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The Directors' Survival Guide to Section 37

Reducing Penalties and Protecting Reputation in Safety Prosecutions



Table Of Contents

From Board Minutes to the Dock	4
Neglect Is Often Just Poor Systems	6
Recurring patterns across sectors, shown through recent cases	8
When the Public Gets Hurt, Everything Changes	12
Competence, Supervision, Training: What Gets Scrutinised	14
Your First 72 Hours: The Director's Response Plan	16
Documenting the Right Story (Without Over-Lawyering It)	18
Keeping Control of Reputation, Insurance and Internal Comms	20
The Director's Checklist for 2026	

From Board Minutes to the Dock



For organisations and directors in sectors where operational risks are prevalent, even a small, concentrated shift toward enhancing safety oversight and documentation can significantly reduce personal and corporate exposure under section 37 of the Health and Safety at Work etc. Act 1974. This proactive approach is not merely a regulatory obligation but a crucial step in safeguarding both employees and business interests. By prioritising safety, companies can establish a culture that values employee well-being while also protecting their reputation. Ultimately, the goal is to create a safer work environment that mitigates risks associated with non-compliance.

Section 37 empowers regulators to pursue individual directors or senior officers alongside the company when an offence is alleged to have occurred with their consent, connivance, or attributable to their neglect.

A review of recent cases highlights that this legal provision is far from theoretical; it serves as an active pathway to various penalties, including suspended or immediate custodial sentences, unpaid work, disqualification, and significant reputational damage. The consequences

of negligence can be severe, making it imperative for directors to understand their responsibilities under this section. Ignoring safety protocols or allowing lapses in safety measures can lead to grave outcomes, affecting not just individual careers but the entire organisation. Therefore, awareness and proactive engagement with safety issues are essential for today's leaders.

The following is a practical, forward-looking guide designed for directors, senior managers, or companies aiming to minimise penalties, protect their reputation, and reduce disruption should a section 37 risk arise.

This guide emphasises the importance of proactive measures and strategic thinking to navigate the complexities of health and safety law. By adopting a forward-thinking approach, organisations can better prepare themselves for potential challenges and enhance their overall safety culture.

It serves as a reminder that safety should always be at the forefront of corporate governance, not merely an afterthought.

Neglect Is Often Just Poor Systems



At the core of section 37 prosecution case lies a fundamental question:

- **What did the individual know?**
- **What must he/she ought to have known?**
- **What actions did they take?**
- **What did they fail to take to prevent a breach of safety regulations?**

This inquiry is critical as it helps establish the level of responsibility that directors have with respect to safety oversight.

Evidence may be gathered from various sources, including inspection records, enforcement notices, notifications of contravention, witness accounts, and documents that reveal any risks that were ignored or inadequately addressed.

It is essential to note that a director does not need to have directly ordered an unsafe act for personal liability to arise; weak oversight, neglecting warnings, or failing to implement basic safety controls can suffice for legal repercussions.

Thus, maintaining a proactive safety culture is essential to mitigate risks.

A stark reminder of the implications of neglect came early in 2025, when a stone products company and its director faced fines after multiple inspections, beginning

in May 2023, uncovered repeated failures to protect workers from hazardous silica dust exposure.

The company was issued several improvement notices, and despite the warnings, it remained non-compliant months later.

Inspectors characterised the situation as one of reckless disregard and noted that the company's standards fell far short of what is legally required, ultimately leading to prosecution.

This case underscores how ignoring enforcement actions or allowing essential safety controls to fall by the wayside can be compelling evidence of both neglect and consent. Personal liability can ensue even when the central offense lies with the corporation.

**Recurring
patterns
across sectors,
shown
through
recent cases**



Although the cases discussed here originate from diverse trades and involve different hazards, they collectively reveal immediate and actionable lessons that can benefit all sectors. By recognising patterns in past enforcement actions, directors can better prepare themselves to avoid similar pitfalls in their own organisations.

The importance of learning from these examples cannot be overstated, as they provide valuable insights into how to maintain compliance and safety standards effectively. Proactively addressing potential risks can save organisations from severe penalties and reputational harm. Thus, these recurring themes serve as critical reminders of the universal nature of safety obligations.

Notices Ignored: The Shortcut to Personal Liability

In a specific skip-hire case, inspectors discovered waste piled on public highways, which obstructed access to essential welfare facilities. The company had ignored prohibition notices, leading to significant legal repercussions.

The director received an eight-month custodial sentence that was suspended for 12 months, and the company itself was fined £65,000.

This case exemplifies how neglecting enforcement actions or failing to address critical site conditions can transform mere oversight into personal criminal liability.

To avoid such outcomes, it is vital for organisations to prioritise prompt and comprehensive responses to enforcement notices. Addressing these issues is not merely a regulatory obligation but a fundamental aspect of responsible corporate governance.

The Trench, the Roof, the Scaffold: High-Risk Work Done Wrong

In another instance, a construction firm and its director were fined after a trench collapse resulted in an injury to a worker during the excavation for a septic tank installation. The work involved deep excavation, and the company ultimately pleaded guilty to breaching health and safety laws.

This case illustrates that even non-fatal incidents linked to foreseeable hazards can trigger both corporate and individual sanctions. Proper planning, supervision, and implementation of controls for known risks are essential, regardless of the incident outcome.

Therefore, directors must ensure that all activities, especially those involving inherent risks, are meticulously planned

and supervised to prevent accidents.

A cladding company and its director faced prosecution after a worker tragically died from falling through a fragile roof while replacing panels. This situation serves as a critical reminder of the Health and Safety Executive's (HSE) guidance, which emphasises the necessity for thorough planning when engaging in work at height.

In a separate case, a director received a suspended sentence after a worker fell from height during a house extension project. In both instances, the primary issue revolved around inadequate planning and control measures regarding working at height. Consequently, directors must ensure that safety policies related to work at height are not only established but also strictly adhered to and verified.





When the Public Gets Hurt, Everything Changes



A construction company and its director faced fines after a child was injured by a falling cast-iron pipe during building work. This incident highlighted the failure to adequately assess and manage foreseeable risks to the public, leading to a conviction. It is essential to understand that regulatory enforcement is not confined to harm occurring within the workplace; directors must also consider the safety of the public when hazards may impact passersby or neighboring residents.

Often, implementing relatively simple and inexpensive safety measures can mitigate these risks effectively. Thus, a comprehensive risk assessment should encompass both employee safety and public safety.



A photograph of two construction workers at a construction site. The worker on the left is wearing a white hard hat and a high-visibility yellow safety vest over a blue shirt. The worker on the right is wearing a yellow hard hat and blue overalls over a blue and white checkered shirt. They are both looking down at a large set of architectural plans spread out on a table. The worker on the right is holding a yellow pencil and pointing at a section of the plans. The worker on the left is holding a black pen and pointing at another section. In the background, there is a large, white, corrugated metal structure, possibly a wall or a container, under a cloudy sky. On the table, there are also some construction tools, including a yellow and black power drill and a black and yellow power drill.

**Competence,
Supervision,
Training:
What Gets
Scrutinised**

A director received a suspended sentence following the tragic death of a young roofer who fell on his second day of work. This case involved two companies being fined, highlighting that falls from height continue to be a leading cause of workplace fatalities. The incident serves as a critical reminder that inexperienced workers exposed to hazards without adequate supervision significantly increase risk levels. Training, supervision, and safety controls need to be particularly robust in such contexts to protect vulnerable workers. Therefore, directors must prioritise the safety of inexperienced employees by implementing rigorous training and supervision protocols.

In a case involving a sign-fitting company, a worker fell from an unguarded scaffolding platform and tragically died after falling just six feet. The regulator pointed to established work-at-height guidance, emphasising the long-standing requirement for edge protection. This case underscores the critical takeaway that even falls from relatively short heights can result in fatal consequences if proper safety measures are not in place. Simple, well-known controls such as guardrails can be decisive in preventing accidents and subsequent legal liabilities.

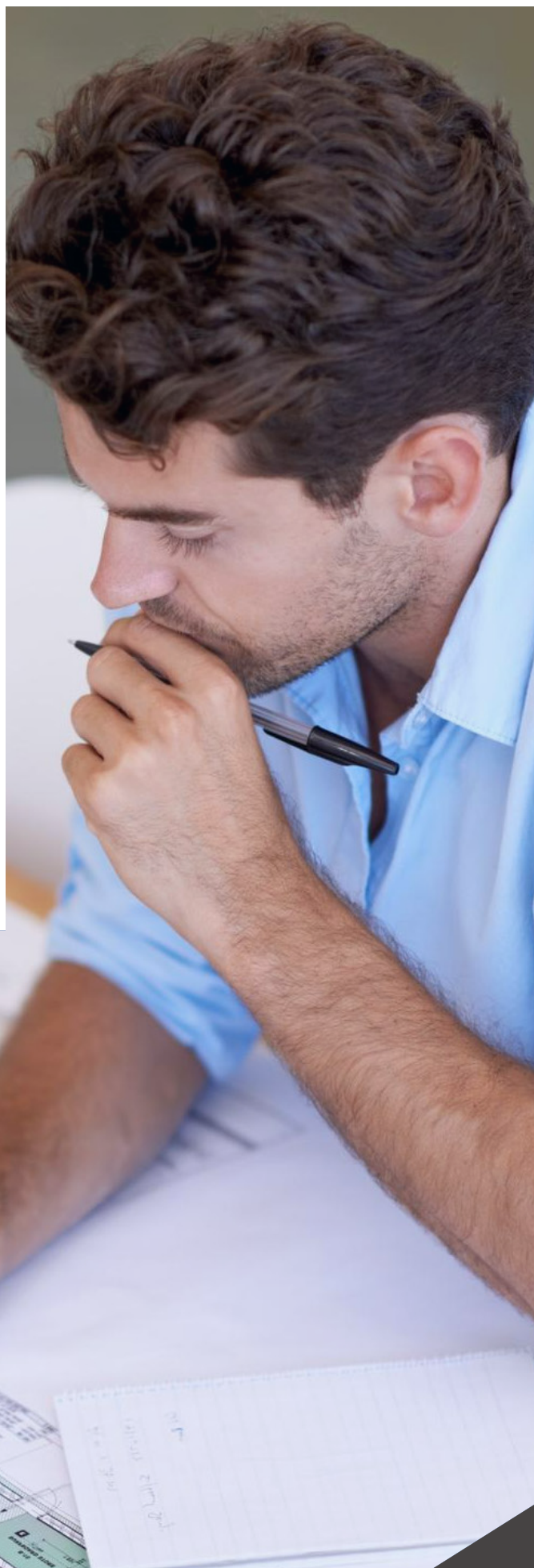
Therefore, organisations must not underestimate the risks associated with working at heights.

Across these scenarios, liability was determined not by the specific industry involved but by the presence or absence of foresight, thorough planning, and effective control measures. This principle is universally applicable; if risks are foreseeable and the systems in place to manage them are weak or ignored, personal liability becomes a real and imminent possibility. Directors must foster a culture of safety that prioritises risk management and ensures compliance across all operational areas.

Your First 72 Hours: The Director's Response Plan



Whether there has been an incident, an inspection, or a warning, taking swift and structured action can significantly influence the outcome regarding penalties, reputation, and operational disruption. Responding promptly to any signs of risk is not just advisable but essential for mitigating potential legal consequences. By acting decisively, organisations can often control the narrative and demonstrate their commitment to safety and compliance. This proactive strategy is crucial in minimising the fallout from any adverse events and safeguarding the organisation's reputation. Therefore, understanding the immediate steps to take when faced with section 37 risks is vital for all directors.

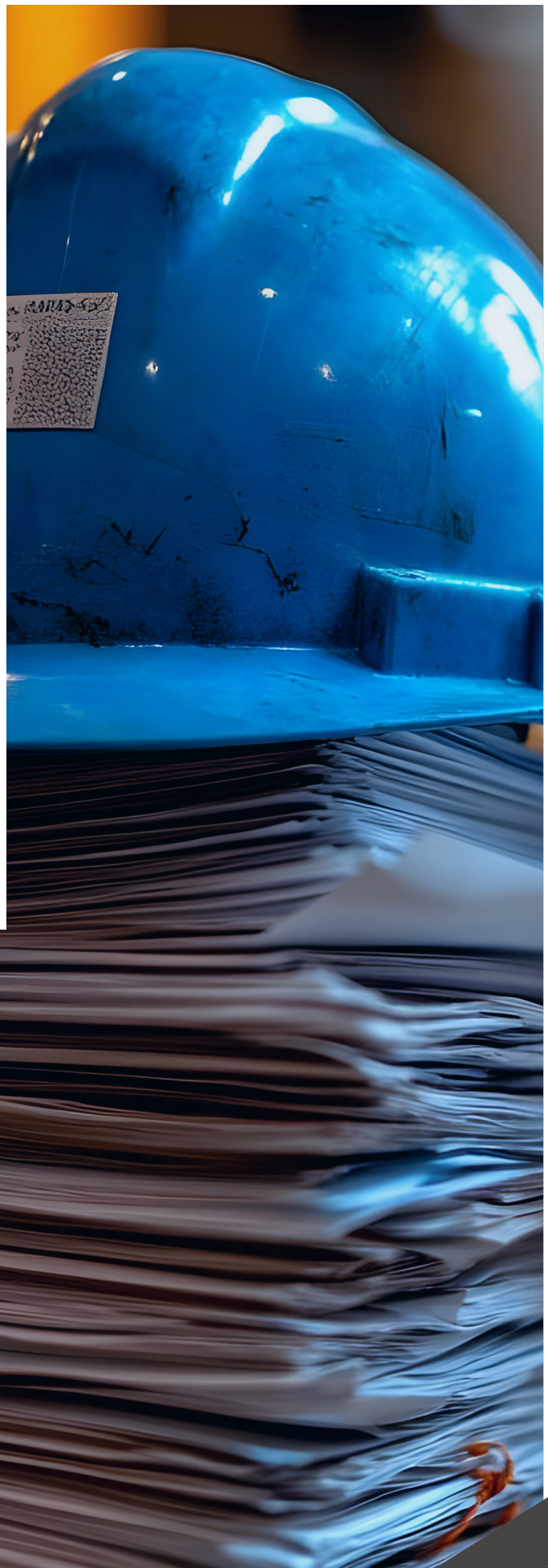


Documenting the Right Story (Without Over- Lawyering It)



It is essential to document what was known, when it was known, and what actions were taken whether before, during, or immediately after the issue arose. Creating a credible record of actions taken helps bolster both the legal position and stakeholder perception. Such documentation demonstrates responsible leadership rather than passive negligence, which can significantly influence how regulators and the public perceive the organisation's commitment to safety.

Therefore, meticulous record-keeping should be a standard practice within all organisations to facilitate accountability and transparency. This approach not only aids in legal defenses but also fosters trust among stakeholders.



A detailed photograph of a workspace filled with architectural and design materials. In the foreground, several sheets of paper with technical drawings and blueprints are spread out. Two bright orange pencils lie horizontally across the papers. To the right, a small, clear plastic model of a building structure sits on a stack of papers. In the background, a pen holder contains several pens and pencils, and a stack of papers is visible. The scene is lit with soft, natural light, creating a professional and creative atmosphere.

Keeping Control of Reputation, Insurance and Internal Comms

To effectively address any perceived shortcomings, it is crucial to build a clear timeline of decisions made, warnings received, tasks delegated, and follow-up actions. Preserving emails, meeting minutes, risk assessments, and evidence of corrective steps taken is vital in establishing a comprehensive overview of the situation. Avoiding speculative or post-hoc explanations is essential; the focus should remain on factual evidence that clearly demonstrates that safety was taken seriously and appropriately addressed. By maintaining transparency and accuracy, organisations can better defend their actions and decisions during investigations. This clarity is invaluable in mitigating potential penalties and safeguarding the organisation's reputation.

Seek specialist legal advice early.

Engaging with practitioners who have a deep understanding of how health and safety prosecutions are constructed can significantly aid in shaping the narrative presented to investigators. These experts can guide organisations on which remedial actions to document and how to manage communications with stakeholders effectively. Early legal intervention can help limit penalties, protect the organisation's reputation, and prevent unnecessary disruption. It is imperative for directors

to recognise the value of specialist legal advice in navigating complex regulatory landscapes, particularly in high-stakes situations. This proactive approach can ultimately lead to more favourable outcomes.

Communicate thoughtfully to stakeholders.

In the event that news leaks or enforcement actions become public, providing a careful, factual update that highlights safety measures taken and the organisation's commitment to improvement can be more constructive than remaining silent or denying the issue. This communication should be aligned with the overall legal strategy to ensure consistency and effectiveness. Balanced messaging can help maintain long-term relationships and uphold the organisation's standing within the industry. By addressing concerns transparently, organisations can demonstrate accountability and a commitment to safety. Effective communication is a critical element in managing the repercussions of any adverse incident.

While understanding the law is necessary, it is often not sufficient on its own. The strongest outcomes in recent cases frequently reflect how regulators gather evidence, how courts interpret oversight

or negligence, and the credibility of the director's and company's responses. Those with practical experience can provide invaluable insights into which documents or facts will be most impactful during legal proceedings. They can also offer guidance on how to present responsible leadership alongside a legal defense, as well as when to escalate remedial efforts to demonstrate a genuine commitment to safety. This level of expertise is especially crucial for directors who prioritise reduced penalties, protected reputations, and minimal operational disruptions, forming the foundation for a measured approach to defence and remediation.

The Director's Checklist for 2026

- **Secure specialist advice early**, ideally from practitioners who are familiar with enforcement patterns and sensitive to both legal and reputational consequences.
- **Compile a detailed timeline of awareness**, decisions, and actions as soon as possible to ensure a comprehensive understanding of the situation.
- **Begin safety and governance improvements now**, document them thoroughly, and demonstrate constructive leadership to showcase a commitment to compliance.
- **Plan communications with staff**, partners, regulators, and the public maintain a factual, safety-focused narrative that aligns with legal strategy.
- **Review insurance, indemnity**, and personal risk to ensure alignment with defence strategy and long-term organisational interests.



Section 37 prosecutions serve as a critical reminder that personal accountability can follow corporate failures. The most effective defense strategies may begin well before any court hearings, relying on credible leadership, meticulous documentation, and measured steps supported by experienced, practical advice. For any director or company facing or even merely concerned about section 37 exposure, early and thoughtful action is not just a defensive manoeuvre; it is foundational to protecting reputation, minimising penalties, and steering the business toward a viable path into 2026 and beyond.

This article is co-authored by Mike Appleby of Fishers Scoggins Waters and Tanveer Qureshi of Libertas Chambers, who work closely with directors and companies on issues that may involve criminal court exposure under health and safety law.

The information contained in this document is for general purposes and guidance only and does not purport to constitute legal or professional advice.



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