

Health and Safety Executive Board		HSE/15/28	
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HSE's response to the Sentencing Council's consultation on new health and safety sentencing guidelines

Purpose of the paper

1. To inform the Board of the HSE response to the Sentencing Council's (the Council's) consultation on new "Health and safety offences, corporate manslaughter and food safety and hygiene offences guidelines".

Timing

2. Routine.

Background

3. The Sentencing Council is an independent body responsible for developing sentencing guidelines for criminal courts to use when passing sentence. The Council were of the view that it was an appropriate time to review and provide further guidance on sentencing within the area of health and safety because they thought:

- The extent of existing guidance was variable;
- Further assistance to the courts was necessary because sentencing was relatively infrequent; and
- There was concern as to whether the level of sentences imposed in some cases was too low.

4. HSE has assisted the Council throughout the formulation of the new draft guidelines and attended a seminar held by the Justice Committee on 24th February to consider the draft guideline.

5. A 14-week public consultation ran between November 2014 and February 2015. The consultation document can be seen at https://consult.justice.gov.uk/sentencing-council/health-and-safety-offences-guidelines/supporting_documents/healthandsafetyoffencesconsultationguideline.pdf

6. HSE considered and responded in detail to the majority of the questions relating to the health and safety and corporate manslaughter guidelines. We sought views on the draft guidelines from across HSE.

7. We welcomed the introduction of a definitive guideline in this area given that judges and magistrates deal only infrequently with health and safety offences. We

also expressed support for the Council's overarching aim of ensuring that all sentences are proportionate to the offence committed, taking into account the size and financial resources of the company, in line with the principles contained within HSE's Enforcement Policy Statement.

8. In summary, we were supportive of the Council's use of the turnover of an organisation as a measure to link the starting points and ranges of fines, the flexibility to adjust fines within the guidelines, and the advice given regarding custodial sentences and community orders. We also expressed our broad agreement with the overall approach, scope and proposed structure of the guidelines.

9. However, we did highlight some concerns surrounding the culpability descriptors used, the assessment of both "harm risked" and the likelihood of harm, and the aggravating and mitigating factors proposed. To address the concerns raised, we have either requested clarification of these matters within the guidelines themselves, or suggested an alternative approach.

Action

10. The Board is invited to note HSE's response to the consultation at Annex A.

Paper clearance

11. This paper was cleared by the Senior Management Team.