Fine enforcement in magistrates’ courts
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Home Office Development and Practice Reports draw out from research the messages for practice development, implementation and operation. They are intended as guidance for practitioners in specific fields. The recommendations explain how and why changes could be made, based on the findings from research, which would lead to better practice.

Summary
This report summarises recommendations about enforcement of financial penalties for magistrates and court staff. It results from research which evaluated methods for improving the collection of fines and highlights the main findings of a number of pilot projects which were run to determine better practice.

One of the aims of the two-year research project was to encourage better use of scarce criminal justice resources. It was funded by the wide-ranging Crime Reduction Programme.

Recommendations for improved practice relate mainly to four areas:

- getting financial penalties right at the point of imposition;
- reserving enforcement courts as a last resort for persistent defaulters;
- being responsive and adaptable in methods of enforcement; and,
- promoting more joined up approaches to enforcement through closer working between different agencies.

The research also highlights the need for courts to develop greater capacity to trace and pursue defaulters more effectively.

Introduction
The fine is the most commonly used sentence in magistrates’ courts. In 2000, three-quarters of all cases sentenced in magistrates’ courts in England and Wales resulted in a fine being imposed.

Fines were imposed in:

- 89 per cent of summary motoring cases
- 80 per cent of summary non-motoring cases; and
- 31 per cent of indictable cases.

In total, magistrates’ courts of England and Wales imposed some 1,011,000 fines. The average fine was £143.

But the use of the fine in indictable cases has fallen from 51 per cent in 1989 to 31 per cent in 2000. In part this is probably due to perceived difficulties in collection which are reflected in a high level of write-offs. Yet in contrast to other penalties, fines generate income, even if enforcement measures have to be taken, and those defendants who are fined are no more likely to reoffend than those offenders who are dealt with in other ways. But if the fall in the use of fines is to be halted or reversed, sentencers need to be confident that the sums imposed will be collected. If at least some cases which previously attracted a fine are now attracting community penalties, a major benefit of restoring the use of fines for non-summary offences would be to free up the probation service to concentrate their resources on those offenders for whom a community penalty is clearly necessary. So one of the aims of the project was to encourage better use of scarce criminal justice resources. Accordingly, it was funded as part of the wide-ranging Crime Reduction Programme.

This practice report relates to all financial penalties – fines, compensation orders and costs – which, for brevity, are referred to as ‘fines’.

How the research was designed is explained on page 6. Existing enforcement practice is described on page 6.

The pilot projects
Pilot projects in eighteen courts were run and evaluated in four broad categories. These were projects aimed to:

1. reduce the likelihood of default through better court decision-making at the time fines were imposed and by making payment easier;
2. improve the organisation and administration of the enforcement function;
3. trace defaulters who had gone missing; and
4. deal with persistent default more effectively.
Better decision-making and payment arrangements at imposition

1a) Effective imposition of fines at point of sentence (Barrow and Bridgend)

At both courts a review of practices at imposition led to the development of guidance materials and training sessions with magistrates to promote compliance with better practice approaches. The focus was on gathering information about financial means, information to aid re-contact and effective communication with offenders about the importance of payment and the consequences of default.

The project also sought to encourage immediate payment where possible and the use of payment methods that would minimise the risk of later default, such as attachment of earnings orders, standing orders and payment books.

1b) Introduction of credit card payments for settling fines (Blackpool and Solihull)

Both courts installed facilities to allow fines to be paid by credit or debit card, and arranged supporting administrative procedures (including payment by phone).

Organising for, and administering, enforcement

2a) Shortening timescales for enforcement actions (Croydon and Wrexham)

These projects reduced the amount of time between different stages in the enforcement process as a means to prompt earlier settlement and reduce the likelihood of contact being lost and of attracting further penalties.

2b) Using police officers during unsocial hours to assist in tracing or arresting defaulters (North Tyneside)

The court purchased four hours of police officer time per week (outside normal working hours) to execute fine default warrants on its behalf. The officers also used police computer intelligence sources to trace defaulters.

2c) Checking for and dealing with any default when defendants appear before the court on new matters (Northampton and Teeside)

These projects involved routinely checking the daily list of defendants appearing at court to identify any in default on previously imposed fines. Once identified, this information was passed to the courts with encouragement to deal with the outstanding default along with new matters rather than adjourning them to a later date.

2d) Introduction of computerised warrant tracking system (Beverley)

Beverley set up and used a spreadsheet-based system for monitoring, sorting and prioritising warrants and for linking multiple warrants for the same individuals.
Tracing defaulters

3a) Tracing defaulters through the DWP computer systems (Blackpool, Northampton and Nottingham)

These courts piloted the Department for Work and Pensions (DWP – previously the DSS) trace service, now nationally available, for checking addresses of defaulters with whom the court has lost contact. The DWP runs the checks through its computer systems, documents any new information (usually an updated address) and returns them to the courts.

3b) Campaigns with local media to ‘name and shame’ persistent defaulters (Knowsley and Watford)

These courts worked with the local press to arrange the publication of lists of those persistently defaulting on compensation orders and who the court had been unable to contact.

Dealing with persistent default

4a) Fines clinics for defaulters (Grimsby and Swindon)

Defaulters were offered one-to-one interviews to discuss their default and how to resolve it. In Grimsby, the clinics were with court staff; in Swindon, the process involved in turn the Citizens Advice Bureau (CAB) and a court enforcement officer.

4b) Staff skills development for dealing with defaulters (Leicester)

A training company provided specialist training to enforcement staff on techniques for interviewing defaulters. Selected staff were also trained as monitors responsible for maintenance of interviewing standards.

4c) Promotion of Attendance Centre Orders to prompt settlement of debts (Camberwell Green)

The use of Attendance Centre Orders was promoted as an option for dealing with defaulters aged 18-25. The project also involved working with the police to ensure the regime was effectively run and monitored.

4d) Special training for magistrates in dealing with persistent default (Brighton and Nottingham)

This project provided special training for magistrates in the techniques for dealing with persistent default. In Brighton, a subgroup of the bench was trained to act as a select panel for hearing the most serious cases. In Nottingham, a similar group attended a special training session and was encouraged to apply a specially prepared set of good practice guidelines.
Recommendations for developing better fine enforcement practices

The main lessons for magistrates and for enforcement and other administrative court staff can be summarised as follows:

Making the initial decisions more effectively

- get reliable means information so that fines are set at realistic levels;
- make sure the expectations of the court regarding payment are made clear to the offender;
- make sure the court has full, up-to-date contact details: it is sensible to ask defendants to state their names and addresses every time they appear rather than asking them to confirm details already held and collection of telephone and mobile phone numbers will also be useful; and
- seek ‘forthwith and in full’ payment wherever possible: only allow ‘time to pay’ where it is genuinely necessary – it should not be the norm; (two courts adopted this approach and achieved good results).

Reserving enforcement courts for persistent default as a last resort

- empower court staff to take on more responsibility for dealing with default and reserve courtroom hearings before magistrates for persistent default as a last resort when fresh judicial decisions are called for (this also will allow magistrates extra time to deal with those cases more thoroughly);
- give enforcement staff special training in interview skills: this can give them more confidence and pride in their work and proved highly successful in a pilot scheme;
- organise default clinics run by court staff as an effective way of saving court time: out of the court setting, enforcement staff can usually get a much better understanding of a defaulter’s individual circumstances and take appropriate action; and
- train magistrates to deal with persistent default more effectively; (this proved effective at both courts where it was piloted).
Being responsive and adaptable in enforcement

● develop and constantly review the ‘toolkit’ of approaches and methods in enforcement to maintain responsiveness and ensure the pattern of actions is less predictable to defaulters;

● tailor the solution to the problem, drawing on the full range of enforcement options to suit the circumstances of the case: e.g. one project identified defaulters who had responded positively to a previous summons and then summoned them to appear before a means court, rather than issuing a distress warrant;

● shorten timescales between enforcement actions: this was found to be successful in one of the projects. This also bears out the findings of earlier research that specific actions courts take are less important than the speed with which they should respond to default; and

● be innovative with the introduction of different tactics into enforcement processes to promote prompt payment: in one case, a ‘naming and shaming’ exercise prompted payment from some persistent defaulters and was thought likely to prompt other potential defaulters to settle their debts in order to avoid being named; but such strategies need to be carefully organised to allow defaulters time to respond and to avoid any errors.

Joining up enforcement: working with other agencies

● build strong relations with other agencies – particularly in respect of warrant execution, tracing defaulters, provision of specialist debt counselling to defaulters and the supervision of payments;

● maintain informal contacts between civilian enforcement officers and the police as this can provide vital intelligence information: formal purchase of police hours is one way in which courts might extend their capacity to follow-up on defaulters outside normal working hours;

● make use of the tracing service arrangements now available with the Department for Work and Pensions; these have proved successful and resulted in new information on ‘lost’ defaulters in around 60 per cent of cases. It is important to follow-up promptly on new information provided to minimise the risk of further tracing problems; and

● promote partnerships with specialist money advice and debt-counselling agencies such as the Citizens Advice Bureau to provide useful additional resources for courts in addressing default.

1. Generally, the information systems currently available to courts do not easily allow differentiated enforcement approaches to be adopted for different categories of offender/circumstance. But systems do need to be developed to support more active planning and targeted approaches to enforcement work.
Conclusion

The research provides a rigorous and independent analysis of the impacts of the different approaches. It also provides valuable insights on why different approaches might work better in some settings than in others, and the importance of matching enforcement techniques to the circumstances of the case.

More generally, the research highlights the importance of increasing courts’ capacity to trace and pursue defaulters more efficiently and effectively, for which improved information and management processes are needed. It also concludes that greater emphasis on training and development for both court staff and magistrates would make a significant difference and help boost morale in this inherently difficult area of work.

Background

The design of the research

Two teams of researchers worked together. The first, from the University of Birmingham, focused on best practice in enforcement and developed a series of pilot initiatives in courts. The second, from research consultants Morgan Harris Burrows assessed the impacts of the pilots – particularly in terms of their cost-effectiveness and effect on payment behaviour.

Information from court records and national statistics was complemented by in-depth interviews with magistrates, their legal advisers, enforcement staff and court users, including many defaulters. The research provided new and detailed insights on the use of fines and the problems of enforcement. Most importantly, it identified a number of ways in which things can be improved.

Definitions

In this research the primary measure of performance in collecting debts used was the ‘payment rate’: the average amount of each fine paid per week by offenders. This differs from the usual definition of payment rate used in magistrates’ courts, but provided a standardised measure of impact across all the different types of intervention.

Overall findings

Payment rates

Overall, payment rates in the pilot courts increased threefold (by 227 %) in the period following the implementation, with the average payment received in each case per week across the 18 courts rising from 50 pence per week before the pilot interventions to £1.63 afterwards.

General success variation

However, there was considerable variation in the success rates of different schemes. This suggests that some approaches were more effective than others and also that much depended on quality of implementation. Generally:

- those pilots that addressed either the challenge of ‘effective imposition of fines’ or of ‘dealing with persistent default’, appeared to be the most effective; and
- those aimed at addressing the challenges of ‘organising and administering enforcement’ and of ‘tracing defaulters’ appeared less successful.

Existing enforcement practice

National data

Nationally, in the twelve months ending March 2001, magistrates’ courts were responsible for £385 million of financial impositions, imposed in both criminal and civil courts. During that same year:

- £242 million was collected;
- £77 million was cancelled (where part or all of an imposition has been remitted); and
- £74 million was written off (usually when the defaulter could not be traced).

At the end of that year, the courts carried forward an ongoing balance of £419 million (a figure very similar to the year’s opening balance). Just over half (£225 million) of that balance were sums in arrears while the remainder were amounts not yet due.

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2. It is not possible with existing data to separate fines from civil impositions such as awards made in family cases.
Practice in the sample courts
Before the pilot projects began, the research examined enforcement records at the 20 participating magistrates' courts (two subsequently dropped out). It looked in detail at a sample of cases from each court and recorded the dates and types of enforcement actions and payments made. The main findings were:

- considerable variation in success rates between the courts:
  - rates of recovery ranged from 28 per cent to 98 per cent, with an average of 60 per cent; and
  - the amount of time taken for accounts to be settled (by payment, cancellation or write-off) ranged from 33 to 320 days, with an average of 176 days.
- no conclusive evidence that recovery rates were related to the extent to which financial penalties are used and how, or offence type; nor that enforcement performance was influenced by the number of enforcement actions;
- courts with lower recovery rates tended to take more enforcement actions, suggesting that the relationship between enforcement action and payment is not simply that enforcement action leads to payment but rather that payment is mediated by other factors, for example, the attitudes of particular defaulters and the approaches and manner by which courts and their staff respond to cases of arrears.
- some offender characteristics were influential:
  - female defendants, and those over 40 years of age, were found to be slightly more likely to pay their fines;
  - those from poorer neighbourhoods were significantly less likely to pay; and
  - courts with low recovery rates tended to have a higher proportion of offenders living in poorer neighbourhoods.

Cost of enforcement
The overall cost of enforcement to the sample courts was equivalent to one-third of the total impositions they made in the period under review, although spending levels varied between courts from 55 per cent of their impositions to just 16 per cent.

This report was prepared by Becca Chapman (RDS), Alan Mackie (Morgan Harris Burrows) and Professor John Raine (University of Birmingham) based on the forthcoming Home Office report "The enforcement of financial penalties" by Mackie, A., Raine, J., and Burrows, J. (2002)

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