

# Mark Kelly KC

Call: 1985 | Silk: 2021

"A good, analytical lawyer. He worked incredibly hard and devised legal submissions which won the case."

Chambers UK 2017



Mark Kelly KC is an experienced practitioner and is a member of the Business & Property, Crime, Regulatory groups.

## Expertise

### Crime

Mark is a defence barrister. He has worked in competition law in the European Commission and studied European Law at the College of Europe in Bruges. He was part of the criminal bar association's team of barristers responsible for teaching criminal practitioners about the impact of the Human Rights Act 1998 on domestic criminal practice.

He has substantial experience in serious fraud work including multi-million-pound carousel fraud /MTIC fraud, education fraud, internet fraud and bank fraud. He deals with the associated confiscation and restraint proceedings as can be seen from the reported cases referred to below.

He played a key role in bringing about the collapse of the Crown's attempts to rely upon a co-defendant as a prosecution witness in a Colombian Money Laundering case [involving in excess of 5 million], by challenging the Crown's handling of the witness and by highlighting the Crown's failure to comply with its disclosure obligations in respect of the witness.

In a carousel fraud [causing 54 million loss to the Revenue], he conducted all the pre-trial abuse and severance arguments on behalf of his client as leading counsel was unavailable.

As leading counsel in the confiscation proceedings in the matter of Namer, he successfully obtained a legal ruling from the judge that resulted in the benefit figure being reduced from in excess of 230 million to 2.5 million, [the final benefit figure was subsequently agreed at just over 1 million]. The thrust of his submissions on benefit was confirmed as correct in the case of Ahmed and Ahmad [in which Mark also played a significant role by drafting and submitting a skeleton argument to the court at first instance on the appropriate benefit figure]

In Namer Mark also successfully applied for leave to appeal against the sentence imposed on Namer 18 months out of time, [Mark had not been trial counsel].

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Mark was leading junior in a 3-month trial in which his client was acquitted of allegedly running a learner provider scheme and claiming significant funds from the Department of Education. Mark's client [who neither spoke English nor was able to write English] was the only defendant out of 6 who was acquitted by the jury.

In a sizeable money laundering case that ran for 3 months, Mark identified that the Crown's approach to the allegation was likely to mean that ANY legitimate movements of money between defendants' would prove fatal to the Crown's case. After argument, the learned judge ruled in favour of the defendants and subsequently, the Crown failed to achieve any convictions on an indictment that contained in excess of 50 counts. Thereafter the Crown was obliged to offer no evidence on a related indictment against Mark's client.

In a case involving an allegation of 100 million fraud in which Mark's client's company was said to have directly profited in the sum of 5 million, from providing false invoices the crown was unable to secure a conviction on the fraud. The client was convicted only of false invoicing.

Mark successfully defended a property developer accused of fraudulently obtaining mortgages in conjunction with his co-director and a conveyancing solicitor and a surveyor. The case required meticulous preparation of and the calling of expert evidence in respect of the role of valuers and business accounts. Mark's client's case was further complicated by the fact that he faced two allied offences of attempting to pervert the court of justice.

Mark also has substantial experience representing those charged with huge importations and supplies of drugs. He successfully defended a man charged with supplying 230 kilos of ecstasy and another of importing thousands of kilos of cannabis. He also defended in a case of supply of 100 kilos of heroin [street value in excess of 30 million] during the course of which he successfully challenged the admissibility of evidence obtained through covert surveillance of the defendant in conversation with a co-defendant whilst being transported in a police van.

Mark played a significant role in the successful defence of an alleged gangland leader [burger boys] who was said to have been involved in a 'drive by' gang related murder and Mark successfully defended a company director / paramedic charged with supplying class 'A' drugs to a fellow paramedic who injected himself with them and died.

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Mark achieved an acquittal of a police officer charged with arson. She allegedly set fire to a neighbour's house at a New Year's Eve party at which she was in attendance with her young child just days after she had been dismissed from the police force for disciplinary offences.

Mark has developed a niche practice defending carers who allegedly sexually abused children in their care. These cases throw up complex legal and factual issues. Fundamental to the successful defence of clients facing these types of allegations is the obtaining of relevant disclosure and in particular Third Party Disclosure. The documents drafted by Mark in conjunction with his instructing solicitor have been commended by the courts and by opposing counsel as providing the requisite clarity and nexus between the clients' defence and the disclosure sought. On one occasion the requests for disclosure led to the decision by the Crown to offer no evidence against Mark's client.

Mark often defends professionals for whom conviction would cause reputational damage, (including, police officers, journalists, professors, diplomats, teachers, doctors, foster carers).

His cases are high profile and are widely reported in the press, online and on television.

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## Notable Cases

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### B: (2017) (police inspector)

allegedly stole and possessed with intent to supply 750k of drugs from police property store and perverted course of justice.

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### S: (2015) (police inspector)

jointly charged with his wife and two others with offences of theft / fraud- (approximately 1 million Ponzi type scheme) and associated regulatory offences, (complainants ACPO ranked police officers).

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### AH: (2016) (Asian constable conspiring to pervert course of justice)

telephoned 999 and threatened that a police officer would be kidnapped and beheaded at the end of shift thereby causing an innocent person to be arrested and detained, at a time of heightened terrorist threat.

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### H: (2014)

a police constable charged with GBH and cruelty on a child of his partner.

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### S: (2015)

a Gambian diplomat accused of conspiring with others to evade excise duty of many millions of pounds by abusing their diplomatic quotas for tobacco and alcohol. Issues around waiver of diplomatic immunity.

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### R: (2015)

a company director jointly charged with possession of a firearm with intent to endanger life. Cut throat defence as he claimed to be acting under duress.

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### G: (2014) (leading junior).

A practising Sikh ran 10 or 11 company 'fronts' and masterminded a conspiracy to launder 32 million in cash through local branches of a High street bank. Issues around systemic failures in banking system and bad character of defendant.

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### K: (2016)

a retired university professor and author, accused of historic rapes over many years of both his younger sisters beginning when he was a teenager and his sisters were young children through to adulthood. Complex legal and disclosure issues and substantial submissions on admissibility.

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#### D: (2016)

foster carer accused of orally raping an 8 year old child and sexually abusing her and two other children in his care. Vulnerable witnesses. Complex and difficult cross-examination. Issues of contamination and collusion.

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#### GH: (2016)

a foster carer accused of incitement to engage a young child in his care in sexual activity, issues concerning vulnerability of the defendant and the young children in his care. Vetting of cross-examination questions by Judge.

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#### RE: (2016)

private tutor and mentor accused of historic sexual abuse of children under his supervision. Elicited disclosure which torpedoed evidence of one complainant and undermined evidence of the others.

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#### C: (2016)

historic sex abuse of niece. Family divided by allegations.

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## Criminal Fraud & Proceeds of Crime

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He appeared in the first Revenue Evasion case, [Operation Indicia], post the 'Bond House' judgment in which all defendants were acquitted. This arose from submissions he drafted which analysed the implications of the judgment for criminal prosecutions under the VAT Act.

He played a key role in bringing about the collapse of the crown's attempts to rely on a co-defendant as a prosecution witness in a Colombian Money Laundering Case [involving in excess of 5 million], by challenging the crown's handling of the witness and by highlighting the crown's failure to comply with its disclosure obligations in respect of the witness.

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subsequently agreed at just over 1 million].

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Mark successfully defended in the first case of market abuse brought by the FSA against Company Directors' of a listed company in the Crown Court. [3 month trial- other defendants convicted]

In 2009 he also successfully defended a company director / paramedic charged with supplying class A drugs to a fellow paramedic who injected himself with them and died.

He has substantial experience in Professional Tribunals and associated appellate proceedings.

## Business & Property

Mark practices the following areas:

### Mediation

Mark is a practising barrister and Accredited Mediator. Mark's mediation practice covers a wide area of laws and he calls upon his 25 years experience as a defence barrister to successfully mediate cases to conclusion.

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### Professional Misconduct

Mark has substantial experience of appearing before professional tribunals, including police tribunals, the GMC, other health professional tribunals, and associated appeal and review proceedings.

He has completed the Public Access course and has substantial experience of Direct Access work, [he appeared in the first direct access case before the police disciplinary tribunal].

## Memberships

- Criminal Bar Association
- Bar European Group
- European Lawyers Bar Association
- POCLA (Proceeds of Crime Lawyers Association)

## Appointments

- Mark has been added to the list of counsel for the International Criminal Court.

## Qualifications

- LLB [Bristol]
- Dip Law [Belgium]
- Certificat de langue et civilization [degre superieur] from Universite de la Sorbonne, Paris, France

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