Today sees the publication of the definitive sentencing guidelines covering health and safety, corporate manslaughter and food safety and hygiene offences. This means that, for the first time, courts in England and Wales will have comprehensive guidance covering the most commonly sentenced offences.

Given that historically these types of offences did not come before the courts as frequently as others, Judges wanted more assistance. This lack of familiarity meant, however, that the fines imposed were often lower than might have been expected by those experienced in the field. Good news if you were defending. Not so good if you were prosecuting. As of the 1 February 2016, when the guidelines come into force, both sides can at least look forward to a more consistent approach.

That said, for any offence likely to be sentenced on or after that date, representatives will be well advised to give clients advance warning that fines are on the up, across the board. As Michael Caplan QC, a member of the Sentencing Council, stated:

“These offences can have very serious consequences and it is important that sentences reflect these”.

In some cases, the guidelines result in a three or fourfold increase in financial penalties. And not only fines. Potentially prison sentences. In the worst cases, directors can no longer expect to remain invisible beneath their corporate veil.

Although it is too early to say how these guidelines will affect day-to-day practice, it is not hard to envisage far more strident negotiations regarding Friskies schedules, levels of culpability and turnover, given that the stakes are now so much higher. And – where agreement cannot be reached – more Newton (fact-finding) hearings and trials.

For lawyers, all of the above is welcome. There are significant benefits; from making early tactical decisions through to the ultimate question of what sentence will be passed and clients requiring more legal advice/hand-holding throughout the whole process. For clients, the benefits are not so obvious.

As to whether the guidelines will lead to the desired aim of a substantially safer workplace... well the jury will be out for some time on that.

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The guidelines can be downloaded at:
Practice Areas:
Regulatory

Specialist Areas:
Regulatory, including Health and Safety

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