Compass Chambers

Barry Smith KC

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 • Trustee, SCLR 2021 - date; (& Vice-Chair 2023 - date)

Chambers TOP RANKED UK Bar 2024

The LEGAL 500 UNITED KINGDOM LEADING SILK 2024

Practice

Principal Areas of Practice:

• Regulatory Crime
• Health & Safety
• Fatal Accident Inquiries

Barry is a recognised specialist in Regulatory and Health & Safety work. He 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 and in aviation. He is experienced in the conduct of complex and high-profile Fatal Accident Inquiries, notably those arising from investigations by the MAIB and AAIB, having acted for the Civil Aviation Authority and frequently for the owners and operators of commercial vessels.

His principal specialism is in the defence of charges under the Health and Safety at Work etc Act 1974 and related Regulations. He frequently acts in appeals against enforcement notices. 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) and "a true specialist in Health and safety," having been instructed in many of the significant health and safety cases in Scotland

in the past decade including Scottish Power Generation Ltd (in the Court of Appeal on sentencing guidelines) and Chevron North Sea Ltd (in the UK Supreme Court on the scope of Enforcement Notice Appeals) . He acts for major clients in the engineering, oil & gas, rail, aviation, maritime, construction, transport and retail industries, as well as for HSE.

Representative Cases

2023 – **HMA v Kettle Produce Ltd** (representing a major food producer in re a conveyor belt entanglement incident)

2023 – **HMA v Sunbeam Fishing Ltd** (representing vessel owners in fatal HSWA s.3 case involving a crew member asphyxiated by leaking refridgerant gas) (MFV Sunbeam)

2023 – **HMA v Clyde Care Ltd** (representing a care home in fatal HSWA s.3 case involving an elderly resident)

2023 – **HMA v South Lanarkshire Council** (representing local authority in respect of road machinery accident resulting in traumatic amputation)

2023 – **HMA v Scrabster Seafoods Ltd** (representing a fishing vessel owner / operator in re fatal accident during creel shooting) (MFV North Star)

2023 – **HMA v Tigh-na-Muirn Ltd** (representing a care home in fatal HSWA s.3 case involving an elderly resident & in sentence appeal)

2023 – **HMA v Global Energy Nigg Ltd** (representing major energy services company in fatal HSWA s.3 case involving a sub-contractor)

2022 – **HMA v Core Cut Ltd** (representing a specialist diamond drilling contractor in a fatal case resolved under the Management of Health & Safety at Work Regulations 1999 Reg.3 on a non-causative basis)

2022 – **HMA v BDW Trading Ltd (Barratt Developments)** (representing a leading UK housebuilder, resolved under the Construction (Design & Management) Regulations 2015 Reg.13)

2022 – **HMA v BSW Timber Ltd** (representing the UK's largest timber processing company in respect of a contravention of HSWA s.3 resulting in life-limiting injury)

2022 – **HMA v Speedy Asset Services Ltd** (representing a leading UK plant hire company in respect of alleged breaches of HSWA / Lifting Operations & Lifting Equipment Regulations 1998 Reg.9 - case discontinued after preliminary plea)

2021 – **HMA v Technip (UK) Ltd** (representing a French shipping company in respect of a fatal quayside accident per HSWA s.3)

2021 – **HMA v Chivas Bros. Ltd** (representing the UK's largest spirits manufacturer in respect of a "near-miss" contravention of HSWA s.3 involving a sub-contractor)

2021 – **Petrofac Facilities Management Ltd v HM Inspector** (representing oil company in the Court of Session, Inner House on Appeal from EAT in re Prohibition Notice - decision of EAT successfully overturned)

2021 – **HMA v Archdiocese of Glasgow** (representing the Archdiocese in respecrt of a fatal HSWA s.3 case involving the tragic death of a parishioner)

2021 – **HMA v Maple Hotels 2 Ltd** (representing the operator of the Edinburgh Airport Hilton in respectr of a swimming pool fatality - resolved by way of a non-causative breach of HSWA s.3)

2021 – **HMA v Egger UK Ltd** (representing a pan-European timber company in respect of a fatal HSWA s.3 case)

2020 - **HMA v Enva Scotland Ltd (William Tracey Ltd)** (representing a leading refuse / recyclinbg company in respect of a fatal HSWA s.2 case)

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

2020 - **HMA v East Dunbartonshire Council** (representing a local authority in respect of a contravenbtion of the 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 (led by Peter Gray QC))

Fatal Accident Inquiries

2023 – **In re Death of Antonio Linares** (representing Siemens Gamesa Renewable Energy UK Ltd in respect of fatal accident during construction of Wind Turbine Generator at Kilgallioch Wind Farm)

2023 – **In re Deaths of Pawel Chruscinski & seven others** (representing Brise Bereederungs GmbH & Co. KG & others, Hamburg (owners & charter managers) in respect of the loss of MV "Cemfjord" with all hands in the Pentland Firth)

2022 – **In re Deaths of Richard Dyson & Simon Midgley** (representing the Resort Director in respect of the Cameron House Hotel fire)

2021 – **In re Death of Brian Smith** (representing Associated British Ports Ltd t/a UK Dredging (operators of the vessel) in respect of a Dredger docking accident at Royal Rosyth Dockyard)

2021 – **In re Deaths of Duncan MacDougall & Premek Krawczyk** (representing the vessel owners in respecxt of the MFV "Nancy Glen" capsize & sinking on Loch Fyne with the loss of all hands)

2021 - **In re Death of Darren Kerr** (representing Inverlussa Marine Services (owners / operators of the MV Carol Anne) in respect of a collapsed crane on deck of supply vessel)

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

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

2017 - **In re Deaths of Paula Robson & three others** (representing the Berwick & District Motor Club (event organisers)

in respect of the Snowman & Jim Clark Rally FAI)

2016 - **In Re Death of Margaret Forrest** (representing Boots UK Ltd in respect of a Pharmacy dispensing error)

2015 - **In Re Death of Michael MacDonald** (representing Hilton Worldwide in resepct of the Livingwell Dundee Swimming Pool FAI)

2014 - **In Re Death of Basilio Brazao** (representing Nordex UK Ltd (the Principal Contractor) in respect of the Earlsburn Windfarm FAI)

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

2013 - **In Re Death of Natasha Paton** (representing the driver in the Lanark Grammar School Bus Crash FAI)

2013 - **In Re Death of Ainslie Smith** (representing Cosatto Ltd (the manufacturer) in an Infant Cot Death FAI)

2012 - **In Re Death of Darren Taylor** (Representing Scottish Power in an Electrocution FAI)

2011 - **In Re Robert MacDonald** (representing Thyssen Krupp Palmers Ltd (the Principal Contractor), led by Peter Gray QC, in the Forth Rail Bridge FAI)

2010 - **In Re Ben McCreath** (representing the City of Edinburgh Council in the 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."