



# Where now for Corporate Manslaughter ?

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# What's the link?

Herald of Free Enterprise with  
Hillsborough football ground and with  
Marchioness river boat and with  
Southall rail crash and with  
Ladbroke Grove rail crash and with  
Culverhouse Cross E coli outbreak?

**Answer** – the corporate body ‘responsible’  
was not successfully prosecuted



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# Definitions(1)

**Murder** – Unlawful Homicide with malice aforethought – death is caused by an unlawful act done with the intention of causing death or bodily harm

**Manslaughter** – Unlawful homicide where death is caused accidentally by an unlawful act, or where it results from culpable negligence; or where it is done in the heat of passion ( provocation)



# Definitions (2)

**Corporation** – a body of persons having in law an existence, rights and duties distinct from the persons who form it.

Can be indicted and fined, but cannot have the necessary guilty mind or wrongful intention to commit a criminal act.

Can be criminally liable for acts of omission and for acts of employees committed in the course of their employment



# Death by any other name

## **Murder**

- – mandatory life sentence

## **Manslaughter**

– can attract a life sentence, sentence at discretion of the judge

Is an alternative verdict to murder if malice aforethought not proved





# The offence of Corporate Manslaughter – for and against

## Reasons for

- Public demand
- ‘Justice’ can be obtained for victims
- Corporations likely to have insurance - monetary compensation likely to be available

## Reasons Against

- Difficulty in establishing ‘guilty mind’ of a corporate body
- Identifying appropriate investigator/prosecutor
- Effect on existing legislation – change to the established meaning of corporation
- Effect on penalty on conviction





# Corporate Killing? Culpable Homicide?

Definition of offence would seem to be –

***‘ Unlawful homicide where death is caused accidentally by a corporate body or by the unlawful act of a corporate body ’***

An offence ‘not known to law’ i.e. not an offence on the statute books.



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# Progress?

March 2005 –draft Corporate Manslaughter Bill published for consultation

- Companies liable, not individuals
- Unlimited fines
- Linked to H&SaW standards
- ‘Remedial Orders’
- Won’t apply to operations abroad
- Won’t cover ‘un-incorporated bodies’ such as partnerships



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# Corporate Manslaughter – the verdict –

1. Too weak
2. No firm timetable
3. Individual employees will not be liable to prosecution
4. Directors will not be disqualified
5. Un-incorporated bodies escape



# Where is it now?



Home Affairs  
Committee to  
consider the  
consultation  
responses and  
report in 'early 2006'



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# Unless and until.....

- Full and appropriate use of existing legislation
- Increased sentencing provision
- Licences to operate? Probation and /or withdrawal of function?
- Rationalising of Health & Safety Enforcement?
- Rationalising of Health and Safety Prosecution?

