
Deadly Oversight: The Fatal Flaws in Corporate Manslaughter Law

Description

In the realm of workplace safety, justice often falls short. The Corporate Manslaughter and Corporate Homicide Act 2007 was meant to be a game-changer. It wasn't. Instead, it became a stark reminder of how corporate influence can water down even the most well-intentioned legislation.

Safety activist Mick Holder, a key figure in the campaign for this act, now dissects its inherent weaknesses. His analysis reveals a sobering truth: the law, by design, failed to deliver the justice it promised.

The Push for Accountability

We demanded change. Our call was clear and uncompromising: bosses found guilty of negligence in worker deaths should face automatic prison sentences. This wasn't just a union-backed initiative. It was a rallying cry from the Hazards Campaign and the now-defunct Centre for Corporate Accountability. We believed, with unwavering conviction, that negligent bosses were getting away with murder. Their rightful place, we argued, was behind bars.

The problem was even more glaring when it came to larger companies and their directors. John Rimington, who served as director general of the Health and Safety Executive (HSE) from 1984 to 1995, voiced his frustration in December 1990. "Courts have difficulty connecting top executives to the blood on the shopfloor," he lamented. His words echoed the sentiments of many who saw justice slipping through the cracks of corporate bureaucracy.

A Corporate Cop-out

Then came 2007. A Labour government introduced the Corporate Manslaughter and Corporate Homicide Act. It should have been a victory. Instead, it left a bitter taste in our mouths. The legislation fell far short of what we had fought for, what was desperately needed to bridge the justice gap Rimington had identified years before.

The new law applied only to businesses, not to the individuals at the helm. Those with ultimate responsibility for how their companies operated remained untouchable. It was a stark reality we had to face: whatever tactics businesses used in the manslaughter campaign, they had won.

But how did they secure this victory? During our campaign and in its aftermath, the Centre for Corporate Accountability (CCA) and others made projections. Based on analyses of completed workplace fatality cases, they estimated the number of prosecutions we should expect under the new corporate manslaughter legislation. The projected figure wasn't astronomical – around 45 cases a year. Yet, we've never seen anything close to that number.

The Stark Reality

Fast forward to June 10, 2024. In response to my freedom of information request, the Crown

Prosecution Service (CPS) conducted a manual review of its case files. Their goal? To identify prosecutions, convictions, and fines since the Act's implementation in April 2008. The results were disheartening.

The CPS listed 43 cases concluded between 2011 (when the first case came to court) and 2024. Of these, 32 resulted in guilty verdicts, while 11 were not guilty. That's roughly three cases per year – a far cry from the projected 45.

It's worth noting that the Act isn't the sole route to justice. Some employers have indeed been imprisoned, facing charges of manslaughter or health and safety violations. However, pinpointing the exact number proves challenging. A search of HSE's convictions database yields just nine cases where individuals were jailed for workplace health and safety offenses.

Yet, even this database is incomplete, sometimes glaringly inaccurate. Take the Greenfeeds Ltd case, for instance. The database entry makes no mention of the imprisonment of two company owners or the £2m fine imposed after two staff members drowned in a tanker of pig feed in 2016.

Gillian Leivers received a 13-year sentence in 2022. Her conviction? Two counts of gross negligence manslaughter and a criminal health and safety offense. Her husband, Ian Leivers, the managing director, was sentenced to 20 months for a criminal breach of safety law. Surprisingly, HSE's database fails to mention these prison terms. It merely indicates that the case concluded with a fine of £0.00.

Big Bosses Off the Hook

One undeniable truth emerges: the few cases that do make it to court target business minnows. Meanwhile, directors of major corporations haven't even had to break a sweat over potential prosecution, let alone face one.

Remember 2005? A BP oil refinery in Texas exploded, claiming 15 lives. The company struck a deal, paying a \$373 million fine for this and other failings. At the heart of this disaster was corner-cutting on maintenance – a standard business practice that has contributed to numerous other catastrophes. When production dips, slashing expenses helps maintain the illusion of profitability.

No individual at BP's summit faced charges. John Browne, BP's chief executive at the time, went on to become Lord Browne of Madingley. The company, however, continues to draw criticism for safety violations.

Fast forward to June 2024. A report from the US government's Chemical Safety Board (CSB) investigates another deadly fire at a BP facility. Two workers lost their lives. The report's findings? A scathing indictment of BP's "decades-long, chronic inability to learn from its many mistakes."

The CSB report noted a startling fact. During the investigation of the September 20, 2022 incident, BP admitted it was unaware of any process safety culture assessment completed at the BP Toledo Refinery since the Baker Panel Report. This report, mind you, contained the 2007 findings of an independent review of the Texas City incident.

The report pulled no punches. "The BP Texas City incident is one of several publicly investigated incidents that are so iconic and impactful that they should become part of the basic knowledge of

everyone across the chemical industry.” Instead, it pointed to “the refinery’s failure to learn from previous incidents.”

This amnesty for the worst bosses must end. Responsibility needs to extend all the way to the top, with the very real threat of jail time for wrongdoing.

A Small Victory, A Larger Battle

Personally, I claim a part in a small but significant victory in construction. Alongside many others, I campaigned for negligent bosses to face imprisonment. The results speak for themselves. In 1990, 151 construction workers lost their lives. Last year, that number had dropped to 51. This significant reduction is, in part, directly related to our threats – kill and go to jail – influencing management attitudes and priorities.

But it’s not just about deaths at work. The scope needs to broaden. We need to hold accountable:

- Those who knowingly run a business in a manner that causes workers to take their own lives – consider the Post Office Horizon scandal.
- Those who knowingly legislate and run a system that leads to the deaths of members of the public – the Grenfell fire tragedy serves as a grim reminder.
- Those who ran their business knowing it would endanger the lives of people living nearby or throughout the planet – think climate change and environmental damage.

Today, a business entity is more likely to face consequences for any crime committed than those who knowingly run a dangerous business for personal and shareholder gain. Health and safety laws and environmental laws are criminal laws, not mere misdemeanors. Yet, convicting those few guilty individuals who might get charged remains incredibly difficult.

A New Hope?

The change of government brings a glimmer of hope. It’s an opportunity to push once again for negligent directors to be held accountable. Long after the corporate manslaughter law was passed, Labour’s minister responsible for the issue at the time, Lord (Bill) McKenzie, expressed regret. His biggest regret? Not holding individual directors responsible for failings in the corporate manslaughter legislation.

Ironically, he had argued strongly against director responsibility at the time. Now, it’s time to rectify that mistake.

While improvements to our manslaughter laws were unlikely under the Tories, a change in government brings new possibilities. With Liz Kendall installed as Labour’s new secretary of state at the Department of Work and Pensions – the ministry responsible for workplace safety – I urge unions to reignite this debate. Push it through conferences, at the TUC, and into the political arena.

And remember, whenever someone dies at work – a tragedy that still occurs nearly three times every week – it’s the perfect time to discuss the lack of accountability of those individuals responsible.

The path to justice is long and winding. But with persistence, determination, and a refusal to accept the status quo, we can forge a future where corporate negligence is met with real consequences. Where

the boardroom is as accountable as the shop floor. Where every life lost at work is treated with the gravity it deserves.

The fight continues. And with each step, we move closer to a world where workplace safety is not just a slogan, but a lived reality. Where justice is not just promised, but delivered.

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