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School prosecuted

We have, on previous occasions, reported the prosecutions of three science teachers, following various laboratory incidents. Now, for the first time, we have heard of a school being prosecuted as a result of an accident during a science activity. Briefly, during an open evening, and under the general supervision of a science teacher, pupils were demonstrating how to make sparklers by dipping splints coated in glue into a mixture of potassium chlorate and magnesium powder. Something went wrong, an explosion occurred and two pupils were seriously injured. The investigation by the Health and Safety Executive (HSE) failed to establish the exact cause of the explosion, but chlorate/metal mixtures are notoriously unstable, which is why all the standard school safety texts warn against making them.

The HSE case was that the school had a clear health and safety policy and the science department handbook had guidance on risk assessment, but none of the science staff had any formal training on risk assessment and there were no systems in place for checking that the policies were, in fact, being implemented. Under the Health and Safety at Work Act, an employer is legally responsible for the health and safety not only of his employees but also of persons not in his employment (in this case, pupils and visitors to the open evening). It is highly significant that on this occasion the teacher who organised the practical work was *not* prosecuted. The essence of the prosecution case is that merely providing safety information and setting up procedures is not enough – the employer should provide training and then monitor that procedures are actually being implemented. Previous prosecutions of science teachers have, in effect, been based on their flagrant disregard of established safety precautions; this goes further and emphasises that employers must ensure their employees are trained and check that they are following established safe practice.

The school in question was grant maintained, so the employer was the Governing Body. Magistrates imposed a fine of £7,000 (plus costs of over £1,000). The fine was imposed not on the governors as individuals, but on the corporate body, i.e. the school. Consequently, there was £8,000 less to spend on teachers, technicians, test tubes and textbooks.

It is worth emphasising that formal training in risk assessment does *not* require detailed form-filling. The HSE is perfectly happy with brief safety information written on point-of-use texts[1]. Training can be provided in-house by the head of department, although dates on which it took place and who was present at the time should be recorded. There would be advantages in the head of department, at least, going on an external course, such as those run by ASE, CLEAPSS or SSERC for their members. Employees, such as teachers (and especially heads of department), have a legal duty to point out to their employer any deficiencies as far as health and safety are concerned. Deficiencies could include inadequate training, or a failure to implement a safety policy.

Reference

1. David Tawney (1992) Assessment of Risk and School Science *SSR* (267), December 1992, 7; also reprinted in *Safety Reprints* (1996) ASE.