

Review of the Assaults against Emergency Workers Act 2018: an effective deterrent or empty gesture?

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15%
of NHS
employees
reported
experiencing
violence at work in
2017

"An assault on an emergency worker is an assault on us all...it should be punished more severely than an attack simply on an individual victim" Ministry of Justice, 2018

Background: Rising rates of violence against NHS employees prompted the government to launch the first ever NHS Violence Reduction Strategy in October 2018. This included the implementation of a new legislation, the Assaults on Emergency Workers (Offences) Act 2018, designed to hand down tougher sentences to individuals who assault an 'emergency worker' (including police officers, prison officers, fire services, rescue services and persons "employed for the purposes of providing, or engaged to provide NHS health services", including paramedics, nurses, support workers and doctors "whose general activities involve face to face interaction with individuals receiving services").

Aim: We review new legislation passed in 2018, and attempt to highlight potential effects arising from its implementation. We hypothesise that despite the stated intentions to "protect the NHS workforce against deliberate violence and aggression" the new legislation has been ineffective.

Assaults on Emergency Workers (Offences) Act 2018

Maximum prison sentence for an offence against an emergency worker doubled from 6 months to 1 year
Assault against an emergency worker considered an aggravating factor in more serious offences
Prosecutors should cease charging the existing offences ('common assault', 'assaulting a police officer' etc) where the complainant was an emergency worker

Methodology: We obtained data from the Ministry of Justice directly via a Freedom of Information Request for 2018/19 which included information on 'outcomes-by-offence' for the requested time period

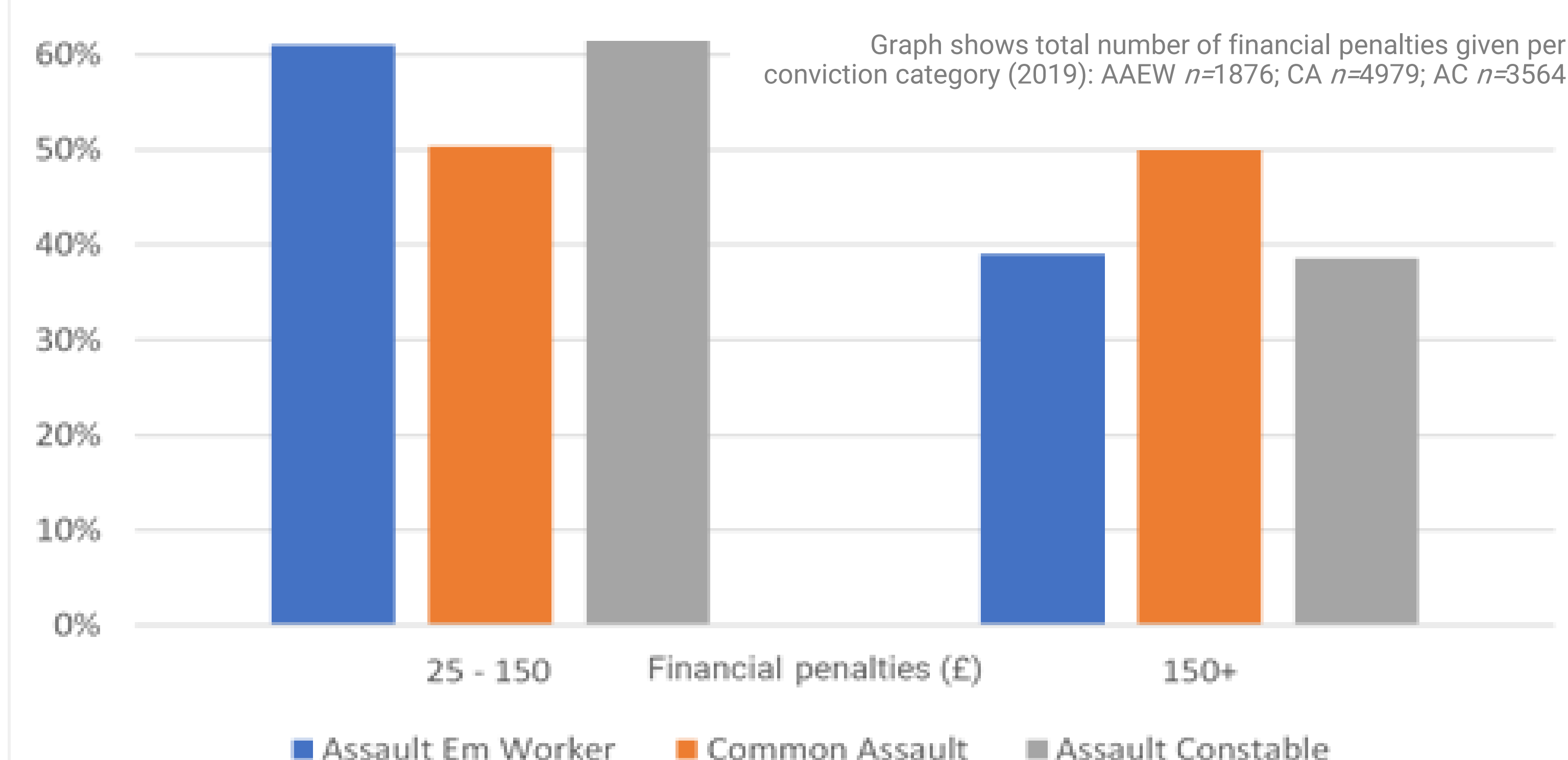
Comparisons made between new category of
'Assault against an emergency worker' (AAEW),
Common assault (CA) and
Assault against a constable (AC)

Results

- Uptake of charges brought under 2018 legislation was swift; there were 9,350 convictions from 11,257 prosecutions in 2019. Number of CA charges fell by 20% in the same time period and AC by almost half
- Rate of conviction under the new legislation was high; under AAEW 83.1% of prosecutions resulted in convictions (2019)
- The total number of convictions in all 3 categories has fallen since 2016 (62,438 in 2016 to 46,340 in 2019)
- However, sentencing has remained as lenient as the equivalent offence category of CA; convictions under AAEW were as likely to receive a custodial sentence, and those that did were marginally shorter than for CA (2.6 months AAEW, 2.9 months CA (2019))
- Use of financial penalties was higher for AAEW (24% compared to 19% CA (2019)). The fines handed down were also lower for AAEW than for CA; in 2018 the average fine handed down in convictions of AAEW was £166, over £50 less than the average for CA in the same year (£221). This trend was repeated in 2019 (total average difference of £52.50)

Comparison of financial penalties per conviction category (2019)

	Assault Emergency Worker	Common Assault	Assault Constable
Total Number of Fines	1,876	4,979	3,564
Average Fine (£)	181	231	182



Discussion: These results provide preliminary evidence that the objectives outlined in the Assaults on Emergency Workers (Offences) Act 2018 have yet to be realised. The "clear legislative intent that assaults on public servants doing their work as part of the emergency services should be sentenced more severely than hitherto" is not reflected in the low levels of custodial sentences and reduced financial penalties under the new conviction, compared to those previously used.

Why have the
objectives
of the Act
not been
realised?
3 theories

Sentencing guidelines under the 2018 Act have been comprehensive but arguably more complex than CA – this may be contributing to disparities and a more lenient use of the legislation than was originally suggested

Magistrates' Court only allow for deliverance of sentences up to 12 months imprisonment, otherwise cases must be heard at Crown Court. To be eligible for this the offender needs to satisfy an extensive list of criteria indicating greater harm, culpability and seriousness of the offence, therefore the majority are not likely to reach Crown and therefore not receive the higher sentence

Many assaults take place in the context of the assailant being intoxicated or acutely unwell, therefore unable to think rationally at the time and weigh up the consequences of their actions. This might reduce the efficacy of the Act a 'deterrent' for assaulting emergency workers

Conclusion: On the whole there is no reason to believe that the implementation of this new legislation has acted as any form of deterrent for violence towards emergency workers - assaults **rose 24% in the four weeks to 7th June 2020**, compared with the same period in 2019 (coinciding with the COVID-19 pandemic).

In July 2019 the government launched a new consultation on whether the maximum penalty for a conviction against an emergency worker should be doubled to a 2 year custodial sentence; currently the average handed down is under 3 months.

It has yet to be seen if the 2018 Act can be implemented effectively - data gathered thus far would suggest this has yet to be achieved. Enquiries into why this is the case should come as a matter of priority.

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