



Response to the Sentencing Council consultation on a draft Environmental Offences Guideline, March 2013

1. The UK Environmental Law Association aims to make the law work for a better environment and to improve understanding and awareness of environmental law. UKELA's members are involved in the practice, study or formulation of Environmental Law in the UK and the European Union. It attracts both lawyers and non-lawyers and has a broad membership from the private and public sectors. UKELA prepares advice to government with the help of its specialist working parties, covering a range of environmental law topics. This response has been prepared with the help of the environmental litigation and waste working parties.
2. During the course of this Consultation, UKELA has co-operated with the Health and Safety Lawyer's Association. HSLA is writing to the Council to associate itself with this consultation response.

OVERARCHING CONCERNS

Narrow scope and likelihood of 'leakage' into other areas

3. The guideline identifies a fairly narrow area of environmental crime as within its scope. There are many offences which are either clearly environmental or for which almost identical considerations arise on sentencing which are not covered by the guideline. In the absence of guidelines that expressly apply to

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those other offences, UKELA expects magistrates and judges would adapt and extrapolate from this one (the issue of 'leakage').

4. Given the inevitability of 'leakage' to other areas, careful consideration should be given at this stage to the relationship between the proposed guideline and the approach to sentencing for other regulatory offences. We consider it would be better to expand the scope of an environmental sentencing guideline to cover more environmental offences, rather than adopt a gradual, piecemeal approach to producing guidelines because:
 - (i) it is logical
 - (ii) it would provide legal certainty in the absence of other specific guidelines, and;
 - (iii) would avoid an unnecessary proliferation of guidance, or;
 - (iv) takes the opportunity to obtain up to date guidance which opportunity is available now and is unlikely to recur very soon.

5. Examples of other offences that could usefully be covered include:
 - (i) transfrontier shipment of waste cases: a growth area. Such offences may have different statutory maxima: the guideline would need to be capable of dealing with this;
 - (ii) offences prosecuted by statutory sewerage undertakers, such as s111 Water Industry Act 1991, the facts of which have similar characteristics to some water-related offences under Reg 12 of the Environmental Permitting Regulations 2010 ('EPR 2010');



- (iii) offences prosecuted by planning authorities (particularly waste planning authorities) which also have similar characteristics to those prosecuted as breach of Reg 12 EPR 2010 or S33 Environmental Protection Act 1990 ('EPA 1990') in that they relate to unauthorised deposit of waste, but pursued from the perspective of breach of planning rather than environmental controls. The sentencing exercise is the same, but the enforcement route is different;
 - (iv) offences within the producer responsibility regimes, on the basis that they are waste-related.
- 6. There are many more examples. The current draft guideline misses all but a few of these, referred to in 'Other environmental offences'.
- 7. Some kinds of environmental offences raise particular considerations. For the same reasons which we give for our view that it is impossible to produce a fair and consistent tariff in this area, we also acknowledge that it is impossible for a useful and succinct guideline to address the whole range of considerations specifically and in detail. We suggest that the remedy for this problem is for the guideline expressly to acknowledge that this area of sentencing covers a range of circumstances and seriousness which is very much broader than many other areas of sentencing. Consequently, the court should anticipate that relevant considerations may be raised by both the prosecution and defendant which are not expressly addressed in the guideline.
- 8. Serious thought needs to be given to the relationship between sentences for environmental and other harms. It is sometimes a matter of chance whether an act or omission gives rise to effects on the environment or risks to people.



Yet the proposed guideline would result in fines for environmental offences that are significantly higher than those currently imposed for health and safety offences. This immediately raises the question of consistency (or rather inconsistency) as between fines in the two areas. As a matter of public policy as well as popular perception, it seems wrong that (health and safety) cases that result in death or injury to people will be subject to significantly lower fines than (environmental) cases that do not.

9. In practice, however, we would expect magistrates and judges sentencing health and safety cases – for which no similar guideline currently exists – to adapt and extrapolate from the environmental offences guideline ('leakage'). That is particularly likely in cases involving both kinds of offences (a notable example being the Buncefield explosions). We expect this would have the effect of driving up fines for health and safety offences to levels commensurate with those for environmental offences. We make no comment on whether this is a right outcome as a matter of public policy. However, this would be a significant change of approach that should be debated and decided on in advance rather than retrospectively.
10. Given these considerations, we question whether it is helpful for the Council to start with a specific area of regulatory crime without having first addressed the general. If it is right to have a matrix approach to these offences (see further below), the approach needs to be capable of applying in a fair and meaningful way to other areas of regulatory crime. Any tariff needs to have regard to the whole range of harm and culpability which may arise from the activities of an undertaking.
11. In any event, there is a long line of cases which demonstrate that: (a) a tariff cannot be set in this area of sentencing, and; (b) consistency is not the



primary objective. The cases will be familiar to the Council, so we simply summarise the main points here.

12. The Court of Appeal has consistently stated that a rigid tariff on the level of sentence is impossible. It has done so throughout the whole range of cases which comprise “regulatory crime”. For example, Lord Taylor CJ in *R v F&M Dobson*¹, a food safety case, said “*No cases in the Crown Court comparable to the present one are available for comparison. There are no guidelines as to the level of sentencing. Perhaps it is difficult for there to be any guideline, since the circumstances in which offences of this kind occur are infinitely various.*”
13. This was precisely the view taken in the guideline case of *R v F Howe (Engineering) Ltd*², i.e. “*We shall endeavour to outline some of the relevant factors that should be taken into account. In doing so we emphasise that it is impossible to lay down any tariff or to say that the fine should bear any specific relationship to the turnover or net profit of the defendant. Each case must be dealt with according to its own particular circumstances.*”
14. The approach was followed in *Milford Haven*³, rejecting a tariff approach proposed by the then Sentencing Guideline Council.
15. In short, a simple systematic approach ignores the exceptional range and combination of factors and the exceptional range of appropriate penalties which are a feature of this area of sentencing.

¹ [1995] 16 Cr App R(S) 957

² [1999] 2 Cr App R (S) 37

³ [2000] Env LR 632



16. Consistency may not, therefore, be a primary aim of sentencing in this area⁴.

Increasing financial penalties

17. The Council has decided that the effect of the guideline should be to increase financial penalties. UKELA is not in a position to assist on this issue because: (a) the maxima and general level of penalty is really a matter of policy for government and the judges (advised by the Council) and; (b) there is no identifiable evidence on which to base a view. There are opinions, but there is no study to which the consultation paper refers which indicates that change X has effect Y.

18. The proposed change is arbitrary, but that does not mean it is wrong. We noted at the helpful meeting with the Council that the Environment Agency was supportive of the change. Evidently the Environment Agency considers the change to be acceptable by reference to their desire to see more substantial financial orders.

Matrix approach

19. UKELA considers that the matrix approach (if adopted, contrary to the above), is crude, inflexible and not helpfully focussed because:

- a. it turns a nuanced assessment into an exercise of finding the pigeon hole. This does not allow consideration of local factors to which judges and magistrates are currently sensitive: for example the particular financial hardship facing certain regional sectors, such as

⁴ *R v Jarvis*[2006] 1 Cr App R (S) 247 at p 250 at para 7



Welsh farmers. Nor does it allow judges and magistrates to adjust sentences depending on changing economic circumstances over time.

- b. so much is consistent with UKELA's consultation response to the rigid process for calculating civil penalties under RESA⁵;
- c. it fails to deal with the fact that there are common types of offending which concentrate in particular parts of the matrix. Put another way, there is no uniform distribution of harm and culpability along a straight line. In fact, there are 'categories' of, say, (i) very low culpability/ genuine accident cases with significant harm with respect to water, (ii) rogue/dishonesty cases involving waste, particularly waste soil, wood etc.

20. As to the last point (c), we have appended a list of cases that were prosecuted by the Environment Agency Midlands Region between 2005 and 2011. This is not an official record, but is rather based on diary notes. We include the list here simply to give an impression of the type of offending prosecuted. We have not included fines levels here, save for some general observations, but would be happy to share with the Sentencing Council such details as we have for these cases. We draw attention to the fact that the offending does not, in large measure, involve large companies nor extend to the most serious type. We draw attention to this fact because the rather academic approach of the draft guideline does not focus on the areas which require to be sentenced most frequently. A narrative and some examples would assist in addressing this aspect.

⁵ Cover letter to Defra of 13 October 2009 accompanying UKELA's response to the consultation on improving environmental enforcement, available at: <http://www.ukela.org/envlitwp>



Suggested alternative approach

21. In view of the clustering of cases into certain categories, UKELA considers it would be better to provide guidance that shines a light on those particular areas. Examples of such categories are: (1) deliberate waste disposal/treatment (often construction waste) for profit; (2) system failure at an otherwise compliant regulated facility such as a waste transfer station; (3) accidental/third party discharge causing fish kill. UKELA would be happy to discuss this approach further and provide a draft example.

22. UKELA and the HSLA would also like to raise the issue of how existing guidance in related areas, such as fatalities, may be used or integrated into the guidance for environmental crime. We consider that a commonality of approach would have benefits for all by: (1) increasing the rate of acquiring relevant experience for both practitioners and courts, rather than different approaches for different regulatory offences; (2) a 'consistency' and 'coherence' benefit flowing from (1); (3) the overall framework of culpability and harm would be more easily appreciated, cf 'silos' of particular regulatory crimes.

Response to consultation questions

Q1. Do you agree with the proposed grouping of offences under section 33 Environmental Protection Act 1990 and regulations 12 and 38 (1), (2), (3) Environmental Permitting (England and Wales) Regulations 2010?

Q2. Do you agree with the proposed approach taken for the other environmental offences listed?

23. As explained above, UKELA has concerns about the narrow grouping of offences given that inevitably there will be 'leakage' into other areas.

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Q3. Do you think the proposed structure of the guideline provides sufficient guidance as well as flexibility for sentencers?

24. No. See comments above about the problem of inflexibility associated with the matrix approach; and the need for more detailed guidance (including illustrative scenarios) on the most common categories of offence.

Q4. Do you agree with the approach taken in the draft guideline with regard to risk of harm?

25. We agree that for environmental offences risk of harm should be less serious than actual harm. A different approach may be appropriate for other areas of regulatory crime. For example, in health and safety law – an area more focused on addressing risks – a risk of harm may be as serious as actual harm.

Q5. Do you agree with the harm and culpability factors proposed at step one? If not, please specify which you would add or remove and why.

26. We agree with these factors. Regarding the discussion of strict liability (and ‘absolute strict liability’) at page 14, we would point out that there is no ‘due diligence’ defence available for offences under regulations 12 & 38 of the Environmental Permitting Regulations 2010. The due diligence defence under section 33(7) EPA is an old one that is seldom used.

Q6. Do you think the principles the guideline proposes the court should follow in setting a fine are the correct ones?

27. Yes.



Q7. Do you think the guidance on obtaining financial information is sufficiently detailed and helpful?

28. We think it would assist the court for the defendant to be required to complete and submit a proforma giving a summary of key financial information. This could be in addition to more detailed accounts, but would have the advantage of being easier for the court to interpret.
29. The draft guideline gives particular focus to turnover which may not or may not be a useful indicator of ability to pay a particular fine. It would be of considerable assistance for the guideline to make clear that turnover and profit figures are to be provided but that in a particular case it may be necessary to consider other measures of ability or inability to pay such as assets, trading position, cash position and ability to borrow.

Q8. Do you agree with the aggravating and mitigating factors proposed at step two? If not, please specify which you would add or remove and why.

30. We broadly agree. We suggest adding financial gain/savings as an aggravating factor. We note its inclusion in Step 3, but regard it as aggravating and requiring punishment and deterrence in addition to removing the benefit. We also suggest adding as mitigating factors: going beyond the minimum necessary to comply; and prompt response/action.

Q9. Do you think the approach in step three achieves the objectives of punishment, deterrence and removal of gain in a fair and proportionate way?

31. Removal of gain is not unknown in sentencing in this area - see breach of planning enforcement notice under s179 Town and Country Planning Act 1990. The problem is often in its calculation, though sometimes elements of gain are easily calculated (eg. fees avoided).



32. UKELA sees removal of financial advantage as important in principle and of benefit in maintaining confidence in the sentencing process.

Q10. Are the factors identified in step three the correct ones?

Q11. Is the approach to sentencing bodies delivering public or charitable services correct?

Q12. Do you think the wording on ancillary orders in step six is appropriate?

Q13. Do you agree with the way in which the guideline categorises different types of organisations?

Q14. Do you agree with the proposed sentences (category ranges and starting points) for organisations with large turnovers?

33. We note that in all tables the difference between levels for negligence and reckless offences (roughly a doubling) is roughly the same as the difference between levels for reckless and deliberate offences (a little more than a doubling). This seems out of kilter with the seriousness of the difference categories of offence. Deliberate offences will generally be far more serious than reckless cases; whereas the difference between reckless and negligent offences is rather more of a grey area, and will likely be subject to a lot of argument. We consider it to make more sense for the levels for reckless and negligent cases to be closer.



Q15. What effect do you think the draft guideline will have on current sentencing practice relating to organisations with large turnovers?

34. There is no evidence on which to base an objective answer to this question nor the similar questions in respect of smaller organisations. However, as mentioned at §18-§19 above, we note that the levels across the board (for all sizes of organisation) have been set by the Council with the aim of increasing financial penalties. We have already commented at §10 above on the possibility of 'leakage' to other areas of law, for example a general driving up of fines levels in Health and Safety cases. Our introductory comments also address other general differences between the proposed matrix approach (which we regard as crude and inflexible) and current sentencing practice which enables consideration of a wider range of factors (including localised issues and changing economic circumstances): see §20.
35. In the experience of those who have worked in this area for some time, the impact of prosecution and conviction is itself very significant. Larger organisations generally regard themselves as compliant organisations and are often shocked to find themselves in the criminal process.
36. It is foreseeable that the approach to litigation will be affected if the 'stakes' are higher. The nature of those effects is debatable and likely to vary dependent upon the characteristics of the defendant. Some defendants will not wish to fight with their regulator. Others will regard the fight as worthwhile. We consider that there will clearly be an impact on the resources to be deployed by the parties and the court, but that impact is difficult to identify with any clarity.



Q16. Do you agree with the proposed sentences (category ranges and starting points) for organisations with medium turnovers?

37. See our answers to questions 14 and 15.

Q17. What effect do you think the draft guideline will have on current sentencing practice relating to organisations with medium turnovers?

38. See our answers to questions 14 and 15.

Q18. Do you agree with the proposed sentences (category ranges and starting points) for organisations with small turnovers?

39. See our answers to questions 14 and 15.

Q19. What effect do you think the draft guideline will have on current sentencing practice relating to organisations with small turnovers?

40. See our answers to questions 14 and 15.

Q20. Do you consider the guidance regarding the use of community orders and fines to be appropriate and sufficient?

41. Yes. Guidelines for community orders and custody (obviously for individuals) are more straightforward than for financial penalties for undertakings. The range of potential sentences is very much less.

Q21. Do you agree with the proposed sentences (category ranges and starting points) for individuals?

42. See our answer to question 20.

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Q22. What effect do you think the draft guideline will have on current sentencing practice relating to individuals?

43. See our answer to question 15

Q23. Are there further ways in which you think victims can or should be considered?

44. Yes, but they are best approached via the regime under Regulatory Enforcement and Sanctions Act 2008. The powers to secure, for example, enforcement undertakings are not available in the criminal jurisdiction.

Q24. Are there any equality or diversity matters that the Council should consider? Please provide evidence where possible.

45. No



Q25. Are there any further comments you wish to make?

46.No, thank you, save to record UKELA's appreciation for the opportunity to assist the Council.

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Contacts:

Richard Kimblin
Convenor/Vice-Chair
UKELA
rk@no5.com

Rosie Oliver
Working Party Support Officer
UKELA
rosie@ukela.org



ANNEX - A typical selection of outcomes for environmental offences (all these cases were prosecuted successfully)

May 2005-December 2005

Name	Court	Type
Individual	Dudley Magistrates Court	Sorting and treating waste without a permit
Individual	Derby Magistrates Court	Treating and depositing waste without a permit
Individual	Worcester Magistrates Court	Burning waste without a permit
2 Individuals	Redditch Magistrates Court	Treating, storing, sorting and keeping waste without a permit
Medium size company	Telford Magistrates Court	Water Pollution fine
Small company	Telford Magistrates Court	Waste Packaging
Large House building company	Mansfield Magistrates Court	Water Pollution
Medium size company	Coventry Magistrates Court	Storing waste in breach of existing permit
Individual	Ludlow Magistrates Court	Disposing of waste without a permit
Individual	Nottingham Magistrates Court	Disposing of waste without a permit
Individual	Worcester Magistrates Court	Keeping and treating waste without a permit
Individual	Rotherham Magistrates Court	Keeping treating and disposing of waste without a permit
Small company	Birmingham Magistrates Court	Waste Packaging
Small company	Burton Magistrates Court	Waste Packing
Individual	Dudley Magistrates Court	Keeping waste without a permit
Medium Company	Welshpool Magistrates Court	Odour breach of permit

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Partnership	Birmingham Magistrates Court	Keeping and storing waste without a permit
Water company	Ludlow Magistrates Court	Disposing of Asbestos
Individual	Chesterfield Magistrates Court/Crown Court	Storing and disposing of waste without a permit i.e. filling a quarry in with controlled waste. Community Order
Individual	Leicester Magistrates Court	Burning of waste without a permit
Small company	Ilkeston Magistrates Court	Waste Packaging
Small company	Halesowen Magistrates Court	Waste Packaging
Individual	Nottingham Magistrates Court	Storing waste and depositing waste without a permit
Individual	Mansfield Magistrates Court	Treating, keeping and depositing waste without a permit
Medium Company	Worcester Magistrates Court	Depositing waste without a permit
Individual	Chester Magistrates Court	Depositing waste without a permit
Small company	Ludlow Magistrates Court	Depositing waste without a permit
Large company	Nottingham Magistrates Court	Waste Packaging
Farmer	Rugby Magistrates Court	Water Pollution

January 2006 – December 2006

Name	Court	Type
Medium company	Birmingham Magistrates Court	Waste Packaging
Individual who owned a skip hire company	Scunthorpe Magistrates Court/Grimsby Crown Court	Depositing waste without a permit 9 months on a large scale imprisonment

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University	Welshpool Magistrates Court	Water Pollution
Small company	Shrewsbury Magistrates Court	Section 34 Breach of Duty
Farmers	Welshpool Magistrates Court	Water Pollution persistent offender
Farmer		Depositing waste without a permit
Small company	Worcester Magistrates Court	Storing and keeping waste on land without a permit
Small company		Waste Packaging
Farmer	Welshpool Magistrates Court	Water Pollution
Large company	Worcester Magistrates Court	Water Pollution
Small company	Shrewsbury Magistrates Court	Water Pollution
Large company	Rugby Magistrates Court/ Warwick Crown Court	Air Pollution breach of IPPC permit fined £400,000 reduced by Court of Appeal to £50,000
Small company		Waste Packaging
Farm	Shrewsbury Magistrates Court	Water Pollution
Individual	Sutton Magistrates Court	Waste Packaging
Medium company	Worcester Magistrates Court	Water Pollution
Public house	Worcester Magistrates Court	Water Pollution
Medium company	Telford Magistrates Court	Waste Packaging
Medium company		Waste Packaging
Individual	Dudley Magistrates Court	Depositing waste on land without a permit
Small company	Leamington Spa Magistrates Court	Waste
Medium company	Redditch Magistrates Court	Waste Packaging
Individual	Leicester Magistrates Court	Storing and treating waste without a permit

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Individual	Dudley Magistrates Court	Storing and treating waste without a permit
Individual	Rugby Magistrates Court	Depositing waste without a permit
Small company	Market Drayton	Water Pollution
Individual	Shrewsbury Magistrates Court	Storing waste and treating and depositing waste without a permit
Small company	Telford Magistrates court	Water Pollution –formal caution

January 2007-December 2007

Name	Court	Type
Water Company	Worcester Magistrates Court	Water Pollution
Partnership	Shrewsbury Magistrates Court	Water Pollution
Small company	Worcester Magistrates Court	Section 59 Notice
Farmer	Welshpool Magistrates Court	Water Pollution
Individual	Wolverhampton Magistrates Court	Depositing waste
Water company	Kidderminster Magistrates Court	Breach of condition over abstraction
Individual	Worcester Magistrates Court	Water pollution
Individual	Redditch Magistrates Court	Water pollution
Water company	Worcester Magistrates Court	Water Pollution
Small company	West Bromwich Magistrates Court	Waste Packaging
Small company	Worcester Magistrates Court	Water Pollution
Water company	Worcester Magistrates Court	Water Pollution
Individual	Telford Magistrates Court	Waste

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Small company	Redditch Magistrates Court	Waste
Small company	Nottingham Magistrates Court	Waste Packaging
Small company	Shrewsbury Magistrates Court	Waste Packaging
Large company	Nottingham Magistrates Court	Water Pollution
Individuals	Cheltenham Magistrates Court	Salmon and Freshwater Act Curfew Orders, fines of c £75 and confiscation of boat and fishing gear
Farmer	Rugby Magistrates Court	Water Pollution
Small company	Newcastle Magistrates Court	Waste Packaging
Potato company	Rugby Magistrates Court	Breach of Permit
Large company	Telford Magistrates Court	Waste Packaging fine
Individual	Worcester Magistrates Court	Burning waste without a permit
Individual	Ludlow Magistrates Court	Storing and treating waste without a permit
Individual	Ludlow Magistrates Court	Keeping and treating waste without a permit
Small company	Newcastle	Waste Packaging

January 2008 – December 2008

Name	Court	Type
Skip Hire company	Gloucester Magistrates Court	Storing waste without a permit
Skip hire company	Halesowen Magistrates Court	Storing waste without a permit
Individual	Leeds County Court	Injunction
Medium company	Warwick Magistrates Court	Waste Packaging
Small company	Kidderminster Magistrates Court	Water Pollution

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Garage	Redditch Magistrates Court	End of life vehicle breach
Individual	Derby Magistrates Court	Storing waste without a permit
Individual	Cirencester Magistrates Court	Storing waste tyres without a permit
Small company	Cheltenham Magistrates Court	Waste Packaging
Individual	Nottingham Magistrates Court	Depositing waste without a permit
Small company	Stratford Magistrates Court	Waste Packaging
Small company	Burton upon Trent Magistrates Court	Waste Packaging
Small company		Water Pollution
Small company	Coaville Magistrates Court	Waste Packaging
Small company	Worcester Magistrates Court	Waste Packaging

January 2009-December 2009

Name	Court	Type
Small company	Worcester Magistrates Court	Water Pollution
Small company	Halesowen Magistrates Court	Odour
Small company	West Bromwich Magistrates Court	Waste Packaging
		Waste Packaging
Individual	Kidderminster Magistrates Court	Waste
Small company	Worcester Magistrates Court	Waste Packaging
Small company	Shrewsbury Magistrates Court	End of life vehicle
Small company	Shrewsbury Magistrates Court	Breach of Permit
Farmer	Rugby Magistrates Court	Water Pollution

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Individual	Telford Magistrates Court	Burning
Partnership	Worcester Magistrates Court	Keeping and treating waste on land without a permit
Small company	Worcester Magistrates Court	Depositing waste on land without a permit
Small company		Waste Packaging
Farm		Water Pollution
Medium company	Coaville Magistrates Court	Waste Packaging

January 2010 – December 2010

Name	Court	Type
Individual	Worcester Crown Court	Depositing waste tyres on land without a permit on a large scale 12 months imprisonment
Small company	Shrewsbury Crown Court	Breach of permit in relation to destruction of fridges
Medium company	Mansfield Magistrates Court	Waste Packaging
Small company	Nottingham Magistrates Court	Waste Packaging
Farm	Worcester Magistrates Court	Water Pollution
Small company	Leicester Magistrates Court	Waste Packaging
Individuals	Gloucester Magistrates Court	Salmon and Fresh water fisheries Act Fine of c£75 Confiscation of fishing tackle
Individual	Worcester Magistrates Court	Disposing of waste by burning
Individual	Mold Crown Court	Depositing waste tyres 12 months imprisonment
Small company	Warwick Magistrates Court	Waste Packaging
Small company	Worcester Magistrates Court	Waste Packaging

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Medium company	Evesham Magistrates Court	Water Pollution
Medium company	Birmingham Magistrates Court	WEEE regulations
Large company	Nuneaton Magistrates Court	Hazardous Waste
Medium company	Nottingham Magistrates Court	Waste Packaging
Individual	Telford Magistrates Court	Waste
Farmer	Derby Magistrates Court	Water Pollution 3 months imprisonment
Medium company	Redditch Magistrates Court	Waste Packaging
Medium company	Redditch Magistrates Court	Waste Packaging
Medium company	Derby Magistrates Court	Waste Packaging

January 2011-May 2011

Name	Court	Type
Small company	Telford Magistrates Court	Storing and treating waste without a permit
Individual	Redditch Magistrates Court	Storing and treating waste without a permit
Medium company	Coaville Magistrates Court	Waste Packaging
Individual	Chesterfield Magistrates Court	Waste
Small company	Telford Magistrates Court	Burning of waste on land without a permit
Small company	Walsall Magistrates Court	Waste Packaging
Skip Hire	Wolverhampton Magistrates Court	Breach of permit Waste

Notes:

1. These cases were prosecuted by the Environment Agency Midlands Region. This is not an official record, but is rather based on diary notes. We

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have not included precise fines levels in the table, but would be happy to share with the Sentencing Council such details as we have for these cases.

2. Most cases were waste cases. Many of these were brought against individuals.
3. Fines levels for cases against individuals were generally in the very low thousands, occasionally up to around £8,000 or £9,000 and in two instances around £15,000.
4. The cases that attracted the highest levels of fines during this period (eg around £50,000 for one case, and £225,000 for another) were packaging waste cases: as the levels reflected financial gain (ie costs avoided in not meeting the requirements).
5. The 2006 air pollution breach of IPPC permit case initially attracted a £400,000 fine, but this was reduced by the Court of Appeal to £50,000.
6. Another of the higher level fines was for a 2007 water company water offence: around £34,000.
7. Four cases attracted custodial sentences, as shown in the table.