

Fiona Dewar

Call 2005

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Fiona has a diverse and lively practice with a particular focus on commercial, company, land and insolvency matters. She is an experienced junior in heavy-weight litigation as well as regularly acting as sole advocate. The breadth of her experience means she enjoys a particular specialism in disputes which cross over more than one of her areas of expertise and which involve difficult or technical points of law.

Commercial, banking and fraud

Fiona acts regularly across a wide range of commercial disputes. Recent notable instructions include:

- Acting (led by Nicholas Peacock QC and Catherine Addy QC) for Landesbank Baden-Wurttemberg in the long-running UBS Swaps litigation – a multi-party finance dispute raising a wide range of issues including bribery, fraud, conflict of interest, capacity, fraudulent misrepresentation and construction of ISDA master agreements. The original trial lasted 15 weeks and was one of the Lawyer's "Top 20 Cases of 2014". The Court of Appeal heard the 10-day appeal earlier this year.
- Acting (led by Nicholas Peacock QC) in the Ikon litigation, a 13-party foreign exchange trading dispute. Issues in the litigation included fraud, attribution, directors' duties, dishonest assistance, unlawful means conspiracy, misrepresentation, accounts, conflict of laws, freezing injunctions.
- Acting (with Anthony Trace QC) on behalf of the Bank of Ireland, the National Asset Administration Agency of Ireland and LPA receivers in a mortgage-redemption action and claims for damages in relation to the Bank's appointment of the receivers. Issues included points of insolvency law, secured financing, receivers' duties and powers, mortgagee rights, fettering of the equity of redemption, equitable mortgages, tenancy by estoppel, estoppel and rectification.

Fiona has particular expertise in relation to fraud and asset-tracing having previously been seconded to the Serious Organised Crime Agency.

Company, Directors' Duties, Insolvency & Restructuring

Fiona is routinely instructed by the institutions, office-holders and private individuals on matters of insolvency and company law. She is comfortable handling cases which span both company /insolvency and other specialist areas – such as trusts, banking, property or fraud – as well as highly specialised company court actions. During her time as a government panel advocate, Fiona regularly advised and acted for the Secretary of State for Business Innovation and Skills and HMRC on company and insolvency matters.

Recent notable instructions include:

- Acting for the liquidator in the recent trial of his claim against former director. Issues included unlawful transactions, unauthorised loans, breach of fiduciary duty, liability for share subscriptions, scope of insolvency set-off, accounting

procedures and employment law *Oakdene Homes Plc (In Liquidation) v Turpin (unreported)*

- Assisting a national property-development company to develop a strategy in relation to insolvent /impecunious counter-parties and sub-contractors; advising specifically on contractual insolvency provisions and definitions, relationship between interim awards under Housing Grant Regeneration and Reconstruction Act 1996 and the Insolvency Act 1986, comparison of different insolvency routes, structures to impress allocated funds with a trust and cross-border and jurisdictional issues;
- Acting (with Anthony Trace QC) on behalf of the Bank of Ireland, the National Asset Administration Agency of Ireland and LPA receivers in a mortgage-redemption action and claims for damages in relation to the Bank's appointment of the receivers. Issues included points of insolvency law, secured financing, receivers' duties and powers, mortgagee rights, fettering of the equity of redemption, equitable mortgages, tenancy by estoppel, estoppel and rectification.
- Acting (with Michael Gibbon QC) on behalf of former directors of a company in proceedings by its liquidator in a case raising novel issues about the scope of a liquidator's power to assign causes of action. (Decision on interim issue reported as: *Re: GP Aviation Group Ltd [2013] EWHC 1447 (Ch)*).

Property, land, landlord and tenant

Fiona has extensive experience of land and property disputes, acting regularly for landowners, landlords, tenants, freehold management companies and developers. She has particular expertise in relation to co-ownership and boundary disputes, restrictive covenants and easements. She has advised on a number of novel and technical points both for private clients and public bodies including the Land Registry, the Environment Agency, the Serious Organised Crime Agency, the Department for Health and local authorities.

Recent notable instructions include:

- Acting (led by Christopher Pymont QC) in a claim for rectification of a lease of a large commercial development;
- Advising (with Tom Leech QC) about chains of covenants in relation to a significant residential development;
- Acted for the tenants in *Benson & Ors v Daejan Property Ltd* [2009] UKUT 233 (LC), LTL 8/7/2010: (2010) L & TR 11. Subsequent Supreme Court decision (in which Philip Rainey QC and Jonathan Upton acted) is a leading authority on the approach to be taken to application for dispensation under section 20ZA of the Landlord and Tenants Act 1985.

Charities, Trusts, Tax and Probate

Fiona regularly advises and acts in relation to traditional chancery litigation. She has acted for a wide range of charitable companies and trustees, beneficiaries, executors and private individuals. During her time on the government panel she regularly advised the Attorney General on charities matters, including those raising issues under the Inheritance Act 1975.

- Acting for Camphill Village Trust Limited in High Court charitable proceedings.
- Acting for HMRC in First and Upper Tier Tribunal in proceedings against tax payers (led in respect of the substantive dispute by Michael Gibbon QC), involving issues of abuse of process, tribunal jurisdiction and share valuation. *Foulser v Revenue and Customs Commissioners* [2015] UKFTT 220 (TC); *Foulser v Revenue and Customs Commissioners* [2013] UKUT 38 (TCC); *Foulser v Revenue and Customs Commissioners* [2011] UKFTT 642 (TC).

Interim applications, Costs, Procedure & ADR

Fiona has extensive trial experience across a range of different courts and tribunals, many of which have involved complex and novel procedural and interim applications. She regularly acts in applications for freezing and other injunctions as well as in cases involving challenges to procedure or jurisdiction, abuse of process, security for costs, etc. She has extensive expertise in relation to the various costs regimes currently in force across a wide range of disputes, as well as having acted in pure costs litigation. She has also regularly advised and acted for clients in relation to alternative dispute resolution procedures.

Notable recent instructions include:

- Acting (led by Benjamin Williams QC) in the first trial about the scope and effect of the Damages Based Agreement Regulations 2013 (Bar Council appearing as intervenor). Judgment awaited.

Acting for HMRC in relation to abuse of process application raising novel issues about scope of First Tier Tribunal jurisdiction: *Foulser v Revenue and Customs Commissioners* [2013] UKUT 38 (TCC); *Foulser v Revenue and Customs Commissioners* [2011] UKFTT 642 (TC).

Qualifications

BA Jurisprudence (Oxon)

Recommendations

Legal 500, 2013

Insolvency

"Fastidious, calm and measured"