

The Case For Safety

Key learning points:

- *Safety management* - An organisation that lacks a safety management system risks criminal prosecution. Develop an ongoing program to find workplace hazards and remove them.
- *Consultation* - Involve staff at all levels in workplace safety management. Have effective mechanisms for consultation with staff on workplace safety issues and concerns. Small businesses are not exempt from the requirement to consult with employees about safety matters.
- *Monitoring* - Regularly check safety management systems by using key performance indicators that ensure that the system works. Adopt a continual improvement program in reviewing safety management

The cost of not maintaining a safe workplace can be injured workers and criminal action against directors.

Businesses that ignore workplace safety obligations are not merely foolish; they and their directors risk criminal prosecution. Just ask the founders of The Brief Group – former police detectives Tony Morris and Bruce Whitehead – who show companies how to develop safety management practises aimed at averting or minimising costly workers’ compensation claims.

Morris and Whitehead each spent a decade in the New South Wales Police Service, progressing through the ranks to become detectives. At night, they studied law through the University of Sydney. In 1997, they left the Police Service and joined WorkCover NSW, where they worked for the next three years as prosecution lawyers. In 2000, they started The Brief Group

The Brief Goup’s employees all have tertiary qualifications in safety-related disciplines. They travel throughout Australia, consulting with clients about their occupational health and safety (OH&S) obligations. One of The Brief Group’s main services is to ensure that large companies that choose to fund their own workplace insurance have viable safety management systems that will pass WorkCover audits. Other services include management of workers’ compensation claims, OH&S training, accident investigation and occupational hygiene testing, which measures risks associated with noise, dust, atmospheric contamination, radiation and lighting.

Morris says: “There will always be accidents and injuries at work but it is a matter of minimising them. Apart from workers’ compensation costs, companies face loss of production, legal fees and possibly fines. If OH&S laws are breached, the company and its directors may face criminal prosecution. This is what Bruce and I used to do – prosecute companies on that basis. I recall one company prosecuted by WorkCover that pleaded guilty to an offence, was convicted and fined \$18,000. The company later did an assessment of what the entire process cost the organisation and the figure was \$180,000.”

To bring home the workplace safety message in a fun, effective way, The Brief Group uses mock courts at which a company director is “prosecuted” (and convicted 100% of the time). The mock court sessions are based on real cases.

After an introduction covering a company’s legal obligations and court etiquette, everyone at the mock court is given the facts of the case. Three people from the company are handed witness scripts. Usually, they are the injured person giving evidence, a supervisor or middle

manager, and a company director, who is the co-defendant along with the company itself. The evidence is presented before an audience, which is then asked to give a decision. A discussion on the proceedings concludes the session.

Although most medium-size and large companies have some sort of safety management system, many fail to properly document or maintain that system. Morris says: “If employees refuse to adhere to safety procedures, those organisations are vulnerable to prosecution if something goes wrong. We recommend a continual improvement program for organisations. They need to look at their culture and the barriers preventing the implementation of their safety procedures. Often, we find resistance at the middle management level. Winning over the key stakeholders is a crucial prerequisite for change. The mock court can be a great tool for this.”

Larger companies should regularly review their safety management systems to make sure that they are working. Effective safety management systems are a critical component of exercising due diligence, a legal requirement covering directors and senior managers.

Morris says organisations should use key performance indicators as benchmarks, encouraging an active approach to safety. These indicators include: documenting the number of hazard identification inspections that have been conducted in accordance with the system, noting how many areas have been identified where there has been non-conformance, recording how many OH&S consultation meetings have occurred, and listing how many people attended and from what areas.

Employers also must be able to demonstrate to external authorities that they are consulting with their staff on safety. Smaller businesses often lack safety management systems or mechanisms for staff consultation, which puts them at risk of criminal penalties. Morris says: “Small business needs to keep it simple and focus on the risks in their business and how they are going to address those risks.”