

## **Culpable Homicide Consultation – Individual Response**

Name: Karen Thomson

E-mail address [REDACTED]

**or**

Contact address [REDACTED]

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- 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.

### **Any additional comments**



My partner Graham Meldrum was killed at work on the 12th of July 2005, another person who left for work never to return. He was working as an agency driver for TNT and delivering to Allied Bakeries in Glasgow.

All these years on, it's a different grief now. A feeling of desolation at all he missed. Aw the weans born, the weddings, achievements. Aw these years later and Catriona, who was 13 when Graham died, she is just coming to terms with the trauma. I still have the bed he made me, welded in the dark winter nights in his garage, and the next generation of weans play with the easel and the motors he created. His beloved trike has also been reborn – the

Asbkonda2 – and my wheelchair-using pal James is a biker again. I absolutely

with every ounce of my being support this campaign, just to save one family this lifelong feeling. More than that, I'm sometimes consumed with rage that we still need to.

Because Graham, he was a loving family man who cared for many causes, choosing not to use his University degree (he had a PhD in Chemistry) and work in the corporate world he disliked so much, instead opting to work for a company with common beliefs to him, Greencity Wholefoods, a workers' cooperative where all workers have a say in the way the company is run and conducts business.

Graham rose to be their transport manager and it was during a sabbatical from his job that Graham was killed, a sabbatical taken partly to gain further HGV qualifications to cope with Greencity's expanding business necessitating an increase in the size of its fleet and the class of vehicles used.

He had been employed by Bellshill employment agency Suziline who went out of business and were never charged with any offence. Graham was sent to work for TNT on a contract they had with Allied Bakers to deliver products across Glasgow.

At some point between 5.15pm and 6.15pm on the 12<sup>th</sup> of July 2005 Graham received fatal injuries when his head became trapped in a faulty tail lift on an articulated trailer belonging to Allied Bakers, later to become ABF Grain Products Ltd. There had been several issues in relation to tail lifts of the type fitted to the trailer stretching back eight years to 1997 and this had been compounded by the lack of adequate maintenance of this one where vital safety components were broken. They were not replaced because the company had taken a decision not to do so, a decision that led to Graham's death and one that our family and friends and friends have had to live with. The 12th of July 2005 not only marked Graham's death but also the start of a campaign for justice for Graham and answers as to why Graham died. The Fatal Accident Inquiry held over five years after his death provided some answers but also posed more questions for us that did not come out at the court hearing, why did the deliberate failure to maintain this tail lift and others like it not attract a more serious charge that reflects the level of culpability of companies and their senior managers in a death.

ABF Grain Products Ltd was fined £19,500 and TNT Logistics fined £14,000 after the court heard that Graham died due to a lack of adequate training and a failure to maintain vehicles. ABF were convicted for three breaches of health and safety legislation relating to failure to maintain their vehicles and TNT one breach of failing to provide adequate training. The training that Graham received fell far short of that provided to permanent TNT employees.

The Sheriff said he was limited by Parliament in the level of fines he could impose for the offences to which both companies pleaded guilty. I am sure

they would not have been as willing to enter a plea of guilty had the charge been culpable homicide.

In our experience we may have had some answers, but Graham has not had justice, I have suffered the same injustice, Graham's and my parents died having been denied justice and still to this day it would appear to be impossible to hold companies to account for acts of homicide in the workplace. We should not have to visit the site where Graham died, to pin flowers to the railings and fasten tributes to a tree. Or leave photos saying things like: "This is baby Lorcan. The next generation. You were denied the chance to hold him." Our daughter Heather was only 6 when her dad was killed. That same year we "introduced" baby Lorcan, she wrote movingly: "Eight years later I am staying strong and living out your skill with science...I've also taken the sporty and competitive sides of you, developing skills in rugby and horse riding..." "I enjoy hearing stories about your antics and, bit by bit, memories are coming back, which is rather good."

Our loved ones should not be memories, they should be living and breathing alongside us, living life to the full. Instead Graham was denied his future. I am supporting these proposals in another attempt to secure justice for Graham, for all other families who have suffered the same torment and injustice as I have and to ensure that fewer families must do so in future.

Karen Thomson