

Andrew Bird K.C.

YEAR OF CALL: 1987 | YEAR OF SILK: 2021



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

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

"A true expert at POCA and one of the best in London on the criminal side of taxation. He's very impressive in court."

CHAMBERS & PARTNERS, 2023

"He is incredibly knowledgeable and thorough, and his written advocacy skills are second to none."

CHAMBERS & PARTNERS, 2022

“He's a brilliant barrister who is incredibly knowledgeable about POCA.”

CHAMBERS & PARTNERS, 2024 FOR POCA WORK & ASSET FORFEITURE

“Andrew rolls up his sleeves and really gets into the detail.”

Chambers & Partners, 2024 for Financial Crime: Private Prosecutions

“Andrew is incredibly user-friendly and has an encyclopaedic knowledge of his practice areas.”

Chambers & Partners, 2021

“Andrew combines an excellent legal brain with a very practical approach to litigation.”

The Legal 500, 2022

“Has a very good eye for detail and particularly enjoys researching tricky legal issues. He always instils confidence in us and the courts that he knows his subject inside out.”

Chambers & Partners, 2020

“He is an excellent barrister who effortlessly crosses between civil and criminal elements. He is very hard working.”

Chambers & Partners, 2024 for Financial Crime: Private Prosecutions

“He is very strong in his written advocacy and an even stronger advocate before the court.”

Chambers & Partners, 2024 for Financial Crime

"He's indefatigable."

Chambers & Partners, 2024 for POCA Work & Asset Forfeiture

Overview

Andrew Bird KC is a specialist in white-collar crime, civil and criminal asset forfeiture, and civil and public law proceedings which overlap with the criminal process.

Since taking Silk in 2021, he has appeared for the defence in cases of murder, bribery & fraud, in addition to continuing his Private Prosecution practice.

Andrew is ranked in Chambers and Partners in the fields of POCA and Asset Forfeiture (Band 1 Silk), Financial Crime and Private Prosecutions - Financial Crime.

He is ranked in The Legal 500 in the field of POCA and Asset Forfeiture.

He is also recognised in Who's Who Legal at the UK Bar in the fields of Asset Recovery, Civil Fraud, and Criminal Fraud.

"Andrew is very experienced and very good at cases that involve a civil overlap. He is great on procedure."

Chambers & Partners, 2024 for Financial Crime: Private Prosecutions

"Extremely intelligent, with extensive expertise in POCA matters."

Legal 500 2020

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

Chambers and Partners 2018

“Andrew rolls up his sleeves and really gets into the detail.”

Chambers & Partners, 2024 for Financial Crime

“Very bright and someone who fights the client's corner with as much vigour as is humanly possible.”

Chambers & Partners, 2024 for POCA Work & Asset Forfeiture

“His written advocacy is excellent.”

Chambers & Partners, 2024 for POCA Work & Asset Forfeiture

Direct Public Access

Andrew accepts Direct Public Access instructions in appropriate cases.

"I could not have done it without you. You were absolutely brilliant!! You helped me survive my hearing, and now I am finally free. It feels great. Thank you."

Direct Access Client - S.10A POCA Application.

"Andrew Bird is a veritable genius in POCA. Academic judges respect his detailed and persuasive skeleton arguments."

Chambers & Partners, 2020

"He combines hands-on expertise with detailed legal knowledge to provide insightful advice."

The Legal 500, 2021

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

The Legal 500, 2019

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

Chambers & Partners, 2016

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

Chambers & Partners, 2019

"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."

The Legal 500, 2017

"He is very experienced and very good at cases that involve a civil overlap. He is great on procedure."

Chambers & Partners, 2024 for Financial Crime

"He knows everything there is to know about the subject."

Chambers & Partners, 2024 for POCA Work & Asset Forfeiture

"Commercial and someone who really knows his stuff, he's very good at crossing the divide between the civil and criminal aspects of asset forfeiture."

Chambers & Partners, 2024 for POCA Work & Asset Forfeiture

Professional Memberships

Criminal Bar Association.

Fraud Lawyers' Association.

Proceeds of Crime Lawyers' Association.

South-Eastern Circuit.

Asset Recovery, Civil Fraud & Confiscation

Criminal Confiscation

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

He acted for the SFO in high-profile the confiscation proceedings in relation to **Petrofac**, leading financial orders in excess of £77M.

Most recently he has conducted the confiscation and enforcement proceedings (and resisting a third party claimant appeal) for three FCA investigations involving multiple-victim fraud.

He has also recently concluded a private S10A POCA application for a third-party, involving two family homes and a pre-nuptial agreement.

He assisted the Law Commission in its **Report on Reforming Confiscation**: November 2022.

Asset Forfeiture & Civil Recovery

Andrew has been involved in many cases at Appellate level. **See Andrew's Asset Forfeiture: cases of note below.**

He acted for the City of London Police in the ground-breaking \$20 million cash seizure case of *R (Merida Oil) v Central Criminal Court* [2017] 1 WLR 3680.

He is regularly instructed by the NCA, DPP, and Police Forces nationwide in asset recovery matters.

He has conducted two multimillion Account Freezing Order and Forfeiture cases for the NCA. Andrew is a contributing Editor to the leading encyclopedia Smith, Owen and Bodnar on Asset Recovery (OUP, 2008-2020).

Andrew has been listed in Chambers & Partners for Proceeds of Crime & Asset Forfeiture work for 14 years and at Tier 1 in the Legal 500 for his work in POCA and Asset Forfeiture.

"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

Business Crime & Financial Regulation

Andrew both prosecutes and defends in financial and business crime cases.

He was instructed by the **Serious Fraud Office** in the **Rolls-Royce investigation** which led to a **Deferred Prosecution Agreement**. He was also, until 2019, instructed in another **major SFO investigation** involving allegations of **international corruption**.

He regularly acts for the **FCA** on the **asset recovery aspects of multiple-victim frauds**. He also acts for victims and other third parties who want to intervene in confiscation proceedings.

"Andrew is regarded as an expert in his field, he specialises in asset forfeiture, confiscation and fraud. He is considered an authority in the area."

Chambers and Partners 2023 - Financial Crime.

Private Prosecution

He was first junior for the private prosecution in the terminating ruling appeal and subsequent trial in ***D Limited v A [2017] EWCA Crim 1172***, and as first junior for a Defendant who successfully applied for the dismissal of a £22 million private prosecution for conspiracy to defraud. More recently he has been instructed in three further private prosecutions, one for the prosecution and two for the defendant.

His experience in business crime has led to his instruction in cases in the Commercial Court: representing the SFO as intervener in *Libyan Investment Authority v Societe Generale*, and

acting for a respondent to committal proceedings in *Evison v Finvision Holdings LLC* [2020] EWHC 239 (Comm).

During the lockdown he acted for a defendant charged with a £2 million banking fraud in a trial at a Nightingale Court. He is presently instructed for the defence in a case alleging tax fraud and money laundering, with a trial listed for 2024.

Having led for the prosecution in business crime cases for some 20 years he is well placed to advise suspects how to manage their responses to an investigation, and (if that fails and they are charged) how to deal with the complexities of a modern trial.

"He gets really stuck into the details of a case and he is very collaborative to work with. He takes a lot of stress off the solicitors."

"An incredibly knowledgeable, very clever and experienced criminal barrister. He is an incredibly effective junior - proactive and hard-working."

Chambers & Partners 2021.

"An extremely fine lawyer, who's very practical and well regarded by the judges as someone they trust. He is straightforward and to the point in his advocacy." "A fount of all knowledge on criminal matters and very effective on his feet."

Chambers and Partners 2020.

Criminal Defence

In October 2022, Andrew defended in a 3-month, 6-handed murder and accepts defence instructions in serious criminal cases in addition to his specialist practice areas.

Criminal Prosecutions - Private & Public

Andrew was one of only seven juniors ranked in the new practice area listed in Chambers & Partners in **Financial Crime – Private Prosecutions**. Andrew tends to practise in a fairly specialist field, built up from his experience as Standing Counsel to RCPO, and his continuing instruction by City of London Police, HMRC and the NCA at the investigative stage. These cases tend to be in areas such as excise and VAT fraud, investment fraud, money-laundering, drug trafficking, medicines, and wildlife crime.

“He is probably one of the most knowledgeable prosecutor criminal lawyers to ever be.”

“Andrew is regarded as an expert in his field, he specialises in asset forfeiture, confiscation and fraud. He is considered an authority in the area.”

Chambers and Partners 2023 - Financial Crime: Private Prosecutions

“He's a forceful and tenacious advocate on behalf of prosecuting authorities.”

Chambers & Partners 2021

“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

Judicial Review & Public Law

Andrew accepts judicial review and public law instructions. He has been involved in many of the high-profile challenges to investigative orders and warrants, including the *Faisaltext* litigation, *Chatwani* litigation and *R (Newcastle United) v HMRC* [2017] 4 WLR 187 and the Judicial Review challenge to the use of a European Investigation Order to obtain data from

Encrochat communications: *R © v DPP [2020] 4 WLR 158*.

Professional Discipline & Regulatory

Andrew is well-versed in regulatory law and often advises and has conducted 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 three 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 visitor while playing on escalator.

Prosecution of major supermarket for fatal accident involving workplace transport issues.

Defence of property developer following fatal accident.

Professional Appointments

Standing Counsel to the RCPO: 2005.

Standing Counsel to the DWP: 2008.

SFO A Panel 2012-2017.

Attorney-General's "A" List civil panel for treasury and other government work, 2012 - 2021.

Level 4 CPS Prosecutor: 2012.

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

Additional Information

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

He is the author of the chapter on summary forfeiture in Smith Owen & Bodnar on Asset Recovery (OUP)

Education

MA, Trinity Hall, University of Cambridge.

Inns of Court School of Law.

Cases of Note

ASSET FORFEITURE – CRIMINAL

R v Sztulc (Cambridge Crown Court 2023)

Acting for divorced wife of Defendant in s.10A POCA claim involving 2 houses and a pre-nuptial agreement

R v Faithfull (Southwark Crown Court 2023)

Contested confiscation and compensation proceedings against money launderer for boiler rooms, with multiple victims, following FCA prosecution.

R v Petrofac Limited and Lufkin (Southwark Crown Court 2021)

Confiscation and Financial Penalty proceedings following convictions for bribery.

R v Moore; Parker v FCA [2021] EWCA Crim 956; [2021] 4 WLR 121

Appeal in above case by s.10A Third Party

R v Bhandari, Moore & others – Op Alfreton (Southwark Crown Court 2019)

Multi-handed cut-throat confiscation proceedings following convictions for investment fraud; compensation achieved for victims; appeal pending by third party (s.10A POCA) Claimant.

R v Powell & Westwood [2016] EWCA Crim 1043, [2017] Env LR 11

Leading case on confiscation benefit following environmental pollution conviction; circumstances in which Court will disregard corporate veil in confiscation proceedings. Benefit (pecuniary advantage) to a company was held not to have been obtained by the director.

R v Taylor & Wood [2013] EWCA Crim 1151

EU Law aspects of liability to pay excise duty and consequences for confiscation proceedings; post-Waya proportionality

R v Ghorri [2012] EWCA Crim 1115

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

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 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. Leading case in the so-called “Chambers Review” of historic confiscation cases involving excise duty, in which Andrew was lead counsel for RCPO.

R v Najafpour [2009] EWCA Crim 2723; [2010] 2 Cr. App. R. (S.) 38

How an irrecoverable debt is to be valued for the purposes of “available amount” in confiscation.

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 B [2008] EWCA Crim 1374

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

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.

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.

ASSET FORFEITURE – CIVIL

NCA v Hajiyeva (Westminster MC 2023 and pending)

Listed Assets Forfeiture Proceedings

R (Javadov) v Westminster MC [2022] 1 WLR 1453

Account Freezing and Forfeiture Orders, and publicity and reporting.

Lauri Love v NCA [2019] 2 WLUK 464

Public interest defence to return of computers under Police (Property) Act 1897

NCA v K (Disclosure Orders) [2018] EWHC 3531 (Admin)

Merits and Procedure in relation to applications for Disclosure Orders

R (Merida Oil) v Central Criminal Court [2017] 1 WLR 3680

Propriety of conversion of banked funds to cheques for the purposes of seizure

Nuro v Home Office [2014] EWHC 462 (Admin)

Causation in cash forfeiture: cash obtained by illegal immigrant through (otherwise lawful) working

R (Amos) v Maidstone Crown Court [2013] EWCA Civ 1643

Whether condemnation under CEMA 1979 is civil or criminal for the purposes of Art 6 ECHR

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

Elements of proof in cash forfeiture.

Angus v UKBA [2011] EWHC 461 (Admin)

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

HMRC v Pisciotto [2009] EWHC 1991 (Admin)

Admissibility of evidence in cash forfeiture cases.

RE B [2008] EWHC 1291 (Admin)

Production Orders (High Court) in Detained Cash Investigations

R v Payton [2006] EWCA Crim 1226

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

R (Bartholomew) v HMRC [2005] EWHC 1666 (Admin)

Condemnation of Excise Goods and proportionality

Muneka v CCE [2005] EWHC 495 (Admin)

Elements and means of proof in cash forfeiture applications.

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

ECHR compatibility of civil recovery and interim receiverships.

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

Judicial Review of condemnation of endangered species – CITES.

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

Condemnation is civil not criminal; availability of legal aid.

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

ECHR implications of condemnation and forfeiture; proportionality.

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 (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.

Butt v HMRC [2001] EWHC Admin 1066

Standard of proof in cash forfeiture

R v West London MC, ex p Lamai (DC) 6.7.00 and [2001] EWCA Civ 1501

Time limit for appeal against cash forfeiture decision

Hashwani v Letherby (1998) 162 JP 153

Forfeiture of endangered species - ivory.

Ali v Best (1995) 161 JP 393

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

FRAUD AND OTHER CRIMINAL

R v B Southwark Crown Court 2023

Defending in 5-handed bribery case

R v Burns Southwark Crown Court 2023

Private Prosecution for false imprisonment

R v Daley & ors Winchester Crown Court 2023

Defending 6 – handed gang murder by 17 and 18 year olds

AW v SP and Others Southwark Crown Court, December 2018

Private Prosecution for conspiracy to defraud

D Limited v A Southwark Crown Court [2017] EWCA Crim 1172

Whether motive and conduct of private prosecutor amounted to abuse of process.

R v Sandeep Singh Gill (Isleworth Crown Court)

Money-laundering and facilitation of MTIC fraud.

R v Maynard & others (Southwark Crown Court, January 2013-2019)

Land banking fraud.

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

Land banking fraud.

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 UMBS Online Ltd (Southwark Crown Court, February 2011)

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

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 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 K [2007] EWCA Crim 54

POCA money-laundering offences; prosecutor's appeal.

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

CITES and wildlife prosecution.

R v F & B [2008] EWCA Crim 1868

Means of proof in money-laundering prosecutions.

R v Creed & Finn [2006] EWCA Crim 3299

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

R v Rehman [2006] EWCA Crim 1600

Customs questioning, cautions and PACE.

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

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

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.

R (Panesar) v CCC and HMRC [2014] EWCA Civ 1613; [2015] 1 WLR 2577 (DC and CA)

Challenges to orders made under s.59 Criminal Justice and Police Act 2001; (on appeal) whether criminal cause or matter and the nature of s.59 applications

JUDICIAL REVIEW – SEARCH WARRANT AND OTHER CRIMINAL PROCESS

R (De Mercur) v Croydon MC [2021] EWHC 2874 (Admin)

Judicial Review of issue of summons for a private prosecution

R (Smith-Allison) v Westminster MC [2021] EWHC 2361 (Admin)

Judicial Review of refusal of Magistrates' Court to issue summons for a private prosecution

R (Norman) v Chelmsford Crown Court [2020] EWHC 3456 (Admin)

Judicial Review of search warrant and lawfulness of arrests

R (Ashbolt and Arundell) v HMRC and Leeds Crown Court [2020] EWHC 1588 Admin

Judicial Review of search warrants in tax investigation

R (HMRC) v Maidstone Crown Court [2018] EWHC 2219 Admin

Approach to application under s.59 Criminal Justice and Police 2001

R (Singh Virdee) v NCA [2018] 1 WLR 5073

Priority between use of statutory post-arrest search powers and search warrants

R (Fitzgerald) v Preston Crown Court [2018] EWHC 804 (Admin)

Observations by the court on the need for clarity in applications for warrants in complex cases

R (Hart) v HMRC [2017] EWHC 3091 Admin

Full and Frank Disclosure; as to whether Production Order (rather than search warrant) would be appropriate.

R (Newcastle United) v HMRC [2017] 4 WLR 187

Judicial review of search warrants and associated proceedings under s.59 CJPA 2001

R (Malik) v Manchester & Salford MC [2016] EWHC 3723 (Admin) and [2018] EWCA Civ 815

Challenge to searches under warrant; terms of relief; (on appeal) whether criminal cause or matter

R (Lowden) v Gateshead MC [2016] EWHC 3536 (Admin); [2017] 4 WLR 43

Judicial Review by private prosecutor of decision not to issue a summons in a case where the defendant had been cautioned; examination of cautioning procedure

R (Sharer) v CLMC and HMRC [2016] EWHC 1412 (Admin)

Challenge to warrant authorising seizure of computers from estate agent; whether special procedure

Chatwani v NCA [2015] UKIPTrib 15_84_88-CH

Challenge to authorisations for property interference under Police Act 1997

R (Chatwani) v Birmingham CC and NCA [2015] EWHC 1284 (Admin) POCA CASE

Production Order under POCA

R (Chatwani) v Birmingham MC and NCA [2015] EWHC 1283 (Admin)

Challenge to search warrants - egregious NCA conduct that they should be permitted to gain no advantage from warrants – relief

R (Hoque & Das) v City of London MC [2013] EWHC 725 Admin

Search warrant for restaurant premises suspected of VAT fraud lacked specificity, but correctly included computers and mobile phones as items to be sought

R (Anand) v HMRC [2012] EWHC 2989 (Admin)

Need for precision in drafting of search warrant; whether order should be made for return of items seized

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

Judicial Review of Search Warrants. How material should be specified.

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

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

R (Whiston-Dew & Richards) v HMRC [2009] EWHC 3761 (Admin)

Obligations of disclosure in relation to judicial reviews of search warrants

R (Wood) v North Avon MC [2009] EWHC 3614 (Admin)

Multiple challenges to search warrant; need for full and frank disclosure

R (Morville Trading) v Manchester Crown Court [2009] EWHC 3680 (Admin)

Special Procedure Production Order; approach to be taken to LPP.

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 (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 (C) v DPP [2020] 4 WLR 158

Judicial Review of European Investigation Order used to obtain data extracted by foreign authorities from Encrochat communications

Accreditation

