

# BRIEF UPDATE

FROM THE HEALTH, SAFETY AND ENVIRONMENTAL DIVISION



## Corporate Manslaughter— Cotswold Geotechnical Holdings Limited

### Facts

Cotswold Geotechnical Holdings Ltd has become the first company to be convicted of corporate manslaughter under the Corporate Manslaughter and Corporate Homicide Act 2007. Alex Wright was a geologist for the company, who died of traumatic asphyxiation in September 2008 while investigating soil conditions in a deep trench which collapsed and killed him. Mr Wright was working alone after the company director had gone home for the day, when the 3.5 metre-deep unsupported trench caved in on him at a development site in Stroud, Gloucestershire.

The prosecution submitted that Cotswold Geotechnical Holding's systems had failed to take all reasonably practicable steps to protect Mr Wright when working in the dangerous trench. In convicting the company, the jury found that their system of work in digging trial pits was wholly and unnecessarily dangerous. Industry guidance prohibiting entry into excavations more than 1.2 metres-deep was ignored with employees often being required to enter unsupported trial pits more than 3 metres deep.

### Comments

Cotswold Geotechnical Holdings was a relatively small company with 8 employees. Peter Eaton was the company director who had overall control of the way in which the company managed its affairs. Under the Act, an organisation is guilty of corporate manslaughter if the way in which its activities are managed or organised causes a death and amounts to a gross breach of a duty of care to the person who died. A substantial part of the breach must have been in the way activities were organised by the senior management. Although Mr Eaton was too ill to stand trial on a manslaughter charge, Mr Justice Field directed the jury to assess his conduct in reaching a verdict.

The sentence for corporate manslaughter is an unlimited fine which is determined by a judge. The judge may also give the organisation a publicity or remedial order. In this instance the judge fined the company £385,000 to be paid over 10 years. Mr Justice Field commented; "The impact of the fine on a company cannot be the determining factor as to the level. The fine must be fixed at a level which reflects the gravity of the offence, and sends out a clear message both generally and to those in the contraction and excavation businesses."

The company's financial position was described as "parlous". Had this not been the case the fine would have been considerably greater and more closely in line with the sentencing guidelines. "The Sentencing Guidance Council says that generally fines for corporate manslaughter should be no less than £500,000, however there are individual circumstances and factors." However he noted that the fine did mark the gravity of the offence and the deterrent effect it would have on companies to strongly adhere to health and safety guidance. Mr Justice Field explained that the company was small and a larger fine could cause it to be liquidated with the remaining employees losing their job. "It may well be that the fine in the terms of its payment will put this company into liquidation. If that is the case it's unfortunate but unavoidable. But it's a consequence of the serious breach."

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