

Malcolm Kelly

Family Name	Kelly
First Name	Malcolm
Country of Residence	UK
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Date of Birth	26 April 1940
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Educational qualifications (qualification, discipline)	BSc Mathematics – Open University, UK Higher National Certificate (BSc equivalent) – Civil Engineering, City University, UK Post Graduate Diploma in Arbitration, Reading University, UK
Professional qualifications (qualification, jurisdiction, discipline)	Chartered Civil Engineer, UK Member of Institution of Civil Engineers - UK Fellow of Chartered Institute of Arbitrators – UK (Completed Pupillage under M Milne QC)
Current employment status (if employed)	Consultant - Available for appointments worldwide and willing to travel as required.
Present position (if employed)	Self- Employed Consulting Engineer, UK based, 2003 to present
Positions held – <u>other than as DB</u> (position, organization, dates)	<u>FIDIC Presidents List of Approved Adjudicators</u> Fellow of Dispute Board Federation Member Dispute Resolution Board Foundation Member of Conflict Avoidance Panel (CAP), Transport for London

Independent Advisor to Government of Kenya on claims on 3 major highway projects. 2012 – Date

Auditor on behalf of EU in St Vincent, Caribbean, of new training and educational building. 2013 – 2014

Independent assessor of claims, determinations and application of damages for some 8 highway projects in Malawi. March 2011 – Sept 2011.

Consultant Contract and Claim Advisor, The Engineer for 32 contracts for €multi-billion Power Station Project in South Africa under FIDIC Red, Yellow and Short Form. Includes FIDIC and DAB training sessions and tender evaluations. As well as Turbine and Boiler design and construction. Works include infrastructure works of sewage treatment and disposal works; water supply; roadworks and the like. Preparation of Particular Conditions, Employers Requirements, Specifications and tender dossier. Preparation of Engineer's 3.5 Determinations. Preparing, presenting and defending claims on behalf of Employer. Presenting to DAB. April 2007 – Dec 2011

Adjudicator for earthworks dispute on \$Multi-billion **Power Station** in South Africa. NEC 2010

Consultant Auditor for Qatar State Audit Bureau, with respect to Contracts, Claims and Variations Procedures for \$7 billion New Port Project – (FIDIC Various); \$13 billion new Airport – (Bespoke Contract). Similar for \$2 billion Sewage Treatment Project- (FIDIC Yellow). Audit on procedures for various highway projects. 2008 – Present

Consultant FIDIC Expert for world-wide funding agency advising on all aspects of FIDIC forms especially in relation to claims and contract interpretation. 2009 – 2012.

Consultant Contract Adviser for 2 No €multi M schemes in Zagreb for **Water Supply : Waste Water ; and Sewage Treatment Works.**

Preparation of tender dossier and subsequent tender evaluation EDF and FIDIC MDB. 2008 – 2009.

Consultant acting as Key Observer for EU prior to and during tender evaluations and presenting concluding report to EU for several highway projects in Kenya. EDF - 2008

Consultant Contract and Commercial and claims Adviser for 2 major UK motorway widening schemes worth €700 M and €150 M. Also responsible for confidential audits on Contractor and Consultant rates and overheads. NEC (ECI) 2005 – 2010)

Consultant Contract Advisor for \$5 billion widening of the Panama Canal regarding preparation of tender documents including Conditions of Contract and Employer's Requirements FIDIC 1999 Yellow 2007

Consultant Project Director for EU Framework Contract controlling all contracts worldwide for PB Consortium. Resolution of numerous issues, peer review of reports, managing claims, commercial and contract issues. 2001 - 2004

Contract Expert for upgrading of Rail Network in Romania. EDF, FIDIC. - 2008

PB Ltd, Consulting Engineers based in UK 1994 - 2001

Associate and Project Manager: Numerous highway (incl concrete pavements) and infrastructure projects both in UK and Eastern Europe including sewage disposal and waste water treatment plant. 'The Engineer' for 2 power plants; Project Director for Highways Agency Model Specification;

PB Ltd, Consulting Engineers UK 1987 -94
Project Manager and Engineer's Representative for several major highway projects in UK (incl concrete pavements)

Brian Colquhoun & Partners, Consulting Engineers 1978 - 87

Resident Engineer for 2 major motorway contracts in UK. (concrete pavements)

Spencer & Partners 1978

Resident Engineer for road & bridge projects in Iran

SE Road Construction Unit UK 1971 - 73

Senior Engineer involved with planning and implementation of motorways

Central and Local Government Bodies; 1959 - 71

Civil Engineer, site investigations, design and supervision of diverse highway and bridge projects. (incl concrete pavements)

British Railways; Civil Engineer 1956 – 59

Surveyor/Engineer involved with assorted projects regarding rail modernisation

Particular technical expertise

Avoidance and Resolution of contractual disputes on Civil Engineering, Highway, Airport, Infrastructure, Rail and Power Contracts, sewage treatment and water supply projects.

Preparation, review, compilation, application and interpretation of contract documents.

Highways, power stations, and airport construction.

Training in the application of contracts including the use of Dispute Boards.

Dispute resolution experience

FIDIC Appointment as Sole Member

Dispute Adjudication Board in Lebanon for Greater Beirut **Water Supply Project – Tunnels and Transfer Lines.** FIDIC MDB Harmonised Edition: 2018 - Present

Member of DB for 1 of 3 large contracts for new bridge and Border Posts in Zambia and Botswana. FIDIC MDB Harmonised Edition. 2017 to Date.

**FIDIC Appointment as Sole Member
Dispute Adjudication Board in Macedonia**
for Ad-Hoc Adjudication for **Rail
Improvement Project**. FIDIC Conditions of
Contract for Construction, First Edition 1999.
2017 – Date [Complete this year]

**Sole Member DB for Water Supply
Rehabilitation for Lusaka in** Zambia FIDIC
MDB 2005. April 2016 – Date – [Complete
this year]

**Member of 3 man DB in The Gambia for
\$66 M bridge to Senegal;** FIDIC MDB 2016 –
Date [Complete late this year]

**Sole Member DAB for 2 Highway Projects
in Romania.** FIDIC Yellow. 2015 – May 2017

**Sole Member DB in Uganda for 104 km
road rehabilitation project.** FIDIC MDB.
2015 – Date

Member of DAB in Namibia for major project
of Construction of \$1.6B **Dam and Bulk Water
Supply Part Irrigation and part Hydroelectric
power supply** – FIDIC Red 2014 – Date
[Complete late this year]

**FIDIC Appointment as Sole Member
Dispute Board** for Rehabilitation of Sewerage
System in Romania – FIDIC 2014

**FIDIC Appointment as Sole Member
Dispute Adjudication Board in Bulgaria** for
Ad-Hoc Adjudication for Integrated Water
Supply Projects. FIDIC Conditions of Contract
for Construction, First Edition 1999. 2013 –
(Suspended due to Party seeking arbitration)

**Member Dispute Adjudication Board for 4
highway projects in Belarus.** FIDIC
Construction Contract MDB Harmonised
Edition 2005 – 2012 to 2013

**Sole Member Dispute Adjudication Board in
Romania** for Ad-Hoc Adjudication for Waste
Disposal and Water Supply Projects. FIDIC
Conditions of Contract for Construction, First
Edition 1999. 2011

Chairman Dispute Adjudication Board in Tanzania for major road rehabilitation. MCA-Tanzania. FIDIC Conditions of Contract for Construction, First Edition 1999. 2010 - 2014

Chairman Dispute Review Board for major new motorway in Swaziland. FIDIC 4th Edition 1987 (1992 Reprint) with 1996 Supplement for Dispute Resolution.

Member Dispute Adjudication Board for Section of large motorway in Romania. FIDIC Conditions of Contract for Construction, First Edition 1999.

Member Dispute Adjudication Board for further Section of large motorway in Romania. FIDIC Conditions of Contract for Construction, First Edition 1999

Member Dispute Adjudication Board for Section of large expressway in Romania. FIDIC Conditions of Contract for Construction, First Edition 1999.

Sole Member Board for Rehabilitation of highway Project, Estonia, FIDIC Conditions of Contract for Construction and Engineering Works, First Edition 1999.

Sole Adjudicator for several infrastructure projects in the UK. JCT Contracts. 1998 to 2003

Sole Adjudicator for earthworks dispute in connection with new Power Station in South Africa. NEC 2. 2010

Expert Witness in major arbitration concerning airport in UK. ICE 6th Edition.

Expert Witness of Fact as the Engineer in major arbitration concerning several issues in connection with a new Power Station in England, ICE 6th Edition. 1998 to 2004

Expert Witness of Fact as the Engineer's Representative in major arbitration concerning an earthworks dispute for a major highway in England. ICE 5th Edition. 2004

Consultant for Funder regarding a major highway construction project in Nicaragua, FIDIC 1999. 2010 to 2011

Consultant for the Employer; in arbitration for dispute in new Road Contract, Wales under ICE 5th Edition; in arbitration for dispute in motorway contract in UK; in nine adjudications for several disputes in connection with a new Power Station in North Wales, ICE 6th Edition. 2000 to 2005

Acting as the Engineer or Project Manager; for numerous motorway, highway and bridge projects in UK, ICE 5th and 6th and NEC1 and 2; for several highway and building contracts in Eastern Europe, FIDIC 1999. 1995 to 2004

Standard form of contract familiarity

Previous and current editions of the FIDIC Conditions of Contract – Red, Yellow, Silver, White, Gold, MDB and Green. NEC1, 2 and 3 Contract and bespoke. Numerous other contracts under the UK ICE 4th, 5th and 6th JCT, GC/Works, IChemE, MF/1

Other panel listings
(organization, country, list)

Dispute Board Federation – Geneva
Conflict Avoidance Panel (CAP) for TfL-London

Languages
(language, level)

English (mother tongue), French (basic)

Courses

Presented seminars and workshops on FIDIC and other contracts and claims; The Role of the Engineer; Adjudication in the UK; Dispute Boards in UK, South Africa, Kenya, Uganda and Malawi, Claims and Dispute Management in Uganda.
Provided training in UK, Africa, Middle and Far East and India.
Workshops on DAB and the like in Africa, Turkey; and Mauritius. Conferences on FIDIC in UK, Australia and Africa.
Mentoring.