

# The enforcement of fines

A follow-up review of  
inspection recommendations

July 2012

Criminal Justice Inspection  
Northern Ireland  
*a better justice system for all*







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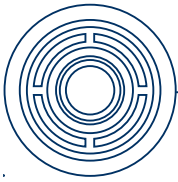






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## List of abbreviations

<b>CJI</b>	Criminal Justice Inspection Northern Ireland
<b>DCMS</b>	Department for Culture Media and Sport
<b>DoJ</b>	Department of Justice
<b>ICO</b>	Information Commissioner's Office
<b>ICOS</b>	NICTS Integrated Courts Operating System
<b>Niche RMS</b>	PSNI Records Management System provide by Niche Technology Inc
<b>NICTS</b>	Northern Ireland Courts and Tribunals Service
<b>NIO</b>	Northern Ireland Office
<b>NIPS</b>	Northern Ireland Prison Service
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PPS</b>	Public Prosecution Service for Northern Ireland
<b>PSNI</b>	Police Service of Northern Ireland
<b>SAO(s)</b>	Supervised Activity Order(s)



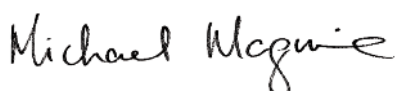
## Chief Inspector's Foreword

In March 2010 Criminal Justice Inspection Northern Ireland (CJI) published a report on the enforcement of fines in Northern Ireland. The report found that fine enforcement was a significant part of the justice system and that public confidence in the system depended on whether people believed justice was being done and that it was fair and effective. Whilst compliance in Northern Ireland was relatively high the report went on to say that the current system was an inappropriate and expensive use of police and prison resources. It also noted that there was a need for substantial change to the enforcement process and a stricter regime for the payment of fines to maximise compliance and minimise recourse to police enforcement and prison. The report made 10 recommendations for improvement, directed across the criminal justice system, aimed at maintaining the current levels of compliance while responding to the need for change. The purpose of this follow-up review was to assess progress in implementing those recommendations.

Of the 10 recommendations made in the original report, three have been achieved, five partially achieved and two not achieved. Inspectors accept the complexity of the issues surrounding the enforcement of fines, and acknowledge that much work has been undertaken, in particular the work of the Northern Ireland Courts and Tribunals Service (NICTS) which has made a significant reduction in the number of warrants issued to the police. In addition, the Fine Enforcement Project Group has also been established to take forward fine enforcement in the criminal justice agencies. The Department of Justice (DoJ) has a strategy with a view to introducing collection powers and a revised enforcement regime in the forthcoming Justice Bill. In addition, the introduction of Supervised Activity Orders (SAOs) have the potential to make a positive impact as they are rolled-out across Northern Ireland.

Despite this work, overall progress in reducing the number of people sent to prison solely for fine default has been slow. Indeed since the last inspection the numbers have actually increased from 1,247 in 2009 to 2,179 in 2011. This places tremendous pressures on the prison service at a time when it is undergoing a significant change programme. It places undue pressures on women prisoners and leaves the enforcement system open to abuse as people discharge their fines with minimal effort. As the Justice Minister has stated it is not sustainable to continue to send people to prison for fine default for a short period. This would indicate that there have not been the substantive changes required to the enforcement process nor has there been a stricter regime introduced to maximise compliance and minimise police enforcement and the use of imprisonment. Only when this has been completed – as outlined in the original inspection report - will the social and financial cost of short-term sentences for fine default and the operational impact on the courts, police and prisons be addressed.

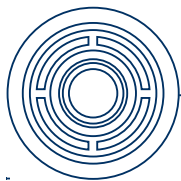
The follow-up review was undertaken by Dr Ian Cameron of CJI. My thanks to all those who participated in the inspection process.



**Dr Michael Maguire**  
Chief Inspector of Criminal Justice in Northern Ireland  
July 2012

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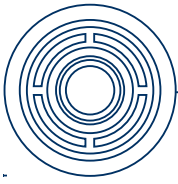




Section



# Follow-up Review



## CHAPTER 1:

# Introduction



- 1.1 In March 2010 CJI published a report on the enforcement of fines in Northern Ireland. The report found that enforcement was a significant part of the justice system, and that public confidence in the system depended on whether people believed justice was being done, and that it was fair and effective. There was a need to have a robust and effective enforcement process in place when someone defaults on the terms of a court order.
- 1.2 Whilst compliance in Northern Ireland is relatively high the report went on to say that the current system was an inappropriate and expensive use of police and prison resources. There was a need for substantial change to the enforcement process and a stricter regime for the payment of fines to maximise compliance and minimise recourse to police enforcement and imprisonment.<sup>1</sup>
- 1.3 The report made 10 recommendations for improvement directed across the criminal justice system, aimed at maintaining the current levels of compliance while responding to the need for change. The purpose of this follow-up review is to assess progress and developments in implementing those recommendations.
- 1.4 Figures over a number of years show that in Northern Ireland over 50% of fines are paid in the first instance (including those subject to an instalment order) and a further 20% are paid as a result of follow-up activity, 7% are remitted and 9% cleared by imprisonment. The balance is those remaining unpaid at the end of a business year. Looked at over three years, the clearance level has been over 90%.<sup>2</sup>
- 1.5 Currently fines can only be enforced either by the issue of a distress warrant to take possession of goods in exchange for default on the fine, or by a warrant for committal to prison in default of payment. However, the SAO which has been introduced and is operational on a pilot basis from January 2012 will provide an alternative option for dealing with fine defaulters.<sup>3</sup>
- 1.6 The numbers of warrants issued and committals to prison for default of payment are significant. From 2007 to November 2011 there were 129,365 fine warrants issued in Northern Ireland.<sup>4</sup> At 2 December 2011, 38,945 of these remained outstanding for unpaid fines.<sup>5</sup>
- 1.7 The number of people in Northern Ireland sent to prison throughout 2007 for failure

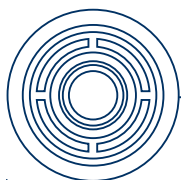
1 The enforcement of fines, CJI, March 2010.

2 Fine default in Northern Ireland: A Department of Justice consultation, July 2011.

3 From 1 February 2012 - 7 May 2012 98 SAOs have been imposed in Newry Magistrates Court as default for non-payment of a fine. For the majority (73) the payment is not yet due or is with the Fine Collection Scheme, however in 10 cases the fine was not paid and the SAO initiated.

4 NICTS statistics.

5 Northern Ireland Assembly Written Answer 16 December 2011, AQW 5512/11-15.



to pay fines was over 1,700 and every day throughout this year 25 - 30 individuals were incorporated into the prison population. The 2008 Northern Ireland Office (NIO) consultation estimated that fine defaulters accounted for 30% of receptions into prison and resulted in significant costs – around £150,000 per year – and administrative procedures for the Northern Ireland Prison Service (NIPS). Coupled with police costs, the total cost of administering the system is upwards of £1 million per year.<sup>6</sup>

- 1.8 For the past number of years there has been an increasing number of people ending up in prison for the non-payment of a fine. Over the past three years in particular, over 5,000 people have gone to prison for non-payment of fines (increasing from 1,678 in 2007-08 to 1,778 in 2009-10 and around 30% of all prison receptions) with more people going into prison for default, than for substantively imprisonable criminal offences. Most of those going to prison do so for only three or four days, most are for motoring offences, and most (almost 60%) are young males. Whilst low in comparative terms, the number of women going to prison in this way has increased from 161 in 2007 to 226 in

2010.<sup>7</sup> The Justice Minister has described the situation where fine defaulters are sent to prison for a short period of time as '*unsustainable*'.<sup>8</sup>

- 1.9 The percentage of people committed to prison solely for non-payment of fines across the last five years<sup>9</sup> is as shown in Table 1 below:
- 1.10 The general trend in Northern Ireland for new committals to prison for fine default has been upwards, rising to 2,179 in 2011 (this is illustrated in the graph and table at Appendix 1). The Northern Ireland Prison Service (NIPS) maintain statistics of the weekly population for fine defaulters and these figures vary throughout the year, but can be as high as 52. This also shows an upward trend - (see Appendix 1).<sup>10</sup>
- 1.11 On 30 September 2011 in England and Wales there were 140 fine defaulters in prison within a total prison population of 87,501 – this is a proportion of 0.16%.<sup>11</sup> On the same date in Northern Ireland there were 25 fine defaulters in prison, with a total prison population of 1,738, a proportion of 1.4% – a level 8.75 times higher than in England and Wales.

**Table 1**

New committals	2007	2008	2009	2010	2011
Fine default numbers	1,724	1,742	1,247	1,891	2,179
Fine default percentages	28%	28%	28%	35%	36%
All other prisoners	4,337	4,443	3,133	3,461	3,825
<b>Total</b>	<b>6,061</b>	<b>6,185</b>	<b>4,380</b>	<b>5,352</b>	<b>6,004</b>

6 Fine default in Northern Ireland: a consultation, Northern Ireland Office, July 2008.

7 Fine default in Northern Ireland: A Department of Justice consultation, July 2011.

8 Department of Justice Press Release: Ford launches pilot scheme to tackle fine default, 4 January 2012.

9 Northern Ireland Assembly Written Answers.AQW 10874/11-15. Friday 11 May 2011. Note: the written answer makes clear that the data for 2007 and 2008 should not be directly compared with data from 2009 to 2011 as the data sets are sourced from different systems.

10 NIPS statistics - the NIPS have advised that in 2007 and 2008 the statistics relate to 'receptions' which is made up of 'new committals' and 'custody status transfers'.

11 Ministry of Justice - total population in custody by type of custody and age group, on a quarterly basis, June 2010 to September 2011, England and Wales, [www.justice.gov.uk/.../omsq-q2-2011-prison-population-tables.xls](http://www.justice.gov.uk/.../omsq-q2-2011-prison-population-tables.xls).

1.12 In the Republic of Ireland there was a considerable increase in the numbers committed for non-payment of a court ordered fine during 2010.<sup>12</sup> This category increased by 39% on the 2009 figure – from 4,806 in 2009 to 6,688 in 2010. During 2010 there were 17,179 committals to prison<sup>13</sup> and so fine defaulters were 39% of the total number of committals to prison.

1.13 The Prison Review Team looking at the NIPS commented that the prison population in Northern Ireland was inflated because of the number of fine defaulters. Half the women in Hydebank Wood in the last year were sent there for fine default. The Review report stated that this was simply unacceptable, and does nothing to address the needs of offenders or society, and makes prisons much more difficult to run. It does not do anything to deal with the actual problem of people who are either too poor to pay a fine, or who can avoid payment at the further public expense of a couple of days in prison. The report recommended a SAO pilot to be rolled-out during 2010 and legislation in 2013, so that supervised activity or restraint of income is a presumption in cases of fine default.<sup>14</sup> Following that, custody should be a wholly exceptional disposal for fine defaulters.

1.14 The original CJI inspection report identified the current system as being open to abuse. Many of the people who go to prison to

have their fines paid-off were relaxed about it, and were in effect, opting for prison. If imprisonment did not discharge the fine that would fundamentally change their calculation.

1.15 Default periods can also be served concurrently with other prison sentences a defaulter may receive. A fine is currently of minimum deterrent value<sup>15</sup> to a persistent offender who is facing custody on other unrelated matters. The Detail reported that the Department of Justice (DoJ) had confirmed between 2006 and 2011 of the 14,259 fine default prisoners, 8,257 (58%) were new committals and 6,002 (42%) were already in prison for other offences.<sup>16</sup>

1.16 The issue of fine default has been on the political agenda in Northern Ireland for some time, although interest has heightened more recently. In July 2008 the NIO launched a consultation document entitled *Fine default in Northern Ireland* which looked at four broad areas: setting the fine; collecting the fine; dealing with default; and strengthening the fine. A summary of responses and way forward document was subsequently published in October 2009, however in light of the impending devolution of policing and justice to the Northern Ireland Assembly, the way forward was outlined as proceeding in preparation for devolution with the intention that full implementation and all final decisions will be determined by a local Justice Minister.<sup>17</sup>

12 It should be noted that prior to the Fines Act 2010 there was no provision in the Republic of Ireland for the payment of fines by instalment. The Irish Prison Service Annual Report 2010 states that the provisions will be commenced as soon as the necessary enhancements have been made to the Irish Courts Service ICT system, Irish Prison Service Annual Report 2010.

13 Irish Prison Service Annual Report 2010.

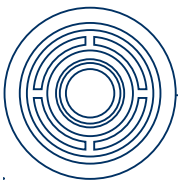
14 Review of the Northern Ireland Prison Service, Conditions, management and oversight of all prisons. Prison Review Team, Final Report October 2011.

15 It is the PSNI view that the serving of fines concurrently with other prison sentences minimises the deterrent value on persistent offenders as well as significantly impacting on the non-compliance rate for fine payment.

16 [www.thedetail.tv/issues/51/finedefaulters/thousands-imprisoned-every-year-for-minor-crimes](http://www.thedetail.tv/issues/51/finedefaulters/thousands-imprisoned-every-year-for-minor-crimes) and [www.bbc.co.uk/news/uk-northern-ireland-16217228](http://www.bbc.co.uk/news/uk-northern-ireland-16217228).

17 Fine default in Northern Ireland: a consultation, summary of responses and way forward, NIO, October 2009.





1.17 A subsequent updated consultation on *Fine default in Northern Ireland* was launched by the DoJ in July 2011,<sup>18</sup> the consultation period of which ended on 14 November 2011. The paper identified four main areas for improvement:

- **targeting the fine:** ensuring that the setting of fines is completed in a fully informed and correctly targeted way to avoid the potential for default;
- **encouraging payment:** fine collection by way of developing broader options to the existing payment/installment/default model to prevent default and allow those fined to manage their payments better;
- **dealing with default:** looking at means of strengthening a number of default powers as a back-stop; the use of distress warrants; using motor vehicle clamping/seizure penalties; and opening up the SAO; and
- **delivering the service:** developing alternative models to the default/police enforcement/custody approach; considering options for a civilianised model; and how it might be sponsored.

1.18 Furthermore, the Northern Ireland prison population is close to its upper capacity, affecting regimes for prisoners and putting increasing pressure on the NIPS. This also has the potential to limit the number of warrants which could be executed by committal and further adding to the backlog of outstanding warrants.

1.19 The Justice Minister, giving evidence to the Committee for Justice said that *“the DoJ has already taken forward considerable work to address fine default, for example, since the introduction of a Fine Collection Scheme by the Courts Service in May 2009, £2.9 million has been recovered in fines without the need*

*for police intervention. The number of fine warrants issued to the police has reduced by 28%. Plans are also in place and are at an advanced stage for a pilot of the new community-based alternative to custody for fine default, the SAO, which will be commencing in Craigavon. Across the wider justice system, further changes are planned and I will be announcing plans on sentencing guidelines and community sentences over the next few months”*.<sup>19</sup>


1.20 The SAO pilot scheme commenced on 4 January 2012 in the Newry and Mourne Petty Sessions District. In launching the scheme the Justice Minister said *“the justice system cannot continue to send people to prison for a few days at a time for not paying their fines. It must do better in dealing with this problem and the SAOs are an important part of that work”*.<sup>20</sup> Inspectors look forward to seeing the contribution the SAOs will make to addressing this issue.

1.21 Fine default remains an issue of concern for the Northern Ireland Assembly, the Committee for Justice and the Justice Minister, and the subject has also recently had a high public and media profile. Public interest issues and coverage of ineffective fine enforcement, the high number of outstanding warrants and the imprisonment of people for less serious offences can erode public confidence in the criminal justice system in general, the courts and the criminal justice agencies. The social cost of short-term sentences for fine defaulters and their families, as well as the cost of enforcement for the NICTS, the Police Service of Northern Ireland (PSNI) and the pressures fine defaulters put on the Northern Ireland prison population are further areas of concern.

<sup>18</sup> Fine default in Northern Ireland: A DoJ consultation, DoJ, July 2011.

<sup>19</sup> Northern Ireland Assembly Committee for Justice, Official Report (Hansard), Prisons Review, 17 November 2011.

<sup>20</sup> DoJ Press Release: Ford launches pilot scheme to tackle fine default, 4 January 2012.

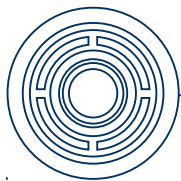


1.22 The purpose of this report is to follow-up whether, and to what extent, the criminal justice agencies have implemented the recommendations made in the original report. As part of the fieldwork for this review CJI conducted an examination of relevant reports, reviews, statistical reports and undertook a series of follow-up meetings with various staff including:

- DoJ officials in the Criminal Justice Policy and Legislation Division;
- the NICTS;
- the NIPS;
- the PSNI;
- the Public Prosecution Service for Northern Ireland (PPS); and
- the Probation Board for Northern Ireland (PBNi).

1.23 The following chapter looks at each of the recommendations, the agencies' responses and provides the Inspectors' assessment of progress.

1.24 The final chapter draws conclusions about the progress to date, acknowledges the work that has taken place, and stresses the need for work to continue in respect of enforcement to address the issues raised in the original inspection report.





## CHAPTER 2:

# Progress on recommendations

### Recommendation 1

- 2.1 Arrangements should be made to ensure that the courts and the court staff responsible for pursuing fines obtain the fullest possible information both about the financial circumstances of the defendant and his (or her) contact details, but also about any fines outstanding. Completion of a Means Enquiry Form should be mandatory (Paragraph 2.10).

#### DoJ response

- 2.2 *Achieved.*
- 2.3 *NICTS information initiative launched in April 2011 raising public and professional awareness of the importance of means information.*
- 2.4 *Revised Means Enquiry Form introduced.*
- 2.5 *Fine Payment Record also implemented in April 2011. Mandatory completion of Means Enquiry Forms could cause difficulties. Our preference was to rely on current legislation and judicial discretion. There could be a risk of a doubling of penalties and of increasing court delays in adjournments to obtain information were it to be required.*

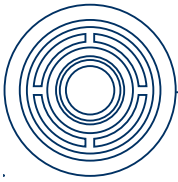
#### NICTS response

- 2.6 *In April 2011 the NICTS launched an information initiative to remind the legal profession and those coming to court of the*


*importance of providing means information and so to improve the information available to sentencers when choosing and setting fines. A revised Means Enquiry Form was also introduced as well as a Fine Payment Record report.*

#### Inspectors' assessment

- 2.7 The NICTS launched an information initiative and Fine Payment Record from 21 March 2011.
- 2.8 The information initiative focuses on the Means Enquiry Form which is a form available to defendants to provide their financial details to the court. The financial information about a defendant's circumstances will inform the court and assist it in making decisions in relation to the level of fine to impose. It will also assist in determining any application a defendant may make, at the point of sentence, for additional time to pay a fine, or to be allowed to pay a fine by instalments. If the defendant does not provide his/her financial details, the court may make whatever determination it thinks fit.
- 2.9 From March 2011 a copy of the Means Enquiry Form will be served on all defendants with the summons or charge documents. If it is a PPS case the Means Enquiry Form is sent out with the summons/charge, if it is a departmental prosecution case, NICTS issue the forms.



- 2.10 The Means Enquiry Form itself provides the defendant with information about the scheme; the purposes for which the information will be used; the legal obligations on the defendant i.e. that it is an offence to make a false statement or knowingly fail to disclose material facts; and advises recipients that if they need help completing the form, or with their legal rights, that they can contact a solicitor or Citizens' Advice. The information also makes clear that the court may take account of the person's previous record of paying fines, if any, and that if the person would like to see a copy of their Fine Payment Record before the court hearing, how they can contact the NICTS.
- 2.11 The Means Enquiry Form provides defendants with the opportunity to provide information about their financial circumstances i.e. weekly/monthly net income if employed, or benefits if not employed; weekly/monthly outgoings; total amount of savings; and number of dependent children.
- 2.12 Completion of the form is encouraged by the NICTS but is not mandatory. To coincide with the launch of the Means Enquiry Form the NICTS carried out an information initiative aimed at the legal profession and the judiciary. Internal NICTS guidance was also issued and information cascaded throughout the organisation.
- 2.13 However, despite these efforts by the NICTS, there has been a very poor response to the initiative. From 21 March 2011 to 31 March 2012, there have only been 619 completed Means Enquiry Forms returned out of a possible 68,272 cases, a return rate of 0.9%.
- 2.14 Both the NICTS and the DoJ were supportive of the Means Enquiry Form scheme, and could see the benefits to both the courts and the individual defendant of having information on the defendant's means and financial circumstances at the point of sentence. However neither the NICTS nor the DoJ would be supportive of making the completion of the Means Enquiry Form mandatory.
- 2.15 In response to the DoJ consultation with regard to collecting means information, nine of the 22 responses commented on the proposals in this area; two recommended the use of the community/voluntary organisations for raising awareness of the importance to provide information to the courts and to offer support and assistance to individuals in the completion of forms. Two supported measures to make the completion of the Means Enquiry Form compulsory, particularly if individuals were seeking payment options or additional time to pay. One suggested more needed to be done to reassure individuals that the information supplied would not to be used for purposes other than helping them find ways to pay.
- 2.16 To make completion of the Means Enquiry Form mandatory would require legislation, and it is argued that mandatory completion would increase avoidable delay in the courts in terms of increased numbers of adjournments to have the forms completed, and impacting on guilty pleas by post and guilty pleas by a solicitor in the defendant's absence. In addition, concerns were also expressed that it may be difficult for some defendants to complete a Means Enquiry Form if they have literacy and/or numeracy difficulties, or if English is not



their first language, although provision is made for these issues in many other areas of criminal justice and public life.

2.17 A further element of the NICTS fine default initiative is the Fine Payment Record. The Means Enquiry Form also includes a notice advising people that, from 25 April 2011, the court may consider their Fine Payment Record.

2.18 The Fine Payment Record shows details of fines imposed on a defendant over the previous three year period, and whether these have been paid. The information will be provided to the District Judge at the point of sentence, if a fine is being contemplated. A copy of the Fine Payment Record will be provided to the defendant at this stage, although a copy of the Record may be requested at any time before the date of the hearing. The NICTS advise that the number of defendants who have requested a copy of their Fine Payment Record since the initiative commenced is negligible.

2.19 The Fine Payment Record for every defendant during a sitting in a Magistrates' Court is available on screen at the computer terminal of the Court Clerk. The Judge cannot be given a copy of the Fine Payment Record until after s/he has made the decision that the person is guilty of the offence. Once a finding of guilt has been declared the Judge can ask the Court Clerk for a copy of the defendant's Fine Payment Record and this can be printed immediately from the on-screen information. No paper copy of the Fine Payment Record is placed in front of the Judge unless s/he specifically asks for it. There are no statistics to show how often the Fine Payment Record is printed and given to the Judge, although the NICTS

are gathering some qualitative information regarding this point as part of their evaluation of the Fine Payment Record initiative. At the time of writing Inspectors were advised that the evaluation was due to be completed by the NICTS before the end of February 2012, and the findings discussed at the Fine Enforcement Project Group.

2.20 The NICTS do not as a matter of course print copies of the Fine Payment Records of each defendant for every court hearing, this would cause disproportionate work for the NICTS due to the high number of adjournments<sup>21</sup> and the need to update an individual's Fine Payment Record for every court appearance.

2.21 The NICTS have held discussions with the judiciary about the use of the Fine Payment Record and how it can best be used to assist the Judge with sentencing. However, it is stressed that currently there are few alternatives to imposing a fine at court, even if the defendant has a poor fine payment history.

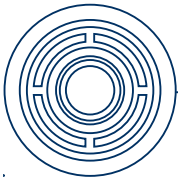
2.22 The decision to request a copy of the Fine Payment Record is a judicial one, and therefore outside the remit of CJI. When complete, it is the intention of the NICTS to discuss the findings of the internal evaluation of the Fine Payment Record initiative with the presiding District Judge to consider how best to proceed.

2.23 A further element of the NICTS fine default initiative is the Fine Collection Scheme and this is discussed in more detail at Recommendation 4.

2.24 The NICTS introduction of the Means Enquiry Form and Fine Payment Record have put in place the necessary

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<sup>21</sup> See also Avoidable delay, CJI, June 2010. In 2008 in Northern Ireland there were 114,262 adjournment in Magistrates' Courts, an average of 2.22 per case. This compares 1.36 for England and Wales.



mechanisms to ensure that the courts and the court staff responsible for pursuing fines obtain the fullest possible information about the financial circumstances of the defendant, their contact details<sup>22</sup> and about any fines outstanding. However, despite the information initiative that accompanied the launch of the Scheme, the completion rate for the Means Enquiry Form is extremely low and it is not clear how much use is being made of the Fine Payment Record by the court.

- 2.25 The DoJ and the NICTS would not be supportive of making the Means Enquiry Form mandatory. The DoJ cites that the potential for double penalties and double fining would possibly double fine default for some, and has advised that, based on this and the lack of support from the fine default consultation, it was not a matter the Department intended to pursue.
- 2.26 Inspectors recognise the work that the NICTS has undertaken in this regard, but to date the potential benefits have not been realised. Inspectors understand the arguments against making completion of the Means Enquiry Form mandatory, and in particular are acutely conscious of the potential to increase avoidable delay. However, with a completion rate of less than 1%, it is clear that the Means Enquiry Form scheme is not operating successfully. Inspectors would therefore urge the NICTS, in consultation with the Fine Enforcement Project Group, to fundamentally review the operation of the Means Enquiry Form and information initiative, in light of the findings of the internal evaluation, with a view to dramatically increasing the completion rate. If, following review and any subsequent remedial action, the completion rate cannot be raised to an

effective level, then the DoJ and the NICTS should reconsider the original CJI recommendation that completion of the Means Enquiry Form should be mandatory.

**Status:** Partly Achieved.

## Recommendation 2

- 2.27 The offender's fine payment history should be accessible to the prosecution, to the courts and to enforcement staff via the Causeway system (Paragraph 2.10).

### DoJ response

- 2.28 *Achieved.*
- 2.29 *Fine Payment Record created on Integrated Courts Operating System (ICOS) and launched in April 2011.*
- 2.30 *Revised Means Enquiry Form introduced advises defendants of the Fine Payment Record and gives details of how a copy of the Record may be obtained before going to court, if they so wish.*
- 2.31 *New powers for a Prosecutorial Fine are being brought forward by the Department.*
- 2.32 *Public Prosecution Service consulted and agreed that since sentencing is a matter for the judiciary, there was no need for the prosecution to have access to the Record. Causeway does not contain the Fine Payment Record of a defendant and there are no immediate plans to make any such change.*

### NICTS response

- 2.33 *The Fine Payment Record produced from the NICTS ICOS became operational in April 2011. The report provides three years payment history for offenders. The report is*

<sup>22</sup> The defendant's contact details (telephone number) is provided to the NICTS by the PSNI via Causeway.



*not shared through the Causeway system but the prosecution have access through Causeway Criminal Record to previous fines imposed. Fine Collection staff in the NICTS also have access to the Fine Payment Record. When a warrant is issued from ICOS for non-payment of a fine this information is shared with Causeway and other criminal justice organisations. Warrant execution is also shared with Causeway and criminal justice organisations.*

### **Inspectors' assessment**

- 2.34 Details regarding the operation of the fine payment initiative are outlined above at Recommendation 1.
- 2.35 The Fine Payment Record is accessible to the courts and the NICTS Fine Collection Scheme Officers via the NICTS ICOS. The PPS also has access to ICOS and the Fine Payment Record. The Fine Payment Record is not available to the PPS or the PSNI via Causeway.
- 2.36 Inspectors were advised that the PPS were consulted and were in agreement with the DoJ that, as sentencing was a matter for the judiciary, there was therefore no need for the prosecution to have access to the Fine Payment Record. There are no immediate plans to make the necessary change to Causeway to make this information accessible to the PPS.
- 2.37 The prosecution also has access to a defendant's criminal record of previous fines imposed through Causeway. In addition, when a warrant is issued for the non-payment of a fine, this information is shared with the prosecution, and other criminal justice organisations via Causeway, as is warrant execution information. It is also possible for the Prosecutor at court to receive a printed copy of the Fine Payment Record from the Court Clerk.

2.38 It is the intention of the DoJ to include provision for prosecutorial fines in the forthcoming Justice Bill. If this is the case, it will be essential for the PPS to have an accurate and up-to-date picture of the defendant's fine payment history to allow a decision to be made on whether a prosecutorial fine is appropriate.

2.39 So, while the defendant's fine payment history is accessible to the courts, prosecution and to NICTS enforcement staff, via ICOS, it is not available through Causeway. Criminal record and warrant information is available through Causeway.

2.40 The Causeway aspect of this will need to be re-examined as part of the process to include the provision for prosecutorial fines in the forthcoming Justice Bill.

**Status:** Achieved.

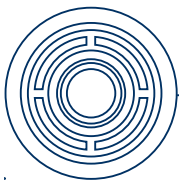
### **Recommendation 3**

2.41 There should be no doubt about the ability of the criminal justice system (under Data Protection legislation) to use any information held by the agencies, including information supplied for the purposes of a legal aid application, for the purpose of fine enforcement (Paragraph 2.10).

### **DoJ response**

2.42 *Achieved (as far as can be).*

2.43 *Initiatives at Recommendations 1 and 2 improve availability of means information. Difficulties emerge with the use of legal aid information for the setting of fines. Legal aid applications occur mostly with cases where custody will be considered. They are infrequently used in typical fines cases,*



*significant numbers of which do not involve a defendant appearing in court. Additionally the Information Commissioner's Office advised that such use of legal aid information would offend against the data protection principles, and could be found to be disproportionate, unfair and therefore unlawful.*

### Inspectors' assessment

- 2.44 Advice was sought from the Information Commissioner's Office (ICO) in relation to issues associated with the 2008 NIO consultation on fine default and related NICTS enquiries. The Commissioner expressed concerns *inter alia* that extending the fair-processing notices in the case of benefits information or in the legal aid applications, to include the purpose of fine default, may not be proportionate in terms of the expectations of those individuals making the application, and that it may be unfair and therefore unlawful to open the benefit/legal aid applications for purposes far removed from those to which they were originally created for. The ICO also had concerns around fairness.
- 2.45 The Commissioner was also aware that the Criminal Justice and Immigration Act 2008 amended the Courts Act 2003 to allow benefit status to be shared between the Department of Work and Pensions and the Court Service in England and Wales. Such a power is not in existence in Northern Ireland, but should such a statutory power be transposed into Northern Ireland legislation, then the NICTS may well receive this information in reliance of Section 35 (1) of the Data Protection Act, which creates an exemption from the non-disclosure provisions. There may be scope therefore, to address this recommendation through new legislation.

- 2.46 The DoJ proposals following the fine default consultation include this aspect, i.e. that law may be able to be created and that the Department will explore the potential for a change in the law to permit legal aid information to be used for the purposes of setting fine levels.<sup>23</sup> This work will not be completed in the short-term and whilst Inspectors fully recognise the limitations the Department faces, they would assess this recommendation as 'partly achieved'.

**Status:** Partly Achieved.

### Recommendation 4

- 2.47 The NICTS should do whatever it can to reduce the need for warrants to be issued and for further sanctions to be imposed, building on best practice in other jurisdictions. It has made excellent progress on this in recent years, and it needs to maintain and strengthen these efforts (Paragraph 2.18).

### DoJ response

- 2.48 *Achieved.*
- 2.49 *Fine Collection Scheme continues to operate successfully.*
- 2.50 *28% reduction in warrants issued to the PSNI for fine default for the period from 27 May 2009 to 31 August 2011.*
- 2.51 *Revised Means Enquiry Form includes a request for defendants' telephone numbers to make contact and collection easier and more effective.*
- 2.52 *Pilot exercise of the Supervised Activity Orders due to commence on 1 January 2012.*

<sup>23</sup> Subsequent to inspection fieldwork the DoJ has advised that even if there were to be scope to amend legislation, the matter is complicated by the fact that Data Protection law is a reserved matter and the Department does not, therefore, have autonomy.

2.53 *Proposals for deductions from benefits/ attachment of earnings out for consultation for inclusion in the Justice Bill 2012.*

### Inspectors' assessment

2.54 Following a pilot initiative, the NICTS introduced a Fine Collection Scheme across Northern Ireland on 26 May 2009. The Scheme is partly funded by the PSNI,<sup>24</sup> although in light of budget pressures, the PSNI advise that they have not made provision for this expenditure in their spending plans for 2012-13. The NICTS also fund aspects of the Scheme which has a complement of five staff.

2.55 The Fine Collection Scheme has targets, agreed between the NICTS and the PSNI:

- 16% increase in the value of fines paid without recourse to the PSNI; and
- 26.5% reduction in the number of warrants issued to the PSNI.

2.56 The performance of the Fine Collection Scheme from its commencement in May 2009 to 31 September 2011 is summarised below:

- 30,152 debtors had an enforcement block entered and a fine collection letter issued. This equates to 59,862 warrants being 'stalled'<sup>25</sup> which prior to the Scheme's introduction would have issued directly to the PSNI.
- This equates to £10.7 million of outstanding fines being pursued by Fine Officers.
- Payment was received from 13,181 debtors (43.7%) which equated to £3.08 million being received as a result of Fine Officer intervention.

- Of the 59,862 warrants 'stalled', 42,828 warrants actually issued to the PSNI in respect of 21,411 debtors, equating to a value of £7.5 million – a reduction of 17,034 warrants and a reduction of 8,741 debtors. This is a reduction of 28.5% in warrants issued to the PSNI.
- Of the 42,828 warrants issued over this period, 24,765 have been returned executed (57.8%). 18,063 remain outstanding.<sup>26</sup>

2.57 Over this period Fine Officer intervention resulted in 28.7% more debtors making payment (value of fines received) against a target of 16%, and a 28.5% reduction in the number of warrants issued to the PSNI against a target of 26.5%.<sup>27</sup>

2.58 The number of fine warrants issued has reduced since 2007, and a proportion of the number of fines imposed also shows a downward trend (illustrated below).

Year	Number of fines imposed	Number of fine warrants issued	Percentage imposed/ issued
2007	62,367	32,144	51.54%
2008	54,946	29,248	53.23%
2009	52,077	22,713	43.61%
2010	51,742	24,526	47.40%
2011 (to 12 November)	46,566	20,734	44.52%

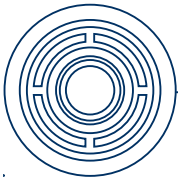
2.59 A significant proportion of the warrants issued are for non-police prosecutions, for example of the 108,631 warrants issued in Northern Ireland from 2007 to 2010, 23,997 (22%) were classed by the NICTS as Magistrates' Court departmental, (departmental prosecutions include television licensing, and Driver and

24 PSNI contributions to the Scheme were approximately £104,000 in 2009-10; £129,000 in 2010-11; and £108,000 in 2011-12.

25 When a fine has not been paid by the due date the Fine Collection Scheme 'block' the issue of a warrant to allow them to contact the defaulter about payment. This in effect 'stalls' the issue of the warrant for 10 days after the fine due date to allow Fine Collection Scheme staff to attempt to collect the outstanding payment.

26 NICTS statistics.

27 Ibid.



Vehicle Agency vehicle licensing prosecutions etc.).

- 2.60 Overall the Fine Collection Scheme has been successful against its performance targets and the NICTS have made a significant effort to tackle this issue. Inspectors would therefore consider this recommendation to be ‘achieved’. However, nearly 43,000 warrants have been issued to police in just under 28 months, and over 18,000 warrants remain outstanding.<sup>28</sup> In addition, the numbers of fine defaulters committed to prison remains on an upward trend, and so the issue of fine default continues to have a significant effect on the efficiency and effectiveness of the criminal justice agencies, and on public confidence in the criminal justice system. This continues to be a significant challenge both strategically for the Criminal Justice Delivery Group, the Criminal Justice Board and operationally for the criminal justice agencies.

**Status:** Achieved.

## Recommendation 5

- 2.61 Subject to judicial discretion, the norm should be that fines should be payable within seven days, instead of the current 28 days, to enable court staff to establish contact with defaulters as quickly as possible (Paragraph 2.18).

### DoJ response

- 2.62 *Achieved in principle (though not in the form recommended).*
- 2.63 *Current payment periods are set in statute.*

- 2.64 *28 day period is set in statute by Article 91 of the Magistrates’ Courts (Northern Ireland) Order 1981.*

- 2.65 *14 day appeal window set in statute by Article 144 of the Magistrates’ Courts (Northern Ireland) Order 1981.*

- 2.66 *Seven day period would not be sufficient for those fined but not present in court who need to be written to, a seven day period could also disadvantage those who are paid and budget on a fortnightly or monthly basis. Alternative approach to early contact with defaulters is being delivered via Fine Collection Scheme and Recommendation 4.*

### Inspectors’ assessment

- 2.67 The original report suggested that the NICTS should be given the chance to intervene sooner by making the norm for fine payment seven rather than 28 days. The report made clear that the decision in each case was a judicial matter and that there was no suggestion that the court’s judgment should be restricted.

- 2.68 Article 91(1) of the Magistrates’ Courts (Northern Ireland) Order 1981 allows the court to order payment of a fine forthwith, allow time for payment or order payment by instalments. Article 91(2) qualifies that if the court allows time for payment, then the time for payment shall be not less than 28 days commencing with the day on which the sum is adjudged to be paid.

- 2.69 In addition, Article 144 of the Order allows an appeal to the County Court within 14 days of the decision of the Magistrates’ Court. So making the norm for fines to be payable within seven days would require a change of legislation.

<sup>28</sup> It is the PSNI view that there may be an increase in the number of fines, and consequently fine warrants, in the future. The Driver and Vehicle Agency can impose fixed penalty fines and there are plans to introduce Penalty Notices for Disorder (PNDs), and prosecutorial fines. The PSNI have stressed that this underlines the imperativeness of establishing an effective regime to collect fines without the recourse to police or imprisonment.





- 2.70 The fine default consultation proposes that Fines Officers could be given powers to arrange an extension for the planned payment time or payment by instalments, and questions whether there should be incentives to pay early. However, the DoJ are not currently contemplating a change in the law to reduce the statutory payment time from 'not less than 28 days' to seven days.
- 2.71 Inspectors were advised that there were also practical reasons against reducing the payment time to seven days, one being where a defendant is absent from court and pleads guilty by letter, or through a solicitor: a seven day period would not allow sufficient time for the person to be written to and receive notification of the fine.
- 2.72 The DoJ also cite the potential for a seven day period to pay fines to disadvantage lower earners or those people who are paid, or budget, on a fortnightly or monthly basis.
- 2.73 The Fine Collection Scheme is discussed in detail at Recommendation 4 above, and while this has been successful in reducing the number of warrants issued to the PSNI, the fine collection staff do not contact the defaulter until after the due date for payment of the fine has passed, and this is, in most cases, 28 days. So this does not address the rationale for this recommendation as raised in the original inspection report, i.e. in England and Wales 'fine chasers' establish contact with their clients more quickly than in Northern Ireland, there is not the same standard practice of granting 28 days for payment – fines are more usually done at once – so the process of collection can start immediately. This gives the court staff

a psychological advantage of striking while the iron is hot.<sup>29</sup>

- 2.74 Subsequent to inspection fieldwork, the DoJ has advised that whilst its view is that the 28 day period should remain for legal, policy and practical terms, it does however accept, that earlier contact from the Fine Collection Scheme could be facilitated to encourage prompter payments and the Fine Enforcement Project Group will be looking at what measures could be introduced to accommodate this improvement, while leaving the judicial discretion aspect of the recommendation unchanged. The recommendation has therefore not been achieved.

**Status:** Not Achieved.

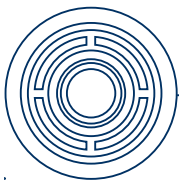
## Recommendation 6

- 2.75 The PSNI should continue to be responsible for dealing with the persistent defaulter. They should see it as an integral part of Policing with the Community, enabling them to demonstrate publicly that the law is being enforced (Paragraph 2.25).

### PSNI response

- 2.76 *The PSNI do not believe that the enforcement of fines is an effective use of police resources. There are independent fine collection systems in place in Great Britain which do not place the responsibility for fine enforcement on police forces.*
- 2.77 *The PSNI is a significantly smaller organisation than it was a few years ago and faces ongoing resource constraints. Presently the PSNI receives around 2,000 new fine*

<sup>29</sup> The enforcement of fines, CJI, March 2010.



warrants to execute each month which translates to 65 to be executed each day, 365 days a year. This would conservatively equate to the loss of approximately 50 Officers from frontline policing to fully meet this demand.

*included options for a more civilianised approach in our fine enforcement consultation.*

### Inspectors' assessment

2.78 *Fine enforcement is not sustainable as an operational priority for the PSNI. In early 2010 the PSNI made a case to the DoJ seeking support to remove fine enforcement from PSNI responsibility. In order to progress matters a number of subsequent meetings have taken place with officials from the DoJ and the NICTS.*

2.79 *A public consultation on fine default in Northern Ireland was launched in July 2011 with responses to be received by 14 November 2011. The consultation proposes that a specialised but civilianised fine collection and enforcement service be created with its own statutory powers. A Strategic Outline Case, SOC, is presently being finalised by the DoJ for civilian fine enforcement.*

2.80 *In consequence of these developments, the difficult security environment and the need to prioritise core issues such as serious harm and local confidence, Recommendation 6 of the 'Enforcement of Fines' report has not been progressed and we would continue to seek your support in finding alternative arrangements for the enforcement of these matters.*

2.83 With the large number of warrants issued in Northern Ireland – 129,365 from 2007 to 12 November 2011 – this places a significant strain on police resources. The 38,945 outstanding warrants<sup>30</sup> demonstrate the difficulties involved in terms of resources and in executing warrants on people who may be actively evading police in an attempt to prevent or delay payment or committal to prison. The PSNI estimate that of the 2,000 warrants issued each month, approximately 750 cannot be executed due to resourcing difficulties. This means the backlog of outstanding warrants is not likely to be dealt with in the short-term. The PSNI cannot be specific about the numbers but estimate that a significant proportion of warrants are issued to persistent defaulters.

2.84 Aside from issues of resourcing, cash handling, administration etc., the PSNI are concerned about the displacement of Officers from operational duties to execute warrants, and the costs for the PSNI in terms of community confidence.

2.85 Senior PSNI Officers do not believe that the enforcement of fines is an effective use of police resources, that it is not sustainable as an operational priority for the PSNI, and have made a case to the Justice Minister to remove this responsibility from the police service.


2.86 The fine default consultation proposes a specialised civilian fine collection and enforcement service be created with its own statutory powers. Fine Officers

### DoJ response

2.81 *Proposal requires public consultation: now underway.*

2.82 *Agreed that police should continue to have a role in fine enforcement in difficult situations however, ordinary and routine collection does not require uniformed intervention. We have*

<sup>30</sup> Figures at 2 December 2011, Northern Ireland Assembly Hansard Written Answers AQW 5512/11-15 Friday 16 December 2011.



would have statutory powers for fine collection and management, and these could include a reminder service; payment planning; deduction and other enforcement powers. The service could be delivered from within a justice agency, for example the NICTS or as a civilianised arm of the PSNI, or could potentially be delivered by the private sector. The consultation stressed there would still be a limited need for police support in certain cases but the emphasis would be on a civilianised service.

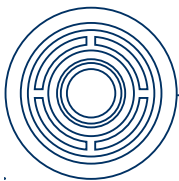
2.87 A civilian fine collection and enforcement service would require legislation and enforcement powers for the fines collection staff. The consultation estimated that, based on the Scottish courts model, a Northern Ireland equivalent would require resourcing of £1 - £2 million in terms of set up and establishment, with additional running costs thereafter, and the DoJ would explore options for resourcing.

2.88 In response to the consultation 14 respondents commented on this aspect, only one thought that the police should continue to deal with fine default in the first instance. Six were supportive of a civilian fine collection and enforcement service, with the majority expressing a preference for the delivery of the service from within a justice agency. Three had serious concerns and were opposed to fine collection and enforcement by the private sector; however a further respondent was supportive of private sector delivery.

2.89 The DoJ will be making the proposal to the Justice Minister to establish a civilian fine collection and enforcement unit, within a criminal justice agency, which will retain an element of police enforcement for the more difficult cases.

2.90 So, while there have been initiatives, for example the Fine Collection Scheme, to reduce the number of warrants issued to the police, and there has been a public consultation about a civilianised fine collection and enforcement service, the PSNI continue to receive large numbers of warrants for execution, including those for persistent defaulters. The PSNI disagree with CJI's view that the police should continue to have responsibility for dealing with persistent fine defaulters, and that they should see this as an integral part of Policing with the Community, enabling it to demonstrate that the law is being enforced. So, Inspectors would assess the 'letter' of the recommendation as being 'partly achieved', i.e. as there is currently no alternative option for dealing with fine defaulters, the PSNI continue to have responsibility for persistent defaulters, even though the 'spirit' of the recommendation has not been – and the PSNI do not see this as an issue integral to Policing with the Community.

2.91 Whilst it is not yet clear what any civilian fine collection and enforcement service would look like, there will be the requirement for police to continue to have a role in fine enforcement in difficult or specific circumstances. One of the NICTS assumptions about a civilian enforcement model is that it will be an office-based administration which does not envision fine enforcement staff 'knocking on doors'. The PSNI takes a different view of the extent to which the civilian enforcement staff would interface with fine defaulters, and would envisage a more pro-active approach. This difference of opinion will have to be worked through between the agencies and the DoJ if an effective and efficient civilian fine collection and enforcement service is to be made operational.



2.92 Subsequent to the inspection fieldwork, the DoJ has advised that the policy position agreed by the Justice Minister – and accepted by the Committee for Justice – is that the PSNI will continue to deal with the persistent offender even when a civilianised system has been created. The ultimate enforcement backstop will remain committal to prison, and this will continue to require police involvement for warrant execution. The PSNI currently deal with persistent fine defaulters and will continue to do so after reform.

2.93 It is estimated that legislation to provide a civilian collection and enforcement agency with the required powers will take nearly two years from policy proposals to enactment, so the PSNI will continue to have responsibility for this area in the short-term.

**Status:** Partly Achieved.

### Recommendation 7

2.94 Distress warrants should be used only very exceptionally against individuals (Paragraph 2.31).

#### DoJ response

2.95 *Already achieved.*

2.96 *This is the current court service practice. Public consultation is seeking additional views.*

#### NICTS response

2.97 *It is already the case that distress warrants are seldom used in relation to the enforcement of fines. Where the defendant is a body corporate distress may be deployed. Estreatment of recognisances used a combined distress/committal warrant.*

#### Inspectors' assessment

2.98 The numbers of distress warrants issued are relatively low. In 2010 of the 24,526 fine warrants issued by the Northern Ireland courts, 1,271 were distress warrants (5.1%). There has been an increase in the overall numbers of distress warrants since 2007 (824) with 802 in 2008 and 914 in 2009, although these have remained a small percentage of the overall number of warrants issued by the courts.

2.99 Distress warrants are mainly issued in cases relating to juror's fines, in respect of companies and estreatment of a recognisance.

2.100 The DoJ fine default consultation posed the question should there be an increase in the use of distress warrants, it highlighted the potential shortcomings – for example, identifying who owns the property, and property being sold at auction often realising low values at less than the cost of enforcement. However, the consultation went on to ask if the increased use of distress warrants might demonstrate that the justice system was serious about enforcing outstanding fines.

2.101 Of the 22 responses received to the consultation, seven respondents provided comments in relation to the use of distress warrants as part of the enforcement process. Four of the seven were supportive of their use, together with increased use of vehicle clamping and seizure, meaning enforcement would become a shared responsibility across a number of agencies. Another respondent said that the seizing of possessions from those who wilfully ignore the order of the court would show habitual offenders that the justice system was serious. The other respondent was supportive of the use of distress warrants but suggested a

system be put in place clearly communicated by a warning system where this could lead to the impounding of goods. One respondent cautioned that while property seizure may be an option, validating ownership may prove difficult. One respondent expressed concern that distress warrants could create more problems than they would solve and one strongly objected to the seizure of assets.

- 2.102 Following the fine default consultation the DoJ is not proposing any change to the use of distress warrants.
- 2.103 Distress warrants are an option open to the judiciary as a way of enforcing payment of a fine. So while their issue is a judicial function, and therefore outside the remit of CJI to inspect or comment on, they are used sparingly and the figures show that they are used exceptionally against individuals, so the recommendation can be assessed as having been 'achieved'.

**Status:** Achieved.

## Recommendation 8

- 2.104 Enforcement to the television licence fee should be handled by the Enforcement of Judgements Office in Northern Ireland, not by the criminal justice system (Paragraph 3.5).

### DoJ response

- 2.105 *Proposal requires public consultation: now underway.*
- 2.106 *Television licence evasion is currently a criminal, reserved matter.*
- 2.107 *Enforcement of Judgements Office only mandated to pursue civil judgements.*

- 2.108 *2011 consultation contains proposals for non-payment of television licence fee to become a civil matter.*

- 2.109 *As a reserved matter the proposal will require consideration – subject to policy consultation – by the Secretary of State and the (Westminster) Department of Culture Media and Sport.*

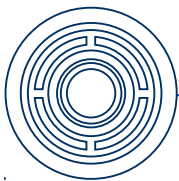
### NICTS response

- 2.110 *Television licence evasion is a criminal offence and outside the scope of the Enforcement of Judgements Office. However, there is a current public consultation looking at the civilianisation of fine enforcement generally which may go some way to addressing this recommendation.*

### Inspectors' assessment

- 2.111 The fine default consultation outlined that the original CJI Enforcement of Fines report had made this recommendation, and some of the offences that currently contribute to the default problem could be better dealt with as a civil debt as opposed to a criminal matter – non-payment of a television licence was one example. The consultation paper clarified that in respect of television licences, this was a reserved matter for the Westminster Parliament, that Northern Ireland could not go it alone, and asked for consultees' views on whether they would support the exploration of this as an option.
- 2.112 The consultation produced 11 respondents who were generally in favour of this aspect of default being dealt with as a civil debt rather than a criminal matter. Eight of those welcomed the proposals and encouraged exploration of opportunities to de-criminalise some offences and to have these pursued as civil debts instead –





particularly in respect of television licences. Two of the respondents cautioned that moving the problem to civil debt could increase the burden on the courts and may simply displace the problem without resolving the underlying issue. One respondent said imprisonment should never be used for defaulting on a fine imposed for not having a television licence.

- 2.113 The issue was discussed at the most recent meeting of the Fine Enforcement Project Group and the Chair confirmed the DoJ would now undertake contact with the Department for Culture, Media and Sport (DCMS) in relation to civil enforcement of television licences following the successful conclusion of the consultation exercise, which closed with almost unanimous support for this proposal amongst respondents.
- 2.114 At the time of writing the DoJ had prepared papers for the Justice Minister to correspond with the Minister for Culture, Communications and Creative Industries at the DCMS, seeking his views on the potential for de-criminalisation of television licence evasion. Subsequent to the fieldwork, the DoJ confirmed that the Minister has been advised that this route would not be open. The Department went on to say that this recommendation is beyond the legislative competence of the Northern Ireland Assembly.
- 2.115 The enforcement of television licence fees remains an issue for the criminal justice system, and any change to make television licence evasion a civil matter, rather than a criminal one, which would allow it to be handled by the Enforcements of Judgements Office, is not within the Justice Minister's remit. The recommendation has not therefore been achieved.

**Status:** Not Achieved.

## Recommendation 9

- 2.116 The Criminal Justice Board should appoint an individual with a cross-agency responsibility for developing joint training and preparing a common manual of guidance on enforcement legislation and practice (Paragraph 3.6).

### DoJ response

- 2.117 *Achieved.*
- 2.118 *Deputy Director of Criminal Justice Policy and Legislation Division leads Fine Enforcement Project Group as a sub-group of the Criminal Justice Board.*
- 2.119 *Guidance manuals already exist. Revisions will be required in due course in light of any changes arising from the consultation.*

### Inspectors' assessment

- 2.120 A Fine Enforcement Project Group has been established as a sub-group of the Criminal Justice Board. The group is chaired by the Deputy Director Criminal Justice Policy and Legislation Division at the DoJ and is attended by representatives from the PSNI, NIPS, NICTS, PBNI, PPS and the DoJ. The first meeting of the group was in May 2011. The remit of the Fine Enforcement Project Group is to critically assess areas where attention could be focused i.e. targeting and setting the fine; encouraging payment; dealing with default and unexecuted warrants, and to provide an action plan for the Board's ratification.
- 2.121 The original inspection report took the view that the criminal justice agencies needed to work together and support each other in their enforcement responsibilities, rather than begrudging the work they have to do for one another, and that information needed to

be better managed right through from the point of sentencing, to the notification by the NIPS that the sentence had been served. The report went on to say that this required clear strategic leadership from the heads of all the criminal justice agencies through the Criminal Justice Board. The report outlined the need for joint, inter-agency training on the legislation and the procedures of enforcement and for a common manual of guidance.

- 2.122 Inspectors were advised that while there was a good working relationship between the various criminal justice organisations, and work through the Criminal Justice Board and the Fine Enforcement Project Group, at operational level in respect of fine enforcement, both the PSNI and the NICTS had comprehensive and detailed policies and guidance, but each had its own role and discrete function. At the enforcement level there were no cross-cutting functions that impacted on the operations of the other agency.
- 2.123 The NICTS dealt with the issue from point of fine, i.e. the Judge's decision of guilt and sentence, to the fine due date; for a further 10 days the NICTS Fine Officers attempt to collect the outstanding payment after which, if the person is still in default, then a warrant is issued. When the warrant is issued the case passes to the police to enforce, either by collecting the money or by committing the person to prison. Service level agreements are in place between the NICTS and the PSNI for the police to return payments and executed warrants within three weeks of execution.
- 2.124 Inspectors recognise that the fine default strategy will require significant change over the short-to-medium term. With

the work that is planned it is inevitable that training and guidance will have to reflect the changing environment. The Department has advised Inspectors that the relevant work is taking place and will continue to be taken forward by the Fine Enforcement Project Group, as the new legislation and enforcement systems are introduced.

- 2.125 Inspectors can understand the rationale for this approach but would urge the Fine Enforcement Project Group to closely monitor this area in light of anticipated future developments following the fine default consultation exercise, to ensure that the DoJ and all of the criminal justice agencies are working towards a common strategic framework to tackle fine default.
- 2.126 So while the Deputy Director of Justice Strategy has been appointed as Chair of the Fine Enforcement Project Group, and the group has cross-agency responsibility for addressing the issues around fine default, the aspects of joint training and guidance have yet to be addressed and the recommendation can therefore be assessed as having been 'partly achieved'.

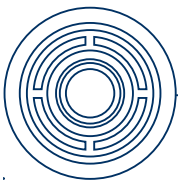
**Status:** Partly Achieved.

### Recommendation 10

- 2.127 A new, stricter regime for the payment of fines should be introduced, designed to maximise compliance and minimise recourse to police enforcement and imprisonment (Paragraph 3.9).

#### DoJ response

- 2.128 *Proposals require public consultation: now underway – with one exception.*
- 2.129 *Increase in enforcement fee recently*



*reviewed by the courts but not considered appropriate to make any change at this stage.*

2.130 *Most changes would require legislation.*

### **Inspectors' assessment**

2.131 The DoJ has advised Inspectors that the Minister's policy, supported by the Committee for Justice, is to focus on encouragement to pay, support and reminder systems as a means of preventing default, rather than some of the stronger penalties suggested by the Inspectorate in its original report.<sup>31</sup> The DoJ proposals for the new regime to tackle fine default contain the following:

#### *Targeting the fine*

- Following the mixed views expressed, will not make the Means Enquiry Form completion mandatory with an offence and penalty in itself.
- Will explore the potential for a change in the law to permit legal aid information to be used for the purposes of setting fine levels.
- Will continue and seek to explore its information initiative to ensure that community support groups are alert to the opportunities for fines payment and management.
- Will explore with the DCMS the potential for decriminalising non-payment of a television licence.

#### *Encouraging payment*

- Will develop new statutory provisions around deduction of benefits and attachment of earnings powers:
  - such provisions would include protections to ensure that outgoings

relating to housing costs, rent arrears, fuel costs, rates, and child support maintenance for example are not affected;


- other safeguards that restrict the number of third party deductions that can be taken from benefits, and set a maximum amount per individual decrease will also be respected; and
- such safeguards could be created by way of statutory regulation if appropriate.
- Recognising the concerns expressed, will not bring forward proposals towards fine reduction for early payment on the basis of the perverse outcomes it could lead to.
- Will monitor the use of a similar approach in its upcoming Fixed Penalty Notice scheme to assess what lessons might be learned for the fine more generally.
- Is content with the current methods of payment available to offenders both generally and in the context of its proposals for a 'Fines Officer' system. This may provide additional opportunities as it is developed.

#### *Dealing with default*

- Accepts that intelligent enforcement is the appropriate way forward.
- Based on the mixed views expressed, will not make any adjustments to distress warrant powers.
- Will not create additional powers around vehicle seizure, clamping or penalty points, but will keep it under review.
- Will consider in more detail the potential for, and implications of, increased custody periods in appropriate circumstances.
- Will explore legislating for a

<sup>31</sup> The enforcement inspection report of March 2010 suggested a number of features that an effective structure of incentives might incorporate and these are outlined at Appendix 2.





presumption of a community penalty (the SAO) instead of a short prison sentence in default.

- Having already commenced a pilot of the SAO in the Newry area on 1 January 2012, will commence a second pilot later this year.
- Will explore resource opportunities - subject to the outcome of the evaluation exercise – to secure the roll-out of the SAO scheme across all areas in 2013.

#### *Developing the service*

- Will develop new statutory provisions to facilitate a civilianised enforcement system with powers for Fines Officers to manage fines and adapt payment methods under court authority and within a framework of statutory regulation.
- Will develop models and a business case for a civilianised enforcement service.
- Will explore future funding options, including 'spend to save' initiatives.<sup>32</sup>

A number of these aspects have been referred to throughout this report.

2.132 At the time of writing the proposals had been drafted by the DoJ for submission to the Justice Minister. Following that, they were to be presented to the Committee for Justice and taken forward by the DoJ. Some aspects of the proposals will require legislation and so it is unlikely that the main proposals will be operational in the short-term.

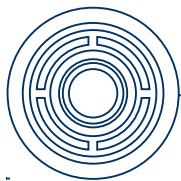
2.133 Inspectors recognise the work that has taken place by the DoJ in respect of this, and are conscious of the timescales involved, which included a public consultation exercise and the need for

legislation. Inspectors have also recognised and commented on the initiatives to address fine default, including the Means Enquiry Form, the Fine Payment Record and the Fine Collection Scheme, as well as the introduction of SAOs. However the main package of proposals has not been completed or implemented and Inspectors would assess this recommendation as being 'partly achieved'.

**Status:** Partly Achieved.

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<sup>32</sup> Fine default in Northern Ireland: A Department of Justice consultation, summary of responses and way forward.

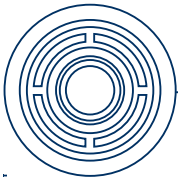


## CHAPTER 3:

# Conclusion



- 3.1 Inspectors accept the complexity of issues surrounding the enforcement of fines and acknowledge that work has been undertaken by the justice agencies in an attempt to address the more immediate issues, and in particular the work of the NICTS in respect of the information initiative, and especially the Fine Collection Scheme which has made a significant reduction in the number of warrants issuing to police. The Fine Enforcement Project Group has also been established to take forward fine enforcement in the criminal justice agencies. The Department has a strategy with a view to introducing new collection powers and a revised enforcement regime in the forthcoming Faster, Fairer Justice Bill. The introduction of SAOs also has the potential to make a positive impact. Inspectors look forward to monitoring their development and contribution to this area during the pilot and subsequent roll-out. However, of the 10 recommendations made in the original inspection report; three have been achieved; five have been partly achieved; and two have not been achieved.
- 3.2 The original inspection report highlighted the need to have a robust and effective enforcement process in place to deal with people who default on the terms of a court order. It also focused attention on the current system which was an inappropriate and expensive use of police and prison resources, and that there was a need for substantial changes to the enforcement process, and a stricter regime for the payment of fines to maximise compliance and minimise recourse to police enforcement and imprisonment.
- 3.3 So, despite the work which has been undertaken and a number of the recommendations being achieved or partially achieved, the statistics relating to the number of warrants issued to police, the number of outstanding warrants and the number of fine defaulters being committed to prison remains significant. This would indicate that there have not been the substantive changes required to the enforcement process, nor has there been a stricter regime introduced to maximise compliance and minimise police enforcement and the use of imprisonment.
- 3.4 A strategic way forward on fine default has been developed by the Department, built on a public consultation, and proposals have been presented to the Committee for Justice. However, this will require legislative change, a new civilian enforcement agency to be constructed, and new processes to be developed; and this will take time for policy development, legislation and implementation. In the short-term, the impact the new regime will have on enforcement and default will not be known. Inspectors look forward to seeing how the new strategy will impact



on delivering more significant improvements in the future. Inspectors note that many of the areas identified in the original report as potentially effective incentives, have not been included in the proposals.

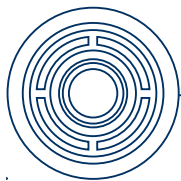
- 3.5 The current situation remains inappropriate and ‘unsustainable’.<sup>33</sup> Work needs to be urgently taken forward to introduce the stricter regime, as envisaged in the original inspection report, which will produce a system of enforcement which addresses the current issues of public confidence in the justice system, the social and financial cost of short-term sentences for fine defaulters, and the operational impact on the NICTS, the PSNI and in the Northern Ireland prisons.
- 3.6 The enforcement of fines continues to be an important factor for the criminal justice system, both in terms of the high numbers of warrants issued and, more significantly, in terms of their enforcement, the cost and impact on the criminal justice agencies. Inspectors would urge the Criminal Justice Board and the Fine Enforcement Project Group to take the necessary steps to complete the planned action to address these areas and the issues raised in the original CJI inspection report.

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<sup>33</sup> Department of Justice Press Release: Ford launches pilot scheme to tackle fine default. 4 January 2012.



# Appendices



## Appendix 1: Northern Ireland Prison Service fine default statistics

**Table 1: New committals<sup>34</sup> for fine default, July 2006 – March 2012 by year and month**

		Year fine record created							Total
		2006	2007	2008	2009	2010	2011	2012	
Month	January	0	130	115	136	157	215	209	962
fine record	February	0	101	111	79	153	166	211	821
created	March	0	89	107	91	169	190	212	858
	April	0	99	117	105	152	165	0	638
	May	0	108	113	128	128	166	0	643
	June	0	118	97	95	140	217	0	667
	July	119	124	106	94	163	177	0	783
	August	80	100	116	92	161	197	0	746
	September	110	106	112	95	149	150	0	722
	October	120	144	128	116	191	201	0	900
	November	123	94	120	122	176	182	0	817
	December	94	61	114	94	152	153	0	668
Total		646	1,274	1,356	1,247	1,891	2,179	632	9,225

<sup>34</sup> The NIPS have advised that in 2007 and 2008 the statistics relate to 'receptions' which is made up of 'new committals' and 'custody status transfers'.

**Table 2: Weekly population of fine defaulters, July 2008 - November 2011 by year and week of snapshot**

	Year of the Snapshot			
	2008	2009	2010	2011
1	0	16	17	36
2	0	42	27	41
3	0	32	27	41
4	0	23	39	41
5	0	28	43	34
6	0	28	30	33
7	0	16	41	34
8	0	21	42	33
9	0	28	27	37
10	0	26	27	28
11	0	24	33	23
12	0	18	41	26
13	0	22	21	34
14	0	21	20	37
15	0	12	27	26
16	0	23	24	21
17	0	18	30	23
18	0	22	32	26
19	0	20	23	19
20	0	42	28	26
21	0	28	27	39
22	0	20	30	42
23	0	21	28	38
24	0	24	22	52
25	0	27	25	31
26	0	16	24	30
27	25	25	34	27
28	21	28	30	30
29	28	12	29	46
30	26	13	30	39
31	20	23	37	36
32	25	13	26	38
33	22	21	38	44
34	27	26	30	35
35	20	24	22	30
36	20	17	23	30
37	33	21	32	35
38	34	28	31	26
39	36	21	26	25
40	16	25	31	38
41	26	21	28	51
42	28	24	41	33
43	30	24	39	41
44	25	18	33	36
45	17	28	40	23
46	27	32	34	31
47	36	34	33	34
48	28	19	36	0
49	39	22	29	0
50	29	20	40	0
51	20	17	3	0
52	3	4	15	0







## Appendix 2: Updated position regarding CJI suggested structure of incentives for stricter fine payment regime

*The report stated that it was not for the Inspectorate to specify a new policy, but that it believed that an effective structure of incentives might incorporate some, if not all, of the following features:*

- Court Service Fines Officers will intervene immediately after a fine has been imposed to explain the consequences if payment is not made;*
- The Court setting the fine could offer a discount for early payment, this is common practice in relation to parking fines;*
- If an extension of time to pay is sought, Fine Officers should have discretion to agree it without referring it back to the court, but only upon immediate payment of at least half of the amount due;*
- If a warrant has to be issued, the cost of that (i.e. something like the cost to the NICTS and to the PSNI, not a notional sum) will be added to the fine;*
- If the fine is still unpaid the defaulter will be imprisoned by reference to the increased amount now outstanding;*
- Imprisonment will be an additional penalty for the further offence of failing to pay the original fine, and the fine will not be discharged by the period of imprisonment; and*
- Any amount outstanding after imprisonment may be recovered through attachment of earnings or benefits (or, if it were possible, through the tax and tax credit system).*

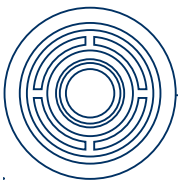
The bullet points below outline these features and provide an assessment of whether they are being progressed as part of the new fine regime.

- Court Service Fine Officers will intervene immediately after a fine has been imposed to explain the consequences if payment is not made.

*Progress:* The NICTS proposals for a civilian fine collection and enforcement service model located within the NICTS specifically excludes the Fine Enforcement Officers from the following duties:

- running ‘fine clinics’ in court buildings;
- having a presence in the court buildings to discuss payment options on the day of the court;
- formal face-to-face interviews except on request;
- calling out with debtors in person to their home address or address of work to request payment; and
- execution of warrants.

The first two points were considered too expensive given the geographical spread of the court estate and the number of court offices.



The DoJ proposals also make the point that many offenders in Northern Ireland plead guilty by post or are sentenced in their absence, and the proposal for immediate post-conviction intervention could have limited effect. It is also seen as being resource intensive and difficult to deliver in a busy court environment. The DoJ proposals in respect of a new, stricter regime for the payment of fines do not include provision for this aspect.

- The Court setting the fine could offer a discount for early payment, this is common practice in relation to parking fines.

*Progress:* The DoJ proposals note and recognise the view that a reduction for early fine payment could result in perverse outcomes, i.e. those who can afford to pay a fine promptly could have the amount reduced, whereas those who may have difficulty in paying, and might well have more need of a reduction to avoid default, have no reduction. The DoJ proposals in respect of the new, stricter regime for the payment of fines do not include provision for this aspect.

- If an extension of time to pay is sought, Fine Officers should have discretion to agree it without referring it back to the court, but only upon immediate payment of at least half of the amount due.

*Progress:* The proposals for a civilianised enforcement service would allow Fine Officers to be able to utilise existing powers to agree extensions to time to pay; payment by instalment; and referral back to court for adjustment.

- If a warrant has to be issued, the cost of that (i.e. something like the cost to the NICTS and to the PSNI, not a notional sum) will be added to the fine.


*Progress:* The current warrant fee of £5 was reviewed by the NICTS about 18 months ago and the decision was made not to increase, as at the time a number of options were considered including full cost of recovery. However, the NICTS has advised Inspectors that given the ongoing default consultation process and the proposal for a civilian enforcement model it was decided that any change in enforcement fees should be considered as part of the overall review process.

The DoJ proposals for the new fine regime do not include provision to progress this aspect.

- If the fine is still unpaid the defaulter will be imprisoned by reference to the increased amount now outstanding.

*Progress:* In the DoJ proposals to address fine default, the Department accepts the representations made during the consultation, that the focus should be on encouraging and assisting people in the payment of their fines rather than providing and increasing alternative or heavier penalties. The proposals go on to say that the strength of opinion against heavier or consecutive default periods and a recognition – certainly for those who cannot pay – that this would have little positive effect was noticeable. The effect could be to increase the periods spent in prison and create the opposite effect intended in terms of reducing the prison outstanding population. The DoJ proposals for the new fine regime do not include provision to progress this aspect.


- Imprisonment will be an additional penalty for the further offence of failing to pay the original fine, and the fine will not be discharged by the period of imprisonment.



*Progress:* The DoJ proposals outline that whilst increased custody in appropriate circumstances may be an option, the Department will consider this further. The Department does not consider it appropriate for both the custody period to be served and the fine paid as well. The DoJ does not propose to create heavier penalties for fine default and so the proposals for the new fine regime do not include provision to progress this aspect.

- Any amount after imprisonment may be recovered through attachment of earnings or benefits (or, if it were possible, through the tax and tax credit system).

*Progress:* The DoJ proposals for the new fine regime do not include provision to progress this aspect.



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