

Will your systems hold up to the test?

Nicola Coote, of Aylesford-based personnel health and safety consultants PHSC, gives some timely advice on the subject of corporate manslaughter.

THE Corporate Manslaughter & Corporate Homicide Act 2007 came into effect on April 6. It introduces a new offence of which an organisation can be convicted if its management (or rather mismanagement) resulted in a person's death.

There is a legal obligation to ensure a duty of care to people affected by an organisation's activities. This will not change. What the new law will mean is that those who disregard the safety of others at work, with fatal consequences, will be liable to very serious criminal charges. The consequence to a convicted business is likely to result in:

- Higher fines than have currently been seen (unlimited);
- A publicity order (the format is still to be agreed, but the consultation document is considering this order to be placed on every organisation convicted of the offence. A range of options being suggested includes the placing of an advertisement in newspapers and trade journals or on television or radio, as well as ordering letters be sent to shareholders and customers);

Imprisonment

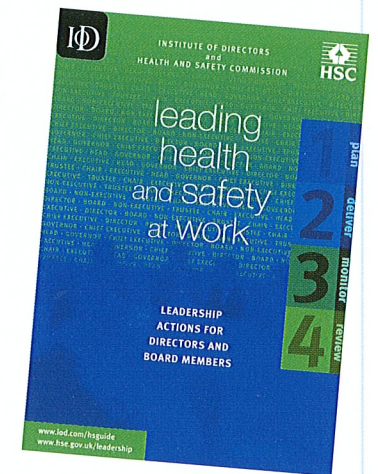
- Remedial order (this will require an organisation to take steps to remedy any management failure that led to a death);
- Imprisonment (this will continue to be an option for an individual director/manager under existing manslaughter legislation).

The courts will look more closely at how the fatal activity was managed or organised throughout the organisation. This will include the systems, procedures and processes for managing safety and how they operate in practice.

So what should employers do to ensure they are not vulnerable?

Firstly, you should review your compliance with safety legislation to identify if you are compliant and if your systems are actually effective in practice. This will highlight if and where any weaknesses exist so that attention can be given to improving. An independent review may require some expenditure, but will provide an unbiased and independent scrutiny of the way that safety is managed.

Also, your staff may need training or refresher training so



they understand their role and responsibilities in ensuring that systems are implemented and followed correctly, and that non-conformances are addressed.

You should also ensure that work procedures are actively monitored and reported to the most senior level. A simple spot-check or walk round by senior management, asking pertinent questions, is a very powerful and persuasive way to ensure that staff stay focused and take more care.

More specifically, you should do the following:

- Ensure health and safety arrangements are adequately resourced;
- Complete and put into action risk assessments for all parts of the business;
- Ensure access to competent ongoing advice for health and safety;
- Involve employees in decisions that affect their health and safety.

These actions are stated in a new guidance booklet produced jointly by the Institute of Directors and the Health and Safety Commission.

■ **The booklet, entitled *Leading Health and Safety at Work: Leadership Actions for Directors and Board Members* (INDG 417) can be obtained by ringing HSE Books on 01787 881165 or by downloading a free copy from the Health & Safety Executive's website at www.hse.gov.uk**

■ **You can ring PHSC on 01622 717700 or visit www.phsc.co.uk**