

Corporate Manslaughter and Corporate Homicide Act 2007



Why was new legislation required ?

Previous Provisions

- Gross negligence manslaughter
- Identification principle
 - “*single controlling mind*”
 - “*embodiment of the organisation*”
- Major disasters
 - failed prosecutions
 - no prosecutions



New Legislation

Corporate Manslaughter and Corporate Homicide Act 2007

- Covers England, Wales, Scotland and Northern Ireland
- In force from 6th April 2008
- Ministry of Justice guidance on compliance
www.justice.gov.uk/guidance/manslaughteractguidance.htm



Corporate Manslaughter and
Corporate Homicide Act 2007

CHAPTER 19

Definition of Offence

“An organisation” “is guilty of [corporate manslaughter] if the way in which its activities are managed or organised,

- a) causes a person’s death, and*
- b) amounts to a gross breach of a relevant duty of care owed by the organisation to the deceased”*

“An organisation is guilty of an offence under this section only if the way in which its activities are managed or organised by its senior management is a substantial element in the breach referred to”

Key Phrases

- **Organisation**
 - Corporation
 - Department listed in schedule 1
 - Police Force
 - Partnership, Trade Union or Employers Association
- **Senior Management**
 - defined in the Bill
- **Gross Breach**
 - far below what can reasonably be expected
- **Relevant Duty of Care**
 - as defined in common law

Key Points

- **Corporate offence**
 - No individual or secondary liability
- **Action requires consent of DPP**
- **Sanction – unlimited fine**
- **Removes Crown Immunity (except in specific circumstances)**
- **Level playing field for public and private sector organisations engaged in same task (except in specific circumstances)**
- **Sets out Statutory Criteria for Jury**

Positive Points

- **Context in duty of care**
- **No individual liability**
- **DPP consent**
- **Level playing field**

Concerns

- **Definition of Senior Management**

“persons who play significant roles in,

- *“the making of decisions about how the whole or a substantial part of “[the organisation’s] “activities are to be managed or organised, or*

- *the actual managing or organising of the whole or a substantial part of those activities”*

- **Statutory Criteria for Jury**

- **Publicity Orders**

Summary

- **Generally balanced piece of legislation**
- **Guidance and case law will clarify key points**
- **Responsible organisations have nothing to fear**
- **An effective health and safety management system is key to compliance**

The Offence

Targets:-

Significant failures of senior management to ensure health and safety in the management and organisation of activities.

Protection from Prosecution

What is required ?

- Senior management must ensure that health and safety is managed effectively
 - *Good opportunity to develop current arrangements for top level involvement*
- Systematic approach to ensuring adequate health and safety management in all aspects of operations
 - *Good opportunity to review current approaches and to benchmark performance*

Securing Top Level Leadership

Information

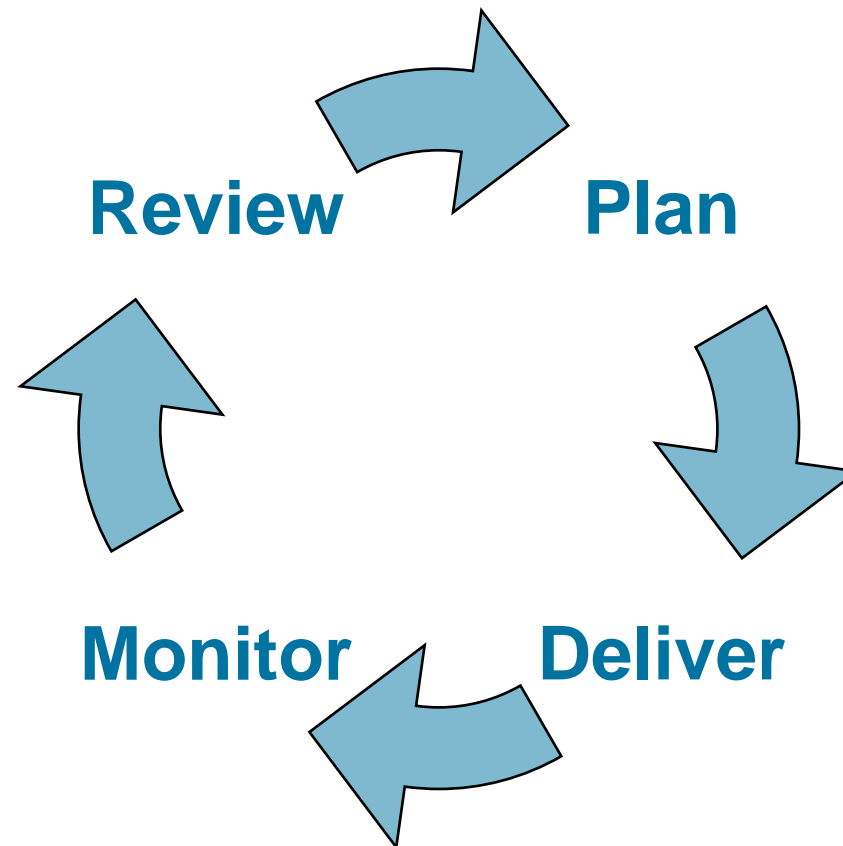
- What is required of senior managers ?
- What is the context for these requirements ?
 - New HSE Guidance (28th October 2007)
“Leading Health and Safety at Work”
 - Principles
 - Core actions
 - Good practice
 - Case study examples
 - Checklist

What Makes an Effective Health and Safety Management System

– Living Process

- Read / write documentation
- Real and relevant
- Integrated with business processes
- Simple and straightforward
- Communication
- Involvement at all levels
- Accessible to all

Effective Management Cycle



OVERALL SUMMARY

The Corporate Manslaughter and Corporate Homicide Act 2007 should present no significant concern to responsible organisations that demonstrate strong high level leadership for health and safety, and have an effective Health and safety management system

Any Questions?

