Health and Safety Management Under UK Corporate Manslaughter and CDM Laws

Posted on October 17, 2019

View this essay online:
https://academic-master.com/health-and-safety-management-under-uk-corporate-manslaughter-and-cdm-laws/

Introduction

Before the enactment of CMCHA 2007, a corporation had to be in an “unsophisticated break of the duty of care owed to the victim” for it to be indicted for manslaughter. The introduction of CMCHA 2007 made prosecutions more comfortable since it has created a unique constitutional offense that is based on corporate accountability; therefore it does not single out individuals.

Construction is one of the world’s largest industries. Regrettably, it also records quite some deaths and injuries, and even one of the most dangerous industries. Approximately one thousand workers are killed every year, and almost one million are injured. More workers in the sectors are exposed to asbestos fibers (Eurostat, 1999.) All over the years, the industry has recorded some improvements while adjusting the safety and health levels trying to reduce the rate of illness, deaths, and injuries. The industry has to cater for quite many losses during such incidents forcing it to seek every means to improve the safety and health sector. Therefore, all stakeholders involved are liable to take proper actions and mend the department.

Improving The Health And Safety Of The Demolition

Various countries tend to organize competitions and awards for companies and organizations in the industries. The awards motivate the players to come up with ways to reduce incidents that lead to casualties and life loss. The players make crucial decisions from the inception of projects to their completion. They have to take a keen interest in improving the department at each stage of their plans. The law enforcement authorities have roles to play in promoting the industry as well by providing crucial information where workers are made aware of the safety and health practices. Exchanging information through various media platforms is essential as it also creates awareness through shared materials. Construction workers continued to utilize the health and safety legislation which remarkably protects them. Employers take appropriate actions to avoid being sued by individuals. Personal injury claims lead to employers losing large sums of money. The trade unions are at the forefront in dealing with the health and safety sector. This is due to certain estimates of at least

15000 people dying prematurely and 200000 injured at work every year. The figures are brought about by the reduction in site inspections and prosecutions. These have led to the need to strengthen law enforcement.

Construction (design and management) regulations about health and safety have also cited various causes of accidents. Falls, mobile plants, falling materials, and electrical accidents are some of the common causes of death and injuries. CDM requires individuals to comply with the health and safety legislation in controlling such risks where only workers with the right skills and know-how are available in all projects. Contractors are not left behind. Contractors are required to provide appropriate supervision, instruction, and information and have a well-designed construction phase plan. A construction phase plan highlights the job awareness, start and finish dates, the available facilities, and other individuals on the site. Every person is made aware of the main dangers on site and the controls the contractors have towards such hazards. The documented phase plan for sites organizes site dangers from a height falls to risking the member of the public. In CDM regulations, every threat has measures and controls taken against it.

Mostly, if you are working on a project where there are demolition works, you need to apply CDM. Clients are answerable and are liable to influence their plans. In demolition, a project manager assigned by the client allocates sufficient time and resources for the project and provides the relevant information to other stakeholders. The well-being of every worker on the site should be catered for by giving the appropriate facilities.

The Corporate Manslaughter and Corporate Homicide Act (2007) protects workers in an organization where the activities involved are risky and may lead to death. The actor plays a significant role in the demolition sector. The act deems an organization guilty of a particular offense where such activities are organized in a way that might lead to death. The act's 'relevant duty of care is owed to the workers which they must undertake in the health and safety sector.

The act has helped create some organizations to help affected families deal with and manage disasters in cases of death. Where there are fatalities, demolition projects are concerned with productivity and morale drop. Death creates stigma and changes in other worker's social life during the rest of the project. Therefore, the organization has to try various ways to improve the performance of the workers and even some essential players during such events. Organizations find it quite difficult to cope with the situation in such incidents. The condition worsens, especially in the demolition sector, where there is fear. The solidarity breaks, and fear dominates the entire working platform. The act governs the whole construction and maintenance platform. Stress dominates the demolition sector, especially where the contractor is forced to use the crane and ball method of demolition. This method requires highly skilled operators, and at the same time, it creates a high level of environmental pollution.

Apart from the social impact, accidents and fatalities have a technical influence on the activities. Different procedures in the demolition process have also advanced with the importance of the

possible legislation. The new CDM Regulations emphasize more on the design plan and potential safety risks early on and even give clients more responsibility. The Incident and Injury-Free Executive Forum is one of the programs that are committed to safety. Its primary concern is the procedures used in the demolition industry. If somebody thinks what they are about to do is unsafe, it is likely they will express their concerns, and the situation will be redressed. The workforce as a collective also has more of a voice than ever before to communicate general worries and problems. Such programs are also regulated by the Corporate Manslaughter and Corporate Homicide Act section 5 as they operate. The programs are designed in a way that they provide training as well. The act insists that there is no relevance in the duty of care where the training is done in a hazardous nature. An example is where the demolition trainees are subject to learning and placed at the leading edge of the process. This is considered a violation of the act, and dangerous actions might be taken depending on the judge whenever there is a case.

Imposed fines on offense improve both the safety and health sectors. Companies fear ruining their reputations due to publicity where companies are forced to post their conviction and their crime. In such events, the companies believe to have damaged the legacy they have diligently worked to create.

The recruitment and retention of staff by the industry are also likely to be influenced by to perceptions of a customer. All this destroys the client-contractor relationship and the supply chain, at the same time damaging the equity of the company and providing competitors with significant advantages. Companies fear losing this since it takes a lot of time to build and protect such reputations. Therefore, due to publicity orders, companies have developed a defensive nature by improving their health and safety departments, especially when dealing with demolitions. Whenever prosecutions arise from a suspected breach of health and safety legislation, Corporate Manslaughter cases also result from such violations. In such cases, the prosecution defense costs are covered. Industries in the construction industry try not to be the defendants as it is easier for the ‘plaintiff’ to sue them. From the above, the health and safety department in the construction industry has been improved and adequately organized through mitigation against accidents and mortalities. Large construction companies have taken actions to reduce the severity by introducing a health and safety culture. This culture revolves around time, cost and quality.

Influences That Contribute To The Success And Failure Of The Implementation Of Health And Safety

Corporate Manslaughter has an impact in fortifying the organization’s compliance with existing health and safety health and safety laws. The process is considered a success since the current manslaughter cases prove difficult to prove against large organizations. Since the government failed in the duties of implementing the objectives of the criminal law, it is considered a sense of injustice.

The act is simple in that it is mostly determined to ensure successful prosecution of manslaughter in company cases and making it more comfortable and prosecuting companies of higher categories. The CMCHA 2007 does not add or remove any health and safety law from the existing one. The act does not produce any new health and safety lalawsCompanies abiding by current laws and regulations have no additional obligations with which to comply.

There is a high possibility of effective prosecution of homicide with the help of CMCHA 2007. However, the act does not provide new cautions for foreign corporations that operate in the UK and does not have similar legislation. This shows a failure in the implementation of the law as it will also indicate changes in expected values of the risk of fatalities. In such cases, different corporations, especially those in the construction industry, will have to continuously re-evaluate their risk assessments considering their operations in the UK. CMCHA 2007 is regarded as a new realization by some establishments in handling the safety and health of different players, and where establishments have failed to comply with laws fully, the act creates justice. The bill makes organizations alert. Large organizations invest in building policies that are in good order and staff who comply with the law.

The action tends to lie more on the safety culture where, when a company has proper policies and observes them, then they are on them. Hence, the act is considered biased as targeting companies of higher ranks with their systems becomes difficult. Corporations, where appropriate policies and procedures are not in place might have the safety and health regulations undermined. It is even more comfortable for companies to have a management crisis leading to untimely decision-making.

Large corporations defend themselves with their policies making it difficult to prosecute them using the act. The act is considered a failure when it comes to solving fatality cases against large corporations and individuals, yet it highlights the problem of corporate killings. Bureaucracy is deemed to be high in this case, and the act does not make a great difference in the health and safety sector. Technicalities and wording are used to create a massive difference between health and safety and a corporate manslaughter offense. These technicalities are seen, and how they will ultimately pan out depends on a whole series of issues, most remarkably exploratory resources and monitoring resources. By requiring the authority approval to prosecute, the Act intends to entrap prosecution in the political process to an unacceptable degree. Future cases may create a repercussion for companies and their representatives. Some organizations are huge and hold power over the low cost, and even political corruption of some sort is a likelihood.

The creation and imposition of legislation threaten the position of managers, particularly those in the construction industry. Management accountabilities become irksome and intimidating.

The Factors That Contributed To A Significant

Impact On Health And Safety In My Organization In The Last Five Years

There was the need to move from the technological and management system approaches for enhancing health and safety performance in organizations to understanding human behaviors and factors that contribute to accidents and health and safety failures. This is one of the moves that had a significant impact on the Health and Safety sector in the organization. Most disasters are brought about by safety failures on construction sites. These have been attributed to unsafe behaviors employees exhibit on site, which sometimes is times is not explainable. Most accidents are brought about by risky actions and not the circumstances.

This is where some individuals dare to undertake some activities due to overconfidence. Humans will also achieve safety improvements by developing a culture of sharing standards and values about having safety as a priority before everything. Individuals exposed need to have a clear mind on the hierarchical management of the safety concerns. This is evident on sites where the safety department is organized and placed differently from other departments, and it is a significant concern. Workers are made aware of the safety practices through notices and warnings pinned in every section of the construction site. The safety department takes a keen interest in every worker's well-being. Consequently, mastering the art of being safe in an organization also helps comprehend instant and reasonable results in reducing workplace accidents and their related costs. These consist of increased output and employee confidence. Hence, there was the need to understand the common consent on the ways to understand better behavioral and attitudinal factors that affect construction safety.

Recording the health and safety performance has a major impact on the organization. Many organizations use records to identify the effectiveness of their health and safety management and structures. Where the records show few indications of casualties, the organization tends to keep the records. The safety performance does not reflect the effort applied by some organizations. This shows an intricate correlation where efforts have significant contributions to the performance of the health and safety sector.

Safety accomplishments are measured and determined by the relevance of the injuries. Large corporations review their yearly health and safety records to check management techniques. The cultures employed by different organizations are difficult to measure since they are based on norms, attitudes, and practices that are not readily retrieved.

Although safety performance and culture are not easily measured, it is assumed that a healthy lifestyle is crucial in daily life production. In the construction industry, organizations undergo quite some challenges while trying to maintain a positive culture. Individuals involved in business acquisitions and divestment, where the management changes with time, have to deal with changing the culture. The whole process interferes with the performance of the industry. Organizations are required to grow in a proper safety culture where, for about five years or more, the culture shows

enduring safety presentation. Some construction companies have inaccurate records of accidents and do not frequently update the rare events hence not taking risks into account. Other measures, such as safety behaviors and minor injuries, have also been used, and fresh approaches tend to focus on current safety activities and systems. All these are used to measure success in corporations. Possibly, this is in combination with the more outdated approach to measuring performance. This is a projected approach to safety culture measurement and can also mean that organizations do not have to wait for a system failure before identifying and acting on safety issues.

The Compromised Health And Safety Sector Due To Financial Constraints

Since every employer must ensure every employee's health, safety and welfare are catered for, the employer becomes liable for risks arising in the course of the employment (Edwards v. National Coal Board). Therefore, financing such risks adversely affects the investment in workplace safety. The investment in workers' protection at the same time has a tight and vital margin; hence, firms are required to react to rising financial constraints. Some investments include introducing activities that reduce the risk of injuries while on the job and acquiring physical assets, sophisticated machinery, and simpler equipment. There is a need to maintain existing equipment and to replace the old and worn parts as a part of the safety measures. Lack of finance to cater to such requirements impedes the success of safety and health management. Firms have to spend enough resources on impalpable activities that have many influences on the health and safety sector. Impalpable activities include workflow organization, policies and procedures, training, and supervision, which affect safety performance.

While such a policy may seem mundane, the leading source of workplace injuries in 2012 was floors, walkways, and ground surfaces. In construction, plants have established agencies to formulate safety enhancements. Perhaps where studies are done on production processes, corporations realize the alleviation of the potential hazard. These organizational and policy activities require financial resources. Where employees are working on safety committees, the employer has to hire more of them. The management has to cater for overtime to uphold certain levels of production. The same applies wherein the need to train employees. Furthermore, rules are only valid if they are actively enforced. Firms must, therefore, devote time to monitoring and auditing to ensure that employees adhere to prescribed practices.

Conclusions

Insufficient finances at the firm level impact both palpable and impalpable assets safety at the foundation level. Companies earn from improved and stabilized safety measures and policies. Reduced downtime, a few lawsuits, reduced wage differential, and increased productivity are some of the benefits obtained from enhanced safety and health management. Nevertheless, financially

constrained corporations turn down positive NPV projects to conserve resources in the short run. In the end, security becomes susceptible and might be compromised. It is logistics; a high level of workplace safety may be a luxury that resource-constrained corporations cannot afford. Furthermore, severe workplace accidents are infrequent events, making the benefits of spending to improve safety challenging to quantify and hence justify to investors.

References

Mzyece, D., 2015. An investigation into the implementation of the Construction (Design and Management) regulations in the construction industry (Doctoral dissertation)

Bridgland, J., 2015. Safety in Numbers Building Control, p. 8

Arewa, A.O., Theophilus, S., Ifelebuegu, A. and Farrell, P., 2018. Analysis of Penalties Imposed on Organisations for Breaching Safety and Health Regulations in the United Kingdom. Safety and Health at Work

Tombs, S. and Whyte, D., 2009 A deadly consensus: worker safety and regulatory degradation under New Labour. *The British Journal of Criminology*, *50*(1), pp. 46-65

Gobert, J., 2008. The Corporate Manslaughter and Corporate Homicide Act 2007–Thirteen years in the making but was it worth the wait?. The Modern Law Review, 71(3), pp. 413-433