

SENTENCING UPDATE



Presented By
Chris Hopkins

No5
CHAMBERS

Raising the Bar
www.No5.com

Birmingham • London • Bristol • East Midlands

Sentencing At Present

- Magistrates Court (most cases – maximum fine of £20k and up to 6 months imprisonment per offence)
 - Magistrates Court Sentencing Guidelines
 - Unlimited fines for offences committed after 12 March 2015
- Crown Court (more serious cases – unlimited fines and up to 2 years imprisonment)

Corporate Manslaughter and H&S Offences Causing Death Sentencing Guidelines (2010)

- Appropriate fine (Corporate Manslaughter) will seldom be less than £0.5m and may be measured in millions of pounds
- Appropriate fine (H&S) will seldom be less than £100,000 and may be measured in hundreds of thousands of pounds more
- Publicity and Remedial Orders



Increasing Fines

- M&S (2011) - £1 million
- Total UK Limited (July 2015) - £1.4 million
- Hugo Boss UK Ltd (September 2015) - £1.2 million

New Guidelines

- The Sentencing Council published its consultation on introducing sentencing guidelines for all health and safety, corporate manslaughter and food safety and hygiene offences on 13 November 2014
- Consultation ended 18 February 2015 – guidelines likely to take effect in January 2016
- The proposals for fines are far in excess of current levels and are tariff based
- The proposals address custodial sentences for individuals & set the threshold at “neglect”

Aims and overarching issues

- Consistency and clarity of guidance
- Punishment – penalty to reflect seriousness and financial circumstances of the offender
- Remove any economic gain derived from the offence
- Make directors and shareholders reform themselves

“the fine should be sufficiently substantial to have a real economic impact”



The Proposed Approach

- **Step One** determine offence category: harm **and** culpability
- **Step Two** starting point and category range: what is the size of the company by reference to turnover?
- **Step Three** is the proposed fine proportionate to the means of the offender?
- **Step Four** consider other factors that might warrant adjustment – e.g. Impact on employees and service users
- **Plus Wider factors** – including credit for a guilty plea



What Might Some Fines Look Like?

Small company (£2m - £10m turnover)

- *Very high culpability/Harm cat 1*
 - Starting point £450,00 – range £300,000 to £1.6m
- *High culpability/Harm cat 1*
 - Starting point £250,000 – range £170,000 to £1m
- *Medium culpability/Harm cat 1*
 - starting point £160,000 – range £100k - £600,000
- *Low culpability/Harm cat 1*
 - starting point £45K – range £25k - £130k



Thank You For Listening

 Follow me @HSELEGAL

Presented By
Chris Hopkins
07904378106
chp@no5.com

No5
CHAMBERS

Raising the Bar
www.No5.com

Birmingham • London • Bristol • East Midlands