



## Carolina Bracken

Barrister

Call: 2012

Email: [clerks@5pb.co.uk](mailto:clerks@5pb.co.uk)

Carolina specialises in fraud, consumer law, and professional disciplinary proceedings.

“She is extremely knowledgeable without an ounce of arrogance. Very grounded and a pleasure to work with”

### Specialist areas

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Crime

Fraud, Business and Financial Crime

Consumer Law

Professional Regulation

VAT number: 189 3054 80

Bar council number: 59676

She acts for both the prosecution and defence, and is instructed for her proficiency throughout trial and at the confiscation stage.

### Confiscation

Carolina is regularly instructed in high-value and complex confiscation proceedings that would ordinarily be beyond counsel of her call. Current instructions include acting for the defendant in contested proceedings in which the alleged benefit is £60 million, and which involves allegations of tainted gifts and hidden assets. She has recently secured an agreed order for a mortgage fixer (with

a nominal £1 available amount) in the largest mortgage fraud ever prosecuted in England and Wales.

Carolina has conspicuous expertise in representing interested parties under the new section 10A of the Proceeds of Crime Act. She is often instructed by third parties on a direct access basis. She deploys her knowledge of property law in order to protect her clients' assets from confiscation. Through experience, she has learnt how the involvement of a third party can also assist the defendant in reducing the assets available for confiscation. In addition to confiscation, Carolina frequently acts in and advises on cash seizure/forfeiture, enforcement, and restraint

## Consumer

Carolina is repeatedly instructed by several trading standards departments in relation to a wide range of consumer cases. She is usually instructed prior to charge, and is sought after for her ability to act from that early stage, throughout the trial, and in proceedings under the Proceeds of Crime Act, from cash forfeiture and restraint to confiscation.

In addition, Carolina frequently acts for FACT, the UK's leading intellectual property protection organisation, prosecuting individuals for offences contrary to the Copyright, Designs and Patents Act 1988.

During her secondment as Senior Prosecutor at the Brent and Harrow Trading Standards Service, she was involved in the Service's civil forfeiture caseload, and provided advice in relation to the Enterprise Act 2002.

Current instructions include a multi-handed trade mark and money laundering case involving £10,000s worth of counterfeit goods, and prosecuting a travel agency that fraudulently failed to book flights and hotels for consumers

## Regulatory

Carolina prosecutes on behalf of Local Authorities in a variety of criminal cases, including Town and Country Planning Act offences, environmental offences, and health and safety prosecutions. She also acts for the police in applications, including for Football Banning Orders, Sexual Risk Orders, and Domestic Violence Protection Orders.

## Professional Discipline

Carolina frequently represents professionals before their disciplinary tribunal, specialising in medical/care professionals. Often, she represents the professional both at the disciplinary stage and in linked criminal proceedings. She has appeared before the GPhC, NMC, GDC, and HCPC, and has also represented police

officers. Recent cases include: a conditions of practice order (to continue drug testing) for a paramedic who accepted stealing codeine from his ambulance to fuel his addiction; a finding of no misconduct in respect of a nurse in charge of a patient who died whilst unsupervised; and representing a police officer charged with perverting the course of justice (the prosecution offered no evidence on the day of trial).

## Inquests

In connection with her professional discipline practice, Carolina appears on behalf of Interested Parties at Inquests, usually in the context of healthcare failures.

## Direct Access

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Carolina is a registered direct access practitioner and welcomes instructions from members of the public.

She has considerable experience of representing professionals facing prosecution for fare evasion, and frequently persuades prosecuting authorities to discontinue proceedings through written representations, without the need for a court hearing.

## Notable cases

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### Fraud

#### R v A (Southwark Crown Court)

Led in substantial MSB fraud, representing the second defendant. Following successful application to exclude evidence, the prosecution offered no evidence.

#### R v I (Manchester Crown Court)

Led in money laundering and tax fraud, in which the offences had been committed over more than a decade. Mitigation involved the preparation of a detailed note, based on complex accountancy evidence, as to the total value of money laundered.

#### R v P (Swindon Crown Court)

Represented a defendant who accepted forging documents to secure employment and work as a pharmacist, when he had failed his qualifying exams. Received a suspended sentence, despite unfavourable case law.

### R v N (Isleworth Crown Court)

Successful application to dismiss in case involving the fraudulent sale of jewels. The defendant was linked to the location of sale by DNA and fingerprint evidence.

### R v M (Maidstone Crown Court)

Represented mother from point of charge, who accepted defrauding her employer of c.£200,000 over prolonged period. The prosecution agreed to reduce total value of the fraud, in accordance with Carolina's detailed schedules (that also formed the basis of benefit at the confiscation stage). The judge accepted Carolina's submissions in respect of *Petherick*, and imposed a sentence significantly below that suggested by the guidelines.

## Confiscation

### R v S & Others (Newport Crown Court)

Secured agreed confiscation order with £1.2m benefit and defendant's available amount only £865 cash seized on arrest, where Crown had sought benefit of £4m and finding of hidden assets. Defendant was joint head of OCG in largest ever heroin seizure in Wales (c.40kg).

### R v M & Others (Mold Crown Court)

Represented mortgage fixer in largest mortgage fraud ever prosecuted in England and Wales. Secured agreed confiscation order at quarter of benefit alleged by prosecution, and with nominal £1 available amount.

### R v M & Others (Blackfriars Crown Court)

Represented defendant in confiscation, arising from conviction for involvement in large-scale mobile phone fraud. Alleged benefit included overseas transfers from US and Afghani bank accounts, and alleged assets included significant property held overseas. Secured an agreed order in terms proposed.

### R v C (Mold Crown Court)

Carolina represented the wife of the defendant, who had been convicted of mortgage fraud. The wife was made a party, under section 10A POCA, to confiscation proceedings in which the prosecution identified in excess of £300,000 benefit from general criminal conduct. Following written and oral submissions on *Waya*, the court found nil benefit, and acknowledged the wife's interest in the relevant property.

### R v S (Swansea Crown Court)

Led by Ben Douglas-Jones. Secured a confiscation order limited to particular criminal conduct and a six-figure benefit figure in respect of the leader of an Organised Crime Group where the focus of the investigation had been on a multi-million pound mobile phone insurance fraud. The case received national media coverage: <http://www.bbc.co.uk/news/uk-wales-south-west-wales-34615963>.

## Consumer

### HTS v Whatcott (St Albans Crown Court)

Led by Andrew Johnson. Prosecuted a trader who ran three businesses purporting to sell EPC certificates as part of a “complex, dynamic, and deliberately misleading system...for the cancellation of contracts” (as described by the trial judge). The defendant pleaded guilty on day 5 of the trial, after several consumer witnesses had been called.

### LBH v AA & HZ (Harrow Crown Court)

Prosecuted directors of travel agency that carried out a large-scale consumer fraud/aggressive commercial practice, taking payment for hotels/flights that were never booked. Carolina advised on the investigation pre-charge, drafted the informations, and represented the prosecution throughout court proceedings.

### LBH v G & G (Harrow Crown Court)

Prosecuted a family responsible for significant online sales of counterfeit goods, and money laundering. The defendants entered guilty pleas, and an agreed confiscation order was made at the time of sentencing.

### CCC v T (Cambridge Crown Court)

Prosecuted a trader for fraud and consumer offences committed against, *inter alia*, an elderly couple. Adaptations were made to facilitate the defendant’s physical disabilities and low IQ. Following conviction, the defendant received a custodial sentence.

## Professional Discipline

### HCPC v J

Represented a paramedic who admitted misconduct, having stolen codeine from his ambulance whilst at work to sustain his addiction. Impairment was found on public interest grounds only, and he was directed to comply with conditions to continue drug testing.

### NMC v I

Represented a nurse who faced multiple allegations that she had not escalated the deterioration in a patient's condition, where the patient died whilst under her care. All contested allegations were dismissed, and there was finding of no misconduct.

#### HCPC v K

Represented a social worker alleged to have kept inaccurate and false records, including allegations that she deliberately misrepresented that visits had taken place when they had not. The foster carer of one child involved gave evidence via telephone that several recorded visits had not taken place. All allegations were dismissed, and there was a finding of no misconduct.

#### NMC v B

Represented the manager of nursing home, accused of managerial and personal failings, where a patient had died. All contested allegations were dismissed, and there was a finding of no misconduct.

#### NHS England v A Pharmacy

Instructed to advise a pharmacist in relation to a potential judicial review of NHS England's delayed decision-making, which would have frustrated her client's change of ownership application. The case was settled ultimately without the need for a court hearing following representations drafted by Carolina.

## General Crime

#### R v O (Wood Green Crown Court)

Led by silk in cut-throat cocaine possession with intent trial. Prosecution ultimately offered no evidence against O following PII hearing.

#### R v R (Oxford Crown Court)

Represented defendant who acted as the link between Albanian cocaine importers and the UK OCG. The defendant's early guilty plea following advice resulted in favourable sentence.

#### R v W (Canterbury Crown Court)

Secured acquittal in trial for assault by penetration, in which the complainant's DNA was found under the defendant's fingernail.

#### R v E (St Albans Crown Court)

Secured acquittal on retrial for burglary, in which the defendant had 30 years of previous convictions for burglary.

#### **R v S (St Albans Crown Court)**

Defendant pleaded guilty, and was sentenced to 100 hours unpaid work as part of a community order, having been prosecuted for conspiracy to rob. This was a 'honey trap' case, where the complainant was beaten with a dog chain.

#### **R v W (Chelmsford Crown Court)**

Represented police officer charged with perverting the course of justice. The defendant had made significant admissions to senior officers. Following strategic disclosure, the prosecution offered no evidence the first day of trial.

#### **R v M (Reading Crown Court)**

Secured suspended sentence for care worker prosecuted for neglect. The sentencing judge watched lengthy CCTV showing the defendant's mistreatment of the elderly patient.

#### **TfL v S (Lavender Hill Magistrates' Court)**

DPP intervened in private prosecution following representations that the prosecution was not in the public interest.

## **Education/Professional**

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### **Qualifications**

- LLB (Hons), First Class (LSE)
- BPTC, Outstanding (City Law School)

### **Professional Memberships**

- Young Fraud Lawyers Association
- The Female Fraud Forum
- Association of Regulatory and Disciplinary Lawyers

### **Scholarships and Prizes**

- Barstow Scholarship (4th in order of merit, City Law School)
- Inner Temple Prize for BPTC
- Inner Temple Major Scholarship

- Inner Temple Duke of Edinburgh Entrance Award
- Sweet & Maxwell Prize, Best Performance in Part II (3rd year LSE exams)

## Publications and seminars

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### Publications

- "Digital Age: A review of age restriction challenges to digital purchasing", TS Review. With Ben Douglas-Jones
- "Bespoke Goods", TS Review. With Andrew Johnson
- "Toughening the Confiscation Regime", TS Today. With Dominic Lewis: <http://portfolio.cpl.co.uk/TS-Today/201512/legal/>
- Contributing Author to the 2013 edition of "Consumer and Trading Standards: Law and Practice"

### Seminars

- "Criminal Prosecutions and Disciplinary Proceedings: Cross-admissibility and tactics", London Criminal Courts Solicitors' Association. With Miles Bennett
- "Proceeds of Crime: Third Party Time", West London Law Society. With Ben Douglas-Jones
- "Proceeds of Crime: Serious Crime Act 2015 Update", London Trading Standards Authorities. With Dominic Lewis
- "Doorstep Crime: A Practical Approach", London Trading Standards Doorstep Crime Group
- "Prosecuting by Numbers", CTSI Conference 2017. With Andrew Johnson
- "Trading Standards Prosecutions in a New Era of Criminal Litigation", CTSI Conference 2016. With Andrew Johnson
- "Powers of Entry Code of Practice 2015", CTSI Conference 2015. With Andrew Johnson