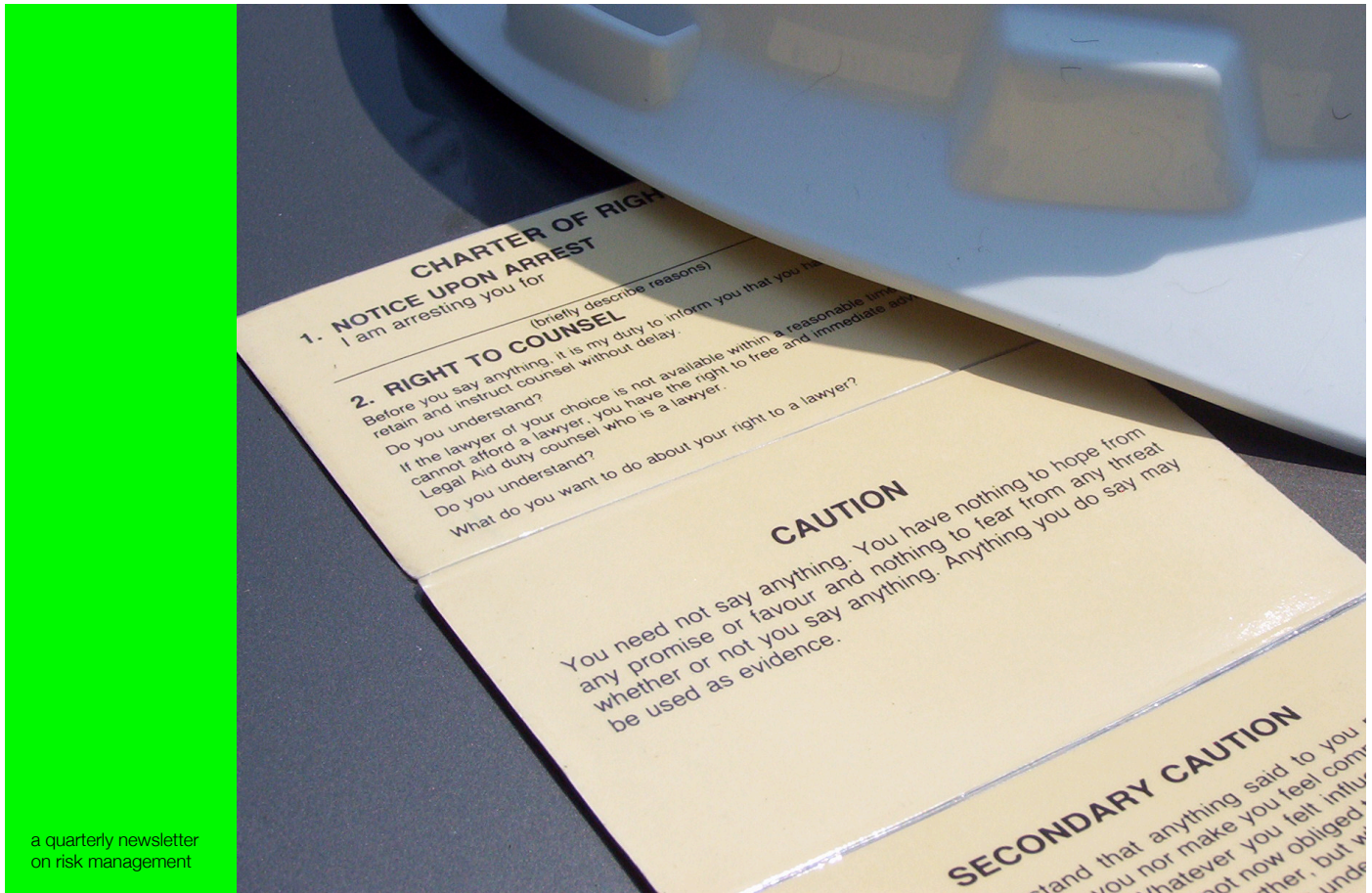


# OHSQUARTERLY

Spring 2008



a quarterly newsletter  
on risk management

## Due Diligence What does it mean and what do I need to do to be duly diligent?

By Tim Delaney

Due diligence: a measure of prudence, activity, or assiduity, as is properly to be expected from, and ordinarily exercised by, a reasonable and prudent person under the particular circumstances; not measured by any absolute standard but depends on the relative facts of the special case.

With regard to OHS (and some other things in life like environmental or motor vehicle laws) it's a legal defence that relies on your having taken all

reasonable action, under the circumstances.

Therefore, there are 3 elements to consider: the circumstances, the action you took and your ability to prove it. Easy. So where do we go from here?

**The organization.** The executive layer of an organization are the visionaries that decide what we're going to do in the departments and NSAC. This would include our general direction as an organization, as well as major programs and disciplinary procedure for anyone

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who does not follow the rules. They also create and dictate corporate culture.

So what does this have to do with due diligence? Plenty. The executive is responsible to consider all aspects of how the organization runs and potential problems that can arise. This gives rise to a few different executive initiatives: the creation of an OHS policy and program; the establishment of a joint occupational health and safety committee; and the development and nurturing of a safety culture.

The OHS policy, found in Chapter 6 of Management Manual #500, states the organization will do everything within its power to provide a healthy and safe workplace. The program spells out details of how that will be done, namely through hazard recognition and risk assessment, preventive measures to control risk, an inspection program to make sure the system is working and an investigation program to determine why something in the system may have failed.

While the executive may not know the details of every minor incident, there needs to be a method where the executive is made aware of significant incidents or gaps in its safety program.

Another part of the program is the commitment to JOHSCs. The executive facilitates the formation of these committees by providing time, space and resources necessary for them to function properly. They provide employer representatives to serve on the committees. Employees choose their own representatives, but the employer creates and nurtures an inclusive and participative culture, where employees are encouraged to carry out their role on the JOHSC.

For the executive, proving due diligence amounts to the physical program, training and discipline measures, as well as the establishment and ongoing support of the JOHSC. It would also consist of record-keeping and appropriate action when incidents or program infractions occur.

**Management.** They're smack in the middle of things. While the JOHSC is essential to health and safety in the workplace – especially in terms of auditing the system – supervisory management is where the rubber hits the road. Without proper supervision, operational staff: may lack training or competence for a task; they may get away with not following safe work practices; and their concerns may not receive the attention and action necessary to make the workplace safe.

Supervisors have to be able to prove they have competent people in the jobs assigned; that those employees are working safely; that they have disciplined workers who have not followed the rules; that problems that could be of interest to the executive get reported up the line; and that they are

## Due Diligence Checklist

### Executive/Corporate

- create a written OHS program
- provide appropriate training
- competent supervision
- discipline
- safety rules
- audits
- proving due diligence

### Supervisory

- regular checks and audits
- adequate supervision
- remind workers to wear protective equipment
- workers trained in assigned tasks
- discipline procedure
- safety meetings
- record keeping
- familiarity with OHS Act & Regs

### Employee

- wear personal protective equipment
- follow safety procedures
- familiarity with OHS Act & Regs
- pre-op equipment check
- reporting of concerns
- competence for assigned tasks

knowledgeable in the *OHS Act* and the applicable regulations.

How do supervisors do this? Keep records. Record training employees have received, inspections you have done, safety meetings you have held, and so on. The level of supervision has to be in line with the degree of risk. Supervisors of staff doing relatively low risk activities, such as office work, do not need to supervise as intensively as someone supervising people who work with machinery or hazardous materials. Supervisors: if an issue comes up that might impact your boss Tell them and keep a record of it!

Records might be a note on a calendar, on a personnel folder, an email or anything that can be recalled, if needed.

**Employees .** You've got a fairly straightforward role in terms of due diligence. If you are competent in the task assigned and you follow the safety rules, you're probably fine. If you have a concern, you have an obligation to report it to your supervisor. Like the supervisor, you will want to keep records of anything noteworthy.

**The bottom line.** Record-keeping. Whatever method you use, make sure you can go back to your records if need be. Without adequate records, you may not be able to prove due diligence. With good records, you may never have to.

# “No Scents is Good Sense?”

## Consideration for co-workers with sensitivities

By Tim Delaney

I'm not crazy about slogans, but the reality is some of our colleagues and clients are sensitive to some odours or fragrances. Until science catches up and explains what some people are experiencing, this is one of the more challenging OHS issues we're faced with.

Anyone who accidentally hits their thumb with a hammer will bruise it. Anyone. Everyone. It's obvious. However, if you smell a fragrance another person is wearing, you may enjoy it, dislike it, or suffer physical effects. These effects can range from difficulty with concentration, headaches, dizziness or nausea to shortness of breath or allergy-like symptoms. Scents may be implicated in some asthmatic attacks. The problem is that it doesn't affect all people and it doesn't affect sensitive individuals in the same way or to the same degree.

Historically, we've treated this issue using the “good neighbour” approach: “please be considerate of your co-workers and clients and refrain from wearing scented products”. Thankfully, most people are thoughtful and curtail the use of their favourite fragrance out of consideration for others.

For the few people who deliberately continue to wear fragrances that affect others, it presents a problem for the sensitive person and management.

**... effects may include difficulty with concentration, headaches, dizziness, nausea, shortness of breath or allergy-like symptoms...**

Illness, suffering, lost time or lost productivity aren't indicators of a healthy and safe workplace!

So, what can we do? We can, and will, remind people to please reduce or eliminate their use of scented products. If you are sensitive, please let your supervisor know this and the extent of your sensitivity. If there is a specific person who is wearing a scented product, let them know it is bothering you. If you've already informed your supervisor, they would do this on your behalf.

For the supervisor, a staff member's fragrance sensitivity may result in decreased performance or increased absenteeism. While the supervisor may use different tactics for managing the problem, the simplest approach is to communicate with the fragrance wearer, emphasizing the importance of this issue.

We've made a minor update to the “no scents” poster and it's available on the website ([www.gov.ns.ca/agri/ohs](http://www.gov.ns.ca/agri/ohs)) for download.

## General reminder

A general inspection form is available on the website at: [www.gov.ns.ca/agri/ohs](http://www.gov.ns.ca/agri/ohs)

Feel free to modify it to fit your needs.

**Formal Workplace Inspections** – I'll be visiting the regional offices in July and August for a couple of reasons. The main reason is to carry out “threat risk assessments” from a security point of view.

While I'm around, I may be assisting management with their yearly formal inspections, if they haven't already done them (and they want the

extra set of eyes!). I'll be contacting the office manager/lead employee prior to my visit.

**Security Issues** – Stay tuned for the next quarterly – we'll be giving a brief overview of security at the workplace and some ideas you can use at home.

**Have a great summer!**

If you have any comments, suggestions for future articles or would like to submit an article, please contact Tim Delaney at 424-0319 or by email at [delanets@gov.ns.ca](mailto:delanets@gov.ns.ca)

Our Summer '08 newsletter will be posted in early July.