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Clearing the Debts: The Enforcement of Financial Penalties in Magistrates' Courts

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Summary

Magistrates rely heavily on financial penalties as a sentence of the court (almost three out of four sentences imposed in the magistrates' courts are fines and, in addition, compensation orders and awards of costs are often made in criminal cases). Such penalties are generally recognised as an important component of the sentencing framework. They generate significant revenues and do not appear to be any less effective in terms of reconviction rates than other sentences. But their use is not without its difficulties and has been declining as a proportion of all sentences for a number of years. There are particular problems in relation to the enforcement of financial penalties, with the result that significant amounts each year are 'written off' or cancelled.[1]

This report summarises the work and results of a research programme designed to examine the use and enforcement of financial penalties and which involved piloting a range of enforcement initiatives to assess their impacts and cost-effectiveness. The research involved detailed statistical monitoring and evaluation of the pilots and also extensive interviewing with magistrates, their legal advisers, enforcement staff and court users, including many defaulters. This provided much valuable insight on the use of financial penalties, on the problems of enforcement and on directions for future improvement in this respect. In the course of the interviews, some radical options were explored involving adoption of more commercial approaches to debt recovery, (for example incentivising the process) as well as the various practical ways in which enforcement capacity in the courts might be developed.

The main findings of this research can be summarised as follows.

The use of financial penalties

- The fine remains the most commonly used sentence in the magistrates' court: in 2000 just under three-quarters of all cases sentenced in magistrates' courts in England and Wales resulted in a fine being imposed (fines were imposed in 80 per cent of summary non-motoring cases; in 89 per cent of summary motoring cases, but in only 31 per cent of indictable cases).

- In total, the magistrates' courts of England and Wales imposed some 1,010,835 fines in 2000; the average fine being £143.

- The use of the fine in indictable cases has been falling year by year, from 51 per cent in 1989 to 31 per cent in 2000.

The enforcement process

Data on the enforcement of all financial impositions are collected from magistrates' courts' committee (MCC) areas and collated by the Court Service. This management information – or MIS – data records all impositions made in civil actions (for example, maintenance payments) and criminal proceedings (fines, compensation etc.). This national data – on civil and criminal financial impositions from all MCC areas – provides a context in which the

[1] Fines can be written off where the defaulter cannot be traced (and can be written in should the defaulter's whereabouts be established). Cancelled fines typically include fines that have been remitted in whole or in part where an individual's circumstances have changed since the fine was originally imposed.

bespoke research data – collected on *criminal* impositions only from a sample of 20 magistrates' courts – should be viewed.

National data on civil and criminal impositions completed by the magistrates' courts

Whilst the local MCC areas should split the sums into criminal and civil, often only the 'total' sum is returned. It is not, therefore, possible to derive an accurate figure for criminal impositions only. Overall, however, some £377 million of financial impositions – both civil and criminal – were *completed* in the year ending March 2002. This gives an indication of the total amounts that are completed by the enforcement offices in magistrates' courts throughout England and Wales. This sum is completed in different ways, and a breakdown shows that:

- £228 million (61 per cent) was successfully collected
- £58 million (15 per cent) was written off
- £91 million (24 per cent) cancelled[2].

Findings on the enforcement of criminal financial penalties

From the research at a sample of 20 magistrates' courts on which much of the research was focused, a number of other conclusions about the enforcement of financial penalties have been reached as follows:

- Success rates in recovering financial penalties owed to the courts vary – among the sample of courts it ranged from 28 per cent to 98 per cent, with an average of 60 per cent.
- There is wide disparity in the amount of time courts take to recover financial penalties owing – among the sample the time ranged from 33 days to 320 days.
- The amount of financial penalties imposed that is paid per week (the payment rate) varies widely from court to court but does not relate directly to the overall recovery rate.
- There is no evidence that the recovery rates achieved by courts are influenced by the extent of their reliance on financial penalties, the levels of penalty imposed, or the types of offence being dealt with.
- Understanding the impact of enforcement actions taken by the courts on payment performance is not a straightforward matter. While failure to pay financial penalties will usually result in enforcement action to be taken against defaulters and in turn, may result in payment being made, there is no evidence to suggest that the success of the courts in recovering debts is influenced either by the number or the type of enforcement actions taken. In the sample of courts studied, those courts with low recovery rates tended to take *more* enforcement actions than others.
- Courts with high recovery rates tended to have relatively high proportions of offenders who paid without being subject to enforcement actions or at least after only one enforcement action. In contrast, courts with low recovery rates were those that needed to take enforcement action against a greater proportion of their offenders and that had a significant proportion making no payment whatsoever.
- Female defendants, and those who are older, are *more* likely to pay their financial penalties, but only slightly so. Those from poorer neighbourhoods are significantly *less* likely to pay their penalties than those from more affluent areas. Courts with low recovery rates tend to have a higher proportion of their offenders living in poorer neighbourhoods.

[2] These figures have been rounded

- Overall expenditure on enforcement amounts to slightly less than one-third of the total impositions made by the courts in the period under review (32.6%), although spending levels vary between courts quite markedly (from 55% of their impositions to just 16%).

Pilot projects in enforcement

Twelve pilot projects were undertaken as part of this research, these being selected to address four distinct challenges associated with enforcement. These projects were piloted (individually or more than once) at 18 different magistrates' courts around the country, as follows:

Challenge	Pilot projects
1. Effective imposition of financial penalties	• Effective imposition of financial penalties at point of sentence *(Barrow and Bridgend)*
	• Introduction of credit card payments for settling financial penalties *(Blackpool and Solihull)*
2. Organising for, and administering, enforcement	• Shortening the timescales for enforcement actions *(Croydon and Wrexham)*
	• Using police officers during unsocial hours to assist in tracing/arresting defaulters *(North Tyneside)*
	• Checking for and dealing with any default when defendants appear before the court (on new matters) *(Northampton and Teesside)*
	• Introduction of a computerised warrant tracking system *(Beverley)*
3. Tracing defaulters	• Tracing defaulters through the DWP computer systems *(Blackpool, Bridgend, Northampton and Nottingham)*
	• Campaigns with local media to 'name and shame' persistent defaulters *(Knowsley and Watford)*
4. Dealing with persistent default	• Fines clinics for defaulters *(Grimsby and Swindon)*
	• Staff skills development for dealing with defaulters *(Leicester)*
	• Promotion of Attendance Centre Orders to prompt settlement of debts *(Camberwell Green)*
	• Special training for magistrates in dealing with persistent default *(Brighton and Nottingham)*

Impacts of the pilot projects

The 'payment rate' (the average amount of each financial penalty paid per week) was used as the primary measure of performance in collecting the debts. In relation to this measure, success was achieved overall at the pilot courts in that payment rates increased threefold (by 227%) in the period following implementation. Overall, the amount of payment received by the 18 courts rose from 50p per week before the pilot interventions to £1.63 afterwards. However, less than one-third (32 %) of defaulters increased their payment after an intervention.

However considerable variability was noted between the individual courts: those pilots that addressed either the challenge of 'dealing with persistent default' or the challenge of 'effective imposition of financial penalties' appeared to be more effective in improving payment rates.

In contrast, those projects aimed at addressing the challenges of 'organising for, and administering, enforcement' and of 'tracing defaulters' appeared less successful in terms of impacts on payment rates (indeed, with payment rates falling in the period following implementation of the pilots).

Key lessons learned

Among the findings of the research five key themes were particularly highlighted for future practice development as follows:

1. Getting financial penalties right at point of imposition – as a strategy to minimise the need for subsequent enforcement.
2. Empowering court staff to take on more responsibility for dealing with default and reserving courtroom hearings before magistrates for the 'last resort' when fresh judicial decisions are called for.
3. Developing and keeping under review the 'toolkit' of approaches and methods in enforcement – to maintain responsiveness and to ensure that the pattern of actions is less predictable to defaulters.
4. Building more capacity within the court's organisation to trace and pursue defaulters more efficiently and effectively, for which much-improved information management processes are required and a greater emphasis on training and development.
5. Forging stronger relations with other agencies to assist in the enforcement function, particularly in relation to warrant execution, the tracing of defaulters, the provision of specialist debt counselling to defaulters and in the supervision of payments.

One overriding conclusion from the study is that policies and practices in enforcement in magistrates' courts are generally in need of a significant overhaul. New standards need to be set; better information management processes need to be put in place; more investment is required to develop skills in enforcement work and more effective working relations need to be fostered with other agencies with specialist expertise to contribute to the task.

1. Introduction

Objectives

This report summarises the work and findings of a two-year research study commissioned by the Home Office as part of the Crime Reduction Programme and designed to support improvements in the enforcement of financial penalties in magistrates' courts.

The two main objectives set for the study were as follows:

- to analyse the pattern of use of fines by different magistrates courts (and the relationship with enforcement practices),
- to measure the cost-effectiveness of different enforcement strategies in magistrates' courts.

The effective use and enforcement of financial penalties imposed by the courts (and this includes compensation and cost awards, as well as fines) is generally seen as important to the process of upholding the justice of the courts and to sustaining public confidence in the criminal justice process. It is also has potential as an effective deterrent on offending, by deterring both reoffending and first time offending.

If, the argument goes, the message is clear to all that there is little or no opportunity for evasion of financial penalties and that the courts are very effective in their approach to any default on such payments, a significant contribution could be made to the overall aim of crime reduction. If, on the other hand, the courts are ineffective in enforcement and particularly if there develops a general perception that arrears are tolerated or that it is possible to evade payment altogether, one might realistically expect the deterrent effect to have less impact.

This particular research study, like many Home Office Crime Reduction Programme initiatives, has taken the form of a series of pilot projects. Each pilot introduced different practices to the use and enforcement of financial penalties in magistrates' courts, and were subjected to a cost-effectiveness evaluation. As such, the research has been designed to assist with the development of 'evidence-based practice' and to enhance understanding of 'what works' best in what circumstances and why.

The context of enforcement in magistrates' courts

The majority of those on whom the courts impose financial penalties settle their debts promptly on receipt of the initial 'notice-to-pay' or 'final demand' letter. Moreover, most offenders who are granted 'time to pay' (in other words to settle their financial penalties in instalments, with an amount paid every week or fortnight) also succeed in maintaining their payments without the need for further reminders or other, more serious, enforcement actions by the court. But there is also a significant core of people who do not pay their debts as agreed and who cause the courts a great deal of additional work in pursuing their default. The cost of this extra work is to a large extent borne by the taxpayer since courts are not themselves empowered to surcharge for late payment (although many courts now use private bailiffs to assist them in their enforcement work, and these companies do levy their own surcharges on debtors for their money recovery activities) (Whittaker and Mackie, 1997).

The enforcement problem for the courts has been subject to extensive previous research.[3] What that research highlights is that enforcement is a multidimensional process and each default case reflects its own distinct context and set of circumstances. This description is, of course, quickly apparent to anyone who chooses to spend time sitting in the public gallery of an enforcement court session. Here a succession of cases typically highlights the generally very limited financial means of most defaulters and, indeed, the sometimes considerable financial difficulties in which many find themselves (with various agencies competing with the court for settlement of money owed). Also likely to be apparent to the casual observer is something of the complex lifestyles that many defaulters lead and which so often contributes to the failure to fulfil the court's expectations. Not uncommon are cases in which persistent offenders have 'totted up' long lists of fines (often imposed in their absence from court, and often relating to motoring offences) resulting in total debts way beyond their means. Another common category of defaulter is those who have been fined for having no TV licence – many of whom are single mothers with very limited financial means (and for whom the TV often represents about the main source of relief from parental duties) and who have now found themselves in deeper trouble with the court for failing to pay the financial penalty as well (Citizens' Advice Bureau, 2000). However, the enforcement court lists are not entirely comprised of 'hardship cases', there usually being, as well, a hard core of persistent defaulters for whom the issue is less about financial means and more about their wilful evasion of responsibility for the debt and tactics to keep one step ahead of the court.

Many magistrates, and indeed court clerks too, report finding the enforcement court work frustrating because so many of the cases seem so hopeless and so difficult to progress towards settlement. Non-attendance at such court sessions is a constant problem, sometimes because defaulters have wilfully ignored demands that they should appear to explain their non-payment, sometimes because the defaulter has moved address and not received the reminder letters, and sometimes because of other administrative problems.

Comparatively few defaulters are in secure paid work and many are without bank accounts or other means by which they might organise and sustain regular payment by instalments. Most are in receipt of some form of state benefits, although unfortunately, the idea of automatic deductions from benefit as a way of ensuring instalment payments are upheld is greatly complicated by the administrative procedure and rules by which the court must formally apply for such deductions to be made (and reapply if, as is frequently the case, the payment of benefit to an offender is interrupted for a while for any reason, for example, because of a temporary period of work).

As well as welfare difficulties, a number of those listed to appear in the fine enforcement court have some form of learning difficulty, and solicitors and probation officers confirm the findings of research (e.g. Shapland et al. 1985; Rock, 1993) that indicates the frequency of failure on the part of those appearing before the court (in this case, as defaulters) to fail fully to assimilate or comprehend the instructions given out in court (however carefully the chairman and clerk try to explain the situation, for example, by impressing the seriousness with which non-compliance is viewed).

The enforcement problem is also exacerbated by the large numbers whose cases are heard in their absence and who are sent information before and after the hearing (including details of the financial penalties and how to pay them) through the post. Despite a decade of emphasis on user-friendly communications, such documentation is still usually expressed in rather legalistic terms and often presented in formats that are hardly likely to be effective in communicating with those with limited reading abilities.

Among the core of persistent defaulters messages appear to spread fast – that the bailiffs are in the district; that the court is asking about ownership of mobile phones; or that an 'offer' to pay at £6.00 per week will be acceptable to the court. This same grapevine may, if the court

[3] See for example, Softly (1978); NACRO (1981); Miller (1984); Casale and Hillman (1986); Crow, Richardson, Riddington, and Simon (1989); Whittaker and Mackie (1997).

is not careful, also serve to propagate messages that the court is not as diligent or robust in following up on default; or that the magistrates might usually be 'strung along' by a few plausible excuses accompanied by an indication of better prospects from now on (for example by claiming to be starting a job next week).

Meanwhile, there is another agenda altogether for victims of crime, who can be left waiting many months (or years) for settlement of their compensation awards simply because the court only pays over the instalments as it collects them. This is a source of much complaint by many victims who tend to think that courts should bear the costs of paying out the compensation awards they impose as lump sums (as with the Criminal Injuries Compensation Authority) and then take responsibility for collecting the monies from the offenders later.

Methods of enforcement

The term 'enforcement' tends to be used loosely in magistrates' courts to refer to a variety of different responses designed to achieve the collection of financial penalties imposed (Bathurst, 1996). It is perhaps helpful in this context to categorise such responses and in this respect the following three-fold typology is offered:

- *Enabling Responses* – responses designed to facilitate payment of the monies owed: for example, by providing cash collection points

- *Ensuring Responses* – responses designed to support the process of prompt settlement of debt: for example, arranging deductions from benefit, attachment of earnings

- *Enforcing Responses* – responses designed to elicit payment or respond in a different way to continuing default: for example, summonsing offenders back to court, issuing distress warrants, deciding on Attendance Centre Orders or custody for non-payment of financial penalties.

Enabling responses

Enabling responses include the basic infrastructure through which settlement of financial penalties is sought. At one level, this would include the cash collection services offered by courts (in other words their ability to accept payments in cash, by cheque and by credit card, etc.) and issues concerning the accessibility of payment points (for example the facility to pay at the court, through local banks, by telephone with a credit card etc.). In addition, however, it would also encompass the arrangements adopted by the court for relating the level of penalties imposed to the offenders' financial means (in other words ability to pay). Previously this had been a matter on which policies differed from court to court, but there is now much greater consistency in approach as a result of the Magistrates' Association Sentencing Guidelines, published in 2000. Also included would be any arrangements the courts might make for the provision of specialist advice on managing debts for those in financial difficulty with their fines.

Ensuring responses

'Ensuring' responses might be distinguished from 'enabling' responses in that they represent further steps that the court or its administration might take to support prompt payment –

whether as a matter of general policy and practice or in particular cases where further encouragement to pay is perceived as being needed. The care taken in the court-room to communicate the importance of prompt payment and the consequences of getting into arrears might be seen as one example of an 'ensuring' response. Another would be the provision of clear documentation on how, when and where to pay and of reminder letters or phone calls (telechasing) when payments become overdue. Three other examples, which are currently available when an offender is in default, are Attachment of Earnings Orders (requiring the employer to make deductions for financial penalties from pay), Deductions from Benefit (a similar arrangement that can be sought with the DWP) and Money Payment Supervision Orders (involving oversight of the payments process, usually by the Probation Service). The DWP will administer deductions from certain types of benefits. Applications must be made to the DWP for this purpose and social security rules restrict the number and amount of deductions to a maximum of three – for three different creditors – each worth £2.70 per week (Moxon, Hedderman and Sutton, 1990). Attachment of Earnings Orders require the offender's agreement to the arrangement and are not so often used, partly because comparatively few defaulters are in secure paid jobs and partly because offenders will often prefer to keep information about their criminal record from their employers. Money Payment Supervision Orders are not commonly made either, largely reflecting the magistrates' poor perception of them as an effective option, which in turn reflects the relatively low priority that the Probation Service has tended to give them (Davies, 1970; HMIP, 1992).

Enforcing responses

Although all the above measures come under the loose definition of 'enforcement', this third category refers particularly to the more serious interventions made in instances of persistent default and taken either to recover outstanding monies or to punish for non-payment. Here, typically, the sequence of interventions will commence with a summons to appear before an enforcement court to account for the default and for the magistrates to decide what course of action should be taken. On occasions, if there is evidence that the default reflects a change of circumstances in the offender's means, the magistrates may remit (cancel) part or all of the debt owed. Alternatively, they may grant further 'time-to-pay' (at an agreed rate per week or fortnight). Those who fail to respond to their summonses might typically expect warrants to be issued – either for their arrest or in the form of 'distress warrants' (empowering private bailiffs to recover the monies directly or indirectly by seizing and selling the defaulter's property. The decision to commit a defaulter to prison is the ultimate sanction (Moxon and Whittaker, 1996) and before so doing, magistrates are expected to consider all other options including, for those aged under 25 years, Attendance Centre Orders. Such orders usually take the form of a series of Saturday afternoon sessions run by the police and with an emphasis on constructive personal skills and fitness training.

2. Approach and methods

The project described in this report was undertaken over a two-year period and was multi-faceted, involving both quantitative and qualitative research methods. As a Home Office-funded Crime Reduction Programme project, a core concern of the study was to identify 'what works' best (in this instance in relation to the enforcement of financial penalties) and to assess the cost-effectiveness of the different strategies and approaches that were piloted. As with other projects within the Crime Reduction Programme, the study followed an essentially 'action-learning' approach in which a series of initiatives were piloted and monitored in terms of the resources involved (inputs), the work undertaken (outputs) and the impacts/differences that were made as a result (outcomes).

In addition to these largely *quantitative* analyses of enforcement, the research involved an important *qualitative* dimension, reflecting both the need to understand the range of views on the use and enforcement of financial penalties and the reality that effectiveness in enforcement would as often be as much about 'softer' (less easily measured) criteria such as the enforcers' attitudes, communication skills, habits and mannerisms, as it would the 'harder' (more measurable) considerations of procedure, strategy and system.

In fact the research involved two parallel strands of work. On the one hand a comprehensive 'stock-taking' analysis was undertaken of the pattern of use and enforcement of financial penalties. This 'stock-take' comprised an analysis of available national statistics, interviews with magistrates, enforcement staff and others associated with the courts, together with observational research in the courtrooms. Meanwhile, on the other hand, a particular set of action-learning initiatives were identified for piloting a series of participating courts, for which the researchers worked in close conjunction with court personnel on implementation, monitoring and evaluation.

In summary, seven main tasks – some quantitative, others qualitative – were undertaken during the course of the project, as follows:

1. *Initial visits:* an initial series of visits was made to some 15 magistrates' courts, selected on the basis of their varied performance in relation to the published enforcement statistics. This was to develop an overview of relevant issues for the research, and involved highlighting the range of current practices in enforcement, and identifying particular strategies and approaches that might be adopted.

2. *Analysis of national statistics:* an analysis of the most recently published national statistics on the use of financial penalties and on enforcement performance.

3. *Preliminary visits to pilot courts:* a sample of 20 magistrates' courts (other than those visited in the above stage 1) was selected to participate as pilot sites. At each round of these courts' interviews and observational research were undertaken to gather information on current policies and practices and viewpoints about the use and enforcement of financial penalties.

4. *Pre-implementation data gathering:* data from a sample of cases were collected from each participating court. These data were analysed with a view to understanding the enforcement process and its impact on payment performance.

5. *Implementation of pilots:* a series of 12 pilot projects were implemented over the 20 pilot courts (in some instances projects were piloted at more than one court). For each pilot project a method was established for monitoring the input costs and impacts.

6. *Post-implementation data gathering:* further data gathering and analysis of samples of cases was undertaken in the post-implementation stage to measure the impacts of the initiatives on payment performance and cost-effectiveness.

7. *Post-implementation interviews:* a round of post-implementation follow-up interviews were conducted with relevant personnel at each participating court to assess impacts in qualitative terms, to identify the key lessons from each pilot and to explore further their potential contribution in improving enforcement policies and practices.

In the subsequent paragraphs further details are provided on the selection of the participating courts, on the nature of the projects chosen to be piloted, on the collection of data on enforcement, and on the interview and observational research undertaken.

Selection of pilot courts

Initially 20 courts were selected for the projects[4] – these having been chosen from those responding positively to a Home Office invitation to participate in research on enforcement (the invitation being issued as part of a survey of enforcement practices carried out prior to commissioning this project). Other considerations taken into account in making the final selection were geographical spread, range of enforcement practices, and diversity in performance in relation to arrears. Following selection, all 20 courts were approached formally and all confirmed their willingness to participate in the project.[5]

The 20 courts selected were as follows:

Barrow	Grimsby	Plymouth*
Beverley	Knowsley	Solihull
Blackpool	Leeds*	Swindon
Bridgend	Leicester	Teesside
Camberwell Green	Northampton	Watford
Brighton	North Tyneside	Wrexham
Croydon	Nottingham	

* These two courts withdrew from the project at an early stage due to local resourcing difficulties

Identification of pilot projects

The projects were selected to cover four distinct challenges associated with enforcement that had been identified in the initial 'stock-take' of the policy area. These challenges were those of:

1. imposing financial penalties effectively
2. organising for and administering enforcement
3. tracing defaulters
4. dealing with persistent default.

[4] Initially 20 courts were selected, but two of the courts – both marked with an asterix – only took part in Stages 1 and 2 of the project having found that they were not in a position to remain involved in Stages 3 and 4 because of resource constraints.

[5] The research team is very grateful for the co-operation that has been given by the participating courts from the outset of the project and appreciates the time that personnel have been willing to contribute to the research.

Challenge No 1: Imposing financial penalties effectively

As magistrates readily acknowledge, the enforcement problem potentially begins at the point that financial penalties are first imposed. Sometimes the problem is that fines are set at levels beyond the means to pay of the offender. This might be because of unawareness at the time of either the offender's income or of any previously imposed fines still outstanding. Often this reflects the fact that, for many of the less serious offences, the law entitles magistrates to determine cases and impose sanctions in the absence of the defendants, and indeed, does so without any legal requirement for information to be provided on financial means. Even so, many magistrates are often reluctant to fix a fine at a level that might theoretically be commensurate with the offender's income if they feel that a heavy penalty is appropriate. The offence of 'driving without insurance' is one which is much quoted in this context, with many local benches taking the view that, as a matter of principle, the penalty ought to be at least as high as the cost of purchasing insurance. On the other hand, most readily acknowledge that one reason why many (mainly young) people risk driving without insurance is that they simply cannot afford the premiums – upwards of £1,000.

Table 2.1: The four principal challenges and the projects piloted for each

The Challenge of…	The Projects		Pilot Courts
1. Effective imposition of financial penalties	1a	Effective imposition of financial penalties at point of sentence	*Barrow, Bridgend*
	1b	Introduction of credit card payments for settling financial penalties	*Blackpool, Solihull*
2. Organising for and administering enforcement	2a	Shortening the time scales for enforcement actions	*Croydon, Wrexham*
	2b	Using police officers during unsocial hours to assist in tracing/arresting defaulters	*North Tyneside*
	2c	Checking for and dealing with any default when defendants appear before the court (on new matters)	*Northampton, Teesside*
	2d	Introduction of a computerised warrant tracking system	*Beverley*
3. Tracing defaulters	3a	Tracing defaulters through the DWP computer systems	*Blackpool, Bridgend Northampton, Nottingham*
	3b	Campaigns with local media to 'name and shame' persistent defaulters	*Knowsley, Watford*
4. Dealing with persistent default	4a	Fines clinics for defaulters	*Grimsby Swindon*
	4b	Staff skills development for dealing with defaulters	*Leicester*
	4c	Promotion of Attendance Centre Orders to prompt settlement of debts	*Camberwell Green*
	4d	Special training for magistrates in dealing with persistent default	*Brighton, Nottingham*

The problem of relating the seriousness of the offence to the defendant's ability to pay has, of course, long been the subject of debate and initiative in the courts. The national initiative in 1991 to introduce a scheme of 'unit fines' to try and ensure that the penalties imposed corresponded better with offenders' financial means was quickly abandoned in the wake of much criticism of anomalies. However, its basic principles have remained an important feature of law and practice and, indeed, a number of courts have continued to operate with their own versions of the scheme. More recently – during the course of this research project – a further national development in this regard has been the inclusion in the new sentencing guidelines. These guidelines were issued by the Magistrates' Association and endorsed by the Lord Chancellor and provide a set of suggested starting point fines for different levels of income. These are regarded by many magistrates to have been helpful in ensuring lower levels of financial penalties for those of limited financial means. However, as the recent Halliday review of sentencing (Home Office, 2001) recognises, the whole policy issue of financial penalties remains a sensitive one, particularly regarding the balance to be struck between sentencing for the offence (in other words seriousness) and sentencing for the offender (in other words their means). Moreover, the challenge of setting financial penalties encompasses several other problems as well. First the unavailability, in large numbers of cases, of information on the defendant's financial means. Second, there are effects of geographical variations in average income levels which can sometimes result in difficulties for those from lower income areas but who committed their offences in higher income areas. Third, there is the impact of 'time-to-pay' arrangements (instalments) on payment rates and the risk of default.

Taking all this into account, it seemed important to include within the scope of the research some consideration of the impact of initiatives addressing problems at point of imposition on payment performance and enforcement work. Accordingly, two projects were included in the study (each undertaken at two different courts) that sought to test, on the one hand the effect of improved imposition practices in the courtroom and on the other, the effect of widening payment options by accepting settlement by credit or debit card.

Challenge No 2: Organising for and administering enforcement

The published statistics on enforcement of financial penalties reveal that some courts do considerably better than others in debt collection. Sometimes this is because they are fortunate in having jurisdiction over a generally more compliant and wealthier population. Sometimes it is because the courts operate tighter enforcement policies and practices or it is because particular court organisations commit more resources than others to enforcement work. But the initial 'stock-take' suggested that, to differing degrees, problems of 'capacity' beset all courts, with staff acknowledging an inability to act as promptly or as robustly as was wished. Consequently the task was made all the harder later when more defaulters had become untraceable or the debts grown larger.

At most courts enforcement work is now driven by computerised systems. However, while this has obviously assisted processing of the work in terms of management of deadlines and issuing documentation etc. most staff complained of the systems at their disposal which were never designed for the kinds of analytical and cross-checking work now considered necessary to support an effective enforcement process.

To an extent the enforcement function also often suffers from being something of the poor relation within the court administration. Frequently it is treated as a 'buffer' activity; to be paused when pressures elsewhere in the organisation are seen as more important, and to be the subject of 'blitzes' and 'purges' at other times to try and clear backlogs. On the whole, enforcement is not generally a function where much innovation in approach is to be found. Although arrears and enforcement performance have long been the subject of performance measurement and inspection, it is clear that comparatively few resources are invested in

development, training (either for magistrates or staff), or in learning from other agencies which have to address similar problems.

For this reason it seemed important to include an examination of the impacts of initiatives that address aspects of the organisation and administration of enforcement – particularly concerning time scales for action, better use of technology and different processes for handling default.

Challenge No 3: Tracing defaulters

One of the key concerns both at point of imposition of financial penalties and in relation to the organisation and administration of enforcement is the adequacy of information. Another expression of this problem is the frequency with which enforcement work becomes a tracing and tracking problem as defaulters become 'missing persons' so far as the court is concerned. As indicated earlier, sometimes this problem emanates from financial penalties being imposed in the absence of the offender, meaning that the opportunity is lost to verify contact details etc. Sometimes the problems emanate from misspelled names or inaccurate address details supplied by the police and sometimes by administrative errors elsewhere. But the problem is undoubtedly compounded over time as many offenders change their address and fail to notify the courts (some, no doubt, doing so quite deliberately and frequently to keep ahead of creditors). Generally the courts are not well equipped to carry out validation checks on the information supplied to them. As a result, many hours can be spent by court enforcement officers walking the streets, knocking on doors (behind which defaulters may well be hiding) and asking neighbours about the whereabouts of those for whom warrants have been issued.

Tracing defaulters who seek to avoid the court can be a particularly frustrating and demanding part of enforcement work, and it was felt important to include within the research the opportunity to test the impact of new initiatives in this respect. Two such projects were selected (one piloted at two courts, the other at four). On the one hand two campaigns were piloted in the local media to 'name and shame' persistent defaulters and to enlist public support in tracking them down while on the other, an initiative was piloted giving four courts access to information held by the Department of Work and Pensions (DWP) computers (DWP records being generally regarded as likely to be most reliable and up-to-date because of the benefit payment arrangements.[6]

Challenge No 4: Dealing with persistent default

The fourth challenge identified as especially important concerned the strategies and interventions used for dealing with persistent default. Here, a frequently articulated concern among magistrates is that the legal powers to deal with those in arrears are too limiting. Many magistrates rue the day when the Court of Appeal (in R v Cawley, 1995) in effect limited their use of custody as a sanction for default to 'last resort', to be considered only after a range of other options had been rejected.[7] The argument frequently cited was that, previously, the threat of custody had often proved a powerful weapon to elicit settlement of debt (sometimes at the last possible moment, as defaulters were about to be escorted from the court to the prison van).

[6] For reasons of limited time and resources, this latter project (which anticipated by just three months a roll-out for all courts in the country) was piloted at four of the courts already involved in one of the initiatives. Since it would be difficult to assess the relative impact of the two pilots on payment performance it was recognised that this dual piloting would inevitably complicate the evaluation.

[7] See also, R -v- Gwent Magistrates, 2001. That case made it clear that Article 8 of the European Convention on Human Rights must be applied to a decision whether or not to commit a defaulter to prison.

Occasionally magistrates will order a day's detention in the courtroom precincts as a means of imposing at least a measure of punishment for non-payment of financial penalties, particularly in cases where the offender is almost completely without financial means, and therefore for which prison might seem an unduly harsh response. More commonly, however, magistrates make use of their powers of remission (in other words excusing part or all of the debt). This latter course of action can be a sensitive issue, not least because it implies revoking decisions made earlier by colleagues. In law, remission is only justified by a change of circumstances (or new information in this respect) but this is not generally a major constraint since, as already mentioned, the circumstances of many defaulters are constantly changing and the information on means, or on outstanding financial commitments (for example with other fines to be paid) is frequently found wanting. A further issue in relation to the use of remission is that of equitable treatment between those who have endeavoured to maintain regular payments, despite difficult personal financial circumstances, and those who seek to avoid payment by "playing the system".

Between the extremes of remission and imprisonment for non-payment of financial penalties lie a number of other enforcement actions that might be taken, some enshrined in law (as steps to be considered ahead of custody) and some simply as practices that might be followed in seeking a defaulter's compliance with the expectations of the court. In this research it seemed useful to include pilots that focused on the skills and practices (of both magistrates and staff) and four such projects were identified. Three involved training initiatives (with magistrates at two courts, and with staff at the other). The fourth was concerned with the potential of Attendance Centre Orders to act as a threat to promote debt settlement or as an alternative punishment to the financial penalty.

Data requirements

One of the principal difficulties faced in researching the enforcement process is that the nationally available data – either from the Home Office or the Lord Chancellor's Department (and latterly the Court Service) – are collected in aggregates from courts and in a format that does not support detailed analysis of the factors accounting for variations in payment/collection rates.

The Court Service requires Magistrates' Courts Committees[8] (MCCs) to submit regular data returns that comprise the National Performance Indicators (NPIs) for magistrates' courts.[9] These data are used to compile National Performance Indicators (NPIs). However, the data are unaudited and are recognised as being weak in a number of respects (see Section 4 for a fuller discussion). In 1999, Her Majesty's Magistrates' Court Service Inspectorate (MCSI) an independent body located within LCD, conducted a thematic study of the collection and review of management information at a local level.[10] This study found that the local use of the national Management Information and Statistics (MIS) system was highly variable and reported a number of problems in using the national comparative figures.

The MCSI report recommended the adoption of 12 'core performance measures (CPMs). These are similar but not identical to the NPIs and were intended for the local management of the magistrates' courts and are now used in the MCSI's inspection programme. Two of the CPMs relate to the key area of 'maximising the collection of monetary orders' and are to assist in improving enforcement:

[8] Petty Sessional Areas are combined into a series of Magistrates' Courts Committees headed by a Justices' Chief Executive.
[9] In November 2001 – shortly after the completion of this research project – responsibility for magistrates' courts administration (including the processing of workload data) was transferred from the Lord Chancellor's Department to the Court Service – an executive agency of the Department.
[10] MCSI has statutory powers to inspect and report on the administration and management of magistrates' courts (it has no standing in judicial matters).

1. CPM4 measures the value of arrears as a proportion of the value of outstanding balances (in other words whether arrears are increasing or decreasing)

2. CPM5 is concerned with write-offs due to failure of enforcement, as a proportion of impositions (in other words close to the MIS write off NPI).

Despite the fact that the MCCs and magistrates' courts are routinely generating information, this appears to be seldom used for management purposes. Thus there is little available evidence about what works well in enforcement generally, and still less about the effectiveness of different strategies and approaches in different circumstances.

As these issues were central to this research, a large data gathering exercise was undertaken which involved extracting case histories from enforcement databases at each of the 20 courts that had initially agreed to participate.[11] These were conducted both before the pilot projects were put in place, and after their implementation. The primary purpose of the *pre-pilot* data gathering exercise was descriptive – to shed light on a range of issues pertinent to the enforcement process, and to inform the development of intervention strategies. In some instances, the exercise also served as a useful baseline for gauging the impact of the pilots. The purpose of *post-implementation* data gathering was wholly evaluative.

The pre-implementation data gathering

For this exercise, the research team extracted the full 'enforcement story' in respect of at least 250 cases from the enforcement databases run by each of the 20 pilot courts. The purpose was to provide a substantial (and unique) profile – of some 5,000 cases, unmatched in previous studies of fine enforcement. This served as a valuable means to explore a range of issues that lie at the heart of this project. For example:

- Does the overall performance in fine collection of different courts reflect the Investment they make in enforcement action?

- Alternatively, is success in this area determined more by the type of action pursued?

- How far is the payment of financial penalties determined by the 'type' of offender appearing – such as the age or sex of the offender, or where s/he lives?

- How far is payment linked to the level of fine levied, the type of offence charged, or other factors not directly associated with enforcement?

As the various software packages used by the courts adopt different formats it was not possible to extract and centralise this data electronically, so each record had to be read and then manually coded into a central dataset. Details of up to ten enforcement actions taken in any one case were recorded.

To gain a balanced view of current fine enforcement, but also to ensure that the data gathering exercise secured a comprehensive record of *all* the enforcement activity directed at any particular case, the research team selected 50 per cent of each court's sample from 'live' cases and 50 per cent from 'closed' cases.[12] The cases were selected by applying a random structured approach.[13]

[11] As courts rely on their computer systems to maintain details of financial penalties imposed (and any enforcement actions necessary to elicit payment) and these differ across courts, data collection in the 20 courts had to be 'tailored' to meet the operation of these different systems

[12] The latter are generally those removed from the court data record into an archive.

[13] At the start of data gathering in each court the researcher established the number of 'live' cases held on the enforcement database and the number of closed cases held there or separately archived. S/he then divided each total by 125 to derive a sampling coefficient that would ensure the cases selected were spread evenly across all the records.

Overall, data were collected on 5,077 cases – and, of this overall number 2,396 (47%) were closed cases and 2,681 (53%) were 'live' (that is, not concluded). In broad terms this ratio between the two types of case was achieved in all the courts – the range was between two courts where some 65 per cent of cases were closed and three others where only 39 per cent were closed.

Chapter 4 presents the findings from the analysis of the pre-implementation data set. Since the primary focus of the analysis was to identify 'what works' (for which a full record of the payment and enforcement history was required in each case) the analysis of the data was largely conducted on the sub-sample of *closed* cases in the 20 courts (in other words 2,396 cases). These comprised all those cases that were already closed at the time that the sampling was made plus some from the 'live' sample that had become closed by the time the details were recorded. However, for the analysis of the *impact* of the pilot projects, both the *closed* and *live* cases were used as appropriate (see below for fuller discussion).

The post-implementation survey

As indicated above, the post-implementation survey was carried out purely for evaluative purposes – that is, to gauge the impact of the different pilot projects on the payments made by those targeted. For this exercise the number of cases sampled in each court was smaller. Where a pilot involved less than 100 cases, then all were individually reviewed. Where the number targeted exceeded 100, then the research team extracted a random sample of 100 cases. In two courts – Wrexham and Beverley – where many more defaulters had been subject to the interventions, it was decided that the sample should be boosted to up to 200 cases.

As it was reasonable to assume that the interventions would have had most impact at the earliest stages following implementation, and as time considerations also had to be taken into account (to meet the deadlines imposed by the research programme), the payment history of each case was tracked for only three months after implementation of the pilots. Overall, data was collected on 1,767 cases.[14]

As the commentary in Chapter 4 indicates, the payment of financial penalties is influenced by a wide range of factors, such as the characteristics of offenders, the type of area in which they live, the scale of the penalties imposed, and so forth. In view of this, it was regarded as preferable, where possible, to compare changes in each individual's payment record *after* the pilot had been implemented with the position *before*. This was perfectly satisfactory when the pilot programme interventions were instigated some time after a penalty was imposed and thus after a payment pattern had started to become clear – say some three months after the initial imposition.

This option was not, however, available when the pilot interventions were made at, or soon after, the imposition of a financial penalty – or indeed in the early months when the offender's intentions or ability to pay had not yet become clear. In these circumstances it proved necessary to draw on cases in the pre-implementation dataset as a reference. Here, comparisons were made with the average *payment rate* (that is, the percentage of the total imposition paid per week) for the court in question.[15]

[14] This total excludes those cases where the total financial penalty amounted to £5,000 or more, as this is the highest penalty magistrates' courts can impose (they do however deal with larger sums imposed by Crown Courts). The highest numbers of cases were derived from Solihull magistrates' court (at 301 cases) and the lowest at Watford (245 cases).

[15] In evaluating the impact of some of the pilots, the data was a mix of 'same case' and 'same court' cases.

Table 2.2, below, summarises the measurement criteria used for the pilot projects.

Table 2.2: Measurement criteria after pilot project interventions

	Case characteristics	*Basis of comparison*
A	Interventions take place three months or more after financial penalty imposed	Payment rate before intervention compared with that in the three months that followed
B	Interventions take place at/soon after imposition or less than three months after financial penalty imposed	Comparison made with the average payment rate of the court in question (derived from the pre-implementation survey)

Of course, it would have been possible to evaluate all the pilots on the criteria set out in row B in Table 2.2: the average payment rate for all the pilot courts for the period before the pilots was implemented is known, and that average rate could have been used as a baseline figure against which the payment performance of every individual subjected to a pilot project could have been measured. Indeed, as has been explained above this was done in many cases. However, given that payment rates are derived from an individual's behaviour, it was considered better – where possible – to compare an individual's payment on an individual account both before and after an intervention. This is the approach summarised in row A.

The findings of the evaluation, using these methods, are presented in Chapters 4 and 5. A more detailed account of the approach used in monitoring payment rates is also provided in Chapter 4, and in Appendix C.

While these two exercises – the pre and post-implementation surveys – provided a unique opportunity to 'get beneath' the enforcement process across a wide sample of courts, a small note of caution needs to be struck about the interpretation of the data so derived. First the records obtained were not uniform. The datasets were of course not derived from *primary* data collection approaches – in other words, cases that the research team might have directly observed or tracked – but from *secondary* sources. Different courts, often applying contrasting enforcement policies and procedures, collect the records in different ways; different computer packages are employed and very often the records examined were self-evidently contradictory. As a consequence, some inconsistencies and anomalies emerged – which are highlighted in the commentary in Chapter 3. Second, the records do not provide a comprehensive account of all the influences that might affect the payment of a fine. For example, as records are entered by the courts *after* an imposition is made, they do not document some of the characteristics of the offender that may have influenced the court's sentence – such as his or her means, or even previous offences. Nor do they give details of procedural matters, such as whether the offender attended court.

It also needs to be pointed out that, over the course of the project, a number of events took place that had a significant bearing on enforcement activity in general, and – by implication – on the conduct of this research:

- From the start of the programme there was a general move to concentrate accounting and enforcement functions at the MCC level. This tendency was underlined in April 2001 when the responsibility for accounting formally transferred from Justices' Clerks to Justices' Chief Executives. This all had major implications for data collection activities and by Stage 4 it had become increasingly difficult for the research team to obtain data pertinent only to a single court.

- The responsibility for the execution of certain warrants (including those for financial penalties) passed from the police to the courts. This changeover had been planned for some time and some courts had anticipated it by employing their own staff in this

role. The formal changeover was to have been October 2000, but this was subsequently delayed until April 2001.

- The magistrates' courts generally were subject to a raft of other pressures and changes (some resource-related, others legislative in nature, for example, implementation of the Human Rights Act 1998).

Such changes inevitably complicated the process of researching the enforcement function, particularly through a series of controlled pilot projects. With so much managerial and policy reform taking place, it would inevitably be difficult to sort out cause and effect in the research.

Interview and observational research

At each participating court interviews were conducted with each of the following parties: the justices' clerk/justices' chief executive, representatives of the bench (in most instances the chairman of the enforcement panel, plus two or three other senior members of the bench), court clerks, finance administrators/enforcement staff, and civilian enforcement officers. These interviews were conducted at two-stages: first, at the start of the project and then again at the end. In addition, the research team had discussions at each court with ushers, court probation officers, duty solicitors and, where available, court-based CAB/debt counselling volunteers. Interviews were also undertaken with representatives of several firms of bailiffs. Most of these interviews followed a standard semi-structured format, focusing in turn on the use of financial penalties as a sentencing option and views on the benefits and limits of such penalties more generally, on enforcement policies and practices at the particular court and on the main problems, as perceived, together with views on the scope and potential for improvement in this regard.

The research team also spent several days at each court observing enforcement courts in operation (or the main adult sessions at those courts if no special sittings were listed for default cases). At each court in excess of 50 enforcement cases in the courtrooms were observed to build up a picture of working practices and of differences in the approach of magistrates and clerks in this respect. The observational research was undertaken both ahead of the pilot projects being implemented and afterwards.

At each court, a series of short interviews was also conducted in the post-pilot phase of the research with samples of around 20 defaulters per court. These were undertaken at court immediately after the cases had been heard and sought to highlight information both about the circumstances and context of default (from the individual's perspective) and the experience of the courtroom hearings (including the impact it was felt likely to have). At those courts where the pilot projects were considered likely to impact directly upon defaulters (for example the fines clinics and interviews with enforcement staff) additional specific questions were asked about experiences of the pilot projects and about their impacts as they, the defaulters, perceived them, to provide further insight for the evaluations.

3. The imposition and enforcement of financial penalties

This chapter commences with a review of the most recent Home Office data on the use of fines and compensation in England and Wales and at the 20 magistrates' courts initially selected for the research. It then presents the main findings from the interview research on the use of financial penalties and their strengths and weaknesses as perceived by magistrates, court staff and other practitioners.

The use of financial penalties

The data on the use of financial penalties has been drawn from Criminal Statistics, which are collated by the Home Office's Research, Development and Statistics Directorate (RDS). RDS was able to provide data on the use of the fine and the sums imposed for the year 2000. Most of the data on financial penalties that was provided related to fines, although some data was also made available on compensation orders. No information was available on awards of costs or other miscellaneous sums imposed (for example DVLA back duty or monies collected on behalf of Customs and Excise).

The use of the fine overall in the magistrates' court

In 2000, community sentences (probation, community service and combination orders) and discharges (absolute and conditional) were used in respectively ten and nine per cent of all sentences imposed by magistrates. Immediate custody was used in only four per cent of all cases sentenced in the magistrates' courts, and two per cent of cases received some other form of disposal, for example, suspended custody.

So, the fine is still by far the most commonly used sentence in the magistrates' courts. In 2000, three-quarters (75%) of all cases sentenced by the magistrates' courts resulted in a fine being imposed. In fact the fine was used in 80 per cent of all summary non-motoring offences, in 89 per cent of all summary motoring offences, and in 31 per cent of indictable offences sentenced in the magistrates' courts across England and Wales.[16]

According to the government's Criminal Statistics for the year 2000, the average fine imposed by the magistrates' courts was £143, and the total amount of fines imposed nationally was £144,259,236. For summary non-motoring cases, the total imposition was £42,639,615 and the average fine was £109. For summary motoring cases those figures were respectively £88,720,563 and £164, and for indictable cases, £12,899,058 and £161.

Table 3.1 below shows the percentage of all offences in which a fine was imposed, the amounts imposed by each of the sampled courts and the average fine imposed, for all offences. The sample of courts divides fairly evenly around the national average – with 11 having used the fine above the national average and nine below. Of the 20 courts, Knowsley used the fine in 83 per cent of all cases sentenced, and imposed an average of £118. Beverley, at the other extreme, used the fine in only two-thirds (67%) of such cases, but the average amount imposed was greater at £146. Interestingly, both Knowsley and Beverley used immediate custody in four per cent of all cases they sentenced. Furthermore, their

[16] These fines were imposed for the principal offence.

respective use of community sentences was not dissimilar: in Knowsley, community sentences were used in seven per cent of all cases, whereas the corresponding figure in Beverley was ten per cent. A greater disparity was, however, evident in the use of discharges. In Beverley they were used in 13 per cent of all cases, but in Knowsley they were only used in five per cent of cases.

Table 3.1: Percentage of cases sentenced for all offences that received a fine

Court *	Number of fines imposed	Percentage of cases in which a fine was imposed	Average amount of fine imposed £	Total amount of fines imposed £
Knowsley	3,678	83	118	432,612
Croydon	4,608	82	140	643,317
Plymouth	6,040	81	114	689,852
Brighton	5,232	79	116	606,341
Bridgend	2,590	78	111	288,583
Leicester	11,084	77	144	1,600,253
Camberwell Green	8,705	76	102	889,300
Barrow	1,563	76	118	185,038
Solihull	4,123	75	186	768,894
Northampton	4,222	75	164	692,185
England & Wales	**1,010,835**	**75**	**143**	**144,259,236**
Nottingham	12,106	74	136	1,651,900
Watford	2,426	74	145	352,099
Wrexham	2,777	74	115	320,280
Blackpool	6,315	74	148	931,610
Teesside	8,883	73	123	1,093,153
North Tyneside	3,603	70	115	414,086
Swindon	2,867	69	182	522,572
Grimsby	2,561	69	131	335,906
Leeds	10,088	68	171	1,725,373
Beverley	234	67	146	34,130

Source: Criminal Statistics, 2000, Home Office

* In some instances, the data is for a group of PSAs rather than for the individual court.

The use of the fine in indictable offences in the magistrates' court

To put the analysis in context, it is worth noting that, at magistrates' courts, the use of fines for indictable offences has fallen consistently from 51 per cent in 1989 to 31 per cent in 2000. This fall was initially compensated by an increase in the use of the discharge and more recently by an increase in community sentences. The use by magistrates' courts of custody for indictable offences fell from 7.5 per cent in 1987 to 4.5 per cent in 1990, but rose to just under 14 per cent in 2000 (Criminal Statistics, 2000).

Table 3.2 shows the use of the fine as a percentage of all those sentenced for indictable cases in the sample of magistrates' courts. In each instance it again also shows the average amount of imposition and the total imposed for the year. In ranking the courts according to the use of the fine, Table 3.2 shows that the courts again split evenly between those above and below the national average.

Knowsley used fines in half (50%) of its sentences for indictable offences, with the average fine being £93 (the lowest in the sample). At the other end of the scale Northampton only used fines in one-quarter (25%) of its sentencing for indictable offences, but the average amount imposed was highest at £378. Again, whilst there was little difference in the use of immediate custody and community sentences by those two courts[17] there was a great difference in the use of discharges. In Knowsley, discharges were used in 13 per cent of all indictable cases, whereas in Northampton the figure was 28 per cent. The national average for England and Wales was 20 per cent.

Leeds – a large, city court – imposed the largest amount of fines in indictable cases – a total of £174,560. In contrast, the smallest amount in indictable cases was imposed at Beverley magistrates' court – located in a rural, market town – with a total of £2,010. The average fines for Leeds and Beverley for such cases were £157 and £118 respectively. The disparity of those figures is interesting and perhaps indicates a difference of approach by the respective benches when fixing the amount of the fine to be paid. Certainly, these very different courts both used the fine in 27 per cent of indictable cases they sentenced.

Table 3.2: Percentage of cases sentenced for indictable offences in which a fine was imposed

Court *	Number of fines imposed	Percentage of cases in which a fine was imposed	Average amount of fine imposed £	Total amount of fines imposed £
Knowsley	302	50	93	28,030
Bridgend	297	47	115	34,175
Croydon	429	45	136	58,254
Solihull	559	45	99	55,330
Camberwell Green	1,165	43	98	114,508
Watford	307	42	109	33,461
Barrow	178	41	115	20,535
Wrexham	306	39	118	35,966
Blackpool	551	33	150	82,750
Plymouth	301	32	143	43,047
England & Wales	**80234**	**31**	**161**	**12,899,058**
Nottingham	871	31	153	133,397
Grimsby	272	30	244	66,460
Leicester	604	29	151	91,194
North Shields	278	28	177	49,140
Teesside	819	28	111	91,062
Beverley	17	27	118	2,010
Leeds	1112	27	157	174,560
Brighton	253	26	165	41,710
Swindon	230	26	208	47,899
Northampton	245	25	378	92,670

Source: Criminal Statistics, 2000, Home Office

* In some instances, the data is for a group of PSAs rather than for the individual court.

[17] In Knowsley, immediate custody and community sentences were used in 14 per cent and 22 per cent of indicatable cases. The corresponding figures for Northampton were 18 and 28 per cent.

Use of compensation

Table 3.3 shows the percentage of offenders ordered to pay compensation for indictable offences in the sample of courts. The data includes both instances where compensation was the first disposal and where it was imposed in addition to another penalty. The table shows a wide variation in the use of compensation orders. Overall, in England and Wales, 16 per cent of offenders were ordered to pay compensation when sentenced for an indictable offence. In Barrow, just under a third (31 %) of offenders sentenced for indictable cases were ordered to pay compensation, while in Camberwell Green only five per cent of offenders were ordered to pay compensation. Across England and Wales the average amount of compensation ordered in these cases was £204. The lowest average amount (£121) was imposed was in Teesside, and the highest amount in Camberwell Green.

Table 3.3: Percentage of offenders sentenced in indictable cases who were ordered to pay compensation for indictable offences, and the average amount ordered

Court *	% offenders	Average compensation
Barrow	31	145
Wrexham	23	216
North Tyneside	20	295
Swindon	20	302
Solihull	20	190
Grimsby	18	165
Bridgend	18	207
Beverley	17	144
England and Wales	**16**	**204**
Northampton	15	265
Teesside	14	121
Plymouth	13	268
Blackpool	13	263
Watford	12	272
Leicester	12	189
Nottingham	11	211
Croydon	11	287
Brighton	10	268
Leeds	9	236
Knowsley	7	175
Camberwell Green	5	361

* In some instances, the data is for a group of PSAs rather than for the individual court

Views on the use and enforcement of financial penalties

As indicated earlier, part of the research involved conducting a series of interviews on the use and enforcement of financial penalties at each of the pilot courts with magistrates, clerks, administrative staff and representatives of the main court user groups (defence and prosecution lawyers, police and probation services and defendants). A key aim in these interviews was to identify the pattern of views about financial penalties, particularly their perceived strengths and limitations and views on their role and potential within the broader context of sentencing. A variety of themes emerged which are summarised below under the following three main headings:

- perceptions about the strengths and weaknesses of financial penalties
- perceptions about the role of financial penalties within the sentencing framework
- perceptions about 'good practice' in the imposition and enforcement of financial penalties.

Perceptions about the strengths and weaknesses of financial penalties

The widely acknowledged virtues of financial penalties are their simplicity and cheapness to administer and, as many people put it, their ability to 'hit where it hurts most' – in the pocket. For victims, furthermore, a compensation award can represent something tangible and useful, not least in helping to provide restitution or compensation for loss, damage or injury. But the interviews also highlighted widespread recognition of the 'downsides' of financial penalties, and particularly the (often hidden) costs associated with them. Indeed, many magistrates were quite pessimistic in this respect and described a scenario of increasing difficulty with financial penalties as a result of changes in society generally – notably in the form of diminishing respect for authority, higher rates of personal mobility and increasing sophistication and determination on the part of offenders to evade the responsibility for settlement of debts.

A number of other disadvantages were also highlighted during the course of the research:

First, reference was frequently made to the problem of not knowing quite where the incidence of a financial penalty would be felt – in other words, who bears the burden of punishment? Often, it was pointed out, it is not clear whether the offender would personally be settling the debt or whether the burden was being borne by other members of the family (frequently, of course, the household would have to share the hardship through the resulting reduction in disposable income).

Second, it was acknowledged that financial penalties would be likely to hurt those of limited financial means disproportionately. The Magistrates' Association's Sentencing Guidelines were generally felt to have helped to reduce inequality in the burden of financial penalties, but the issue was widely acknowledged to be ongoing.

Third, it was suggested by several people that financial penalties were the most likely sanction to encourage theft (sometimes directly to settle a fine; sometimes indirectly to restore living standards or to maintain a drug habit).

Fourth, a number expressed concern that financial penalties these days too often seemed like the imposition of 'debt' rather than punishment. Here, of course, reference was being made to the relative ease of access to credit or other 'time-to-pay' arrangements (including the court's financial penalties) and therefore to the tendency of the penalties simply to be added into the general level of household debt – another commitment against the domestic budget, rather than one more specifically identifiable as a penalty. This perception was underlined in exchanges heard many times in the enforcement court between bench and defaulter when reviewing financial means – with the defaulter implying that his or her catalogue account commitments were as necessary an outgoing as the fine; while the magistrates were trying to impress the point that the court regarded its penalty as the priority to be settled. Similarly, much was heard of the argument that the impact of financial penalties as punishment tended to decay quite fast after imposition, particularly if the debt was to be settled over a period of weeks and months. Whereas at first, the impact might be clearly felt; perhaps demanding some modification to spending habits, the effect, it was argued, tended to be short-lived and the instalments of penalty would become less noticeable – assuming the status of another

ongoing commitment, alongside council tax, water rates, TV licence, HP agreement etc. Against this viewpoint, the counter argument was also heard that instalment payments could potentially be viewed as part of the punishment, because they could provide weekly reminders of the consequence of misdemeanours for the duration of the penalties (perhaps for a full 12 months).

Finally, many court personnel commented on the impact of instalment payments on victims in relation to compensation awards. In this respect much disquiet was expressed at the 'drip feeding' of money owed to victims because the courts could only pay over the amounts of compensation when they received them from offenders. Thus, default, or the settling of 'favourable' instalment payment terms, could leave victims waiting considerable periods of time for full settlement, and often with financial hardship involved if repairs and replacements of damaged/stolen property had to be paid for ahead of receipt of compensation. It was pointed out that this was a common source of complaint among victims with many such people having expected the courts to make the payments as lump sums and then taken on the responsibility for reclaiming the full amounts from offenders.

Perceptions about the role of financial penalties within the sentencing framework

A second significant theme raised by many parties in the interviews concerned the role of financial penalties within the sentencing framework as a whole. And in this context, concerns were expressed both about the legal framework and about current policies and practices in applying the law.

One particularly vexed area in this latter respect was the problem of the level of penalty in the typical 'no insurance' case where the offender was of limited financial means. While there was unanimity about the seriousness of this particular offence – on account of the potential consequences of such behaviour – opinions differed on how high/low the courts should fix the penalties. On the one hand, many subscribed to the argument that the penalties needed to exceed the cost of insurance in order to deter people from contemplating driving without cover (as a crime reduction objective). However, others took a more pragmatic view (of the high cost of insurance for young male drivers), and felt the priority should be 'affordable' penalties. A number of magistrates also suggested that the best way forward in this context would be to make it a mandatory requirement to display certificates of insurance in car windscreens so that such offences could be more quickly detected and to create a stronger deterrent effect.

Likewise, a number of those consulted argued for change in the law away from licence charges as a means of taxation (notably in relation to TV ownership and vehicle excise duty) because these tended to invite non-compliance and enforcement problems. Certainly a considerable proportion of the caseload of the magistrates' courts – and particularly of the enforcement courts – relates to such licence-type cases. The better way, many suggested, from the point of view of minimising risk of evasion and the costs of enforcement, would be to tax usage (for example through 'pay to view' TV or through duty on petroleum spirit).

However, clearly the most significant issue raised in the consultations regarding the sentencing framework – and highlighted at every one of the courts visited – concerned the prescription in the current legal framework of a category of offences for which the available sentencing choice is limited to either a financial penalty or a discharge. In this context many magistrates expressed their preference for more flexibility, pointing to the frequency of instances of more minor offences where they had felt the situations to merit real penalties rather than discharges, yet had considered financial penalties - the only available option in law for such offences – as likely to be problematical on account of the inability of offenders to pay.

Many magistrates, court staff and court users also questioned the conventions underlying the current sentencing framework – that community penalties should represent 'higher tariff' punishment than financial penalties – and cited instances where they had felt another option would have been more appropriate in the circumstances (taking account of the offence itself, the previous record of similar offending and the offender's financial means). Too often, it was asserted, magistrates would find themselves trapped in this dilemma; typically ending up with a reluctant decision to impose (another) financial penalty but with every expectation of the case ending up back in the enforcement court with a remission decision in prospect. Such outcomes, it was argued, were generally counterproductive and likely to be at least as costly in overall terms as community penalties.

Several of those interviewed, including a number of defaulters, also expressed the view that a community penalty might well be the preferable sanction for many people of limited financial means in so far as it could be settled more quickly (and by the offenders in person).

Perceptions about good practice in the imposition and enforcement of financial penalties

A third key theme raised in the interviews with court personnel and users concerned the practical issues in imposing and enforcing financial penalties in the courtroom. Inevitably a considerable variety of points and perspectives were expressed in this context, some concerning the details of good and bad practices in general and some concerning specific approaches and methods deployed in particular courts (Lord Chancellor's Department, 1992 and 1999). Among the key points raised in this context were the following:

Time-to-pay culture?

Much comment was heard from staff about the tendency of courts to succumb to a 'time-to-pay' culture, in which settlement of impositions by instalments would tend to take precedence over payment 'forthwith and in full' as the law has traditionally presumed. With so many cases involving offenders of limited financial means (the majority being in receipt of benefit) it is easy to see how this happens. But it is equally easy to see how the risk of enforcement is inevitably raised in the process. And while most magistrates emphasised their own personal commitment (and that of their colleagues) to the promotion of early payment in full, there was acknowledgement that practices in this respect were patchy (a point confirmed in courtroom observations by the research team). Some of the chairmen of panels observed were impressive in pressing hard for immediate payment (or at least for a down-payment). But many others seemed happy to allow offenders to make 'offers', which mostly translated into 'time-to-pay' arrangements.

Similarly, in the courtroom observations few instances were seen of courts actively encouraging settlement of financial penalties by the kinds of methods most likely to minimise the risk of default, such as credit cards or bank standing orders. Even in the enforcement courts, some of the 'risk-reducing' options such as Attachment of Earnings Orders (AEOs) or Money Payment Supervision Orders (MPSOs) were rarely given more than cursory consideration, although Deductions from Benefit (DfBs) – another such option – were used more frequently by most of the courts visited. Here, however, there was also much criticism from sentencers and enforcement staff on account of the administrative complexities involved (in having to apply to the DWP and reapply if the defaulter's benefit status changed) and because of the relatively small amounts of money allowed to be deducted. Moreover, often such deductions were recommended because defaulters (or their legal representatives) had requested this option, rather than as a result of proactivity by the magistrates.

Assessing ability to pay

Another major problem with financial penalties, most magistrates acknowledged concerns the inadequacy or absence of information on financial means of those on whom the penalties are imposed. While all the courts have financial means forms and indicate that they are dispatched routinely with summonses, the completion rate is generally not good. Moreover, many magistrates said they often had little confidence in the quality of information provided on the forms. At several of the courts visited the forms in use were quite old (for example referring to forms of benefit now no longer available) and poorly formatted. Furthermore, it was reported that, even with the defendant present at court, there would often be no requirement to complete a means form, instead the bench seeming content to proceed to decide on the financial penalty on the basis of a cursory oral enquiry into income and outgoings.

Where cases were decided in the defendant's absence, it was noted that common practice was for the bench to ask if any information on financial means had been supplied through the post. Where available, the completed forms would be handed to the magistrates by the clerk for consideration before the financial imposition was decided. However, it was also evident that more often than not, such information had not been supplied in advance. Furthermore, similar observations in the enforcement court highlighted the fact that, only very rarely, would the panel have in front of them the originally submitted means forms to allow them to cross-check with any new information now being presented to them (simply because the administration held the files of the sentencing court papers separately from those for enforcement hearings).

Most of those interviewed agreed that it would far be better in principle, if it was a mandatory requirement for all offenders on whom a financial penalty was in prospect to complete and sign a well-designed means form (and that failure to do so, or to falsify information should constitute a further offence). However, even then, it was acknowledged that verification of the information supplied would always be problematical, and that, under pressure of time in the courtroom, it would usually be necessary to accept what was said (unless it seemed completely implausible). Further difficulties highlighted in this context concerned the problem of distinguishing between 'personal' and 'household' income, whether or not account should be taken of savings and assets in fixing financial penalties, and the problems of means form completion for those with reading problems or other learning difficulties.

Anticipating and dealing with default

Related to all this, the interviews with practitioners highlighted a number of other practical problems about the imposition of financial penalties that often tended to reveal themselves later in the enforcement court. One such problem was of offenders from other parts of the country being fined (often in their absence and without financial means information) and then the offenders' local courts having to take on responsibility for enforcing the penalties. These arrangements are made by a Transfer of Fines Order (TFO), which can be time-consuming and costly in terms of enforcement. This is particularly so where the penalty is out of step with local wage rates or personal circumstances. As part of the research, a closer study was made of the use of TFOs and this is separately summarised in Appendix D. A number of enforcement staff also commented on the enforcement problems they often encountered as a result of large impositions made in the Crown Court – in their view, with insufficient consideration having been given to 'ability to pay' (the magistrates' courts bearing the responsibility for collection of Crown Court as well as their own financial penalties) (Moxon, 1988). And a further problem highlighted was the lack of a national database to check an offender's record of outstanding financial penalties (covering all courts) before making any new impositions. This it was said, meant that magistrates' courts often unknowingly added to a 'totting' problem and compounded already serious enforcement problems.

But, as well as such problems outside the control of the magistrates' court, the interviews also highlighted shortcomings in the courtroom process that tended to exacerbate the enforcement challenge. Failure to gather and verify full contact details of offenders was much mentioned in this context – with many clerks tending to read out the names and addresses on the court papers at the outset of the hearing and then asking defendants to confirm their accuracy (rather than taking the opportunity to check 'up-to-dateness' and accuracy of the court file records by asking the defendants themselves to state their details). In comparatively few court sessions observed were telephone numbers requested (either land line or mobile phone numbers). Nor were national insurance numbers routinely requested (even though many magistrates and court staff pointed out that many defendants appearing in court were in receipt of benefit and would probably be well aware of their NI numbers).

Also much comment was heard on shortcomings in relation to the quality of explanations given by the court as to how to pay the financial penalties imposed and of the possible consequences of not paying the fine. While magistrates are now taking considerable care in the articulation of reasons for their decisions (in compliance with the Human Rights Act 1998) rather less attention, it seems, is generally devoted to the (more mundane) task of ensuring that offenders understand the terms of the financial penalties imposed and that they clearly appreciate the expectations of the court in this regard and of the seriousness with which any default will be treated. Courtroom observations highlighted the variability of practices in this respect, with some chairmen and some clerks providing a clear annunciation of the payment terms that left the offender in no doubt whatsoever as to their responsibilities, while others adopted a much more cursory approach that left much to chance and to the offender's diligence in reading the details printed on the 'notice of fine' (which might typically be expected to arrive by post several days later).

Finally, but perhaps of most significance, many of the staff interviewed expressed their frustration at the frequency with which the enforcement court failed (in their opinion) to make decisive progress in default cases (as opposed to reaffirming the payment terms on which the offender had already proved to be unreliable). Similarly, many civilian enforcement officers complained about the frequency with which their endeavours to persuade defaulters to attend court hearings seemed, in their view, to be undermined by the bench simply adjourning the cases on the same time-to-pay terms. While generally recognising the difficulties for magistrates in trying to enforce penalties, many staff felt that magistrates were often insufficiently searching in their inquiries of defaulters or insufficiently firm with those who, in their (staff) view at least, could probably well afford to pay their fines.

4. The enforcement process

This chapter seeks to place the task of the courts in enforcing financial penalties in context, by providing both a national and local perspective. It begins by describing how data on the recovery of debt is collected nationally by presenting the latest available snapshot of recovery activities for all the magistrates' courts in England and Wales. It then complements this data with a more detailed account of recovery work in the 20 selected magistrates' courts, based on an analysis of the samples of cases tracked before implementing the pilot projects. Finally it summarises the data provided by these courts about the costs of enforcement activities.

The scale and nature of the enforcement problem

At the start of this research, the responsibility for the collection of fines fell to the Justices' Clerk of each court, but during its course this responsibility passed to the Justices' Chief Executive of each Magistrates' Courts Committee (MCC).

As explained above, overall accounting responsibility to the Treasury falls to the Lord Chancellor's Department (LCD). As well as providing this accounting function, the LCD operated a separate Management Information and Statistics system (MIS), which collects data to be able to derive a number of National Performance Indicators (NPIs) relating to key areas of the courts' operations.[18] As part of this exercise the MIS collects 18 items of data on criminal cases every three months on a 'Debt Analysis Return' form.[19]

The data is provided by local MCCs, rather than by individual courts. The record encompasses all "monetary orders" – that is, both criminal and civil debts (for example, maintenance in a family case). The criminal debt – or 'criminal financial penalty' – is shown as an aggregate sum and comprises fines, compensation orders, costs, legal aid contributions and money collected on behalf of Customs and Excise, etc. Fixed penalty tickets are not, however, included in this aggregate sum. Nor are the sums arising under these heads shown separately, so it is not possible to distinguish between, say, the amount owed for fines, compensation or costs.

The completeness and accuracy of the records provided by the MCCs (which will typically be compiled by aggregating returns from individual courts) is crucially dependent on the computer-based, or even paper, records that are employed at the local accounting level.[20] It is recognised that the various software packages in use were not designed with a view to providing data in the form now required by MIS, and the LCD has been working over several years to encourage and support courts to meet its demands. In the longer term it is hoped that Libra, the new computer system for the magistrates' courts, will eliminate many of the current difficulties. The MIS team at LCD are also not in a position to audit the figures that are provided.

Establishing a precise measure of payment of financial penalties is unfortunately far from straightforward – largely because many impositions are not settled in full at a fixed point, but instead over a period of time through instalments. At first sight it seems simple enough to say 'X owed Y a total of £Z, and only 50 per cent was repaid'. However, in aggregate terms it is more complex and the convention is to express liabilities (like debt) over a fixed period as a proportion of 'inputs' (like sales, revenue or fines imposed) in the same period. The LCD data

[18] Since November 2001, this function has been taken over by the Court Service.
[19] MCCs are required to break down the 18 items of data into 'civil' and 'criminal' payments, but few are able to do this comprehensively.
[20] There are four proprietary data collection systems that are in use in magistrates' courts: three developed by major computer firms – ICL, STL (who market Equis), Unisys – and one called the 'Sussex' system (a software package believed to have originated from in-house developments in this county, but also used elsewhere). There are also a number of the software systems in use in courts, which are 'derivatives' of these basic types.

adopts these conventions, although of course this 'snapshot' approach is liable to obvious distortion simply because the comparison is not necessarily 'like with like'. So if payment rates remain stable in a period when fine impositions happen to fall, the proportion of debt will appear greater – and the inclusion of a few large impositions can, of course, have a distorting impact. The 'case-by-case' analysis reported later in this chapter more closely portrays the outcome of a cross-section of impositions.

Table 4.1 presents the six performance indicators used by the LCD and provides the latest national averages for these various indicators. In view of the risk of the data in any one period being skewed by particularly large impositions, the LCD prefers to rely on 'moving annual total' figures[21] and the data here refers to the quarter to March 2002.

The Public Service Agreement (PSA) between the LCD and HM Treasury requires, *inter alia*, an improvement in one of these indicators – the payment rate – which is the one the LCD uses as its prime indicator in the collection and enforcement area. However, in terms of 'good housekeeping', it is useful to consider the others as well, perhaps particularly the 'completion rate'. This is because this indicates how far each MCC is managing to keep abreast of change in impositions in relation to collection, write-offs and cancellations (a figure of 100% indicates that the MCC is managing to balance its new impositions against older liabilities, and over 100% that the balance owed has reduced). That said, focus on payment rates could well seem to give courts an (perverse) incentive to maximise write-off of difficult-to-collect debt. On the other hand, as the courts all pointed out, any sums written off could be 'written back in' if circumstances changed (for example a 'lost' defaulter was later found).[22]

Table 4.1: MIS performance indicators for January – March 2002 and national 'debt analysis'

Performance indicator	Description	National Average
A. Payment rate	Amount paid as a percentage of new amounts owed in the period	61
B. Cancellation rate	Amount cancelled "by judicial action" (e.g. remission) as a percentage of the new amount owed in period	23
C. Write off rate	Amount "deemed to be uncollectable in the present circumstances" as a percentage of the new amount owed in the period	16
D. Completion rate (A+B+C)	Amount completed – that is, paid, cancelled or written off – as a percentage of the new amount owed in period	99
Balances ratio	Total amount owed to the court compared with amount completed in this period: an indication of how long it would take to clear the present debt if no more imposition were made (where 1 = one period)	4.59
Arrears rate[23]	Percentage of arrears showing proportion of balances owed which are in arrears	56

Source: Lord Chancellor's Department: National Performance Indicator Report

(figures not published separately in the report)

[21] Moving annual totals, or 'MATs', typically focus on data for the full year prior to the latest collection date – and do not relate to conventional calendar or financial year periods. Comparisons are made with the same period in the previous year.
[22] If the offender in arrears is declared bankrupt, for example, the amount owed should be written off, but not cancelled.
[23] In dealing with arrears, early MIS returns – in keeping with the legal position – asked the MCCs to calculate 'true' arrears figures whereby if one instalment was in arrears the whole amount outstanding was treated as being in arrears. As in practical terms courts and their officers are generally ready to revert to agreed payment terms if a missed instalment is settled, the MIS'arrears' figures are now calculated as being only the instalment(s) not paid.

Expressed in monetary terms, the sum of *all* financial impositions – both civil and criminal – made over the 42 MCC areas in the one-year period ending March 2002 was £387 million. In this period a total of just over this sum – £377 million – was completed:[24]

- £228 million (61%) was collected
- £58 million (15%) was written off
- £91 million (24%) was cancelled.

While the *sums imposed* and the *sums completed* in this particular period happen to be relatively close (£387m and £377m respectively), the truth is that each court starts an accounting period with a significant opening balance of impositions made that are not yet due for payment, or are in arrears, and closes any accounting period in the same way. The overall statistics and the standard accounting conventions on which they are based do not convey the picture for the *ongoing* nature of the enforcement work with which the magistrates' courts have to deal.

Obtaining accurate data from the MIS data on criminal impositions only, and being able to provide a better account of the 'ongoing' nature of the enforcement of those sums, posed a major challenge to the research team. Such data ought to be considered as elementary management information that should be essential to define the nature of the enforcement problem. In fact, the systems used by many courts are unable to differentiate between civil and criminal impositions, and simply provide the LCD with an aggregated sum. As has been shown above, those data do provide the LCD with data on *impositions* and *completions*, but do not provide a ready breakdown for *ongoing* amounts, and the composition of that figure had to be inferred.

Making assumptions to derive figures for the enforcement of criminal impositions

The lack of this information at the centre could be said to be a major handicap; indeed it would be hard to think of a commercial enterprise not being able to define its debtors in a similar fashion. In the absence of this information, an attempt was made to derive from the MIS data some figures for criminal impositions only. In deriving these figures many assumptions have been made on data that is admittedly not robust. One of the major deficiencies is that the total 'completed' plus the total 'ongoing' do not equal 'total criminal impositions' as they should. This is a fault with the LCD data, which even before any assumptions were made were not susceptible to this simple arithmetical calculation. It was, however, considered worthwhile to include the figures in this report, if only to illuminate the need for greater definition in the data. The figures are presented in Figure 4.1 and the assumptions that have been made are more fully explained in Appendix G.

Figure 4.1 presents the *assumed* figures for criminal impositions as a 'moving' picture for all the courts in England and Wales in the year ending March 2002. It shows that as well as payments that were not yet due in this period (£162 million) a sum of about £126 million was 'in arrears', in other words one or more payments were outstanding.

[24] These figures have been rounded up.

Figure 4.1. Assumed criminal financial penalties for all courts in England and Wales for the year to 31st March 2002*

Total criminal impositions dealt with: £606 million.
This comprised:
£247m. 'opening balance' (in other words owed from previous periods) £359m. imposed in this period

Completed in this period: **£342million**.
Comprised:
- £201m. collected
- £56m. written off
- £85 m. cancelled

Ongoing over this period (payments not yet due, or not met, by period end):
£288 million.
Comprised:
- £126 m. in arrears
- £162 m. payments not yet due

To closing balance (and opening balance for next period)

*** Figures are rounded to the nearest £million**

Pre-pilot practices and their impacts

As indicated in Chapter 2, prior to the start of the pilot projects data were collected from the target courts. These data were collected for two purposes:

- primarily in order that enforcement practices could be examined. It should be noted that because the primary interest at the preliminary stage was to identify 'what works', it was necessary to obtain a complete record of each case. Those findings of this exercise are described later in this chapter

- secondly, to generate a payment rate to evaluate those cases that were subjected to an intervention that took place at the point of the imposition of the fine or less than three months after the financial penalty was imposed. The outcomes of the evaluation are presented in chapter 5, below.

Examination of enforcement practices

What now follows is an examination of the enforcement practices. This is based upon an analysis of a sub-sample of 2,396 *closed* cases gathered from the twenty courts.

Enforcement – the focus, of course, of the research – is carried out on a court basis and to this end most of the analysis presented below focuses on the performance of the particular courts participating in the project. In addition, in the final part of the commentary, the focus moves from the court as the unit of analysis, to the individual offender.

The commentary first presents two measures of the courts' success in securing payment of financial penalties: the *overall recovery rate* and *the payment rate* (which measures payment

over time). It then looks at the association between these variables, particularly the overall payment rate, and a range of possible explanatory factors, notably:

- the use made of financial penalties
- the level of penalty imposed
- the proportion of financial penalties transferred from other courts
- the number and type of enforcement actions taken
- the age and sex of offenders on whom impositions were made
- the type of area in which the offenders lived.

These issues do not of course embrace all of the factors that might affect the ability to recover financial penalties. The means of the offender can, obviously, be critical. It is also likely that payment, or non-payment, may also be influenced by the way in which penalties are imposed (for example, if an offender never attended court there will be less scope for the court to ensure they have the correct address – or even the correct name) and by any other information available to enforcement staff. The extent of the analysis was restricted by the availability of information held on the courts' enforcement records.[25]

Case characteristics

The average financial penalty imposed in completed cases (in other words those where the account had been closed) was £166. In total the cases sampled at the 20 courts accounted for a total of £396,962 in financial penalties.[26] Of that total sum about two-thirds comprised fines imposed on the offender (68%), some 18 per cent was costs and ten per cent compensation (with the remaining 4% covering other miscellaneous penalties or orders.

Cases can of course be closed in a number of ways: by payment of the sum, by a decision to write off the sum or by remittal (although courts may not remit costs or compensation orders). According to the enforcement records in nearly two-thirds of all the closed cases (65%) the penalty was paid in full, in one-third the case was settled by a 'write off' (33%) and the remaining two per cent of cases remission was involved.[27] The 'closing action' in this sample of cases should not, of course, be confused with the *amounts* paid, cancelled or written-off (which are presented below): in many instances payments will have been made on accounts that nonetheless are finally closed by, say, a write-off.

Across the sample of closed cases it took an average of 176 days – just about six months – for accounts to be settled (whether by payment, cancellation or write-off). Courts however appear to operate very different policies with regard to the time allowed for payment, or the closure of a case by other means. At the one extreme, the average enforcement case in Teesside court ran for only 33 days (or just under 5 weeks), whereas at the other extreme the typical case in Grimsby court was open for 320 days (just under 46 weeks).

[25] Neither the means of the defendant, or his/her ethnicity, for example, are recorded on enforcement databases.
[26] In respect of the full sample (open and closed cases), the total was £1,125,932.
[27] The distinction between cancellations (write offs) and remittal reported here may not be accurate – in some of the software packages these details are provided in free text fields, rather than as pre-coded options, and other terms are also used.

Overall recovery rates

The overall recovery rate is a bespoke rate designed for the purposes of the evaluation, and represents the percentage of the fine that was paid at the point that the case was closed. Although the measurement conventions differ, the overall recovery and the LCD's annual 'payment rate' are quite similar: 60 per cent and 56 per cent respectively (see Table 4.1 above).

In looking at the overall recovery rate there is, however, a very substantial variation between the courts: a very high recovery rate of 98 per cent in Beverley, and 28 per cent in Camberwell Green. The full picture is presented in Table 4.2.[28]

Table 4.2. Overall recovery rate: percentage of value of fines imposed that were recovered: (closed cases only)

Court	Recovery rate (%)	Recovery rate banding
Beverley	98	High (over 75%) n = 6
Watford	97	
Croydon	89	
Leeds	85	
Swindon	78	
Wrexham	76	
Bridgend	65	Medium (50% to 74%) n = 9
Barrow	62	
North Tyneside	59	
Blackpool	56	
Leicester	55	
Grimsby	53	
Solihull	52	
Nottingham	52	
Plymouth	51	
Knowsley	46	Low (49% and under) n = 5
Brighton and Hove	44	
Teesside	44	
Northampton	32	
Camberwell Green	28	
All courts	**60**	

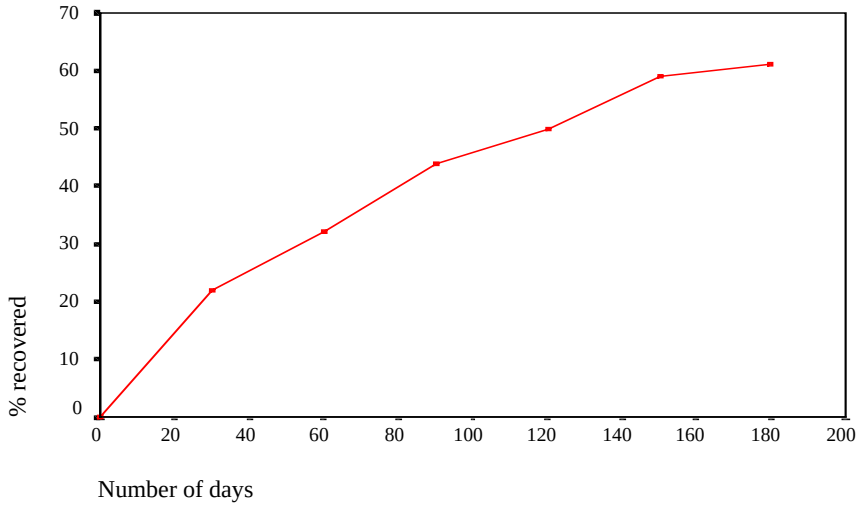
In Table 4.2 the courts have been categorised into three groups: with high, medium and low recovery rates and, for ease of presentation, these groupings are used in the analysis that follows.

As was pointed out, above, there is substantial variation between courts in the time taken to settle cases: Figure 4.2 describes the way in which payments are made over time (in this instance combining both *closed* and *live* cases in the sample).[29] As might be expected, there is decreased likelihood of successful recovery as the time passes after imposition: thus on average 23 per cent of total penalties are paid within the first month after intervention, 32 per cent after two months, 42 per cent after three months and 60 per cent after the average settlement period of 176 days (which is consistent with the expectation in sentencing policy that fines should be paid within a year).

[28] The data here includes all fine cases sampled and closed, but – as indicated in Chapter 1 – it excludes cases involving sums of £5,000 or more. Such sums can have a major impact on court performance. In Blackpool, for example, the sample included an imposition of £45,940 – all of which was paid. If this single case was included, Blackpool's recovery rate would have increased from 56 per cent to 85 per cent.

[29] Figure 4.2 contains data from both 'live' and 'closed' cases as to do so provides the most accurate picture of how long it takes to recover a fine.

Figure 4.2: The relationship between recovery rates and payment over time (all cases)



Were the enforcement of financial penalties to be viewed in wholly commercial terms, very important issue would no doubt be the time taken to recover penalties – the longer the recovery period, it would be argued, the greater loss of interest. The payment rate – that is, the amount of the total penalty imposed which is paid in a given period – is thus a crucial subsidiary indicator of each court's achievement.[30] Table 4.3 presents the payment rate of the courts in the sample: where on average 2.5 per cent of the penalty was paid each week (resulting in 62.5% being reached by the average settlement period of 25 weeks).

[30] An alternative measure that was derived is the amount paid each day. For all courts this was 96p per day, or £6.72 per week. There was again a large range: from 50p per day in Nottingham to £5.57 in Camberwell. This measure was not, however, used in subsequent analysis because it is highly related to the average fine imposed in each court.

Table 4.3. Overall payment rate – the percentage of fines paid per week – compared with the overall recovery rate (closed cases only)

Court	Recovery rate (%)	Payment rate (% paid per week)
Beverley	98	3.2
Watford	97	3.3
Croydon	89	3.4
Leeds	85	3.7
Swindon	78	3.0
Wrexham	76	3.0
Bridgend	65	9.2
Barrow	62	2.9
North Tyneside	59	2.0
Blackpool	56	1.9
Leicester	55	2.4
Grimsby	53	1.2
Solihull	52	1.6
Nottingham	52	1.2
Plymouth	51	2.2
Knowsley	46	3.3
Brighton	44	2.0
Teesside	44	8.8
Northampton	32	3.0
Camberwell Green	28	2.0
All courts	**62.5**	**2.5**

Further analysis found no clear association between payment rates and recovery rates, in other words, courts with high weekly payment rates do not necessarily achieve high recovery rates. Some courts – such as Bridgend and Teesside (with payment rates of 9.2 and 8.8, respectively) appear very successful in achieving high rates of payment, even though their overall recovery rates were not particularly high. Seemingly they were effective in closing down their cases relatively quickly. On the other side of the coin, courts like Grimsby and Nottingham (with low payment rates – both of 1.2%) appeared to have more of their accounts 'live' for rather longer and achieved overall recovery rates closer to the average.

The different payment rates achieved by courts provide a valuable means of assessing the impact of the pilot measures taken, in particular the cost-effectiveness of the projects. These rates form the basis of the evaluation of the pilots and are reported in Chapter 5. A full explanation of the method to calculate the rate is given in Appendix C.

The relationship between recovery rates and use of financial penalties

Courts recovery rates might well, of course, also be thought of as reflecting the pattern of use of financial penalties. It may, for example, be that those with high recovery rates are far more discriminating than others in deciding, prior to sentence, the ability of the defendant to pay the sum levied. However, analysis of the relationship between individual courts' recovery rates and their use of such penalties indicated no signs of any such association. Set against the substantial range between the highest and lowest recovery rates (70 percentage points), the variation in the use of financial penalties is relatively small (16 percentage points: ranging from a high of 83 % of cases sentenced that received such a penalty, to a low of 67%). For example, courts like Croydon (with a recovery rate of 89%) also used financial penalties in a

high proportion of cases – 81 per cent of those sentenced. But so too did courts with lower recovery rates like Knowsley (46% recovery rate, and 82% fined). Nor indeed was there any evidence of the relationship operating in the opposite way – that courts with low recovery rates resorted to using financial penalties less often.

Investigating differences in the level of financial penalties

One argument might well be that courts with low recovery rates would simply be setting higher financial penalties, beyond many offenders' abilities to pay. But Table 4.4, which indicates the penalties levied in the three groups of courts, suggests no evidence to this effect at the broadest level. Indeed, it indicates that courts with high recovery rates actually levied higher financial penalties than those with low recovery rates. Moreover, detailed examination – on a case by case basis – supports this overall finding.[31]

Table 4.4. Average financial penalty

Overall recovery	Average financial penalty (£)
All HIGH Recovery	*158*
All MEDIUM Recovery	*177*
All LOW Recovery	*145*
ALL COURTS	**166**

Base: all closed cases (2,396)

Differences in recovery rates according to the type of crime

Another potentially important influence on the payment of financial penalties could of course be the type of offence committed. Offence type was only known in 1,438 of the subset of closed cases. Table 4.5 presents the recovery rates for six different offence groupings.[32] It will be noted that since the recovery rates for the individual offence groups have been calculated on a smaller sample of closed cases, the rates are greater than the overall recovery rate of 62.5 per cent that was reported above.

Table 4.5. Recovery rates for different offence groups (n = 1,438 closed cases)

Offence (most common offences)	Recovery rate (%)
Either way (theft offences, assaults, drugs)	68
Summary imprisonable (driving offences, common assault)	65
Summary only (speeding, no MOT)	72
Other road traffic	66
Parking tickets *(after registration with the courts)*	69
Other *(for example, TV licence evasion)*	64

But the differences here are not large, with a range of only eight percentage points between the highest and lowest group.[33] 'Other' offences (like the non-payment of TV licences) display the lowest recovery rates (at 64%), while nearly three-quarters of the financial penalties imposed in respect of 'summary only' offences (72%) are paid.

[31] Although the relationship is not statistically significant: r = 0.246 p = 0.842.
[32] Quite a significant number of the cases reviewed here (182 in total) did not provide details of the charges laid – the average recovery rate for this subset of cases is higher than for the full sample.
[33] This finding is very different from previous research, which found that those fined from property or revenue offences were much more likely to default. The change might be accounted for by the fact that many motoring offences are now being dealt with by fixed penalties.

Fine 'transfers'

As indicated earlier, courts responsible for recovering financial penalties may not always be those which imposed them in the first place: where an offender lives in another part of the country the sentencing court can transfer the imposition to the court area where the offender resides (see Chapter 1).

An observation often made by enforcement staff during the course of this research has been that – when they receive transfers from other courts – the level of detail they receive about the offender is generally limited to a name and address. This, then, restricts their capacity to respond effectively on the enforcement front and could well affect recovery rate performance.

Nearly a quarter of the closed cases under review were 'transfers in' (24%), and these penalties – at an average of £159 – tended to involve marginally lower sums than those imposed by the 'home' court. As might perhaps be expected about a half of these cases related to vehicle crime – speeding and registered parking offences. There was however no evidence to indicate that recovery rates were worse for fine transfer cases. Indeed, for fine transfer cases the recovery rate, at 68 per cent, was some eight percentage points *above* the average for all closed cases.

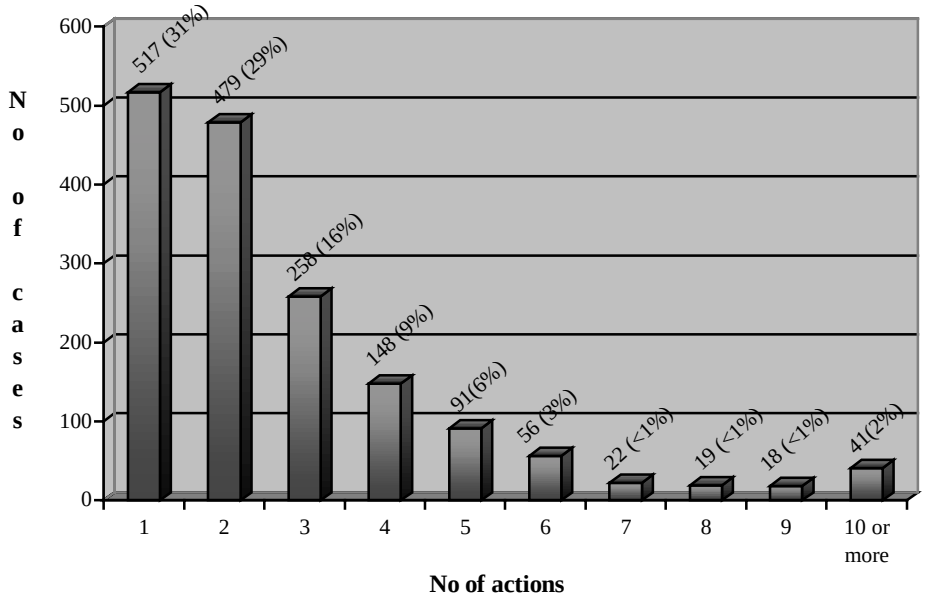
The relationship between recovery rates and enforcement actions taken

Given the focus of this research on 'what works' in enforcement, one of the interesting issues concerned the frequency with which courts took enforcement actions against fine defaulters – and the impact of such actions on recovery rates.[34] As the discussion below indicates, however, this was not a straightforward matter. While an offender's failure to pay their financial penalty would normally 'cause' an enforcement action to be taken, and which in turn, might 'cause' a payment to be made, there was no simple way of identifying direct cause and effect – and particularly whether or not payment would have been secured in any event, with or without the prompting enforcement action.

The research team, in fact, collected details of up to ten enforcement actions taken in each case sampled, ranging from the simple issue of a reminder letter to more serious measures ('enforcing' measures), such as the issue of distress warrants, arrest warrants and committals to prison. In just under a third of all cases (747 cases, or 31%) no enforcement action was taken against the offender – presumably because they had paid their penalty in full (more details are provided below). Figure 4.3 presents a global picture indicating the frequency with which enforcement actions were taken *in the remaining cases*. It shows that while a high proportion of cases 'caused' up to two enforcement actions to be taken, there was a sharp tail off subsequently.

[34] 'Enforcement actions' are interpreted here in the widest sense – covering 'enabling', 'ensuring' and 'enforcing' actions (as described in Chapter 2).

Figure 4.3: Number of enforcement actions taken by courts (where action was taken).

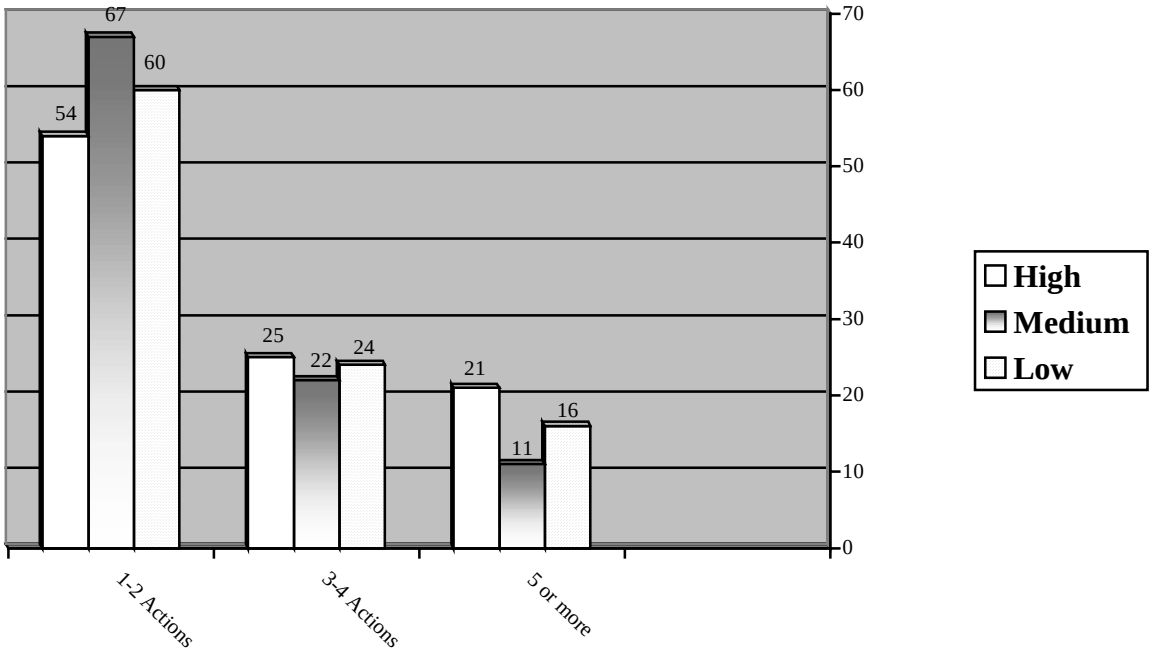


Baseline: 1,649 closed cases where enforcement action was taken.

The first, and perhaps blunt, exploration of the relationship between enforcement actions and payment was inconclusive. Overall, low recovery rate courts have to take some form of action against a higher proportion of offenders than their medium and high recovery counterparts. In the low recovery courts, over 76 per cent of offenders have at least one action taken against them, compared with 64 per cent in the high recovery courts and 53 per cent in the medium recovery courts. This finding therefore goes against any expectation that courts achieving high recovery rates do so because they take enforcement action against a higher proportion of defendants.

Figure 4.4 presents the differences between the three groups of courts, according to the number of actions taken against defaulters (excluding cases where no action was needed).

Figure 4.4: The number of enforcement actions taken in courts with high, medium and low recovery rates.



Baseline: 1,649 closed cases where enforcement action was taken.

Here the alternative hypothesis – that courts with high recovery rates are those which take more actions against those defaulters whom they target – also seems to have limited support. For example, in the case of offenders on the receiving end of five or more actions, the range between high and low recovery courts is only five percentage points.

When the number of enforcement actions is analysed against the recovery rate on a case-by-case basis it is evident that there is a 'perverse' relationship, in that increases in the number of enforcement actions appears associated with *reduced* payment.[35] Probably this relationship reflects the likelihood that cases in persistent default will typically require more enforcement action to try and secure payment. The finding nonetheless does little to support the argument that 'enforcement works'.

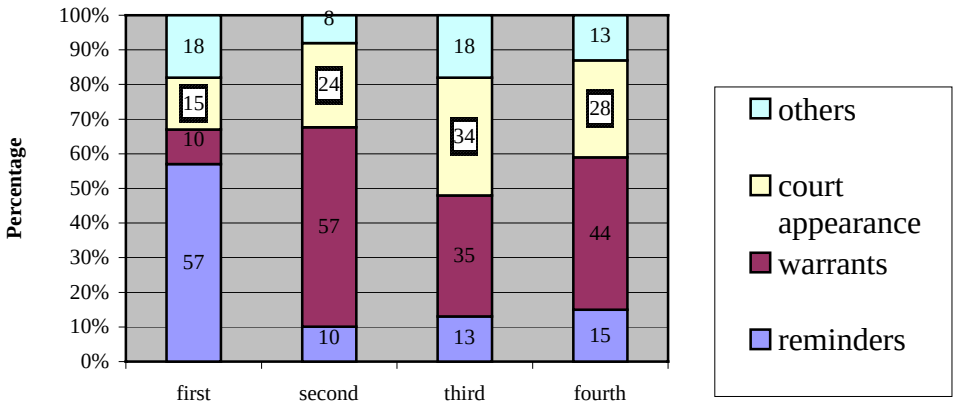
Of further interest was the question of whether the *type of action* taken by courts (as opposed to the *number* of such actions) would in any way mark out the 'high recovery' courts from their counterparts. Previous research suggested that more severe enforcement actions were often less effective simply because they often take longer to execute (Softley and Moxon, 1982). In short, the conclusion of that research was that it does not matter what enforcement action is taken, provided that it is executed quickly.

While, as indicated in Chapter 1, courts have a range of enforcement actions open to them, in practice they tend to use several of these quite sparingly and rely mainly on reminder letters, summonses to court, warrants and variations in payment terms (including remission). To

[35] r = 0.150; p = 0.001

simplify things Figure 4.5 shows the most common actions taken at the early stages of the enforcement process *by all courts*.

Figure 4.5: Types of enforcement taken against defaulters at different stages



Source: all closed cases (1,649)

Detailed comparison between the courts with different recovery rates suggested that courts with higher recovery rates tended to take less severe enforcement actions at the opening stages of the process. Here the high recovery courts were found to be more likely to issue a reminder letter than the low recovery courts. In total 62 per cent of the first actions taken by high recovery courts were reminder letters as compared with 60 per cent in medium recovery courts and 51 per cent in the low recovery courts. The high recovery courts were also more likely to process a larger number of applications for time to pay, or to agree variations in payment terms (12%) as a first action; this being done in a much lower proportion of cases in medium and low recovery courts (6% and 4% respectively). In contrast the low recovery courts were more likely to take more severe enforcement actions such as issuing a summons as a first action, this being done in 20 per cent of first actions in low recovery courts, as opposed to in only four per cent in high and medium recovery courts.

Further analysis was carried out to identify whether courts with higher recovery rates displayed any greater use of any specific enforcement action, or used any such action at a particular stage in the enforcement process. But overall, no significant association was found between the type of enforcement action taken and recovery outcomes.

Offenders with different 'payment profiles'

One way of throwing further light on the enforcement process was to subdivide those who receive financial penalties into two broad categories, those who were and were not subjected to enforcement actions and – within each – to subdivide into three sub-categories. These were:

1. Offenders who *are not subject to enforcement actions,* and who:

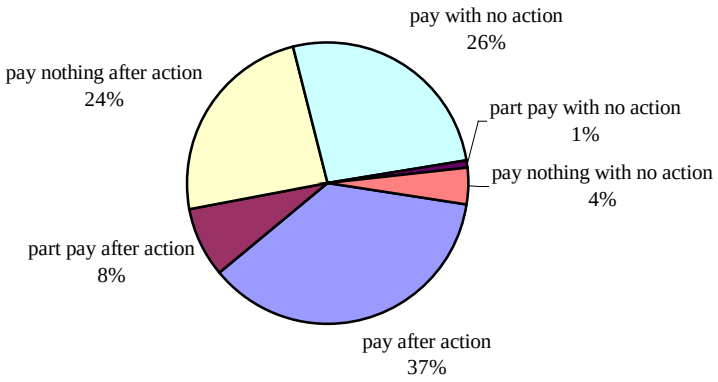
- pay their penalty in full
- pay in part
- pay nothing.

2. Offenders who *are subjected to enforcement actions*, and who:

- pay their penalty in full
- pay in part
- pay nothing .

Figure 4.6, below, indicates the different proportion of offenders who fell into each category across all the 'closed' cases under review.

Figure 4.6: Profile of defendants according to the enforcement actions taken against them and payment made: all courts



Baseline: 2,396 closed cases.

The commentary below highlights how the sampled courts appear to have quite different proportions of each 'type', and that this appears to account for many of the disparities in the overall recovery rates achieved.

Offenders who are not subjected to enforcement actions

The majority of those who were not subjected to enforcement actions were exempted for good reason – they had paid their penalty. This might have been attributable to the financial means or attitudes of the offenders, but it might also have been a reflection on the court setting appropriate fines or even putting in place arrangements to facilitate prompt payment etc.

Part of the analysis here involved exploring the proportion of those against whom no enforcement action was taken, and then establishing whether those who had no enforcement

action taken against them had, in fact, paid in full, paid in part or had made no payment. The findings are presented in Table 4.6.[36]

Table 4.6: Those receiving a financial penalty who were not subjected to enforcement action

Overall recovery	% of defaulters in each court group against whom no enforcement action taken	% of those not subjected to enforcement action and who:		
		Paid in full	Paid in part	No payment made
All HIGH Recovery	37%	96%	3%	1%
All MEDIUM Recovery	32%	76%	2%	22%
All LOW Recovery	23%	84%	0%	16%
ALL COURTS	**31%**	**84%**	**2%**	**14%**

Figure 4.6 shows that overall 31 per cent of offenders in the 'closed cases' sample were not subjected to any enforcement action, not even a reminder letter. Of that 31 per cent, it is not surprising that 84 per cent had paid in full – strongly suggesting that no enforcement action was necessary. It is, however, surprising that of that 31 per cent of defaulters against whom no enforcement action was taken, 14 per cent had not paid any part of their financial penalty. The reasons for this sub-group apparently 'slipping through the net' have been investigated, but it is difficult to discern from the data why these cases were marked as closed on the court records. It would appear that some comprised fines that were pending transfer to another court. For this minority it might be expected that there would be a low proportion in high recovery courts, and a higher proportion in those courts with low recovery rates. Table 4.6 indicates that this is indeed the pattern.

Offenders who are subjected to enforcement actions

Having found evidence that the different groups of 'payment types' appear to relate to each court's overall recovery rate, attention was turned to those offenders who were subjected to enforcement action. Table 4.7 presents an analysis of the outcome of these cases.[37] A very similar picture is found here. Not only is the proportion of those who required enforcement action higher in the low recovery courts, but also over half of these offenders made no payment at all. In contrast over eight in ten of those in the high recovery courts paid in full after enforcement action and less than one in ten made no payment.

[36] Column 2 of Table 4.6 is based on all closed cases (2396). Columns 3 to 5 of that figure are based on the 747 individuals against whom no enforcement action was taken.
[37] It should be noted that within the 'high', 'medium' and 'low' recovery courts there is a wide-ranging mix of cases.

Table 4.7: Those with financial penalties who were subjected to enforcement action, and outcome

Overall recovery	*% of total in each group subjected to enforcement actions*	*Percentage of those subjected to enforcement action*		
		Paid in full	*Paid in part*	*No payment made*
All HIGH Recovery	63%	81	10	9
All MEDIUM Recovery	68%	47	14	39
All LOW Recovery	77%	38	8	54
ALL COURTS	**69%**	**53**	**11**	**36**

Base: column 2 – all closed cases (2,396) and columns 3 to 5 – total where actions taken (1,649).

In summary there is a quite clear pattern, where 'high' and 'low' recovery courts can be distinguished, in order of priority:

- first, by the number of 'non-payers' who seem immune to any enforcement action taken by the courts
- second, by the number of offenders who, having been subjected to one or more enforcement actions, pay in full
- third, by the proportion of offenders who pay in full without any need for enforcement action (albeit to a lesser extent).

Differences in recovery rates according to offender characteristics

Finally, it was possible that there would be differences in the payment record of different 'types' of offender – for example, between the sexes, or between different age groups. Of course courts have no control over the 'type' of offenders that appear before them, but they do nonetheless have the opportunity to adjust their policies on the imposition of financial penalties for different types of individual.

Examination of the gender dimension of this issue indicated that male defendants were slightly less likely to pay their financial penalties than their female counterparts.[38] Some differences across the age groups were also noted, although in only 843 cases within the subset of closed cases was it possible to obtain the defaulter's age. However, from the available data, Table 4.8 indicates that recovery was highest for those groups over 41 years of age. The lowest recovery rates were for those aged between 21 to 30, while both the 16 to 20 and 31 to 40 age groups had 'medium' recovery rates.[39] Overall, however, the simple message was that those who are older are generally more likely to pay their financial penalties.[40]

[38] r=-0.047, significant at the 0.025 level.
[39] The overall recovery rates by age group have been derived from a small sample of 843 cases and thus recovery rates shown in Table 4.8 are greater than the overall recovery rate of 62.5 per cent that was derived from all the closed cases.
[40] r=0.116, significant at the 0.000 level.

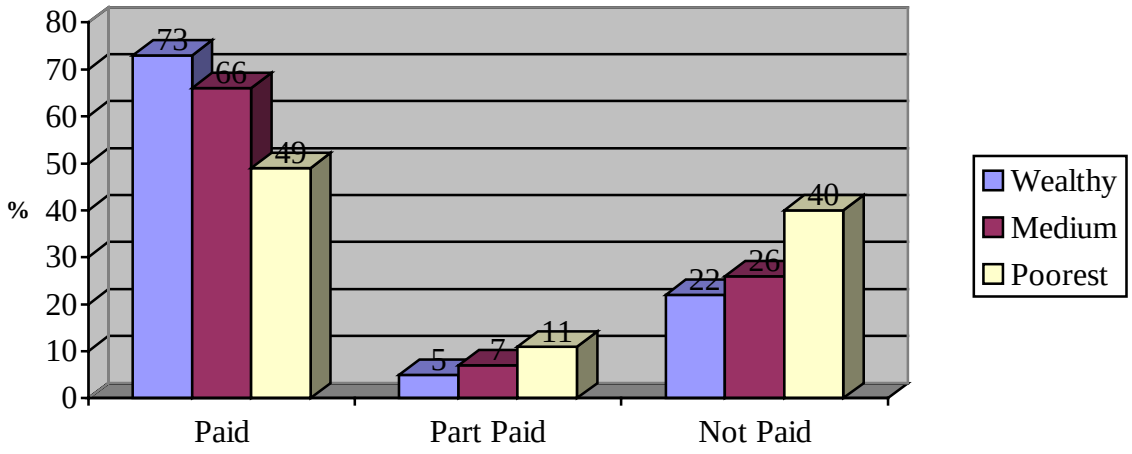
Table 4.8: Recovery rate of different age groups of offenders (n = 843)[41]

Age group	Recovery rate
16 – 20	67
21 – 30	60
31 – 40	67
41 – 50	71
51 and over	85

It would obviously have been of interest to examine payment performance by other offender type characteristics, such as wealth, income levels, employment and family circumstances. But as indicated, court records provide very little in the way of such information (the registers usually record only name, address, date of birth, gender, offence description and sentencing details). However, using the address (postal codes) as a proxy for wealth by applying 'ACORN' data (which provides a classification of areas by average incomes), it was possible to undertake at least some basic analysis of the impact on payment performance.[42]

This is presented in Figure 4.7 where it can be seen that 'wealth' is indeed a strong influence on payment. Nearly three-quarters of those living in wealthier areas fully paid their penalties (73%), compared with just under a half of those living in the poorest areas (49%). At the other extreme, less than a quarter of defendants in the most wealthy areas (22 %) did not pay any part of their penalty, but four in ten of those living in the poorest areas (40 %) paid nothing.[43]

Figure 4.7. Financial penalties paid, part paid and not paid by 'ACORN' classification of defendant's home address



[41] Here the recovery rates are higher than expected. This is because birth date data were only recorded on the court records for 57 per cent of the closed cases. Therefore this affects the overall recovery rates when considered by age grouping.
[42] 'ACORN' classifications are a means of grouping together neighbourhoods according to the type of housing in each area. There are six overall categories (thriving, expanding, rising, setting, aspiring and striving) which are then disaggregated into a further 17 categories. These include group 1; 'wealthy achievers in suburban area'; group 2 'affluent greys in rural communities'; to group 17 'people in multi-ethnic, low-income areas'. These 17 groupings can be further disaggregated into another 54 categories. For example group 1 type 1 are wealthy achievers in large detached houses; group 17 type 52 are multi-ethnic, large families, overcrowding.
[43] The ACORN data was originally coded according to the 54 ACORN types. These types were then aggregated into the 17 grouped ACORN categories (such as wealthy achievers, affluent greys and so on) and then aggregated into categories of poorest households, medium categories and most wealthy households. The groupings were as follows:
Poorest households: older people in less prosperous areas; council house residents with high unemployment; council estate residents with greatest hardship; people in multi-ethnic, low income areas.
Medium: white collar workers in better off multiethnic areas, new home owners, skilled workers in home owning areas, comfortable middle agers, well-off workers in family areas.
Most wealthy: wealthy achievers; affluent greys; prosperous pensioners; affluent executives; affluent urbanites; prosperous professionals, better-off executives.

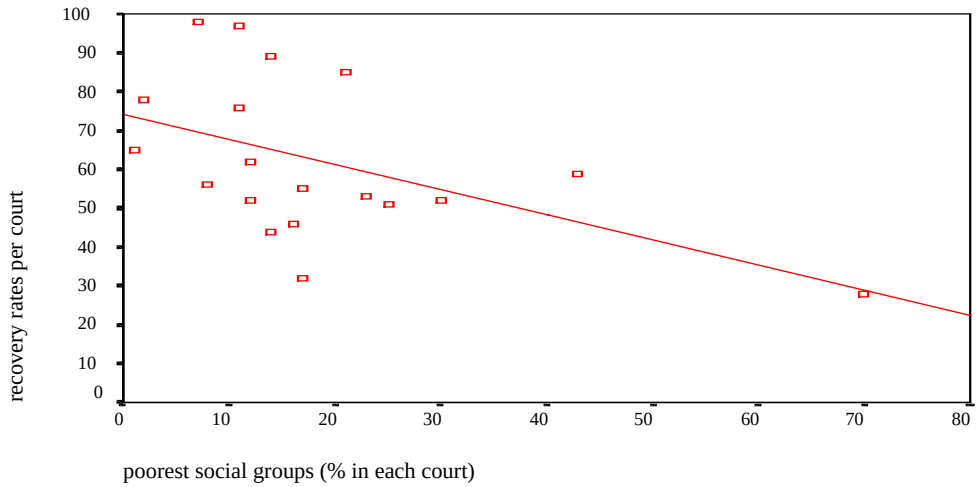
The impact of the type of neighbourhood in which a defendant lives can be expressed in another way. If a fine of £100 were to be imposed on a typical defendant from each of three areas defined in terms of average wealth, then it might be predicted that payment rates would vary significantly as follows:

- the typical defendant from a wealthy area would pay £41
- the typical defendant from an intermediate area would pay £27
- the typical defendant from a poorer area would pay £20.

The data clearly shows that those offenders from the poorest neighbourhoods are least likely to pay their financial penalties. Figure 4.8 plots the relationship between recovery rates per court against the proportion of offenders from the poorest areas, and includes a line that best represents the relationship identified. It indicates that the recovery rate is negatively correlated with the proportion of offenders in the poorest areas.[44] It can therefore be predicted that recovery rates will vary significantly according to the number of offenders from these areas receiving a financial penalty within each court. For example, it can be predicted that:

- for a court where ten per cent of offenders are from the poorest areas, an overall recovery rate of 67 per cent would be achieved.
- for a court where 20 per cent of offenders are from the poorest areas, an overall recovery rate of 61 per cent would be achieved.
- for a court where 50 per cent of offenders are from the poorest areas, an overall recovery rate of 42 per cent would be achieved.

Figure 4.8: Overall recovery rates by proportion of offenders from the poorest neighbourhoods in each court[45]



These findings raise a number of questions about the cost-effectiveness of imposing financial penalties on some people from the poorer ACORN areas. It may be possible that the poorer

[44] r=-0.504, p=0.028
[45] The data here is for 19 courts. One court was excluded due to missing data.

ACORN groups included larger proportions of people who simply refused to pay the fine than the other ACORN groups, or a larger proportion that genuinely could not afford to pay the fine. This would obviously have the impact of reducing the overall recovery rate of this ACORN group.

In those cases where defendants simply refuse to pay fines or where the means of the defendant are severely limited, consideration needs to be given as to the suitability of the financial penalty as a punishment. For both these groups the cost of enforcement could significantly outweigh the total amount of the penalty recovered and thus the penalty becomes inefficient in cost terms. But the courts are not solely – or chiefly – concerned with cost-efficiency; justice must be seen in what they do. It is, however, questionable whether justice is best served by enforcing fines against defaulters who simply 'cannot' or 'will not' pay. Enforcing the fine against the 'can't payers' is arguably oppressive if they simply cannot pay, while prolonged enforcement activity against 'won't payers' is in danger of bringing the authority of the court into disrepute. Fixing the fine to match the means of the offender and making him or her aware of the agreed instalment plans go some way to addressing these concerns, as does promptness in enforcement. However, consideration should always be given to appropriate alternatives to the fine within the sentencing framework. Clearly, discharges have a role to play here, and can be used as alternatives to the fine. These matters are more fully discussed in Chapters 6 and 7 of the report.

The costs of enforcement

Prior to the establishment of the pilot projects the participating courts were asked to provide a detailed breakdown of their expenditure on enforcement activities: giving details of their expenditure on staff, training, recruitment, premises, running costs, equipment and any publicity costs.

A significant number found it difficult to meet this request in full, but returns were received from 11 of the courts indicating costs in the range £78,000 to £477,000 in the first nine months of 2000 (the equivalent of £104,000 and £636,000 for the full year). At virtually all these courts staff costs constituted at least 90 per cent of this total.

Of course these figures mean very little in isolation and without taking account of the context. But in this respect it is not exactly obvious what data might best summarise that context: whether this should be the total amount of financial penalties imposed by each court, the nature of the area it served (represented, say, by the ACORN profile of the immediate neighbourhood), the level of the arrears problem, or the particular enforcement strategies and procedures which staff were being asked to follow.

Figure 4.9 presents the expenditure of the courts as a proportion of the level of impositions in the same period. Overall the spend on enforcement costs was slightly under one third of the total impositions in the first nine months of 2000 (32.6 per cent). Expressed in this manner, there was quite a wide range of investment across the eleven courts - with Brighton court, at one extreme, spending the equivalent of 55 per cent of their impositions and Solihull, at the other spending only 16 per cent.

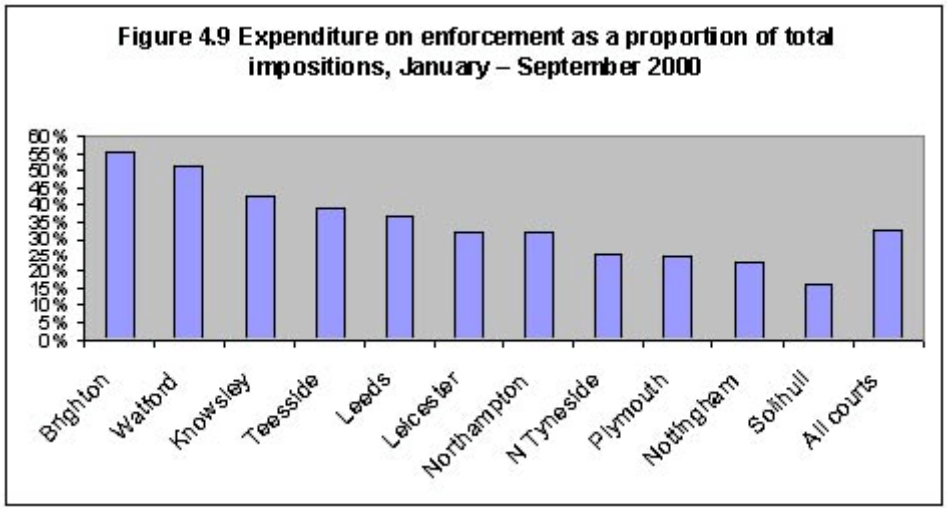
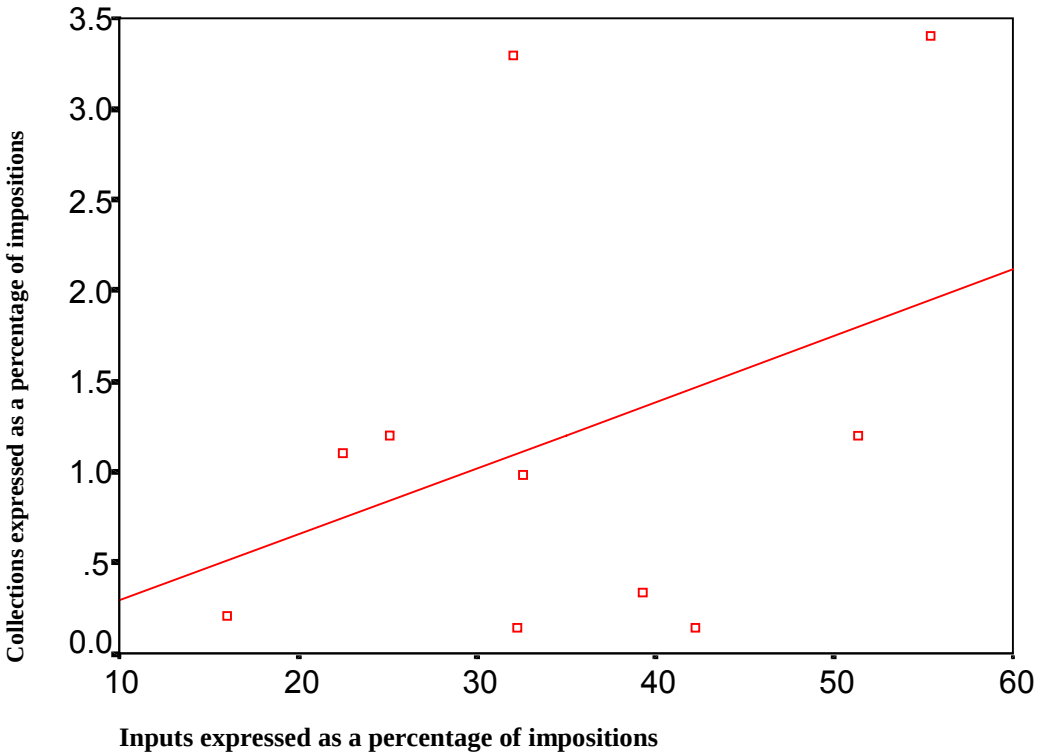


Figure 4.10 highlights the relationship between 'inputs' and 'collections' during the project intervention period. Both are expressed as a percentage of the total imposition in the courts. Here there is a general positive relationship between inputs and collections (denoted by the diagonal trendline). This says that as the proportion spent on enforcement increases so does the proportion of the total imposition collected.[46]

Figure 4.10: The relationship between inputs, impositions and collections



[46] The correlation coefficient between the two is 3.73.

5. The pilot projects and their impacts

As indicated in the introduction to this report, as well as analysing the patterns of use and enforcement of financial penalties, the research involved developing and implementing a series of pilot projects at different magistrates' courts. These, it will be recalled, fell into four categories, reflecting four key challenges identified as especially characteristic of the enforcement problem in the magistrates' court:

1. imposing financial penalties effectively
2. organising for and administering enforcement
3. tracing defaulters
4. dealing with persistent default.

Table 5.1: Categorisation of the four challenges and the participating courts

Challenge	Categorisation	Courts
1	Imposing financial penalties effectively	Barrow-in-Furness, Bridgend, Blackpool, Solihull
2	Shortening time scales for enforcement actions	Croydon, Wrexham, North Tyneside, Northampton, Teesside, Beverley
3	Tracing defaulters	Knowsley, Watford (plus the four DWP pilot sites: Blackpool, Bridgend, Northampton, Nottingham)
4	Dealing with persistent default	Grimsby, Swindon, Leicester, Camberwell, Brighton, Nottingham

As can be seen above, pilots were initiated at 18 of the originally sampled 20 magistrates' courts. At each the process involved data gathering and monitoring of inputs (costs), outputs (measures of work undertaken) and outcomes (achievements in terms of impact on payment performance[47]). All of the pilots fell within the scope of the existing legal framework of powers and, as such, had generally been tried somewhere else before or, indeed, formed part of current practice at another court. While none of the initiatives could be described as novel, however, the important point so far as this study was concerned was the inclusion of a carefully-designed framework of monitoring and evaluation into the programme implementation. This allowed conclusions to be reached as to 'what works' best in enforcement, on the relative cost-effectiveness of the various initiatives, and to provide a rigorous analysis of the different factors and circumstances that could play a part in determining success and impact in the wider context of financial penalties.

In the following tables the projects are summarised in terms of aims, rationale, description, impacts and learning. Also presented is the data gathered on inputs, key outputs and outcomes in relation to each project. Fuller details of definitions used and measurements chosen in this context are provided at Appendices A, B and C. This section ends with a consideration of the effect on the overall payment performance of the pilot projects both at a programme level and in each of the four categories.

[47] Ultimately, given the orientation of the research programme, also in terms of crime reduction (although this was beyond the scope of the project as reported here).

Challenge No. 1: imposing financial penalties effectively

Project 1a. Effective imposition of financial penalties at point of sentence	
Pilot courts	Barrow; Bridgend
Aim	To test the impact on default of a project to develop and apply a 'best practice' approach to the imposition of financial penalties
Rationale	Effective application by the court of best practice principles and actions at point of imposition of financial penalties is likely to reduce the need for subsequent enforcement actions
Description	• The project at both courts commenced with a review of opportunities and practices in relation to the imposition of financial penalties. It involved the development of good practice 'guidance' materials (subsequently issued to all magistrates as an *'aide-memoire'* for use in court) and the conduct of training sessions with magistrates to promote the application of best practices more consistently in relation to the following five points. • One aspect of the project involved seeking to improve the information base available to the courts wherever possible on the financial circumstances of offenders likely to be sentenced with a financial penalty (to ensure the affordability of each financial penalty imposed). At one pilot court a new means form was designed and introduced and at both, magistrates and staff were encouraged in the training sessions to develop their practices and procedures to increase means form completion rates (e.g. ushers distributing means forms in the waiting areas ahead of cases being heard in court). • Another aspect involved trying to improve communication to offenders of the importance of timely payment of the financial penalty and of the possible consequences of default (so that offenders would be very clear about the expectations of the court and about the seriousness of the sanction imposed). • Another dimension of the project focused on improving the quality of information on offenders' whereabouts, so that they could reliably be contacted again if needs be (if falling into default). The redesigned means form included questions about phone numbers (mobile and land line) and in the training sessions magistrates and clerks were encouraged to take every opportunity to check address and other contact details. • In the training sessions magistrates were encouraged to promote payment 'in full and forthwith' wherever possible and to resort to 'time-to-pay' only when necessary. The aim was to challenge the 'time-to-pay culture' which many staff and magistrates acknowledged tended to accompany the use of financial penalties. • Magistrates were also encouraged, when resorting to time-to-pay options, to use those payment methods that had minimal risk of default (e.g. attachment of earnings orders, standing orders, and payment books).
Impacts and learning	• The training session and the 'impositions checklist' (see Appendix E) as guidance was generally regarded by magistrates to have been useful'. However, the challenge of achieving consistent compliance with the 'best practices' (among all magistrates and in all cases) proved harder than initially envisaged. • With hindsight, it seems that such practices need to be worked at and sustained over a longer period of time than was possible in these pilots.

	Ongoing training and perhaps also more monitoring and assessment would seem appropriate for more consistent success in future. • Raising significantly the proportion of cases in which the bench had a completed means form at point of imposition also proved harder than envisaged (particularly at one of the two pilots), and as a result, many financial penalties were imposed which may or may not have been in line with offenders' abilities to pay. • The main value of the project, then, was more in terms of *defining the agenda* of issues needing to be addressed at point of imposition to reduce likelihood of default and the derivation of training materials and the 'impositions checklist' as guidance.
Inputs	Mostly personnel time, plus some minor costs associated with development and circulation of documentation and training materials. Input cost totals: Bridgend = £797; Barrow = £1,007
Outputs	Data was collected on various indicators including percentage of cases with completed means forms available. Bridgend 8.5 per cent; Barrow 52 per cent
Outcomes	The payment rate in a sample of 193 cases drawn from Barrow and Bridgend showed an increase in the payment rate of 10 per cent. However the individual rates of change for Barrow and Bridgend differed markedly (+79% and – 47% respectively) suggesting that other factors also played a part, for example, the closure of the Bridgend cash office, meaning that payments had to be redirected elsewhere.

Project 1b. Introduction of credit card payments for settling financial penalties	
Pilot courts	Blackpool and Solihull
Aim	To test the impact on levels of default of introducing a facility for payment of financial penalties by credit card
Rationale	Acceptance of payment of financial penalties by credit card is likely to reduce the risk of default among those taking up this payment option by ensuring more timely/immediate settlement and transferring the risk of non-payment
Description	• The pilots at both courts involved the procurement and installation of automated payment facilities and putting in place the associated administrative protocols to support the making of payments over the telephone as well as at the office counters (both for settlement in full and for part-payment). • The facility introduced accepted both credit and debit cards. • Take-up of payment by debit card proved particularly valuable in that the costs are fixed per transaction regardless of the payment amounts involved (unlike credit card payments which are based on fixed percentages of the account). • The project also involved a 'communications' element – in the form of the development and promotion of new 'how-to-pay' documentation and posters advertising the new payment option at court.
Impacts and learning	• In the pilot period, at Solihull some 18 per cent of all payments were made with credit cards. But at Blackpool the equivalent figure was just two per cent (reflecting the different socio-economic characteristics of the 'client' groups of the two areas). • Payments into Blackpool court rose by six per cent compared with the corresponding period a year earlier, although it was difficult to know to what extent this was directly attributable to the introduction of electronic payments. • Staff reported much advantage in the facility from their viewpoint (which confirms the experiences from many other courts that have accepted credit card payment for longer) and civilian enforcement officers commented that they particularly appreciated the new ability to telephone through a credit card number to the court office from defaulters' doorsteps. • The general view was that processing payments by credit card was no more labour-intensive than other methods of payment and that the guarantee of payment by the credit card company was a potential benefit in reducing the likelihood of need for enforcement actions later. • However, the impact of the pilots was, of course, limited to those with (and willing to use) credit/debit cards which meant it excluded a high proportion of those generally considered to be most likely to default (i.e. those with limited financial means and often those without bank accounts).
Inputs	Mainly costs of purchase and installation of the facility, the costs of the transactions involved and some minor marketing costs .Input cost totals: Blackpool = £2,260; Solihull = £2,150
Outputs	% financial penalties paid by credit card. Blackpool = 2 per cent; Solihull = 18 per cent
Outcomes	The payment rate in a sample of 199 cases drawn from Blackpool and Solihull showed an increase in the payment rate of 48 per cent. However, the individual rates of change for Blackpool and Solihull were quite different (respectively +6% and - 100%) suggesting that other 'local' workload pattern factors besides the credit card project itself were likely to be influential.

Challenge No. 2: Organising for, and administering, enforcement

Project 2a. Shortening the timescales for enforcement actions	
Pilot courts	Croydon and Wrexham
Aim	To test the impact on levels of default of reducing the time intervals between stages in the enforcement process
Rationale	Shorter timescales ensures more prompt settlement of debts, reduces the risk of contact being lost (and therefore avoids more costly tracking and enforcement) and reduces the opportunity for more offending and 'totting' of further penalties (adding to the potential default problem)
Description	• The details of the approach adopted in this project differed between the two pilot courts. • At Wrexham, a new set of enforcement protocols were agreed and introduced towards the end of 2000, involving the reduction from three to two weeks in the time between falling into default and the issuing of a 'final demand' letter, and a reduction from six to three weeks in the interval between 'final demand' letter and issue of summons for non-payment. The project therefore involved evaluating what impact those changes had on overall payment performance and levels of default. • At Croydon, the chosen strategy involved the more selective approach of identifying those defaulters who had previously responded positively to summonses from the court. Once these defaulters had been identified, they were issued with a summons rather than a distress warrant, which would normally have been the court's usual practice. The summons procedure was followed because it was potentially quicker and less expensive (both for the defaulter and the court) than the court's normal distress warrant policy. • The Croydon project was thus more differentiating (and labour-intensive) than that at Wrexham and entailed regular sifting through the defaulters list to identify those persons who appeared to meet the criteria for the expedited summons procedure. Any such cases would then be withdrawn from the 'auto-enforce' procedure (that would otherwise have issued distress warrants to the bailiffs). • In the absence of an electronic information system at Croydon that would automatically identify those who had responded positively to summonses in the past, this was inevitably a somewhat time-consuming process. However, the pilot did at least demonstrate that this form of differentiated approach to enforcement was feasible (the general view expressed at several other courts being of perceived incapacity to support such an approach).
Impacts and learning	• The revised Wrexham timescales (which applied to all the North Wales magistrates' courts) were found not to have presented operational difficulties and staff readily acknowledged that the previous intervals had been unnecessarily protracted. Indeed, since issue of the 'final reminder/demand' had always generated a significant amount of payment activity, its earlier issuance was almost bound to make a difference to the rate of settlement of financial penalties, at least among those 'likely to pay'. • While Wrexham staff acknowledged that there was in principle scope for still further tightening of the timescales, they felt constrained in so doing by the potential extra work that they felt would be likely to flow from so doing. Staff also emphasised the importance of operating timescales that were consistent with normal postal service intervals (to avoid the administrative burden associated with high numbers claiming their payments were in the post).

	• In Croydon, the new differentiated approach was generally viewed positively – as fairly straightforward and simple to operate. • While the Croydon pilot was recognised to be time consuming (and required the input of a dedicated member of the fines office staff) it was found to be feasible to do – with summonses issued to 100 per cent of all defaulters identified in the pilot as meeting the criteria for the expedited process.
Inputs	Mainly personnel time spent devising and implementing the new timescales. Input cost totals: Croydon = £1,780; Wrexham = £131
Outputs	At Croydon, the number of default cases identified as appropriate for the expedited summons procedure (368); at Wrexham number of default cases being handled under the shorter timescales (1,433)
Outcomes	The payment rate in a sample of 295 cases drawn from Croydon and Wrexham showed an increase in the payment rate of one per cent. The individual rates of change for Croydon and Wrexham were respectively minus five per cent and minus one per cent. [48]

[48] The seeming perverse overall figure is a product of the mixture 'same court' and 'same case' cases in Croydon and Wrexham. The overall figure and the figures for the individual courts are, however, correct.

Project 2b. Using police officers during unsocial hours to assist in tracing/arresting defaulters	
Pilot court	North Tyneside
Aim	To test the impact on payment rates of having assistance from uniformed police officers working out-of-office-hours to track and arrest persistent defaulters (who have failed to respond to the efforts of the court enforcement staff)
Rationale	Access to police intelligence, skills and methods of working (including working during unsocial hours and 'the power of the uniform') makes a useful addition to the resources of the court in the pursuit of persistent defaulters
Description	• The project involved negotiation and agreement with Northumbria Police for the purchase of police officer time (four hours per week) to undertake execution of fine default warrants on behalf of the court. • Once (sometimes twice) per week during the pilot period, the court would issue a batch of warrants to the police officer assigned for the work (not the same officer each week) for return the following day. • The officers would mostly visit the addresses in the early morning (when the defaulters were most likely to be at home). Cases where the defaulter was not at home/could not be found, would be followed up with checks in the police computer and other intelligence sources available to the officers. • The police would take into custody for a subsequent court appearance those successfully found and arrested. They would report back to the court any other relevant information ascertained (e.g. defaulter reported to have moved out of the district) and would return to the court all unserved warrants (including any not dealt with on the shift).
Impacts and learning	• Initially this project had been envisaged as involving a full-time secondment of a police officer (temporarily) on to payroll of the court/MCC. • However, practical (recruitment) difficulties prevented this. Instead the limited (anti-social) hours arrangement was adopted, albeit with some concerns at the outset on the part of the court about the limited nature of the accountability and control they could exert over how the police spent their time on the project. • Such concerns were amplified initially by the relatively low numbers of cases per session on which the police managed to take any action (i.e. including making checks on the police computer etc. as well as success in arresting defaulters). For example, from the first batch of 68 warrants issued to the police, action was found to have been taken in only 18 cases and with progress made in just 13. Moreover, in a second batch of 49 warrants, just three were executed, the rest being returned without new information. • Performance improved after such concerns were raised in a review session with the local police commander. But even thereafter, the success rate (warrants successfully served) remained at only about the ten per cent level. • Overall, court enforcement officers felt the project had provided useful 'back-up' to their own work on the streets, particularly as the word spread that police were involved in warrant execution. However, it was also felt to be quite time-consuming for staff – in selecting the warrants carefully (and batching together any multiple warrants for the same individual) and in dealing with the returns made on each batch. • There was also a strong feeling that performance would have been better had the same officer been assigned to the task each week, thus avoiding much

	duplication of effort and time spent briefing different officers and in speeding up familiarisation with the routines involved and possible lines of enquiry. • The issue of limited accountability and control by the court in relation to the police work was considered to be the main weakness, and the court could never be sure how the four hours per session that it contracted for was used (there was awareness, for example, that the police officers would sometimes be re-assigned to other urgent duties at short notice).
Inputs	Mostly police and court staff time. Input cost total = £6,292
Outputs	% warrants successfully executed by the police under unsocial hours (6%), also new information provided by the police.
Outcomes	The payment rate in a sample of 101 cases drawn from North Tyneside showed a decrease in the payment rate of 88 per cent.

Project 2c. Checking for and dealing with any default when defendants appear again before the court (on new matters)	
Pilot courts	Northampton and Teesside
Aim	To test the impact on payment performance and on levels of default of procedures to ensure that those appearing before the court and who are in default in relation to one or more previously imposed financial penalties, have their arrears addressed while the opportunity arises
Rationale	Many defaulters are persistent offenders and their appearances before the court on new matters represent good opportunities to challenge their arrears, press for settlement or establish new, more appropriate, payment terms
Description	• The project at both pilot courts involved instituting routine procedures to check the daily lists of cases scheduled to be heard and to identify any defendants who were in default (on financial penalties imposed previously). • At both courts this was a time-consuming and labour-intensive process – because the available (computerised) information systems were unable automatically to crosscheck (new) defendants against (older) defaulters and could also not identify those who would definitely be appearing in person (as opposed to having their case heard in absence). • Once identified (by a mix of computer and manual checks) the relevant files were marked for the court and additional information provided to enable the clerks/magistrates to address the default in the same hearing as the new matters. • A key requirement for the project, as well as the administrative work of identifying defaulters on the daily court lists, was the co-operation of court clerks and the magistrates in dealing with default as well as the listed matters on each case in question. Indeed, this was perceived at the outset as the most critical part of the project – a common source of frustration in the past having been the failure of courts (even when they are aware of an arrears issue) to take the opportunity before them to tackle the default, often because of pressures of time or because defence solicitors would frequently ask for adjournments.
Impacts and learning	• The task of cross checking court lists with defaulters lists – the main administrative component of the project – certainly proved time-consuming because of the inadequacies of the computer systems for this (in principle at least) simple cross-checking routine. • More significantly, however, and despite care taken to seek the courts' co-operation in the pilots, there were also shortcomings in relation to the courts dealing 'there and then' with those in default. • At Teesside, in particular, the success rate in dealing with arrears 'there and then' when defaulters happened to appear at court on new matters was particularly disappointing (just 3.5%). This appeared to reflect a variety of factors including shortage of courtroom capacity (to handle the extra case-lengths involved), requirements to adjourn for additional information (e.g. a pre-sentence report or information on financial means), failures in communication of information on arrears from the administrative section to the courtroom in sufficient time, and (continuing) reluctance on the part of some clerks and magistrates to take on more work than was already apparent in the court list. • At Northampton, the procedures appeared to work better perhaps because the task of checking the computer records for default was assigned to the ushers at reception (i.e. closer to the courtrooms) and because of generally better-

	developed communication processes (i.e. faxing of defaulters' financial information directly to the courtrooms). Here it was estimated that ushers managed to identify some 60 to 70 per cent of relevant cases of defaulters appearing at court on new matters – a significant improvement of previous performance. • However, here too, for similar reasons as at Teesside, the courts sometimes failed to deal with cases of default despite the fact that they had been drawn to their attentions – the success rate in this respect being 86 per cent (of the 60 – 70%). • On the whole, magistrates were enthusiastic with the approach adopted, being keen to see any outstanding monies settled quickly. Clerks were generally similarly supportive at least in informing magistrates of any current 'live' financial penalties and instances of default. • However, as indicated, 'flagging and querying' default was only one part of this project which, more importantly, had to 'challenge attitudes and behaviour' of clerks and magistrates in the courtroom towards requests by the defence for adjournments and at the prospect of additional work in dealing with default each and every time, whatever the pressures of the list and excuses from the parties concerned. • While the statistics on payment rates over the pilot period proved disappointing with an overall reduction of 63 per cent, it is likely that this was a reflection of other factors than the project. • Although the Teesside pilot seemed to involve more paper-work than court-room decision-making, the experience at Northampton, at least, was felt by all parties to have been generally useful and worthwhile developing (particularly once the electronic information systems are in place to automate the cross-checking work).
Inputs	Mainly personnel time cross-checking court lists and defaulter lists Input cost totals: Northampton = £1,372; Teesside = £2,110
Outputs	% outstanding arrears dealt with positively when defaulter appears on new matters. Northampton = 86 per cent; Teesside = 3.5 per cent
Outcomes	The payment rate in a sample of 201 cases drawn from Northampton and Teesside showed a decrease in the payment rate of -63 per cent. The individual rates of change for Northampton and Teesside were respectively -58 per cent and -68 per cent.

Project 2d. Introduction of a computerised warrant tracking system	
Pilot court	Beverley (and other courts in the same administrative group); This project was also originally to be implemented at Leeds magistrates' court, but the pilot had to be abandoned because of networking and software problems
Aim	To test the impact on levels of default of the introduction of a (locally developed) computerised database for managing warrants for non-payment of financial penalties
Rationale	Many warrants for default on financial penalties remain unserved ('live') for considerable periods of time, most often because of difficulties in tracing or contacting the persons concerned. Managing such warrants can present a considerable challenge, for example, in identifying and linking together multiple warrants for the same person and in deciding which ones should be given highest priority. The functionality of a computerised database should be advantageous in relation to record-keeping, interrogation and reporting and should pay dividends in terms of reducing longevity of outstanding warrants (and hence lower the levels of arrears)
Description	• This project was originally intended to involve the development by external consultants of special warrant-tracking software for use on the court's main computer system. • The timing of the project was scheduled to coincide with the national transfer of responsibility for enforcement of warrants (for fine default) from the police to magistrates' courts committees and it was felt that the introduction of an automated warrant-tracking system would be of great benefit to the new team of civilian enforcement officers (CEOs) now working for the courts. • Unfortunately, networking and software problems with the new package delayed the installation of the system beyond the bounds of the project. But as an interim solution, the court office manager designed and implemented a PC-based database (written in Microsoft Excel) to provide the facility for checking the status of all existing warrants (those covering the period January – July 2001). • While the separateness of this database from the court's main computerised administrative system obviously raised some disadvantages and limitations in terms of capacity for cross-checking etc., the system did provide a ready supporting tool for the CEOs and other staff in organising their work and in more efficient searching/checking of records.
Impacts and learning	• Although, as indicated, the full ambitions (and specification) of this project were not realised in the time-period of the research (particularly in relation to the functionality of linking the warrant tracking system directly with other components of the court's computerised administrative system), much was achieved through the application of basic programming and database design skills using Excel macros. • The database certainly improved capacity in the court office by allowing staff to check old warrants, sort and prioritise them for action in a far more efficient manner than had hitherto been possible. Indeed, despite expectations of an initial decline in performance in dealing with warrants as a result of the large extra volume of work arising from the transfer of warrant execution responsibility from the police to the courts, the reality proved rather different because the database enabled the very oldest warrants to be targeted for action. • The civilian enforcement officers all reported finding the database very helpful to their work because of the efficient and reliable search capability in relation

	to a range of variables – including geographical areas (for route-planning). As a result, from the outset, the new database became a valued tool for the organisation and planning of warrant management work. • While the writing, maintenance and updating of the 'standalone' database was initially quite time-consuming for the system's designer (the Support Services Manager), the subsequent recruitment of part-time clerical assistance to operate and enter data onto the system ensured a more cost efficient way of working ahead of the commissioning of the mainframe-based system that had originally been planned. • Although in the pilot period the payment rate for the group of courts administered from Beverley fell significantly (by some 77%) this was almost certainly a reflection of other factors than the project. Indeed, the clear view of those involved with the project was that the warrant database would have served to minimise the (expected) deterioration in performance by allowing the court office to target the older warrants for action and thus reduce the average period of arrears.
Inputs	Mainly staff time required to design the database and to enter the data plus the personnel time spent using it once up and running. Input cost totals = £1,058
Outputs	Number of warrants handled through the Beverley warrant tracking system = 1,249
Outcomes	The payment rate in a sample of 199 cases drawn from Beverley showed a decrease in the payment rate of 77 per cent.

Challenge No. 3: Tracing defaulters

Project 3a. Tracking defaulters through the Department for Work and Pensions (DWP) computer systems	
Pilot courts	Blackpool, Bridgend, Northampton and Nottingham
Aim	To test the impact on enforcement productivity and thus on levels of default of a nationally-negotiated trace service provided by the DWP for magistrates' courts
Rationale	The DWP computerised national insurance records represent the best source of information on addresses (the majority of defaulters having at some time being in receipt of one or more form of benefit). Access to information held by DWP should thus provide a valuable and up-to-date check on the whereabouts of those whom the courts have failed to trace
Description	• The project took the form of a three-month pilot (January – March 2001) of a national trace service provided by the DWP (the Department of Social Security at the time of the pilot), following agreement with the Lord Chancellor's Department and subsequently implemented for all courts from April 2001. • The new service was designed to assist the enforcement process in cases where it had proved impossible for the courts to execute warrants for non-payment due to problems in tracing defaulters. • The courts were requested to dispatch their requests to DWP Longbenton in batches. The names would then be checked through the DWP computers and new information (usually updated addresses, but sometimes amended spellings of names or addresses) would be hand-written on the forms before the batches were returned to the courts. • The courts could then take follow-up actions, e.g. arranging fine transfers for cases found to be outside the area, sending their CEOs to visit the new addresses with the warrants or issuing new letters summoning defaulters to attend court.
Impacts and learning	• The project proved successful at all four pilots (and has since been successfully extended as a service available to all courts). In three of the four pilots new information was supplied in around 60 per cent of cases submitted (though in only 34 per cent of cases in the fourth). • However, a proportion of the 'new information' supplied (between 10 to 15 per cent) was found by the courts to be out-dated (in other words older addresses that the court had already checked and found to have been vacated by the defaulters). The rate of 'useful' new information from the courts' viewpoint thus proved on average to be nearer 50 per cent. • Those cases with 'new address' information outside the court area were generally made subject to immediate 'transfer of fine' orders. Thereafter, three of the four pilot courts mainly handed the cases to their civilian enforcement officers to visit the new address to try and make contact with the defaulters. The exception here was Bridgend court where, instead, firmly-worded letters were quickly dispatched to each newly-traced defaulter instructing them to contact the court immediately. • Bearing in mind that many of these cases had a long history of difficulty in enforcement, it was perhaps not surprising that in comparatively few instances were the debts cleared in full once contact had been made. Indeed, by the end of the pilot period – some three months later, only about eight per cent of the cases of arrears had been completely settled, and about half the cases had fallen into default again since making contact with the court and resuming

	payments. • Moreover, about 36 per cent of the defaulters identified in the pilot period were found to have moved address before contact was made and had become 'untraceable' once again. • Two clear lessons learned therefore concerned the importance of acting early on the new information and finding ways of maintaining regular contact with defaulters until their debts were settled. • Overall, the pilot (and the national roll-out that succeeded it) was viewed very positively by the courts and generally much valued for the assistance it so obviously provided in clearing many (often difficult) cases off their books. From the individual court's viewpoint at least, the provision of a new address outside the area and therefore the opportunity for a 'transfer fine order', was seen as successful an outcome as a new local address for follow up (although of course 'transfers' would only move the enforcement problem on!). • At the same time, however, the experience of the pilots also highlighted some of the difficulties for the courts in responding as quickly as would have been wished to each piece of new information from the trace service. • Indeed, in the three courts (other than Bridgend) a period averaging some four weeks was taken in the pilots between receipt of new information and the first action (e.g. visit by CEOs), and all four courts emphasised concerns about their limited capacity to respond promptly and effectively, recognising that with the passing of time, the value of the new information was likely to reduce and that renewed tracing work would become necessary. • And while the Bridgend approach at least represented a more immediate response (letters being dispatched within a day or so of the new information being received from DWP), here it was acknowledged that there would be a still higher risk of losing contact again unless the CEOs could make their visits quickly because the letters issued would of course act as a warning signal to the more wilful culprits to disappear (again) into hiding. • The figures on payment rate performance (see below) for the four pilot courts were variable, and therefore difficult to interpret. At one of the four courts a spectacular improvement was recorded; at another the improvement was marginal and at the other two performance fell away in the three month period. But of course all four courts were also pilot sites for other projects and so the question of cause and effect (quite apart from the impact of other uncontrolled changes) would always be difficult to assess. • Accordingly the judgement of the success of this particular project hinged much more on the qualitative perspectives and on the potential (of new information) to assist the trace and fine recovery process rather than on the actual statistics of payment performance recorded.
Inputs	Mainly personnel time at courts in preparing and responding to the batches, and at DSS Longbenton where additional staff were employed at Home Office expense to undertake the trace work. Input cost totals: for each court = £2,343
Outputs	% cases with new information supplied. Blackpool: 34 per cent; Bridgend: 71.4 per cent; Northampton = 56 per cent; Nottingham: 69 per cent
Outcomes	The payment rates varied between the four DWP pilot courts as follows: Nottingham = +228 per cent; Blackpool = +6 per cent; Bridgend = -47 per cent; and Northampton = -58 per cent. Being also pilot courts for other initiatives, however, it was difficult to establish what of this impact was attributable to the DWP project and what to the other changes introduced, or indeed, to other factors.

Project 3b. Campaigns with local media to 'name and shame' untraceable and persistent defaulters	
Pilot courts	Watford and Knowsley
Aim	To test the impact of 'naming and shaming' schemes with the local press in helping to trace persistent defaulters and also more generally in promoting prompt settlement of debts
Rationale	Profiling in the local media of the issue of unpaid fines and compensation awards and listing of the names of untraceable and persistent defaulters is likely to be supported by the public and to encourage reporting of details of their whereabouts. The threat of exposure as a defaulter in the local newspaper is also likely to prompt many other people with financial penalties from the court to settle their debts promptly
Description	• At both pilot courts a list of names of untraceable and persistent defaulters on compensation awards was drawn up. • The lists were carefully compiled to include only those cases that had proved intractable enforcement problems (i.e. defaulters who had not responded to reminder letters and on whom it had proved impossible to serve distress or arrest warrants because of tracing difficulties). • For the pilot at Knowsley some 36 such defaulters were identified, while at Watford the number was slightly greater, at 41. • Each such defaulter was sent a personal letter (to the last known address) warning of the intention to publish their names in the local press unless contact was made with the court in the subsequent few days to discuss their arrears. • At Watford this prompted three written responses leading to removal of their names from the list for publication. At Knowsley 11 of the letters were returned undelivered. Subsequently the final lists of names (35 in each area) appeared in local newspapers (the *Knowsley Challenger* on the one hand and the *Watford Observer* and *Hemel Hempstead Gazette* on the other). • The Knowsley listing took the form of a direct appeal to the public to report the whereabouts of the named persons. • The Watford listing was supported by a press release and feature article highlighting the problem of unpaid compensation and appealing to the public for assistance in tracing those named.
Impacts and learning	• Doubts were raised by many court practitioners at the outset of this research about the appropriateness of a project of this nature, and particular concerns were expressed about the risk of mistaken identities and the prospect of simply creating hero/martyr status for persistent defaulters. • In the event, no evidence of such difficulties was apparent (only one complaint was received about the initiatives, in this case from a person with the same name as one of those listed in the Knowsley campaign). • The results of the pilots were not spectacular (at Watford three of the defaulters paid in full, and new addresses were provided for two others, while at Knowsley two positive phone calls were received leading to one court appearance). Moreover, the data collected before and after the pilots on payment rate performance presented a mixed picture (a significant improvement at Knowsley but a deterioration at Watford).

	• However, the general view of both teams of court staff afterwards was that the results had justified the efforts involved and that the profile of the courts (and their enforcement work in particular) had usefully been raised in the process. • There was also a widespread view that campaigns of this nature, particularly if regularly repeated, had the potential to influence more people on whom financial penalties were imposed to settle their debts promptly although no conclusive evidence could be identified for this (for example, in accounting for the improvement in payment rate performance at Knowsley).
Inputs	Mostly personnel time preparing the lists for publication plus costs of advertising. Input cost totals: Knowsley = £483; Watford = £193
Outputs	% positive responses to naming and shaming: Knowsley: 9 per cent; Watford: 14 per cent.
Outcomes	The payment rate in the total sample of 73 cases (from the Knowsley and Watford pilots together) showed a decrease of 60 per cent. The individual rates of change for Knowsley and Watford were respectively +1197 per cent and -71 per cent.

Challenge No. 4: Dealing with persistent default

Project 4a. Fines clinics for defaulters	
Pilot courts	Swindon and Grimsby
Aim	To test the impact of 'one-to-one' clinic sessions for defaulters as a means of addressing their arrears in a constructive manner, ahead of or instead of the traditional courtroom hearing before a bench of magistrates
Rationale	One-to-one interactions across an interview room table between defaulters and specialist staff are likely to prove more constructive than sessions in a courtroom for addressing the (often difficult) circumstances surrounding default and in winning trust and co-operation from defaulters
Description	• The two pilots shared a common philosophy and approach of offering defaulters an opportunity to discuss their default and how it might be resolved in one-to-one interview sessions with experienced staff with a good understanding of the range of circumstances and appropriate responses for default. • But they differed in that at Grimsby, the clinics were run wholly by court staff, while at Swindon they were organised as a two part process, with defaulters meeting first with a member of the court staff to explore the circumstances of the arrears and consider applications for 'time to pay', and then meeting separately with a Citizens' Advice Bureau (CAB) case worker/volunteer for assistance and advice in the completion of financial means forms (and sometimes referral for specialist debt counselling) ahead of the case being heard before magistrates in court. • In both instances the clinics were conducted on the days on which fine enforcement courts were scheduled and were drawn to the attention of defaulters through additional notification distributed with summonses. • The clinics were arranged at the courthouses essentially as a 'front-end' to the court process with one aim being to save the court time in addressing 'administrative' issues of financial means and payment terms. Indeed, where the court staff were satisfied about new payment terms (agreed under delegated powers), the cases would be cancelled from the court list.
Impacts and learning	• The project at Grimsby proved largely unsuccessful in the pilot period with just two defaulters opting to take up the service, despite all the arrangements made to profile and market the facility. Partly this was a reflection of the local organisational arrangements for enforcement courts at the time – there being sessions on a once-per-month basis largely for defaulters brought to court by the civilian enforcement officers on warrants. This tended to mean more emphasis on formal hearings before magistrates and defaulters were less inclined to request a clinic session with staff, despite the option being available to them. • At Swindon, however, where there are default courts every week and with a much greater cross-section of cases being listed, much more success was achieved in persuading defaulters to opt to see the enforcement staff and also the CAB case-worker/volunteer. Partly also, the success reflected the work of the ushers in 'channelling' defaulters in the direction of the clinics – as though it was an integral part of the court process. • The sessions with the Swindon court enforcement officer were mostly very effective in identifying the particular circumstances of the default and in establishing whether or not an appearance before magistrates in court would be necessary. In many instances new terms for payment or immediate settlement of the debt was agreed and the defaulter allowed to leave without further ado. • Defaulters whose cases were proceeding to the courtroom were then usually directed towards an adjacent interview room where the CAB worker/volunteer

	would provide help in the completion of the court's financial means forms and also compile short written reports for the court on each case based on further interview discussion about the financial circumstances and the options/prospects for settlement. These reports usually included a specific recommendation to the bench (e.g. on payment terms or for remission) and were subsequently presented to the court in much the manner of a pre-sentence report. • A key issue in the Swindon project concerned the relationship between the court and the 'independent' Citizens' Advice Bureau. From the defaulter's viewpoint, the involvement of CAB was generally seen as positive in that the caseworker/volunteer was able to build a good degree of trust and confidence and therefore, potentially also co-operation. • On the other hand, the independence of the CAB also meant of course less control for the court in the nature of the advice given to defaulters in the privacy of the sessions ahead of the court appearances (and the researchers observed that, at times, the advice given in relation to completion of means forms was probably not quite as the court would have wished). • Another problem at Swindon was that the conduct of the clinic sessions frequently meant that the courts were left waiting for defaulters to come before the bench – a cause of some irritation to magistrates and court clerks because of the apparent waste of their time. • Some magistrates also expressed the view that they felt the CAB went further than they should, in making recommendations to the court, rather than confining their role to assistance in completion of the means forms. • But there was also widespread recognition of the additional value of the initiative in helping to ensure justice for many defaulters and in improving the reliability of means information. • Although the impact on payment rates in the pilot period was hardly impressive (+8%), in wider terms, the project was judged to have been a success and the clinics continue to be held each week. • Much of this success could be attributed to the two-part design of the process – involving on the one hand a court enforcement officer-driven component and on the other a CAB-driven component. This, it was concluded, helped to ensure an appropriate balance was struck between the interests of the court in securing prompt settlement of the debt and the (often difficult) circumstances and needs of individual (and usually unrepresented) defaulters, whose perspectives might not otherwise be so clearly heard in the courtroom setting. • As indicated, the project did raise an issue about the legitimate role for CAB staff in a court enforcement process, and one obvious lesson and conclusion was that it could be helpful in future if this role were to be governed by a clearer set of guidelines to the expectations of the court regarding the nature and limits of advice/assistance to be provided, and by a code of conduct for caseworkers/volunteers to follow (akin to the code that governs the work of Witness Service volunteers in courts).
Inputs	Mostly personnel time, organising, conducting and following up on the clinics. Input cost totals: Grimsby = £179; Swindon = £2,615
Outputs	% defaulters taking up the available service: Grimsby = 0.1 per cent; Swindon (CAB) = 29 per cent
Outcomes	The payment rate in a sample of 189 cases drawn from Grimsby and Swindon showed an increase in the payment rate of 244 per cent. But in view of the very small take-up at Grimsby, no reliable conclusions could be drawn from this court. The individual rate of change for Swindon was +8%.

Project 4b. Developing staff skills and techniques for dealing with defaulters	
Pilot court	Leicester
Aim	To test the impact on default levels of professional training for staff to develop their skills and technique in the conduct of enforcement interviews with defaulters (by phone and face-to-face)
Rationale	Skilfully conducted and robust one-to-one/telephone interviewing of defaulters by enforcement staff represents a powerful tool for debt settlement, and a potentially more effective means of so doing than the courtroom. To this end, court staff will benefit greatly from learning and applying the 'best practice' skills and technique deployed with success in other debt recovery contexts (and for which the specialist assistance of professional trainers can be advantageous)
Description	• This pilot represented just one element of a wider initiative to develop enforcement policy and practice in Leicestershire and to effect an improvement in performance in this respect. • A training company (The Lidbury Partnership) was contracted to provide intensive training to a group of enforcement staff on the skills and techniques for effective interviewing of defaulters. • The training consisted of three intensive days for all staff plus five further days for selected staff who as 'coachers' were to be made responsible for maintaining standards after the project launch. Initially, following the training, three staff from Leicester were assessed and designated as 'qualified' to conduct the interviews with defaulters which were arranged on four mornings each week (usually 5 – 6 per session) and have subsequently been extended to include telephone interviews. • The sessions were mostly conducted as 'review interviews' for those cases in which 'time to pay' (in instalments) had been agreed but on which default had subsequently occurred. The particular interview skills developed with staff through the training included the importance of careful preparation work (having all the facts and information from previous encounters to hand), the skills of 'levying discomfort' (in other words making defaulters feel uncomfortable about their arrears), emphasis on 'open questions' (e.g. *why* have you not paid?') and avoidance of being side-tracked by excuses and promises from the core issue of the failure of the defaulter to meet expectations of the court. • A vital part of the process was that the interviewers should be able to convey to each defaulter that they could not be hood-winked by excuses, that they were alert to any lies or inconsistencies and that there could be no shirking of responsibility. • All cases that have involved 'doing a Lidbury' (the in-house phrase for the interviews) would be specially marked as such on the court's computer, and all details of the discussion would be carefully logged, so that, if default persisted, there could be reference back to the interview notes, to see exactly what was said and agreed previously, so as to substantiate further assertive challenging of the defaulter's failure to fulfil expectations. • Subsequent to the pilot the application of Lidbury technique has been extended to include telephone interactions with defaulters ('telechasing') and this, too, has been felt by court staff to be very effective (although it was not in place in time for inclusion within the formal monitoring and evaluation of the pilot).
Impacts and learning	• The project at Leicester proved exceptionally successful and now forms a main component of a county-wide enforcement policy and practice regime. • The most obvious measure of its impact is the fact that the court no longer lists special fine enforcement courts (with magistrates), since most of the default work is

	handled through the staff-run interviews. • Moreover, it is immediately clear on talking to staff about their work in this respect that there is much pride and confidence in the professionalism that they are now bringing to their work and in the successes being achieved (indicated as well in a reduction in warrant work for the civilian enforcement officers). • The approach has been an obvious morale booster for staff who talk proudly of the transformation that has taken place in their department, and in the much improved payment rate performance (an increase of 382% was recorded in the pilot period). • As with the other pilots, it has been difficult to measure direct cause and effect given that, as indicated, the Lidbury interviews were only one component of a set of revisions to enforcement policy and practice in the county. • But no-one interviewed on the pilot cast any doubt on the value and impact of the project and there has rightly been much interest shown by other courts around the country in what Leicestershire has piloted here and in the potential of an initiative to raise professional skills among staff and apply the techniques that have proved effective in other debt collection contexts.
Inputs	Dominated by the up-front development costs of the training, but also including the time spent interviewing defaulters. Input cost total = £45,677
Outputs	16 per cent of defaulters were interviewed by staff in the pilot period.
Outcomes	The payment rate in a sample of 143 cases drawn from Leicester showed an increase in the payment rate of 382 per cent.

Project 4c. Promotion of Attendance Centre Orders to prompt settlement of debts	
Pilot court	Camberwell Green
Aim	To test the impact on payment performance of the promotion of attendance centre orders for those aged 18 to 25 years as an option for persistent default.
Rationale	Attendance Centre Orders are a useful (and, under law, necessary) option for magistrates to consider in instances of persistent default. Particularly where the prospects of prompt settlement seem slight (e.g. without resort to remission) they have the potential benefit of providing a combination of punishment (denial of liberty) and a constructive regime of skills development. At the same time, the prospect of having Attendance Centre Orders (probably implying loss of liberty on successive Saturday afternoons) may be effective in persuading defaulters to settle their debts more promptly
Description	• The pilot at Camberwell Green involved working both with magistrates to promote the use of Attendance Centre Orders (ACOs) and with the police who run the attendance centre regime for 18- to 25-year-olds (in addition to separate sessions run for those of younger age). • The aim was to raise the profile of this option for magistrates and to build confidence in its potential by highlighting the nature of the regime and the advantages it offered in relation to various default situations. Care was taken to check the sufficiency of capacity (in terms of places available) and that there were good monitoring and feedback arrangements to report on participation in the regime. • Attendance Centre Orders are flexible in design; the number of hours may be between 12 and 36 and is set by the bench in each case rather than being prescribed in law as a 'tariff' (although 'proportionality' as defined in Human Rights Act is obviously an important consideration here). • The nature of the regimes offered also vary, depending on the facilities available and the specialist skills among the particular police officers who elect to run them. Typically, however, the regimes will involve attendance on a series of successive Saturday afternoons for a constructive regime of life-skills such as physical fitness, first-aid, health and safety and car mechanics. • Attendance Centre Orders for default on financial penalties are comparatively rare – just one such order was made at Camberwell Green in the nine-month period before the pilot commenced. • The reasons for such low usage vary. In some areas there are insufficient local facilities and it is considered unreasonable that defaulters should have to incur significant transport costs to attend. But interviews with magistrates tended to suggest that the option is commonly overlooked, forgotten or disregarded largely on account of inadequate confidence as to their success. There is also widespread scepticism that the defaulters would actually attend and several magistrates complained that they rarely saw registers of attendance. • Camberwell Green was particularly chosen for this pilot on account of the fact that here the local police were offering a well-organised regime with feedback to the court on non-attendance. The pilot was launched with a presentation session for the fines panel of the bench, at which the justice's clerk, legal advisers, and police attended as well as the researchers, to explain the regime and to promote use of the Orders in appropriate cases.
Impacts	• Despite initial optimism among court staff the pilot proved very disappointing

and learning	with only one Attendance Centre Order made in the period. • Moreover, the researchers encountered a distinctly cool reaction from magistrates when the progress of the pilot was reviewed. Here, it seemed, the problem was a misperception that the project might be intruding on judicial discretion, although care had been taken at the outset to emphasise the aim as being to promote *consideration* of Attendance Centre Orders as an option for dealing with persistent default (i.e. ensuring that the option would not be overlooked, as the legal framework for enforcement practice requires). • One misplaced concern was that the use of ACOs would damage the court's performance indicators in that the original financial penalty would no longer be collected. Some magistrates also declared little confidence in the Attendance Centre's regime, and considered it to be too "soft". • There were also concerns that, if the orders were to be breached, it could take the court much more time and effort to bring the defaulter back to the court. • Perhaps the key learning from this pilot, therefore, was that promotion of ACOs as an option for magistrates' consideration in response to default would need a longer-term investment of time, to build confidence and dispel myths about the use of the ACO in these circumstances. • With a sample of just one ACO made in the pilot period, clearly no conclusions could be drawn as to the effectiveness of the option in terms of compliance rates. And certainly no indication was forthcoming to suggest that the magistrates at Camberwell Green had even given greater *consideration* to the option after the pilot had commenced than before. • On the other hand, many magistrates at courts around the country that were interviewed about financial penalties generally during the course of the research did endorse the rationale of this pilot and expressed their view that attendance centre orders could (if organised and monitored properly) represent an appropriate response to non-payment because they implied both the imposition of punishment (denial of liberty as an alternative to a financial penalty) and a constructive regime of skills development.
Inputs	Mostly time spent preparing and training for the pilot. Input cost total = £446
Outputs	Number of defaulters on whom ACOs made = 1
Outcomes	As at the end of September 2001, the ACO had not been discharged. The enforcement account was still open and no payments had been received from the defaulter.

Project 4d. Special training for magistrates in dealing with persistent default	
Pilot courts	Brighton and Nottingham
Aim	To test the impact on payment performance of special training for magistrates in dealing with persistent default in the enforcement court
Rationale	More attention by magistrates to the skills of effective questioning of defaulters is likely to pay dividends in terms of higher success rates in pressing defaulters to settle their debts more promptly and in reducing the frequency with which the cases return to court with little or no progress made towards resolution of the problems
Description	• The two pilots shared a common training approach with special materials prepared and a development session arranged for members of the respective fines enforcement panels. The details of the approach adopted at each court differed slightly however. • At Brighton, a subgroup of 12 lay magistrates, who were members of the fines panel, together with the district judge agreed to act as a 'select panel' to deal with both the most persistent – or 'serious' – defaulters whose excuses, it was felt, needed to be tested more thoroughly. • In Brighton the persistent defaulters were those who had previously failed to respond as the court expected in earlier rounds of enforcement action and whose files had been marked as such. Notes were kept of what was said and decided at each select panel session. These notes were referred to at subsequent hearings, and allowed panel members to either challenge with confidence any inconsistencies with previous excuses or promises, or to truncate any unhelpful repetition. • A subgroup of Brighton court clerks was also chosen to support the select panel and a training event was organised to develop and hone skills in conducting the enforcement court sessions. • At Nottingham, a training event was also organised to which all 45 members of the fines enforcement panel were invited. Some 20 were able to attend the special session which included a 'best practice' presentation by one of the court's district judges and a series of role play case-studies, specially developed for the occasion, in which participating magistrates adjudicated in a series of 'real life' default case studies in which the court clerks role-played the defaulters. • Subsequently a 'good practice' checklist was devised by the researchers for use in court by the magistrates who had undergone the training (see Appendix F). • For the duration of the pilot the Nottingham court listing and magistrates' rota was adjusted so that those who had participated in the special training were scheduled to sit together on enforcement court panels in one courtroom while other magistrates (who had not attended the training) were scheduled separately in another courtroom (this adjustment to the rota being deliberately undertaken without the magistrates' knowledge to ensure as much of a 'controlled experiment' (to allow an assessment of the impact of the training on performance).
Impacts and learning	• The training sessions at both courts were well received by participating magistrates and, particularly at Brighton, a strong sense of enthusiastic commitment to the 'enforcement cause' was engendered. • From the outset, 'attitude and skills' were seen as important factors in the success of these pilots, particularly the assertiveness of the magistrates to

	question rigorously and achieve settlement of debts by robustly challenging any excuses or ambiguities offered to the Bench. • The statistics on payment rate performance improvement were excellent for Nottingham (+228%) although, once again, it was always going to be difficult to know for sure how much of this could be attributed exclusively to the pilot. • In fact the differences in performance between the 'trained' group and the 'control' group at Nottingham were hardly significant, suggesting little immediate impact of the special training. • On the other hand, it would have probably been unrealistic to expect much transformation in performance on the basis of just one training session and that, to ensure real success, the process of enforcement skills development would probably need to be sustained much longer (to challenge old habits and acquire consistency in the application of 'best practices'). • The statistics for payment rate performance at Brighton were less impressive than Nottingham (+20%) but there were other visible measures of the value of the project in the form of a more highly motivated and increasingly confident group of magistrates, committed to develop their skills in the enforcement court and keen to get a grip on the arrears problems brought before them as a select panel. • The benefits of such transformation in attitudes and behaviour may not have yet shown themselves particularly in the pilot period in terms of high success rates in relation to many of the difficult default cases brought to their attention, but there was consensus in the view that this at least had been a positive start and with much potential to assist in turning around the performance statistics.
Inputs	Mostly staff time designing and organising training and managing the listing of cases Input cost totals: Brighton = £5,785; Nottingham = £1,851
Outputs	% persistent defaulters appearing before special panels Brighton = 7 per cent, Nottingham = 54 per cent
Outcomes	The payment rate in a sample of 172 cases drawn from Brighton and Nottingham showed an increase in the payment rate of 153 per cent. The individual rates of change for Brighton and Nottingham were respectively +20% and +228%.

Impacts on payment rates

Measuring the impact of the pilot projects was not simple. The discussion in Chapter 4 indicated some of the different measurement options available (for example, the recovery rate, or amount paid in a given period) and their respective shortcomings. As indicated, the 'payment rate' – the percentage of the imposition paid per week – constituted the most suitable measure to adopt. This measure is particularly suitable for monitoring the impact of financial impositions that are 'ongoing', for example, that they were imposed some time before the pilot interventions were introduced and still remained open after the pilot period had expired. See Appendix C for a fuller explanation.

Looking first at the programme as a whole, Table 5.2 indicates – in relation to this measure – some degree of success overall. As can be seen from that table, payment rates increased threefold (by 227%) in the period after intervention, compared with that before. While the 'payment performance measure' was the best available – and indeed necessary to arrive at any conclusion on cost-effectiveness – it was not used in 'laboratory' conditions. In other words, it was not possible to determine just how much of any success – or failure – was attributable to the pilots specifically, as opposed to other developments and circumstances that were operating in the courts.

The size of penalties imposed of course varied in each court, as did the number of cases targeted, and the use of 'payment rates' as a measure takes both factors into consideration. But it can help to indicate what this might have meant in relation to the 'typical' case. Applying the calculations to the average financial penalty of £166 (in other words the average closed case in the pre-implementation survey – see Chapter 4), across all the courts and the different pilots the amount of payment rose from 50p per week before the programme to £1.63 after it.

At face value, the most marked impacts were found in those pilots where the payment rate could be measured both before and after the intervention (in other words where the financial imposition was made ahead of the pilots being implemented): over half of the sample could be measured against this criteria (946 of the 1,766). The impact was particularly marked in relation to those cases that the courts were able to close during the three-month post-pilot period (generally because full payment was made).

Table 5.2: Overall impact of the pilot programme

	Type of case	Number of cases	Payment rate prior to intervention (%)	Payment rate after intervention (%)	Rate of change (%)
Same case comparison	Closed cases	84	0.54	5.41	+ 902
	Ongoing cases	862	0.38	0.54	+ 42
	Combined cases	**946**	**0.43**	**1.00**	**+ 133**
Same court comparison	Closed cases	53	2.67	6.94	+ 160
	Ongoing cases	767	1.5	0.52	- 65
	Combined cases	**820**	**1.61**	**1**	**- 38**
	All cases	**1,766**	**0.3**	**0.98**	**+ 227**

Further analysis of the 'same case comparison' was undertaken to determine the number of people who were paying more before and after each intervention. The findings of that

analysis are presented in Table 5.3, and indicate that overall less than one-third (32 per cent) of defaulters increased their payment after the intervention.

Table 5.3: Numbers of defaulters who increased their payments following an intervention[49]

Court	Number fined and increased payment after intervention (% in brackets)	Number fined and did not increase payment after intervention	Total sample size
Leicester	82 (63%)	49	131
Nottingham	55 (56%)	43	98
Wiltshire	37 (49%)	39	76
Brighton	9 (47%)	10	19
Grimsby	38 (43%)	50	88
Blackpool	10 (37%)	17	27
Beverley	42 (24%)	135	177
Croydon	12 (22%)	42	54
Teesside	10 (15%)	55	65
Watford	2 (6%)	33	35
Knowsley	1 (6%)	16	17
North Shields	5 (5%)	94	99
Northampton	3 (5%)	56	59
All	**306 (32%)**	**639**	**945**

Another interesting consideration was whether differences in payment rates were discernible between the four main categories of pilot (in other words between the four challenges of enforcement identified in Chapter 2). Table 5.4 addresses this question by presenting the data in relation to the same 1,766 offenders – but separating out each category. Full details of the rates of change for individual pilot projects are shown in Appendix C.

Table 5.4: Overall effect on payment performance of the pilot projects in each of the four categories

Category	No. of cases	Payment rate prior %	Payment rate after %	Rate of change
Dealing with persistent default	505	0.51	1.7	+ 233
Imposing financial penalties effectively	392	0.72	1.05	+ 45
Organising for and administering enforcement	796	0.59	0.56	- 5
Tracing defaulters	73	0.55	0.22	- 60
Overall	**1,766**	**0.3**	**0.98**	**+ 227**

The table indicates that overall there are two categories of projects that seem to be associated with improving payment rates:

- Those pilots dealing with persistent default appeared to be the most successful in so far as payments rates at these courts improved overall three-fold. Excluding the Grimsby and Camberwell projects (because of the low numbers of cases), all

[49] Solihull was excluded from this analysis since it only had one case that fell within this category of courts

of the pilots within this category individually showed an increase in payment rate (see Appendix C).[50]

- Those pilots aimed at imposing penalties more effectively also appeared quite successful, in so far as payment rates at these courts improved overall by nearly half. In fact, however, this improvement was attributable to just two of the projects in the category – those at Barrow and Blackpool.

In contrast, those projects with a focus on 'organising/administering enforcement' appeared overall to have little or no positive impact (with negative changes in payment rates being experienced at all the pilot courts in the period under review). Finally, those projects concerned with 'tracing offenders' appeared to encounter mixed results; some recording positive improvement and some negative change in payment rates.

Cost-effectiveness of the pilots

Table 5.5 summarises the cost-effectiveness of the pilot projects by providing a breakdown of the gain/loss for every £1 invested. Since gain or loss per £1 invested is calculated by reference to the interaction of a number of variables – including the average fine imposed, the difference in the payment rate, the length of time the project ran and the number of cases each project dealt with – it is difficult to identify which 'drivers' might make a project more effective than another. Appendix H provides a full explanation of the approach adopted when making these calculations.

It is evident from Table 5.5 that, in terms of gain or loss for each £1 invested, the most cost-effective project was the Nottingham DWP project and the least cost-effective was the Beverley project. Overall the projects in the programme on average operated at a loss of £2.47 for every pound invested. However, if both the Nottingham DWP and the Beverley projects are removed, on average the projects in the programme lost 10 pence for every one pound invested.

Although the complexity of the calculations makes it difficult to identify specific 'drivers' that might make a project more or less successful, some patterns can be discerned. For example, the most cost-effective projects appear to be those that were aimed at dealing with persistent default. Of the projects in that category, all but the Camberwell project delivered a gain for every pound invested, and on average those six projects produced a gain of 25 pence for every pound invested.

The projects that were aimed at shortening the timescales for enforcement actions, on the other hand, appear to be the worst performing. All but one of those projects (Barrow) delivered a loss on the investment – on average a loss of £8.70 for every pound invested. However, if Beverley is excluded, the loss per pound is reduced to 38 pence.

[50] When the analysis was performed only on the 'same-case' comparison cases, it was found that the pilots that dealt with persistent default were the most successful: see Appendix C for further details.

Table 5.5: Cost effectiveness: the gain/loss per pound invested in each pilot

Court	Gain/loss per £
Nottingham DWP	6.43
Nottingham	0.48
Grimsby	0.48
Leicester	0.25
Knowsley	0.23
Brighton	0.15
Wiltshire	0.14
Blackpool DWP	0.12
Blackpool	0.07
Barrow	0.05
North Tyneside	-0.01
Bridgend	-0.01
Camberwell Green	-0.03
Solihull	-0.09
Watford	-0.12
Teesside	-0.14
Croydon	-0.24
Bridgend DWP	-0.52
Wrexham	-0.77
Northampton DWP	-0.95
Northampton	-1.18
Beverley	-58.59

6. Lessons from the pilots

The pilot projects provided the basis for much valuable reflection on what works well, what works less well in what circumstances and why. Although the impact of the initiatives was variable, with about an equal number of the pilots proving disappointing and encouraging, there was certainly much learning to be derived through the process overall – from the apparently unsuccessful, as well as the apparently successful, pilots. Most important, whatever the success rate of the pilots in terms of cost-effectiveness analysis and, ultimately in terms of crime reduction potential, the study as a whole generated a great deal of evidence and perspectives on good and bad practices in the enforcement of financial penalties both in individual courts and more generally.

In this section five key themes derived from the research are discussed in turn – these being themes which cut across many of the individual pilots and which represent key learning points of more widespread applicability. They are as follows:

1. getting financial penalties right at point of imposition
2. reserving enforcement courts for persistent defaulters as last resort
3. maintaining responsiveness and unpredictability in enforcement
4. capacity-building for enforcement
5. joining up enforcement: working with other agencies.

The subsequent sections elaborate on each of these five themes in turn.

Getting financial penalties right at point of imposition

The adage often heard during this project, that 'enforcement begins at the point of imposition', certainly seems apt in the obvious sense that the need for later enforcement will be minimised if the financial penalties are imposed with clear regard to the offenders' ability to pay and with clarity about expectations for payment and the consequences of non-compliance. Yet, as indicated, observations in various courts around the country revealed that these simple principles are not always followed sufficiently thoroughly, for a variety of reasons, and that there is much scope for improving the process and for ensuring a more systematic application of best practices.

Taking account of ability to pay

As indicated in Chapter 1, the new sentencing guidelines, published in 2000 by the Magistrates' Association, have generally helped to reduce the scale of disparities in levels of penalty and to provide a common framework for relating impositions to offender income levels. But the research has highlighted the fact that there remain other aspects to be tackled concerning the fixing of penalties according to the offenders' means. In particular, there is a need to resolve the problem of lack of information on financial means in those many cases in which defendants plead guilty in writing and have their cases decided in their absence. There is also a need to ensure consistent adherence to the kinds of practices covered in the magistrates' training sessions piloted at Bridgend and Barrow with regard to seeking

information from appearing defendants (see checklist at Appendix E). While these pilots highlighted the various circumstances that can so easily hinder the attainment of completed and signed financial means forms in all 'appearance' cases, magistrates and clerks acknowledged the potential benefits of such information, and of the arguments in favour of making such provision a mandatory requirement.

Clarifying expectations for payment

The research also highlighted considerable scope for improving consistency in the care taken in court to clarify to the appearing offender expectations about payment of financial penalties and about the possible consequences of non-compliance. Perhaps some guidelines, including some model annunciations, would be useful in this context as well as more emphasis on this aspect of court work in magistrates' training programmes (in the Bridgend and Barrow pilots). Ideally too, courts should be encouraged to reinforce expectations about payment of financial penalties for those appearing in court, for example, by accompanying offenders after sentence to the fines office to make a payment (in full or a first instalment) or at least to establish arrangements for paying. To this end, fines notices should be issued immediately in court, together with easy-to-follow instructions on how to pay etc. It seems important, too, for there to be cash collection facilities at all courts, at least during the main sittings times, to enable payments to be made quickly and to underpin the expectations of the court in this respect.

Verification of information

Another priority for improvement identified by the research concerns the gathering and verification of information by which the offender might subsequently be contacted (particularly if in default on their penalty). Arguably it should be a matter of routine for clerks to ask defendants to tell the court their names, addresses and phone numbers, and then to check for consistency with the information in the court papers. Mobile phone numbers and National Insurance numbers would sensibly also be routinely sought, again as piloted at Barrow and Bridgend, given that many of those appearing in court might have a 'mobile' (on their person) and many, being in receipt of benefit, would probably be able to cite their NI number too.

Time-to-pay

Finally in this context of getting financial penalties right at point of imposition, the pilots at Barrow and Bridgend highlighted the scope for avoiding later enforcement problems by a more robust approach to the initial setting of payment terms and, in particular, to tackling what many staff referred to as a 'time-to-pay culture'. This is a culture in which the court appears to be in the habit of presuming that the financial penalties imposed will be paid in a series of weekly or fortnightly instalments and seeks an 'offer' on this basis rather than (as, in fact the law suggests) pressing for payment 'forthwith and in full'. Of course, for many offenders payment in instalments is a necessary reality. But more courts could reduce the risk of default by following the lead of those that have chosen to be more assertive in pressing for immediate settlement in full and more guarded about granting 'time-to-pay'. Similarly, more might usefully follow the lead of those courts which have consciously promoted the lower-risk payment methods, such as Attachment of Earnings Orders, credit cards or standing orders, where feasible and appropriate, or which have, as a matter of policy, refrained from inviting 'offers' from the defence about settlement arrangements and instead chosen to keep control of the process by dictating the payment terms.

Reserving enforcement courts for persistent defaulters as last resort

A second key theme to emerge from the research concerned the positive potential of initiatives that involve enforcement staff more actively in the enforcement decision-making process and the benefits to be gained by reserving the role of magistrates in the courtroom for the more serious cases of persistent default when fresh judicial decisions are called for.

A number of those consulted during the course of the research (both magistrates and staff) took the view that the enforcement of financial penalties might usefully be regarded as an executive function, and one to be wholly assigned to staff (with appropriate skills and training). But the complexities of the role and the variance in the personal circumstances and attitudes of defaulters which enforcement work involves might well suggest more advantage in a two-stage process with responsibility divided between staff (to take responsibility for the initial steps) and magistrates (to deal with subsequent decisions in case of persistent default).

Staff-led enforcement strategies

From various of the pilots and from visits to other courts with especially good performance statistics in relation to enforcement the potential of well-trained, motivated and well organised teams of staff was very apparent in handling the bulk of the enforcement workload. However, the importance of reinforcement and 'last resort' exercise of judicial authority in the more prolonged and difficult cases was also recognised. The Leicester pilot, in particular, showed how much more can be achieved when staff are given professional training in the conduct of debt collection interviews with defaulters. Here it was remarkable how performance was transformed by the careful application of well thought out enforcement principles and disciplined interview practices in confronting defaulters' shortcomings in one-to-one settings. Sustainability had also been recognised as an issue from the outset and this had been addressed by the appointment of some staff as 'monitors' to maintain standards through ongoing refresher training to avoid slipping back into old ways. Also remarkable was how this whole approach has in turn changed the climate among enforcement staff at the court, giving them new confidence and a sense of pride in their work.

In a different way the Swindon pilot, too, highlighted the potential of one-to-one interview approaches with defaulters. Here the sessions proved especially helpful in resolving many of the issues that would otherwise take up valuable time in the courtroom. To this end, a two-stage interview process was used in most cases; with a senior member of the administrative staff available for one hour before default court hearings to expedite straightforward cases. Those attending these interviews were informed that the CAB was also available to offer advice on financial management and any other issues that impacted on a defaulter's ability to pay. Most defaulters whose cases were progressing to the courts availed themselves of this service, and in many instances, asked the CAB representative either to speak on their behalf in court, or prepare a written submission of the defaulter's circumstances for the hearing.

As with Leicester, the Swindon pilot demonstrated how one-to-one interviews allowed closer examination than would usually be possible in the courtroom of the circumstances surrounding the default. They also appeared to offer better opportunity to probe excuses offered, challenge any inconsistencies (with eye-to-eye contact across a table) and to explore other factors that might have played their part in accounting for the arrears as well as winning trust, co-operation and, ultimately perhaps, compliance on the part of defaulters.

Financial advice services

The Swindon project was especially significant in this respect because of its two-stage process. The first stage (with CAB workers) offered something of a 'helping hand' to defaulters, winning their confidence and co-operation through their assisting and independent role and conveying a positive message that something could be done about the arrears and that representations could be made on the defaulter's behalf to the Bench. The second stage – the staff-run fines clinic – on the other hand, represented a more formalised interview process, conducted in a firm but not intimidating manner by a member of staff with appropriate experience of dealing with defaulters and of how to achieve realistic settlements in the bulk of cases. The difficulties experienced at the Grimsby pilot, which of course similarly involved a one-to-one clinic service, reflected among other things the fact that this clinic was entirely run by court staff (and accessed by making a request at the court office counters rather than by appointment in another part of the building). For these reasons, it was probably always less likely to have been able to win the same degree of co-operation from defaulters as at Swindon. Indeed, it is doubtful whether take-up for the (staff-run) fines clinic at Swindon would have been so strong but for the fact that it was part of a two-stage process and linked to the CAB-run facility.

Dealing with persistent default

Even then, the research highlighted the need in many default cases for further enforcement actions and the potential impact on payment rates of appearances before a bench of magistrates as a last resort and perhaps for fresh judicial decisions to change direction (for example consideration of remission, attendance centre orders, money payment supervision orders, suspended committals and ultimately imprisonment).

One obvious advantage of reserving the courtroom for more serious cases of default would be in the extra time that would be available to focus more keenly on the serious cases. The Brighton pilot, which involved the establishment of a select panel to do just this, proved particularly popular among the magistrates' group, on account of the fact that they were able to undertake a more thorough job in relation to the most persistent defaulters without the 'clutter' and pressures of other less demanding enforcement work.

Maintaining responsiveness and unpredictability in enforcement

Many of those consulted during the research commented on the diversity of circumstances surrounding those in default and the different attitudes and behaviours they demonstrated. The fact that the courts tend to undertake their enforcement work, for the most part, by following a fairly standardised (and therefore predictable) sequence of actions is therefore perhaps questionable. On the other hand most court personnel regarded the 'one size fits all' approach as being necessary on resource grounds and felt more differentiated strategies would not be feasible without the deployment of significantly more staff and other resources for the task.

Differentiated enforcement strategies

That said, several of the pilots did involve the adoption of a differentiated approach with interventions being piloted for particular categories of defaulter. The Croydon pilot, for example, selected 'low risk' defaulters for the faster summons process rather than the normal

bailiff approach, while the Brighton and Nottingham pilots involved directing persistent/serious defaulters to appear before special panels of magistrates. Despite the general reservations elsewhere about such differentiated strategies, these pilots did at least suggest feasibility in the approach.

A key determinant of any such differentiated approach would logically be the circumstances of defaulters, and while none of the projects directly piloted initiatives that involved different enforcement strategies being pursued for the different individual situations of defaulters – for example those who 'couldn't afford to pay', those who 'couldn't remember to pay', or those who simply 'wouldn't pay' – it seems reasonable in principle at least for enforcement strategies to be more tailored and based on a 'risk management' approach.

While there are arguments to be considered here about equity and consistency of approach, and while there would often be difficulties in making prior judgements about the risk of default (particularly in 'first offence' cases) the major constraint at present is arguably a practical one – that of the relatively unsophisticated information systems currently available in the courts. Unfortunately these neither facilitate cross-checking records in relation to payment performance on previous impositions nor hold sufficient relevant information to assist a routine risk assessment process (for example information on 'type of accommodation' to indicate likelihood of changing address, or 'means form information' to indicate likely ability to maintain payments).

Speed of enforcement actions

Another aspect concerning responsiveness in enforcement concerns speed of action – the general aim, of course, being to minimise the risk of loss of contact with defaulters. The research certainly highlighted the importance of early enforcement interventions as the best insurance against more time-consuming and less certain money recovery actions at later stages (as was highlighted in the analysis of enforcement patterns). The propensity of many offenders to change address frequently is often a particular problem for the courts. Moreover, and given that a significant proportion of defaulters are persistent offenders, there is always the risk with tardy enforcement processes that, by the time the court has caught up with them, debt from financial penalties may have accumulated (totted) to unaffordable levels. This, then, undermines the prospect of debt collection without resort to remission or extended time-to-pay arrangements.

Although only one of the two pilots in which enforcement timescales were reduced appeared to have been successful, as measured in terms of impact on payment performance, the research more generally identified much evidence to suggest the potential benefits of early interventions and of the extra work (and cost) that is created later if things are left for too long. The DWP trace projects provided one such example. Here about ten per cent of those for whom new information on whereabouts had been provided went missing again before contact was made or their debts satisfactorily cleared.

As indicated earlier, enforcement timescales differ between courts even though most, like Wrexham, have reviewed their procedures and reduced days and weeks between actions. Most courts acknowledged that, in principle, they could go further and cut timescales still further. The main constraint, they argued, was the potential extra workloads that shorter timescales for intervention would tend to generate for staff in having to respond more quickly. But such implications clearly should not be a deterrent to more prompt enforcement actions if the court is serious in its resolve. As indicated earlier, enforcement work already often suffers from being treated as a 'buffer' activity (to be given varying priority as resources allowed). And this was a reality that no-one sought to justify or defend, still less, advocate.

Unpredictability and enforcement actions

Keeping defaulters uncertain about precisely what actions the court might take and about when responses might be forthcoming is the other important lesson highlighted in the research concerning enforcement strategies. Here, although the range of interventions usually adopted by the courts is fairly limited (in other words issuing reminder/final demand letters, then summonses, then bail or distress warrants) the research highlighted potential merit in some of the other lesser used approaches such as 'naming and shaming' campaigns.

Certainly one of the two naming and shaming campaigns (that at Knowsley) appeared from the analysis to have been relatively successful in terms of impact on payment performance and cost-effectiveness. And while the impact was disappointing in terms of the actual number of defaulters traced or accounts settled, the staff here (and at the other such pilot at Watford) were quite positive about the potential value of such initiatives as a deterrent to potential defaulters, particularly if repeated regularly so that the campaigns became more widely known about and a more familiar feature in local newspapers. In particular, it was significant that neither of the pilots encountered any of the problems that many justices' clerks at other courts had anticipated and feared – of mistakes being made and embarrassment being caused through erroneous publication etc. Both courts were very careful in their preparation and served due notice of the intention to publication before proceeding and this appears to have paid dividends in terms of trouble-free implementation.

The pilot promoting greater use of Attendance Centre Orders (ACOs) at Camberwell Green was in this instance notably unsuccessful in terms of its objective of promoting the court's use of such orders. However, the idea of using ACOs was regarded by magistrates at all of the courts visited to be a potentially worthwhile strategy, both in prompting payment from those who would not wish to surrender their Saturday afternoons and by providing the courts with a constructive alternative punishment for those struggling to afford to settle their debts. Moreover, a number of defaulters, when asked about this enforcement option, indicated their willingness to undertake some form of attendance centre or community service option as a means of reducing/clearing their debt.

Telechasing was a further technique that it had been hoped could be evaluated through a pilot but which, in the event, did not get underway at the chosen court (Leicester) in sufficient time. Again, however, those who discussed the idea were enthusiastic not least because they recognised that carefully timed phone calls could help to signal the court's determination in its pursuit of arrears. Moreover, this positive perception of telechasing was endorsed by several civilian enforcement officers (CEOs), most of whom routinely make use of the phone in the early mornings or in the early evening to contact defaulters. Thus it would seem useful as a next step to commission a formal pilot in which telechasing could be systematically implemented as an enforcement strategy (and for which routine collection of phone numbers at point of imposition would be necessary).

Whatever the effectiveness of such a telechasing pilot – or indeed of further pilots with ACOs, the interviews with court personnel highlighted particular merit in extending the enforcer's 'toolkit' and of adding more variety to the process. Indeed, it was widely recognised that innovation and frequent changes in approach were vital ingredients of a successful enforcement strategy, not least because it would be more difficult for defaulters to anticipate the court's next move and 'play the system' to their advantage.

Capacity-building for enforcement

The fourth main theme derived from the pilots concerns the resource base available in the courts for undertaking an effective enforcement function. While some courts clearly manage to perform much better than others in this regard, the research highlighted in many and

various ways the limits which resource constraints impose on the effectiveness of enforcement work and the potential to do much better if greater resource capacity were available to all courts. One facet of this capacity problem, already touched upon, concerns the information management systems and, as indicated, it is to be hoped that the long-awaited Libra computer systems will soon address the obvious shortcomings of the existing computer systems.

The nature of the capacity problem

However, the capacity problem surrounding enforcement runs deeper than this and is as much about the overall context and climate within which the function is undertaken as about the particular computer software. It is, for example, about the limited budgets that cannot afford the courts access to the kinds of trace facilities now available (and routinely used by many of the private sector organisations which undertake similar roles). It is about the widespread rhetorical, but patchy real, priority given to enforcement by management (MCCs, JCEs and Justices' Clerks). And it is about the heavy reliance on staff of relatively low grade, mostly very capable and efficient, but often poorly empowered or trained to develop the work in new and more productive directions. One set of measures of these capacity problems was the difficulties encountered in mounting and sustaining all of the pilots planned for this project. As indicated earlier, two hardly got off the ground because of difficulties at the courts and several of the others fell short of their potential or suffered from shortage of organisational capacity (but not of enthusiasm or desire to participate and improve).

Two other indicators of such capacity problems noticeable at most courts were the extraordinarily high number of warrants for default that lay unserved for many months and the all-too apparent disorganisation of so many enforcement court sessions (with numerous cases listed but only few actually proceeding, and with much unproductive time being spent along the way dealing with administrative matters that really ought to have been settled beforehand).

Step change and enforcement practices

Of course the difficulties associated with enforcement work should not be underestimated nor regarded as all the fault of the courts. But it is symptomatic of the capacity problem that besets the function at so many courts that the problems persist despite the fact that they have been recognised and reported upon in a string of reviews and research reports over the past 20 years (for example Home Office 1989, Lord Chancellor's Department, 1992 and 1999). One key lesson from this research, then, is that the function merits a fresh review of resource requirements and capacity generally (including the management information systems). And in this respect the experience of both the Leicester and the DWP pilots illustrates how much more can be achieved when a carefully planned step change is made through investment in relation to human and computer systems respectively. At Leicester, a bold staff training initiative (involving private sector consultants) resulted in a considerable improvement in payment performance and, as indicated, also in terms of staff motivation (which is probably key to sustaining the success). Likewise, the DWP project, with significant resourcing involved (by the Home Office for the duration of the pilot) to purchase staff time at DWP Longbenton to undertake the tracing work, proved generally very successful in allowing progress to be made on many otherwise 'stuck' default cases. Again, this proved a significant morale booster for enforcement staff, hitherto so often frustrated by the high number of 'dead-ends' encountered in their work.

Joining up enforcement: working with other agencies

The fifth theme drawn from the research focuses more specifically on one aspect of the above capacity-building issue and concerns working relations with other agencies. The point has already been made that courts cannot undertake enforcement in isolation but depend on the support and involvement of other agencies with their different resources and complementary capacities because of the essentially cross-cutting nature of the function (Richards et al., 1998).

A range of agencies have traditionally provided such support – the police, probation, local offices of DWP, local authority council tax and housing departments, CAB and bailiff companies. The research showed that four forms of assistance seem to be especially important. For each of these the court needs effective inter-agency relations to support a joined up approach to enforcement. These are assistance in warrant execution; assistance in tracing missing defaulters; assistance in the provision to defaulters of money advice; and assistance in supervising payments.

Assistance in warrant execution

Civilian enforcement officers

During the period of this research, the transfer of responsibility for warrant execution from the police to the courts meant that all magistrates' courts introduced Civilian Enforcement Officers (CEOs). On the whole, this change has been welcomed by courts because they have gained more control over the process of warrant execution, although the change has a potential downside in terms of loss of access to police information systems and other intelligence networks. In practice, most civilian enforcement officers (many of whom have simply transferred from the police) have worked hard to nurture and sustain *informal* contacts with the local police to ensure that such information sources are not lost and have been able to continue to rely on police support in making arrests or to provide other support whenever there have been concerns about personal safety etc.

Police

The loss of out-of-normal-hours capacity for enforcement work (which was previously facilitated by the police shift system) was potentially of some significance and underlay the selection of a pilot (at North Tyneside) specifically to test the impact of contracting with the police for an out-of-normal-hours warrant execution service. An issue from the outset in this pilot concerned control and accountability with the court being unsure that it was getting the full service (numbers of hours of active work) that it had paid for. Nevertheless, overall, the view of court staff was that the project had been useful for the additional information that the police had been able to supply from their own intelligence systems as well as for warrant execution work. Initial reservations by the CEOs that the project encroached on their own jobs were soon dispelled and police-based and civilian-based enforcement work was generally recognised as complementary.

Bailiffs

While not the subject of any pilot initiatives in the research, the issue of use of bailiffs in enforcement was much discussed with court personnel in the course of the work (many courts having become heavily dependent on bailiffs for dealing with persistent default because of lack of support from the police). Generally the court administrations' experience of using bailiffs was found to be fairly negative on account of relatively low overall recovery rates, suspicions that the 'easy to recover' debts were being 'cherry-picked', and frequent complaints from defaulters and their families about intimidating and unlawful behaviour at the

doorstep and inside the house when seizing personal belongings to be sold to settle the debts.

Perhaps it is somewhat surprising therefore that so many courts continue to rely so much on this approach and particularly perhaps, that they continue to support the traditional bailiffs' terms of 'no win – no charge' (in other words bailiffs covering their costs from surcharges to the defaulters they successfully reach rather than by charging the court for services rendered). During the project, the research team heard of no courts operating the alternative (and more conventional in the public sector) of outsourcing contractual arrangements in which payments would be made by the court for all services provided (in this case in tracking and serving warrants on those in default). This, indeed, is something that, with hindsight, might usefully have been piloted in the research and could perhaps now usefully be the subject of a special further study.

Assistance in tracing missing defaulters

The pilot of the DWP address tracing facility represented a rather different form of joined-up enforcement initiative – one that has introduced a national service in place of the increasingly patchy assistance provided by local offices of DWP. The lessons from the pilots were generally positive and the new trace service has undoubtedly had a significant impact for the courts in terms of resolving many difficult-to-trace cases (with new information provided in about 70% of cases). Two main criticisms were, first, that the process, as designed, was too bureaucratic (requiring completion of separate paper forms for each requested name/address trace rather than just for each batch sent), and second, that it had been instituted as a 'last resort' facility (in other words to be used only after local searches and checks had proved fruitless) rather than at an earlier stage when the courts first became aware that the available information was incorrect. Indeed, best of all, as many staff pointed out, would be for the courts themselves to have computer access to the Longbenton database to make their own searches and immediate verifications of information supplied by offenders at point of imposition (thus conveying a clear message to potential defaulters that the court could not be so easily fooled).

Assistance in the provision of money advice

Given that many defaulters are in difficult financial circumstances, it is logical and potentially timesaving for the courts to work in close conjunction with one or more specialist money-advice and debt counselling agencies in their vicinity. The role of the Citizens' Advice Bureau (CAB) in this context is particularly significant and, nationally, this organisation is committed to developing its work in relation to enforcement courts (CAB, 2000). As indicated, the CAB pilot at Swindon was generally considered successful, particularly as part of a two-stage process (working in tandem with a staff-led fines clinic). The pilot attracted positive comments from most quarters, including most of the defaulters encountering the service there. It clearly saved the court much time by making the means enquiry process a pre-court activity, although it also generated some frustrations for magistrates who were frequently kept waiting because of the time required in each case by the CAB caseworker.

However, probably of greater concern, this pilot also highlighted the potential for inappropriate advice to be given by independent advisers in the privacy of a courthouse interview room (for example, advising against citing cigarette and alcohol expenditure on financial means forms because magistrates might want to take it into account in deciding terms for the payment of debt). One lesson from this pilot was that it would probably be better for CAB (and any other such independent advisory service) to be required to operate to a Code of Practice governing both the aims and legitimate purposes of the role and the nature of advice that might and

might not be given (much in the manner applying to Victim Support in relation to their court-based witness service schemes).

Assistance in supervising payments

Although in the research there were no pilots of initiatives specifically focusing on the supervision of those paying their debts in instalments (under time-to-pay agreements) there was a clear consensus in the interviews about the potential benefits for defaulters of being able to arrange some form of supervision of payments until arrears were cleared. At face value, this finding seemed somewhat at odds with the fact that Money Payment Supervision Orders (MPSOs), the existing means for doing just this, are made comparatively rarely (Mair and Lloyd, 1989). But this is because magistrates have, from past experience, developed little confidence in the supervision being provided in practice (typically, though not necessarily, by the Probation Service).

However, such problems of past reputation ought not to rule out the possibility of a model supervision regime being developed to support the payment process where appropriate (in other words where there are doubts about the likelihood of the payments being maintained). Again, with hindsight, this might have formed a useful additional pilot, and now perhaps, one for a future trial involving more proactive approaches to 'risk assessment' (based on better information systems that can report on previous payment records and other relevant factors). While acknowledging that probation officers have other, currently higher prioritised, functions to perform, several of those interviewed and with whom this issue was explored, did recognise that the Probation Service was best placed to take lead responsibility in relation to any newly-specified Money Payment Supervision Orders, given the experience of their staff in working with offenders.

7. Looking to the future

The preceding chapters of this report have described the background and context to the research, summarised the nature and findings of the series of pilots that were undertaken and considered the various lessons of experience. As explained at the outset, all the pilots which were implemented fell within the scope of the existing powers of the courts and, indeed, were initiatives of which there had already been some experience at other courts. One purpose of the research, however, was to add a scheme of evaluation to such experiences and thus to provide a more reliable measure of impact and cost-effectiveness and also to assess more thoroughly the potential of the different approaches in addressing enforcement problems.

In this chapter the scope of the study is extended somewhat by drawing further from the findings, particularly those derived from the interviews with practitioners, and presenting further ideas about possible future directions and priorities for the enforcement of financial penalties as well as summarising some of the key lessons and issues for further debate that derive from the pilots that were undertaken. This is done in successive sections by looking first at some of the more radical options (which would require legislative reform), then at some of the reforms achievable under current law but which would involve step-change in the management and resource base for enforcement (perhaps an agenda for the medium term) before finally turning to those priorities for improvement and development that are regarded as realisable more immediately. All this, however, is preceded by focusing first on an underlying issue in this context: that of the balance of objectives in enforcement between, on the one hand, that of 'dispensing justice' and on the other, that of 'efficient management'.

Clarity about objectives in enforcement

One of the fundamental problems constantly confronted in relation to the enforcement of financial penalties is the lack of clarity about objectives. In particular, there is the question of how the aims are balanced out between collecting all of the monies due to the court (in other words achieving the initial expectations of sentencers) and operating in a cost-effective manner (which might suggest settling for less than 100% collection because the costs of so doing might be deemed excessive).

In some courts visited and among some groups of magistrates and staff, it seemed that the 'justice' perspective dominated, as evidenced in high determination to collect financial penalties, almost without regard for the resources required in so doing. For them, resort to non-payment alternatives – remission, write-off, attendance centre orders, daylong detention in the courthouse or imprisonment would most likely be viewed as symptoms of failure. In other courts visited, however, and among other groups of personnel, a more pragmatic view was taken in which the organisations were more inclined to recognise the costs of collection, and therefore to settle for an alternative outcome such as payment of 'something (for example of the balancing sum after remission), or earlier 'write off'. The development in recent years of a generally stronger managerial ethos in the courts, and particularly increasing expectations about performance management have only served to underline the legitimacy of this more pragmatic response (Raine and Wilson, 1995).

But this 'justice versus efficiency' policy issue is one that deserves clarification at national level in the interests of consistency in practices. One view heard several times in discussions with practitioners, and which might well be regarded as an appropriate 'middle way', was to regard the prime objective in enforcement as the achievement of an appropriate degree of *punishment* rather than necessarily the collection of the *monies* that the courts had initially imposed. This view would acknowledge the reality that often financial penalties are imposed

which, with hindsight, are found to have been insufficiently attuned to the offenders' means and which therefore would not necessarily represent appropriate punishment. To many of those spoken to on this subject, the view taken was that the completion of, say, 30 hours of skills development at an Attendance Centre or a community penalty – or perhaps even a day's detention at court for someone unlikely to be able to work and with very limited financial means – could be as acceptable an outcome as settlement of the monetary penalty as originally imposed. One important implication of this, then, is that the performance of the courts in enforcement might usefully be judged more broadly in terms of *completion of punishment* rather than simply as rates of *money collection.*

Market solutions?

A few of those interviewed in the research took the view that the best solution to the enforcement problem was to follow 'market principles' and adopt a much more commercial stance in relation to arrears management. This, they suggested, would logically involve selling (factoring) the difficult-to-collect debt to the highest bidder on the money recovery market.

Less radical, but again, following similar market principles, there was widespread support for the idea of incentivising settlement of the debts to the court payments through schemes of surcharges for late payment and/or discounts for early settlement or for good endeavour in maintaining instalment payments. This approach was generally justified on the principles of equity and just deserts (in other words that those who incur the costs of enforcement should bear them) and that it would be likely to make a significant difference. And while such incentivisation of the payment of financial penalties is not permitted of the courts under existing law, there are, as many people pointed out, plenty of relevant precedents, for example, in the surcharges attached to late payments of financial penalties for car-parking infringements and in the surcharging by private bailiffs.

So might a scheme of penalty surcharges for late payment represent a suitable way forward for the courts? One obvious problem potentially would be that those with limited financial means could, as a consequence of surcharges for default, be pulled into still deeper debt and the enforcement problem for the courts simply augmented. On the other hand, the question needs to be asked as to how this would compare with the current position where the quite extensive use of powers of remission in response to high levels of debt may itself sometimes act as an incentive for offenders to persist in default (in order to get the debt lowered eventually). To be effective, any scheme of surcharges for late payment would need to be accompanied by action to limit use of remission to exceptional cases only.

The other more radical perspective on how the enforcement problem might be addressed which was also much discussed by practitioners in the research involved a different approach altogether. This, as mentioned above, would involve less adherence to the original sentence (of financial penalties) in appropriate cases and resort to community penalties as alternatives (and ones to be regarded as having equivalent tariff status). This, as indicated, was an approach favoured in principle by many magistrates and staff. Particularly for those with very limited financial means or who had already totted up significant debt in financial penalties from previous offences, there was strong support for the idea of being able to select instead either a community penalty or an Attendance Centre Order (ACO) as a constructive alternative. While acknowledging that community penalties might generally be more expensive to administer than financial penalties, because of the supervision involved, it was also recognised that the costs of enforcement could easily narrow, if not close, any such cost difference.

Upgrading capacity in the enforcement function

Although in many ways the research highlighted just how hard staff and magistrates generally work at the enforcement of financial penalties (and, it should be said, with much success as a result), the over-riding view formed was of the efforts often being made against the odds. Many people expressed their belief that the enforcement challenge was getting harder; with less respect generally being shown for authority and a generally more mobile society adding to the problem of tracking down those intent on evading their responsibilities. At the same time, centralisation of courts and of their accounting functions has meant that traditional reliance on personal contact and on the local knowledge of enforcement staff as a means for keeping control of arrears has had to give way to greater dependence on 'auto-enforcement' routines and to other more systematic approaches to the task – with both gains and losses along the way.

In many respects, of course, the courts are better equipped (technically) than in the past to manage enforcement effectively and efficiently. The computer systems automatically highlight cases in arrears, issue enforcing actions and facilitate searches and checks. As the case of the new service operated for the courts by DWP showed, they are also particularly valuable in tracing defaulters on a national basis. The widespread employment of civilian enforcement officers by the courts has also extended the reach of enforcement work into the community, and many of the kinds of initiatives piloted during the course of this research do represent real advancements in methods and techniques compared with those relied on in the past. But at the same time, as has been argued, the courts are also generally struggling to do all that is expected and desired in this regard, with computer systems that were ill-designed for the specific enforcement purpose, with inadequate information management processes within the organisation, generally with insufficient staff of high calibre and with sound training, and with insufficient support in the task from other agencies. Compared with the potential that is now possible in the early years of the 21st century as a result of modern technology, advances in information management processes, opportunities for skills development and for more joined-up approaches, the overall conclusion from this research is that performance in enforcement in the magistrates' courts' falls well short of the mark.

What all this might well suggest is the case for a significant overhaul of the process through a fundamental review of the management and resourcing of the function. Some have argued in favour of hiving off the function to a dedicated and suitably resourced enforcement agency. Others continue to pin their hopes on the (long-awaited) Libra computer systems to support enforcement better (including access to national databases of defaulters). But in this context, probably much depends on the way forward for the courts as a whole particularly in the light of the report of Lord Justice Auld on the Criminal Courts Review (HMSO, 2001).

'Enabling' and 'ensuring' responses

What is clear is that, if the function is to be more effectively undertaken by the courts, attentions will need to be directed at the whole information management processes – not just the computer systems. The problem, as has been identified, begins at point of imposition and it is there that, logically, any overhaul needs to begin. For example, the completion of a statement of financial means (giving summary details of regular income, savings and summary of outgoings) would ideally be a prerequisite to sentencing (in just the way a pre-sentence report is for more serious cases) and failure to comply with such a requirement (or knowingly submitting false information) would sensibly be a separate criminal offence. Modern 'document management systems' could further transform aspects of court administration that hinder effective enforcement work. Ideally all case file papers would be held electronically (following scanning of the pages) so that, at any subsequent stage, for example, if a financial penalty were to require enforcement actions, the originally-completed statement of means information would be readily retrievable for cross-checking.

A better organised and managed process would also ensure that, ahead of deciding the amount of any financial penalty to be imposed, the court would automatically be informed of any other 'live' financial penalty accounts or arrears (by access to a national database covering all courts in the UK) so that any such history could be taken into account in fixing any new penalty.

Similarly, as discussed earlier, anyone to be granted 'time to pay' their financial penalty (in other words payment in instalments) would logically be subject to a 'risk assessment' which would take account of any previous record of payment and other relevant factors and would be bolstered by some form of 'supervision' arrangement through an invigorated and more carefully-specified Money Payment Supervision Order regime.

Likewise, more reliance might logically be placed on Attachment of Earnings Orders where offenders are in employment, or on standing order arrangements with banks to minimise the risks of default. Deductions from Benefit, too, might logically be developed as a useful means of supporting the payment process for those in receipt of the relevant benefits – but with a comprehensive overhaul and simplification of the administrative arrangements.

So far as opportunities for settlement of financial penalties is concerned, a clear aim for all courts should be to make the process as easy as possible – to support and promote payment – which would logically mean having the capability at all courts to take payments immediately after imposition. While the centralisation of 'back-line' accounting functions can be justified on efficiency grounds, it is important that such developments do not undermine capacity to provide good 'front-line' payment and enquiry services. Payments would also logically be encouraged in as wide a variety of methods as possible (in other words cash, cheques, postal orders, credit and debit card payments etc.). Schemes for paying through high street banks/building societies would logically also be promoted as a further means for extending payment facilities (with any associated costs of such services being borne by the courts).

'Enforcing' responses

Attention to such features of the infrastructure for enabling and ensuring settlement of financial penalties would go a considerable way towards reducing the need for subsequent enforcement actions. However, given that there will always be default and a need for further actions to be taken there is also an agenda to be addressed by courts in upgrading their approach to enforcement and in developing greater capacity for efficient and effective interventions. The recent recruitment of civilian enforcement officers certainly represents one such capacity-building initiative, particularly in terms of 'doorstep' work. But this research has highlighted a number of other steps that ideally might also be taken within the court office context, for example, developing capacity for systematic telechasing of those in arrears and, through more emphasis on training (for staff and for magistrates), seeking to raise standards significantly in the conduct of enquiries with defaulters.

All this, of course, would imply a significant additional resourcing of the enforcement function and in this context it is pertinent to mention that, during the course of the research, the Lord Chancellor's Department did introduce a new scheme by which a proportion of fines collected might be retained for investment in enforcement work. This 'netting off' scheme (as it is called) has the potential to make a significant difference for courts in relation to their resource base for enforcement (providing in total about an extra £10 million for the function). But more than this, it is argued, a more comprehensive upgrade in resource capacity is required if the responsibility is to be taken more seriously and the current bottlenecks and sources of frustration alleviated. And while, for resourcing reasons, it is perhaps unlikely that all of the potential reforms outlined here could be made a reality in the short-term, it seems important to

set the sights high in order to provide the overall vision and direction for specific policy and practice developments. It is also important not to underestimate the potential damage that can be done to the credibility of the courts and their sentencing through perpetuation of outdated approaches to, and inadequate resourcing of, the enforcement function.

An agenda of immediate priorities

Finally, what of the more immediate priorities? Here a summary is presented of the key actions derived from the research that seem especially worthwhile for all courts to consider, and which would require relatively little in the way of additional investment or ongoing resource commitments. Ten such priorities are identified as follows (each relevant to every magistrates' court, albeit to differing degrees):

1. More training to be given to magistrates (and more regular dialogue with court clerks and enforcement staff) about effective practices in the imposition of financial penalties (in other words the issues involved, information required and techniques to follow in ensuring the effective imposition of financial penalties).

2. Reviews to be made of all documentary materials concerning the imposition of financial penalties, for example notices of financial penalties, means forms, and 'how to pay' leaflets (and of their distribution) to ensure that they are as effective as possible in communicating the important messages to their recipients.

3. Routine monitoring to be undertaken of performance in money collection, of the patterns of usage of different methods of payment and of the scope for extending/modifying payment facilities to enable greater access.

4. Advance cross-checks to be made and actions taken to ensure that opportunities are not missed to address the arrears of any defaulters appearing at court on new matters (for example interviews with a member of staff or before a panel of magistrates).

5. Reviews to be undertaken of the court's enforcement protocols (in other words what is done, when, and by whom?) with an emphasis on adopting effective approaches to secure prompt settlement of arrears.

6. Specialist training to be provided for enforcement staff on the skills of interviewing defaulters and on how best to induce settlement of debts.

7. Priority to be given to the piloting on a systematic basis of telechasing and to establishing more widely fines clinics (on a 'one-to-one' interview basis) run by suitably trained staff. Such clinics might usefully be supported by 'at-court' money advice services (provided by CAB or another locally-based welfare rights organisation).

8. Magistrates' involvement in enforcement to be mainly reserved for more serious/persistent default, when the efforts of the staff have proved unsuccessful and other options require consideration. Each court to have a specialist (and trained) panel for this purpose.

9. More training to be provided for magistrates (and court clerks) in dealing with persistent defaulters – particularly concerning the skills of questioning, on making effective use of the available options and on ensuring decisive progress at each hearing.

10. Priority to be given to the establishment at each court (or for each MCC area) of an Enforcement Strategy Group comprised of suitably-experienced staff and magistrates to take lead responsibility, on behalf of the MCC/JCE, for monitoring and reviewing local policies and practices and for deciding each year the strategies to be pursued to achieve measurable improvements in payment performance.

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Appendix A: Cost-effectiveness of enforcement – inputs

At the heart of the approach and, shaping the methodology, of this research project is the notion of the cost-effectiveness of different enforcement strategies. To this end it has been necessary to measure the inputs, outputs and outcomes associated with each of the interventions that have been piloted in the study. The definitions used for this purpose are explained below.

Inputs have been defined essentially as the costs of the pilots (in other words the costs of making the intervention(s)). Compared with most other crime reduction programme projects, the inputs associated with most of these pilots concerning the enforcement of financial penalties have been fairly modest, and have mainly comprised staffing time, although with some equipment and other minor non-personnel costs in a few instances. The costs have been computed for the duration of each pilot and are summarised in the table below. Here it should be pointed out that no monetary cost has been attributed to the time devoted by lay magistrates on the grounds that their time is given to the courts voluntarily (although of course not without some opportunity cost). Nor do the calculations include a costing for the research team's time in advising on the implementation of the pilots and in monitoring and evaluating their impact (except where the researchers played a vital role in the development of the initiative, for example, by delivering the magistrates' training at certain courts). As can be seen in the table, a distinction has been drawn between 'one-off development costs' (in other words costs of time and other resources involved in designing and implementing the pilots) and of 'running costs' (in other words costs of the time and other resources involved in undertaking the pilots over their full duration).

The inputs are summarised in Table A.1 below.

Table A.1: INPUTS TO THE PILOT PROJECTS

	Development Costs (£)				Running Costs (£)				GRAND TOTAL
	Staff	Mags/ others	non-pers	TOTAL	Staff	Mags/ oths	non-pers	TOTAL	
Barrow	603.84	135 hrs	0	603.84	403.20	0	0	403.20	**1,007.04**
Bridgend	482.64	60 hrs	0	482.64	315	0	0	315	**797.64**
Blackpool	458.20	0	2,167.30	2,625.5	296.52	0	300	596.52	**3,222.02**
Solihull	643.47	0	100	743.47	805.70	0	601	1,406.70	**2,150.17**
Croydon	723.94	0	0	723.94	1,007	0	50	1,057.00	**1,780.94**
Wrexham	131.44	0	0	131.44	0	0	0	0	**131.44**
North Tyneside	165.44	0	0	165.44	126.88	0	6,000	6,126.88	**6,292.32**
Northampton	516.00	0	2	518	854.40			854.40	**1,372.40**
Teesside	191.85	0	0	191.85	1,917.80	0	0	1,917.8	**2,109.65**
Beverley	288.80	0	0	288.8	769.44	0	0	769.44	**1,058.24**
Blackpool DWP	278.12	302.10	0	580.22	429.12	1,334	0	1,763.12	**2,343.34**
Bridgend DWP	278.12	302.10	0	580.22	429.12	1,334	0	1,763.12	**2,343.34**
Northampton DWP	278.12	302.10	0	580.22	429.12	1,334	0	1,763.12	**2,343.34**
Nottingham DWP	278.12	302.10	0	580.22	429.12	1,334	0	1,763.12	**2,343.34**
Knowsley	127.20	0	0	127.20	23.80	0	332.72	356.52	**483.72**
Watford	148.40	0	0	148.4	44.82	0	0	44.82	**193.22**
Grimsby	63.44	0	100	163.44	15.86	0	0	15.86	**179.30**
Swindon	228.57	33.55	0	262.12	349.44	2,000	4	2,353.44	**2,615.56**
Leicester	7,197.00	57,097	11,080	75,374	1,287.36	0	0	1,287.36	**76,661.36**
Camberwell Green	221.55	50	175	446.55	0	0	0	0	**446.55**
Brighton	1587.00	98	652	2,337	3,313	135	0	3,448	**5,785.00**
Nottingham	395.00	40 hrs	0	395.00	1,456.00	33 hrs	0	1,456.00	**1,851.00**

Appendix B: Cost-effectiveness of enforcement – outputs

Outputs have been commonly defined as the amount of work achieved through the pilots. Thus, in those pilots where cases have been subject to particular treatment, the principal output measure has been taken simply as the number of such cases. Likewise, in pilots where a change in procedures has been made affecting all subsequent cases, the full caseload handled under the new arrangements has been defined as the output. The table below describes the principal outputs as defined for each pilot, although in a number of instances, other (secondary) outputs were defined as well to reflect better the multi-output nature of these projects.

The outputs are summarised in Table B.1 below.

Table B.1: Outputs achieved at the 22 enforcement pilots

Pilot Court	Primary Output Measure	Potential output	Actual Output	Actual Output as a % of Potential Output
Barrow	No. financial penalty cases with means forms completed	100	52	52.0
Bridgend	No. financial penalty cases with means forms completed	95	8	8.4
Blackpool	No. fines paid in full by credit card	7,112	110	1.5
Solihull	No. fines paid in full by credit card	50	16	32.0
Croydon	No. defaulters who knew of fine and received summons	368	368	100
Wrexham	No. defaulters responding to final demand letter on shorter timescale	1,433	1433	100
North Tyneside	No. warrants successfully executed by the police (in unsocial hours)	360	22	6.1
Northampton	No. outstanding arrears dealt with positively at court with new matters	295	253	85.8
Teesside	No. outstanding arrears dealt with positively at court with new matters	630	22	3.5
Beverley	No. warrants handled through the warrant tracking system	1,249	1,249	100
Blackpool DWP	No. cases returned from DWP (trace service) with useful new information	652	201	30.8
Bridgend DWP	No. cases returned from DWP (trace service) with useful new information	147	105	71.4
Northampton DWP	No. cases returned from DWP (trace service) with useful new information	205	115	56.1
Nottingham DWP	No. cases returned from DWP (trace service) with useful new information	471	324	68.8
Knowsley	No. positive responses received to name and shame campaign	34	3	8.8
Watford	No. positive responses received to name and shame campaign	35	5	14.3
Grimsby	No. defaulters attending staff-run fines clinics	1,529	2	0.1
Swindon	No. defaulters seeing CAB at fines clinic	608	176	28.9
Leicester	No. defaulters interviewed by specially trained staff	1,032	169	16.4
Camberwell Green	No. Attendance Centre Orders made[51]	1	1	100
Brighton	No. persistent defaulters appearing before special panel of magistrates	875	59	6.7
Nottingham	No. persistent defaulters appearing before special panel of magistrates	140	76	54.3

[51] It was not possible to establish the numbers of other cases that might have been suitable for an ACO.

Appendix C: Cost Effectiveness of Enforcement - Outcomes

The Crime Reduction Programme parentage of this research suggests that the eventual outcomes would be the impacts of the pilots in terms of reduced offending. However, for more direct and immediate analytical purposes, the outcomes have been defined in terms of impacts on 'payment performance', a concept that presented some taxing measurement problems as outlined below.

Measuring Payment Performance

The commentary in Section 4 indicates that measuring changes in the payment of financial penalties – particularly at an aggregate level – can be extremely complex. It is not appropriate to monitor overall recovery rates when some of the cases under review remain 'on-going' (in other words the case is open) and others are closed. Equally the amount paid in a given period is not suitable because, using this measure, changes in the payment of larger penalties tend to dwarf the changes in those that are less substantial. It was therefore argued that the payment rate – the proportion of the total penalty paid in a weekly period – constitutes the most reliable measure. It was moreover argued in Section 1 that where interventions were made after a reasonable payment record in the case could be established (after three months or more) then comparison is best made with the previous payment rate in that case. Where such a record was not available, the decision was made to draw comparisons with the payment rate established for the host court (as indicated from the pre-implementation survey).

There is one additional dimension taken into account in the payment rate data referred to below. The analysis here distinguishes between the payment rates of open and closed cases, on the basis that – like overall recovery rates – they could vary significantly between each. For example in a case where a penalty of £500 had been imposed and the defendant had paid £250 in the three months prior to the pilot intervention, and then paid an additional £250 in the month following the intervention, two alternative interpretations could be derived:

- If *no distinction was drawn* between open and closed cases: the conclusion would be that the payment rate of 3.85 per cent per week achieved in the pre-intervention period (in other words 50 per cent paid over 13 weeks) was unchanged in the post-intervention 'window' of three months

- If *a distinction was drawn* between the two sets of cases, the conclusion would be that the payment rate of 3.85 per cent (pre-intervention) increased to 12.5 per cent (in other words 50 per cent paid over four weeks, when the case was closed).

Clearly the latter assessment is more accurate.

A cautionary note also needs to be struck about interpreting changes in payment rates. As they represent the proportion of the total imposition paid in a week, then the percentages are often quite low – typically below three per cent. It follows that changes in the rate of payment – to say five to ten per cent - can amount to improvements exceeding 100 per cent, or more (for example the case presented above, under the second model, constitutes a 300 per cent improvement). The measurement is thus sensitive, but the changes should not in any way be equated with changes in the overall recovery of the penalty imposed by the court.

The outcome measures are summarised in Table C1 below.

Table C1: Changes in payment rate by individual court

Court	Sample size (N)	Payment rate prior to intervention (%)	Payment rate after intervention (%)	Rate of change (%) (adjusted)
Knowsley	36	0.6	7.78	+1197
Leicester	143	0.61	2.94	+382
Grimsby	107	0.61	2.14	+251
Nottingham	113	0.57	1.87	+228
Barrow	100	0.86	1.54	+79
Brighton	59	0.5	0.6	+20
Swindon	82	0.63	0.68	+8
Blackpool	99	1	1.06	+6
Wrexham	195	1.1	1.09	-1
Croydon	100	0.78	0.75	-5
Bridgend	93	1.16	0.61	-47
Northampton	100	0.6	0.25	-58
Teesside	101	1.11	0.35	-68
Watford	37	0.52	0.24	-71
Beverley	199	0.66	0.15	-77
North Tyneside	101	0.51	0.06	-88
Solihull	100	0.91	00.00	-100
Camberwell Green	1	0.1	0	N/K

Analysis of the 'same-case' comparison cases by project 'clusters'

In Section 5 of the report, some of the data is analysed by project 'clusters', and that analysis is fully presented in Table 5.4, which includes both the 'same court' and the 'same case' comparison cases. Table C2 below presents that data for the same-case' comparison cases only by project clusters.

Table C2: Same case comparison for projects by cluster

	Paid more after intervention	Paid less after intervention
Dealing with persistent default (336 cases)	**184 (54%)**	**152**
Imposing financial penalties effectively (28 cases)	**10 (35%)**	**18**
Organising for and administering enforcement (405 cases)	**49 (12%)**	**405**
Tracing default (52 cases)	**3 (6%)**	**49**
All cases (870 cases)*	**246 (28%)**	**624**

* Wiltshire excluded (76 cases) as not part of these court clusters.

Appendix D: Transfer of Fines Orders

The need to transfer fines arises when a convicted offender resides in a different area to the one where the original offence and consequent conviction has taken place. In these circumstances the bench has the option to make a transfer order at the point of imposition of the fine. Transfers can also be made subsequent to the imposition of the fine by the fines office where it becomes known that the offender has moved, or indeed at offender's own request. All Magistrates' courts must adhere to procedures outlined in the Justices Clerks' Accounting Manual (JCAM). This sets guidelines on the logging and checking of fines transferred in and the administrative requirements for transferring out. Variations in practice are, therefore, slight.

It appears that few courts have dedicated members of staff to deal with transfers in and out. Most seem to draw up a rota and divide the task across the relevant department on a weekly basis, and the aim is for the administrative staff to deal with transfer orders as quickly as possible. Although backlogs can arise, it was widely reported that it is likely that three or four weeks could elapse between the decision to transfer a fine and the registering of the offender's account details on the receiving court's accounting system.

The research identified that, in most cases, the Transfer of Fines Order would be sent to the receiving court together with details of the offender and the offence, a summary of the enforcement history and a request for an acknowledgement of the transfer. It seems, however, that it is rare for the original means enquiry form (if such exists) to be included. Some courts will not receive a fine relating to vehicle crime or registered parking tickets unless the vehicle registration number is included in the paperwork. In those cases, this information may have to be requested from the court clerk, which might slow down the process. Most courts reported that they would welcome the ability to transfer fines electronically as the administrative burden can be onerous and some information occasionally gets lost in transit.

Difficulties encountered with TFOs

One difficulty encountered in transferring fines is identifying the appropriate court and ensuring that the papers are not inadvertently sent to another one, for example, because an offender has given a false address. The problem of identifying the appropriate court has, perhaps, become more acute of late by the recent series of court amalgamations. Of course, where the fine is being transferred within accounting areas, this may be easier. Generally, however, fines are usually only transferred within an accounting area if other accounts for that defendant are held at a different court in that area.

The receiving court tends only to accept existing instalment rates and may only consider applications for time to pay if the offender's payment record is reasonable. Generally, the receiving court will issue a demand for payment of the full amount and then leave it to the defendant to apply to the court for any variation on this. Most courts reported that transferred fines were often problematical to enforce because they frequently related to accounts that had already fallen into arrears. Some court reported concerns that transferred accounts were often very old and that there should be a time limit on transferring accounts.

However, a more fundamental problem identified in the research as being associated with transfers related to 'ownership' of the financial penalties. Here as well as 'inheriting' the financial impositions of other benches, the magistrates' courts also have to collect the fines imposed by judges in the Crown Court. In many such instances, the receiving (inheriting) court would face the challenge of enforcing fines that had not been set in accordance with the offender's ability to pay (often because he or she was not in court at the point of imposition).

Appendix E: Courtroom Checklist for Imposing Financial Penalties

(Developed for the Pilots at Barrow and Bridgend)

Imposing Financial Penalties

Securing payment without the need for enforcement

1. ***BEFORE*** DECIDING THE FINANCIAL PENALTY

Seeking information to determine the penalty

1.1 Has sufficient information been taken to keep track of the offender's whereabouts?

Has the phone number (residence and mobile) been requested/recorded;

Has the most recent permanent address been checked? And postal code?

Has the Date of Birth and National Insurance Number been requested?

1.2 Has the court been provided with information on means?

For those not attending court, has a means form been completed (and signed)? (new instructions are being issued with the summons to promote the submission of more means forms by those not attending court)

For those appearing before the court, has information on means been sought (either before on a form or verbally during the hearing)?

1.3 Are the financial circumstances of the offender clearly understood and (where possible) verified?

Has the offender's financial circumstances been satisfactorily declared (income and savings; main out-goings including costs of any dependants)?

Has it been made clear whether or not the offender is in receipt of benefits (if so, which ones)?

Have any apparent inconsistencies in income/expenditure been queried?

1.4 Are there any outstanding fines?

Has the offender any current liabilities from financial penalties currently being paid (in other words either instalments not yet due or amounts in arrears)?

Has the court considered the case for any remission in relation to previous financial penalties?

1.5 Is there any other information to help decide the penalty?

Has the court satisfied itself as to both the appropriateness and affordability of the financial penalty imposed?

Has the offender been asked if any deductions are already being made by DWP if in receipt of benefit(s)?

AFTER DECIDING THE FINANCIAL PENALTY

Deciding the payment terms

2.1 Can the offender settle the penalty in full and forthwith?

- Has the court emphasised the presumption of settlement in full and forthwith?
- Has the offender a credit card or cheque book for settling the debt immediately?
- Has the offender been given the opportunity to make a phone call help secure early settlement of the debt?
- Has the court satisfied itself as to the reasonableness of any request for 'time-to-pay' (in other words payment in instalments)?

2.2 **If payment in instalments is justified, what amount per week/fortnight?**

- Has the amount 'offered' per instalment been assessed as consistent with the available 'means information' and will it ensure the debt is cleared in twelve months?
- Has the court considered weekly rather than fortnightly payments (as a way of ensuring payments are maintained)?

2.3 **Has the possibility of instalment payments by Standing Orders been considered?**

- Has the offender a bank account, a building society account or other savings account?

2.4 Has the possibility of instalment payments by Attachment of Earnings or payment with the support of an MPSO been considered?

- Has the offender been asked about the possibility of Attachment of Earnings?
- Has the court considered supporting payment arrangements with an MPSO (with supervision either by the probation service or by court staff)

2.5 Have the arrangements and alternative methods for making payment been explained?

- Has the offender been made aware of how/where payments can be made and of the available methods (payment in cash; by credit/debit card; cheque; at banks, post offices, court office etc.)?

3. **AND FINALLY…**

Explaining the consequences of non-payment

3.1 Has the importance of settling the debt (and maintaining the instalments) been emphasised?

- Has the priority of court-imposed financial penalties over other expenses been stressed?
- Has the seriousness with which the court views default been emphasised?

3.2 Have the likely consequences of default been outlined?

- Has the court explained about bailiff's charges; warrants for arrest and ultimate imprisonment etc.?
- Has the court pointed out that these consequences are also stated clearly on the fines notice documentation?

3.3 Has the court done all it can to ensure that the offender has understood all that is expected of him/her?

- Has the court emphasised the expectation that the offender should inform the administration of any change of address or financial circumstances and in the event of being unable to maintain payments?

Appendix F: Courtroom Checklist for Dealing with Serious Default

(Developed for the Pilot at Nottingham)

1. Gathering Information

- Has the panel a clear picture as to the ***history of payment*** in the case and the ***reasons*** for the default?
- Has the panel ***questioned*** to the full the circumstances and reasons/excuses offered?
- Has a ***means form*** been completed and signed (accepted as a true statement under oath)?
- Has the panel ***questioned*** sufficiently the information given on the form (and the information NOT given)?
- Has ***verification*** of the information been sought (for example benefit book or wage slips produced)? If not why not?
- Has the question of ***other income within the household/family*** from which the debt might be settled been satisfactorily explored?
- Might the defaulter be asked to make a ***phone call*** from the court to secure settlement of the debt (for example by another member of the household)?
- Is the stated pattern of spending (***out-goings***) justified in the circumstances (for example costs of running a car, mobile phone etc.)?

2. Reaching a decision

- Has ***remission*** been considered? (for fines not compensation)
- Is there opportunity and is it appropriate to apply to DWP for ***Deductions from Benefit***, or to make an ***Attachment of Earnings*** Order?
- Does the panel find '***culpable neglect' or 'wilful refusal'***?
- Has a ***Distress Warrant*** been considered? Might a suspended Distress Warrant invoke settlement/payment?
- Might a ***Money Payment Supervision Order*** help in ensuring the maintenance of regular payments by instalment?
- Might proposing an ***Attendance Centre Order*** invoke payment? Or might such an Order be appropriate because settlement seems unlikely?
- Might ***detention in the precincts of the court*** be an appropriate response in the circumstances?
- Should a ***suspended committal order*** be made (requiring payments to be made and with prison as the automatic consequence of further default)? If so, have the services of a duty solicitor been offered?
- Should an order of immediate ***committal to prison*** be made?
- Before been allowed to leave the court, has the defaulter been made sufficiently aware of the ***consequences of any further failure to comply with the decision of the court?***

Appendix G: Assumptions made on LCD MIS data in order to derive figures for criminal impositions only

The LCD MIS database has the potential to contain a range of information on the enforcement process. For example, it has the potential to hold data on arrears or impositions or amounts written off. For each of these variables, the database attributes them to 'criminal', 'civil' and 'total', so for example, 'the amount paid' is shown separately as 'amount paid criminal', 'amount paid civil' and 'amount paid total'. Ideally, of course, the 'amount paid total' should equal the sum of the 'amount paid criminal' and 'amount paid civil'. But, as has been explained in the main report, most courts are unable to differentiate between criminal and civil sums. Instead they tend to lump all sums in the 'criminal' category. Thus for many courts, the sum specified in the 'amount paid criminal' column equals the amount specified in 'amount paid total' column.

A further difficulty with the MIS data spreadsheet there is no consistency amongst the courts in providing separate 'civil' and 'criminal' data. For example, five courts provide separate data for 'criminal' and 'civil' arrears, but 19 courts provide this breakdown for the amount paid. It is not, therefore, possible to simply extrapolate overall criminal figures from a small cohort of courts that consistently separate their data across each of the columns in the MIS data spreadsheet.

Figure 4.1 of the main report is constructed out a number of variables that appear in the MIS data spreadsheet, and it was important to devise a method which would take into account the inconsistencies and limitations of the spreadsheet in order to derive an assumed figure for 'criminal' sums only for all courts in England and Wales.

The approach that was taken in these circumstances was to work out how many courts had separated 'criminal' and 'civil' sums for each variable that was required to build Figure 4.1. Once those courts had been identified a small 'subset' of courts was created. By examining each subset it was possible to work out the fraction that related to 'criminal' sums only. The fraction that was derived from the sub-set was then applied to the 'total' figures for each variable that were supplied by each of the 42 courts. Thus an assumed figure for 'criminal' only sums was derived for England and Wales.

Table 1: Assumed figures for criminal impositions only[52]

		Amount Paid	Written off	Cancelled	New amount owed	Opening balance[53]	Closing balance[54]	Closing arrears[55]
		£m	**£m**	**£m**	**£m**	**£m**	**£m**	**£m**
A	"Criminal"[56] (N of courts)	212m (42)	57[57]m (42)	87m (42)	376m (42)	385m (42)	408m (42)	221m (41)
B	Civil only (N of courts)	16m (19)	0.593m (12)	3m (13)	10m (10)	33m (11)	33m (9)	25m (5)
C	Total (N of courts)	228m (42)	58m (42)	90m (42)	386m (42)	418m (42)	441m (42)	246m (5)
D	Criminal subset (N of courts)	115m (19)	20m	49m (13)	137m (10)	48m (11)	62m (9)	26m (5)
E	Total subset (D+B) (N of courts)	131m (19)	20.5m	52m (13)	147m	81m (11)	95m	51m (5)
F	Fraction of subset that relates to criminal (D/E)	0.88	0.97	0.94	0.93	0.59	0.653	0.513
G	Assumed criminal imposition (FxC)	201m	56m	85m	359m	247m	288m	126m

[52] Figures for financial year to March 2002, unless otherwise stated
[53] Quarter to June 2001
[54] Quarter to March 2002
[55] Quarter to March 2002
[56] As explained above, many courts will include civil payments within the criminal variable.
[57] Where courts were unable to provide separate 'criminal' and 'civil' sums, the 'civil' column was left blank.

Appendix H: Calculating the cost effectiveness of the pilot projects

It was a requirement of the EFP programme to examine the cost benefit of each of the pilot projects, including the DWP projects. Table 5.4 of the report presents the findings of this exercise and expresses the cost benefit of each project as the gain or loss for every pound invested in the project. The method for arriving at those figures is presented below.

Gain/loss pre £1:00 invested

The figures that are presented in Table 5.4 are the 'gain or loss per £1:00 invested in each project'. This figure was calculated by taking the difference between the *notional overall amount paid before* and the *notional overall amount paid after*. The difference was then divided by the input costs for each project. The input costs for each project are shown in Appendix A, above. The method for calculating the notional overall amounts paid is set out below.

Notional overall amounts paid

A notional figure for the overall amounts paid for the duration of the project was calculated by multiplying a *notional average fine paid per person* (either before or after each intervention) by the *number of cases* that the pilot project dealt with. The resulting figure was then multiplied by the *number of weeks* that the project ran. This provided a notional overall amount paid for each project; both before and after the pilot projects were implemented. The *difference* between these two figures was used to calculate the gain or loss per £1:00 invested for each project.

The *number of cases* is based on the figures for 'actual' output, which are provided in Appendix B. The method for calculating the *notional average fine paid per person* (either before or after each intervention) is described below.

Notional average fine paid per person

A notional average fine paid per person was calculated for the period both before and after each pilot intervention. This notional figure was calculated by multiplying the *average fine imposed* by the *payment rate*. The *payment rate* was either the *before payment rate* (calculated from the pre-implementation database) or the *after payment rate* (calculated from the post implementation database). The *payment rates* - both before and after - can be found in Appendix C. The *average fine imposed* was taken from the post-implementation database.

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