



First corporate manslaughter case

Introduction

The Corporate Manslaughter and Corporate Homicide Act 2007 ("the Act") came into force on 6th April 2008 and was intended to make it easier to prosecute large organisations for gross health and safety management failings. The first prosecution under the Act has been announced by the Crown Prosecution Service and concerns Cotswold Geotechnical Holdings ("the Company"), a small firm involved in geological site investigations, following the death of an employee at one of its sites in September 2008.

Facts of the case

A Geologist employed by Cotswold Geotechnical Holdings was collecting soil samples from a building site in Stroud when the sides of the pit he was working in collapsed, killing him.

The company has now been charged with the criminal offence of corporate manslaughter and, following a hearing last week at Bristol Crown Court, the matter has been listed for trial on 23rd February 2010. If convicted, the company faces an unlimited fine in addition to a remedial order and/or publicity order. In addition to this, a director of the company has also been charged with the common law offence of gross negligence manslaughter, which could result in the court imposing a custodial sentence of up to life imprisonment.

Issues to consider

Under the Act an organisation can be convicted of an offence where there has been a gross failure throughout the organisation in the management of health and safety which has resulted in the victim's death.

Whilst the Act does not require organisations to comply with

any new regulatory standards, it is intended to focus employers' attentions on their organisation's health and safety processes and procedures.

With many commentators predicting this to be the first of many prosecutions, employers would be well advised to take this opportunity to review;

- health and safety leadership within their organisation to ensure they are already meeting current health and safety laws; and
- safety management systems to ensure risks are being effectively managed throughout the workplace and consider whether improvements can be made.

Conclusion

Whilst this case represents the first to be tried under the new legislation, it is unlikely to give any real guidance on the new elements of the Act. The Act was introduced to target large organisations who would previously have evaded prosecution under the old law of corporate manslaughter which required prosecutors to identify a single "directing mind" who had been grossly negligent. Cotswold Geotechnical however, is a very small company with a single director and modest turnover and as such does not present any test of what is meant by "senior manager" under the new Act or whether it is now easier to prosecute large organisations.

Notwithstanding the above however, the case should serve as a warning to all organisations of the importance of ensuring they have in place effective health and safety management processes and procedures.

If you would like to receive more information regarding the contents of this newsletter or information on any other employment law related matters then please contact **Russell Brown** at Glaisyers Solicitors LLP, One St James's Square, Manchester M2 6DN. Tel: 0161 832 4666; Fax: 0161 832 1981; Email: rw@glaisyers.com

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