



<b>Health and Safety Executive</b>		<b>Operational Minute</b>	
		<b>OM 2000/0131</b>	
<b>Cancellation Date</b>	28/12/2005	<b>Open Government Status</b>	Fully Open
<b>Version No &amp; Date</b>	1: 28/12/2000	<b>Author Unit/Section</b>	FOD FSU

To  
All HSE Inspectors

## R v MILFORD HAVEN PORT AUTHORITY

This OM give details of a recent Court of Appeal (Criminal Division) decision concerning penalties for public bodies. Inspectors should note its contents and, in cases involving public bodies, should helpfully refer the Court to it.

1 In R v Milford Haven Port Authority (16 March 2000), the port authority successfully appealed against sentence after pleading guilty in a case brought by the Environment Agency. The case followed the grounding of the tanker Sea Empress which resulted in significant amounts of oil being discharged, causing widespread pollution.

2 In the judgment, the Lord Chief Justice made the following observations in relation to the sentencing of a public authority:

‘...It would be quite wrong to suggest...that public bodies are immune from appropriate criminal penalties because they have no shareholders and the directors are not in receipt of handsome annual bonuses. The policy of Parliament would be frustrated if such a notion were to gain currency. But, in fixing the amount of a fine it is proper for the judge to take all of the facts of the case into account...The judge has to consider how any financial penalty will be paid. If a very substantial financial penalty will inhibit the proper performance by a statutory body of the public function that it has been set up to perform, that is not something to be disregarded.’

3 While the case involved environmental offences, these points would apply equally to health and safety offences by public bodies.

4 This case has been referred to by a judge when passing sentence in a recent prosecution by FOD in the North West Division following a fatal drowning in sheltered housing under local authority control.

5 A copy of the judgment has been issued to subject file 183.

Date first issued: 12 December 2000  
(220\FOD\1075\2000)

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