

Assessing the impact of the Sentencing Council's Environmental offences definitive guideline

Summary

- Analysis was undertaken to assess the impact of the Sentencing Council's environmental offences definitive guideline on sentence outcomes and fine amounts.
- For organisations, the guideline appears to have had the effect anticipated in the resource assessment, as some organisations have received higher fines since the guideline came into force.
- The resource assessment also anticipated that fines would increase for some individuals. This does not seem to have been the case; however, this may be due to the type of offences coming before the court.
- Despite these results, it is difficult to conclude definitively whether the guideline has had the effect anticipated in the resource assessment, as the data used to compare sentencing before and after the guideline came into force does not indicate the seriousness of the offence. It is necessary to bear in mind that the cap on magistrates' fining powers was removed in March 2015 which is another factor which may have affected fine amounts imposed, and whether cases were sentenced in magistrates' courts or the Crown Court. These factors should therefore be taken into account when interpreting the results.
- A small sample of data collected by the Environment Agency since the guideline came into force shows that the majority of cases were sentenced within the appropriate category range, as set out in the guideline; this implies that the guideline is generally being applied in the manner intended.
- The Environment Agency data collected indicated that although on occasion minor issues were encountered, overall sentencers did not indicate that they experienced any difficulties applying the guideline.

Introduction

The Sentencing Council was set up in 2010 and produces guidelines for use by all criminal courts in England and Wales. The environmental offences definitive guideline came into force on 1 July 2014,¹ and includes offences covered by Section 33, Environmental Protection Act 1990 (EPA 1990); and Regulations 12 and 38(1), (2) and (3) of the Environmental Permitting (England and Wales) Regulations 2010 (EPR 2010).²

¹ <http://www.sentencingcouncil.org.uk/publications/item/environmental-offences-definitive-guideline/>

² Regulations 12 and 38(1),(2)&(3) EPR 2010: Contravene the requirements of an environmental permit; operate a regulated facility or cause or knowingly permit a water discharge activity or groundwater activity. Section 33 EPA 1990: Unauthorised or harmful deposit, treatment or disposal of waste. The environmental guideline can also be referred to when sentencing a number of other environmental offences, which are detailed on page 23 of the guideline.

One of the Sentencing Council's statutory duties under the Coroners and Justice Act 2009 is to monitor the operation and effect of its sentencing guidelines and to draw conclusions from this information.³ Analysis was therefore undertaken to assess the impact of the guideline on sentence outcomes and fine amounts, and examine whether there were any implementation issues.

Unlike the majority of sentencing guidelines produced by the Sentencing Council, the environmental offences guideline provides a separate guideline for cases where the offender is an organisation. The analysis undertaken has therefore been separated into two sections: organisations (companies, partnerships or bodies delivering a public or charitable service) and individuals.

Methodology

Data from the Ministry of Justice's Court Proceedings Database (CPD) has been used to explore long term sentencing trends for environmental offences, during the period 2005 to 2015, in particular looking at sentence outcomes and fine amounts.^{4,5,6}

In addition, during the period 1 July 2014 to 31 December 2015, the Sentencing Council collected sentencing information on environmental offences using forms completed and submitted by the Environment Agency. The data collection was initially intended to finish at the end of June 2015, but was extended to the end of December 2015 to allow for more forms to be collected.

There are several limitations of this data collection to bear in mind; firstly the data collection only captured information relating to cases prosecuted by the Environment Agency, which

³ The Council must (a) monitor the operation and effect of its sentencing guidelines, and (b) consider what conclusions can be drawn from the information obtained by virtue of paragraph (a) (*Coroners and Justice Act 2009, Section 128*).

⁴ The Environmental Permitting (England and Wales) Regulations 2007 (EPR 2007), which came into force on 6 April 2008, covered those offences included in the EPR 2010, prior to the EPR 2010 coming into force. The CPD analysis in this paper therefore also includes EPR 2007 offences, in order to show a more accurate picture of trends.

⁵ Figures shown in this paper may differ from those in the statistical bulletin produced to accompany the guideline consultation in 2013, as the CPD is quality assured and updated annually. Actual numbers of sentences have been rounded to the nearest 100, when more than 1,000 offenders were sentenced, and to the nearest 10 when less than 1,000 offenders were sentenced.

⁶ The CPD data presented in this paper only include cases where the environmental offence was the principal offence committed. When a defendant has been found guilty of two or more offences this is the offence for which the heaviest penalty is imposed. Where the same disposal is imposed for two or more offences, the offence selected is the offence for which the statutory maximum penalty is the most severe. 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. It is important to note that the CPD data have been extracted from large administrative data systems generated by the courts and police forces. As a consequence, care should be taken to ensure data collection processes and their inevitable limitations are taken into account when those data are used. Further details of the processes by which MoJ validate the records in the CPD can be found within the guide to their Criminal Justice Statistics publication which can be downloaded via the link:

<https://www.gov.uk/government/collections/criminal-justice-statistics>

means the data may be biased towards more serious offences.⁷ Secondly, the forms were completed by the Environment Agency, not by the sentencers, and therefore may not include everything which was in fact taken into account by the sentencers. A third limitation relates to the relatively low number of forms returned during the collection, which to a certain extent limits the analysis it is possible to undertake on the data.

The data collection form included the following information: sentencing court, date of sentencing hearing, offender name, annual turnover (for organisations), details of offences charged, whether or not a guilty plea was entered and at what stage, figures for any compensation or confiscation, harm and culpability factors identified, starting point indicated, aggravating and mitigating factors considered, factors considered from steps five, six and seven of the guideline, the final sentence imposed, and any other observations from the case (or feedback on the court's use of the guideline). An example of a blank collection form can be found in Appendix 1.

Approach

The findings of the analysis should be considered in light of the resource assessment, which was produced to accompany the environmental offences definitive guideline.⁸

The Council has a statutory duty to produce a resource assessment alongside each definitive sentencing guideline it publishes. The resource assessment is concerned with anticipating any impact on sentencing practice that is expected to occur as a result of the guideline, over and above any changes caused by unrelated issues (e.g. changes in the volume and nature of cases coming before the courts).

The resource assessment associated with the definitive environmental guideline expected the guideline to:

- increase levels of fines received by organisations and some individuals who commit more serious offences;
- for individuals and organisations committing less serious offences, it was expected that fines would remain unchanged.

Where the observed impacts of the guideline were expected and were identified in the resource assessment, the Council's expectation is that no further work need be conducted, as the guideline is being applied as expected. Likewise, where the guideline has had no impact and none was expected, no further work is required.

However, in cases where either an impact has occurred that was not expected in the Council's resource assessment, or no impact has occurred where one was expected, further work may be necessary; the assumption is that where impacts differ from those expected, this is likely to be due to sentencers implementing the guideline in a way not anticipated by the Council. Nevertheless it is also important to bear in mind any other factors which may have had an

⁷ Environmental offences can also be prosecuted by local authorities, for offences such as fly-tipping, however, the Environment Agency generally investigates larger scale fly-tipping incidents, fly-tipping by organised gangs, and incidents involving hazardous waste. For further information see <https://www.gov.uk/guidance/local-environmental-quality>.

⁸ <http://www.sentencingcouncil.org.uk/publications/item/environmental-offences-final-resource-assessment/>

effect on sentencing when analysing the impact of the guideline.⁹ In any event, it would be beneficial to continue to monitor the effect of the guideline, using CPD data from the Ministry of Justice.

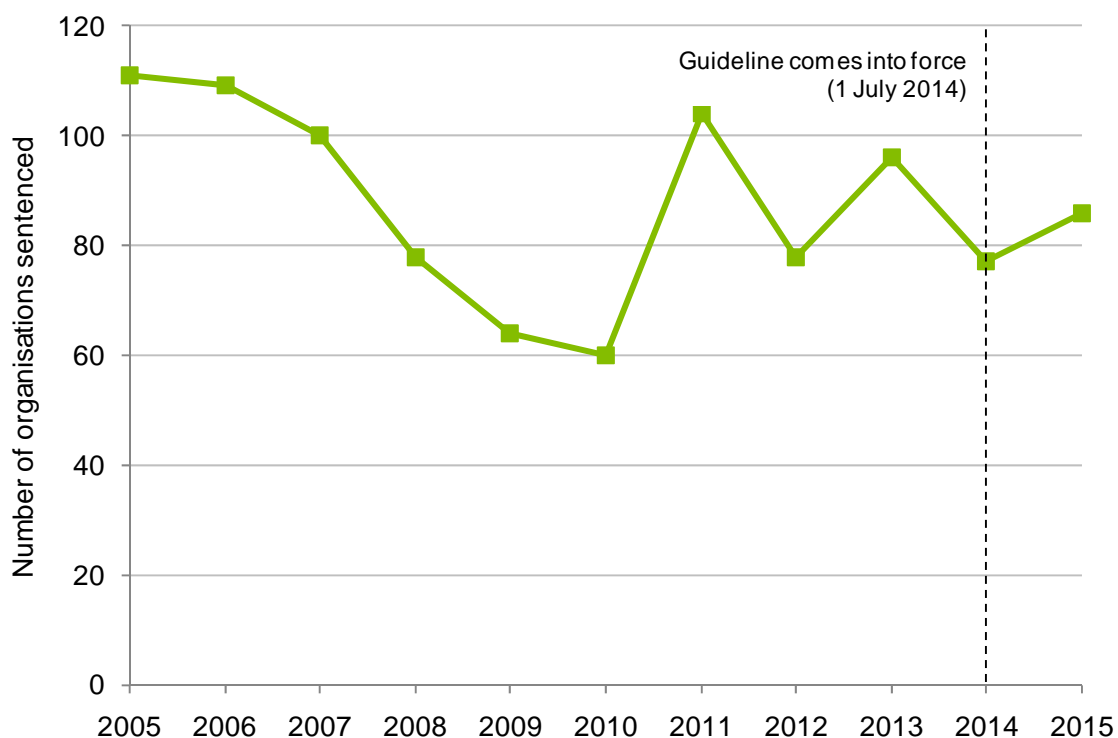
Findings from CPD analysis

Organisations

The number of organisations sentenced for environmental offences covered by the guideline decreased in the period 2005 to 2010, from 110 in 2005 to 60 in 2010, before increasing to 100 in 2011.¹⁰ Since 2011 the number has fluctuated, with approximately 90 organisations sentenced in 2015 (see figure 1).

The majority of cases sentenced in 2015 (67 per cent) were for offences under section 12 and 38(1), (2) and (3) of the EPA 1990, which relates to contravening the requirements of an environmental permit. Just under three quarters of organisations (74 per cent) were sentenced in magistrates' courts.

Figure 1: Number of organisations sentenced for offences covered by the guideline, 2005-2015

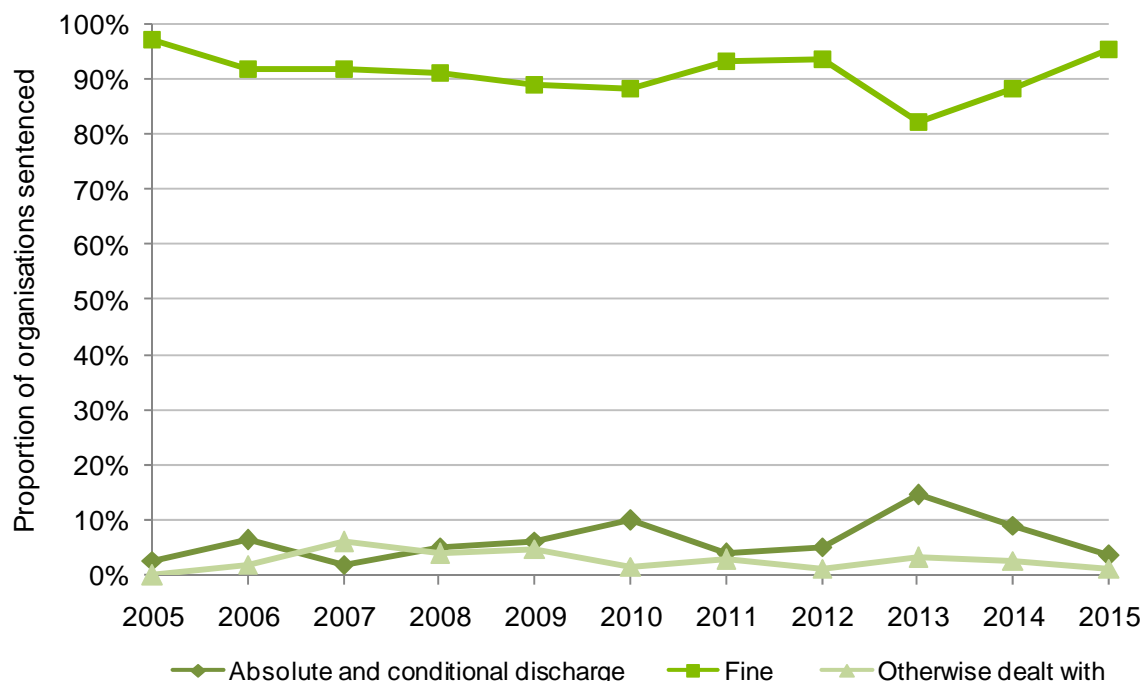


⁹ For example, magistrates' fining powers became unlimited in March 2015, which may have affected fine amounts imposed, and should therefore be taken into account. However, it should also be noted that the Crown Court has always been able to impose unlimited fines, so it is probable that prior to March 2015, serious offences which were likely to attract higher fine amounts would have been sentenced in the Crown Court.

¹⁰ Due to a data processing issue, offenders sentenced to a fine of over £10,000 in magistrates' courts during the period 2009 to 2015 may have been excluded from the data. As a result, volumes shown for this period may be lower than the actual number sentenced; however, it is likely that the number of missing records is low, as more serious offences tend to be sentenced in the Crown Court.

The vast majority of organisations sentenced for environmental offences in 2015 received a fine (95 per cent), and on average, between 2005 and 2015, 91 per cent of organisations sentenced received a fine (see figure 2).

Figure 2: Sentence outcomes for organisations sentenced for offences covered by the guideline, 2005-2015¹¹



Between 2011 and 2013 the average (median¹²) fine amount imposed on organisations sentenced for environmental offences in the Crown Court remained relatively stable, at around £10,000.¹³ Since 2013 the median has increased considerably, to £28,000 in 2015 (see figure 3). The maximum fines imposed in the Crown Court during the period 2013 to 2015 were also higher than those in previous years; £200,000 in 2013, £500,000 in 2014 and £250,000 in 2015, compared with a maximum fine ranging between £6,000 and £100,000 in the period 2005 to 2012.

¹¹ Community sentence, suspended sentence and immediate custody are not available sentence outcomes for organisations. The category 'Otherwise dealt with' includes: compensation; and other miscellaneous disposals.

¹² The median is the value which lies in the middle of a set of numbers when those numbers are placed in ascending or descending order. The median is often a more suitable measure than the mean as it is not as influenced by extreme values.

¹³ Due to data processing issues it has not been possible to include magistrates' courts fines data in this analysis. The analysis undertaken on fine amounts therefore relates only to fines imposed in the Crown Court. Due to low volumes in the Crown Court, these figures should be interpreted with caution.

Figure 3: Median fine amounts imposed on organisations sentenced for offences covered by the guideline, Crown Court, 2005-2015



The median fine amount for organisations sentenced in the Crown Court in the period January 2013 to June 2014 (pre-implementation of the guideline) was £12,500, and the mean¹⁴ was £39,200. In the period July 2014 to December 2015 (post-implementation of the guideline), both the median and mean increased, to £21,500 and £70,600, respectively. This indicates that organisations tended to receive larger fines after the guideline came into force in July 2014, and that some organisations received particularly high fines, which resulted in the sharp increase in the mean. This suggests that the guideline may have had the effect anticipated in the resource assessment, at least for those sentenced in the Crown Court, where data is available; that fines have increased for some organisations.

In summary, the CPD analysis shows that the median fine amount imposed on organisations in the Crown Court has increased considerably over the last couple of years. In addition, comparing the average fine amounts imposed in the 18 months before and after the guideline shows an increase in both the median and mean fine amounts since the guideline came into force.

Individuals

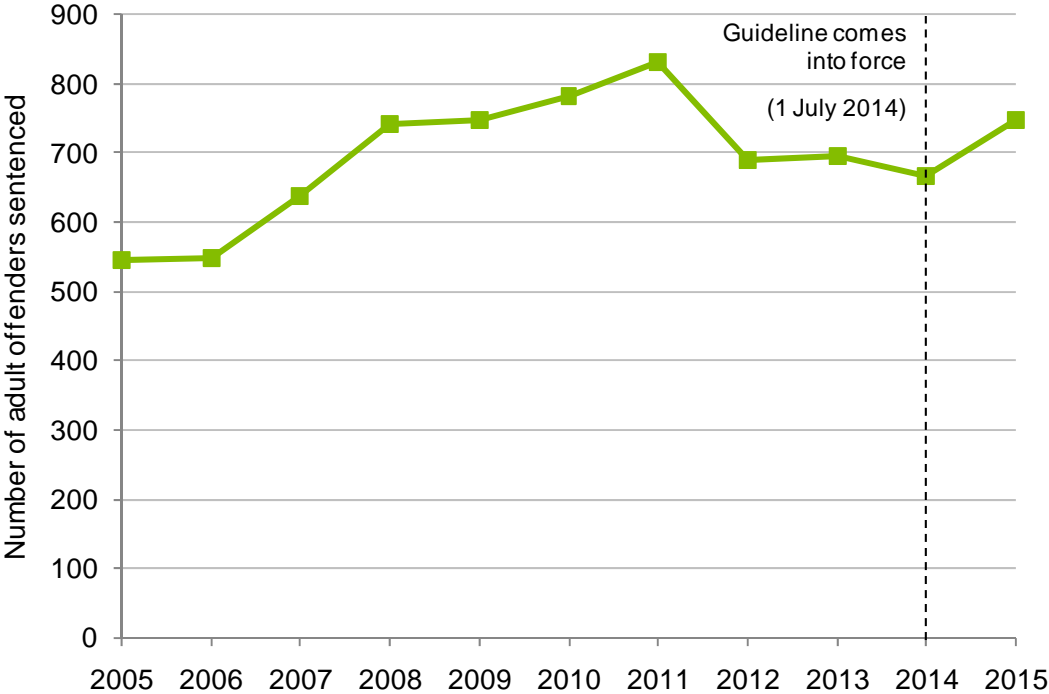
Between 2005 and 2011 the number of adult offenders sentenced for environmental offences covered by the guideline trended upwards, from 540 in 2005 to 830 in 2011, before declining to 690 in 2012.¹⁵ In 2015 the number of adult offenders sentenced increased to 750, a similar level to 2009 (see figure 4).

¹⁴ The mean is calculated by taking the sum of all values and then dividing by the number of values.

¹⁵ Due to a data processing issue, offenders sentenced to a fine of over £10,000 in magistrates' courts during the period 2009 to 2015 may have been excluded from the data. As a result, volumes shown for this period may be lower than the actual number sentenced; however, it is likely that the number of missing records is low, as more serious offences tend to be sentenced in the Crown Court.

In 2015, the majority of adult offenders (89 per cent) were sentenced for offences under section 33 of the EPA 1990, which relates to the unauthorised or harmful deposit, treatment or disposal of waste, and 95 per cent of cases were sentenced in magistrates' courts.

Figure 4: Number of adult offenders sentenced for offences covered by the guideline, 2005-2015

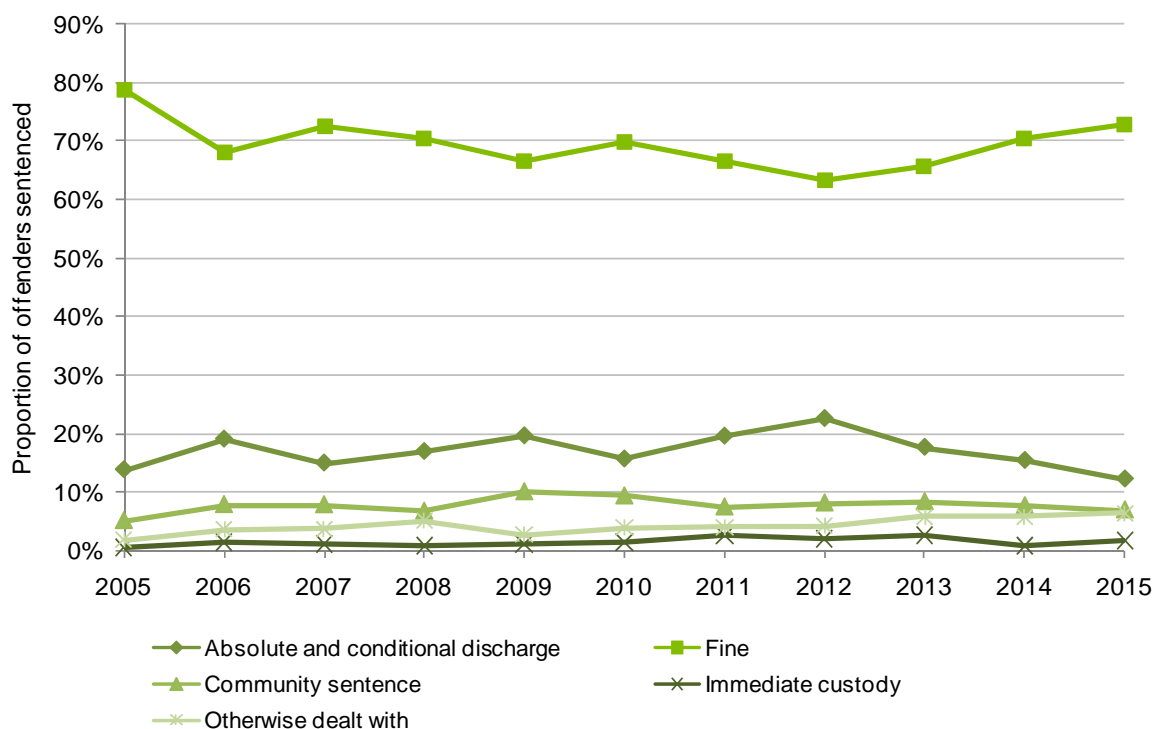


As with organisations, the majority of adult offenders sentenced for environmental offences received a fine; on average, between 2005 and 2015, 69 per cent of adult offenders sentenced received a fine (see figure 5). This is a lower proportion however when compared to organisations (in 2015, 95 per cent of organisations received a fine).

Since 2006 the proportion of offenders receiving a fine has remained relatively stable, within the range of 63 to 73 per cent. The proportion sentenced to immediate custody has also remained stable since 2005, comprising between one and three per cent.

In 2015, 12 per cent of adult offenders received a discharge, seven per cent received a community sentence and two per cent were sentenced to immediate custody.

Figure 5: Sentence outcomes for adult offenders sentenced for offences covered by the guideline, 2005-2015¹⁶



In 2015, the average (median) fine amount received by adult offenders sentenced for environmental offences in the Crown Court was £1,700 (see figure 6).¹⁷ The median fine amount has fluctuated over the last decade; this may be due to the low number of offenders sentenced for these offences in the Crown Court (in 2015, five per cent were sentenced in the Crown Court, equating to approximately 40 offenders).

¹⁶ The category 'Otherwise dealt with' includes: suspended sentences, one day in police cells; disqualification order; restraining order; confiscation order; compensation; and other miscellaneous disposals.

¹⁷ Due to data processing issues it has not been possible to include magistrates' courts fines data in this analysis. The analysis undertaken on fine amounts therefore relates only to fines imposed in the Crown Court. Due to low volumes in the Crown Court, these figures should be interpreted with caution.

Figure 6: Median fine amounts received by adult offenders sentenced for offences covered by the guideline, Crown Court, 2005-2015



The resource assessment anticipated that the guideline would increase fines for some individuals who commit more serious offences. As yet there is no evidence to suggest that fine amounts overall have increased noticeably since the guideline was introduced in 2014.

Findings from Environment Agency data collection

During the data collection period (1 July 2014 to 31 December 2015), a total of 144 returns were received from the Environment Agency. The figures in this section should therefore be treated with caution, due to the low volumes involved.¹⁸

Over half of the forms returned (61 per cent) related to individuals sentenced for environmental offences covered by the guideline, with 39 per cent relating to organisations. The majority of forms (70 per cent) related to offences under section 12 and 38(1), (2) and (3) of the EPR 2010 (contravening the requirements of an environmental permit). A further 11 per cent related to offences under section 33 of the EPA 1990 (unauthorised or harmful deposit, treatment or disposal of waste), and the remainder related to other offences.

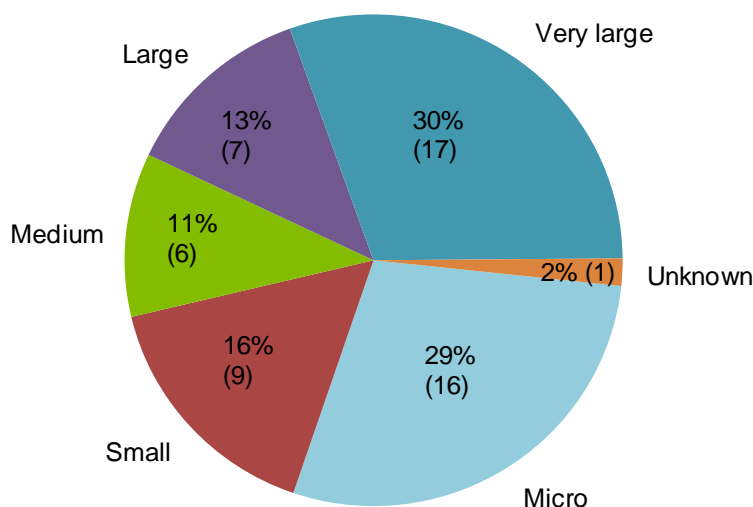
Organisations

The largest proportion of forms returned for organisations (30 per cent) related to very large organisations, and a further 29 per cent related to micro organisations (see figure 7).¹⁹

¹⁸ During this period, approximately 1,200 offenders were sentenced for these offences (120 organisations and 1,100 individuals).

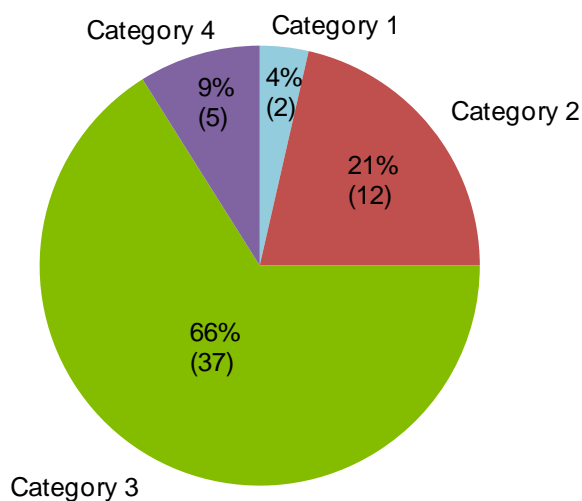
¹⁹ In the guideline, organisations are classified by size according to their turnover, as follows; micro – turnover of no more than £2m; small – between £2m and £10m; medium – between £10m and £50m; large – £50m and over; very large – turnover greatly exceeds the threshold for large organisations.

Figure 7: Number and proportion of forms received, by reported size of organisation, July 2014 – December 2015²⁰



The majority of offences were classified as being in harm category 3 (66 per cent), and a further 21 per cent were in harm category 2. Only four per cent of cases were classified in the most serious harm category, category 1 (see figure 8).²¹

Figure 8: Category of harm for organisations, July 2014 – December 2015



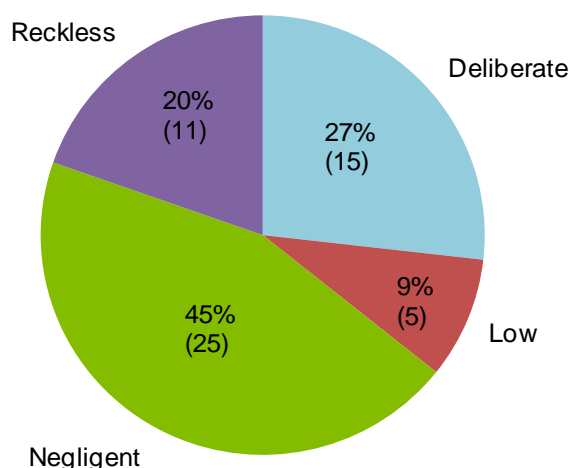
Forty-five per cent of organisations sentenced during this period fell within the culpability category ‘Negligent’. Just over a quarter were recorded as ‘Deliberate’ (27 per cent), and a further 20 per cent were ‘Reckless’ (see figure 9).²²

²⁰ Note: Percentages may not equal 100 per cent due to rounding.

²¹ In the guideline, harm category 1 is the most serious, and harm category 4 is the least serious. The harm categories in this guideline take into account the risk of harm, which involves consideration of both the likelihood of harm occurring and the extent of it if it does.

²² In the guideline, ‘Deliberate’ is the highest culpability category, followed by ‘Reckless’, ‘Negligent’, and ‘Low’.

Figure 9: Category of culpability for organisations, July 2014 – December 2015



Sentence outcomes

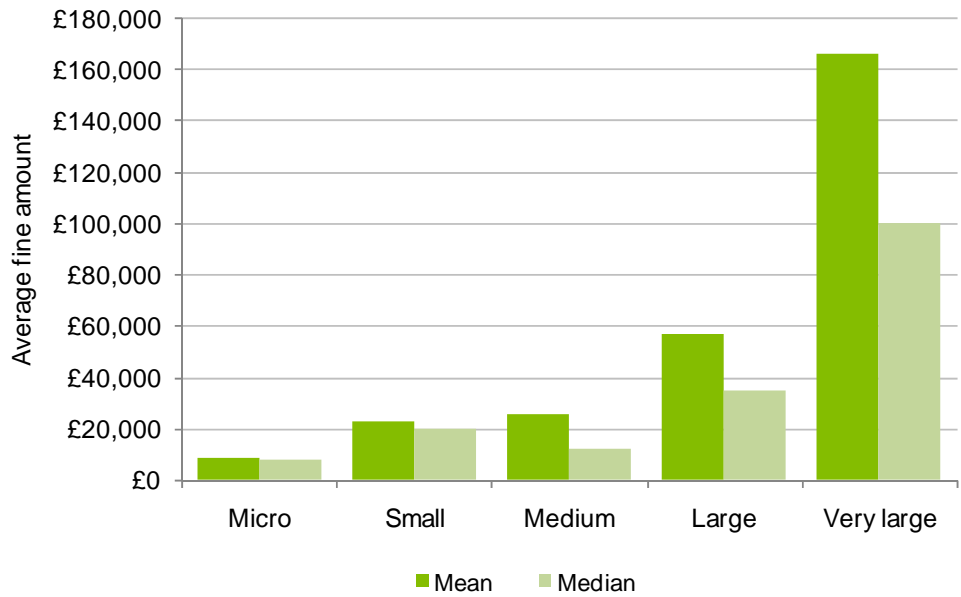
The vast majority of organisations sentenced during this period received a fine (98 per cent). Twenty-one per cent of forms received which related to organisations did not indicate a starting point.²³

Of the remaining cases, for which a starting point was provided, all organisations were sentenced within the appropriate harm and culpability category range according to the organisation's size. Several forms indicated starting points below the range, but these related to other environmental offences covered by the guideline, which have a lower statutory maximum. Starting points for these offences are therefore adjusted accordingly.

Figure 10 shows the mean and median fine amounts received by organisations, where the size of the organisation was known. As is expected, the mean and median generally increase with the size of the organisation. The mean fine amount for large organisations was £56,900, and the median was £35,000, which is noticeably higher than that for medium size organisations. In addition, the mean and median fine amounts for very large organisations are considerably higher than that for large organisations (£166,200 and £100,000, respectively). This does not, however, take into account the distribution of offences across different harm and culpability categories; it may be the case, for example, that very large organisations were sentenced for more serious offences than large organisations, which would naturally result in higher mean and median fine amounts.

²³ For each category of culpability and harm, and for each type of organisation, the environmental guideline includes a starting point and a sentence range. For example, micro organisations with 'Deliberate' culpability in harm category 1 have a starting point of £50,000, and a range of £9,000-£95,000. The sentencer should use the appropriate starting point associated with the relevant harm and culpability category, and then adjust for any guilty plea reduction, and aggravating or mitigating factors.

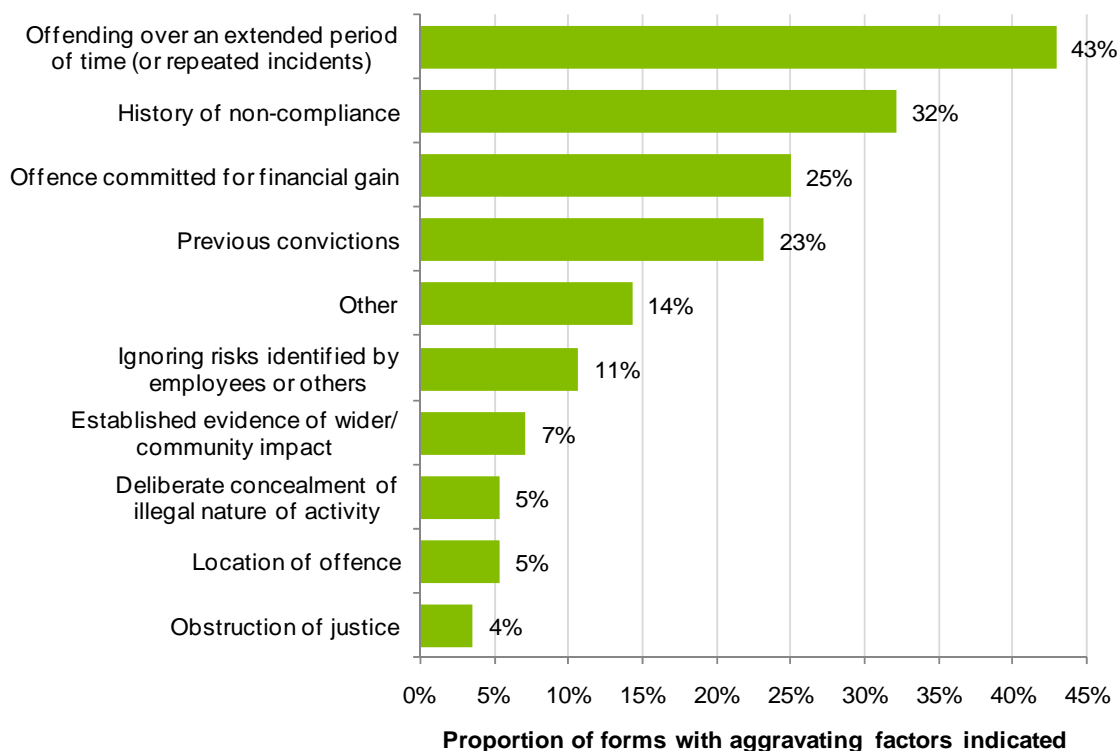
Figure 10: Average fine amounts for organisations, July 2014 – December 2015



Aggravating and mitigating factors

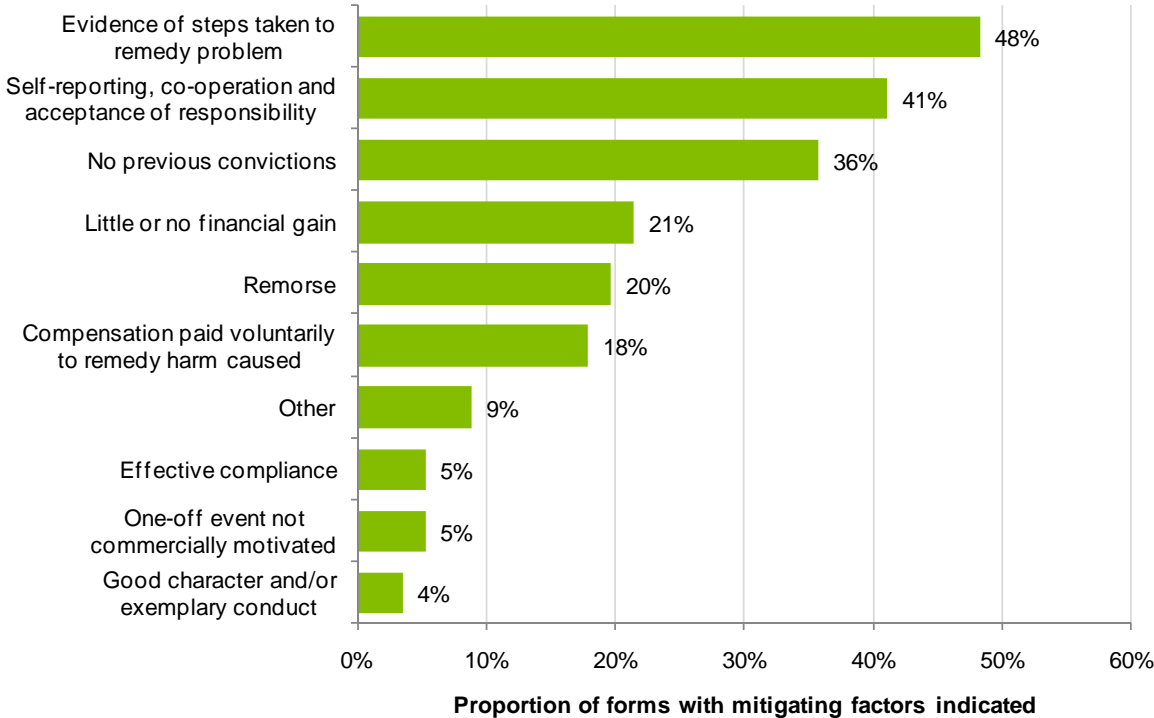
Seventy-nine per cent of forms indicated that one or more aggravating factors had been taken into account during sentencing. Of those cases, on average two aggravating factors were taken into account. The most common aggravating factor cited was “offending over an extended period of time (or repeated incidents)”, which was noted in 43 per cent of cases (see figure 11). Just under a third of cases (32 per cent) cited “history of non-compliance”, and a further 25 per cent mentioned “offence committed for financial gain”.

Figure 11: Prevalence of aggravating factors for organisations, July 2014 – December 2015



In over three quarters of cases (79 per cent) one or more mitigating factors were taken into account, and of those cases, on average three factors were taken into account when sentencing. “Evidence of steps taken to remedy problem” was the most prevalent mitigating factor, cited in 48 per cent of cases (see figure 12), followed by “self-reporting, co-operation and acceptance of responsibility” (41 per cent).

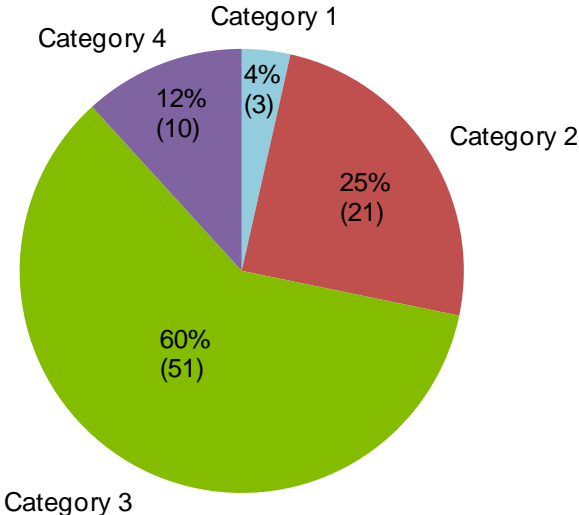
Figure 12: Prevalence of mitigating factors for organisations, July 2014 – December 2015



Individuals

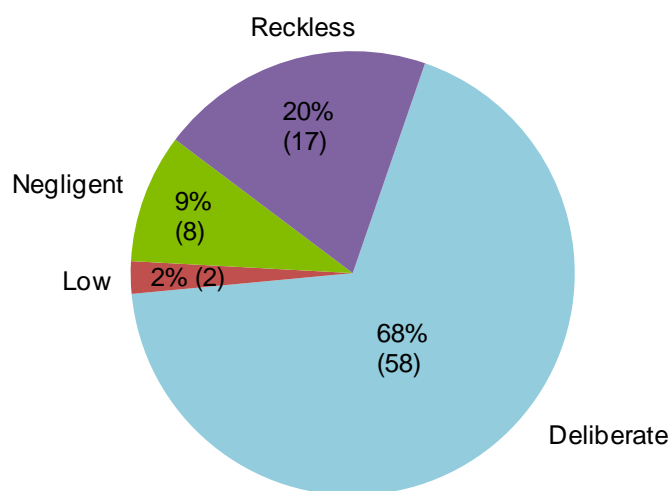
As with organisations, the majority of adult offenders sentenced during this period (where the harm category was indicated) fell within category 3 harm (60 per cent). Only four per cent fell within the most serious harm category – 1 (see figure 13).

Figure 13: Category of harm for adult offenders, July 2014 – December 2015



Where culpability was indicated on the form, 68 per cent of offenders sentenced fell within the highest culpability category, 'Deliberate', with a further 20 per cent in the next highest category, 'Reckless' (see figure 14).

Figure 14: Category of culpability for adult offenders, July 2014 – December 2015



Sentence outcomes

The majority of offenders sentenced received a fine (53 per cent), and a further 19 per cent were given a suspended sentence order. Sixteen per cent received a community order, and five per cent were sentenced to immediate custody (this equates to four offenders).

Twenty-eight per cent of forms relating to individuals did not indicate a starting point.²⁴ Of the remaining cases, for which a starting point was provided, 97 per cent were sentenced within the appropriate harm and culpability category range. Two per cent were sentenced below the range (this equates to one offender), and two per cent above the range (see figure 15).

Figure 15: Proportion of sentences within and outside the category range, adult offenders, July 2014 – December 2015

Environmental offences	No. forms returned, with starting point given	Below range	Within range	Above range
Individuals	63	2%	97%	2%

For the 'below range' case, the form noted that the offender's sole source of income was his state pension, which may be why a Band A fine was the starting point (rather than Band E).

²⁴ For each category of culpability and harm, the environmental guideline includes a starting point and a sentence range. For example, individuals with 'Deliberate' culpability in harm category one have a starting point of 18 months' custody, and a range of 1-3 years' custody. The sentencer should use the appropriate starting point associated with the relevant harm and culpability category, and then adjust for any guilty plea reduction, and aggravating or mitigating factors.

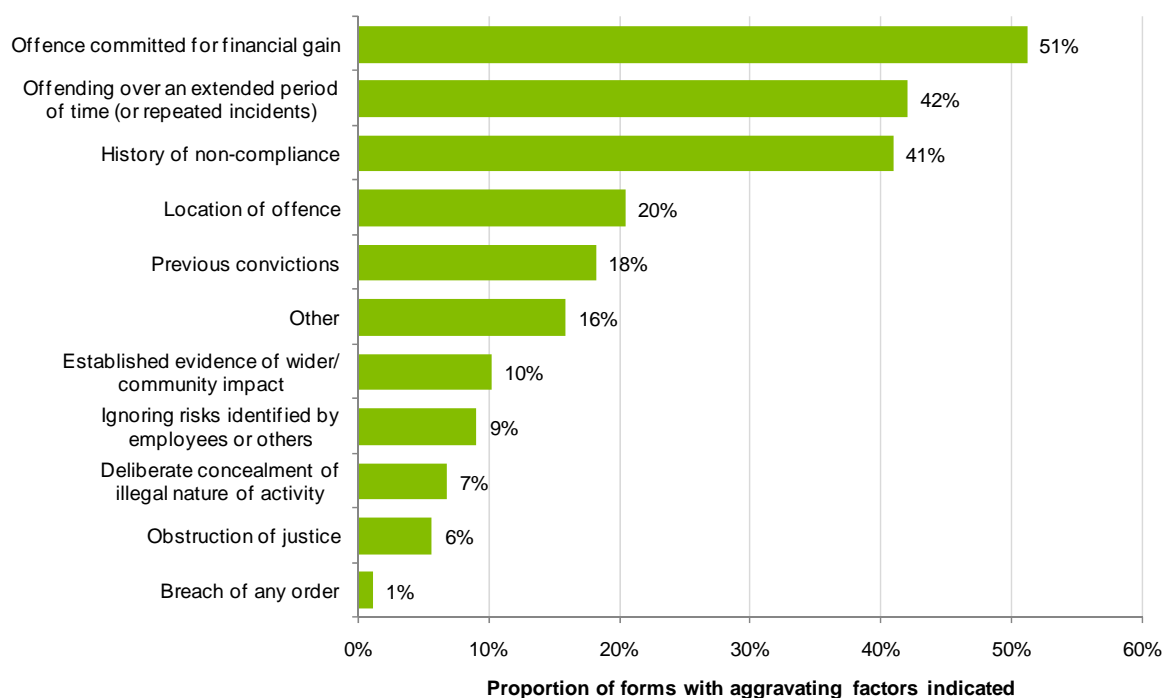
This is an example of where the court has ‘stepped back’ to review the sentence.²⁵ The ‘above range’ case involved an offender sentenced for five counts, which may explain why the starting point was increased to 20 months’ custody (rather than one years’ custody).

Aggravating and mitigating factors

Seventy-three per cent of forms indicated that one or more aggravating factors had been taken into account during sentencing. Of those cases, on average three aggravating factors were taken into account, slightly higher than the average for organisations. The three most commonly used aggravating factors were the same as those cited for organisations, although in a different order. The most common aggravating factor cited for adult offenders was “offence committed for financial gain”, which was prevalent in 51 per cent of cases (see figure 16). “Offending over an extended period of time (or repeated incidents)” was cited in 42 per cent of cases, and 41 per cent mentioned “history of non-compliance”.

The presence of aggravating factors was slightly more common for organisations than individuals (79 per cent compared with 73 per cent); however, cases involving individuals cited a higher average number of aggravating factors (three on average, compared to two for organisations).

Figure 16: Prevalence of aggravating factors for adult offenders, July 2014 – December 2015



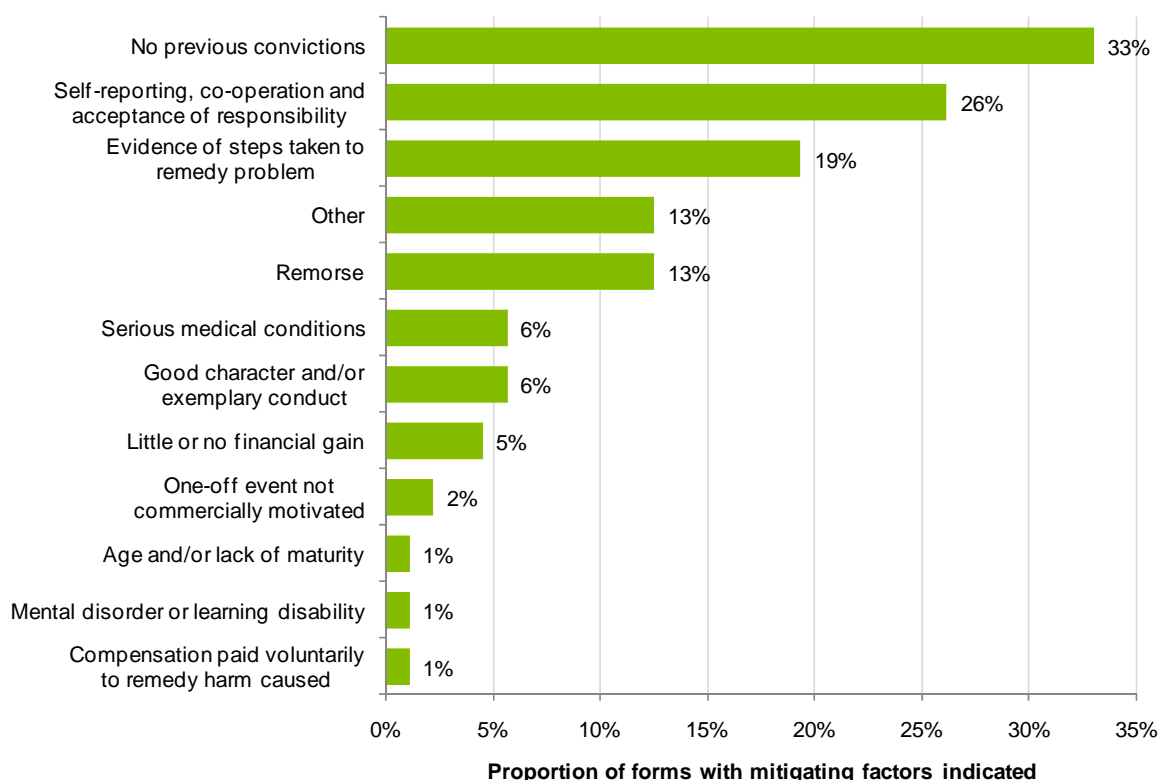
Sixty-five per cent of cases mentioned that one or more mitigating factors were taken into account, and of those cases, on average two factors were taken into account when

²⁵ Where the sentence is or includes a fine, steps five and six of the guideline for individuals (and steps five to seven for organisations) require the court to ‘step back’ and review whether the sentence as a whole meets, in a fair way, the objectives of punishment, deterrence and removal of gain derived through the commission of the offence. At this stage, the court may increase or reduce the proposed fine, if necessary moving outside the range.

sentencing. As with aggravating features, the three most commonly used mitigating factors for individuals were the same as those cited for organisations, albeit in a different order. “No previous convictions” was the most prevalent mitigating factor for individuals, cited in a third of cases (see figure 17), followed by “self-reporting, co-operation and acceptance of responsibility” (26 per cent) and “evidence of steps taken to remedy problem” (19 per cent).

Mitigating factors tended to be more prevalent for organisations than individuals (79 per cent compared to 65 per cent), also demonstrated by the fact that for organisations, on average three mitigating factors were taken into account, compared to two for individuals.

Figure 17: Prevalence of mitigating factors for adult offenders, July 2014 – December 2015



Implementation issues

The forms completed by the Environment Agency contained a free text field, to obtain information relating to the court’s use of the guideline. Analysis of these responses indicated that generally, sentencers were able to follow the guidelines; however, on occasion issues were encountered regarding the following (although it should be noted that each of these were only mentioned on one or two forms):

- Applicability of the guideline; sentencers sometimes had difficulty applying the guideline to other environmental offences with a different statutory maximum penalty (i.e. those not covered by s.33 EPA 1990 or s.12 and 38(1), (2) and (3) EPR 2010);
- The guideline not being followed; Step 5 was sometimes ignored, and on at least one occasion sentencers appeared not to understand the difference between avoided costs (i.e. costs which would have been incurred had the offence not been committed) and the costs of the prosecution in investigating the offence;

- Differences between fines which could be imposed for individuals sentenced as sole traders compared with organisations with a sole director;
- Level of fines: difficulty deciding on an appropriate starting point fine for very large organisations, particularly those with a turnover significantly higher than that for large organisations; the fact that the fine amount imposed on individuals is limited by taking account of the offender's means;
- Confusion around how to sentence a subsidiary company of a much larger organisation;
- Length and complexity of the guideline; some forms noted that the sentencing process took longer;
- The potential for double counting between culpability and aggravation, for the factor "previous warnings given"; and
- Imprecise definitions in harm categories.

A number of forms indicated that the sentencer referred to the case of Thames Water Utilities Limited [2015] EWCA Crim 960, for assistance with the sentencing of a very large company.

Conclusion

This analysis has enabled an assessment of the impact and implementation of the Sentencing Council's environmental offences guideline.

The data collected by the Environment Agency has provided an indication of how the guideline may be being used by sentencers in practice, and has enabled additional analysis to be carried out on starting points, which are comparable to the guideline sentence ranges (as opposed to fine amounts in the CPD, which are the final amounts after aggravating and mitigating factors have been taken into account, along with any reduction for guilty plea).

The starting point analysis shows that the majority of offences sentenced, for both organisations and individuals, were within the appropriate category range, which implies that the guideline is generally being applied in the manner intended. In addition, the data collected indicated that although issues were occasionally encountered, overall, sentencers did not indicate that they experienced any difficulties applying the guideline.

Sentencing data obtained from the CPD has been used to ascertain any changes in sentence outcomes and fine amounts, examining data both before and after the guideline came into force. This analysis has then been compared to the impact estimated in the resource assessment.

It is not possible to conclude definitively whether the guideline had the intended effect anticipated in the resource assessment, as the data used to compare sentencing before and after the guideline came into force does not indicate the seriousness of the offence. In addition, the analysis of fine amounts imposed on offenders has been restricted to those imposed in the Crown Court, due to the data issues mentioned earlier in the paper. The sentencing data for organisations does, however, suggest that the guideline may have had the effect anticipated in the resource assessment; that fines have increased for some organisations sentenced for more serious offences. On the other hand, the data relating to individuals does not indicate the guideline has had an impact on fines imposed on these

offenders; however, this may be due to the type of offences coming before the court, i.e. it may be the case that less serious offences have been coming before the court.

The analysis undertaken indicates that there is no specific need to revisit the guideline. It is recommended, however, that where possible, fine amounts continue to be monitored, to ensure that the guideline continues to be implemented in the manner intended by Council, through the use of CPD data from the Ministry of Justice.

Acknowledgements

The Sentencing Council would like to acknowledge the Environment Agency for their work in undertaking data collection for these offences over the period July 2014 to December 2015.

Author

Caroline Nauth-Misir
Office of the Sentencing Council

Appendix 1

Environmental guideline monitoring form	
Please fill in the orange boxes	
<p>In collaboration with the Environment Agency the Sentencing Council is gathering detailed information on the use and impact of the Environmental Offences guideline from 1 July 2014 – 31 December 2015. Forms should be completed by somebody who has been present throughout the sentencing hearing.</p> <p>Completed forms should be returned electronically wherever possible; please send to: environmental.guideline@sentencingcouncil.qsi.gov.uk If it is necessary to send a hard copy, please address to: Environmental Guideline, Office of the Sentencing Council, EB 16 Royal Courts of Justice, WC2A 2LL</p>	
Administrative details	
Contact name and email address of person completing form	
Sentencing court	
Date of sentencing hearing	
Offender and offence details	
Offender name if an <u>individual</u>	
Offender name if an <u>organisation</u>	
Where the offender is an <u>organisation</u> , annual turnover and any other key financial details considered by the court	
Offences charged	
Indication of guilty plea? (please indicate reduction made or stage plea entered)	e.g. GP entered at first reasonable opportunity, one-third reduction
Sentencing considerations	
Figures for any compensation or confiscation ordered (steps one and two)	e.g. £1,000 compensation order
Harm and culpability factors identified (step three)	
Starting point indicated and aggravating and mitigating factors considered (step four)	
Factors considered from steps five, six and (in the case of organisations) seven	

Outcome

Final sentence imposed and details of any ancillary orders / costs

Other information and observations

Please note any other key observations from this case or feedback on the court's use of the guideline: