

MAGISTRATES
A S S O C I A T I O N



Environmental Cases in the Magistrates' Courts

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**What tools would magistrates
like in order to punish and
deter the environmental
criminals that appear before
them?**

Available Disposals

- Absolute or Conditional Discharge
- Fines
- Community Orders
- Custody
- Committal for sentence by the Crown Court

Fines

- Range from Level 1 – maximum £250
- ...to Level 5 – maximum £5,000
- Unauthorised or harmful deposit, treatment or disposal of waste – maximum £20,000
- Higher fines for some offences?

**‘Fury as fly-tipper is
fined just £40’**

Legal Guidance on Sentencing

- Courts must give credit for a guilty plea
- Courts must take an offender's means into account
- Fines should be payable within a 12 month period

Community Penalties

Requirements likely to be suitable in an environmental case

- Supervision
- Unpaid work
- Curfew
- Prohibited Activity
- Programme

Information

- Friskies Schedules
- Calendar of events
- The cost of compliance
- The level of compliance
- The cost of a particular incident
- The annual cost to Local Authorities etc. of offences of a particular nature locally and nationally

...and more information

- Requirement to produce 2 years audited accounts
- Ability to refer a case to the Inland Revenue
- Right to contact the Benefits Agency if necessary to confirm an offender's address or employment status

Sentencing – getting it right

- Magistrates' Courts Sentencing Guidelines
- Environmental Guidelines
- Training
- ...which needs to be properly funded

Other available penalties

- Bind Over
- ASBO
- Compensation
- Disqualification
- Forfeiture of property used in the commission of an offence
- Costs

ASBOs

- A person has acted in an anti-social manner i.e. in a manner that caused or was likely to cause harassment, alarm or distress to one or more persons not of the same household as himself AND that:
- An order is necessary to protect relevant persons from further anti-social acts by him.
- Case law has decided that the Court should apply the criminal standard of proof.
- It is a matter of judgment and evaluation for the Court whether an order should be made.

Problems with ASBOs in Environmental Cases

- It is hard to prove harassment, alarm or distress to an identifiable person
- Distress is caused to a community
- Damage is caused to the environment

Environmental ASBOs?

- A person
- ...has acted in an anti-social manner i.e. in a manner that caused or was likely to cause serious damage
- ...to the environment AND that:
- An order is necessary to protect the environment from further anti-social acts by that person.

