



REDUCTION IN SENTENCE FOR A GUILTY PLEA: HOW PREVENTION CAN HELP

On 1 June 2017, a new guideline published by the Sentencing Council came into force. This encourages those contemplating a guilty plea to do so at the earliest possible opportunity. The new guideline applies equally in Magistrates' court and the Crown Court, and includes health and safety offences.

The effect of the new guideline is, that if the defendant does not act quickly and enter a guilty plea at the first hearing, they may not attract the maximum sentence discount of one third. After the first hearing, there is a sliding scale of reduction – it decreases to one quarter at the next hearing and then to one tenth on the first day of trial.

However, there are exceptions. There may be "particular circumstances", that significantly reduce the defendant's ability to understand what is alleged or otherwise make it unreasonable to indicate a guilty plea at the first stage. In those cases – which are likely to be multi-party complex regulatory prosecutions – a one third reduction may still apply.

In many health and safety prosecutions, a summons is received by a defendant with a first hearing date only weeks away. This can put the defendant under considerable pressure to consider the evidence against it and finalise its position before the first hearing. This is compounded by the significant increase in fines for Corporate Manslaughter, Health and Safety and Food Safety offences, which were introduced in new sentencing guidelines in February 2016.

In the first twelve months following the introduction of those guidelines, the court imposed 19 fines above £1m (there were three in 2015 and none in 2014) and the average fine increased by 102%. There has also been a sharp increase in the number of custodial or suspended sentences, with 35 instances between October 2016 and April 2017 for workplace health and safety offences.



ON THE HORIZON

We are expecting the publication of the delayed international standard ISO 45001 on occupational health and management systems. The outcome of the HSE consultation on making the appeals process fully independent under 'fees for intervention' is also imminent. Under the 'fees for intervention' scheme, a HSE inspector can charge a company £129 an hour for investigating what they perceive to be a "material breach" of health and safety law.

A number of regulatory changes are also expected this year. These include a discussion document on the simplification of the regulations governing hazardous substances, lead and dangerous substances and explosive atmospheres and amendments to the Gas Safety (Installation and Use) Regulations 1998.



HOW PREVENTION CAN HELP

The ability to manage risk online empowers customers to proactively take control. It can help them to support business development and success. Processes as simple as completing online self-assessments can help instantly raise awareness, increasing the penetration and consistency of risk management within your customers' organisations.

At RSA, we don't do surveys, we do consultations. We're developing new tools to empower your customers and embrace the future.

So, if you want to help your customers...

- **Safeguard** their employees, property, visitors and business operations
- **Improve** the visibility of risks within their business
- **Access** relevant solutions through risk improvement reports
- **Reduce** the potential frequency and severity of any claims and uninsured losses.

... **then we have the solutions.**