

Areas of Practice

- Civil and commercial litigation
- Judicial review
- Public and constitutional law
- Human Rights/Bill of Rights Act

Qualifications

- LLB Victoria University of Wellington (1986)
- Admission to New Zealand Bar 1986
- Appointed Queens Counsel 2007

Overview Legal Background

Prior to joining the independent bar Karen was Deputy Solicitor-General (Public Law).

At the bar she has continued to specialise in public and constitutional law, judicial review and civil and commercial litigation and has appeared in the High Court, Court of Appeal and Supreme Court in cases raising issues under a broad range of legislation: the Companies Act, Commerce Act, Property Law Act, Tax Administration Act, Income Tax Act, Crown Minerals Act, NZ Public Health and Disability Act, Human Rights Act, NZ Bill of Rights Act, Housing Restructuring & Tenancy Matters Act, Legal Services Act; and in mediation under the Employment Relations Act.

At Crown Law Karen led the Commercial Team (later to become the Public Commercial Team) before being appointed Deputy Solicitor-General. As Crown Counsel and Deputy Solicitor-General Karen appeared in first instance and appellate jurisdictions, including the Privy Council and Supreme Court, in commercial, constitutional, public law, company law, regulatory, tax and resource management cases.

Karen is experienced in managing large scale litigation. Significant matters include the land-mark 198-day trial of proceedings brought by the Statutory Managers of the Equiticorp Group, and representing the Director of Security in the long-running Ahmed Zaoui litigation.

Karen undertakes and assists in inquiries including Royal Commissions, Coronial, Ministerial and Parliamentary inquiries. She is currently involved in the Royal Commission Inquiry into the Pike River Coal Mine Tragedy and the Coronial Inquest into deaths following the Christchurch earthquake.

She was a member of the New Zealand Law Society Legislation Committee from 2002-2006 drafting submissions and making representations to relevant Select Committees on the Society's behalf as required.

From 2005-2007 Karen was the Solicitor-General's delegate on the Rules Committee, a statutory body with responsibility for procedural rules in the Supreme Court, Court of Appeal, High Court and District Courts.

She has given many presentations to in-house legal advisers on how decision-makers can achieve their policy objectives in a way that is legally defensible. Karen contributes to the New Zealand Law Society's continuing legal education programme.

In 2007 Karen was appointed Queen's Counsel.

Karen was appointed to the New Zealand Council of Legal Education in 2011.

Representative Reported cases

Criminal Bar Association v Attorney-General 2012 [2012] NZHC 1572 **HC**
Judicial review of government's decision to reduce fees for criminal legal aid

Tannadyce Investments Limited v Commissioner of Inland Revenue [2011] NZSC 158 **SC**
Judicial Review - Challenge to assessments of income tax liability - Whether Tax Administration Act prevented judicial review - Abuse of process - Strike out

Winther v Housing Corporation of New Zealand [2011] 1 NZLR 825 **CA**
Human Rights - Discrimination - Tenancy Law

Property Ventures Ltd v Commissioner of Inland Revenue (2010) 10 NZCLC 264,699;
(2010) 24 NZTC 24,046 **HC**
Company law - Takeovers and mergers - Amalgamation - Insolvency

Housing Corporation of New Zealand v District Court at Auckland [2009] NZAR 313 **CA**
Tenancy Law

AstraZeneca Limited v Commerce Commission & Pharmaceutical Management Agency (2008) 12 TCLR 116 **HC**; (2008) 12 TCLR 302 **CA**; [2010] 1 NZLR 297 **SC**
Trade practices - Anti-competitive purpose/behaviour - Exercise of power by Commerce Commission under s 98 Commerce Act 1986 - Statutory exemptions

McCully v Whangamata Marina Society [2007] 1 NZLR 185 **CA**
Constitutional law - Relationship of Parliament and Court - Whether Court to prevent access of Member of Parliament to Court file to prevent improper parliamentary discussion of litigation on foot

Tap (NZ Pty) Limited v Attorney-General CA 48/06, 13 December 2006 **CA**
Judicial review - Minerals Resource Management - Mining - Exploration

Zaoui v Attorney-General (No. 2) [2006] 1 NZLR 289 **SC**
Human rights - Immigration - Refugee status - Threat to national security

Unitec Institute of Technology v Attorney-General [2007] 1 NZLR 750 **CA**; [2006] 1 NZLR 65, **HC**
Judicial review - Constitutional law - Whether ministerial decision to suspend processing of application to become university a suspension of laws - Legitimate expectation - New Zealand Bill of Rights Act 1990

Glenharrow Holdings Ltd v Attorney General [2005] 2 NZLR 289 **PC**
Resource Management - Mining - Mining licence - Right of existing holder to renewal of licence

Zaoui v Attorney-General (No 2) [2005] 1 NZLR 690 CA

Judicial review - Review of security risk certificate by Inspector-General of Intelligence and Security - Privative clause - Whether Inspector-General of Intelligence and Security required to take human rights into account - New Zealand Bill of Rights 1990 - Right to natural justice

Berryman v Solicitor-General [2005] NZAR 512 HC

Judicial review - Excess or defective use of powers - Crown proceedings - Whether Solicitor-General acting as the Crown

Attorney-General v Palmer [2005] NZAR 46 HC

Civil proceedings as collateral challenges to criminal convictions

Zaoui v Attorney-General [2004] 2 NZLR 339 HC

Judicial review - Immigration - Refugee status - Constitutional law - New Zealand Bill of Rights Act 1990 - Whether refugee entitled to summary of classified information

Attorney-General v Palmer [2004] NZAR 374 HC

Whether counterclaim possible in vexatious litigation applications under Judicature Act 1908 - New Zealand Bill of Rights Act 1900 - Crown Proceedings Act 1950

Crawford v Securities Commission, and Governor-General [2003] 3 NZLR 160 HC

Judicial review - Corporations (Investigation and Management) Act 1989 - Validity of Order in Council - Whether Minister of Justice and Governor-General required to reconsider recommendation of Securities Commission to place companies in statutory management

Kena Kena Properties Ltd v Attorney-General [2002] 2 NZLR 597 PC (2nd counsel)

Revenue - Goods and Services tax - Whether payment eligible for automatic statutory increase when rate of GST raised - Whether grant or subsidy

Attorney-General v Collier [2002] NZAR 257 CA

Courts and administration - Challenge to composition of Court - New Zealand Bill of Rights Act 1900

McInnes v Minister of Transport [2001] 3 NZLR 11 CA

Administrative Law - Ministerial requirement to consult - Content of obligation to consult - Whether consultation prior to passage of Act satisfied requirements of Act

Attorney-General v Brogden [2001] NZAR 809 CA

Courts and administration - Relevant criteria when deciding if litigant is vexatious - New Zealand Bill of Rights Act s 27

Lumber Specialties Ltd v Hodgson [2000] 2 NZLR 347 HC

Judicial review - State-owned enterprise - Lawfulness of directive by Ministers of Crown to state-owned enterprise - Contract - Breach - Force majeure clause - Whether directive entitled invoking of force majeure clause - Constitutional law - Natural justice - Whether individual plaintiffs were owed duty of consultation - New Zealand Bill of Rights Act 1990, s 27

Newspaper Publishers Association of NZ (Inc) v Family Court [1999] 2 NZLR 344 **HC**
Judicial review - suppression order by Family Court restraining publication of information about child who was ward of the Court - relationship between paramountcy of child's welfare and media's freedom of expression - New Zealand Bill of Rights Act 1990 s 23

Equiticorp Industries Group Ltd (In Statutory Management) v Attorney-General (Judgment no. 47) [1996] 3 NZLR 586 **HC** (198 day trial)
Trusts - Equity - Contract - Company law - Statutory management

Commerce Commission v Hewlett Packard (NZ) Ltd [1993] 3 NZLR 252 **HC**
Commerce Act 1986 - Retail price maintenance

Auckland City Council v Auckland Electric Power Board (1993) 7 PRNZ 74 **HC**
Evidence - Affidavit - Refusal to make - Whether order for examination appropriate

Mirelle Pty Ltd v Attorney-General (1993) 7 PRNZ 107 **HC**
Contact - Tender - Judicial review of Minister's decision declining to accept tender bid for management rights to radio frequencies - Costs to unsuccessful parties

Attorney-General v Paxus Information Services Ltd (1989) 2 PRNZ 679 **HC**
Application for interpretation hearing - First occasion on which s 24C(4) (available only in Commercial List) utilised

Housing Corporation of New Zealand v Maori Trustee [1988] 2 NZLR 662 **HC**
Property Law - Indefeasibility of title - "Wrongful" registration - Mortgage over Maori freehold land

Inquiries

Royal Commission on the Pike River Coal Mine Tragedy (2011-2012)

Parliamentary Petition concerning jurisdiction of Commerce Commission under the Commerce Act (2011)

Assisting *Inquiry into the Explosion and Fire at Icepak Coolstores, Tamahere* (2008)

Undertaking inquiry into allegations of conflict of interest for Crown entity (2007)

Securities Commission *Inquiry into Effects of the Securities Markets of certain statements made in May 2006 concerning Telecommunications*

Finance and Expenditure Committee *Inquiry into the Powers and Operations of the Inland Revenue Department*

Ministerial Inquiry into Department of Work and Income (the "Hunn Inquiry")

Advised Department of Work & Income and represented its interests during Auditor-General's Inquiry into Charter of Aircraft

Advised Ministerial Inquiry into Civil Aviation Authority on Terms of Reference, natural justice obligations and other procedural issues

Papers and conferences

Chair, *Administrative Law – the Public Law Scene in 2011*, NSLS-CLE Intensive, February 2011

Ministerial Decision-Making – Recent Developments, paper for NZLS Administrative Law Intensive, August 2008

Section 27(1) New Zealand Bill of Rights Act 1990: modifying or recognising natural justice as we know it. Paper for New Zealand Law Society Judicial review Intensive, September 2007

Defending the Defensible, Paper for AIC Conference on Key Concepts and Paradigms in Administrative Law, New Zealand Law Journal Aug 1999:306-312