



# Private Prosecutions

*“Home to one of the strongest criminal teams in the region, with barristers regularly appearing in serious and complex cases.”*

**The Legal 500 2020**

## About us

Exchange Chambers is an award-winning, full service set of barristers' chambers in Liverpool, Manchester and Leeds with a proven track record in all major areas of law.

We are one of the largest and most well-resourced Chambers in England and Wales. This allows us to provide strength in depth and an unparalleled level of service and cover both nationally, off shore and on the broader international stage.

We have a highly commended criminal and regulatory team whose members have specialist knowledge and experience of all forms of criminality with a specific emphasis on fraud, financial misconduct, intellectual property and cyber-crime.

Our criminal and regulatory barristers are consistently ranked as leading individuals in the two main legal directories and are regularly appointed to national prosecutorial lists in the areas of financial crime, crime and regulatory law.

The specialist area of private prosecutions is a developing area of the criminal and regulatory legal market and, as such, we have a dedicated team of Queen's Counsel and Senior Junior Counsel who can deliver the bespoke services required for the commercial and organisational client.

## The rise of private prosecutions

The right of private prosecution is long-established and provides a means (almost unique to the UK), by which entities other than the State may pursue actions through the criminal courts. Private prosecutions are considered by many to be an important constitutional safeguard against potential inertia of the State and, when properly undertaken, can be an effective remedy for those finding themselves the victims of crime.

Private prosecution is a growth area and presents particular challenges both for the prosecution and

the defence. Corporations and individuals may wish to bring prosecutions independently but may also find themselves the target of ill-founded or malicious private prosecutions.

Exchange Chambers is well positioned to offer the required support throughout.

The impact upon businesses cannot be underestimated both in terms of economic loss but also the damage to brand reputation, and the impact upon an organisation's culture and self-confidence when criminality is committed against it.

It is no coincidence that advice around Private Prosecutions is being sought in a period of economic downturn when the Police, Crown Prosecution Service, Serious Fraud Office and other prosecuting authorities are suffering budgetary restraints. The recent guidance issued by the Crown Prosecution Service as to how decisions on charging alleged offenders are to be made and the stark fact that economic crime appears to be being moved further down the ladder of importance only serves to enhance the above point.

Private Prosecutions can offer clients closer involvement and control over decision making, a thorough degree of preparation and a more senior and experienced level of legal representation than may otherwise be provided by the public prosecution authorities.

## Our services

Exchange Chambers offers the following services, covering the particular issues that arise in private prosecutions:

- Triage advice and 24-hour availability for Counsel to be contacted and provide initial advice when criminality suspected or discovered;
- Guidance on how to conduct the investigation and evidence gathering;
- Liaising with the police and other law enforcement agencies;
- Applying for or resisting the issue of a summons;
- Advising on appropriate charges and drafting summonses to commence the criminal proceedings;
- Presenting or resisting abuse of process arguments
- Advising on interim civil litigation options to secure assets;
- Conducting all advocacy in the Magistrates & Crown Court;
- Applications to the Director of Public Prosecutions to take over and stop a prosecution
- Advising on the required disclosure regime and litigation process;
- Advising on recovery of costs reflecting the recent guidance in *Fuseon Limited v Senior Courts*

Costs Office [2019] EWHC 126 (Admin)

- Confiscation/Recovery of assets.

## Business benefits

The benefits to businesses are considerable and can be summarised as follows:

- **Deterrence** – if people commit fraud or other criminality against the business then a successful private prosecution ensures that they are punished by way of sentence whilst also dealing with stigma of conviction.
- **Effective remedies** – if the police or the prosecuting agencies will not pursue a case, then the right to privately prosecute empowers the business and allows them to pursue efficient, effective, practical and draconian remedies against the offender.
- **Recovery of funds** – a successful private prosecution can lead to the recovery of the proceeds of crime from the offender by way of compensation, confiscation and in appropriate circumstances the payment of the litigation costs either from the defendant or from the government via central funds.

## Seminars, webinars and training

Exchange Chambers is able to offer bespoke seminars in order to provide more detail to the professional and lay client concerning the legal and financial advantages of privately prosecuting corporate criminality and to address specific concerns and issues.

Potential seminar topics include:

- Investigatory powers in private prosecutions: opportunities and hurdles.
- Increasing regulation of private prosecutions, including:
  - The 2018 and 2019 updates to the Criminal Procedure Rules 2015;
  - The introduction of the 'Code for Private Prosecutors' in July 2019;
  - The new Plea and Trial Preparation Hearing form in the Crown Court (also July 2019).
- Guidance on the recovery of costs – Fuseon Limited v Senior Courts Costs Office, the Lord Chancellor.
- Disclosure responsibilities.



## Your Contacts



**Nick Buckley**

**Senior Clerk - Manchester**

[buckley@exchangechambers.co.uk](mailto:buckley@exchangechambers.co.uk)

0161 817 2757

“A very professional, effective chambers.”

**Chambers and Partners 2020**

Keep up with the latest news, seminars and events.

Find us on:

 [@ExchangeC](https://twitter.com/ExchangeC)

 [www.linkedin.com/company/exchange-chambers](https://www.linkedin.com/company/exchange-chambers)

