

lawyers for your business (LFYB)

Lawyers For Your Business (LFYB) represents around 1200 firms of solicitors in England and Wales, which have come together to help ensure that all businesses, and especially the smaller owner-managed ones, get access to sound legal advice whenever they need it.

LFYB is managed and promoted by The Law Society and has been welcomed as a positive initiative by the Department of Trade and Industry, Chamber of Commerce, the Federation of Small Businesses and many other agencies and trade associations that are active in the small and medium sized business market.

LFYB recognises that, for fear of running up large legal bills, a business will often not consult a solicitor until they have a serious problem. By then, of course, any remedy may be at its most expensive, if indeed one is still available.

In most cases businesses can save themselves money by seeing a solicitor for advice early on, especially where there is legislation to be complied with, or important legal documents such as contracts to be prepared. To remove the risk of incurring unexpectedly high legal costs, LFYB members offer a free consultation, lasting at least half an hour, to diagnose the problem and any need for action, with full information, in advance, on the likely costs of proceeding.

how to gain your free half hour consultation

If you would like to use the service, contact LFYB by post or phone on the details listed below. A list of participating solicitors in your area will be sent to you. Simply choose one of the firms on the list and arrange an appointment. You should mention the LFYB scheme when making contact.

further information

For further information write to:

Lawyers For Your Business
The Law Society
FREEPOST WC 2576
LONDON WC2A 1BR

or phone

 **020 7405 9075**

or visit the website www.lfyb.lawsociety.org.uk

This guide was prepared with the kind assistance of Teresa Cullen of Rochman Landau.

lawyers for your business health & safety at work



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SUCCEED IN BUSINESS: THE LEGAL ANGLE

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health & safety at work **7**

requirements & good practice

Do you have employees working for you?

If yes
The Health & Safety at Work Act 1974 requires that you provide them with a safe place of work.

Are you operating a factory?

If yes
The Factories Act 1961 applies – rules on space, temperature, etc, but Workplace Health, Safety and Welfare Regs 1992 and Management of Health & Safety & Welfare at Work Reg 1992 largely superseded it.

Are you operating an office or shop?

If yes
The Offices, Shops and Railway Premises Act 1963 applies. Rules similar to Factories Act but Workplace, Health, Safety & Welfare Regs 1992 and Management of Health & Safety & Welfare at Work Reg 1992 largely superseded it.

Are you registered under this Act?

If no
Take care! You are breaking the law and must register without further delay.

Do you have a written statement of your safety policy, covering points like evacuation, hazards in the workplace, etc?

If no
Good practice requires it. If you have more than five employees the HSWA requires you to publish your safety policy to all staff.

Do you ensure that staff are competent/trained to do their jobs safely eg, that office staff know how to lift loads?

If no
Take care! It is your duty to provide adequate training under the HSWA.

Do you have a safety committee?

If no
Take care! You have a duty under the HSWA if union insists.

Are you recording all staff injuries and reporting serious ones to the Health and Safety Executive?

If no
Take care! You are breaking the Records & Notification of Injuries, Diseases & Dangerous Occurrences Regs 1985.

Do you have sufficient staff trained in first aid?

If no
H&S (First Aid) Regulations 1981 advises one first aider per 50 staff, a first aid room if over 400 staff.

Are you displaying a current Employers Liability Insurance certificate?

If no
You must – it's the law!

Are you familiar with Fire Precautions Act 1971 and Home Office proposals on relevant EC directives?

If no
Take care! Many duties of care apply eg, on fire alarm testing or escape routes. These are more stringent where the public, children or overnight guests or places of entertainment are involved.

Have you checked your H&S procedures against industry standards?

If no
Management of H&S Regs 1992 require employers to 'assess' the health and safety risks to employees and take preventative measures which often means following industry standards.

Are you following published HSE guidance on specific hazards and risks?

If no
Take care! Phone HSE for relevant publications (tel 08701 545 500) and check advice on noise protective equipment, manual handling, asbestos, pregnant women, PC screens, chemicals, driver training, electricity, etc.
If yes
Excellent. Where no specific advice applies, use common sense.

Are you up to date on civil actions over health and safety eg, RSI, work stress?

Probably no
You need to take precautions to avoid liability when employers are aware of a 'hazard'. Seek advice.

health & safety at work

Health and safety legislation used to specify actions that an employer must take – for example, with regard to the temperature of a workplace, or the number of fire exits. With the enactment of EU directives in 1992 (fully coming into force by 1996) duties have become wider but vaguer, often requiring employers simply to be 'reasonable'. Although this gives individual businesses more freedom and flexibility, it also becomes very important to check what standards other similar businesses are keeping to so they do not fall behind industry good practice.

Some regulations are specific to industries with known hazards, such as mining or chemical plants. Others apply to all workplaces, including 'benign' environments like offices. Criminal prosecution is the price of a serious breach, especially if a fatality or injury has occurred. If found guilty you can be fined and/or face jail – for up to two years in some cases. For less serious breaches, Health & Safety Inspectors may demand improvements to safety, or prohibit some activities altogether.

In addition to meeting all statutory requirements, you have a common law duty not negligently to expose staff to harm whilst at work. Otherwise you risk being sued for civil damages by an injured employee or, in the case of death, their dependents. Such cases often rely on failures to conform with health and safety requirements as evidence of civil liability.

Finally, employees must also take reasonable care whilst at work both for their own protection and that of others. Any training necessary to ensure the safe undertaking of a job must be provided by the employer.

This booklet identifies the areas of law that you, as an employer, have to note. For general advice and information on their published guides refer to their website at www.hse.gov.uk. For how specific Acts might affect you, and whether your work conditions and methods fall within the law, you should consult a solicitor.

checklist

- Do you know if your health and safety practices meet standards generally applied in your industry?
- Are you conforming to HSE advice on the safety of office technology such as personal computers?
- Do you have a written safety policy? Has it been circulated to your employees?
- Do you have employers liability insurance, and are you displaying a current certificate of insurance?
- Are you aware of your duties of care to visitors (eg, salespeople)?
- Do you have adequate first aid provision, such as trained staff?
- Are you logging all staff injuries and reporting serious ones eg, RIDDOR reports?
- Have you taken into account the consequences of successful civil suits against employers for 'new' occupational injuries such as Repetitive Strain Injury and work-related stress?