

# PREPARING A H&S CASE FOR COURT

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# TOPICS FOR TODAY

- Evidence
- Witnesses
- Defendant/s
- Ancillary Orders (costs)

# EVIDENCE

- Any likely preliminary issues (i.e. abuse of process)?
- Impact on evidence gathering or process of parallel (i.e. coronial or regulatory) investigations?
- Applying the full code test and your own enforcement policy
- Unused material
- Third Party Material
- Presentation of papers to the court and defence (paper or electronic/ both)
- Hearsay and/ or bad character applications

# Full Code Test

- When to apply:
  - When all outstanding reasonable lines of enquiry have been pursued; or
  - Prior to the investigation being completed if the prosecutor is satisfied that any further material or evidence is unlikely to affect the application of the Full Code Test
- 2 limbs:
  - Is there sufficient evidence to provide a realistic prospect of conviction against each suspect on each charge?
  - Is a prosecution required in the public interest?

# DISCLOSURE

## **Attorney General's Guidelines on Disclosure**

**For investigators, prosecutors and defence  
practitioners**

# WITNESSES

- Victim Personal Statement
- Special Measures (ABE?)
- Availability
  - Hearsay
- Availability

# DEFENDANT

- Bad character/ antecedents
  - Previous convictions?
  - Previous enforcement action?
- Health
- Financial circumstances

# REQUIREMENT FOR ANY ANCILLARY ORDERS?

- Compensation
- Remediation
- Directors Disqualification
- Costs



# SENTENCING GUIDELINES

Sentencing  
Council

## Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences

DEFINITIVE GUIDELINE