



IAIN G. MITCHELL KC

Year of Call

1976

Year of Silk

1992

Devil Masters

A.G.C McGregor KC

Herbert A. Kerrigan KC



Practice Profile

Iain G Mitchell KC was called to the Scottish Bar in 1976, and took silk in 1992. He was called to the English Bar in 2012. He is accredited as a mediator by the Mediation Bureau (Scotland) and by Mediation Forum Ireland and often assists clients in Mediations. He is a member of the Scottish Council for International Arbitration and sat on the bench as a Temporary Sheriff from 1992 to 1997.

Iain is an experienced litigator with a wide and varied civil practice, with strengths in Business and Banking law, European Law, Public Procurement Law, Employment Law and Public Law, as well as being rated by Chambers Directory in Band 1 for Information Technology, and also recommended for Intellectual Property and Commercial Dispute Resolution.

He serves as the Chair of the Legal Panel of WhistleblowersUK and as the Honorary KC of OpenUK.

He has appeared in over 70 reported cases, including *Moncrieff v Jamieson* [2007] 1WLR 2620 (the leading modern case on easements) where he succeeded in definitively establishing the existence of an easement of parking in the laws of both Scotland and of England; *Clarke v Fennoscandia Ltd* 2008 SC (HL) 122, a case concerning the enforcement of foreign decree allegedly obtained fraudulently in the US Third Circuit, and involving issues of Scots, English, French, European, United States, and Colorado law, and *King v Black Horse Ltd.* [2024] CSIH 3 which has already established itself as a leading case in Consumer Protection law.

He has a particular strength in the area of Banking Law and Regulation, including cases of alleged mis-selling of Interest Rate Swap Agreements. He acted for the claimants in *Grant Estates Ltd v Royal Bank of Scotland Ltd* [2012] CSOH 133, and had continued to appear in many similar cases since.

His work is informed by extensive practical experience in business, the charitable and voluntary sectors, politics, and his keen interest in the arts and heritage. His sensitivity to commercial realities has frequently been commented upon and this, together with his substantial experience, enables him to develop innovative solutions, giving holistic advice which places the needs of clients in a wider

commercial setting.

Education & Professional Career to Date

Accredited Mediator, Mediation Forum (Ireland) (2006)

Accredited Mediator, The Mediation Bureau (Scotland) (1997)

Diploma in Trial Advocacy, National Institute for Trial Advocacy (USA) (1995)

LL.B (Hons) University of Edinburgh, 1973

Certificate in Christian Studies (University of Aberdeen) 2006

FSA Scot 1973

FRSA 1988

Appointments

- Fellow, European Law Institute (Vienna) (2023–present)
- Chair, New Technologies Committee, Association of European Lawyers (2022–present)
- Secretary, Ethical and Spiritual Panel, Worshipful Company of Information Technologists (2021–present)
- Member, Regulatory Review Working Group, Bar Council of England & Wales (2021–present)
- Member Mediation Committee, Association of European Lawyers (2021–present)
- Chair, Legal Panel, WhistleblowersUK (2020–present)
- Court Assistant, Worshipful Company of Information Technologists (2020–present)
- Chair, Surveillance Working Group, CCBE (2014-2020); Vice-Chair 2020 to date (2020–present)
- Honorary Senior Counsel, OpenUK (2018–present)
- Member, Technology Committee, Law Society of Scotland (2012–present)
- Member IT Panel, Bar Council of England & Wales (2011–present)
- Chair, Scottish Society for Computers and Law (2011–present)
- UK Expert, IT Committee, CCBE (2011–present)
- Admitted as Liveryman, Worshipful Company of Information Technologists (2010–present)
- Honorary Lecturer, Institut für Informations-Telekommunikations- und Medienrecht, Westfälische Wilhelms-Universität Münster, Germany (2009–present)
- Admitted as Freeman, Worshipful Company of Information Technologists (2008–present)
- Reader, Church of Scotland (2006–present)

Selected Cases

- **King v Black Horse Ltd. [2024] CSIH 3**
Consumer Protection - whether continued use of vehicle by consumer post-rejections prevents exercise of right to reject [Appeal Court]

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Kaizer v Scottish Ministers [2018] CSIH 36

Negligence - duty of care of prison authorities to prisoners to prevent assault from fellow prisoner. [Appeal Court]

- **Glasgow City Council v Scottish Legal Aid Board [2018] CSIH 37**

Legal Aid - extent of Legal Aid Board's duty of disclosure to opponent of Legal Aid applicant [Appeal Court]

- **Q v Glasgow City Council [2018] CSIH 5**

Social care - Judicial Review of Local Authority decision on provision of Social Care [Appeal Court]

- **Gray v MacNeil's Executor [2017] SAC (Civ) 9**

Landlord and Tenant - Effectiveness of Verbal lease to create enforceable personal obligations without creating real rights. [Sheriff Appeal Court]

- **Colletti v Alacaline Ltd and another [2017] EWCA Civ 1614**

Employment Law - costs [Court of Appeal]

- **Rivendale v Clark [2015] CSIH 27**

Land Registration - Extent of Possession required to establish title. [Appeal Court]

- **T v Locality Reporter [2014] CSIH 108**

Child and Family Law - Locus standi of Foster Parents in Adoption proceedings. [Appeal Court]

- **Playfair Investments Ltd v McElvogue [2012] CSOH 148**

Bankruptcy - proper interpretation of s 150 of Bankruptcy and Diligence etc (Scotland) Act 2007 [Court of Session - First instance]

- **Grant Estates Ltd v Royal Bank of Scotland Ltd [2012] CSOH 133**

Banking - Important Scottish authority on interest rate swap mis-selling by banks. [Court of Session - First Instance]

- **Sidey v Clackmannanshire Council & Pyramid Joinery & Construction Ltd [2010] CSIH 37**

EU Procurement Law - Statutory Remedy for challenge to below-threshold tendering exercise restricted Judicial Review - above-threshold tendering remedies not available. [Appeal Court]

- **Bvunzai v Glasgow City Council [2009] CSIH 93**

Employment law - effect of supervening tribunal application on related question. [Appeal Court]

- **Clarke v Fennoscandia Ltd 2008 SC (HL) 122**

Enforcement of foreign judgements. [House of Lords]

- **Moncrieff v Jamieson 2008 SC (HL) 1; [2007] 1WLR 2620**

Easements - Leading case on easements, establishing existence of an easement of parking in both Scotland and England. [House of Lords]

Areas of Practice

- Commercial
- Employment, Discrimination and Harassment
- Media Law, Privacy and Defamation
- Public Law

Publications & Seminars

Free & Open Source Software: Policy, Law and Practice - "Public Sector & Open Source" (Oxford University Press, 2013; 2nd Edition, 2022)

Innovation and Future of the Legal Profession in Europe, Bruylant, Brussels (2017) [contribution]

Electronic Evidence (Mason), Scottish Chapter (Butterworths, April 2007; 2nd Edition, 2010; 3rd edition, 2012)

The International FOSS Law Book - Joint author UK Chapter (Open Source Press, 2011)

Directories

Recommended in Chambers & Partners UK Bar Guide 2024

Band 1 for Information Technology

Band 2 for Intellectual Property

Band 3 for Commercial Dispute Resolution

Recommended in the Legal 500 UK Bar Guide:

Band 2 for Commercial Disputes

'A leader in legal issues concerning open source technology, and one of the world-leading authorities on it and public sector.'

Leading Silk for Employment

"Iain is a versatile, flexible and creative thinker who grasps complex issues and distils them into clear and understandable components"

Additional Information

Languages: French and Italian

The OpenUK Award for Leadership, 2020; 2021 and 2022.