

# JANE FARQUHARSON QC

## YEAR OF CALL

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2002 Faculty of Advocates  
1993 Bar of England and Wales

## EDUCATION

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1989 – 1992 University of Newcastle Upon Tyne  
(2:1) LLB Hons  
  
1992 – 1993 Inns of Court School of Law, London  
Professional vocational qualification for the Bar of England and  
Wales

## PROFESSIONAL EXPERIENCE

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1994 – 1997 common law and criminal pupillages at 1 Essex Court, 1  
Middle Temple Lane and 5 Paper Buildings, all London  
  
1997 – 2000 Chambers of Sir Ivan Lawrence QC, London  
Barrister  

- Common law set of Chambers, a predominantly criminal practice but  
accepting instructions in family and personal injury matters.

  
2000 – 2001 Chambers of Desmond Da Silva QC, London  
Barrister  

- A criminal practice both prosecuting and defending with an emphasis on  
cases involving children and sexual offences. Maintaining a family  
practice specialising in children and public law matters.

  
2001 – 2002 HBOSplc, Edinburgh  
Research Assistant  

- Reporting directly to Group Counsel for the Bank of Scotland who had  
responsibility for managing the merger programme office during the  
Bank of Scotland and Halifax merger .

  
2002 to date practising Counsel at the Scottish Bar

2010 to 2014 Trial Advocate Depute

2013 to 2015 Deputy Head of the National Sexual Crimes Unit

2015 to date Senior Advocate Depute

#### AREAS OF PRACTICE

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Criminal law, Children's Referrals, Freeing for Adoption, Proceeds of Crime, Drugs, Sexual Offences, Human Rights and Devolutions Issues, Extradition, Appeals

#### COURTS/TRIBUNAL EXPERIENCE

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In England the Magistrates, Crown Courts and Appeal Courts including the Court of Appeal.

In Scotland, Sheriff Courts, the High Court of Justiciary and the Appeal Court.

#### SELECTED CASES

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- in the Appeal Court:

##### **Brian Kelly v HMA 2003 HCJAC 458**

An SCCR referral against a rape conviction of a serving police officer. Mr Kelly was the first man in Scotland to be convicted using DNA evidence. The procedures of testing were called into question and the conviction successfully overturned.

##### **Luke Mitchell v HMA 2008 SCCR 469**

Appeal against a murder conviction, with particular emphasis on circumstantial evidence.

##### **Kevin McAngus and Michael Kane v HMA 2009 SCCR 238**

A 5 bench appeal case reviewing the law of culpable homicide by the supply and/or administration of drugs. Having argued a preliminary plea at first instance on behalf of Michael Kane, leave was granted and his appeal

conjoined to reconsider the leading Scottish authorities in light of a recent House of Lords decision in England.

**Brian Newman v HMA 2016 JC 165**

Argued successfully for the Crown that there was a sufficient basis to infer an act of sexual penetration where the complainer had no knowledge of what had happened to him.

**Angus McAskill v HMA 2016 SCCR 402**

Argued successfully for the Crown that the *Moorov* doctrine applied, where the accused's conduct in a relationship either violent or sexual was designed to humiliate and control his partner.

**Stewart v Payne and McQuade v Clark 2017 JC 155**

Junior counsel to the Lord Advocate in this action raised by relatives of separate road traffic accidents. Argued successfully that there were no special circumstances to justify the passing of the bills.

**SM v HMA 2018 HCJAC 22**

An appeal against conviction looking at the application of the *Moorov* doctrine. Argued successfully for the Crown that the appellant's conduct as a whole required to be looked at and the escalation in his behaviour was attributable to the reaction and responses of the particular complainer.

- At First Instance

**HMA v Luke Mitchell**

Junior defence counsel in the prosecution of a 15 year old boy charged with the murder of his 14 year old girlfriend Jodi Jones.

**HMA v Peter Tobin**

Junior defence counsel in the prosecution of a church handyman charged with the murder of a Polish student Angelika Kluk.

**HMA v William Gurie and others**

Scotland's first money laundering prosecution.

#### **HMA v Brian Howes and Kerry Ann Shanks**

Defence counsel for Mrs Shanks. Extradition proceedings of a couple alleged to have conspired to unlawfully import into and distribute within the USA, chemicals used to manufacture methamphetamine. As a family of 4 young children facing separation from both parents this case involved a compelling Article 8 argument and the right to family life, currently under consideration in the Appeal Court.

#### **HMA v Neil Strachan and others**

An 8 accused trial involving a conspiracy to sexually abuse children and the possession, manufacture and distribution of paedophilic images. This trial represented the largest prosecution of a paedophile network in the UK.

#### **HMA v Ross Lennie and Ross McCallum**

I prosecuted both accused charged with raping the same complainer. An adminicle of evidence in a circumstantial case was distress. It was argued that it was not clear as to whom or what her distress was attributable. A submission of no case to answer and later appeal on the same point were repelled (2014 HCJAC 103).

#### **HMA v Brian Newman**

I prosecuted the accused charged with a variety of historical sexual offences committed against boy's residing in a children's home. The application of the *Moornov* doctrine to the varied and different experiences of the complainers required detailed and careful analysis providing the jury with a clear route to verdict. An appeal against conviction was unsuccessful (2016 JC 165)

#### **HMA v Steven Davidson**

I prosecuted this high profile "Meadows" stranger rape case. .

#### **HMA v Nikola Zhulev**

I prosecuted this circumstantial murder trial in which the cause of death remained "unascertained."

#### **HMA v Lee McAulay**

I prosecuted this 17 year old accused charged with murder. The 16 year old deceased died days after this incident as a result of a single stab wound. The accused lodged a special defence of self-defence having been approached by the deceased in a gang related incident. In addressing the jury I successfully sought a conviction for culpable homicide.

#### **HMA v Richard Fleming and Liam Richardson**

I prosecuted both accused in this robbery case that involved theft of a quantity of high end watches from Mappin and Webb jewellers within the Gleneagles hotel.

#### **HMA v Scott McGaw and others**

The first prosecution under the Psychoactive Substances Act 2016 in respect of the importation, production and supply of Etizolam tablets.

#### APPOINTMENTS & MEMBERSHIPS

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Faculty of Advocate Criminal Bar Association

I sat on Lord Bonomy's Independent Reference Group considering the abolition of corroboration and recommending appropriate safeguards pursuant to his Corroboration Safeguards Review Final Report (dated April 2015)

I was asked by Professor James Chalmers to advise on the scripts being used by mock juries in the Scottish Government research project looking at how juries work, including their use of the "not proven" verdict. This required reading, editing and revising said scripts before and during the filming process.

I am a trustee of the Dirlebane Theatre Company charity, providing high quality theatre performances for children, young people and their families, looking at key periods and issues in young lives .

Appointment of Queen's Counsel in 2018

#### PUBLICATIONS

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Reporter for Justiciary Cases

#### ADDITIONAL INFORMATION

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Jane Farquharson called to the Bar of England and Wales in 1992. In London she built up a successful criminal practice, both prosecuting and defending with an emphasis on cases involving children and sexual offences. She also maintained a family practice specialising in children and public law matters.

Since qualifying in Scotland she has enjoyed a busy junior practice, being led in a number of high profile cases and appeals and appearing on her own in the High Court and Appeal Court. Her methodical approach has made her a first choice as junior counsel assisting senior in some of the most notorious cases of recent times.