

Learning lessons in a litigious environment – the challenge for modern ESOs

Catherine Dunlop¹,

1 Maddocks Lawyers, 140 William Street, Melbourne, VIC, 3000,
catherine.dunlop@maddocks.com.au

Modern fire services strive to conduct comprehensive reviews of their operational and community engagement performance. From these reviews they develop 'Lessons Learned' reports and engage with stakeholders to discuss how to improve their service. The reviews can be confronting for those involved, and are often contain a number of recommendations about how things can be improved.

The challenge for ESOs is how to conduct these inquiries into matters that are subject to the scrutiny of a legal process. Increasingly ESOs are facing the prospect of litigation from disgruntled community members, lengthy and complex inquires and inquests, or prosecutions under occupational health and safety legislation. What is said in Lessons Learned reports can come back to haunt an agency, and it can lead to a loss of insurance indemnification and amount to an admission of legal liability. At the same time a failure to appropriately investigate an incident can mean the ESO is doomed to repeat its mistakes, possibly at a cost to life.

This paper will address how it is that ESOs can meet this challenge. It will question whether it is ever really possible to conduct a 'warts n'all' review of an incident when the spectre of a legal proceeding is hanging over you. It will address practical ways for ESOs to protect their legal position at the same time as having an honest look at their operations so they can learn from their mistakes and provide a better service for members and the community.

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Key Words

Lessons Learned, Litigation, Operational Investigations, Occupational Health & Safety, Inquests, Emergency Services Law