



Fionnuala McCredie QC

CEDR Accreditation: 2014

CEDR Panel Admission: 2017

Languages: English

Location: United Kingdom

“Develops strong relationships with her clients, which means she understands their business and commercial objectives”

- Chambers & Partners 2018

Overview

Fionnuala McCredie specialises in the fields of construction and engineering, commercial contract disputes, public procurement, energy and environment. Recent work includes: PFI disputes, public procurement challenges and judicial review and public procurement advisory work professional negligence and insurance disputes, commercial contract disputes and construction disputes.

Her experience covers a wide range of advocacy, advisory and drafting for both domestic and international clients in these areas. Her advocacy expertise has led her to regularly act for clients in the High Court, especially the Technology and Construction Court, as well as the Court of Appeal and appear before arbitrators, adjudicators and other tribunals. She has also been involved in expert determination and early neutral evaluation.

Professional Background

Fionnuala was called to the bar in 1992 and has almost 25 years experience of complex dispute resolution. She was appointed Queens Counsel in 2013 and became a CEDR accredited mediator in 2014 as a natural progression to her substantial experience as mediation advocate and was appointed to the CEDR Panel of Mediators in 2017.

Expertise

- Commercial
- PFI
- Waste Disputes
- Public Procurement
- Insurance
- Energy
- Construction
- Professional Negligence

Dispute Experience

Non-neutral work shown in italics.

Recent work has focussed on large PFI disputes, acting for the Authority, the SPV and Construction and Operating Contractors (including advice on contract information), and procurement challenges (for challenger, Authority and successful bidder).

Mediation Experience

- Public procurement Disputes
- Professional Negligence Disputes
- Disputes about Energy from Waste Facilities
- Processing Plant Disputes
- IT Disputes (construction of IT Facilities and IT System Design)
- Construction disputes including defects, liquidated damages and delay, disruption and loss and expense claims

Construction

- ***Eurocom v Siemens:*** *Very high profile case uncovering a long standing practice by some adjudication practitioners of alleging conflicts of interest on the part of prospective adjudicators when there was no such conflict in order to avoid them being nominated by the RICS. The case has had significant consequences for adjudication in the construction industry in increasing the transparency of the process by which adjudicators are appointed.*
- ***Hyder v Carillion:*** *This was an application for summary judgment by the claimant to enforce an adjudicator's decision. The court had to determine whether the adjudicator acted in breach of the rules of natural justice by failing to notify the parties, and the defendant in particular, of the methodology that he proposed to use when calculating a value for the Target Cost under the agreement and the figures that he proposed to use for the purpose of making that calculation.*
- ***Working Environment v Greencoat Construction:*** *The issue before the court was whether a dispute had crystallised in circumstances where the Notice of Adjudication had been issued before the due date for payment; and the extent to which certain issues falling outside the adjudicator's decision could be severed from those which were enforceable. Finding that a dispute had crystallised, Akenhead J stated that the practical advantage of seeking adjudication before the due date for payment lies in the fact that it can be resolved in time before payment is due or shortly thereafter.*

Public Procurement

- ***Cemex Operation v Network Rail Infrastructure Limited (2017) Lawtel LTL 11/9/17 AC9201354.*** Acted for the successful bidder in a procurement challenge. The application for disclosure of highly confidential documents in the successful bidders challenge was rejected as being disproportionate and unjustified.
- ***Liconic AG v Biocentre Limited (TCC unreported):*** Acting for claimant challenger in a procurement for a high profile biobank, which stores human blood and tissue samples for medical research. The case involved novel and complex legal points in UK procurement law on implied contracts and whether the Defendant is subject to the procurement regulations. Defeated the Defendant's strike out/summary judgment application made on the basis that they were not caught by the procurement.
- ***Pearson Driving Assessments v Minister for the Cabinet Office [2013] EWHC 2082 (TCC):*** Acting for challenger in a procurement of a framework for computer based testing. The main call off contract was for a provider to administer the driving theory test. The reported case concerned the circumstances in which a Court would order early disclosure in advance of a hearing to lift the automatic suspension of contract award.
- ***Roche Diagnostics v Mid Yorkshire Hospitals NHS Trust [2013] EWHC 933 (TCC):*** Acting for a procurement challenger in an application for early specific disclosure. This is the leading case on early disclosure in procurement cases.

Professional Negligence

- Acting for the owners of the HQ building of an international law firm in their claim against Architects and Services Engineers for defective design.
- Acting for PFI contractors in a number of claims against professionals relating to asbestos surveys and asbestos removal

Personal Style

Fionnuala is a modern barrister and mediator. Her approach is highly commercial and her experience in construction litigation means that she is very approachable, hands-on and user-friendly. Fionnuala considers thorough preparation to be of utmost importance and this allows her to identify the key issues and focus the parties to reach an early resolution. Fionnuala combines great energy, tenacity and tact with patience and diplomacy - bringing a perfect balance as a mediator and facilitator.

Feedback - Clients

- *“She really gets behind the client and is very passionate about protecting their interests – clients feel like she will go in to bat for them at every turn. Those that know her will now even consider using anyone else”. - Chambers & Partners 2018*
- *“Develops strong relationships with her clients, which means she understands their business and commercial objectives”. - Chambers & Partners 2018*
- *“Technically brilliant and has an excellent client manner”. Chambers & Partners 2018*
- *“She is dedicated to achieving results for clients and beyond”. - Legal 500 2017*
- *“Conscientious and always on top of the detail in even the most complex cases”. - Legal 500 2017*
- *“We were impressed by Fionnuala’s calm and effective management of all involved across all issues, her unquestioned expertise and ability to engage with key legal and factual points”. - Instructing solicitor, 2017*
- *“Really helpful even in the most difficult circumstances”. - Chambers & Partners 2017*
- *“She is always extremely impressive in mediation and clients really warm to her.”*
- *“A barrister who has a great manner with lawyers and clients, she cuts through everything and gives clear explanations.” - Chambers & Partners 2017*
- *Fionnuala is a “very commercial” barrister, who was “astute to the needs of our client” and who “navigated the mediation and discussions smoothly and with ease” and “gave stability all the way towards settlement”. - Instructing solicitor, 2017*
- *“She is tireless in getting down to the nitty gritty in cases.” - Legal 500 2016*

Other Dispute Resolution Experience

- Litigation (High Court and Court of Appeal)
- Arbitration (Domestic and International)
- Adjudication
- Expert Determination
- Early Neutral Evaluation

Memberships and Bodies

- Commercial Bar Association (COMBAR)
- Technology and Construction Bar Association (TECBAR)
- London Common Law and Commercial Bar Association
- Society of Construction Law