

First corporate manslaughter case will give insight into new law, says DWF

Submitted by: Dabbs PR & Marketing

Tuesday, 28 April 2009

PRESS INFORMATION - press enquiries to Sam Dabbs on 07711 672893

The first prosecution for corporate manslaughter will give companies a better indication of how the new law will work in practice, says law firm DWF.

Cotswold Geotechnical Holdings Ltd, of Birdlip in Gloucestershire, faces charges over the death of junior geologist Alexander Wright, who was taking soil samples from inside a pit near Stroud when the sides of the pit collapsed and crushed him.

The company has been charged with corporate manslaughter and with health and safety offences. One of the directors, Peter Eaton, has also been charged with gross-negligence manslaughter and health and safety offences.

Steffan Groch, a partner with DWF and a leading health and safety lawyer, says that under the Corporate Manslaughter and Corporate Homicide Act 2007, an organisation can be convicted of the offence if its activities are organised in such a way that it has breached its duty of care to the person who died. There has to be evidence of senior management failure.

Steffan Groch says what is learned from the latest case will depend to some extent on how the company pleads. He explains: "If the company pleads not guilty, we might see an exploration of what the terms 'senior manager' and 'falling far below' in the duty of care actually mean.

"On the other hand, if it pleads guilty, we will still get to learn something, such as how big the fines are likely to be. The sentencing guidelines for the Act have not yet been finalised, and the judge will be aware that this is the first prosecution and may apply a larger fine."

The new rules should make it easier to convict larger companies with layers of management. Under the older rules, it was often hard to prove that particular individuals were responsible for a death. In the current case, both sets of manslaughter laws have been applied. While the company has been charged under the new law, the director has also been charged with gross-negligence manslaughter under the existing law.

Steffan Groch adds: "As the company in the current case is a small organisation, it could be that the new law will not make much difference. If the new Act hadn't come in, the individual director would still have been charged with gross-negligence manslaughter, and the company with involuntary manslaughter.

"It will be more informative when we see prosecutions of larger companies as here the new Act is likely to make all the difference between an acquittal or a conviction."

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Media enquiries to:

Sam Dabbs
Dabbs PR & Marketing
T: 01939 210503 or 07711 672893
E: sam@dabbsprm.com