While the professional and business goal of getting things right in hazardous industries is not new, the changing social framing of risk and associated demands for risk mitigation put pressures on industry in a way that threatens to fundamentally change the way in which engineering professionals make decisions, and not necessarily always for the better. In this context, prosecution of experts in the wake of disasters has emerged as common as we have seen in the wake of the Deepwater Horizon blowout (USA, 2010), the L’Aquila earthquake (Italy, 2009) and the Wivenhoe Dam floods (Brisbane, 2010-11).

The aftermath of Wivenhoe and other similar cases have contributed to a growing conversation within the Australian engineering profession about expertise, liability and responsibility. To examine the impacts of prosecution on engineering practice, we have conducted a pilot survey regarding how personal liability considerations impact on engineers’ decision making. Almost all respondents saw questions of liability as having both positive (90% of respondents) and negative (87% of respondents) impacts when it comes to engineering decision making. We have evidence of the emergence of ‘defensive’ engineering and of professional paralysis as a result of litigation fears. Liability was seen to encourage more expensive decision making, inhibition of innovation and professional paralysis. We also argue that disaster inquiries where the focus is on assigning blame detract from opportunities to learn from incidents, and can negatively impact on professional practices. If the aim is to make future disasters less likely, then inquiries that take this approach may be failing in this endeavour, or at least not maximising their contribution.

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