

Crown
Commercial
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Supplier



BURGESS SALMON

Supplier Prospectus

RM6360 Legal Panel for Government

Lot 5: Rail Legal Services

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Disclaimer notice

We confirm that the use of information provided throughout is not commercially sensitive, and where it is not a matter of public record then appropriate permission has been sought for inclusion.

Introduction to Burges Salmon

Who we are

- An ambitious, sustainable and inclusive firm that ensures its clients, people and wider communities flourish. We work across the UK with lawyers who are qualified to work in all three legal jurisdictions in the UK - England and Wales, Scotland and Northern Ireland.
- With offices in Bristol, Edinburgh, London and Dublin, we work wherever clients need us to be, both within the UK and internationally. Our collaborative and cohesive culture underpins the quality of our work and client service.
- Over 30 years' experience advising public sector clients, from the large strategic projects to day-to-day operational requirements. Our team includes former senior civil service lawyers, local government lawyers and secondees.
- 550+ lawyers, over 120 of whom work regularly with public sector clients ensuring resilience in our teams and that work can be dealt with at the right level.
- A robust public sector litigation team acting on live commercial litigation for central government and other public bodies and on recovery and administrative law claims.
- We have a strong global network of like-minded independent law firms, our Preferred Firm Network, a non-exclusive network of law firms which we have assembled over many years, who share our values and provide expert advice and excellent service at a fair price in their jurisdictions.

How we work

- Working collaboratively with our colleagues, clients and community, we remove the barriers to successful delivery and building strong, long-lasting and enjoyable relationships.

- We listen to our clients, to ensure their objectives and priorities drive everything we do.
- We provide strategic, commercially-focused advice and intelligent solutions to complex problems.
- We offer alternative fee arrangements and flexible engagement models available including day-to-day support, secondment arrangements, substantial projects and ad-hoc instructions.
- We provide real-time tracking and communication of costs, ensuring value for money.
- We conduct regular joint reviews of what is working and where we can improve.
- We use technological solutions to increase efficiency and enhance service delivery, including our collaborative, secure Burges Salmon clientspace portal and document review and search/analytics solutions.

Why choose Burges Salmon

- In-depth knowledge of how the public sector works – the drivers and constraints, the challenges of achieving policy objectives and the complex environments in which public bodies operate.
- Track record of successful delivery and meeting stakeholder expectations, often to challenging timescales and under political and media scrutiny.
- Dedicated to adding value to our service – whether through knowledge transfer, strategic support, training or provision of meeting rooms, we aim to be an integrated part of your team.
- We take an authentic responsible business approach and strive for social and environmental sustainability, equality, diversity and inclusion in all aspects of our work. We want to ensure our clients, our people and our wider communities flourish.

OUR YEAR IN NUMBERS



1,000+

Number of Burges Salmon people



550+

Fee earners



100+

Number of Partners



60

Award wins, shortlists and accreditations



5,096+

Hours of pro bono advice given and volunteering hours

Team Structure

If you would like to discuss any aspect of this Prospectus or an opportunity, please contact any member of the core team or email us at:

publicsectortenders@burges-salmon.com



Chris Simms

Supplier Representative

T +44 (0) 117 307 6139

E chris.simms@burges-salmon.com



Lydia Cullimore

Supplier Representative

T +44 (0) 117 939 2239

E lydia.cullimore@burges-salmon.com



Sam Charkham

Supplier Relationship Manager

T +44 (0) 117 307 6924

E matt.melhuish@burges-salmon.com



Matt Melhuish

Bid/ tender contact

T +44 (0) 117 307 6445

E matt.melhuish@burges-salmon.com

CORE SPECIALISMS

Regulatory Law		
Lydia Cullimore Rail Regulation	Chris Simms Rail Regulation	Ian Tucker Access Disputes
Brian Wong Access Disputes	Charlotte Whitaker Health and Safety	Brioney Thomas Rail Regulation
Supported by a team of 20+ lawyers		
Rail Commercial Law		
Lydia Cullimore Rail Projects	Philip Beer Real Estate	Steven James Construction & Engineering
Chris Simms Rail Projects	Brioney Thomas Rail Projects	Chris Lewis Rail Projects
Supported by a team of 40+ lawyers		
Public Procurement Law		
Ian Tucker Contentious Procurement	John Houlden Non-contentious procurement	
Subsidy Law		
John Houlden Subsidy Law	Punim Anda Subsidy Law	

NON-CORE SPECIALISMS

EU Law & International Law John Houlden / Ian Tucker	Competition Law Chris Worrall
Dispute Resolution and Litigation Law Ian Tucker	Employment Law Adrian Martin
Environment Law Michael Barlow	Health & Safety Law Charlotte Whitaker
Information Law & IT Law Lucy Pegler	Insurance Law Matt Kaltsas-Walker / Chris Wenn / Kate Francis-Hughes
IP Law Helen Scott-Lawler / Emily Roberts	Pensions Law Michael Hayles / Crispin Freeman
Planning Law Gary Soloman / Elizabeth Dunn	Real Estate Law Philip Beer / Colin Lignan
Insolvency / Restructuring Law Emily Scaife	Tax Law Ian Carnochan
Supported by trainees, paralegals, project managers and BFlex lawyers as required	

Social Value

At Burges Salmon, we commit to delivering meaningful responsible action through social value and we understand this is important to our clients.

Our approach is holistic, considering environmental, social and economic factors to create comprehensive solutions that benefit all parties involved.

This is core to our firm's strategy, purpose and culture. Within our strategy, we strive for best practice.

We are a signatory to the UN Global Compact, a member of Business in the Community and have integrated the UN Sustainable Development Goals into our responsible business strategy.

Wellbeing:

We prioritise mental, physical, financial and emotional health to empower our team members to thrive both personally and professionally.

We aim to create a workplace where everyone feels valued, motivated and equipped to contribute their best. This is supported by:

- Our dedicated team of wellbeing professionals including a Reward, Benefits and Wellbeing Manager and over 55 Mental Health First Aiders
- Alignment with industry standards, including Mindful Business Charter principles, and attending sector events to understand trends in wellbeing challenges and shape planned initiatives
- Our accessible learning management system which allows our people to access learning for personal and career development
- Increasing our maternity/shared parental pay to 26 weeks and paternity pay to four weeks
- Annual wellbeing event, regular bulletins, financial wellbeing support and private GP service.

We intend to make improvements against our Wellbeing Action Plan, informing our approach and

demonstrating our commitment to the health and wellbeing of our people. This includes:

- Maintaining our subscription to the Headspace mindfulness app for our people and their family/friends
- Delivering wellbeing-related training/ learning sessions with our community partners for our people to attend
- Establishing more support networks for our people (i.e., menopause support) with the help of external specialists
- Establishing a new partner wellbeing strategy for FY25/26.

The initiatives in this plan are assessed against data from our people surveys. By monitoring our wellbeing initiatives, we aim to identify a path to maintain Investors in People Platinum status in 2028.

Equal opportunity and tackling inequality:

We believe shaping a diverse and inclusive workplace is not only the right thing to do but is also essential for our success and the wellbeing of our people.

Our values of fairness and respect drive us to create an environment where everyone can thrive, regardless of their background. Initiatives include:

- Four people-led networks that support the progress of our D&I initiatives
- Being a Disability Confident Leader and working with WECIL to improve workspace accessibility
- A dedicated Diversity and Inclusion team shaping, delivering and reporting on central strategy
- A Diversity Taskforce with representation from senior leadership, subject matter experts and members with lived experience
- Reverse mentoring scheme where colleagues from

ethnic minority backgrounds mentor senior leaders to foster deeper understanding of lived experiences and upskill them in terms of inclusive leadership

- People surveys and D&I data, informing targeted interventions on representation, retention and experience
- Participating in charters and frameworks, such as Women in Business, Stonewall Diversity Champion and PRIME to understand issues affecting inequality for under-represented groups
- Publishing our gender and ethnicity pay gap report yearly to identify causes of disparity and targets to address them
- Member of the legal sector apprenticeship Trailblazer group, helping to shape apprenticeship standards, being one of the first firms to offer solicitor and paralegal apprenticeships.

Our D&I strategy informs the actions we take to support equal opportunity and tackle inequality.

Whilst we are happy with our progress, we understand there is more work that can be done to make improvements and maintain our commitment to our people. These include:

- Continuing partnerships and initiatives with local schools and charities that encourage women and under-represented groups to pursue legal careers
- Completing an annual people survey to provide visibility on the experience of under-represented groups in our firm compared to external benchmarks
- Expand our Career Focus programme to improve transparency of opportunities at all levels.

Social Value

In addition to our CCS commitments to wellbeing and tackling inequality, we also strive for best practice in all other elements of our social value framework. This includes:

Fighting climate change

We believe in meaningful action to embed sustainable practices into our operations, lead by example and support local communities in their transition to sustainable futures. This includes:

- Carbon reduction. Alongside our carbon reduction plan (which can be found [here](#)) we use Science Based Targets to move us towards a 50% reduction in Scope 1, 2 and 3 emissions by 2030
- Our Green Week initiative supporting and promoting sustainability in our offices
- Promoting sustainable travel
- Community partnerships focused on sustainability (education, volunteering, fundraising)
- Carbon literacy and Net Zero training
- Responsible procurement and an Environment Manager to oversee our progress in this area
- Environmental collaboration with key sector and industry services, including: Legal Sustainability Alliance, Net Zero Lawyers Alliance, The Chancery Lane Project
- Promoting circular economy principles

Employment and human rights

We focus on fair employment practices addressing critical issues such as modern slavery, disability inclusion and equal opportunities. We aim to ensure that our workplace promotes a culture of integrity and respect and that employment opportunities are opened

up to a wider range of communities. Examples include:

- Employment scheme for candidates with disabilities or neurodivergent conditions
- Modern slavery and code of conduct training
- Following the principles and guidelines of the UN Global Compact, the UN Universal Declaration of Human Rights, the core conventions of the International Labour Organisation (ILO), and the UN Guiding Principles on Business and Human Rights (UNGPs).

Community

We are dedicated to building strong, thriving communities in which our people are proud to make a difference. Community engagement is integral to our culture, reflecting our commitment to being a force for good and giving back by sharing our expertise and resources. This includes:

- Our charitable themes. We run three-year charitable themes to maintain and support ongoing relationships with more than 60 key charities. Our theme this year of 'Fairer Futures for Young People' focuses on supporting young people through projects related to education, health and wellbeing and social mobility.
- Volunteering and pro bono legal advice
- Founding partner of Social Mobility Business Partnership (SMBP), bringing together local businesses, organisations and schools to deliver meaningful workplace experiences to young people from low-income backgrounds. Our Chief People Officer, Alice Bretherton is a trustee on the board.
- Founding member of Bristol Future Talent Partnership.

SOCIAL VALUE HIGHLIGHTS

- Renewed our firmwide partnership with Headspace following a 54% adoption rate in its first year, significantly above the average benchmark of 30%
- Moved from c.20% female partners to 32% female partners over the last five years
- Accreditation as a Disability Confident Leader
- Awarded 'Disability/Neurodiversity: Best Initiative to Attract and Retain Talent' and 'Ethnicity: Best Initiative to Attract and Retain Talent' at the 2024 Legal 500 ESG Awards.
- Completed a circular economy focused fit out for our London offices
- Delivered carbon literacy training in partnership with Business in The Community (BITC), supporting colleagues to understand emissions measurement and net zero planning
- 28 apprentices employed across legal and business professional teams including Marketing, People, Facilities, and IT as of September 2024
- Rolled out of our social mobility focused Bright Sparks work experience programme in our Edinburgh Office
- Launched diversity mentoring schemes with the University of Bristol and the University of the West of England focused on legal and business career pipelines for disadvantaged and underrepresented students
- Re-accredited with platinum Investors in People in 2024.

Core specialisms

Regulatory Law

How we can help you

We have advised on the development of and compliance with rail specific regulation, including engagement with and appeals to ORR since privatisation. We have given regulatory advice to the full range of industry stakeholders including government authorities, infrastructure owners, passenger and freight operators.

Our regulatory law expertise includes:

- Advising on the interpretation and application of the Railways Act 1993, Railways Act 2005 and Passenger Railway Services (Public Ownership) Act 2024 (the “**Railways Acts**”) including on:
 - general duties under section 4 of the Railways Act 1993
 - the requirement for licences or licence exemptions
 - the circumstances in which regulated track, station and depot access arrangements are required and the process for seeking ORR approval
 - the designation of passenger services and restrictions under section 25 of Railways Act 1993
 - section 54 undertakings to support investment in rolling stock
 - enforcement action that an appropriate authority can take
 - railway administration orders and their application to protect railway assets
 - Transfer Schemes made under section 12 of the Railways Act 2005
- Advising on the interpretation and application of the draft Railways Bill.
- Advising on the UK law derived from EU regulation, particularly regarding access arrangements, vertical integration, separation between infrastructure managers (IMs) and railway undertakings, capacity allocation and charging, passenger rights (including PRM compliance), safety compliance and awards of public service contracts under the Public Service Obligations in Transport Regulations 2023.

Case studies

Transport for Wales (TfW): Advising TfW on regulatory issues connected to the Core Valley Lines (CVL) owned by TfW and its arrangements with its appointed IM. This includes advising on compliance with the Access Management Regulations and ROGs.

Welsh Ministers (WMs) and TfW: Advising on the devolution arrangements between WMs and the Secretary of State, including agency arrangements for the English element of cross border services. Also advised on the direct award of a new public service contract in accordance with the Public Service Obligations in Transport Regulations 2023.

Rail for London (Infrastructure) Limited: Advising on the regulatory requirements applicable to the Crossrail Central Operating Section. Our role includes advising on infrastructure manager requirements under the Access Management Regulations and proposed Investment Recovery Charge.

DFT Operator: Advising on the processes used to prosecute ticketless travel and on consumer protection issues.

Northern Ireland Transport Company: Provided strategic advice on EU Regulation 1370/2007, Directive 2012/34 and the 4th Railway Package. Our role included drafting the terms of a Public Service Contract for passenger transport services and on structures to comply with the NI equivalent of the Access, Management and Licensing Regulations.

Train operators: We have advised on numerous track, station and depot access agreements including bespoke arrangements where a depot is being privately financed.

ATOC/RDG: Advised on ticketing, ROGS, equalities and PRM issues (including in relation to rolling stock) and passenger information requirements.

Rail Commercial Law

How we can help you

Our specialist commercial rail team is one of the largest, allowing us to resource multiple industry projects concurrently with appropriately qualified lawyers. We have extensive experience of advising authorities, train operators, freight operators, financiers and train manufacturers on a variety of rail commercial projects. Our deep and broad experience of the unique regulatory and operating environment allows us to provide rapid support for complex projects.

Our rail commercial law expertise includes:

- Advising both authorities and private sector operators on passenger rail contracts (including advising on competitions, extensions, direct awards, mobilisations and handovers)
- Advising authorities, train operators, manufacturers and financiers on rolling stock transactions (including Manufacture and Supply Agreements, maintenance arrangements and leases)
- Advising an authority on the procurement of a vertically integrated solution and infrastructure works to transform rail services (and the ongoing management of the delivery of those infrastructure works)
- Advising a public body on the procurement of facilities management and related services for rail assets across its network
- Advising authorities, train operators and RDG on issues relating to the Ticketing and Settlement Agreement and fares
- Advising authorities and train operators (both passenger and freight) on regulated access arrangements and licensing arrangements (including in relation to operations and new stations and depots)
- Advising authorities and financiers on financing issues including in relation to rolling stock and depots
- Advising in relation to the formation of rail joint ventures and alliancing arrangements

Case studies

Welsh Ministers (WM), Transport for Wales (TfW) and TfW Rail Ltd (TfWRL):

We are appointed as lead legal adviser to TfW and TfWRL on all rail matters. Our role includes advising on:

- the award and terms of the passenger rail contract between WMs and TfWRL;
- devolution arrangements between WMs and the Secretary of State, including agency arrangements for the English element of cross border services;
- the management of TfW's contract with Amey Infrastructure Wales (AIW) which governs the provision of infrastructure management services and transformation works in relation to the Core Valley Lines owned by TfW; and
- a range of operational rail contracts including for new rolling stock (leasing, maintenance and depot access arrangements).

TransPennine Trains Limited (TPT): Advising on the procurement of a manufacturer, maintainer and financier for a new fleet of rolling stock as part of the Transpennine Route Upgrade. Our role includes advising on the regulated procurement process and preparing the manufacture and supply agreement, long-term maintenance agreement and leasing agreements.

DfT Operator: Advising on on-boarding new train operators as part of the nationalisation programme, in particular on revenue protection arrangements.

Transport for London: We advised on various procurements for maintenance services in relation to assets across the TfL network and power purchase arrangements for renewable energy.

Sizewell C: Advising Sizewell C on the procurement of works to construct new railway infrastructure to enable materials to be transported by rail freight to the site of a new power plant. Our role includes advising on asset protection, services, implementation, operations and maintenance agreements with Network Rail.

Northern Ireland Transport Holding Company: Advising on the Public Service Contract between the Department for Infrastructure and NITHC.

Greater Anglia and West Midlands Trains: We advise these operators on operational matters including depot enhancements and rolling stock arrangements.

FirstGroup: Advising on National Rail Contract negotiations for GWR and AWC and on bids for TfL concessions.

Public Procurement Law

How we can help you

We have extensive experience of working with authorities and utilities (and bidders) specifically in the rail sector to design and implement regulated procurement processes. This has involved advising on when publicly operated rail businesses are subject to the regulations, the application of public procurement obligations to operator contract awards (Franchises, EMA/EMRA and subsequent National Rail Contracts) and the use by rail sector bodies of both UCR and PCR. We are also advising rail industry businesses on the implementation and implications of the Procurement Act 2023.

We focus on ensuring that procurements are commercial and manageable as well as robust and legally compliant to give a successful outcome. We are increasingly advising in the rail sector on the potential impacts of procurement regulations.

Our team is unusual in having a large team of procurement litigators (including rail specialists) integrated with our project and advisory specialists. We regularly handle disputes during the procurement process, post-award and in live high court claims and judicial reviews

Our public procurement law expertise includes:

- Procurement strategy
- Business case development
- Tender document preparation and development
- Negotiation, dialogue and interactions with bidders
- Stakeholder engagement and governance
- Evaluation, standstill and award
- Managing procurement challenges and disputes
- Changes to processes in light of the Procurement Act 2023

Case studies

TransPennine Trains Limited (TPT): Advising on its current manufacturer and financier regulated procurements for new build rolling stock to replace the current diesel-powered Class 185 fleet. This is a significant enabler in the Transpennine Route Upgrade programme and has an estimated value of over £1billion. This is in addition to advising other clients such as Avanti West Coast, South West Trains and others on rolling stock procurement strategy.

Department for Transport: Providing support to DfT (and Network Rail) on legal issues relating to, and arising out of, the development of the strategy for the Euston Programme (which includes HS2 Euston Station, HS2 Tunnels and Approaches, HS2 Systems, Development Enabling Works, Onward Transport Requirements and the LUL Interchange) and subsequent implementation of this strategy.

First Trenitalia West Coast Rail Limited: Representing FTWC as a wholly successful and significantly involved Interested Party in the 2019 Rail Franchising Litigation supporting the Secretary of State in successfully defending procurement challenges against the West Coast franchise award. This included the firm acting as advocate for FTWC in the successful defence of an application by the Stagecoach claimants for an injunction.

Northern Ireland Transport Holding Company/Translink: Advising Northern Ireland's public sector train operator on the successful procurement for the redevelopment of land at Belfast's Great Victoria Street central hub station. We have also advised on the terms and award of a Public Service Contract with the Department for Infrastructure, including on compliance with Regulation 1370/2007.

Train Operator acting under an NRC: We have advised a train operator who placed option agreements for the purchase of rolling stock prior to ERMA on the exercise of those option rights under subsequent agreements including NRC. This is cutting edge law regarding the application of the UCR in the rail industry.

Operator Procurement Disputes: Acting (confidential) for operators conducting procurement in defending claims against them by disappointed suppliers including in relation to rail replacement and catering contracts.

Subsidy Law

How we can help you

Our subsidy control lawyers provide expert advice to clients and representation before regulatory authorities as well as UK and EU courts. The team has worked on Subsidy Law issues for government and other public sector authorities as well as private sector entities, meaning that we understand the concerns and issues raised from all perspectives.

We also have extensive experience of advising on State aid issues in relation to complaints to, and proceedings by, the European Commission as well as representing clients in relation to the Competition and Markets Authority and the Competition Appeal Tribunal. Non-rail clients include the Vaccines Taskforce, DHSC and UKHSA on pandemic related funding.

Our subsidy law expertise includes:

- Advising on interpretation of subsidy legislation and case law (including under Subsidy Control Act 2022, WTO rules, the UK-EU Trade and Co-operation Agreement, the Northern Ireland Protocol, EU State Aid law and the Public Service Obligations in Transport Regulations 2023)
- Strategic advice on Subsidy Law compliance including on structuring complex transactions and/or funding arrangements
- Representing clients involved in Subsidy Law litigation and disputes, including complaints to, and proceedings by, the European Commission and UK judicial review proceedings
- Drafting and negotiating Subsidy Law compliant grant funding and other agreements
- Assisting clients in making referrals to the Subsidy Advice Unit within the CMA.
- Assisting clients in obtaining clearance for subsidies whether individually or as part of a scheme under EU State Aid law.

Case studies

Welsh Ministers & Transport for Wales (TfW): On the procurement and mobilisation by Welsh Ministers and Transport for Wales of an ODP to deliver rail services on the Wales and Borders network, we also advised on Subsidy Law in connection with funding from Welsh Ministers, the Secretary of State for Transport, the Cardiff Capital Region City Deal and the European Regional Development Fund. This included advising on compliance with State Aid regulations as to the application of such funding.

FirstGroup: Advising on the revision of franchise agreements for TransPennine Express and South Western using Emergency Measures Agreements and Emergency Recovery Measures Agreements and transition them to National Rail Contracts. As the first franchises to agree termination arrangements and move to an NRC we had to work in collaboration with DfT on various issues including Subsidy Law. We advised on calculation of the ERMA Termination Sums and setting the Cost Budgets and Business Plans under NRCs without overcompensation and in line with Regulation 1370/2007.

Train Operating Company - confidential: Provision of extensive Subsidy Law advice over a number of years in relation to the use of DfT, local authority and European funding in the investment and upgrade of station and other related facilities across its network. This included advising on structuring the arrangements and then the negotiation and implementation of grant funding agreements as well as Subsidy Law compliance.

Train Operating Company - confidential: Advising on compliance with the Subsidy Control Act 2022 in relation to several tranches of public funding received by the entity. This included assessing the existence of a subsidy for each tranche and risk analysis of the routes to compliance.

Optional specialisms

EU Law

How we can help you

Our EU Law team undertakes advisory, non-contentious and contentious competition, State aid/subsidy control, procurement and economic regulation work, affecting UK companies. Our experience includes pre-Brexit legislation, post-Brexit arrangements and retained EU law.

Our EU law expertise includes:

- Advising on the post-Brexit effects on EU law, its Treaties and Regulations and Retained EU Law
- Advising on the impacts of carried over EU law being replaced by bespoke UK law
- Advising on European case law relevant to rail operations

Case studies

Eurostar: Provision of advice to Eurostar in relation to the restructuring of its business as a result of Brexit and post-Brexit bi-national arrangements. Our advice involved regulatory issues including recognition of licences and certificates as well as issues concerning continuous service.

Transport for Wales (TfW): Advising TfW on the application of EU derived law (including the Access Management Regulations) on the management of the Core Valley Lines (CVL) which is owned by TfW.

Northern Ireland Transport Holding Company: Provision of strategic advice on compliance with EU Regulation 1370/2007, Directive 2012/34 and the 4th Railway Package in the context of Brexit including the interface between EU law, retained EU Law in NI and UK domestic restatements of rail regulations as well as cross border track access for the Enterprise rail service (Belfast – Dublin).

We also advised on the terms of a Public Service Contract for passenger rail and bus services including cross-border (NI/RoI) services.

Rail Delivery Group: Advising on consultations and draft regulations published to replace carried over EU rail regulations (in particular, Regulation 1370/2007) with new bespoke English law regulations.

International Law

How we can help you

Our public international team has expertise in assisting clients with cross-border rail regulatory issues and the requirements of international law around the world.

We act for governments, state owned entities, regulators and large international collaborations.

Our international law expertise includes:

Advising regulatory authorities and operators on issues affecting businesses operating in the transport sector including:

- International dispute resolution including international arbitration and choice of jurisdiction/courts
- International law and best practice relevant to regulatory requirements

Case studies

Eurostar: Advising on the international rules from the Treaty of Canterbury between UK and France onwards relating to management of the Channel Tunnel Fixed Link and operation of services through it.

Our advice covered issues such as oversight of safety compliance and responsibility and making submissions to the Inter-Government Commission set up to monitor the fixed link, charging and rights of access (including their overlap with later EU, UK and French law).

Operators: Advising on rights and obligations under the Convention concerning International Carriage by Rail (and its appendices, in particular the Uniform Rules concerning the Contract of International Carriage of Passengers by Rail).

Competition Law

How we can help you

Our Competition team has significant experience providing competition law advice. We have expertise across a range of sectors including the transport and rail sectors.

We provide pragmatic, solutions-focussed competition law advice. We also provide expert advice on the UK subsidy control regime and on National Security and Investment Act matters.

Our competition law expertise includes:

- Competition law compliance matters
- Investigations
- Merger control
- Market studies
- Competition litigation and disputes

Case studies

Department for Transport: Advising the Office for Zero Emissions Vehicles on competition law and subsidy control aspects of its deployment of the Rapid Charging Fund, including in relation to a CMA market study and subsequent CMA Competition Act investigation.

Welsh Ministers and Transport for Wales: Advising on merger control, State aid and procurement issues associated with the Wales & Borders passenger rail franchise.

Train Operators and their owner groups: We have advised on competition law issues arising from franchise bidding and subsequent mobilisations including UK and EU merger clearance.

Train operators industry retailing groups: We have advised on competition law issues related to third party retailing of tickets information sharing and a fair playing field for online ticket sales.

Freight facility owner: Advised on the charging regimes applicable at freight terminals including competition law compliance.

Dispute Resolution & Litigation Law

How we can help you

We can help with claims and defence of challenges across the range of rail industry disputes in court, arbitration and the specialist industry panels (including ORR). Our industry specialists have a pragmatic approach to resolving issues and are familiar with managing public sector policy and risk appetite in litigation.

Our dispute resolution & litigation law expertise includes:

Specialists in industry dispute resolution (CAHA, RIDR, ADRR, ORR and judicial reviews and procurement challenges) with 30+ years of rail industry experience.

We have conducted disputes including:

- Franchising/ public service contract award challenge
- Access disputes involving allocation of capacity across track, depots and stations
- Compensation claims for industry resilience issues and possessions
- Environmental contamination claims and rail operations nuisance claims
- Defects of performance in rolling stock contracts
- Awards of access rights by ORR and imposition of depot and station contracts
- Equality, PRM and accessibility rights
- Timetabling and ticketing disputes
- Charging disputes and costs recovery including qualifying expenditure and allocation of running costs

Case studies

Rolling stock disputes: Representing numerous public and private sector operators in respect of disputes over performance of manufacturing, supply, maintenance and service contracts in respect of new and refurbished rolling stock.

Industry access disputes: We drafted the Access Dispute Resolution Rules for the industry and have appeared (including advocacy) in disruption compensation claims, Network Change, vehicle acceptance and capacity allocation disputes before ORR and industry panels.

Procurement disputes: Acting on and successfully defending some of the most high-profile procurement challenges in respect of contract awards in respect of services or rolling stock.

We have conducted arbitration, expert determinations, ADA and TTP disputes as well as high court and court of appeal claims for rail industry parties.

Industry high court claims: We have acted for a number of operators including Great Western and Eurostar on high court and Judicial Review claims relating to compensation, procurement compliance and access charging.

Industry arbitrations: We have handled (confidential) industry arbitrations involving highly detailed econometric and expert evidence, detailed interpretation of track access rules and their interaction with franchise agreements (EMA, ERMA and NRC) and high value loss calculations.

We have also engaged in a number of alternative dispute resolution processes in the industry including mediations.

Employment Law

How we can help you

Our employment lawyers can help you navigate the complexities of employment law and employee relations so that you can focus on your core business objectives.

Our lawyers draw on their extensive experience of high profile and business critical projects in the rail and public sectors to provide clear, concise, well-presented solutions.

Our employment expertise includes:

- Strategic advice on complex HR projects such as restructuring and TUPE
- Advising on trade union negotiations/consultation and disputes, including industrial action
- Providing employment helpline advice
- Managing workplace disputes and running tribunal and High Court claims

Case studies

Welsh Ministers / TfW: Advising on Wales and Borders franchise, including initial large scale TUPE transfers, trade union consultation, and advising on a novel “retention of employment model” involving the transfer of staff from Network Rail to TfW and secondment to the infrastructure manager.

Various train operating companies: Advising on large scale TUPE transfers of employees on the expiry/commencement of new passenger service contracts, including commercial negotiation, consultation with trade unions and advising on workforce reform and industrial action.

Various train operating companies: Advising on the full range of operational HR issues, including TUPE, restructuring, workforce reform and change management programmes, complex disciplinary and grievance processes and managing employment tribunal litigation, including the successful defence of a TUPE consultation claim brought by a rail union on behalf of c. 600 employees.

Environment Law

How we can help you

Our lawyers have a deep understanding of environmental law. We work with the full spectrum of clients including, on the public sector side, government departments, non-departmental public bodies and environmental regulators and, in the private sector, large multinationals, SMEs and private individuals.

We are able to view environmental law from all perspectives. From shaping the landscape of environmental law, to helping businesses ensure regulatory compliance, our lawyers provide high quality, specialist advice.

Our environment law expertise includes:

- Environmental permitting and licensing
- Nuisance issues such as noise and odour
- Environmental projects
- Emissions trading and carbon law
- Contaminated land liabilities
- Environmental compliance
- Natural capital projects
- Waste management
- Product compliance.

Case studies

Great Western Railway: Acting on an appeal against a statutory nuisance noise abatement notice. The appeal threw up a number of key issues and required close liaison with Department for Transport and Network Rail before the case was ultimately settled

Worcestershire County Council: Advising on potential liability in relation to a historic landfill site and devising a strategy to mitigate the risks, both legal and financial, by involving the current landowner and negotiating an agreement with it.

Ministry of Defence: Advising on various International and EU-derived environmental, chemicals and product compliance regimes (including, REACH, RoHS, POPs, CLP and the Montreal Protocol/Kigali Amendment) in the context of drafting and developing contractual clauses for a key contract for a design and build project relating to one of the UK's largest defence programmes.

Health and Safety Law

How we can help you

We understand that our clients need a focused and effective response to health and safety compliance issues, including on regulatory and manslaughter investigations, often in urgent circumstances.

We have extensive experience of safety and liability claims in the rail sector and where necessary work with our wider rail team to deliver the right solutions to our clients.

Our health and safety law expertise includes:

- Regulatory action and investigations by the BTP, Office of Road and Rail, Rail Accident Investigation Branch and the fire and rescue service authorities
- Incident and emergency response to major multi-fatality incidents on the mainline network
- Inquests of passengers and employees
- Public inquiries
- Health and Safety Compliance
- Whistleblowing investigations
- Policy and governance

Case studies

Tram Operations Limited: Providing advice following the multi-fatality incident at Sandilands in Croydon. We advised our client in the emergency response phase, the third-party investigations including those conducted by RAIB, BTP and ORR, during the ORR prosecution as well as at the 10-week inquests. The issues raised in those investigations included our client's approach to identifying low frequency, high consequence events.

Train Operating Company: Emergency response advice following a serious collision between two passenger trains. We advised our client on the investigations by RAIB, BTP and ORR – including procuring expert advice.

Train Operating Company: Advising on appeal of an Improvement Notice served by the ORR – including the proceedings in the Employment Tribunal.

Train Operating Company: Providing compliance advice on the presence of asbestos. This included advice on interactions with ORR and reporting requirements.

Information Law & IT Law

Information Law

How we can help you

Our team of data protection lawyers have in-depth knowledge of the rail sector and use this knowledge to provide clear, commercial and pragmatic advice.

Our information law expertise includes:

Developing and reviewing data protection policies, procedures, statements and handbooks; international data transfers and transfer risk assessments; data subject access requests; co-ordinating and implementing data sharing strategies; advising on the introduction of new technologies and associated data protection considerations; compliance audits.

Information Technology Law

How we can help you

Our technology lawyers offer expertise on all aspects of technology law. With over 20 years of experience advising clients operating in the rail sector, they are well versed in delivering innovative solutions to complex technology matters.

Our information technology law expertise includes:

Advising on software licensing including on cloud services; technology procurements; technology and communications outsourcing; digitisation projects; cyber security; social media platforms; website terms and contract.

Information Law - Case studies

Tram Operations Limited: Leading the data protection and privacy advice in relation to the investigation and subsequent inquiry into the Sandilands junction derailment.

FirstGroup plc: Advising FirstGroup plc on all aspects of its GDPR compliance programme and providing ongoing support to the Group's DPO including data subject access requests, internal/external data sharing activities and on customer facing policies.

A Train Operator: Advising a train operator on its initial response and subsequent GDPR issues arising out of a cyber-attack.

Information Technology Law - Case studies

First Rail Holdings Limited: Advising on the framework agreement with IBM for the provision of services including the configuration of FRH's Salesforce Solution to enable the implementation of case and compensation management solutions.

First MTR South Western Limited: Advising on its agreement with BT for network expansion along the SWR network including the installation and upgrade of cell sites to deliver improved mobile network coverage to passengers.

Rail Delivery Group: Advising the Rail Delivery Group on its agreements with TIS suppliers for the provision of configuration services to facilitate the integration of timetabling information to provide improvement passenger service information to passengers.

Various train operators: Advising on a number of long term outsourced services contracts for the supply of ticketing operations and related services.

Insurance Law

How we can help you

Our insurance lawyers are experts on all aspects of insurance law, across advisory, regulatory, transactional and contentious mandates.

We are familiar with all types of insurance across all the major types of policies.

We focus on advising insureds / policy-holders, with the result we are not conflicted from acting against insurance companies. However, many of our team have prior experience of acting for insurers, with the result that we have a deep understanding of both sides of the market. This allows us to give you the best advice possible.

Our insurance law expertise includes:

- Structuring insurance solutions for projects and contracts
- Reviewing policy terms
- Drafting bespoke policies
- Advising on transactional insurances (such as W&I, title and indemnity risk)
- Assisting with the presentation of complex policy claims
- Policy coverage disputes with insurers
- Professional negligence claims against insurance brokers
- Defending policyholders on claims covered by insurance
- Pursuing subrogated recoveries
- Pursuing claims against liability insurers of insolvent defendants under the Third Parties (Rights Against Insurers) Act 2010

Case studies

Wabtec Rail & Insurers: Defending a multi-party £17m property damage claim against Wabtec Rail (freight wagon maintainers) and its liability insurers arising from the Ely derailment.

(Confidential Client): Advising a Train Operating Company on coverage for personal injury liabilities and investigation / defence costs, incurred in relation to subsequent public inquiries and criminal investigations / prosecutions, arising from a multi-fatality incident.

Rail Engineering Company (Confidential): Advising a client, who was performing rail upgrade works, on the extent of its liability for property damage caused to network infrastructure by a collision resulting from allegedly negligent actions of the Engineering Supervisor.

(Confidential Client): Advising a major corporate client involved in a Public Inquiry on coverage under its Directors' and Officers' Liability insurance for £millions of investigation costs incurred by over 30 of its senior management.

Financial Services Compensation Scheme Limited: Acting for FSCS in an ongoing portfolio of claims under the Third Parties (rights against insurers) Act 2010 against the PI insurers of insolvent financial services business.

Intellectual Property Law

How we can help you

With long experience in the rail sector, we regularly advise on IP protection, exploitation and infringement issues.

Our intellectual property law expertise includes:

- Clearance, ownership and protection of IP rights (including EU)
- Exploitation of IP rights including through collaboration agreements, joint ventures, licensing arrangements, sponsorship arrangements and assignments
- IP disputes including litigation, trade mark oppositions and cancellations and Company Names Tribunal and domain name disputes

Case studies

FirstGroup and TOCs (e.g. GWR): Advising on IP contracts including joint development of technology (e.g. arrangements re development of new wi-fi technology) and advertising and social media contracts (e.g. re Famous Five ad campaign for GWR).

FirstGroup: Advising on a broad range of brand protection issues, in the UK, EU and overseas, including UK and EU trade marks for over 20 years.

Train operators and rolling stock financiers: Advising on detailed IP provisions to secure ownership/ongoing access to IPR required for the operation, maintenance and modification of rolling stock.

United Kingdom Hydrographic Office: Advising the UKHO, a Trading Fund of the Ministry of Defence, (a) on their global distribution and licensing arrangements, and (b) in a High Court breach of contract and database / copyright infringement proceedings against a South Korean manufacturer of maritime navigation devices.

UK Atomic Energy Authority: Advising on multiple international collaboration arrangements, including the world-leading STEP programme to build a prototype fusion power plant in the UK.

UK Government: Advising on the establishment of UK Research & Innovation, including advising on interactions with the European Commission in respect of the 200+ EU funded research projects.

Pensions Law

How we can help you

Our team of over 50 lawyers has provided very significant amounts of advice re the Railways Pension Scheme for trustees and employers in both the private and public sector.

Our pensions law expertise includes:

- Public sector restructuring
- Private sector restructuring
- Pensions disputes and litigation
- Pensions regulatory
- ESG and Sustainable Investment legal requirements

Case studies

Transport for Wales: Advising on issues within RPS for the Wales & Borders Rail Service, including a new section in the pension scheme; costs of the Regulator's actuarial assumptions review; the First Minister's commitments; and the impact of Welsh Ministers' funding guarantee.

Bid for Arriva Group plc: Advising a global investment firm on its potential bid for Arriva Group plc, including its potential exposure to liabilities for Arriva's participation in RPS.

Abellio/Transport UK: Advising on pension aspects of its bids to run passenger services, including risk sharing in RPS and contribution rates

FirstGroup: Advising on valuations, rule changes, communications, proposals for scheme closure and all aspects of their schemes (in excess of £4bn liabilities).

Overseas global transport company (ongoing, confidential): Advising on the pensions aspects of our client's acquisition of a UK transport business, including establishing a new section of RPS for the acquired business and negotiating the bulk transfer terms for the transfer of a significant number of actives, deferreds and pensioners to that section.

Planning Law

How we can help you

We have a team of planning lawyers who are experienced in dealing with planning and compulsory issues in relation to rail infrastructure.

Our planning law expertise includes:

- Advising on planning strategy for new rail related development
- Promoting and advising on rail TWAO and DCOs
- Promoting and advising on Compulsory Purchase Orders to facilitate rail development and objecting to CPOs which interfere with rail infrastructure
- Advising on compulsory purchase/ compulsory acquisition compensation issues including references to the Upper Tribunal
- Drafting and negotiating section 106 Agreements involving rail development including intermodal facilities and station and platform delivery

Case studies

Department for Transport, Network Rail and HS2: Advising on the redevelopment of Euston Station.

Transport for Wales: Advising TfW on a TWAO at the Cardiff Canton depot to allow development and planning PD rights to be utilised.

Cardiff Parkway – new privately financed station: Advised on the successful planning application and on CPO, strategy and section 106 for the proposed Cardiff Parkway railway station.

Department for Transport: Advising DfT on applications for Transport and Works Act Orders and Development Consent Orders for rail infrastructure. Advising on all aspects of the process, drafting Orders, EIA, HRA, consultation, decisions and challenges.

Real Estate Law

How we can help you

We have a dedicated team of lawyers who have specialist experience in dealing with railway real estate.

Our real estate law expertise includes:

- Transfers of railway land (by sale and transfer scheme)
- Negotiation of easements and rights
- All aspects of operational/corporate property management (leases, licences, surrenders, rent reviews, dilapidation claims etc.)
- Oversight development projects (including contractual and corporate JVs)
- Development of new railway/transport facilities on and adjoining the Network

Case studies

Transport for Wales/Welsh Government: Advising on all aspects of the transfer of the Core Valley Lines (land, operational assets and people) from NR to TfW – a ‘first of a kind’ project for the GB railway network.

Transport for London (including London Underground and Crossrail Ltd): Advising on agreements and JV structures for oversight development projects (above rail and other transport facilities).

Cardiff Parkway – new privately financed station: Advising on the option and acquisition of land and easements needed for the proposed new Cardiff Parkway (privately financed) railway station.

Northern Ireland Transport Holding Company (Translink): Advising on the regeneration of surplus railway/transport land around the new Belfast Grand Central Station, creating a new 1.5m sqft mixed-use quarter, Weavers Cross.

Greater London Authority: Advising on issues relating to the development of a new station at Beam Park, supporting the development of 3,900 new homes in East London.

Transport for Wales: Advising on various transport improvement projects, including new depots, wheel lathe facilities and a new transport interchange.

Department for Transport: Providing support to DfT (and Network Rail) on legal issues relating to, and arising out of, the development of the strategy for the Euston Programme (which includes HS2 Euston Station, HS2 Tunnels and Approaches, HS2 Systems, Development Enabling Works, Onward Transport Requirements and the LUL Interchange) and subsequent implementation of this strategy.

Restructuring / Insolvency Law

How we can help you

Our team of English and Scots law qualified lawyers provides specialist advice in connection with businesses facing a variety of financial challenges. We have significant experience in both the public and transport sectors and we work closely with an international (non-exclusive) group of insolvency specialists from 15 law firms.

Our restructuring / insolvency law expertise includes:

- Contingency planning, options analysis, supply chain review
- Cross-border & domestic financial restructuring
- Distressed investing & M&A (including debt sales)
- Corporate governance & directors' duties
- Pension schemes in stressed & distressed companies
- Schemes of arrangement
- Restructuring plans
- CVAs, administrations, liquidations and receiverships
- Insolvency litigation & asset tracing

Case studies

Confidential: Advising a distressed rail operator in connection with directors' duties and contingency planning.

Confidential: Advising a major UK rail operator in its capacity as an unsecured creditor to appoint Administrators from AlixPartners to one of its suppliers. This enabled the Administrators to undertake tasks pursuant to the TUPE regulations allowing a seamless transition from the old supplier to the new and preserving over 150 jobs.

Confidential: Acting for a buyer in connection with the acquisition of certain assets from Vivarail Ltd (in Administration).

Tax Law

How we can help you

Our Corporate Tax Team delivers pragmatic and effective advice to public sector clients. As well as standalone advice, we also provide tax support in relation to a wide variety of transactions, including in the context of various sectors such as rail, transport, infrastructure, technology and real estate.

We have experience advising public bodies, train operators, landowners, investors and financial institutions in these sectors.

Our tax law expertise includes:

Regularly providing UK tax advice to clients in the rail sector. This includes advice on depot leasing and financing transactions, joint ventures, and on infrastructure and real estate projects.

Advising on a wide range of real estate, corporate and financing transactions, including advice on stamp taxes (including stamp duty land tax (SDLT) and similar taxes) and VAT (including TOGCs), as well as advising on acquisition, holding and investment structures.

Case studies

Confidential: Advising a train operating company on the SDLT treatment of the renewal of a number of station and depot leases, including advice on the long term charge.

Confidential: Advising a train operating company on the stamp duty land tax (SDLT) aspects of various depot leasing and financing arrangements.

Confidential: Advising an executive non-departmental public body in relation to contractual provisions relating to VAT, the construction industry scheme and IR35 in relevant contracts relating to a transport project.

Confidential: Advising a District Council on the SDLT implications in relation to land purchased by compulsory purchase order, including in relation to deferment applications.

Confidential: Advising a train operator company on the Land Transaction Tax (LTT) implications in connection with a series of linked leases granted to an infrastructure manager.

Confidential: Advising a bus operating company on a depot sale, including the application of the VAT transfer of going concern (TOGC) rules.

Confidential: Advising a train operating company on the SDLT treatment of the renewal of a number of station and depot leases, including advice on the long term charge.

Bristol

One Glass Wharf
Bristol BS2 0ZX

T +44 (0) 117 939 2000

F +44 (0) 117 902 4400

Edinburgh

Atria One, 144 Morrison Street
Edinburgh EH3 8EX

T +44 (0) 131 314 2112

F +44 (0) 131 777 2604

London

6 New Street Square
London EC4A 3BF

T +44 (0) 20 7685 1200

F +44 (0) 20 7980 4966

www.burgess-salmon.com

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