

DUNDEE CITY COUNCIL

REPORT TO: Policy and Resources Committee - 24 March 2008

REPORT ON: Corporate Manslaughter & Corporate Homicide Act 2007

REPORT BY: Assistant Chief Executive (Management) and Corporate Health and Safety Adviser

REPORT NO: 182-2008

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to advise the Committee of the implications of the Corporate Manslaughter and Corporate Homicide Act 2007 if the Council's senior management are found to have managed or organised activities in such a manner to cause the death of any person.

2 RECOMMENDATION

- 2.1 It is recommended that the Committee notes the content of this report and actively promotes the effective management of health and safety risks in all Council Departments as a senior management responsibility and issue.

3 FINANCIAL IMPLICATIONS

- 3.1 Failure to manage the Council's activities to prevent the death of any employee or person affected by the Council's operations could lead to an unlimited fine, the publication of the Council's failings in the public arena, as well as prescriptive orders being imposed by the court to undertake specific remedial measures without regard to the financial cost of the corrective measures.

4 MAIN TEXT

- 4.1 The Corporate Manslaughter & Corporate Homicide Act 2007 comes into effect on 6 April 2008.
- 4.2 Companies and public authorities can be found guilty of corporate homicide on the basis of gross corporate failures in health and safety that have lead directly to the death of any person.
- 4.3 Senior management's commitment to managing health and safety will be scrutinised following any workplace fatality. A gross breach or failure is defined as being where the conduct of the organisation falls well below what can be reasonably expected of the organisation in the circumstances.
- 4.4 If there has been a failure to comply with health and safety legislation, then the court will consider how significant and serious the breach had been in relation to the fatality.

- 4.5 The Court will also examine the attitudes, policies, systems of work, or accepted practices within the organisation and determine how visibly active senior management have been in reviewing health and safety policies, risk assessments and safe systems of work. If the Court detects that there has been a history or tolerance of non-compliance with the law, then a charge of corporate homicide is very likely following a fatality.
- 4.6 Compliance with health and safety legislation has never been more important than today and this new legislation confirms that health and safety is a key issue for all Chief Officers and senior managers to actively manage.

5 POLICY IMPLICATIONS

- 5.1 This report has been screened for any policy implications in respect of Sustainability, Strategic Environmental Assessment, Anti Poverty, Equality Impact Assessment and Risk Management. There are no major issues.

6 CONSULTATION

- 6.1 Chief Officers attended a corporate health and safety training course in 2007 where senior management responsibilities were emphasised and discussed in relation to the impact of the Corporate Manslaughter & Corporate Homicide Act 2007.

7 BACKGROUND PAPERS

- 7.1 None.

J C Petrie
Assistant Chief Executive (Management)

17 March 2008

N Doherty
Council Health and Safety Co-ordinator

17 March 2008