

The following article is an extract from the fifth issue of METTLE, a collection of stories and interviews with influential New Zealand business leaders, curated by MinterEllisonRuddWatts.

# A NONCHALANT NATION

## IS NEW ZEALAND TOO LAID BACK TO CARE ABOUT HEALTH & SAFETY?

New Zealand's innovative, risk-taking, 'she'll be right' culture is responsible for many of the businesses and inventions that are now firmly on the world stage. This approach means Kiwis are well-placed to add value and innovate where others may struggle to see the same opportunities.

But is New Zealand's 'Number 8 Wire' mentality creating barriers to the country having safer, healthier working environments?

As we sit on the precipice of the Health and Safety at Work Act 2015 coming into effect in April 2016, METtle spoke to John O'Rourke, a Health & Safety director with over 20 years' experience, most recently as Group Director H&S for Lion Ltd in Sydney. O'Rourke has joined MinterEllisonRuddWatts as a Health and Safety consultant, and explains why culture is so central to ingraining better workplace practices here on our shores.





## **NEW ZEALAND'S LAID BACK CULTURE CREATES BARRIERS FOR HEALTH & SAFETY**

O'Rourke says that Kiwis are often viewed by Australians as being too laid back and risky, particularly when it comes to H&S issues at work.

"Since the harmonisation of H&S regulations, safety is given much higher priority in Australia than in New Zealand, and the fines associated with incidents have been increasing significantly. Of course, in New Zealand you will find that most, if not all, large organisations take their H&S responsibilities very seriously. However, it can be difficult to put those systems in place and be systematic in the approach for smaller SME's.

"Complacency is a risk for companies who do not review their current approach to H&S and make the changes required to reflect the new expectations of society: to keep people safe at work. I've seen a cultural shift in Australia over the past two years, where businesses are now embracing the joint effort required to be safe, and New Zealand needs to find a way to follow suit."

Perhaps it took something like the Pike River Mine tragedy to focus national attention. As O'Rourke explains, it's been a long time coming: "Safety experts have long predicted that an overhaul of H&S legislation was due because the risks were evident, so questions have inevitably arisen about any perceived lack of action. Society and Parliament are now responding."

## **WHAT INTERESTS MY BOSS, FASCINATES ME: CREATING A TOP-DOWN H&S CULTURE**

When it comes to creating a safety culture, it has to be driven through a top down effort.

O'Rourke says that directors and officers will either be a barrier or an enabler for safer work environments: "This requires a greater level of understanding of the risks each business may have, and ensuring these risks are controlled and reported upon appropriately."

The natural dynamics between the board and the executive leadership team will increase as the new legislation brings the two parties closer than ever. O'Rourke says with increased personal liability and due diligence responsibilities, directors will have to ask even harder questions of management.

"At the board level, H&S issues shouldn't be a 'tick and flick' line item. H&S reporting, which should include both lead and lag indicators, needs to be ingrained into board and executive meetings, with an emphasis on identifying proactive opportunities to enhance safety."







**“If you don’t know what keeps your H&S team up at night, then you are vulnerable to problems you don’t even know exist.”**

John O'Rourke, Group Director H&S for Lion Ltd





## JOHN O'ROURKE'S THREE QUESTIONS

# ARE YOU PREPARED FOR THE H&S REGULATIONS COMING INTO EFFECT?

1

Do you have a Health and Safety plan which will stand up to independent scrutiny if audited?

2

Do you personally understand (and can talk to if questioned) the unique Health and Safety aspects of your business?

3

Do you understand the changes in D/O liability under the new legislation and have the plan, process and reporting structures in place to prove your actions to the regulator if an accident does occur?

O'Rourke says that having the CEO deliver H&S messages to governance, leadership and employee groups signals their importance: "All too often, if there's a H&S director/manager in the room, everyone will defer to them on safety issues. I challenge that notion; it should be the role of the leaders of the business. It's your people, your culture, your company – so take a stand and be heard when it comes to promoting H&S."

"In a leader-led culture, the oft-mentioned adage of 'What interests my boss, fascinates me' takes on a new meaning. If site managers and foremen know that their manager is likely to be asking about H&S issues at the site, because they have also faced questions from the CEO or board, then they are more motivated to equip themselves to have the answers available."

#### **WORKSAFE FINDS ITS TEETH**

WorkSafe has become increasingly visible in the lead up to the regulatory shift, and they're sending some pointed messages to directors. It's not just the visibility that is ramping up: it's the fines too.

"In the new environment, serious breaches could be met with fines upwards of \$100,000, whereas the same incident would have been met with a fine of \$10,000 – \$20,000 under the previous regime. One recent example, which should send a strong signal of WorkSafe's intent to the governance community, was a \$115,000 fine handed down to an inflatable slide operator charged with obstructing a safety inspector investigating an incident. This demonstrates the increased gravity with which WorkSafe is treating incidents."

O'Rourke also says the H&S changes in Australia came with a 'grace' period to allow organisations to come to grips with the changes – and they needed it.

"It took boards a good six months for the message to sink in across the ditch, and a further 12 months for them to build their understanding and awareness and to start getting on top of what to do about it. The risk is having a level of false confidence in New Zealand – directors think they have it under control, but if you scratch below the surface there are significant gaps. In New Zealand, I don't believe we will have the luxury of that initial leniency, so we will start to see the impact of the new laws in the next 12-24 months as the prosecutions work their way through the courts. In short, directors and officers need H&S to be a priority now."

#### **THE BUCK STOPS HERE, WITH YOU**

It can be all too easy for issues to be swept under the rug, whether that's through intentional ignorance, the pursuit of cost savings, or through a cultural approach that is too relaxed

when it comes to workplace safety. However, the arrival of new legislation, liability and the public pressure that has evolved following the Pike River Mine tragedy has created a tipping point where something must change.

O'Rourke says that turning the corner is a shared responsibility, but that some of us have a greater obligation and responsibility to step up and lead than others.

**"Safety is a value that we can sometimes take for granted. It needs constant focus and involvement by everyone."**

Though safety is everyone's responsibility, ultimately the safety culture of an organisation reflects the level of involvement by the board and senior leadership in the business. Therefore, directors and officers have to be engaged in this aspect of their business – this is the time for leadership, cultural shifts, hard questions, and no more excuses.

"What would I be doing if I was on a board, where the buck stops with me? I'd be talking to the person responsible for H&S i.e. the business/site leaders, and truly understanding what keeps them up at night. If you can't answer that question – then you are vulnerable to problems you don't even know exist as a board member."

So what's at stake if NZ Inc. doesn't fully embrace the new H&S legislation? O'Rourke says nothing less than the moral and financial responsibilities of every party involved.

**"The impact on New Zealand will be significant if these changes are not fully supported by every stakeholder involved; not just morally or financially, but NZ Inc. and the business brands here will continue to be labelled 'laid back' in regards to safety on an international level."**

Is that what we want for New Zealand's future?

I wouldn't think so." 