

# *Andrew Bird*

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YEAR OF CALL: 1987



*"Andrew Bird is a genius for criminal law, POCA and cash forfeiture work."*

CHAMBERS AND PARTNERS 2018 FOR POCA WORK AND ASSET  
FORFEITURE (ALL CIRCUITS).

## *Overview*

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A specialist in white collar crime, civil and criminal asset forfeiture, civil and public law proceedings regarding the criminal process. He is an expert in private prosecution cases and has been involved in a number of substantial private prosecutions for fraud in the last 3 years, acting for both the private prosecutor and the defence. He was first junior to David Perry QC in *D Limited v A* [2017] EWCA Crim 1172, where the Court of Appeal overturned a Judge's terminating ruling and gave guidance in relation to a number of issues including motive and prosecutorial conduct.

Andrew is ranked as a star Individual in Chambers and Partners in the fields of POCA work and asset forfeiture (all circuits) and also ranked in Chambers and Partners in financial crime. He is ranked in the Legal 500 as a Tier 1 leading individual in the field of POCA and asset forfeiture (London Bar). Andrew is recognised in Who's Who Legal at the UK Bar in the field of asset recovery work.

He is appointed to the Attorney General's 'A' list panel for government work and acts in cases of the highest complexity.

'Excellent at proceeds of crime because of his knowledge of the area.'

Legal 500 2019.

"Very knowledgeable, commercial and practical." "When we go to him, we know we have a fount of knowledge we can draw upon."

Chambers and Partners 2019.

## *Additional Information*

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In 2000 Andrew was appointed as an examiner of the High Court.

Andrew is a contributing Editor to leading encyclopaedia Smith, Owen and Bodnar on Asset Recovery (OUP, 2008-2015).

"He's good strategically, good on his feet and good on paper."

Chambers and Partners 2017.

‘A complete expert in this area [POCA & Asset Forfeiture], who combines practical knowledge with great judgement.’

Legal 500 2017.

### **Seminars**

Andrew is a regular presenter of seminars for Central Law Training, POCLA, Police Forces, Association of Police Lawyers, National Policing Improvement Agency (NPIA) and others.

He is also an Expert presenter to European Commission CITES and Wildlife Crime Enforcement Group: 2012.

### **Direct Public Access**

Accepts Direct Public Access instructions.

## *Professional Panel Appointments*

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Standing Counsel to the RCPO: 2005.

Standing Counsel to the DWP: 2008.

Attorney-General’s “A” List civil panel for treasury and other government work, 2012.

Level 4 CPS Prosecutor: 2012.

Level 4 Specialist CPS Prosecutor for Fraud, POCA and Serious Crime.

### **Education**

MA, Trinity Hall, University of Cambridge.

Inns of Court School of Law.

## *Professional Memberships*

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Criminal Bar Association.

Proceeds of Crime Lawyers' Association.

South-Eastern Circuit.

## *Asset Recovery, Civil Fraud & Confiscation*

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For many years Andrew has been a specialist in criminal confiscation, including restraint, receivership and other enforcement.

"He is a leading expert on challenges to search warrants and the variation of bail conditions."

### CHAMBERS AND PARTNERS 2018

Andrew is listed in Chambers and Partners as a star individual of Proceeds of Crime and Asset Forfeiture work.

"A true expert" in the proceeds of crime field, who has extensive experience of heavyweight asset forfeiture, recovery and confiscation cases.

### CHAMBERS AND PARTNERS 2016

"He understands and has experience of asset recovery from both the proceeds of crime angle and the commercial fraud angle. He is very bright and has a really good tactical sense of how to get where we need to go."

### CHAMBERS AND PARTNERS 2015

Andrew also has specialist expertise in cases involving:

Civil Recovery and Cash Forfeiture.

Condemnation and other forfeitures and deprivation cases.

## *Business Crime*

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Andrew is often instructed in financial and business crime cases. Current cases include two ground-breaking prosecutions for land-banking fraud, laundering the proceeds of MTIC and other frauds, VAT and excise fraud.

"He has a fantastic legal mind" and is "technically very sound."

Chambers and Partners 2016.

Andrew Bird has been involved in a number of substantial private prosecutions for fraud in the last 3 years, acting for both the private prosecutor and the defence.

He was first junior to David Perry QC in *D Limited v A* [2017] EWCA Crim 1172, a case in which the Court of Appeal overturned a Judge's terminating ruling and gave guidance in relation to a number of issues including motive and prosecutorial conduct. He regularly acts in confiscation proceedings for private prosecutors such as the FSA and local authorities.

## *Criminal Prosecutions*

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Andrew is a specialist practitioner dealing in excise and VAT fraud, investment fraud, money-laundering, drug trafficking, medicines, and wildlife crime.

"He straddles the divide between civil and criminal law with comfort, and he's fantastic at judging a tribunal. He really knows his onions. You can put a point to him and he'll come up with creative solutions quickly, which is what you want in a barrister."

Chambers and Partners 2017

## *Immigration*

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Andrew is often instructed by the Government in immigration cases, which are often of a high

profile nature.

## *Judicial Review & Public Law*

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Andrew accepts judicial review and public law instructions.

## *Professional Discipline & Regulatory*

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Andrew is well versed in regulatory law and often advises and appears in cases involving trading standards, food safety, environmental health and illegal money-lending.

Andrew has a wealth of experience in health and safety cases, and some of his experience in this area is listed below:

### **Health & Safety**

Fatal accidents, including two cases involving deaths in public swimming pools.

Defence of London Borough for injury to specialist sub-contractor.

Prosecution for fatal accident in course of mass participation triathlon.

Prosecution of manager of shopping and leisure centre for incident involving fall of child while playing on escalator.

## *Cases of Note*

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### **ASSET FORFEITURE – CRIMINAL**

#### **Re A; CCE v A [2003] 2 All ER 736**

Approach of court when confiscation enforcement proceedings are in conflict with matrimonial proceedings involving an innocent wife.

#### **R v UMBS Online limited; R v P [2007] EWCA Crim 3128**

POCA Restraint Orders for online bank; release of funds for legal expenses; compatibility with Convention Rights.

**R v B [2008] EWCA Crim 1374**

Need for evidence of dissipation risk in application for Restraint Order.

**R v Allpress, Symeou and Morris [2009] EWCA Crim 8; [2009] 2 Cr App R (S) 58**

How benefit is to be calculated for the purposes of confiscation in money-laundering cases.

**R v White, Dennard, Perry & Rowbotham [2010] EWCA Crim 978**

Proper approach to benefit in confiscation cases involving tobacco smuggling; liability to pay excise duty; impact of EU Legislation.

**R v Walker [2011] EWCA Crim 103, [2011] 2 Cr App R (S) 54**

Whether interest of potential beneficiary under discretionary trust is “property” for the purposes of confiscation.

**R v Ghorri [2012] EWCA Crim 1115**

Propriety of Judge disregarding High Court charging order when assessing value of recoverable amount.

**ASSET FORFEITURE – CIVIL**

**Ali v Best (1995) 161 JP 393**

Evidence in cash forfeiture cases; admissibility of “habits and doings”.

**Hashwani v Letherby (1998) 162 JP 153**

Forfeiture of endangered species.

**R (Hoverspeed) v CCE [2003] QB 1041**

Judicial Review of HMRC search and seizure policies in relation to alcohol and tobacco importations; impact of EU Legislation.

**R (CC of Lancashire) v Burnley MC [2003] EWHC 3308 (Admin)**

Whether it was an abuse of process to apply for forfeiture of cash following a failed detention application.

**R (Newbury) v CCE [2003] 1 WLR 2131**

ECHR implications of condemnation and forfeiture; proportionality.

**R (Mudie) v Kent Magistrates Court [2003] 2 All ER 631**

Condemnation is civil not criminal; availability of legal aid.

**R (Sissen) v Newcastle Crown Court [2004] EWHC 1905 (Admin)**

Judicial Review of condemnation of endangered species – CITES.

**ARA v He & Chen [2004] EWHC 3021 (Admin)**

ECHR compatibility of civil recovery and interim receiverships.

**Muneka v CCE [2005] EWHC 495 (Admin)**

Elements and means of proof in cash forfeiture applications.

**R v Payton [2006] EWCA Crim 1226**

Relationship between parallel criminal and civil (cash forfeiture) proceedings – approach to be adopted.

**HMRC v Pisciotto [2009] EWHC 1991 (Admin)**

Admissibility of evidence in cash forfeiture cases.

**Angus v UKBA [2011] EWHC 461 (Admin)**

What has to be proved in cash forfeiture applications (departing from Muneka – above).

**UKBA v Tuncel & Basbaydar [2012] EWHC 402 (Admin)**

Elements of proof in cash forfeiture.



## **FRAUD AND OTHER CRIMINAL**

### **R v Montila [2004] 1 WLR 3141**

Leading House of Lords case on the elements of money-laundering offences under the Criminal Justice Act 1988 and Drug Trafficking Act 1988.

### **M v Isleworth Crown Court [2005] EWHC 363 (Admin)**

Role of the Admin Court in Bail decisions post-CJA 2003.

### **R v Rehman [2006] EWCA Crim 1600**

Customs questioning, cautions and PACE.

### **R v Creed & Finn [2006] EWCA Crim 3299**

Sentencing in baggage handler drug importation case following trial based on supergrass evidence.

### **R v F & B [2008] EWCA Crim 1868**

Means of proof in money-laundering prosecutions.

### **R v Barclay & Metcalf (Norwich Crown Court, 2006)**

CITES and wildlife prosecution.

### **R v K [2007] EWCA Crim 54**

POCA money-laundering offences; prosecutor's appeal.

### **R v Shabbir Hussain [2010] EWCA Crim 970**

Whether possession in the UK of Class C controlled drugs with intent to supply them abroad amounts to an offence under the Misuse of Drugs Act 1971.

### **R v David John Wain (Reading Crown Court, November 2010)**

Innovative prosecution following SOCA investigation of supplier of Benzocaine and other cutting agents and "legal high" drug GBL.

**R v UMBS Online Ltd (Southwark Crown Court, February 2011)**

Prosecution of online bank for fraudulent trading and money-laundering.

**R v Williams (Bournemouth Crown Court, March 2012)**

Prosecution of yacht broker for false accounting and evasion of VAT on supply of boats from Channel Islands.

**R v E & others (Isleworth Crown Court, September 2012)**

Alleged land banking fraud.

**R v D & others (Southwark Crown Court, January 2013)**

Alleged land banking fraud.

**JUDICIAL REVIEW – SEARCH WARRANT AND OTHER CRIMINAL PROCESS**

**R (Mercury & Masters) v Leeds Crown Court and HMRC [2008] EWHC 2721 (Admin);  
[2009] Stc 743**

Judicial Review of search warrants; whether reasonable grounds for believing that tax mitigation scheme amounted to an offence; full and frank disclosure.

**R (Faisaltext & others) v Preston Crown Court, Chief Constable of Lancashire  
Constabulary and HMRC [2009] 1 WLR 1867**

Judicial review of PACE search warrants and special procedure warrants; treatment of computers which contain both relevant and irrelevant material.

**R (Windsor & Hare) v HMRC [2011] EWHC 1899 (Admin)**

Nature of relief and retention by investigators of copies when search warrants are quashed.

**R (Glenn & co) v HMRC [2011] EWHC 2998 (Admin)**

Judicial Review of Search Warrants.

# Accreditation

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