No Going Back
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Introduction

Over the last twenty years or so organisations from every industry, private and public, large and small, have made significant progress with regard to the health and safety of their employees. Generally, we all now work in much cleaner and safer environments. However, the more we consider our place of work ‘safe’ the more complacent we are likely to be about safety – our own, and those who work with us.

As for legislation, most people are aware that companies are legally bound to ensure the health and safety of their employees. What many people would be surprised to learn is that legal accountability can also be bestowed on individuals. The courts are empowered to levy unlimited fines and even imprisonment as the penalty for breaching rules laid down under the Health and Safety at Work Act.

The Health and Safety at Work Act

Where an offence under any of the relevant statutory provisions committed by a body corporate is proven to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be punished accordingly.

For managers faced with the task of directing and controlling the work of others, awareness of this accountability is especially important.

Of course, the threat of punishment should not be the motivation for taking seriously the question of safety, but it does help to provide a framework within which the management of safety can be established. The purpose of this programme is to bring to the attention of those in a position of authority both their moral responsibility for the welfare of people working under them, and the penalties that await those who, through their acts or omissions, breach the health and safety regulations.

While the theme of this film is managing safety, there are valuable lessons for everyone, from ‘old-hands’ to the newest recruits.
The Legal Framework

Under the Health and Safety at Work Act, managers are responsible for ensuring the safety of those who work for them. It is not a responsibility they can delegate and it includes:

1. Everyone who works for them, including full-time workers, temporary staff, part-timers and even subcontractors.
2. Everyone who visits their premises or uses the products they manufacture or sell.

The first place to start is with safety policy. This is a legal requirement for any organisation that employs five or more staff. The policy should set out a commitment to health and safety standards and indicate how and by whom they are to be maintained.

As far as a manager’s responsibility is concerned, this will include:

1. Understanding the company safety policy and making sure that employees understand it and are trained to carry it out.
2. Ensuring inexperienced, young or untrained staff are supervised.
3. Ensuring that all machinery and any safety devices, such as guards or circuit breakers, are in good working order and regularly inspected.
4. Ensuring that protective clothing, such as goggles, boots, gloves, face masks, ear defenders and other protection, is available and is worn.
5. Ensuring that accidents are recorded, investigated and prevented.

Any safety policy should include the systems for monitoring safety, and should indicate who is to be responsible for such monitoring. This includes inspecting premises and machinery, checking that all staff have learned and understood their responsibilities and that bad practices or unsafe machinery have been corrected or repaired.

In the case of an accident, the manager must investigate the causes and identify ways of preventing any recurrence of the same or similar problems. The investigation should concentrate on the facts and avoid apportioning blame. The aim is to provide remedies for errors by staff or failures in machinery that have led to the accident.

It is not money, nor indifference, that typically stands in the way of good safety performance. The key is good procedures and policies properly put into effect. And it is management’s job to see that this happens.
Programme Contents

The 24-minute film *No Going Back* and this accompanying Leader’s Guide are designed to make people think about safety. Together they offer a powerful reminder to managers that they must recognise and meet their safety responsibilities, and show every member of staff the importance of adopting a ‘safety-first’ attitude. The guide is divided into two parts:

Part One: Running the Training Session

This contains two discussion exercises. Discussion Exercise One provides a number of useful questions relating to the accident. Together they encourage group members to examine the safety procedures relating to their own work areas, and how they might, or might not, have prevented a similar accident happening in their organisation.

Discussion Exercise Two is a safety quiz which can be used with the film or as part of any other safety training session. The quiz is designed to test people’s current understanding and knowledge of safety law and how it applies to them. Further reinforcement of this important subject can be gained by issuing copies of the legal framework text to group members.

Part Two: Extending the Training

This part provides an introduction to the role and powers of the Factory Inspector, a model safety policy against which you can compare your company’s safety policy and details of other Gower films and training resources to assist in developing and reinforcing safety training in your organisation.
Part One

Running the Training Session
Synopsis

Brookdale Electronics’ management and staff are going to the edge of their abilities to fulfil a large order for a Japanese client that could result in a much needed long term contract. Three-shift working is introduced in order to meet the strict delivery schedule. There is an air of tension about the place – but the work is getting done. So much so, that Managing Director Peter Forrester takes it in his stride when the Japanese client requests an inspection visit.

Tony O’Reilly, Brookdale’s Production Manager, is not so happy about the V.I.P. visit for he knows his people are working to the limit and could do without the additional pressure. But, as usual, everyone does their bit to help out. Tragically, amid all this commitment and enthusiasm, Tony O’Reilly unknowingly triggers a chain of events resulting in a serious accident that leaves Tosca Wilde, a young sales assistant, paralysed and confined to a wheelchair for life.

Everyone at Brookdale is devastated and this feeling of shock and disbelief is evident as Joy Lewis, the Factory Inspector, arrives at Brookdale to investigate the cause of Tosca’s accident and her subsequent injury. Joy Lewis’s findings reveal that no one person was entirely responsible for the accident – the errors were cumulative and collective. What fate befalls those incriminated is left open; who shoulders responsibility is for the audience to debate; the important question is: could this have happened in your organisation?
Using the Programme

When using the programme two approaches are possible:

Approach 1: Show the Film Uninterrupted

Show the whole film and allow the story to unfold. The advantage of this approach is the film’s full dramatic impact is felt. The purpose of the film is to make people think about the consequences of their actions and this is best achieved if the film is seen uninterrupted. Additionally, it is while watching the full version that the linkage of the small events that lead to the accident is at its clearest.

This approach is appropriate if there is not to be detailed discussion of the film once shown. However, two overriding messages conveyed in the film should be recognised by the viewing group.

Firstly, that it is management’s legal responsibility to ensure that safe working practices are established and adhered to and, secondly, that everyone has a responsibility to protect the welfare of themselves and others.

Approach 2: Stop the Film after the Accident

Show the film up to and including the accident. Then, direct a discussion on the incidents and events that led to Tosca’s fall. Allow the group to reach a consensus on who they thought was responsible. Possible responses range from apportioning blame to one individual, for example Tony O’Reilly, for allowing Josh to use the cleaning machine, to everyone involved sharing collective responsibility – not just those who directly contributed to the accident but also those who could have done something to prevent it but didn’t.

In this fictional case study of an occupational accident, the collective responsibility view is probably correct, although this view could fuel the debate if one or more individuals are perceived as the predominant contributors. However, whatever the consensus, canvass opinion from the group on each person’s specific contribution to the accident before showing the second half of the film – in which some of these questions are answered.
Leader’s note

In either Approach 1 or 2, further discussion on the importance of safety could be promoted by encouraging the audience to pinpoint regulations, working practices and other factors in force in their own organisation that address, and could prevent, the errors and the accident in *No Going Back*. This issue is covered in Discussion Exercise One.


Discussion Exercise One

1. How far, and in what way, were each of the following responsible for the accident?

Peter Forrester

Peter Forrester adopted too casual an attitude to the stress and pressure caused by the Namuro order and, in particular, he failed to recognise and make allowances for the impact of three-shift working.

Rod Naylor

He failed to make alternative arrangements for the cleaning contractor when three-shift working was introduced. Pulling the cleaners off the job may have solved the immediate safety issue, but the bigger problem of keeping the corridors clean didn’t go away. More importantly, when he discovered Josh using the cleaning machine, Naylor chose to score points off Tony O’Reilly rather than check over the areas that Josh had cleaned.

Tony O’Reilly

O’Reilly allowed his enthusiasm and his desire to get the job done at any cost to come before safety. Without authority he allowed Josh to use machinery that he was not trained to use. He also could, and perhaps should, have insisted that Tosca remain at her work location until she had permission to attend the interview with Carol Hinton.

Harry Crawford

Crawford allowed himself to be persuaded, against his better judgement, to let an untrained operator use a cleaning machine. Like many suppliers, he was put in a very difficult position, but this is a lesson in the need to stand firm when you are asked to ‘bend’ the rules – however well-intentioned the motive.

Tosca

The excitement of a radio interview prompted Tosca to leave her work area without permission and to run along the corridor rather than walk.
Josh

When refused overtime on the production line by Tony O’Reilly, Josh attempted to make O’Reilly feel guilty. Remember his comment? ‘Rule-bound, that’s what you are.’ Josh’s need for extra money tempted him to agree to use a machine for which he had not been trained.

2. Was there anyone else who may have been responsible in some way?

Dot and Liz

Neither of them reported Dot’s near-miss accident when she almost lost her footing at the top of the stairs. Although not implicated in the subsequent inquiry, this incident in the film serves to highlight that it’s not just what you do that can lead to an accident – what you don’t do can have similar consequences.

Carol Hinton

Carol Hinton took advantage of the Namuro visit to do a ‘human interest’ story on a local girl’s road to stardom. She took no account of Tosca’s understandable excitement and the potential risk to safety this could have caused. Nor did she consider the possible safety implications of conducting the interview at the factory.

3. What are the consequences of the accident likely to be for Brookdale, its managers and employees, in the short term and in the long term?

The emotional trauma of Tosca’s accident is likely to persist for some time. Safety will be at the top of the agenda, and staff and managers are likely to be doubly committed to adhering to safety procedures. Human nature being what it is, however, this commitment to safety will diminish. It would be unwise to believe that an accident, even one as tragic as Tosca’s, would on its own have any long term effect on people’s attitude to safety. The process of maintaining a safety culture is ongoing and constant.

If No Going Back were a real case, the Factory Inspector would almost certainly bring a prosecution against one or more officers of Brookdale Electronics.
4. What policies and procedures does your company have that would have prevented the kind of accident that befell Tosca?

This final discussion question could focus either on specific procedures or on the company safety policy itself. This would be a good time to assess how aware people are of your company safety policy. Of course, limited awareness could point to a change in the way the policy is communicated to employees.
Discussion Exercise Two

So You Think You Know All About Safety?

A short safety quiz is set out below. You can either issue photocopies for individual completion (see page 0), or read aloud the questions for group discussion.

1. **Under what circumstances are companies legally obliged to appoint a Safety Officer?**

   Generally speaking, current legislation does not demand the appointment of a Safety Officer. However, there are a few industries, most importantly construction, where there is a requirement to appoint safety supervisors – persons having experience and/or training in the work carried out. Even then, the requirement only exists when numbers working reach a certain level. For example, in construction this is 20, while in shipbuilding it is 500.

   **Leader’s note**

   Notwithstanding the absence of official direction, enlightened employers would consider such an appointment necessary, not only to increase awareness of the importance of the workplace health and safety, but to ensure that the company was monitoring the development of new health and safety legislation likely to affect it.

2. **What companies are required to have a safety policy? What should it contain?**

   Every employer with more than five employees must have a written safety policy.

   The safety policy should contain details of the organisation (people and responsibilities) and arrangements (systems and procedures) for carrying out the policy.

   **Leader’s note**

   A model safety policy is printed in Part Two.
3. **How does an organisation’s safety policy have to be communicated?**

There is no legal stipulation about the method of communication. Section 2 (3) of the Health and Safety at Work Act which deals with the safety policy, requires ‘the policy and any revision to it to be brought to the attention of all employees’.

*Leader’s note*

Some companies issue personal copies to all employees, others issue to managers and require them to disseminate the information. In some cases the policy is displayed on notice boards, in which event it is essential that all the policy is clearly visible to the reader. There are organisations where the policy is included in an employee handbook or similar. Whilst this is acceptable, the health and safety policy element should not become simply another section, in the same way as the rules for sickness pay and annual leave, and so on! Where the policy is part of such a handbook, the cover should clearly show this, for example: ‘Employee Handbook and Company Health and Safety Policy’.

4. **If you have an accident at work, what do you have to do to record it? Does it depend on what type of accident it is?**

Whatever reporting system you company establishes for the recording of accidents, you have to comply with it. That system must take account of the need to know about all accidents, however trivial. Only by recording each and every occurrence of an accident can an employer claim to be discharging their duty of care for the health and safety of all employees.

5. **If you sustain a back injury as a result of moving (say) a word processor from one side of the office to another, who is responsible?**

It depends. If your company has rules about carrying loads – for example only people from stores may lift office equipment – and you ignore this rule, then this must be the fault of the person carrying the load – provided that management are unaware of it. If management know that the rule is being broken and ignore the fact, then they are equally culpable.

If no such rule exists, but the employer expects people to move things like word processors, he must provide them with suitable lifting training.

*Leader’s note*

Since 1 January 1993 all employers have been required to carry out assessments of their workplaces, identifying all the regular lifting tasks.
These must be mechanised wherever possible. Where it is not feasible to mechanise the lifting task, all those involved in manual lifting must be properly trained to do so within a formal training programme.

6. **If an employee is injured as a result of not wearing safety clothing or equipment provided by the company, who is responsible?**

   Precedent case law exists to show that there have been cases where the following has occurred:

   a) An injured employee succeeded in damage claims despite the employer providing protective clothing, and so on, on the basis that it did not fit properly, was uncomfortable and in other ways unsuitable.

   b) Criminal prosecution of an employer has succeeded, or an injured employee has won damages, despite the fact that the employer supplied suitable protective clothing and equipment. Defendant companies have lost cases because it was shown that, despite employees not wearing the protective equipment provided, employers did nothing to enforce their rules. The courts’ conclusions were that by saying/doing nothing, employers had ‘condoned’ the breaches of the rules.

   c) Courts have also ruled that where there is persistent failure to wear clothing and other items provided, it is the employer’s duty to ‘remove the employee from the danger to which his stupidity has exposed him’.
1. Under what circumstances are companies legally obliged to appoint a Safety Officer?

2. Which companies are required to have a safety policy? What should it contain?

3. How does an organisation’s safety policy have to be communicated?

4. If you have an accident at work, what do you have to do to record it? Does it depend on what type of accident it is?

5. If you get a back injury as a result of moving (say) a computer from one side of the office to another, who is responsible?

6. If an employee is injured as a result of not wearing safety clothing or equipment provided by the company, who is responsible?
Part Two
Extending the Training
The Role of the Factory Inspector

Factory Inspector Joy Lewis sets about the task of investigating the cause of the accident with uncompromising efficiency. She concludes that the errors of judgement and indiscipline which led to the accident were cumulative and collective. In the fictional case study of an accident seen in No Going Back, no judgement of individuals is made. In real life, the Factory Inspector could have brought a prosecution, on behalf of the Health and Safety Executive, against those individuals who, through their position of authority and responsibility, should and could have prevented the accident.

Factory Inspectors, like their counterparts in agriculture and environmental health, may visit workplaces without notice to investigate an accident or complaint, or examine the safety, health and welfare aspects of your business.

They have the right to interview employees, take photographs and samples and impound dangerous equipment. They are entitled to co-operation and answers to their questions.

Inspectors have powers to prosecute a firm (or individual) for breaking health and safety law.
The Company Safety Policy

What the Policy Should Contain

Part One – The policy statement

This can be a paragraph or two affirming the commitment of the company to maintaining a healthy and safe working environment. It should be sincere and understandable by the workforce. Remember, bland repetition of the employer’s statutory duty does not appear sincere!

Part Two – Organisation and responsibility

Emphasise who is responsible for health and safety and spell out what the responsibility entails, for example:

Person X is responsible for health and safety. He or she will report to the Board on the status of health and safety in business, including accident statistics, twice a year; will report to the Board immediately in the event of a serious or fatal accident, or if an enforcement order is served on the company.

He or she will foster and give support to health and safety throughout the organisation; chair the health and safety committee; give the Board early warning of impending health and safety legislation likely to affect the company, and will bring the safety policy review before the Board for ratification not less than once every two years.

Similar descriptions should be included for all those with particular health and safety responsibilities.

Part Three – Arrangements

As its title suggests, this section is the ‘nub’ of the safety policy. It should contain EVERYTHING that employees should know about health and safety, including:

- accident reporting
- first aid arrangements
- emergency evacuation
- health and safety training
- personal and protective equipment
• disciplinary matters relating to health and safety
• reporting unsafe practices
• safety suggestions.