No-Injury and Near-Miss Prosecutions

Under UK Health and Safety Law

HSE's Stated Aim, Trend Analysis and Forward Look, Methodology and Caveats

Compiled 13 September 2026

Executive Summary

What this report found

This report reviews UK Health and Safety Executive (HSE) and Office of Rail and Road (ORR) prosecutions brought for creating a serious risk of harm where no actual injury, illness or fatality occurred. Four findings stand out:

- HSE's legal and policy position is that the offence lies in creating the risk, not in whether that risk went on to cause harm. Enforcement, sentencing, and HSE's own published strategy are all built around this principle.
- Fines running into the hundreds of thousands of pounds — and in some cases millions — have been imposed for risk alone, driven by HSE's 2022–2032 strategy, deterrence-led publicity, and an expanded internal legal resource dedicated to prosecutions.
- An apparent rise in these cases since 2023 is real in part but is also substantially inflated by which years are easiest to find online; the underlying dataset is a sample, not a complete record (see Parts Two to Four).
- Activity in this area is judged likely to hold steady or rise modestly through 2027, but this is a directional view, not a statistical forecast.

Rationale for compiling this report

The purpose of this report is not purely descriptive. Its practical value to a commercial organisation is what this body of cases proves about how UK law, its enforcer and its courts actually treat risk-based decision-making — and specifically, that an organisation must not use economic reasoning as the only, or even the primary, metric for deciding how far up the health and safety hierarchy of controls it goes.

The duty under sections 2 and 3 of the Health and Safety at Work etc. Act 1974 to ensure safety ‘so far as is reasonably practicable’ does allow a duty holder to weigh the sacrifice — cost, time, trouble — of a control measure against the risk it addresses. But that weighing is only permitted where the cost is grossly disproportionate to the risk (the test established in Edwards v National Coal Board [1949]), it is a legal proportionality test applied by a court after the fact, not a commercial cost-benefit judgement the business gets to make for itself, and the burden of proving disproportion rests entirely on the duty holder.

Separately, the Management of Health and Safety at Work Regulations 1999 (Schedule 1) sets out the general principles of prevention as a mandatory hierarchy: avoid risks; evaluate those that cannot be avoided; combat them at source; and prefer collective protective measures over individual measures such as PPE. This hierarchy must be worked through in order — an organisation cannot lawfully skip to a cheaper, lower-order control (for example, PPE or administrative procedures) simply because it costs less than eliminating, substituting, or engineering out the risk.

R v Chargot Ltd (t/a Contract Services) [2008] UKHL 73 confirmed that the offence is constituted by the failure to ensure safety — the existence of an unmanaged risk — independent of whether harm resulted. The prosecutions catalogued in Parts One and Two of this report are the practical, current evidence of that principle being actively enforced, at real financial cost, even where nothing went wrong and no one was hurt.

The implication for a commercial organisation is direct: choosing a lower-order control primarily because it is cheaper, without first establishing that a higher-order control really would be grossly disproportionate in cost to the risk, leaves the organisation exposed to prosecution and material fines regardless of whether an incident ever occurs. ‘It was cheaper’ and ‘it hadn't caused a problem

yet’ are not defences recognised by HSE, the courts, or the Sentencing Guideline. Safety decisions should therefore be documented as a risk-led hierarchy assessment — showing why each control was chosen and why any step down the hierarchy was not grossly disproportionate — rather than as a straightforward cost comparison.

About this report

This report examines UK Health and Safety Executive (HSE) and Office of Rail and Road (ORR) prosecutions where the offence concerned the creation of a risk of serious harm, rather than an injury, illness or fatality that actually occurred. It draws on a dataset of prosecutions compiled from HSE press releases, ORR press releases and secondary legal/compliance sources, spanning 2016 (when the Sentencing Council's definitive guideline took effect) to 2026. The report sets out HSE's own stated rationale for pursuing this category of case, analyses the year-by-year pattern in the compiled dataset and offers a cautious forward look, and documents the research methodology and its limitations in full.

Part One — HSE's Stated Aim

The legal basis: risk, not outcome

Sections 2 and 3 of the Health and Safety at Work etc. Act 1974 require employers and other duty holders to ensure health and safety ‘so far as is reasonably practicable’. The duty is breached the moment a risk is inadequately controlled — not only when that risk materialises into an actual injury. Once the prosecution shows a risk existed, the burden switches to the defendant to prove it took all reasonably practicable steps to control it. This is the statutory foundation for prosecuting ‘near miss’ and risk-creation cases: HSE does not need anyone to have been hurt to bring a case, and in law an injury is not an element of the offence.

The Enforcement Policy Statement

HSE's Enforcement Policy Statement (HSE41) commits HSE to enforcement that is proportionate, targeted, consistent, transparent and accountable. Within that framework, HSE has consistently stated that the presence of a serious risk is itself sufficient grounds for enforcement action, including prosecution, irrespective of whether the risk led to actual harm. Inspectors are directed to act on the severity of the risk they find, not to wait for an accident before intervening.

The sentencing framework treats risk and harm separately

The Sentencing Council's 2016 Definitive Guideline for health and safety offences explicitly separates ‘harm risked’ from ‘harm actually caused’ when fixing the harm category at Step One. The guideline's own commentary treats whether a risk materialises into actual injury as ‘a matter of chance’ — relevant to the fine in only a limited way — rather than as the basis for punishment. This is precisely why fines of several hundred thousand pounds, and occasionally millions, have been imposed in cases with no injury at all: culpability and the seriousness of the risk created, not the outcome, drive the sentence.

A deterrence-led enforcement and communications strategy

HSE's published strategy, ‘Protecting People and Places’ (2022–2032), and its recent business plans frame prosecution as a preventive and deterrent tool, not solely a punitive response to harm already done. HSE has expanded its internal legal resource specifically ‘to lead prosecutions to produce a more consistent and efficient process’, and its annual reporting (246 completed criminal prosecutions, a 96% conviction rate, and fines exceeding £33 million in the most recent reporting year) is presented as evidence of an active, visible enforcement regime. Publicising near-miss and risk-only convictions — often accompanied by inspector commentary along the lines of ‘it is only luck this did not end in tragedy’ — is a deliberate communications choice: it signals to industry that HSE will act before someone is killed or injured, not only afterward.

Priority areas shaping case selection

HSE's current priorities — asbestos control, mental health risk management, musculoskeletal disorder prevention, and (newly, from 2025) workplace violence and aggression — shape which risks attract the most active scrutiny and enforcement attention, and by extension which no-injury cases are most likely to be pursued and publicised.

Part Two — Trend Analysis and a Forward Look

The compiled dataset

The table below shows the number of no-injury / near-miss HSE and ORR prosecutions identified per year in the compiled dataset (sentencing/fine date, not incident date).

Year	Cases identified
2016	3
2017	0
2018	14
2019	4
2020	1
2021	3
2022	2
2023	7
2024	7
2025	11
2026 (Jan–Sep, partial)	8

Reading the pattern

Two distinct forces are visible in these numbers, pulling in different directions:

- A real increase in enforcement activity and visibility since roughly 2023, consistent with HSE's expanded internal legal resource, its 2022–2032 strategy, and its stated intent to run a 'more consistent and efficient' prosecution process.
- A search-and-archive visibility bias that inflates recent years relative to earlier ones. HSE's own online archive reliably indexes cases only from around October 2021 onward, and general web search surfaces recent press releases far more readily than older ones. The 2018 spike, and the troughs in 2020 and 2022, are more likely artefacts of what is discoverable today than a true reflection of HSE's activity at the time.

Because of this, the dataset should be read as a lower-bound, visibility-constrained sample rather than a complete census, and the apparent year-on-year trend should not be treated as a reliable statistical time series (see Part Four).

Forward-looking prediction

With that caveat firmly attached, a directional (not quantitative) prediction can be offered:

- 2026 full year: on current pace (8 cases identified January–September), the full-year count is likely to land in the region of 10–12 — broadly consistent with 2025.
- 2027 and beyond: the number of publicised no-injury/near-miss prosecutions is more likely to hold steady or continue rising modestly than to fall, for as long as HSE's 2022–2032 strategy and expanded legal resourcing remain in place, and while HSE continues to use these cases for deterrence-led publicity.
- This is tempered by the fact that HSE's total prosecution volume (around 246 cases in the most recent reporting year) has been roughly flat rather than growing, so any increase in no-injury cases is more likely to reflect a shifting mix of case types within a stable overall caseload than a large absolute increase in prosecutions.

This prediction is a judgement call based on stated strategy and observed direction of travel, not a statistical forecast — the underlying data are not robust enough to support one (see Part Four).

Part Three — Methodology

Sources

- Primary: HSE's press office (press.hse.gov.uk) and, for rail-sector cases, the Office of Rail and Road (ORR) press releases.
- Secondary, cross-checking sources: legal and compliance-industry case roundups (e.g. Fieldfisher's Health and Safety Fines Bulletin series, HCR Law, Lexology contributor articles), which independently tag cases with an 'Injury' field drawn from the same primary releases.

Search process

Research was conducted in two passes, each split by year range and run as parallel research tasks, given that HSE's own site does not support reliable systematic browsing of its press archive by year or month (attempts to page through the archive returned empty results or server errors).

- Pass 1 (strict criteria): a case was included only where the source explicitly stated that no one was injured.
- Pass 2 (this expanded set, per instruction): the criteria were broadened to also include (a) cases where the source is silent on injury — i.e., no injury, illness or fatality is mentioned anywhere in the available text — and (b) cases whose headline uses the phrase 'near miss', even without an explicit body-text reconfirmation of no injury.
- Hard exclusion (applied in both passes): any case where the source explicitly states that an injury, illness or death occurred was excluded outright, regardless of how the headline was framed.
- Also excluded: civil/regulatory penalties that are not HSE or ORR criminal prosecutions under the Health and Safety at Work etc. Act 1974 (for example, Ofgem's redress-fund payments), since these are not comparable enforcement instruments.

Classification convention

Each case is classified to the year in which it was sentenced or fined, not the year the underlying incident occurred. This distinction matters: several strong candidate cases were excluded from a given year because, on verification, the incident took place in that year but the fine was not handed down until years later.

Part Four — Caveats and Limitations

- Not exhaustive. No public register of ‘no-injury’ HSE/ORR prosecutions exists. The dataset reflects what could be found through search engines and the limited HSE archive, not a complete record of every qualifying case since 2016.
- Tooling constraints. Every research pass, across both the strict and expanded criteria, exhausted its available web-search call budget before exhaustively covering its assigned year range, and fell back on direct page fetches that were often blocked, empty, or JavaScript-rendered and unreadable.
- Archive coverage gap. HSE's own press archive only reliably indexes posts from approximately October 2021 onward, systematically under-representing 2016–2021. 2017 in particular has zero confirmed cases in this dataset; this is very likely a visibility gap rather than a genuinely empty year.
- Weaker evidentiary standard in the expanded (Pass 2) set. Treating ‘no mention of injury’ as equivalent to ‘no injury occurred’ is a materially weaker signal than an explicit statement that no one was hurt. Silence in a press release is not proof of an outcome, so the expanded list carries a higher risk of false positives (cases wrongly included) than the original strict list, and the two should not be treated as equally reliable.
- Year-on-year counts are not a rigorous time series. Given the visibility and archive biases above, the counts in Part Two should be read as an illustrative, lower-bound sample, not as a robust statistical basis for measuring change over time.
- The forward-looking prediction in Part Two is directional judgement, informed by HSE's stated strategy and resourcing decisions, not a quantitative forecast derived from the case counts — the data are not statistically adequate to support the latter.

Sources

- HSE Enforcement Policy Statement (HSE41) — hse.gov.uk/pubns/hse41.PDF
- HSE Business Plan 2026 to 2027 — data.parliament.uk/DepositedPapers/Files/DEP2026-0361/HSE_Business_Plan_2026-27.pdf
- HSE Annual Statistics and Report 2025: Trends and Strategic Priorities for 2026 — DAC Beachcroft
- Decline in fatalities welcomed as HSE reveals safety priorities for 2026 — Health and Safety International
- When an HSE Inspector Calls – Part 2 — Beale & Co
- The Health and Safety Executive's recent prosecutions — HCR Law
- Defending Sections 2 and 3 HSWA prosecutions — Lexology
- Sentencing Council, Health and Safety Offences, Corporate Manslaughter and Food Safety and Hygiene Offences Definitive Guideline (2016)
- Edwards v National Coal Board [1949] 1 KB 704 (the ‘gross disproportion’ test for reasonable practicability)
- R v Chargot Ltd (t/a Contract Services) [2008] UKHL 73
- Management of Health and Safety at Work Regulations 1999, Schedule 1 (general principles of prevention)
- HSE and ORR press releases (press.hse.gov.uk; orr.gov.uk) underlying the individual cases in the compiled dataset