

CMS

An overview of our water experience

February 2024

CMS Experience

We would like to thank you for opportunity to present our credentials in this area. We have detailed below some of our experience working with water and major utility clients.

1. Case Study – UK Water Client

Supporting a major water client on a number of its contentious construction issues including:

- in proceedings for payment for damages in respect of one of its water distribution networks; and
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- in support of discussions with the Joint Venture responsible for undertaking a significant tunnelling project on claims for payment from water client.
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- in support of discussions with the Joint Venture responsible for undertaking a significant tunnelling project on claims for payment.

Our work includes high quality legal analysis, drawing on extensive experience of the water industry. Both involve providing professional, competent, expert and timely advice that provides good commercial value. Good example of our support being delivered in ways that make a positive contribution to the achievement of the best overall outcome can be seen:

2. Procurement - Northern Ireland Water (NIW)

NIW capital investment programme: Integrated Partnerships – Water and sewerage (infrastructure and non-infrastructure) Frameworks (IF104)

CMS advises NIW on the contracting and procurement of this strategic, business-critical framework. It is a major capital investment programme due to run under the existing PC15 Business Plan to 31st March 2021, and thereafter the PC21 Business Plan to March 2027.

NIW will put in place a full suite of Framework Agreements linked to the NEC4 suite of contracts for three lots covering water and sewerage works and services with an approximate value of £1.68bn over an 8-year framework.

As part of the project CMS drafted preferred forms the following NEC4 contracts:

- Framework Contract
- Professional Service Short Contract and PSC Options A and E
- Engineering and Construction Short Contract and ECC Options A, B, C, D and E

CMS also advises on the related parent company guarantees, bonds and collateral warranties.

Drawing upon our USP as a leading utility construction team, we were able to ensure that the contracts worked for the construction industry, in cognisance of current themes and issues, as well as for a utility procuring a major construction delivery programme within the context of the regulatory framework.

Following on from successful completion of the procurement process, CMS is providing full training workshops to the technical teams responsible for the day-to-day administration of the contracts and will continue to provide hand in glove support to the team on the application of these contracts.

3. Case Study - Northern Ireland Water

Advising on a new portfolio of virtual and private wire PPAs for the procurement of renewable electricity, from design and scoping to execution. Our utilities knowledge means we are well-placed to develop documentation in this area and apply NIW's requirements and procedures.

CMS advises NIW on the procurement and contracting for its major £1.68bn 8-year capital investment programme due to run to March 2027 (under its business plans for PC15 and PC21). NIW will put in place a full suite of Framework Agreements linked to NEC4 for three lots covering water and sewerage works and services.

We worked closely with NIW's in-house legal and technical teams to properly understand the full-suite of their technical requirements, to build contract packages around that, and to ensure that lessons learnt were reflected in the final suite of tender documents. We deployed the right mixture of people, process and technology to deliver the project in accordance with NIW's budgetary and time requirements while ensuring the contracts worked from both a construction industry and a utility perspective.

4. Case Study - Major Utilities

Defending a procurement challenge against a decision to exclude a global IT consultancy from a major IT procurement, following proceedings brought in the High Court (TCC). Simultaneously, our client was suing the IT consultancy in the US over a failed IT project, requiring us to deal with two sets of parallel proceedings, without compromising the other. Our focus on commercial resolution demonstrates that we understand our client's drivers. A strong position was taken in the litigation to protect our client and this strategy ensured a successful settlement for the client without the need for any formal court hearings.

5. Various water / utilities clients – Incident Support

CMS has market-leading expertise in managing all aspects of an incident, from pre-breach readiness to management and coordination of incident response. Clients have used our methodology on 200+ breaches.

We know ST is also subject to NIS Regulations and can provide incident support on this.

A firm experienced a break-in during which an unsecured disk was taken containing client details. We advised that notification to the ICO was necessary and drafted the notification on behalf of the firm and the reply to a request for further information. We highlighted mitigating circumstances, which resulted in the ICO taking no further action.