



QBE

Corporate
manslaughter

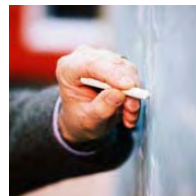
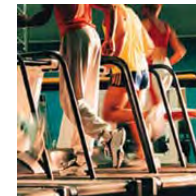


Corporate manslaughter

14 November 2007

Rodney Wilson

Partner, BLM Liverpool



Health and Safety

- Ownership of the health and safety policy by the board
- The provision of adequate resources for health and safety
- The appointment of competent health and safety advisers
- Appropriate risk assessments

Manslaughter

- Gross negligence manslaughter
- *R v Adomako*

Corporate manslaughter

- Identification principle
- Lyme Bay
- Attorney General reference no. 2 of 1999
- Barrow in Furness Borough Council

The Corporate Manslaughter and Corporate Homicide Act 2007

- Where the way in which an *organisation* manages or organises its activities causes a person's death and amounts to a *gross breach of a relevant duty of care* owed by the organisation to the deceased
- The way in which the organisation is managed by its senior management has to be a substantial element in the breach of the duty of care

Senior management

- those who play a significant role in making decisions about how the whole or a substantial part of the organisation's activities are to be managed or organised, or
- those who play a significant role in actually managing or organising the whole or a substantial part of those activities

Duty of care

- Relevant duty of care
- Owed to the deceased under the law of negligence

Duty of care owed as:

- Employer
- Occupier
- Supplier of goods, services, construction and maintenance operations
- User or keeper of plant and vehicles
- Supplier of any other activity on a commercial basis

Special cases

- Public policy decisions
- Military
- Police
- Emergency services
- Child protection and probation

Special orders

- Remedial orders
- Publicity orders
- Sentences

Practical steps

- Leading health and safety at work
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- <http://www.hse.gov.uk/pubns/indg417.pdf>.

More practical steps

- Ownership of the health and safety policy by the board
- The provision of adequate resources for health and safety
- The appointment of competent health and safety advisers
- Appropriate risk assessments

More practical steps

- The involvement of employees in decisions on health and safety
- Active and reactive information gathering
- Periodic audits on the effectiveness of management structures
- Procedures to implement new regulations and to deal with the impact of new work processes/products
- Review of health and safety performance by the board at least once a year

Barrow in Furness Borough Council

- Staff
- Training
- Policies
- Resources
- Risk assessments