

Peter Gray QC

Year called: 1992
Year of silk: 2002
Email: peter.gray@compasschambers.com
Qualifications: 1978-1981: LLB (Hons)
1983-1992: Practised at English Bar in London
1992: Called to Scottish Bar
1998-2000: Appointed Advocate Depute
2002: Appointed Queen's Counsel



LEADING BARRISTER



Practice

Principal areas of Practice

- Health and Safety Prosecutions
- Fatal Accident Inquiries
- Environmental Prosecutions
- Corporate Financial Crime

What the directories say

UK Legal 500 of 2009:
described as *“a leading authority in health and safety law, especially major industrial accidents”*.

UK Legal 500 of 2010:
described as *“extremely responsive and has a very calm approach, even in high-pressure situations”*.

UK Legal 500 of 2011:
described as having *‘a first-rate grasp of the subject matter, a fabulous manner with clients and real gravitas before the courts’*.

UK Legal 500 of 2012:

described as *“the pre-eminent practitioner at the Scottish Bar for health and safety and regulatory work”* where *“his knowledge is unrivalled”*.

UK Legal 500 of 2013: described as *“the first choice for health and safety and regulatory matters”*.

UK Legal 500 of 2014: described as having *“superb advocacy skills.”*

Chambers and Partners 2010:

listed as a Leader of the Bar in Health and Safety(Band 1), *“he stands out as one of the true health and safety specialists at the Scottish Bar”*.

Chambers and Partners 2011:

listed as a Leader of the bar in Health and Safety(Band 1), *“has been at the vanguard of health and safety law in Scotland for many years and is now regarded by many as ‘the top expert in the field; he is an excellent advocate, really authoritative’. He features in most health and safety cases north of the border, including a number of ongoing, sensitive matters related to the oil and gas industry”*.

Chambers and Partners 2012:

Listed as a Leader of the Bar in Health and Safety(Band 1): *“is considered ‘a go-to person for anything serious’ involving issues of health and safety. Indeed, he is frequently instructed in many high-profile cases before the Scottish courts, and recently represented Marks & Spencer in a fire safety prosecution. Sources say: ‘He’s absolutely brilliant. An outstanding performer, he is very easy to deal with and highly responsive. He uses his criminal skills in court to the very best advantage when dealing with sometimes technical complex health and safety cases, and knows how to deal with a jury and judges.”*

Chambers and Partners 2013:

Listed as a Leader of the Bar in Health and Safety (Band 1): *“applies his courtroom skills to serious health and safety cases...is effective and calm, even under pressure”*.

Chambers and Partners 2014: listed as Leader of the Bar in Health and Safety (Band 1):*“He garners considerable praise for his client service skills, and is also noted for the gravitas he brings to courtroom proceedings, as well as for his highly effective advocacy skills....One of the pre-eminent advocates in terms of health and safety, and one of the first choices in complex cases.”*

Chambers and Partners 2015: listed as a Star Individual of the Bar in Health and Safety: *“He gives a silky smooth performance. He can walk the rope between the technical and legal aspects very well.” “He has a wide understanding and is very user-friendly.”*

Chambers and Partners 2016: listed as a Star Individual of the Bar in Health and Safety: "*He is very reasoned, plausible, and accomplished on his feet; an advocate from whom we can all learn lessons*". "*He's the most respected QC in the country doing this kind of work*".

Health and Safety Prosecutions

Peter has extensive experience in defence of allegations involving the primary duties under the 1974 Act and related statutory regulations. Clients represented in this area include major representatives of the oil, construction, retail, pharmaceutical, haulage industries, and emergency and health services.

Representative Instructions

2002: *HMA v Total Fina Elf*: representing TFE in Health and Safety Prosecution brought under Section 3 HSWA.

2003: *PF v Tesco Stores PLC*. Representing Tesco Stores in Health and Safety Prosecution brought under Food Safety Act 1990.

2003: *PF v BDG Projects Ltd*: representing BDG Projects in Health and Safety Prosecution brought under Construction (Design and Management Regs) 2003.

2003: *PF v Parks of Hamilton*: representing Parks of Hamilton in Health and Safety Prosecution brought under Section 2 HSWA.

2003: *PF v Forth Ports PLC*: representing Fort Ports plc in Health and Safety Prosecution brought under Section 3 HSWA.

2004: *PF v Western Isles Health Board*: representing WIHB in Health and Safety Prosecution brought under Section 2 HSWA.

2005: *HMA v Transco plc*: representing Transco plc in Health and Safety Prosecution brought under Section 3 HSWA.

2008: *HMA v CNR International Oil*; representing CNR in Health and Safety Prosecution brought under Section 3 HSWA.

2009: *Border Rail and Plant v HMA*: representing Border Rail in appeal against sentence arising from HSWA prosecution.

2009: *PF v BHS Ltd*: representing BHS Ltd in Health and Safety Prosecution brought under Section 3 HSWA.

2009: *PF v Jacobs Engineering*: representing Jacobs Engineering in health and safety prosecution brought under Section 3 HSWA.

2009: *HMA v Scottish Hydro Electric plc*: representing Scottish Hydro Electric in Health and Safety Prosecution brought under Section 3 of HSWA.

2010: *PF v Begley*: representing employee of Barratt Homes in Health and Safety Prosecution brought under Section 7 HSWA.

2011: *PF v Macdonald Hotels*: representing MacDonald Hotels in food safety prosecution under Food Hygiene Regulations 2006.

2011: *HMA v The Maersk Company Ltd*: representing Maersk in Health and Safety Prosecution brought under Sections 2 and 3 of HSWA.

2011: *Talisman Energy UK Ltd v HSE*: representing Talisman in appeal against improvement notice relating to alleged breach of Offshore Installations and Wells (Design and Construction) Regulations 1996 in relation to accommodation on the Tartan installation.

2011: *DTZ and Standard Life v Strathclyde Fire Board*: representing DTZ and Standard Life in appeal against enforcement order imposed under Fire (Scotland) Act 2005.

2012: *HMA v Robert Crockett & Ptrs Ltd (and Dundee Coldstores Ltd)*: representing Crockett & Ptrs in health and safety prosecution brought under Section 2 of HSWA.

2012: *HMA v Railcare Limited*: representing Railcare in Health and Safety Prosecution brought under Section 2 of HSWA.

2012: *Scottish Sea Farms Ltd v HMA*: representing SSF in appeal against sentence in relation to conviction under Section 2 of HSWA.

2012: *HMA v Lanarkshire Health Board*: representing LHB in Health and Safety Prosecution brought under Section 3 of HSWA.

2012: *Re The Bourbon Dolphin*: representing Trident Offshore Limited in appeal against improvement notice relating to alleged breach of Section 3 of HSWA following the capsizing of the Bourbon Dolphin in course of anchor handling operations.

2012: *HMA v The Woodland Trust*: representing the Trust in health and safety prosecution brought under Section 3 of HSWA.

2013: *HMA v Greater Glasgow Health Board*: representing Board in relation to prosecution brought under Control of Asbestos Regulations 2006

2013: *PF v BHS Ltd*: representing BHS in health and safety prosecution brought under section 3 of HSWA.

2013: *PF v Lothian Health Board*: representing the Board in health and safety prosecution brought under Section 2 of HSWA relating to lone worker safety.

2013: *HMA v Svitzer Marine Ltd*: representing Svitzer Marine in health and safety prosecution brought under Section 2 of HSWA 1974 arising out of capsizing of "The Flying Phantom resulting in death of three employees.

2014: *HMA v City of Edinburgh Council*: representing CEC in relation to health and safety prosecution brought under section 3 HSWA 1974 arising out of injury sustained by pupil in school premises.

2014: *Chevron v HSE*: representing Chevron in appeal against Prohibition Notice under Section 24 of HSWA 1974.

2014: *HMA v Royal Highland Agricultural Society of Scotland*: representing RHASS in relation to health and safety prosecution brought under section 3 HSWA 1974 arising out of death of 3 year old at the Royal Highland Show in 2008, crushed by a concrete bollard.

2014: *HMA v NHS Lothian*: representing Lothian Health Board in relation to health and safety prosecution brought under section 3 HSWA 1974 arising out of death of member of public in road traffic collision as result of failings in traffic management.

2015: *HMA v Scottish Fire & Rescue Service*: representing SFRS in relation to health and safety prosecution brought under section 2 HSWA 1974 arising out of death of a firefighter in course of firefighting duties at the Balmoral Bar, Edinburgh.

2015: *HMA v Xervon Palmers Ltd*: representing XP in relation to health and safety prosecution brought under section 2 HSWA 1974 arising out of death of an employee whilst working on Tay Bridge.

2015: *HMA v RWE NPower Renewables Ltd*: representing RWE in relation to health and safety prosecution brought under section 3 HSWA 1974.

2015: *HMA v Ark Housing Association*: representing AHA in relation to health and safety prosecution brought under section 3 HSWA 1974 arising out of death of a vulnerable person by scalding whilst being bathed.

2015: *HMA v Total Exploration and Production UK Ltd*: representing Total in relation to prosecution brought under regulation 13 of Offshore Installations and Wells(Design & Construction) Regulations 1996 arising out of hydrocarbon release on Franklin G4 installation.

2015: *PF v Euromark Ltd*: representing Euromark in relation to health and safety prosecution brought under sections 2 and 3 HSWA 1974 arising from risks presented by methods adopted for roadmarking operations.

2016: *HMA v Clydeport Ltd*: representing Clydeport in relation to health and safety prosecution brought under section 2 HSWA 1974 arising out of death of an employee whilst working on crane at Hunterston Terminal.

2016: *HSE v Chevron North Sea Limited*: representing Chevron in appeal to Inner House brought by HSE against decision of Employment Tribunal in appeal brought under Section 24 HSWA 1974.

2016: *Apache North Sea Production Ltd v HSE*: representing Apache in appeal to Employment Tribunal against improvement notice served arising from collision between production supply vessel and Forties Echo installation.

2016: *DVSA v Feedmix Limited*: representing Feedmix in Inquiry before Traffic Commissioner for Scotland arising out of allegations of maintenance failures relating to HGVs giving rise to potential safety issues.

2016: *HMA v Scottish Hydro Electric Transmission Ltd*: representing SHETL in health and safety prosecution under Section 3 of HSWA arising from fatal electrocution of contractor whilst engaged in maintenance activities.

2016: *HMA v Network Rail Infrastructure Ltd*: representing NR in health and safety prosecution under Section 2 of HSWA arising from electric shock sustained by employee in course of maintenance of overhead line equipment.

2016: *PF v FMC Technologies Ltd*: representing FMC in health and safety prosecution brought under Reg 12 of PUWER 1998 arising from serious injury and permanent impairment sustained by employee in course of pressure testing activity.

2016: *HMA v Inspire Ltd*: representing Inspire in health and safety prosecution brought under Section 3 of HSWA arising from death of individual with profound learning disability who died whilst being cared for in supported accommodation as a result of having an epileptic seizure whilst left unattended in a bath.

2016: *Scottish Power Generation Ltd v HMA*: representing SPG in appeal against sentence imposed in relation to a breach of section 2 of HSWA 1974 relating to serious injuries sustained by employee as a result of a failure by SPG to keep in good repair an industrial valve. Appeal was first in which the Appeal Court in Scotland has had opportunity to consider whether 2016 Sentencing Guidelines Council of England Guidelines should be adopted in Scotland.

2017: *PF v Ingen Technical Services Ltd*: representing ITS Ltd in health and safety prosecution brought under Reg 13(2) of CDM Regs 2007 relating to fall from height of apprentice employee whilst working in attic space of major construction.

2017: *HMA v Tarff Valley Ltd*: representing TV Ltd in health and safety prosecution brought under sections 2 and 3 of the HSWA 1974 in relation to risks to safety presented by misuse of telehandlers.

2017: *HMA v SSPCA*: representing SSPCA in health and safety prosecution under section 2 of HSWA 1974 relating to failures to manage risks of exposure to allergic alveolitis.

2017: *HMA v Greater Glasgow Health Board*: representing GGHB in health and safety prosecution brought under section 3 of HSWA 1974 relating to suicide of two patients in psychiatric care whilst subject to enhanced levels of observation.

Fatal Accident Inquiries

Peter has been instructed in a number of lengthy and high profile Inquiries in relation to deaths which have occurred in the workplace, or in other circumstances which have given rise to widespread public concern.

Representative Instructions

2006: representing Wood Group plc in the Inquiry in relation to the fatal accidents in the offshore industry on Brent Bravo;

2008: representing JGas (Johnston Oils Ltd) in the Stockline Public Inquiry relating to the plastics factory tragedy in which nine people died;

2009: representing WH Malcolm Ltd in Re: Kevin West, an Inquiry relating to a death of an employee in construction industry;

2010: representing Connaught Compliance Services Ltd in Re: Ben McCreath, an Inquiry into the death of an infant in a fall from height incident at a major multi-occupancy commercial office building in Edinburgh;

2010: representing Scottish Hydro Electric plc in Re: Russell Donald, an Inquiry into the death of trainee surveyor in accidental contact with overhead powerline;

2011: representing Thyssenkrupp Palmers Ltd in Re Robert MacDonald, an Inquiry relating to death of employee in fall from height in course of employment on Forth Rail Bridge;

2013: representing Photoflash Ltd in Re Natasha Paton, an Inquiry in relation to death by drowning of schoolgirl in coach crash on school trip to Alton Towers).

2014: representing BP Exploration Operating Company Limited in Super Puma Fatal Accident Inquiry in relation to death of 2 crew and 14 passengers in North Sea in course of offshore transfer.

2014: representing Premier Oil UK Ltd in Re; Russell Robinson, a Fatal Accident Inquiry relating to death of a commercial saturation diver.

2014: representing Falck Renewables in Fatal Accident Inquiry relating to death of maintenance worker in a wind turbine as result of failure of fall-arrest mechanism.

2015: representing Serco Ltd in Fatal Accident Inquiry relating to murder of prisoner at HM Prison Kilmarnock. Inquiry focussed to significant extent on management of risk and cell-sharing risk assessment process.

2015: representing Glasgow City Council in Fatal Accident Inquiry in relation to the incident at George Square, Glasgow in December 2014 when a refuse lorry went out of control causing multiple fatalities.

2016: representing Glasgow Housing Association in Fatal Accident Inquiry in relation to the drowning in a bath of an individual with profound learning disabilities whilst being cared for in supported housing.

2017: representing Caledonia Property Maintenance Ltd in Fatal Accident Inquiry in relation to the death of an employee as a result of falling through a fragile roof whilst undertaking survey activity at third party premises.

2017: representing City of Edinburgh Council in Fatal Accident Inquiry relating to the death of a 12 year old schoolgirl who died as a result of the collapse of a wall in the changing room of Liberton High School in 2014.

Environmental Prosecutions

Peter has extensive experience of defending all forms of regulatory prosecutions including offences under:

- The Control of Pollution Act 1974
- The Environment Protection Act 1990
- The Pollution Prevention Control Act 1999, and
- The Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005.

Representative Instructions

2010: *HMA v Doonin Plant Ltd*: Representing Doonin Plant Ltd in Appeal by Crown against unduly lenient sentence relating to breaches of Environment Protection Act 1990.

2011: *PF v G Hunter Ltd*: representing G Hunter Ltd in Environmental Crime prosecution brought under Water Environment and Water Services (Scotland) Act 2003.

2013: *PF v DCD Ltd*: representing DCD Ltd in Environmental Crime prosecution brought under Environment Protection Act 1990.

2013: *PF v Taqa Bratani Ltd*: representing Taqa in Environmental Crime Prosecution brought under the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005.

2015: *PF v Sita UK Ltd*: representing Sita UK in relation to environmental prosecution brought under the Pollution Prevention and Control Act 1999, and Pollution Prevention and Control (Scotland) Regulations 2000 regarding a landfill site and its control of leachate levels.

2015: *PF v Billy Bowie Special Projects Limited*: representing BBSP Ltd in relation to environmental prosecution brought under Environment Protection Act 1990 regarding management of waste to prevent emission of offensive odours.

Current instructions include representing major commercial clients in relation to prosecutions under Transfrontier Shipment of Waste Regulations 2007, and the Offshore Petroleum Activities (Oil Pollution Prevention and Control) Regulations 2005.

Corporate Financial Crime

Peter has considerable experience in both the prosecution and defence of a wide range of corporate financial prosecutions in the High Court including those resulting from investigations in relation to commercial fraud, insolvency, offences under the Companies Acts, and Proceeds of Crime legislation.

Representative Instructions

2007: *HMA v Freeman*: Financial Crime Prosecution under Insolvency Act 1986 and Proceeds of Crime Act 2002.

2010: *Cell Trading Ltd v HMRC*: representing HMRC in appeal to the 1st tier Tax Tribunal in relation to refusal to allow repayment of input tax; case centred on proof of Missing Trader Intra Community "MTIC" fraud;

2010: *HMA v Irvine*: Financial Crime Prosecution under Sea Fishing (Enforcement of Community Control Measures) Order 2000, Fisheries Act 1981, and ancillary proceedings under Proceeds of Crime Act 2002.

2011: *AR Communications v HMRC*: representing HMRC in appeal to the 1st tier Tax Tribunal in relation to refusal to allow repayment of input tax; case centred on proof of Missing Trader Intra Community "MTIC" fraud; 2011: Provision of advice to overseas company in relation to multi-million pound fraud committed by UK entity in course of major commercial transaction;

2011: Provision of advice to major healthcare provider in relation to potential liabilities under the Bribery Act 2010;

2012: Advising international commercial entity regarding possible criminal activity relating to bribery by overseas agents;

2012: Re Abbott Group Ltd: Representing Abbot Group in relation to first civil settlement achieved in Scotland pursuant to the Crown's self-reporting initiative following introduction of the Bribery Act 2010.

2013: Re X: representing Scottish company in relation to second civil settlement achieved in Scotland pursuant to the Crown's self-reporting initiative following introduction of the Bribery Act 2010.

2015: Re Y: representing Scottish company in relation to second civil settlement achieved in Scotland pursuant to the Crown's self-reporting initiative following introduction of the Bribery Act 2010.

2016: Re Braid Group: representing Braid in relation to civil settlement achieved pursuant to the Crown's self-reporting initiative following the introduction of the Bribery act 2010.

Professional Memberships

Health and Safety Law Association

International Bar Association (member of international committee on health and safety)

United Kingdom Environmental Law Association

Scottish Environmental Law Working Party of UKELA

Faculty of Advocates Criminal Bar Association (Chairman 2001)

Proceeds of Crime Lawyers Association

Publications

Guide to The Corporate Manslaughter and Corporate Homicide Act 2007 (Greens Publishers, May 2008).

Lectures and seminars

Provides seminars and briefings on regular basis to corporate clients, in particular in relation to corporate and directors' duties under health and safety, and financial crime legislation. Recent seminars include:

March 2010: Keynote speaker at McGrigors Health and Safety seminar, Aberdeen. "Oil and Gas sector interface issues: responsibility for health and safety".

April 2010: Seminar to Scottish Health and Environment Forum. "Health and Safety enforcement: the changing landscape".

May 2010: Keynote speaker at Brodies Regulatory Briefing, Edinburgh. "Directors in the dock - criminal liability in the health and safety context".

September 2010: Keynote speaker at Clyde & Co Deepwater Horizon Briefing, Aberdeen. "Deepwater regulatory crime issues: questions from the boardroom".

January 2011: Keynote speaker at Tods Murray Bribery Act Briefing, Edinburgh.

June 2011: Keynote speaker at Shepherd and Wedderburn Bribery Act 2010 Briefing, Edinburgh. "The Bribery Act: its international scope, and resolution of potential problems".

June 2011: Keynote speaker at Davidson Chalmers briefing on Health and Safety Enforcement.

November 2011: Keynote speaker at NHS Scotland Conference on the Bribery Act 2011.

May 2012: Seminar presented to Health and Safety Lawyers' Association: An analysis of foreseeability of risk in relation to duties owed under the Health and Safety at Work Act 1974.

October 2012: Seminar presented to CLT Health and Safety Conference, Edinburgh on the nature of risk in health and safety prosecutions.

November 2012: seminar presented to CLO, Edinburgh "Health and Safety Prosecutions: An Overview".

February 2013: Seminar presented to Insolvency Practitioners Forum hosted by BBM solicitors "Health and Safety: criminal liability of insolvency practitioners".

June 2013: Seminar presented at Piper Alpha: 25 Years On Conference held at Aberdeen. Seminar focussed on safety culture and relevance of cultural behaviour in context of health and safety prosecutions.

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

Safety Perspective".

May 2014: Keynote speaker at Compliance Forum hosted by Pinsent Mason relating corporate duties and responsibilities under the Proceeds of Crime Act 2002.

June 2014: Seminar presented at CLT Conference held at Murrayfield Stadium "The criminal liability of individuals under the HSWA 1974: an analysis of the nature and extent of liability, and how to protect the interests of the individual".

September 2014: Keynote speaker at inhouse conference hosted by Burness Paul relating to human factors in the context of health and safety compliance.

December 2014: At invitation of Fraud Advisory Panel proposed motion (together with Tom Stocker, Pinsent Mason) in Debate held in Edinburgh that "This house believes that the Fraud Act 2006 should be introduced in Scotland".

April 2016: Keynote speaker at Scottish Young Lawyers' Association seminar hosted by BLM solicitors. "Fatal Accident Inquiries: the law, procedure and reforms".

February 2017: Keynote speaker to Burness Paull solicitors on recent developments in sentencing post *Scottish Power Generation Ltd v HMA*.

May 2017: Seminar presented at Compass Chambers Glasgow Conference: "Appeals against Improvement and Prohibition Notices: analysis of test to be applied in light of decision of Inner House in *HSE v Chevron (2017)*".

May 2017: principal speaker at International Whitecollar Crime Seminar hosted by Maclay Murray and Spens in both Glasgow and Edinburgh: "Bribery post Rolls Royce: the changing international landscape".

June 2017: speaker at HSLA event in Glasgow on the recent H & S Sentencing Guidelines and their impact in Scotland.

Dual Qualified

Yes

Personal/MISC

As a result of his extensive experience in the conduct of litigation involving very significant volumes of documentation, Peter is entirely familiar with the use of all major legal software, and in

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particular Casemap and its associated products.