## New sentencing guideline for environmental crimes brings higher sentences for serious offenders

**Organisation:**Sentencing Council

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**The way people committing environmental offences are sentenced is changing, with a new guideline for judges and magistrates published today by the Sentencing Council.**

This is the first time a guideline has been produced for these offences. It covers offences like fly-tipping and waste crimes, is likely to lead to larger fines for serious offenders, while ensuring a consistent approach to offences is taken by courts in England and Wales.

The guideline covers a variety of offences related to the disposal of waste and rubbish mostly covered by the Environmental Protection Act 1990 and the Environmental Permitting (England and Wales) Regulations 2010.

This includes fly-tipping, whether this is a company tipping a lorry-load of used tyres in a field or a householder dumping an old mattress in an alleyway.

It also covers waste handling or disposal offences where a company or individuals cause pollution or harm to people's health, or the risk of it. For example, this could include a water company allowing untreated sewage to end up on a beach or a rubbish tip operator not storing barrels of chemicals properly so that they leak into the surrounding area.

In addition, it deals with nuisance offenders such as those who cause noise, smoke, dust or smells, or run premises which pose a health or pollution risk. Other offences covered include breaches of waste permits.

The guideline was introduced due to a lack of familiarity, particularly among magistrates, with sentencing these offences and because following their review of current sentencing practice, the Council concluded that the levels of some fines were too low and did not reflect the seriousness of the offence committed.

It encourages magistrates to make more use of the highest levels of fines for some of the more serious offences that come before the courts. Corporate offenders committing serious offences, who are likely to be those causing most damage or risk to health, are expected to get higher fines.

There are unlikely to be significant changes to penalty levels for lower level offences, and the overall proportions of offenders receiving the various types of sentence such as fines, community sentences, discharges and prison sentences, are expected to remain the same.

Fines are the most common sentences passed for these offences, since the offences are motivated by making a profit or saving money. However, custody remains the starting point for the most serious types of individual offenders who deliberately commit a crime that causes significant or major harm. Jail sentences obviously cannot be applied to organisations.

Publication of the guideline follows a public consultation last year and takes into account views from those who responded, such as judges and magistrates, lawyers, environmental professionals, local authorities, the waste industry and members of the public.

A number of changes were made as a result of their feedback. This includes creating separate guidelines for offences committed by organisations and those committed by individuals.

Specific steps have been added relating to financial orders - compensation and confiscation - that the court should consider before deciding what a fine should be.

Elements of the sentencing process have also been put into separate steps to ensure all relevant factors are considered in assessing the right level of penalty.

Other significant changes mainly relate to the sentencing of organisations. The way they are categorised in terms of size has been changed to help sentencers more easily pitch a fine that is proportionate to the means of the company. Penalty levels have also been changed accordingly.

The scope of the guideline has also been expanded. Consultation feedback suggested that that the general principles in the guideline could also be applied more widely to further environmental offences such as the unlawful treatment or disposal of waste. While the sentencing levels set out would not be used, the general approach can be applied.

**Sentencing Council member and magistrate Katharine Rainsford said:**

"Illegal disposal of hazardous waste not only causes damage to the environment but puts people's health at risk as well.

"This guidance for courts will help ensure consistent and appropriate sentences for offenders.

"These crimes are normally about making or saving money at the expense of the taxpayer. They also undermine law-abiding businesses in the waste management industry who are contributing to economic growth. This guideline aims to ensure that sentences hit offenders in their pocket."

**Peter Chapman, Chairman of the MA Judicial Committee said:**

"This guideline represents the successful realisation of aspirations going back many years. Magistrates sentence the majority of environmental offences and almost all fly tipping and they live in the communities which suffer from it.

"The Magistrates' Association first helped magistrates in this area of their work with the publication of Costing the Earth in 2009, a compendium of case studies and sentencing scenarios for environmental offences, wildlife crime and health and safety offences.

"The MA is delighted that its cooperation with the Sentencing Council has produced this much needed resource which will be welcomed in magistrates' courts across England and Wales."

The guideline will be used in courts from 1 July 2014.