

# SAFE AND SOUND

**Nobody likes admitting their place of business could pose a threat to the very people who keep it going, but the fact remains that every business has risks. Sean McBride breaks down what your legal obligations are and how they relate to the running of your business.**

The mere mention of health and safety often sends shivers down the spines of business owners everywhere. While it's not a fun subject, putting your head in the sand can be expensive, in some cases it could mean the end of the business. Dealing with your responsibilities head-on will not only save you money in the long run, it will give you a valuable reputation with customers, contractors and employees alike.

When it comes down to it, health and safety is about minimising risk. All workplaces and the people in them must comply with the Health and Safety in Employment (HSE) Act 1992. This stipulates that the person in control of the workplace "must take all practicable steps to ensure that visitors, customers, employees and contractors are not harmed by hazards in or arising from the workplace".

Let's look at this more closely.

## PERSON IN CONTROL OF THE WORKPLACE

Defining this can seem complicated on the surface, however, as a general rule of thumb, if some kind of prosecution takes place, it will be against the company involved and therefore the owners of that company. That includes if the owners are not on site on a regular basis. If it is felt that individuals, such as managers and supervisors, are at fault they would have to be prosecuted separately with a civil suit. If the company is leasing a building, then the leasee is legally liable, not the owner of the property.

## ALL PRACTICABLE STEPS

A business owner cannot be expected to identify and prevent every little risk involved in operating that business – the list would be limitless – however they are expected to remedy or warn customers and clients of hazards that are likely to cause serious injury. If a customer or client injures themselves entirely through their own actions, then the person who controls that workplace is not liable. A court may accept that it is not reasonable to spend large sums of money dealing with a hazard that is unlikely to cause a serious accident, however, if the problem can be quickly and cheaply dealt with, it is reasonable to expect it to do so. On the other hand if the hazard is reasonably likely to cause serious injury, business owners will be expected to spend the money needed to resolve it.

If you are unaware of a dangerous situation, you may not be held at fault for failing to deal with it, unless it is something you ought reasonably to have known about.

## PUTTING THEORY INTO PRACTICE

Consider the parts of your property where a customer or client is likely to need to go. If work activities take place in those parts of the property, ask yourself this series of questions.

1. What hazards are created by that work?
2. Can the work be rescheduled to avoid contact? If not make sure that customers or clients are informed of the hazards and make sure that the work is carried out in a way that will minimise the likelihood of harm.
3. Is there safe access (hoardings or barriers)? Place limits on times and places where customers or clients may go, and make sure they are informed of these limits (erect signs or post notices).
4. What would a customer or client expect to find in a place of work such as ours? If there are hazards that would not reasonably be expected, inform them of these hazards, either directly or through warning signs.

Remember your duty of care also extends to employees (a topic in itself and one we'll cover in a future issue) and contractors, as well as visitors and customers. For example, a catering company that is hired for a particular event and therefore only onsite for one or two days cannot be expected to be responsible for the safety of the site. This is legally the responsibility of the company that has hired them. The catering company will, however, be responsible for those hazards they have introduced or created on site. *For basic information, tools and resources on health and safety in any workplace, the best place to start is the Occupational Health and Safety website [www.osh.dol.govt.nz](http://www.osh.dol.govt.nz)*

Sean McBride is director of Salus Workplace Safety and Compliance, an Auckland-based company that offers specialist advice, comprehensive audits and tailored workplace programmes. For a quick review download a safety checklist from [www.salus.org.nz/articles](http://www.salus.org.nz/articles), email [help@salus.org.nz](mailto:help@salus.org.nz) or phone (09) 638 4021.