

Expert Witness Service

Hastam's H&S Expert Witness Service for Solicitors and their Clients



Over the past decade we have worked on many cases as H&S Expert Witnesses. There have been a number of cases that were high profile including the Blast furnace explosion at the **Port Talbot steel plant**, the explosion at **Buncefield oil storage depot** and the rail crash at **Potters Bar**.

We have worked for and with defence and prosecution teams, both 'sides' in civil proceedings and assisted coroner's courts. Hastam has in-depth knowledge of legislation, regulatory compliance regimes, and safety management in a broad range of industries including chemical, oil and gas, steel, manufacturing, transport, power generation, construction and public services. Some of our experts are the people who have formulated the guidance on health and safety standards or good practice that companies seek to implement and on which the issue of reasonable practicability often rests.

What HASTAM promise and deliver is independent expertise applied with rigour and thoroughness to the case or situation under review. We only undertake work where we believe our competence is secure. We have been providing health and safety expert advice since 1984. Our expertise includes general H&S legislation (eg, HSW Act; MHSW Regulations), industry-specific legislation (eg, ROGS; Offshore), hazard-specific legislation (eg, Work at heights & in confined spaces; COMAH); environmental legislation, and the regulatory regimes associated with the legislation. Our Board includes eminent safety professionals such as Professor Andrew Hale, Professor Richard Booth and Dr Tony Boyle.

Hastam Expertise according to Industrial Sectors

Construction (including Utilities and demolitions)	Prof Richard Booth
Chemical Processes (including exploration, Gas and Oil storage and Refining; Sullage recovery)	Prof Richard Booth, Steve Highley
Education (from pre-school to higher education)	Dr David Wenham, Prof Richard Booth
Manufacturing	Prof Richard Booth, Dr David Wenham
Music Festival Events (and Charitable Events)	Prof Richard Booth
Conventional and Nuclear energy	Dr Tony Boyle, Prof Richard Booth
Railways (and also some aspects of road safety)	Prof Richard Booth, Dr Tony Boyle
Social Housing	Dr Mark Cooper
Vehicles and Agricultural Machinery	Dr Mark Cooper
Incident investigations in the above industries	Dr Tony Boyle, Prof Richard Booth (and other experts relevant to industry specialisms)



Contact

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Client Comments

"I have read your report, re-read it and read it again. Absolutely centre line! - my personal thanks to you and your HASTAM colleagues, but especially you (Prof Booth)."

"I have spoken to Counsel regarding the contents of your report and we both agree it is very helpful and authoritative."

"Many thanks for the enclosed. I have read the same and the report is extremely helpful thank you. ... From my part, thank you for the expedient, professional and thorough approach."

"I would like to take this opportunity to thank you very much indeed for your kind assistance and support in this matter, which we have found to be invaluable."

"Many thanks....a good read and one that we will be digesting over the coming weeks."

"Thank you for your final report and timesheet. The report is excellent and once again we are grateful for the work you have put in."

Professor Richard Booth

PhD, DIC, FIMechE, CEng, CFIOSH, Chartered Safety and Health Practitioner



After a mechanical engineering apprenticeship at the Motor Industry Research Association (MIRA), Richard Booth was promoted to Research Engineer in 1964 studying vehicle safety and durability. He was appointed as a lecturer in Safety and

Health at Aston University in 1972 and received his Chair in 1978. He was elected Professor Emeritus in 2007.

Previous Experience

Richard was for many years a part-time Safety Adviser to a small construction (refractory engineering) company, also Group Safety Adviser for Smith & Nephew (Europe) and the Unilever Group (world-wide). He was, until 2006, one of two independent Safety, Health and Environment Advisers to Transport for London and a member of the TfL Board's Safety, Health and Environment Committee.

Publishing

He has published about 150 scientific papers, articles and book chapters and presented in 17 countries world-wide. He has been awarded the Viscount Weir Prize from the Institution of Mechanical Engineers for research on metal fatigue, and the Distinguished Service Award of the Royal Society for the Prevention of Accidents.

Research

He has carried out extensive research covering, for example, machinery safety, component and structural integrity, construction safety, safety culture, human factors, design, development and effectiveness of health & safety management systems including a review of safety audit systems, regulatory compliance regimes, accident investigation methodologies, safety and health practitioner competencies, and accident costing (embracing the criteria for reasonable practicability).

Case examples

Richard has acted as an expert witness in many cases both here and in the United States. Some of these are indicated on the right of this page.

CRIMINAL CASES ENGAGED BY THE PROSECUTION

Frisby's acting for HSE: Prosecution of AMEC and Shell (HSW Act sections 2 & 3 respectively) following a fatal accident in 2005 on an offshore gas installation. The deceased fell while carrying out maintenance work at height (2007-2008).

Bond Pearce acting for HSE: Prosecution of EPSCO Ltd under Health and Safety at Work Etc. Act section 2, following a drowning in a power station culvert during maintenance. EPSCO pleaded guilty on the first day of the trial (2011).

CRIMINAL CASES ENGAGED BY THE DEFENCE

DLA Piper acting for Total UK Ltd: HSW Act sections 2 & 3 prosecutions by the Competent Authority (HSE) following the explosion at the Buncefield Oil Storage Depot in December 2005 (2009-2010).

Hassans International Law Firm Gibraltar: A criminal case acting for the defendants Nature plc following a major explosion at their sullage plant on the North Mole of Gibraltar Harbour in 2011. The roof of one of the tanks was propelled skywards and narrowly missed landing on the crowded deck of the then largest cruise ship in the world (2014).

Bridge Litigation (UK) MEWP boom buckling collapse (Criminal Case) (2016). The accident was primarily the result of a low strength steel being used for a repair. The defendant (the repairer) was found with no case to answer.

CIVIL CASES ENGAGED BY THE COMPLAINANT/PURSUER

Morton Fraser acting for the pursuers: a civil case against EPSCO Ltd and E.ON UK Plc following a drowning in a power station culvert – settled out-of-court.

Hann & Co, Solicitors: acting for the Pursuer who fell through defective manhole cover (2018) – settled out of court.

CIVIL CASES ENGAGED BY THE DEFENCE

Shoosmiths acting for Sir Robert McAlpine Ltd (one of three defendants): a civil case following a fatal accident to a MEWP operator trapped by a beam on a construction site; following defence expert evidence, the case against McAlpine was withdrawn (2012).

DWF acting for Star Autos Ltd (one of four defendants): a civil case following a fatal accident to a lorry-mounted crane (HIAB) driver whose load struck an 11kV overhead line at a music festival – settled out of court (2013).

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Doctor Tony Boyle

PhD, MSc, BSc, AFBPsS, CFIOSH, MIRM, Chartered Occupational Psychologist, Chartered Safety and Health Practitioner



After completing a Psychology degree Tony Boyle worked at the National Institute of Industrial Psychology (NIIP) where, inter alia, he studied accidents involving high voltage switchgear. He left the NIIP to complete a PhD in

the statistical theory of accident causation.

Previous Experience

Following a period of teaching health and safety he went back to full time research studying road traffic accident black spots in central London. He then set up his own software company to write safety related software. The company initially developed conventional software for applications such as accident recording. However, Tony did an MSc in expert systems (artificial intelligence) and the company moved into developing expert system software. His company was later incorporated into the health, safety and environmental consultancy, Hastam, set up principally by Aston University Health and Safety Personnel. Tony was Hastam's Managing Director and later Chairman and although he has retired from this role he is still a non-executive director.

Publishing

Tony is currently investigating the use of interactive electronic books as alternatives to conventional textbooks and the implications of these books for training delivery.

Expert Witness

Tony's particular expertise is safety management systems and the elements such as risk assessment, incident investigation and audit that make up these systems.



CRIMINAL CASES ENGAGED BY THE PROSECUTION

DWF acting for Star Autos Ltd (one of four defendants): a civil case following a fatal accident to a lorry-mounted crane (HIAB) driver whose load struck an 11kV overhead line at a music festival – settled out of court (2013).

CRIMINAL CASES ENGAGED BY THE DEFENCE

DLA Piper - Acting for Total: Helped Professor Booth prepare an expert witness report for the defence in the Buncefield explosion.

DLA Piper - Acting for Biolab: Reviewed the company's major accident prevention plan (MAPP), its substance inventories and its training arrangements. He also prepared an expert witness report dealing with both safety and environmental issues.

Magna Specialist Confectioners: With Professor Booth, Dr Boyle prepared an expert witness report dealing with machinery design and risk assessment matters.

Kennedys Law - Acting for facilities management company H2O: Prosecution under section 2 of the Health and Safety etc. Work Act 1974. An H2O employee fell from a roof while clearing up following construction work and was fatally injured.

Kingsley Napley LLP - Acting for JC Bamford Excavators Ltd (JCB): A JCB contractor inspecting items that had been unloaded from a lorry was struck by an overturning trailer and its contents. He sustained serious multiple injuries. Doctor Boyle was asked to give his opinion on the adequacy of the relevant risk assessments.

Clyde and Co Solicitors acting for the defendant: One of the defendant's employees was scalded by steam during the cleaning of a confectionery making machine. The case hinged on the adequacy of the Safe Operating Procedure and whether the employee was following the Procedure correctly.

CIVIL CASES ENGAGED BY THE COMPLAINANT/PURSUER

Christian Khan: Acting for families of the deceased in Potters Bar derailment. Prepared an expert witness report on the Safety Management System aspects of the Potters Bar and Grayrigg derailments. Subsequently gave evidence on the penultimate day of the Inquest and a transcript is in the public domain.

For further reading on the work done by Dr Tony Boyle relating to the Potters Bar Rail Crash please take a look at our website by visiting:
<http://www.hastam.co.uk/hastam-services/expert-witness/potters-bar-rail-crash/>

Newcastle NHS Foundation Trust refused to accept a newly built office building because of concerns about ventilation. Dr Boyle was asked to write a report regarding this problem and during this work he identified other safety issues with the building (2014).

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Doctor Mark Cooper

PhD, MSc, BSc, MEng, FIAEC, CME, MIMechE, CMIOOSH, Chartered Environmentalist; Chartered Safety and Health Practitioner



Dr Cooper was a lecturer in Occupational Health and Safety at Aston University. For twelve years he managed their MSc in Risk Management and Safety Technology. At the Engineering Industry Training Board (EITB) he

was a Senior Training Adviser and Supervisor in EITB's West Midlands Region. He has also been a Training Adviser based in Cardiff and responsible for validating Craft and Technician training. At the Ministry of Agriculture, Fisheries and Food he was a Mechanisation Advisory Officer, employed to give technical, unbiased advice on machinery to farmers and growers. He is currently the Vice President of the Institution of Agricultural Engineers.

Consultancy Experience

In a consultant capacity Dr Cooper develops both individuals and their companies in a wide range of areas of health and safety management. He is a principal examiner for Work Equipment & Machinery (Unit C) of the NEBOSH International Diploma in Occupational Health & Safety. His work for the Health and Safety Executive (Field Operations Division) involved a three-year project to train all operational HSE Inspectors in methods of analytical accident investigation for serious and fatal accidents. In that capacity he has been involved in training approximately 300 front-line inspectors. Mark's particular area of expertise is in workplace transport safety including safe use of cranes, forklift trucks, agricultural and amenity vehicles. He has a strong background in agricultural machinery safety.

Other Relevant Experience

In recent years Dr Cooper has developed a specialism within social housing offering advice on a wide range of issues including general workplace risk assessments, managing potentially violent customers, work at height, and point-of-use health and safety information for a wide range of maintenance trades. His work with a European airline has included establishing a competence framework for investigators and supporting the introduction of a programme of 'Operational Readiness' within the business.

CRIMINAL CASES ENGAGED BY THE PROSECUTION

Birmingham City Council v ASDA Stores plc: Expert for the prosecution arising from a death in a warehouse involving a forklift truck driver crushed between the mast and the overhead guard.

CRIMINAL CASES ENGAGED BY THE DEFENCE

HSE v Cuddy Demolition: Successful appeal of a PN regarding the work of a sub-contractor and manual handling of kerb stones.

DWF acting for Daver Steels: Expert for the defence concerning a prosecution under S3 of the HASAWA where a third party was killed on the public highway involving a forklift truck.

R v Eskdale Shooting Services: expert for the defence in a prosecution arising from a death from an overturn of a drive-in Kubota All Terrain Vehicle.

R v Cargo Services Ltd: expert for the defence in a prosecution arising from an amputation to a lorry driver whilst handling steel at Cardiff Docks.

CIVIL CASES ENGAGED BY THE COMPLAINANT/PURSUER

Harding v Compact Tractors: £2.5m settlement. Expert for the claimant concerning the stability of a newly purchased compact tractor that overturned whilst descending a slope.

Widow of Martin Preece (Deceased) v The Stone Company (UK) Ltd: Expert for the deceased family arising from the collapse of a load suspended from an overhead gantry on a farm in Essex.

Family of Deceased v Bath Stone Ltd: Witness for the claimant in a case of an overturned Fork Lift Truck in a stone cutting factory.

King v JCB: Commercial dispute over the safe handling of a JCB Telehandler.

OTHER EXPERT WITNESS WORK

West Midlands Police Federation: Incident investigation, understanding of what SMS in a large organisation (WMP has 6,500 officers) should look like. Nuances of operational policing and use of dynamic risk assessment. Lessons from fire service/Home Office guidance.

Northumbria Police: Adapting fire brigade dynamic risk assessment and assessing effectiveness of training initiatives for operational staff using video-based scenarios.

Doctor David Wenham

PhD, MSc, BSc, DipSH, Dip Law AdvDipEdMan, CChem, MRSC, CFIOSH, FHEA, Chartered Safety and Health Practitioner



David gained a first degree from Southampton University in Physiology and Biochemistry and followed this with an MSc in Forensic Science from Strathclyde University and then a Ph.D. in Biochemistry from Birmingham University in

conjunction with ICI Pharmaceuticals. He then joined the Health and Safety Executive as an inspector and gained the Postgraduate Diploma in Occupational Safety and Hygiene from Aston University.

During his time in the HSE he worked in the industry groups responsible for chemicals, food, woodworking, shipping and construction and his work included the inspection of premises, provision of advice, the investigation of accidents and enforcement including prosecution.

Lectureship and Expert Witness

He was appointed a lecturer at Loughborough University in 1990, and now is the Director of the Postgraduate Programme in Occupational Health and Safety Management which attracts students from major companies from the UK and abroad. His main interests and consultancy work are occupational health and safety law, risk assessment methods, safety management and safety culture/climate.

Apart from Loughborough, he has been a visiting lecturer at a number of other universities including Aston (Postgraduate Diploma for HSE inspectors), Salford (MA in Occupational Health and Safety Law and Environmental Law), University College London (MSc Healthcare Risk Management) and Surrey University (MSc Occupational Health and Safety).

Since 2006 he has been a consultant and lecturer to Warwick University for the Postgraduate Diploma in Regulatory Occupational Health and Safety for HSE inspectors and more recently has been appointed Principal Examiner for the NEBOSH level 11 Diploma Award for HSE inspectors. He has gained significant experience as an expert witness over the past 20 years, including giving evidence in court and being cross-examined.

CRIMINAL CASES ENGAGED BY THE PROSECUTION

Acted for **Glasgow City Council (2009)** in respect of the prosecution of Integral (UK) Ltd resulting from a fall from height of a service engineer. Report evaluated the adequacy of training to conduct a risk assessment and supervision/auditing. Defendant convicted of a breach of s2 HSWA.

CRIMINAL CASES ENGAGED BY THE DEFENCE

Acted for **Thompsons in R v Dr Clive Bird (1995)**. The defendant was prosecuted for a breach of s36/s7 HSWA following an explosion in a laboratory, in which an undergraduate student was injured. This was one of the first prosecutions against an individual employee for an alleged failure to conduct a suitable and sufficient risk assessment. Crown Court judge found there was no case to answer.

Engaged by solicitor on behalf of a London pharmacy who was prosecuted for a breach of the regulation 34(3) Construction Design and Management Regulations 2007 following a serious accident to a contractor. I was asked to provide a report into the adequacy of a contract between the pharmacy and a shop-fitting company. Attended City of London Magistrates' Court for 3 days advising defence barrister.

CIVIL CASES ENGAGED BY THE COMPLAINANT/PURSUER

Acted for **Russell Jones and Walker in Laurence v Metropolitan Police (2001)** in which the claimant suffered a serious injury during training. Defendant found liable.

CIVIL CASES ENGAGED BY THE DEFENCE

Acted for **York College (2014)** following a fatal accident in the college nursery and subsequent conviction for a breach of s3 HSWA. The Crown Court Judge expressed significant criticism of the college health and safety adviser such that it was necessary to establish if disciplinary proceedings should be brought. Report exonerated the safety adviser.

Engaged by a solicitor representing a claimant who suffered from hearing loss allegedly caused by exposure to noisy machinery in prison workshops. Report prepared that evaluated the existing noise risk assessment and estimated the noise exposure of the claimant and the suitability of hearing protection provided.

INQUEST WORK

Appointed by **Tewkesbury Borough Council (2015)** to provide an expert witness report and required by Coroner for Gloucestershire to give evidence at the Inquest, following the death of an epileptic employee at a supermarket. The jury identified significant failings on the part of the employer.

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Steve Highley

MSc, BSc, CEng, FIChemE, CMIOSH



Steve is a highly experienced health and safety consultant with 18 years industrial experience in major hazard chemicals production subject to safety case regulatory control. His roles have included engineering design and

new plant commissioning, production management, and health and safety management. From 1994 to 2001 he was a Plant Manager, firstly for a major hazard Agrochemical manufacturing facility, including dedicated phosgenation and hydrogenation units, and then for a multipurpose Agrochemicals unit, carrying out a diverse range of organic chemical syntheses. He was champion for a site behavioural safety programme that helped his organisation achieve seven years with no lost time accidents whilst at the same time improving delivery, quality and financial performance indicators.

As site Technical Support Manager from 2001 to 2003 he was responsible for HSE and Quality management systems and support functions, and the process development group. He managed the preparation and secured HSE acceptance of the site COMAH Safety Report and saw the site receive its third successive CIA Diamond award in 2003 for outstanding safety performance. Steve achieved an MSc with Distinction in Health and Safety Management in 2005.

Consultancy Experience

Steve has worked as a consultant since 2004, initially conducting technical and human factors risk assessment work for major hazard industries. Steve joined the Hastam team in 2010. His consultancy services include safety management system audit, review and improvement with emphasis on improving effectiveness, efficiency and the user-friendliness of documentation. He teaches incident investigation skills and conducts peer reviews of investigation reports to validate the quality of the causal analysis and value of the recommendations.

Hastam - the science of legal compliance!

CRIMINAL CASES ENGAGED BY THE DEFENCE

Hassans International Law Firm Gibraltar (2014): A criminal case acting for the defendants Nature plc following a major explosion at their sullage plant on the North Mole of Gibraltar Harbour in 2011. The roof of one of the tanks was propelled skywards and narrowly missed landing on the crowded deck of the then largest cruise ship in the world. Steve assisted Professor Booth with process safety technical advice for the expert witness report.

CIVIL CASES ENGAGED BY THE COMPLAINANT/PURSUER

Evaluation of risks posed by a major hazard site to the claimants adjacent property development interests. This included review of the adequacy of the regulatory oversight provided by the HSE.

CIVIL CASES ENGAGED BY THE DEFENCE

Following a major fire, evaluation of the suitability and sufficiency of the hazard identification and risk control assessment process in relation to the risk assessment requirements of the COSHH regulations and DSEAR.

OTHER RELEVANT INFORMATION

Steve developed and delivers, with Richard Booth, Hastam's successful Process Safety Leadership and Management workshops for the National Skills Academy for the Process Industries. A theme of all Steve's activities is incorporation of contemporary behavioural science principles.



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Why Hastam?

We have an exceptionally wide range of practical experience in many industries and hazards. From slips, trips and falls (which is sometimes a more complex area than it sounds) to preparing or reviewing major hazard safety cases.

The approach for all of us is based upon the most up to date knowledge and research. We recognise that investigating incidents and acting as an Expert Witness is a profoundly challenging and demanding task but we never forget our key role is to help companies manage safety effectively to minimise the pain and suffering caused by injuries and ill health at work.

Important Note About Our Practice

Expert Witness reports by Hastam staff are of course wholly the responsibility of the named author. However, subject to the approval of clients, for example, when time is short, it is our practice to ask the author's colleagues to look in detail at specific aspects of the case.

Additional Service

Professor Richard Booth is available to give an informative and engaging lecture on Hindsight Bias and its effects on the investigation of the Buncefield Explosion. Please enquire using the contact details below.

HASTAM'S EXPERTISE IN HEALTH AND SAFETY TOPICS

Health and Safety and Risk Management
Risk Assessment (including major hazards QRA ALARP), and suitability and sufficiency of assessments)
Reasonable practicability
Health and Safety Management and Safety Management Systems
Process Safety and Process Safety Management
Inspections and Auditing
Component and structural integrity
Safety Resilience Management
Emergency planning
Behavioural Safety
Safety culture
Human Factors and Human Reliability (and human failures taxonomy)
Measurements of safety climate
Hazards to health
Management responsibilities and duties
Competence (including training)
Measurement and Monitoring performance
Safe Systems of Work
Permits-to-work procedures, pro-formas and record-keeping
Supervision
Incident Investigation (see also above)
Advanced tools and techniques for risk assessments and incident investigations (eg, HAZOPS; FTA; ETA; CBA; CEA; ECFA; Change analysis; Tripod)
Comprehensive knowledge of legislation, EU directives, ACoPs, authoritative guidance (eg, from HSE, BSI)



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