

## Rachel Faux

Year of Call: **1997**



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Rachel Faux is a specialist criminal barrister with over twenty years of experience.

Rachel has an established criminal practice in matters of violence, drugs, dishonesty and sexual assaults. She has experience of cases giving rise to mental health issues, forensic accountancy, pathology, abuse of process arguments and applications pursuant to the Proceeds of Crime Act.

Rachel also has significant experience of cases involving defendants with learning difficulties and Autism Spectrum Disorders, including Asperger's Syndrome. Her expertise has frequently been sought pre-diagnosis in order to advise upon the instruction of suitably experienced diagnostic experts in this field. She has accumulated a strong understanding of the particular sensitivities required in the preparation of such cases and at trial. Rachel has received repeat instructions from solicitors with specialist experience of such complexities who have then recommended her to others.

Rachel is recommended in both the Chambers & Partners and The Legal 500 directories.

Appointed Level 4 on the CPS Advocate Panel.

### Education

1993 to 1996 - Nottingham Trent University, LLB Hons

1996 to 1997 - Inns of Court School of Law, London

Hardwicke Entrance Scholarship 1996

Sir Thomas More Bursary 1996

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### Professional Memberships

Criminal Bar Association

Crown Prosecution Service Category 4

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### Notable Cases

**R v LC (2022):** Led by Michael Brady QC, prosecuted a woman who was found guilty of the murder of a 13-month-old child she was seeking to adopt. The Crown called evidence of leading experts in paediatric pathology (ophthalmic and neuropathology) to help prove her intent to cause at least really serious harm. The prosecution case was that she lost her temper and smashed the child's head against a piece of furniture. The jury rejected her suggestion that she had "lost her mind." She was sentenced to life imprisonment with an 18 year minimum term.

**R v K [2021/2022]** Defending historic oral rapes committed by a child against a child ten years their junior over a six-year period. Defendant and victim had learning disabilities, both requiring intermediaries

at trial. Convicted after re-trial (following earlier hung jury). Sentence reduced from a thirteen-year starting point (for the equivalent modern offences) to a three-year community order in unique circumstances; these included reduced culpability (consequent to the Sentencing Council Guidelines for defendants with mental disorders and young people) and the defendant's lengthy hospital order for subsequent similar offending in the interim addressing the risk of future offending.

**R v O [2021]** Defending a man in his early twenties who admitted (during the course of Family Court proceedings) causing a brain injury to a baby by shaking him. Instructed prior to first appearance to advise on early pleas to some of the wide-ranging allegations. Worked with instructing solicitors to investigate the Defendant's mental health, resulting in his diagnosis of Attention Deficit Hyperactivity Disorder. Negotiated a basis of plea regarding causation such that a trial of issue was avoided. Suspended sentence imposed (reflecting the relevant Sentencing Council Guidelines for mental disorders, developmental disorders or neurological impairments).

**R v W [2021]** Defending a young mother who witnessed her abusive partner seriously injure their baby and delayed seeking appropriate medical treatment. Parallel Family Court proceedings ensued. She was joined to the criminal proceedings late. Worked with instructing solicitors to negotiate her giving prosecution evidence upon a guilty plea to child cruelty. Suspended sentence imposed.

**R v F [2021]** Prosecution trial counsel, historic sexual abuse by a man on two girls in the 1980s. Defendant sentenced to 22 years' custody, an "offender of particular concern".

**R v L [2020]** Conspiracy to rob (29 armed robberies during 6 months). Defending an alleged 'safe house' provider. Cell site and telephone communications evidence; acquitted after a five-week trial. Convicted co-defendants anticipating life sentences.

**R v H [2020]** Defending an allegation of rape of a child under 13, where the requisite penetration was admitted in the defendant's police interview. The young defendant's Autism Spectrum Disorder was diagnosed and relied upon as part of defence trial preparation. Cross-examination prepared and served (s28 and s41 YJCEA99); working with instructing solicitor, made submissions to the prosecution who were persuaded to accept a significantly lesser offence (sexual assault of child under 13 by penetration), resulting in a suspended sentence.

**R v W [2020]** Defending an outward bound instructor, acquitted after trial alleging repeated penetrative sexual activity with a 15 year-old child in the care of the Local Authority.

**R v T [2019]** Sexual abuse alleged to have taken place thirty years ago (rapes, buggery and indecent assaults) when the complainant was between 3 and 8 years old and the defendant was himself a child, now a father in his forties and of good character. Defence trial counsel.

**R v S [2019]** Serious child abuse, child aged 7: section 18, causing grievous bodily harm with intent (fractured femur), child cruelty over a six-month period, including excrement smearing. Defence trial counsel for victim's mother's boyfriend. Both defendants had very limited English; trial preparation included translation of voluminous material and the trial was conducted with translators. First on the indictment, therefore leading cross-examination and legal arguments. Expert evidence from and cross-examination of a Home Office Pathologist, the Director of Manchester Sexual Assault Referral Clinic and a Consultant Paediatrician.

**R v B [2019]** Penetrative sexual assault on a fourteen-year-old girl by her step-father; defence trial counsel. Detailed cross-examination of a forensic scientist regarding mixed profile DNA on underwear.

**R v O [2019]** Sexual assault allegation upon teenager with learning difficulties by her mother's boyfriend. From unused medical records Rachel identified the need for an intermediary, who assisted the complainant at trial. Prosecution trial counsel.

**R v J [2019]** False imprisonment during the course of a domestic dispute; trial of issue defending a young adult with Asperger's Syndrome. Sensitive preparation to assist the defendant in fully understanding the applicable law and the need to focus upon the relevant issues when considering the evidence objectively.

**R v O & others [2018]** Led by **Mike Brady QC** prosecuting a conspiracy to murder (a sawn-off shotgun discharged at point blank range from which the complainant survived). Appeal against a terminating ruling, when the case against one of the four defendants was withdrawn from the jury at the close of the prosecution case.

**R v D [2018]** Defending a young adult with Autism Spectrum Disorder. Working together with her instructing solicitor from an early stage, to support the defendant in understanding the complexities of the law in this area so that he could reach an informed decision as to plea and fully understand the likely consequences. Having pleaded guilty to sexual offences upon a relative (including three counts of oral rape when the victim was between 8 and 10 years old and he from aged 16 until just after he turned 18) mitigation required particularly delicate submissions. He was sentenced to 5 years' detention.

**R v W [2018]** Defending a man diagnosed with Asperger's Syndrome; working together with her instructing solicitor from an early stage, advising upon the instruction of expert medical reports and assisting the defendant to understand the legal complexities of the allegations, allowing an informed decision regarding the consequences of pleading guilty to the sexual assault of a 7-year-old family friend. An early plea and considerable mitigation gave rise to a suspended sentence.

**R v BG (2017)** Conspiracy to supply Class A - defending a man of good character. Legal argument regarding the admissibility of psychological evidence relevant to features of his assessed low intelligence (including features of verbal masking and a low threshold for cognitive disintegration).

**R v I [2016]** Successfully appealed a terminating ruling, where an abuse of process argument in a non-recent sexual abuse case had wrongly led the Crown Court Judge to stay the indictment.

**R v IM (2016) S18** - Defending a woman of good character who stabbed her neighbour to the eye thereby blinding him. The Defendant had no recollection of the assault. The factually complex background gave rise to consideration of psychiatric evidence, psychological evidence regarding altered states of consciousness during the practice of Shamanism and pharmacological evidence regarding the effect on prescribed medication of a juice diet combined with sudden nicotine withdrawal. The case concluded by the jury's verdict of not guilty by reason of insanity.

**R v W (2015):** Allegations of historic penetrative sexual assault of his step-daughter and her mother. The defendant had learning difficulties and the trial was conducted with an intermediary.

**R v A (2015):** Defending an allegation of rape: the schizophrenic complainant was cross-examined via an interpreter, under the supervision of an intermediary whilst observed by a psychiatrist (who gave evidence, inter alia, about the complainant's psychiatric history of hallucinations).

**R v CJ (2015):** Defending an allegation of rape: defence reliant in part on the schizophrenic complainant's psychiatric history of hallucinations; defendant acquitted after trial.

**R v MC & others (2014-2015):** Led by Raymond Wigglesworth QC, prosecuting an alleged conspiracy to defraud the Traffic Commissioner of Great Britain. A four month trial pursuant to a VOSA (now DVSA) investigation of a company's approach to obtaining multiple Operator Licences in conjunction with other haulage businesses.

**R v M (2013):** Defending a young man with known learning disabilities on what were originally rape allegations of a 13-year-old girl (reduced to penetrative sexual assault when the complainant was not relied upon by the Crown). Defence psychiatric expert evidence confirmed post-interview diagnosis of ADHD, the combination of which rendered 'admissions' regarding his knowledge of her age as equivocal and unreliable. Acquitted following a ruling that the interview was inadmissible.

**R v C (2012):** Defending multiple allegations of rape and sexual assault of 6-year-old granddaughter. Sensitive cross-examination of the complainant gave rise to a successful submission of no case to answer at the conclusion of the prosecution case.

**R v W (2012):** Defending; a stabbing to the complainant's neck indicted as section 18 (wounding with intent) was reduced to section 20 (unlawful wounding) following evidence of a toxicologist corroborating lack of specific intent on account of voluntary intoxication. Legal argument separated the trial of a second man who had, in turn, stabbed the defendant to the chest.

**R v D (2012):** Defending a father accused of twice deliberately burning his son. A bad character application against the complainant incorporated argument regarding psychological expertise against a history including fire-setting, animal cruelty and sexual misbehaviour. Defendant acquitted after trial.

**R v MD & 12 others (2010):** Led by Raymond Wigglesworth QC defending a man of good character, acquitted of conspiring to defraud Her Majesty's Revenue and Customs. The value of this red diesel fraud

exceeded £10m.

**R v K (2009):** Defending a non-English speaking man on an allegation initially of rape, reduced to sexual assault on account of the evidence limited exclusively to the defendant's semen present on the complainant's clothing. The case was dismissed before trial following successful legal argument that (i) ejaculation causing semen to contact clothing was not of itself a 'sexual touching' and (ii) the Crown's forensic expert conceding in cross-examination that she was unable to exclude an indirect transfer of semen to the clothing.

**R v IJ (2008):** Junior to a leader defending in a HMRC multi-million pound cigarette duty evasion prosecution.

**R v S (2008):** Junior to a leader defending in a multi-handed cut-throat long firm fraud of in excess of £1m.

**Re: Mr Harry Boodhoo Solicitor (2007) EWCA Crim 14:** The Court of Appeal (the Bar Council and the Law Society having been asked to intervene) examined and reviewed my professional conduct favourably on the question of the absence of a defendant at trial.

**R v H (2003):** Defending indictment of theft from employer stayed as abuse of process consequent to forensic accounting evidence.

**R v B (2003):** Defending a man of good character acquitted of historical indecent assaults on his deaf mute granddaughter.

**R v L (2002/2003):** Junior to a leader in a multi-handed drugs conspiracy trial lasting 6 months.