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## Mark Cotter KC

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### Practice Overview

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Mark specialises in general and financial crime. He defends and prosecutes at the highest level, with a particular emphasis on homicide, sexual allegations and white collar fraud. He undertakes a very significant amount of private work, where reputational issues are at stake, and has, for many years, been ranked in Chambers and Partners as a leader in the field of crime at the London Bar. Mark is also ranked in the Legal 500 as a leading individual in the field of crime at the London Bar.

Mark is a modern K.C. who is sought after for his trial expertise and advisory work. He is known for his work ethic, case theory and a relentless attention to detail. He is jury friendly and adept with the latest technology, an increasingly important factor in modern trials. This skill set has been instrumental in Mark's success in his chosen areas of work. Apart from dealing with the most serious of cases, Mark also acts in cases where significant reputational issues are at stake. In this regard he has extensive experience of successfully advising and representing high net worth individuals who have come into contact with the criminal justice system. This includes medics, lawyers, accountants, company directors, professional sportspeople and those working in the arts. Further details in relation to specific areas of Mark's practice are set out below.

In the field of homicide Mark has experience of defending and prosecuting in cases involving joint enterprise and young or otherwise vulnerable defendants (including those suffering with significant mental health issues). Mark recently secured the only acquittal across the board in a multi-handed knife murder where Mark's client was only 14 years of age. Immediately afterwards, he successfully prosecuted a multi-handed knife murder, securing across the board convictions, and then went straight into defending the lead defendant in another multi-handed knife murder where a 'cut throat' defence was being run. Mark's client (the lead defendant) was acquitted of both murder and manslaughter. This back to back sequence demonstrates Mark's exceptional ability to successfully bring his skills to bear for both the defence and the prosecution in cases of homicide.

In the field of sexual offending Mark has unparalleled experience, having been dealing with the most serious and/or reputationally difficult cases for over twenty years. He was a defence specialist in this field long before Operation Yew Tree and so his expertise pre-dates the current trend towards increased levels of prosecution of sexual allegations. He understands the complexities and sensitivities in these cases. He has a detailed and extensive understanding of technical, computer and digital evidence and how it may be challenged. He has questioned countless child witnesses, in the most delicate of cases, and has vast experience as to the use of intermediaries. Additionally, prior to taking silk Mark was admitted to the London RASSO list at the highest grade and successfully prosecuted many of the most serious cases undertaken by the unit.

In the field of white collar fraud and business/corporate crime Mark has extensive experience of dealing with the most complex frauds, including those with an international element. He has dealt with trader frauds, mortgage frauds, carousel frauds, company frauds and those involving the most complex financial instruments and/or corrupt practices. He has recently advised a target in an ongoing SFO international corruption investigation and advised another individual with regard to a massive NCA investigation into international fraud allegations. Mark also provides specialist business crime advice and recently advised the CEO of a PLC in relation to the application of the insider dealing legislation in a highly novel and unusual factual scenario. He is experienced in dealing with



issues relating to money laundering, bribery and corruption. Additionally, for many years Mark has been sought after to deal with high value and complex confiscation proceedings, where his attention to detail is equally valuable. Examples of such cases can be seen under the Business Crime case section below. Additionally, prior to taking silk Mark was admitted to the SFO list at the highest grade.

Mark is regularly instructed to provide second opinions in relation to proposed appeals against conviction and sentence. He is also experienced in cases involving regulatory and disciplinary issues and has significant experience of acting and advising in cases of Judicial Review.

Mark accepts direct public access instructions in suitable cases. He is often instructed to advise on referrals to the Criminal Cases Review Commission (CCRC), or out of time appeals to the Court of Appeal (Criminal Division).



#### **Notable and Reported cases**

- Homicide

##### R v. P and Others (2022)

Instructed to defend in multi-handed gang related knife murder. Mark's client was acquitted of murder, manslaughter and three separate conspiracies to cause grievous bodily harm. The only offence of which Marks client was convicted was robbery for which Mark secured a youth rehabilitation order.

##### R v. Adeyanju and Others (2021)

Instructed to defend in multi-handed murder trial linked to a conspiracy to rob. Mark's client was a lead defendant and was acquitted of murder and convicted of the lesser offence of manslaughter.

##### R v. Jessop (2021)

Instructed to prosecute domestic murder in the context of coercive and controlling behaviour. The case involved substantial expert evidence dealing with insanity, diminished responsibility and loss of control. Mark secured a conviction and successfully resisted the follow-on appeal proceedings in relation to both conviction and sentence.

##### R v. J (2019)

Instructed to prosecute an evidentially challenging allegation of manslaughter. The deceased fell from the steep edge of his front garden and suffered fatal injuries. It was alleged that the fall was the result of an assault by the defendant, however, there were no witnesses. The case was based purely on circumstantial evidence, including forensics and, footprint evidence and pathology. Mark successfully resisted a dismissal application and went on to secure a conviction.

##### R v. O and others (2019)



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Instructed to defend the first defendant in a three handed knife murder. The deceased was tortured and killed having been released from prison. He had served 33 years of a life sentence for the murder of a child in the 1980's. Mark's client ran a cut throat defence, asserting that the second defendant was solely responsible for the killing. Mark's client was acquitted of murder and manslaughter following a six-week trial in Cardiff Crown Court before Lewis J. The second defendant was convicted of murder.

R v. M and another (2018)

Instructed to prosecute this two-handed knife murder. Mark secured the conviction of both defendants following a four-week trial in Newport Crown Court before Simler J.

R v. F and Others (2018)

Instructed to defend the second defendant (aged 14) in a three handed knife murder. Mark's client also faced an additional charge of attempted GBH. Mark's client was acquitted of all charges following a six week trial at the Old Bailey. Mark's client was the only defendant to be acquitted of all charges.

R v. B and others (2017)

Instructed as Queen's Counsel for the second defendant in a seven-handed conspiracy to murder case, due to be tried before Dove J, commencing 28th February 2017.

R v. D and others (2016)

Led junior for the defence in a five-handed conspiracy to murder tried over eight weeks before the Recorder of Manchester. Channel 4 are currently preparing a documentary in relation to the case.

R v. O'S (2015)

Led junior in the case of the "Stelfox House" double murder. An extremely rare category of case that involved a lone defendant being accused of double murder within the context of a single incident.

R v. S (2013)

Junior alone in a three handed murder. Mark had to return this case prior to trial, however, before returning it he drafted a written application to dismiss the murder charge against Smith and this argument was successfully advanced before the Recorder of Stafford by Queen's Counsel who replaced Mark. The KC in question confirmed that the application was allowed purely on the basis of Mark's written submission.

R v T and others (2011)

Leading Junior for the first defendant in a nationally reported, three-handed murder, where the body of the deceased was kept in a flat for a number of days before being disposed of via a wheelie bin.

- **Serious Sexual Offences**

R v. C (2023)

Currently instructed to advise on appeal sentence and conviction in relation to an ex-BBC journalist accused of sexual offences against children.



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R v. I (2023)

Instructed to defend in highly unusual sexual assault case where the defendant was accused of multiple assaults of a masseuse during massages. The defendant was unanimously acquitted following trial.

R v. F (2023)

Instructed to defend a student accused of sexually assaulting another student. The case was dropped pre-trial following focused disclosure requests.

R v. D (2022)

Instructed to defend a doctor who pleaded guilty to distribution of category A indecent images. Mark secured a suspended sentence, despite the guidelines indicating immediate custody. Mark has had similar successes in many other serious distribution and possession cases.

R v. Starr (2020)

Instructed to prosecute historic allegations of sexual offending within the context of a special educational needs school. The case presented numerous complications to the mental health and other vulnerabilities of the complainants. After a six-week trial the defendant was convicted.

R v. W and another (2019)

Instructed to represent high profile UK boy band member accused of rape following a show in the UK. The defendant was unanimously acquitted by the jury.

R v Franklin (2016)

Successfully prosecuted a historic allegation of sibling rape (brother on sister) where the victim's own family had turned against her

R v. G (2016)

Instructed in an 'out of time' application to the Court of Appeal in relation to a sentence of imprisonment for public protection imposed following convictions for child sex offences some years ago. Mark successfully submitted that the sentence was unlawful. In addition, once the CCA corrected the error, Mark succeeded in persuading the Court that an IPP was, in any event, wrong in principle. The sentence was quashed and replaced with a determinate sentence

R v. B (2016)

Privately instructed to defend a renowned 1960's film director accused of various indecent images offences. Mark eventually caused the Crown to drop the case following legal submissions and evidence gathering that demonstrated that the images in question could not be proved to be unlawful.

R v. B (2015)

Junior alone privately instructed to defend an eminent surgeon accused of sexual offences within the workplace. An acquittal was secured.



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R v. M (2014)

Junior alone privately instructed to defend in a sexual assault case where the complainant was only four years of age. Commended by the Resident Judge of Lewes Crown Court for conduct of the case.

R v. A and others (2013)

Junior alone for the first defendant in a seven defendant paedophile ring case heard in Middlesbrough. Mark's client pleaded guilty on a limited basis following protracted negotiations.

R v. B (2013)

Junior alone in defending one of the four Brighton and Hove Albion footballers accused of sexual assault. Mark represented the first defendant and co-defended with three Queen's Counsel. Mark was the only junior in the case and undertook all the central cross-examination of the Crown's witnesses which ultimately contributed to the across the board acquittals that followed a trial and re-trial.

R v. J (2013)

Junior alone in defending a high profile musical composer accused of rape. Mark was privately instructed in this case and secured a jury acquittal within six minutes of jury retirement.

R v. A (2013)

Junior alone in defending a leading transplant surgeon accused of sexual assault in a clinical setting. Mark's vigorous and detailed approach to disclosure in this case contributed to another swift jury acquittal.

- **Business Crime & Fraud**

R v. K (2018)

Instructed to advise pre-charge on SFO investigation into corrupt practices with regard to issuing work visas in Saudi Arabia.

R v. P (2018)

Instructed to advise as to interaction between insider dealing legislation and disclosure obligations within family proceedings.

R v. R (2018)

Instructed to represent the lead defendant in the "Drinsey Nook" modern slavery case. Mark was instructed specifically to deal with the complex high value POCA proceedings that followed on from a series of substantial trials.

R v. Fallon (2017)

Mark was instructed by the Specialist Fraud Division of the CPS to lead Stephen Hopper of 5 Paper Buildings in this multi-million pound trader fraud that was heard over ten weeks. The case involved a complex Ponzi scheme and substantial issues surrounding Forex trading on the spot markets. Convictions



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were secured.

R v. K and others (2017)

Mark led Eleanor Scott in this 10 week conspiracy to money launder, pervert the course of justice and false accounting case. Mark's client was acquitted on all counts. The investigation into the case by the Anti-Money Laundering Task Force had spanned more than five years and over 35,000 pages of material were relied upon by the Crown. The principal issues in the case involved allegations of computer manipulation and forgery. Mark's substantial experience of white collar fraud and the Money Laundering Regulations were brought to bear during this complex trial.

R v B. and others (2017)

At the time of taking silk Mark was instructed to defend (as a led junior) in this six month, multi-handed care home fraud

R v. V and another (2016)

Privately instructed by Kinsgley Napley to defend in a multi-million pound money laundering case involving international issues and significant expert evidence (ESDA and MLR's).

- **Asset Recovery & POCA**

R v. Nethercott (2023)

Instructed to defend an ex-finance director of the post office in relation to allegations of tax fraud over many years. The first trial collapsed after Mark launched a section 8 application for disclosure. The result was thousands of pages of additional relevant material being disclosed. At the follow-on trial Mark's client was unanimously acquitted.

R v. Moore and Others (2022)

Instructed to prosecute investment and mortgage fraud. The case was highly unusual as the defendants initially had all pleaded guilty but later had their convictions quashed by the court of appeal, who sent the case back to the Crown Court. Mark was then instructed to prosecute the trial that followed and secured across the board convictions.

R v. Patel (2022)

Instructed to defend a highly complex private prosecution for forgery and fraud. The company law aspects of the case were so involved that a specialist companies court judge was drafted in as the trial judge. Mark secured an advantageous plea deal following a heavily contested abuse of process argument which resulted in the trial judge referring the case to the DPP for consideration as to takeover. Mark has specialist expertise in relation to private prosecutions.

SFO v. K (2021)

Instructed to defend a suspect in the Amec Foster Wheeler bribery case. Mark was instructed to draft representations on charge. His client was a senior corporate manager and, ultimately, he was not charged following Mark's representations.



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R v. Gohil (2022)

Instructed to defend in the POCA proceedings following on from the Notorious Nigerian Delta State fraud. The case has visited the court of appeal on multiple occasions and is one of the longest running, highest value and most complex POCA enquiries ever investigated in the UK.

R v. P and others (2021)

Instructed to defend the lead defendant in high value and complex “old law” confiscation proceedings. The case involves complex issues relating to the interaction between third-party bankruptcy/insolvency proceedings and available amounts for the purpose of the Criminal Justice Act 1988.

R v. T and others. (2019)

Instructed to defend the lead defendant in high value confiscation proceedings flowing from allegations of land banking fraud and other associated complex frauds. The case raised issues relating to the inclusion of assets within POCA proceedings that are likely to be the subject of separate allegations flowing from an ongoing NCA investigation.

R v. M and another (2016)

Instructed by Bivonas Law to lead for the defence in a contested and very high value confiscation enquiry. Following a fully contested hearing the original benefit figure of over £4m was reduced to less than £0.5m. During a lengthy hearing technical and evidential arguments were advanced, covering topics such as corporate veil and registered tenancies.

- **Serious & Organised Crime**

R v. C and others (2015)

Junior alone for one of the lead defendants in a seven defendant money laundering conspiracy. Mark was one of only two counsel in the case who remained in court during an ex parte PII application which was made during the trial. Mark and one other (John Warrington – also counsel from 5 St Andrew’s Hill) made submissions to the judge. Following the hearing, Mark’s client and two others (including John Warrington’s client) had no evidence offered against them as a result of the Crown’s failure to obtain immunity.

R v. C and Others (2014)

Leading junior for the first defendant in a seven defendant conspiracy to commit aggravated burglary. The case was heavily dependant on cell site evidence, an area where Mark has particular expertise.

R v B (2012)

Junior alone for the defence in a conspiracy to hack into the United Nations Central Computer in order to steal €4 million worth of exchangeable carbon credits.

R v W H and others (2011)

Junior alone for the defence in a ten-handed conspiracy to defraud. The case involved car clocking on an industrial scale and money laundering through mortgage instruments. The case was one of the few, to date, which have been disposed of by way of a serious fraud plea agreement, which included all confiscation



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findings.

- Other Notable

- R v. Pratt and Another (2021)

- Instructed to defend an accusation of causing or allowing serious injury to a child. This highly unusual offence is used when parents are accused of causing a serious harm to a child, but it cannot be proved which parent actually caused the harm. Mark successfully submitted no case to answer at the conclusion of the prosecution case.

- R v. Jon (2019)

- Instructed to defence non-fatal domestic stabbing where the defendant alleged that his partner had stabbed herself. He denied causing grievous bodily harm with intent. Mark cross examined the partner at trial and as a direct result of the progress made in cross-examination the prosecution offered to accept a plea to the lesser offence of unlawful wounding. The defendant accepted this offer and avoided custody.

- R v A (2010)

- Junior alone in successfully defending an Olympic diver charged with assault.

## Asset Recovery, Civil Fraud & Confiscation

Mark has appeared in countless high value confiscation cases and regularly deals with forfeiture and asset recovery. Recent cases have included leading for the defence in very high-value confiscation proceedings flowing from the notorious “Drisney Nook” modern slavery case. He also acted in very high value proceedings described by the Recorder of Cardiff as “extremely complex”. During fully contested hearings he has advanced arguments relating to trusts, partnerships, company law, registered tenancies and accounting principles. Claims running into many millions have routinely been very significantly reduced. Mark takes an innovative approach to Proceeds of Crime applications, as evidenced by the important confiscation case of R v. Powell [2016] EWCA Crim 1043. It was the corporate veil argument originally identified by Mark which eventually won out in the Court of Appeal.

## Business Crime

Mark has experience of cases involving corporate offences, regulatory offences and substantial conspiracies to defraud. In recent years Mark has acted in massive Bureau de Change fraud cases, a large and complex Care Home fraud and an equally complex FOREX trader fraud. A number of these cases involved a significant civil law element. Mark is available to advise individuals and companies in relation to money laundering, corruption and bribery. He is experienced at formulating innovative solutions to complex issues.

## Crime

Mark has experience of dealing with cases across the whole range of criminal allegations as exemplified by the profile details set out above. He has dealt with the most serious and complex cases involving allegations of violence, trafficking, harassment, dishonesty, public order, firearms, conspiracy, drugs (including legal highs), money laundering and driving (including death by dangerous driving).

## Professional Discipline & Regulatory

Mark accepts instructions in Professional Discipline & Regulatory matters.

## Professional Memberships



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- South Eastern Circuit.
  - Wales and Chester Circuit.
  - Criminal Bar Association.
  - Association of Regulatory and Disciplinary Lawyers.

## Professional Panel Appointments

- Crown Prosecution Service (CPS) List of prosecution advocates at the highest Grade ('4').
- CPS Serious crime panel of approved advocates.
- CPS specialist panel of approved rape and serious sexual offences (RASSO) advocates.
- Serious Fraud Office (SFO) list of approved prosecution counsel at the highest grade (the 'A' list).

## Recommendations

"A fearless silk whom you instruct when your client has absolutely no hope. He has the skin of a rhinoceros."  
(Chambers UK, 2022)

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