



Benjamin Whittingham

Year of call 2018



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Benjamin Whittingham accepts instructions across all aspects of common law.

Ben completed pupillage under the supervision of Adam Birkby in September 2020.

Before joining chambers, Ben read modern languages at the University of Edinburgh. He converted to law with a GDL, achieving a distinction and several prizes for exam performance in tort, land law, and EU law.

Ben is also a qualified mediator with success in both national and international student mediation and negotiation competitions.

Expertise

Crime

He undertakes prosecution and defence work in both the Magistrates' and the Crown Court. His more notable recent cases have involved serious offences, including death by careless driving which involved a successful defence of automatism, rape and sexual assault, industrial scale cannabis cultivation and supply, and assisting an offender after a drive-by shooting.

He recently enjoyed success in the Court of Appeal, achieving a one-third reduction in the custodial term.

He also acts in private prosecutions covering environmental offences or offences of animal cruelty.

Notable Crime cases

R v ZB (2024)

Prosecuting perverting course of justice offences arising from collapse of earlier dangerous driving trial. Advised on detailed trawl

Leeds

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of investigation to undermine alibi evidence advanced in the form of fabricated Snapchat images and marshalled technical and expert evidence into possible mechanism for fabricating such evidence. Guilty pleas entered.

R v MH (2024)

Prosecuting an arson where the Defendant relied on the defence of sane automatism, having been struck over the head with a machete in an attack moments prior to the arson. Case required regularly advising the police as to investigatory steps, including accessing the handset and sourcing addenda from the expert. Defendant ultimately pleaded.

R v JD (2024)

Junior to David Outterside defending in a 4 month multi-handed conspiracy to possess a firearm with intent to endanger life and to supply Class A drugs off-circuit. Issues relating to bad character, hearsay and continuity. Client sentenced to 10 years, the judge accepting that the defendant was extremely naive, his participation was very unsophisticated and he was involved in the enterprise as a result of an immature admiration for a leading OCG member.

R v X (Early 2024)

Defending a England rugby international in summary proceedings.

R v CT (April 2024)

Resisting a Reference by the Attorney General for a sentence which was felt to be unduly lenient. The sentence for aggravated dwelling burglary in which a pregnant occupier fled in fear at the sight of a group wielding a machete was initially one of 4 years. Whilst the sentence was increased, it was possible to persuade the court that it was more squarely a Category 2 case rather than a Category 1 case as was suggested.

R v RF (January 2024)

Prosecuting a section 18 glassing offence 3 day trial, the issue being intention to cause really serious harm after the level of harm was admitted by guilty plea to a s20 offence. The defendant suggested he had struck out at the Complainant briefly and reflexively so had no such intention. Cross-examination by reference to the CCTV established the Defendant was seemingly pushing others out of the way to get at the Complainant quicker so as to strike the blow. Convicted by the jury after an hour of deliberation.

R v PS

Prosecuting a male who was found unfit to plead in a case involving the highjacking of an emergency ambulance and it being subsequently driven dangerously across Leeds. The case involved marshalling evidence from a substantial number of witnesses and footage from pursuing police vehicles and the police helicopter. A hospital order with restrictions was ultimately imposed.

R v AL

Defending in a case of assisting an offender in the cleaning of a car after a drive-by shooting, Ben recognised the need for expert medical evidence to substantiate a novel point of the defendant's case. The defendant was exploited by a family member who knew she suffered from a severe preoccupation with cleanliness. Psychological reports were able to offer an innocent explanation for the Defendant's focus on an area of a vehicle from which a firearm had been discharged earlier in the day, such that the Crown

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ultimately opted to offer no evidence.

R v ST (2022) EWCA

18 month custodial term reduced to 12 months to reflect mitigation and credit in case of repeat assault on emergency workers while heavily in drink.

R v HS (2021)

Appeared for the defence at the first hearing and PTPH in a death by careless driving case. Advised on the defence of automatism which was successfully deployed, the Crown offering no evidence. The Defendant had been stung by a wasp whilst rounding a bend in the road, killing an elderly passenger in an oncoming vehicle.

R v BW (2021)

Defended in an appeal against conviction in a case of threatening a member of staff working for a local MP.

R v BC (2021)

Defending in a PWIT Class A case where the defendant maintained he was present at a drugs den to buy rather than to sell drugs. Secured a suspended sentence, having persuaded court to sentence outside the guidelines on account of the defendant's youth and the unjustifiable delay in bringing the case to trial

R v YB (2021)

Defended in an industrial scale cannabis cultivation and supply case, where the Defendant was renting a number of properties out to an organised crime gang. Successfully persuaded the judge to sentence outside the guidelines. The Defendant was sentenced to 3 years rather than the usual 8 years where the estimated yield was at least 44 kilos.

Regulatory

Ben completed a programme of weekly advisory work for the Care Quality Commission which considered the merits of potential reasonable excuse defences for breach of s33 Health and Social Care Act 2008. The thoroughness of his preparation was praised by his instructing solicitor at the CQC, who also commended his clear, consistently sound advice.

Ben has an established practice in professional disciplinary work. He regularly drafts statements of case, advises on case preparation, and presents for Social Work England in both interim and substantive hearings. His work has involved such issues as the admission of evidence given out of the jurisdiction, adverse inferences, hearsay and bad character.

Tribunals have commended his focused and fair submissions.

He is especially keen to develop his practice in this area, making full use of the skills he has developed in criminal work from the lower courts to the Court of Appeal.

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Family

Ben's family practice is growing. He adopts the same forensic approach to case preparation as he does in his criminal practice.

He conducts all manner of private family work, including in child arrangement applications and applications for injunctive relief. Instructing solicitors note the trust he inspires in those he represents. He particularly welcomes early involvement in cases and is more than happy to advise on case preparation in advance of final hearings. He is committed to effective and timely communication with lay and professional clients.

He has also accepted instructions in matrimonial finance work.

Notable Family cases

BB

Representing the applicant father in a contact dispute at a final hearing. The mother refused to permit contact, suggesting any desire for contact was a ploy to secure leave to remain in the UK. The mother's attempt to adjourn the final hearing were objected to, and the bench were apprised of the issues and invited to indicate their view of the merits of the father's application for contact. Armed with this indication, the case was stood down for the respondent mother to agree contact arrangements.

NB

A final hearing in a specific issue application by the client mother who sought a change of school for her daughter. Her daughter had been severely under served by the special needs provision of the current school. This was contested by the father, who sought for the child to remain in her nearest school. The magistrates' granted the application.

NS

Representing the applicant in a contested final hearing for a non-molestation order preventing contact after allegations of domestic abuse. A fact finding hearing was deemed unnecessary on the basis the respondent was serving custodial sentenced for breach of the interim non-molestation orders, sparing the applicant the ordeal of giving evidence. Broad protection was granted to the applicant in the final protective orders sought.

AR

Representing the respondent mother in the father's application for contact with the child after limited admissions of domestic abuse, a finding of fact hearing was avoided and concerns about the mother obstructing stepped interim contact were allayed. The bench were persuaded to step back from reallocating the case to a district judge, accepting that the client mother required space and time to properly engage with the inevitability of contact between the child and father. Ultimately, final contact arrangements were arrived at entirely by consent.

Civil

Ben's practice is a mixture of purely advisory and court-based work. He accepts instructions from insurers in RTAs.



He has advised about liability under the OLA regimes in respect of users of private access roads, liability for public authorities from third party use of land, and contractual disputes.

He has also been instructed to advise a local authority about excessive user, injunctive relief and private rights of way generally.

Appointments

- CPS Level 3 Prosecutor
- CPS RASSO Advocate
- CPS Specialist POCA Panel, Level 2
- CPS Specialist Serious Crime Panel, Level 2
- Specialist Regulatory Advocate in Health and Safety and Environment Law, List C
- Attorney General's list of Junior Counsel to the Crown (Regional C Panel)

Education

- University of Edinburgh

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