

Health and Safety Offences Sentencing Guidelines

Phil Chambers BSc, CMIOSH

There has been a wide disparity in sentences passed for health and safety offences, with many appearing derisory, eg £46,000 for a lost arm where the company had allowed the practice for 30 years.

To address these, sentencing guidelines have been in place since 2015.

These guidelines show sentences appropriate for offences based on:

- The seriousness of the harm
- The culpability of the company, and
- The size of the company (ie large fines are appropriate for large companies).

Essentially, the courts would determine the harm category and culpability, and then choose a fine range based on the size of the company.

		Seriousness of harm risked		
		Level A Death Physical or mental impairment resulting in lifelong dependency on third party care for basic needs. Health condition resulting in significantly reduced life expectancy.	Level B Physical or mental impairment, not amounting to Level A, which has a substantial and long-term effect on the sufferer's ability to carry out normal day-to-day activities or on their ability to return to work. A progressive, permanent or irreversible condition.	Level C All other cases not falling within Level A or Level B.
Likelihood	High	Harm category 1	Harm category 2	Harm category 3
	Medium	Harm category 2	Harm category 3	Harm category 4
	Remote	Harm category 3	Harm category 4	Harm category 4 (start towards bottom of range)

Culpability	Definition
Very high	Deliberate breach of, or flagrant disregard for, the law.
High	Offender fell far short of the appropriate standard, eg <ul style="list-style-type: none"> • Failing to put in place measures that are recognised standards in the industry • Ignoring concerns raised by employees or others • Failing to make appropriate changes following prior incident(s) exposing risks to health and safety • Allowing breaches to subsist over a long period of time Evidence of serious, systemic failings within the organisation to address risks to health and safety.
Medium	Offender fell short of the appropriate standard in a manner that falls between descriptions in 'high' and 'low' culpability categories Level of offender's systemic failure falls between descriptions in 'high' and 'low' culpability categories
Low	Offender did not fall far short of appropriate standard; eg, because: <ul style="list-style-type: none"> • Significant efforts were made to address the risk although they were inadequate on this occasion • There was no prior event or warning indicating a risk to health and safety • Evidence that failings were minor and not systemic.

Fines for a small company (turnover £2 million to £10 million) would be:

Culpability	Harm category	Starting point	Range
Very high	1	£450,000	£300,000 – £1,600,000
	2	£200,000	£100,000 – £800,000
	3	£100,000	£50,000 – £400,000
	4	£50,000	£20,000 – £190,000
High	1	£250,000	£170,000 – £1,000,000
	2	£100,000	£50,000 – £450,000
	3	£54,000	£25,000 – £210,000
	4	£24,000	£12,000 – £100,000
Medium	1	£160,000	£100,000 – £600,000
	2	£54,000	£25,000 – £230,000
	3	£24,000	£12,000 – £100,000
	4	£12,000	£4,000 – £50,000
Low	1	£45,000	£25,000 – £130,000
	2	£9,000	£3,000 – £40,000
	3	£3,000	£700 – £14,000
	4	£700	£100 – £5,000

More information can be found on:

https://consult.justice.gov.uk/sentencing-council/health-and-safety-offences-guidelines/supporting_documents/healthandsafetyoffencesconsultationguideline.pdf

Strategic Safety Systems Ltd., 8 The Highgrove, Bishops Cleeve, Cheltenham, GL52 8JA, UK

Phone: 01242 679713 Mobile 077680 11667

E-Mail: info@StrategicSafety.co.uk Web site: www.StrategicSafety.co.uk