

First Corporate Manslaughter Convictions

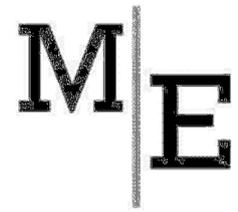
On 15 February 2011, Gloucestershire company Cotswold Geotechnical Holdings (CGH) became the first UK company to be convicted of the new offence of corporate manslaughter. CGH was convicted under the Corporate Manslaughter and Corporate Homicide Act 2007 and ordered to pay a fine of £385,000. The conviction followed the death of one of CGH's staff on 5th September 2008, when geologists Alex Wright died whilst investigating soil conditions in a deep trench on one of CGH's sites (which collapsed and killed him). This case is a timely warning for companies that may have downscaled their safety departments and reduced their investment on training during the economic crisis.

It should be noted that CGH was a small company (at the time of the offence, CGH only had 8 employees) and yet the fine imposed on CGH represents 115% of the company's turnover in the year of the incident. The full force of the Corporate Manslaughter Act will only be seen when a large company is prosecuted; the offence under the Act may be penalised by an unlimited fine. Whilst individuals cannot be prosecuted under the Act, senior managers of the offending companies may still be charged with gross negligence manslaughter as well as other health and safety offences. For example, Peter Eaton, a director of CGH, had originally been charged with manslaughter by gross negligence in addition to a separate health and safety offence but these charges were subsequently dropped because of his poor health.

The advice to company managers is: do not take risks when it comes to safety at the workplace and people's lives. Ensure sufficient resources are employed to tighten up workplace safety or risk contravening the Corporate Manslaughter Act.

Since the above case, Line Steel Limited has also been charged with corporate manslaughter under the Act, following the death of one of their employees. In addition three of the company's directors have been charged with gross negligence manslaughter and charged under Section 37 of the Health and Safety At Work Act 1974 (for failing to ensure the safety at work of their employees). This charge serves as another warning to companies to ensure that sufficient resources are employed to tighten up workplace safety or risk contravening the Corporate Manslaughter Act.

Directors are now more likely than ever to face criminal prosecution of their companies and themselves as individuals for health and safety failures. The importance of compliance with



health and safety requirements has increased and company directors and management are advised to follow guidance set out in "Leading Health and Safety at Work: Leadership Actions for Directors and Board Members" (produced by the Institute of Directors and the HSE). The guidance sets out what directors have to do in order to comply with the laws and thereby reduce both the risk of accidents happening at work and exposure to prosecution and criminal liability.