



Dominic Kay QC



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"By far the best of the young silks in this area"
"Exceptional in every way"
(Legal 500 2019 & Chambers & Partners 2020)



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Dominic Kay QC is a specialist regulatory law practitioner, practising exclusively in Health & Safety, Environmental law and Inquests.

In 2020 he was nominated as 'Health & Safety Silk of the Year' at the Bar Awards (for the second time in three years) and listed as a 'Leading Silk' in his three separate work areas; 'Health & Safety', 'Environmental' and 'Inquests & Inquiries'.

Dominic has advised and represented some of the UK's most prominent companies and organisations including Lidl, Tesco, Aldi, Arcadia, Sunseeker, BUPA, Royal Mail, Thomas Cook, BAE Systems, Kier, Amey, Mitie, Ikea, DHL, Arla, Virgin, Yorkshire Water, Thames Water, St Gobain, Mornflake, Calor Gas, JJB Sports, Universal Music, EDF and a number of NHS Trusts.

Ranked consistently throughout the last decade by the various legal directories as a leading or 'Star Individual' most recently he has been described as being:

"by far the best of the young silks in this area a heavyweight practitioner renowned for his top-level Health & Safety work a barrister with a nationwide practice with a strong grasp of clients' commercial and legal requirements and excellent communication skills very confident before the Bench and when handling opponents"

and as having

"outstanding knowledge and experience of this niche area of law. He is an excellent advocate, down-to-earth and with a common-sense approach he takes a dynamic approach and is always looking for an innovative solution".

Chambers & Partners 2020 describes him as "exceptional in every way brilliant in court and gets the results for his clients".

Dominic is in high demand and is currently instructed to represent/advise in relation to several of the country's most prominent health & safety investigations including the Bosley Mill explosion, the Didcot Power Station collapse, the investigation into the fire at Grenfell Tower, the Thomas Cook inquests and the Hamerton Zoo tiger inquest. He has advised on several issues relating to the 2020 Coronavirus outbreak,



including providing advice to companies on the steps necessary to comply with the Government's 'Covid-19 Secure' guidance.

Criminal Regulatory & Environmental

Health & Safety

- Band 1 Health & Safety – Chambers & Partners: 2011, 2012, 2013, 2014
- 'Star Individual' Health & Safety – Chambers & Partners: 2015, 2016, 2017
- Leading Individual Health & Safety – Legal 500: 2008 – 2017
- Winner: Health & Safety Junior of the Year – 2011 Bar Awards
- Nominated: Health & Safety Silk of the Year – 2018 Bar Awards

Described in one of the legal directories as "by far the best of the young Silks in this area", Dominic Kay's health & safety work involves representing companies and directors, typically in complex prosecutions concerning single or multi fatality workplace accidents. His clients include many of the country's best known retailers, manufacturers, construction companies, care homes, leisure companies and public bodies (including NHS Trusts and Councils). He also undertakes work in respect of investigations in the agricultural, forestry and sports sectors, consumer safety cases (specifically including food safety/hygiene/poisoning) and fire safety prosecutions.

He has been involved in many of the highest profile health & safety cases before the courts and over recent years has been instructed to defend a significant number of the companies charged under the Corporate Manslaughter & Corporate Homicide Act 2007. He also has considerable experience individual manslaughter prosecutions.

Dominic's particular experience includes;

- Prosecutions for corporate and individual manslaughter (he has been involved in a large number of the prosecutions and investigations under the Corporate Manslaughter & Corporate Homicide Act 2007);
- Cases concerning the construction industry (including falls from height, structural collapse, electrocution, injuries / fatalities to employees / public);
- Fire safety investigations and prosecutions including under the Regulatory Reform (Fire Safety) Order 2005 including in respect of Houses in Multiple Occupation, retail premises, hotels and care homes (appeared in a number of high profile fire cases including multiple fatality incidents including the Penhallow Hotel fire prosecution and the Lakanal House Inquests);
- Machinery and vehicular accidents (including fairground equipment, factory machinery, MEWPs, ATVs, agricultural machinery / vehicles, swing barriers, gate systems);
- Workplace accidents (including factories, maritime, warehouses, care homes, swimming pools and agricultural);
- Improvement and prohibition notices (including both appeals against notices and prosecutions in respect of alleged breaches);
- Cases concerning diseases/illnesses/infections including Covid-19, Salmonella, Legionella and listeria;
- Cases concerning consumer safety issues such as food safety (food unfit for human consumption,

- food hygiene and poisoning cases, food labelling, animal infestations) and toy safety;
- Particular experience and expertise in cases concerning fatal accidents involving children;
 - Cases concerning deaths in custody or care home settings;
 - Coroners' inquests into fatal workplace accidents and those with health & safety law issues.

Environmental

Dominic is one of a very small number of Queen's Counsel undertaking a large volume of Environmental Law cases throughout the country, representing corporate defendants facing prosecution for breach of environmental legislation. Such cases typically involve charges under the EPA 1990, the Water Resources Act 1991, Pollution Prevention and Control Regulations 2000, the Environmental Permitting (England and Wales) Regulations 2010 and/or appeals against notices served under the EPA. He has represented many of the large utility companies as well as major high street retailers, fuel storage, agricultural and groundwork companies.

His environmental work includes defending companies and directors charged in respect of large-scale and high-profile pollution incidents (land, watercourse and offshore), permitting offences, waste escapes and licence infringements. He has considerable experience in fisheries cases. His recent work includes representing major utility companies, chemical storage facility operators, manufacturing companies prosecuted for discharges leading to pollution incidents, leisure companies and research laboratories.

He has lectured on various aspects of environmental prosecutions including the impact of the Sentencing Council's 'Definitive Guideline' in respect of sentencing very large organisations for environmental offences.

He has considerable experience representing companies charged in joint HSE/EA prosecutions and his recent environmental work has included:

- Defending companies charged in respect of large scale and repeated pollution of waterways;
- Cases involving large petrol, diesel and chemical spillages / escapes;
- Breaches of water abstraction licences;
- Cases concerning breaches of permits or disposals without permits;
- Representing groundwork / construction companies in respect of alleged watercourse pollution;
- Defending companies charged under the EPA with allowing large volumes of waste to collect on unlicensed land;
- Prosecutions against companies and individuals under s33 and s34 EPA 1990;
- Representing landfill and waste disposal companies (and often their directors) charged with breaching the terms of waste licenses.

His environmental law practice includes Marine Regulation work, in which he regularly advises and represents companies and / or individuals charged with breaches of Common Fisheries Policy and associated domestic legislation, specifically cases concerning trawler operations, logbook and landing declaration offences and cases involving the satellite monitoring of vessels. He represented seven trawler companies/owners and their respective masters in a DEFRA prosecution of thirteen vessels in respect of large scale 'black fish' landings in Kilkeel and Whitehaven.



Selected Cases

Health & Safety

Corporate Manslaughter

- R v Lion Steel Equipment Limited & Others – Acted for the Company in Corporate Manslaughter prosecution. Manchester Crown Court.
- R v Huntley Mount Engineering Limited & Others – Acted for the Company in Corporate Manslaughter prosecution. Manchester Crown Court.
- R v Linley Developments Limited & Others – Acted for the Company in Corporate Manslaughter prosecution. St Albans Crown Court.
- R v Roofing Consultants – Acted for the Company in Corporate Manslaughter prosecution. Manchester Crown Court.
- Currently instructed to advise in respect of several high profile corporate manslaughter investigations.

Individual Manslaughter

- R v York College & SR – Acted for SR, charged with manslaughter following death of child in a nursery. Leeds Crown Court.
- R v KK & CG – Acted with John Cooper QC in manslaughter prosecution of installer following accident in which girl killed in a set of electric gates. Manchester Crown Court.
- R v PN – Represented PN in manslaughter prosecution relating to overturn of lorry during hi-ab operation. Ipswich Crown Court.
- Currently instructed to advise and represent several individuals in respect of gross negligence manslaughter investigations.

Health & Safety Prosecutions

- R v Synergy Housing Limited & Orona Limited – Acted for S in prosecution arising out of accident in which young girl killed by a defective through-floor lift at her family home. Bournemouth Crown Court.
- R v Oxleas NHS Foundation Trust – Represented O in prosecution relating to issues including knife control and risk assessment following double stabbing incident by patient on secure unit. Central Criminal Court.
- R v Sunseeker Limited – Acted for S in case concerning boatyard accident.
- R v ELP & Others – Represented E in prosecution following fatal 10m fall at Elstree Studios. Harrow Crown Court.
- R v Arla Foods Limited – Acted for A in prosecution concerning a workplace transport incident at new 'super dairy' site. Reading Crown Court.
- R v 2 Sisters Food Group Limited – Represented 2SFGL in two separate cases concerning three separate (work equipment related) incidents at two of 2SFG's industrial food/chicken processing sites. Sheffield Crown Court.
- R v Royal Mail Group – Acted on behalf of RMG in case concerning serious workplace transport accident. Isleworth Crown Court.
- R v Yorkshire Water – Represented YW in respect of fatal accident which occurred during confined

space work. Leeds Crown Court.

- R v ISEurope Limited & Others – Acted for Company charged in respect of fatal construction site accident on Mayfair street. Central Criminal Court.
- R v London Borough of Camden – Represented LBC in prosecution following wall collapse which killed a child. Central Criminal Court.
- R v DF – Represented DF, the Master of a North Sea Emergency Vessel following triple fatality at sea. Sheffield Crown Court.
- R v Pearlview & EGS – Represented First Defendant company in prosecution following accident in which child killed in a set of electric gates. Bournemouth Crown Court.
- R v Leisure Connection Ltd – Represented swimming pool operators in respect of accident in which child drowned. Chelmsford Crown Court.
- R v Blackmoor Estates Limited & Another – Acted for Estate charged with H&S breaches following double fatality in apple store. Winchester Crown Court.
- Powys County Council v Bethania Adventure – Represented business in prosecution relating to the drowning of a canoeist on a lake.
- R v F & C – Represented high ropes course operator following accident involving course-user who fell from high tower having been incorrectly clipped-on. St Albans Crown Court.
- R v DMS – Acted on behalf of Trust prosecuted in respect of accident in which flanker shot whilst working on a grouse moor.

Consumer Safety Prosecutions

- Bradford MBC v S – Acted for butcher prosecuted following e.Coli outbreak in which in excess of 50 people contracted severe food poisoning. Bradford Crown Court.
- Surrey County Council v T; & Bracknell Forest BC v T – Represented major supermarket in prosecutions relating to the sale of food products with expired 'use by' dates.
- Birmingham City Council v E – Represented high street sandwich chain in prosecution relating to animal infestation at outlet at Birmingham' Bullring shopping centre.

Fire Safety

- Cheshire Fire & Rescue Service & Cheshire East Council v S & S – Represented S and S in prosecution involving failures by landlords to register an HMO, fire safety legislation breaches and breach of a prohibition notice served under the Regulatory Reform (Fire Safety) Order 2005. Chester Crown Court.
- The Lakanal House Inquest – Acted for the manufacturer of a piece of electrical equipment in which it was thought a fire began. The fire spread through the building causing the deaths of six people.
- The Penhallow Hotel Fire – Represented a director in prosecution following fire at Cornwall hotel in which three people died. Truro Crown Court.
- Surrey CC v Southern Cross Healthcare Plc – Represented charged with offences under the Regulatory Reform (Fire Safety) Order 2005 in respect of fire at residential care home. Guildford Crown Court.

Environmental

- Milton Keynes Council v Leisure Connection Limited – Divisional Court case concerning matters to be proved by prosecuting authority in prosecution brought under s.34 EPA 1990;
- Environment Agency v YW – Represented Defendant Company in prosecution brought in respect of

- effluent discharges from breweries neighbouring the Tadcaster Water Treatment Centre;
- Environment Agency v CP & SGS – Represented fuel storage site management company following spillage of approximately 70,000 litres of petrol at the Mayflower Terminal near Plymouth.
 - Environment Agency v R – Represented groundworks company charged in relation to oil leak into watercourse due to rupture of pipeline during work being undertaken on a construction site.
 - Environment Agency v MCC(G) Limited & RC – Represented Defendant Company and Director in prosecution under s.33 EPA relating to the unlicensed disposal of approximately 971 lorry-loads of building material.
 - London Borough of Havering v JD Sports Fashion PLC – Represented Defendant Company in local authority prosecution relating to waste disposal at rear of shop.
 - Leeds City Council v W – Represented high street restaurant chain in local authority prosecution relating to repeated escapes of waste at rear of city centre restaurant.
 - Environment Agency v W – Represented national catering company in prosecution relating to biodiesel release into watercourse due to defective bunding.
 - Environment Agency v R & S – Represented company director in respect of alleged permitting offences following chemical discharge.
 - HSE & Environment Agency v I & S-A – Represented company and director in respect of joint HSE and EA prosecution arising out of an accident that occurred during the mixing of hydrogen peroxide and sodium cyanide at a laboratory in Ellesmere Port. A worker suffered burn injuries and, following the incident there was an accidental discharge of chemicals into a canal.
 - Thames Water Utilities Limited v E – Represented well-known food manufacturer and retailer in respect of prosecution arising out of alleged unconsented discharges of trade effluent causing damage to effluent treatment facility.

Inquests & Public Inquiries

Selected Cases

- Acting on behalf of a property company at the inquest into the death of a 7-year-old boy crushed to death by electric gates.
- Acting on behalf of a company at the inquest into a triple fatality caused by carbon monoxide in a storage container on a building site.
- Acting on behalf of a construction company at the inquest into the death of a 4-year-old boy who died after a stone mantelpiece became detached from a wall, crushing him.
- Representing a landowner at whose property the 4-year-old son of tenants drowned in a septic tank.
- Representing a gate installer at inquest into death of a young girl crushed to death by electric gates.
- Representing an outdoor pursuits company following the death of a customer who capsized in a canoe whilst under the company's supervision.
- Representing a care provider at the inquest into the death of an elderly care home resident who died after being given two insulin overdoses by nurses.
- Acting on behalf of a leisure company at the inquest into the drowning of a young boy in Wolverhampton.
- Representing leisure company at inquest into drowning of young girl in Essex.
- Representing a fairground operator at inquest into the death of a child struck by a rollercoaster.
- Representing a leisure centre operator at the inquest into the death of a swimmer who drowned in a swimming pool whilst no lifeguards were present.



Recommendations

"A very strong advocate who is excellent with clients and easy to recommend."

Legal 500, 2021

"He is technically superb but his impressive strength is seeing the big picture and being a very talented strategist. He manages clients expectations superbly. Senior judges sit up and listen when he speaks."

Legal 500, 2021

"He is one of the leading health and safety barristers in the country."; "He's extremely intelligent and really gets into the detail on cases. He's very good both on paper and on his feet in court."; "He is absolutely amazing - fantastic in court and his wealth of knowledge is second to none."

Chambers & Partners, 2021

"He truly understands environmental law and the technical detail, and he is an outstanding advocate who presents a compelling case."

Legal 500, 2021

"Exceptional in every way. His approach towards clients is always absolutely on point, and he knows the law inside out yet manages to translate complex issues to something easily digestible to clients. He is brilliant in court and gets the results for his clients. I take any opportunity I can to put him on my teams' cases as I know he will get the job done to the highest possible standards."

Chambers & Partners, 2020

"Outstanding and in high demand."

Legal 500, 2017

"By far the best of the young silks in this area."

Chambers & Partners

"Dominic Kay has outstanding knowledge and experience of this niche area of law. He is an excellent advocate, down-to-earth and has a commonsensical approach."

Chambers & Partners

"He takes a dynamic approach and is always looking for an innovative solution."

Chambers & Partners

"A very client-focused, pragmatic and level-headed kind of guy."

Chambers & Partners

"Quality performances in a number of high-profile health and safety cases."

Chambers & Partners

"His down-to-earth approach is highly appealing to the Bench and wins him the respect of the market."

Chambers & Partners