

08 October 2008

SAFE GUARDING YOU AGAINST THE CORPORATE MANSLAUGHTER & CORPORATE HOMICIDE BILL

The Health and Safety Executive identifies that 2.2 million people work in Britain's construction industry, making it the country's biggest industry. It is also one of the most dangerous. In the last 25 years, over 2,800 people have died from injuries they received as a result of construction work. Many more have been injured or made ill.

The statistics released earlier this year revealed that more than 241 people were killed at work in the UK in 2006/2007 and 141,350 employees were seriously injured. This figure is an increase of 11% on the previous year and is a serious concern for the UK Government.

In April 2008, the new Corporate Manslaughter and Corporate Homicide Act 2007 came into force in the UK. The Act enables an organisation to be found guilty of an offence under the Act, if the way in which its activities are managed or organised 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 result of being found guilty of an offence under this Act is that organisations can now face unlimited fines – set to start at 5% of annual turnover, will be required to implement certain remedial actions and may also be required to publish details of their offences and the penalties implemented.

The new legislation focuses on the failure of senior managers, i.e. those who play a significant role in making decisions about the company's activities, to manage or organise those activities. The new offence considers how activities were organised and managed and therefore looks at the systems and practices for carrying out the company's work, level of employee training and adequacy of equipment, supervision and middle management,

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strategic approach and arrangements for risk assessing, monitoring and auditing the processes. Any one or culmination of failings could result in a breach of duty of care and, even worse, a fatality.

So what can you do to safeguard your employees, yourself and your organisation?

In the event of a fatality, the investigation will focus on the management system and management involvement and so getting it right first time, every time is the best defence against the risk of prosecution. Whilst the use of Construction Health & Safety site access cards (Passports) demonstrates the contractors' knowledge of the specific safety requirement, such as working at heights, there is a need for senior management to have an overview of all potential safety risks.

Passports are not:

- a way of knowing or identifying that a worker is competent;
- a substitute for risk assessment;
- a way of showing 'approval' of a contractor;
- required or regulated by law;
- a reason to ignore giving site-specific information; or
- a substitute for effective on-site management.

BS OHSAS 18001 is recognised as a method for demonstrating compliance with the Corporate Manslaughter Act and Duty of Care. It is an internationally recognised standard which defines the framework for implementing an effective health and safety management system. Based on the Plan-Do-Check-Act model, it requires an organisation to:

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- Identify hazards and risks
- Define a policy, direction for health and safety
- Set objectives and targets
- Implement operational controls to manage and minimise those risks
- Monitor effectiveness of those controls
- Maintain the systems up to date
- Audit the effectiveness of the systems
- Train staff and communicate the policy procedures and systems
- Correct non conformities
- Review performance
- Identify trends
- Address shortfalls
- Identify opportunities for continual improvement.

This will ensure:

- All hazards and risks are identified, ensuring that you don't miss any hazards out and don't waste time focusing on the lower risk activities.
- All staff are aware of the organisation's commitment to health and safety and understand their responsibilities for their own health and safety.
- All staff, including senior management, are competent to carry out their activities relating to health and safety

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- Compliance to systems and legislation is regularly monitored, ensuring that breaches are picked up at the earliest opportunity
- Areas of weakness are identified and potential breaches are spotted enabling action to be taken to re-dress these areas before they become serious issues or accidents.
- Records are available to demonstrate compliance with the systems over time, providing evidence as required.
- Procedures and processes are kept up to date with legislation and best practice.

Ultimately improvement in the management of your health and safety systems can lead to the following benefits for your organisation:

- Improved targeting of resources on the most significant issues
- Reduction of accidents and illness
- Reduced costs associated with downtime and investigation of accidents
- Reduction in the risk of prosecution
- Reduced legal costs, fines, compensation payments
- Reduced insurance premiums
- Improved morale amongst staff through providing a safer work environment, leading to increased productivity
- Protection of reputation for corporate responsibility among investors

“Having a health and safety management system in place will not only help mitigate any offence under the Corporate Manslaughter and Corporate Homicide Act 2007 and help you to demonstrate your duty of care, but may

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lead to considerable benefits by reducing sickness, absenteeism and by reducing the number of claims made to insurance companies will lead to lower Employer Liability premiums,” says Jacqueline Smith, Product Marketing Manager Health and Safety, BSI Management Systems.

“The Act is an opportunity for employers to think again about how risks are managed, and for organisations to ensure they are taking proper steps to meet current legal duties. From next April, the 2007 Act will mean that those who disregard the safety of others at work, with fatal consequences, are more vulnerable to very serious criminal charges.”

About BSI

Operating through a global network, BSI Management Systems provides assessment, certification and training services in all critical areas of management disciplines including: Business Continuity, Environment, Food Safety, Health & Safety, Information Security, Integrated Management, IT Service Management and Quality. For further information please visit www.bsigroup.co.uk

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