with it comes the need for a more strategic approach to project management over the life cycle of a project.

We frequently help our clients manage their procurement and contract documentation, including professional appointments and contractual issues.

We can help you understand the commercial risks of what you're trying to achieve and provide tactical advice to help you manage the project and protect your interests. Our aim is to enable you to get on with the job of running your businesses, while we take care of any potential legal issues.



Risk management and strategic advice

Risk management is an ongoing process throughout the life cycle of a project. Our specialist construction law experience enables us to develop practical risk management and early warning systems for your project. In addition, we offer project support services throughout the life of a project, including reviewing correspondence and notices to enable you to manage and address problems as they arise. We can advise in respect of issues and problems that may develop in relation to, for example, delay, dealing with and assessing extensions of time, appropriate record keeping, serving notices, considering and assessing disruption, prolongation and the cost associated with change. At the end of a project, we arrange de-brief meetings to learn both from successes and mistakes.



Contract documentation

As a firm, we advise on all major industry standard form construction and engineering contracts. These contracts are frequently supplemented by bespoke amendments and additional provisions tailored to specific projects. We regularly advise on EPC and EPCM contracts, which are used regularly for international projects. We can advise on the main contract, including contract administration, and any applicable amendments. We can also help with ancillary documents, such as collateral warranties, direct agreements, performance bonds, parent company guarantees, escrow accounts and insurance agreements.

If required, we are happy to liaise with funders or other party's property lawyers to deal with the construction-specific provisions of transactional documents or conditions precedent, and we can provide ongoing support and assistance to your development team during the construction works, such as dealing with ongoing queries. Our wide network of contacts in the industry makes us ideally placed to recommend specialist surveys, measured surveys, building fabric surveys and others.



Procurement

We are highly experienced in providing advice and guidance on procurement for major capital projects around the world. We advise on, draft and negotiate concise and practical documentation to allocate risk and reduce the potential for disagreement. Our in-depth knowledge of the industry enables us to provide sound legal advice with a commercial emphasis, which ensures that both our advice and any documentation for which we are responsible is neither too complex nor too simplistic.



Alternative Dispute Resolution (ADR)

We are acknowledged leaders in the use of alternative dispute resolution. In the past decade, we have been involved in hundreds of commercial mediations including multi-party, multi-million and multi-day negotiations. We have used expert determination, early neutral evaluation and project mediation to avoid and resolve disputes.

We have a reputation for innovation and we always explore options for settlement. In the majority of cases, we manage to resolve disputes satisfactorily, without formal proceedings. We have substantial experience with mediation not just when acting for parties but also acting as mediators.

Fenwick Elliott was the industry sponsor for leading research in to the use of mediation in construction disputes. The research was lead by Fenwick Elliott for King's College, University of London, working in association with the High Court in London, the Society of Contract Law (SCL) and also the Technology and Construction Solicitor's Association (TeCSA).



Dispute Adjudication Boards (DABs)

We have dealt with Dispute Adjudication Board proceedings (both as Counsel and DAB member) throughout the world. Many of our partners have experience of Dispute Adjudication Board Rules, particularly those found in the FIDIC standard form.

In addition, our partners regularly speak at internal seminars and external industry conferences about all aspects of DABs.



Adjudication

We have been a pioneer in the use of adjudication proceedings, both during a project and at its conclusion, as a means of resolving claims economically and promptly. We are acknowledged to be pre-eminent in this field and to date have advised on over 2,000 adjudications, both in the UK and internationally.

Formal legal options for resolving disputes are often costly and protracted. We understand adjudication and recognise that whilst it can have its pitfalls, used with care, adjudication can be an efficient means of bringing a dispute to a conclusion.

Many of our partners are accredited adjudicators and serve on several industry panels. This experience of the adjudication process means that whether you just require advice on a discrete jurisdictional issue or need our assistance to run or defend an adjudication, we provide prompt proactive commercial advice you can rely upon.

We look to agree the right strategy for you and this includes looking to the future and what happens after the adjudicator has issued their decision. Whilst we frequently advise on the merits of enforcing adjudicators' decisions, or defending such claims in the Technology and Construction Court, we never forget the bigger picture.



International arbitration

Fenwick Elliott has a well-deserved reputation for handling large, complex, high-value construction and energy related international arbitrations and we are known in international arbitration circles as a true specialist and a formidable opponent.

Our international arbitration practice is truly global. Over the past few years we have advised on major projects located in the UK, Africa, Asia, India, Caribbean, CIS, Europe, the Middle East, South Africa and Turkey. Our client base spans many geographical regions worldwide including the USA.

We regularly advise on and represent clients in arbitrations conducted under all of the major institutional rules including LCIA, ICC, SIAC, DIAC, AAA, LMAA, ICSID, BICA, ICE, CIMAR and Uncitral.



Our expertise with eDisclosure

Fenwick Elliott have extensive experience in document harvesting, processing, review, and disclosure in both TCC litigation and arbitration.

We are able to assist comprehensively from start to finish: from advising on best approaches to disclosure, data collection without loss of metadata, the drafting of disclosure requests and/or determining key words, to intelligently liaising with our third-party providers who are able to provide all the resource and software needed to harvest documents and review them efficiently in terms of costs and time. We are acutely aware of concerns about the excessive cost, scale and complexity of disclosure and have for a long time advocated Jackson LJ's menu options rather than Standard Disclosure as a default.



Shaping international arbitration

We have been involved in the drafting and revision of various institutional arbitration rules, including the revision of the ICC's Arbitration and ADR Rules which took effect in January 2012.

We have a number of Partners within the firm who are very experienced in international arbitration, specialising in sizeable, complex construction disputes where the sums in dispute run to many millions of USD/GBP. They have experience in many of the recognised sets of arbitration rules, including those of the ICC, LCIA, UCAC, SCC and ICSID, and Dispute Adjudication Board rules (particularly those found in the FIDIC standard form). One of our Partners was selected by the Dubai International Arbitration centre to prepare and instruct the programme for the practical training interactive workshops "How to conduct an arbitration under the DIAC Arbitration rules" which took place in 2018 in Dubai.



Professional appointments

We advise, draft and negotiate practical documentation for appointing a professional team, including architects, project managers, quantity surveyors, CDM coordinators, structural engineers, mechanical and electrical services, party wall surveyors and specialists such as acoustics, highways, engineers and transport consultants. We also advise on issues and complexities that may arise with the professional team and during the construction works on site. Isolating the key problem can be fundamental to getting a project back on track and ensuring successful delivery.



Contract specialists

Concise, clear and watertight contracts are essential for the progress of any major construction or energy project. At Fenwick Elliott, we produce documents that cut to the heart of transactions, clearly allocating risks and responsibilities.

We deal with a full range of procurement and documentation tasks. From drafting project correspondence to negotiating complex agreements, our industry experience – and our extensive experience devising major business deals – means we can save our clients time and money, and safeguard them against possible pitfalls.

Only by understanding our clients' commercial commitments and aims can we become a true partner and add maximum value, which is why we discuss projects in detail and encourage a relationship of open dialogue.

We can help with procurement strategies, contract negotiation, document appraisal and risk analysis, partnering and framework agreements, and facilities management – or anything else that would benefit from our specialist attention.

Following a project, we conduct full risk and project audits to assess which processes, if any, could be improved in the future. We can also provide a second opinion, or risk audit, on existing claims or disputes.

Our expertise extends far beyond our London base. Increasingly, we help clients succeed in the legislation-heavy environment of the European Union, navigating EU directives and publicly funded tender processes.

Further afield, we have extensive experience across the Middle East (including Saudi Arabia, the UAE, Kuwait and Qatar) and the Caspian region states and we have also worked on significant projects in regions as diverse as North America, the Caribbean, India, Africa, the Far East and Australia.



FIDIC experts

The FIDIC Contract is the most widely used contract globally. We are experts in FIDIC contracts, including in a civil law environment. We have advised on both the old FIDIC Red Book 4th edition and the new FIDIC Rainbow suite of contracts, in terms of procurement, contract drafting and dispute avoidance.

Our lawyers are regularly invited to speak at conferences especially in the Middle East and Africa and publish articles on FIDIC-related matters.

Jeremy Glover, partner, is the co-author of *"Understanding the FIDIC Red Book: A Clause by Clause Commentary"*. We also hold regular seminars on FIDIC related topics for our clients in the UK and in Europe and Partners' Jeremy Glover and Professor Nicholas Gould have presented at FIDIC International Users' Conferences across the world. In addition, both were both asked by FIDIC to act as friendly reviewers of the new 2017 form of contract.



JCT experts

We regularly advise on JCT contracts, which have become the most commonly used standard form of building contract for UK domestic projects. We assist clients in agreeing the most appropriate procurement route and JCT contract to use, provide guidance on day-to-day contract administration, the issuing of contractual notices, and advise on, draft, review and negotiate amendments to the JCT contracts.

As a result of our specialist focus and wide client base, we are always up to speed with market trends and market practice in our negotiations. If required, we are happy to liaise with funders or other third parties to get negotiations over the line.

We can also assist with the drafting of ancillary documents, such as collateral warranties, performance bonds, parent company guarantees, escrow accounts and insurance agreements.

We provide specialist training on JCT contracts including project specific amendments at the outset of a project to set up procedures for successful contract management.



NEC experts

Our team is experienced in drafting and negotiating the NEC suite of contracts, commonly on major engineering and infrastructure projects. We have advised on a number of Crossrail projects, which used the NEC3, and have advised on the London Olympics 2012 packages which were under NEC3 derivatives.

As a firm, we have been at the forefront of drafting and successfully implementing the core collaborative objectives of the NEC. Our experience on NEC projects extends to a number of high-profile international infrastructure projects including oil and gas pipelines, off-shore wind farms, nuclear power stations, airports, schools and large private residences.

Often supplemented by 'Z clause' amendments, we are regularly involved in drafting and negotiating such amendments to the NEC. At the heart of the NEC's approach is good project management and we regularly provide 'trouble shooting' advice on NEC contract to ensure good project management, successful contract administration and dispute avoidance.

Following the release of the new NEC4 contracts we provide to clients training on the key changes and on contract awareness under the NEC4.



Dispute Resolution experts

Few other firms can match our technical knowledge and our expertise in resolving construction disputes, both domestically and internationally. The firm has considerable experience acting on major construction and infrastructure disputes worldwide. Frequently addressed issues include contract interpretation, claims for extensions of time, disruption, loss and expense, price escalation, certification and payment issues, defect claims, design liability and termination.

Our expertise in dispute avoidance and alternative methods of dispute resolution are also valuable risk management tools, and we are proud of our reputation as specialists in this area, who apply imaginative and strategic thinking. Given the cost and uncertainties of arbitration and litigation, and the interruption to business and good business relations which they can cause, we always proactively assess the opportunities for early

resolution of disputes. While remaining realistic, we apply a strategic approach that considers the potential benefits of compromise and maximises the opportunities for settlement.

When disputes cannot be avoided, we act decisively and will provide you with the in-depth knowledge and expertise required for resolving any disputes. We have the capability to handle all cases, irrespective of size or complexity.

Adding value

We build long-term relationships with our clients by developing a detailed understanding of their requirements and the way they work. We pride ourselves on being up-to-date with current legislation, market risks and new initiatives facing the construction sector both in the UK and Internationally. We offer value added services such as training, updates and introductions to others.



Hosted and public seminars

We have a varied event programme, and throughout the year we host a range of seminars and conferences which address key issues affecting the construction and energy industries. We are also able to organise and deliver in-house workshops for our clients.



Blogs and e-bulletins

Our blog provides regular short updates on topical legal or other issues affecting the industry. Our experts share opinions on a wide variety of subjects and provide thoughts and ideas on these various matters through the comments facility.



Workshops

We provide bespoke in-house training workshops to clients, tailoring the topics to their specific needs. We draw speakers from the entire team of lawyers at Fenwick Elliott to ensure we present the individual most qualified to speak in any given area. In order to ensure the highest levels of participant engagement we use the most up-to-date presentation tools.



Client newsletters and briefings

Our partners edit or contribute columns to leading newsletters and websites – helping keep everyone involved in the construction industry up-to-date with the latest legal developments.

Dispatch – our monthly briefing note to clients summarises recent developments in construction and engineering law.



Insight – our monthly newsletter to clients provides practical information on topical issues affecting the building, engineering and energy sectors.



International Quarterly – is a newsletter which provides informative and practical information regarding legal and commercial developments in construction and energy sectors around the world.



Annual Review – our review provides a round-up of the latest key developments in the construction, engineering and energy arena. Through our articles and the features, we highlight the most recent legal decisions and regulatory changes to enable you to avoid costly delays and disputes. The Annual Review also includes a round-up of significant cases reported either in Dispatch or the Construction Industry Law Letter.



Working with local lawyers and technical consultants

A large proportion of our work involves contracts which are governed (or otherwise affected) by local law or by the law of another country. Our clients engage us because of our specialist experience in such circumstances, advising on international construction and infrastructure projects all around the globe. Both the form and content of construction contracts and the types of issues which arise on major projects are similar the world over. Where we add value to our clients is in bringing this specialist expertise to their particular issues.

In circumstances where Fenwick Elliott is engaged to advise on contracts governed by local law, we work closely with local lawyers (either our client's existing lawyers or those drawn from our own extensive network of local contacts). This approach provides our clients with the 'best of both worlds' in terms of international construction expertise and local law expertise.



_7 Publications

Fenwick Elliott partners and colleagues regularly write papers for, lecture on and contribute articles on construction law and industry related issues to leading journals, television networks, conference symposia and universities.

As well as their contributions to industry publications, our partners have written and co-authored various guides and books focusing on contentious and non-contentious construction law.

Legal Briefing

Our regular online article, which appears in *Building magazine's* monthly "Case in focus" feature, analyses recent cases of interest to the construction sector.

Legal Briefing comments upon recent Court judgments concerning current and often controversial Construction Law issues.



Construction Industry Law Letter

This newsletter reports the latest legal news and developments to professionals involved in the construction industry. Published 10 times a year, it covers at least 40 key cases and highlights the most recent developments in adjudication. It puts the spotlight on changes that may affect the construction industry and the way businesses operate.



Transnational Construction Arbitration

Transnational Construction Arbitration addresses topical issues in the field of dispute resolution in construction contracts from an international perspective.

The book covers the role of arbitral institutions, arbitration and dispute resolution clauses, expert evidence, dispute adjudication boards and emergency arbitrator procedures, investment arbitration and the enforcement of arbitral awards. Professor Nicholas Gould, Partner wrote a chapter on 'DABs and Adjudication in an International Context' for the publication.



Outer Space Law: Legal Policy and Practice

Outer Space Law: Legal Policy and Practice features a chapter by Professor Nicholas Gould, Partner which relates to satellites, space hardware and cross border issues.

The book discusses the political relevance of outer space which continues to be recognised by nations, particularly as the

strategic benefit of Earth observation from outer space remains an important national security tool.



Fenwick Elliott's Dictionary of Construction Terms

Written by Simon Tolson, Senior Partner, Jeremy Glover, Partner and Dr. Stacy Sinclair, Senior Associate, Fenwick Elliott's *Dictionary of Construction Terms* offers clear and concise explanations of the most commonly encountered legal and technical terms, phrases and abbreviations used throughout the construction industry.

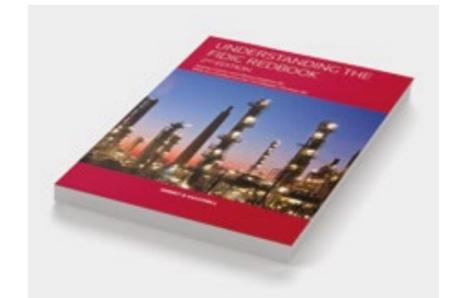
This dictionary is a practical reference for construction lawyers, practitioners and students, as well as those in related industries including planning, property and insurance.



Understanding the new FIDIC Red Book

Co-authored by Jeremy Glover, Partner, *Understanding the FIDIC Red Book*, the 2nd edition of which was published in January 2012, provides a clause-by-clause commentary of the FIDIC Red Book contract offering expert guidance on interpretation.

Each clause is reproduced in full followed by a bullet point summary of key features plus additional commentary on the clause's operation, including points of interest and consideration of recent case law.





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