

November 2015 - Newsletter

The most dramatic change in health and safety enforcement since 1974

The new sentencing guidelines for health and safety offences published today are set to revolutionise punishment for health and safety offences.

The Sentencing Council's stated intention is to increase the level of fines for serious offences, particularly for larger companies; whilst reserving prison sentences for very serious offences. In my view, the formulaic approach laid down in the new guidelines will greatly increase fines across the board and most dramatically for very large companies. More worryingly, many more directors, managers and junior employees will be handed custodial sentences due to a significantly lower threshold for imprisonment.

The new sentencing guidelines apply to health and safety offences committed by organisations and individuals, as well as to corporate manslaughter and food safety/hygiene offences. They introduce a structured nine step approach that the Court should follow, so as to calculate sentences. This involves plugging culpability and harm factors into a series of tables to reach recommended starting point fines, as well as ranges of fines above and below the starting points.

The new regime has been carefully calculated and will certainly improve consistency across England and Wales. It was published in draft for consultation in November 2014 and the final version published today is little changed from the draft, with the same figures and tables for fines as in the draft. These will apply to sentences handed down from 1 February 2016, which make the guidelines retrospective in the sense that they apply to offences that have already been committed and have not yet come up for sentencing.

<http://www.shponline.co.uk/the-most-dramatic-change-in-health-and-safety-enforcement-since-1974/>

Worker badly burned after digging into electricity cable

A man sustained serious, life-changing injuries after striking a 415v electricity cable during work to refurbish a pharmacy in central London.

The labourer struck the underground cable while digging a trench during work to lay a new sewage pipe. After suffering burns to his body and throat, the 41-year-old man is unable to work and is now registered disabled.

The Health and Safety Executive (HSE) investigated the incident in Edgware Road, in July 2013, and prosecuted the company in control of the work, Medpharma Ltd, after deciding it contravened health and safety laws.

At Southwark Crown Court today, Medpharma Ltd was fined £60,000 and ordered to pay £40,000 in costs after being found guilty at an earlier trial to breaching the Construction (Design and Management) Regulations 2007.

Speaking after the hearing, HSE inspector Stephron Baker Holmes said: "This case follows a terrible incident that left a man seriously injured, with consequences that he is still living with two years later.

"Where digging work is liable to disturb underground services it is vital to take suitable and sufficient steps to control the risks. Guidance on these steps is [freely available online](#)



"One of the client's key mistakes in this case was to take on practical control of the work during the project without having the necessary understanding to be able to manage construction work safely."

<http://press.hse.gov.uk/2015/worker-badly-burned-after-digging-into-electricity-cable/>

