



Pinsent Masons

APSE Sports and Leisure Seminar Manchester 19 November 2013



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Masons**

Why Now ?



- Change in the regulatory climate
- Increase in outsourcing
- Increase in enforcement focus (fee for intervention ?)
- Scrutiny of competence

“The standard goes up as man becomes wiser”



Common risk issues

- Poor supervision
- Existing health problems
- Alcohol
- Unauthorised access
- Unruly behaviour
- Poor response to incidents
- Misuse of equipment
- Manual handling
- Slips and trips



Swimming Pool Issues



- Practicalities
- Physical environment
- Supervision
- General maintenance
- Water treatment



Practicalities



- Risk assessment
- Pool Safety operating Procedure (NOP, EAP)
- Briefing organisations that hire the pool
- Reporting accidents
- Providing first aid
- Safety signage



General Maintenance



- Cleanliness
- Heating ventilation & air conditioning systems
- Fuel storage tanks
- Lighting
- Glazing
- Building safety separately



Water Treatment

- COSHH
- Chemical handling
- PPE
- Disinfection
- Waste disposal
- Calcium hypochlorite, Sodium hypochlorite, chlorinated isocyanurates, ozone (main types)
- Monitoring
- Filtration
- Emergency procedures



Accidents & Incidents



- Changes to RIDDOR
- Have you got an incident response protocol ?



Building Safety

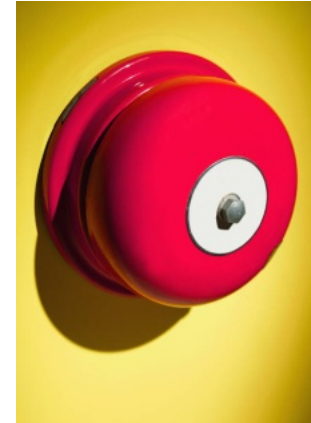


- Pressure systems (written scheme of examination, in service inspection)
- Water (legionella risk assessment, cooling towers)
- Electrical (fixed wire systems, PAT, RCD's, maintenance)
- Lifts (thorough examination)



Fire

- Risk assessment
- Regulatory Reform (Fire Safety) Order 2005
- Emergency procedures
- Chemical spillage
- Vulnerable individuals





Who is a contractor?

Anyone brought in by a client to work at the clients premises who is not an employee of the client



What do you use contractors for?



- Security
- Cleaning
- Catering
- Principal Contractors
- Electrical
- Landscaping
- Roofing
- Demolition
- Mechanical
- Consultants
- Joiners
- Building
- Water maintenance
- Asbestos Removal



Use of contractors



a joint responsibility



Health and Safety
Executive



Managing contractors

A guide for employers





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Corporate H&S duties

Councils



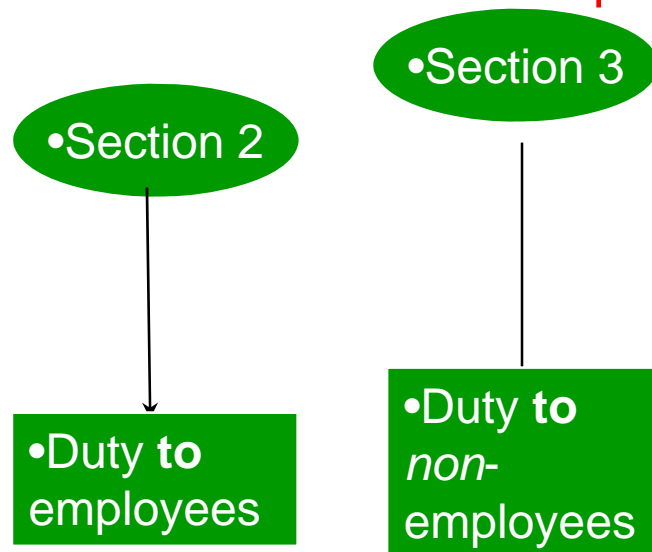
Corporate H&S duties



Duty to “ensure” the health safety and welfare of employees

Duty to “ensure” the health and safety of non-employees

“So far as is reasonably practicable”



Corporate H&S duties



Duty to “ensure” the health safety and welfare of those who work within them

•Section 4

•Duty on those in control of premises

“So far as is reasonably practicable”

Corporate Manslaughter and Corporate Homicide Act 2007



- Prosecution must prove the way in which activities managed or organised:
 - Caused a person's death;
 - Amounts to a **gross breach** of a relevant duty of care owed to the deceased; and
 - **Senior management's** role in the breach was a substantial element in the breach
- **Penalties**
 - unlimited fine (*multi-million*);
 - remedial order; and / or
 - publicity order

Type of Organisation



- Part of Council
- Stand alone trust



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Individual H&S duties



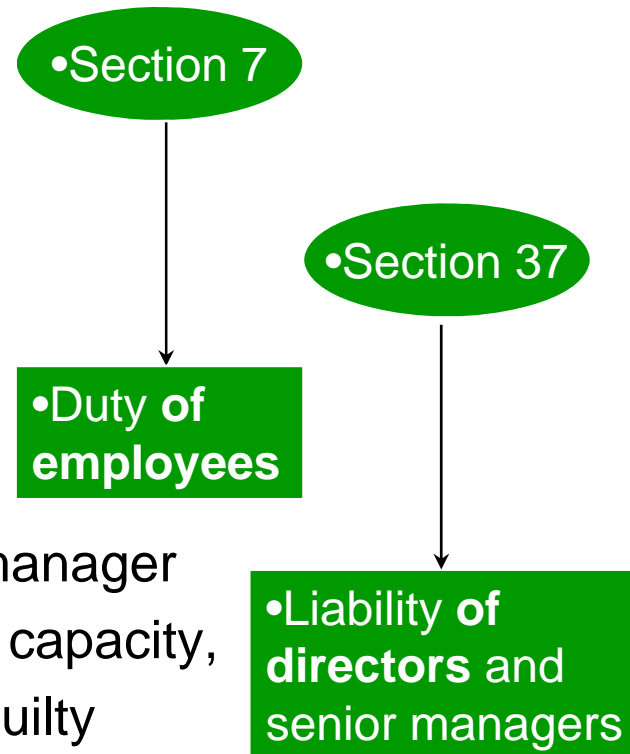
Individuals H&S duties



Duty to take reasonable care of self and others affected by work (s.7)

Where an offence... has been committed with the **consent**, **connivance**, or...attributable to any **neglect** on the part of any director, manager ... or a person who purports to act in that capacity, he/she as well as the company shall be guilty of that offence (s.37)

Individuals



Individuals H&S duties



- Fines / penalties
 - Section 7 - £5,000
 - Section 37
 - Magistrates – £20,000
 - Crown – unlimited (typically £50k to £100k)
 - Imprisonment – up to 2 years (or community service)
 - Directors disqualification for up to 15 years (typically 5 years)

Case Law



Case Law 1 (2009)



- 7 year old girl had hair sucked into a sampling outlet, saved by granddad
- Insufficient lifeguards, poor supervision, no pressure testing of sampling point
- Sec 3 HSWA duty
- £18,000 fine, £7,500 costs

Case Law 2 (2007)



- Drowning in wave channel
- Section 3 HSWA £40k

Case Law 3 (2011)



- Improvement Notice
- Inadequate risk control due to poor lighting
- Breaches under HSWA sec 2 & 3, Workplace HSW Regs

Case Law selection



- Severe head injuries from swing collapse due to poor maintenance (£18k fine, HSWA sec 3)
- Electric shock at skate park, vandalism not repaired (£5k fine, HSWA sec 3)
- 7 year old girl drowned (£90k fine, HSWA sec 3)

Sources of Help



- Chartered Institute for the Management of Sport and Physical Activity
- HSE website



Managing health and safety in swimming pools



This is a free-to-download, web-friendly version of HSG179 (Third edition, published 2003). This version has been adapted for online use from HSE's current printed version.

You can buy the book at www.hsebooks.co.uk and most good bookshops.

ISBN 978 0 7176 2686 1
Price £10.95

This is the third edition of *Managing health and safety in swimming pools* (first published as *Safety in swimming pools*). The revision brings the guidance up to date with changes in health and safety law and new developments in relation to equipment, facilities and supervision arrangements.

Guidance for Organisations



- INDG 417 is a reference Guide for all senior managers
 - 3 Essential Principles underpin good H&S performance
 - 4-point agenda for embedding the principles into an organisation's safety culture
- Status of guidance
 - Not obligatory
 - Compliance is evidence that you and the company are meeting their legal obligations

Doing nothing is not an option

