



# James Marsland

2008

“James is exceptional at pin-pointing the key issues and identifying strategy....His advocacy is second to none”

- Instructing Solicitor

## Overview

James' busy practice includes prosecuting and defending in serious criminal cases, appearing in the criminal courts at all levels. Years of advocacy experience make James extremely effective when appearing before professional regulators. A Masters in Public Law means that James is often a natural choice for Local Councils or public bodies. James also accepts instructions on a Direct Access basis.

James is a Pupil Supervisor, responsible for training of trainee barristers.

## Prosecution

James is appointed to the Crown Prosecution Service Advocate Panel at Grade 3 and is also appointed to the Specialist Fraud Panel at Grade 3. He has prosecuted serious and multi-handed cases involving conspiracies, fraud, violence and drugs. In the last year James has been instructed to prosecute on behalf of the CPS, NHS Protect, HRMC, the Federation Against Copyright Theft and numerous Local Councils (see further below).

### Notable cases

R v Locke and King (2018)

Instructed as led junior to Stephen Hopper in one of the first 'Pension Liberation' frauds to be prosecuted in the UK. The fraud involved the Defendants setting up and administering a bogus Occupational Pension Scheme. Pension holders would be told that, if they transferred their pension, they would receive half of the value up front and the other half would be invested. Instead, the second half was kept by the Defendants. Pension companies made payments of almost £1m to the Defendants' bogus scheme. The trial lasted 8 weeks and convictions were secured against both Defendants. The case received national news coverage.

### R v Ali & Others (2017)

Instructed as junior alone in a conspiracy to steal mail from multiple residential blocks in West London and harvest the details to gain access to bank accounts and clone bank cards. Extensive mobile phone evidence was key to the case. Convictions were secured against all Defendants.

### R v Lateef (2017)

Instructed as junior alone in a benefit fraud involving the Defendant's use of 4 identities over the course of several years, including falsely claiming benefits resulting in payments totalling £237,000. The Defendant had invested in property in his alias names. The trial lasted 2 weeks. The Defendant was convicted on all counts.

### R v Hodge & Others (2016)

Instructed as led junior to Stephen Hopper in a fraud on the NHS. The trial lasted 7 weeks and convictions were secured on all counts. The fraud spanned many years, involving a senior renal technician abusing his position to defraud the NHS and fund property development with criminal associates. The case received national news coverage.

### R v Ponchaud & Others (2016)

Instructed as led junior to Ben Douglas-Jones in an international VAT acquisition fraud. The trial lasted 5 weeks and convictions were secured. The evidence was complex, concerning the use of multiple bank accounts and companies across several jurisdictions. James contribution to the case, including cross examination, was subsequently praised by the trial Judge.

## Defence

James is an experienced defence advocate and is regularly instructed in serious cases, particularly in relation to violence, drugs and fraud.

### Notable cases

#### R v Singh (2017 - 2018)

Mr Singh was charged with fraudulent evasion of duty in respect of shisha tobacco. The case was that had arranged the importation of undeclared shisha tobacco in a ship container, evading £291,467.55. Over the course of several months, James was able to negotiate a favourable basis of plea and subsequently persuade the Judge to impose a Suspended Sentence Order.

#### R v J (2016)

Mr J was accused of a serious sexual assault. It was alleged that he had tricked his way into the complainant's house and then sexually assaulted her, including attempted penetration, before being disturbed by her young son. The case involved cross examination of the child. Mr J was acquitted.

#### R v Beaumont (Court of Appeal) (2016)

Mr Beaumont was charged with attempted murder. He pleaded guilty to s.18 GBH. Mr Beaumont, a serving prisoner, had stabbed a fellow prisoner in the neck in a planned and orchestrated attack. He was sentenced to 10 years imprisonment. James successfully appealed the sentence and the appeal was subsequently the subject of academic comment.

## Professional Discipline

James is instructed to appear before numerous regulators, particularly defending before the HCPC and NMC. James is often chosen by solicitors for his client care, attention to detail and appreciation of the impact of prior disciplinary procedures by employers.

### Notable Cases

#### NMC v K (2017)

James represented a mental health nurse accused of dishonestly concealing the facts of previous dismissals in making subsequent job applications. The nurse all but admitted the facts. After a week's hearing, James was able to persuade the Panel that a short suspension was appropriate, rather than striking off.

#### NMC v O-K (2017)

James represented a mental health nurse accused of assaulting patients at different hospitals and related allegations of subsequent dishonesty. The hearing lasted 2 weeks. Despite mixed findings on the facts, the Panel found that Mr O-K had acted dishonestly and failed to use appropriate de-escalation techniques with patients. Notwithstanding the serious nature of the findings, James was able to persuade the Panel to suspend rather than strike off the nurse.

#### HCPC v A (2016)

James represented a Social Worker facing misconduct allegations spanning a 2 year period. After a 6 day hearing before the Health and Care Professions Council, the Social Worker was cleared of all the allegations she contested. Of those she admitted, James was able to persuade the Panel that the blame lay in large part with external factors and management failings. The Social Worker was found fit to practise without restriction and returned to work.

#### HCPC v P (2016)

James represented a Social Worker facing misconduct allegations concerning bullying of multiple colleagues and inappropriate sexual approaches to a service user. In a fully contested legal argument, James successfully argued that the bullying allegations should be dismissed at the outset of the hearing. After cross examination of the witnesses, James further successfully argued that the allegations involving the service user should be dismissed before even considering the defence case. The Social Worker was thus cleared of all allegations without the need to give evidence.

## Local Councils

James is regularly instructed by local councils in relation to a wide range of matters including benefit fraud, exercise of various enforcement powers and discharge of disclosure obligations in relation to serious criminal cases. James provides early and continuing advice and is always aware of the practical and costs considerations faced by Local Councils. James combines his extensive experience in the criminal courts with his Masters in Public Law, meaning he is often considered an ideal choice by Local Councils.

### Notable Cases

#### LBH v Dotcom Solicitors

James was instructed to respond to an appeal by a firm of solicitors against enforcement action relating to advertising. James was able to negotiate a settlement to the appeal, with the solicitors agreeing to significantly reduce their advertising.

#### LBH v Ackstine (2016)

James was instructed to prosecute a long standing breach of an Enforcement Notice in relation to extensive unauthorised building works. The evidence spanned 4 years and involved expert evidence as to planning policy and the involvement of a local pressure group. The case required two trials and was set against a background of legal challenges and judicial review. James secured a conviction and significant costs order.

## Direct Access instructions

James accepts instructions on a Direct Access basis to provide both advice and subsequent representation at Court, thus avoiding the costs of instructing a solicitor. Advice can be provided prior to the bringing of proceedings, criminal or regulatory, in relation to, for example, fare evasion or matters referred to a professional regulator. In relation to driving offences, James is often specifically requested by solicitors' firms to appear at Court on behalf of their clients, but can also be instructed in such cases on a Direct Access basis.

## Education/Professional

LLB University of Manchester

LLM University College London

Young Fraud Lawyers Association Association of Regulatory and Disciplinary Lawyers

## Languages

Italian