

Food Safety and Hygiene Offences

Applying the definitive guidelines effective from 1 February 2016

Delish Ltd owns a chain of five delicatessens that operate in several towns in the region. Their customer base includes elderly customers and families with young children.

Delish Ltd have pleaded guilty at the earliest opportunity for putting their customers at risk of food poisoning for selling food that was out of date.

Guideline note

The offender is a limited company and should therefore be sentenced using the guideline for organisations.

An early guilty plea will normally result in a one-third reduction to the sentence.

After a surprise inspection, Environmental Health Inspectors found different raw meats stored together and fish and meat still for sale despite being past its use-by date' and that there was no clear system of stock rotation.

Inspectors also reviewed Delish Ltd's other four stores. They offered advice on some matters but did not find any significant failings in these branches. Prior to this Delish Ltd had a good food safety and hygiene record.

Delish Ltd stated that their central policies regarding the storage of ready-to-eat items and stock rotation were up to date and consistent with best practice, but that the store in question had failed to comply with these instructions. Since the incident, Delish Ltd has sent the store manager at the relevant store on advanced training courses and has improved its systems of reporting and supervision to ensure that hygiene and safety standards are being maintained. Delish Ltd has accepted the advice of inspectors on other matters brought to its attention and is implementing the recommendations.

Guideline note

As there was a system in place, but these were not sufficiently adhered to or implemented, the offences are likely to be 'medium' culpability.

Guideline note

The risk of harm involves the consideration of both the likelihood of harm occurring and the extent of it if it does. This case could be deemed as harm category 2 as there was a high risk of an adverse effect on individual(s)

Delish Ltd have provided the following accounts.

	2014/15	2013/14	2012/2013
	£	£	
REVENUE	6,355,700	6,340,654	6,320,543
Cost of Sales	(5,954,751)	(5,925,221)	(5,915,021)
Administrative expenses	(165,700)	(148,231)	(125,826)
OPERATING PROFIT / (LOSS)	235,249	267,202	279,696
Finance income	13,200	11,500	11,350
Finance costs	(56,400)	(51,700)	(49,800)
PROFIT / (LOSS) BEFORE TAXATION	192,049	227,002	241,246
Tax on profit/(loss) on ordinary activities	(34,568)	(47,940)	(43,725)
PROFIT/ (LOSS) FOR THE FINANCIAL YEAR	157,481	179,062	197,521
Balance brought forward	484,907	230,524	33,003
Balance carried forward	642,388	484,907	230,524

Delish Ltd employs 22 sales staff in its stores, 3 staff in a central office and has two Directors.

The size of the company means that it will be sentenced using the table at for 'micro' companies

Guideline note

Organisations in the 'micro' category are defined as those with a turnover or equivalent of not more than £2 million.

The starting point would be a £4,000 fine, with a range of £1,400 to £8,000. There are no aggravating factors in this case. The main mitigating factors are the lack of previous convictions, a good health and safety record, effective health and safety procedures in place, and remorse.

As there are multiple offences, the court must consider the principle of totality before sentencing.

The court would then consider whether the fine is proportionate to the means of the offender and whether there are any other factors that may warrant adjustment of the fine.

Guideline note

The court would need to check whether the fine based on turnover is proportionate to the means of the offender (see steps 3 and 4 of the guideline).

Totality is set out in step 7 of the guideline

The court would then make the appropriate reduction for a guilty plea.