

£400,000 New Look fine will shake up fire safety risk profile

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Businesses are going to have to take a fresh look at their fire safety regulations after a £400,000 fine imposed on New Look was upheld by the Court of Appeal.

A fire broke out at the fashion retailer's Oxford Street store on 26 April 2009, and around 400 people had to be evacuated. No one was hurt.

It was later found that there was an inadequate risk assessment, a lack of trained fire marshals to assist evacuation, and that escape routes were not clearly identified and were obstructed, in some places by combustible materials. However, none of these contributed to the fire itself.

In rejecting New Look's appeal against the fine, the Court sent a clear message that those in control of premises subject to the Regulatory Reform (Fire Safety) Order 2005 cannot dedicate fewer resources to fire safety than they do to meeting health and safety requirements.

Fire safety procedures and training policies must be comprehensive, up-to-date, and kept under review if risks are to be guarded against.

New Look's prosecution flowed from numerous breaches of the Regulations, which were consolidated into two offences:

- failure to identify via appropriate assessment of the specific risks posed to individuals, the precautions necessary to ensure compliance with the regulations
- failure to ensure that employees were provided with adequate safety training.

The offences attracted fines of £250,000 and £150,000 respectively, and New Look was also ordered to pay the £136,000 prosecution costs. The court said the lack of competent fire marshals to coordinate the evacuation showed New Look's failure to implement an organised system and revealed shortcomings in fire drill and staff training.

The court acknowledged that the £400,000 was severe, but did not deem it to be disproportionate to the circumstances. The judge said: "The absence of death and injury is plainly an important matter in this case, but I

consider there are circumstances in which a court may not need to wait for the onset of human tragedy to send out a clear message that safety of customers and staff, or indeed anyone who may be affected, must be regarded as of paramount importance."

The Court's message appears to be that allowing continued fire safety risks creates a risk of almost unrivalled proportions to individuals, and that this should be reflected in any penalties.

In passing sentence, the Court's three principal considerations were:

- the seriousness of the breach
- the capacity of the organisation to meet the fine
- the need for the fine to make an impact on shareholders and senior managers

New Look was also criticised for having just one fire safety advisor for a group comprising of more than 600 shops. This, together with the fact the risks could have been removed at relatively little cost or inconvenience showed a dismissive attitude towards its fire safety obligations, according to the Court.

The hefty fine removes any doubt that retailers, and other organisations responsible for fire safety, cannot be complacent when it comes to complying with the Regulations. This was a penalty imposed because of a failure to control risk rather than as a result of injury.

So those in control of premises subject to the Regulations should review current policies to ensure compliance, and should also consider the structure and layout of premises, and what goes on in them.

Those responsible for fire safety must not overlook the location of buildings or their immediate landscape, because there may be a higher level of obligation in a highly populated location or due to the features of neighbouring structures. Outside areas and vacant premises must also be considered when risk assessments are carried out, and training must be thorough and up-to-date.

Whatever the opinion about the level of fine, there is no question that management ignoring or failing to address fire safety risk obligations properly, do so at their peril.



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