



CORPORATE HEALTH AND SAFETY COMMITTEE – 18TH OCTOBER 2006

SUBJECT: CORPORATE MANSLAUGHTER

REPORT BY: DIRECTOR OF THE ENVIRONMENT

1. PURPOSE OF REPORT

- 1.1 The purpose of this report is to inform Members, Management and Trade Union Safety Representatives of the current position on Corporate Manslaughter.

2. SUMMARY

- 2.1 The Authority has a legal obligation to ensure the health and safety of employees and others who may be affected by its work activities.
- 2.2 It is currently possible for a corporate body to be found guilty of corporate manslaughter only where there is a directing mind that can be found guilty of gross negligence manslaughter.
- 2.3 Difficulties in identifying a controlling mind, particularly in large organisations mean that there are few successful cases of corporate manslaughter and successful cases tend to be in small organisations with straightforward organisational structures.
- 2.4 The proposed Corporate Manslaughter Bill will consider whether there was a Management failing which resulted in a fatality. When addressing whether there was a management failing consideration will be given to systems, procedures and factors such as organisational culture. The focus of any prosecution will be at a supervisory and strategic level, meaning those who make decisions, control budgets and determine organisational priorities. An organisation could be found guilty if the way in which its activities are managed or organised causes a persons death through a gross breach of the duty of care.
- 2.5 The Bill once approved will allow the prosecution of an Organisation not an individual. Penalties will be fines and not imprisonment.
- 2.6 Courts are likely to consider compliance with Health and Safety legislation, codes of practise and guidance when looking at organisational failings. This means an organisation requires robust policies, procedures and documented systems to manage health and safety risks.
- 2.7 The new Bill should place no new burdens on organisations that already comply with Health and Safety Legislation.
- 2.8 The Bill is likely to become law in Spring 2007.

3. RECOMMENDATION

- 3.1 That the contents of the report be noted.

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Councillor Paul Ford, Cabinet Member