Nigel Giffin KC

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Nigel Giffin practises mainly in the field of public law at 11KBW, although he still undertakes employment law and commercial law cases of certain kinds. His practice covers commercial and environmental judicial review, as well as many aspects of local government law including education, social services, housing, powers and finance and elections. He was formerly a member of the Attorney General's "A" panel of Counsel to the Crown, and undertook a number of important Human Rights Act cases in this capacity.

He is a CEDR accredited mediator, and has undertaken a number of mediations as both mediator and counsel.

Nigel studied law at Oxford, where he was awarded a first in his degree. He is the author of the chapter on Administrative Court proceedings in Foskett's Law and Practice of Compromise, and a member of the editorial board of Butterworths Local Government Reports.

Nigel has recently been acting as counsel to the Public Inquiry into the murder of Zahid Mubarek at Feltham Young Offenders' Institution.

> ***Nigel is a very bright and very experienced advocate.***
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Expertise

Procurement

Nigel Giffin is one of the leading public procurement specialists at the Bar, and is very familiar with all the relevant aspects of EU procurement law, as well as domestic legislation and the potential for judicial review in the contracting context. His advisory work has covered: Numerous town centre development schemes.

- Numerous waste disposal and collection projects, including major PFI and PPP schemes.
- Numerous local authority shared services schemes.
- BSF and NHS LIFT schemes and other similar procurements.
- The use of framework agreements.
- Recurrent issues in procurements of all kinds such as appropriate pre-qualification and award criteria, use of social clauses, variation of existing contracts, changing or abandoning projects in the course of procurement, and advice on the use of mitigation measures in relation to possible challenges.

Quasi-procurement issues such as the award of casino premises licences.

Other cases including: **Federal Security Services Ltd v Police Service of Northern Ireland**; **Irish Waste Ltd v Northern Ireland Water** [2010] NIQB 13; **Natural World Products Ltd v Arc21** [2008] LGR 49; **Rapiscan Ltd v HM Revenue & Customs** [2006] EWHC 2067 (QB);

Deane Public Works Ltd v Northern Ireland Water [2009] NICh 8; **R v Brent LBC ex p. O'Malley** (1998) 30 HLR 328; **Severn Trent plc v Welsh Water Ltd** [2001] CLC 107; **McLaughlin & Harvey Ltd v Department of Finance and Personnel**; **R (Menai Collect) v Secretary of State for Constitutional Affairs** [2006] EWHC 727 (Admin).

He is currently acting for Virgin Trains in its challenge to the award of the West Coast passenger franchise.

Nigel has also acted as a mediator in procurement litigation, and he regularly lectures on the subject.

> ***Nigel is a very bright and very experienced advocate.***
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Letting International v Newham LBC (no 1)

[2007] EWCA CIV 1522

Appeal to Court of Appeal against refusal of interim relief in procurement dispute.

Letting International v Newham LBC (no 2)

[2008] LGR 908

Appeared for successful claimant in then leading case on extent to which sub-criteria and weightings to be used in evaluation process must as matter of EU law be disclosed to tenderer in advance.

R (Unison) v Wiltshire NHS PCT

Ability of trade union to challenge outsourcing decision by judicial review, relying upon breaches of procurement law

Risk Management Partners Ltd v Brent LBC

[2010] LGR 99

Procurement claim concerned application of the Teckal exception to the requirements of the Directive, and time limit for commencing proceedings (case later went to Supreme Court after claim against this defendant had been compromised).

Henry Bros (Magherafelt) Ltd v Department of Education

[2012] EULR 230

Appeal concerning appointment to frameworks, proper approach to identification of most economically advantageous tender, and delay in commencing proceedings.

Morrison Facilities Management Ltd v Norwich CC

Appeared for claimant alleging unlawful failure to disclose award criteria, and unlawful failure to investigate abnormally low tender by winning bidder – successful in obtaining interim relief (case subsequently compromised).

Resource NI Ltd v Northern Ireland Courts and Tribunals Service

[2011] NIQB 121

Appeared for claimant in first case of successful resistance to application to lift statutory suspension of award process.

R (A) v B Council

[2007] LGR 813

Appeared for claimant in judicial review claim raising issues relating to Local Government Act 1988 provisions concerning local authority contracting decisions.