



# Andrew Johnson

2008

"He demonstrates great commitment to, and knowledge of, the areas of law he specialises in. This, combined with his ability to persuade others to accept his point of view and his exceptional organisation skills, makes him a reputable and sought-after advocate"

- Instructing Solicitor

## Overview

Andrew specialises in consumer law, intellectual property and fraud work, in addition to his general criminal practice. He acts for both defendants and prosecuting authorities, the latter of which include local authorities and private prosecutors, as well as the Crown Prosecution Service, on whose Advocates' Panel he has been appointed at Grade 3. He also sits as a Deputy District Judge (Magistrates' Courts).

## Consumer Law and Intellectual Property

A significant proportion of Andrew's practice involves acting for regulators in a broad range of consumer law cases, including rogue trading, counterfeit goods infringement and product safety cases. He is often instructed prior to the commencement of proceedings to provide advice on the scope of investigations, and thereafter prosecutes cases from first hearing through to trial and confiscation proceedings.

In the recent past, Andrew has successfully prosecuted a defendant involved in manufacturing, distributing and trading in counterfeit DVDs and CDs, arising out of a four-year investigation; a defendant engaged in the sale of counterfeit motor vehicle parts over a similar period of time; a trader who charged consumers purchasing Energy Performance Certificates unlawful cancellation and late payment fees; and a rogue letting agent who fraudulently obtained and retained deposits for rental properties that he either had no authority to market, or which had already been let to other tenants.

Andrew is frequently instructed to act for the Federation Against Copyright Theft in prosecutions of individuals accused of committing offences contrary to the Copyright, Designs and Patents Act 1988, and acts for Sky in bringing civil claims before the Intellectual Property Enterprise Court.

Andrew also acts for defendants, and secured a suspended sentence for a defendant who admitted trading

in counterfeit Sennheiser headphones through Amazon's online marketplace, and the acquittal of a company charged with selling counterfeit BaByliss products.

He has lectured at the annual Chartered Trading Standards Institute Conference, written articles for the quarterly Trading Standards Review, and co-presented a series of seminars across the country about the impact of the Regulation of Investigation of Powers Act on investigations into the underage sale of tobacco, funded by the Department of Health. He provides bespoke training sessions for regulators.

He was ranked as 'Up and Coming' in consumer law by Chambers and Partners 2017, which called him 'a skilled criminal lawyer who has cultivated a consumer law practice and now advises and acts for both defendants and prosecuting regulators'.

## General Crime

Andrew's general criminal defence practice has included obtaining acquittals for a client in an eight-handed case accused of aiding and abetting misconduct in a public office; a young lady charged with inciting a child to engage in sexual activity, a private hire driver accused of sexually assaulting a passenger; and, as led junior, a solicitor accused of conspiring to defraud mortgage companies.

His prosecution practice has included securing convictions for wounding with intent, robbery and the importation of Class A drugs. He is currently instructed as disclosure counsel in a series of cases prosecuted by the Specialist Fraud Division. He has particular expertise in prosecuting cases with a technological element, and is adept at presenting to juries cases largely dependent on cell-site evidence.

## Confiscation and Cash Forfeiture

Andrew's confiscation experience includes both prosecuting and defending in contested hearings, acting for defendants in enforcement proceedings, and representing both prosecuting authorities and defendants in applications to vary existing orders. He also acts for both applicants and respondents in cash forfeiture hearing, including on one notable occasion succeeding in securing the return of £30,000 wrapped in chocolate bar wrappers and attempted to be carried in the hold of an aircraft, both at first instance before magistrates and then again on appeal by the applicant to the Crown Court.

## Notable Cases

### Consumer Law

**R v. TD:** The Crown Court at Croydon (February 2017)

Prosecuted a letting agent who, through two companies, fraudulently obtained and retained holding deposits for properties which he had no authority to market, or which had already been let to other tenants. The defendant pleaded guilty five days into a six week trial. He was sentenced to nineteen months' imprisonment and disqualified from acting as a company director for five years.

**R v. CW:** The Crown Court at St Albans (February 2017)

Prosecuted, leading Carolina Bracken, an individual who had run three businesses involved in the supply of Energy Performance Certificates to consumers, which operated what the judge called a 'complex, dynamic and deliberately misleading system...for the cancellation of contracts', which left many customers who did

not proceed with orders owing fees of nearly £450 within fifteen days. The defendant pleaded guilty after his trial had commenced to three offences of engaging in unfair commercial practices. He was sentenced to nine months' imprisonment, suspended for two years, and disqualified from being a company director for ten years.

**R v. JR, CS, ES and PS:** The Crown Court at Wood Green (June 2016)

Prosecuting four individuals involved in the laundering of money obtained by rogue traders from a retired university professor. One defendant pleaded guilty and two others were convicted after trial. The most culpable defendant was sentenced to four years' imprisonment.

**R v. AT:** The Crown Court at St Albans (May 2016)

Provided pre-charge advice, and acted for a trading standards department in relation to the prosecution of a trader in counterfeit goods at a market over a period of nearly four years; the investigation involved the seizure of over 25,000 DVDs and CDs, with loss to the industry from the overall trading estimated to exceed £2million. The defendant pleaded guilty to fraudulent trading shortly before trial and was sentenced to thirty months' imprisonment. After a contested hearing, the court made a confiscation order in the sum of £60,000, based on the prosecution's contention that the defendant had hidden assets available to him.

**R v. PW:** The Crown Court at St Albans (October 2015)

Advised extensively pre-charge, and subsequently prosecuted a dealer in counterfeit alloy wheels, who pleaded guilty to ten offences related to the fraudulent sale of counterfeit goods. The court found that the two businesses operated by the defendant involved a turnover from counterfeit goods of not less than £510,000 from which the defendant made a profit of at least £255,000. He was sentenced to three years' imprisonment and disqualified from being a company director for ten years.

**R v. AD:** The Crown Court at Harrow (February 2015)

Instructed to represent a director of a company charged with trading in counterfeit Sennheiser headphones, with the trading said to have exceeded £180,000. The defendant pleaded guilty and the court was persuaded to impose a suspended sentence of imprisonment.

**R v. JJH:** The Crown Court at Inner London (October 2014)

Instructed to represent a defendant accused alongside her partner of fraudulent trading in respect of counterfeit DVDs. The defendant received a suspended sentence of imprisonment.

**R v. MS and MP:** The Crown Court at St Albans (January 2014)

Instructed following the seizure of a large quantity of counterfeit clothing and jewellery, together with illicit tobacco, seized from two locations. Advising the prosecuting authority as to the scope of the investigation and on charges, and subsequently prosecuted the case from first hearing through to a confiscation hearing.

**R v. MB and MB:** The Crown Court at Luton (January 2013)

Prosecuted two defendants for offences related to gross over-charging for incompetently conducted roofing work. One defendant was convicted of fraud and another of an offence under the Consumer Protection from Unfair Trading Regulations.

## **General Crime and Fraud**

**R v. JK:** The Crown Court at St Albans (June-July 2013 and January 2014)

Represented as led junior a former solicitor charged with conspiring to defraud mortgage companies by

diverting mortgage advances to overseas companies. On a retrial, the court upheld a submission of no case to answer and directed the defendant's acquittal. The principal co-defendant was sentenced, following a reference by the Attorney-General, to six years and three months' imprisonment.

**R v. CM:** The Crown Court at Woolwich (January 2013)

Represented a local authority employee charged with aiding and abetting misconduct in a public office. The Crown were persuaded at the outset of the trial to offer no evidence against his client.

**R v. DB:** The Crown Court at Wood Green (July 2012)

Represented a young lady charged with inciting a child to engage in sexual activity; the unchallenged evidence called by the Crown was that the defendant had, whilst pretending to be male, sent a series of indecent text and e-mail messages to a younger girl over the course of more than a year. The defendant was acquitted.

**R v. EX:** The Crown Court at Inner London (March 2012)

Prosecuted a man charged with robbery, which took place in the complainant's home, and causing grievous bodily harm with intent. The defendant was convicted and sentenced to twelve years' imprisonment.

**R v. WB:** The Crown Court at Isleworth (February 2011)

Prosecuted a woman in her sixties accused of importing cocaine from Kenya into London Heathrow. The defendant was convicted and sentenced to twelve years' imprisonment.

**R v. AA:** The Crown Court at Reading (March 2010)

Represented one of five members of a family charged with seriously assaulting two elderly relatives. After twelve days of prosecution evidence, the case was stayed as an abuse of process.

**R v. DA:** The Crown Court at Southwark (November 2009)

Represented as led junior one of a number of defendants charged with conspiracy to rob, arising out of a series of raids on jewellery stores across London. The representation order was extended to two counsel in order to allow full consideration to be given to cell-site evidence relied on by the Crown and served very close to the trial. After extensive negotiations, the defendant pleaded guilty on a limited basis to conspiracy to steal and received a suspended sentence of imprisonment.

## **Confiscation and Cash Forfeiture**

**R v. CB:** The Crown Court at Wood Green (October 2016)

Acted for a prosecuting authority, obtaining an order under section 22 of the Proceeds of Crime Act to increase the amount available to satisfy a confiscation order on the basis of the defendant having further assets from which he could satisfy the order.

**R v. JS:** The Crown Court at Peterborough (February 2014)

Advising a prosecuting authority in confiscation enforcement proceedings, involving issues as to the jurisdiction to vary an order under section 23 of the Proceeds of Crime Act following an unsuccessful application by the defendant to the County Court to compel the sale of his sole asset.

**R v. RP:** Weston-Super-Mare Magistrates' Court and the Crown Court at Maidstone (September 2013 to April 2014)

Instructed in confiscation enforcement proceedings to represent the defendant, who had been made subject of a confiscation order in respect of his supposed beneficial interest in a property transferred to his ex-wife by the County Court in ancillary relief proceedings. An application for a variation of the order to remove the property from the scope of the order was eventually conceded by the Crown and as a result the defendant avoided being ordered to serve the default term of imprisonment.

**R v. KA:** The Crown Court at Wood Green (March 2014)

Having secured the conviction of the defendant for multiple offences of trade mark infringement and perverting the course of justice, represented the prosecution at a contested confiscation hearing. The court accepted the prosecution's contention that the defendant had hidden assets in excess of £100,000.

**R v. MO:** Solihull Magistrates' Court and the Crown Court at Birmingham (March and September 2013)

Represented the respondent to an application made by the UK Border Agency for the forfeiture of cash seized at Birmingham International Airport. In excess of £30,000 was found wrapped in chocolate bar wrappers, with a suitcase destined to be loaded on a flight to Turkey. Both the magistrates' court at first instance, and the Crown Court on the applicant Border Agency's appeal, accepted the respondent's case that there was an legitimate, innocent explanation for the carriage of the cash in this manner and ordered that it be returned to him. The Crown Court ordered the Border Agency to pay the costs of the proceedings before it.

## Appellate

**R v. MO:** Court of Appeal (Criminal Division) [2017] EWCA Crim 4

Acted for an applicant for leave to appeal who pleaded guilty to an immigration offence, prior to the decision of the House of Lords in *Asfaw* which had the effect of expanding the scope of the defence available to refugees. The Court of Appeal accepted that the applicant's conviction would likely have been found unsafe if leave to appeal had been granted, but refused to grant an extension of time in which to seek leave on the basis that the applicant could not demonstrate that his conviction remaining caused him any substantial injustice. The refusal of an extension of time has been the subject of academic criticism.

**R v. TM:** Court of Appeal (Criminal Division) [2010] EWCA Crim 3016

Represented the appellant in the first appeal against a post-acquittal restraining order, before a court presided over by the then Lord Chief Justice, Lord Judge. The restraining order was quashed as a result of the failure of the Recorder to explain the factual basis for imposing it.

## Education/Professional

### Qualifications

- MA (Cantab) – Law Tripos, First Class – Downing College, Cambridge
- Bar Vocational Course – Very Competent – College of Law

### Appointments

- Deputy District Judge (Magistrates' Courts) – 2017

## **Publications**

- 'Investigating Crime Online', Trading Standards Review, April 2017 (forthcoming)
- 'Bespoke Goods - Cancellation Exception', Trading Standards Review, February 2016 (with Carolina Bracken)
- 'Conspiring to Re-Define Conspiracy to Defraud', The Lawyer, November 2014 (with Patrick Harrington QC and Benjamin Douglas-Jones)
- 'Conspiring to Define Conspiracy to Defraud', The Lawyer, June 2014, (with Benjamin Douglas-Jones)
- 'Human Rights in Africa', Criminal Bar Quarterly, June 2009 (with Amanda Pinto QC)

## **Scholarships and Prizes**

### **Lincoln's Inn**

- Eastman Scholarship
- Lord Denning Scholarship
- Hardwick Entrance Scholarship

### **Downing College, Cambridge**

- Senior Harris Scholarship