

PANNONE

WHY DO I NEED A LAWYER?

Why do I need a Solicitor?

When a workplace incident occurs, a decision needs to be taken quickly whether to call you or your business' lawyers. Whilst instructing solicitors necessarily incurs some cost, bringing your legal team in early can in fact reduce the overall cost of the incident to the business. With over 20 years experience of advising and representing clients in your position, we know how regulatory authorities seek to enforce the many regulatory obligations which you hold. Our knowledge and experience allows us to proactively manage the aftermath of a workplace incident, which can effect whether any prosecution will follow, the amount of any sentence imposed by the Courts as well as the amount of any personal injury claim which may follow the incident.

This document will help you to identify when you should seek expert external advice following a workplace incident.

Costs

Whilst your principle concern following an accident or incident will be protecting the business, many are put off by the spectre of high legal bills and the uncertainty of costs. In making these decisions we would urge you to consider the immense benefit of professional expert assistance against the potential costs. We understand that commercial considerations are paramount and will work with you to provide realistic cost estimates, revise those estimates on a frequent basis, agree a payment structure that suits you and ensure that work is only done at the appropriate level of fee earner, whilst you enjoy a partner led service.

Where you have the benefit of insurance cover we have experience of working well with insurers on our clients behalf. However we are not tied to insurers as a source of our work and will not be influenced by any considerations other than the best interests of you and your business.

Protecting your Business

As a director or officer of a company you owe a duty to the shareholders to act in the best interests of the company. The consequences of failing to properly deal with a serious accident or workplace death can be catastrophic. In the event of any other incidence of a business critical failure you would not hesitate to seek expert advice and assistance. The Health, Safety & Environment team at Pannone LLP are experts in guiding companies and their management through this process.

All investigations into health & safety or environmental breaches are conducted in accordance with the criminal law. In the event of conviction the penalties available are severe (unlimited fines, imprisonment for individuals, publicity orders). Evidence must be gathered in accordance with the rules of evidence and mistakes in the process may be fatal to any prosecution.

As solicitors, we are experts in the law and powers available to the regulatory authorities such as the Health and Safety Executive (HSE,) Local Authorities (LAs), the Police and the Environment Agency (EA). We can remove the stress involved in dealing with such regulators by facilitating communications between your business and the regulators. This enables your business to achieve that delicate balance between co-operation with the regulator and protection of the business. A frequent complaint is that inspectors fail to disclose all the information necessary for the business to base important decisions on: we are experts in obtaining such information, negotiating appropriate periods of time in which to consider information and ensuring that the all decisions are based on the best information available.

All regulators are required to act in accordance with their own codes of conduct- our knowledge of those codes allows us to challenge decisions or steps taken ensuring that our clients' goals are achieved.

In addition, our complete incident management service ensures that you and your business obtain the best available evidence obtained when information is still fresh in everyone's mind.

Protecting yourself

As an employee, senior manager or director you have responsibilities to ensure your own safety at work, as well as others. If you are involved in a workplace incident, whether you were working with the injured party or were their supervisor or manager, it is important to ensure that your own interests, as well as those of the business, are protected.

Businesses facing investigation by regulatory authorities may have the resources and support in place to be able to obtain all the information needed to protect itself. You need to ensure that you obtain the support and guidance you need to be able to appropriately manage the investigation into your role.

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Accident Investigation

In the event of an accident most organisations will undertake a review of how the accident happened. Indeed the HSE and Local authorities expect such investigations to take place. Those investigations are often in a written form and they are often requested by the investigating party. In the event of a refusal to provide a copy the HSE and Local Authority have the power to compel its production.

In certain circumstances the solicitor client relationship affords protection from disclosure all documents produced as a result of that relationship- Legal Professional Privilege.

Engaging solicitors where litigation is likely (almost every RIDDOR) offers you protection from disclosing damaging information.

In addition, our complete incident management service ensures that you and your business obtain the best available evidence obtained when information is still fresh in everyone's mind. Early identification of the issues in turns allows us agree with you what your aims are in relation to the investigation so that your interests can be progressed from the earliest possible opportunity.

Insurance Cover

Unlike many other Health and Safety teams we do not rely upon referrals of work from insurance companies. If you have insurance which covers Health and Safety investigations you do not have to use the insurers preferred lawyers- you have a choice. With so much at stake for your financial position and your reputation, you must have confidence that your legal team is working in your best interests.

You are able to instruct us- and your insurer should respect your wishes. This ability to choose is rarely publicised by the Insurance Companies or their panel firms.

Interviews under Caution

The decision to attend an interview under caution should not be taken lightly. If a regulator has invited you or a representative of your business to attend an interview under caution, it means that they suspect that a criminal offence has been committed. You and the business need to understand what your legal rights are when attending as well as what to say, if anything. The answers provided during an interview will influence what enforcement action will be taken and will be used in evidence at any court hearing which may follow. With expert help, you can use the interview process as an opportunity to present you or your business in the best possible light. Our specialist HS&E team will support you though the interview under caution process to achieve the best practical outcome.

Decision to Prosecute

In many instances, where we are involved in a case at an early stage we are able to persuade the investigators away from court action. Identification of evidential and public interest issues in conjunction with pro-active advice to avoid the repetition of an incident and the implementation of safer practices is vital.

Court Proceedings

In the event of proceedings being commenced against an individual or a company we are ideally placed to represent defendants. We act on behalf of clients all over the country, from a wide range of business sectors and appear regularly in courts across England and Wales.

To succeed in the Criminal courts you need criminal lawyers. Cases are often prosecuted by specialist counsel or solicitors chosen by the regulatory authority. Our team of experts and our ability to access leading barristers and experts ensures that your case will be presented to the highest standards.

Should you have any questions please contact
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