



Corporate Manslaughter – What does it mean to you?

Introduction

The Corporate Manslaughter and Corporate Homicide Act 2007 is a landmark in law. For the first time, companies and organisations can be found guilty of corporate manslaughter as a result of serious management failures resulting in a gross breach of a duty of care. The Act, coming into force on 6 April 2008, clarifies the criminal liabilities of companies including large organisations where serious failures in the management of health and safety result in a fatality.



What's changed?

In truth very little has actually changed. Prosecutions will be of the corporate body and not individuals under the Act but the resulting bad publicity could be very damaging to an organisation. However, should the Act involve offences applicable to directors of a business under health and safety law they could still be prosecuted individually by HSE (where it can be shown that this would be in the public interest to do so).

***Interesting fact;** The Act also largely removes the Crown immunity that applies to the existing common law corporate manslaughter offence. This is welcome, and consistent with Government and HSC policy to secure the eventual removal of Crown immunity for health and safety offences. The Act provides a number of specific exemptions that cover public policy decisions and the exercise of core public functions.*

I've been told that I have new obligations under the Act, is this true?

The short answer is no. The Act does not add anything in terms of what you should do from a health and safety perspective, but now might be a good time to undertake an analysis of how you manage health and safety and how you could improve.

What issues should I consider in managing my risks?

Key points to cover would be;

- Induction and record keeping for new staff, visitors and contractors;
- Assessing the health and safety of your (sub) contractors;
- Proactive and visible health and safety in the form of audits, promotional materials and so on;
- Training of staff in the operation of equipment or the performance of key tasks;
- Updating risk assessments and COSHH assessments in line with any changes in the process or best practice;
- Completing a safety review, preferably independent, to benchmark your compliance against other similar organisations;
- Giving key staff working health and safety knowledge through recognised training.

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Can I do anything more to reduce my risk?

We would recommend that all Directors in the company read through HSE Guidance document INDG417 (Leading Health and Safety At Work).

You may also like to review any Directors and Officers Liability Cover you currently have to make sure you are protected against civil actions and for court representation should the worst occur. In preference, you could also consider a full Management Liability Portfolio covering all of your risks including Crisis Management Assistance.

We trust that the above provides a useful summary and food for thought but if you have further questions we look forward to talking to you. Just call 01458 253682 to speak to one of our experienced safety consultants.

References

Full text of the Act: http://www.opsi.gov.uk/acts/acts2007/ukpga_20070019_en_1