

STATEMENT OF OFFENCE**ENDANGERING HUMAN LIFE OR HEALTH BY WILFUL NEGLIGENCE contrary to Common Law.**

[Breach of Common Law Duty – Archbold]

II. Nature of indictable offences

A. When an indictment lies

(1)

1-2 An indictment is the ordinary common law remedy for all ... offences of a public nature.... It is also the means by which certain offences created by or under statute are brought before the Crown Court for trial.

(2)

1-3 An indictment lies at common law for a breach of duty which is not a mere private injury but an outrage on the moral duties of society, *e.g.* neglect to provide sufficient food, medical aid or other necessities, for a person unable to provide for himself, and for whom the defendant is obliged by duty or contract to provide, where such neglect injures the health of that person, whether the person injured is of extreme old age (*R. v. Instan* [1893] 1 Q.B 450), or of tender years....

Please note:

This indictment is an alternative to that of manslaughter and if the defendant is found guilty the sentence that can be imposed is at the discretion of the Judge.

It was drawn to the attention of Counsel in the case of *R v Postill* by Judge Levenson, who appeared in the Rosemary West case.

On 4th October 2001 at Chelmsford Crown Court, Postill pleaded guilty to the charge of endangering human life or health by wilful negligence contrary to Common Law in that between the 1st day of November 1987 and the 19th day of October 1989 having the care of Winifred Armstrong and Eunice Fifield of Carnarvon Lodge Residential Home, she had endangered their life or health by acts of wilful negligence namely by requiring the said persons to ingest quantities of liquid.

It should now be considered whether this indictment is relevant to the matter of management of the late Mrs Gladys RICHARDS by Dr Jane Ann BARTON, and/or the nurses Mr Philip BEED, Ms Margaret COUCHMAN and Ms Christine JOICE, and/or the hospital pharmacist(s) involved.