

## Caroline Kenny

Year of Call: 1985



## Practice Summary

Caroline Kenny is an international arbitrator specialising in commercial and investment disputes. She has more than 35 years' experience acting in complex international matters, including over 15 years as King's Counsel. She is admitted to practice in Australia, the United Kingdom and New York and maintains chambers in Melbourne and London. Caroline is a former president of the Australian branch of the Chartered Institute of Arbitrators and is currently the only female Chartered Arbitrator in Australia. She is highly respected in the international arbitration community for her commitment to the promotion of arbitration as the preferred means for resolving international disputes and for her diligent, responsive and practical approach as an arbitrator.

Caroline has served as presiding arbitrator, sole arbitrator and wing arbitrator in a broad range of complex disputes, including banking, finance, joint ventures, construction, Mergers and Acquisitions, energy, insurance, re-insurance, IT, licensing, sale of business, manufacture, sale of goods and sports. She has an in-depth knowledge and experience of all major arbitral institutions including the International Chamber of Commerce (ICC), the London Court of International Arbitration (LCIA), the Singapore International Arbitration Centre (SIAC), the Hong Kong International Arbitration Centre (HKIAC), the World Intellectual Property Organisation (WIPO), and the International Centre for Dispute Resolution (ICDR). Caroline also has worked with and has experience with the UNCITRAL Arbitration Rules for ad hoc arbitrations.

Caroline's decision as an arbitrator was considered by the High Court of Singapore in *Malini Ventura v Knight Capital Pte Ltd and others* [2015] SGHC 225. Her approach to a challenge to jurisdiction was upheld by Justice Judith Prakash in the High Court and led to new law on a Tribunal's discretion under the Singapore International Arbitration Act 1994 (CAP 143A). The decision of Justice Prakash was subsequently endorsed by Chief Justice Menon in *Tomolugen Holdings Ltd and another v Silica Investors Ltd and other appeals* [2015] SGCA 57.

Caroline also has a keen interest in sports arbitration. She is a member of Australia's National Sports Tribunal and in 2023 was appointed to preside over the first appeal from the General

Division of the Tribunal.

Caroline has a deep academic interest in international arbitration, in both teaching and research. She is on the Approved Faculty Listing of the Chartered Institute of Arbitrators (CI Arb) to teach all international arbitration courses and is also a Regional Pathway Leader for all of CI Arb's courses, including the highly acclaimed Diploma Fellowship Course, the Award Writing Fellowship Course and the Accelerated Route to Fellowship Course. Caroline's doctoral thesis, undertaken at the internationally recognized Monash University, was on the topic: 'Is Confidentiality an Accepted Principle in International Commercial Arbitration, and if so, Should it Be Regulated by the Model Law.' This involved a detailed review of the approach taken to confidentiality in leading arbitration jurisdictions as well as the development of proposed amendments to the UNCITRAL Model Law to regulate confidentiality.

Caroline brings a practical perspective as a thought leader to her international arbitration practice through her contribution to the work of a number of leading arbitration institutions. She is currently serving as the elected Trustee for Australasia to the Chartered Institute of Arbitrators, headquartered in London. That role involves her in helping to shape the policy direction for the Institute, which supports a network of 17,000 members across 149 countries. In her role as Trustee she collaborates with Trustees from Asia, Africa, Europe, England and the MENA region which has deepened her knowledge of arbitration in those regions.

Caroline also currently serves as a director of Australian Centre for International Commercial Arbitration (ACICA), having previously served on ACICA's international Advisory Board. Caroline is also a member of the Advisory Board of Deakin University Law School, which is one of only five universities from more than 360 global competitors to have participated in the Willem C. Vis International Commercial Arbitration Moot every year since it commenced in 1993. It is also one of only four universities to have won the Moot twice (in 1999 and 2014). Caroline is actively involved with the Viz Moot, both in coaching teams and as a judge.

Caroline brings a depth of knowledge in commercial law disputes through her more than 35 years of practice, including 15 years as a Kings Counsel. As Kings Counsel Caroline has been retained in significant high profile disputes for commercial parties including major corporates, banks, insurers, re-insurers, the Commonwealth of Australia, the Australian Defence Force, the Australian Federal Police, and the Australian Securities and Investment Commission. Caroline is known for her attention to detail and organisational skills in leading large teams in complex commercial disputes. These skills have been honed in multi-party commercial disputes including class-actions/representative proceedings.

Caroline's involvement as a director of commercial and not-for-profit boards for more than 20 years has enabled her to bring the 'board perspective' where necessary into her decision-making. She is currently the Chair of Foley's List, the largest barristers' List (Chambers/Set) in Australia, with more than 300 multi-discipline barristers and more than 20 clerks and other staff. As Chair of the List Caroline works collaboratively with the List Committee and the Chief Clerk to steer the strategic direction of the List as well as regularly being called on to make decisions within short time-frames which impact on the resources and management of the staff and barristers on the List.

Caroline has been involved in teaching CI Arb's Fellowship courses for more than 10 years. Select teaching engagements include:

Course Director, Introduction to International Arbitration (2023)

Lecturer CIArb International Commercial Arbitration Diploma course in Oxford 2023.

Lecturer CIArb International Commercial Arbitration Diploma course in Oxford 2022.

Faculty Member, Introduction to International Arbitration (2022)

Faculty Member, Federation For International Arbitration Advocacy, Beijing, China 2019.

Course Director for the CIArb APAC International Commercial Arbitration Diploma course in Singapore 2019.

Course Director for the CIArb APAC International Commercial Arbitration Diploma course in Perth, Australia 2020.

Lecturer, CIArb APAC International Commercial Arbitration Diploma course in Hong Kong 2017.

Lecturer CIArb APAC International Commercial Arbitration Diploma course in Singapore 2016.

Lecturer CIArb International Commercial Arbitration Diploma course in Sydney, Australia 2015.

Lecturer CIArb International Commercial Arbitration Diploma course in Oxford 2014.

Lecturer CIArb International Commercial Arbitration Diploma course in Oxford 2013.

Course Director CIArb Accelerated Route to Fellowship, Melbourne 2018.

Lecturer CIArb Accelerated Route to Fellowship, Sydney 2017.

Lecturer CIArb Accelerated Route to Fellowship, Perth 2016.

Lecturer CIArb Award Writing Course, Melbourne 2019.

Course Director CIArb Award Writing Course, Melbourne 2018.

Lecturer CIArb Award Writing Course, Melbourne 2017.

Lecturer CIArb Award Writing Course, Melbourne 2016.

Lecturer CIArb Introduction to International Arbitration Course, Melbourne, 2018.

Caroline is an accomplished presenter and chair and is in demand as a speaker at arbitration conferences worldwide. Recent speaking engagements include:

CIArb/ACICA Arbitration Conference, 2023: Chair of Panel on Privilege in International Commercial Arbitration (Perth, Western Australia)

CIArb/Federal Court Seminar Series, 2022, 'Current Topic in International Arbitration' Speaker

AMINZ Conference, New Zealand, 2021, 'Hot Topics in International Commercial Arbitration', Speaker

CIArb Journal, 'Third Party Funding in International Commercial Arbitration', Melbourne 2020

Webinar, 'Virtual Hearings in the New Normal' Melbourne 2020

Webinar, 'Bridging the Distance', Interview with Chief Justice of Singapore, Sundaresh Menon, Melbourne 2020

Brisbane, Australia, Conference Chair, 'Building Bridges in International Commercial Arbitration,' 7th Australia Arbitration Week (November, 2019)

Brisbane, Australia, Speaker, 'In Conversation with Paula Hodges QC- President of the London Court of International Arbitration,' Australian Arbitration Week Conference (November 2019)

Brisbane, Australia, Welcome Address, CIArb Australia Annual Lecture (November 2019)

Brisbane, Australia, Participant Arbitrator, Arbitration Roundtable on Best Practice in International Arbitration, (November 2019)

Da Nang, Vietnam, Participant Arbitrator, ASA/HKIAC Arbitration Seminar for Arbitrators (May 2019)

Hong Kong Arbitration Week, Speaker, Holman Fenwick Willan Seminar,

'Has the proliferation of institutional rules caused arbitration to lose its way?' (October 2019).

Kuala Lumpur, Asia ADR Week, 2019 The Kintsukuroi Perspective: The Asian ADR Revolution, Presenter on the topic, 'Public Policy As A Shield: Enforceability of Contractual Obligations' (June 2019)

Vienna, Panel of Arbitrators, Vis Moot Elimination Rounds, 27th Vis Moot - The Annual Willem C. Vis International Commercial Arbitration Moot (April 2019)

Atlanta, USA, CIArb Global Symposium for CIArb Branch Chairs (November 2018)

Atlanta, USA, International Arbitration Society 7th Annual Conference (November 2018)

Hong Kong, Speaker, 7th ADR in Asia Conference, on the topic 'The Use of Summary Procedures in International Arbitration' (November 2018)

Melbourne, Australia, Moderator, 'The Role of Law in International Commercial Arbitration' (October 2018)

Melbourne, Australia, Conference Host, 6th International Arbitration 'The Business of International Arbitration' (October 2018)

Melbourne, Australia, Keynote Speaker and Grand Final Judge, Second Alfred Deakin ICA Moot, (October 2018)

Melbourne, Australia, Moderator, Federal Court, UN Day Lecture on '60 Years of the New York Convention' (October 2018)

Hong Kong, Keynote Speaker, CIArb Hong Kong branch on '60 Years of the New York Convention' (September 2018)

Brisbane, Australia, Welcome Address, Brisbane Business Lunch (September 2018)

Hong Kong, Moderator, International Commercial Law Conference, 'Arbitration on the One Belt, One Road - Enforcement of Foreign Awards in China' (21 September 2018)

Melbourne, Australia, Welcome Address, CIArb Australia Annual Business Lunch (August 2018)

Perth, Australia, Welcome Address, CIArb Diploma Course Dinner (August 2018)

Sydney, Australia, Sponsor's Welcome Address at the ICCA Gala Dinner, ICCA 2018 Congress (April 2018)

Melbourne, Australia, Welcome Address, Federal Court Seminar, 'Jurisdictional Challenges in International Arbitration' (February 2018)

Ascot, UK, CIArb South East Branch workshop on International Commercial Arbitration (November 2017)

Ascot, UK, CIArb Global Symposium for CIArb Branch Chairs (November 2017)

Hong Kong, Speaker, 7th Annual GAR Live, (October 2017)

Perth, Australia, Conference Host, 'International Commercial Arbitration in a Changing Global Economy,' 5th Australia Arbitration Week (November 2019)

Perth, Australian Arbitration Week, 'Out of Africa- the Hot Spot in International Commercial Arbitration', Chair ( November 2017)

Hong Kong Summit on Commercial Dispute Resolution in China, 'Third Party Funding Reforms' (19 October 2017)

Melbourne, Australia, Welcome Address, CIArb Business Lunch, (July 2017)

Beijing International Arbitration Centre, Speaker, seminar on 'Enforcement of Awards Under the New York Convention' (September 2016)

Sydney, Australia, Conference Host, 'New Horizons in International Commercial Arbitration' 4th Australian Arbitration Week,

Sydney, Australia, Moderator, 'International Arbitration in the Asia Pacific Region' ( October 2016)

Sydney, Australia, Speaker, CIArb Annual Dinner (October 2016)

Melbourne, Australia, Speaker, Australian Insurance Law Association CGU v Blakeley (2016)

Melbourne, Australia, Speaker, Australian Insurance Law Association 'The Use of Hot Tubs for Expert Evidence' (2016)

Melbourne, Australia, Speaker, Federal Court of Australia, 'The Role of the Court in International Arbitration' (2016)

Oxford, Speaker, CIArb Diploma Alumni Conference, (September, 2015)

Melbourne, Victorian Bar/LIV Conference Panel member 'Cost Effective Management of Litigation' (2014)

Melbourne, Moderator, 'Emergency Arbitrators' Baker & McKenzie seminar.

Lawyers Weekly, Article, 'In the Nick of Time' (2014)

Melbourne, Moderator 'Investor- State Arbitrations' Allens Linklaters, (2014).

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## **Educational Qualifications**

- Doctor of Juridical Science (Monash University)
  - Master of Laws (University of Melbourne)
  - Bachelor of Arts (University of Melbourne)
  - Certificate in Mediation (Bond University, Queensland)
  - Diploma International Commercial Arbitration (CIArb, completed at St Anne's College, Oxford)
  - Accelerated Route to Fellowship (CIArb, completed at Santiago, Chile)
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## **Professional Qualifications**

- King's Counsel
  - Chartered Arbitrator
  - Member of the Honourable Society of Lincoln's Inn, London
  - Counsellor and Attorney-at-Law, New York
  - Nationally Accredited Mediator
  - Fellow, Chartered Institute of Arbitrators (CIArb)
  - Fellow, Australian Centre for International Commercial Arbitration (ACICA)
  - CIArb Regional Pathway Leader
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## **Jurisdictions Admitted to Practice**

- Australia (Barrister and Solicitor)
  - New York (Attorney and Counsellor-at-Law)
  - England and Wales (The Honourable Society of Lincoln's Inn)
  - Registered Foreign Lawyer, Singapore International Commercial Court
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## Panel Appointments

- Panel Member, National Sports Tribunal (Australia)
  - Arbitration Panel, Australian Energy Regulator (AER)
  - Arbitration Panel, Singapore International Arbitration Centre (SIAC)
  - Arbitration Panel, Beijing International Arbitration Commission (BAC/BIAC)
  - Arbitration Panel, Asian International Arbitration Centre (AIAC)
  - Arbitration Panel, Pacific International Arbitration Centre (PIAC)
  - Arbitration Panel, Hong Kong International Arbitration Centre (HKIAC)
  - Arbitration Panel, Australian Centre for International Arbitration (ACICA)
  - Arbitration Panel, Taipei International Arbitration Centre
  - Arbitration Panel, World Intellectual Property Organisation (WIPO)
  - Arbitration Panel, International Centre for Dispute Resolution (ICDR)
  - Arbitration Panel, Russian Arbitration Centre
  - Presidential Panel, Chartered Institute of Arbitrators (London)
  - Pool Member, National Broadband Network (NBN) (Australia)
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## Acknowledgements

- Leading Arbitration Barrister, Doyle's Guide
  - Leading Mediator, Doyle's Guide
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## Boards and Committees

- Trustee, Chartered Institute of Arbitrators (CIArb)
- Director, Australian Centre for International Commercial Arbitration (ACICA)
- Advisory Board, Deakin University Law School
- Chair, Foleys List of Barristers
- Former President, Chartered Institute of Arbitrators, Australian Branch
- Former Member, Ministerial Advisory Committee to Minister For Police and Corrections
- Former Member, Advisory Board of ACICA
- Former Director, Barristers' Chambers Limited
- Former Member, Advisory Board of PANDA
- Former Director, Sandybeach Centre
- Former Member, Consumer Practice Panel of the Consumer Law Action Centre