

Nicholas Cotter

Year of Call: 1999

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Overview

Nicholas Cotter specialises in regulatory law (including HSE, EPA, CQC, Sports and business regulations), fraud, serious crime and disciplinary law.

Nicholas has advised and represented various prosecuting and regulatory authorities (CPS, Complex Crime Team, NCA, RASSO, UKAD and a number of Council Regulatory authorities)

Nicholas is often instructed to represent companies and directors in relation to alleged regulatory or criminal fault and is on hand to provide assistance for compliance, pre-charge advice and during potential prosecution.

He seeks to provide strategic and client centred approach to his advice and brings a forensic eye and assured and calm presence to his advocacy.

Recommendations

Has a general criminal and regulatory practice, with an emphasis on the Western Circuit and London. He has a track record of acting both for the prosecution and for the defence in cases involving fraud, organised crime, serious sexual offences and murder. His expertise also includes regulatory law with particular experience handling environmental law and health and safety matters.

Strengths: "Always well prepared and very analytical."

Recent work: Defended a man charged with killing his father through blunt force trauma, whilst under the influence of butane gas.

Chambers UK 2021/Crime/Western (Bar)

Strengths: "He is very approachable and excellent with clients."

Recent work: Acted for the prosecution in Operation Red Squirrel, a multi-handed case concerning a large drug dealing network across the south coast of England.

Chambers UK 2020/Crime/Western (Bar)

"A very client-friendly and expert criminal counsel."

Recent work: Defended one of the defendants charged with the aggravated burglary of a Hatton Garden jeweller.

Chambers UK 2019/Crime/Western (Bar)

Strengths: "He has a terrific brain, a formidable work ethic, an unflappable demeanour and his tactical awareness can make the difference in a tricky case."

Chambers UK 2018/Crime/Western (Bar)

'Has a general criminal and regulatory practice, and is active on both the Western and South Eastern Circuits. He has a track record of acting in cases involving fraud, organised crime and serious sexual offences.'

Strengths: "Completely unflappable, he has an extremely good temperament in court. Destined for great things." "A very capable advocate."

Chambers UK 2017/Crime/Western (Bar)

'Nicholas has a measured approach to his cases and provides deliberate and carefully considered advice. He builds excellent rapport with clients and instructing solicitors. He has excellent knowledge and understanding of health and safety law.'

Legal 500 2022/Business and Regulatory Crime (Including Health and Safety)/Western Circuit

'He is extremely calm, persuasive and effective in court, which consistently inspires confidence in the clients.'

Legal 500 2022/Crime (General and Fraud)/Leading Juniors/Western Circuit

'He is a superb tactician who has a great manner with clients. He always builds a good rapport, which allows him to easily convey difficult advice and navigate through complex issues in a case.'

Legal 500 2022/Professional Disciplinary Law/Western Circuit

'He has a pleasing court style that commends itself to both judges and juries and equal measure.'

"Nicholas Cotter represented a man who was acquitted of murder after the Crown Prosecution Service offered no evidence after forensics suggested the defendant may have stabbed the deceased in self-defence. "

Legal 500 2021/Crime

'Meticulous in his paperwork and an accomplished advocate, with a calm and assured approach to clients which inspires confidence.'

"Nicholas Cotter is highly recommended, particularly for matters relating to care homes."

Legal 500 2021/Business and regulatory crime (incl. health and safety)

'He has the ability to put any client at ease.'

Legal 500 2020/Crime

'He has a very calm and measured approach.'

Legal 500 2020/Regulatory, health and safety, and licensing

'A consummately able barrister.'

Legal 500 2018/19/Crime

'A formidable advocate.'

Legal 500 2017/Crime/Leading juniors/Regional Bar/Western Circuit,

"Now this case is over, may I express my significant grateful thanks for the way you have consistently and over a lengthy period handled the complex case of R v O.

This case was never destined to be easy, and indeed it proved to be one of the most difficult cases I have dealt with in the last

30 years. I am in awe of the skill, professionalism, compassion and knowledge that you put into this case, coupled with your ability to look after, control and satisfy a very difficult Client.

Your willingness to see our Client without Solicitor and to promptly report back to myself was an outstanding pathway to enabling us to deal efficiently with a client of the most demanding nature, who barely spent a day off the telephone whilst in prison.

Notwithstanding the sentence passed, I think it is fair to say that without your extremely high level of expertise, the result could have been tremendously less beneficial to the Client.

I think it would be correct in this case to concentrate on the level of acquittals obtained for O, which speak volumes for your ability and dedication."

Instructing Solicitor, Bournemouth, June 2017

Academic qualifications

- Diploma in Law / CPE (Bristol)
- BA (Hons) History

Professional qualifications & appointments

- A Grade 4 Crown Prosecutor
- Member of the Rape Panel of Crown Prosecutors
- Member of the Serious Crime Panel of Crown Prosecutors
- Member of the Serious Fraud Panel of Crown Prosecutors
- ADR Group accredited Civil and Commercial mediator

Professional bodies

- The Honourable Society of Lincoln's Inn
- Association of Commonwealth Criminal Lawyers
British Association for Sport and Law (BASL)
- Member of the Western Circuit
- Proceeds of Crime Lawyers' Association
- The Health & Safety Lawyers Association
- Member of the Criminal Bar Association

Expertise

Crime

Nicholas has extensive experience of criminal law, including:

- Serious crime consisting of murder, manslaughter, drugs importation, organised crime and sexual offences
- White-collar crime consisting of fraud, MTIC matters, Bribery, compliance advice, and asset recovery matters
- Regulatory / Quasi-Criminal matters involving particularly sports law, disciplinary hearings, maritime and food standards matters.

Recent cases:

Serious crime

- **R v X** - Instructed Prosecuting Counsel in an ongoing matter involving a significant drug syndicate operating along the South Coast.
- **R v X** - Instructed Prosecuting Counsel in an ongoing matter involving kidnap and the infliction of serious violence.
- **R v X** - Instructed Defence Counsel in an ongoing matter involving a campaign of stranger rape.
- **R v X** - Instructed Defence Counsel in an ongoing matter involving a campaign of arsons across the County of Hampshire.
- **R v X** - Instructed Defence Counsel in ongoing large multi-handed drugs nationwide importation conspiracy.
- **R v X** - Instructed Defence Counsel in a multiple victim rape allegation at a music festival.
- **R v X** - Instructed Defence Junior Counsel in a multiple death dangerous driving case on the M3.
www.bbc.co.uk/news/uk-england-beds-bucks-herts-38001454
- **R v F** - Defence Junior in a 6 handed murder case at the Old Biley resulting in an acquittal on the murder charge.
<http://www.bbc.co.uk/news/uk-england-london-29849274>
- **R v Parker et al** - Prosecution Junior in "Operation Elevdon" on behalf of the CPS Organised Crime Unit arising from press corruption discovered during the Leveson Inquiry.
<http://www.theguardian.com/uk-news/2014/nov/18/sun-labour-mpphone-siobhain-mcdonagh-nick-parker>
- **R v B** - Defending at the Old Bailey in a historic rape case dated from the 1960s involving a teacher accused by seven former pupils of repeated and systematic sexual abuse.
- **R v X** - Defended in a case involving fraud and linked arson values in excess of £2million.
- **R v L** - Successfully overturned a conviction before Lord Chief Justice Fulford for alleged historic sexual matters in the 1970s. The appeal was in relation to the unsafe admission of a Defendants previous sexual conviction in the 1980s.
- **R v B** - Successful prosecution of a stranger rape case in which the Defendant received a 16 year sentence with an 8 year extension period.
- **R v X** - Successful defence at the Old Bailey of a young man implicated in a significant cocaine importation conspiracy. Involving legal argument over evidence procured from Columbia.

Financial crime / Asset Forfeiture & recovery / MTIC matters

- **R v H** - Instructed Junior Counsel for the in £140 million VAT 'Missing trader' fraud (MTIC), Croydon (VHCC PANEL).
- **R v P** - Instructed Defence Counsel in relation to an alleged £65,000 false accounting matter, Portsmouth.
<http://www.portsmouth.co.uk/news/local/benefit-cheats-stole-66-000-from-hampshire-councils-in-eight-year-scam-1-4130546>
- **R v P** - Instructed Defence Counsel in an internet Conspiracy to defraud, Isleworth. This matter involved an alleged Nigerian internet cash scam targeted at very elderly people.

- **R v X** - Instructed Defence Counsel in significant hidden assets POCA matter involving six figure sums.
- **R v X** - Instructed Counsel in multimillion pound POCA matter, Portsmouth. This fully contested matter concerned a convicted loan shark.

Violence/Organised crime

- **R v B** - Instructed Defence Counsel for a 13 year old boy charged with manslaughter and robbery, Old Bailey.
http://www.guardian-se-ries.co.uk/news/9871168.WALTHAMSTOW__Two_teenagers_guilty_of_killing_student/
- **R v M** - Instructed counsel in the large 'gang' gun seizure in South London.
- **R v K** - Instructed Defence Counsel in drug importation case, Canterbury. This case involved a group of Latvian males who were charged with smuggling drugs hidden within the engine of a vehicle.
- **R v X** - Instructed Defence Counsel in a large conspiracy to kidnap matter. This matter involved a Lithuanian gang who were alleged to be involved in the extortion, violence and kidnap of low-skilled immigrant workers.
- **R v S** - Instructed Counsel in an arson with intent to endanger life.
<http://www.peterboroughtoday.co.uk/news/local/court-arson-attack-toget-friend-a-new-house-1-3621216>
- **R v B** - Instructed Defence Counsel in murder trial, Winchester.
<http://www.portsmouth.co.uk/news/local/the-men-who-killed-brettcarpenter-lee-bevan-1-1232623>
- **R v B** - Instructed Defence Counsel in attempt murder s18, Woolwich. This matter concerned a male from Romania who was observed on CCTV planting a carving knife into the neck of a male and concerned issues of mental health and intention.
- **R v E** - Instructed Defence Counsel in large scale violent disorder, Woolwich. This matter involved a large pre-arranged gang fight the case demanded detailed disclosure matters and sensitive part eight applications.
- **R v S** - Instructed Defence Counsel in organised high value jewellery robbery, Chichester. This matter concerned a highly organised gang from Liverpool who as a team committed a daylight robbery on the shop before undertaking a high-speed getaway from the police.
- **R v S** - Instructed Defence Counsel in an attempt murder in Cambridge.
- **R v Y** - Currently instructed Defence Counsel in a gang kidnap, extortion and torture case in South London.
- **R v Aylett** - Instructed Defence Counsel in road rage violence, Court of Appeal, reported. This matter concerned an appeal of sentence passed in relation to the actions of a male involved in road rage.
- **R v C** - Instructed to represent the defence in a highly reported case involving the defence of a lorry driver accused of causing the death of an elderly lady at a crossing within the grounds of Luton airport.
<http://www.bbc.co.uk/news/uk-england-beds-bucks-herts-11390936>

Fraud, Business and Financial crime

(including VAT and MTIC), Compliance advice, and Proceeds of crime)

Recent cases include :

- **R x X** - Currently instructed Defence Counsel in significant company VAT fraud and linked POCA.
- **R x X** - Instructed Defence Counsel in six figure POCA matter linked to illegal use of farm land for unlicensed activity.
- **R v X** - Instructed Defence Counsel representing Dutch nationals being pursued in a six figure POCA matter (life style).
- **R v X** - Instructed Junior Counsel for the in £140 million VAT 'Missing trader' fraud (MTIC), Croydon (VHCC PANEL).
- **R v X** - Instructed Defence Counsel in relation to an alleged £65,000 false accounting matter, Portsmouth.
<http://www.portsmouth.co.uk/news/local/benefit-cheats-stole-66-000-from-hampshire-councils-in-eight-year-scam-1-4130546>
- **R v X** - Instructed Defence Counsel in an internet Conspiracy to defraud, Isleworth. This matter involved an alleged Nigerian internet cash scam targeted at very elderly people.

- **R v X** - Instructed Defence Counsel in significant hidden assets POCA matter involving six figure sums.
- **R v X** - Instructed Counsel in multimillion pound POCA matter, Portsmouth. This fully contested matter concerned a convicted loan shark.

Public and Regulatory

Regulatory Law (including maritime, fire regulation, CQC, environmental law and Health and Safety matters)

Nicholas undertakes instructions in a wide variety of regulatory and quasi-criminal matters.

Nicholas has prosecuted for a number of local and national authorities and has extensive experience representing employers, employees, directors and companies often charged with complicated and offences that carry profound reputation damage.

Nicholas is often instructed by insurance firms and risk assessors to provide pre-charge advice on the merits of a matter before action and is well versed in providing realistic, swift and cost appropriate advice to both those insured and self-funding. As such he provides advice and assistance targeted to avoid, challenge or minimise the effects of any regulatory investigation or prosecution whilst maintaining a commercial eye to an individual means and ultimate business reputation of the client.

Recent examples:

Environmental Law

- **R v X** - Instructed Defence Counsel in an environmental prosecution of a company director for alleged chemical air pollution.
- **R v X** - Instructed Defence Counsel in an environmental prosecution of a farmer for breaching of the clean air act.
- **R v X** - Representing a nationwide Salvage and building demolition Merchants charged with exceeding their landfill license. This case involved advising on the merits of a dismissal argument and the tactical approach this may have on the merits of the protection. The Environmental Agency upon consideration of the potential submission accepted a lower sanction resulting in a significantly lower fine with reduced reputation damage.
- **R v X** - Representing a large property development firm and its primary directors charged with significant TPO breaches.
- **R v X** - Representing a Defendant in relation to a POCA matter linked to light valuation post breach of a TPO.

Food Safety

- **R v X**- Defence Counsel Representing a firm of nationwide food suppliers who were accused of breaching the EU Regulations on food hygiene involving the storage of milk and the production of cheese. This highly complicated matter met with success in avoiding findings in relation to the storage and hygiene of the primary functions of the business.
- **R x X** - Defence Counsel representing a restaurateur charged with hygiene offences.
- **R x X** - Defence Counsel representing a chain of patisserie charged with hygiene offences.
- **R v X** - Provided advice on Alcohol licensing requirements for a large international warehousing and packaging company.

Care Quality Commission

- **R v X** - Advising positively on the merits of a Care Quality Commission Appeals tribunal involving the cancellation of a service providers registration across a large and well established care home business.
- **R v X** - Successfully advising and representing a care provider facing sanction from the CQC and potential corporate manslaughter charges.

Disciplinary Work

- **R v X** - Instructed Defence Counsel representing a nurse before the NMC in relation to fitness to practice allegation.
- **R v X** - Instructed Defence Counsel representing a solicitor sanctioned in relation to dishonesty.
- **R v X** - Instructed Defence Counsel representing a therapist sanctioned for undertaking an unprofessional relationship with a client.

Trading Standards

- **Dorset Trading standards v X** - Instructed to prosecute on behalf of the council in relation to breaches of trading by this subsidiary of a large nationwide plumbing business. Mr Cotter advised on the instruction of experts plus the digging up of a garden in order to demonstrate that the defendant had undertaken otiose and incompetent work. The trial was ultimately successful against both the company and its employees.
- **Berkshire Trading Standards v X** - Instructed Defence Counsel to defend a vintage clothing company selling items including a substantial number of Converse trainers. The trainers were fake and to compound matters this was a second offence. Mr Cotter negotiated guilty pleas which avoided a prison sentence for his client. However the real impact of the case was POCA. The BTS sought a figure in the high hundreds of thousands. In the end the figure was reduced to close to a hundred thousand albeit after a full hearing and the use of forensic accountants.
- **Trading Standards v X** - Mr Cotter was instructed to advise a management level employee who had been implicated in a large and global mis-selling allegation. Full advice and guidance was given or representations and the Prosecution against the employee was not pursued.

Health And Safety

- **HSE v X** - A canal garage was being dismantled when a side of the boat fell over and led to an employee being trapped. Sadly he lost his legs. Mr Cotter was instructed as Defence Counsel and was heavily involved in negotiating a plea package, ensuring that only the company was prosecuted and in providing full mitigation to keep the company operational.
- **HSE v X** - A lift engineering company working on the Cross rail project did not ensure appropriate safe guards were in place. The lift fell unexpectedly and severed the thumb of an employee. Mr Cotter was instructed late but negotiated a plea package for the company and provided full mitigation to reduce the impact of a fine.
- **Lincoln Council v X** - A care home was prosecuted under the HS regulations. Three person died and the home was charged that it did not properly safeguard for risk for the HS of the residents of the home. Nick successfully challenged the issue of causation (via a quasi-newton hearing) and ensured that a limited package of pleas in this complex case was advanced plus substantial mitigation.
- **R v X** - Instructed Defence Counsel representing the manager of a care home who was charged with failing to ensure the safety of her residents under the Fire Reform Act. This case sadly in solved the loss of the lives of two residents in a fire but thankfully led to the acquittal of the manager.
- **R v X** - Currently Instructed to Prosecute as Junior Counsel a large holiday nationwide home company charged with failing to ensure the safety of its employees.
- **R v X** - Currently instructed to Defend a construction company accused of failing to ensure the safety of its non-employees on a building site which resulted in a loss of life.

Marine and Fisheries Law

Nicholas has expertise that focuses on the maritime sector and linked Regulatory and Health and Safety spheres.

He has significant experience in providing pre-charge advice and guidance for both Defence and Prosecution teams and is regularly instructed to represent owners, employees and companies.

He has provided advice in actions brought by the Maritime Coastguard Agency ('MCA') (HSE) and has also defended a number of cases prosecuted by the Marine Management Organisation ('MMO').

Recent cases:

- **R v X** - Instructed Defence Counsel representing the Master of a cargo ferry being prosecuted under the Merchant Shipping Act (Collisions) for a significant accident involving another large cargo ferry.
- **R v X** - Instructed Defence counsel representing an international captain accused of removing salvage from shipwrecks within British waters without an appropriate licence.
- **R v X** - Representing an international salvage operation after being boarded by the Royal Navy and subsequently prosecuted for salvage work conducted within the Economic Zone (including a significant POCA element).
- **R v X** - Advising the MCA in relation to a fisheries/harbour licensing prosecution.
- **R v X** - Representing the Company owners of a private harbour in relation to a significant industrial accident that occurred during the dismantling of a barge.
- **R v X** - Representing a ferry taster charged under the collision regulations.

Sports

Nicholas regularly appears before sports regulation / disciplinary hearings and provides advice on rules, compliance and the consequences of infringements.

Nicholas has a significant background in malfeasance, bribery and fraud and is well placed to deal with these matters arising from corruption and criminality in sport. He has a particular specialisation in anti-doping law both Defending and Prosecuting.

Recent cases:

- **UKAD v X** - Instructed Counsel for UKAD in a unique body dimorphism case pertaining to reasonable excuse and failing to supply.
- **UKAD v X** - Instructed Counsel for a professional regional rugby player who fell foul of the use of banned supplement. UKAD conceded that some evidence existed which supported lack of doping education and no intentional use and the panel in turn were convinced of the merit of early return permission to training despite the imposition of a disqualification period. www.bbc.co.uk/sport/0/rugby-union/31552990
- **UKAD v X** - Instructed Counsel for UKAD in a case that resulted in the first UK lifetime ban for a member of the "support team" for an athlete and impacted on the issue of who could be included within the definition of support personnel (namely an athlete's parent). www.bbc.co.uk/news/uk-wales-south-east-wales-28641672
https://www.ukad.org.uk/sites/default/files/2019-05/ukad_vs_tinklin.pdf
- **BHA v X** - Represented a professional flat racing Jockey before a full disciplinary panel accused by the BHA of the offences of sample tampering and bringing the sport into disrepute. The issue resolved around the use of illicit substances and the athletes attempt to use /acquire another individuals sample to mask the primary offence.
- **UKAD v X**- Providing advice to a basketball player charged with a drug tampering offence namely that the athlete tried to pass off another athletes name when providing a sample. The case reached the tribunal and the athlete was given a significant reduced sentence in light of his mitigation and early advice.
- **UKAD v X** -Representing a cyclist who had refused to provide a sample when requested after competition. The athlete was advised early in the matter and the key issues argued before the tribunal were primarily "compelling justification" and "no significant fault" for failing to provide a sample. The tribunal recorded a finding of no significant fault in favour of the cyclist and a much reduced ban. Nicholas also subsequently advised on the implications of disqualification upon prize money.
- **NADP (APPEAL) v LLEWELLYN** - Representing a young boxer who had taken a sports supplement. The supplement contained a substance banned during competition and the existence of the substance within the supplement was not known to the athlete.