

Response ID ANON-M4HK-QS67-5

Submitted on 2013-06-06 09:24:01.836274

1 What is your name?

Name:

Richard Greer

2 What is your email address?

Email:

info@theanc.co.uk

3 What is your organisation?

Organisation:

Association of Noise Consultants (ANC)

1. 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?

Please provide your response in this text box:

No comment

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

Please provide your response in this text box:

Offences under section 80 of the Environmental Protection Act are relevant to noise (and vibration). The current statutory maximum sentences do not seem in line with the level of harm that can be caused by a large wealthy organisation found entirely or largely culpable of committing the offence. Further, it appears that the current sentences do not always provide a sufficient deterrent to offending, or further offending.

We support the new guidelines but urge that they be aligned with a review of the statutory maxima sentences applied to offences under section 80 of the Environmental Protection Act.

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

Please provide your response in this text box:

Yes

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

Please provide your response in this text box:

yes

5. 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.

Please provide your response in this text box:

We agree

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

Please provide your response in this text box:

Yes

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

Please provide your response in this text box:

No comment

8. 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.

Please provide your response in this text box:

We agree with the principles

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

Please provide your response in this text box:

In principle yes, save in respect of offences under section 80 of the Environmental Protection Act these objectives may not be achieved for organisations with medium or large turn overs.

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

Please provide your response in this text box:

In principle yes.

11. Is the approach to sentencing bodies delivering public and/or charitable services correct?

Please provide your response in this text box:

No comment

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

Please provide your response in this text box:

No comment

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

Please provide your response in this text box:

Yes

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

Please provide your response in this text box:

The maxima for a sentence for offences under section 80 of the Environmental Protection Act are set by statute. We strongly urge that this is reviewed for culpable organisations of substantial wealth.

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

Please provide your response in this text box:

The maxima for a sentence for offences under section 80 of the Environmental Protection Act are set by statute. We strongly suggest that this is reviewed for culpable organisations of medium or large turn overs.

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

Please provide your response in this text box:

The maxima for a sentence for offences under section 80 of the Environmental Protection Act are set by statute. We strongly suggest that this is reviewed for culpable organisations of medium or large turn overs.

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

Please provide your response in this text box:

No effect

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

Please provide your response in this text box:

No comment

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

Please provide your response in this text box:

No effect

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

Please provide your response in this text box:

No comment

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

Please provide your response in this text box:

The maxima for a sentence for offences under section 80 of the Environmental Protection Act are set by statute. We strongly suggest that this is reviewed for culpable organisations of medium or large turn overs.

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

Please provide your response in this text box:

None as the guidelines do not consider section 82 of the Environmental Protection Act

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

Please provide your response in this text box:

No comment

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

Please provide your response in this text box:

No comment

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

Please provide your response in this text box:

No