

## 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 also 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 deterrent 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.

Notwithstanding this I believe that there is scope for further legislation to be enacted following the passage of this Bill that would provide protections for those that raise concerns around health and safety. Through my union Unite, I am aware of numerous situations where speaking out in relation to a health and safety concern will lead to the individual being denied future work, in effect blacklisted. The agricultural industry is another industry where speaking out will result in the potential to be 'let go' and within the offshore industry, similar concerns result for members that raise issues around health and safety critical working practices in the oil and gas sector. Workers are fearful of speaking out as they may find themselves NRD'd (not required back).

Construction and agriculture workers have the highest rates of workplace accidents resulting in death, than any other sectors of the economy. It's therefore vital that workers in these sectors, and others, feel that they are supported when raising concerns around workplace practices that could potentially have health and safety implications.

I am in total support of the Bill. There does however require to be changes in corporate culture, and a recognition in law of the importance of health and safety reporting and the need for concerns to be raised in a safe and respectful environment without fear of retribution. I would not wish to see this Bill fail due to concerns such as these. I believe that these concerns can be addressed if attitudes to health and safety are taken more seriously across society and defined in law. I believe Health and Safety in Scotland would be dealt with more rigorously if Scotland had its own Health and Safety Executive. I believe that this would embed a more robust Health and Safety culture among businesses and wider society within Scotland and, would ultimately save lives. The flagrant dismissal of basic health and safety regulations, that are there to protect us all by some media outlets that promote a message that health and safety rules are unnecessary red tape, are also unhelpful.

Furthermore, the present nature of employment where workers fear raising legitimate concerns about health and safety within a workplace for fear of being sacked, is part and parcel of a culture where workers rights are being eroded and we are witnessing an increase in precarious contracts and job insecurity. I believe that this Bill is an extremely important part of the change required to protect workers including the devolution of employment law to Scotland. This would provide the opportunity for injustices, imposed by the Conservative Government on workers that have had such a detrimental impact on justice and fairness in the workplace, to be rectified and would deliver a more socially just employment culture.