

6 June 2003

AP229

LAWYERS PROTEST AT 'HIT AND MISS' HEALTH & SAFETY ENFORCEMENT

Employers who fail to protect their staff by following health and safety regulations may continue to get away with no more than “a rap on the knuckles,” top lawyer Colin Ettinger warned today.

Vice President of the Association of Personal Injury Lawyers (APIL), Mr Ettinger pointed out that the current policy means that not all breaches are prosecuted because some are not considered to be serious enough.

He said: “This sends out entirely the wrong message and could result in a ‘hit and miss’ attitude to health and safety in the workplace. The idea that only the most serious breaches should be investigated fails to protect workers and members of the public from death and injury.

“If the health and safety laws aren’t enforced all the time then the danger is that employers will start thinking that they can get away with protecting their employees to a lesser degree than they should be doing.”

The Department of Trade and Industry is currently considering a new good practice guide to applying the principles of the 1998 Enforcement Concordat which includes regulations imposed by the Health and Safety Executive.

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While APIL welcomes the DTI's consultation process on the guide, the Association remains concerned about the so-called proportionality principle. This provides for enforcement action to be "proportionate to the seriousness and persistence of the breach" with any action taken the minimum necessary to ensure future compliance with the law.

Mr Ettinger commented: "The thinking behind the proportionality principle is that the enforcers would be able to help businesses meet their legal obligations without unnecessary expense while prosecuting the most serious breaches.

"We agree that the Health and Safety Executive should pursue non-legal approaches in a bid to improve employers' compliance with the law, but this should not replace its enforcement.

"If health and safety in the workplace is to be improved, employers must be aware that consequences will follow a failure to comply with the relevant legislation."

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