



Jonathan Underhill

Year of Call: 2008

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Crime

As part of his general criminal practice Jonathan is routinely called upon to deal with complex issues often involving large amounts of digital, forensic and financial evidence and detailed analysis. He believes that whether for the Prosecution or the Defence that every avenue should be explored to make sure that clients – both lay and profession – are properly and effectively represented.

He has been a led Junior for both Prosecution and Defence in matters ranging from attempted murder and national multi-defendant conspiracies to multi-million pound fraud and money laundering cases. He has been called upon to step into the place of his leader in-order to deal with both cross examination and legal submissions.

Jonathan has significant experience in both applying for and defending against a wide range of Ancillary Orders including confiscation, restraint and destruction orders, DVPO, SHRO and SHPO's.

Whilst Jonathan prosecutes and defends in all areas of general criminal practice his particular areas of expertise are:

- Fraud
- Regulatory Crime
- Proceeds of Crime
- Computer Misuse/Cyber Crime

Notable Cases

- **R v JB (2021)**
Instructed for the Defence – fully contested case of causing death by careless driving – expert evidence for both Crown and Defence
- **R v T (2021)**
Instructed for the Crown – Section 18 assault – knife attack in a public street
- **R v M and B (2021)**
Instructed for the Crown – child cruelty case involving young child in dangerous living conditions
- **R v L (2020)**
Instructed for the Defence in indecent images case – following submissions as to the nature and unreliability of electronic and computer evidence Crown were forced to abandon all but 2 counts of a 9-count indictment.
- **R v C (2019/2020)**
Instructed as sole prosecuting Counsel in Multi-defendant, conspiracy to commit dwelling house burglaries involving upwards of 35 individual offences across 4 counties.
- **R v Wooff [2019] EWCA Crim 2249**

Permission granted to appeal against imposition of mandatory sentence for dealing in Class A drugs. In their Judgment Court of Appeal provided a summary of the chief features of the legal framework surrounding the minimum sentence for a third Class A drug trafficking offence under section 110 of the Powers of Criminal Courts (Sentencing) Act 2000.

- **R v. A (2019)**
Successful prosecution of multi-handed case of possession with intent to supply Class A drugs.
- **Operation Glenfall (2018/2019)**
Instructed as Led Prosecution Junior in a 31 handed perverting the course of justice case – required to prepare and cross examine multiple defendants across multiple trials.
- **R v. M and Others (2018)**
Instructed as Led Junior Counsel in multi handed cash in transit robber case investigated by the “Flying Squad” – called upon to present the prosecution in place of leading counsel for the first week of the trial.
- **Operation ‘Buntline’ (2017)**
Instructed for the Defence in large multi-handed country wide conspiracy to supply class A drugs – involving ANPR, and nationwide telephone and telemetry evidence.
- **R v. S (2017)**
Represented a member of a gang who burgled the home of England footballer John Terry and a number of other High-profile victims.
- **R v. K (2017)**
Case concerning people smuggling across European Borders.
- **R v. J**
Led Junior for the Defence in an attempted murder case.
- **R v. A**
Transfer of a firearm. Statutory defence as to the antique nature of the weapon (s58(2)). Conflicting expert evidence.
- **R v. S**
Successful acquittal of client in Multiple Burglary counts despite the Defendant not attending and the trial proceeding in absence.
- **R v. B**
Multi handed – Joint enterprise – Night-time robbery.
- **R v. B**
s18 assault. Arguments re: res gestae and principles in R v Barnaby [2015]
- **R. (on the application of Hovenden) v. Parole Board [2014] EWHC 3738 (Admin)**
Judicial Review against decision of the Parole Board.

Fraud, Business and Financial Crime

Jonathan is regularly instructed to act for the Specialist Fraud Division of the Crown Prosecution Service, as well as HMRC, most often in relation to Social Security and computer-based frauds. He has undertaken disclosure and review work for both the Serious Fraud Office and National Crime Agency. In 2017 he was part of the team representing a former FOREX trader who was prosecuted by the US Department of Justice for conspiracy to fix prices in the FOREX market. The trial ended in an acquittal in the Southern District of New York in 2018; building upon his experience in White Collar and commercial frauds.

Jonathan has also been sought out to advise on other less common frauds pertaining to local authorities and business regulation; notably “airport parking” and “blue badge” fraud. He has particular expertise in handling the restraint, confiscation and asset recovery aspect of cases centring on financial misconduct.

He is a Level 3 CPS specialist Fraud Prosecutor and a Level 2 specialist Proceeds of Crime Prosecutor.

Notable Cases

- **R v GM and JB (2021)**
Instructed for the Defence case involving fraudulent insurance claim and allegations of perverting the course of justice
- **R v W, W and S (2021)**
Instructed for the Crown in multi-handed fraud and theft case, involving the fraudulent abuse of power of attorney over a vulnerable complainant
- **Operation Aboon (2020)**
Instructed for the Defence in fraudulent VAT evasion. Successful submission of there being no case to answer at the close of the prosecution case.
- **R v B (2020)**
Instructed for the Defence in Multi-Defendant case of involving money laundering stemming from a 1.2-Million-dollar payment diversion fraud
- **R v H (2019/2020)**
Instructed for the Defence for 1st Defendant in multiple allegations of defrauding the DWP by alleged fabrication of the education and social care needs of 6 children over a period of 8 years and fraudulently claiming Tax credits
- **R v M (2019/2020)**
Instructed to advise for the Defence on multi-defendant fraudulent evasion of VAT
- **R v N (2019)**
Instructed for the Defence – 7-year failure to declare taxable income to HMRC
- **R v S (2019)**
Instructed to Prosecute failure to declare inheritance of circa £200,000 resulting in significant benefit overpayment and subsequent contested PoCA application to seek full recovery
- **Operation 'Barren' (2019)**
Instructed for the Defence in a multi-handed fraud prosecuted by HMRC valued at £3.4 million.
- **Operation 'Z' (2018)**
Instructed as Led Junior Counsel in a multi handed money laundering case.
- **R v. C (2018)**
HMRC, failure to declare self-assessment Income tax and NOI contributions; circa £170,000.
- **R v. S (2018)**
Successfully Defended in "failing to declare case" brought by HMRC, concerning income from multiple properties on the South Coast.
- **R v. C (2017)**
Instructed for the Defence solely to deal with contested POCA proceedings arising from large scale drug dealing.
- **R v PE and Ors (2016)**
Instructed to advise pre-charge on large scale multi-company, multi-site airport parking fraud valued at several hundred thousand pounds.
- **R(S) v. Q and Others**
Led Junior for the prosecution in four handed 6-week conspiracy to defraud case involving council tax, housing benefit and identity fraud.
- **R v. B and Ors**
Instructed on behalf of third-party insurance company to provide detailed legal advice on arguments pertaining to the Defendants having "obtained" property; detailed noting brief required of multi day contested hearing.
- **R(S) v. Q and Others**
POCA confiscation. Lifestyle assumptions, multiple properties, bank accounts, hidden asserts, assertion of third-party rights and assets outside of the jurisdiction.
- **WSS v. D**
Trading Standards confiscation, legal argument as to the effect of proportionality and R v Waya as relating to tainted gifts and third-party property rights.

- **R v. S**
Prosecution of complex case involving fraudulent “shopping vouchers”.HCC v. C – Multi-handed prosecution regarding fraudulent business and roofing fraud.
- **PCC v. A and Ors**
Multi-handed prosecution of local Police employees for secondary selling of parking vouchers and fraud.
- **R v. N**
Benefit Fraud valued at £50,000.
- **R v. I**
Benefit Fraud valued at £28,000.

Proceeds of crime

Jonathan has expertise in dealing with all financial matter’s ancillary to his specialist areas of practice up to an including enforcement of such orders. Jonathan has specific experience with some of the most complex and serious proceedings, including in relation to:

- Confiscation of assets
- Cash forfeiture and seizure
- Asset recovery
- Third party confiscation
- Restraint Orders and Freezing Orders
- Account Freezing and Forfeiture Orders
- Unexplained Wealth Orders

He is regularly instructed, for the Defence, Crown Prosecution Service, various Police Forces and HMRC from initial seizure and forfeiture to contested final hearings.

Jonathan has also acted for interested third parties, including private individuals and insurance companies, both to provide advice in relation to rights and standing, as well as providing detailed assistance by way of noting briefs and written application and submissions.

Notable Cases

- **R v F (2021)**
Instructed for the Crown (Central PoCA Unit) to advise on the drafting and making of compliance order under the Proceeds of Crime Act – concerning international accounts and funds
- **R v GM (2020)**
Instructed for the Defence to advise on the making and variation of restraint order concerning multiple properties
- **R v S (2020)**
Instructed for the CPS Central PoC Unit in successful prosecution of fully contested (2 day) PoCA application involving consideration of hidden assets, tainted gifts and proportionality.
- **R v C (2020)**
Instructed to advise pre-Charge on prospect of successfully opposing and/ varying Restraint order covering multiple accounts, properties and company assets
- **R v E (2020)**
Instructed by Central PoCA Enforcement Division
- **R v K and L (2019/2020)**
Instructed for international 3rd Party clients in application to seek return of funds form accounts under AFO relating to

an international money laundering investigation

- **R v K (2019)**

Successfully argued against the appointment of a receiver to force the sale of the Defendants Property and family home in PoCA enforcement proceedings.

- **R v K (2019)**

Successfully argued against the issue of arrest warrants following multiple failures of Defendant to satisfy the PoCA order made against him following trial.

- **R v. X (2018)**

Instructed to advise on the rights and interest of third parties involved in confiscation where assets were potentially covered under constructive trust.

- **R v. B (2018)**

Legal argument concerning the proper statutory interpretation of the re-assessment of available assets following further conviction.

- **R v. C (2017)**

Instructed for the Defence solely to deal with contested POCA proceedings arising from large scale drug dealing.

- **R v. B and Ors**

Instructed on behalf of third-party insurance company to provide detailed legal advice on arguments pertaining to the Defendants having "obtained" property; detailed noting brief required of multi day contested hearing.

- **R(S) v. Q and Others**

POCA confiscation. Lifestyle assumptions, multiple properties, bank accounts, hidden asserts, assertion of third-party rights **and assets outside of the jurisdiction.**

- **WSS v. D**

Trading Standards confiscation, legal argument as to the effect of proportionality and R v Waya as relating to tainted gifts and third-party property rights.

Regulatory crime

Jonathan Underhill is instructed to prosecute as wide range of Regulatory Crime. This detailed knowledge and expertise is invaluable in his robust defence of private individuals and companies; most notably where such cases fall outside of traditional criminal practice.

Jonathan believes that particular time and care should be taken in the conduct of cases which, whilst still being dealt with by the Criminal Courts, encompass areas of fact and law which are less common within that jurisdiction. Regulatory prosecution is a real and present risk for small and medium sized businesses who are often without their own internal compliance or legal departments. Engaging the appropriate expertise and skill in such cases, from the earliest possible point, is essential to achieve the best outcome.

Additionally, he has extensive experience in confiscation proceedings pursuant to the Proceeds of Crime Act 2002 and is a member of the CPS Specialist Proceeds of Crime advocates panel. As a result, he is able to provide a complete service to clients from pre-charging advice, through trial, to confiscation proceedings. This is particularly important for Trading Standards and Local Authorities as well as private clients who can benefit from complete advice from the outset of their case.

Jonathan's Trading Standards and regulatory practice includes, but is not limited to:

- Food Safety Act 1990 (and associated regulations)
- Novel Food Enforcement Regime
- Consumer Protection from Unfair Trading Regulations 2008 (and associated Regulations),
- Consumer Protection Act 1987
- Trade Marks Act 1994

- Offences under the Fraud Act 2006
- Animal Welfare Act 2006
- Environmental Protections Act 1990

Jonathans prosecution and enforcement practice has particular emphasis on all aspects of Local Authority prosecutions and enforcement and covers all areas of Local Authority work including Right to Buy fraud, tenancy fraud, planning enforcement, fly tipping, noise abatement, animal regulations and anti-social behaviour.

Jonathan is also instructed to conduct hearings for private clients and via Legal Expenses insurance in all areas subject to Local Authority Licensing including the licensing of hackney carriages, private hire vehicles and liquor licensing. His experience extends from conducting review hearings before licensing sub-committees to appeals and trials before the Magistrates' and Crown Courts.

Notable Cases

Trading Standards

- **R v C Ltd (2020)**
Instructed for the Defence in Electrical Products (Safety) Regulation 2016 involving counterfeit apple products.
- **R v B (2019)**
Instructed to prosecute "Rogue Plumber" under Fraud Act 2006 and CPUTR 2008. Case involved multiple victims over a long time.
- **PCC v. K (2018)**
Long term parking fraud concerning fraudulent parking permits and mis-use of "blue badges".
- **HB v. MK (2018)**
Multiple outlet breach of smoking ban prosecution – legal argument as to proper application of statute.
- **Operation 'Foxchase'**
Instructed as led Junior in a complex national secondary ticketing trading standards case.
- **Operation 'Hugo'**
Trading Standards case involving importation of farmed puppies, featured on BBC programming.
- **Operation 'Wendelin'**
Multi handed Trading standards prosecution of rouge traders involving 15 complainants.
- **PCC v. A and Ors**
Multi handed Parking Fraud Prosecution involving fraudulent use of Parking Permits by police employees.
- **R v. S**
Trading Standards prosecution against persistent street peddler.

Trade Marks

- **R v CL (2020/2021)**
Instructed for the Defence in International importation of tobacco in breach of trademark conspiracy case. Case is privately prosecuted by the Japanese Tobacco Corp.
- **R v C (2019)**
Multi Defendant Trademarks Act offences – large sale importation on Isle of Wight.
- **R v. M**
Trading standard prosecution involving Trademark offences against the Premier League, British Legion and Help for Heroes – including issues of international production and importation.
- **R v. A**
Trading standards Prosecution involving several thousand pounds of counterfeit tobacco.

Environmental, Housing and Planning

- **R v H (2021)**
Instructed for the Defence to advise on breach of Environmental Permitting (England and Wales) Regulations 2016
- **R v HM (2021)**
Instructed for the Defence – Fly tipping and waste depositing involving hazardous materials, including asbestos
- **R v C (2020)**
Instructed for the Defence in Fly Tipping case brought by the Local Authority – called upon to assist in drafting evidential representation which led to the case being dropped as no longer being evidentially sustainable, or in the public interest.
- **LBH v E (2019)**
Instructed for the Prosecution – Persistent and serious breach of HMO involving a challenging litigant in personal and multi-day magistrates court trial.
- **HB v. M and A (2019)**
Advertising and Planning enforcement Appeal against conviction and sentence – instructed for the Crown – complete rehearing required – appeal dismissed with full costs awarded to the Crown.
- **HB v. A (2018/19)**
Multi-Property Planning Enforcement and Environmental Breach Prosecution, leading to PoCA application valued at circ. £300,000.
- **HB v. T (2018)**
Multi Defendant Fly-Tipping Prosecution against both individuals and limited companies.
- **HB v. A (2018)**
Multi Defendant, Multiple breaches of Improvement notices over significant periods of time effecting multiple tenants and requiring Local Authority involvement.
- **R(SCC) v. C and Ors**
High Court case stated flowing from a LA noise abatement prosecution – successfully defeated an application for wasted costs against the Local Authority running to approx. £80,000

Food and Hygiene

- **R v FF Ltd (2021)**
Instructed for the Defence – Multiple alleged breaches of EU Directive including HACCP failures and allergen issues
- **R v EH Ltd (2019)**
Instruction for the Defence to provide advice and representation concerning Food Condemnation Proceedings, Novel Food Regulations and their applicability to SARM following the National Food Crime Units classification of such as a Novel Food for the purposes of enforcement.
- **LBH v. K (2018)**
Persistent and escalating breach of environmental legislation pertaining to fast food and animal waste in central London.
- **R v. X (2017)**
Instructed for the Defence in food hygiene case involving breaches of European and Domestic regulation.
- **R(BDBC) v. FF and Ors**
Multi handed Food safety case involving multiple breaches of Regulatory provisions, hygiene improvement and prohibition orders.

Animal Welfare

- **R v HH (2021)**
Instructed for the Defence – Dangerous dogs case involving multiple dogs and injuries to the public
- **HCC v R and R (2019/ 2020)**
Instructed for the Defence in relation to Animal Welfare and Pets Licencing– including dealing with and reducing a

confiscation order originally sought by the Prosecution in the sum of £1.3 Million.

- **DCC v G (2019)**

Instructed for the Prosecution on Dangerous Dogs matter, requiring detailed evidential analysis of multiple accounts, and a full consideration of the test of evidential sufficiency under the Code for Crown Prosecutors.

- **HTS v G (2018)**

Instructed for prosecution dealing with sentencing and application for Animal Deprivation and Disqualification Orders under the Animal Welfare Act 2006 relating to two large farms with cross species orders consideration of conflicting veterinary evidence.

Articles

Enforcing the Novel Food regime - Part 1: Overview and Rationale

In the first of a short series of bite size articles, Jonathan Underhill takes a deeper look into the enforcement of the Novel Food regime and seeks to identify and breakdown the powers made available to those agencies, who are tasked with securing compliance.

[View Article](#)

What are the new Enforcement and Prosecution Powers of Local Authorities and their effect on Business under the Health Protection (Coronavirus, Restrictions (England) Regulations 2020?

[View Article](#)

Recommendations

"Not having been in court before, I found myself in a situation that was very unfamiliar. However, I was instantly put at ease straight away from the approach of my barrister, Jonathan Underhill. He was extremely professional, understanding and took on board everything I wanted to get across in the court room. The attention to detail and the communication filled me with confidence that Jonathan was the right person to get the desired result for myself.

I would highly recommend Jonathan's services, I couldn't have asked for a better representation, he kept me calm and positive throughout my trial, and we ended up getting the correct outcome, not guilty! Thank you again"

JS – Defence Client

"You have been nothing short of brilliant... thank you..."

R Cassidy – Levaes Solicitors

"I would not hesitate in instructing Mr Jonathan Underhill in all manner of Regulatory matters. He has an almost encyclopaedic knowledge in all key regulatory areas, including Environmental, Licensing, Housing and Planning offences. His preparation is meticulous with close attention to detail. He is extremely approachable and is great at communicating to a wide range of clients, which has always led to positive feedback and requests to instruct him in future matters. He has an amazing ability to advocate complex issues in law, in a way that is easy to understand for Magistrates, Jurors and Judges. His Advocacy is simply exceptional. He is and will continue to be my first choice of Counsel."

C Smith – Criminal Litigation Lawyer (London Local Authority)

"I am indebted to Mr Jonathan Underhill...for his realistic and concise submissions... Mr Underhill was utterly realistic in his submissions to this court, which he advanced with commendable brevity and good sense"

HHJ Jeremy Richardson QC – In the High Court

"I was very impressed with Jonathan Underhill ~ and he had a glowing report from our environmental health manager for his advocacy at the recent noise trial he did for us"

Local Authority Solicitor

"I would not hesitate in instructing Mr Underhill – cases are always thoroughly prepared, time and care taken with clients and

outcomes reported back promptly. The client feedback has been excellent and often accompanies with a request that he represent them again. The quality of his representation is first class.”

Lindsey Taylor (Solicitor) – Watkins and Gunn Solicitors

“I have found Mr Underhill to be an excellent advocate who is always well prepared and courteous to all. I have had positive feedback from clients in cases he had conducted on my firm’s behalf. I would not hesitate to instruct him.”

Paul Lewis (Partner) – Quality Solicitors HPJV

Very clearly presented – a dry subject made interesting. Very useful info. Excellent trainer.

Nikki Hutt, West Sussex County Council

Very informative, clear, concise but with a level of relaxed delivery and humour. I enjoyed Jonathan's 'style'.

Dee Plum, West Sussex County Council

Academic qualifications

- BVC (Graded Outstanding) – Cardiff University Law School
- Inner Temple Prize Winner – Outstanding Achievement
- LLB (Hons) Law & Politics – Cardiff University Law School

Professional qualifications & appointments

- Level 3 – CPS Panel Advocate
- Level 2 – CPS Specialist Panel Advocate – Proceeds of Crime Panel
- Level 3 – Specialist Panel Advocate – Fraud
- Serious Fraud Office Review Panel

Professional bodies

- Western Circuit
- Criminal Bar Association
- Fraud Lawyers Association
- Proceeds of Crime Lawyers Association
- Private Prosecutors Association

Direct Access

Jonathan Underhill is qualified to accept instructions directly from members of the public and professional clients under the Direct Public Access scheme.