



# REGULATORY RISK UPDATE

## Tougher penalties for corporate manslaughter and health and safety offences proposed

On 13 November 2014, the Sentencing Council opened its 14 week public consultation on draft guidelines for corporate manslaughter and health and safety offences. If implemented, the guidelines will mean that large organisations convicted of corporate manslaughter may face increased fines of up to £20 million with those convicted of fatal health and safety offences facing fines of up to £10 million.

The consultation arises from the Sentencing Council's recent review of the current sentencing practices for these types of offences. As a result of this review it became clear that due to the relative infrequency with which magistrates and judges sentence these cases there was a lack of familiarity with them and some inconsistencies in how various factors were weighted and applied in reaching sentencing decisions. In addition, the existing guidelines are only applicable to corporate manslaughter and health and safety offences committed by organisations causing death. Less serious offences not resulting in death and those committed by individuals are not covered. The draft guidelines seek to address the entire range of situations that these offences may apply to, to ensure that both individual and corporate defendants are covered and introduce consistency to the way in which fines are imposed.

The exact timing of the public consultation has been influenced by a number of recent developments. These include, the Court of Appeal ruling in the R v

Sellafield and Network Rail case in January 2014, which reiterated the importance of identifying a level of fine that achieves the aims of sentencing given the specific financial circumstances of the offender and the publication of definitive sentencing guidelines for environmental offences in February 2014. Also, the Sentencing Council hopes to ensure that guidance is in place before changes to magistrates sentencing powers, which enable them to impose unlimited fines for certain offences, come into effect.

The draft guidelines adopt a similar formulaic approach to sentencing as the guidelines produced earlier this year for environmental offences. The court is directed to work through a series of detailed steps to identify the seriousness of the offence, with reference to the level of harm and the culpability of the defendant and the size of the organisation or means of the defendant. This process is designed to enable the court to identify an appropriate starting point and range for the sentence. Factors increasing or reducing the seriousness of the offence are then to be applied before the court reviews the level of fine to be imposed to ensure that it meets the overarching aims of sentencing by reflecting the seriousness of the offence and taking into account the financial circumstances of the offender.

The consultation will close on 18 February 2015. A copy of the consultation and details about how you can contribute can be found [here](#). We envisage

responding to the consultation so if you would like our assistance please do contact us.

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