

Directors Duties

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Director Leadership

- Research has shown that:
 - “ *directors exert a fundamental influence over either standards of health and safety management or levels of health and safety performance*”
- HSC Guidance 2001
- Wider debate on need to strengthen legislation

Section 37 HSWA

A director is guilty of an offence if :

- the body corporate has committed a offence
- that offence was with his -
 - consent
 - connivance

or was attributable to his neglect

Perception of current law

- Too difficult to investigate wrongdoing in large companies
- Only directors of small companies are convicted
- Courts unwilling to convict

Our Remit from HSC

- Clear credible guidance .
- Seeking greater use of enforcement.
- Serious examination of the options for legislative change to strengthen director leadership.

What are the Options?

1. A general duty on individual directors.
2. An amendment of section 37

What might legislation look like?



- Placing a general duty on individual directors.
- Reasonableness / due diligence
- Prescription vs. guidance

What might compliance look like?

- Board level health and safety strategy
- Monitor progress
- Evaluate and revise strategy

Benefits and Costs

Initial Assumptions for purpose of RIA

- Board leadership can deliver a 5 – 10% reduction in workplace accidents and ill-health.
- 70% of organisations already direct health and safety at board level.
- Focus – to further encourage the remaining 30%.

Guidance alone 70% → <75%

Guidance and legislation 70% → <80%

For Discussion

- Likely impact on behaviour of directors of SMEs?
- Are assumptions on costs and benefits realistic?
- What could be the extra impact of legislation (above better guidance)?
- Possible unintended consequences?