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The Risk and Consequences of Prosecution

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New legal challenges in responsibility for employees on the road

- Corporate Manslaughter
- Health and Safety offences
- Criminal prosecution

Court of Appeal decision in

R v

Chargot Ltd (2008) UKHL 73

- Reversal of burden of proof in health and safety prosecutions- what happened to `innocent until proved guilty`
- Prosecution only need to demonstrate that breach of duty of care resulted in injury
- Defence must then prove their innocence by reference to reasonable practicability

Corporate Manslaughter

- Peter Eaton and Cotswold Geotechnical first ever prosecution
- What is the risk of prosecution - low
- Penalty - Fine but no imprisonment but watch for additional Health and Safety prosecution

Health and Safety Prosecution

- Risk assessment first line of defence
- Risk of prosecution – high
- Impact of Health and Safety Offences Act
- Fines and Imprisonment £25,000 or 6 months
Magistrates Court, Unlimited Crown Court

Criminal prosecution

- Aiding and abetting Road Traffic offences
- Risk of prosecution - high for driver low for employer
- Fines - regulated by statute