

Susan Duff

Year called: 2003

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Practice

Principal Areas of Practice:

- Health and Safety Prosecutions and Enforcement proceedings
- Fatal Accident Inquiries
- Environmental Prosecutions
- Road Traffic Prosecutions
- Corporate Financial Crime

Susan specialises in defending corporate clients and individuals charged in regulatory and enforcement proceedings.

She appears regularly in the High Court of Justiciary and Sheriff Courts throughout Scotland and in the Employment Tribunal in Health and Safety enforcement proceedings. She also appears in the Court of Session in civil proceedings related to Proceeds of Crime and confiscation cases and in the Sheriff Court in civil proceedings relating to regulatory enforcement.

Her practice includes financial and computer crime as well as complex food safety and environmental offences. She is regularly instructed in criminal prosecutions, both in the High and Sheriff Courts, arising from road traffic accidents.

Her particular specialism is in the defence of prosecutions brought in terms of the Health and Safety at Work etc Act 1974 and related Regulations. In a field where, because of commercial reality, few clients plead not guilty and proceed to trial, she has conducted a number of trials where the allegations have involved the death of an employee.

Solicitors instructing Susan find her to be highly experienced in her chosen fields of expertise and someone who establishes good and understanding relationships with their clients.

The most important aspect of her relationship with any client is mutual trust. This means that she is not afraid to give the right advice even if it is difficult, initially, for the client to accept. Clients and solicitors quickly recognise her skill and judgment and accept her advice as offering the best solution in a difficult situation.

In many of the cases in which Susan is instructed the charges are strongly disputed and there is no prospect of the case resolving without a trial. Susan is highly experienced in conducting trials and evidential hearings contesting, on average, in excess of 15 per year.

Susan also appears regularly in Fatal Accident Inquiries.

She is recommended in both Legal 500 and Chambers UK Bar (Band 1) in Health and Safety.

What the Directories Say

Chambers UK 2020

Ranked Band 1 for Health & Safety - *"She is extremely persuasive in court and is able to communicate very effectively with clients from all walks of life while doing so in a sensitive and empathetic manner."*

Legal 500 UK 2020

Ranked as Leading Junior for Health & Safety and Regulatory - *"An incredibly skilled advocate whose decisive manner inspires complete confidence."*

Chambers UK 2019

Ranked Band 1 for Health & Safety - *"A really experienced advocate and tactician."* *"A fantastic court lawyer"*

Chambers UK 2018

Ranked Band 1 for Health & Safety - *"Susan is a tenacious advocate and fearless in her approach."* *"Extremely impressive, vigorous and effective in her advocacy."*

Representative Cases

2020 PF v SCB Vehicle Dismantlers - Representing SCB in a health and safety prosecution in terms of section 3 of the HSWA in relation to a fall from height when a building was being constructed at their yard.

2020 PF v W & A Strachan - Representing W & A Strachan in a health and safety prosecution in terms of section 2 of the HSWA in relation to the collapse of a trench during an excavation

2020 HMA v JR Scaffold Services Limited - Representing JR in a health and safety prosecution in terms of section 2 of the HSWA in relation to the collapse of a scaffold.

2020 PF v Brebner and Williamson Limited - Representing B & W in a health and safety prosecution in terms of section 3 of the HSWA in relation to a fall from height during a construction.

2020 H Limited v Dunford - Representing H in an appeal against an improvement notice.

2020 The Sumburgh Fatal Accident Inquiry - Multiple fatalities following a helicopter crash into the North Sea near Shetland

2020 HMA v Verdigi - Representing V in a prosecution for an alleged contravention of section 1A of the Road Traffic Act 1988

2020 HMA v D - Representing D in relation to allegations of money laundering.

2020 PF v Robinson - Representing the manager of Motherwell Football Club on an allegation of domestic assault. Found not guilty after trial.

2020 HMA v L - Representing L in relation to allegations of stalking a person in the public eye.

2019/2020 SB Limited v Munro - Representing SB in an appeal against an improvement notice

2019 HMA v Nazareth Care Charitable Trust (Representing Nazareth in health and safety prosecution in terms of section 3 of the HSWA 1974 in relation to the death of a resident in one of its care homes. The court was persuaded to treat Nazareth leniently because of its charitable status.)

2019 HMA V JP Currid (Representing JPC for his part in a banking fraudulent scheme.)

2019 KK V Scottish Ministers (Representing KK in proceedings for civil recovery in terms of the Proceeds of Crime Act 2002)

2019 HMA v A Zanre (Representing AZ in a prosecution in the High Court for a contravention of section 1 of the Road Traffic

Act 1998)

2019 HMA v C McCole (Representation of CM in a prosecution for a contravention of section 2B of the Road Traffic Act 1998)

2019 HMA v Ronald Bridges (Representation of RB in a prosecution for a contravention of section 1 of the Road Traffic Act 1998)

2018 HMA v Robert Purvis Plant Hire Limited (Representing RPPH in a health and safety prosecution in terms of section 2 of the HSWA in relation to the death of an employee. RPPH was acquitted after trial of causing the employee's death.)

2018 PF v Clackmannanshire Council (Representing the council in a health and safety prosecution in terms of section 2 of the HSWA where an employee was injured and suffered amputation. The court was persuaded to treat the council leniently because it was a public body.)

2018 PF v MR - Representing a solicitor in relation to drink driving offences

2018 P Limited v Helen Diamond, HSE Inspector (Representing P in an appeal against an improvement notice served in relation to work on a construction site. The notice was withdrawn without the need for an appeal hearing.)

2018 B Limited v HSE (Representing B in relation to its dispute of a fee for intervention arising out of an explosion where 2 employees were injured.)

2018 FAI Death of Kenneth Monk (Representing Serco Ltd in the inquiry into the death of a prisoner in Kilmarnock prison which is run by Serco.)

2018 HMA v Muirhouse Landfill Limited (Representing Muirhouse in a prosecution in respect of the Pollution Prevention and Control (Scotland) Regulations and the Pollution Prevention and Control Act 1999 regarding a landfill site and its control of leachate levels)

2017 FAI re deaths at the Jim Clark Rally 2014 (representing a core participant)

2017 PF v G (Alleged contravention of the Wildlife and Countryside Act 1981)

2017 HMA v Waculicz (POCA s.327)

2017 HMA v Blair (POCA s.327 and 329)

2017 FAI re the death of Rachel Cassels (representing her employer, The Edinburgh Woollen Mill Limited)

2016 PF v M (prosecution of a company director for alleged EPA breach)

2016 Representation of a national distribution company in proceedings before the Traffic Commissioner

2016 PF v The Edinburgh Woollen Mill Limited (prosecution for alleged breaches of product labelling regulations)

2016 HMA v Woodman (RTA s.2B)

2016 HMA v Flynn (RTA s.2B)

2016 HMA v Coveris (HSWA s.2)

2016 Burke v Procurator Fiscal (RTA s.1A- Appeal against sentence in which the Sheriff Appeal Court was persuaded to apply the Definitive Guidelines on Death by Driving to a case involving serious injury)

2016 HMA v Mitchell (Alleged money laundering offences POCA s.329)

2016 HMA v Ahmed (Alleged Immigration Act offences)

2016 Procurator Fiscal V Stewart and Shields (HSWA s.2)

2016 Provision of advice to a national restaurant chain on a Food Safety Issue

2016 HMA v Downie (RTA s.1)

2016 HMA v Blyth (RTA s.2B)

2016 - HMA v Merit Projects Ltd (Alleged breaches of the Supply of Machinery (Safety) Regulations and HSWA s.3)

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

2016 - PF v Wilson (RTA s.2)

2016 - HMA v Cresswell (RTA s.2B)

2016 - HMA v Graham (RTA s.2B)

2016 PF v Tinto (Environmental Protection Act 1990 s.34)

2016 – Provision of advice to food supplier and distributor (re ongoing HSE investigation into alleged HSWA s.2)

2016-2015 - FAI re death of Sarah Mitchell (representing her family)

2015- PF v British Telecom plc (HSWA s.3)

2015 - PF v Marshall (RTA s.3)

2015 - HMA v Dixon (RTA s.2B)

2015 - HMA v Reid (Alleged money laundering offences in what BDO Fraudtrack described as the highest value reported fraud in Scotland, POCA s.327-329)

2015 - HMA v Watt (Copyright, Designs and Patents Act 1988 s.107- highest value breach of copyright prosecution in Scotland)

2015 - Herron v Poundland plc (Civil proceedings re Food Hygiene (Scotland) Regulations 2006)

2015 – HMA v Cochrane (Confiscation proceedings relating to a house belonging to a third party. The court considered HMA v Younas, section 150 of POCA and the Supreme Court decision of Gow v Grant.)

2015 - GSR Distributions Ltd v South Lanarkshire Council (Civil proceedings re Food Safety Act s.9)

2015 – PF v Catering Supplies and Repairs Ltd (HSWA s.2)

2015 – HMA v Wood (RTA s.2B)

2015 - HMA v Transpan Ltd (HSWA s.2)

2015 – HMA v Cairns (RTA s.2B)

2015 – HMA v Zahid (Perjury)

2015 – Provision of advice to large commercial organisation (re alleged breach of Environmental Protection Act 1990)

2015 – HMA v West (RTA s2B)

2015 - HMA v Morgan (s.120 POCA)

2015 – Mumford v Berry (HSWA Appeal against an Improvement Notice)

2015 – Provision of advice to a major housing organisation (HSWA: Fee For Intervention Regulations)

2014 – PF v Corrie Skip Hire (HSWA s.2)

2014 – PF v Meikle & MBS Bankwood (EPA s.33)

2014 – HMA v Scottish Borders Abattoir Ltd (HSWA s.2)

2014 – FAI re death of Brasilio Brazao (representing Dekra Exam GmbH)

2014 – PF v Fitzpatrick (RTA s.2)

2014 – HMA v Thermal Coatings Ltd (HSWA s.3)

2014 – HMA v Specialised Castings Ltd (HSWA s.2)

2014 – Provision of advice to a major Healthcare Provider (HSWA s24)

2014 – PF v Roberts (RTA s.2)

2014 – HMA v McAllister (Fraud)

2014 – HMA v Ashraf (POCA)

2014 – HMA v Younas (POCA)

2013 – HMA v Donaldson (RTA s.2B)

2013 – PF v John Watson & Co Ltd (HSWA s.3)

2013 – Scottish Ministers v Martin (Civil proceedings in terms of the Proceeds of Crime Act 2002)

2013 – PF v Johnstone (RTA s.2)

2013 – HMA v M (Medicines Act 1968 s.67, prosecution of a GP for self prescribing drugs)

2013 – HMA v Hughes (Fraud)

2013 – PF v Stewart (Breaches of the Data Protection Act 1998)

2012 – HMA v Laird (Fraud)

2012 – Aberdeen City Council v Framgord Ltd (Civil proceedings re Food Safety Act 1990)

2012 – HMA v Kelbie (Fraud)

2012 – PF v Mackie (HSWA s2)

2012 – HMA v Shoaib (Immigration Act offences)

2012 – RAS Crockett v HMA (Appeal against sentence for a contravention of HSWA s.2)

2012 – HMA v Macleod (Prosecution under Sea Fishing (Enforcement of Community Control Measures) Order 2000 and the Fisheries Act 1981, and ancillary proceedings under Proceeds of Crime Act 2002.)

2012 – PF v Robertson (Breaches of the Data Protection Act 1998)

2012 – PF v MBCC Foods (Food Hygiene Offences in terms of the Food Hygiene Regulations 2006)

2012 - PF v Sainsbury Supermarket plc (Food Hygiene Offences in terms of the Food Hygiene Regulations 2006)

2012 – HMA v Irvine (Prosecution under Sea Fishing (Enforcement of Community Control Measures) Order 2000 and the Fisheries Act 1981, and ancillary proceedings under Proceeds of Crime Act 2002.)

2012 – HMA v Nurse (RTA s.2B)

2012 – HMA v Brand (RTA s.1)

2011 – HMA v Carr (RTA s.2B)

2011 – PF v KFC (Food Hygiene Offences in terms of the Food Hygiene (Scotland) Regulations)

2011 – HMA v Findlay (Fraud)

2010 – HMA v Leiper (with Senior counsel, Fraud)

2010 – HMA v Evans (Fraud)

2010 – PF v Dick (RTA s.3)

2010 – PF v Sinclair (Road Traffic Act 1988 s.3)

2010 – HMA v Pratt (Crown appeal against sentence Health and Safety at Work Etc Act 1974 s.2)

Professional Memberships

Health & Safety Lawyers Association,

Association of Regulatory & Disciplinary Lawyers,

Proceeds of Crime Lawyers Association,

UK Environmental Lawyers Association,

Scottish Criminal Bar Association

Lectures, seminars and publications

Susan regularly provides seminars and talks for solicitors, professional bodies and at Compass Chambers Conferences.