



Joshua Carey

Year of Call: 2015*

Joshua is an experienced foreign qualified Barrister with a wide range of exposure to Commercial, Regulatory, Business Crime and Government litigation, both for and against government and large multi-national clients.

Prior to his call to the Bar of England and Wales and the Queensland Bar he was also the Lead Solicitor for the Missing Trader-Intra Community Litigation team for HMRC in London. He was also a Solicitor Advocate in a “Big Six” Australian law firm specialising particularly in the areas of Judicial Review and commercial litigation disputes, constitutional law, coronial inquiries and freedom of information litigation. Joshua was also an Associate to a Judge in the General Commonwealth jurisdiction of the Australian Court structure. He also has significant experience drafting policy guidance for Government Departments for implementation and use by departmental officers as well as statutory interpretation/construction of financial legislative instruments.

Joshua has extensive experience in Commercial Litigation. He has worked on international joint venture disputes for one of the leading mining companies in the world. This involved a protracted dispute and compromise over, amongst other things, transport of coal from the mine to the port where one company owned the mine and one company owned the transportation from the mine. He also worked on an \$8M AUD (£4.6M) breach of contract case where the allegation was, amongst other things, that there were breaches of an implied term of the contract and whether the damages that were claimed were too remote.

More recently, Joshua has been instructed by Local Authorities to assist them with Child Protection work. This has involved extensive reviews of contact notes for key sensitive information. This builds on experience that Joshua has in the family law field, having also been an associate to a Judge in the Family Law jurisdiction of the Australian Court structure. He also regularly delivered seminars to family law firms in respect of evidence gathering and its presentation to Courts.

* He was initially admitted and practised as a Solicitor (High Court of Australia and Supreme Court of

Location

2 Hare Court
Temple
London
EC4Y 7BH

Contact Us

T: +44 (0)20 7353 5324
F: +44 (0)20 7353 0667
E: clerks@2harecourt.com
DX: LDE 444 Chancery Lane

Queensland) in January 2011 before being called to the Queensland Bar and undertaking the Bar Transfer Test (England and Wales) in 2015.

Criminal Defence

Joshua has been instructed in a wide variety of criminal defence matters ranging from credit card frauds to Communications Act offences. He has a strong track record in the Magistrates Court where he achieves excellent results for his clients.

On several occasions Joshua has successfully argued that matters should be discontinued at first appearance by the Prosecution on the basis that the evidence is equivocal and therefore it would be improper for the Prosecution to continue the case. Recently, Joshua successfully argued that a matter (that was at Court for trial) should be dismissed pre-trial by the District Judge on the basis that the Defendant had not been sufficiently identified in the Single Justice Procedure Notice.

In addition to general crime, Joshua has represented a large number of Defendants who have challenged various motoring offences in the Magistrates Court. This includes applications for Exceptional Hardship and Special Reasons where a guilty plea was entered.

Joshua also has experience dealing with mitigation in the Crown Court for a wide variety of offences, including possession of a bladed article.

Criminal Prosecution - Public

Joshua has been instructed by the CPS to prosecute both trial lists and individual specialist cases. He has experience prosecuting a wide variety of offences from Domestic Violence cases to Dangerous Dog cases. He was recently commended by a Defence practitioner, following the Defendant in the case being convicted, for the fair way in which he conducted the cross-examination, and the trial more generally.

Most recently Joshua was instructed by the CPS to prosecute a specialist duty fraud which was investigated by HMRC, as well as a PAYE fraud which spanned five tax years.

Inquests & Public Inquiries

Before joining 2 Hare Court Joshua dealt with the coronial inquiry into the first death in custody of a person in Federal Immigration detention whilst in Queensland.

This inquiry involved taking voluminous witness statements regarding Government Policy, practice and procedure and synthesising the information relevant to the coroner's determinations. It was also necessary to advise on the likely liability and interaction between the other third party providers who were responsible for the health and security of those housed in the detention facility.

Location

2 Hare Court
Temple
London
EC4Y 7BH

Contact Us

T: +44 (0)20 7353 5324
F: +44 (0)20 7353 0667
E: clerks@2harecourt.com
DX: LDE 444 Chancery Lane

Professional Discipline

Prior to Joshua's call to the Bar of England and Wales he was employed at the Health and Care Professions Council (formerly the Health Professions Council) in the Fitness to Practice team. Since joining Chambers he has been instructed by the Nursing and Midwifery Council to appear before the Registration Appeals Panel. This involves consideration of whether an Appellant is capable of safe and effective practice or alternatively whether a foreign qualified Appellant satisfies the criteria to practice as a nurse or midwife in the United Kingdom.

Tax

Joshua has spent considerable time working for Her Majesty's Revenue and Customs (HMRC) in the VAT Litigation Team. Joshua has gained experience appearing in the First-tier Tribunal (Tax Chamber) on a variety of issues and was the lead lawyer for HMRC in London in respect of a significant number of Missing Trader Intra-Community Tax (MTIC) cases. Cumulatively, Joshua has defended in excess of £500 million worth of VAT in litigation on behalf of HMRC.

Joshua had conduct of *HMRC -v- Fairford Group and Anor* [2014] UKUT 329 (TCC) in the Upper Tribunal which has irreversibly changed the litigation landscape in respect of MTIC Litigation and to which the Tribunal now colloquially refer to directions which flow from the decision as the "Fairford direction". This decision is now regularly relied upon in Chambers of the First-tier Tribunal, other than the Tax Chamber.

He is also very experienced in matters involving the use of Sch 36 Finance Act 2008 powers by Revenue and Customs officers as well as issues involving HMRC's use of Sch 24 Finance Act 2007 penalties and s63 Value Added Tax Act 1994 misdeclaration penalties.

Joshua has been instructed by both HMRC and taxpayers alike across a broad spectrum of indirect tax matters. This includes advising on and litigating AWRS and WOWGR refusal decisions, as well as excise assessments subject to "B&M" considerations. Recently he has received instructions in VAT deregistration appeals following his victory in the Administrative Court where he successfully resisted permission to appeal.

Alongside this he has been instructed on VAT litigation matters ranging from traditional MTIC litigation to no supply and insufficient evidence of supply cases, as well as place of supply cases.

Furthermore, he has been involved in litigation in the Court of Appeal in the matters of *Fonecomp Limited v The Commissioners for HM Revenue and Customs* [2015] EWCA Civ 39 and *The Commissioners for HM Revenue and Customs v Davis and Dann and Anor* [2016] EWCA Civ 142. He achieved successful outcomes in both of these cases.

Recent Cases:

- *AA -v- The Commissioners for HM Revenue and Customs* [2018] (unrep) which was a case involving tobacco that was being held by the taxpayer without duty having been paid. The tribunal found that it could not go behind the condemnation proceedings which were not challenged and that there was

Location

2 Hare Court
Temple
London
EC4Y 7BH

Contact Us

T: +44 (0)20 7353 5324
F: +44 (0)20 7353 0667
E: clerks@2harecourt.com
DX: LDE 444 Chancery Lane

no reasonable excuse when judging what the Appellant did against the reasonable taxpayer in the position of the Appellant.

- *Christine Perrin -v- The Commissioners for HM Revenue and Customs* [2018] UKUT 0128 (TCC) This case marks the first opportunity the Upper Tribunal has had to consider the test for “reasonable excuse”. It is the now the leading authority applied by the First-tier Tribunal when considering whether what the taxpayer did was objectively reasonable when compared against what a reasonable taxpayer would have done.
- *Elbrook (Cash and Carry) Limited -v- The Commissioners for HM Revenue and Customs* [2017] UKFTT 650 (TC)
- *R (On the Application of Thames Wines Limited) -v- HM Revenue and Customs* [2017] EWHC 452 (Admin) which was a case about whether HMRC could deregister a taxable person in the absence of domestic authority
- *Unicorn Shipping Limited -v- The Commissioners for HM Revenue and Customs* [2017] UKFTT 464 (TC) which was a case in which the Commissioners sought, and were granted, further and better particulars;
- *JTC Environment Limited -v- The Commissioners for HM Revenue and Customs* [2017] UKFTT 155 (TC) which was a case in which the Commissioners were, and did, successfully resist permission to appeal being granted out of time;
- *CF Booth Limited -v- The Commissioners for HM Revenue and Customs* [2016] 261 (TC) which was a case about the appropriateness of “Fairford Directions” being applied to the case;
- *CF Booth Limited -v- The Commissioners for HM Revenue and Customs* [2015] UKFTT 407 (TC) which was a case about whether it was appropriate to consolidate two appeals together; and
- *Foneshops Limited -v- The Commissioners for HM Revenue and Customs* [2015] UKFTT 410 (TC) which was a case about whether it was an abuse to relitigate an issue that ought to have been run in earlier proceedings.

Appointments & Memberships

- 2017-2022: Attorney-General C Panel
- Criminal Bar Association
- Health & Safety Lawyers Association
- Queensland Bar Association
- Revenue Bar Association
- Young Fraud Lawyers Association

Education & Qualifications

Location

2 Hare Court
Temple
London
EC4Y 7BH

Contact Us

T: +44 (0)20 7353 5324
F: +44 (0)20 7353 0667
E: clerks@2harecourt.com
DX: LDE 444 Chancery Lane

- Bachelor of Laws (Hons), Queensland University of Technology
- Graduate Diploma of Legal Practice, Queensland University of Technology
- Queensland Bar Practice Course
- Bar Transfer Test (England & Wales)
- Lead Counsel, University of Technology, Sydney – Shine Tort Law Moot

Location

2 Hare Court
Temple
London
EC4Y 7BH

Contact Us

T: +44 (0)20 7353 5324
F: +44 (0)20 7353 0667
E: clerks@2harecourt.com
DX: LDE 444 Chancery Lane