



# Death sentences

**Later this year, the government says it will publish a draft corporate killing bill. It is not promising a law, just another consultation – the third corporate killing consultation in nine years. Whatever it proposes, the government is clear deadly directors will have nothing to fear. Rory O'Neill reports.**

**A**nnouncing the government's 20 May 2003 commitment to bring forward corporate killing proposals in the autumn, Home Secretary David Blunkett said: "There is great public concern at the criminal law's lack of success in convicting companies of manslaughter where a death has occurred due to gross negligence by the organisation as a whole."

He added: "The law needs to be clear and effective in order to secure public confidence and must bite properly on large corporations whose failure to set or maintain standards causes a death."

However, Blunkett's statement added: "The legislation

will be targeted at companies themselves, which is the area of weakness in the current law... The criminal liability of individual directors will not be targeted by the proposals."

This is a clear case of criminal neglect (*Hazards* 82). Just 15 company directors or very senior managers were convicted of health and safety offences between April 1999 and January 2003, according to research published on 28 May by the Centre for Corporate Accountability (CCA).

The convictions, following offences committed between October 1996 and October 2001, resulted in fines averaging £2,656.

And only eight – generally bosses of small firms – have ever found themselves behind bars for safety crimes.

George Brumwell, general secretary of the construction union UCATT and, as one of the nine-strong Health and Safety Commission, a member of the government's top advisory panel on workplace safety policy, commented: "In the most serious cases

the penalty should include imprisonment for individual directors.

"If custodial sentences can be given for cruelty to animals or killing someone outside work, there is no reason why the same penalty should not apply to a death at work."

He's right – the factory cat has a greater chance of justice than the factory worker. RSPCA reported in April 2003 that 57 prison sentences were imposed for animal cruelty in 2002, up from 46 in 2001.

Only one employer received a jail sentence for a workplace safety crime in this two year period – construction boss Brian Dean, jailed after a father and son were killed in a kiln collapse – and that was overturned on appeal and replaced with a £1 fine.

And it is not that enforcement agencies are availing themselves of alternative, punitive sanctions. CCA reports that since 2000 no company directors have been disqualified for safety offences. Only eight have been barred on safety grounds since the introduction of the Directors Disqualification Act 1986.

Many unions, including TGWU (right) and GMB (page 18), are demanding both companies and their directors are made more accountable.

Dave Joyce, safety officer with communications union CWU, said: "If directors can be prosecuted for breaches of company law or for 'cooking the books,' I fail to see why they can't be prosecuted if they kill one of their

employees through reckless or negligent actions or inactions regarding safety standards in their company or organisation."

Aslef general secretary Mick Rix said "directors must be held personally responsible, not just the company as a whole," with prison sentences and disqualifications for dangerous directors.

And the June issue of UNISON's *Health and Safety Organiser* notes: "For a company, a conviction even in the most serious case will only lead to a fine, unlikely to be a major worry for a big employer. The threat of imprisonment would be a far more effective deterrent." And the calls have not been restricted to unions.

A 7 June editorial in top medical journal *The Lancet* said "until chief executives are made directly responsible for decisions that lead to injury, it is unlikely that the huge toll of work-related injuries will fall."

Even some employers' organisations think it is time to take safety crimes seriously. Commenting on the Home Office proposals, Ruth Lea of the Institute of Directors said that if a manager or safety officer was responsible for recklessness that led to a death, they should have the book thrown at them.

But it seems it is another bosses' organisation that has Blunkett's ear. Michael Roberts of the Confederation of British Industry (CBI) commented: "We are particularly pleased that the government has avoided the temptation

## Exceptional news

On 9 July 2003 the British Transport Police announced that the companies Network Rail and the maintenance firm Balfour Beatty and six senior managers are to face manslaughter, gross negligence and safety charges over the October 2000 Hatfield train crash in which four passengers died.

Bob Crow, general secretary of rail union RMT, commented: "We have long campaigned for bosses to be held accountable if their negligence causes death or injury."

UCATT general secretary George Brumwell said: "There is going to be a tough and bloody battle between the state and big business. The defendants will fight tooth and nail to escape the consequences of their actions. It is excellent that the principle of charging both companies and individual managers has been established, and we shall now see the truth unfurl." Manslaughter charges against companies and top bosses are exceedingly rare.



to target individual directors."

Advocates of the CBI line say a more chummy self-enforcement approach works because safety is in everybody's interest – it is not a matter for litigation, but a matter for cooperation. And, as an added incentive, "safety pays."

In fact even the most catastrophic, deadly disasters can be money spinners – and HSE and companies know it.

An international research review commissioned by HSE and published quietly last year, concluded "organisations often do not suffer financially, even from serious incidents" (*Hazards* 82).

In reality, the likelihood of any enforcement action, however meek, is fading fast. Prospect, the union representing HSE inspectors, has said the cash-strapped safety watchdog is "playing Russian roulette" with workplace

safety in an effort to meet a 5 per cent budget cut this year.

The union says the HSE cuts come at a time when government targets set under its "Revitalising health and safety strategy" look unlikely to be met, something Prospect says amounts "to a failure of joined-up government."

Editorial: *Who will take responsibility for corporate killing?* The Lancet, vol.361, Issue 9373, page 1921, 7 June 2003.

## You want directors in the dock

Two-thirds of people in the UK believe there should be a new corporate killing law and that directors should be accountable for safety crimes, according to a poll for the Transport and General Workers' Union.

The union says its MORI poll of over 1,000 adults also found "nearly two-thirds of people believe company directors should be able to be prosecuted for a serious criminal offence like manslaughter."

At the June 2003 launch of TGWU's report, *A hard day's work never killed anyone – negligent bosses did*, TGWU general secretary Bill Morris said: "Workers are daily burned, crushed or asphyxiated in fatal accidents which are the result of some failure by senior management. This is not acceptable. Employers, businesses and governments cannot be above the law."

The MORI poll found 1 in 4 people say they have worked for employers who have broken workplace health and safety laws – with a "staggering" 40 per cent saying someone was injured or killed as a result. Two-thirds (65 per cent) support the introduction of a corporate killing law. And 65 per cent say they "strongly agree" or "tend to agree" that workplace safety will only improve if directors can be prosecuted.

The union, working with the Centre for Corporate Accountability, has produced its own draft parliamentary bills on corporate killing and directors' duties (see centrepages).

*A hard day's work never killed anyone – negligent bosses did*, TGWU report, June 2003. Available from the TGWU Campaigns Team, Transport House, 128 Theobalds Road, London WC1X 8TN. [www.tgwu.org.uk](http://www.tgwu.org.uk)

See the special *Hazards* centrepullout section, featuring text of the TGWU corporate killing bill and director duties bill. Copies of the draft bills and explanatory background notes are also available on the TGWU and CCA websites: [www.corporateaccountability.org](http://www.corporateaccountability.org)



## HOW BAD DOES IT NEED TO BE?

July 6, 2003 was the 15th anniversary of the Piper Alpha disaster. The 1988 explosion and fire on the North Sea oil platform claimed 167 lives. The tragedy, on a platform run by the multinational Occidental Petroleum, would not have happened if proper, safe, permit to work systems had been in operation. They were not.

A public inquiry found there were "significant flaws in the quality of management of safety... Senior management were too easily satisfied that the permit to work system was being operated correctly, relying on the absence of any feedback of problems as indicating that all was well... They adopted a superficial attitude to the assessment of the risk of major hazard."

Neither the company nor its directors were prosecuted. An attempted private prosecution by relatives of the victims failed because of a lack of funds.

Cullen HL (1990). *The public inquiry into the Piper Alpha disaster*, Cmnd 1310, HMSO.