

ICE Policy regarding the implications of legal action against managers and engineers

(Approved by the Council on 21 December 2004; revised and approved by the Council 23 May 2006)

Policy Statement.

1. ICE recognises that its members work in an environment where they have to use engineering judgement to manage complex risks. If, in exceptional circumstances, that judgement becomes open to question, this could result in prosecution in a culture of promoting safety through prescription.
 2. ICE recognises it is reasonable to punish appropriately, and hence deter culpable conduct by organisations and individuals which cause injury/death or which has the potential to do so.
 3. ICE believes that the pursuit of individuals for the failings of an organisation and the inappropriate pursuit of individuals under Corporate Manslaughter, Corporate Homicide, Health and Safety at Work and other safety legislation could reduce the innovation needed to advance the wealth and well-being of society and the application of engineering judgement. At worst, it could discourage the best candidates from taking positions of responsibility.
 4. ICE will promote an environment where the proper balance between engineering judgement and adherence to procedures can be valued and exercised.
 5. ICE and its members will seek to influence governments, legislatures and their agencies regarding this approach and its value. ICE will challenge the position where the balance between engineering judgement and the adherence to procedures is inappropriate.
 6. ICE recognises the value and importance of safety, and will take steps to promote it in co-operation with relevant bodies and agencies.
 7. ICE will seek to educate its members and the public regarding the nature of risk.
 8. ICE will provide guidance to its directors, staff and committee chairmen so that the root causes of accidents may be discussed at ICE meetings and knowledge shared without committing the offence of Contempt of Court.
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Appendix

Background to the Policy Statement

1. ICE has at its heart a principal function to attract, qualify, and continuously develop, its members whose skills and professionalism help create wealth and well-being for society at large. We consider it to be of fundamental importance, in this role of advancing and protecting the public interest, to encourage and support conditions which enable ICE members to exercise reasonable care, imagination and engineering judgement, backed by appropriate checks and quality controls.
2. In the last few years there has been an increase in the political pressure to make individuals and corporate bodies more demonstrably responsible for health and safety failings. This debate has focussed on proposed changes to the existing law of corporate manslaughter¹ in England and Wales (corporate culpable homicide² in Scotland) and an increasing emphasis on the individual in health and safety prosecutions. It is against this background that ICE has produced this statement.
3. The policy statement has been written primarily to focus on the relevant jurisdictions within the UK; the principles are nevertheless likely to be of assistance to members working within other jurisdictions.

¹ The Corporate Manslaughter Bill was published in March 2005 and considered by the Work and Pensions and Home Affairs Select Committees. Their report was published in March 2006.

² The Scottish Executive considered an offence of Corporate Homicide. It commissioned a report by an Expert group which was published in November 2005.
