



CEDR Accreditation:	1990
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*“Handles complex commercial mediations in a seamless way ... is clearly at the top of his game”*

## Karl Mackie CBE

Full time Mediator

Chambers & Partners Guide to the Legal Profession

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### Overview

Karl Mackie has been recognised by Chambers and Legal 500 as **“one of mediation’s biggest names”**, ranked as a top leading mediator and described in *The Lawyer* as one of the top 100 most influential lawyers in the UK. He brings an unparalleled depth and breadth of experience to commercial mediation, and has worked for over 25 years across domestic and international cases and in a huge range of business, public sector and private client matters. With a unique combination of commercial know how, psychologist, barrister, and 25 years of specialist negotiation experience, Karl Mackie brings diverse talents to breaking impasse alongside a calm approach to handling difficult situations.

Karl is particularly valued in complex business disputes and in cases where there are difficult issues, sensitive politics, personality clashes, multiple parties or cultural challenges. As well as a regular stream of commercial contract, employment and government cases, he has mediated disputes in international infrastructure, energy, insurance, shareholder and Board disputes, property, family trusts, financial services, media and sports. He is regularly engaged for troubleshooting work as a mediator or consultant in team, organisational or union-management disputes. His most recent innovatory work has been in mediating between multinationals and human rights organisations, including the dispute between WWF and the SOCO International Oil Company over drilling in the first UNESCO World Heritage Site at Virunga National Park. He has also been appointed on independent investigations and inquiries in employment and corporate governance matters.

Karl is on many national and international panels including:

- ACAS Panel of Independent Mediators and Arbitrators
- CIETAC panel of international mediators
- Court of Appeal Mediation Scheme
- CPR Institute Panel of Distinguished Neutrals in New York
- Singapore International Commercial Mediator Panel
- Mediator – United Nations Management/Staff Committee
- Arbitrator/Mediator for all disputes in a major UK Government Department
- Mediator Panel, Netherlands Arbitration Institute, Schiphol Airport

### **Professional Background**

Karl qualified both as a barrister and as an occupational psychologist, then spent the second half of his career as founding CEO of CEDR, driving its development and recognition as an international conflict consultancy and leading ADR institution. His work in co-founding CEDR and in successful major mediations, led to him being the first and only commercial mediator to receive recognition with the award of a CBE, Commander of the British Empire, in 2010. He is co-author with Eileen Carroll of *International Mediation: Breaking Business Deadlock*.

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## Experience

- Banking & Finance
- Commercial Contracts
- Construction & Engineering
- Employment & Workplace
- Energy & Natural Resources
- ICT
- Insurance
- Intellectual Property
- Media & Entertainment
- Partnership & Shareholder
- Private Client
- Professional Negligence
- Property
- Public Sector
- Sale of Goods & Services
- Sports
- Transportation
- Utilities

## Personal Style

Feedback regularly praises Karl for his ability to relate to clients and for the speed with which he grasps difficult issues, alongside his ability to balance toughness with diplomacy as a “firm and effective” mediator who can “keep things moving without imposing”. His “calm and confident” approach “inspires trust” among his clients and his ability to “repeatedly but subtly reality test” is highly valued. With over 25 years’ experience of mediating globally Karl has worked with clients from diverse backgrounds and cultures from family businesses to governments, and clients have complimented him on his ability for fast thinking, numeracy, his capacity to master and frame complex issues in a short time and his ability to move negotiations along.

## Feedback – Clients

- *“...many thanks for the impartial and professional support that you have provided to [us] throughout this process.”*

Client, UK

- *“When you have what I would class as the leading mediator in the country then you know you will have no cause for complaint.”*

London partner of US law firm, commercial contract case

- *“By far a light but firm hand ... totally abreast of what was on the parties' minds.”*

General counsel, pharmaceuticals distribution, Japanese-European contract claim

- *“As expected – quite forceful and we cut to the chase quicker than I had been used to and Karl played a large part in that.”*

Partner, regional practice probate case

- *“I was very happy that we managed to get past the impasse and I think that was down to Karl. He read people well and judged the situation perfectly.”*

Client, Pharmaceuticals contract, Scotland

- *“The key element was the involvement of Karl who had a great wealth of experience and knowledge. Karl knew when to bring the parties together and when to have them apart. Thought Karl was calm, pragmatic, sensible, robust, and not shy of suggesting where there could be more possibilities.”*

General counsel, distribution company contract

- *“Your calming style helped to establish the standard for behaviour and it was notable how you steered us to focus on finding a solution and away from comparing our respective interpretations of how we had reached this sad point.”*

- *“One of his strengths is moving the negotiations on and being fairly direct with people.”*

Partner, city firm, construction and engineering case

- *“We are very pleased with the mediation, as was our client. Karl’s persistence paid off, he was firm, dogged, focused and able to ‘cut through the parties’ whinging’. We also felt he was patient and forthright. We have been involved in many mediations and would definitely rate Karl at the top.”*

Partner, city firm, distribution agreement

### Feedback – Legal Directories

- *“Karl Mackie enjoys an excellent profile in the field, bringing his impressive expertise as a business psychologist to bear in an array of commercial disputes. Sources say he is ‘excellent’. He was immediately able to see areas and potential solutions that may not first have been evident. He had the confidence of the parties and he was on top of the brief, and it was a very complex and technical matter.”*

[2015] Chambers & Partners Guide to the Legal Profession

- *“An astute mediator who quickly gets to the heart of the matter," Mackie is a leading figure in the field and was awarded a CBE for his services to mediation in 2010. Interviewees highlight his "careful, considered and unobtrusive" approach to complex commercial and multiparty regulatory disputes". "Regarded by his mediation peers as ‘one in a million’.”*

Chambers & Partners Guide to the Legal Profession

- *“Karl Mackie at CEDR Solve ‘justly deserves his reputation as a first class mediator’. He has a ‘relaxed and engaging style, which helps the parties de-escalate some emotive moments’. Clients are impressed by his ability to ‘quickly get to the heart of the very complex issues in dispute, and identify potential areas of common ground’.”*

[2014] The Legal 500

- *“Karl is one of mediation’s biggest names and, over the years has guided parties to settlement in virtually every type of dispute. With... understanding of the tensions and dynamics of a dispute, he is adept at reading the personalities present and working with them to engineer a settlement. Described as “the master” of the psychological nuances of mediation, he has a well-honed style and approach.”*

The Legal 500

- “The mediation went really well and I thought that Karl Mackie did a brilliant job. It was a fantastic eye opener. Managed as it was, rather than polarising positions further, it really helped the parties see where the other was coming from. By 5 pm, most of the issues were dealt with and all were focussed on the parameters of the settlement. *From my perspective you are up there with the very best I have come across.*”

Chambers Directory

## Dispute Experience/Expertise

### Banking & Finance

- Fall-out between two members of a hedge fund LLP over contributions and alleged under-performance, misconduct and breach of promised role.
- A dispute over under-performance of an investment portfolio on the basis that the bank’s investment professionals had failed to comply with standards of reasonably competent investment professionals in constructing a portfolio for the client (either on grounds of negligence, breach of contract, or breach of FSA Conduct of Business Obligations – COBS). The investor had lost around \$8m on a \$14m investment.
- Led negotiations towards asset restructuring of a Middle Eastern venture capital company with associated issues between the major shareholders and their families, and allegations of past misconduct.
- Financial services, professional negligence action for investment advice in context of arguments over contribution of financial crisis competing with mismanagement allegations.
- Alleged fraud by manipulation of bank accounts.
- Loan default and recovery proceedings compromised.
- A case concerning pursuit of recoveries of moneys from the company which had been unable to pay taxes when due, and its following liquidation.
- A case about various consequences following a termination of employment in the US, with sexual harassment claims at the heart of the case.
- Trade credit facilities for shipping contracts and alleged breaches of loan conditions.
- Failure to pay performance bonds on completion of mining project phase.

- Employment disputes involving traders and breach of contract on bonus; discrimination claims.
- FSA proceedings for enforcement for breach of investment standards – mediation of compromise penalties.

### Commercial Contracts

- A major claim for damages arising from product recalls and damage to reputation during the European horsemeat scandal.
- A dispute over alleged breaches of a Sale and Purchase Agreement between the purchaser of a luxury mobile phone company, the seller and the guarantor. The dispute had a value of approximately £100million.
- First international commercial mediation in Romania (termination of distributorship for global consumer supplies company).
- Mediating a number of disputes between a multinational food manufacturing company and several of its national distributors.
- Chemicals – supply agreement breach of terms.
- Claims arising from termination of international distribution agreements – telecoms equipment, pharmaceuticals etc.
- Defective equipment claims – manufacturing, food processing; breach of European Competition Law, motor vehicles.
- Numerous supply and distribution contract breach claims.
- Post-acquisition disputes – mortgage finance, travel companies; motor vehicles; telecoms.
- Termination and breach of contract claims.
- Family disputes over entitlement to property portfolio division and past informal contracts.

### Construction & Engineering

- Dispute between a developer and contractor related to the construction of a landmark skyscraper in Western Europe.
- Range of disputes over construction of major roadway in Africa.
- Infrastructure project cost overruns, Asia and UK.
- Rebuild of oil plant – joint venture negotiation and negligence claims.

- Major transport infrastructure project in capital city - contractual interpretation of fixed price and escalation provisions.
- Joint venture disputes over management and cost-sharing for operation of major oil pipelines in UK and Texas.
- Numerous claims re-engineering defects.
- Asbestos removal defect claims.
- Inadequate construction of car park facilities leading to recurrent flooding problems and allocation of liability and damages amongst multiple parties.
- Insurance claims for construction professional negligence.
- Energy plant breakdown claims.
- Interpretation of liability for performance guarantees.

### Employment & Workplace

- Settlement of contract claim on early departure of CEO of household name retailer.
- Annual pay claim by national Trade Union, regional bus strike.
- Breakdown of relations in international arts venue.
- Global bank corporate 'raid' – poaching of staff team under restrictive covenant protections.
- Independent investigation of discrimination claims
- International bank – trader bonus claim.
- Personal injury from bullying.
- Sex and race discrimination and harassment claims.
- Termination of derivatives trader.
- Unfair redundancy selection claims – collective dismissals.
- Strike actions.

### Energy & Natural Resources

- Joint venture – breakdown of working relations and risk allocation of agreements; renegotiation of mineral extraction pricing agreements.



- Three party mediation from the High Court involving on-demand performance bond enforcement concerning an employer and a contractor who had hired an engineer to build a power plant in Eastern Europe.
- Design failure claims & defective equipment claims – oil and gas industry.
- Maritime engineering.
- A case concerning deliveries of waste oil to a waste oil recycling plant and three months' worth of unpaid invoices.
- A multi-party dispute around the hire of oil industry equipment for the North Sea, and arguments over contract termination and liability for compensation.
- Various oil company joint venture operating/pipeline disputes.
- A case under the National Contact Point (BIS) procedure in the OECD Guidelines for Multinational Enterprises. The complaints listed breach of guidelines that encourage environmental sustainability, breach of guidelines concerning meaningful engagement with stakeholders and provision of adequate information on projects, breach of guidelines on human rights.

#### ICT – Information, Communication & Technology

- Claim for failure to meet specification in computer systems contract for local authority services.
- Software licensing and software performance.
- Relationship breakdown and multiple contract breach and pricing dispute claims, \$1bn+ global telecoms/financial services contract.
- Breach of contract, international mobile telecoms infrastructure services.
- Breach and termination, government IT contracts.
- Failures in performance of IT equipment/systems across range of sectors - local authorities, national regulatory body, government departments, National Health Service (national system), defence contractor, travel industry, retail industry, transport, telecoms.
- Termination or escalation clause (requiring mediation) provisions in IT contracts across range of sectors.
- IT supplier and national retailer (the third mediator appointed in that case after previous efforts had not succeeded).

- International case involving entrepreneurs and internet companies about a sale and purchase agreement, and various amended versions through to subsequent Settlement Agreement that resolved earlier disputes around the SPA.

### Insurance

- Coverage claims.
- Domestic and international claims involving primary insurance and reinsurance; contracts, including allegations of fraud and material non-disclosure.
- Fatality and personal injury claims.
- Financial leasing contracts claims.
- Fraudulent reinsurance – lawyers, auditors, financial services.
- Group actions – housing, insolvency, employment.

### Intellectual Property

- A case arising from claims that other party was allegedly infringing trademark rights by parallel importing of products into the UK amounting to sales of millions of pounds over more than five years.
- Breach of IP Rights by University Consultancy Business.
- Costs recovery on leading brand infringement claim.
- Claim for inappropriate imports of luxury goods in breach of EU and competition law.
- Rights of international football association over ticketing rights and sponsorship.

### Media & Entertainment

- Publication breaching privacy of European royal family member.
- Cancellation of film contract.
- Defamation claims.
- Denial of insurance coverage for fatality of rapper.
- Intellectual property rights, international football competition.
- Privacy rights.

## Partnership & Shareholder

- A dispute involving the division of shares in properties and alleged misapplication of the funds from the mortgage of these properties.
- Dispute between shareholders of newly acquired company, and breach of director fiduciary duty over alleged poaching of business clients for competitor company run by managing director.
- Family business – strategy dispute.
- Minority shareholder actions.
- Partnership breakdown/terminations.
- Breach of Share and Purchase Agreements; director fiduciary duty.
- High-value family business ownership dispute in the Middle East regarding the sale of shares in one of their projects, worth close to \$1bn.
- International case involving entrepreneurs and companies in relation to a dispute about a Sale and Purchase Agreement for an internet company.
- £2.5m claim for breach of warranty between claimants who had acquired a competitor business of ice drinks, and two defendants representing 3 former shareholders of purchased business.

## Private Client

- Family business, and family inheritance disputes.
- Bank loan mortgage defaults.
- Clinical negligence.
- Personal injury.
- Privacy and celebrity status.
- Termination of employment, bullying, harassment, discrimination claims.
- A dispute about the fallout between a grandfather and the rest of the family over the management, sale and shareholder split of a successful business.

## Professional Negligence

- Auditor standards of care.
- Actuarial models and negligence re insurance company valuations.
- Construction professionals negligence/breach of contract.
- Legal advice - A case concerning professional negligence, breach of contract and breach of fiduciary duty against a lawyer who allegedly gave inappropriate advice on company law outside of his range of expertise, and leading to defects in property purchase documentation and financing structures.
- Medical care.
- Sex abuse group action.
- Investment bank advice - a dispute over under-performance of an investment portfolio on the basis that the bank's investment professionals had failed to comply with standards of reasonably competent investment professionals in constructing a portfolio for the client (either on grounds of negligence, breach of contract, or breach of FSA Conduct of Business Obligations – COBS).
- Mortgage valuation case involving surveyor's negligence.

## Property

- European City of Culture dispute with developer over property planning rights.
- Claim for breach of restrictive covenants in property dispute between Chairman of major public company and local developer.
- Group action over foundation failures, 75 house-owners in executive housing estate.
- Breach of contract by anchor tenant.
- Breach of contract, local government authority and property developer.
- Management of leases; foundation failure – group action.
- Property and ransom strip claims.
- Property developers' agreement breakdown.

## Public Sector

- Lead mediator dealing with the disputes arising from the Alder Hey retained organs litigation.
- A highly confidential dispute regarding termination of a contract for complex communications systems development connected with government security.
- Funding and statutory duties, further education.
- Procurement of health services, internal NHS dispute under new DOH rules.
- Dispute regarding the early termination of a contract between a national services company and a borough council for services such as refuse collection and park maintenance.
- Major IT contract breaches.
- Universities and intellectual property rights.
- Senior employee management grievances.
- Local government contract breaches; local authority joint ventures.
- Licensing and animal rights protection.
- Dispute involving a newly opened private hospital which worked closely with the local NHS hospital for various support services they could offer. The parties had come to a disagreement over the pricing of these services and a large amount of money was outstanding.

## Sale of Goods & Services

- International mediation worth approximately 10m Euros involving a claim for product damage and damage to reputation.
- Provision of back-up electricity supplies, alleged failure to deliver according to guarantees.
- Provision of marketing services, alleged failings in quality compared to cost over several years of performance.
- Numerous defective equipment claims.
- A number of disputes between a multinational food manufacturing company and several of its national distributors. Chemicals – supply agreement breach of terms.

## Sports

- Provision of sports clothing to Premiership Football Club.
- Sports Sponsorship dispute.
- Dismissal of coach of premier sports team.
- Rights of international football association over ticketing rights and sponsorship.

## Transport

- Transport infrastructure, multiple contract claims over performance failures, extensions of time, design responsibilities.
- Software company dispute regarding the development of a program to manage Europe's largest transport information throughout a major city
- Aviation – engineering failure and breach of contract maintenance regimes.
- Car manufacture – competition law claims on car parts.
- Leasing disputes.
- Maritime claims.
- Trade credit facilities for shipping contracts and alleged breaches of loan conditions.
- Railways – engineering claims.
- Responsibility for fire damage.
- Transport infrastructure contract interpretation and scheduling disputes.
- The owner of an executive aircraft outsourced to a leading aircraft management and chartering company, charters of the aircraft in a contract covering several years.

## Trust and Probate

- Numerous inheritance disputes over distribution of estates of high net worth individuals eg second families; beneficiaries identified unexpectedly after sudden fatal accident; re-structuring of businesses after death of patriarch of family leaving vacuum in business arrangements; abuse of legator wishes by charity; etc.

- Disputes between trust managers in Isle of Man, Gibraltar, Channel Islands or other international offshore jurisdictions, and beneficiaries over claims of mis-management or negligence in allocation or investment of trust funds;
- Dispute over fee arrangements between geneology business and potential beneficiaries;
- Dispute over insurance payout to record label after death of celebrity song artist, contested on grounds of claim of non-disclosure of prior ill-health condition.

### Utilities

- Claim against water company (insurer), arising from burst water main three years ago which flooded 150 houses, with severe flooding on ground level.
- Numerous claims between energy companies over contractual arrangements, pricing, carbon credits, waste management, site construction defects.