

QUESTIONS

To assist persons in preparing a response to this Consultation Paper, here are a few questions which they may wish to consider in addition to any other comments which you may wish to make about the consultation paper as a whole, or contents within. You do not have to answer all the questions, with only the questions you have answered considered in the final analysis:

About You

Q1: Are you responding as:

- ☒ an individual – in which case go to Q2A
- ☐ on behalf of an organisation? – in which case go to Q2B

Q2A: Which of the following best describes you? (If you are a professional or academic, but not in a subject relevant to the consultation, please choose "Member of the public".)

- ☐ Politician (MSP/MP/peer/MEP/Councillor)
- ☐ Professional with experience in a relevant subject
- ☐ Academic with expertise in a relevant subject
- ☒ Member of the public

Optional: You may wish to explain briefly what expertise or experience you have that is relevant to the subject-matter of the consultation:

Q2B. Please select the category which best describes your organisation:

- ☐ Public sector body (Scottish/UK Government or agency, local authority, NDPB)
- ☐ Commercial organisation (company, business)
- ☐ Representative organisation (trade union, professional association)
- ☐ Third sector (charitable, campaigning, social enterprise, voluntary, non-profit)
- ☐ Other (e.g. clubs, local groups, groups of individuals, etc.)

Optional: You may wish to explain briefly what the organisation does, its experience and expertise in the subject-matter of the consultation, and how the view expressed in the response was arrived at (e.g. whether it is the view of particular office-holders or has been approved by the membership as a whole).

Q3. Please choose one of the following:

- ☒ I am content for this response to be published and attributed to me or my organisation
- ☐ I would like this response to be published anonymously
- ☐ I would like this response to be considered, but not published ("not for publication")

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**

Q4. Please provide your name or the name of your organisation. **(Note: The name will not be published if you have asked for the response to be anonymous or "not for publication".)**

Name:

JAMES SWAN

Please provide a way in which we can contact you if there are queries regarding your response. Email is preferred but you can also provide a postal address or phone number. **(Note: We will not publish these contact details.)**

Contact details:

Q5. Data protection declaration

- ☒ I confirm that I have read and understood the privacy notice attached to this consultation which explains how my personal data will be used.

Aim and approach

Q6. Which of the following best expresses your view of the proposed Bill?

- ☒ Fully supportive
- ☐ Partially supportive
- ☐ Neutral (neither support nor oppose)
- ☐ Partially opposed
- ☐ Fully opposed
- ☐ Unsure

General

Q7. Do you have any other comments or suggestions on the proposal?

Culpable Homicide Consultation

Aim and Approach

I fully support the proposed bill

The law of culpable homicide in Scotland is not fit for purpose. That is particularly the case in relation to how the law applies to organisations. More to the point, the law of culpable homicide has got itself tied up in knots by having different tests for different types of wrongdoers. The result is that the law is confused and does not apply consistently across individuals and different types of organisations.

We need one clear set of rules that apply to everyone – individuals, small organisations, large organisations, ministers and crown bodies. That is exactly what the proposed bill will achieve and that is why it has my full support.

I believe that when an individual or an organisation causes death through recklessness or gross negligence they are guilty of culpable homicide. I therefore support the bill containing both tests.

No organisation should be exempt from the law of culpable homicide. I therefore full support the bill applying to ministers, civil servants and crown bodies.

No organisation should be “too big to be convicted”. I therefore fully support the proposal that an organisation will be guilty if an office holder of the company acts with recklessness or gross negligence and causes the death of an individual. The term “office holder” should be given the widest definition. It should apply to all levels of management and supervision. If a manager or supervisor is acting within the course of their employment and their recklessness or gross negligence causes death then the organisation is as guilty as the individual and both should face conviction for culpable homicide.

The real benefit of the proposed bill is that the law will apply consistently and evenly to everyone and every organisation. The law will be clear and easy to understand. Wrongdoers will be punished. Justice will be served. Most importantly, the law will serve as a real deterrence and Scotland will be a safer place.

Sanctions

The widest sanctions must be available to Judges. That includes imprisonment and remedial orders. Victim impact statements should be mandatory in all cases where there is a conviction for culpable homicide. In appropriate cases, senior management and directors of organisations should face the prospect of custodial sentences.

Signed:

