

This bulletin provides statistics on the outcomes and demographics of adults (aged 18 and over)<sup>1</sup> and organisations sentenced for offences covered by the draft guideline on environmental offences.

The consultation period for the draft environmental offences guideline will begin on 14 of March 2013 and close on 6 June 2013. The draft guideline covers the offences of:

- Section 33 Environmental Protection Act 1990
- Regulations 12 and 38(1), (2) and (3) Environmental Permitting (England and Wales) Regulations 2010

These offences are collectively referred to as “offences involving unauthorised or harmful deposit, treatment or disposal etc of waste and illegal discharges to air, land and water.”

Further information on these offences and the draft guideline can be found in the consultation document which can be accessed via the Current Consultations page on the Sentencing Council website, at the following link:

<http://www.sentencingcouncil.org.uk/sentencing/consultations-current.htm>

Unlike previous sentencing guidelines, the draft environmental offences guideline provides a separate guideline for cases where the offender is an organisation. To maintain consistency with the structure of the draft guideline, the data presented in this bulletin have been separated into two sections; organisations (companies and bodies delivering public or charitable services) and individuals.

Although not strictly covered by the draft guideline, there are a range of other relevant and analogous environmental offences for which the court is recommended to refer to the sentencing approach in steps 1 and 3 of the draft guideline. A summary of sentencing data for these analogous offences is provided at Annex A on page 11.

## Sentences received by organisations sentenced for offences involving unauthorised or harmful deposit, treatment or disposal etc. of waste and illegal discharges to air, land and water

In 2011, 66 organisations were sentenced for offences under either: section 33 of the Environmental Protection Act 1990; or regulations 12 and 38 (1), (2) and (3) of the Environmental Permitting (England and Wales) Regulations 2010. Most cases, 82 per cent of them, were sentenced at the magistrates' court and 61 per cent of them related to offences under section 33 of the Environmental Protection Act 1990.

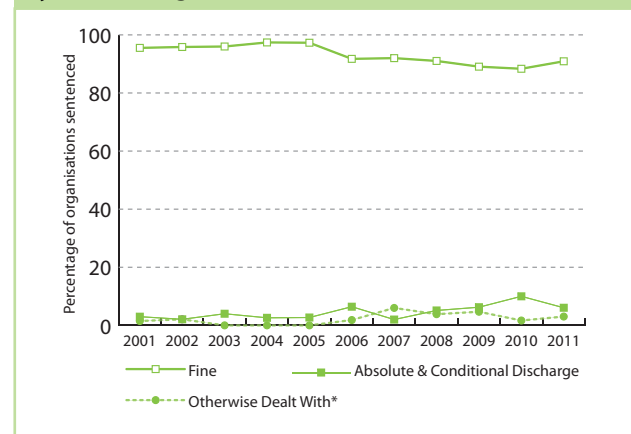
Chart 1 shows how the number of organisations sentenced for these offences has changed over the last decade. From this, it can be seen that there is no clear trend in the number of organisations sentenced between 2001 and 2011. The number of organisations sentenced peaked in years 2002, and 2005 to 2007, but has levelled off to approximately 60 organisations sentenced per year since 2009.

**Chart 1: Number of organisations sentenced for environmental offences covered by the draft guideline between 2001 to 2011**



Chart 2 shows the historic trend of sentence outcomes imposed for organisations sentenced for environmental offences covered by the draft guideline. As community order, suspended sentence order and immediate custody are not available outcomes for an organisation, the majority of outcomes for organisations are fines. On average, between 2001 and 2011, 93 per cent of sentences imposed were fines.

**Chart 2: Outcomes received by organisations sentenced for environmental offences covered by the draft guideline between 2001 and 2011**

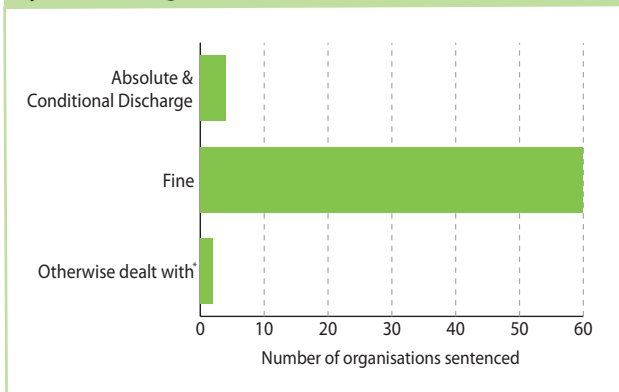


\*Otherwise dealt with does not include community orders, suspended sentence orders or immediate custody. These outcomes are not available for organisations.

Although there has been a small change in the use of different disposal types, without knowing the relative severity or other details of the cases coming to the courts each year, it is not possible to say whether these trends indicate a change in the way that the courts are dealing with environmental offences

In 2011, the most common outcome was a fine, accounting for 91 per cent of all sentences. This can be seen in Chart 3 which shows the sentences received by organisations sentenced in 2011.

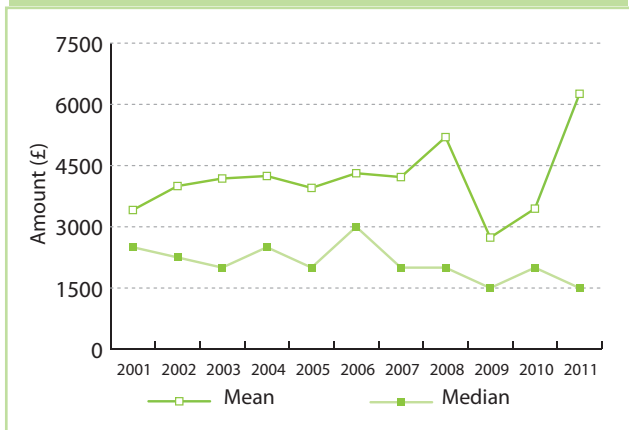
**Chart 3: Outcomes received by organisations sentenced for environmental offences covered by the draft guideline in 2011**



\*Otherwise dealt with does not include community orders, suspended sentence orders or immediate custody. These outcomes are not available for organisations.

Chart 4 shows the average fine imposed on organisations between 2001 and 2011. Due to the high level of variation in fine amounts imposed, both the mean and median are shown. Where historic fine amounts are described, nominal amounts are shown. No attempt has been made to adjust for the price level (inflation). Additionally, the fine amounts listed are the amounts imposed after taking into account guilty plea reductions.

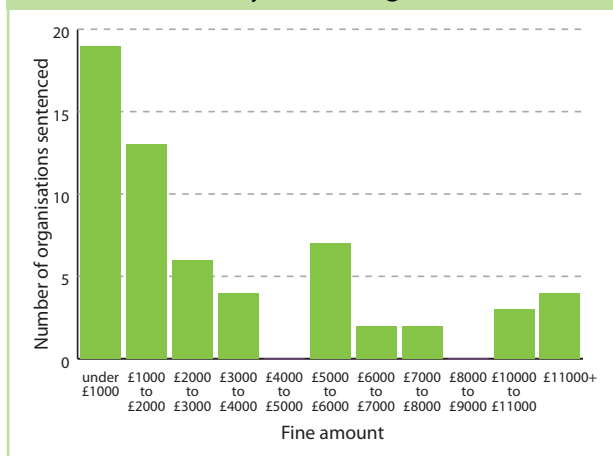
**Chart 4: Average amounts imposed on organisations fined for environmental offences covered by the draft guideline between 2001 and 2011**



Due to a few very large fines imposed in some years, the mean shows a lot of variation across years. However, there is a downward trend in the median fine imposed, decreasing from £2,500 in 2001, to £1,500 in 2011.

Chart 5 shows the full range of amounts imposed for organisations sentenced to a fine in 2011. Nearly three quarters, 70 per cent, of fines imposed were for £4,000 or less. The largest fine imposed was £100,000, and 12 per cent of fines were above £10,000.

**Chart 5: The fine amounts imposed for organisations sentenced for environmental offences covered by the draft guideline in 2011**

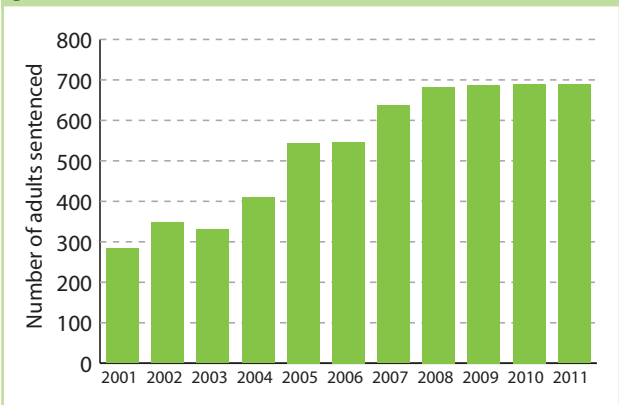


**Sentences received by adults sentenced for offences involving unauthorised or harmful deposit, treatment or disposal etc. of waste and illegal discharges to air, land and water**

In 2011, 689 individuals were sentenced for offences under either: section 33 of the Environmental Protection Act 1990; or regulations 12 and 38 (1), (2) and (3) of the Environmental Permitting (England and Wales) Regulations 2010. The majority of cases, 90 per cent, were sentenced at the magistrates’ court and 91 per cent of them were related to offences under section 33 of the Environmental Protection Act 1990.

Chart 6 shows how the number of adults sentenced for these offences has changed over the last decade.

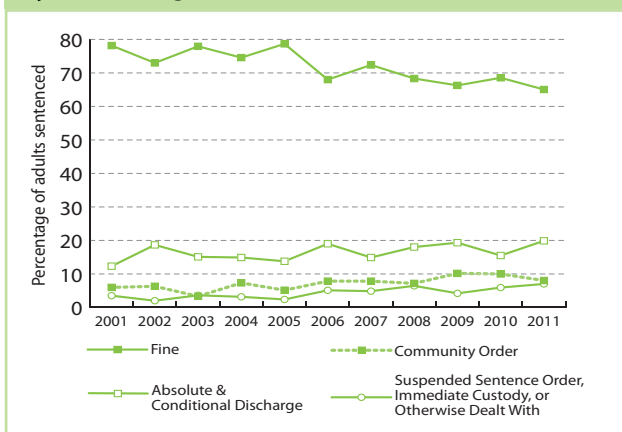
**Chart 6: Number of adults sentenced for environmental offences covered by the draft guideline between 2001 and 2011**



Between 2001 and 2008 the number of adults sentenced for these offences more than doubled, from 284 sentences in 2001 to 682 sentences in 2008. Since 2008, the number of adults sentenced has stayed consistent at just under 700 sentences each year, with 689 adults sentenced in 2011.

Chart 7 shows the sentence outcomes received by adults in 2011. Over the last decade, there has been a decline in the proportion of sentenced offenders that receive fines, from 78 per cent in 2001 to 65 per cent in 2011; and an increase in the proportion receiving a discharge, with the use of these outcomes increasing from 12 per cent of outcomes in 2001 to 20 per cent of outcomes in 2011. The use of community orders shows a slight increase, just over 2 percent, over the last decade, from 6% to 8%.

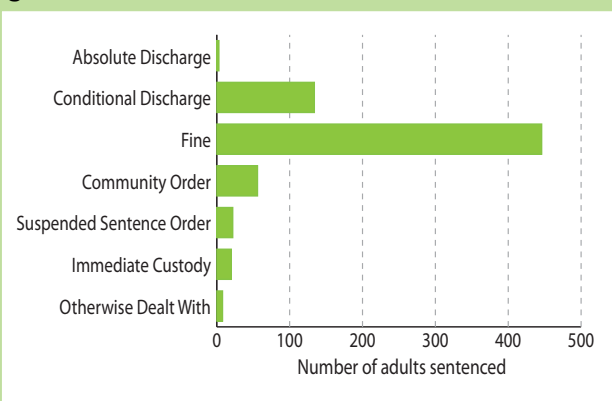
**Chart 7: Outcomes received by adults sentenced for environmental offences covered by the draft guideline between 2001 to 2011**



Although there has been a shift in the use of different sentence outcomes, without knowing the relative seriousness or other details of the cases coming to the courts each year, it is not possible to say whether these trends indicate a change in the way that the courts are dealing with environmental offences.

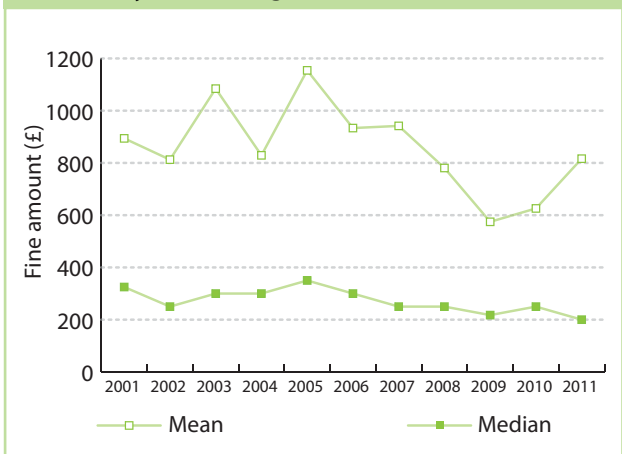
The most recent sentencing practice for environmental offences covered by the draft guideline is shown in Chart 8, which shows the sentence outcomes received by adults in 2011. From this, it can be seen that the most common sentence outcome was a fine, accounting for 65 per cent of all adults sentenced for these offences in 2011.

**Chart 8: Outcomes received by adults sentenced for environmental offences covered by the draft guideline in 2011**



imposed in 2011 for these offences was £75,000, however the next largest fine imposed was £9,000.

**Chart 9: Average amounts imposed for adults sentenced for a fine for environmental offences covered by the draft guideline in 2011**



Where the individual was sentenced to a fine, the average fine imposed each year between 2001 and 2011 is shown in Chart 9. Where historic fine amounts are described, nominal amounts are shown. No attempt has been made to adjust for the price level (inflation). Additionally, the fine amounts listed are the amounts imposed after taking into account guilty plea reductions. Again, the mean and median are shown due to the high level of variation in fine amounts imposed. There is no clear trend in the mean fine imposed, though mean fines between 2009 and 2011 are lower than the mean prior to 2007. Between 2005 and 2011, the median fine declined by 46 per cent, from £350 in 2005 to £200 in 2011.

**Chart 10: The amounts imposed for adults sentenced to a fine for environmental offences covered by the draft guideline in 2011**

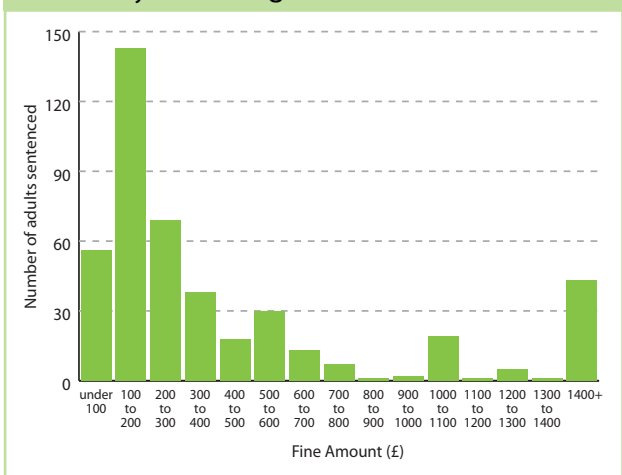
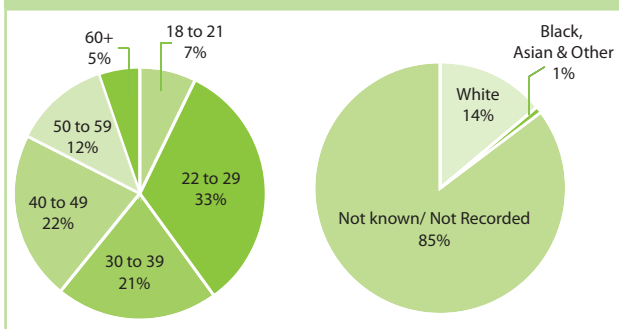


Chart 10 shows a histogram of the amounts imposed for offenders sentenced to a fine in 2011. Nearly three quarters, 73 per cent, of fines imposed were for £500 or less. The largest fine

## Demographics of adults sentenced for offences involving unauthorised or harmful deposit, treatment or disposal etc. of waste and illegal discharges to air, land and water

Of all adults sentenced for environmental offences covered by the draft guideline in 2011, 89 per cent were male. A third of those sentenced were in the age bracket of 22 to 29 and an additional fifth were in each of the 30 to 39 and 40 to 49 age brackets. For the majority of adults sentenced, 85 per cent, their perceived ethnicity was either not recorded or not known. Of the remaining cases, 14 per cent were perceived to be of White origin by the police officer dealing with their case and 1 per cent were perceived to be of Black, Asian or other backgrounds. The proportions amongst those for whom data on perceived ethnicity was provided may not reflect the demographics of the full population of those sentenced.

Charts 11 and 12: Age demographics and perceived ethnicity of adults sentenced for environmental offences covered by the draft guideline in 2011



## Notes on the Data

### *Volumes of sentences*

The data presented only include cases where the environmental offence was the principal offence committed by adults and organisations only. Where an offender commits multiple offences on a single occasion, the offence which received the most severe sentence is taken to be the principal offence. Although the offender will receive a sentence for each of the offences that they are convicted of, it is only the sentence for the principal offence that is presented in this bulletin. This way of representing the data is consistent with the Ministry of Justice publication, *Criminal Justice Statistics*, however this includes data for organisations and individuals of all ages.

### *Sentence Outcomes*

The outcomes presented are the final sentence outcomes, after taking into account all factors of the case, including whether a guilty plea was made. This contrasts with the sentencing ranges presented at step 2 of the draft new guideline, which are the recommended sentence lengths before taking into account certain factors, such as whether a reduction is appropriate for a guilty plea. Therefore, the sentence outcomes shown in the data are not directly comparable to the ranges provided in the new guideline.

### *Offence severity*

The data provided takes account of offence type, but not the severity of the offence committed within the offence type. This is especially important to note when analysing the variation in sentencing through time: it is not possible to distinguish whether variation is due to changes in sentencing practice, or whether it is due to changes in the severity of the crimes for which offenders are being sentenced.

### *Fine amount*

Where historic fine amounts are described, nominal amounts are shown. No attempt has been made to adjust for the price level (inflation). Additionally, the fine amounts listed are the amounts imposed after taking into account guilty plea reductions.

### *Offender Gender and Ethnicity*

For a small number of cases sentenced for an offence covered by the guideline (6 per cent) it was not recorded whether the offender was male, female or a company. These records have been excluded from this bulletin.

Where the ethnicity of sentenced adults is described, the ethnicity as perceived by the police officer dealing with the case is used. Perceived ethnicity is the most comprehensive data source available on ethnicity; therefore it is used in preference to any other source of ethnicity data.

However, for environmental offences, there are a high proportion of cases where the perceived ethnicity was not known or not recorded. Therefore the ethnicity data should be read with some caution. The proportions reflected amongst those for whom data was provided may not reflect the

demographics of the full population of those sentenced.

### *General Conventions*

The following conventions have been applied to the data:

- Percentages derived from the data have been provided in the narrative and displayed on charts to the nearest whole percentage, except when the nearest whole percentage is zero. In some instances, this may mean that percentages shown, for example in pie charts, do not add up to 100 per cent.
- Where the nearest whole per cent is zero, the convention ‘<0.5’ has been used.
- Where totals have been provided, these have been calculated using unrounded data and then rounded. Therefore percentages provided in the narrative may differ slightly from the sum of percentages shown on the pie charts.

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### Data Sources and Quality

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The primary source of data for this bulletin is the Court Proceedings Database which is supplied to the Sentencing Council by the Ministry of Justice who obtain it from a variety of administrative data systems compiled by courts and police forces.

Every effort is made by the Ministry of Justice and the Sentencing Council to ensure that the figures presented in this publication are accurate and complete. Although care is taken in collating and analysing the returns used to compile these figures, the data are of necessity subject to the inaccuracies inherent in any large-scale recording system. Consequently, although numbers in tables and charts are shown to the last digit in order to provide a comprehensive record of the information collected, they are not necessarily accurate to the last digit shown.

In producing this bulletin, a recording error was identified in the fine amount in a very small number of cases in the Ministry of Justice database. For the purposes of this bulletin, an adjustment has been made to correct for this error.

Further details of the processes by which the Ministry of Justice validate the records in this database can be found within the guide to their Criminal Justice Statistics publication which can be downloaded at:

<http://www.justice.gov.uk/publications/statistics-and-data/criminal-justice/criminal-justice-statistics>



## Other sources of data on environmental offences

The Department for Environment, Food and Rural Affairs (DEFRA) produce a variety of statistical publications relating to household and commercial waste and recycling. These publications can be accessed at the following link:

<http://www.defra.gov.uk/statistics/environment/waste/>

The Environment Agency, an Executive Non-Departmental Public Body of DEFRA, published an evidence based report on waste crimes committed in 2011-12. This report can be accessed via the following link:

<http://www.environment-agency.gov.uk/business/142136.aspx>

When looking at these sources of data it is important to bear in mind that there may be differences in the method of recording that do not make them directly comparable with the data presented in this bulletin.

## Background Information

The Ministry of Justice publishes a quarterly statistical publication, *Criminal Justice Statistics*, which includes a section focusing on sentencing data at national level. This section breaks down the data by offence group and by demographic factors such as age, gender and ethnicity. The full publication can be accessed via the Ministry of Justice website at:

<http://www.justice.gov.uk/statistics/criminal-justice/criminal-justice-statistics>

Detailed sentencing data from the Ministry of Justice's Court Proceedings Database can be accessed via the Open Justice website at:

<http://open.justice.gov.uk/sentencing/>

This website allows the data to be viewed by offence category, local police force area and sentencing court. The offence categories used on this website are consistent with those used by the Ministry of Justice in their Criminal Justice Statistics publication.

Further information on general sentencing practice in England in Wales can be found on the Council's website or at the Ministry of Justice website at:

<http://www.justice.gov.uk/>

Alternatively, you may wish to visit the sentencing area on the Direct.gov website, which can be accessed at:

<http://sentencing.cjonline.gov.uk/>



## ENVIRONMENTAL OFFENCES SENTENCING DATA

### Uses Made of the Data

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Data provided in the Council's range of analysis and research bulletins are used to inform public debate of the Council's work. In particular, this bulletin aims to provide the public with the key data that the Council has used to help formulate the draft guideline on environmental offences.

### Contact Points for Further Information

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We would be very pleased to hear your views on our analysis and research bulletins. If you have any feedback or comments, please send them to:

[research@sentencingcouncil.gsi.gov.uk](mailto:research@sentencingcouncil.gsi.gov.uk)

#### Responsible Statistician

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Further information on the Sentencing Council and their work can be found at:

<http://sentencingcouncil.org.uk>

# ANNEX A: 2011 SENTENCING DATA SUMMARY

In sentencing other relevant and analogous environmental offences, the court is recommended to refer to the sentencing approach in steps 1 and 3 of the guideline, adjusting the starting points and ranges bearing in mind the statutory maxima for those offences. This table provides a summary of sentencing data from 2011 for a range of other comparable environmental offences of lower volume and lower statutory maxima within the Sentencing Council's draft guideline for environmental offences.

Guideline	Individuals				Organisations					
	Volume of adults sentenced in 2011	(of which sentenced at the magistrates court)	Proportion of outcomes that were a fine	Mean fine	Median fine	Volume of organisations sentenced in 2011	(of which sentenced at the magistrates court)	Proportion of outcomes that were a fine	Mean fine	Median fine
Section 1 Control of Pollution (Amendment) Act 1989 - transportation of controlled waste without registering	160	Triable summarily only	90%	£460	£350	-	-	-	-	-
Section 34 Environmental Protection Act 1990 - breach of duty of care	352	96.9%	75.6%	£318	£190	51	100%	98%	£928	£500
Section 80 Environmental Protection Act 1990 - break of an abatement notice	668	Triable summarily only	86.7%	£331	£200	22	100%	100%	£706	£525