

Thomas Schofield

Call: 2001



Thomas Schofield is a specialist criminal and regulatory practitioner, with a nationwide practice and a proven track record of success.

Tom's strength lies in his complete commitment to every case in which he is involved. He moves between the criminal and civil jurisdictions effortlessly; has a meticulous approach to preparation; is always prepared to go the extra mile; and places great emphasis on winning the trust of his clients and treating them with respect.

Tom was described by a former Lord Chief Justice of England and Wales, (Lord Thomas of Cwmgiedd, PC), as making 'attractive and measured submissions' and advancing his arguments 'eloquently' in a complex sentencing appeal. He was commended by the former Vice President of the Criminal Division of the Court of Appeal (Lady Justice Hallett, DBE PC) for leading the submissions in a complex 6 appellant appeal against conviction involving silks and concerning the principle of joint enterprise, and by the current Vice President (Lord Justice Holroyde, PC) for 'presenting the applicant's case with considerable skill' in an important appeal against conviction. He was complimented by Lord Justice Haddon-Cave for his 'able' submissions opposing an application to lift reporting restrictions, in a complex and high-profile case; and was praised by another former Lord Chief Justice (Lord Burnett of Maldon, PC) for his succinct and powerful submissions in a successful appeal against a wasted costs order made against a solicitor. Tom is considered a rising star.

Expertise

Crime

Tom has been instructed in a wide range of criminal cases as leading and junior counsel, including: fraud and money laundering; serious financial crimes and insider trading; complex drugs conspiracies; homicides – including corporate manslaughter (on which Tom has lectured); organised crime and international firearms trafficking; modern slavery; terrorism; and serious sexual offences. Tom has a particular expertise in cases of fraud (including missing trader intra community frauds, cyber-frauds, long-firm and diversion frauds). Tom's previous fraud cases involved: a £100 million alcohol diversion and excise fraud; attacks on the Carbon Credit registries of the United Nations, the Federal Republic of Germany and the Kingdom of Spain; and a control word sharing fraud worth over £50 million on Virgin Media using offshore proxy servers. Tom also accepts instructions in civil frauds.

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Tom provided pre-appeal pro bono advice to 16 of the sub-postmaster and mistresses whose convictions were subsequently overturned owing to the Post Office Horizon scandal.

Tom is a former Treasury Counsel monitree. The origins of Treasury Counsel are steeped in history. As long ago as 1834, there was a plan to appoint full-time public prosecutors at the Central Criminal Court (the Old Bailey) although it was not until 1879 that two counsel had been appointed to prosecute full-time for the Crown. In 1888, the then Attorney General recommended to the Departmental Committee on the legal business of Government that the number of Treasury Counsel be increased. Today, there are usually sixteen Treasury Counsel based at the Central Criminal Court, divided into two groups of eight Senior and eight Junior Treasury Counsel. During Tom's two-year tenure as a monitree, he prosecuted homicides at the Old Bailey and frequently acted for Her Majesty's Attorney General and Solicitor General in sentence cases referred to the Court of Appeal (Criminal Division) for being unduly lenient.

Tom is a Level 4 prosecutor. He is security cleared by the government, and as such is able to accept instructions in cases involving offences affecting national security or the disclosure of material affecting national security. Tom has also been instructed by the CPS to provide pre-charge advice and authorise charges in respect of some of the most serious cases dealt with by the Public Protection Unit. Tom has also been instructed by the CPS Appeals Unit to review 'cold cases' or where there has been an application for permission to appeal many years 'out of time'.

Tom has experience of advising in respect of, and conducting private prosecutions.

Regulatory

In the last 20 years, regulation of the private sector has grown exponentially. Cases involving alleged breaches of regulatory codes or professional discipline demand the best advocates because the stakes are so high. Tom's experience of prosecuting and defending in some of the most complex and grave criminal cases, has endowed him with the essential skills which clients demand in cases involving regulatory breaches, professional discipline or quasi-crime: premier advocacy; tactical awareness; forensic interrogation of telecommunications, banking, or accounting material; and extensive knowledge of court rules and procedure. He offers the complete package to clients in cases concerning the following matters:

- Prosecutions brought by BEIS, Trading Standards, DWP, SFO, HSE, FCA etc;
- Breaches of Regulatory Codes (Trading Standards, Food Standards, Trademarks, Health and Safety, Noise Abatement);
- Director Disqualification;
- Professional Discipline (Police, Medical professions, Pharmaceutical, Accountancy, etc);
- First Tier Tax Tribunals;
- Data Protection Digital Security;
- Sports law (Tribunals);
- Money Laundering/ Bribery Regulations;
- Motoring law (unfair disqualifications; technical defences to road traffic offences);
- Costs appeals; and
- Inquests.

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Investigatory Powers Tribunal

Tom has particular expertise in proceedings before the Investigatory Powers Tribunal. The IPT is a unique Tribunal which has exclusive jurisdiction to hear certain complaints against the Security Services, the National Crime Agency, Her Majesty's Revenue and Customs, and police forces in respect of covert surveillance, telephone interception, and device interference.

He is currently instructed by one of the lead complainants in the conjoined 'EncroChat' case in which complaint is made about the warrants obtained by the National Crime Agency to source communications data intercepted by the French Gendarmerie.

Tom has also been involved in IPT complaints concerning: the obtaining of a search warrant with the alleged ulterior motive of taking the opportunity to place a covert listening device (a probe) in a home, without informing the Court granting the warrant of the ulterior motive; and directed and intrusive surveillance allegedly conducted without appropriate authorisations.

Criminal Fraud & Proceeds of Crime

Confiscation, Asset Recovery, and Account/Cash Forfeiture

25% of Tom's practice is taken up with confiscation matters. He advises on potential challenges to restraint orders and confiscation orders, and regularly appears in the Court of Appeal concerning such matters. Tom has been at the forefront of challenges to the draconian POCA confiscation regime. Long before the Supreme Court decided in the landmark authority of *R v Waya [2013] 1 AC 294* that the mortgage advance in a case of mortgage fraud, could not be considered a part of the defendant's benefit from his criminal conduct, Tom argued the exact same point in an application to the Court of Appeal, in *R v Ziarat Mahmood [2013] EWCA Crim 1291*. Initially, the Court of Appeal refused leave to appeal but later granted leave (after *R v Waya* reached the Supreme Court) and accepted that Tom's argument was right all along. That decision resulted in the defendant being repaid £50,000 by the confiscation authorities. Tom was also involved in the trial which later resulted in the landmark confiscation authority of *R (Respondent) v Fields and others [2014] UKSC 36* in which the Supreme Court settled the issue over apportionment and enforcement of confiscation orders in multi handed conspiracies. Tom was also involved in a post *R v Guraj [2016] UKSC 65* appeal – in *Guraj*, the Supreme Court gave guidance on how to deal with a failure by the Crown Court to make a confiscation order within the 2 years' 'permitted period'.

The provisions of the Serious Crime Act 2015 (SCA) which came into force in June 2015, made certain amendments to the rights of third parties to confiscation proceedings, and to the Court's obligations to such parties. The amended section 10A(2), Proceeds of Crime Act 2002 (POCA), now provides for individuals who claim to have a third party interest in the assets of respondents to confiscation applications, to make representations at the hearing and to be represented by counsel. Prior to this change in the law, third parties had no right to be heard in confiscation hearings and could only assert their interest in property owned by a respondent, at the enforcement stage – although, in *R v Hilton (Respondent) (Northern Ireland) [2020] UKSC 29* the Supreme Court preserved the right of interested third parties to assert their interest at the enforcement stage, if not considered at the time of the making of a confiscation order. SCA 2015 also created a right of appeal to the Court of Appeal (Criminal Division) by third parties, in the event of the Court refusing or failing to permit a third party to make representations to the Court concerning his interests (see section 31(5)(b), POCA 2002).

Tom regularly accepts instructions from clients with third party interests.

Tom has extensive experience in the field of cash forfeiture, account freezing and forfeiture orders and unexplained wealth orders. A couple of Tom's recent cases include:

- *X v The Commissioners of police of the Metropolis (2021)* – Tom led the defence team in the then biggest account forfeiture

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order application in English legal history. The team successfully negotiated the return of over €3 million to the client. See <https://www.independent.co.uk/business/companies-agree-to-forfeit-ps29m-allegedly-linked-to-money-laundering-b1943632.html>

- *Bapinder Sandhu v The Chief Constable of West Midlands Police [2019] EWHC 3316 (Admin).*

Tom has lectured widely on asset recovery and corporate compliance responsibilities in respect of money laundering:

- Money Laundering, Bribery & Asset Recovery seminar (New Delhi, India);
- GCS 9th Annual AML convention [Compliance & Financial Crime Conference/ Proceeds of Crime Legislation in the UK] (Grand Cayman, Cayman Islands).

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