

# Jorren Knibbe

Call: 2005

"He provides well-researched legal advice which is laid out in a manner that is understandable for those with non-legal backgrounds"

Legal 500 2024



Jorren practises in commercial and public law, with a key focus on the commercial and regulatory activities of public authorities.

Jorren acts for both claimants and defendants in public procurement cases and in commercial disputes involving the public sector. His current and recent work includes:

- Pursuing ongoing claims for defective COVID supplies on behalf of the NHS
- Defending a commercial claim for repayment of COVID grant funding
- Representing a group of public authorities in data breach litigation against a third party supplier of storage services
- Defending a public authority against multiple claims alleging unauthorised access to personal data
- Successful summary judgment and interim applications in public procurement proceedings, in *Adferiad Recovery Ltd v Aneurin Bevan University Health Board* [2021] EWHC 3049 (TCC) and *Bromcom Computers v Academies Enterprise Trust* [2022] EWHC 2893 (TCC)

Jorren is the principal procurement and commercial counsel to a grouping of NHS bodies, in which context he regularly advises on defensive strategy in response to challenges under PCR15, on design of tender processes and on modifications to existing public contracts.

Jorren is also principal counsel to two regulatory authorities with electoral law responsibilities, for which he provides advice on statutory responsibilities and representation in disputes.

Jorren's practice also covers:

- competition law, including regulatory compliance, subsidy control and merger control procedures
- data protection compliance, contracting and disputes
- Freedom of information appeals

Jorren is a member of the Attorney General's London B panel of civil counsel to the Crown, and an accredited commercial and workplace mediator.

## Birmingham

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# Expertise

## Business & Property

Jorren practises in commercial disputes, with a particular focus on cases involving the public sector.

He also provides advice and assistance in competition matters, including regulatory compliance, merger control and subsidy control.

Jorren is an accredited civil and workplace mediator and a member of the Society of Mediators. He has mediation expertise particularly in data protection matters and cases involving the public sector.

## Notable Cases

### Claims for below-quality PPE supplies

representing NHS bodies in multiple claims for rescission and damages arising from supply of low-quality PPE during first phase of COVID pandemic, with value in excess of £10m (claims ongoing)

### Claims arising from data breach incident

representing public bodies in a joint claim arising from loss of records by third party storage provider – including claims pursuant to contract, GDPR and tort and claims for exemplary damages (ongoing)

### Commercial terms for a Nightingale Hospital

represented NHS body in negotiations over commercial terms for use of venue for an emergency COVID-19 field hospital. Prepared draft venue access agreement for negotiation; prepared briefing and negotiation strategy for client's CEO; attended negotiations in an advisory capacity to assist the CEO, leading to acceptable financial settlement

### GWE Business West v Bolton Business Ventures

(Bristol Commercial Court, 2018): sole counsel in successful application for pre-action disclosure seeking records of disbursement of central government grant funding

Advising unsuccessful bidder in a Ministry of Defence procurement exercise in relation to proposed professional negligence claim against procurement consultant (case ongoing)

Advised local authority in defence of claim by grounds maintenance services provider for increase to contractual payments (claim abandoned)

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Prepared pre-action correspondence and provided advice in relation to proposed proceedings against local authority for underpayment under agreement for residential care services, leading to financial settlement

## Smart Parking v Solent NHS Trust (Manchester Mercantile Court, 2016)

represented defendant in 3- day trial of claim for breach of hospital parking contract

Representing a logistics provider defending a wrongful termination claim by its warehouse operator, achieving pre-trial drop-hands settlement

## Commercial disputes

Jorren's experience includes:

- **Claims for below-quality PPE supplies:** representing NHS bodies in multiple claims for rescission and damages arising from supply of low-quality PPE during first phase of COVID pandemic, with value in excess of £10m (claims ongoing).
- **Claims arising from data breach incident:** representing public bodies in a joint claim arising from loss of records by third party storage provider – including claims pursuant to contract, GDPR and tort and claims for exemplary damages (ongoing).
- **Commercial terms for a Nightingale Hospital:** represented NHS body in negotiations over commercial terms for use of venue for an emergency COVID-19 field hospital. Prepared draft venue access agreement for negotiation; prepared briefing and negotiation strategy for client's CEO; attended negotiations in an advisory capacity to assist the CEO, leading to acceptable financial settlement.
- **GWE Business West v Bolton Business Ventures** (Bristol Commercial Court, 2018): sole counsel in successful application for pre-action disclosure (in Commercial Court, Bristol) seeking records of disbursement of central government grant funding.
- Advising unsuccessful bidder in a Ministry of Defence procurement exercise in relation to proposed professional negligence claim against procurement consultant (case ongoing).
- Advised local authority in defence of claim by grounds maintenance services provider for increase to contractual payments (claim abandoned).
- Prepared pre-action correspondence and provided advice in relation to proposed proceedings against local authority for underpayment under agreement for residential care services, leading to financial settlement.
- **Smart Parking v Solent NHS Trust** (Manchester Mercantile Court, 2016): represented defendant in 3-day trial of claim for breach of hospital parking contract
- Representing a logistics provider defending a wrongful termination claim by its warehouse operator, achieving pre-trial drop-hands settlement

## Competition & Subsidy Control

Jorren provides advice on regulatory competition matters and subsidy control, and assists clients with merger control procedures.

Jorren's experience includes:

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**Review of market publications for competition law compliance:** reviewed full range of industry price information published by non-departmental public body for compatibility with Competition Act 1998; engaged with senior management to produce risk register and system for responding to changes in risk profile.

**Product distribution:** regularly advising clients on structuring distribution networks compatibly with Competition Act 1998. Design and implementation of a selective distribution system complying with EU competition laws on behalf of a global electronics manufacturer; advising on distribution schemes in various sectors including cameras, kitchen appliances, toys

**Merger control:** advising on and preparing merger filings to Competition and Markets Authority, including:

- Advising on regulatory aspects of proposed corporate transactions in non-regulated water industry, transport management services, software services, ophthalmic products
- Conducting a successful CMA “briefing note” process on behalf of clients completing a software services acquisition
- working as part of a team that secured CMA Phase II clearance based on a “failing firm” defence in Optimax/Ultralase
- working as part of a team that secured CMA Phase I clearance for online vehicle data checking merger (HPI/Carweb)

Subsidy control and State aid

- **Growth Deal funding for outdoor leisure facilities:** advised leisure facility operator on compatibility of proposed Growth Deal funding package with Subsidy Control Act 2022; supported client in competitive process to secure funding.
- Advised on compatibility of tax legislation with EU State aid provisions in Northern Ireland Protocol / Windsor Framework
- Advised on implementation of devolved government tech sector policies in context of EU State aid law
- Advised market provider on health sector purchasing policies and compatibility with subsidy control Act 2022
- Advised on EU State aid compliance in context of support packages for struggling care homes, structuring of Government subsidies to support climate change targets, structuring of two public/private town centre regeneration projects

## Mediation

Jorren is an accredited civil and commercial mediator (2018) and workplace mediator (2021) and a member of the Society of Mediators.

Jorren’s mediation practice is focussed on cases involving the public sector (including contract and procurement disputes) and privacy and data protection matters.

Jorren combines a diplomatic, personable approach with technical experience of acting as a barrister in similar matters. He brings a thorough understanding of constraints on public authorities (for example based on procurement regulation, public law principles and public authority policies and procedures) and the impact these can have on settlement negotiations. Jorren mediates in a way that is practical and informed, while leaving space for parties to innovate.

Jorren offers a low-cost scheme for virtual mediations (via videoconferencing) in two-party disputes where any damages claimed are not more than £25,000.

For in-person mediations, No5 Chambers is often able to provide facilities at no additional cost, from our offices in London, Birmingham and Bristol.

## Public Law

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Jorren's practice focuses on the commercial and regulatory activities of public bodies. This includes public procurement, data protection and freedom of information, subsidy control, electoral and general public law matters.

Jorren's recent work includes:

- **Review of Parliamentary constituencies, 2023:** advising one of the UK's four Boundary Commissions on its review of boundaries of Westminster constituencies in its region, under the Parliamentary Constituencies Act 1986
- Advising a public authority on likely impacts of devolved government proposals to amend its statutory functions; preparing a consultation response for submission to devolved government; preparing responses to draft legislation for submission to parliamentary scrutiny committees
- Advising an NHS body on the creation and administration of indemnity arrangements for medical practitioners in compliance with devolved government legislation
- Advised a university on its defence of proposed claim under Equality Act 2010 for alleged failure to provide sufficient examination adjustments for student suffering from a mental health condition (case settled)

#### Public procurement

A significant proportion of Jorren's practice involves bringing and defending public procurement claims and advising on procurement matters.

Among other things, Jorren is the principal procurement counsel to a grouping of NHS bodies, for which he regularly advises on defensive strategy in response to challenges under PCR15, on the design of tender processes and on modifications to existing public contracts.

Jorren's recent work includes:

- **Adferiad Recovery Ltd v Aneurin Bevan University Health Board** [2021] EWHC 3049 (TCC): sole counsel for the Defendant in a challenge under the PCR15 to an award of a mental health services contract. Brought successful summary judgment application heard over 2 days, leading to dismissal of all claims. Case is leading authority on interpretation of Common Procurement Vocabulary and on impact of Brexit on below-threshold public procurement.
- **Bromcom Computers Plc v Academies Enterprise Trust** [2022] 10 WLUK 402: sole counsel for Defendant in challenge under PCR15 to award of IT services contract for 57 academy schools. Brought successful Part 18 application in October 2022; case ongoing.
- **Implementation of the ECO4 Scheme for domestic energy-efficiency improvements:** advised a local authority on compatibility with PCR15 and Concession Contracts Regulations 2016 of a proposed single-sourcing arrangement for energy efficiency works in social housing, designed to secure compliance with Ofgem "ECO4 Scheme".
- Advised a local authority on compatibility with PCR15 of proposed collaboration with NHS Trust for development and management of health and community facilities.
- Advised a housing association on arrangements for purchasing legal services by its independent departments; drafted amendments to its procurement policies to ensure compliance with PCR15 and applicable devolved government policies

Other experience includes:

- challenging a Ministry of Defence award of an engineering services contract
- challenging local authority awards in social care, construction and school catering
- challenging NHS awards in diagnostic services and catering
- challenging a utility company award in relation to pipeline supplies
- advising a local authority on variations to the operations and financing of a GBP 500 Million waste PFI project
- preparing tender procedures and contract documentation, including for a local authority insurance procurement and a multi-academy trust IT services procurement

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## Data and information rights

Jorren acts in data protection claims and regulatory investigations, including:

- representing a group of public authorities in data breach litigation against a third party supplier of storage services (ongoing)
- defending a public authority against multiple claims alleging unauthorised access to personal data (ongoing)
- representing a medical professional in GDPR claim for rectification of regulatory records
- advising a UK cloud storage provider on its response to a data breach
- representing an electronics manufacturer defending a breach of privacy claim, leading to pre-action settlement
- advising a UK accountancy firm on its response to a DSAR (including search and presentation of results) following challenge from the ICO

Jorren has also helped with the design of GDPR compliance programs in the legal, charity, and technology sectors – including assisting with data audits, privacy notices, internal procedures and processor agreements.

Jorren was a preenter at the IAPP London Data Protection conference in 2019, and recorded an IAPP “Summit Sessions” webinar on GDPR compliance when using social media in 2020. Jorren has co-presented Law Society podcasts on GDPR implementation and on the impact of Brexit on data protection law.

Jorren also acts in Freedom of Information matters, including:

- ***Harron v Information Commissioner and another***: representing a local authority at a directions hearing and preparing written submissions for substantive FTT hearing on vexatiousness / s.14(1) FOIA (forthcoming)
- Representing appellant in FTT proceedings challenging a decision of the National Archives to withhold Second World War records of homosexual conduct on basis of s.38(1)(a) FOIA, securing successful settlement after records released pre-hearing.

## Public Law

Jorren’s practice focuses on the commercial and regulatory activities of public authorities.

Alongside general public law, Jorren’s specialisms include public procurement, data protection and freedom of information, subsidy control and electoral law matters.

## Notable Cases

### Review of Parliamentary constituencies, 2023

advising one of the UK’s four Boundary Commissions on its review of boundaries of Westminster constituencies in its region, under the Parliamentary Constituencies Act 1986

Advising a public authority on likely impacts of devolved government proposals to amend its statutory functions; preparing a consultation response for

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submission to devolved government; preparing responses to draft legislation for submission to parliamentary scrutiny committees

Advising an NHS body on the creation and administration of indemnity arrangements for medical practitioners in compliance with devolved government legislation

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## Public Procurement

A significant proportion of Jorren’s practice involves bringing and defending public procurement claims and advising on procurement matters.

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## Awards



## Appointments

- Attorney General's London B Panel of civil counsel to the Crown

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