

HEALTH & SAFETY BULLETIN

THE COSTS OF ACCIDENTS AND ILL HEALTH

Accidents and ill health impact on any organisation in so many ways. All organisations are under a legal duty to implement safe systems of work and work practices whereby they can offer the best level of protection not only to their employees but also others who may be affected by their business, for example, visitors or members of the public generally. Health & safety law is becoming more and more complex and the burden on employers and onus to get it right is commensurately increasing. This process is likely to continue given that the present Government is committed in its second term, as it was in its first, to increasing health & safety standards. It clearly takes the view that the estimated 18 billion pound cost of health & safety failure to society each year is too high and that, in effect, all organisations should give health & safety a higher priority.

Costs to any organisation are varied. Some are more apparent than others. Injuries or ill health can mean an individual is absent from work, often on a long term basis so that this has a human cost for the individual concerned, but also a cost for the organisation where resources may be stretched, or further costs incurred as a result of a need to retrain or employ others. If there is a claim, damages may be payable - your insurers will pay in the short term, but you will pay in the longer term by a higher premium.

Other costs are less obvious. Accidents generally make any business a less attractive proposition, whether as an insurance risk, or to prospective new employees, or to other businesses for whom you may want to work. Also a prosecution by an enforcing authority may follow an accident and both the Government and the Courts have made clear it is their intention to bring fines to a more realistic (obviously higher) level. The Court of Appeal have pre-empted formal legislation by indicating that all Courts when deciding health & safety fines after

successful prosecutions should work on the principle that any fine must be large enough to bring home to those who manage an organisation the need for a safe environment for their workers and the public. Additionally, if you are prosecuted successfully you will find your name in lights, for entirely the wrong reason, because each year the Health & Safety Executive will be producing an enforcement report which will identify organisations who have been convicted of health & safety offences. The first one was published in October 2000 and there is no doubt that this approach, designed to impose pressure on organisations, will continue.

Time devoted to accidents and their aftermath can too be a significant factor, when such time could be utilised more positively elsewhere. This is very often a hidden cost which impacts in different ways.

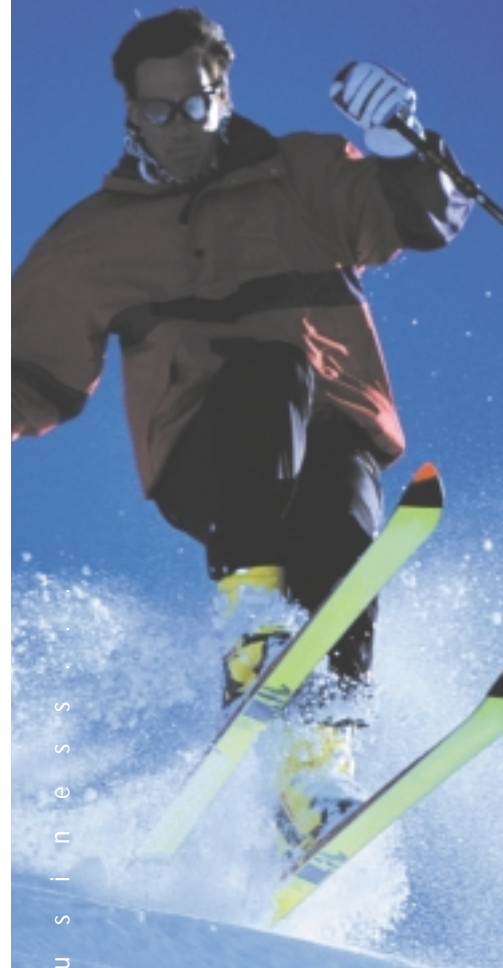
As the article overleaf indicates, the Government is intent on changing the face of health & safety, and on placing greater emphasis on the business case for health & safety to be taken seriously. Those who ignore the message face the prospect of fines linked to turnover or profit and for individuals suspension of pay, compulsory health & safety training and even a fixed point penalty system for health & safety matters, rather similar to that for driving licences.

Those who heed the message and have a systematic approach to health & safety matters will undoubtedly emerge the stronger in the future.

HEALTH & SAFETY AUDIT

Do you need a Health & Safety Audit, or a Health & Safety healthcheck to review current documentation and procedures?

For an informal, no obligation discussion, please contact Chris Platts on 01482 323239 or by e-mail at chris.platts@rollits.com



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RESPONSIBILITIES OF DIRECTORS

The Government's strategy statement entitled Revitalising Health and Safety published in June last year made a commitment for the Health and Safety Commission to develop a Code of Practice on Directors' responsibilities for health and safety matters. The guidance addresses and discusses five action points requiring a Company Board of Directors to:-



1. Accept formally and publicly their collective role in providing health and safety leadership in their organisation.
2. Accept their individual role in providing health and safety guidance for their organisation.
3. Ensure that all Board decisions reflect their health and safety intentions as articulated in the Health and Safety Policy Statement.
4. Recognise their own responsibility to engage the active participation of their staff in improving health and safety.
5. Ensure that it is kept informed of, and alert to, relevant health and safety risk management issues.
6. To appoint one of their number to be the Health and Safety Director.

The overriding message of the Code is that many business decisions have health and safety implications and that these should be taken into account in a proactive, and not reactive, way. Leadership from the top is central to delivery of effective health and safety performance.

As mentioned, the document concludes by recommending a Health and Safety Director who is to be the "Board champion" for Health and Safety and Risk Management issues. Nonetheless the health and safety responsibilities for all Board members should be clearly set out in the Statement of Health and Safety Policy and Arrangements. Having one Director responsible should not detract from the responsibilities of other Directors for specific areas of Health and Safety.

Of course, even under the present legislation employers have many health and safety responsibilities. Whilst Directors' responsibilities are clearly going to be more closely defined in the future, it should not be forgotten that the Government has also recently produced its proposals on corporate killing which may mean that individuals within organisations could be liable for imprisonment in serious cases. One company in Wisbech is doubtless currently reflecting on its recent conviction for corporate manslaughter following the death of a worker. A failure to get it right means dire consequences for both companies and the individuals alike could follow.



HEALTH AND SAFETY - THE PRESSURE IS STILL ON

Considerable interest was generated by the Home Office Consultation Paper about a year or so ago on corporate killing. The majority of responses to the proposals for reform of the current law favoured some change. It is unlikely that the law will change before the latter part of 2002, possibly even beyond then, but it is known that the Home Office will pursue the issue in its revised proposals. It is of interest that what is causing the delay, apparently, is the question of sanctions which will be authorised to be taken against individual Directors. Additionally the Health and Safety Commission has now closed responses to its consultative document issued on the subject of Health and Safety responsibilities of Directors, discussed opposite in more detail. Its proposals include a recommendation that Boards appoint a Health and Safety Director, whilst not reducing the overall responsibility of the Board as a whole. It has also been suggested that penalties for Directors could include unlimited fines, disqualification, and possibly imprisonment.

With these delays it is perhaps tempting to put any actions at board level on ice. There is little doubt, however, that there is a resolve to look at these matters in ways which before would not have been thought likely. The Government measures have only been postponed not cancelled. The pressure therefore is still on. Those who gamble that action can be left until the changes materialise are playing a risky game. There are ways, however, of keeping ahead of the game now. Risk assessment and risk management are central to any business approach on matters of health and safety. Knowledge and understanding of risks, and methods of dealing with them, are key not just to reducing accidents but also ensuring that all can work in a safe and healthy environment. So act now before the costs, which inevitably accompany health and safety failure, spiral out of control.

The Government remains committed not only to its corporate killing proposals but also to a general safety at work bill which will enforce the strategies it set out in its "revitalising Health and Safety" document. Only those businesses which put appropriate systems in place now will be in a position to work positively with the changes to the health and safety landscape that will undoubtedly come.

INFORMATION

***If you have any queries on any aspect of Health & Safety law please contact:
Chris Platts at Hull on 01482 323239***

This Bulletin is for the use of clients and will be supplied to others on request. It is for general guidance only. It provides useful information in a concise form. Action should not be taken without obtaining specific advice.

***The law is stated as at 1 October 2001
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