

Help and advice



Paul Verrico on changes to health & safety laws



Safety breaches can land you in prison!

FLOORING contractors should ensure their employees are aware of the tougher penalties that come into force under the new Health & Safety (Offences) Act 2008 which becomes law next year.

You are also advised to seek legal advice for the specific implications on your businesses.

Keith Hill MP explains that the new act is designed 'to punish the criminally negligent who put life and limb in danger in the workplace, and to deter those who are tempted to cut costs by breaking the law'.

The act has received little media attention, but it will introduce much tougher penalties for most existing health & safety offences. Many more offences will attract the threat of long term imprisonment for individuals involved in a company's breach of health & safety law.

The Act, which recently received its Royal Assent, will amend section 33 of the Health & Safety at Work Act 1974 in three ways:

1. Raising the maximum fine magistrates' courts may impose to £20,000 for most offences. Currently the magistrates' limit is £5,000. The new law will entitle

crown courts to impose unlimited fines for some breaches of the regulations and most of offences under the act.

2. A prison sentence will be an option in the magistrates or crown court. This is a major change. Previously only one health & safety offence could lead to a potential prison sentence for an individual. However, under the new law, all offences (with only four minor exceptions) will potentially attract a prison sentence.

3. Either magistrates or the crown court will be able to try certain offences under the act.

NOTE: The new act creates the threat of imprisonment for all employees who may have contributed to a health & safety offence by their consent, connivance or neglect.

However, a custodial sentence is likely to be imposed only in the most serious ('public outrage') cases. For example, where:

■ serious neglect of an individual leads to major injury or a death;

■ there has been reckless disregard for health & safety requirements and/or the risk of harm;

Eversheds is holding seminars on the new health & safety regulations. These are aimed at managers and company directors. The venues include Cardiff, Manchester, Nottingham, Leeds and London. For details or to reserve a place, contact Nicola Pugh at Eversheds.
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■ repeated breaches which cause significant risks or where there has been persistent and significant non-compliance;

■ false information, in regard to enforcement of health and safety, is wilfully supplied by an individual; or

■ serious risks have been deliberately created to increase profit.

However, uncertainty remains on how this will 'play out' in practice and there is no clear guidance as to which individuals will be particularly at risk of imprisonment by virtue of their positions within companies.

This confusion may result in many individuals being prosecuted and appearing before courts with a real threat of imprisonment looming over their heads.

This can be expected to cause more in-depth HSE and police

investigations, leading to more intrusion into individual employees' lives.

Interaction with corporate manslaughter: While there is no imprisonment penalty under the Corporate Manslaughter and Corporate Homicide Act 2007, prosecutions under traditional health & safety charges can be brought alongside Corporate Manslaughter Act prosecutions.

This allows a company to be convicted of Corporate Manslaughter while an individual company director or senior manager is convicted under a related health & safety offence and subsequently jailed. **CFJ**

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Peter Allan on exporting

Foreign liaisons pep up your product

FORMING relationships with other brands can put your own brand in a favourable position for entering overseas markets.

As the old adage goes - there is strength in numbers. The right brand partner can strengthen your own brand values, open doors to new audiences and give distinctive promotional opportunities.

When aligning your company with another brand, you automatically adopt its image, values and 'brand personality', so it is important to consider whether these sit comfortably alongside your own business philosophies.

How might such partnerships benefit the export market? Forging a relationship with a brand that is well known abroad represents an obvious way of gaining recognition within a new market.

If consumers haven't heard of a particular company, association with an established brand with

existing market presence is likely to raise the profile of your company faster than going it alone.

This is a particularly useful tactic where recognition is sought in a new market sector; existence of third party backing is a strong endorsement for a brand.

As an example, Vodafone UK's sponsorship deal with Manchester United has capitalised on the universal appeal of football. The team's global presence and their enormous fan base have helped to penetrate markets in areas such as the Far East.

Via this partnership, Vodafone was able to raise awareness among potential customers while simultaneously enhancing its reputation among existing customers as a brand associated with success and the pursuit of excellence.

There is clearly a lot to be learned from working with

companies which have a more in depth knowledge of the market you are entering, whether this is communicating with a new set of media contacts, advice on best practice, or knowing the end-user inside out.

Each of these will prove invaluable when developing a brand strategy for entering a previously uncharted marketplace.

So you may not be aiming for Manchester United, but how should you approach a potential brand partner?

1. Carefully examine your own brand values and your new target market;

2. Identify possible partners whose values are aligned with your own and who are strong in your chosen marketplace;

3. Bite the bullet and pick up the phone - no one likes cold calling, but it really does work;

4. Secure a meeting - nothing beats personal contact and the best relationships are forged face-to-face;

5. Make your case! Draw up a list of the things that you feel you can offer your potential partner - the relationship needs to be mutually beneficial;

In conclusion, forming brand partnerships can be highly beneficial, particularly when trying to penetrate new markets, but it is rarely a 'quick fix'.

The most successful relationships are built progressively over a period of time and are symbiotic, in that they are beneficial to both parties. After all, if something's worth doing, it's worth doing well. **CFJ**

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