



# Howard Godfrey KC

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Howard Godfrey KC is recognised as one of the UK's leading criminal barristers, with a reputation as a master strategist and supreme tactician.

Howard's enormous experience as an advocate extends both nationally and internationally and spans more than fifty years, with over thirty years as a QC and KC. His clients have included both those charged with serious crimes such as murder, manslaughter, money laundering and fraud and those accused of less serious offences. Appeals and disciplinary tribunals are further areas in which Howard has extensive experience.

Howard's reputation as one of the country's leading criminal barristers derives not just from his encyclopedic knowledge of the law but also from the masterly skills he exhibits in the courtroom, in particular in the context of jury advocacy and cross-examination. 'The judge rules on the law,' Howard points out, 'but it is the jurors who decide my clients' fate.'

Before analysing the close detail of a case, Howard likes to develop a broad strategy. In this way he is best placed to uncover weaknesses in the prosecution's case. Frequently he is able to obtain an acquittal for his client even before the trial reaches the jury stage.

During the preliminary stages of a case Howard's emphasis is on positioning his client in such a way that a favourable outcome is possible even before the trial has begun. It often happens that a not guilty verdict results directly from the close attention Howard devotes during pre-trial to forcing the prosecution to make a full disclosure of information. As a result of such disclosure it may become apparent for instance that certain key evidence has been obtained improperly or that police misconduct has been involved.

## Practice Areas

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### Appeals

Howard Godfrey KC's track record in reducing sentences and overturning convictions has few equals. He is widely considered to be one of the country's leading appeals barristers.

The Court of Appeal sits without a jury but with three senior judges. There is therefore a world of difference between presenting a case before an appeals court and presenting a case before a jury. This difference must be reflected in the advocate's approach.

Howard's approach involves persuading the judges to fully recognise both the strength of his arguments and the seriousness of his complaint.

Among the most common grounds for appeal are the following:

- New evidence has come to light.
- The judge or prosecution made errors of law during the original trial.
- The jury's verdict in the original trial was inconsistent / unreasonable.
- The judge's summing up to the jury in the original trial is open to complaint.

## Appealing A Conviction

Howard's aim is to persuade the Court of Appeal judges that a criminal conviction is unsafe, in which case the conviction will be quashed.

In some cases there is no more to it than that. However, when the particular circumstances of the case require it, a retrial may be ordered. This allows the defence to challenge the prosecution's evidence a second time, thereby offering the opportunity for an acquittal.

## Appealing A Sentence

Howard's aim in appealing a sentence is to persuade the appeals judges that the original sentence handed down by the criminal trial judge was too severe. This is something he has done extremely successfully over the years, with the result that the original sentence is replaced with a far lighter one. In fact it sometimes happens that such is the reduction in the severity of the sentence that the client is able to go home as soon as the appeal hearing is completed.

### Notable appeals cases

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#### DPP v Taylor & Little

This was a case that resulted in a change to the law on assault. It is now necessary for the prosecution to spell out exactly what the charge is, since in law assault and battery are not the same thing. The Director of Public Prosecution's appeal was rejected and Mr Little was found not guilty as charged.

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#### H

H was a female US attorney who was convicted of being involved in a multi-million pound VAT fraud. The appeal was successful in reducing her eight-year sentence by almost half so that she was released from prison shortly after the appeal was concluded.

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#### T

A worker in a warehouse, T, was implicated in a case involving the large-scale importation of heroin and cigarettes. At his original trial he pleaded guilty to charges of conspiracy and was sentenced to eighteen and a half years in prison. As a result of the appeal it was conceded that he did not play a major role in planning the crimes and his sentence was accordingly reduced to ten years.

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## R

A company bookkeeper who was convicted of stealing from his employers by changing the record of payments to the company and channeling large sums of money into his own bank accounts. The grounds for appeal related to misdirections of law made by the trial judge during his summing up to the jury. The appeal was successful and R's conviction quashed.

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## Crime

Drug cases may be national or international in scope and can often be quite technical. This is what makes Howard Godfrey QC, with his extensive experience and expertise in this area, one of the country's leading drugs barristers.

Most serious drug-related cases involve more than just a single person and usually result in several defendants standing trial at the same time. Typically, such cases rely on the existence of an informant and the use of undercover police officers. Where an informant is central to the prosecution case, it is sometimes possible to call into question the informant's reliability. That is to say, what has the informant been offered by way of incentive as recompense for their cooperation and testimony? Similarly, in cases involving the use of undercover police officers, it may be possible to undermine the prosecution cases on the grounds of so-called entrapment.

In both these situations Howard's masterly skills as a strategist and tactician are central to his success. In previous cases his pressurising of the prosecution to make full disclosure of information has led to cases being stopped mid-trial after it became apparent that police officers or customs officers had acted unlawfully.

## Notable crime cases

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### F & Others

This was a sting carried out by the Met, employing undercover police in both London and Gibraltar. The police established a bogus bureau de change in Mayfair and encouraged a solicitor, F, to import drugs money from Gibraltar to London. Eventually, after several weeks of legal argument, the trial was stopped on account of the police's illegal activity in continuing to finance the drug trade. F was found not guilty and the case dismissed.

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### C & Others

This case involved a drug-running operation from North Africa to the United Kingdom, using a converted trawler with a crew made up mostly of retired SAS and SBS (Special Boat Service) soldiers. At the request of British Customs, the ship was arraigned in the Atlantic by a navy destroyer. The defence successfully argued

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that the arrest was unlawful under international law and the case was accordingly dismissed on the grounds that an abuse of the process of the court had occurred.

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## G

A truck containing drugs was met by the defendant at a warehouse depot, where the drugs were unloaded. However, unbeknownst to the accused, the truck had been followed from the docks by customs officers. The accused testified that he had gone to the depot to unload legitimate goods from the truck and had no knowledge of the drugs it contained. The jury accepted his testimony and he was acquitted.

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## Cyril Megret

A film finance specialist and the only defendant to be acquitted in April after a 7 month long trial at Birmingham (HMRC prosecution for Conspiracy to Defraud by practitioners utilising a British film tax incentive scheme).

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## Marzel Bolton

The Supreme Court's change in the law of 'joint venture' helped lead to an acquittal of murder at Bristol in June.

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## Financial Services

Charges of money laundering are extremely serious, bringing with them the threat of confiscation of assets. In such cases you need the best advice available. Howard Godfrey QC is one of the country's most highly respected money-laundering barristers.

According to the Proceeds of Crime Act 2002, money laundering may consist of any one of several different criminal offences. These include obtaining, removing, hiding and converting criminal property. Owing to the seriousness of these offences, they bring with them a maximum sentence of fourteen years in prison.

Furthermore, money-laundering charges themselves are only part of the story. In cases where a client has pleaded guilty to, or been convicted of, such an offence, confiscation proceedings may be brought and can have extremely serious consequences of their own. These days every prosecuting authority includes a dedicated team of investigators who specialise in the confiscation of assets.

This is where the defence's response becomes so important, since it is the responsibility of the defendant to prove that his or her assets amount to less in total than the sum demanded by the prosecution. In cases where the client fails to pay the full amount stated in the order to pay, a further term of imprisonment of up to ten more years must be imposed by the court. It's easy to see the potentially disastrous consequences for the client of a poorly prepared defence.

Howard's expertise as a specialist money-laundering barrister means that he represents clients in both the Crown Court (in criminal confiscation cases) and the High Court (in civil recovery cases). His unrivalled advocacy skills combined with his wide-ranging experience in all aspects of asset recovery mark him out as

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the obvious counsel of choice in such cases.

Those who have been found guilty of financial crimes or serious drug offences almost invariably face asset confiscation proceedings in the Crown Court. However, even when a criminal conviction has not been successful, the National Crime Agency (previously SOCA) may still institute civil recovery proceedings in the High Court if it has reason to believe that unaccounted-for monies from illicit sources have been accrued.

High Court proceedings, being easier to prove than a criminal case in the Crown Court, are often preferred. In such cases a robust defence of the kind Howard is able to provide, both assiduously prepared and expertly presented, is essential.

## Notable financial services cases

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### F & Others

This was a sting carried out by the Met, employing undercover police in both London and Gibraltar. The police established a bogus bureau de change in Mayfair and encouraged a solicitor, F, to import drugs money from Gibraltar to London. Eventually, after several weeks of legal argument, the trial was stopped on account of the police's illegal activity in continuing to finance the drug trade. F was found not guilty and the case dismissed.

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### B & Others

Following the assassination of her accountant husband, B assumed responsibility for the family's financial affairs. The police employed the services of MI5, who placed bugs in the family home, recording every conversation over a period of two years. Legal arguments, in both the Crown Court and the Court of Appeal, lasted for months but finally a deal was agreed. In exchange for pleading guilty to a relatively minor offence, B was given a non-custodial sentence.

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### D

A businessman from the Midlands, D, was charged with laundering millions of pounds through his electronics business as part of a huge VAT carousel fraud. Following a lengthy trial, he was the only one among the defendants to be acquitted.

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## Fraud

Howard Godfrey KC is one of the UK's leading fraud barristers with an impressive range of experience, both national and international.

Fraud comes in many forms, including tax frauds in which the defendants are company employees or directors.

Howard's experience in the area of fraud cases extends over the entire spectrum of such cases, encompassing both tax fraud and other types of fraud.

## Tax Frauds

- VAT fraud such as carousel and missing trader fraud (MTIC)
- Stamp duty evasion fraud
- Cheating the Revenue
- Tax-saving scheme fraud
- Construction industry scheme fraud (CIS)

## Other Frauds

- Insider trading
- False accounting
- Mortgage fraud
- Insolvency or liquidation fraud
- Trading while insolvent
- Conspiracy to defraud
- Boiler room fraud
- Forgery
- Building and maintenance contract fraud

HMRC today is very thorough and sophisticated in its prosecution of cases. Many tax avoidance schemes, which in the past would have been challenged under civil law are now considered to be criminal tax evasion and are prosecuted accordingly.

It sometimes happens that entirely upstanding business people can unwittingly become implicated in such schemes. Similarly, perfectly honest traders may become involved in major VAT frauds that are engineered by complete strangers.

In other classes of fraud the prosecution may be brought by dedicated legal departments such as the Serious Fraud Office or the Crown Prosecution Service. In common with all fraud cases, the defence must be prepared with enormous care. It is the defence QC's job to see 'the big picture' beyond the myriad details of the case. In this way the key elements of the case may be isolated so that a successful defence may take place.

In fraud cases it is may well be that the salient facts of the case are not themselves in dispute. Rather, the issue revolves around whether the defendant was aware of the fraud and knowingly participated in it. In such cases it is incumbent upon the prosecution to prove that the defendant behaved dishonestly. It is upon this issue that the case for the defence often rests.

Once an investigation is in motion it becomes crucial to receive early advice as to which tactics to pursue. It is often at this stage in the proceedings, long in advance of any decision to prosecute, that Howard's advice is requested.

## Notable fraud cases

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## K & Others

The principal defendant in this case, K, was the CEO of a housing charity. Along with the directors of a building charity, he was tried for conspiracy to defraud the charity in connection with building and maintenance contracts. The other two co-defendants gave evidence but K did not. After a long trial he was acquitted.

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## A & Others

This case concerned a charge of excise duty fraud. A was a dealer in imported liquors and was accused of conspiracy to cheat the Revenue. Pre-trial arguments in relation to the prosecution's disclosure of European trading records were lengthy and complex. It was the judge's ruling that the prosecution must supply such disclosure. However, the prosecution chose not to comply with the ruling and the proceedings were stayed as an abuse of due process. A verdict of not guilty was returned and the case was dismissed.

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## K & Others

An accountant and company director, K, was charged with involvement in a dishonest scheme to save on tax. It was alleged that the share price of companies being floated was fraudulently ramped up to artificially high levels. These shares were subsequently gifted at their inflated levels to charitable bodies, thereby allowing the firm's clients to claim a substantial tax deduction and resulting in a similarly substantial tax loss for the Revenue. K, who did not give evidence, was the only one of the accountants to be found not guilty.

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## G

The senior partner in a well-established firm of solicitors, G, was charged with involvement in a multi-million pound fraud. The alleged fraud related to dishonest schemes allowing property buyers to avoid paying stamp duty on their purchases. Following a demand for disclosure of information, HMRC finally acknowledged that the missing tax had actually been repaid. In view of this development, the judge agreed to pass a non-custodial sentence so long as the defendant pleaded guilty to a number of specimen charges. He did so and a suspended sentence was handed down.

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## Murder & Manslaughter

Howard Godfrey KC is widely acknowledged to be one of the country's leading murder barristers. He has acted across the full spectrum of murder cases, including the following:

- Domestic killings.
- Gangland killings.
- Contract killings.
- Revenge killings.
- Drug-related killings.
- Self-defence killings.

Since murder is the most serious criminal offence that exists, a very particular kind of preparation and approach is required when representing a client in a murder case.

First of all Howard endeavours, as in every case, to make his client feel as relaxed as possible. It goes without saying that anyone accused of murder is likely to feel an extreme degree of anxiety and strain. In order for them to present themselves well, it is essential that they have complete confidence in their counsel.

In preparing the defence, all possible approaches must be carefully considered. Time must be spent with the client examining all available options, explaining the likely benefits and potential weaknesses of each. It is essential that the client fully comprehends the proposed plan of action.

Particular difficulties can arise in cases where there is more than one defendant, for example because the defendants seek to place the blame on one another. Indeed, it may be that a greater risk to a client's case is posed by a hostile co-defendant than is posed by the prosecution. In such cases it is crucial to prepare a careful strategy so that the threat represented by hostile co-defendants can be successfully averted.

Many of Howard's cases involve charges of joint liability. In other words the prosecution alleges that all the defendants are to be held equally responsible for the offence even though only one of them, for example, possessed a weapon. Such 'joint enterprise' cases can be particularly tricky and require a special effort on the part of the defence team. Howard has a very successful track record in using complex legal arguments to defend such cases.

Howard Godfrey QC is widely acknowledged as one of the country's leading manslaughter barristers, having represented defendants across the entire spectrum of manslaughter charges. This includes death by dangerous or careless driving, gross negligence (e.g. faulty hotel fire alarms or an intoxicated pilot), and unlawful act manslaughter (e.g. a blow to the head which results in death).

It sometimes happens that a manslaughter plea is a less serious alternative in a murder trial. But it may also be that someone charged with manslaughter feels totally overwhelmed as it is the first time they have been involved in criminal proceedings of any kind. Often the key question that needs to be asked is: was the defendant really responsible for the death being investigated?

In such cases a proper defence can be a complicated matter. For example, the defence may argue that the defendant's actions did not lead directly to the deceased person's death. Or it may be a question of whether the defendant behaved recklessly towards the victim, or whether the defendant breached a duty owed to the deceased.

In cases such as these it may be that great weight is placed on medical or scientific evidence, whether such evidence is presented by the prosecution or the defence (or sometimes both). It is therefore crucial that the client's counsel be fully conversant with all such areas of expertise in order that they may be turned, whenever possible, to the client's advantage.

## Notable murder & manslaughter cases

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### Y

Two youngsters were accused of stabbing and killing a boy in a park. The prosecution was based on a claim of joint enterprise, since it was unclear who was responsible for the actual stabbing. The defence



emphasized the serious risk that a miscarriage of justice was likely to result from a joint-enterprise claim in this case and the defence submission was upheld. The judge ruled that Y had no case to answer and a not-guilty verdict was returned.

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## V

V was charged with fatally stabbing a man during an argument outside a minicab office. V admitted stabbing the man but claimed self-defence. His evidence was accepted by the jury and he was acquitted.

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## S

S was a mother accused of killing her two young babies. During the Old Bailey trial it was disclosed that procedural errors had been made in the course of the original investigation, not least the fact that the interview leading to S's confession had been conducted unlawfully. It was also revealed that the charges relied upon other inadmissible evidence. Howard's arguments were accepted by the prosecution and the case was not contested. A not-guilty verdict was recorded.

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## H

H was a prisoner already serving a life sentence for murder. He was accused of the attempted murder of a fellow prisoner at a high-security prison. The defence did not bring forward any new evidence but their closing speech convinced the jury that the accused had not intended to kill his victim. H was cleared by the jury of attempted murder and convicted instead on a lesser charge of assault.

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## H

This case concerned the death of a young man from head injuries sustained principally from being hit with a snooker cue following a fight between rival groups in a pub. H was an eighteen-year-old youth charged with murder and manslaughter on a so-called joint enterprise basis. The defence successfully established there was no case to answer on account of the unreliability of the eye-witness and CCTV evidence. The judge directed the jury to return verdicts of not guilty to both the murder and manslaughter charges.

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## F

A factory containing valuable insured goods was deliberately set on fire in order to procure a large insurance payout. A number of people died in the blaze, resulting in a trial for arson and murder. The defendant was found not guilty of murder but guilty of unlawful act manslaughter.

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## Professional Discipline

Howard Godfrey KC has been defending clients for over forty years, including over twenty years as a QC. Such a wealth of skill and experience makes him the obvious advocate of choice for those seeking a leading disciplinary tribunals barrister.

This sort of advocacy is highly specialised and differs in significant ways from jury advocacy. The judges in such cases are themselves professionals in their chosen field, which means that both the preparatory work on the case and the advocacy itself must be expertly targeted. Both the key issues and the relevant submissions in such cases must be precisely identified in order to maximise the chances of success.

## Military Courts Martial

Over the course of his career Howard has had some exceptional successes in many of the courts martial cases in which he has appeared. These courts subject serving officers and other servicemen and servicewomen to military law and possess wide sentencing powers. Appeals take place in the Courts Martial Appeal Court, which forms part of the Court of Appeal Criminal Division.

## Tax Chambers

So-called tax chambers deal with appeals against decisions made by HMRC in connection with direct and indirect taxation. Howard sometimes appears at such tribunals – usually, though not always, alongside specialist tax counsel – when an unfavourable decision seems liable to result in criminal charges being brought.

## Disciplinary Tribunals

In view of his enormous experience as a trial advocate Howard is often asked to represent clients who are the subject of disciplinary hearings by sports and other professional bodies. There are an ever-growing number of these regulatory bodies and they possess extensive powers, such as the power to fine, suspend or strike off a sports person or other professional.

There is often room for dispute in relation to allegations of misconduct and robust cross-examination is sometimes required. In other cases complex pleas in mitigation of sentence must be carefully developed and presented.

As with any other sort of trial, there is a basic principle that proceedings of this kind must be seen as ‘fair’. When complaints of unfairness arise following an unfavourable decision, the result may be some form of judicial review in the High Court, which possesses extensive powers to regulate lower tribunals.

## Tribunals Dealing With Professional Matters

- The London stock exchange
- The Civil Aviation Authority

- The Financial Services Authority
- The General Dental Council
- The General Optical Council
- The Nursing and Midwifery Council
- The Royal College of Veterinary Surgeons
- The Royal Pharmaceutical Society of Great Britain
- Police disciplinary tribunals
- Professional accountancy bodies such as the ICAEW
- Law bodies such as the General Council of the Bar and the Solicitors Regulatory Authority
- Medical, veterinary, dental & pharmaceutical bodies such as the General Medical Council

## Tribunals Dealing With Sports-related Matters

- The Football Association Disciplinary Committee
- The British Board of Boxing Control
- The British Horse-Racing Authority
- The ECB's Cricket Disciplinary Commission
- The Rugby Football Union Disciplinary Committee

## Education

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- LLB Hons, London School of Economics