

**“How You and Your Authority Can Stay  
Safe at Work”**

**APSE Aviemore 6 May 2010**

# Speaker

## Speaker

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# Coverage

- The Law
- Case Studies
- Recommendations



# The times they are a changing

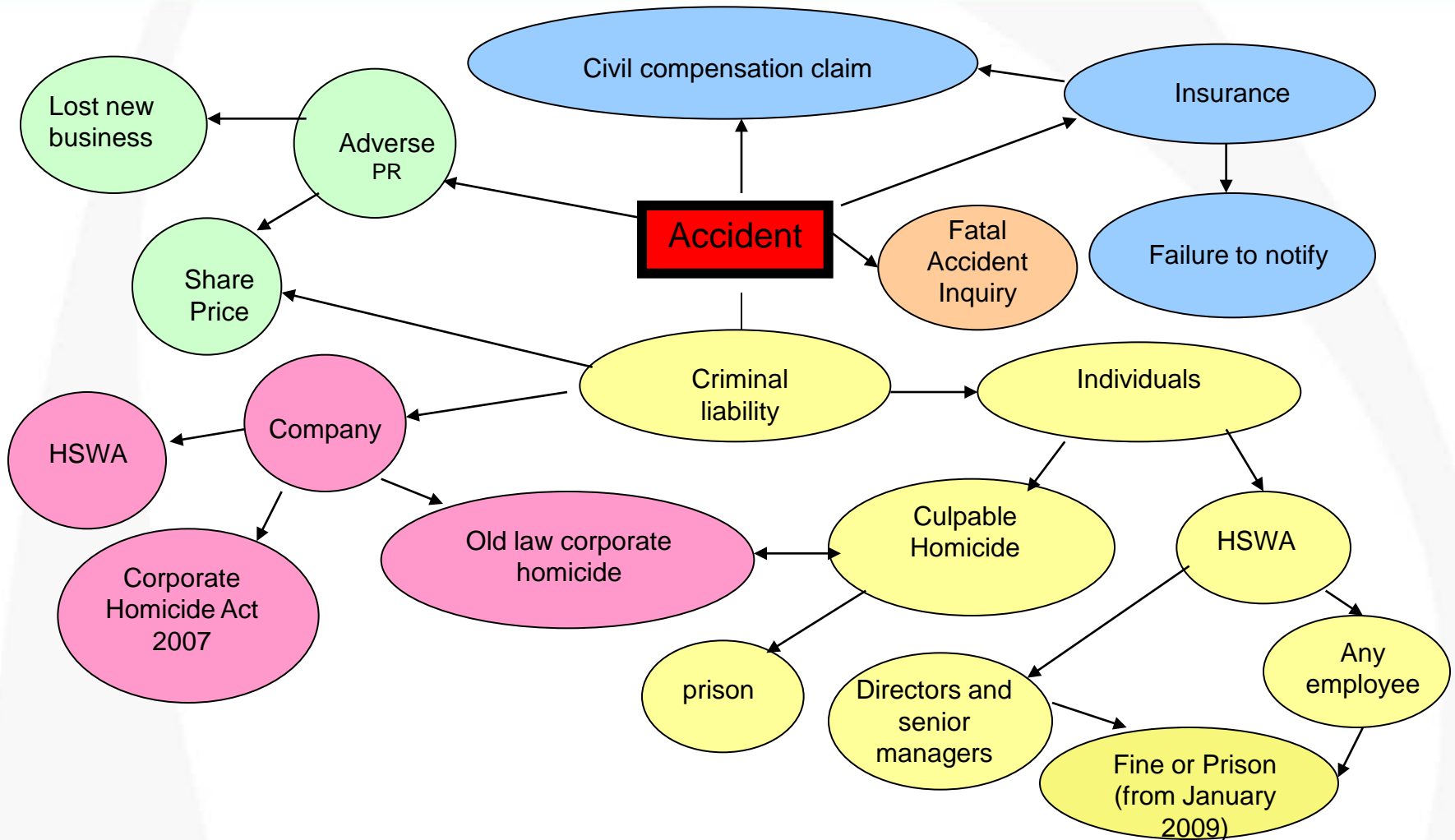


# A Cynic



How much am I going to hate this?

# Impact of Accidents



# Corporate Homicide

- What have we learnt?



# What should you be doing?

The scope of the investigation:

1. The organisation's strategic approach to safety.
2. The "corporate culture".
3. Arrangements for assessing risks and providing safe systems of work and safe working equipment.
4. Training of employees.
5. Supervision and management.
6. Whether procedures are followed in practice/ arrangements for monitoring and reviewing procedures.
7. The Police understand road safety



# The new offence – who are senior management?

- Think about job titles
- Think about job descriptions
- What are the health & safety elements
- What are the training implications ?
- Roles & responsibilities



# Key Question: The Culture Test

Attitude:

– What do the staff think & what would they say to an inspector?

- **HOW SERIOUSLY DOES YOUR ORGANISATION TAKE H&S ?**

# Key Questions: The Culture Test

## Systems & Accepted Practices:

- Do systems reflect what happens on the ground ?
- Are responsibilities appropriate ?
- Is there a feedback mechanism ?
  
- IS IMPLEMENTATION THE SAME IN DIFFERENT DEPOTS ?

# What is good practice in your sector ?

- any health & safety guidance relating to the alleged breach (ACOP's, Guidance or Manual etc from enforcing authority)
- any other matters the jury consider relevant
- Do you talk to your peers / take part in collaborative groups ?

# H&S (Offences) Act 2008



Higher fines and imprisonment could apply to:

- Any employee who fails to take reasonable care for the health & safety of himself and or of others
- Any director or senior manager where the company commits a health & safety offence with his / her consent or connivance or due to his / her neglect

# By the way does anyone work in Scotland ?

The Crown Office and Procurator Fiscal's Service have created a specialist Division for the investigation and prosecution of all cases reported by the HSE

- Team split into 3 (Aberdeen, Edinburgh & Glasgow)
- “better” prosecutions and a higher level of convictions

# What do we accept today that we will not accept tomorrow?



# Council Transport

- Highway maintenance
- Road safety
- Depot management
- Pedestrian access
- School transport
- Occupational road risk

# Driving at Work

- Do you know ?
- Driving licence for individuals (and updating for convictions)
- Insurance covers business use if own car used
- Who checks the condition of pool cars
- What are the responsibilities for company car users
- What rules are in place for use of phones
- What about smoking
- Guidance given on journey planning

# Driving at Work

- The area of “serious management shortcomings” will be under scrutiny:
- Driver fatigue caused by excessive hours
- Poorly maintained vehicles
- Usage of mobile phones
- Private cars used occasionally on business
- Even if not under Corporate Homicide HSE can still instigate proceedings for management failings under h&s law

# Waste

- Specialist bodies (WISH)
- Guidance on collection, processing & disposal (HSE website)
- Procuring (selection, evaluating, managing)
- Known to be high risk, fatality rates x10 the all industry average

# Case Study



# Case Studies: Council Prosecutions

- Asbestos
  - Failure to risk assess, plan with resulting exposure at a school £14,000 fine
  - Exposure to brown asbestos during water tank replacement, £10,000 fine
  - Exposure following demolition of a wall at a school £17,600 fine
  - Prosecutions under HSWA and Control of Asbestos Regulations

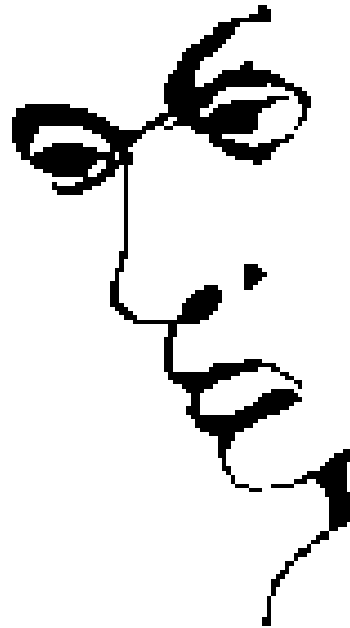
# Case Studies: Council Prosecutions

- Control of Substances Hazardous to Health
  - Exposure to wood dust, failure to control, lack of health surveillance and employee diagnosed with occupational asthma, fine £4,500
- Child burned by molten tar, lack of risk assessment and instruction /supervision, £2000 fine (HSWA)
- Care home injuries to resident when carer using a hoist, lack of training, £1,500 fine (HSWA)
- Fatality recycling plant worker killed by reversing lorry, no SSOW, £13,500 fine (HSWA)

# Sentencing Guidelines

- In force 15 February 2010:
  - A fixed correlation between the fine and either turnover or profit is not appropriate
  - **Sentencing Guidelines Council** – “level of fine”
    - Corporate Manslaughter: not ordinarily below £500,000 (may be millions of pounds)
    - Health and Safety offences: not ordinarily below £100,000 (may be hundreds of thousands of pounds or more)

# PERCEPTION



# IoD and HSC Guidance

- “Leading Health and Safety at Work – Leadership Actions for Directors and Board Members” (INDG 417)
- Guidance published in October 07
- An agenda for the effective leadership of health and safety
- Applies to all directors

# The IoD Leadership Checklist

Can you answer these questions :

- **How do you demonstrate the boards commitment to h&s ?**
- **How do you ensure appropriate board level review ?**
- **How does your organisation receive competent advice ?**
- **Are staff trained and competent in their responsibilities ?**
- **What consultation mechanisms are in place and can concerns be raised ?**

# The IoD Leadership Checklist

Can you answer these questions :

- **What risk assessments and control measures are in place ?**
- **How do you know what is happening (audits etc) ?**
- **What information is received at board level ?**
- **What targets do you set and is benchmarking undertaken ?**
- **If significant changes are planned how does the Board know ?**

# IOSH Elected Members Guidance

- Think about health & safety - what elected members of local authorities need to know
- “There was a written policy on health and safety, which as a matter of drafting was a thing of.... Beauty. If it had existed beyond its existence on paper, it would have very substantially mitigated the blameworthiness of the Borough”
- Mr Justice Burnton, 2006 (Barrow Borough Council)

# Incident Management Protocol

- Management tool, covering your procedures for:
  - Advice on HSE and police powers of investigation
  - Internal investigations/ reports
  - Responding to documentary requests
  - Attending HSE interviews

# Incident Management Protocol: Why

- It gives you:
  - Control
  - Consistent approach
  - Confidence
  - The right advice on the right topic at the right time

# How do you protect the company and yourself?

- Director and senior management leadership
- Having the correct policies and procedures in place
- Access to competent health and safety advice
- Incident Management

# Practical Advice

- **The health and safety policy**
- Your policy should allocate health and safety responsibilities throughout the management hierarchy
- What responsibilities have been allocated to you?
- Beware of hostages to fortune! (for example, the Managing Director will be responsible for reviewing all risk assessments)
- Careful allocation of responsibilities
- Set realistic and achievable objectives

# The Board / Committee Meeting

- Health and safety should be an agenda item at every board meeting
- Consider and discuss health and safety reports:
  - Reports from the appointed “competent person”
  - Accident rates
  - Incidents and investigations
  - Campaigns
- Support training and other steps to promote health and safety

Any complacency in YOUR senior management team ?



# Questions

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