

The Law – What You Need To Know

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Civil v Criminal – the law

Civil

- Negligence
 - duty to take reasonable care
 - suffered injury through a breach of that duty
 - type of loss or injury for which damages are being claimed was a foreseeable result of the breach of the duty

Criminal

- The Health and Safety at Work etc. Act 1974
- Regulations
- Aim to protect employees and others who may be affected by work activities
- Enforced by HSE or Local Authorities

Legal and Business Risks

Civil Claims

- Compensation
- Insurance available
- Disclosure - personal injury pre-action protocol (pre-litigation) and standard disclosure (once litigation commences)

Criminal

- Fines and Imprisonment
 - *Sentencing Council Guidelines*
- No insurance available for fines (legal costs?)
- Negative PR and damage to reputation, business impact - tenders
- Disclosure: section 20(k) HSWA, powers of inspectors

Burden and Standard of Proof

Civil Claims

- Claimant
- Balance of probabilities (“more likely than not”)

Criminal

- Regulator
- Beyond reasonable doubt (“satisfied so that you are sure”) except where a duty is qualified (i.e. s187) in which case burden on defendant and the civil standard applies
- Proof of conviction likely to be admissible to support a civil claim

Legal Concepts

Vicarious Liability

- Applies to civil and criminal
- Employers liable for actions of employees acting in the course of their employment

Contributory Negligence

- Civil only
- Where harm is attributable partly to fault of Defendant and partly to that of the Claimant also then any award of damages may be reduced to reflect the Claimant's contributory negligence (i.e. failure to wear a seatbelt)

Questions??