

An overhead photograph of three construction workers on a site. They are wearing hard hats (one white, two yellow) and are gathered around a large set of blueprints spread out on a wooden grid floor. One worker in a dark shirt and white helmet is pointing at the plans. Another worker in a light blue shirt and yellow helmet is also looking at the plans. A third worker in a red and blue plaid shirt and yellow helmet is visible at the bottom. The scene is brightly lit, suggesting an indoor or well-lit outdoor construction environment.

The UK Construction Sector – what's on the cards for 2025?

Kennedys



Construction sector conference

Our UK construction experts from our insurance, disputes, health and safety, and commercial teams came together to host our first construction sector conference on Tuesday 14 January 2025.

2024 was arguably one of the most challenging years in recent history for the UK construction sector which saw rising interest rates, continuing supply chain issues, and evolving political and economic uncertainties.

This has led to increased costs, insolvencies and a continuing skills shortage. Following the Grenfell Tower Inquiry, the sector has also faced a number of regulatory challenges and a deeper focus on safety.

This summary accompanies a [recording](#) of the event and provides a synopsis as presented by our experts of the impacts of these challenges and how to manage the risks arising from them as we enter 2025, with optimism.

This year promises a rise in project commencements, innovative advancements, and favourable government policies, driving substantial business growth and transformation.



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Key takeaways across the sector



The Grenfell Tower inquiry – the outcomes and what happens next

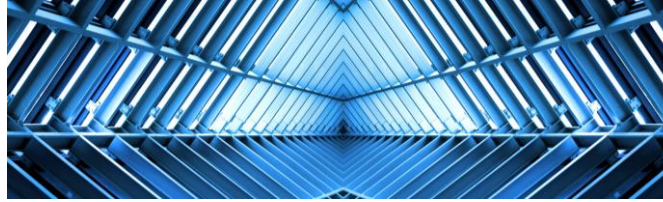
The Grenfell Tower Inquiry heard evidence from the manufacturers and designers of construction products which has been heavily criticised for its focus on money rather than safety.

Going forwards, it seems likely we will see corporate manslaughter charges brought against some of the players involved, with charges unlikely to be brought before 2027. It seems likely that we will see record fines for offences arising out of Grenfell Tower prosecutions.

With two big corporate manslaughter cases of large organisations ongoing, it seems likely we will see an increase in corporate manslaughter and gross negligence manslaughter prosecutions involving construction companies.

// The Grenfell Tower Inquiry has transformed building safety for all within the construction industry and its impacts will continue to resound for years to come.

Danny McShee
Partner, Kennedys



By name or by class, are you really an insured under a CAR project policy?

The recent Court of Appeal decision of *Sky UK Limited Mace Limited v Riverstone Managing Agency Limited & Ors* [2024] (Sky and Mace), heard in December 2024, did not reconsider certain issues determined at first instance, namely ability of the main contractor to access the CAR policy for damage arising after handover.

We anticipate we will see construction contracts being more closely considered by insurers and brokers when placing cover.

Likewise, contractors will need to closely review their contract terms, in particular, the JCT standard terms.

We may see companies liaise with the JCT on amendment of standard terms to make them more consistent and in line with the intention of a CAR project policy.



Collision course: practical interplay between CAR and professional indemnity (PI) cover – CAR perspective

Key to understanding the interplay between CAR and PI cover is to consider whether you are concerned with defects, damage, or a combination. You might consider the answer is obvious and in most cases it is. However, that is not always the case.

When it comes to damage, the US court decisions of the *South Capitol Bridgebuilders v Lexington Insurance Company* [2023] and *Archer Western – De Moya Joint Venture v Ace American Insurance Company* [2024] have triggered a review of the application and wording of the LEG defect exclusion clauses focusing on the definition of “damage”. Closer to home, the Sky and Mace judgment has also provided authoritative guidance on “damage” for the purpose of a CAR policy.

It will be interesting to see how CAR insurers deal with these developments in the next 12 months.

Where defects are uncovered, triggering the defect exclusions, insureds are likely to revert to PI insurers to fill any gaps in cover.

Key takeaways across the sector



Collision course: practical interplay between CAR and professional indemnity (PI) cover – PI perspective

From a PI perspective, it is crucial to understand whether there is any CAR cover available and whether it has been triggered. In particular, the focus will be on whether there is any cover for design defects, and if so the extent of that cover.

The availability of CAR cover could have a considerable impact on the extent of future claims on PI policies. Therefore, it needs to be investigated at the outset where issues occur during construction or the defects liability period.

The Sky and Mace judgment suggests that there could be substantial CAR cover, which should then limit claims against PI policies.

// Insureds are looking for a standard claims process and swift resolution. To achieve this, transparency and collaboration between insurers, brokers, coverage lawyers and insureds are key.

Patrick Harrington
Construction Claims Advocacy Leader
Marsh Specialty Construction



The impact of the Grenfell Inquiry Phase 2 report and post Grenfell claims

We are starting to see the resolution of building safety/remediation claims and developers, contractors, and other potential claimants are now looking at recovering damages paid against the downstream players. If faced with a claim, consider your subrogation rights and potential recovery against other parties such as the product manufacturers.

Potential claimants will be looking for earlier resolution and settlement of claims and we predict an increase in ADR/mediations.

There will be an increased focus on fire safety claims which will heighten M&E claims risk. Landlords and owners will spend more time reviewing smoke ventilation and fire suppression systems to ensure that these systems operate as required.

We will also see a rise in internal defects claims, for example defective fire doors.

We will continue to see more limitation and Contribution Act claims.



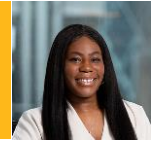
JCT 2024 – evolution not revolution: six months on

The JCT 2024 does not take into account the higher-risk building (HRB) regime and we are seeing amendments being requested of clients to manage the following risks:

- Insolvencies of the parties in the next 30 years (to deal with the new limitation periods and ensure continuation of the supply chain)
- Third party rights – collateral warranties are increasingly extended to deal with complex project structures
- Taxation
- Coverage gaps – insurance provisions are increasingly aligned with PI coverage
- Client delinquency – increased request for client payment security
- BIM protocol and model – specific requirements by the developer
- Management post practical completion

We may see companies liaise with the JCT on amendment of provisions to take into account the HRB regime and market forces.

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