



Mark Balysz KC



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"Absolutely superb: the crème de la crème."
(Chambers & Partners)



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Mark Balyz KC is a specialist regulatory law practitioner, practising exclusively in Health & Safety, Environmental Law, Consumer Safety, Inquests and Inquiries.

In 2020 and 2016 he was named "Health & Safety Junior of the Year" at the Bar Awards, having also been nominated for the award in 2011.

Mark has been instructed to advise and represent both national and global companies and organisations including The Home Office, Amazon, Blackstone, Jaguar Land Rover, Viridor, Virgin, The Joseph Rowntree Housing Trust, Crest Nicholson, BAM Nuttall, Ferrovial Agroman, Kier Infrastructure & Overseas, B&M Retail, GEA, British Airways, Siemens, Galliford Try, Birse Civils, Sheffield Forgemasters, Metroline, Warburtons, Iceland, Sainsburys, Booths Supermarkets, Homebargains (TJ Morris), B&Q, New Look, Hampshire Fire and Rescue Service, Greater Manchester Fire and Rescue Service, Yorkshire Water and Northumbria Water.

Mark also represents individual directors, managers and employees charged with gross negligence manslaughter and health and safety offences.

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

"Absolutely superb: the crème de la crème extremely sharp and decisive silky smooth with his advocacy and doesn't shirk from a fight mitigates with panache and humanity a go-to barrister smooth operator who is strong on the law and always prepared a superb advocate a real depth of technical knowledge. Commitment to strategy that is key in cases of this nature and he has very persuasive advocacy skills that not only reassure clients but get results an amazing jury advocate he has brilliant charm an exceptional barrister "

Chambers & Partners 2022 describes him as "operating at silk level – he is fantastic".

Mark is in high demand and is currently instructed to represent/advise in relation to some of the country's leading health & safety investigations, including the Grenfell fire investigation and a number of forthcoming manslaughter trials.



Mark has advised on several issues relating to the 2020 Coronavirus outbreak, including assisting two organisations being investigated for suspected Covid breaches and providing advice to companies on steps necessary to comply with the Government's "Covid-19 Secure" guidance.

Mark is a guest lecturer in health & safety on the King's College Construction Law and Dispute Resolution Masters.

Criminal Regulatory & Environmental

Health & Safety

- 'Star Individual' in Health & Safety – Chambers and Partners 2022
- 'Band 1' Health & Safety – Chambers and Partners 2015 to 2021
- 'Tier 1' Health & Safety – Legal 500 2017 to 2022
- Winner – Health & Safety Junior of the Year – 2020 Bar Awards
- Winner – Health & Safety Junior of the Year – 2016 Bar Awards
- Nominated – Health & Safety Junior of the Year – 2011 Bar Awards

Described in one of the legal directories as "absolutely superb: the crème de la crème" Mark's health and safety work involves representing companies, directors, managers and employees, typically in complex prosecutions concerning single and multi-fatality workplace accidents. His clients include some of the best-known retailers, construction companies, waste companies, manufacturers, care homes, leisure companies, investment funds, train operators, bus companies, government departments and public bodies.

Mark's particular experience includes:

- Corporate manslaughter
- Gross negligence manslaughter
- Construction industry cases – fatalities/injuries due to falls from height, plant and machinery accidents, electrocution, structural collapse etc.
- Prosecutions under the Regulatory Reform (Fire Safety) Order 2005, including in respect of student halls of residence, care homes, shops. Appeared in a number of high-profile inquests including on behalf of Hampshire Fire and Rescue Service in an inquest into the death of two fire fighters and Greater Manchester Fire and Rescue Service in an inquest into the death of a fire fighter.
- Prosecution of Approved Inspectors pursuant to the Building Act and Regulatory Reform (Fire Safety) Order 2005.
- Farm accidents, including two highly sensitive cases where parents prosecuted for deaths of adult sons.
- Machinery accidents and vehicular accidents.
- Swimming pool accidents, including successfully defending lifeguard for failing to notice drowning swimmer.
- Improvement and prohibition notices, including both appeals against notices and prosecutions in respect of alleged breaches.
- Food safety, including management breaches, poisoning, infestations.
- Toy safety and product safety.
- Disease/illness/infections, including Covid-19, legionella, salmonella and listeria.



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- Care home deaths.
 - Coroner's inquests into fatal workplace accidents and those with health & safety issues.

Environmental

Mark's environmental practice involves defending companies and directors charged in respect of large-scale and high-profile pollution incidents, permitting offences, waste escapes and licence infringements. His recent work includes representing major utility companies, chemical storage manufacturers, construction companies and food producers. Such cases typically involve charges under the EPA 1990, the Water Resources Act 1991, Pollution Prevention and Control Regulations 2000 and the Environmental Permitting (England and Wales) Regulations 2010.

His recent environmental work has included:

- Defending companies charged with pollution of waterways;
- Cases involving large diesel/chemical spillages;
- Cases concerning breaches of permits;
- Defending companies charged under the EPA with allowing large volumes of waste to collect on unlicensed land;
- Defending companies charged under the Packaging (Essential Requirements) Regulations and advising companies on the Producer Responsibility Obligations (Packaging Waste) Regulations;
- Prosecutions against companies and individuals under s.33 and s34 EPA 1990.

Selected Cases

Health & Safety

Corporate Manslaughter

- R v Greenfeeds Limited & Others – acting for Company in Corporate Manslaughter prosecution. Leading Katie Sage. Leicester Crown Court. Trial listed Spring 2022.
- R v Alutrade Limited & Others – acting of Company in Corporate Manslaughter prosecution. Leading Jack Murphy. Trial listed March 2022.
- R v Peter Mawson Ltd and Peter Mawson – acted for both defendants from the outset of the police investigation into the death of an employee who fell through a sky-light whilst undertaking roof repairs. The director was directly involved in the works and this was a case of no safety measures being in place. Both Defendants were charged with manslaughter. Company pleaded to corporate manslaughter and s.2 HSWA. It sentenced to a low fine with significant time to pay. Director pleaded to s.37 HSWA and received a non-custodial sentence. The prosecution unsuccessfully argued profit before safety. The Recorder of Preston rejected evidence from ex-employees as to a callous disregard for safety.
- R v Sterecycle Ltd – Mark advised the Company, charged with corporate manslaughter, and its administrators pre-trial. As a result, the Company was unrepresented at trial. Mark acted alone without a leader or junior.
- Currently instructed to advise in respect of several high-profile corporate manslaughter investigations.

Individual Manslaughter

- R v Rod Slater & Others – acted for Operations Manager/Director charged with gross negligence manslaughter and breach of s.37 HSWA. Employee killed in machine where the safeguards had been overridden. Prosecution case was that client had been repeatedly warned and failed to rectify. Defence was that client did not have real authority pursuant to R v Boal principles, notwithstanding appointment as director, and therefore did not have sufficient duty of care. After a two-month trial at Bradford Crown Court Mr Slater was found not guilty on both counts. Mark was acting alone without a leader or junior.
- R v Michael Devlin & Combined Rood Systems Ltd – acted for managing director charged with gross negligence manslaughter and construction company charged with breach of s.2 HSWA. Employee killed when he fell from a roof. Negotiated plea to s.37 from individual and s.2 from company. At sentence, before the Recorder of Preston, Mark successfully argued that Mr Devlin's culpability was medium, and that case did not cross the custody threshold. Mark acted alone without a leader or a junior.
- R v Kevin Leathers – acted for managing director of scaffolding company charged with gross negligence manslaughter. Employee killed when scaffolding collapsed. Negotiated a plea to s.37 HSWA offence.
- Currently instructed to advise and represent several individuals in respect of gross negligence manslaughter investigations.

Health & Safety Prosecutions

- R v Phil Smith & Others (The Bosley Mill Explosion Trial) – acted for operations manager charged with breach of s.37 HSWA in quadruple fatality trial. Cutthroat defence as against Company and Managing Director charged with CM and GNM. Argued that client did not have real authority and s.37 not applicable to him. Prosecution offered no evidence at close of its case after three months of trial before May J. at Chester Crown Court. Led Mike Atkins.
- R v B P M Limited – acted for managing agent of St Katherine's Dock where repeated legionella outbreaks. 6 people taken ill. Tens of thousands exposed. Originally charged with 183 offences, reduced to two after legal argument. Further legal argument on scope of client duty in advance of four-week trial caused prosecution to offer no evidence. Acquitted before commencement of trial at Snaresbrook Crown Court.
- R v Skymark Limited – acted for company charged with failing to ensure safety of employee. Molten polymer ejected during operation of clinical plastic manufacture. Caused life-changing facial injury. Prosecuted by QC, who argued no proper defence. Detailed technical argument re. thermo-dynamic properties of plastic advanced to say that accident could not have been foreseen. Acquitted after trial at Great Grimsby Crown Court.
- R v Dunwoody Building Service Limited – Client, a Building Act Approved Inspector (AI), prosecuted for breach of Regulatory Reform (Fire Safety) Order re. failures in construction of student halls of residence. Attempt by prosecution, represented by QC, to expand the scope of responsibility under the Order in the light of Grenfell. Required detailed and innovative legal research. Prosecution offered no evidence on receipt of skeleton argument. Acquitted before commencement of trial at Leeds Crown Court.
- R v Harrison – Swimming pool drowning. Acted for young lifeguard. Failure to take reasonable care for safety of swimmers. Evidence overwhelming – deceased lifeless in pool for 6 minutes in plain sight; client allegedly adequately trained. Required careful education of jury in human factors. Acquitted after trial at Snaresbrook Crown Court.
- R v Viridor Waste Management Limited – acted for company alleged to have exposed

employees/non-employees to risk. Skip lorry/trailer rolled away due to failure of driver to apply handbrake. Driver killed and hospital building destroyed. Acquitted after trial at Plymouth Crown Court.

- R v Metroline Limited – acted for London bus operator, charged with s.3 HSWA after cleaning company employer seriously injured and crushed between two buses. Argued not reasonable for company to have done more to safeguard sub-contractor employees. Acquitted after trial at the Central Criminal Court.
- R v Francis Brown Limited – acted for company charged with breaching electrical regulations after the death by electrocution of an employee working at one of the director’s homes. Argued that not an activity connected with company and in all the circumstances regulations not applicable. Acquitted by the jury on the direction of the trial judge at the close of the prosecution case at Middlesbrough Crown Court.
- R v G & AM Lawson Limited – acted for company charged with breaching s.2 HSWA and regulation 3 MHSWR after the death of an employee struck by a malfunctioning trailer ramp which fell and struck him. Argued that risk of malfunction, caused by third party abuse, not a material risk i.e. not one which a reasonable employer would appreciate and take steps to guard against. Acquitted by the jury on the direction of the trial judge at the close of the prosecution case at Carlisle Crown Court.
- R v CE Davidson Limited – acted for company charged with breach of s.2 HSWA after building collapsed onto young employee during demolition works, causing life changing serious injuries. Argued that actions of injured party so extraordinary that company could not be expected to have guarded against them. Acquitted by the jury at Norwich Crown Court.
- R v Enterprise Liverpool Limited & Others – acted for principal contractor. Member of the public seriously injured at start of works to Liverpool ring road. One month later another member of the public was killed. Listed five weeks. After four weeks of trial co-defendants pleaded and prosecution agreed low culpability HC3 for company on sentencing guidelines. Enterprise fined £25,000 as compared to co-defendant fine of £1.3 million.
- R v Stoneham Construction Limited – acted for Principal Contractor charged with failing to ensure safety of worker killed on construction site. Plea of guilty. Mitigation persuaded court of relative low culpability compared to two co-D companies, by reference to regulations and contractual obligations. Sentenced to a low fine at Portsmouth Crown Court.
- R v Luton BC – acted for local authority prosecuted for exposing staff at a local school to risk after a teacher was badly beaten by a pupil. Plea of guilty and sentence. HSE originally argued high culpability and harm category 1. Sentenced on basis of low culpability and harm category 3.
- R v XX School – acted for private school investigated for exposing pupils to risk due to unrestricted windows. Pupil had jumped from a window seriously injuring himself. Consequent on representations Mark drafted HSE did not prosecute.

Court of Appeal Cases

- R v Tangerine Confectionery Ltd [2011] EWCA Crim 2015 – prosecution counsel at trial and on appeal. Leading case on risk and approach to health and safety cases generally.
- R v Willmott Dixon Ltd [2012] EWCA Crim 1226 – prosecution counsel at trial. Leading case on meaning of risk in asbestos cases.
- R v Rosemary Beazley & Scott Beazley [2013] EWCA Crim 567 – acted for husband and wife directors in trade-mark law prosecution. Confiscation proceedings stayed on Mark’s application for an abuse of process at Portsmouth Crown Court. Prosecution appealed – leading authority on confiscation.

Consumer Safety Prosecutions

- Cardiff v The Home & Motor Club Limited and David Mellen – acted for Company and Managing Director charged with 28 counts of fraud and breaching the Consumer Protection from Unfair Trading Regulations 2008. Both Defendants had previously pleaded guilty when represented by different counsel and solicitors, such pleas being set aside after the instruction of Mark and on his application. The basis of the application was a failure to follow the procedure for indication of sentence in R v Goodyear [2005] EWCA 888, inappropriate prosecutorial inducement and flawed advice by non-specialist lawyers. Both Defendants were acquitted by the jury on the direction of the trial Judge at the close of the prosecution case at Cardiff Crown Court. Mark led a junior counsel from different chambers.
- Reading v Bloor Homes Limited – acted for housing developer for alleged breach of Consumer Protection from Unfair Trading Regulations 2008. Acquitted by District Judge at Reading Magistrates' Court.
- Wolverhampton v JHAI Limited – acted for Building Act Approved Inspector and its Managing Director for charges brought under the Consumer Protection from Unfair Trading Regulations 2008. Legal argument on applicability of regulations caused prosecution to offer no evidence. Acquitted before commencement of trial at Wolverhampton Crown Court.
- Liverpool v Eurooffice Limited and Spicers Limited – acted for both companies in defence against charges brought under the Packaging (Essential Requirements) Regulations. Both companies acquitted by District Judge at Liverpool Magistrates' Court.
- Hampshire v Rosemary Beazley & Scott Beazley [2013] EWCA Crim 567 – acted for husband and wife directors in trade-mark law prosecution. Confiscation proceedings stayed on Mark's application for an abuse of process, at Portsmouth Crown Court. Prosecution appealed – leading authority on confiscation.
- Various v TJ Morris Ltd (Home Bargains) – Mark advises and acts for retailer in variety of regulatory matters.
- Reading v S Stores PLC – acted for retailer in prosecution under Packaging (Essential Requirements) regulations 2003. Legal argument on applicability of regulations. Acquitted by District Judge at Reading Crown Court.
- Various v Sainsbury's Supermarkets Limited – multiple instructions defending licensing prosecutions.

Environmental

- Environment Agency v XX Limited – acted for cereal manufacturer in prosecuted for escape of c.60,000 litres of diesel.
- Environment Agency v Northumbria Water Limited – acted for water company in prosecution for unpermitted discharge of sewage.
- Environment Agency v Yorkshire Water – acted for water company in prosecution for unpermitted discharge of sewage.
- Environment Agency v XX Limited – acted for house builder for prosecution for water pollution.

Inquests & Public Inquiries

Selected Cases

- Currently representing the officers and directors of the Rydon Group at the Grenfell Public Inquiry.
- Acting for principal contractors, contractors and clients with regards to deaths during the course of

construction.

- Acting for care homes with regards to deaths of residents.
- Acting for a film studio with regards to a death on set.
- Acting for Greater Manchester Fire and Rescue Service in the inquest into the death of a fire fighter.
- Acting for Hampshire Fire and Rescue Service in the inquest into the death of two fire fighters.
- Acting for a children's nursery in the inquest into the death of a toddler in its care.
- Acting for a local authority in the inquest into the death of a member of the public from a collapsing tree.
- Acting for directors of a company accused of culpability in death of employee – directors were the parents of the employee.
- Acting for a director of a company accused of culpability of death of employee – director was the father of the employee.
- Acting for swimming pool operators where swimmers have drowned.
- Acting for lifeguards who were on duty when swimmers have drowned.
- Acting for members club where member had died of legionella, allegedly having been infected at the club.

Qualifications

- Criminal Bar Association
- Health & Safety Lawyers Association

Recommendations

"Mark is outstanding. He is technically superb and achieves excellent results. He also is very personable and builds a good rapport with clients who immediately feel at ease with him."..."Diligent and thorough and good with clients, instilling their confidence from the outset."

Chambers & Partners, 2024

'He has been one of the leading and most effective advocates in this area for many years - passionate about his clients and this comes across in his advocacy.'

Legal 500, 2024

"A really strong junior operating at silk level - he is fantastic."

Star Individual, Chambers & Partners, 2022

"Mark is extremely sharp and decisive. Mark is silky smooth with his advocacy and doesn't shirk from a fight. Mark mitigates with panache and humanity."

Legal 500, 2022

"A go-to barrister - he is a smooth operator who is strong on the law and always fully prepared."

Star Individual, Chambers & Partners, 2022

"A superb advocate. He has a real depth of technical knowledge, commitment to strategy that is key in cases of this nature and has very persuasive advocacy skills that not only reassure clients but get results."

Legal 500, 2021



"An amazing jury advocate - he has a brilliant charm and he's very personable. He really empathises with clients."; "Mark is an exceptional barrister. Clients really like him and he delivers a high-quality client service."

Chambers & Partners, 2021

"He is fantastic in terms of his ability to cut through the issues and explain matters to clients in a very easy to understand manner."

Chambers & Partners, 2020

"A great junior with solid criminal knowledge and an impressive manner in court."

Legal 500, 2018

"An utterly reliable advocate with a great understanding of the law."

Chambers & Partners UK Bar, 2018

"He has excellent technical skills and a real ability to read clients' expectations."

Legal 500, 2017

"Health & Safety Junior of the Year"

Chambers & Partners, 2017