

Gross Negligence Manslaughter

- Duty of Care to the Deceased.
- Death Resulted From the Breach of That Duty of Care.
- Gross Negligence.
- Substantial Cause of the Death.

Corporate Manslaughter and Corporate Homicide Act 2007

To Whom

- Employers
- Corporations
- Trade Unions
- Employer Organisations
- Crown is not exempt

Critical route to Liability

Through Senior Management in relation to persons who play a significant role in :

- Making decisions for the whole of the organisation, or

- Actual management of the whole or part.

Organisation is only guilty if the way it is managed is significant.

Scope

If duties give rise to a common law duty of care

Organisation owes duty of care through:

- Employers and others
- Occupiers
- Suppliers of Goods
- Contractors
- Maintainers of Buildings or Vehicles
- Users of plant or Machinery
- Hold in Detention or Custody

Thereafter the Jury will determine the Grossness

It will be gross if the conduct alleged to amount to a breach of that duty falls far below what can reasonably be expected of the organisation in the circumstances.

You will need to contend to the jury that the breach was not gross.

Jury will consider extent to which the evidence shows:

Attitudes, policies, systems or accepted practices were likely to encourage failure or produce tolerance.

i.e. culture of cutting corners or ignoring procedures.

Can measure against any guidance.

Counsel of perfection is dangerous

Comprehensive Exemptions

- Public Policy decisions
- Military Combat Operations
- Policing Terrorism and Violence

Partial Exemptions- Employer responsibilities

- Policing
- Fire and other Emergency Orgs.
- NHS trusts
- Coastguard and other Rescuers
- Statutory Inspections
- Child Protection

Penalties

- A Fine, no upper limit.
- A Publicity Order.
- A Remedial Order.