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Fionnuala McCredie KC

Call: **1992** Silk: **2013**

"well prepared and adopts a no-nonsense approach that greatly assists."
Legal 500 2024

Clerk Details

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Practice Overview

Fionnuala McCredie was called to the Bar in 1992 and specialises in the fields of construction and engineering, public procurement, energy, environment and professional negligence related claims and insurance disputes.

Fionnuala's practice covers a wide range of advocacy, advisory and drafting for both domestic and international clients. 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 is a CEDR certified mediator and a very experienced mediation advocate. Her mediation experience extends to international mediations and she has recently conducted several mediations virtually.

"*Held in high esteem for her busy procurement practice*", Fionnuala acts for challengers, contracting authorities and successful tenderers in a wide range of procurement disputes. Significant cases in which she has appeared include **the 2019 Rail Franchising Litigation** (named by The Lawyer as one of its Top 20 Cases of 2020), in very substantial court challenges by Stagecoach, Virgin and Arriva to their disqualifications from rail franchising competitions, ***CAF v HS2***, in a challenge against exclusion at qualification stage in the competition for the HS2 rolling stock, ***Cemex v Network Rail*** concerning the procurement

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for the design and build of a concrete sleeper manufacturing facility, and ***Marine Specialised Technology v the Secretary of State for Defence***, ***Roche Diagnostics Ltd v The Mid Yorkshire Hospitals NHS Trust*** and ***Pearson Vue v Minister for the Cabinet Office*** on early and specific disclosure in procurement cases.

Fionnuala's construction practice has involved disputes related to commercial and domestic property, structural glass and cladding, railways, roads, mining, water, marine and aviation hardware disputes, dredging and marine engineering, process plants and IT disputes. Her key recent construction cases include the high-profile case of ***Eurocom v Siemens*** **where the court found** a strong prima facie case of fraudulent misrepresentation in an adjudicator's appointment. She is also instructed in a large volume of PFI disputes in rail, healthcare and leisure sectors, including advising Greater Manchester Waste Disposal Authority on the termination of its Recycling and Waste Management PFI with Viridor Laing in 2017.

Clients credit Fionnuala for her dedication to achieving results and passion for protecting their interests. Her understanding of their commercial objectives, coupled with her technical brilliance in even the most complex of cases mean "*those who know her will not even consider using anyone else*." She is recommended as a leading silk for procurement and construction in both the Chambers UK and Legal 500 UK Bar guides.

Practice Areas

Procurement & Competition

- **2019 Rail Franchise Litigation** : [2020] EWHC 1568 (TCC) – Acted for the successful Department for Transport in respect of the procurement challenges commenced by Stagecoach, Virgin and Arriva following their disqualification from three rail franchise competitions. This was a very high-value, high-profile expedited trial and the Judge rejected the Claimants' claims in their entirety.
- Acted for Live Nation Music Ltd who bid for the contract to run Hyde Park summer music festival tendered by The Royal Parks.
- **Marine Specialised v Secretary of State for Defence** [2019] EWHC 2727 (TCC) – Acted for the Claimant in a procurement dispute concerning marine equipment for the MOD.
- **Circle Nottingham Ltd v NHS Rushcliffe CCG** [2019] EWHC 1315 (TCC) **–** Acting on behalf of an incumbent challenger resisting the lift of an automatic suspension of contract award in their challenge of a procurement for the provision of medical services at the Nottingham Treatment Centre.
- **CAF v HS2** [2018] EWHC 311 (TCC) – Acting in court challenge to a pre-qualification stage of the rolling stock procurement for HS2.
- Acted for PCM Rail.One, the Interested Party, in ***Cemex v Network Rail and PCM Rail.One*** [2017] EWHC 2392 (TCC) (the successful bidder in a case concerning a procurement exercise for the provision of logistic services for the NHS).

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- Acted for the Defendant in a legal challenge arising out of the procurement of the new emergency services ("3Es") communication system.
- Advising a public authority on the procurement aspects of the potential for variation of, or termination of, a large and high-profile P.F.I. contract.
- Acting for a challenger in respect of a procurement for development services for a local authority estate refurbishment project.
- Acted for the successful tender in a challenge to the award of a contract for haematology and coagulation services.
- Acting for Contracting Authority in the PFI procurement of a waste disposal service, including an EfW plant. Advising on all aspects of the procurement (a competitive dialogue).
- ***Roche Diagnostics Ltd v The Mid Yorkshire Hospitals NHS Trust*** **[2013] EWHC 933 (TCC):** Acted in this leading case concerning early disclosure in procurement cases.
- ***Liconic AG v UK Biocentre***: defeated a claim for strike out/ summary judgment where pleadings disclosed an arguable case that the Defendant met the criteria for being a contracting authority.
- ***Pearson Driving Assessments Ltd v Minister for the Cabinet*** Acted for Pearson in a challenge to the award of a contract for administration of the driving theory test.
- ***Harry Yearsley Ltd v Secretary of State*** **for Justice [2011] EWHC 1160 (TCC)**: successfully defended an attempted strike out in a procurement case involving the supply of food to prisons.
- ***Amaryllis Ltd v HM Treasury*** **(sued as ogcbuying solutions) [2009] EWHC 1666 (TCC)**: Case concerned the procurement process involved the supply and installation of furniture for a variety of government departments.

Construction & Engineering

- Advised on the issues in respect of performance of, and potential termination of, a large and very high-profile Private Finance Initiative ("PFI") contract.
- Acting for the supplier and designer of a bioreactor gas treatment system for a waste treatment plant. The dispute included liability for the cost of delays to the waste treatment plant completion and the efficacy of the gas treatment system. The case involved complex and interesting technical and legal issues around the operation of bioreactors and legal responsibility for variations in plant operation.
- Providing ongoing advice to a contractor on issues arising in the construction of a very large hospital P.F.I. contract, including unforeseen ground conditions, asbestos finds and the liability therefore and a professional negligence claim against advisors to the contractor.
- ***Eurocom v Siemens*** **[2014] EWHC 3710 (TCC)**: 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.

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- ***Working Environments Limited v Greencoat Construction Limited [2012]*** **EWHC 1039 (TCC**): Acted for the defendant in this case which was the first example of severance of part of an adjudicator's decision.
- ***Carillion JM Ltd v Bath***and ***North East Somerset Council***: Acted for the contractor responsible for the construction of the new Bath Spa project.
- Acting for a leading international law firm in disputes arising out of the construction of a new headquarters building in the Caribbean. In what is her longest running case to date, Fionnuala advised on initial steps to rescue the building project and subsequently in a successful negligence claim against the design team for defects and the defence of a claim by the contractor for delay, disruption, loss and expense.

PFI & PPP

- Acting for Contracting Authority in the PFI procurement of a waste disposal service, including an EfW plant. Advising on all aspects of the procurement (a competitive dialogue).
- Advising Contracting Authority in the termination of a large operation PFI contract. Case involved the technical aspects of EFW plants, composting plants, anaerobic digesters and Mechanical Treatment plants, SOPC 3 and 4 drafting issues, rights of step-in, and duties to, and rights of, the senior lenders under a direct agreement.
- Acting for Contracting Authority in an adjudication over Performance Points and Performance deductions under the Paymech.
- Advising Contracting Authority on the procurement aspects of material changes to a large leisure PFI.
- Acting for the Facilities Management Contractor in an expert determination of a dispute about the re-basing of the FM services in a hospital PFI.
- Acting for the Facilities Management Contractor in a dispute about the standard of performance required, the meaning of the KPIs, the right to make performance deductions and Paymech provisions in a large hospital PFI (air-conditioning maintenance and cleaning, cleaning services generally).
- Acting for the Construction Contractor in multiple construction disputes in a PFI for the provision of court services.
- Acting for the Operating Contractor in multiple disputes arising from the Operating Contract and the Interface Agreement arising from an accommodation PFI (liability for replacement of public address system, MORE).
- Acting for the Construction Contractor in a dispute regarding the liability for asbestos finds in a schools PFI.
- Acting for the Construction Contractor in a dispute regarding the liability for asbestos finds existing buildings and in the ground in a hospital PFI.

Energy & Natural Resources

- Acting for the designer and builder of an innovative Energy from Waste food waste anaerobic digestion plant.
- Acting for the designer and manufacturing of a biological odour control system in respect of an energy from waste facility in the South of England. The dispute included liability for the cost of delays to the waste treatment plant completion and the

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efficacy of the gas treatment system. The case involved complex and interesting technical and legal issues around the operation of bioreactors and legal responsibility for variations in plant operation.

- Acting for Greater Manchester Waste Development Authority in relation to the Greater Manchester Waste PFI contract.
- Acting for Merseyside Waste and Recycling Authority in the procurement of EfW facilities.

Professional Negligence

- Experience in both construction related professional negligence (architects, engineers, contractor designed works, surveyors, valuers etc.) and solicitors negligence.
- Acted in a long running dispute for a building owner in claims against the designers and the contractor in respect of the construction of the head office of an international law firm in the Caribbean. Advised on remedial work necessary to enable occupation of the building, claims professional negligence claims against the designers, and claims against the contractor for defective workmanship.

Mediation

Fionnuala has a busy mediation practice and is regularly instructed to mediate construction, IT and procurement-related disputes. Her recent appointments include:

- An international mediation conducted by the ICC concerning the supply/replacement/upgrade of gas turbines.
- Sole mediator in a multi-day CEDR mediation concerning a long-running IT contract dispute between long term contracting partners.
- Sole mediator in a virtual mediation concerning a defective roof drainage system.
- Sole mediator in a procurement dispute regarding a competition for health and social care services.
- Sole mediator in a procurement dispute regarding the provision of infrastructure services.

Fionnuala receives a great deal of praise from parties and recent mediation feedback is included below:

"*Ms McCredie's approach to the mediation was thorough, responsive and constructive. She was well briefed and showed an immediate understanding of the issues and the aims and expectations of the parties. She also showed a proactive and persuasive approach without pressure but with the right level of guidance to identify a route through to resolution. She also managed the technological challenges of the virtual mediation process and was always available or clear on her other commitments to manage a changing timetable, giving the parties time to consider whilst maintaining a momentum to the dialogue. My clients would be very happy to call upon her support again and found the mediation route a valuable one*." Instructing solicitor, 2020

"*Fionnuala acted as a mediator for one of our recent procurement challenges. Right from the start of her instruction, during the preparatory calls and in the plenary session on the day, Fionnuala set clear objectives which really helped set the tone and focus the parties on resolution. She was extremely commercial and encouraged the parties to think outside of the box. Fionnuala was a fundamental part of the negotiation process and successfully facilitated a creative resolution to the satisfaction of both parties. I would highly recommend her to any colleagues or clients alike*." Instructing solicitor, 2020

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Reported Cases

- Siemens Mobility Limited v High Speed Two (HS2) Limited [2023] EWHC 2768 (TCC)
- 2019 Rail Franchising Litigation [2020] EWHC 1568 (TCC)
- Marine Specialised Technology Ltd v Secretary of State for Defence [2019] EWHC 2727 (TCC)
- Eurocom Limited v Siemens Plc [2014] EWHC 3710 (TCC)
- Circle Nottingham Limited v NHS Rushcliffe Clinical Commissioning Group [2019] EWHC 1315 (TCC)
- DHL Supply Chain v Secretary of State for Health and Social Care [2018] EWHC 2213 (TCC)
- Eurocom Limited v Siemens Plc [2014] EWHC 3710 (TCC) (07 November 2014); [2015] B.L.R. 1; 157 Con. L.R. 120
- Liconic AG v UK Biocentre Limited (Unreported, TCC)
- Pearson Driving Assessments Ltd v Minister for the Cabinet EWHC 2082 (TCC)
- Pearson Driving Assessments Limited v The Minister for the Cabinet EWHC 2082 (TCC)
- Roche Diagnostics Ltd v The Mid Yorkshire Hospitals NHS Trust EWHC 933 (TCC)
- Roche Diagnostics Ltd v The Mid Yorkshire Hospitals NHS Trust EWHC 933 (TCC)
- Working Environments Limited -vs- Greencoat Construction Limited EWHC 1039 (TCC)
- Hyder Consulting (UK) Ltd v Carillion Construction Ltd EWHC 1810 (TCC)
- Harry Yearsley Ltd v Secretary of State for Justice EWHC 160
- Amaryllis Ltd v HM Treasury (sued as ogcbuying solutions) (No.2) EWHC 962 TCC, [2009] EWHC 1666 (TCC), (2009) 25 Const LJ 528, [2009] BLR 425 and [2010] Eu LR 152
- EWHC 166 (TCC), [2009] TCLR 5 TCC EWHC 166 (TCC), [2009] TCLR 5 TCC
- Quartzelec Ltd v Honeywell Control Systems EWHC 331 (TCC); (2009) CILL 2665
- Cubitt Building & Interiors Ltd v Fleetglade Ltd 110 Con LR 36
- Tera Construction v Lam EWHC 3306 (TCC)
- AC Controls Ltd v British Broadcasting Corporation EWHC 3132 (TCC) and [2003] 89 Con LR 52 TCC
- Hotel Services Ltd v Hilton International Hotels (UK) Ltd BLR 235 CA
- Hotel Services Ltd v Hilton International Hotels (UK) Ltd EWCA Civ 1822
- Christiani & Nielsen Ltd v Birmingham City Council 52 Con. L.R. 56

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Other information

Education & Professional Career

- CEDR Accredited Mediator, 2014
- Silk, 2013
- Bencher, Middle Temple 2010
- Keating Chambers, 2008
- 3 Serjeants' Inn Up to 2008
- Called to the Bar (Middle Temple), 1992
- Middlesex Polytechnic Business School – CPE, 1990 – 1991
- Brunel University – MA Public & Social Administration, 1987 – 1990
- Housing Association Development Officer, 1986 – 1990
- Manchester University – Bsc (Hons) Geography, 1983 – 1986

Additional Information

Fionnuala enjoys skiing, rock climbing, running and family life with her children.

Memberships

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

Seminars & Publications

- Eurocom v Siemens: as "strong prima facie" case of fraudulent misrepresentation, Practical Law Construction blog, 12 November 2014.
- Researcher, Keating on Construction Contract – Ninth Edition (2012).
- Using Part 8 to finally determine issues and enforce part only of an adjudicator's decision Fionnuala McCredie QC and William Webb 3 February 2010.

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- Lectures regularly at procurement industry events including White Paper conferences and Procurement Lawyers Association seminars.
- Recent White Paper Seminars
  - What is a “Sufficiently Serious Breach” of the Procurement Regulations? May 2018
  - Past Performance May 2017
  - Freedom of Information Act Requests May 2016
- Provides training and CPD for solicitors on construction and procurement issues.

Recommendations

"Fionnuala McCredie is charm itself, with a vice-like grip of the facts. She is a relentless advocate."

Construction, Chambers & Partners UK Bar 2026

"Fionnuala is a wonderful procurement KC who is loved by clients. She is excellent on her feet but also all over the drafting, client conferences and strategy."

Public Procurement, Chambers & Partners UK Bar 2026

"Fionnuala is a brilliant lawyer and also a real pleasure to work with."

Construction, Chambers & Partners UK Bar 2025

"She is super clever and client-friendly."

Public Procurement, Chambers & Partners UK Bar 2025

"Fionnuala is brilliant."

Public Procurement, Chambers & Partners UK Bar 2025

"She is utterly to be relied upon."

Public Procurement, Chambers & Partners UK Bar 2025

"Fionnuala is ferociously bright, really dedicated, hard-working and someone who gets very involved alongside clients."

Public Procurement, Chambers & Partners UK Bar 2025

"Fionnuala is a leading KC in public procurement. She has been involved in some of the biggest and most complex procurement cases in the courts. She is the brilliant in front of clients and even better in front of the judge."

Public Procurement, Legal 500 UK Bar 2025

"Fionnuala is very focused and a fantastic team player."

Construction, Chambers UK Bar 2024

"Excellent - willing to fight the fight and someone who fills clients with confidence. You can rely on her to do whatever it takes to get the best result."

Public Procurement, Chambers UK Bar 2024

"A tenacious advocate and an expert in public procurement law."

Public Procurement, Legal 500 2024

'well prepared and adopts a no-nonsense approach that greatly assists."

Mediators, Legal 500 2024

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"Fionnuala is a renowned leader at the procurement Bar and so carries gravitas with clients, opponents and the court. She has seen and done everything in procurement law, and so always has an answer or an explanation for an issue arising."

Procurement, Legal 500 2022

"Fionnuala really listens and seeks to understand clients objectives to ensure that context of the matter is understood as well as the technical. She builds positive relationships with all of those contributing to a matter whilst retaining the role as team leader."

Construction, Legal 500 2022

“Fionnuala is a fantastic leader and an expert in the field. She is a real force of nature.”

Procurement, Chambers UK Bar 2022

“One of the few specialist procurement QCs and a real hit with clients,. She is passionate about getting the best outcome for them.”

Procurement, Chambers UK Bar 2022

"One of the best QCs to work with as she really gets to grips with the client's objectives and strategy and knows what it takes to be successful." "She provided excellent legal advice with a keen eye for the commercial context of the dispute."

Construction, Chambers UK Bar 2022

"Thoughtful and reflective in style, and willing to commit time and effort to secure progress".

Mediators Legal 500 2022

"Great with clients. Quickly and efficiently grasped the issues and complex IT aspects of the case. Worked tirelessly on the case. A super advocate."

Procurement, Legal 500 2021

"Conscientious, combining strong analytical skills and sound judgement."

Construction, Legal 500 2021

"She's a true leader in procurement, who is meticulously prepared and has a commanding courtroom presence."

Procurement, Chambers UK Bar 2021

"Inspires confidence in clients and provides excellent, commercial advice."

Procurement, Chambers UK Bar 2021

"Fionnuala is excellent. She inspires confidence in clients and provides excellent, commercial advice."

Chambers UK Bar 2020

"She provides excellent legal advice, with a keen eye for the commercial context of the dispute. She is always very approachable and responsive."

Chambers UK Bar 2020

"Quickly gets to grips with the detail of the case and quickly instills confidence with her grasp of legal and procedural issues."

Legal 500 2020

"Endless enthusiasm and patience allied to a very keen commercial understanding of the industry and the legal challenges it faces."

Chambers UK Bar 2019

"She offers pragmatic, down-to-earth advice, and is great at advising in straightforward terms."

Chambers UK Bar 2019

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"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 not even consider using anyone else."

Chambers UK Bar 2018