

Checklist: Corporate Manslaughter

This checklist sets out the factors which can lead to your business being prosecuted for corporate manslaughter and the penalties for breaching the legislation.

What are the offences?

Your business will be guilty of a corporate manslaughter offence if all of the following apply:

- The way in which your business' activities are managed or organised causes a person's death.
- The person's death is the result of a gross breach of a relevant duty of care owed to that person.
- The way in which your business' activities are managed or organised is a substantial element of the breach.

Who does the offence apply to?

- Corporate manslaughter legislation applies to all businesses operating in the UK.
- It does not apply to individuals (for example, company directors or managers). However individuals can be prosecuted for the offence of manslaughter by gross negligence.
- If your business is prosecuted under corporate manslaughter legislation, it (and the company directors and managers) could still be prosecuted for breaches of health and safety or other laws.

What constitutes a gross breach?

- "Gross breach" means conduct that falls far below what can reasonably be expected of your business in the circumstances.
- A jury must take a number of factors into account when deciding whether your business is guilty of corporate manslaughter:
 - whether your business was in breach of health and safety legislation;
 - how serious the management failure was; and
 - how much of a risk there was of death occurring.
- The jury must also take into account a number of other factors, including:
 - any health and safety guidance relating to the breach; and
 - whether there were any attitudes, policies, systems or accepted practices in your business that were likely to have encouraged a management failure.

What are the penalties for breaching the legislation?

Financial penalties

- A conviction for corporate manslaughter could lead to the imposition of an unlimited fine on your business. According to the sentencing guidelines, a convicted business should receive a fine that will rarely be less than £500,000 and may be in the millions of pounds.
- Fines can be increased if there is evidence your business could have foreseen the accident and where breaches of rules were widespread within your business.

Remedial orders

The court can impose a remedial order requiring your business to address specific failings involved in the offence. Because the court will not usually take into account any remedial costs when it assesses a fine, you may have to pay both a fine and the costs of improving your internal procedures to comply with a remedial order.

Reputational damage

The court can impose a publicity order forcing your business to advertise that it has been convicted of corporate manslaughter. The order may include details of the conviction (for example, the amount of the fine and the terms of a remedial order).

Insurance

Insurance cover will not be available to your business if it has been convicted of a corporate manslaughter offence. However, if you mount a successful defence, cover may be available for any legal costs your business has incurred. Make sure you check your position with your insurers..

More information

If you have any queries about the content of this checklist, please contact Jennifer Renney on 01225 326435 or e-mail us on info@renneyandco.com