

### *Happy New Year!*

Firstly, we would like to take this opportunity to wish you all a very safe & prosperous New Year. We look forward to continuing to work with you to reduce accidents, win new contracts and ensure that your business remains safe.

With a General Election looming, 2010 could well be a year of changing attitudes and approaches to health & safety in the UK – see our article later in this Newsletter.

### Corporate Manslaughter Fines Consultation

The long-awaited draft sentencing guidelines for the Corporate Manslaughter and Corporate Homicide Act 2007 have now been published, and have provided advance notification of the penalties organizations are likely to face if found guilty of breaching the Act.

The original proposal for fines to range between 2.5% and 10% of a company's annual turnover was rejected on the basis that it would be difficult to apply to public and third-sector bodies.

However, the Sentencing Guidelines Council is now proposing that fines for breaching the Act should "not normally" fall below £500,000 and that they "may be measured in millions of pounds"

The first trial to be brought to Court under the Act is due to commence on February 23<sup>rd</sup> 2010, and will generate intense interest from employers, safety practitioners and legal professions alike.

### Forthcoming Legal Requirement for Eyesight Tests for Drivers

Whilst most employers are aware of the legal requirement to provide eyesight tests for Display Screen Equipment (DSE) Users, very few will have considered the need to ensure that their employees who drive as part of their work can see clearly enough to drive safely.

But that may be set to change as new legislation passed in the European Parliament in 2006 is due to be implemented by member states in 2011.

This new legislation could result in commercial drivers being required to have their eyes tested every 5 years, and private licence holders every 10-15 years. It is expected that eyesight tests may be required more frequently for those over 50, or with certain medical conditions.

### Record Fine for Breach of Fire Safety Order

High Street retailer, New Look has received a record fine of £400,000 for breaching the Regulatory Reform (Fire Safety) Order 2005 (RRFSO), following a fire at its Oxford Street store in London in April 2007.

Although the fire was detected by the building fire alarm, it was mysteriously turned off whilst customers continued shopping, unaware of the impending danger.



Even when the alarm re-activated, staff failed to respond and it was left to passers-by to raise the alarm and call the Fire & Rescue Service.

Approximately 150 people were evacuated from the building, and another 300 from neighbouring premises – fortunately all unharmed. However, the building suffered significant damage and was subsequently demolished.

The fines imposed of £250,000 for failing to carry out a suitable & sufficient Fire Risk Assessment, and £150,000 for failing to provide adequate training and supervision for staff represent the largest total penalty imposed under the RRFSO since it came into power in 2006 and provide a stark reminder to all occupiers to ensure that they have adequately managed fire safety at their commercial premises.

### Questions asked regarding Tory Safety Culture Broadside

Although headline grabbing, Conservative leader David Cameron's recent proposals to curb what he called an "over the top culture of health & safety and compensation" have drawn scepticism from safety groups, unions and legal experts alike.

Whilst many members of the general public may be occasionally baffled by apparently disproportionate payouts in the Civil Courts, it is generally considered that penalties imposed in the Criminal Courts for serious breaches of the Health & Safety at Work Act and its supporting Regulations do not always reflect the pain, suffering, disability and sometimes even death of employees as a result of inadequate or dangerous practices by employers.

Essential Safety's view is that, whilst there could be a review of legislation and enforcement following a spring election, any significant reduction in current legislation is considered to be extremely unlikely

## [New Free Guidance for Directors of Small Businesses](#)

The Institute of Directors (IoD) and the Federation of Small Businesses (FSB) have published new guidance regarding directors' responsibilities in health and safety.

Entitled "Leading Health & Safety at Work, The Owners Guide", the leaflet aims to help any small-business owner ensure they are taking the right lead on health and safety at work.

The leaflet can be downloaded free from the Federation of Small Businesses website at:

<http://www.fsb.org.uk/policy/health-and-safety-home>

## ["Bonkers Conkers" culprit owns up](#)

We have all heard of stories of over-zealous health & safety restrictions – Some with an element of truth, others which seem too ridiculous to be plausible.

Well, the truth has now emerged regarding possibly the most infamous of these "health & safety myths" – the "Bonkers Conkers" story.

You might recall that the tale goes that pupils at a school were forced to wear safety goggles whilst playing conkers – a quintessentially British past time which has been enjoyed by previous generations without an epidemic of serious injuries to eyes, or indeed any other parts of the body. This story, more than any other seemed to galvanise a national outrage that our society has lost all sense of perspective regarding risk and public safety.

Indeed, here at Essential, as advocates of sensible risk management we always viewed this "story" with a degree of scepticism, and could not foresee a circumstance where we would recommend such an approach to a relatively harmless activity.

And, in traditional journalistic style, the story which created such a furore when released has finally been dispelled.

It would appear that the whole story was started by a pupil originally asking if they could wear goggles. The Headteacher at the source of the story has confessed that his decision to alert the media to the story was "tongue in cheek"

Whilst we can all see a lighthearted side to this tale, such "myths" do little to assist diligent employers & practitioners to identify and manage **REAL** hazards in their workplace.

*Perhaps Mr. Cameron should take note?*

## [This Month's Tea Break Briefing - COSHH](#)

COSHH is an abbreviation of The Control to Substances Hazardous to Health – A set of Regulations which require employers to ensure that any substances they store, transport or use do not cause harm to people.

***I don't have any "hazardous substances" within my workplace, so these Regulations don't apply to me!***

Are you sure? You will be surprised how many times we have come across potentially hazardous substances during the course of our work when the employer was not aware of their responsibilities, or even that the substance was there!

More often than not, companies have caustic or corrosive cleaning chemical tucked away at the back of the cleaner's cupboard, blissfully unaware of their potential to cause harm until the day that someone – with good intentions – digs them out and starts to use them without the necessary precautions

***So are you suggesting that I throw out all my old cleaning chemicals?***

Far from it. We recognise that sometimes, these chemicals are necessary to deal with a particular problem. But we are suggesting a simple five point plan to ensure that they do not cause harm to your staff or visitors:

1. Knowledge is power – Create an inventory of all the potentially hazardous substances at your workplace including cleaning, janitorial & maintenance chemicals. And make sure that your staff inform you of any new substances they intend to bring onto the premises.
2. If possible, remove very harmful substances, or consider replacing them with less harmful alternatives. For example, there are many cleaning substances that are significantly less harmful than bleach, but equally effective for most cleaning tasks.
3. Find out about the hazardous properties of the substances. Basic safety information is often contained on the bottle or container but more detailed information will be available on the Material Safety Data Sheet (MSDS), which manufacturers' & suppliers are legally obliged to provide. These can either be downloaded from the manufacturer's or supplier's website, or requested directly.
4. Look at how the substance is used, by whom and how often. Then assess the risks from that use and check that you have the necessary controls in place. In other words, carry out a COSHH Assessment.
5. Finally, ensure that the substance within your workplace are stored, used and disposed of in accordance with the information provided on the MSDS and your COSHH Assessment. That might involve providing information to your staff, supplying specialist equipment or Personal Protective Equipment (PPE). And don't forget to regularly review your procedures to ensure that the risks are still controlled.

**[If you require any further advice or assistance regarding the hazardous substances at your workplace, contact Essential Safety on \(01536\) 460 171](#)**

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