

DRAFT LETTER FROM THE CHAIR TO THE HOME OFFICE BILL TEAM

I am pleased to have this opportunity to reply, on behalf of the Health and Safety Commission, to the Home Office consultation paper and draft Corporate Manslaughter Bill.

The Commission would like to express its strong support for the proposal for a new offence of corporate manslaughter. We share Government concern about the unsatisfactory common law position, which makes it very difficult for a prosecution to succeed because of the need to identify a single “guiding mind” as culpable. Whilst prosecutions are likely to be infrequent, the proposed new offence will be an important addition to the range of enforcement options that are available when a fatality results from particularly serious management failures, and will add to their overall deterrent effect.

As you know, HSE officials have worked with the Bill Team over a considerable period in support of this reform, and we are pleased to see that the proposals reflect our thinking. We are especially pleased to see that it would, in general, apply to the Crown. However there are certain exceptions, where Crown immunity is preserved. The Commission view is that any such exceptions should be as limited as possible, and I would like HSE officials to discuss with your team whether the exceptions in the current draft Bill are absolutely necessary.

As you know, the Commission wishes to pursue a number of policy changes in relation to health and safety offences, specifically the removal of Crown immunity and increases in maximum penalties. HSE officials will continue to discuss with the Home Office ways of securing these objectives, and the possibility of using this Bill as a vehicle. The desirability of consistency in how the law applies to the Crown should be part of these discussions.

The Commission looks forward to seeing effective new legislation in place which raises the profile of health and safety and has a real deterrent effect. HSE officials will continue to support the Bill Team in its efforts in whichever ways it can, and I look forward to seeing the Bill being introduced into Parliament as soon as possible. I hope you find these comments helpful.