

Culpable Homicide Consultation – Individual Response

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- I am responding as an individual
- I am a member of the public
- I am content for this response to be published and attributed to me
- I confirm that I have read and understood the privacy notice attached to this consultation which explains how my personal data may be used

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.