



CEDR Accreditation:	2003
CEDR Panel:	2004
Ranked in Chambers and Legal 500 Directories	2009
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Fiona Colquhoun

CEDR Lead Mediator

NHS & Healthcare Profile

Fiona is widely recognised as an expert in clinical negligence. An interviewee reports: "She managed the difficult task of combining great empathy with firmness. She won the client over with great ease and was excellent in her ability to distil the issues."

Chambers Directory Feedback

Overview

Fiona Colquhoun is one of the most experienced lead mediators practising in the UK today. She has an excellent reputation for resolving disputes over a wide range of commercial sectors. Fiona has been ranked in the Chambers and Legal 500 Directories as a Band 1 Mediator since 2020. She is known for focussing on the core issues, her business understanding, commerciality and her work on complex and tense cases, sometimes in the public domain.

Fiona mediates comfortably in environments throughout the UK, including global and top FTSE companies, businesses, professional services, and the Public and Charity sectors. Some of Fiona's cases are very litigious whilst others also involve longstanding, entrenched positions and high levels of interpersonal conflict.



Her mediation experience includes Banks, Business, Commercial, Contracts, Charities, Clinical Negligence, Education, Ecclesiastical, Healthcare, and the NHS, Information Technology and Telecommunications, Central and Local Government, Regulators, Police, Personal Injury, Property, Pharmaceuticals, Partnership, Pensions, Shareholder and Workplace and Employment matters in all sectors.

Fiona offers a complete range of dispute resolution techniques in her work including mediation, deal negotiation, facilitation, independent reviews, investigations and neutral chairing. She is adept at mediating on line using video, face to face or a mixture of both, and on a sessional basis to suit the needs of the parties involved.

Clients have praised Fiona's mediation style describing her as their '*first choice*', '*very impressive*' and '*an exemplary mediator*'.

Over 90% of Fiona's mediations settle and she has a reputation for careful follow through, sensitivity and working patiently with parties to encourage them to reach a resolution. Fiona is very happy to hold preliminary telephone/ video discussions with potential clients without obligation.

Professional Background

Fiona has a strong business background having worked for the greater part of her career at Board level for major PLCs. She was Group HR Director of Cable and Wireless plc which was a FTSE top 20 global telecommunications company with over 50 businesses and 60,000 employees worldwide, and subsequently of International Computers Ltd (ICL PLC). Previously, Fiona was Personnel Director of Mercury Communications Ltd and in her early career held senior positions in the public sector, as a Director and Non-Executive Director within the National Health Service (NHS). While working in industry, Fiona gained invaluable expertise in general business projects, mergers & acquisitions, disposals, partnerships, complex employment, change management and pension issues. Fiona is also very able and experienced at working globally within different cultures.

Fiona's full mediation profile is available on request, as is her separate Employment and Workplace mediation profile.

NHS and Healthcare - Mediator profile

Fiona mediates regularly in this sector and understands the NHS environment having worked for 10 years at Board and non-executive level. Fiona has also mediated and adjudicated on number of public sector disputes, particularly NHS funding disputes, where recommendations binding on both parties have been presented, in cases where negotiations faltered.

Details of **Commercial and contract NHS and Healthcare disputes** are on Pages 6 and 7 of this CV. In some cases, Fiona has worked with an independent expert e.g. on a determination re accident and emergency metrics in a teaching hospital.

Fiona has mediated **Clinical Negligence disputes** for many years and her practice has grown substantially in this area.

Dispute Experience

Clinical Negligence practice

Feedback from the Chambers Directory refers to Fiona's expertise in this field

Fiona Colquhoun of CEDR receives plaudits from clients for being "measured and empathetic, but prepared to challenge the parties where required." She enjoys an excellent market reputation for the "patience, tact and sensitivity" she applies to mediations in a broad array of areas, clinical negligence and healthcare

Mediating obstetric cases. Fiona has mediated and settled a number of difficult and very sad cases on obstetrics and loss of babies in late pregnancy, where care has been disputed. In some cases, liability had been admitted and the mediation has centred on quantum and litigation risk.

We have worked with Fiona before. She always shows great compassion, but has the ability, skill and experience to manage expectations in a gentle, but robust way which is why the mediation process sometimes looks easy. We never underestimate the effort and hard work she puts into achieving a resolution'. Senior Partner, Clinical Negligence Law firm

Wrong treatment claim. Particularly difficult case settled with a high value claim where the claimant had not been advised of surgical options, but instead had been recommended a chemotherapy and radiotherapy treatment plan, which the claimant pursued and unfortunately reacted unusually adversely to with very serious consequences.

'Fiona has mediated two very difficult and complex cases for us with me and Adam Weitzman QC and Simeon Maskrey QC and we will have no hesitation in engaging her in the future. She has immense ability and presence to work with people who have experience serious trauma, bereavement and sadness and help them move on with their lives, rather than proceeding to Court and possibly destroying themselves'. Senior Barrister

Fiona is on CEDR's clinical negligence panel and mediates very complex and litigious clinical negligence cases regularly through the NHS Resolution scheme and many of these are tragic and emotional. She is frequently selected for her very sensitive approach, and has mediated multimillion claims and settlements, as well at the other end of the spectrum mediated with litigants in person. Nearly all of Fiona's cases settle on the day, or soon afterwards with her careful follow up.

Examples of mediations settled include:

- Multi-million-pound settlement in a very high value case where the claimant a US citizen had not been given an MRI scan, from which a diagnosis could have prevented him becoming severely paralysed. Conducted on zoom whilst the claimant was in Florida bedridden and his Counsel Sarah Crowther QC and legal team was in London
- High Value claim settled which had resulting from failure to refer to ITU in time, where hospital had admitted liability.
- Case with a Mental Health Trust where young man had committed suicide despite the parent's pleas for extra support and care. Settled with an apology and compensation
- Very complex and tragic multi-party case in the public domain, involving the traumatic loss of a child, settled with damages and compensation.
- Dispute over the ongoing care provision of a severely autistic young woman. In the public domain with the mediation involving 4 different parties; both providers and commissioners and the claimant and her advisers.
- Difficult case of 'secondary victim' claimants from Eastern Europe on 'nervous shock', following the suicide by hanging of a family member settled on the day.
- Claims of negligence during pregnancy e.g. omissions in tests and scans where babies have been 'still born'.
- Claim of negligence following the death of a week-old baby from the mother and also from the Father who had suffered from PTSD and had a secondary victim claim.
- Mental health negligence of a 'depressed' young mother and wife who had killed herself by jumping from a building – settled on the day
- Several highly emotional claims from middle aged persons, incorrectly diagnosed, with terminal cancer. Claims and quantum disputed on likely 'life expectancy' but all cases reached an agreement
- Teenager quadriplegic with cerebral palsy, with claims against the Trust for poor quality of care, discrimination and data protection in the public domain.
- Claim of widower as a litigant in person and dispute on future financial dependency, following the loss of his young wife post operation.
- Son with claim on his mother's behalf, who had inappropriate materials left in her body post operation, bringing about early dementia and the necessity of permanent care.
- Clinical negligence where the claimant's husband had died following an operation, dispute centred on the issue that he had not been properly advised in relation to risk.

- Complaints and litigious dispute from deceased person's family, regarding unnecessary surgery, resolved through mediation with the Hospital Trust.
- Dispute regarding post-operative 'follow up' and treatment, which had worsened patient's condition, reducing life expectancy, settled with compensation
- Tragic case of young man dying from a PE following an ankle injury and application of a plaster cast settled with compensation for his son (as a dependency claim subject to Court approval) and his widow.
- Dispute following the suicide of a young man in the care of a Mental Trust settled with compensation.
- Cases of misdiagnosis or omissions in diagnosis with fatal or life reducing consequences
- A number of cases where liability has been admitted, but where the defendant's argument is that condition would have occurred anyway and quantum has had to be negotiated.
- A number of civil disputes with NHS Resolution (previously NHS Litigation Authority), NHS Health providers and claimants.
- Highly emotional dispute regarding very longstanding complaints from a patient's wife against the conduct, standard of care and future service from a Mental Health Trust.
- Settled a Healthcare Commission mediation case pursued by family, where they believed elderly relative's psychiatric care had been seriously compromised and he had been sectioned inappropriately. Medical consultants and other professionals providing care were involved.
- Multi-Party mediation between public bodies, involving the NHS, Local authority, expert witnesses and parents regarding a £400k per annum care package for a severely disabled child approaching adulthood. 18-20 people involved with all parties legally represented settled in sessions

Fiona is also experienced in mediating with vulnerable individuals with mental health conditions, for example, claimants suffering from stress and depression. She has also worked with individuals with autism, bi polar, asperser's and a number of conditions and disabilities.

Personal Injury (See also specialist Employment and Workplace CV)

- A personal injury case settled with insurers of a young man, who had chronic back damage as a result of falling from a ladder, whilst carrying out the instructions to remove window boxes in a hotel chain.
- Mediation with personal injury and disability claims from an autistic and severely deaf post graduate student in a prestigious University conducted throughout with sign interpreters. Insurers involved and framework for a settlement, including compensation and a range of adjustments worked on with both parties after mediation.

- Two day highly litigious personal injury and unfair dismissal case where claimant was so upset she elected to be mute throughout the mediation as she was so distressed Successfully resolved a protracted 2-year case.
- Employee trapped in lift during a process of being escorted from the building on suspension. Multiple employment claims along with claim for post-traumatic stress including migraine and panic attacks.
- Numerous claims of 'work related stress', harassment, PTSD and 'injury to feelings'- in Employment and Workplace cases
- Car industry employee slipped and damaged leg and the organisation was unable to find a role of lighter duties. Subsequently suffered from depression and claimed personal injury, disability discrimination and unfair dismissal. The dispute was settled through compensation (taking into account his injury) and a settlement agreement.
- A number of disability and personal injury cases settled successfully, including one where a wheelchair bound individual had been denied access to upper floors and treated discourteously in a shop of a well-known high street brand and become a local cause celebre.

Employment and Workplace cases in the NHS and Healthcare (See also specialist Employment and Workplace CV)

Fiona has resolved peer to peer matters, relationship breakdowns, re-integrations following suspensions, periods of absence or reinstatements and team dynamics on working relationships, at all organisational levels in the NHS. Fiona uses facilitation, coaching, assistance with difficult conversations, problem solving and engaging individuals in more effective working frameworks to improve interpersonal relationships.

Mediations also include boss / subordinate relationship disputes, particularly at senior management level and where performance management issues have resulted in grievances. Usually settled with frameworks for effective working, or if unworkable, dignified exits through settlement agreements.

- Agreements on work practice and behavioural changes, redeployment, operating frameworks, apologies in all sectors etc.
- Team- working conflict within a Teaching Trust's neurosciences department leading to a settlement and revised management operating framework at medical consultant level.
- Dispute on behaviours and work practices between two NHS senior medical consultants resolved in a teaching hospital Trust by an agreed framework/modus operandi.
- Facilitation of conflict amongst highly skilled team of surgeons with regard to clinical competence, and capability and team working of one member of the team.

Commercial and contracts mediation – NHS and Healthcare

Fiona has regularly mediated disputes on breakdown in negotiations on funding and contracts, partnerships and future relationships. Parties involved from the NHS and other entities: i.e. NHS England, GP Practices and Partnerships, Primary Care Networks, Hospital Trusts, Primary Care Trusts, Commissioning Care Groups, Local Authorities and private providers. Fiona has also trained medical and other NHS staff on mediation skills and negotiation techniques and understands the challenges of their current working environment.

The following are examples of cases resolved through mediation:

- Dispute between a GP Partnership and a Primary Care Network following the GP's practices expulsion from the PCN and withdrawal of patient services.
- Dispute between major private Nursing Home group, venture capital backers and local authority managed Care Trust, on prices and terms of annual contracts worth £2m.
- Disputes between Foundation Trusts and CCGs on contracts and budgets often involving significant shortfalls of several million pounds.
- Multi-party case in public domain regarding disability access, involving the Disability Rights Commission, against a major high street retailer. New capital plan agreed as outcome.
- Dispute on back payments and liabilities on withdrawal of a jointly funded IT contract.
- £20m dispute between a City Council and the NHS in relation to back payments on a contract for the provision of care services in the community.
- Dispute on back payments and change in requirements in PFI contract.
- Breakdown in service contract between neighbouring PCTs, with resolution of longstanding disagreement on rebasing methodology, to correct original arbitrary funding allocations.
- Mediation with determination (MedArb) on a dispute regarding complex Accident and Emergency metrics in conjunction with an independent expert.
- Breakdown in negotiations on funding for 'over performance' of GP centre (excess contract costs of over £1 million) with an external provider.
- Several longstanding funding disputes between different NHS entities regarding TUPE and the allocation of funds for a number of decommissioned employees.
- Termination of longstanding contracts for services and review of funding arrangements and pricing mechanisms between NHS commissioners and private sector providers.
- Disputes between clinicians and within GP practices on partnership and funding issues, relationships and operational working arrangements.
- Dispute on termination of pilot 111 service contracts and out of hours (OHH) services between GP led provider and CCG.
- Longstanding dispute following the introduction of nationally negotiated Dental contracts on the recovery of overpayments made by a PCT to a local Dental Practice.
- Dispute on pricing formulae used for Dental services in a deprived urban environment, where contractual targets had been changed, resulting in debts of over £500k.

- Dispute of a 800k shortfall, following a £4m bequest to a Teaching Hospital Trust; the benefactor having died suddenly

Construction & Engineering – NHS

- Complex Private Finance Initiative (PFI) mediation regarding a multi-million-pound 30-year building and services contract with an NHS Foundation Trust.

Partnership & Shareholder

Fiona has extensive expertise in resolving disputes between business partners and shareholders in a variety of sectors including Banking & Finance, Healthcare, ICT, Retail and Professional services. Cases have been between founders/owners, directors, partners and involved family members in business together and have involved commercial/business, corporate governance and relationship issues. Fiona has also mediated several breakdowns in GP practice partnerships and between GP practices and other parts of the NHS i.e. PCNs and PCTs. Disputes have also included breakdowns in 'strategic partnerships' and 'joint ventures' businesses in the private, public and voluntary sectors.

Reconciliations achieved in partnership mediations have resulted in different and revised working arrangements e.g. redeployment from Executive Director to part time Non-Executive Chairman, or parties have agreed to new or modified business plans.

Fiona has also mediated cases where partnership dissolution or the details of partnership break up have been agreed including the following issues:

- Tax, CGT, Pensions implications, Split of assets / investments / equity
- Personal, legal and financial liabilities of departing partners
- Buy out agreements and exit plans between partners including in GP Practices

Mediation examples

- Partnership dispute between brothers on the future strategic direction and product development in jointly owned family health care business.
- Mediated highly adversarial and antagonistic employment and partnership dispute re the distribution of capital assets involving a Partner GP terminated after 12 years.
- Mediated several cases involving break ups of GP practices successfully.

Other Alternative Dispute Resolution Experience

Neutral Chairing

Fiona works as a neutral Chair facilitating dialogue between multiple stakeholders with outputs including agreed processes and action plans. She has also acted as a neutral Chair within mediations, where binding or non-binding recommendations are required. Fiona has also worked as a neutral Chair for challenging and difficult meetings, as well as a 'neutral moderator' at 'strategy days', 'away days' and group conferences. Additionally, Fiona has acted as a neutral Chair and adjudicator on disciplinary and general complaint matters, issuing a determination or independent judgement as required.

Neutral Chairing Assignments

- Acting as a neutral Chair in matters involving disciplinary warnings, dismissals, grievances and complaints and in a variety of Appeals panels.
- Independent Chairing (and reports) of a number of Appeals against dismissal. For example, a Director of 25 years plus service dismissed for gross misconduct.
- Independent Chairing of final stage grievance hearing, following long suspension resolved through subsequent on-going mediation.
- Chair of two major Pension Trustee Boards.
- Remuneration Committee Chair for Healthcare Trust.
- Independent Chair of Appointment and Promotion Boards.
- Neutral Chair of 'difficult conversation' meetings.

Independent reviews, Arbitrations and Investigations

Fiona has undertaken many independent investigations, reviews and assessments of a complex nature in all sectors. These are generally accompanied by independent reports with recommendations, mediations or other ADR processes following, thereby preventing further escalation of the conflict or dispute. Fiona has also dealt with a number of serious complaints from clients or other stakeholders against senior individuals and/or their organisations

Personal Style

Fiona brings professional and business understanding, with very strong people and intuitive skills, to her work. As a mediator she creates a safe environment for individuals to establish a dialogue, enabling them to resolve their seemingly intractable differences. Her style is flexible and creative as mediation can happen in different ways and Fiona adapts the process to meet the needs of the parties. Fiona always spends time carefully preparing for the case and will have confidential discussions with each party and their advisors, read any relevant documents and understand the key issues before the day of the mediation. Fiona will always meet with each of the parties before the mediation day. Mediations generally take place over one or two days but they may also take place over longer periods of time in sessions to give the parties time to reflect and work on resolutions in a collaborative manner. Mediations take place both on line using video, face to face or a mixture of both.

Fiona is also rated for her careful follow up and being committed to help parties reach a settlement however challenging this may be. Some cases do not settle on the mediation day itself but Fiona works post mediation with the parties which in nearly all cases brings about a settlement.

Feedback – Clients

- *“Challenged the parties- She is top of our list for any further mediations.”*
- *“Fiona put her heart and soul into the mediation- well beyond the call of duty.”*
- *“Excellent, very impressive. We would happily use Fiona’s services again.”*
- *“She has the art of keeping mediation going when people would want to walk away.”*
- *“Liked her style, sensitivity and good humour.”*
- *“Intellectually capable, got to the heart of the issues quickly.”*
- *“Able to process what was going on and problem solve in ‘real time’.”*
- *“Managed to rally the parties to converse, everyone was very shy in coming forward.”*
- *“Exemplary and completely impartial.”*
- *“Very commercial and professional, but also creative and intuitive.”*
- *“Calm and balanced with staying power, energy and well able to deal with the unexpected.”*
- *“Very sensitive to the difficult personalities involved, and understood the issues.”*
- *“Stayed with this throughout - her follow up was sincere and very helpful.”*
- *“Fiona had an impossibly difficult task, their lawyers were just incredibly difficult - the most phenomenally difficult people I’ve ever come across, but it concluded happily.”*

Feedback – Directories

Extracts from Chambers & Partners Guide to the Legal Profession

- *Fiona Colquhoun attracts praise from market sources for her experience and gravitas in mediation, with one source enthusing: "She is energetic, personable, and builds rapport quickly with the client. She also has good emotional intelligence and is very commercial."*
- *Fiona is very effective at engaging with both sides," and: "She constantly provides a forum to discuss and negotiate, and manages to defuse or moderate anger without ever being patronising*
- *With excellent interpersonal skills Fiona Colquhoun 'cuts through people's bias to address the crux of the matter at hand and is absolutely committed to reaching a conclusion'*

Professional Career

Current Appointments

- CEDR Principal Consultant and Lead Mediator, Previously CEDR Director, CEDR Mediator 2004
- CEDR Chambers member, previously CEDR faculty member
- ACAS Panel Arbitrator 2006-2020
- Director, People Matter Consultancy Limited
- Trustee, John Constable Educational Trust and formerly Governor, Moat School, London.

Corporate Board Level Roles

- ICL plc, (International Computers Limited) Group Human Resources Director 1997-2001 (30,000 employees)
- Group Human Resources Director, Cable and Wireless plc 1991-1996 (60,000 employees)
- Personnel Director of Mercury Communications Limited 1984 to 1991(10,000 employees)
- Pension Trustee and Chair: Cable and Wireless plc and ICL plc Pension Trustee
- Non-Executive Adviser to Mannaz, Denmark 2003-2008

NHS Executive and Non-Executive roles

- Personnel Director, Towers Hamlets Health District 1982-1984
- Personnel Director, Hospitals for Sick Children, Great Ormond Street 1979-1982
- Non-Executive Director of St George's Healthcare Trust from 1992-1999.

Qualifications

- Certified Coaching qualification, Henley Business School, Reading University 2006
- Accredited CEDR Mediator 2003

- Graduate Advanced Management programme, Harvard Business School, USA 1995
- FCIPD, Fellow Chartered Institute of Personnel and Development 1978
- Member Institute of Health Management 1978
- BA Honours, History, York University 1974.

Professional Skills

- Lead mediator with both business and people skills.
- Coaching on interpersonal relationships, coaching post mediation and in conflict situations.
- Regular conference speaker and presenter.
- Articles, commentaries, and keynote presentations on Conflict Management, the use of Mediation and the mediation skill set in business, organisations, employment and workplace, the NHS and pensions sector.
- Key contributor to the book 'Effective Conflict Management' – a publication for the Institute of Chartered Secretaries and Administrators.
- Instigation, design and the promotion of a number of CEDR Solve mediation schemes.
- Consultancy offerings on the use of mediation, dispute resolution processes and policies (including in disciplinary and grievance policies), and conflict management systems.

