



Orewa College explosion lessons learnt

Extracts from a memo from NZ School Trustees Association

Date: 28 July 2010

Subject: Health and Safety Matters - Orewa Explosion – lessons to be learned

Purpose: Following the Court decision on the Orewa boiler explosion boards have been inquiring what impact this has on them, [Orewa college lessons learnt](#).

Background: In 2009 a boiler explosion at Orewa College killed the school caretaker and injured a visiting maintenance contractor.

Court decision: The prosecution was of the Board of Trustees, not the individuals who comprise it, because it is the Board, as the employer, that has responsibilities under the Health and Safety in Employment Act. Individual members of school boards cannot be held personally liable.

Orewa College Board of Trustees was sentenced on two charges laid by the Department of Labour under the Health and Safety in Employment Act 1992 in relation to a boiler explosion in June 2009. A Board are able to be prosecuted in that Act but cannot be fined as they are a Crown Entity and are subject to orders of reparation. The Court in this case ordered \$81,100 in respect of the school caretaker who died and \$55,729 to the injured contractor.

So what are the key messages?

Overall Health and Safety: By law, Boards of Trustees have overall control of their school. While they may delegate this on a day-to-day basis, they still retain responsibility for the health and safety of people working at, attending or visiting the school. This includes making sure that systems are in place so that potential risks or hazards are identified and managed.

It's important that the focus is not solely on boilers. Boards need to ensure that they review their overall health and safety procedures and systems at least annually across the whole of the school. Because of the varying sizes of schools various arrangements will need to be in place in terms of responsibilities, in larger workplaces the health and safety committee needs to be operating effectively.

What protections can be taken on liability? Liability insurance will cover certain aspects of potential liability, you should check with your insurer what provisions apply to you.

See sections 38 and 39 of "[The Health and Safety Code of Practice for State and State Integrated Schools](#)". To qualify a board of trustees must report immediately to the Ministry of Education if issued with an Improvement Notice or Prohibition Notice, or if any health or safety incident occurs that could give rise to an offence under the Act.

In terms of boilers: Boards have already been advised that as part of their overall health and safety system they ensure that prior to firing up their boilers there is:

- an annual independent inspection,
- a regular maintenance contract, and
- their boiler operators are trained

NZSTA Media Statement

“The judgment today against the board of trustees at Orewa College has brought to focus some key issues,” says NZSTA President Lorraine Kerr.

“It’s a tragic event and the impact has been significant for all. We need to learn from that going forward to avoid this being repeated.”

For school boards of trustees, and those that have to do the day to day management, the degree of compliance and wide number of requirements placed on them not only makes the task daunting, but is confusing, as they attempt to ensure they provide a safe environment for students and the people working in our schools.

NZSTA outlined a number of these concerns in their recent submission to the Department of Labour review of the Boiler Codes of Practice and we have also asked the Ministry of Education for clearer support and guidance to be provided. Not simply more “manuals” but real assistance to boards. This needs to be done urgently.

“We are pleased that both the Department of Labour and the Ministry of Education have committed to work with NZSTA to ensure the support and key messages are out there.

“The need for training and support to be available to all, and particularly to new boards of trustees, is key, and we will be working to support boards to understand and meet their responsibilities in this area.”

So what are the key messages?

“Boards need to ensure they institute a review of their health and safety procedures annually across the whole of the school and that their health and safety committee is operating effectively.

“Boards have already been advised to ensure that prior to firing up their boilers for winter there is:

- an annual independent inspection,
- a regular maintenance contract, and
- their boiler operators are trained

“Department of Labour, NZSTA, and the Ministry of Education are to work together to assist boards in ensuring they both understand and are compliant with whatever rules are imposed upon them. A clear guidance on the requirements of the codes of practice is essential so that we have an integrated approach to how the codes are formulated and consistency of language that is relevant to the sector.”

Department of Labour

The death of a school caretaker and the penalties imposed today on the school’s Board of Trustees underline the importance of keeping workplaces safe, the Department of Labour says.

Orewa College Board of Trustees was sentenced in the North Shore District Court today on two charges laid by the Department under the Health and Safety in Employment Act 1992 in relation to a boiler explosion in June 2009. The Board was ordered to pay reparation of \$81,100 in respect of caretaker Richard Nel, and \$55,729 for injured contractor Robin Tubman.

“The death of Richard Nel and the serious injury to Robin Tubman were preventable, and are a reminder of why workplace health and safety is so very important, and of why those responsible for keeping workplaces safe must do so effectively,” says Department of Labour Northern Region Manager John Howard.

The Board of Trustees had earlier admitted it did not take all practicable steps to ensure the safety of an employee while at work, or ensure that a hazard in the workplace did not harm an employee or contractor.

Mr Howard says that, by law, Boards of Trustees have overall control of their school. While they may delegate this on a day-to-day basis, they still retain responsibility for the health and safety of people working at, attending or visiting the school. This includes making sure that systems are in place so that hazards are identified and managed.

“Unfortunately, the Orewa College Board of Trustees did not ensure the school’s boiler facilities were repaired, modified and maintained in a safe and effective manner.”

Mr Howard says the Department investigated the accident as part of its responsibilities under the Health and Safety in Employment Act 1992.

The prosecution was of the Board of Trustees, not the individuals who comprise it, because it is the Board, as the employer, that has responsibilities under the Health and Safety in Employment Act. Individual members of school boards cannot be held personally liable.

He says the Department, the New Zealand School Trustees Association and the Ministry of Education have been working together to reinforce the need for workplace safety in schools - in particular, school boiler safety, given that around 40 percent of the nearly 2500 schools in New Zealand use boilers for heating.

“We are working together to make sure Boards of Trustees understand what is required of them to manage boilers safely and effectively – this includes an annual independent inspection, a regular maintenance contract and making sure boiler operators are trained.”

“We all think it important that school boards take steps to ensure no further events of this nature.”