

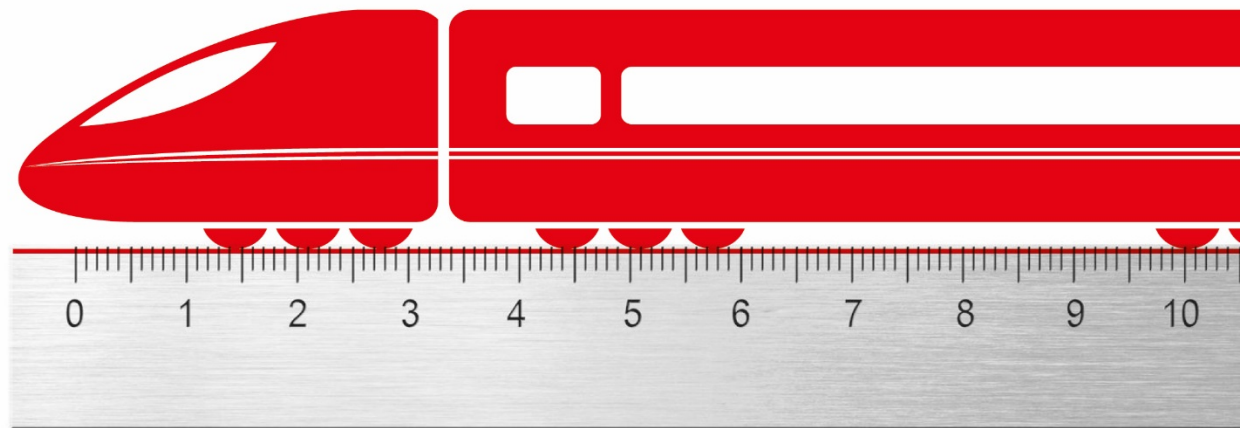
## Legal expectations following a safety incident

Measuring compliance

**13 September 2017**

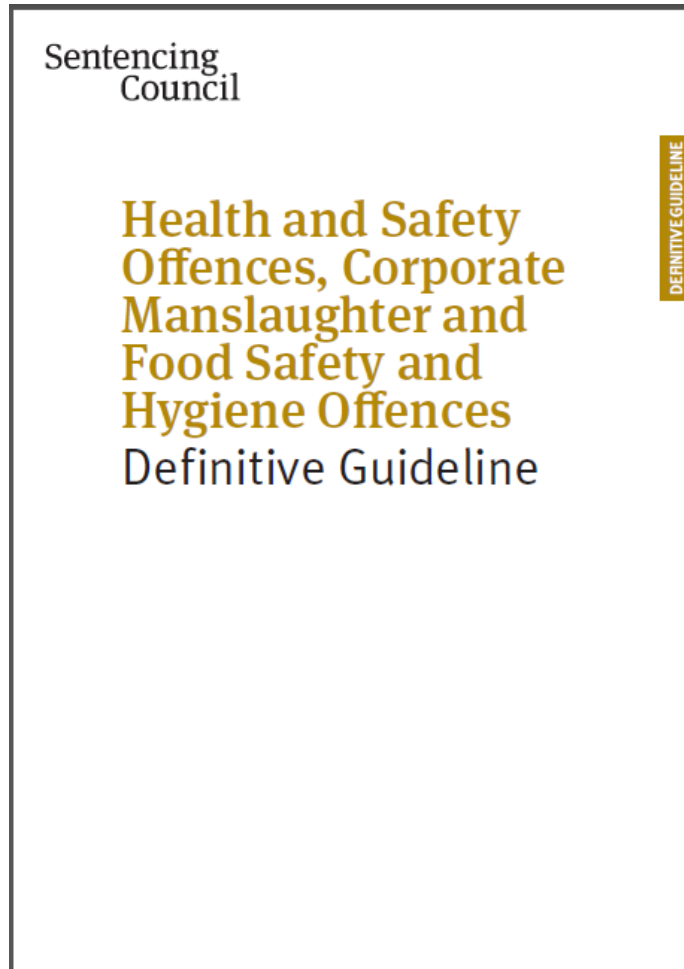
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# Sentencing Guidelines

Starting to bite



- In force since 1<sup>st</sup> February 2016
- Significant increase in fines since introduction
- Tariff for fines based initially on:
  - culpability;
  - harm; and
  - turnover
  - early guilty plea
- Threshold for imprisonment of individuals at a low level of culpability

## Recent Case Law

Fines are stepping up

- Network Rail - £4 million
- Tata Steel - £2 million
- Bam Ferrovial Kier - £1 million

(Recent fine of £20 million for Thames Water under current Environmental Guidelines)



## Practical steps to consider

- These are criminal offences
- Communication with the family and civil claims
- Importance of early response and robust investigation
- Legal Privilege
- Position at Interview under Caution – admit or deny?
- “High level of co-operation” with regulator (HSE/ORR/RAIB)?
- Culpability is key – what do you need to meet “medium” criteria?
- Turnover is crucial; profitability is part of the picture
- Very large company (£250+ million)?

## Summary

Review now: getting beyond the “green lights”



- Review your emergency response plan
- Critically test all policies and procedures
- Auditing – checking the checks
- Evidenced assurance

# Questions?



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