

“Combines superb client care with fantastic technical ability.” – Legal 500, 2020 – Inquests and Inquiries (Tier 1)

“His client care skills are second to none.” – Legal 500, 2020 – Regulatory, Health and Safety and Licensing (Tier 1)

“An excellent tactician who is persuasive on his feet.” – Legal 500, 2019 – Inquests and Inquiries (Tier 1)

“He combines fantastic technical ability with great client care skills.” – Legal 500, 2019 – Regulatory, Health and Safety and Licensing (Tier 1)

“Knowledgeable and approachable.” “Very thorough.” – Chambers and Partners 2019 – Health and Safety (Band 2)

“His legal, tactical and presentational abilities are excellent.” – Legal 500, 2018 – Inquests and Inquiries (Tier 1)

HEALTH & SAFETY, FOOD SAFETY, FIRE SAFETY AND ENVIRONMENTAL LAW

Austin represents clients in relation to health and safety, fire safety, food safety, environmental and product safety offences. He is regularly instructed to represent individual directors and companies charged with regulatory offences in both the Crown Court and Magistrates' Court. He is recognised as being a leading junior in the field of health and safety law by all of the leading legal directories.

Austin has an enviable record of achieving positive results for his clients in regulatory prosecutions and is recognised for providing focused, commercial advice. He is frequently instructed at the early stages of prosecutions and investigations to provide strategic advice to solicitors and lay clients.

Austin is known for his ability to quickly digest large amounts of complex, technical information and identify the key issues in a case. He has been involved in a number of cases involving public health outbreaks that have resulted in multiple fatalities and involved complicated scientific evidence. Austin is also regularly instructed in cases involving engineering and technical evidence and industry specific information.

Austin is also a member of the Regulatory List of Counsel used by the Health and Safety Executive, Office for Rail Regulation and the Environment Agency. Austin is instructed to provide advice and prosecute cases of regulatory crime on behalf of these bodies and also local authorities.

NOTABLE CASES

Industrial Disease Cases

HSE v G – Represented a national construction company charged with breaching section 2 of the Health and Safety at Work Act and the Control of Asbestos Regulations. The prosecution had suggested that the case involved high culpability and category 1 harm, resulting in a starting point of a fine of £950,000. Following submissions, the court accepted that the case involved medium culpability and category 3 harm and imposed a fine of £125,000.



CONTACT DETAILS

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Professional Disciplinary

Regulatory

SPECIALIST PANELS

Attorney General's List of Junior Counsel to the Crown

List of Specialist Regulatory Advocates in Health and Safety and Environmental Law - List B

MEMBERSHIPS

Health & Safety Lawyers Association

Institute of Occupational Safety and Health

Association of Regulatory and Disciplinary Lawyers

Northern Circuit

EDUCATION

The University of Leeds
LLB (Hons)

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Legal Practice Course

Manchester Metropolitan University
Bar Vocational Course

R v J – Junior counsel for the Crown in the prosecution of a national retail company following an outbreak of Legionnaires' disease in Stoke on Trent in 2012, caused by a contaminated hot-tub, that resulted in the deaths of 2 people and hospitalisation of many more. The company was fined £1 million.

HSE v H & H – Represented two companies charged with breaching sections 2 and 3 of the Health and Safety at Work Act and the Control of Asbestos Regulations. The prosecution had originally suggested that this was a case of high culpability and category 1 harm. If accepted this would have attracted fines with starting points of £250,000 and £160,000 for each of the companies respectively. Following the service of applications to dismiss certain of the counts the HSE discontinued the charges under section 2 and 3 of the Health and Safety at Work Act and accepted that the case involved category 3 harm. A total fine of £34,000 was imposed.

HSE v U – Represented a company and managing director in a prosecution under section 3 of the Health and Safety at Work Act and the Control of Asbestos Regulations. The prosecution had suggested that the case was one of very high culpability and category 1 harm. Following the calling of expert evidence on the question of 'likelihood of harm' arising from asbestos exposure and submissions from the defence the court found the case to be one of medium culpability and category 2 harm. A fine of £5,720 was imposed.

Working at Height Cases

HSE v D & R – Represented two linked companies charged with separate breaches of the Work at Height Regulations at the Crown Court at Southwark. The prosecution had suggested that the starting point for the fines for both companies was £1.2 million. Following submissions, the court imposed a total fine of just under £140,000.

Manchester City Council v R – Represented a clothing distribution company in relation to a prosecution under section 2 of the Health and Safety at Work Act following a fall from height at the company's warehouse. The prosecution had suggested that the case involved high culpability and category 1 harm, suggesting a starting point of a fine of £250,000 with a range between £170,000 and £1 million. Following the service of expert evidence by the defence in relation to the actual risk and likelihood of harm, and following submissions, the court found medium culpability and category 3 harm and imposed a sentence of £28,000.

HSE v J – Represented a company charged with breaching section 2 of the Health and Safety at Work Act following an 8-metre fall from a roof suffered by one of the company's employees. The court rejected the prosecution submission that the case involved high culpability "at the high end." The prosecution had suggested that the starting point for the fine was "a figure higher than £160,000". The court imposed a fine of £40,000.

R v C – As junior counsel, represented a company and sole director charged with offences under section 3 of the Health and Safety at Work Act following a fatality at a construction site in which two employees had fallen through skylights.

HSE v R – Represented a construction company in an appeal against a prohibition notice following an inspection at site when employees were working on the roof of a building.

Machinery and Guarding Cases

HSE v C – Represented a national food distribution company that is a subsidiary of an Irish multinational food company. The case involved an employee who had suffered serious injuries when his arm became ensnared in a packaging machine that had not been properly maintained. The company was fined £400,000.



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Austin Welch

Call to the Bar: 2005

HSE v S – Represented a company in relation to a workplace accident in which an employee had lost a finger whilst operating a piece of machinery. The court rejected the prosecution submissions in relation to culpability and harm and accepted the defence submissions that the case was one of medium culpability with category 3 harm. The prosecution had suggested the case fell within the range of fine between £30,000 and £110,000. Instead the court imposed a fine of £19,000.

HSE v C - Represented the company and managing director in a prosecution under section 2 HSWA. The case involved allegations that the company had provided unsuitable drilling equipment to its employees over a period of more than 20 years, resulting in the employees contracting hand arm vibration syndrome (HAVS). A fine of £36,000

South Kesteven Borough Council v L – Represented a company, which was a subsidiary of a German multinational company, in a prosecution under section 2 of the Health and Safety at Work Act. The prosecution had suggested that the case was one of very high culpability with level 1 harm. Following submissions by the defence the court rejected the prosecution assessment of culpability and harm and imposed a fine of £25,000.

HSE v S – Represented the director of a company charged with an offence under section 37 of the Health and Safety at Work Act following a workplace fatality in which a lorry reversed into a banksmen. Case discontinued by the prosecution.

Food Safety Cases

Durham County Council v C - Represented a food company in a prosecution for food safety offences following a salmonella outbreak that occurred in 2017 and was alleged to have resulted in over 20 people becoming infected and 2 deaths. The Company, as well as two directors who had been charged, were acquitted.

Blackpool Borough Council v G&S – Represented the owners of a Blackpool hotel charged with breaches of the Food Safety and Hygiene Regulations.

Blackpool Borough Council v G – Represented a restaurant owner charged with breaches of the Food Safety and Hygiene Regulations.

Thanet District Council v A – Represented a national retailer in relation to alleged breaches of the Food Safety and Hygiene Regulations. Case discontinued.

FSA v MA – Represented an abattoir in a prosecution by the Food Standards Authority concerning breaches of food hygiene rules relating to the storage and treatment of halal meat. After submissions the court imposed a limited fine of £12,000.

Environmental Cases

Environment Agency v P – Represented a director and company in an Environment Agency prosecution for operating an illegal landfill site. The case against the director was discontinued and a minimal fine imposed on the company.

Rochdale Borough Council v C and others – Represented the local authority in a joint prosecution with the Environment Agency of various companies and individuals charged with waste offences and offences under the General Product Safety Regulations after a large volume of unsafe domestic cleaning products were illegally placed on the market.



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Environment Agency v J - Represented an individual charged with operating 4 illegal waste transfer stations.

Fire Safety Cases

SYFRS v B - Representing a national retailer in relation to fire safety breaches at one of their stores.

SYFRS v T - Representing a health and safety advisor in relation to allegations that he had prepared a defective fire risk assessment. Fine of £750

INQUESTS AND PUBLIC INQUIRIES

Austin represents corporate bodies, individuals, family members and government departments at inquests and public inquiries. He has appeared in some of the most high-profile inquests and inquiries in recent years and is considered a leading junior in this field. Austin is particularly adept at representing clients in inquests involving health and safety issues.

He is also regularly instructed by medical professional bodies to represent their members at inquests. As a member of the Attorney General's list of junior counsel to the Crown, Austin is regularly instructed to represent government departments in complex Article 2 inquests.

NOTABLE CASES

In the Hillsborough inquests – As junior counsel, Austin represented two senior South Yorkshire Police officers who were alleged to have orchestrated the “cover up” following the disaster at Hillsborough football stadium in 1989. The inquests lasted 2 years and are the longest in English legal history.

The Independent Inquiry into Child Sexual Abuse – Currently instructed to represent a senior police officer in relation to the investigation into alleged sexual abuse by Lord Janner.

The inquest into the Manchester Arena Bombing – Austin is currently instructed to represent a number of family members of those who died as a result of the bombing at the Manchester Arena in 2017.

The Gosport War Memorial Hospital Independent Panel – Austin was part of the team involved in the investigation into the deaths that occurred at the Gosport War Memorial Hospital between 1988 and 2000 that led to the production of the report of the Independent Panel. Austin was responsible in particular for the drafting of the inquests section of the report.

The Grenfell Tower Inquiry – Austin has been advising various individuals and companies in relation to their involvement in the Grenfell Tower Inquiry.

In the inquest touching the death of S – Represented the family of a young woman who died as a result of suffering an anaphylactic shock having consumed a chicken burger coated in butter milk (to which she was allergic) at the Almost Famous restaurant in Manchester. The inquest lasted 7 days and attracted national press attention.



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In the inquest touching the death of BW – Represented a waste company in relation to the death of a cyclist who had fallen into oncoming traffic having slipped on detritus on the road. The Local Authority for the area where the accident occurred instructed leading and junior counsel and had obtained expert evidence suggesting that the detritus had come from the waste company's premises due to a lack of cleaning of vehicles. The Coroner concluded that there was insufficient evidence to make any such a finding.

In the Inquest touching the death of O - Represented a clothing distribution company in relation to the death of the child of one of the company's employees. The child had been born prematurely. The inquest found that the working conditions nor the reasonable adjustments that had been made for the mother either caused or contributed to the death.

In the inquests touching the deaths of T & J – Appearing for an interested party at a 9-day inquest into the death of two contractors killed when operating heavy machinery at an industrial plant in Knowsley. Austin represented the supervisor of the contracting company. Following the inquests the HSE indicated that there would be no prosecution of the interested person Austin represented.

In the inquest touching the death of B – Represented a nursing home in an inquest into the death of a resident who had died after not having been administered medicine. No finding of neglect.

In the inquest touching the death of C – Represented a nursing home in an inquest into the death of a resident who had died following suggestion of a lack of ongoing treatment. No finding of neglect.

In the inquest touching the death of B – Represented the manager of a care home in an inquest following the death of a resident who had fallen and suffered fatal head injuries.

Inquests for Public Bodies

In the Inquest touching the death of D - Represented the MOJ in an Article 2 inquest concerning a prisoner who died following insufficient medical treatment.

In the Inquest touching the death of S - Represented the MOJ in an Article 2 inquest concerning a prisoner who committed suicide in his cell. The case involved complex issues relating to the treatment of S's mental health whilst in custody.

In the inquest touching the death of B - Represented the MOJ in an Article 2 inquest concerning a prisoner who committed suicide in his cell. The case involved consideration of the prison's mental health treatment strategy and procedures as well as issue relating to resuscitation and causation.

In the inquest touching the death of O - Represented the Probation Service in an Article 2 inquest into the death of a member of the public who had been killed by a recently released prisoner who he had met through the Grindr dating app.

In the inquest touching the death of S - Represented the MOJ in an Article 2 inquest into the death of a prisoner who had died following the consumption of 'Spice.' The case involved complex issues relating to resuscitation and causation.



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