

Barry Smith QC

- Year called:** 2005
- Year of silk:** 2020
- Email:** barry.smith@compasschambers.com
- Qualifications:**
- LL.B. (First Class Hons) (University of Strathclyde)
 - Dip.L.P.
 - LL.M. (Harvard University) Kennedy Memorial Scholarship
 - Trainee solicitor, Crown Office 2000 – 2002
 - Procurator Fiscal Depute 2002 – 2004
 - Lord Reid Scholar, Faculty of Advocates 2004 – 2005
 - Session Cases Reporter, SCLR 2006 – 2014
 - Clerk to the Board of Assessors, Faculty of Advocates 2010 - 2017
 - Advocate Depute ad hoc 2018 – date



Practice

Principal Areas of Practice:

- Regulatory Crime
- Health & Safety
- Fatal Accident Inquiries

Barry advises and appears in the High Court of Justiciary and Sheriff Courts in cases involving: financial crime; computer crime; and environmental offences. He regularly advises and represents those charged with offences arising from fatal road traffic accidents, and in relation to deaths at sea.

His principal specialism is in the defence of charges under the Health and Safety at Work etc Act 1974 and related Regulations. He is recommended in both Legal 500 and Chambers in Health & Safety. He is described as having "in-depth knowledge of health and safety law" (Legal 500), having been instructed in many of the significant health and safety cases in Scotland in recent years. He acts for major clients in the engineering, oil & gas, rail, aviation, maritime, construction, transport and retail industries.

Representative Cases

2020 - **HMA v Enva Scotland Ltd (William Tracey Ltd)** (HSWA s.2)

2020 - **HMA v A&D Logistics Ltd** (HSWA s.2)

2020 - **HMA v East Dunbartonshire Council** (Control of Lead at Work Regulations)

2020 - **HMA v DX Group Plc** (HSWA s.2)

2020 - **HMA v Browns Manufacturing Ltd** (HSWA s.2)

2020 - **HMA v Recycled Packaging Ltd** (HSWA s.2)

2020 - **HM Inspector of Health & Safety v Petrofac** (EAT Appeal in re Prohibition Notice)

2020 - **PF v Duffy Skylining** (HSWA s.2 - timber felling operation)

2019 - **HMA v CEMEX UK Ltd** (HSWA s.2)

2019 - **PF v Volvo Group UK Ltd** (HSWA s.2)

2019 - **Petrofac Facilities Management Ltd v HM Inspector** (Appeal against Prohibition Notice)

2019 - **HMA v M&D Leisure Ltd** (HSWA s.3 - "Tsunami" Rollercoaster accident)

2019 - **HMA v Balfour Beatty Civil Engineering Ltd** (Construction (Design & Management) Regulations 1997, Reg 13(1))

2018 - **HMA v Macaulay Askernish Ltd** (Quarries Regulations 1999, Reg 6)

2018 - **HMA v Dow Waste Management Ltd & Others** (Environmental Protection Act 1990) (for a Director)

2017 - **HM Inspector of H&S v Chevron North Sea Ltd** (Appeal against Prohibition Notice - UK Supreme Court)

2017 - **HMA v Walker Demo Ltd** (HSWA s.2)

2017 - **HMA v Sparks Mechanical Services Ltd & M J Ventilation Ltd** (HSWA s.2 / 3 - for M J Ventilation)

2017 - **HMA v Anthony Soriani** (HSWA s.7)

2017 - **HMA v Sandford Park Ltd** (Construction (Design & Management) Regulations 2007)

2017 - **HMA v Structural Metal Decks Ltd** (HSWA s.3)

2016 - **HMA v Kaefer C&D Ltd** (HSWA s.2)

2016 - **PF v Jacobite Cruises Ltd & Andrew Lach** (Merchant Shipping Act 1995 s.58 - for Andrew Lach (Skipper))

2016 - **Scottish Power Generation Ltd v HM Advocate** (Appeal against sentence in re HSWA s.3)

2016 - **PF v Halliburton Manufacturing & Services Ltd** (HSWA s.3)

2016 - **HMA v Scottish Hydro Electric Transmission Ltd** (HSWA s.3)

2016 - **HMA v Loch Earn Caravan Parks Ltd** (HSWA s.3)

2016 - **HMA v Gemini Corrosion Service Ltd** (HSWA s.2)

2016 - **HMA v Scottish Power Generation Ltd** (HSWA s.2)

2016 - **PF Aberdeen v North East Stevedoring Co. Ltd** (HSWA s.3)

2016 - **PF Kilmarnock v Anderson Stewart Castings Ltd** (HSWA s.2)

2016 - **PF Aberdeen v Wren Living Ltd** (Consumer Protection from Unfair Trading Regulations 1998)

2016 - **HMA v Maclay Inns Ltd** (HSWA s.3)

2016 - **Stirling Council v DB Schenker Rail (UK) Ltd & Freightliner Group PLC** (Environmental Protection Act 1990 - Noise Abatement)

2016 - **HMA v BDL Select Operations Ltd** (HSWA s.2 & 3)

2016 - **Conner v Chevron North Sea Ltd** (Appeal against Prohibition Notice - Court of Session Inner House)

2016 - **HMA v John Sisk & Sons Ltd & Hemsec Ltd** (HSWA s.3 - for Sisk)

2016 - **PF Livingston v Anglian Windows Ltd** (HSWA s.2)

2015 - **HMA v Siemens Plc & RWE Innology Ltd** (HSWA s.2 - for Siemens Plc)

2015 - **HMA v James Thores (FV Starlight Rays)** (Merchant Shipping & Fishing Vessels (Health & Safety) Regulations 1997)

2015 - **HMA v Allied Vehicles Ltd** (HSWA s.3)

2015 - **PF Dundee v Scotco Eastern Ltd (KFC)** (Food Hygiene (Sc) Regulations 2006)

2015 - **PF Elgin v SSE Home Services Ltd** (HSWA s.3)

2015 - **HMA v Scottish Fire & Rescue Service** (HSWA s.2)

2015 - **HMA v Bilfinger Salamis UK Ltd** (Work at Height Regulations 2005 r.4).

2014 - **HMA v Jewson Ltd** (HSWA s.2)

2014 - **PF Stirling v Kier Construction Ltd** (HSWA s.3)

2014 - **HMA v SWGR Ltd** (HSWA s.2)

2014 - **PF Edinburgh v Mitie Tilley Roofing Ltd** (HSWA s.2)

2014 - **HMA v Matthew Johnston & Others** (Wildlife & Countryside Act 1981 ss.1, 5, & 11 etc.)

2013 - **HMA v Fresh Direct (Scotland) Ltd** (HSWA s.2)

2012 - **HMA v Nether Dysart Farms** (HSWA s.2)

2012 - **HMA v Electroguard Security Systems** (HSWA s.3)

2012 - **HMA v Major George McCallum** (HSWA s.7)

2011 - **HMA v Alexander Dennis Ltd** (HSWA s.2)

2011 - **HMA v Robertson Construction (Central) Ltd & Stirling Stone Ltd** (HSWA s.2 / s.3)

2010 - **PF Falkirk v Asda Stores Ltd** (HSWA s.2)

2010 - **Stena Drilling Ltd v Greenpeace Ltd** (Interdict proceedings)

2010 - **HMA v Kuehne + Nagel Ltd** (HSWA s.2)

Fatal Accident Inquiries

2021 - **In re Death of Darren Kerr** (Collapsed crane on deck of supply vessel) (for Inverlussa Marine Services)

2020 - **In re Deaths of George Thomas Allison & three others** (Super Puma Helicopter G-WNSB / "Sumburgh" Inquiry) (for Civil Aviation Authority)

2019 - **In re Deaths of Gary Louis Arthur & nine others** (Police Scotland Helicopter G-SPAO / "Clutha" Inquiry) (for Civil Aviation Authority)

2017 - **In re Deaths of Paula Robson & three others** (Snowman & Jim Clark Rally FAI) (for Berwick & District Motor Club)

2016 - **In Re Death of Margaret Forrest** (Pharmacy dispensing error) (for Boots UK Ltd)

2015 - **In Re Death of Michael MacDonald** (Livingwell Dundee Swimming Pool FAI) (for Hilton Worldwide)

2014 - **In Re Death of Basilio Brazao** (Earlsburn Windfarm FAI) (for principal contractor - Nordex UK Ltd)

2014 - **In Re Death of Russell Robinson** (Balmoral FPV Saturation Diving FAI) (for Harkand ISS (Integrated Sub-Sea Services) Ltd)

2013 - **In Re Death of Natasha Paton** (School Bus Crash FAI) (for Driver)

2013 - **In Re Death of Ainslie Smith** (Infant Cot Death FAI) (for Cosatto Ltd)

2012 - **In Re Death of Darren Taylor** (Electrocution FAI) (for Scottish Power)

2011 - **In Re Robert MacDonald** (Forth Rail Bridge FAI)

2010 - **In Re Ben McCreath** (Princes Exchange FAI)

Professional Memberships

Health & Safety Lawyers Association (Committee Member)

Association of Regulatory & Disciplinary Lawyers

Lectures and seminars

Barry regularly provides seminars and vocational legal training. He has been particularly involved in the development and delivery of legal courses for HSE Scotland.

He maintains academic links with Harvard Law School and is a contributor to legal journals and periodicals.

What the Directories Say

He has been consistently ranked as Band 1 for Health & Safety in Legal 500 and Chambers UK since 2009. Recent representative testimonials include:

- Chambers UK 2020 - Ranked as New Silk in Health & Safety and Regulatory

"An exceptional advocate who has an excellent court manner. There's a very calm authority about him in court and he's a highly persuasive advocate." "He is entirely efficient and dependable. He's an intellectual heavyweight but has the human touch which is necessary when dealing with accused persons and companies that are not accustomed to the court setting."

- Legal 500 2020 - "Leading Individual" in Health & Safety and Regulatory

- Chambers UK 2020 - Ranked band 1 for Health & Safety

"Barry is extremely knowledgeable, hands-on, tactically aware and excellent to deal with."

"He has a calm, reassuring approach and in-depth knowledge of regulatory crime, with Incredible attention to detail while

being able to get to the crux of the matter quickly. His advocacy and client care skills are excellent."

- Legal 500 2019 - "Leading Individual" in Health & Safety and Regulatory
- Chambers UK 2019 - Ranked band 1 for Health & Safety
- Chambers UK 2018 - Ranked Band 1 for Health & Safety

"Calm, measured and highly persuasive both in court and when dealing with opposing counsel. He has excellent negotiating skills."

"He brings a strategic approach to cases. He is extremely thorough and excellent on his feet."