

## Rachel Kapila



Call: 2006

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### Details of Practice

Rachel is an experienced and well-respected practitioner, who specialises in Financial Crime, Extradition and Licensing

#### Financial and Corporate Crime:

Rachel's criminal practice has a particular emphasis on fraud, financial crime and corruption. She is regularly instructed to represent individual and corporate clients in high profile, serious and complex criminal investigations and proceedings. Her practice encompasses both jury trials and confidential advisory work at the investigation stage.

The cases in which Rachel is instructed is instructed frequently involve issues spanning several jurisdictions. Her practice in this field is complemented by her extensive experience in extradition and mutual legal assistance.

#### Extradition and Mutual Legal Assistance:

Rachel is a leading junior in the extradition field, having acted for both requesting states/judicial authorities and for defendants, in numerous cases under Part 1 and Part 2 of the Extradition Act 2003. She is also regularly instructed to draft extradition requests.

Advisory work forms a significant part of Rachel's extradition practice, and includes advice in connection with anticipated extradition proceedings, Interpol Notices, and requests for mutual legal assistance (including the European Investigation Order).

Many of the extradition cases in which Rachel is involved have a fraud or financial criminal context. Others span the full range of serious criminal offences, including murder, organised crime, serious sexual offences and crimes against humanity. Notable cases include the Rwanda extradition proceedings: Rachel was instructed for one of five defendants whose extradition was sought by the Rwandan Government in connection with allegations of participation in the 1994 Genocide. The Rwanda case is one of the most complex and long-running cases to have come before the extradition courts.

#### Licensing, Regulatory Law and Inquests:

Rachel regularly advises and acts for operators, local authorities and interested parties in proceedings under the Licensing Act 2003 and the Gambling Act 2005. She also has experience in related fields, including child performance/stage licensing, street trading, taxi licensing, and Public Inquiries before the Traffic Commissioner. Her licensing practice includes associated judicial review proceedings.

Rachel's criminal practice encompasses a wide range of regulatory enforcement. She has acted for clients in proceedings arising out of a variety of regulatory regimes, including health and safety, food safety and fire safety prosecutions. Rachel also acts for the Security Industry Authority in prosecutions under the Private Security Industry Act 2001.

Rachel has substantial experience in advising and acting for individuals and organisations appearing at inquests, particularly those involving investigations into the actions of the police.

#### Sports law:

Rachel has a postgraduate qualification in sports law, and has a particular interest in corruption in the sporting context. She is a member of the British Swimming Appeal Panel.

### Directory recommendations

*'An extremely high-quality fraud junior with an exceptional capacity for work.'* *'She has a forensic eye for detail'* *'[She] can handle vast amounts of detail and is reliable and responsive.'* **Chambers UK 2019: Financial Crime**

*'She is really good with clients'* *'Extremely bright, hard-working and a very effective advocate.'* *'She's very good on knotty technical points.'* **Chambers UK 2019: Extradition**

*'Has a great background and a solid grounding in the industry.'* *'She is user-friendly and acts well for the trade in last-minute cases, displaying pragmatism at all times.'* **Chambers UK 2019: Licensing**

*'Very intelligent, calm and focussed.'* **The Legal 500 2019: Fraud (Crime)**

*'A first-rate junior who is very good with clients.'* **The Legal 500 2019: International Crime and Extradition**

*'She instils confidence'* **The Legal 500 2019: Licensing**

Recognised in **Who's Who Legal 2018** as a leading practitioner in the fields of **Fraud (Criminal)** and **Investigations**.

*'An "excellent" junior experienced at prosecuting and defending a broad range of extradition cases. Interviewees highlight her ability to "judge a tribunal" and to "take arguments that are measured and realistic." "Extremely clever and quick" "very strategic"'* **Chambers UK 2018: Extradition**

*'She's sharp as a tack and really gets to the point very quickly.'* **Chambers UK 2018: Licensing**

*'Instructed by the CPS and defendants in challenging extraditions.'* **The Legal 500 2017: International Crime and Extradition**

*'Fantastic on her feet.'* **The Legal 500 2017: Licensing**

*'Attracts prestigious clients from the security, retail and restaurant sectors. Clients hold her in high regard and note that she has in-depth knowledge of the full scope of licensing law matters.'* *'She is superbly bright, tenacious and willing to go the extra mile for her clients.'* **Chambers UK 2017: Licensing**

*'She is clever and comes up with some interesting and novel approaches to cases.'* *'She is a most experienced practitioner.'* **Chambers UK 2016: Extradition**

*'She is very good at fighting the client's corner.'* *'She is outstanding and will go far.'* **Chambers UK 2016: Licensing**

*'Extremely knowledgeable, helpful and able.'* **The Legal 500 2015: Licensing**

*'She is extremely bright and charming but when you are at court you tend to have a tough time if you are against her because she is extremely sharp-witted.'* **Chambers UK 2015: Extradition**

*'She shows meticulous attention to detail.'* *'She leaves no stone unturned and is a reliable pair of hands for difficult cases.'* *'A determined advocate in court.'* **Chambers UK 2015: Licensing**

## Education/professional qualifications

BA Hons (Oxon) – Jurisprudence (Law)  
Postgraduate Certificate in Sports Law and Practice (BASL/DMU) (Distinction, 1<sup>st</sup> in the year)  
Bar Vocational Course (Outstanding, 1<sup>st</sup> in the year)  
Senior Scarman Scholarship  
British Academy of Forensic Sciences Prize  
Baron Dr Ver Heyden de Lancey Prize (Middle Temple)

## Appointments

British Swimming Appeal Panel (2012)

## Other information

Fraud Lawyers' Association  
Criminal Bar Association  
Defence Extradition Lawyers' Forum (DELF)  
Extradition Lawyers' Association  
Private Prosecutors' Association

## Direct access

Rachel Kapila is qualified to accept instructions direct from clients under the Bar Council's Public Access Scheme. This means that members of the public who seek specialist advice can come direct to her. In addition, she welcomes instructions from solicitors, in-house law departments, qualified foreign lawyers, and clients licensed by the Bar Council to give instructions direct to barristers under the Bar Council's Licensed Access Scheme.

For further information please contact our Clerks.

## Notable cases

### Financial and Corporate Crime

#### SFO investigation (confidential)

Currently instructed by a corporate client in connection with a high profile SFO investigation into allegations of historic multi-jurisdictional bribery.

#### SFO v PF (FH Bertling Ltd)

(Southwark Crown Court, 2017)

Junior counsel (led by Hugo Keith, QC) for former managing director of a freightforwarding company, accused of conspiracy to make corrupt payments to an agent of the Angolan state oil company. Client was acquitted.

### **R v LM**

(Central Criminal Court, 2017)

Junior counsel (led by Jonathan Ashley Norman, QC) for first defendant in a £40 million excise and VAT fraud. The case involved a preparatory hearing appeal on a novel point of law concerning the application of the *ne bis in idem* principle under Article 54 of the Convention Implementing the Schengen Agreement: **R v LM [2017] EWCA Crim 82**.

### **R v E&W (Operation Chainmail/Operation Crystallite)**

(Southwark Crown Court, 2015)

Junior counsel (led by Patrick Gibbs, QC and Alexander Cameron, QC) for two former equities traders accused of conspiracy to cheat the Revenue in connection with a film investment partnership. Both clients were acquitted.

### **R v ET**

(Southwark Crown Court, 2011, and Croydon Crown Court, 2012)

Junior counsel (led by Alexander Cameron, QC) for oil trader accused of defrauding a multinational oil company. Two hung juries. Client was acquitted.

### **Operation District**

(Leeds Crown Court, 2010)

Junior counsel (led by Alisdair Williamson) for one of four defendants accused of MTIC fraud involving evasion of over £10m VAT. Trial involved over 120,000 pages of exhibits and lasted 3 months. Client was acquitted.

## **General Crime**

### **R v Andrew Coulson & ors (Operation Weeting)**

(Central Criminal Court, 2013-2014)

Junior counsel (led by Hugh Davies, QC) for a News of the World journalist accused of phone hacking.

### **R v C**

[2010] 1 Cr App R 7

Junior counsel for the respondent (led by Richard Wormald) in one of the last cases heard by the House of Lords. The leading authority on the offence of sexual activity with a person with a mental disorder impeding choice, under section 30 of the Sexual Offences Act 2003.

## **Extradition and mutual legal assistance**

### **European Investigation Order (confidential)**

2017-2018

Advised the subject of an EIO, issued in the context of a high profile murder investigation. One of the first EIOs issued to the UK following implementation of the EIO Directive in July 2017.

### **Government of Rwanda v Ugirashebuja & ors**

(Westminster Magistrates' Court, High Court and Supreme Court, 2013-2015)

Junior counsel (led by Edward Fitzgerald, QC) for one of five defendants accused by the Government of Rwanda of participating in the 1994 Genocide. The proceedings involved a large volume of evidential material and raised novel issues of fact and law (culminating in the Supreme Court judgment in **R (B & ors) v Westminster Magistrates' Court & ors [2015] AC 1195**). Extradition was refused by the district judge on the grounds that the defendants would face a real risk of an unfair trial if extradited (a decision that was subsequently upheld on appeal).

### **Government of the USA v Shlesinger**

[2013] EWHC 2671 (Admin)

Appeared (led by James Lewis, QC) for the respondent, a London-based businessman who was accused of absconding from an open prison in Florida in 1991. The request was discharged on the grounds that extradition would be incompatible with the requested person's Article 8 rights.

### **Government of the USA v Wood**

[2013] EWHC 1971 (Admin)

Appeared (led by James Lewis, QC) for the requesting state, in an appeal under section 105 of the 2003 Act. The case provided important clarification on the rules regarding service of notices of appeal in Part 2 cases. The appeal was allowed.

### **Presecan v Cluj-Napoca Court, Romania**

[2013] EWHC 1609 (Admin)

Appeared (alone) for the appellant. Successfully argued for discharge under section 2(6)(b) of the 2003 Act (inadequate particulars of conviction).

### **Government of Brazil v AJ**

(Westminster Magistrates' Court, 2013)

Appeared (alone) for the requested person, who had been convicted of offences of drug smuggling. The extradition request was discharged, on the basis that the prison conditions in Brazil would breach the defendant's rights under Article 3 ECHR. The Government did not appeal.

### **Pelka v Regional Court in Gdansk, Poland**

[2012] EWHC 3989 (Admin)

Appeared (alone) for the appellant, who was accused of drugs smuggling and money laundering offences. Successfully argued for discharge under section 2(4)(c) of the 2003 Act, on the basis that the EAW contained insufficient particulars of the requested person's role within the conspiracy.

### **Rexha v Office of the Prosecutor attached to the Court in Rome**

[2012] EWHC 1274 (Admin)

Appeared (alone) for the requesting judicial authority. Case involved a large volume of expert evidence concerning Italian retrial rights. The order for extradition was upheld.

### **Bzik v Circuit Court in Swidnica, Poland**

[2012] EWHC 1308 (Admin)

Appeared (alone) for the appellant, who was accused of offences contrary to Polish copyright law. Successfully argued for discharge under section 10 of the 2003 Act (dual criminality).

**Jansons v Riga District Court, Latvia**

[2009] EWHC 1845 (Admin)

Appeared (alone) for the appellant. Successfully argued for discharge under sections 21 and 25 of the 2003 Act, on the basis of a substantial risk of suicide.

**Zak v Regional Court of Bydgoszcz, Poland**

[2008] EWHC 470 (Admin)

Appeared (alone) for the appellant. Leading authority on extradition offences – inference of mens rea from particulars of conduct.

**Licensing and Regulatory Law****Gambling Commission v DR and CD ('FUT Galaxy')**

(February 2017)

Junior counsel for the defendants (led by Stephen Walsh, QC) in the first Gambling Commission prosecution concerning virtual currencies and social gaming on the internet.

**General Dental Council v Jamous**

[2013] EWHC 1428 (Admin)

Junior counsel for the respondent (led by Stephen Walsh, QC) in an appeal by way of case stated arising out of the first contested prosecution for 'tooth whitening'. The leading authority on the meaning of "dentistry" in section 37 of the Dentists Act 1984.

**Harpers Leisure International Ltd v Guildford Borough Council**

(Guildford Magistrates' Court, 2010)

Acted for the appellant (alone) in an appeal under s206 of the Gambling Act 2005, against a decision of the respondent council to refuse an application for Adult Gaming Centre licences. Case involved consideration of a novel point of law regarding the definition of "premises" under the 2005 Act.

**R (Boyle) v Haverhill Pubwatch**

[2009] EWHC 2441 (Admin)

Junior counsel (led by Stephen Walsh, QC) for the second interested party in a landmark case concerning the amenability of Pubwatch schemes to judicial review.

**Inquests and associated civil and disciplinary proceedings****Kua Family, deceased**

(October 2012)

Represented the London Fire Brigade at the inquest into the deaths of six members of one family in a house fire in Neasden, North London.

**Christy Ruddell, deceased**

(May 2012)

Represented five police officers at the inquest into the death of a two year old who was strangled by his mother in August 2010.

**Gary Mason, deceased**

(February 2012)

Appeared at the inquest into the death of former British boxing champion Gary Mason in a cycling accident in January 2011.

**Reece Staples, deceased**

(July 2011)

Represented one of five police officers at a misconduct hearing arising out of the death of Reece Staples in police custody in Nottingham in 2009.

**Henry v News Group Newspapers Ltd**

[2011] EWHC 1364 (QB)

Acted for the Metropolitan Police (alone) in successfully resisting a third party disclosure application made by News Group Newspapers in the context of libel proceedings brought by one of the social workers involved in the case of Peter Connelly ('Baby P').

**Peter Connelly, deceased ('Baby P')**

(2010)

Instructed as junior counsel for the Metropolitan Police (led by Hugh Davies) in respect of the possible resumption of the inquest into the death of Peter Connelly in August 2007.

**Colette Lynch, deceased**

(2009)

Represented four police officers (led by Hugh Davies) at the 10 week inquest into the death of Colette Lynch in Warwickshire.

**Sports law****British Horseracing Authority v H and others**

(BHA Disciplinary Panel, 2013)

Junior counsel (led by Louis Weston) for the BHA in an Inquiry into a 9-handed conspiracy to commit fraudulent or corrupt practices in connection with racing. All charges were proved, and the defendants received lengthy bans from involvement in horseracing.