

CULPABLE HOMICIDE (SCOTLAND) BILL
CONSULTATION PAPER QUESTIONS

Consultation by
Claire Baker MSP, Mid Scotland and Fife Region
8th November 2018

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:

I AM A TRADE UNION EDUCATED HHS ADVISOR. IN 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- ☐ I would like this response to be considered, but not published ("not for publication")

If you have requested anonymity or asked for your response not to be published, please give a reason. **(Note: your reason will not be published.)**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 **(Note: The name will not be published if you have asked for the response to be anonymous or "not for publication".)**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: PAUL MOONDEL UNITE

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

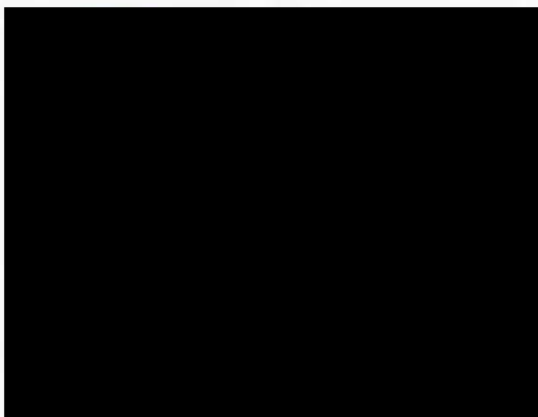
General

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

Although I agree with the Sill, I feel that workplace accidents in general must be looked at.

Often when a person is injured in the workplace, they will receive compensation. However no one is ever prosecuted for the cause of the accident even although under the Health + Safety at work Act 1974 section 7 they can be.

I also feel that the history of companies/projects etc. should be considered as part of any prosecution, as often by the time a death occurs there would have been accidents on the project (after Review) which would have been ignored.



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.

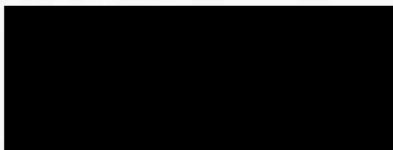
No organisation should be "too big to be convicted". I therefore fully support the proposal that an organisation will be guilty if an office holder of the company acts with recklessness or gross negligence and causes the death of an individual. The term "office holder" should be given the widest definition. 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:

A solid black rectangular box used to redact the signature of the person who signed the statement.

HOW TO RESPOND TO THIS CONSULTATION

You are invited to respond to this consultation by answering the questions in the consultation and by adding any other comments that you consider appropriate.

Format of responses

If possible, please submit your response electronically – preferably in a MS Word document. Please keep formatting of this document to a minimum.

Please make clear whether you are responding as an individual (in a personal capacity) or on behalf of a group or organisation. If you are responding as an individual, you may wish to explain briefly what relevant expertise or experience you have. If you are responding on behalf of an organisation, 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).

Please include with your response contact details (e-mail if possible, or telephone or postal address) so we can contact you if there is any query about your response.

Where to send responses

Responses prepared electronically should be sent by e-mail to:

culpablehomicidebill@gmail.com

Responses prepared in hard copy should be sent by post to:

Claire Baker MSP
M1:03
Scottish Parliament
Edinburgh EH99 1SP

You may also contact Claire Baker's office by telephone on 01592 786 726.

Deadline for responses

All responses should be received no later than Friday 15th February 2019. Please let me know in advance of this deadline if you anticipate difficulties meeting it.

How responses are handled

Any information you send in response to this consultation (including personal data) will be seen by the MSP progressing the Bill, their office and by staff at Thompsons Solicitors, who are helping with the progression of this consultation and bill.

To help inform debate on the matters covered by this consultation and in the interests of openness, please be aware that I would normally expect to publish all responses received (other than confidential responses) on my website www.clairebaker.org. Published, responses (other than anonymous responses) will include the name of the respondent, but other personal data sent with the response (including signatures, addresses and contact details) will not be published.

Where responses include content considered to be offensive, defamatory or irrelevant, my office may contact you to agree changes to the content, or may edit the content itself and publish a redacted version.

I expect to prepare a summary of responses that I may then lodge with a final proposal (the next stage in the process of securing the right to introduce a Member's Bill). The summary may cite, or quote from, your response (unless it is confidential) and may name you as a respondent to the consultation (unless your response is anonymous).

If I lodge a final proposal, I will be obliged to provide copies of responses (other than confidential responses) to the Scottish Parliament's Information Centre (SPICe). SPICe may make responses available to MSPs or staff on request.

Requests for anonymity or confidentiality

If you wish your response, or any part of it, to be treated as **anonymous**, please state this clearly. You still need to supply your name, but if the response is treated as anonymous, only an anonymised version will be published or provided to SPICe. If you request anonymity, it is your responsibility to ensure that the content of your response does not allow you to be identified.

If you wish your response, or any part of it, to be treated as **confidential**, please state this clearly. If the response is treated as confidential (in whole or in part), it (or the relevant part) will not be published or provided to SPICe. I may reflect the general content of a confidential response in the summary, but only if you are content that the way I propose to do so is consistent with the confidentiality involved.

Other exceptions to publication

Where a large number of submissions is received, particularly if they are in very similar terms, it may not be practical or appropriate to publish them all individually. One option may be to publish the text only once, together with a list of the names of those making that response.

There may also be legal reasons for not publishing some or all of a response – for example, if it contains irrelevant, offensive or defamatory content. If I think your response contains such content, it may be returned to you with an invitation to provide a justification for the content or to edit or remove it. Alternatively, I may publish it with the content edited or removed, or I may disregard the response and destroy it.

Data Protection

As an MSP, I must comply with the requirements of the General Data Protection Regulation (GDPR) and other data protection legislation which places certain obligations on me when I process personal data. As stated above, I will normally publish your response in full, together with your name, unless you request and I agree anonymity or confidentiality. I will not publish your signature or personal contact information.

The legal basis for collecting, storing and using the personal data that you provide with your consultation response can be found in Article 6(1)(e) of the GDPR. This Article permits the processing (using) of the personal data where it is necessary for the performance of a task carried out in the public interest.

I may also edit any part of your response which I think could identify a third party, unless that person has provided consent for me to publish it. If you wish me to publish information that could identify a third party, you should obtain that person's consent in writing and include it with your submission.

If you consider that your response may raise any other issues under the GDPR or other data protection legislation and wish to discuss this further, please contact me before you submit your response.

Further information about data protection can be found at: www.ico.gov.uk and you can read my full data protection privacy notice at www.clairebaker.org.