

Corporate Manslaughter and Corporate Homicide Act

The Corporate Manslaughter (England and Wales) and Corporate Homicide Act (Scotland) came into force on 6 April 2008.

This legislation makes it easier to prosecute organisations and corporate bodies for failures that result in a person's death. The courts no longer have to prove that any one individual or individuals acted as the 'controlling mind' of the company. Instead, the management systems and practices in place across the organisation will be examined to determine whether failures or deficiencies in these played a contributory role in the death. If the Court then finds that these policies were inadequate, or inappropriate, the company can be convicted of corporate manslaughter.

The Act is applicable to all companies, organisations and bodies operating within the UK in both the private and public sectors. For the first time, this includes government bodies.

The full text of the Act can be downloaded at www.legislation.gov.uk/ukpga/2007/19/contents

The penalty is an unlimited fine. Courts can also demand that the guilty organisation takes steps to publicise details of the conviction, and to remedy the management failings that are judged to have led to the death.

Individuals will not personally be liable; neither will they be liable for aiding or abetting the offence.

Why is the Act relevant to fleet operators?

The Corporate Manslaughter Act covers any work-related deaths where the employer may have been neglectful of duties and legal responsibilities.

Employee deaths resulting from using the roads on employers' business are believed to outnumber all other causes of at-work death. Road safety is therefore a major issue and fleet operators – and their drivers – have a significant role to play.

What should fleet managers do?

If your business has already devoted time to addressing the duty-of-care issues relating to managing on-road risks, you will already be well on the way towards becoming compliant.

You should ensure that you have policies and processes in place to assess and manage the risk likely to be associated with employees using the roads; cycling and walking in the course of business are just as important as driving. 'Grey fleet' vehicles (employees' own vehicles driven on company business) are part of your corporate responsibility too, not just vehicles that are part of your company fleet.

Conduct a risk assessment

The underlying elements of any road risk-management policy must start with a risk assessment. This should be authorised by the senior management within your organisation to demonstrate that the policies are 'live' and kept up to date. The risk assessment should be tailored to the nature, size and style of your fleet, and should be a fully documented process that is auditable.

Develop an action plan

Any aspect of the assessment that results in 'failure' must be prioritised for management action. All steps in your action plan should be signed off by senior management and form part of the audit trail. Management are required to take 'all reasonable steps' to mitigate the risks identified in your assessment; the prospect of high costs cannot be put forward as a reason for inaction.

Fleet manager checklist

- Appoint a senior manager to champion the cause of occupational road risk
- Read the Health and Safety Executive's guide 'Driving at work – managing work-related road safety' as a point of reference. Download a copy at www.hse.gov.uk/roadsafety
- Write and circulate a clear written policy statement about who is entitled to use company-controlled vehicles
- Implement a process to ensure that anyone driving on employer's business is properly licensed and insured for the types of vehicles to be used; this should include any 'grey fleet' drivers
- Write and circulate a policy statement highlighting the need for all employees to observe the normal rules of the road, as set out in the Highway Code. You should specifically mention your policy on the restricted use of mobile phones, maximum driving time and the use of drink or drugs. You should also address any other issues specific to your business
- Put in place a process to study all accident reports. This process should seek to identify, and address, any trends or patterns that may indicate specific problems or issues
- Keep your risk-assessment documentation up to date; include details of all file locations and a timetable for all future steps in the process
- Set targets to improve at-work road safety as part of a process of continuous improvement, benchmarked against peer fleets. Regularly review these targets and your progress towards them

Ideally, all policy statements that are directed to drivers should be assembled into a drivers' handbook.

Further support

Hitachi Capital Vehicle Solutions can work with you to assess your current risk-management processes. Our Risk Management service includes a comprehensive assessment tailored to your fleet, your drivers and their activity. We can also provide you with a programme of ongoing consultancy to ensure your fleet remains legally compliant at all times.

For more information

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