

Susan Duff

Year called: 2003
Email: susan.duff@compasschambers.com



Practice

Principal Areas of Practice:

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

Susan receives a significant volume of instructions in mainstream criminal cases but 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 regulatory 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 fatal road traffic accidents.

Her particular specialism is in the defence of charges under 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 defences at trial 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 arising out of a range of circumstances including deaths in prison and accidents.

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

Representative Cases

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

2017 PF v Gordon (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 McMaster (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

Provision of seminars and lectures to solicitors and corporate clients.

Provision of papers on criminal procedure in regulatory proceedings

Seminars include:

2015: "Fatal Accident Inquiries – Revolution or Evolution"

2015: Inhouse training for solicitors "Defending Regulatory Prosecutions"

2014: Seminar presented at Compass Chambers Annual Conference, Edinburgh "Regulatory Crime in Scotland: The future for sentencing."

2013: Seminar presented at Compass Chambers Annual Conference, Edinburgh "Driving at Work: A Health and Safety Perspective".