



Compass Chambers

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Health & Safety Prosecutions Sentencing Update

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Sentencing Statistics – E&W (1)

- The Sentencing Council's Health & Safety Offences, Corporate Manslaughter and Food Safety & Hygiene Offences Definitive Guideline – review April 2019
- Anticipation – increases only for larger organisations.
- Reality – all sentences are Up! Up! Up!

Sentencing Statistics – E&W (2)

- Large organisations – 1380% increase
- Medium organisations – 400% increase
- Small/micro organisations – 126% increase
- Individuals
 - 66% increase in fines;
 - more suspended sentences

Recent Cases (1)

Assessing Culpability

- R v Electricity North West Limited [2018] 4 WLR 148
 - Foreseeability relevant to sentence
 - “High culpability” only for systemic breaches of industry standards or failure to heed warnings rather than isolated oversight?

Recent Cases (2)

Assessing Harm (1)

- R v Squibb Group Limited [2019] EWCA Crim 227
 - Likelihood of harm of contact with asbestos – an issue of science, not law
 - How the science is characterised in terms of the guidelines – an issue of law, not science.

Recent Cases (3)

Assessing Harm (2)

- Faltec Europe Limited v HSE [2019] EWCA Crim 520
 - Likelihood of harm of contact with legionella – an issue of science, not law
 - How the science is characterised in terms of the guidelines – an issue of law, not science.

Recent Cases (4)

Financial Considerations (1)

- R v NPS London Limited [2019] EWCA Crim 228
 - Resources of linked organisations – take into account only exceptionally
 - Relevant to Step Three only, not Step Two
 - Resources of parent company may entitle court to ignore low/no profit of accused company

Recent Cases (5)

Financial Considerations (2)

- R v Palmer Timber Limited [2019] EWCA Crim 611
 - Fine may exceed annual pre-tax profit as the focus is on turnover.
 - Time to pay over a number of years may mean a fine is not disproportionate.

Recent Cases (6)

Financial Considerations (3)

- *Faltec Europe Limited v HSE* [2019] CWCA Crim 520
 - Resources of linked organisations – take into account only exceptionally
 - Fine categories are based on turnover. Is profit ever relevant?
 - Leave prudent financial reserves for payment of fine out of account when assessing the level of fine



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