

A Culture of Health and Safety

There are many businesses around that do not realize the connections between Health and Safety within their own lives and those addressed by the Health & Safety In Employment Act (including its various amendments and the Accident Compensation Act).

Referring to one of the insurance companies web sites it states "Every business has a responsibility to protect its employees, customers, **the general public** and the environment from harm (*ref QBE product profile*). The majority of franchisees do not have employees but still have a responsibility to those other people around you to 'protect from harm'.

In 2003 the Health & Safety in Employment Amendment Act brought in the motor vehicle as a place of work. This means that if you are driving a vehicle on company business you are obliged to ensure the safety of passengers in your vehicle and also those other parties sharing the road with you.

Above we also mentioned the Accident Compensation Act 2001. Basically if there is an accident which causes the victim to lose the ability to work and earn an income then ACC pays up to 80% of the annual gross income as declared to IRD. The Act defines a work related injury as an injury which happens when the worker is "at his or her place of employment including when that place moves" or "is having a rest or meal break".

ACC not only pays out for accidents but also for diseases or infection over a period of time "resulting from an activity you can carry out over the course of your work". Therefore any accident or illness which falls under the definition as covered under the Accident Compensation Act 2001 is also subject to the scope of the Health & Safety In Employment Act and its Amendments.

Failure to protect and care for the people around you and the general public will permit OSH to take action against the negligent party or parties. There is by statute also the **requirement to have a Health & Safety Management Plan** and if at the time the OSH Inspector gives you a call you cannot produce the Management Plan you will be in a very serious situation legally. There are templates publicly available on-line which help in producing this document.

We were asked to find case studies of such claims. Under the QBE web site there were two cases mentioned. We also undertook a search with the Department of Statistics under 'Health and Safety'. There are many cases mentioned where both companies and individuals have been fined. We point out that it is not just the employer but also the contractors and principals that are fined in the event that **a person is injured and where the risk could have been eliminated** before the tragedy had occurred.

The two case studies mentioned below show the levels of fines that could be incurred

1. **'Companies fined after window cleaner falls 15 metres'** – Two companies were fined a total of \$29,800 after an 18 year old industrial abseiling window cleaner fell 15 metres suffering serious injuries. (March 2013)

2. **'Worker's fall costs company \$62,750'** – a worker's 5.5 metre fall at work which resulted in a broken pelvis and facial injuries has resulted in Wellington company Ebert Construction being fined \$33,750 and ordered to pay \$29,000 in reparations to the worker. The man fell through a void on the first floor in which a service lift was to be installed. The hole was covered but not fixed in place. (February 2013)

We then went further to examine the probabilities of accidents. 1 in 10 workers make a claim under ACC for a work related injury. In 2011 there were 187,900 work related injuries. 19,200 people received entitlement payments.

Knowing that most of you will be working around vending machines, the proximity to people in the workplace could be considered within the 4th highest accident incident rate. (Interestingly plant and machine operators/ assemblers had the highest incident rate at 26 entitlement claims per 1000.) As a vending operator the movement and relocation of vending machines could be deemed your highest risk factor in the work place and particular care needs to be taken when performing this task.

So there is a need to take Health and Safety seriously recognising the penalties that you will incur if you have an accident. The penalties are severe and in addition there are the reparation costs and the defence costs. Even if you are not found guilty the defence costs are crippling and non-recoverable through the court system. **The reparation costs and the defence costs can be insured under the Statutory Liability Insurance** and luckily the cost of this particular insurance is ridiculously cheap considering the amount of money you could personally lose in the event of a claim being made against you and your estate.

Also please note that next year there is a upgrade of the Health in Safety In Employment Act with the new Statute 'Health & Safety at Work Act'. If you think that the penalties for neglect of duties are high enough now, the new legislation will be bringing in heavier fines with also the suggested Corporate Manslaughter clause. So watch this space.

At the end of the day, the Health and Safety subject is a cultural aspect that needs to be nurtured and adopted for the overall reputation of the business and the brand.

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