

From the Chair

Bill Callaghan

Rose Court
2 Southwark Bridge
London SE1 9HS

Tel: 020 7717 6610
Fax: 020 7177 6616
chairman@hse.gsi.gov.uk

www.hse.gov.uk

Lord Hunt of Kings Heath
Department of Work and Pensions
Room 221 Richmond House
79 Whitehall
London
SW1A 2NS

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Dear Philip,

DIRECTOR DUTIES

As you know the Commission discussed on 9 May how best to strengthen director leadership on health and safety. We had an extensive discussion on this issue where, as you know, there is broad consensus on the vital role Director leadership plays in ensuring high standards of health and safety but where stakeholder views are strongly divergent on some of the means (eg legislative changes).

The Commission believes that a number of measures put in place to promote and encourage greater director leadership, including HSC guidance of 2001 on directors' responsibilities and the HSC/E director leadership case studies, have had a positive impact in raising the profile of health and safety at board level.

We noted the work done by the Executive on **enforcement in relation to individual directors under the current regime**. This should reinforce the serious view society takes of breaches of health and safety responsibilities at director level. Work includes reminding the courts, in **all** cases, where an individual is convicted of an indictable offence in relation to managing a company, that it has the power to disqualify the person from being a director. Revised guidance for inspectors is also being produced that clearly sets out when it is possible to prosecute a director, and which also reinforces existing guidance that, if a body corporate commits an offence, then personal failures by directors should be considered as part of the investigation.

We underlined the importance of **clear and credible guidance** on director responsibility in this area, and that we need to build on progress made since the publication of the Commission's guidance in July 2001. Accordingly we asked the Executive to press ahead with producing new guidance, with IoD playing a leading role, with input from business, trade unions, professional

bodies, Government and other stakeholders. This guidance should aim to set out how those responsibilities should be carried out including practical approaches which are appropriate to different kinds of board (including SMEs, the public sector etc). It will of course be most helpful if you and ministerial colleagues reinforce the importance of director leadership in the context of our wider work on the public sector.

We noted the significant work done by the Executive to explore with stakeholders **options for legislative change**; we also noted the considerable uncertainty about developments on corporate manslaughter, wider progress on alternative penalties and on company law reform, which have the potential to drive improved director focus, and make more visible personal accountability at Board level (a point of much importance to victims and their families). We therefore concluded that we could not at this stage recommend legislation. We did however agree to return to the issue at a subsequent meeting once wider developments, notably on corporate manslaughter, penalties and directors' duties under company law are clearer and the implications for director responsibility for health and safety better understood.

HSC/E remain committed to promoting greater director leadership and we will continue our efforts through advice, guidance and enforcement to achieve to achieve high standards of board level leadership.

Yours ever



Bill Callaghan
Chair, Health & Safety Commission