

Health and Safety Offences

Applying the definitive guidelines effective from 1 February 2016

K, a plumber, has pleaded guilty at the first opportunity to a series of offences involving breaches of gas regulations. He has no previous convictions, earns approximately £200 per week and has no savings.

The first offence is contrary to Regulation 3(1) of the Gas Safety (Installation and Use) Regulations 1998: “No person shall carry out any work in relation to a gas fitting or gas storage vessel unless he is competent to do so.”

The second offence is contrary to Regulation 3(7) of the Gas Safety (Installation and Use) Regulations 1998: “No person shall falsely pretend to be a member of a class of persons required to be approved under paragraph (3) above.”

The third offence is contrary to Regulation 26(1) of the Gas Safety (Installation and Use) Regulations 1998: “No person shall install a gas appliance unless it can be used without constituting a danger to any person.”

Guideline note

As an individual K will be sentenced using the guideline for health and safety - individuals.

A guilty plea at the first opportunity would entitle K to a one third reduction to his sentence.

K provided a householder, with a quote to install a gas-fired central heating system on headed paper with a Gas Safe Register logo. On completion of the work he provided further paperwork that included a gas boiler system commissioning checklist which included a Gas Safe Register number.

An investigation revealed that K’s Gas Safe registration had expired three years’ previously. The Gas Safe Register number he provided belonged to an unconnected engineer who had not given permission for his number to be used and had no knowledge of K’s installation.

Guideline note

K was aware of the requirement to register as competent to carry out gas work. This and falsifying the paperwork indicates 'very high' culpability, as K intentionally breached the law.

The falsification of documents or licences is an aggravating factor.

Following reports of a possible gas leak a Gas Safe Inspector visited the property a week after K had carried out the installation. He identified nine defects in the way the central heating system had been installed, three of which were classified as constituting a "danger to life or property".

In particular, the appliance had not been installed according to the manufacturer's instructions in two respects and the structures were not adequately sealed to the building to ensure that gas could not escape.

Guideline note

The offence is in the creation of a risk of harm, while taking into account both the likelihood and seriousness of harm risked. Due to the findings of the investigator and the number of defects found, the offence would be assessed as creating a 'High' likelihood of harm, which carries a risk of serious effect on health and/or death had there been a prolonged leak or explosion.

Due to the seriousness and number of failings, the offences are likely to be considered as having a 'high' likelihood with of harm with 'level A' seriousness, resulting in a harm category 1 assessment.

K had originally failed to renew his Gas Safe registration because he was in financial difficulties and could not afford the fee. By operating outside the law, K was able to undercut legitimate plumbers.

Guideline note

Cost cutting at the expense of safety is an aggravating factor.

A fine may be the most appropriate disposal where the offence was committed for economic benefit.

Overall, given the significant aggravating factors in this case, in particular the falsification of documents and the high likelihood of serious risk of harm or death, it is likely that the custody threshold will have been passed with the starting point of 18 months' custody with a category range of 1 to 2 years' custody.

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

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

Guideline note

If the court considers that the offence was so serious that a custodial sentence should be imposed, it should then consider whether it should be suspended.