

## **Legal Update – Breathing New Life into Law**

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### **Overview of Presentation:**

- Some of the last 12 months' activity in health and safety law
- Several interesting cases on sentencing
- A particularly important case regarding enforcement notices
- The latest in ISO - What's happening on the health and safety consultation front
- Classic cars
- Drones

### **Key Points:**

New sentencing guidelines effective from 1 February 2016 focus on culpability and likely harm associated with the risk and not just when harm has occurred.

Sentencing is in accordance with the law in force when the case comes to court, not when the offence occurred.

Financial penalties have increased significantly and are now set according to an organisation's turnover.

International organisations can become repeat offenders as they have wide and diverse operations. The HSE would likely address cases of low culpability/low level of resultant harm with a prohibition notice.

The courts take a dim view where an organisation persistently fails to enforce their own safety procedures, prosecuting accordingly.

In a case brought to the Court of Appeal, Tata Steel claimed in their defence that "The period of operation of the machine without incident is persuasive authority against the finding of a high likelihood". The Appeal Judge felt it was also an "accident waiting to happen". Where there is a breach over a long period of time the offence will likely put the organisation into a higher culpability category.

Organisations need to ask the question "where am I looking at high culpability and what is the likelihood of a high level of harm?"