

Savings

20. Where an offender has savings these will not normally be relevant to the assessment of the amount of a fine although they may influence the decision on time to pay.

21. However, where an offender has little or no income but has substantial savings, the court may consider it appropriate to adjust the amount of the fine to reflect this.

Household has more than one source of income

22. Where the household of which the offender is a part has more than one source of income, the fine should normally be based on the income of the offender alone.

23. However, where the offender's part of the income is very small (or the offender is wholly dependent on the income of another), the court may have regard to the extent of the household's income and assets which will be available to meet any fine imposed on the offender.⁷

Potential earning capacity

24. Where there is reason to believe that an offender's potential earning capacity is greater than his or her current income, the court may wish to adjust the amount of the fine to reflect this.⁸ This may apply, for example, where an unemployed offender states an expectation to gain paid employment within a short time. The basis for the calculation of fine should be recorded in order to ensure that there is a clear record for use in variation or enforcement proceedings.

High income offenders

25. Where the offender is in receipt of very high income, a fine based on a proportion of relevant weekly income may be disproportionately high when compared with the seriousness of the offence. In such cases, the court should adjust the fine to an appropriate level; as a general indication, in most cases the fine for a first time offender pleading not guilty should not exceed 75% of the maximum fine.

Offence committed for 'commercial' purposes

26. Some offences are committed with the intention of gaining a significant commercial benefit. These often occur where, in order to carry out an activity lawfully, a person has to comply with certain processes which may be expensive. They include, for example, 'taxi-touting' (where unauthorised persons seek to operate as taxi drivers) and 'fly-tipping' (where the cost of lawful disposal is considerable).

27. In some of these cases, a fine based on the standard approach set out above may not reflect the level of financial gain achieved or sought through the offending. Accordingly:

a. where the offender has generated income or avoided expenditure to a level that can be calculated or estimated, the court may wish to consider that amount when determining the financial penalty;

b. where it is not possible to calculate or estimate that amount, the court may wish to draw on information from the enforcing authorities about the general costs of operating within the law.

Reduction for a guilty plea

28. Where a guilty plea has been entered, the amount of the fine should be reduced by the appropriate proportion. See page 17 of the user guide for guidance.

⁷ *R v Engen* [2004] EWCA Crim 1536 (CA)

⁸ *R v Little* (unreported) 14 April 1976 (CA)