



REGULATORY SERVICES

Regulation of business and industry is intended to protect consumers, employees and the environment. Businesses, regardless of size and complexity, must comply with legislation and regulation which come from all levels of government. Failure to comply can result in significant fines and adverse publicity that can put a business at risk. Directors and managers can face personal liability that can result in disqualification, fines and in some cases custodial sentences.

Significant costs will be incurred during lengthy investigations by the police and regulators. Prohibition and improvement notices can prevent a business operating effectively. The regulatory team at Harrison Clark Rickerbys has a wealth of experience representing organisations and individuals investigated and prosecuted for regulatory offences. In times of crisis we are able to guide you and your staff through it with calm authority, assured handling of the prosecution authorities and clear, effective advice.

It is vitally important to know that defence legal costs may be recoverable from your insurer. You have the full freedom to choose your lawyer in such situations and your insurer will deal with our costs.

Health and Safety

Businesses must ensure, so far as reasonably practicable, the health, safety and welfare of their employees and all those affected by their operations.

Even the most efficiently run business can find itself under investigation by the police and the Health and Safety Executive (HSE), which can result in the service of enforcement notices and ultimately a prosecution.

Positive sentencing guidelines have resulted in organisations, large and small, receiving very large fines for health and safety breaches. Directors and senior managers can also face fines, disqualification and/or custodial sentences. A businesses reputation

and brand can be further undermined by negative and damaging publicity.

Our specialist lawyers offer advice and assistance to businesses and individuals from the immediate aftermath of an accident at work to representation at court in the event of a prosecution including the following:

- Assistance and representation for organisations and individuals investigated and prosecuted for gross negligence manslaughter, corporate manslaughter and health and safety offences following accidents to employees or members of the public



- Support and advice during police, HSE and local authority investigations
- An immediate response following accidents resulting in death and serious injury, advising on prohibition and improvement notices and on the HSE's fee for intervention scheme
- Advice and support for employees asked to provide statements and assist police and regulators with their enquiries

- Representation for organisations and individuals at interviews under caution with the police and regulators including HSE, local authorities and the care quality commission
- Advice on PR strategy and media management

If you are facing an investigation or prosecution by the regulator, our expert team of lawyers will guide you every step of the way.

Corporate and gross negligent manslaughter

The Corporate Manslaughter and Corporate Homicide Act 2007 holds corporate bodies accountable following serious management failings resulting in the death of employees or members of the public. An organisation can be guilty of an offence of corporate manslaughter if it can be proved that death has resulted from a gross breach of duty by senior management.

In addition, directors, managers and employees can still be prosecuted for the common law offence of gross negligence manslaughter where a gross breach of duty has resulted in death. A conviction for corporate manslaughter will result in a significant fine based upon a number of factors including the turnover of the organisation and can result in an order for the organisation to bring the conviction to the attention of the public, its customers and shareholders.

We can help you with:

- Accident investigations and management
- Advice and assistance immediately following the incident and during the early days of the investigation

- Support during the ongoing police investigation and advice with responses to requests for information and documents
- Advice on conflicts of interest between the company and individuals
- Advice and support for employees asked to provide statements to assist with police enquiries
- Representation at interviews under caution with the police and the regulator
- Representation and preparation for trial following charge
- Advice and implementation of a PR strategy and any subsequent media management

In the event of prosecution, we will provide you with early advice on the chance of a successful defence. This means, either preparing for a trial, giving you the greatest chance of a successful outcome, or quickly disposing of the prosecution, securing the lowest possible fine and avoiding adverse publicity.



Inquests

An Inquest will be heard where there is a reasonable suspicion that someone has died a violent or unnatural death. Inquests can be the only occasion when evidence surrounding a fatal accident is fully explored by a court and witnesses are required to give evidence. Coroners have a duty to ensure relevant facts surrounding a death are fully, fairly and fearlessly investigated and relevant facts exposed to public scrutiny. This can result in an organisation's policies and procedures designed to protect its employees and members of the public coming under the microscope. Directors, managers and employees can all be called to give evidence at an Inquest.

It is essential that organisations and individuals are properly prepared and represented at an Inquest. Findings and conclusions of an Inquest can have a significant impact on any future civil and criminal proceedings. Media management is also essential.

Inquests are public hearings and adverse publicity during and after the Inquest can have a significant impact on your reputation.

To help you prepare for attendance at an Inquest and manage the immediate aftermath, we offer advice and assistance throughout the process; from the immediate aftermath of a fatal accident to the final hearing including:

- Accident investigation
- Preparation of witness statements for the Coroner
- Support and guidance to directors, managers and employees called as witnesses by the Coroner
- Advice and assistance in responding to requests from the Coroner
- Representation at pre-Inquest hearings and the Inquest
- Media strategy and management.

Trading standards and food safety

Legislation concerning trading standards aims to protect consumers, legitimate businesses and the wider public from unlawful and unfair trading. Local Authorities are the principle body responsible for enforcement of trading standards regulation which can involve:

- Consumer rights
- Food safety
- Animal welfare
- Fair trading
- Food labelling

Businesses can find themselves involved in long and expensive investigations following complaints from the public and visits from the local authority. This can result in enforcement action ranging from:

- A written warning to service of an improvement notice
- Suspensions
- Penalty notices
- Injunctions
- Prosecutions and actions under the proceeds of Crime Act

In some cases, individuals risk a custodial sentence. We can advise and assist you and your business following the commencement of an investigation, negotiate with the enforcing authority and ensure your interests are protected. Our aim will always be to avoid enforcement action and prosecution, we will provide you with representation throughout the process advising on the prospects of a conviction or acquittal at the earliest opportunity.

Environment

The Environment Agency and local authorities are the primary bodies charged with protecting the environment in the UK. Environmental protection is achieved through UK legislation including the Environmental Protection Act and Water Resources Act, European directives and frameworks and International agreements. Organisations and individuals risk increasing criminal fines, civil sanctions and custodial sentences in the event of a prosecution arising from polluting the environment and failure to comply with environmental licences. Recent sentencing guidelines issued to courts have resulted in very significant fines imposed on organisations and the courts are showing an appetite for handing out punitive penalties.

Investigations and prosecutions can be a daunting

experience. We provide you with immediate advice following a major incident and advice and assistance throughout investigations and prosecutions by the Environment Agency and local authorities.

We regularly advise businesses and individuals on the following:

- Advice following the service of enforcement notices
- Assistance and representation at interviews under caution with the regulator
- Responding to the regulator at all stages of the investigation and where possible avoiding criminal proceedings
- Representation at Magistrates and Crown Courts
- Assistance with PR and media management

Fitness to Practice and Professional Negligence

Registration to a regulatory body for certain professionals is compulsory and membership of professional organisations (such as RIBA or RICS) is often voluntary. However, once a complaint has been made the consequences are serious and it is not usually possible to resign from the membership or allow your registration to lapse until the issue has been resolved.

We advise professionals across the full spectrum of professional services and we seek to protect your long term reputation and to ensure that you are able to practice on that registration.

Contact



Heath Thomas
Partner

T: 01905 744 812
M: 07966 492 929
E: hthomas@hcrlaw.com



Kamal Chauhan
Partner

T: 0121 726 7460
M: 07703 824 202
E: kchauhan@hcrlaw.com



Aled Owen
Partner

T: 01989 561408
M: 07837 109 517
E: aowen@hcrlaw.com



Laura Shirley
Associate

T: 01905 746 473
M: 07890 625 156
E: lshirley@hcrlaw.com