Business misconduct regularly captures the public’s attention, with the Volkswagen emissions scandal, the Wells Fargo account fraud scandal, and the Uber Greyball scandal only a few recent examples. Regulators, prosecutors, and courts typically respond with punitive enforcement mechanisms such as sanctions and fines. Yet there is growing skepticism among the public and even some managers about these approaches, which often do not result in the organizations’ rehabilitation or reintegration. Are there other ways society could respond to corporate wrongdoing?

Drawing on a unique case study, Stephanie Bertels, Michael Cody, and Simon Pek sought to better understand what regulators, prosecutors, and courts could do to encourage and support organizations in their efforts to re reintegrate after misconduct. In this case, a company violated an environmental regulation. Both the firm and Crown prosecutor saw an opportunity to start a broader dialogue about environmental compliance in the industry and made a joint submission to the court for a creative sentencing project—a novel approach in which funds from sentences can be used for a variety of non-traditional ends, such as remediating the natural environment and improving industry standards.

Looking at earlier work on restorative justice and responsive regulation, the authors used this case to outline an escalating set of enforcement actions that regulators, prosecutors and courts could take depending on the severity of the case. For instance, in cases of isolated and/or minor misconduct such as accidents, regulators could follow a pathway focused on actions including a phase of discovery and explanation and the development of corrective actions. In contrast, in cases of severe or repeated misconduct, it may be necessary for regulators to follow a pathway with actions including a court-led discovery process and a mandated change process.

The authors’ findings suggest that punishment may not always be the most effective response. Instead, for less severe cases of misconduct, a more restorative approach may be more beneficial as a means of helping corporations regain their support from key stakeholders and avoid future wrongdoing.

This research was originally published as “A Responsive Approach to Organizational Misconduct: Rehabilitation, Reintegration, and the Reduction of Reoffense,” by Stephanie Bertels, Michael Cody and Simon Pek in Business Ethics Quarterly, July 2014.