

Corporate Manslaughter Podbriefing Audio Transcript

00:03

The Corporate Manslaughter and Corporate Homicide Act 2007 came into force in April 2008 and created a new criminal offence of Corporate Manslaughter. That's an offence that any organisation can commit, where somebody dies as a result of serious failings on the part of that organisation.

00:25

All rise.

00:31

Good afternoon.

00:44

The offence of Corporate Manslaughter can only be committed by an organisation not by individuals, there's no offence of aiding or abetting Corporate Manslaughter that an individual can commit. Organisations include the University and so the University can commit the offence of Corporate Manslaughter, and whilst individuals can't commit the offence they can nevertheless still commit other offences like, manslaughter by gross negligence, or offences under the Health and Safety at Work Act.

01:18

Doctor Slack you are here today in your capacity as Laboratory Supervisor of the deceased, in the School of Applied Sciences at Oldtown University. Mr Blindeye you are the Safety Officer in the School of Applied Sciences ... And Professor Stoic you are the Head of the School of Applied Sciences, is that correct?

01:42

Yes, your honour I do believe that is correct.

01:46

Very well ... You three are here on behalf of Oldtown University in this unfortunate matter. To be clear these proceedings are separate from those being brought against you individually in connection with the same matter... We will now hear the opening speeches from both sides beginning with the prosecution.

02:10

Thank you your honour.

02:17

The offence of Corporate Manslaughter is committed when the way in which the University has organised or managed... managed its activities causes a person's death and they've owed that individual a duty of care. That there is a gross breach of that duty by the University and senior management has played a substantial role in that breach. Senior management are those that play a significant part in the running of the University, either the whole of the University or a substantial part of the University.

02:55

Ladies and gentlemen of the jury, I will set out the case against Oldtown University on behalf of the Crown. The deceased, a postgraduate student of 25 years old, with a bright future and a loving background was allowed, to work alone, in Oldtown University's laboratory on the 27th of December. At the time the University was closed for the Christmas break. Doctor Slack, the Laboratory Supervisor, was out of the country, working with colleagues in a collaborating research institute. An alternative supervisor or replacement as a supervisor was not appointed. Consequently, no one was aware of the students' progress with her experiment and no one was

aware of her intention to modify the experiment. The deceased had completed the chemical reaction in question successfully on a number of occasions, but this time she decided to change the experiment and something went seriously wrong. The chemical ignited spontaneously in the air causing a chemical fire, which tragically proved fatal, taking this young woman's life.

04:16

The duty of care for Corporate Manslaughter is the common law duty of care of negligence and that arises in many situations. So the University would owe that duty of care to its employees, a duty to make sure that they exercise reasonable care for their safety. For members of the public; visitors, both lawful and unlawful visitors; to its students and to anybody else who engages with the University in a commercial context.

04:49

I submit that it was the responsibility of Oldtown University and the responsibility of its employees to take reasonable care of the deceased student's safety. Doctor Slack, Mr Blindeye and Professor Stoic each had specific responsibilities which they failed to discharge.

05:17

Because the offence of Corporate Manslaughter is the most serious offence that any organisation can commit, then the breach has to be a gross failure, which means that it's fallen far below the standard of care that is acceptable in the circumstances. Whether or not there has been a gross breach is a question for the jury to consider and that will require them to take a number of things into account. For example, they will look at: has the organisation complied with any relevant Health and Safety laws? So, for example, if the incident involves somebody falling from height there are some regulations that apply to that activity and so the jury would look to see whether or not those laws had been complied with. They then consider how serious the failure was and what risk of death that failure posed. They'd also consider whether there was any relevant guidance, guidance issued by the Health and Safety executive or within the sector industry guidance as well. And most importantly in relation to

Corporate Manslaughter, the jury will consider the organisation's safety culture. By which I mean the attitudes, the policies, the systems, the practices that are in place within the University and whether those have encouraged or tolerated the breach or have allowed that breach to happen.

06:59

Not only was supervision lacking, but the University's risk assessment was sparse and out of date. It did not take into account the modifications to the procedure and the effect that this would have upon the safety of the reaction. I submit that standard accepted good practice procedure was not in place. There is no record that the student had received adequate training. Nor, that she was provided with any indication of the protective personal equipment that *should* have been worn. Likewise, there is no record that the student had been made aware of the limitations and arrangements for working alone out of hours. Staff failed to comply with health and safety law, they failed to comply with industry guidance on laboratory safety, and they even failed to comply with guidance issued by Oldtown University itself.

08:03

Even more dangerous was the culture within this part of the University. In particular, the attitudes of certain employees. Staff tolerated health and safety breaches, they passed the buck. They failed to take responsibility. This accident was caused by each and every employee involved and particularly those present here today. Collectively failing to do what was required of them!

08:40

Together they brought about the tragic death of a bright, intelligent young woman.

08:52

There are three penalties that are available for the offence of Corporate Manslaughter, the first and most likely of those is a financial penalty, a fine. The sentencing council guidelines have been issued and that's an authoritative set of guidelines that the courts will refer to, and those guidelines say that the starting fine should seldom be less than half a million pounds but may well be many millions of pounds. The cases that have so far resulted in convictions for Corporate Manslaughter have all attracted fines of around 350 to half a million, but those were all very small organisations. I think a large organisation like the University would expect a fine of more than a million pounds. The other two sentences that are available, penalties that are available, are orders: a remedial order which is an order requiring the organisation to put right the failures. And also a publicity order, which is effectively naming and shaming the organisation and the courts can require that an advert is taken out, or that a letter is written to stakeholders, so it's naming and shaming.

10:09

Oldtown University were found guilty of Corporate Manslaughter following the trial that has taken place in this courtroom over the last three weeks. Yet again the court has been faced with an incident where common sense would have shown that a simple, reasonable and effective solution would have been available to prevent this tragedy. It now falls to me to consider sentencing. I've heard the Crown's case in relation to the punishment sought, and I have listened carefully to the mitigating circumstances described by the Defence.

10.48

I note that significant reputational damage and loss of sponsorship funding has already been experienced by Oldtown University. However, I consider that Corporate Manslaughter is a very grave offence. In fact it is the most serious offence that an organisation can commit. I have at the forefront of my mind that a young woman has lost her life. I therefore order that Oldtown University be fined 1.5 million pounds, in addition to publicity and remedial orders.

11:38

The offence of Corporate Manslaughter can be avoided when the University is running and implementing an effective safety management system. The offence is only committed when there is a failure by the University to organise and manage its activities in such a way that they are complying with the law. So by ensuring that there is a safety management system in place, that it's being properly implemented, that's the best way that the University can avoid committing the offence of Corporate Manslaughter. So that would involve such things as undertaking risk assessments for the key hazards within the University. Training, so individuals know what their responsibilities are; and an awareness at all levels of the organisation from senior management through each tier of management to employees generally, their understanding about what is expected of them, what they ought to be doing in relation to health and safety because it is everybody's responsibility and so participating effectively and diligently as part of that safety management system is important.