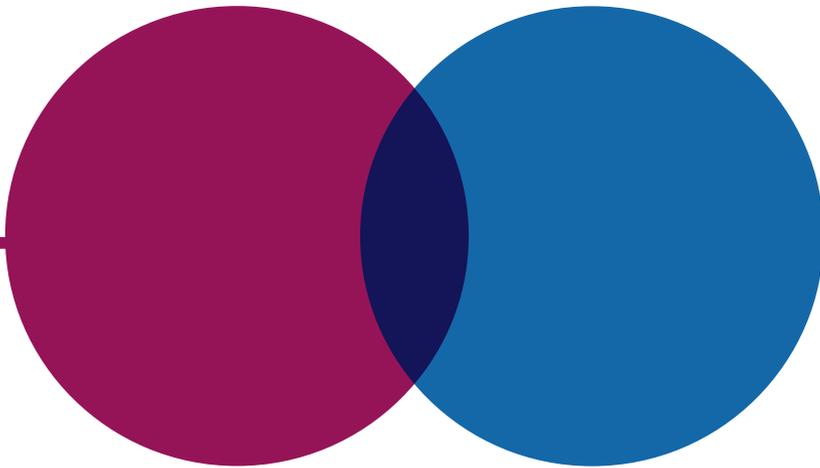




National Audit Office



Investigation into government's actions to combat waste crime in England

Department for Environment, Food & Rural Affairs,
Environment Agency

REPORT

**by the Comptroller
and Auditor General**

SESSION 2021-22

27 APRIL 2022

HC 1149



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**Department for Environment, Food & Rural Affairs,
Environment Agency**

Report by the Comptroller and Auditor General

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to be printed on 25 April 2022

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National Audit Act 1983 for presentation to the House of
Commons in accordance with Section 9 of the Act

**Gareth Davies
Comptroller and Auditor General
National Audit Office**

20 April 2022

Investigations

We conduct investigations to establish the underlying facts in circumstances where concerns have been raised with us, or in response to intelligence that we have gathered through our wider work.

Waste crime is a serious problem comprising a range of illegal activities, estimated to cost the English economy more than £900 million per year.

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What this investigation is about

1 Waste crime is a serious problem comprising a range of illegal activities. In October 2021, the Environment Agency (the Agency) reported an estimate that waste crime costs the English economy more than £900 million per year. The Agency's 2021 National Waste Crime Survey found that industry stakeholders – local councils, service providers, the waste industry, the farming community, and landowners – perceived waste crime to be widespread, with those from the waste industry estimating that 18% of all waste is illegally managed. Recent data suggest that the costs of addressing fly-tipping and illegal waste sites, the costliest types of waste crime, are increasing.

2 Waste crime can have considerable impacts on the environment and people's lives. Serious breaches of the conditions of environmental permits and exemptions for supposedly legal waste sites can pose a significant risk to human health and the environment, for example, if hazardous waste is inappropriately processed. Illegal waste sites, illegal dumping and fly-tipping can result in waste, again potentially hazardous, being dispersed into the environment. Waste fires can cause significant air, water and land pollution, and affect roads, train lines and amenities, which can greatly affect people living locally. Waste crime puts those waste producers and processors who comply with regulations at a competitive disadvantage.

3 A range of organisations are involved in combatting waste crime in England. The Department for Environment, Food & Rural Affairs (Defra) has policy responsibility for waste, including waste crime, within government. The Agency, an executive non-departmental public body sponsored by Defra, is the principal body responsible for regulating the waste sector. The Agency is responsible for investigating certain types of waste crime and taking action against the perpetrators, including illegal waste sites, illegal dumping (the most serious fly-tipping incidents) and breaches of environmental permits and exemptions. Responsibility for clearing waste ultimately sits with the landowner or land manager, including local authorities and other public bodies such as National Highways. Local authorities also have powers and duties relating to fly-tipping, and deal with the majority of smaller incidents. HM Revenue & Customs (HMRC) has responsibility for pursuing the evasion of landfill tax in England. The Agency works with the police and other partners to investigate and prosecute serious criminality in the waste sector with links to other types of crime.

4 In 2018, the government published a range of documents setting the course for waste crime policy. In its 25-Year Environment Plan, government set the ambition to eliminate waste crime and illegal waste sites within 25 years.¹ The Resources and Waste Strategy reiterated that goal and set out government's approach and planned action to combat waste crime over the short to medium term.² The strategy built on the findings of the *Independent review into serious and organised crime in the waste sector*,³ commissioned by Defra and published in 2018, and Defra's post-implementation review of the Waste (England and Wales) Regulations 2011.⁴ The Environment Act (2021) includes changes to elements of the law on waste enforcement and regulation.

5 We have carried out this investigation in response to concerns expressed to us by MPs about government's oversight of the waste industry and how action is taken to address illegal activity. Their concerns related partly to a HMRC investigation into suspected systematic abuse of the landfill tax system referred to as Operation Nosedive, which cost more than £3 million but ended in plans to pursue prosecutions being abandoned.

6 Our report examines:

- the prevalence of waste crime across England, recent trends, and the economic costs of waste crime. We report on seven categories of waste crime, based on categories used by the Agency and HMRC (**Figure 1** overleaf);
- how the Agency, HMRC and local authorities are tackling waste crime, the outcomes of their waste crime investigations, subsequent enforcement actions and the involvement of organised crime groups; and
- government's progress against its waste crime targets and the waste crime actions set out in the 2018 Resources and Waste Strategy, and progress against issues related to waste crime that we raised with Defra and the Agency in 2019 (Appendix Two).

7 We cover waste crime in England. Our report is factual and does not seek to examine and report on value for money. We have not sought to assess the effectiveness or adequacy of waste regulation. We do not examine littering, which is covered by the government's separate 2017 Litter Strategy for England.

1 HM Government, *A Green Future: Our 25 Year Plan to Improve the Environment*, January 2018.

2 HM Government, *Our waste, our resources: a strategy for England*, December 2018.

3 Department for Environment, Food & Rural Affairs, *Independent review into serious and organised crime in the waste sector*, November 2018.

4 The Waste (England and Wales) Regulations 2011 are available at: www.legislation.gov.uk/uksi/2011/988/resources

Figure 1
Categories of waste crime covered in this report

Category	Description
Landfill tax non-compliance	Includes falsifying records so landfilled waste is not declared, and misclassifying landfilled waste as less polluting material so that it is subject to a lower level of landfill tax. There is overlap with other types of waste crime such as illegal waste sites where these engage in illegal landfilling.
Illegal waste sites	Waste sites operating without a permit from the Environment Agency. These sites may involve a range of activities, including illegal storage of waste and illegal burning of waste.
Illegal export of waste	This includes misdescribing waste to avoid notification requirements, restrictions or prohibitions. For example, claiming that a shipment of household waste is cleaned and sorted plastic.
Abuse of exemptions to the requirements for waste permits	Operating without a waste permit or relying on an exemption when this does not apply. For example, storing a larger quantity of a specific type of waste, or for longer, than an exemption would allow.
Offences related to producer responsibility obligations	Primarily fraud against schemes to enable producers of certain types of waste to fulfil their obligations to finance a share of the collection and treatment of their product. For example, by falsely claiming to have recycled relevant waste to receive funding from a producer compliance scheme. May also include some related permit breaches.
Fly-tipping and illegal waste dumping	Both involve illegally depositing waste not as part of a waste site. Fly-tipping incidents, dealt with by local authorities, range in size from a single black bag or a single item (for example, a mattress or fridge) upwards. The most serious incidents, such as those involving multiple lorry loads, are dealt with by the Environment Agency and are termed illegal dumping.
Serious breaches of waste permit conditions at legal waste sites	Non-compliance with permit conditions at regulated waste sites, where the Environment Agency judges this could foreseeably result in at least a significant impact or effect on the environment, people or property.

Source: Environment Agency and HM Revenue & Customs documents

Summary

Key findings

The scale of waste crime across England

8 The Environment Agency (the Agency) and the Department for Environment, Food & Rural Affairs (Defra) do not currently have the data they need to understand the full scale of waste crime. While they understand its nature and complexity, they acknowledge that the waste crime data they currently collect do not give an accurate picture of the actual incidence of waste crime because of under-reporting of, for example, fly-tipping incidents on private land and undiscovered activity such as illegal waste sites. Defra acknowledged the seriousness of the national deficiency in high-quality data on waste, regarded as essential to effective policymaking, in its Resources and Waste Strategy. As well as developing electronic waste tracking proposals, Defra and the Agency are developing new waste crime metrics (paragraphs 1.2 and 3.3 to 3.5).

9 There are particular gaps in the Agency's understanding of the scale of waste that is illegally exported and producer responsibility offences. The Agency intercepts between approximately 200 and 450 containers per year containing waste that does not comply with waste export regulations, such as untreated and hazardous waste that cannot legally be exported for disposal. The scale of waste that is illegally exported without interception is not known. Illegally exported waste can cost considerable amounts to return to England; can result in significant environmental damage and harm to human health in the destination countries; and leads to lost income for legitimate waste operators. Producers of packaging, electrical equipment, batteries, hazardous substances and vehicles are required to minimise the waste generated by their products and financially support the products' ultimate recycling. The Agency has recently improved its understanding of producer responsibility offences, such as generating false evidence of recycling, but it has not estimated their prevalence (paragraphs 1.8, 1.9 and 1.12).

10 The number of active illegal waste sites known to the Agency has steadily gone down over the past three years. The Agency stops illegal activity by closing illegal waste sites or working with the operators to bring the sites into compliance. At the end of 2020-21, the Agency was aware of 470 active illegal sites across England, down from a recent peak of 685 at the end of 2018-19. The Agency cautions that, because of the COVID-19 pandemic, the number of illegal waste sites reported for 2020-21 is unrepresentative. The number of reports fell and the Agency's officers were less able to travel to substantiate them (paragraph 1.7).

11 The Agency believes there is widespread abuse of permit exemptions.

Certain waste activities can operate under a waste exemption instead of requiring a permit. Exemptions can be registered with the Agency at no cost and without any verification checks. In 2015, the Agency found that around 30% of sites examined were potentially breaching exemptions. The number of serious breaches of the conditions of environmental permits by waste operators investigated by the Agency has been increasing since 2017 (paragraphs 1.10 and 1.11).

12 Reported fly-tipping incidents have been increasing over the past decade.

The number of fly-tipping incidents reported by local authorities has been broadly increasing since 2012-13, reaching more than 1.13 million incidents in 2020-21. In 2020-21: most fly-tipping incidents involved household waste; the most common place for fly-tipping to occur was on highways; and incidents equivalent in size to a 'small van load' were the commonest category. Local authorities reported that clearing the largest categories of fly-tipped waste cost them £11.6 million in 2020-21 (paragraphs 1.13 to 1.15).

13 A large increase in landfill tax rates has increased the potential financial return to criminals. Between 2004-05 and 2014-15, the standard charge rate for waste that can generate greenhouse gases increased faster than inflation, from £15 per tonne to £80 per tonne, while the rate for inactive waste increased from £2 per tonne to £2.50 per tonne. Since then, both rates have risen with inflation. The tax has diverted waste from landfill to other less environmentally harmful methods of waste management such as recycling, as intended. However, the increase in the rate of landfill tax has increased the potential financial return from illegal actions that evade landfill tax, such as misdescription of waste, illegal waste sites and some fly-tipping. HM Revenue & Customs (HMRC) estimates that £200 million of landfill tax due was not collected in 2019-20. HM Treasury is reviewing landfill tax in England and Northern Ireland to ensure the tax continues to support the government's environmental objectives (paragraphs 1.5 and 1.6).

14 Organised crime groups have become more involved in waste crime. Based on interviews, the 2018 *Independent review into serious and organised crime in the waste sector* concluded that over preceding years there had been a steady rise in organised, large-scale waste crime. The review found that a consequence of landfill tax has been to increase the attractiveness of the market to organised crime, with very few barriers to entry. Intelligence-sharing by environmental agencies across England and the devolved nations, and the National Crime Agency through the Joint Unit for Waste Crime, has improved understanding of the involvement of organised crime groups in waste crime. Of the 60 organised crime groups monitored for environmental crime (which includes waste crime) across England, Wales and Northern Ireland, at least 41 operate within England. These 60 groups are extensively involved in other types of crime. For example, 70% are involved in specialist money laundering (paragraphs 2.17, 2.18 and 3.10).

Sanctions used against waste offenders

15 The most common sanctions are issuing advice and guidance and sending warning letters. In line with government policy for regulators to take a risk-based and proportionate approach to enforcing compliance, the Agency's policy is to give advice and guidance or issue a warning to bring an offender into compliance where feasible, only moving to more formal sanctions, such as cautions, and potentially criminal proceedings, in more serious cases or where informal approaches have not worked. Over the period 2014-15 to 2020-21, the Agency issued advice and guidance in 52% of investigations into illegal waste sites and in 53% of investigations into breaches of environmental permit conditions. Sending warning letters was the second most common action for both types of crime. The Agency's responses to illegal dumping show the same pattern. In contrast, the Agency uses civil sanctions in most cases of producer responsibility offences: between 2014-15 and 2020-21, the Agency imposed civil sanctions in 57% of the 334 producer responsibility offence cases where it investigated and took action (paragraphs 2.2, 2.3, 2.8, 2.10 and 2.11).

16 The Agency has increasingly focused its prosecutions on just the most serious cases. The Agency told us that criminal prosecutions are resource-intensive and time-consuming, requiring high evidential standards. Between 2014-15 and 2020-21, the Agency issued cautions or pursued prosecutions in around 10% of investigations into illegal waste sites and in around 8% of investigations into breaches of environmental permit conditions. The number of investigations undertaken by the Agency that have led to the prosecution of companies has dropped from a peak in 2007-08 of almost 800 to 60 or fewer per year since 2017-18, while the length of time to complete investigations has been increasing. The average fines awarded per prosecution have been broadly increasing, as the Agency has prioritised the most serious cases for prosecution (paragraphs 2.2, 2.7, 2.11, 2.14 and 2.15).

17 Local authorities make extensive use of fixed penalty notices against fly-tippers. Between 2014-15 and 2020-21, local authorities recorded seven million incidents of fly-tipping and investigated 31% (2.2 million) of these, although the proportion investigated fell from 35% to 28% over the period. Of nearly one million actions taken in response by local authorities, the most common were issuing a fixed penalty notice (43%) or a warning letter (39%). In contrast, only 2.4% resulted in a caution or prosecution. Nearly three-quarters of prosecutions led to a fine of £500 or less, but there were 10 fines of more than £20,000, 163 custodial sentences, and 1,494 vehicles were seized (paragraphs 2.5, 2.9 and 2.12).

The government's progress in combatting waste crime

18 Tackling misdescription of waste is the Agency's highest waste crime priority and illegal dumping is its lowest. In 2021-22, the Agency assessed 'misdescription of waste' to be the category of waste crime with the highest risk score. This category encompasses misdescribing waste as less polluting material to attract a lower rate of landfill tax. The next highest risk score is for illegal waste sites, followed by illegal export of waste, exemption abuse, producer responsibility offences, and illegal dumping (the most serious cases of fly-tipping). Permit breaches are not risk-assessed as a crime type (paragraph 1.3).

19 Defra's progress in implementing the actions in the Resources and Waste Strategy has been slower than it anticipated, but it is developing a methodology for assessing progress towards eliminating waste crime. In its November 2021 progress report, Defra reported publicly on two outcomes – a reduction in the number of illegal waste sites since 2018-19 and a slight increase between 2018-19 to 2019-20 in the number of reported fly-tipping incidents on public land. Defra acknowledges these measures do not provide a comprehensive assessment of progress towards the goal of eliminating waste crime by 2043 and is developing new progress measures. The need for Defra officials to support COVID-19 response work has slowed progress in implementing the actions in the strategy. Some actions have been completed; many are at the consultation stage. In January 2022, Defra began consulting on several proposals, including mandatory digital recording of waste movements. It intends to introduce statutory instruments over 2022 and 2023, for example, to reform the existing regime for environmental permits. The Agency, working with the police, has overcome earlier difficulties in finding workable secure solutions to accessing police databases and systems and now has access to them. Defra has commissioned an evaluation of the Resources and Waste Strategy to complete by 2027 (paragraphs 1.14, 3.2, 3.3, 3.5 and 3.6).

20 The Joint Unit for Waste Crime has created a multi-agency approach to combatting the involvement of organised crime in the waste sector. Establishing the Joint Unit, created in 2020, was one of the central recommendations from the 2018 *Independent review into serious and organised waste crime*. It consists of nine strategic partner organisations that work together to combat waste crime. A team of seven employees from the Agency leads its own investigations and supports investigations led by the partner organisations. It has reported on its activity to combat waste crime committed by serious and organised crime groups. For example, over the first half of 2021-22, it led or took part in 24 coordinated days of action with partners to prevent and disrupt the involvement of organised crime groups in the waste sector, with 35 arrests linked to these (paragraphs 3.9 and 3.10).

21 HMRC is refreshing its plans to combat landfill tax non-compliance.

HMRC has historically focused on raising tax revenue that is legally due and has not successfully prosecuted anyone for landfill tax non-compliance. It is updating its plans for combatting landfill tax non-compliance to reflect its improved understanding of the risks around the tax from its compliance interventions, including, since 2018, in relation to illegal waste sites, and from better cross-government working and information sharing. It is a partner in the Joint Unit for Waste Crime, which HMRC officials believe has greatly reduced the risk of investigations like Operation Nosedive failing to end in action against the perpetrators of landfill tax non-compliance. HMRC has ongoing investigations related to landfill tax non-compliance, but there have not yet been any prosecutions. It has started developing new compliance products and has plans to raise awareness about organisations' obligations around landfill tax (paragraphs 2.4, and 3.11 to 3.13).

22 Defra does not collate total spending on tackling waste crime across the many organisations involved, and most have experienced budget reductions since 2010-11.

Organisations involved in dealing with waste crime allocate core funding and staff time across all their activities in line with their priorities. Apart from the Agency they have not received funding ring-fenced for tackling waste crime and they are not able to identify how much they have spent on it. Most have experienced recent budget reductions. HMRC baseline funding has fallen since 2010-11. Overall funding for local authorities has fallen since 2010-11, particularly funding available for non-social care services. Police funding fell in real terms after 2009-10. The Joint Unit for Waste Crime does not receive any dedicated funding from government. Since 2011-12, the Agency's core funding for environmental protection, covering waste and other areas of work, has fallen, but over this period government provided it with ring-fenced grants for tackling waste crime. The Agency's total funding allocated for enforcement and waste crime rose from around £12 million in 2010-11 to £17 million in 2018-19, remaining at this level in cash terms through to 2021-22. From 2022-23, the Agency's previously ring-fenced funding for waste crime will be incorporated into its core funding. HMRC told us that despite its reduction in funding, it has increased the number of staff dedicated to combatting landfill tax non-compliance. Since 2019, the Home Office has provided additional funding to support the recruitment of extra police officers (paragraphs 3.14 to 3.18).

Concluding remarks

23 While Defra and the Agency have a good understanding of the nature and complexity of waste crime, the Agency does not currently have the data it needs to identify and assess the full extent of all waste crime, which makes it difficult to prioritise its response effectively. The Agency acknowledges that the more it looks for incidents of non-compliance with waste regulations, the more waste crime it finds, and that for some types of waste crime the reported statistics understate the true extent. Available evidence indicates that the incidence and cost of dealing with waste crime across England is increasing. Landfill tax changes have, as intended, led to a reduction in landfill volumes but have also increased the financial incentives to commit waste crime. Barriers to operators entering the waste sector are low, and sanctions and prosecutions for committing waste crime may not be acting as effective deterrents.

24 The goal of eliminating waste crime provides the Agency with a clear vision to inform its strategy and performance management. The introduction of the Resources and Waste Strategy in 2018 was an important step forward although it was not intended to include all the actions needed to eliminate waste crime. Government's progress with implementing the actions has been slower than it had hoped. However, the Joint Unit for Waste Crime is showing early signs of progress, and Defra has strengthened requirements for obtaining environmental permits and is planning further reforms. The government plans to review progress regularly and consider what further actions are needed, but it does not yet have appropriate performance indicators to support this.

25 We have identified areas where Defra and the Agency, working with HMRC and others, could make further progress:

- Improve data on waste crime and strengthen understanding of the resources being used to tackle it, so that resources can be targeted more effectively.
- Better understand the relationship between landfill tax rates and the incentives to commit waste crime.
- Put progress indicators in place for the waste crime elements of the Waste and Resources Strategy as soon as possible.
- Make use of data from police databases and systems to enhance intelligence gathering and improve collaboration with partners.
- Establish a more stable footing for the Joint Unit for Waste Crime's funding.

Part One

The scale and nature of waste crime

1.1 This part sets out the prevalence of waste crime across England, recent trends, and the economic costs of waste crime.

Defra and the Environment Agency's understanding of waste crime

1.2 The Environment Agency (the Agency) and the Department for Environment, Food & Rural Affairs (Defra) are aware that the data they collect on the different categories of waste crime do not capture the full extent of the crimes. The Agency told us that the level of waste crime identified may sometimes be related to the effort devoted to identifying it. For example, a spike in the number of new illegal waste sites identified in 2011-12 was caused by a temporary increase in the resources the Agency devoted to this task. As with other forms of crime, not all waste crime is reported. The Office for National Statistics estimated that only 42% of the crime captured by the Crime Survey of England and Wales for 2019-20 was reported to the police. Similarly, respondents to the 2021 National Waste Crime Survey estimated that 75% of waste crime events are not reported to the Agency. Private landowners are not required to report fly-tipping incidents on their land, although some choose to do so voluntarily. There are also inconsistencies in how local authorities report fly-tipping on public land. The Resources and Waste Strategy acknowledged the seriousness of the national deficiency in data on resources and waste.

1.3 Since 2019, the Agency has carried out strategic assessments of crime in the waste sector, looking at individual crime types, their impact, likelihood of happening, confidence in the Agency's understanding and mitigations in place. The assessments aim to identify cross-cutting issues and the underlying factors driving criminality. The Agency uses the assessments to prioritise its resources, direct joint working with partners, and inform intelligence-gathering. The latest assessment, from 2021-22, assesses five of the seven crime types covered in this report. Landfill tax non-compliance is encompassed within a broader category, 'misdescription of waste', that receives the highest risk score. In decreasing order of risk score following misdescription of waste, the Agency's priorities are illegal waste sites, illegal export of waste, exemption abuse, producer responsibility offences and illegal dumping (those fly-tipping incidents dealt with by the Agency). Permit breaches are not risk-assessed as a crime type due to difficulties in distinguishing between poor performance and criminality in this population.

1.4 In the absence of an official estimate of the cost of waste crime to the English economy, the Agency, Defra and HM Treasury use an estimate made by the Environmental Services Association (ESA), the trade body representing the UK's resource and waste management industry, of £924 million in 2018-19.⁵ This represents a significant rise on ESA's previous estimate of £604 million in 2015, driven largely by increases to the cost of addressing fly-tipping and landfill tax evaded at illegal waste sites (**Figure 2**). The estimated cost is based on published Agency data on the number of incidents or tonnages relating to the types of waste crime, combined with estimated costs such as lost fees, evaded landfill tax, clear-up and disposal costs, and environmental costs. Defra and the Agency acknowledge that the estimated cost is based on broad assumptions and poor data on the scale of waste crime and is likely to be an underestimate. The Agency also uses an estimate of the cost-benefit ratio for additional investment in waste crime enforcement of £5 of benefit for every £1 spent, made by ESA in 2014.

Scale of waste crime by category

Landfill tax non-compliance

1.5 Landfill tax is charged by weight on waste being disposed of at waste sites. Inactive waste that will not decompose to release greenhouse gases is charged at a lower rate, currently £3.15 per tonne, while other waste is charged at the standard rate, currently £98.60 per tonne. Some waste is exempt from landfill tax, for example, mining and quarrying material. Between 2008-09 and 2014-15, the standard rate rose by more than inflation, creating a wide gap between the standard and lower rates (**Figure 3** on page 16). The rise in the standard rate drove the decrease over the past decade in the total amount of waste sent to landfill sites, as waste operators moved to other, less environmentally damaging, methods of waste management such as recycling (**Figure 4** on page 17). The amount of waste sent to landfill charged at the lower rate remained largely unchanged between 2010-11 and 2020-21. HM Treasury is reviewing landfill tax in England and Northern Ireland to ensure the tax continues to support the government's environmental objectives.

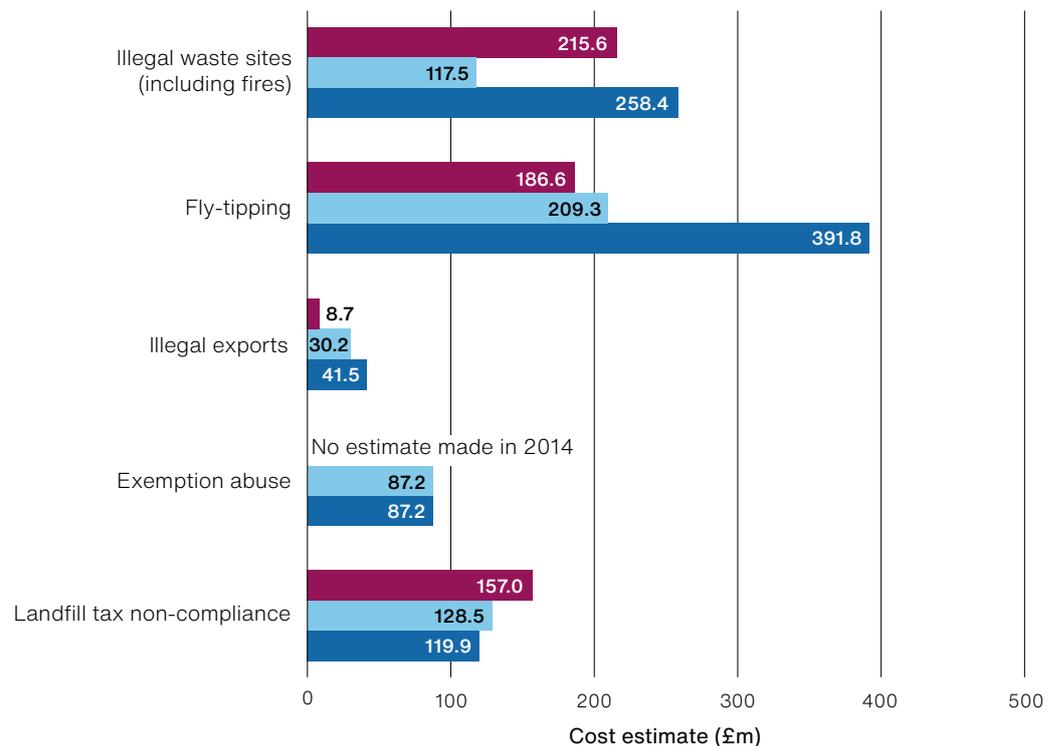
5 Environmental Services Association, *Counting the cost of UK waste crime*, July 2021.

Figure 2

Environmental Services Association (ESA) waste crime cost estimates by type in England, 2014 to 2021

The rise in the estimated cost of waste crime is largely driven by increases to the cost of addressing fly-tipping and landfill tax evaded at illegal waste sites

Waste crime type



■ 2014

■ 2017

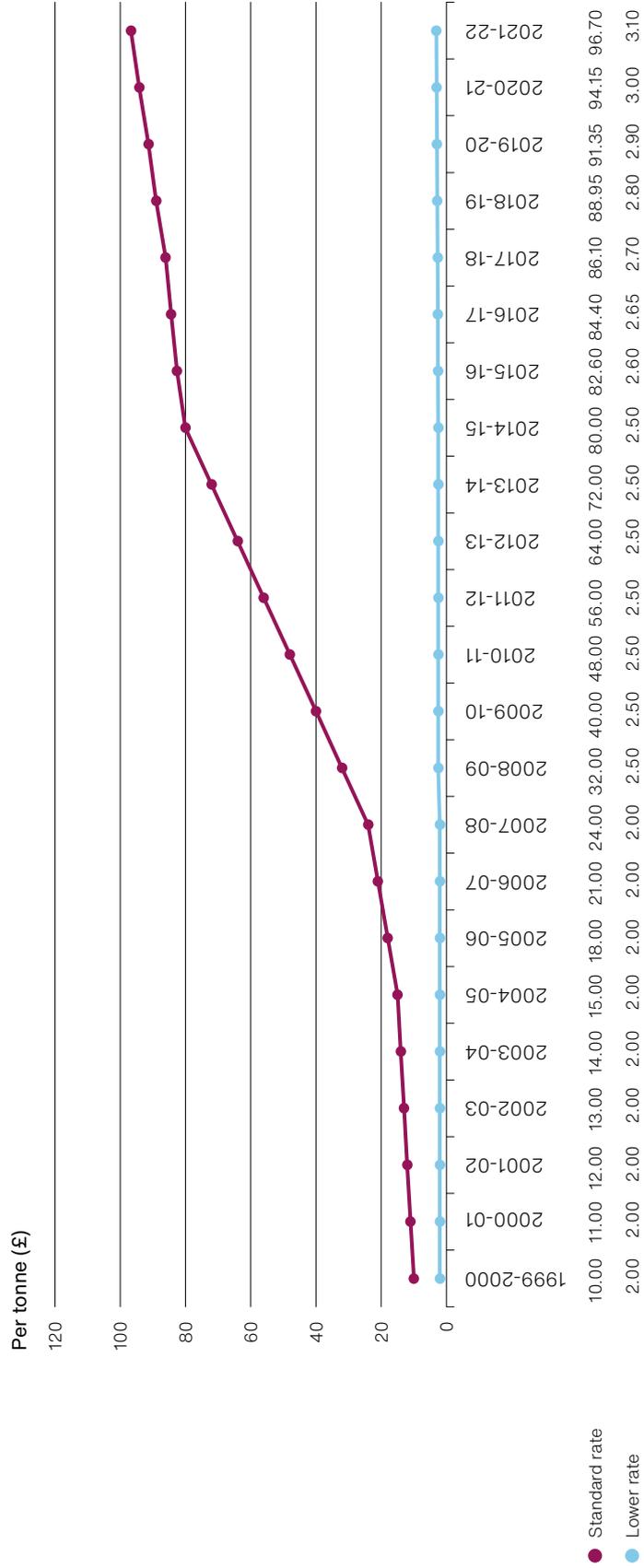
■ 2021

Notes

- 1 ESA has published three sets of estimates in 2014, 2017 and 2021.
- 2 The 2014 estimate primarily draws on waste crime incidence data from 2012-13. The 2017 estimate primarily draws on waste crime incidence data from calendar year 2015. The 2021 estimate primarily draws on waste crime incidence data from 2018-19.
- 3 For the cost data and assumptions used, see the reports cited as sources. We have not adjusted the estimates into constant prices.
- 4 The ESA reports build up their estimates from estimated costs to the private sector, to the public sector and to wider society. However, not all these elements are estimated for each waste type. The chart presents the sum of the elements that were estimated for each waste type.
- 5 The cost estimate for landfill tax only covers misclassification of landfill waste to claim the lower rate. Loss of landfill tax on waste deposited at illegal waste sites forms part of the ESA estimates of the cost for that crime type.
- 6 The chart does not include enforcement costs, therefore the sum for individual years will not match the totals given in the reports.
- 7 ESA has not estimated the costs in relation to two categories of waste crime covered in our report: permit breaches and producer responsibility fraud.

Source: Environmental Services Association reports: *Waste Crime: tackling Britain's dirty secret* (2014), *Rethinking waste crime* (2017), *Counting the cost of UK waste crime* (2021)

Figure 3
 Landfill tax rates in England and Northern Ireland, 1999-20 to 2021-22
 Between 2008-09 and 2014-15, the standard rate rose by more than inflation, creating a wide gap between standard and lower rates



Notes

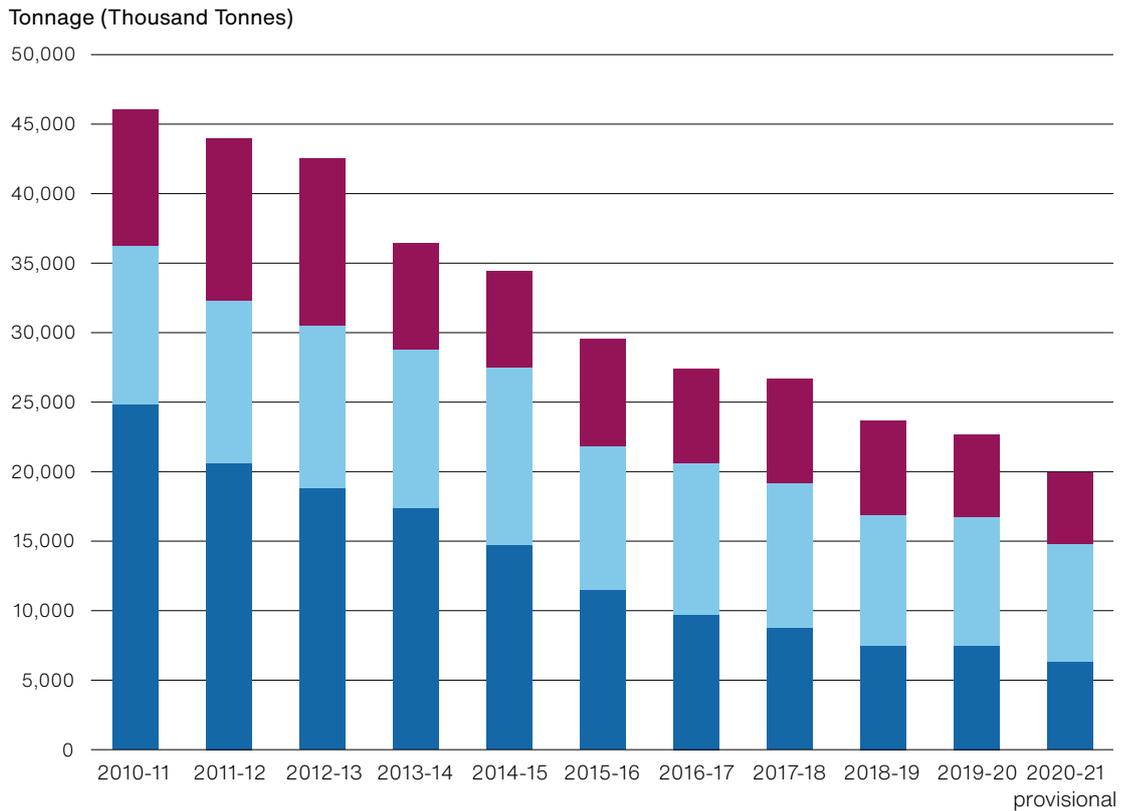
- 1 From the introduction of landfill tax on 1 October 1996 to the end of March 1999, the standard rate of landfill tax was £7 per tonne, and the lower rate was £2 per tonne. This period is not included on the figure.
- 2 Tax rates are given in cash terms.

Source: National Audit Office analysis of HM Treasury data: Landfill Tax Review: call for evidence

Figure 4

Total landfill tonnage by tax category in England and Northern Ireland, 2010-11 to 2020-21 (provisional)

Total waste sent to landfill has been decreasing since 2010-11



■ Exempt tonnage	9,718	11,661	12,061	7,670	6,891	7,695	6,754	7,504	6,804	5,929	5,075
■ Lower rate tonnage	11,390	11,759	11,690	11,399	12,815	10,379	10,841	10,433	9,426	9,279	8,558
■ Standard rate	24,884	20,562	18,757	17,370	14,709	11,490	9,776	8,757	7,434	7,437	6,277
Total	45,992	43,982	42,508	36,438	34,415	29,564	27,371	26,694	23,665	22,645	19,909

Note

1 Waste tonnage statistics are based on tax returns from registered landfill taxpayers. There is a time lag of between one and two months between accounting periods ending and receipts being received by HM Revenue & Customs (HMRC), which is why 2020-21 figures are considered provisional until they are aligned with the audited HMRC annual report and accounts.

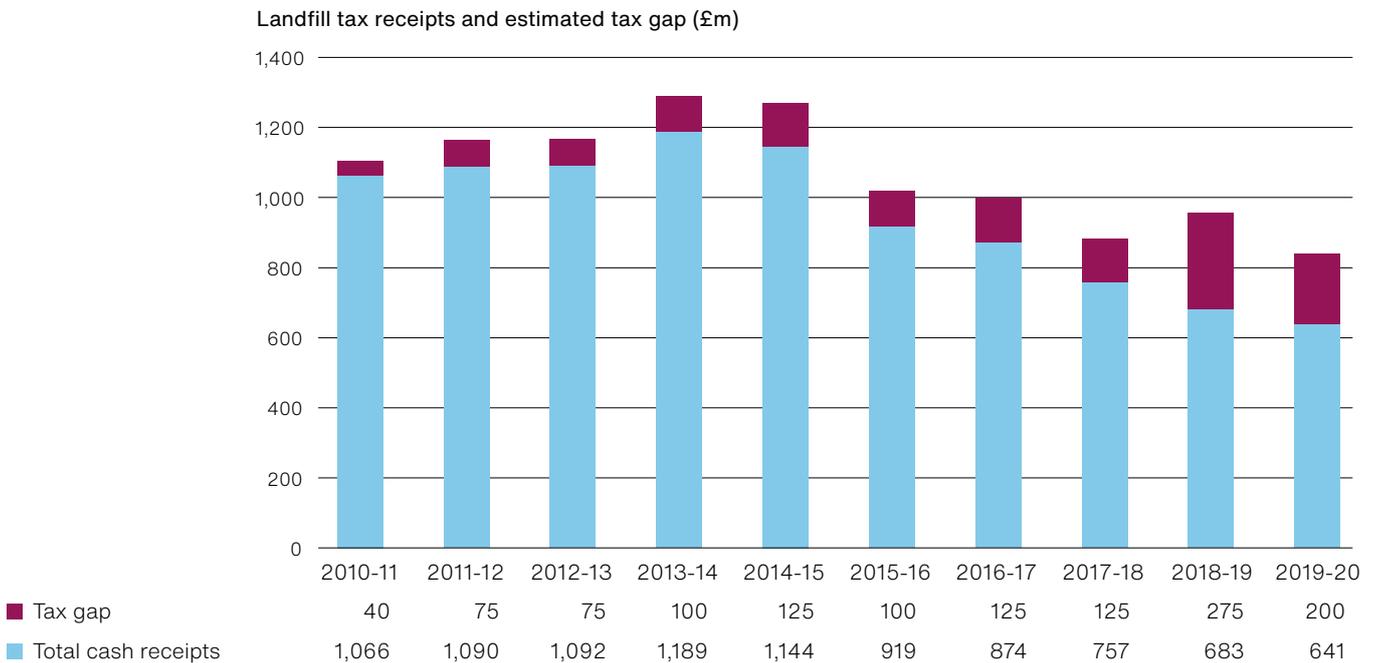
Source: National Audit Office analysis of HM Revenue & Customs data: Environmental Taxes Bulletin

1.6 Since 2013-14, as the amount of waste sent to landfill has reduced, total landfill tax receipts have decreased (**Figure 5**). However, the increase in the standard rate of landfill tax has increased the potential financial return from illegally avoiding the standard rate of landfill tax through misclassifying waste or avoiding the tax altogether through under-declaring or failing to declare waste. HM Revenue & Customs (HMRC) estimates that £200 million of landfill tax due was not collected in 2019-20. HMRC acknowledges its method for calculating the tax gap (the difference between the amount of tax that should be paid to HMRC and what is actually paid) is crude and the estimate is uncertain, and it is working to improve it. Since 2018, HMRC has attempted to recover landfill tax due retrospectively at illegal waste sites identified by the Agency, to date assessing £19 million as being due, made up of landfill tax, interest and penalties.

Figure 5

Total landfill tax receipts and the estimated tax gap (£m) in England and Northern Ireland, 2010-11 to 2019-20

Total landfill tax receipts have been decreasing since 2013-14



Notes

- 1 The tax gap is the difference between the amount of tax that should be paid to HM Revenue & Customs (HMRC) and what is actually paid.
- 2 The tax gap from 2018-19 onwards is not comparable with earlier years because, since 2018, HMRC has attempted to recover landfill tax due retrospectively at illegal waste sites identified by the Environment Agency.
- 3 Landfill tax receipts data are based on tax returns from registered landfill taxpayers. There is a time lag of between one and two months between accounting periods ending and receipts being received by HMRC, and these need to be aligned with the audited HMRC annual report and accounts before being confirmed. We have excluded these provisional data for the purposes of our analysis.

Source: National Audit Office analysis of HM Revenue & Customs data: Environmental Taxes Bulletin

Illegal waste sites

1.7 Illegal waste sites operate without an environmental permit from the Agency. The Agency is continually identifying new illegal waste sites and then either works with the operators to bring sites into compliance or closes the sites. At the end of 2020-21, the Agency was aware of 470 active illegal sites, down from a recent peak of 685 at the end of 2018-19. However, the Agency cautions that this figure may be unrepresentative because the COVID-19 pandemic restricted the ability of its officers to travel (**Figure 6** overleaf). There are limited Agency data to show how much residual waste is left from closed illegal waste sites nor are there any data on the potential costs to clear it. Investigations of illegal waste sites include cases involving illegal burning of waste: around 300 per year on average, of which typically 25 involve hazardous waste.

Illegal export of waste

1.8 There are a range of controls on the export of waste. For example, some types of waste can be legally exported to other countries for processing and recycling, but cannot be legally exported for disposal, for example, hazardous waste such as some electronic waste (e-waste). The Agency uses intelligence-led investigations to intercept containers suspected of non-compliance with waste export regulations at ports and loading sites. The Agency prevents containers that it finds are not compliant with waste export regulations from being exported. Since 2013-14, the number of containers not exported following inspections has varied between around 200 and nearly 500 containers per year (**Figure 7** on page 21).

1.9 Illegal exports result in lost income to legitimate waste operators. The Agency estimated that between 2016-17 and 2020-21, the revenue to the economy from waste prevented from illegal export was around £6 million. Illegally exported waste can result in significant environmental damage and harm to human health in the destination countries. A 2019 investigation by the Basel Action Network found that the UK is the worst offender in Europe for illegal e-waste exports to developing countries, principally Africa.⁶

6 Puckett et al., Basel Action Network, *Holes in the Circular Economy: WEEE Leakage from Europe*, 2019.

Figure 6 Number of illegal waste sites newly identified, and number closed or brought into compliance, per year in England, 2009-10 to 2020-21

The number of illegal waste sites active, presented as snapshots at year end, has been decreasing since 2018-19



Notes

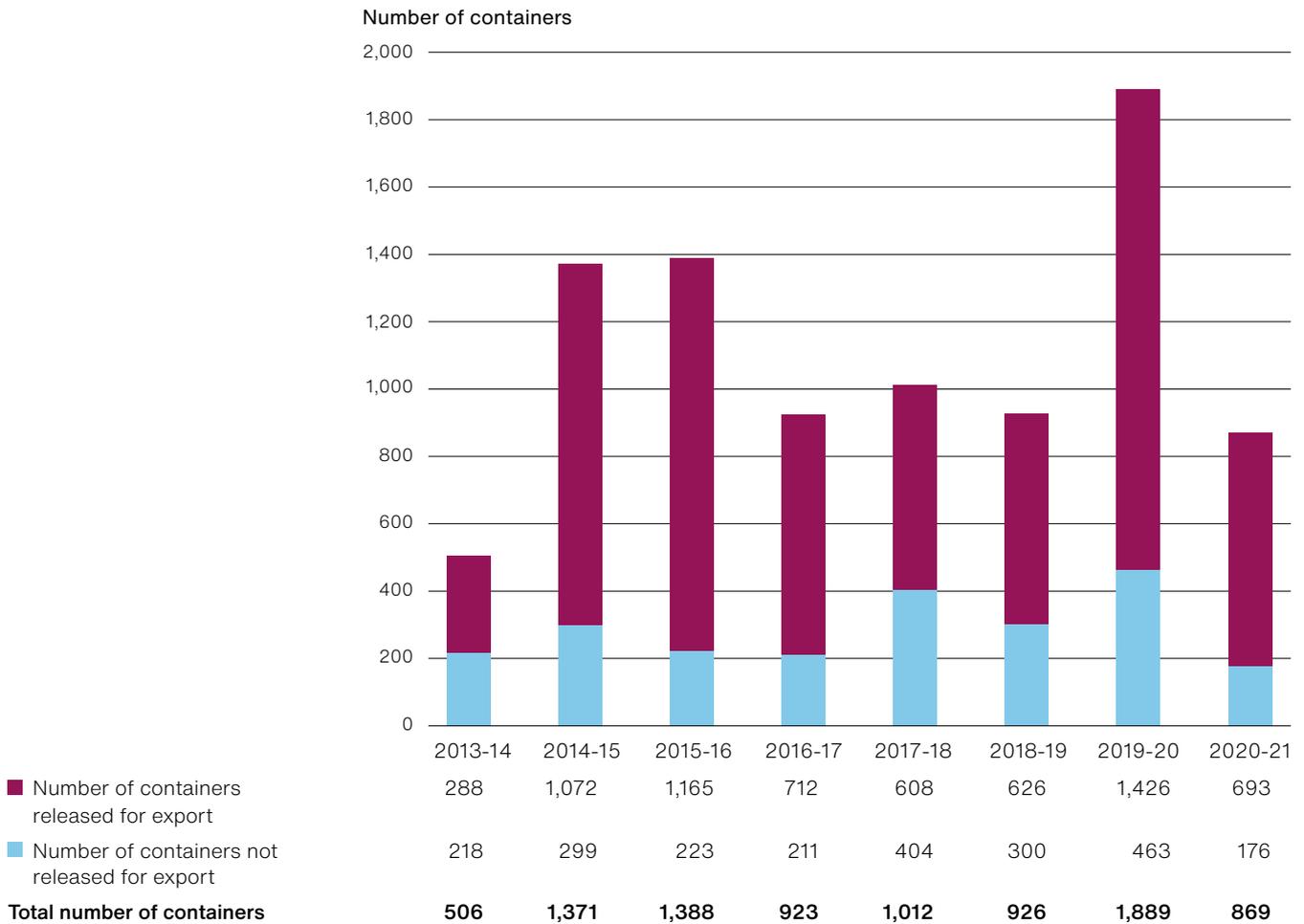
- 1 The Environment Agency reports on the number of new illegal sites identified during each financial year. Similarly, it reports the number of sites brought into compliance or closed during each financial year. It also reports an annual snapshot of the number of illegal waste sites active at year end.
- 2 The Environment Agency told us that timing issues (for example, due to the time needed to substantiate the status of sites, or delays in updating systems) mean that the data do not reconcile between the three different reports in between adjacent years.

Source: National Audit Office analysis of Environment Agency data on regulated businesses in England

Figure 7

Results of Environment Agency inspections of containers of waste for export in England, 2013-14 to 2020-21

Since 2013-14, the number of containers not exported following inspections varied widely between around 200 to nearly 500 containers per year

**Notes**

- 1 Containers that are not compliant with waste export regulations are often returned to the waste site that they came from, but this may not always be possible.
- 2 Containers are not released for export if they are found to be non-compliant with waste export regulations.

Source: National Audit Office analysis of Environment Agency data on regulated businesses in England

Breaches of environmental permits and abuse of exemptions

1.10 Businesses and organisations that store, treat or dispose of waste are generally required to obtain an environmental permit, which sets out the requirements that the waste disposal operation must meet to keep pollution, environmental harm and risk to people to a minimum. The Agency records incidents of non-compliance with permit conditions, categorising breaches into four categories based on their reasonably foreseeable impact to the environment, people and property, from '4' indicating a breach with no foreseeable impact, through to '1' indicating a breach that could result in a major, serious, persistent or extensive impact. Since 2017, the number of Category 1 breaches investigated by the Agency has been rising (**Figure 8**).

1.11 Individuals or organisations undertaking small-scale operations for which obtaining an environmental permit would be excessive, such as community composting and recycling, can register an exemption at no cost and without any verification checks. Waste operators may fail to comply with the terms of an exemption, such as receiving or storing too much or unsuitable waste or storing waste inappropriately. In its June 2019 strategic assessment, the Agency stated that exemptions have been widely abused since their inception. The most recent assessment of the scale of exemption breaches in 2015 found that around 30% of sites visited by the Agency were deemed illegal or potentially illegal. The Agency regards registering an exemption as an easy route into the waste industry because of the low barriers to entry and low levels of regulatory oversight.

Producer responsibility fraud

1.12 Businesses that manufacture, import and sell certain products – packaging, electrical equipment, batteries and vehicles – are responsible for their end-of-life environmental impact, known as producer responsibilities. Businesses should minimise waste arising from their products through their design and promoting their re-use and recycling. In our 2018 report *The packaging recycling obligations*, we reported that the Agency carries out a range of activities to prevent and detect companies that flout packaging obligations, but that it did not have a thorough understanding of the scale of fraud and error within the system.⁷ In response, the Agency has developed its understanding of producer responsibility offences. In its 2020-21 strategic assessment of waste crime, the Agency assessed producer responsibility offences as a greater risk than illegal dumping, although it has not estimated its prevalence. In October 2021, the Agency had 42 ongoing investigations into possible producer responsibility offences.

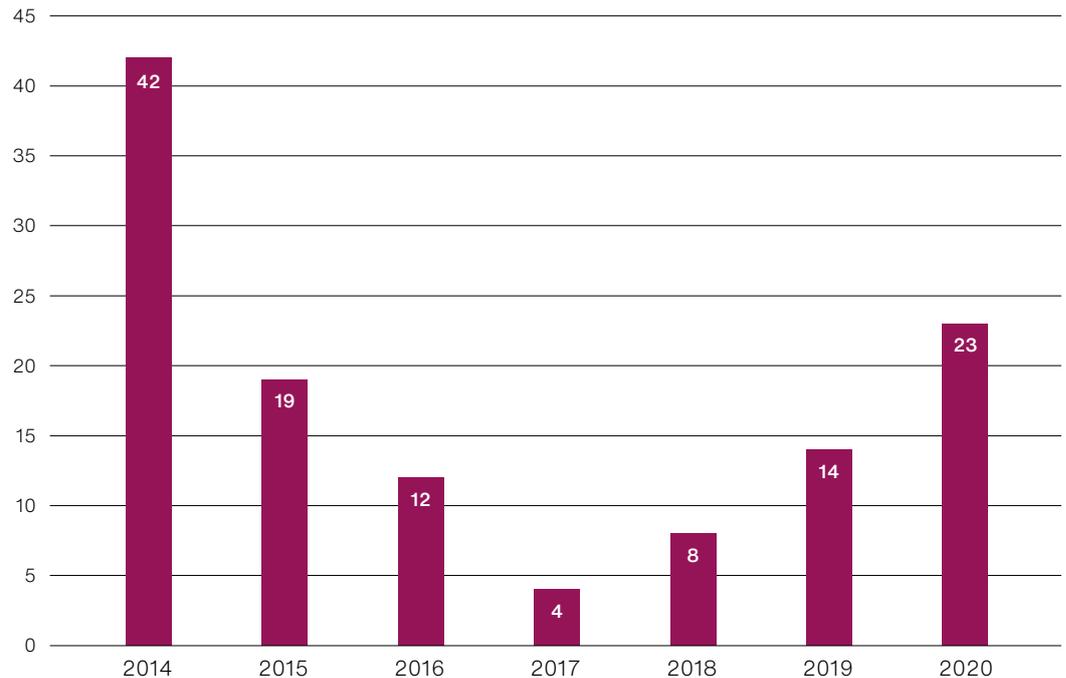
⁷ Comptroller and Auditor General, *The packaging recycling obligations*, Session 2017-2019, HC 1386, National Audit Office, July 2018.

Figure 8

Category 1 breaches of environmental permits in England, 2014 to 2020

The number of the most serious breaches has been rising since 2017

Number of Category 1 breaches

**Note**

- 1 Comprises Category 1 breaches in relation to sectors: waste operations, biowaste treatment, landfill, waste treatment and recovery of waste. Category 1 breaches are defined by the Environment Agency as a non-compliance at a regulated site that could foreseeably result in a major, serious, persistent and/or extensive impact or effect on the environment, people and/or property.

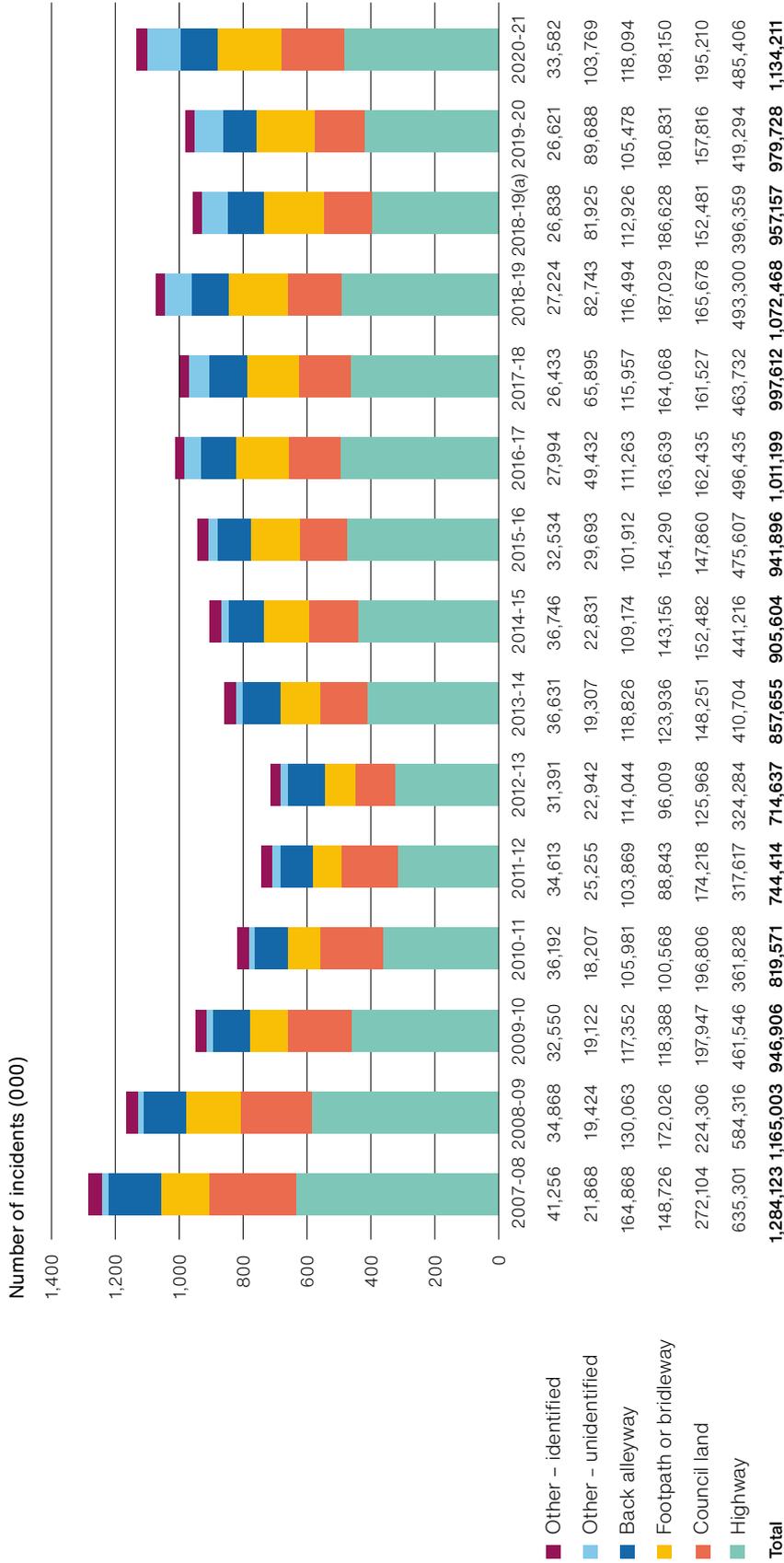
Source: National Audit Office analysis of Environment Agency Compliance Classification Scheme data

Fly-tipping

1.13 Fly-tipping is the illegal disposal of household, industrial, commercial or other controlled waste on public or private land. Local authorities are responsible for investigating almost all incidents of fly-tipping, and for clearing those incidents on public land. The Agency is responsible for investigating the most serious incidents, such as those of more than a lorry load of waste, which it terms 'illegal dumping', and which make up 0.01% to 0.02% of fly-tipping incidents. On private land, it is the responsibility of the landowner to remove fly-tipped waste. Highways have consistently been the commonest place for fly-tipping incidents reported by local authorities to occur (**Figure 9** overleaf). In 2020-21, most local authority-reported fly-tipping incidents involved household waste, and incidents equivalent to a 'small van load' were the commonest size category.

Figure 9 Yearly total incidents of fly-tipping recorded by local authorities in England, by land type, 2007-08 to 2020-21

The total number of incidents has been broadly increasing since 2012-13



Notes

- For 2018-19, two sets of data are presented: the original reported number of incidents, including the Department for Environment, Food & Rural Affairs' (Defra's) estimate for local authorities which were known to under-report incidents; and Defra's recalculated number of incidents (2018-19a) without compensating for under-reporting. For years after 2018-19, only the second basis is used.
- Due to this change in methodology, data from after 2018-19 are not directly comparable with data before 2018-19.
- 'Other – identified' comprises incidents on less common categories of land type: 'private – residential'; 'commercial/industrial'; 'agricultural'; 'watercourse' and 'railway'.

Source: National Audit Office analysis of Department for Environment, Food & Rural Affairs statistical data set: ENV24 – Fly tipping incidents and actions taken in England

1.14 The number of fly-tipping incidents reported by local authorities has risen or been essentially steady year-on-year since 2012-13 (Figure 9). In 2020-21, more than 1.13 million fly-tipping incidents were reported, an increase of 16% from 2019-20. There are, however, inconsistencies in how local authorities report fly-tipping data. Defra found in 2019-20 that most local authorities were reporting all fly-tipping incidents, but around 10% were only providing figures based on customer-reported incidents, or only those incidents reported by staff. Prior to 2019-20, Defra estimated the number of all incidents for a small number of local authorities that were known to report only customer-reported or only staff-reported incidents. Since 2019-20, Defra has not made such estimates and reports the data provided by local authorities regardless of the basis of the data, therefore the data since 2019-20 may underestimate the true scale of fly-tipping.

1.15 The total cost to local authorities for clearing incidents involving large amounts of fly-tipped waste, which local authorities report to Defra, rose from £6.1 million in 2015-16 to £12.8 million in 2018-19, dropping to £11.6 million in 2020-21. The reported cost to local authorities of prosecuting offenders and obtaining injunctions rose from £0.3 million in 2014-15 to £1.2 million in 2019-20, before falling to £0.5 million in 2020-21. The Local Government Association told us that local authorities are typically awarded between 40% and 60% of their costs following successful fly-tipping prosecutions.

Part Two

How the Environment Agency, HM Revenue & Customs and local authorities are tackling waste crime

2.1 This part of the report covers waste crime investigations carried out by the Environment Agency (the Agency), HM Revenue & Customs (HMRC) and local authorities, and subsequent enforcement actions.

Approach to enforcement

2.2 The Agency has a published enforcement and sanctions policy that guides its enforcement activity. In relation to enforcement, it states that:

Our first response is usually to give advice and guidance or issue a warning to bring an offender into compliance where possible. We have a range of civil sanctions available to use for many of the offences we are responsible for enforcing ... We will normally consider all other options before considering criminal proceedings. Generally, prosecution is our last resort.

2.3 The Agency's enforcement and sanctions policy takes account of its legal obligations under the Legislative and Regulatory Reform Act 2006, the Deregulation Act 2015 and accompanying statutory documents. The first statutory code of practice for regulators came into force in 2008-09, and the Agency seeks to meet the requirements of the current code. The code requires regulators to consider risk when choosing the most appropriate type of intervention and to take actions that are proportionate. Statutory guidance on the growth duty introduced in 2017 states that: "Regulators should, where appropriate, follow the principle that enforcement action is a last resort and they should help businesses first." HMRC and local authorities are not subject to these duties, codes or guidance in relation to their waste crime enforcement activity.

Landfill tax non-compliance

2.4 Operation Nosedive, a HMRC investigation into landfill tax non-compliance, failed to result in any prosecutions. After an investigation lasting more than six years, the Crown Prosecution Service decided against prosecuting anyone because evidential requirements were not met, due to different approaches taken by HMRC and the Agency to investigating the alleged non-compliance. HMRC has not pursued prosecutions for landfill tax non-compliance since Operation Nosedive but has several investigations under way that it anticipates will lead to criminal proceedings, and other investigations that could lead to civil action.

Investigations of other types of waste crime

Proportion investigated

Local authority fly-tipping investigations

2.5 Between 2014-15 and 2020-21, local authorities recorded seven million incidents of fly-tipping and investigated 31% (2.2 million) of these. The number of incidents investigated by local authorities has not kept pace with the rise in the total number of incidents reported, leading to a fall in the proportion investigated (**Figure 10** overleaf). Between 2014-15 and 2020-21, the proportion of incidents investigated by local authorities fell from 35% to 28%.

Environment Agency investigations

2.6 Environment Agency published data do not contain incident and investigation numbers in the same way that local authority data do. The data do contain the number of investigations that led to the Agency taking compliance or enforcement action (**Figure 11** on page 29).

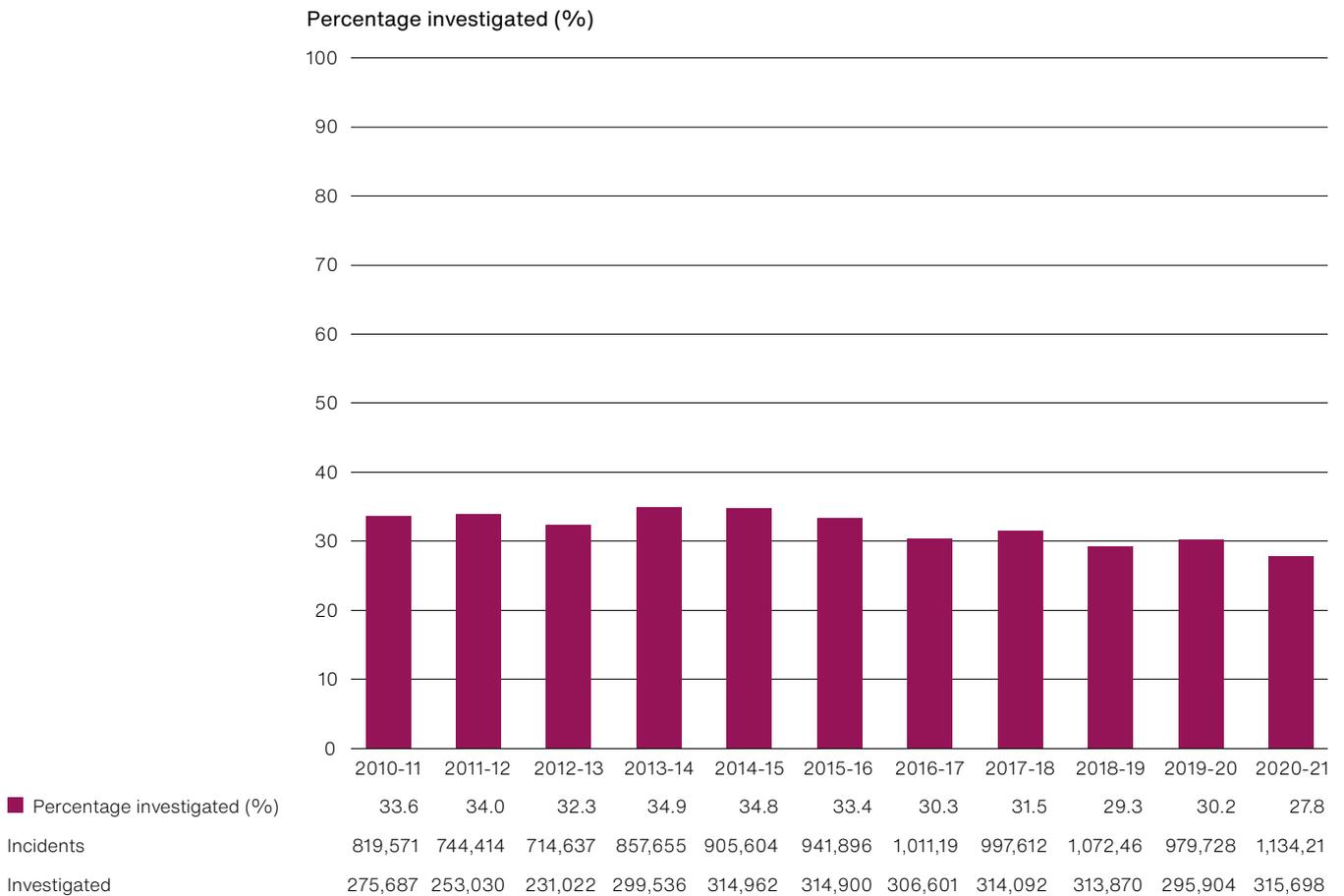
Length of investigations

2.7 The Agency publishes data on the start and end dates of investigations. However, it cautions that, at times, many cases may not have been updated in a long time or closed promptly. There may be variable practice in the speed of closing cases after significant activity has ceased, significantly affecting the quality of the data. The data are likely to be more complete and up to date for investigations which led to a prosecution. Between 2014-15 and 2019-20, the length of such investigations increased by more than 50%, from nearly 700 days to more than 1,000 days (**Figure 12** on page 30). The Agency told us the increase reflects a change in the mix of cases prosecuted to include more cases that are serious or complex. Since early 2020, the COVID-19 pandemic has caused delays within the court system and will have contributed to investigations taking longer: the average length of investigations resulting in prosecution in 2020-21 was 1,500 days.

Figure 10

Proportion of fly-tipping incidents investigated by local authorities in England, 2010-11 to 2020-21

The number of local authority fly-tipping investigations has risen more slowly than the number of incidents in recent years



Notes

- 1 The chart presents investigations as a percentage of incidents reported for that year.
- 2 There was a change in the Department for Environment, Food & Rural Affairs’ methodology for calculating the number of incidents from 2019-20 onwards. The chart uses incident numbers arrived at using the old methodology for years up to and including 2018-19. If the new methodology is used for the 2018-19 incident numbers, the relevant figure would be 32.8%.

Source: National Audit Office analysis of Department for Environment, Food & Rural Affairs statistical data set: ENV24 – Fly tipping incidents and actions taken in England

Figure 11

Environment Agency investigations closed between 2014-15 and 2020-21 and associated actions, in England

The Agency closed nearly 12,000 investigations over this period

Crime type	Investigations	Number of actions
Illegal waste sites	7,628	4,940
Environmental permit breaches	3,309	1,832
Illegal dumping (the most serious fly-tipping incidents)	665	187
Producer responsibility non-compliance	385	334

Notes

- 1 Actions included in this count are: advice and guidance, warning letters, legal notices, fixed penalty notices, civil sanctions, cautions and prosecutions.
- 2 Some investigations may involve no relevant actions, and some may involve more than one action.

Source: National Audit Office analysis of Environment Agency Waste Investigations Report

Enforcement action**Action on producer responsibility offences**

2.8 From 2014-15 to 2020-21, the Agency made extensive use of civil sanctions, which made up 57% of actions it took on producer responsibility offences (**Figure 13** on page 31). Warning letters made up nearly 22% of actions, and issuing advice and guidance made up 11%. In 2020-21, the Agency closed 65 investigations, resulting in 42 civil sanctions, such as agreeing an enforcement undertaking requiring the offender to improve procedures, pay the Agency's costs and make contributions to charity.

Action on fly-tipping**Local authority action**

2.9 Local authorities make extensive use of fixed penalty notices against fly-tippers. Between 2014-15 and 2020-21, local authorities recorded 966,000 actions, of which the most common were issuing a fixed penalty notice (42.5%) or a warning letter (38.6%) (**Figure 14** on page 31). Cautions, injunctions and prosecutions collectively made up 2.4% of local authority actions.

Figure 12

The average length of Environment Agency investigations resulting in prosecutions, in days, in England, 2014-15 to 2020-21

The length of investigations resulting in prosecution has been increasing



Notes

- 1 Length = days between opening and closing; cases opened and closed on the same day have a length of zero. Only cases where prosecution is recorded as an action, and with both an opening and closing date are included.
- 2 Average = arithmetic mean across all cases closed in that financial year.
- 3 Cases are assigned to financial years by their closure date; accordingly, the start date of a case may fall in an earlier financial year.
- 4 A range of incident types are included in these data: permit compliance, illegal dumping, illegal waste sites, producer responsibility compliance, export regulation compliance, and 'other'.

Source: National Audit Office analysis of Environment Agency Waste Investigations Report

Figure 13

Actions taken in response to producer responsibility offences in England, 2014-15 to 2020-21

The Agency made extensive use of civil sanctions

Year	Advice and guidance	Warning letter	Legal notice	Fixed penalty notice	Civil sanctions	Caution	Prosecution	Total actions included
2014-15	1	7	0	0	14	0	0	22
2015-16	5	6	0	0	29	2	1	43
2016-17	4	9	0	0	29	0	1	43
2017-18	2	10	6	0	26	0	2	46
2018-19	8	18	21	0	31	0	0	78
2019-20	8	17	0	0	20	0	1	46
2020-21	8	5	1	0	42	0	0	56
Total	36	72	28	0	191	2	5	334
Percentage	10.8	21.6	8.4	0.0	57.2	0.6	1.5	100.0

Notes

- 1 Advice and guidance, warning letters and legal notices are classed by the Environment Agency as activity aimed at securing regulatory compliance; the remaining actions are classed as forms of enforcement.
- 2 Legal notices cover a range of different types of notice, including compliance notices, remediation notices, information notices and prohibition notices.

Source: National Audit Office analysis of Environment Agency Waste Investigations Report

Figure 14

Actions taken following local authority investigations into fly-tipping in England, 2014-15 to 2020-21

Local authorities made extensive use of fixed penalty notices and warning letters

Year	Warning letter	Fixed penalty notice	Statutory notice	Caution	Injunction	Prosecution	Total
2014-15	74,642	38,149	37,966	807	3	1,810	153,377
2015-16	70,434	35,888	24,973	1,127	11	2,203	134,636
2016-17	47,384	57,271	21,918	1,504	2	1,571	129,650
2017-18	46,758	68,905	21,675	1,454	3	2,243	141,038
2018-19	46,746	76,963	19,608	1,298	2	2,401	147,018
2019-20	43,094	75,445	18,679	722	3	2,945	140,888
2020-21	43,251	57,621	15,001	1,886	2	1,412	119,173
Total	372,309	410,242	159,820	8,798	26	14,585	965,780
Percentage	38.6	42.5	16.5	0.9	0.0	1.5	100.0

Notes

- 1 Statutory notices include information notices, removal notices and remediation notices.
- 2 The range of fixed penalty notices (FPNs) available to local authorities has changed over time. FPNs for fly-tipping, with a higher range of penalties than FPNs for littering, were introduced early in 2016-17. FPNs for householders who breach the household waste duty of care (for example, where fly-tipped waste can be traced back to an individual who failed to take reasonable steps to transfer the waste to a licensed carrier) were introduced in January 2019.

Source: National Audit Office analysis of Department for Environment, Food & Rural Affairs statistical data set: ENV24 – Fly tipping incidents and actions taken in England

Action by the Agency

2.10 Compared with local authorities, over 2014-15 to 2020-21 the Agency used cautions and prosecutions more often as part of the investigations of illegal dumping incidents, comprising 17.1% of the actions taken (**Figure 15**). The Agency used other enforcement actions often – issuing advice and guidance and warning letters were the commonest actions, making up around 45% and 34% of actions respectively.

Action on environmental permit breaches and illegal waste sites

2.11 From 2014-15 to 2020-21, the actions taken by the Agency in response to environmental permit breaches and illegal waste sites were similar in profile to the Agency's actions in response to illegal dumping, with advice and guidance the most common action and warning letters the second most common (**Figures 16 and 17**). Other than prosecution, there was little use of other enforcement options.

Figure 15

Actions taken by the Environment Agency in response to illegal dumping in England, 2014-15 to 2020-21

The Agency uses cautions and prosecutions more often than local authorities

Year	Advice and guidance	Warning letter	Legal notice	Civil sanctions	Partner-led sanction	Cautions	Prosecution	Total
2014-15	15	12	1	0	0	0	0	28
2015-16	15	11	0	0	0	2	2	30
2016-17	7	7	0	0	0	1	1	16
2017-18	9	8	0	0	0	0	4	21
2018-19	9	11	0	1	0	2	4	27
2019-20	16	7	1	0	0	1	11	36
2020-21	13	7	1	0	4	0	4	29
Total	84	63	3	1	4	6	26	187
Percentage	44.9	33.7	1.6	0.5	2.1	3.2	13.9	100.0

Notes

- 1 Advice and guidance, warning letters and legal notices are classed by the Environment Agency as activity aimed at securing regulatory compliance; the remaining actions are classed as forms of enforcement.
- 2 Legal notices cover a range of different types of notice, including compliance notices, remediation notices, information notices and prohibition notices.

Source: National Audit Office analysis of Environment Agency Waste Investigations Report

Figure 16

Actions taken in response to illegal waste sites in England, 2014-15 to 2020-21

Advice and guidance was the most common action taken

	Advice and guidance	Warning letter	Legal notice	Fixed penalty notice	Civil Sanctions	Caution	Prosecution	Total
2020-21	380	214	5	1	0	4	28	632
2019-20	512	275	4	0	2	7	52	852
2018-19	422	269	5	0	4	14	51	765
2017-18	308	275	4	1	0	35	54	677
2016-17	457	358	5	0	1	42	82	945
2015-16	263	224	6	0	1	31	34	559
2014-15	222	219	4	0	0	26	39	510
Total	2,564	1,834	33	2	8	159	340	4,940
Percentage	51.9	37.1	0.7	0.0	0.2	3.2	6.9	100.0

Notes

- 1 Advice and guidance, warning letters and legal notices are classed by the Environment Agency as activity aimed at securing regulatory compliance; the remaining actions are classed as forms of enforcement.
- 2 Legal notices cover a range of different types of notice, including compliance notices, removal notices, remediation notices, information notices and prohibition notices.

Source: National Audit Office analysis of Environment Agency Waste Investigations Report

Figure 17

Action taken in response to breaching environmental permit conditions in England, 2014-15 to 2020-21

Advice and guidance was the most common action taken

	Advice and guidance	Warning letter	Legal notice	Fixed penalty notice	Civil sanctions	Caution	Prosecution	Total
2020-21	188	54	34	0	3	1	7	287
2019-20	271	88	53	1	4	1	14	432
2018-19	168	67	39	0	0	5	8	287
2017-18	110	63	25	0	1	5	18	222
2016-17	65	52	31	0	0	16	23	187
2015-16	130	89	34	0	0	9	19	281
2014-15	38	57	24	0	0	9	8	136
Total	970	470	240	1	8	46	97	1,832
Percentage	52.9	25.7	13.1	0.1	0.4	2.5	5.3	100.0

Notes

- 1 Advice and guidance, warning letters and legal notices are classed by the Environment Agency as activity aimed at securing regulatory compliance; the remaining actions are classed as forms of enforcement.
- 2 Legal notices cover a range of different types of notice, including compliance notices, remediation notices, information notices and prohibition notices.

Source: National Audit Office analysis of Environment Agency Waste Investigations Report

Prosecution outcomes

Local authority prosecutions of fly-tipping

2.12 Nearly three-quarters of the 14,585 local authority prosecutions between 2014-15 and 2020-21 led to a fine of £500 or less, but a small number of cases led to heavier punishments. There were 10 instances of fines of more than £20,000 and 163 instances of prosecution leading to custodial sentences. Some 1,494 vehicles were seized during this period as part of local authority fly-tipping investigations.

Prosecutions pursued by the Agency across all waste incidents

Prosecution of individuals

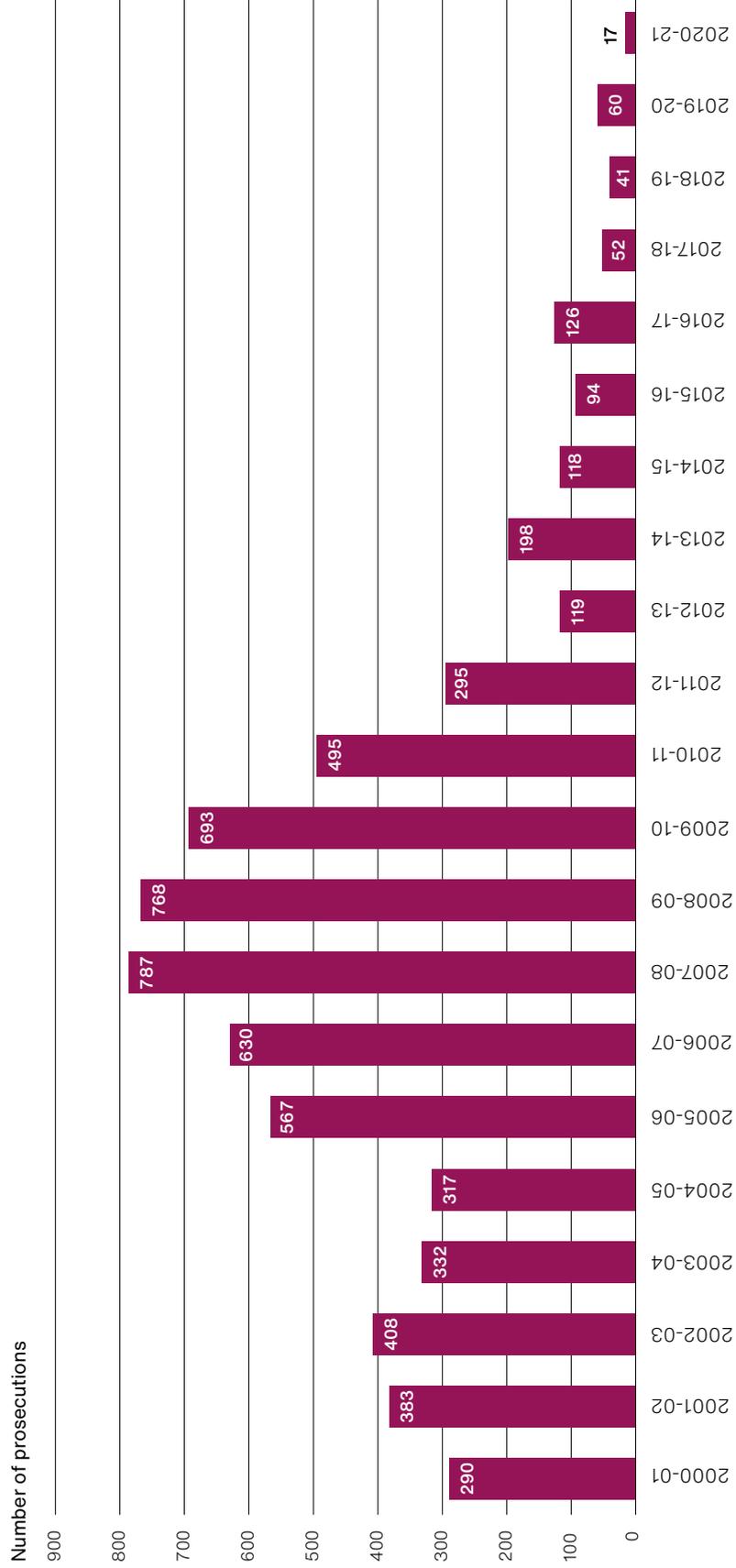
2.13 The Agency has published anonymised information on the outcomes of 8,772 prosecutions of individuals since 2000. Dates are removed as part of anonymisation, meaning the outcomes can only be analysed as a single group despite there being potential changes to legislation, criminal activity and enforcement policy between 2000 and 2021. Over this period fines were the most common outcome, in 56% of cases. Of these, 56% of fines were below £1,000, and less than 3% were £10,000 or above. The average fine was £1,615. The award of costs against individuals was recorded much less frequently, primarily in recent cases. Where costs were recorded, the average award was £7,063. Community orders were imposed in 6% of cases, and custodial sentences in 4% of cases. In 5% of cases individuals received alternative punishments, mainly suspended sentences. In 29% of cases a guilty verdict resulted in no additional punishment (either a conditional or an absolute discharge).

Prosecution of companies and other organisations

2.14 Information published on prosecutions by the Agency of, primarily, companies but also a small number of other organisations, contains dates and so can be analysed to show change over time. The number of prosecutions per year has fallen from a peak of nearly 800 in 2007-08 (**Figure 18**). The Agency told us that criminal prosecutions are resource-intensive and time-consuming, requiring high evidential standards. The Agency therefore reserves prosecution for cases of blatant criminality. The Agency has procedures for assessing the most appropriate action to take in response to waste crimes; these procedures encompass factors such as threat risk, harm risk, proportionality, public interest and cost.

Figure 18
 Number of prosecutions of companies and other organisations undertaken by the Environment Agency in England, 2000-01 to 2020-21

The number of prosecutions per year has decreased significantly since 2007-08



Notes

- 1 Prosecutions are assigned to financial years using the 'date of action' recorded.
- 2 Multiple charges against the same offender are counted individually.

Source: National Audit Office analysis of Environment Agency dataset: Environment Agency Prosecutions

2.15 Fines are overwhelmingly the most common outcome of prosecutions of companies and other bodies; outcomes such as a community order or custodial sentence are not possible. The average fine has tended to rise over the same period that the number of prosecutions has fallen, although the smaller numbers involved leads to greater variability by year (**Figure 19**). The average of the 258 fines in the five years to 2019-20 was £18,123, while the average of the 1,027 fines in the five years to 2014-15 was £4,996. Before 2016-17, the highest single fine in the period was £100,000; from 2016-17 onwards, there have been individual fines of several times this level.

2.16 Data on costs awarded are available from 2013-14 onwards, although they are less complete than data on fines and need to be treated with greater caution. The average costs awarded across the 164 instances where this is recorded is £16,107. Given the smaller quantity of data over a shorter period, it is not possible to assess reliably whether average costs awarded have risen.

Involvement of serious and organised crime

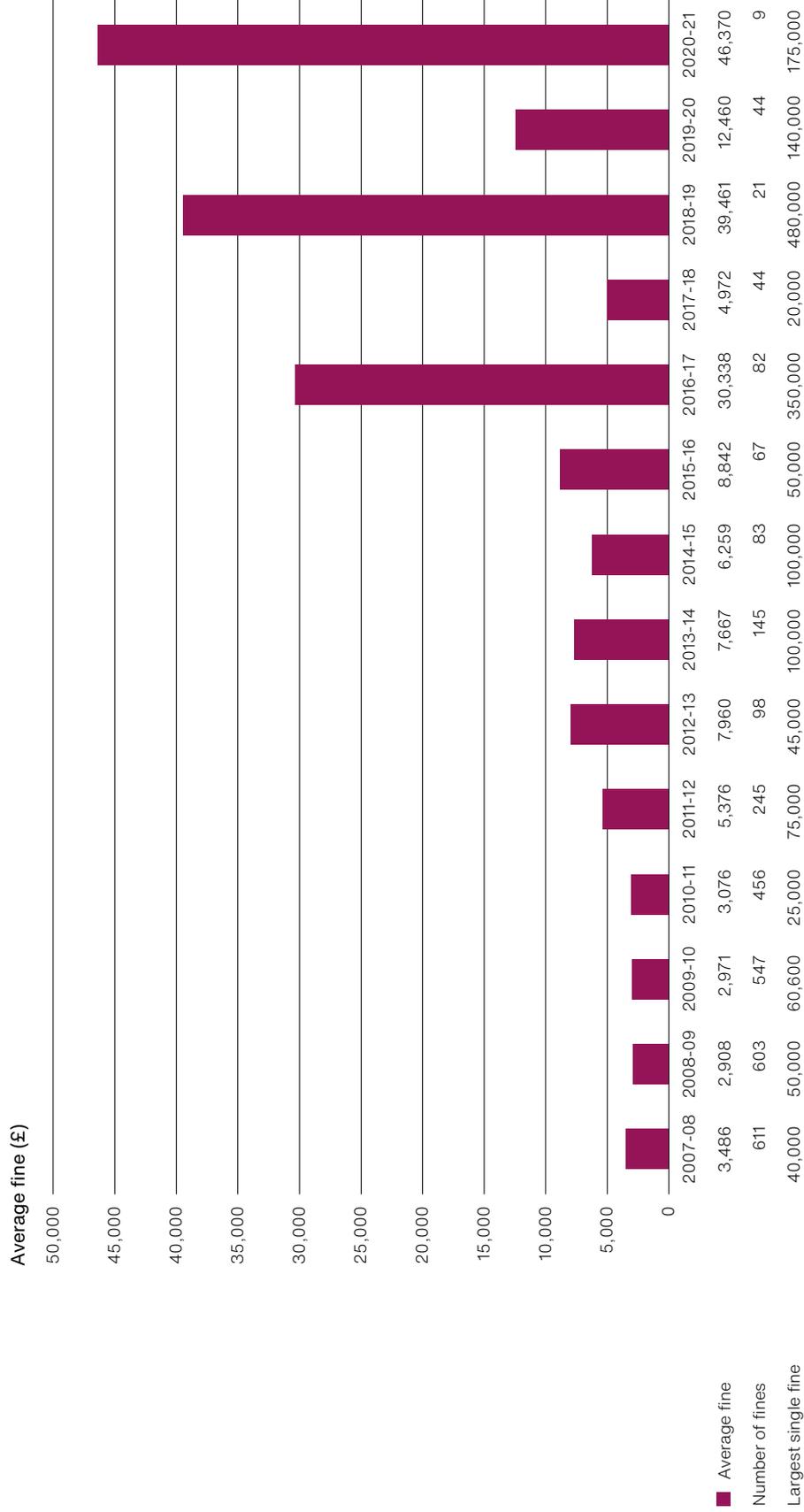
2.17 The 2018 *Independent review into serious and organised crime in the waste sector* concluded that in recent years there has been a steady rise in organised, large-scale waste crime, based on interviews with waste sector representatives and field visits, supported by the views of INTERPOL and the National Crime Agency.⁸ Between 2008-09 and 2014-15, the standard rate of landfill tax rose more quickly than inflation, increasing the returns that criminals could make from landfill tax non-compliance. Action and sanctions against other types of organised crime (for example, human trafficking) have been toughened. Together, these changes alter the relative attractiveness to criminals of waste crime compared with other crime types.

2.18 Through bringing together environmental agencies across England and the devolved nations, HMRC, the National Crime Agency and other partners, the Joint Unit for Waste Crime has improved understanding of the involvement of organised crime groups in waste crime. The Joint Unit has detected more offending across borders. Of the 60 organised crime groups monitored for environmental crime (which includes waste crime) across England, Wales and Northern Ireland, at least 41 operate within England. These 60 groups are known to be involved in other types of crime (**Figure 20** on page 38).

⁸ Department for Environment, Food & Rural Affairs, *Independent review into serious and organised crime in the waste sector*, November 2018.

Figure 19
Average amount of fine awarded in prosecutions of companies or other organisations per year in England, 2007-08 to 2020-21

The average fine has in general increased in recent years



Notes

- 1 Average fine is the arithmetic mean across all fines in that financial year.
- 2 The data have not been adjusted into constant prices and remain in cash terms.
- 3 From 2014-15 onwards, less than 100 fines per year are recorded, and from 2017-18 onwards, less than 50 fines per year.

Source: National Audit Office analysis of Environment Agency dataset: Environment Agency Prosecutions

Figure 20

Number and proportion of the 60 organised crime groups across England, Wales and Northern Ireland involved in environmental crime that are involved in other types of crime, February 2022

Some 70% of organised crime groups involved in environmental crime are also involved in specialist money laundering

Type of crime	Number of organised crime groups	Proportion of organised crime groups (%)
Environmental crime	60	100
Specialist money laundering	42	70
Drug activity	38	63
Economic crime	32	53
Violent criminal activity	32	53
Organised theft	22	37
Commodity importation, counterfeiting or illegal supply	19	32
Organised immigration crime and human trafficking (not for sexual exploitation)	15	25
Sexual offences	5	8
Cyber crime	1	2

Source: Joint Unit for Waste Crime

Part Three

The government's progress with its planned actions to combat waste crime

3.1 This part of the report sets out government's progress against its waste crime targets and the waste crime actions set out in the 2018 Resources and Waste Strategy.

Measuring government's progress

3.2 The Department for Environment, Food & Rural Affairs (Defra) has published two reports on progress with the Resources and Waste Strategy: in August 2020 and November 2021. The November 2021 report measured progress using annual statistics on the number of illegal waste sites and fly-tipping incidents across England and on actions taken in response by the Environment Agency (the Agency) and local authorities. The report concluded that government is on track to reduce illegal waste sites to zero within 25 years because the decrease in the number of sites recorded in 2019-20 and 2020-21 suggested that this would be achieved if the number of sites continues to decrease at the same rate.

3.3 In our November 2020 report *Achieving government's long-term environmental goals*, we found that the government's approach to monitoring progress against long-term environmental goals has some serious gaps and public reporting of progress is not well developed.⁹ Defra and the Agency have acknowledged that existing metrics do not provide a comprehensive assessment of progress towards the goal of eliminating waste crime by 2043. In its corporate scorecard, the Agency uses only the number of active high-risk illegal waste sites. It acknowledges that this measure encourages reactive enforcement and it is developing a new measure intended to drive proactive, intelligence-led enforcement that aims to prevent criminal activity from taking place. The Agency intends to create measures that will track changes in the main types and scale of waste crime and that more reliably reflect its performance combatting all types of waste crime.

⁹ Comptroller and Auditor General, *Achieving government's long-term environmental goals*, Session 2019–2021, HC 958, National Audit Office, November 2020.

3.4 The Agency is considering replacing the current measure with 'Percentage of waste handled legitimately in England', which takes account of how waste is handled throughout its lifecycle and would compare the amount of waste produced with the amount of waste that can be accounted for. Any waste that cannot be accounted for would be assumed to be handled illegally. The data needed to calculate the measure will not be available until 2023 at the earliest when it is planned for the new waste tracking system to be live.

3.5 Defra's November 2021 report looked at progress against indicators rather than against policy actions in the Resources and Waste Strategy to combat waste crime, therefore Defra provided us with a separate policy action update (**Figure 21** on pages 41 to 43). Some commitments have been delivered, for example, strengthened powers for the Agency through the Environment Act and the establishment of the Joint Unit for Waste Crime. Progress has been made against other actions, including consultations. For example, on 21 January 2022, Defra began consulting on proposals to move from a registration-based to a permit-based system required to transfer or trade waste, mandating the digital recording of waste movements. Defra intends to introduce statutory instruments between 2022 and 2023 to, for example, reform the existing regime for environmental permits to prevent illegal activity being hidden through waste exemptions. Defra told us that the need for officials to support COVID-19 response work over the past two years has slowed progress implementing the Resources and Waste Strategy.

3.6 In February 2022, Defra awarded a contract to evaluate the Resources and Waste Strategy, with the aim of completing the review by 2027. Reducing waste crime is one of five key policy outcomes the evaluation will focus on. Key questions about waste crime that the evaluation will consider include: the extent of changes in the incidence and seriousness of waste crime; reform of the regulations for carriers, brokers and dealers; reform of the exemptions to licensing and permitting of waste sites; waste tracking; the Agency's action to tackle illegal waste sites; the Agency's actions to prevent and deter waste crime; and the progress of the Joint Unit for Waste Crime.

Figure 21

Progress against actions in the Resources and Waste Strategy relating to waste crime in England, 2021-22

Some actions have been completed; many are at the consultation stage

Action in Chapter 4, Resources and Waste Strategy	Progress to date	Next steps
4.1.1 Reform regulations for carriers, brokers and dealers of waste, hazardous waste and duty of care.	<p>The Department for Environment, Food & Rural Affairs (Defra) is consulting on moving from a registration-based to a permit-based system and increasing background checks required to move or trade waste.</p> <p>It is preparing reforms to the requirements for technical competence in hazardous waste classification.</p> <p>Updated powers in the Environment Act to enable reform of the Hazardous Waste and International Waste Shipments Regulations.</p>	The consultation is scheduled to close on 15 April 2022. Defra plans to introduce a Statutory Instrument in 2023, followed by a phased introduction of new measures.
4.1.2 Strengthening intelligence sharing and engagement to tackle illegal activity.	Following work with the Home Office, police services and the National Crime Agency, and after dealing with some technical challenges, the Environment Agency (the Agency) has access to the Police National Computer, Police National Database and the National Automatic Number Plate Recognition Service.	The systems will provide the Agency with important intelligence that will make a strong contribution to tackling waste crime.
4.1.3 Launching a 'fly-tipping toolkit'.	Defra is working with the National Fly-tipping Prevention Group to help local authorities present robust prosecution cases.	Defra plans to publish its guide on robust prosecutions and commence work on the next element of the toolkit.
4.1.4 Preventing illegal activity being hidden through waste exemptions by reforming the existing regime.	Defra and the Welsh Government consulted in 2018 on reforms to regulations around environmental permit exemptions and will publish a response in 2022. It will propose changes to the regulations around those exemptions being most used to hide illegal activity. The final Impact Assessment has received a green rating from the Regulatory Policy Committee.	COVID-19 response work has slowed progress significantly. Defra plans to develop and introduce a statutory instrument over the next two years.
4.1.5 Considering the case for introducing tax-registration status checks for people operating in the waste sector ("conditionality").	Further policy development has established that this is not feasible under the existing framework; HM Revenue & Customs (HMRC) is collaborating with Defra on this.	HMRC is keeping this under review as reform of waste licensing progresses (see 'Reform of the carriers, brokers and dealers regulations' above).
4.2.1 Mandating the digital recording of waste movements, subject to consultation.	A consultation seeking views on the development of a UK-wide digital waste tracking service was launched on 21 January 2022.	The consultation closed on 15 April 2022. Defra plans to introduce a Statutory Instrument in 2023.
4.2.2 Developing data and analytical tools to monitor waste operators to enable intervention if performance begins to deteriorate.	The Agency is exploring the use of new external data sources and technological solutions for monitoring and assuring compliance across regulated industry.	The Agency is evaluating its risk profile within Environmental Permitting Regulations to understand better what is currently within scope and what may require additional legislative change.

Figure 21 *continued*

Progress against actions in the Resources and Waste Strategy relating to waste crime in England, 2021-22

Action in Chapter 4, Resources and Waste Strategy	Progress to date	Next steps
4.2.3 Creating a Joint Unit for Waste Crime.	The Joint Unit was launched in January 2020. It has developed strategic partnerships and led and supported multi-agency investigations.	The strategic board maintains oversight of the development of the Joint Unit and refreshes business plans and performance objectives annually.
4.2.4 Equipping the regulator with the powers it needs to pursue and disrupt organised crime.	<p>The Environment Act contains relevant measures including:</p> <ul style="list-style-type: none"> ● tools and powers for the Environment Agency to pursue and disrupt organised crime; ● powers for the Environment Agency to introduce charging schemes; and ● improvements to waste permitting exemptions to prevent them being used to hide criminal activity. <p>The Home Office amended the Investigatory Powers Act 2016 to give the Agency powers to acquire communications data.</p> <p>Separately, the Agency is now covered by the Covert Human Intelligence Sources (Criminal Conduct) Act 2021, enabling the Agency to authorise covert sources to participate in criminal conduct where necessary and proportionate.</p>	The Environment Act received Royal Assent on 9 November 2021.
4.2.5 Developing an abandoned sites action plan.	A two-year pilot scheme launched in November 2018 to clear abandoned waste sites had limited success. Using the lessons learnt, the Agency sought funding through the Spending Review 2021 to build on the pilot scheme, but the bid was unsuccessful.	The Agency continues to work on operational guidance for its regulatory officers to manage abandoned sites, including sites showing early signs of abandonment.
4.3.1 Tightening the waste permitting regime by introducing financial provision.	Defra is recruiting to this function. COVID-19 response work has slowed progress significantly.	Defra will work closely with the Department for Business, Energy & Industrial Strategy (there is overlap with its current work on environmental liabilities), HM Treasury and others.
4.3.2 Toughening penalties for waste criminals.	Defra is developing a module with the National Fly-tipping Prevention Group to help local authorities present robust prosecution cases to secure tougher sentences.	Defra will publish guidance on robust prosecutions and look at ways to increase magistrates' understanding of the impacts of waste crime.

Figure 21 *continued*

Progress against actions in the Resources and Waste Strategy relating to waste crime in England, 2021-22

Action in Chapter 4, Resources and Waste Strategy	Progress to date	Next steps
4.3.3 Exploring all options for funding future action on waste crime.	<p>Through the 2021 Spending Review, from 2022-23 previously ring-fenced funding of £10 million for waste crime will be rolled into the Agency's core funding.</p> <p>The Agency's work with Defra in shaping the Environment Bill helped overcome some of the legislative barriers to funding regulatory activities, including enforcement.</p>	<p>The Agency's strategy <i>Reducing offending in the waste sector</i>, issued in December 2021, includes an objective to develop a more sustainable funding model for its enforcement work.</p> <p>The Agency is exploring options including the use of new powers in the Environment Act 2021 to recharge for waste incidents and implementing charging schemes for upcoming regulatory reforms which cover the cost of enforcement.</p> <p>In 2022-23, Defra will fund the distribution of around £450,000 in capital grants to selected local authorities to pilot interventions tackling fly-tipping.</p>
4.3.4 Increasing awareness of waste regulations, publicising positive work of enforcement bodies as they tackle waste crime, and recognising high performing operators.	<p>Through its waste crime digital plan, the Agency posts weekly on its social media channels to warn, inform and share news of action by the Agency to stop and bring waste criminals to justice, using local channels to share action in local areas, and blogs to tell a fuller story. The Agency and Defra promote waste regulation changes and issue press releases to share news with national and trade publications. Together, they push the message to report any suspected or known illegal waste activity to Crimestoppers.</p>	<p>The Agency plans to continue developing its waste crime digital plan, to ensure effective communication across media platforms to reach a diverse audience.</p>

Note

1 Progress information provided to the National Audit Office over January to March 2022.

Source: Department for Environment, Food & Rural Affairs, Environment Agency, Home Office and HM Revenue & Customs

The Agency's strategy for combatting waste crime

3.7 The Agency issued its internal strategy *Reducing offending in the waste sector* in December 2021, setting out its vision to eliminate crime in the waste sector by the end of 2043. The strategy sets the direction for five years, with evaluation of progress and potential evolution of the strategy over its course. The strategy adopts the Home Office 4Ps model:

- **Prepare** for waste crime (data and intelligence, funding and capability).
- **Prevent** people from being involved in waste crime (education and deterrence).
- **Protect** the environment, communities and legitimate businesses from harm (prioritise based on threat, risk and harm).
- **Pursue** and disrupt deliberate offenders.

3.8 The strategy aims to introduce more proactive and preventative activity, rather than being primarily focused on reacting to incidents of waste crime. It emphasises the development of intelligence and data analysis capability to identify root causes and trends, and working with partners to achieve joint objectives.

The Joint Unit for Waste Crime

3.9 None of the respondents to the 2018 *Independent review into serious and organised waste crime* believed that organisations involved in dealing with waste crime were joined up.¹⁰ The review recommended the establishment of a Joint Unit for Waste Crime, to direct and coordinate a joined-up, multi-agency response to the most serious cases of waste crime. The Joint Unit was established in January 2020 and is a partnership of environmental regulators (the Agency and its equivalents in other UK nations), law enforcement bodies (the National Crime Agency, the National Police Chiefs' Council and the British Transport Police), tax authorities (HM Revenue & Customs (HMRC) and its equivalents in other UK nations), and the fire sector (National Fire Chiefs Council). The Joint Unit is supported by a dedicated team of seven permanent employees from the Agency who lead their own investigations and support investigations led by the partner organisations. The Joint Unit takes the lead on Agency investigations involving those organised crime groups presenting the greatest risks.

¹⁰ Department for Environment, Food & Rural Affairs, *Independent review into serious and organised crime in the waste sector*, November 2018.

3.10 In 2019, the Joint Unit produced a business plan for the period September 2019 to March 2021. The plan set out four priorities: develop the Joint Unit's capabilities; develop an intelligence picture of serious and organised crime in the waste industry; take action to reduce the threat of serious and organised crime in the industry; and review its progress and plan for the future. To date, the Joint Unit's monitoring of progress has focused on how its multi-agency capabilities have aided in efforts to combat waste crime committed by serious and organised crime groups (**Figure 22** overleaf).

HMRC's response to landfill tax non-compliance

3.11 HMRC acknowledges that landfill tax creates incentives for illegal financial gain through non-compliance, for example, through misdescribing waste as less polluting material, attracting much lower charges, or as exempt waste. HMRC plans to reduce non-compliance by raising awareness of the obligations of organisations in the waste supply chain through webinars, targeted publicity and publishing the details of offenders, some of which is in development. It intends to make better use of data and powers to tackle non-compliance and increase its understanding of risks in the supply chain to inform new legislative approaches. HMRC received additional funding in the 2018 Spending Review to support work on environmental tax compliance, which it used to create two new teams to carry out work on landfill tax at illegal waste sites.

3.12 In our 2021 report *Environmental tax measures*, we concluded that HMRC focused more on the revenue that landfill tax and other environmental taxes raise rather than the environmental impact they have.¹¹ HMRC is contributing to HM Treasury's review of landfill tax in England and Northern Ireland to ensure the tax continues to support the government's environmental objectives.

3.13 HMRC is a partner in the Joint Unit for Waste Crime and is currently active in five Joint Unit investigations involving organised crime groups or high-value targets. In 2021, HMRC and the Agency signed a memorandum of understanding about joint working to address illegal exports, with eight potential cases identified to date. Through the Joint Unit, HMRC is pre-vetting applications for landfill tax water discounts, which to date has led to an £8 million increase in landfill tax across applications made.¹² HMRC officials told us they judge the Joint Unit to have greatly reduced the risk of another failure like Operation Nosedive.

11 Comptroller and Auditor General, *Environmental tax measures*, Session 2019–2021, HC 1203, National Audit Office, February 2021.

12 The water content of waste, where not present naturally, can be discounted when calculating the taxable weight in certain circumstances.

Figure 22

Progress made coordinating a multi-agency response to waste crime across the UK by the Joint Unit for Waste Crime in 2020-21 and April to September 2021-22

The Joint Unit has made progress combatting waste crime committed by serious and organised crime groups

Success measures	Progress 2020-21	Progress April to September 2021-22
<p>Prepare: Diversify intelligence sources by increasing the number of partners in the Joint Unit, and educating wider partners on waste crime and its impact. The Joint Unit will record all serious and organised crime issues.</p>	<p>Joint Unit staff developed functional partner relationships with more than 100 individuals across a number of agencies.</p> <p>More than 75 intelligence products were shared by the Joint Unit.</p> <p>Waste crime now recognised in the Police Serious and Organised Crime portfolio.</p>	<p>Number of strategic partners increased from six to nine.</p> <p>Developed several other relationships with organisations for purpose of strategic aid and joint working/intelligence sharing.</p>
<p>Prevent: Develop multi-agency plans using the 4Ps model for all Joint Unit-managed organised crime groups. Use engagement and innovative upstream interventions to prevent waste crime, utilising all available enforcement powers.</p>	<p>Bi-monthly meetings of the Joint Unit's Tactical Tasking and Coordination Group enabled partners to share risks and increased the opportunities for intelligence-sharing and tactical interventions.</p> <p>Conducted national media campaigns and workshops highlighting the impact of waste crime on the public.</p> <p>Training delivered to partner agencies to equip them with the knowledge and contacts to target waste offending.</p>	<p>Joint Unit team are lead responsible officers for five organised crime groups, with plans using the 4Ps model in place.</p> <p>Joint Unit led or took part in 24 coordinated days of prevention and disruption action with partners, including border stops and Joint Unit-branded information notices and letters.</p> <p>Profile of the Joint Unit raised through launch of Twitter account in September 2021, presentations, conference speeches and media appearances.</p>
<p>Protect: Interventions and activity will protect the UK's critical infrastructure, environment, and communities from the impacts of organised waste crime. The Joint Unit will exemplify a victim-focused approach, ensuring all victims and witnesses are treated with dignity and respect.</p>		<p>Actively involved in refusal of permit applications by known organised crime groups, while sharing best practice on how the Joint Unit went about this with other environment agencies.</p> <p>Communities have been protected by the promotion and application of Smart Water to prevent catalytic converter theft.</p> <p>Introduced a new process for water discount applications preserving more than £8 million of potentially avoided landfill tax.</p>
<p>Pursue: Disincentivise waste crime by taking enforcement action, confiscating financial gain and removing authorisations, among other interventions.</p>	<p>Joint Unit staff led 28 multi-agency investigations.</p> <p>Assisted in coordination and delivery of the 'metal and waste crime week of action' in October 2020, which resulted in 29 arrests.</p>	<p>Involved in intelligence-led days of action resulting in 35 arrests.</p> <p>Operation Goldiron, a week of action to combat catalytic converter crime, led to the recovery of more than 1,000 converters and 56 arrests. Following the week, reports of catalytic converter thefts dropped by 57%.</p>

Source: *Joint Unit for Waste Crime Success Measures 2020-21 Report*, and *Success Measures Half Year Report 2021-22*

Funding for combatting waste crime

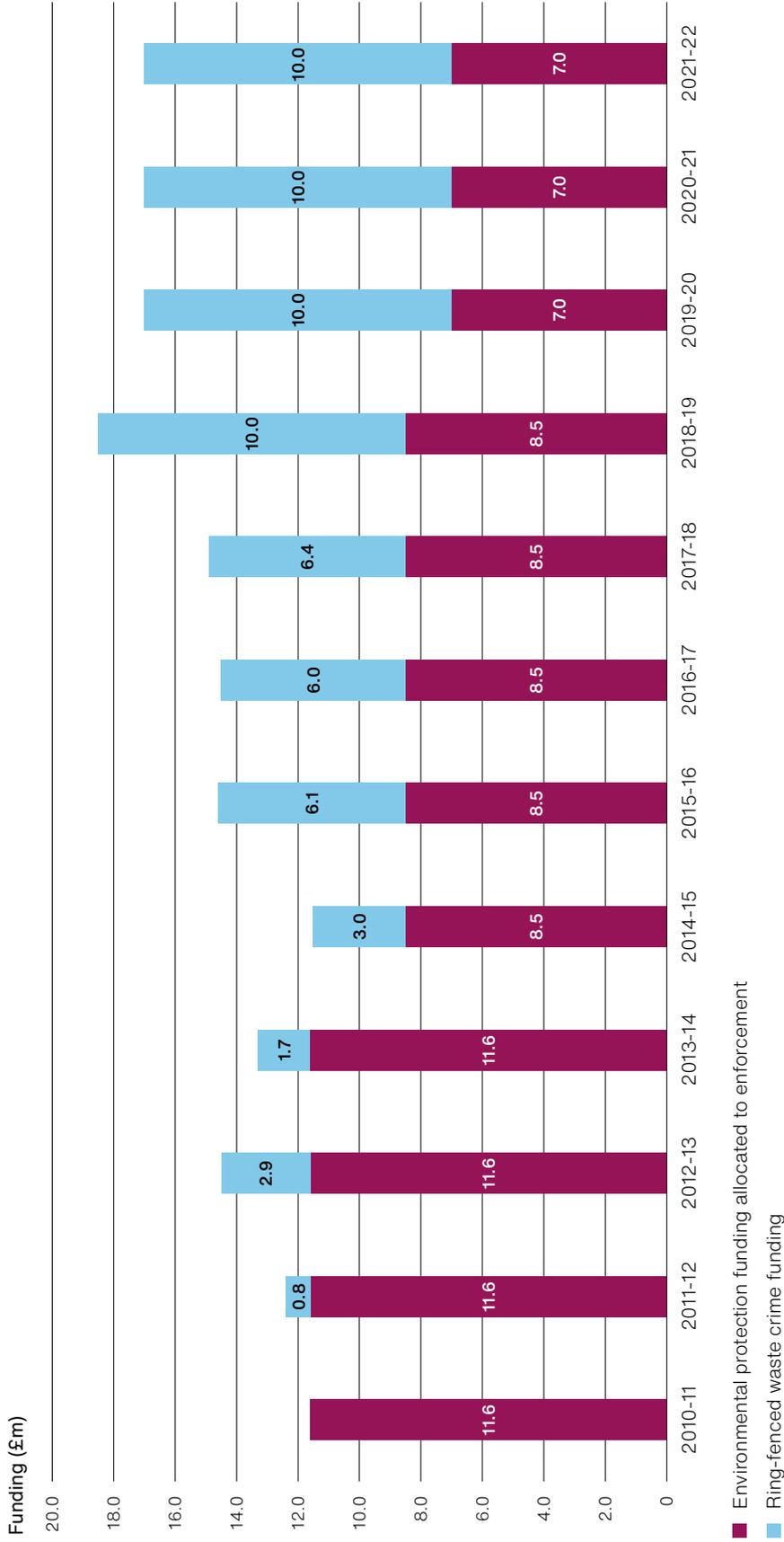
The Agency

3.14 At present, enforcement activities such as investigation and prosecution cannot be cross-subsidised from charges that the Agency makes for permits and licences. The Agency follows HM Treasury rules, which require in most circumstances that such income is used for the regulatory services customers have paid for. The Agency allocates resources to enforcement from its grant funding for environmental protection. This grant funding has fluctuated but tended to fall over the past decade or so, both nominally and in real terms. However, since 2011-12, government has provided ring-fenced grants to be spent on tackling waste crime (**Figure 23** overleaf). For example, Additional Waste Crime Funding provided a further £30 million from 2018-19 to 2021-22 to tackle waste crime, which the Agency used to recruit 120 permanent specialised staff to work on waste crime. Taken together, the Agency's total use of funding for enforcement rose from £11.6 million in 2010-11 to £18.5 million in 2018-19 in cash terms. Between 2019-20 and 2021-22, the Agency's use of funding for enforcement remained at £17 million per year, comprising £7 million for enforcement across all regimes and £10 million ring-fenced for waste crime. In real terms the increase between 2010-11 and 2020-21 is around £2.6 million (in 2020-21 prices). From 1 April 2022, the dedicated waste crime funding has been rolled into the core enforcement funding and the ring-fence removed. In relation to upcoming regulatory reforms, the Agency is exploring options for implementing charging schemes which cover the cost of enforcement.

Local authorities

3.15 Central government funding for local authorities has reduced since 2010. The Department for Levelling Up, Housing & Communities measures the income it makes available for local authorities through 'spending power'. This indicator captures the main streams of government funding to local authorities, in addition to council tax. Indexed against the 2010-11 level, spending power in 2020-21 was 26% lower on a real-terms, like-for-like basis (excluding COVID-19 pandemic funding). Local authorities have significant freedom and flexibility to direct funding in line with local priorities. Local authority spending on non-social care services fell by 24.8% in real terms between 2010-11 and 2019-20. While it is not possible to isolate how much local authorities spend on responding to fly-tipping, it forms part of total spending on environment and regulatory services and on highways and transport services. Service spending in these areas fell by 10.5% and 23.6% respectively in real terms between 2010-11 and 2019-20.

Figure 23
 Environment Agency use of funding for enforcement and waste crime in England, 2010-11 to 2021-22
 The Agency's total use of funding for enforcement rose from £11.6 million in 2010-11 to a peak of £18.5 million in 2018-19 in cash terms



Note
 1 Ring-fenced waste crime funding includes a range of ring-fenced grants. For example, the Waste Enforcement Programme provided £23 million of funding over four years (2016-17 to 2019-20) to tackle illegal waste sites, illegal exports and the mis-description of waste.

Source: National Audit Office analysis of Environment Agency data

Police and crime commissioners

3.16 Police and crime commissioners received 19% less funding in real terms in 2018-19, from central and local sources, than their predecessor bodies (police authorities) had received in 2010-11. In general, police and crime commissioners (and their equivalents in certain mayoral authorities) set strategic objectives for their forces, allocate funds and hold forces to account on behalf of the public. Between 31 March 2010 and 31 March 2019, the total police workforce fell by 17%, and the number of police officers fell by 14% (around 20,500) over the same period. Since 2019, the Home Office has provided extra funding to recruit additional new officers, and the latest statistics show that by 31 December 2021, some 11,048 additional police officers had been recruited.

HMRC

3.17 Between 2014-15 and 2020-21, HMRC's baseline funding decreased. HMRC told us that, despite this overall pressure, staff resource dedicated to landfill tax compliance increased by around 30 people over 2017 and 2018. HMRC told us that its allocation of funding between different activities and taxes aims to manage the risk of tax non-compliance in the most cost-effective way.

Joint Unit for Waste Crime

3.18 In our 2019 report *Tackling serious and organised crime*, we commented on the disparate and complex funding arrangements for tackling serious and organised crime.¹³ The 2018 *Independent review into serious and organised crime in the waste sector* and the Environmental Services Association 2021 report *Counting the cost of UK waste crime* both highlighted the need for more funding for the Agency and to support the Joint Unit for Waste Crime.¹⁴ The Joint Unit receives no dedicated funding and is funded by its individual partner organisations. Two bids for dedicated funding to the Spending Reviews in 2020 and 2021 were unsuccessful.

¹³ Comptroller and Auditor General, *Tackling serious and organised crime*, Session 2017-2019, HC 2219, National Audit Office, June 2019.

¹⁴ Environmental Services Association, *Counting the cost of UK waste crime*, July 2021.

Appendix One

Our investigative approach

Scope

1 We investigated waste crime following concerns expressed to us by MPs about government's oversight of the waste industry and how action is taken to address illegal activity. We report on seven categories of waste crime, based on categories used by the Environment Agency (the Agency) and HM Revenue & Customs (HMRC). We use the term waste crime broadly to cover actual, suspected and alleged offences, rather than solely instances where a court has found that a crime has been committed. We have followed the government's approach by including actual criminal acts (intentionally breaking the law relating to the handling and disposal of waste) and careless or thoughtless acts that fail to comply with the legal requirements governing waste. We examined:

- which organisations are responsible for dealing with the different types of waste crime;
- available data to assess the scale and nature of each type of waste crime and the cost burden on central government bodies and local authorities;
- how the Department for Environment, Food & Rural Affairs (Defra), the Agency, HMRC and local authorities combat waste crime;
- the outcomes of these bodies' activity to combat waste crime and sanctions imposed on perpetrators;
- information on the involvement of organised crime groups in waste crime; and
- government's strategy, plans and targets for reducing waste crime across England, and the progress it is making.

Methods

- 2** In examining these issues, we drew on a variety of evidence sources. These included: published government documents relating to waste crime; data published by government bodies on the extent of waste crime; the activity undertaken in response and the outcomes of that activity; internal documents from Defra, the Agency and HMRC setting out their activity to combat waste crime and outcomes of that activity; information provided by Defra and the Agency on the progress against the actions contained within the Resources and Waste Strategy; and data provided by the Joint Unit for Waste Crime on the involvement of organised crime groups in waste crime.
- 3** We interviewed relevant individuals from Defra, the Agency and HMRC to understand how these bodies deal with waste crime and how their approaches are changing. We conferred with local government representatives to understand waste crime from their perspective and local government activity to combat fly-tipping.
- 4** We used available data on the different categories of waste crime, which means we were not able to present trends over the same time periods for the different categories or different aspects of response to them. We did not cover breaches of waste permits where the Agency judges this could result in only a minor, minimal or even no impact on the environment, people or property.
- 5** The local authority fly-tipping statistics collected by Defra are official statistics. We have also used administrative data published by the Agency, such as data on waste investigations extracted from the Agency's case management system or data on prosecutions drawing on the Agency's national enforcement database. Administrative data are not quality-assured in the same way as official statistics and need to be treated with greater caution.
- 6** Information on prosecutions comes from more than one Agency source. Care should be taken in making comparisons because of differences in the scope of the information from different sources. We have generally assigned investigations that led to prosecutions to financial years using the date the investigations were closed (for example, in Figure 12). Where there is direct information on prosecutions of organisations, this was assigned to financial years using the date of the legal action (for example, in Figure 18), which may in part explain the low number of completed prosecutions for 2020-21 included in the data source underlying this figure. Accordingly, it is not possible to ensure chronological alignment between figures drawing on these different sources. Separately, Figure 18 does not cover prosecutions of individuals as dates are not published; however, investigations of individuals are included in Figure 12, which draws on anonymised data. It is not possible to assess if the proportion of prosecutions of individuals has varied over time. Additionally, it is possible that completion of the fields we used to identify investigations in the data source underlying Figure 12 was less common in the earlier years: 2014-15, 2015-16 and (to a lesser extent) 2016-17.

7 We present money quantities throughout the report and state where they are in nominal (cash) terms or in real terms, summarised below. When making real-terms comparisons for the Agency and HMRC funding, we used the deflators published by HM Treasury alongside the Spring Statement in March 2022. Real-terms comparisons for local government and police funding have been kept consistent with our previous publications cited; these earlier publications give details of the adjustments involved.

Figures	Approach
Environmental Services Association (ESA) cost estimates	Nominal
Operation Nosedive costs	Nominal
Local authority fly-tipping clearance/prosecution costs	Nominal
Landfill tax rates	Nominal
'Tax gap' for landfill tax	Nominal
Fines awarded	Nominal
Costs awarded	Nominal
HMRC landfill tax assessments for illegal sites	Nominal
Revenue from avoiding illegal exports	Nominal
Revenue from pre-vetting exemption applications	Nominal
Agency environmental protection grant funding	Not presented in detail, overall change assessed in both nominal and real terms
Agency ring-fenced waste crime funding	Nominal
Agency allocation of funding to enforcement	Nominal
Agency funding used for waste crime and enforcement	Real-terms comparison
Local government funding	Real terms
Police funding	Real terms
HMRC funding	Real terms

Appendix Two

Progress against issues raised in 2019

1 In 2019, we carried out some work on illegal waste dumping and illegal waste sites. We presented the results of that work to the permanent secretary of the Department for Environment, Food & Rural Affairs (Defra) and the chief executive of the Environment Agency (the Agency). It included issues that we thought needed to be addressed. We set out below a commentary on the progress made against each of these issues (**Figure 24** overleaf).

Figure 24

Progress to date against issues raised by the National Audit Office in 2019

Issue raised in 2019	Progress to date
Is government clear about what it wants to achieve in tackling illegal dumping and waste crime generally?	The Resources and Waste Strategy sets a clear long-term target. The government has not set success measures for any intermediate dates before 2043 to guide activity and resources.
Is government organised so as to effectively meet goals on prevention, pursuing offenders and clearing waste?	Responsibility for waste crime remains split between different bodies but the Joint Unit for Waste Crime provides an ongoing forum for engagement and joint working.
Are current funding levels commensurate with the government's ambition?	Most funding for combatting waste crime is not ring-fenced, and the total amount being spent cannot be easily identified; in addition, the absence of intermediate ambitions means there is not a clear benchmark to judge against.
Do current funding arrangements allow for effective long-term planning?	The Joint Unit does not have dedicated funding. However, a three-year Spending Review enables medium-term planning. For example, the Department for Environment, Food & Rural Affairs (Defra) has provided the Environment Agency (the Agency) with firm and indicative funding allocations for the Spending Review period.
Does government understand why it can take several years to stop some high-risk illegal waste sites?	The Agency's view is that the main constraint here is the level of available resources. Defra's view is that, historically, there were limitations on powers available to the Agency, but even now complexities in site ownership cause difficulties. The emphasis on working with operators to bring sites into compliance rather than immediately taking enforcement action, which has a high legal bar, can lead to action being taken later than some might expect or desire.
Is the Agency satisfied with the overall profile of outcomes for illegal waste dumping?	The Agency emphasises that prosecutions are not the only enforcement tool. Its strategy is to focus effort on 'prepare and prevent' and pursue prosecution in the most serious cases.
Is the Agency satisfied with its prosecution rate?	
Has the Agency set meaningful targets and taken action when performance has fallen short?	Not yet – the Agency is still engaged in developing new performance metrics.
Is the Agency learning from past experience in developing new key performance indicators (KPIs)?	The material we have seen suggests that, in considering the design of new KPIs, the Agency is aware of the risk of creating perverse incentives and is seeking to avoid this.
Is government clear about what it hopes to achieve with the changes it is making?	Ultimately the government is aiming to eliminate waste crime by 2043.
Will it be able to measure the impact of each change?	The government has let a contract for a complex, multi-year programme for evaluating the Resources and Waste Strategy.

Source: Department for Environment, Food & Rural Affairs and the Environment Agency

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