



HS Broadcast – Directors & Managers face Accountability

A recent survey by a renowned international law firm, Clyde & Co, has identified that the number of directors and managers prosecuted for health and safety offences has more than trebled in a year. In the year to March 2016, 46 company directors and managers were prosecuted for health and safety offences compared to the previous year of just 15.

Almost all of the prosecutions followed the injury or death of an employee; many of these were in the construction sector. Of those prosecuted 34 were found guilty and 12 received prison sentences, the longest of which was two years. A number of the custodial sentences were suspended.

Chris Morrison of Clyde & Co said, "While the majority of director prosecutions relate to SME businesses due to there typically being some form of proximity or nexus with the director, the new game changing sentencing guideline for health and safety breaches with turnover related fines has created a new set of worries for directors of all sized businesses."

A spokesperson from the Health & Safety Executive made the position crystal clear: "prosecution of directors is intended to hold [them] to account for their failings". One of the partners of the law firm also stated that the HSE is "displaying an increased zeal to prosecute the most senior persons, but is virtually ignoring employees who are frequently more culpable".

What does this mean? My belief is that the HSE will continue to go straight to the senior people in an organisation, at director level, so the number of these prosecutions will only increase.

In the event of an accident/incident, senior staff i.e. directors and managers must be able to demonstrate that they are in support of what has been written down in terms of their own policy and instructions to staff and are doing what is required of them to make sure safety risks are being managed. If they are not doing this, then HSE is likely to go after them.

Remember, the director/manager who signs and agrees the content of your health and safety policy and the associated arrangements must be fully aware of what they are committing to and of course, it is vital that you have appropriate levels of supervision in place and do not accept non-compliance with your rules. If things do go wrong, those in charge are more likely to face repercussions than those guilty of failing to follow the safe systems of work. As Clyde & Co point out that the number of employees prosecuted has fallen, with just one individual employee prosecuted by the HSE in 2015/16, compared to 10 in the previous year.

The HSE has signalled its intent to go for those at the top. Make sure that directors and managers are aware of their duties, that supervision levels are adequate and that non-compliance with rules is not accepted.