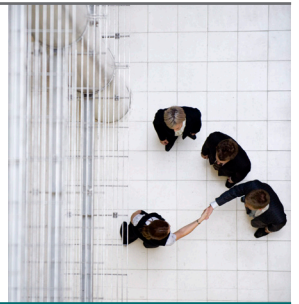


# Review

Environmental, Safety & Health



## First Successful Corporate Manslaughter Prosecution

On the 15 February 2011 Cotswold Geotechnical Holdings become the first company to be convicted under the Corporate Manslaughter and Corporate Homicide Act since it came into force in 2008.

Alex Wright, an employee of the Company, was 27-years-old when he died on 5 September 2008. Mr Wright was a geologist for Cotswold Geotechnical Holdings and was investigating soil conditions in a deep trench on a development plot in Stroud when it collapsed and killed him.

The Prosecution told the Court that Mr Wright was left working alone in the 3.5 metre-deep trench to 'finish-up' when the Company director left for the day. The two people who owned the development plot decided to stay at the site as they knew Mr Wright was working alone in the trench. About 15 minutes later they heard a muffled noise and then a shout for help.

One of the plot-owners called the emergency services, the other went to assist Mr. Wright where at this stage he was buried up to his head. He climbed into the trench and removed some of the soil to enable Mr Wright to breathe. At that point, more earth fell so quickly into the pit that it covered Mr Wright completely. Mr Wright died of traumatic asphyxiation.

The Prosecution's case was that Mr Wright was working in a dangerous trench because the systems that the Company had in place at the time failed to take all reasonably practicable steps to protect him from working in that way.

On finding the Company guilty of the offence the jury took the view that the system of work that had been put in place by the Company in relation to digging trial pits was wholly and unnecessarily dangerous. It was established that the Company had in fact ignored well-recognised industry guidance that prohibited entry into excavations more than 1.2 metres deep, requiring junior employees to enter into and work in unsupported trial pits, typically from 2 to 3.5 metres deep. Mr Wright was working in just such a pit when he died.

The case was investigated by both Gloucestershire Constabulary and supported by the Health and Safety Executive.

The Company was sentenced on Thursday the 17 February 2011 with a fine of £385,000 being imposed.

The first successful conviction and sentence of the Company represents a milestone in the use of the Corporate Manslaughter and Corporate Homicide Act. However, the case is a disappointment for many commentators as it is widely felt that the prosecution would have succeeded under the old law. Further, because of the size of the defendant company there was not a test of certain terms and definitions in the Act such as 'Senior Manager' therefore how this legislation will apply to large corporates remains to be seen.

If you would like any further information in relation to this article or on Corporate Manslaughter generally please contact Andrew Sanderson or Rob Elvin at Squire, Sanders & Hammonds.

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