

Ian Whitehurst

Call 1994



Clerks' Details

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Education

PgCert (merit) in international arbitration law – Aberdeen University (2023)

Diploma in International Arbitration – University of Aberdeen

University of Hull, LLB (Hons) (1993)

Financial Crime and Confiscation CV Overview

Ian is a highly regarded and sought after Leading Junior in Financial Crime, Crime, Confiscation Law and Regulatory work.

He has extensive experience in all matters relating to commercial fraud and other financial misconduct in particular MTIC Vat Fraud, Direct and Indirect Tax Fraud and Money Laundering. He has acted as Leading, Led and Sole Counsel in all these areas of financial activity.

He has advised companies and individuals in relation to tax investigations conducted by HMRC concerning MTIC fraud and played a key part in advising upon a multi million pound settlement between HMRC and a corporate client accused of financial malpractice in relation to VAT reclaims. This matter was linked to a £380 million MTIC criminal investigation in which Ian acted as Leading Counsel for the Defence at one of the several trials which flowed from it.

Ian has also advised individuals and companies upon their rights to challenge HMRC findings in the Tax Tribunal and is expert at advancing strategies to be deployed in negotiation and at contested hearings.

He also has a detailed knowledge of all aspects of restraint and confiscation law, civil asset recovery and asset tracing and has advised individuals, companies and prosecuting authorities (the Police, the CPS, SFO and BIS) in this area as well as lecturing in the U.K. and Off Shore. He represented a director in the Vantis tax avoidance prosecution throughout the confiscation process [as Sole Counsel against Queen's Counsel] including in the related civil proceedings and in the Court of Appeal. Ian advises also in the niche areas concerning the challenging of search warrants, production orders and privilege related issues.

From a regulatory perspective, Ian is experienced in advising companies and individuals on issues of compliance, money laundering regulations and fiduciary duties of directors and the consequences arising for directors through disqualification. His work off shore has principally concentrated upon these issues.

Ian specialises in the developing area of Private Prosecutions and advises corporates and individuals in relation to the use and deployment of private prosecutions where there has been financial misfeasance or fraud committed. He is a member of the Private Prosecutors Association and was recently appointed to their Working Group to assist in drafting the organisation's response to the proposed reforms to the Attorney General's Guidelines on Disclosure. Linked to this field is his work in advising corporations on internal investigations and disciplinary proceedings.

Cases

Current Cases:

- Advising former solicitor involved in multi million pound overseas property investment fraud (pre charge). Advising on warrants, seizure of privilege material and restraint matters connected to the ongoing investigation.
- Advising company in relation to a private prosecution arising from a large scale fraud committed upon the company by a sub – contracting company.
- Acting as Sole Counsel prosecuting a former accountant involved in investment fraud committed on his client base over several years.

Recent Cases:

- Represented the main defendant in a large scale money laundering fraud involving funds in excess of £100m.
- Instructed by the defence to successfully oppose an HMRC application for a production order against a successful group of companies.
- Representing a defendant in a £1m cash seizure case being pursued via POCA proceedings.
- Prosecuting a large scale money laundering and fraud case involving the targeting of an elderly victim.
- *R v S* – reported case in the Court of Appeal relating to the revisiting of a confiscation order made against a successful businessmen.
- *R v N* – successfully challenged in the Court of Appeal the imposition of a £3 million confiscation order against the defendant. The order subsequently reduced to £30,000.
- Prosecuted successfully a multi handed “push payment” fraud committed upon a vulnerable victim.
- Advising a company and its directors in one of the first ever prosecutions brought by the The Pension Regulator under the Computer Misuse Act.
- Acted as Leading Counsel prosecuting a million pound fraud committed by a Managing

Director of a large agro – industrial company.

- Advised high net worth individual off shore pre charge in relation to alleged bankruptcy fraud.
- Advised law firm who had been the victim of a cyber fraud attack by third parties.

Cases of Note:

- *R v HP* – instructed as Leading Junior Counsel to represent a defendant involved in a £33 million MTIC fraud.
- *R v MM* – instructed as Sole Junior Counsel to represent a defendant accused of involvement in an £8 million indirect tax fraud.
- *R v AM* – instructed to represent a company and its director of allegations concerning false accounting arising from a trading standards investigation into the misuse of a government backed energy saving scheme. Defendant was acquitted.
- *R v ML* – instructed to represent a defendant accused of large scale conspiracy to defraud car finance companies.
- *Re CO* – instructed to represent a financial professional in relation to a historical investigation conducted by the Financial Ombudsman concerning allegations of pension mis-selling.
- *Re X* – instructed to advise several off shore based financial professionals in relation to money laundering compliance issues and the impact upon their business of provisions in the Criminal Finances Act.
- *R v RF* – instructed to represent a defendant in his restraint and confiscation proceedings arising from the Vantis tax avoidance litigation.
- *R v WG* – instructed as Led Junior for the defence (confiscation proceedings) in a £250 million investment fraud arising from the Imperial Consolidated prosecution.

Confiscation Law

Recent Cases:

- *R v S* - instructed by the defence to oppose the application by the prosecution to revisit a historical confiscation order. Case involved issues of Public Interest Immunity and the cross examination of police officers ‘in camera’. Case reported at *R v S* [2019] EWCA Crim 569, [2019] All ER (D) 44 (Apr).
- *R v Z* – instructed to represent the interests of a third party asserting their rights in a parcel of land owned by an off shore trust based in the Caribbean.
- *R v X* – instructed as new counsel to conduct confiscation proceedings in the Crown Court and in the Court of Appeal. Successfully reduced a criminal benefit figure from in excess of £3 million to just in excess of £30,000. After losing the initial hearing, the confiscation order was successfully quashed on appeal and at the new hearing the prosecution conceded the argument.
- *R v D* – instructed as new counsel to conduct confiscation proceedings concerning a £2 million VAT fraud and Fraudulent Trading case involving allegations involving a substantial amount of hidden assets in excess of £300,000.
- *R v M* – instructed to discharge a pre charge restraint order imposed against several

- defendants allegedly involved in an illegal lottery being operated via social media.
- *R v K* – instructed to discharge a restraint order levelled against a defendant facing allegations of a large scale and wide ranging plant equipment fraud.
- *R v K* – instructed as new counsel to represent a former VAT inspector convicted of a £750,000 VAT fraud.

Previous Cases of Note:

- *R v F* – instructed to represent as sole counsel [against Queen’s Counsel] a tax consultant convicted of being the architect of a tax avoidance scheme. Dealt with the restraint, confiscation and related civil proceedings in the Crown Court, High Court and Court of Appeal.
- *R v A* – instructed as Led Junior to represent a chartered accountant in his confiscation proceedings following his conviction for a £150 million Ponzi scheme.
- *R v P* – instructed as Leading Counsel to represent a defendant in a £35 million MTIC Fraud and the resulting confiscation proceedings involving issues of third party interests in relation to numerous properties.
- *R v M* – instructed as sole counsel to represent a defendant accused of an £8 million direct and indirect tax fraud arising from the CIS construction scheme.
- *R v S* – instructed as new counsel to represent a defendant accused of having £2.5 million in hidden assets based in the UAE.
- *R v Axworthy* – one of the first reported cases on the issue of proportionality in confiscation cases. Case reported at [2012] EWCA Crim 2889.

Criminal and Regulatory Appeals

Cases of note:

- *R v S* – instructed as sole junior counsel to conduct an appeal against the imposition of a revised confiscation order which involved issues surrounding Public Interest Immunity (PII) due to the importance of the case it is a reported decision and can be found at *R v S* [2019] EWCA Crim 569, [2019] All ER (D) 44 (Apr).
- *Re X* – instructed as Led Junior Counsel to advise upon case stated and judicial review proceedings in an off shore jurisdiction involving allegations of governmental corruption.
- *Re a company* – instructed to represent a company in the First Tier Tribunal and Upper Tribunal of the Regulatory Chamber concerning a challenge towards the level of financial penalty imposed by the Information Commissioner.
- *R v N* – instructed as sole junior counsel to conduct an appeal against the imposition of a confiscation order. The appeal was successful and the original order sought by the Prosecution of £3 million was eventually reduced to £31,500.
- *R v N* – instructed as sole junior counsel to conduct an appeal against conviction in relation to a large scale fraud based on the failings of the appellant’s solicitors at trial to prepare his case effectively and thoroughly due to a conflict of interest which only became known to the appellant post his conviction.

Recommendations

Legal Directories

“He is excellent with clients and top notch at unusual cases.”

Chambers and Partners 2024

“Ian’s attention to detail is superb and he is great with clients.”

Chambers and Partners 2024

“One of the most experienced POCA advocates and a master at drafting effective skeleton arguments.”

Chambers and Partners 2024

“Ian is conscientious and thorough. He is a safe pair of hands.”

Chambers and Partners 2023

“Accessible, clear in his advice, and very experience.
He is someone who is not afraid to think laterally.”

Chambers and Partners 2023

“Ian is a very strong barrister.”

Chambers and Partners 2023

“A highly knowledgeable, robust and razor-sharp barrister.”

Chambers and Partners 2022

“Very pragmatic and personable, he gets on well with people. He makes no bad points and is a skilful and balanced advocate.”

Chambers and Partners 2022

“Pragmatic and accessible, he displays a lot of grit and common sense.” “He’s an imaginative, talented and experienced defender.”

Chambers and Partners 2021

“Always well prepared and really knows what he is doing.”

Chambers and Partners 2021

“He has lots of common sense, is very pragmatic and is a good guy to work with.”

Chambers and Partners 2021

‘Ian is tactically astute and his advice, advocacy and written work are excellent. He has a very co-operative style of working with solicitors which is reassuring to both the solicitor and the client in terms of knowing that matters are always clear and dealt with. There is never a concern that he will miss something – he misses nothing.’

The Legal 500 2023

“Ian has a very strong presence in court and takes no prisoners when it comes to dealing with tricky judges or opponents. He has good legal and analytical skills, and his written submissions are of a very high quality.”

The Legal 500 2024

“Ian is excellent and commendable.”

The Legal 500 2024

‘Ian is affable, hard-working, intellectually-forceful and an effective advocate.’

The Legal 500 2023

‘Ian is a very assured barrister. His down-to-earth manner puts clients at ease. He is an excellent tactician and his written work and advocacy are second to none.’

The Legal 500 2022

“Tactically astute, applies vast experience to offer pragmatic solutions and excellent with clients.”

The Legal 500 2021

“He is at the very top of his profession and his knowledge is a valuable part of the team and is a tactical and astute thinker, always thinking a couple of steps ahead whilst never taking his eye of the big picture. He is excellent with clients who are won over by his down to earth manner. He always finds an angle that the prosecution has missed.”

The Legal 500 2021

“Approachable, pragmatic and good with clients.”

The Legal 500 2021

“A real fighter who makes really incisive legal points.”

Chambers and Partners 2020

“A pragmatic advocate who is very good with clients. He is able to steer a case in a tactically astute way in order to achieve a good outcome for his clients.”

Chambers and Partners 2020

“Approachable, pragmatic and good with clients.”

The Legal 500 2020

“A proactive barrister who gives clear advice.”

The Legal 500 2020

“He thinks outside the box, is tenacious in court, very experienced and has a good breadth of knowledge of serious white-collar crime.”

Chambers and Partners 2019

“A pleasure to work with, he gets results.”

Chambers and Partners 2019

“A very shrewd barrister.”

The Legal 500 2018/19

“Ian is a real fighter, but smart with it too.”

Chambers and Partners 2018

“An approachable and practical criminal counsel.”

Chambers and Partners 2018

“A brave and streetwise advocate.”

The Legal 500 2017

“A very good performer. He is fearless and defendants love him. He will get stuck in but knows when not to lock horns with witnesses. A very good tactician.”

Chambers and Partners 2017

“Highly experienced in serious organised crime cases.”

The Legal 500 2016

“Has a long history of prosecuting and defending serious criminal offences before the court. His remit covers gang-related homicides, drug conspiracies and armed robberies, among other matters.”

Chambers and Partners 2016

“Combines extensive skill in serious organised crime with knowledge of a wide range of business crime offences. He represents both individuals and corporates and is well versed in tax fraud, money laundering, and accounting and banking fraud.”

Chambers and Partners 2016

Memberships

- Criminal Bar Association
- Private Prosecutors Association
- Revenue Bar Association
- New York City Bar Association
- International Technology Law Association
- The Bar of Northern Ireland
- Rights of Audience - AIFC [Kazakhstan]
- Chartered Institute of Arbitration

Appointments

- Member of the Disciplinary Panel, Staffordshire FA
- Member of the Disciplinary Panel, Lancashire FA

- Member of the CI Arb's Business Arbitration Scheme List of Counsel at the International Criminal Court
- List of Counsel (Defence/Victims) at the Kosovo Special Chambers
- Level 4 Specialist Serious Crime Group Panel (CPS)
- Level 4 Prosecutor General Crime Panel (CPS)
- Level 4 Specialist Proceeds of Crime Panel (CPS)
- Level 3 Specialist Fraud Panel (CPS)
- Specialist Regulatory Panel (Level B)
- Disclosure Counsel for Serious Fraud Office (SFO)
- Licensed Advocate Isle of Man (2012)
- Visiting lecturer at the University of Lancaster
- Associate Lecturer at John Moore's University
- Advocate (the Pro Bono unit of the bar)
- Called to the Bar of Northern Ireland

Listed on the arbitration panels of the following arbitral institutions:

- Arbitration Ireland
- The Arbitration Institute of The Stockholm Chamber of Commerce
- The Madrid International Arbitration Centre
- London Arbitration Centre
- Vienna International Arbitral Centre
- Danish Institute of Arbitration
- EBA Mediation and Arbitration Centre – Georgia
- Ljubljana Arbitration Centre, Slovenia
- Maldives International Arbitration Centre [secondary list]
- Hong Kong Maritime Arbitration Group [supporting member] I a

Academic Appointments:

- Honorary Lecturer in International Criminal Law at Aberdeen University 2023
- Honorary Assistant Professor - Nottingham University 2022
- Associate Lecturer - John Moores University 2020-2022
- Guest lecturer - Northumbria, Galway and Aberdeen Universities and Brooklyn Law School 2021 - present
- External member of the University of Northumbria's Centre for Evidence & Criminal Justice Studies

Beyond the Bar

Ian is interested in cinema, history and football.

Publications

Ian has written several articles on the issues of financial crime, the criminal justice system and more:

Better days will return | COUNSEL | The Magazine of the Bar of England and Wales

<https://www.counselmagazine.co.uk/articles/better-days-will-return>

Gambling an 'easy target' for UK Government after coronavirus pandemic, say barristers

<https://www.counselmagazine.co.uk/articles/better-days-will-return>

Part 6 Proceeds of Crime Act 2002 - the forgotten provision

<https://www.policeprofessional.com/?s=ian+whitehurst>

Unexplained Wealth Orders - A lost opportunity or a time to reboot?

<https://www.policeprofessional.com/?s=ian+whitehurst>

HMRC's use of criminal prosecution for fraud or illegal activity

<https://www.taxation.co.uk/articles/hmrc-s-use-of-criminal-prosecution-for-fraud-or-illegal-activity>

Taking care of business: Private Prosecutions in a digital age

<https://www.legal500.com/fivehundred-magazine/the-bar/taking-care-of-business/>

Investigatory Powers Act and the new oversight regime

<http://www.6pumpcourt.co.uk/news/investigatory-powers-act-and-the-new-oversight-regime/>

Pension Liberation Fraud: New Kid on the Block

<http://www.6pumpcourt.co.uk/wp-content/uploads/2014/07/Pension-Liberation-Fraud.docx>

A Practical Guide to POCA & Unused Material: a defence perspective

<http://www.6pumpcourt.co.uk/wp-content/uploads/2014/07/POCA-Unused-defence-perspective.docx>

Is a cheque book better than a defence statement

<http://www.6pumpcourt.co.uk/wp-content/uploads/2014/07/Is-a-cheque-book-better-than-a-defence-statement.docx>

Law & Democracy

<http://www.6pumpcourt.co.uk/wp-content/uploads/2014/07/Law-Democracy.docx>

A Taxing Time Ahead The Reality Behind The Rhetoric

<http://www.6pumpcourt.co.uk/wp-content/uploads/2014/07/A-Taxing-Time-Ahead-The-Reality-Behind-The-Rhetoric.docx>