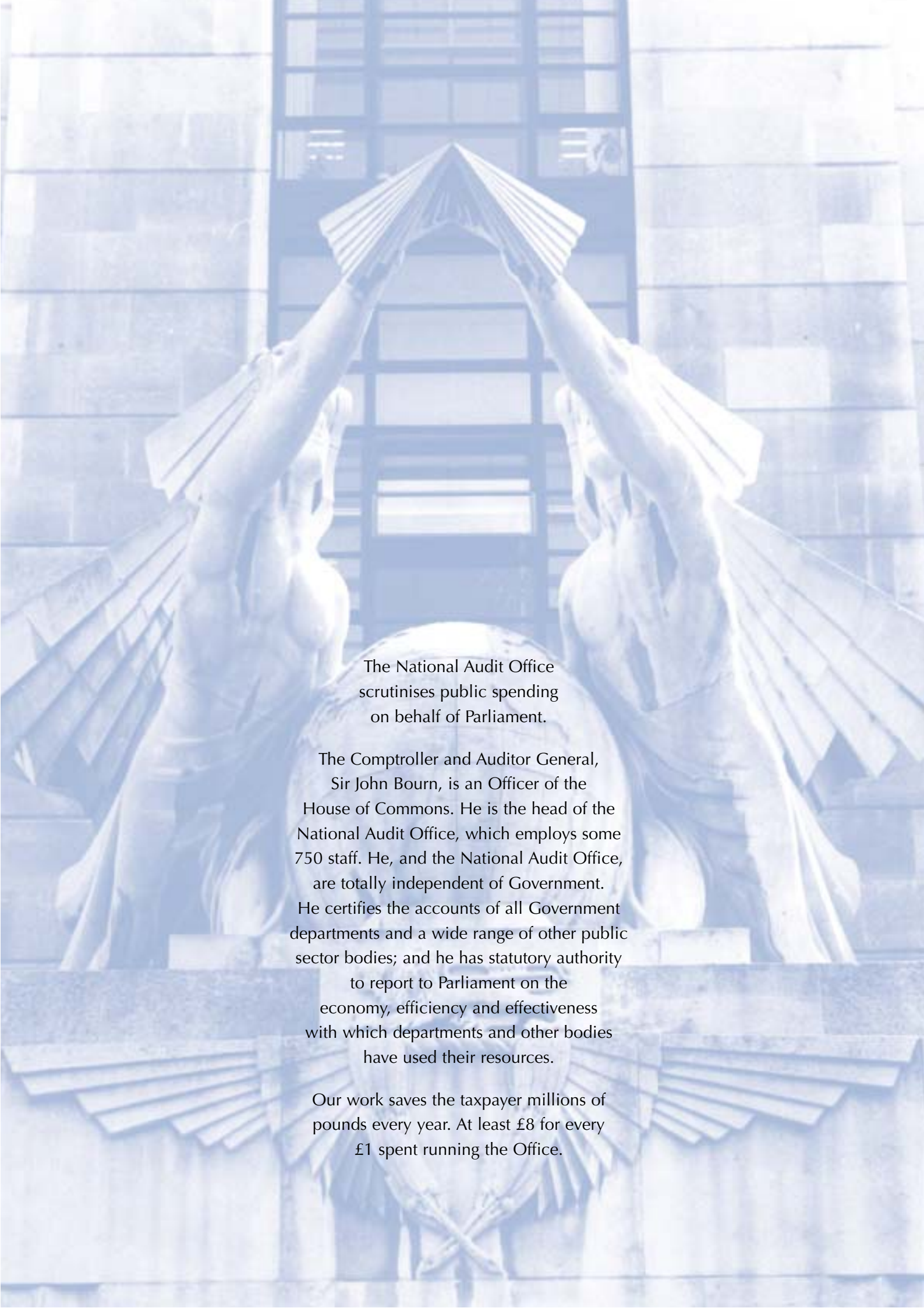


Collection of fines and other financial penalties in the criminal justice system

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL
HC 672 Session 2001-2002: 15 March 2002





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Collection of fines and other financial penalties in the criminal justice system



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A blue-tinted photograph showing a man with glasses looking out a window. The view outside the window shows a brick building. The image is oriented vertically on the page.

John Bourn
Comptroller and Auditor General

National Audit Office
11 March 2002

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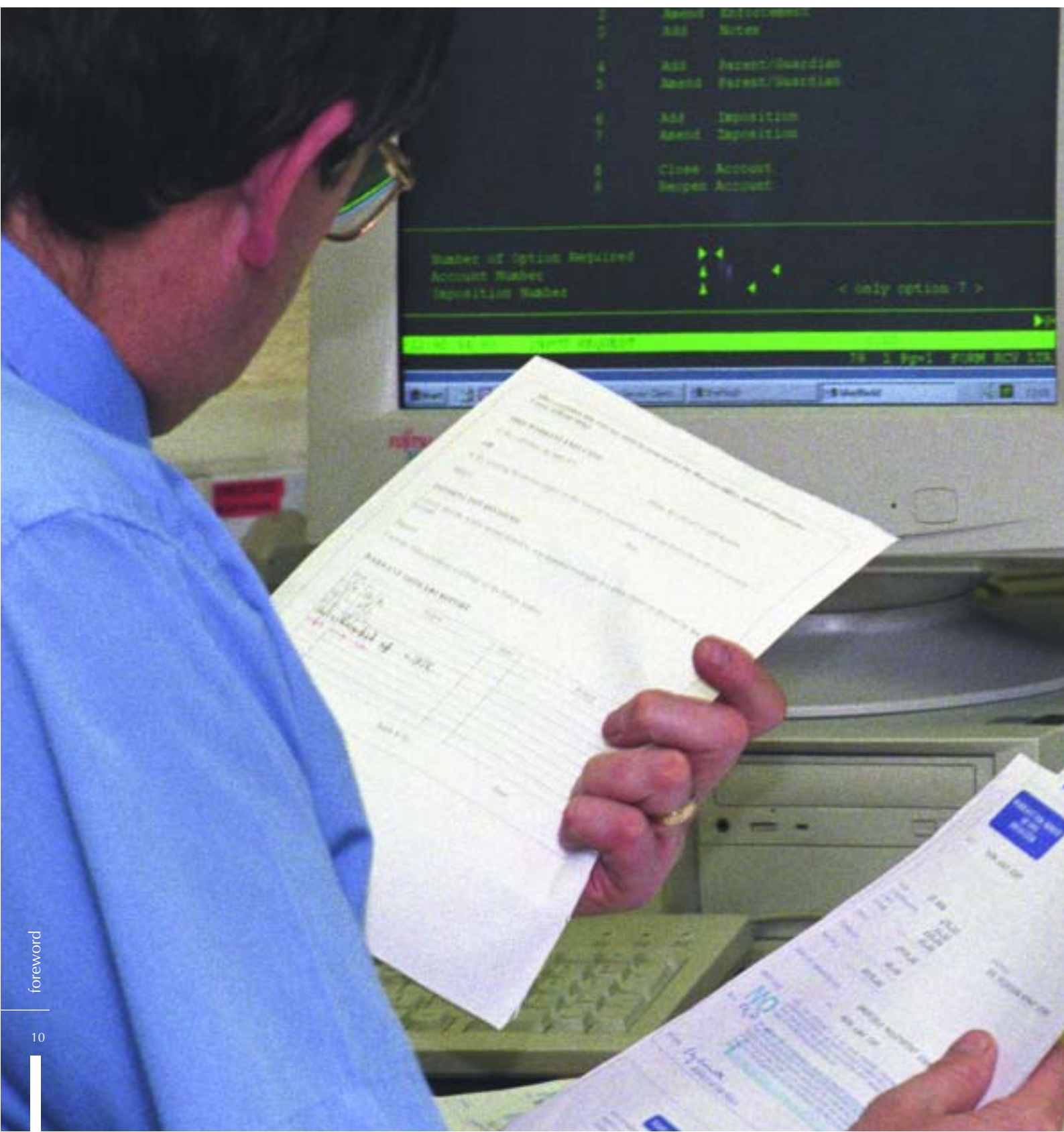


Foreword

Foreword by the Comptroller and Auditor General

- 1 Magistrates' courts are responsible for collecting financial penalties imposed by the criminal justice system. In 2000-01, penalties collected, including fines, compensation and prosecutors' costs, accounted for 63 per cent of total impositions of £385 million across the 42 magistrates' courts committees in England and Wales. In the same year, £74 million was written off as unenforceable, largely because the offenders could not be traced.
- 2 Our fieldwork suggests that there is an urgent need to improve the efficiency and effectiveness of collection. The process of enforcement is often over-complex and time consuming, in some cases requiring many court hearings and other enforcement action, and involving delays in executing warrants issued by the courts for the arrest of defaulters. The collection of financial penalties is hampered by unreliable management information making it difficult to compare performance between court areas.
- 3 To help improve performance, the Lord Chancellor's Department has recently organised a series of conferences aimed at disseminating ideas and good practice on enforcement issues. In April 2001, it transferred responsibility for executing warrants for the arrest of defaulters from the police to magistrates' courts committees to raise the priority of this work and speed up enforcement. As a result, for the first time, magistrates' courts committees were given complete control over the enforcement process. In February 2002, the Department announced details of further steps it was taking to improve performance. These steps included setting a target to increase the payment rate in 2002-03 by 5 per cent, from 63 per cent to 68 per cent and allocating magistrates' courts committees an additional £10 million from April 2002 for enforcement.
- 4 This report identifies further areas for improvement. They involve:
 - strengthening arrangements to obtain and verify details of offenders' means prior to sentence and for keeping track of offenders' addresses;
 - examining the scope for incentives to encourage prompt payment of financial penalties;
 - reviewing the scope to permit further delegation to administrative staff of responsibility for taking enforcement action, to help expedite enforcement;
 - improving the completeness and accuracy of management information and introducing relevant and challenging indicators so that the performance of magistrates' courts in collecting financial penalties can be measured and compared;
 - expanding the range of specialist training provided to staff employed on enforcement activities;
 - examining, with the Home Office, whether the current range of sentencing options is wide enough to minimise the imposition of uncollectable fines; and
 - exploring the possibility, in the medium term, of creating "centres of excellence" at local, regional or national level to take responsibility for enforcement.

- 5 Our examination was based on interviews with key staff in the Lord Chancellor's Department and in depth visits to five magistrates' courts areas undertaken between April and July 2001. We also undertook shorter visits to six other areas to discuss enforcement issues and local processes and systems. We have drawn upon recent work on enforcement undertaken by the Magistrates' Courts Service Inspectorate as part of their routine inspections. We supplemented this with: a review of the work of the Lord Chancellor's Department Internal Assurance Division on fines enforcement; research into best practice; and discussions with interested parties.



executive summary

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- 1 Financial penalties are the most common punishment imposed by Crown and magistrates' courts on offenders and account for 70 per cent of all sentences. Such penalties include compensation to victims, costs to prosecutors and fines. The responsibility for collecting penalties, and for enforcing payment when the offender fails to pay by the due date, lies with individual magistrates' courts committees, including since April 2001 responsibility for executing warrants for the arrest of defaulters assumed from the police. Collection is crucial to maintaining the credibility of fines as a form of punishment; ensuring that victims are recompensed according to the wishes of the courts; and ensuring prosecutors' costs are offset.
- 2 Magistrates are assigned to a "bench" covering one of 303 petty sessions areas - the catchment area for court business. These areas are locally managed by 42 independent magistrates' courts committees. The committees have statutory responsibility for the efficiency and effectiveness of the courts in their area. Since 1992, the Lord Chancellor's Department has been responsible to Government for the magistrates' courts service and provides local authorities with a grant to meet 80 per cent of each magistrates' courts committee's costs with the remainder contributed by local government. The Department does not control the service directly but it can give directions to committees to meet specified standards of performance and issue guidance to them, including on the enforcement of financial penalties.

Key points

- 3 In 2000-01, penalties collected, including fines, compensation and prosecutors' costs, accounted for 63 per cent¹ of total impositions of £385 million¹ across the 42 magistrates' courts committees in England and Wales. As well as the effectiveness of local enforcement methods, magistrates' courts' success in collecting penalties reflects a range of other factors, including the ability of offenders to pay, and the ease with which defaulters can be traced.
- 4 Collection is affected by the generally limited financial means of some defaulters. Many defaulters also have other financial penalties outstanding and/or are multiple debtors. Magistrates and Crown Court judges are required to take account of offenders' means when imposing financial penalties but the magistrates' courts we visited did not have systematic arrangements in place to obtain and verify such information. Also, at some of these courts, magistrates were not provided with information about outstanding fines. As a result, fines can be imposed that have little prospect of being paid. This can delay the punishment of the court, incur additional enforcement costs, and add to the debt and other problems faced by the offender.

¹ These totals include figures for both criminal and civil impositions as the systems of many courts cannot differentiate between the two.

- 5 Few financial penalties are paid on the date of imposition and less than a third are paid without the need for enforcement action. Local courts employ a range of enforcement strategies and tools comprising, for example, reminder letters and the services of civilian enforcement staff including bailiffs. However, the process of enforcement is often over-complex and time consuming, including delays in executing warrants issued by the courts for the arrest of defaulters. We found no evidence at the courts we visited that staff resources devoted to enforcement had been matched to workloads and to a greater or lesser degree all of these courts were unable to act as promptly or as intensively as they would have liked.
- 6 The systems used to pursue enforcement are underdeveloped. As separate bodies, magistrates' courts committees conduct their enforcement activities independently of each other. There has, therefore, been no attempt to share resources across committee boundaries or create "centres of excellence" that might assist in developing specialist skills and help create a specific management focus for enforcement activities. The collection of financial penalties is hampered by poor record keeping and a paucity of reliable information on overall enforcement performance. To help improve the sharing of good practice, the Department held a series of conferences for enforcement staff in early 2001 and a further round is planned for April 2002. On 28 February 2002, the Department announced that it was establishing a Criminal Enforcement Policy Advisory Group to bring together the different criminal justice agencies involved in enforcement, for example, magistrates' courts committees, the police and the probation service.
- 7 For the most difficult cases, enforcement can require many court hearings and extend over several years, even for quite modest amounts. Whilst the cost of collection should not be a factor determining whether penalties are pursued, the cost of collection in the most complex cases is likely to exceed greatly the penalties involved. The Department and the Home Office should, when reviewing the sentencing options available to the courts, consider whether the range of sentencing options is wide enough to minimise the imposition of uncollectable fines.

Our detailed findings are set out below.

Encouraging the prompt payment of financial penalties

- 8 When a magistrates' court imposes a financial penalty it may require immediate payment, allow time for payment, or order payment by instalments. Courts do not routinely produce information to show how frequently immediate payment occurs, but the courts we visited told us that it was the exception rather than the rule. Amongst these courts, the proportion of fines levied in June 2001 which were paid in full on the day due ranged from 1.8 per cent in Durham (South) to 4.3 per cent in Brent and Avon (Woodspring).
- 9 The magistrates' courts we visited had expanded the number of ways in which payments might be made. If a financial penalty is not paid immediately, magistrates' courts will usually order payment within 14 to 28 days of the court hearing. Aside from the threat of initiating enforcement action, there are few incentives available to encourage immediate payment, or at least payment according to the payment plan initially agreed by the court. The late payment of a penalty does not itself attract any interest or other financial

penalties. However, if a financial penalty is enforced by means of a distress warrant executed by a bailiff, there is a requirement to pay the bailiff's fees as well and this can act as a disincentive to late payment.

- 10 Some defaulters claim that they cannot afford to pay their financial penalties because, for example, they have other financial commitments or are not in regular employment. Judges and magistrates are required to take account of offenders' means when imposing fines, with the objective of reducing collection and enforcement problems. Although magistrates will often question offenders on their means in court, we found no systematic arrangements in place at the courts we visited for obtaining this information before the fine was imposed or for verifying any information that was obtained. For less serious offences, the law permits magistrates to determine cases and impose fines in the absence of offenders. In these cases, offenders will usually be sent a means assessment form to complete but court staff told us that it was rare for them to be returned and that there was no legal obligation on offenders to do so.
- 11 Some offenders are unable to pay, at least within a reasonable timescale, because they already have outstanding fines. Although courts can identify from their records whether any fines they have imposed on offenders are still outstanding, magistrates may not have information to hand on outstanding fines at the time of sentence. Problems arise when courts impose new financial penalties in ignorance of outstanding penalties. One court we visited told us that computer print outs of defendants' outstanding fines were no longer provided because of staff shortages. Sentencing courts have no way of identifying outstanding fines imposed by other courts and must rely on the offenders for this information.

Recommendations

- 12 We recommend:
 - a The Lord Chancellor's Department and the Home Office review the scope for legislative change to enable courts to offer incentives to encourage the timely payment of financial penalties.
 - b Magistrates' courts committees strengthen their arrangements to obtain information on offenders' means prior to sentence, for example requesting sight of benefit books, pay slips and bank statements, but should avoid unduly delaying the judicial process.
 - c Magistrates' courts committees ensure that before magistrates impose a financial penalty on an offender, they have full information available on any fines still unpaid by the offender.

Taking prompt and effective action against defaulters

- 13 There are a number of methods open to magistrates' courts to enforce payment of financial penalties, including agreeing to payment by instalments, using distress warrants to seize assets and making direct deductions from income or benefit. The ultimate sanction for non-payment is imprisonment. All the courts visited by us were using a variety of methods to help enforce payment. No one enforcement method is likely to be effective in all cases and court staff emphasised to us the importance of continually changing the methods used to help keep up the pressure particularly on persistent defaulters.

- 14 Magistrates' courts do not always initiate enforcement action promptly - a factor often considered vital to the successful collection of debts in the private sector. In pursuing unpaid penalties, courts are under no legal obligation to give priority to compensation awards to victims and therefore it is only when a payment is actually received by the court that there is a legal obligation to give priority to settling compensation awards. Victims, therefore, have to wait for their compensation if penalties are not paid promptly. The courts we visited each had a timetable for the interval to elapse between the use of the various enforcement options open to them. At one court it was clear that the time intervals had been set at levels designed to allow staff to cope with workloads rather than to bring cases to a prompt resolution. The Lord Chancellor's Department told us that, historically, it had been fairly common for courts to extend timetables in the face of staff shortages, to prevent existing staff from being overloaded.

- 15 Some defaulters have no intention of paying their financial penalties. Offenders can be adept at frustrating the courts by giving false addresses and not telling the court of a change of address. The problem begins when the fine is first imposed with courts sometimes failing to obtain and verify information that would enable them to keep track of offenders' whereabouts. None of the five courts we visited had, for example, systematic arrangements in place to obtain offenders' national insurance numbers or verify their addresses. In March 2001, the Lord Chancellor's Department issued guidance urging magistrates' courts to address this issue. Under the Access to Justice Act 1999, the Lord Chancellor may designate public authorities from whom courts can request information about fine defaulters to enable them to be traced. The Department for Work and Pensions is a designated public authority for this purpose. At the time of our visits to courts it was too early to assess the success of this initiative although court staff welcomed it as a positive development.

- 16 Magistrates' courts may issue a distress warrant enabling the seizure of money and goods from the defaulter to the value of the unpaid fine and this is one of the most commonly used enforcement tools. Amongst the areas we visited, the proportion of distress warrants successfully acted upon by bailiff firms varied between 6 and 27 per cent. Whilst it may not be possible to act successfully on all distress warrants, senior court staff emphasised the importance of closely monitoring the performance of bailiff firms to ensure that all warrants were given proper attention. New regulations which came into force in January 2001, lay down monitoring arrangements for contracts between magistrates' courts committees and private enforcement agencies approved to execute warrants on their behalf such as bailiff firms.

- 17 When the police had primary responsibility for the execution of warrants for the arrest of defaulters, they tended to give the work low priority when resources were stretched. Following the transfer of responsibility in April 2001, some magistrates' courts inherited backlogs of unexecuted warrants from the police. In Brent this consisted of over 2,000 unexecuted warrants which court staff estimated could take four years to clear assuming current staffing levels. Even where courts used their own civilian enforcement officers to execute warrants, rather than the police, backlogs had built up. In Avon court staff estimated, based on current staffing levels, that a backlog of three to four years of unexecuted warrants had built up by April 2001, although in this case at least one attempt had already been made to execute most of the warrants outstanding. The Department has since estimated that at the time of transfer there was a backlog of around 106,000 unexecuted warrants in England and Wales. In March 2002, the Department published its post implementation review of the transfer of warrants. The Department's review concluded that although there is room for significant improvement, the foundation had been laid for more effective enforcement of fines in future.



Recommendations

18 We recommend:

- d The Lord Chancellor's Department should review the scope to permit further delegation to administrative staff of responsibility for taking enforcement action, to help expedite enforcement.
- e Magistrates' courts committees should review their arrangements for keeping track of offenders. Subject to avoiding unacceptable delays to the judicial process, steps should be taken to verify addresses and national insurance numbers when the defendant first appears in court, by for example, requesting them to produce benefit books or utility bills.
- f The Lord Chancellor's Department should: review the success of the arrangements for allowing courts access to information kept by the Department for Work and Pensions; and consider the need to extend the arrangements to other government departments and agencies, for example, the Inland Revenue.
- g The Lord Chancellor's Department and the Home Office should review whether the current range of sentencing options is wide enough to minimise the imposition of uncollectable fines.
- h The Lord Chancellor's Department and Home Office should review the scope for action to reduce the time victims may have to wait for their compensation.
- i Magistrates' courts committees should have arrangements in place to monitor their performance in executing warrants, and have effective contracts in place and monitor the performance of any contractors involved in enforcement activities.

Developing the skills and resources needed to improve enforcement

19 Amongst the courts visited by us, staff working on enforcement activities had received induction and basic training but most of their expertise in enforcement was acquired on the job and they received little specialist training. The type of specialist training needed will vary according to the enforcement strategy adopted by their committees. Guidance issued by the Lord Chancellor's Department on the transfer of responsibility for executing warrants for the arrest of defaulters, included advice on training for civilian enforcement officers. We found comparatively few opportunities for sharing good practice between committee areas. Some staff considered that enforcement was accorded a lower priority than other court work and that it was the first activity to get "squeezed" when there was pressure elsewhere. In the courts we visited the staff were committed, enthusiastic and keen to ensure that offenders do not escape paying their financial penalties, but limited in their capacity to do so by the time and tools available to them.

20 Enforcement in some committee areas has been centralised but in others it is carried out by staff attached to individual courts. The Lord Chancellor's Department told us that centralised enforcement was now identifying benefits including better management of enforcement agents and civilian enforcement officers. We did not come across any examples of resources being pooled across committee boundaries. The Institute of Credit Management told us that other organisations involved in debt collection had tended to centralise their debt management functions in recent years, thereby allowing staff to develop specialist skills, adopt a consistent approach to collection, and achieve some economies of scale. The Lord Chancellor's Department considered that current

administrative arrangements for the employment of staff could make it difficult to set up pooled enforcement offices across magistrates' courts committee boundaries especially as they may operate different systems. The Department considered that the planned introduction of a new national computer system for all magistrates' courts - Libra - should be able to facilitate working across committee boundaries.

- 21 Monitoring the prompt collection of fines is hampered by the lack of reliable, consistently produced management information, for example, some magistrates' courts committees cannot distinguish between financial penalties collected as part of the criminal justice system and civil impositions, such as maintenance payments.
- 22 Under current accounting rules, all the fines collected by magistrates' courts committees are remitted to the Lord Chancellor's Department for surrender into the Consolidated Fund. The Department told us that from 1 April 2002 it would be trialling new arrangements under which magistrates' courts committees would be allowed to use money collected to purchase additional staff resources for enforcement work.

Recommendations

- 23 We recommend:
 - j The Lord Chancellor's Department should, in consultation with local committees, and drawing upon experiences elsewhere in the public and private sectors, consider creating "centres of excellence" at local, regional or national level to take responsibility for enforcement.
 - k Magistrates' courts committees should, in the interim, and in addition to the events organised by the Lord Chancellor's Department, improve the arrangements for sharing good practice in the enforcement of financial penalties, for example through seminars and, possibly, sharing staff.
 - l The Lord Chancellor's Department and magistrates' courts committees should identify the specialist training needs of staff involved in enforcement and devise a national programme for meeting these needs.
 - m The Lord Chancellor's Department should take steps to improve the completeness and accuracy of data on the collection of penalties so that the performance of magistrates' courts committees can be measured and compared.

Part 1

Introduction

The collection of financial penalties

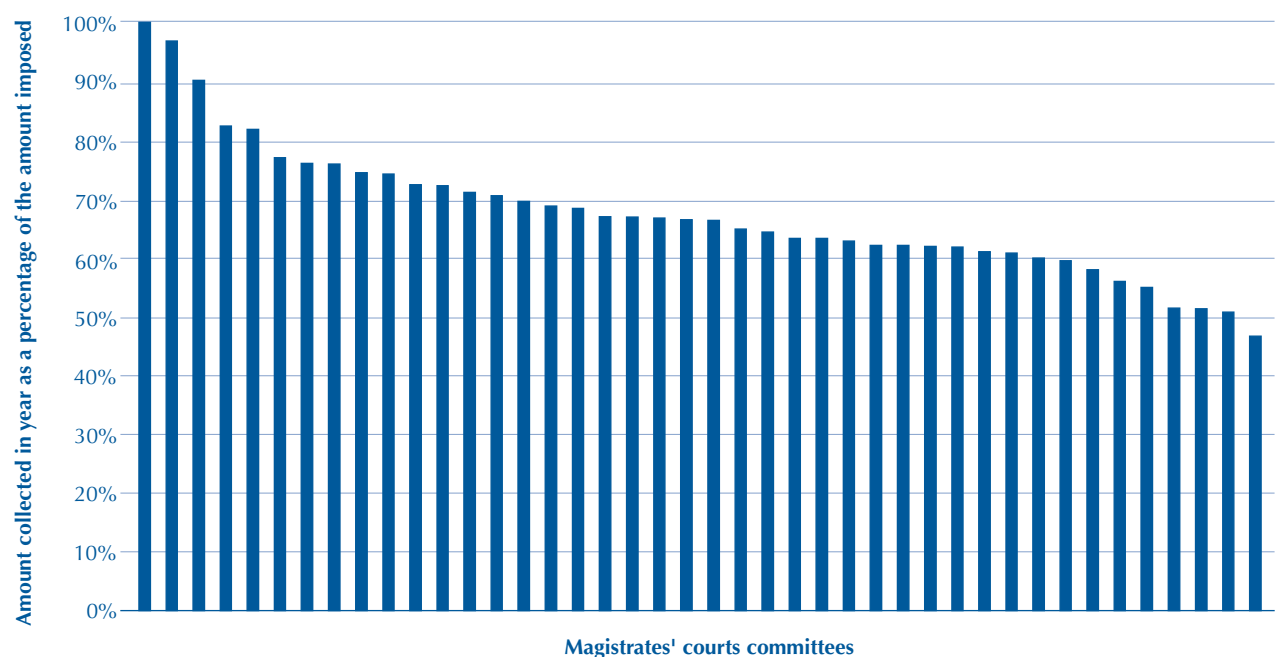
1.1 Magistrates' courts are responsible for enforcing the collection of all financial penalties imposed by the criminal justice system. From 1 April 2001, they also assumed primary responsibility from the police for the execution of warrants for the arrest of defaulters. The collection of financial penalties is essential if their credibility as a punishment is to be maintained. In 2000-01, impositions (which include fines, compensation, confiscation orders, and prosecutors' costs) totalled £385 million¹ and collections £242 million¹ - some of which related to penalties imposed in previous years -

giving an average payment rate for the 42 magistrates' courts committees in England and Wales of 63 per cent¹, compared to 62 per cent¹ in 1999-2000. Whilst compensation awards and prosecutors' costs are given priority over fines when payments are received by the court, some awards remain unpaid - no national figures are available.

1.2 The payment rate varied from 47 per cent for Merseyside to 100 per cent for Dyfed Powys in 2000-01 (**Figure 1**). However, this variation should be interpreted with some caution. The variation in payment rates reflects a range of factors including differences in the type of defaulters,

1 Payment rates for the 42 magistrates' courts committees in 2000-01

The payment rates for 2000-01 varied widely across magistrates' courts committees



NOTE

The amount collected in the year is net of fines transferred between magistrates' courts committees. Money collected during the year may relate to impositions in previous years.

Source: Lord Chancellor's Department

¹ These totals include figures for both criminal and civil impositions as the systems of many courts cannot differentiate between the two.

the ease with which defaulters can be traced, the proportion of repeat offenders as well as the effectiveness of local enforcement methods and distortions created by large individual impositions, payments and arrears. Also, many committees cannot break down their figures into criminal penalties and civil debts and therefore all the figures in Figure 1 include both. An example of a civil debt is maintenance payments. A full set of payment data and other information for the 42 committees is shown at Appendix 1.

- 1.3 Whilst the average payment rate indicates that the majority of offenders do eventually pay, a significant minority do not. In 2000-01, the value of penalties written-off as unenforceable was £74 million, equivalent to 19 per cent of the amount imposed in the year. However, writes-off ranged from 4 per cent in the Cumbria and Derbyshire magistrates' courts committee areas to 43 per cent in North Wales, and can fluctuate widely in individual areas from year to year, for example, the equivalent figures for Cumbria and North Wales in 1999-2000 were 2 per cent and 6 per cent respectively. The decision to write-off a penalty is taken by the courts' administrative staff, subject to certain financial limits when the approval of the Lord Chancellor's Department is needed. Write-off means that the magistrates' courts committee will no longer actively pursue the debt, although the penalty remains on the record and could be reactivated should the opportunity arise. Courts do not routinely produce information on the number and value of financial penalties that are recovered after they are written off.
- 1.4 Magistrates' courts can decide to cancel a financial penalty (although cancellation of a Crown Court penalty requires their consent). Cancellation can occur for a variety of reasons including, for example: because the defendant successfully appeals against the imposition; because the penalty has been satisfied by a term of imprisonment; or because the offender's circumstances have changed to such an extent that there is no prospect of the penalty being collected. In 2000-01 the average cancellation rate across the 42 magistrates' courts committees was around 20 per cent, although the rate ranged from 4 per cent for Thames Valley to 37 per cent for West Midlands. In 2000-01, financial penalties worth £77 million were cancelled, although it is not known how much of this related to cancellations because of the offenders' changed circumstances.
- 1.5 A person who fails to pay a court penalty can be sent to prison. However, its use as the ultimate sanction has declined in recent years attributable in part to case law (*R vs Cawley*, 1995). To commit a defaulter to prison, magistrates must have found that the default was due to the offender's wilful refusal or culpable neglect, and to have considered or tried all other methods of enforcement. In 2000, 2,476 people were imprisoned for non-payment of fines compared to 22,469 in 1994.

- 1.6 The difficulties faced by magistrates' courts in collecting financial penalties, in part, reflect the characteristics of defaulters. Research commissioned by the Home Office in 1997 found that: only one in five male defaulters was employed; and that typically female defaulters were in restricted financial circumstances - only one in 10 had any sort of job and the majority (81 per cent) had dependent children.

Successive efforts have been made to improve the collection performance of magistrates' courts

- 1.7 Successive official reports have sought to improve the collection performance of magistrates' courts. The main findings of three of these reports are outlined in **Figure 2** and summarised in more detail at Appendix 2. In 1999, as part of the Government's Crime Reduction Programme, the Home Office commissioned research into the cost effectiveness of different enforcement strategies including, for example, promoting more reliable payment at the point of imposition and shortening timescales for enforcement. The research involves implementing a variety of strategies

2 Past reviews of fine collection performance

Magistrates' Courts: Report of a Scrutiny (1989).

An efficiency scrutiny identified weaknesses in the procedures used by magistrates' courts to pursue fine collection. The team found, for example, that courts often failed to take account of defendants' means when imposing fines; responsibility was divided between administrative and legal staff; procedures were complex and lengthy; managers lacked awareness of the costs and effectiveness of different enforcement methodologies; and the police gave low priority to executing warrants issued by the courts for the arrest of defaulters. Following on from the scrutiny, two best practice bulletins were produced in January 1990 and September 1992.

Review by the Internal Assurance Division of the Lord Chancellor's Department (1994).

The Internal Assurance team reported on the adequacy and effectiveness of controls over magistrates' courts systems for enforcing financial penalties. It concluded that the standard of control was unsatisfactory and that it was unable to offer assurance that enforcement was working effectively. In response to the report's recommendations, the Department asked the Magistrates' Courts Service Inspectorate to review existing best practice guides on enforcement; and consider the management information required to enable the efficiency and effectiveness of enforcement policies to be measured. The Internal Assurance Division produced two further reports on enforcement issues in 1998 and 1999.

Thematic review by the Magistrates' Courts Service Inspectorate (1996).

The Inspectorate found that, for a number of reasons, the available data had significant limitations and, as a result, it was not possible to demonstrate the effectiveness of any particular enforcement process, however existing guidance was judged to be sound.

Also in 1996, the Lord Chancellor's Department set up a Working Group on fines enforcement. It issued two batches of guidance, in July 1996 and February 1997 and last met in 1998.

in 18 courts on an experimental basis and measuring performance before and after implementation. The findings are expected to be published in April/May 2002.

The role of financial penalties in the criminal justice system

- 1.8 The Criminal Justice Act 1991 created three "tiers" of seriousness of offence against which the severity of sentence was to be matched. Financial penalties were earmarked for the least serious offences; community sentences for offences that were "serious enough" to deserve "punishment in the community"; and prison sentences for offences that were "so serious" that no other sentence would be adequate. The aim was to ensure that criminals received their "just deserts" and that "the punishment fitted the crime".
- 1.9 All courts are now required to fix an amount for the fine which reflects the seriousness of the offence, but which also takes account of the financial circumstances of the offender. The maximum fines that may be imposed for different categories of offence are set by the Home Secretary and are shown in **Figure 3**.
- 1.10 The use of fines for all offences declined slightly in the 10 years 1989 to 1999 but it remains the most frequently used sentence of the courts (**Figure 4**). In 1999, 70 per cent of offenders were fined; 11 per cent received community sentences; 7 per cent were given custodial sentences; and 9 per cent were discharged.

3 The maximum fines that may be imposed by a court

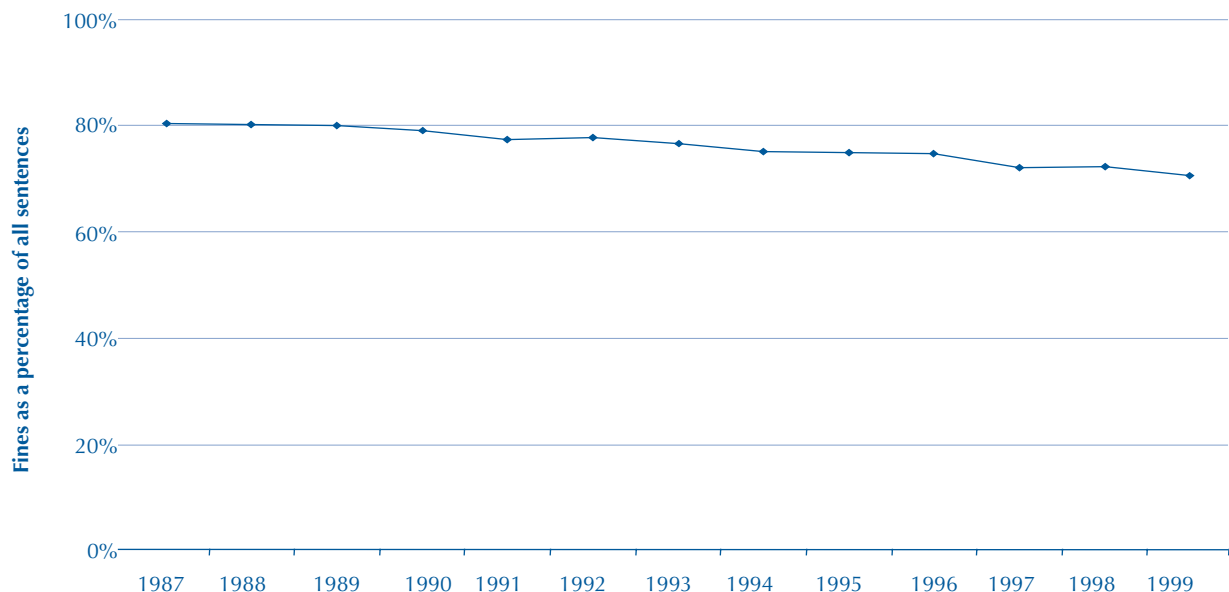
Maximum fine	Example of offence
£200 for a level 1 offence	Drunk in a public place
£500 for a level 2 offence	Drunk in a designated sports ground
£1,000 for a level 3 offence	TV licence evasion
£2,500 for a level 4 offence	Careless driving
£5,000 for a level 5 offence	Taking a motor vehicle without consent

The maximum fine that can be imposed on a young person (aged 14 to 17) is £1,000. A child (aged under 14) may not be fined more than £250

- 1.11 In July 2001, the Home Office published a review of the current sentencing framework². Amongst other matters, the report concluded "that fines have failed to recover their previous share of sentences and there is a possibility that they are not being used to the extent they could be - though the lack of confidence in the enforcement of fines is likely to have contributed to this". The report proposed a new sentencing framework in which financial penalties could be imposed for crimes at all levels of seriousness both in isolation and in combination with non-custodial sentences.

4 Fines as a percentage of all sentences, 1987 to 1999

The use of fines in the criminal justice system has declined gradually, from 80 per cent in 1987 to 70 per cent in 1999



Source: Criminal Statistics, England and Wales

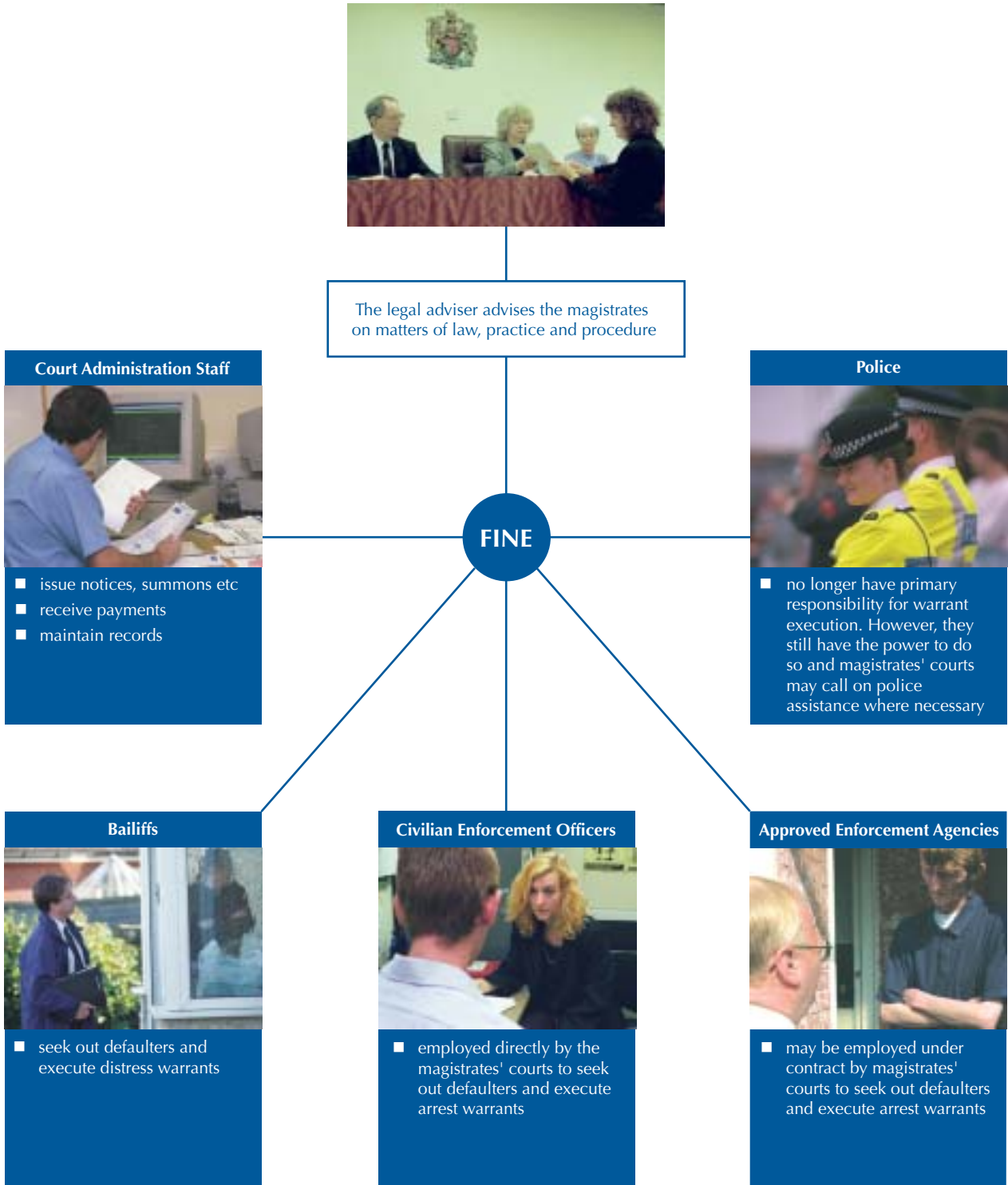
Financial penalties may be imposed by magistrates' courts, the Crown Court and the police

- 1.12 Financial penalties are imposed by magistrates' courts, the Crown Court and the police. Magistrates' courts are responsible for virtually all criminal proceedings. They sentence defendants found guilty in less serious cases, and commit more serious cases (for trial or sentence) to the Crown Court. The Crown Court is responsible for trying more serious cases, sentencing defendants committed by magistrates, and hearing appeals against conviction or sentence in magistrates' courts. The police may issue fixed penalty notices for a wide range of motoring offences.
- 1.13 Magistrates' courts are responsible for collecting all financial penalties that they impose. If a financial penalty imposed by the Crown Court is not paid immediately, it will be enforced by the magistrates' court nearest to the offender's home address. Unpaid fixed penalties are registered as a fine by magistrates' courts, without any court appearance being necessary by the defaulter, and the court will pursue payment of the amount. Financial penalties are collected for: the Lord Chancellor's Department for surrender to the Consolidated Fund (fines, fixed penalties and confiscation orders); the Crown Prosecution Service and other prosecutors (costs); and victims of crime (compensation awards).
- 1.14 If, subsequent to the imposition of a financial penalty, there is a change in the offender's circumstances such that they genuinely cannot pay, the court may cancel all or part of the penalty (paragraph 1.4). It cannot, however, cancel costs or compensation without giving notice to the prosecutor or victim to whom the money is due and seeking their observations as to why it should not be cancelled.

Magistrates' courts committees have responsibility for the efficient and effective collection of penalties in their areas

- 1.15 Magistrates' courts handle around 97 per cent of all criminal proceedings and are the channel by which the other 3 per cent reach the Crown Court. To deal with this workload there are around 30,000 unpaid lay magistrates, 96 District Judges and a Senior District Judge and her deputy appointed by the Lord Chancellor. (For historical reasons, magistrates in Lancashire, Merseyside and Greater Manchester are appointed by the Duchy of Lancaster.) Magistrates are assigned to a "bench" covering one of 303 petty sessions areas in England and Wales - in practice the catchment area for court business.
- 1.16 Justices' Clerks, qualified as barristers or solicitors, have primary responsibility for providing legal advice to the bench. The day to day running of the court is carried out by legal and administrative staff. Legal advisers, sometimes called court clerks and who have had legal training, advise the magistrates on matters of law, practice and procedure. Administrative staff prepare all the paperwork for the court and ensure that its orders and sentences are carried out. The collection and enforcement of fines is carried out in accounting offices in each magistrates' courts committee area. Some committees operate one accounting office to serve the whole of their area, for example Cheshire, whilst others operate several, for example Avon and Somerset has seven. The committee may directly employ its own civilian enforcement officers who have responsibility for executing warrants. Since April 2001, it may contract out the work to a (private) enforcement agency which has been approved under the Magistrates' Courts Act 1980. It may also call upon the services of bailiffs (who may or may not be approved enforcement agencies). **Figure 5** outlines the responsibilities of the various parties involved in enforcement.
- 1.17 The Government's stated objective is to "develop a magistrates' courts service which is effectively and efficiently managed, at a local level by local people, within a consistent national framework". To help achieve this, it considered that "there needs to be fewer, and larger, magistrates' courts committee areas, providing a more consistent basis for the administration and management of the courts, and a much greater alignment with local government areas served by the agencies in the criminal justice system". In keeping with this objective, between 1999 and 2001, the Government reduced the number of committees from 96 to 42, coterminous with the 42 police authorities and criminal justice areas in England and Wales.
- 1.18 All staff of local magistrates' courts are employed by magistrates' courts committees who, since 1994, have had statutory responsibility for the efficient and effective administration of courts for their area. Each committee comprises up to 12 members, primarily unpaid lay magistrates appointed by their peers. The committees are supported by a Justices' Chief Executive who is responsible for the administration of the courts in their area, in accordance with any directions given by the committee. The Access to Justice Act 1999, transferred responsibility for certain administrative functions from Justices' Clerks to Justices' Chief Executives to facilitate greater separation of legal and administrative functions. In particular, from 1 April 2001, responsibility for collecting and accounting for financial penalties was transferred to Justices' Chief Executives.

5 The parties involved in imposing and collecting financial penalties



Source: National Audit Office

1.19 On 28 February 2002, the Government announced that it was going to set up a Criminal Enforcement Policy Advisory Group to bring together the different criminal justice agencies involved in enforcement, for example, the magistrates' courts committees, the police and the probation service. The Group will, amongst other things, explore and evaluate good practice initiatives and revise and update guidance.

The Lord Chancellor's Department currently oversees the work of magistrates' courts committees

1.20 The Lord Chancellor's Department provides local authorities with a revenue grant, totalling £284 million in 2000-01, to meet 80 per cent of the costs of each magistrates' courts committee with the remainder contributed by local government. The Department has no direct control over magistrates' courts, but:

- the Department can provide circulars for guidance or information. It cannot instruct magistrates or courts;
- the Lord Chancellor may dismiss the chairman or any member of a magistrates' courts committee if they fail to discharge any duty properly;
- the Lord Chancellor can direct a magistrates' courts committee to implement a particular recommendation made by the Magistrates' Courts Service Inspectorate within a specified period;
- the Lord Chancellor can authorise magistrates' courts' accounts to be audited by the Department's internal audit;
- the Lord Chancellor's Department collates information on key aspects of performance, and periodically issues guidance on how performance can be improved. But the Department has limited resources to investigate the reasons for poor performance;
- the Lord Chancellor can give directions to magistrates' courts committees to meet specified standards of performance;
- the Lord Chancellor can require magistrates' courts committees to submit to him such reports and plans as he may prescribe; and
- the Lord Chancellor's Department helps to organise the training of magistrates' courts committee staff.

1.21 In October 2001, a review of the criminal courts by Lord Justice Auld, commissioned by the Government, recommended that the Crown Court and magistrates' courts should be replaced by a unified criminal court.

The review also suggested that there should be a single centrally funded executive agency as part of the Lord Chancellor's Department responsible for the administration of all courts, civil, criminal and family, replacing the present Court Service and the magistrates' courts committees.

Scope and study methods

1.22 Our examination focused on the performance of magistrates' courts in collecting fines, costs and compensation awards and fixed penalties not paid on time. The report considers whether courts have the organisation, systems, skills to collect financial penalties promptly and whether effective action is taken to collect outstanding penalties.

1.23 Our examination included interviews with key staff in the Lord Chancellor's Department and in depth visits to five magistrates' courts areas. We used as our sampling unit, a court or group of courts sharing a common accounting and enforcement system. In choosing our sample, we aimed to cover as wide a range as practicable, both in terms of the character of the area served and the variables likely to affect performance in collecting financial penalties. Nevertheless, there are wide differences in the approaches and methods used by courts on enforcement. The courts we visited are, therefore, not necessarily representative of all courts in all respects. During these visits, conducted between April and July 2001, we reviewed collection and enforcement procedures; examined a sample of cases; analysed management information; and interviewed a number of magistrates, Justices' Chief Executives, and legal and administrative staff involved in the collection and enforcement of fines. We undertook shorter visits to six other areas to discuss enforcement issues and local processes and systems.

1.24 We have also drawn upon recent work on enforcement undertaken by the Magistrates' Courts Service Inspectorate as part of their routine inspections. And our conclusions on the areas for improvement are consistent with their recent work. We supplemented this with: a review of the work of the Lord Chancellor's Department Internal Assurance Division on fines enforcement; research into best practice in the public and private sector; and discussions with interested third parties. And we drew upon the results of an unpublished postal survey of enforcement techniques carried out by the Home Office in 1999 of all magistrates' courts in England and Wales. Appendix 3 provides more detailed information about our study methods.

Part 2

Whether effective action is taken to collect financial penalties?

2.1 This Part examines:

- whether sufficient steps are taken by magistrates' courts to encourage the prompt payment of financial penalties;
- whether magistrates' courts committees have sound systems in place to pursue defaulters; and
- whether magistrates' courts committees have appropriate skills and systems in place to help improve their performance.

Whether sufficient steps are taken to encourage the prompt payment of financial penalties?

Few penalties are paid on the day of imposition and only around a third of fines are paid without the need for enforcement action

2.2 When a magistrates' court imposes a financial penalty it may require immediate payment, allow time for payment, or order payment by instalments. Courts do not routinely produce information to show how frequently immediate payment occurs, but the five courts we visited told us that it was the exception rather than the rule. Amongst the courts visited by us, the proportion of fines levied in June 2001 which were paid in full on the day due ranged from 1.8 per cent in Durham (South) to 4.3 per cent in Brent and Avon (Woodspring) (Figure 6).

2.3 The magistrates' courts we visited had, over recent years, expanded the number of ways in which payments might be made. As shown in Figure 7, a variety of payment facilities were being offered. Our findings mirror those of the Magistrates' Courts Service Inspectorate which concluded in its Annual Report for 2000 that magistrates' courts committees had established a wide variety of payment methods and were continuing to explore new facilities. The Lord Chancellor's Department told us that in some courts recent developments included accepting payments via the internet.

2.4 If a financial penalty is not paid immediately, magistrates' courts will usually order payment within 14 to 28 days of the court hearing. The offender may apply for further time to pay, either at sentencing or subsequently. If this is granted they will usually be required to pay by weekly or fortnightly instalments. If the offender does not pay as ordered, the courts take action to enforce the penalty. Magistrates' courts do not routinely produce, or use, data on the number or value of penalties that are paid without the need for enforcement action. But recent research suggests that around a third of all financial penalties are paid without the need for enforcement.

2.5 There are no financial incentives available to encourage the early payment of penalties. Late payment does not attract interest or any other additional financial penalty. However, if a financial penalty is enforced by way of a distress warrant served by a bailiff there is a requirement to pay the bailiff's fees as well. Courts usually send a fine notice to defendants within a week of the hearing stating how much is due and the payment terms.

6 The proportion of fines paid on the day in June 2001 amongst the five courts visited by the National Audit Office

	Durham (South)	Shrewsbury	Cheshire	Brent	Avon (Woodspring)
Number of fines imposed (June 2001)	681	Not available	2,194	675	533
Fines paid in full on the day	12	Not available	89	29	23
Percentage of fines paid on the day	1.8%	Estimate 2-3%	4.1%	4.3%	4.3%

7 Payment facilities offered by the five magistrates' courts visited by the National Audit Office

	Avon (Woodspring)	Brent	Cheshire	Durham (South)	Shrewsbury
Cash	✓	✓	✓	✓	✓
Cheque	✓	✓	✓	✓	✓
Postal order	✓	✓	✓	✓	✓
Credit or debit card	✓	In person only	By telephone only	✓	✓
Standing order/direct debit	Standing order only	✗	Standing order only	Standing order only	Standing order only
Transcash	✓	✗	✗	✗	✓
Bank giro	✓	✗	✗	✓	✗
Paypoint	✗	✗	✓	✗	✗

However, none of the courts we visited had arrangements for establishing contact with the offender subsequent to this, either by telephone or letter, a practice that the Institute of Credit Management told us the private sector had found to be effective, albeit with a different client group, to remind them of the need to make payment promptly.

and some sought supporting information but others did not. These findings echo the results of a review of procedures at 14 courts conducted by the National Association of Citizens' Advice Bureaux Kent Probation Project in 2000⁴. This review found that the form and content of forms "varied tremendously" across courts and some contained omissions or errors, for example listing obsolete benefits.

Magistrates do not always have, or may be unable to obtain, sufficient information on an offender's means before passing sentence

2.6 The Criminal Justice Act 1991 provides for magistrates' courts to take into account the means of offenders when imposing fines, and this is reflected in the magistrates' court sentencing guidelines issued by the Magistrates' Association. Some offenders may claim that they cannot afford to pay their fines or wilfully refuse to do so. The courts may subsequently decide to cancel a fine, or part of it for a variety of reasons (paragraph 1.4). The courts cannot, however, cancel costs or compensation without giving notice to the prosecutor or victim to whom the money is due and seeking their observations. In 2000-01, around a fifth of all impositions were subsequently cancelled.

2.7 Magistrates' court sentencing guidelines state that "before fixing the amount of a fine, the court must enquire into the offender's financial circumstances, preferably using a standard means form". Obtaining this information is not always straightforward. For many less serious offences, the law permits magistrates to determine cases and impose financial penalties in the absence of offenders. Amongst the courts visited by us, defendants were sometimes sent a means form to complete depending on the type of charge and the prosecutor involved³. In many cases it was dependent on whether the prosecutor sent out a means form with the initial summons. The means forms used by the courts we visited varied in terms of the level of detail requested

2.8 There is no obligation on the defendant to provide information on their means prior to imposition of the fine. If the offender is present in court, which tends to be the exception, other than for the most serious cases, the magistrates may question the defendant, otherwise they can decide to adjourn the hearing to make further inquiries, which is unlikely given the costs involved, or pass sentence. The magistrates' court sentencing guidelines state that "if, having been given a reasonable opportunity to inform the court of his means, the offender refuses or fails to do so, the magistrates may draw such inference as they think just in the circumstances". We found that no checks were made into offenders' credit ratings. Where the defendant is in paid employment there may be a record, but in many others cases none will be available. A number of bodies, including the Magistrates' Courts Service Inspectorate, the Magistrates' Association and the National Association of Citizens Advice Bureaux Kent Probation Project, are currently working together to produce a standard means enquiry form to meet the needs of sentencers and those enforcing the collection of fines.

2.9 We found that, in the absence of any information on means, the practice across court areas varies. One magistrate told us that the policy in his area was to impose financial penalties at the higher end of the scale, whilst another said that their policy was to set penalties at the level appropriate to someone on an average income.

³ Prosecutors include a variety of organisations, for example the police, HM Customs and Excise, the Inland Revenue and the Driver and Vehicle Licensing Agency.

⁴ *One Fine Day: A Report on Magistrates' Courts and Fine Setting*.

2.10 None of the five courts we visited provided regular feedback to magistrates about the consequences of their sentencing practice in terms of fine collection and enforcement. The Magistrates' Courts Service Inspectorate has made similar findings. In its 1999-2000 Annual Report, for example, it noted that: "Inspectors have encountered a higher profile for fine enforcement in magistrates' training programmes. However, a number of magistrates said that they received little feedback on how the approach they were adopting was affecting performance."

Magistrates may not have information on outstanding fines at the time of sentence

2.11 If an offender applies to the court for further time to pay and this is granted, they will usually be required to pay by instalments. Magistrates' court sentencing guidelines state that "if periodic payments are allowed, the fines should normally be payable within a maximum of twelve months". Most courts, however, have to deal with repeat offenders whose accumulation of fines makes achievement of a one year target more difficult. There are no national figures available on the proportion of cases where offenders may have accumulated more than one penalty. However, multiple penalties feature prominently amongst cases requiring enforcement action, for example 20 per cent of cases considered by a specialist enforcement court during our visit to Cheshire involved default on two or more penalties.

2.12 Courts can identify from their records whether any fines they have imposed on offenders are still outstanding. Our visits suggest that magistrates are not always provided with information on outstanding fines or, where it is provided, the information was not always drawn to their attention by court staff at the time of sentence. In Shrewsbury, information on offenders' outstanding fines was no longer provided because of other priorities on staff time. At present, in the absence of a suitable national computer network, courts have no way of identifying outstanding fines imposed by other courts and must rely on the offender for this information.

2.13 Some magistrates to whom we spoke felt that under the current sentencing framework, which earmarks financial penalties for the least serious offences, they had no alternative to imposing another financial penalty, even if it meant adding to a total which was already beyond the ability of the offender to pay or pay within a reasonable timescale. Magistrates told us that where offenders clearly had limited financial means or had already accumulated penalties to a level which was obviously unaffordable, it would be helpful to have alternative options to financial penalties.

2.14 The Crime (Sentences) Act 1997 provided additional sentencing options for dealing with fine defaulters and persistent petty offenders who were unlikely to be able

to pay financial penalties on top of those already incurred: community punishment orders; curfew orders; and disqualification from driving. These options were piloted in Norfolk and Greater Manchester and the Home Office's evaluation of the pilots was published in February 2000. It concluded that: community punishment orders, and to a lesser extent curfew orders, were popular with magistrates for dealing with defaulters but usage had been low for persistent petty offenders; and that driving disqualification had also been used very little. The pilots demonstrated little impact on the use of imprisonment for fine default, or on the level of payments received.

Whether magistrates' courts are well equipped to pursue defaulters?

Magistrates' courts committees set aside specialist enforcement courts to pursue fine enforcement issues

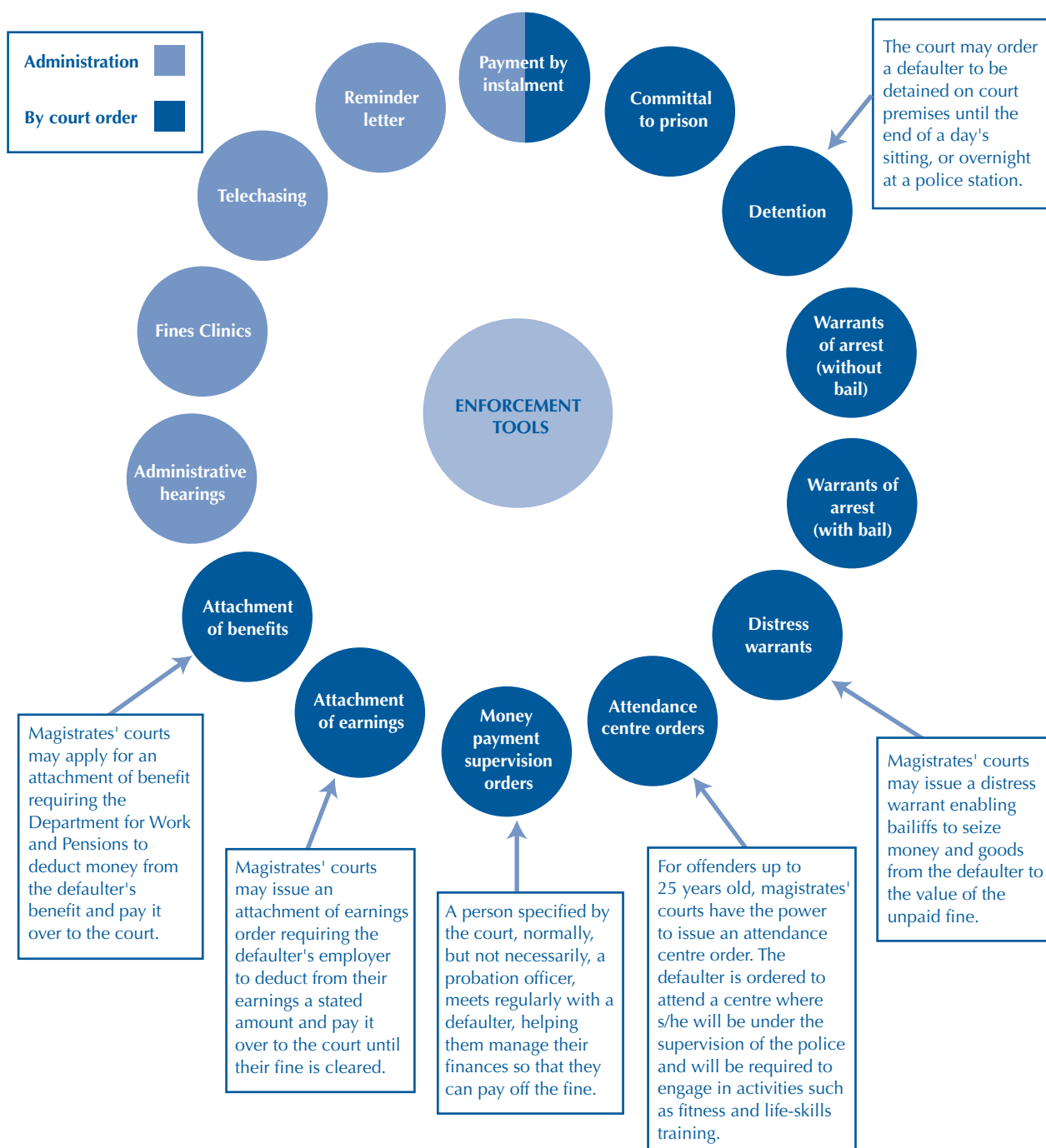
2.15 Magistrates' courts committees usually set aside specific court time to follow-up unpaid fines - known as fine enforcement hearings. In addition, some committees have created fine enforcement panels comprising magistrates who specialise in enforcement issues. Three of the five areas visited by us had established specialist panels - Avon (Woodspring), Cheshire and Shrewsbury. Some magistrates believe that these panels help in producing a more consistent approach to enforcement and a better appreciation of the issues involved. Overall, we found differing views on the advantages of these panels but no conclusive evidence to support or deny their effectiveness.

2.16 In some areas the first key stage in the enforcement process is the issue of a summons by the court, or a notice of hearing, at which the defaulter is required to provide an explanation as to why payment has not been made. However, only a minority of offenders turn up for these hearings. In Avon (Woodspring), for example, between May 2000 and May 2001 a notice of hearing was issued to 2,213 defaulters but only 751 actually attended the enforcement court. The courts told us that offenders fail to attend for a variety of reasons for example: because they have no intention of paying their fines and believe that if they ignore the summons for long enough they will get away with it; because they lead such disorganised lives that they simply forget; or because they cannot afford the cost of getting to the court.

2.17 The problem of tracing offenders can be compounded by the fact that some are highly mobile and either deliberately or inadvertently fail to notify courts of their change of address. There are no global figures available for the proportion of write-offs occurring because the defaulter cannot be found. The Lord Chancellor's Department told us, however, that an analysis of a large proportion of all write-offs for the year ended

8 Enforcement techniques available to the magistrates' courts

There is a wide variety of enforcement techniques available to the magistrates' courts, many of which require a court hearing.



Source: Lord Chancellor's Department

31 March 1998 revealed that 96 per cent were "gone away/no trace". This figure is consistent with those we compiled for Brent and Durham which suggest that in recent years over 95 per cent and 90 per cent of write-offs respectively were due to inability to contact defaulters.

2.18 The courts we visited acknowledged that, in some cases, non attendance was also due to their having incorrect or out of date information on offenders. Problems can

begin when the financial penalty is first imposed, with many courts failing to obtain and verify information that would enable them to keep track of offenders' whereabouts. None of the five courts we visited, for example, had systematic arrangements in place to obtain offenders' national insurance numbers or verify their addresses. While staff resources place a limit on how much checking courts can do, it should be possible to verify addresses by asking offenders to produce, for

example, benefit books or bills from electricity or gas companies. Some court staff told us that the police and other agencies could be more assiduous in confirming addresses before cases came to court.

2.19 Under the Access to Justice Act 1999, the Lord Chancellor may designate public authorities from whom courts can request information about defaulters to enable them to be traced, in particular, their full name, address, date of birth and national insurance number. So far the Department for Work and Pensions has been designated to share information, and this took effect across all courts from 1 April 2001. The court staff we spoke to regarded this as a positive development. Courts can only apply to the Department for Work and Pensions when a warrant has been issued for the arrest of the defaulter and all other methods of tracing them have been exhausted. The Lord Chancellor's Department told us that it was considering similar arrangements with the Employment Service and the Inland Revenue. Further designations will depend on wider Government policy on information sharing.

Magistrates may use a variety of techniques to pursue enforcement. The Home Office has commissioned a research project to examine the effectiveness of different approaches to enforcement

2.20 Magistrates' courts take enforcement action in around two thirds of all cases. There is no standard enforcement procedure. However, in 1996 the Lord Chancellor's Department issued guidance to all magistrates' courts committees advising on how best to approach the enforcement of financial penalties. Courts may use a

wide variety of enforcement tools, many of which require a court hearing (Figure 8). The tools all have their limitations, but courts must have tried, or at least considered them, before they can use the ultimate sanction of committal to prison (Figure 9).

2.21 The procedures followed locally depend upon the policies adopted by the local magistrates' courts committee and will vary depending upon local need. An unpublished survey carried out by the Home Office in 1999 found that the use of some enforcement tools varied widely across magistrates' courts in England and Wales. For example, the use of reminder letters and distress warrants was common but techniques such as telechasing, money payment supervision orders and fines clinics were much less frequently used.

2.22 In 1999, as part of the Government's Crime Reduction Programme, the Home Office commissioned a research project to examine the enforcement of financial penalties. The aim of this project, which is due to be completed in early 2002, is to identify best practice in enforcement strategies through a study of individual courts' approach to enforcement and identify the relative effectiveness and cost-effectiveness of different enforcement strategies.

2.23 Our visits indicated that no single enforcement action is likely to be effective in all cases. Staff at Cheshire magistrates' courts committee emphasised the importance of keeping one step ahead of defaulters by continually varying the enforcement methods used by the courts. In their experience, the effectiveness of particular techniques diminished quickly over time as persistent offenders became accustomed to new approaches. For example, civilian enforcement officers

9 Enforcement methods which must be considered by the court before issuing a committal warrant

Method	Comment
Distress warrant	Success rates are not high. Of the courts we visited, one had a target of 20 per cent success stated in the contract. Another court told us their bailiffs were achieving 50 per cent, but they restricted their use of distress warrants to registered fixed penalties and company fines, where they considered it was more likely there would be assets.
Attachment of benefit	Application for attachment of benefit can only be made for people in receipt of either jobseeker's allowance or income support, not other benefits such as incapacity benefit. The maximum deduction that can be made is £2.70 a week. The offender may be liable for deductions in favour of many other agencies (for example, for housing costs, fuel costs) who have a higher priority than the courts, and the number of such deductions is limited to three in respect of any benefit recipient. If the offender comes off and on benefit frequently, the arrangements will have to be set up anew each time. The courts receive the money quarterly.
Attachment of earnings	Attachment of earnings orders can be made where offenders are in employment. However, some courts told us that they can require close monitoring, as employers may not be diligent in administering them. Also, some offenders may be at risk of losing their jobs if their employers discover they have been fined by a court.
Money Payment Supervision Order	Of the courts we visited, all but one were using few if any such orders, because the local probation service did not have the resources to do the work.
Attendance centres	These were not used much by any of the courts we visited, often because there was no easily accessible centre in their area.

should vary their times of visiting to optimise the chances of contacting defaulters; an exercise on Cup Final day had proved very successful.

- 2.24 Some enforcement staff to whom we spoke considered that defaulters often responded better to face to face discussion about their outstanding fines. Some courts have established fines clinics for defaulters. These clinics are run by the courts' own staff or in partnership with other agencies such as Citizens Advice Bureaux, volunteers and probation service staff and provide counselling, for example, on debt management and the implications of continuing default. Information is not readily available on the extent to which those invited to attend fines clinics do so and no evaluation has been made of their success in obtaining payments compared with the paper-based enforcement approaches operated by most courts. Two of the five courts we visited used to operate fines clinics but have ceased to do so because of other demands on staff time. Cheshire magistrates' courts committee has reintroduced them in some areas since our visit.

The enforcement process itself may introduce delay, with many actions requiring a court hearing

- 2.25 The speed with which enforcement action is initiated is likely to be a key factor in determining whether penalties are paid, for example by keeping track of defaulters before they move address. For some offenders, for example young offenders, speedy enforcement of fines may also help deter further offences. To maximise the chances of collecting fines quickly, guidance issued by the Department advises magistrates' courts committees to have a clear timetable for each stage of the enforcement process.

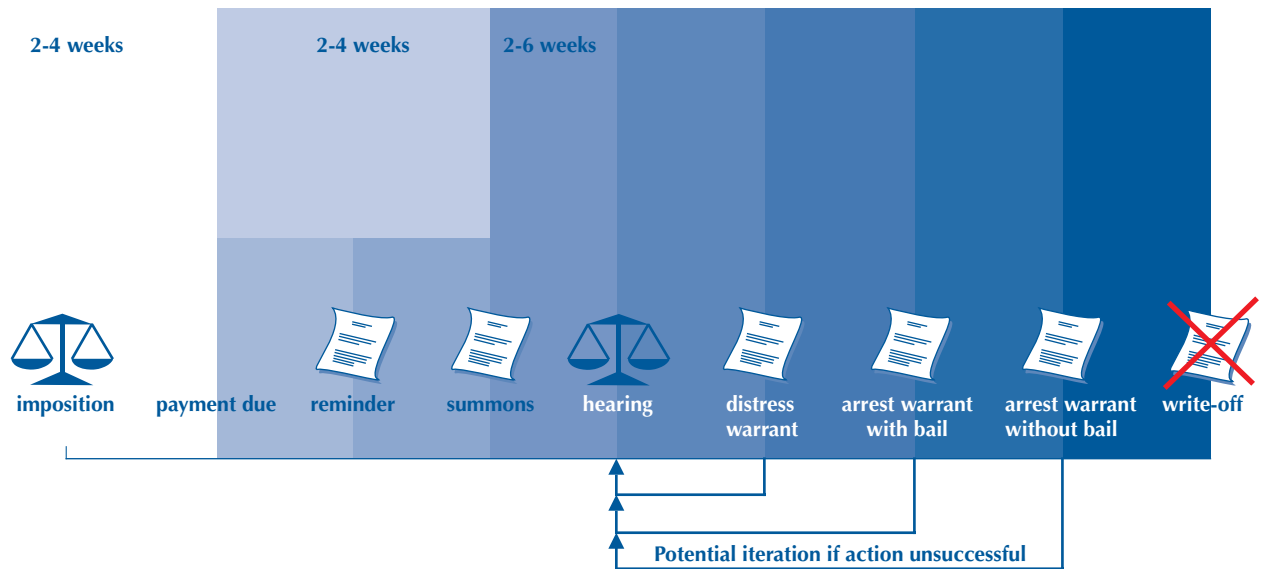
- 2.26 The courts we visited had set their own timetable for executing each of the potential stages in the enforcement process (Figure 10). Apart from the time allowed for the execution of arrest warrants, the time allowed by the local committee for the various stages was broadly comparable. However, in practice, pressures on court staff and court time sometimes mean that enforcement can take longer. Amongst the cases examined by us, the time lag between default and the start of enforcement action, allowing for the 14 to 21 days normally allowed by courts before classifying a debt to be in default, ranged between 42 days in Brent to 63 days at Avon (Woodspring). These cases were selected to illustrate some of the problems in enforcing payment and are not necessarily typical of all cases. We found no evidence at the courts we visited that staff resources devoted to the enforcement of financial penalties had been matched to workloads. At Durham the time intervals between the use of the various enforcement actions had been set at levels designed to allow staff to manage workloads rather than the need to bring cases to a prompt resolution. The impact of this was that action to enforce payment was not taken until three payments were missed in respect of those paying weekly and until two payments were missed in the case of those paying fortnightly. The Lord Chancellor's Department told us that, historically, it had been fairly common for courts to extend timetables in the face of staff shortages, to prevent existing staff from being overloaded. And that the amount of enforcement action taken had usually been determined by the staff resources available. The Department said that from 1 April 2002 staff resources should be better matched to workloads as magistrates' courts committees will be able to use a specified amount of receipts to purchase extra staff resources.

10 The five courts visited by us had set standard timetables for completing different stages in the enforcement process

	Avon (Woodspring)	Brent	Cheshire	Durham (South)	Shrewsbury
Notice of fine	21 days to pay	21 days to pay	14 days to pay	7, 14 or 28 days to pay	21 days to pay
Reminder letters	Not used	28 days after default	Not used	Not used, but introduced since our visit	Not used
Summons	Notice of hearing - 3 weeks after default	28 days after reminder	3 weeks after default	2-4 weeks after default	2 weeks after default
Hearing	2-4 weeks notice	3-4 weeks	2-6 weeks	2-4 weeks	2-3 weeks
Distress warrants	10 weeks to execute	6 months to execute	3 months to execute	12 weeks to execute	12 weeks to execute
Arrest warrants	3 months to execute	12 months to execute	12 months to execute	6 months to execute	12 weeks to execute

11 Some cases may require several enforcement actions to be taken, which can take time

This figure illustrates the potential stages which a court can go through to pursue a financial penalty that ultimately has to be written off.



NOTE

Not all courts use all these methods in this order, or use them for all offenders. Courts often take other enforcement actions. At a court hearing an application may also be made, for example, for an attachment of benefit or an attachment of earnings. If these are made but fail to result in the penalty being recovered, a summons to attend a further hearing may be made and the process is repeated.

Source: National Audit Office

2.27 Many of the enforcement actions commonly used require an order of the court, and as such normally require a court hearing. The date for the first enforcement hearing may have to be set several weeks in advance depending on how busy the court is. In those cases where several court hearings might be required, the cumulative delay can be significant (**Figures 10 and 11**). In some courts the decisions to take specific actions have been delegated to administrative staff but in the courts we visited we found inconsistent views amongst staff on what authority they had.

2.28 If a defaulter moves to another part of the country, the magistrates' court may transfer responsibility for collecting the financial penalty to a court in their new locality. The courts we visited told us that they received little information about cases transferred to them, for example, the action already taken to enforce the penalty or evidence about the defaulter's means. As a result, they started the enforcement process again from the beginning, building in further delay (**Case 1**).

Case 1

During February and March 1997, three different magistrates' courts around the South East imposed fines totalling £1,168.75 on Mr C for various motoring offences. Mr C paid £110 of his fines before the courts transferred the collection of the fines to Brent magistrates' court committee in September 2000. Brent magistrates' court committee started the collection and enforcement process afresh and ordered payment by 5 October 2000. Mr C did not pay and on 16 November 2000, Brent magistrates' court committee sent him a reminder which was followed by a distress warrant. The committee had to withdraw the distress warrant in March 2001, as Mr C had disappeared without trace and the committee wrote-off Mr C's outstanding fines of £1,058.75.

2.29 Magistrates' courts may issue a distress warrant enabling bailiffs to seize money and goods from the defaulter to the value of the unpaid fine. It is one of the most commonly used enforcement tools. The bailiff's costs are met by the defaulter. The courts we visited expected distress warrants to be acted upon within three to six months of the warrant being issued. However, these techniques only have mixed success. In its report on Durham magistrates' courts committee, the Magistrates' Courts Service Inspectorate noted that the three firms of bailiffs used achieved collection rates of 6, 7 and 12 per cent respectively. Brent magistrates' court had set the bailiffs a recovery target of 20 per cent but during the period covered by our examination they had achieved only 14 per cent. In Avon and Somerset magistrates' courts committee, the success rate of different bailiff firms varied from 15 to 27 per cent. Most distress warrants are returned to court without success. Senior court staff emphasised the importance of closely monitoring the performance of bailiff firms to ensure that all warrants were given proper attention. The Approval of Enforcement Agencies Regulations 2000, which came into force in January 2001, lays down monitoring arrangements for contracts between magistrates' courts committees and private enforcement agencies such as bailiff firms.

2.30 Until 1 April 2001, responsibility for executing warrants for the arrest of defaulters rested with the police. The courts had no control over the level and quality of service provided and where resources were stretched the police tended to give the work low priority. In April 2001, courts assumed responsibility for executing all warrants and some are now dealing with backlogs they inherited from the police. In Brent, we found that the backlog consisted of over 2,000 unexecuted warrants which court staff estimated could take four years to clear assuming current staffing levels. Even where courts used their own civilian enforcement officers to execute warrants, rather than the police, backlogs had built up. In Avon it was estimated, based on current staff levels, that a backlog of three to four years of unexecuted warrants had built up by April 2001, although in most cases an attempt had already been made to execute the warrant. The Department has since estimated that at the time of transfer, there was a backlog of around 106,000 unexecuted warrants in England and Wales.

Enforcement, particularly in cases involving persistent offenders, can be long, drawn out and costly

2.31 There is a hard core of persistent offenders who have accumulated financial penalties over many years. Amongst the most intractable cases, enforcement may be long, drawn out and costly. We identified a number of cases where penalties had been pursued for some

years (**Cases 2, 3, 4 and 5**). It is impossible to say to what extent these cases represent problems with sentencing or poor enforcement. Magistrates' courts do not have reliable information on the cost of pursuing enforcement in individual cases.

Whether magistrates' courts committees have appropriate skills and systems in place to help improve their performance?

Magistrates' courts have set objectives for their enforcement activities but, in general, plans need to be more specific about how their objectives are to be achieved

2.32 Statutory responsibility for the efficiency and effectiveness of magistrates' courts, including their performance on fine collection, rests with the 42 magistrates' courts committees. Each committee comprises up to 12 unpaid members, primarily lay magistrates, who undertake their committee work in addition to their magisterial duties.

2.33 Four of the five magistrates' courts committee areas visited by us, Avon and Somerset, Cheshire, Durham and West Mercia, had drawn up strategies including objectives to cover their fine collection activities. Brent had just been subsumed within the new Greater London Magistrates' Courts Authority area and a strategy was in the process of being prepared.

2.34 In Cheshire, the committee's strategy sought to improve the percentage of fines collected and/or enforced. In Durham the committee had a target to improve collection of cash (as a proportion of impositions) by at least 10 per cent by 2003. In most cases, the strategy documents, or their supporting plans, could have provided more details of how these aims were to be achieved, for example identifying where these improvements would come from; who would be responsible, how performance would be measured and the resources needed to support these activities.

The Department has introduced a target to increase the payment rate by 5 per cent in 2002-03

2.35 On 28 February 2002, for the first time, the Lord Chancellor's Department set magistrates' courts committees a target for increasing the national average payment rate. The target is to increase the payment rate by 5 per cent, from 63 per cent in 2001-02 to 68 per cent in 2002-03. The payment rate is defined as the amount of money collected in a year as a proportion of financial

Case 2

In July 1998, Mr. H. was fined £80 plus £50 costs by magistrates in South Durham for an offence of criminal damage. He was also fined £80 for breach of a previous conditional discharge. He was initially told to pay the impositions off at £6 per fortnight. He failed to pay anything, and in November 1998, he was summoned back to court. In December 1998, he was ordered to pay the full amount outstanding by the end of the month. He failed to do this.

Meanwhile, he incurred further financial penalties in November 1998 for motoring offences committed in the latter part of the year. These came to fines of £105, costs of £30, and back excise duty of £12.50. He was given time to pay off the penalties at £10 per week. Again, he failed to pay anything.

In April 1999, he was summoned back to court for non-payment of the previous impositions, but the summons was withdrawn. In May 1999, he was again before the magistrates, and fined £100 plus £50 costs for threatening behaviour. He was also fined £50 for a breach of his bail conditions. He was given time to pay off these fines at £10 per week. The fine notice was returned marked 'gone away'. He now owed £557.50.

A series of enforcement measures was tried by Durham magistrates' courts committee, all without success, until Mr H. was arrested in April 2000. He agreed to an attachment of earnings order, by which the money owed was deducted from his wages at £25 per week. At the time of our visit in May 2001, the last of the outstanding amounts had just been paid off.

Case 3

Between July 1996 and August 2000, magistrates in Cheshire imposed eight fines on Mr N totalling over £1,800 for fraud and various motoring offences. At the time of our visit in June 2001, Mr N still owed a balance of over £1,100 on his accumulated fines and Cheshire magistrates' courts committee had carried out over 60 enforcement actions, including 26 enforcement hearings, in an attempt to collect the outstanding fines. A typical sequence of events would be that Mr N would fail to pay the fine imposed within the time allowed by the court, would then receive a summons to appear back in the court, would fail to appear, an arrest warrant either with or without bail would be issued and Mr N brought back to court who would allow him time to pay by instalments, he would fail to pay the instalments and receive a summons and would then repeat the sequence as in the interim Mr N would have received another fine for a further offence.

Case 4

In July 1998, Mr K was ordered by magistrates in Inner London to pay compensation of just over £1,000 to a Mr S for criminal damage he caused to Mr S's car in a road rage incident in May 1995. The case was transferred to Brent magistrates' court committee in October 1998 who gave Mr K until 18 October 1998 to pay the compensation. Mr K failed to comply and Brent magistrates' court committee sent him a reminder letter which he ignored followed by a summons to appear in court in January 1999. Mr K failed to appear in court and the magistrates issued a warrant without bail for his arrest. In June 1999, Brent magistrates' court committee suspended their attempts to collect the compensation because Mr K was serving a prison sentence for another offence and was not expected to be released until 2002. The court wrote to Mr S in April 1999 to ask if he would be willing to forego the compensation due to him as the magistrates were considering cancelling the order. Mr S replied that he was most unwilling to do so and would wait for as long as it took. Mr S will not receive any money until at least 2002 when Mr K is due to be released from prison, some seven years after the road rage incident.

Case 5

In 1990, magistrates in Cheshire imposed a fine of £160 on Mr J and order him to pay compensation of £1,782 to the person from whom he obtained property by deception. Despite some 120 actions taken by Cheshire magistrates' courts committee, including cancelling the £160 fine in 1994, Mr J still owed the victim of his deception £570 in compensation in June 2001. Actions taken by Cheshire magistrates' courts committee over the 11 years included summonses, arrest warrants, committal to prison (suspended), many changes of instalment plans and attachment of earnings orders. In 1991, magistrates in Cheshire ordered Mr J to pay £563 compensation to another victim for a further offence of obtaining property by deception. The victim of this crime is still waiting for £278 of the compensation to be paid.

penalties imposed in that year. However, as money collected can relate to penalties imposed many years previously, the target will not reflect performance in collecting penalties within a given timescale. Existing computer systems are unable to extract this information. Until this information is available, it will remain difficult to assess fully the efficiency and effectiveness of courts in enforcing and collecting penalties promptly, for example reported performance at local level could be significantly distorted by a small number of large impositions.

- 2.36 The Lord Chancellor's Department, in conjunction with magistrates' courts committees and the Magistrates' Courts Service Inspectorate, is working to develop further the performance indicators available for collection and enforcement, including for the proportion of accounts paid in full without enforcement action and the unit cost of collection and enforcement. There are no firm plans, however, for when they will be introduced.

There is scope to improve the range of training provided to court staff on enforcement issues

- 2.37 Court staff involved in the enforcement of financial penalties tend to perform a range of other duties alongside their administration of the enforcement process. They receive induction and basic training but most of their expertise in enforcement is acquired on the job and, in most cases, they receive no specialist training.
- 2.38 We found no evidence at the courts we visited that staff resources devoted to the enforcement of financial penalties had been matched to workloads and to a greater or lesser degree all the courts were unable to act as promptly or intensively as they would have liked. Some staff felt that enforcement was accorded a lower priority than other court work and it was, therefore, the first activity to get "squeezed" when there was pressure elsewhere.
- 2.39 At Brent, the warrant office manager had two court enforcement staff, one of whom was responsible for executing warrants issued by Brent magistrates' court and the other for executing warrants issued by Harrow magistrates' court. Court staff estimated that it would take the single enforcement officer in Brent some four years to clear the court's backlog of arrest warrants (paragraph 2.30). Having only one civilian enforcement officer apiece also created practical problems because, occasionally, the enforcement process requires two officers to execute a warrant and in such cases Brent would have to borrow Harrow's enforcement officer, or vice versa.

- 2.40 In general, we found in the courts we visited that staff were committed, enthusiastic and keen to ensure that offenders do not escape paying their fines, but were limited in their capacity to do so, both by the tools available to them and their ability to influence local priorities.

The collection of financial penalties and the assessment of performance is hampered by poor management information

- 2.41 Most magistrates' courts use one of three different computer systems to maintain and generate data on enforcement of financial penalties: MCS (provided by ICL), EQUIS (STL) or LCIS (Unisys). Courts in the Sussex magistrates' courts area and the City of Manchester magistrates' court use their own computer systems. All the systems were designed in the late 1970s or early 1980s and acquired by the courts at different times over a period of many years. The systems do not allow information to be shared electronically even between courts using the same system. Thus, if a financial penalty is transferred to another court for collection, it can only be done manually which may result in enforcement action being delayed. As the systems are locally based, they do not produce data which is necessarily comparable. As a result, it is difficult to compare performance between committees. Local systems can produce a range of management information but we found that some staff did not understand or use this information, suggesting that better training may be needed. The Magistrates' Courts Service Inspectorate found a similar lack of understanding. In its 1999-2000 Annual Report, for example, it noted that "one magistrates' courts committee was found to be comparing the performance of two fines offices without realising that their different computer systems produced different data".
- 2.42 From 1 April 1999, the Lord Chancellor's Department changed its definition of what constitutes arrears. Under the new definition, if an offender fails to pay an instalment, only the unpaid instalment is deemed to be in arrears, rather than the whole of the outstanding amount as previously. Three of the five courts visited by us had not provided the Department with arrears figures which consistently reflected the 1999 definition. The effect of such differences can be significant, for example, in Brent arrears stood at either 64 per cent or 73 per cent at the end of December 2000, depending upon the definition employed. Such inconsistencies make it difficult for magistrates' courts committees to benchmark themselves against each other. Magistrates' court staff we met expressed doubts about the

comparability of the performance data reported at national level. The information reported is not always accurate for other reasons and committees can be slow to correct errors. For example, figures provided by the Greater London Magistrates' Courts Authority for the quarter ending December 2000 were inflated by £26 million as a result of double counting. The Authority notified the Department of the necessary correction in the quarter ended September 2001.

- 2.43 None of the existing computer systems are capable of providing the support needed by an effective fines enforcement system. The Lord Chancellor's Department plans a new computer system, known as Libra. This contract, a private finance initiative, was awarded to ICL in December 1998 and is worth £200 million. Libra will provide a standard, computer-based information system for use by all magistrates' courts in England and Wales and provide electronic links to all the main criminal justice organisations. It is being rolled out in two stages. The first stage, involving the hardware and office automation commenced roll-out in 2000. The second stage, the introduction of bespoke software for court business, was due to commence in July 2001 and be completed in July 2003. However, software problems have resulted in delays and completion is not expected now until 2004, possibly 2005.

From April 2002, the Department will allow magistrates' courts committees to use money collected to improve enforcement

- 2.44 Under current accounting rules, all fines collected by magistrates' courts committees are remitted to the Lord Chancellor's Department for surrender into the Consolidated Fund. The Department told us that under new arrangements to be trialled from 1 April 2002 all enforcement activity undertaken by magistrates' courts committees will be financed by revenue from fine receipts and this will be ringfenced. At the time of our visits, committees did not routinely produce details of their overall enforcement costs. However, each committee has now submitted a business case to the Department including: the current costs of its enforcement activity and the performance to be achieved; and the cost of any additional activity to improve performance and the improvements to be achieved. The Department has assessed the business cases and set costs and targets for each committee accordingly. On 28 February 2002, the Lord Chancellor's Department announced that, as a result of the business cases put forward, magistrates' courts committees will be given nearly £10 million extra from April 2002 ring-fenced to enable them to improve their performance on enforcement activities.

Appendix 1

Summary of collection statistics in England and Wales 2000-01

Magistrates' Courts Committee	payment rate ¹ %	write-off rate ² %	cancellation rate ³ %	arrears rate ⁴ %
Dyfed Powys	100	12	18	87
Lincolnshire	97	19	24	80
Staffordshire	90	10	23	49
Wiltshire	83	12	23	64
North Yorkshire	82	13	21	61
Suffolk	77	13	21	49
Essex	76	19	28	86
Cumbria	76	4	16	17
Hertfordshire	75	30	13	60
Dorset	74	8	30	39
Devon & Cornwall	73	9	15	31
South Yorkshire	73	15	24	65
Warwickshire	71	15	10	44
West Yorkshire	71	12	35	45
Nottinghamshire	70	12	23	63
Norfolk	69	16	32	46
Cleveland	69	11	28	73
Cheshire	67	8	23	51
Gwent	67	19	16	48
Hampshire & Isle of Wight	67	12	15	83
Durham	67	10	31	35
Derbyshire	67	4	24	48
Humberside	65	12	11	21
Lancashire	65	10	25	45
West Midlands	64	27	37	41
Sussex	63	47 ⁵	0	45
Leicestershire	63	14	15	56
Northamptonshire	62	10	27	54
Thames Valley	62	26	4	45
West Mercia	62	34	24	50
Avon & Somerset	62	13	22	73
Northumbria	61	10	22	41
Kent	61	21	22	51
Greater Manchester	60	34	14	46
Gloucestershire	60	13	6	58
Surrey	58	7	12	59
South Wales	56	23	22	44
Bedfordshire	55	30	22	46
Cambridgeshire	52	16	20	75
Greater London	51	22	17	51
North Wales	51	43	10	72
Merseyside	47	20	17	82
All magistrates' courts committees	63	19	20	54

NOTES

1. The payment rate is calculated as the money collected during the year, divided by the penalties imposed during the year net of penalties transferred to or from other magistrates' courts committees.
2. The write-off rate is calculated as the value of penalties written off as unenforceable, less any written back, divided by the penalties imposed during the year net of penalties transferred to or from other magistrates' courts committees.
3. The cancellation rate is calculated as the value of penalties cancelled during the year, divided by the penalties imposed during the year net of penalties transferred to or from other magistrates' courts committees.
4. The arrears rate is calculated as the value of arrears at the end of the year, divided by the total balances outstanding.
5. This figure may include cancellations.
6. All these figures include some non-criminal debt owed to magistrates' courts, for example, maintenance payments, because many courts' systems cannot break down the debt owed into criminal and civil.

Source: Lord Chancellor's Department

Appendix 2

Reports and other work on the collection and enforcement of financial penalties

1 Magistrates' courts: report of a scrutiny (1989)

This efficiency scrutiny examined whether the management and resourcing systems for magistrates' courts delivered effective, efficient and economical administrative support for the judicial process. The scrutiny team were, however, asked specifically to identify the potential for action to improve fine enforcement.

The scrutiny found that the organisation of fine enforcement was both ineffective and inefficient, due partly to legal requirements and partly to management failings. The reasons cited included: that courts often did not take the means of defendants fully into account; the objectives and priorities of enforcement were unclear; responsibility was divided between the court and its staff and between administrative and legal staff; procedures were complex and lengthy; and managers lacked awareness of the costs and effectiveness of different procedures. It also found that the police often gave low priority to the execution of warrants.

The scrutiny recommended that courts should be aware in broad terms of defendants' means. It considered that enforcement was primarily an administrative function; there should be more emphasis on management, with a single manager responsible for enforcement. Courts should have clear targets for enforcement and adequate management information to be able to judge effectiveness.

Courts should aim for speed in enforcement. Payment should be made as easy as possible for offenders, and more use should be made of bailiffs and civilian enforcement officers to execute distress and arrest warrants.

It also recommended that there should be a new power to attach defaulters' state benefits, which was subsequently implemented.

The scrutiny pointed out that the service needed some way of capitalising on best practice. A best practice group was set up to produce best practice bulletins to disseminate lessons, and two bulletins were produced on fine enforcement, in January 1990 and September 1992.

2 Lord Chancellor's Department Internal Assurance Division (1994)

In September 1994 the Department's Internal Assurance Division reported on the adequacy and effectiveness of controls in enforcement systems in 14 courts. It concluded that there was an unsatisfactory standard of control over enforcement processes, and that it was unable to offer assurance that fine enforcement was working effectively.

In response to the recommendations in this report, the Department invited the Inspectorate to conduct a review into the effectiveness of the application of the best practice guides and to consider any revisions that should be made, and to consider the management information required by the magistrates' courts to measure the efficiency and effectiveness of enforcement policies.

3 Magistrates' Courts and Fine Enforcement: a thematic report - Magistrates' Courts Service Inspectorate (1996)

The Inspectorate undertook a thematic review of fine enforcement, and focused on the effectiveness of administrative practices and procedure. The terms of reference for the review were modified when some of its objectives were subsumed by the remit of the Working Group on the Enforcement of Financial Penalties (see below).

The Inspectorate found that due to weaknesses in the data available it was not possible to demonstrate the effectiveness of any particular enforcement processes. It commended the soundness of the advice in the best practice guides then in issue, which it found had been incorporated by a majority of courts into their procedures. It considered that courts which tackled enforcement with energy and as a priority were the most likely to be successful.

It pointed out that its review concentrated on the practicalities of enforcement, but that its findings suggested underlying questions which were beyond its remit. Its survey of all Justices' Clerks had identified six areas which respondents felt they could not influence, but which inhibited effective enforcement. These were: the limitations on the power to commit to prison for non-payment; statute-related problems including the lack of alternative sentences for defaulters; the performance of the police in executing warrants, and

the implications of transferring this work to courts; Crown Court impositions; the inadequate information available to sentencers, on means and on outstanding fines; and the lack of co-operation from other agencies in tracing defaulters.

The Inspectorate recommended to the Working Group on Enforcement:

- That the role and powers of civilian enforcement officers be reviewed, in the light of the planned transfer of warrant execution responsibilities from the police.
- That the training needs of enforcement staff be addressed, both nationally and locally.
- That more precise definitions of enforcement terms be developed and promulgated.
- That the performance indicators suggested by the Inspectorate be adopted and built into future development of computer systems.

1995 to 1998: Working Group on the Enforcement of Financial Penalties

This group was established in 1995. It was chaired by the Lord Chancellor's Department, and also included representatives from the Home Office, the Inspectorate, the Magistrates' Association, stipendiary magistrates, the Justices' Clerks Society, the Central Council of Magistrates' Courts Committees and the Association of Magisterial Officers.

The Group was established in response to widespread concern at the high level of financial penalties uncollected and calls from the Magistrates' Association, the Justices' Clerks Society and others for changes to the procedure and law on enforcement. It sought to identify ways of improving enforcement in order to reduce both the amount of financial penalties in arrears and the amount written off.

The group did not produce a report, but issued in 1996 and 1997 two sets of guidance to magistrates' courts on enforcement issues including: enforcement procedures; execution of warrants; contractual arrangements with bailiffs; payment arrangements; guidance for sentencers; information sharing with other agencies; and training material and definitions of enforcement terms. It last met in 1998. The Lord Chancellor's Department's work on enforcement from that point concentrated on the project to transfer responsibility for the execution of warrants from the police to the magistrates' courts.

1998: Lord Chancellor's Department Internal Assurance Division - the enforcement of financial penalties in magistrates' courts

The objective of this audit was to provide management with an opinion on the extent to which the Working Group's guidance was being applied in the courts, the effectiveness of the controls operating within the courts and the identification of good practice which could be included in further guidance.

Internal Assurance found that the application of the guidance was not widespread. However courts that had adopted the practices and procedures were generally operating more effectively than those that had not. It made a number of recommendations to improve the rates of collection of financial penalties, including:

- Action to improve communication with other criminal justice agencies and the Benefits Agency.
- Clear guidelines for courts on the transfer of warrant execution responsibilities from the police to the magistrates' courts.
- The development by magistrates' courts committees of strategic and annual plans for enforcement with targets that are measurable and monitored.
- Libra to be designed to produce comparable management information for all courts.
- Enhanced guidance on tendering procedures and a model contract for the employment of bailiff companies to be issued.

Many of the points were taken forward in the Lord Chancellor's Department's work on the transfer of warrants (see below).

1999: Lord Chancellor's Department Internal Assurance Division - the write-off of fines, costs and legal aid contribution orders in magistrates' courts

This audit sought to ascertain and evaluate the adequacy of the internal control system to ensure that accounts are not written off without suitable authority. The write-off of courts' financial orders had increased rapidly since the mid 1980s.

The audit found that the controls in magistrates' courts were in the main sufficient to ensure compliance with accounting instructions and that only properly authorised cases were written out of the courts' accounts. However the complexity of the procedures, the limitations of the computer systems, and the sheer volume of transactions, made it difficult to ensure the systems were completely secure and the system provided poor value for money.

Internal Assurance considered that the main factor behind the escalation in write-offs was the lack of effective enforcement actions, including the inability to trace defaulters for example by obtaining addresses of defaulters from the Benefits Agency. It proposed that, in the longer term, a central national database of all written-off orders should be set up. This would allow courts to identify defaulters if they were brought before a court again, and to re-impose the penalty.

1998 to date: The transfer of responsibility for the execution of warrants and the work of the management information advisory group

Since 1998, the Lord Chancellor's Department has initiated and carried through a project to transfer the responsibility for executing warrants of arrest for fine default, and for breach of community penalties, to the magistrates' courts. The Access to Justice Act 1999 and associated secondary legislation clarified the powers of civilian enforcement officers, defining the range of warrants they could execute and removing geographical restrictions on the areas where they may execute them.

The objectives of the project were to:

- ensure that every magistrates' courts committee had arrangements in place for the execution of warrants of arrest, commitment, detention and distress issued in connection with any sum adjudged to be paid, and warrants of arrest issued in connection with breaches of a range of community penalties;
- ensure that the revised arrangements had the potential to deliver higher levels of fine enforcement and compliance with community penalties than were previously being achieved; and
- bring into force the clarified and extended powers of civilian enforcement officers, including improved access to records held by other agencies.

The Lord Chancellor's Department did not dictate what strategy magistrates' courts committees should adopt in response to the transfer or how they should set about implementing it. The role of the project team was to create the necessary framework within which committees could work, to facilitate change and collaborate with committees to ensure that they had the necessary tools to implement their chosen strategy.

Over a period from October 2000 to April 2001 the project produced a number of products and outcomes, comprising:

- the necessary legislation;
- a National Framework Document setting out inter-agency arrangements for warrant execution;

- a protocol for sharing of information on missing defaulters between the magistrates' courts committees and the Department for Work and Pensions;
- a series of practitioner conferences in January/February 2001, designed to communicate the goals and objectives of the project to all committees and to stimulate the exchange of good practice between them. More conferences are planned for April 2002;
- help and support for committees preparing for the transfer of responsibility, including targeted consultancy support during February and March 2001;
- guidance notes for committees, issued in March 2001; and
- follow-up reports, issued in May 2001.

On 5 March 2002, the Lord Chancellor's Department published its Post Implementation Review of the Transfer of Warrant Execution Project. The review concluded that although there is room for significant improvement, the foundation has now been laid for more effective enforcement of fines in future.

Management Information Advisory Group

A Management Information Advisory Group was set up in October 2000, as a joint initiative of the Lord Chancellor's Department and the Magistrates' Courts Service Inspectorate. It includes representatives from the Lord Chancellor's Department Internal Assurance team and Statistics divisions; several Justices' Chief Executives, and managers from magistrates' courts committees with responsibility for performance. The purpose of the group is to produce a single framework of indicators for magistrates' courts committees, for the use of the Lord Chancellor's Department, the Magistrates' Courts Service Inspectorate, and magistrates' courts committees themselves. The data will be collected and analysed locally. The Lord Chancellor's Department will be able to draw on the figures to report against the Public Service Agreement targets. The availability of the full range of indicators is dependent on the rollout of the IT system for magistrates' courts, known as Libra.

Appendix 3

Study methods

Lord Chancellor's Department

We interviewed key staff in the Lord Chancellor's Department, which provides guidance, collates statistics and performance indicators and is responsible for policy matters. We analysed the data it collects, on impositions, payments, write-offs and arrears, to form the basis of our reporting of totals and trends.

Visits to court areas

We visited five court areas, to examine in detail cases, collection and enforcement processes and management information. Examination of whole magistrates' courts committee areas would have been impracticable because of their size. We used as our sampling unit a court or group of courts sharing a common accounting and enforcement system. In choosing our sample we aimed to cover as wide a range as was practicable, both in terms of the character of the area served and the variables likely to affect performance in collecting financial penalties. We took the following factors into account:

- the type of geographical area;
- the level of unemployment;
- the level of crime;
- the performance of the court in debt collection;
- the main types of payment and enforcement methods used;
- the degree to which collection and enforcement was centralised; and
- the computer system used.

We also avoided courts which were involved in the Home Office research project, or which were to be the subject of planned visits by the Lord Chancellor's Department Internal Assurance team, or the Inspectorate before September 2001. The areas we visited were:

Avon (Woodspring)

We visited the finance office at Woodspring petty sessions area. This is one of seven accounting areas in Avon and Somerset Magistrates' Courts Committee, which was created by the amalgamation of Avon Magistrates' Courts Committee and Somerset Magistrates' Courts Committee in April 2000. At the time of our visit, the committee had taken a strategic decision to centralise accounting and enforcement, but

this was not likely to be implemented until the completion of a Private Finance Initiative project to provide accommodation at Weston-super-Mare, planned for 2004. The committee was working on introducing standardised procedures in advance of centralisation.

Woodspring serves Weston-super-Mare and the surrounding area, and has two courthouses. It has particular problems in tracing offenders, as there is quite a high transient population and Weston has a number of drug rehabilitation centres. But it is one of the smaller petty sessions areas in the magistrates' courts committee, the performance of which is dominated by Bristol.

Durham (South)

We visited the fines and fees office in Newton Aycliffe, which serves three petty sessions areas: Darlington, Sedgefield, and Teesdale and Wear Valley. It is one of two accounting areas in Durham Magistrates' Courts Committee.

The district has a number of urban centres, with outlying rural areas. There are some problems of tracing due to mobile elements in the population.

Brent

We visited the Civil and Financial Orders Team at Brent magistrates' court. Until 1 April 2001, Brent was a separate magistrates' court committee, consisting of a single petty sessions area and operating from one courthouse. On 1 April 2001, it was absorbed into the new Greater London Magistrates' Courts Authority. At the time of our visit, many decisions about how the new authority would operate had yet to be taken; in particular it was expected that there would eventually be a standard enforcement policy.

Brent is an urban area in North West London, taking in affluent and poor neighbourhoods. It has a highly mobile population, and the court has to deal with a high proportion of fines which are imposed by other courts and subsequently transferred to Brent.

Cheshire

We visited the Central Payments Office at Runcorn, where there was a centralised enforcement team for all of Cheshire Magistrates' Courts Committee, which comprises seven petty sessions areas.

Cheshire is a mix of countryside and industry.

North Shropshire is a predominantly rural area, and it is difficult for people of limited means to travel far around it.

Further details of these areas are given in the table below.

Shrewsbury (North Shropshire)

We visited Shrewsbury finance office, which dealt with collection and enforcement for three petty sessions areas - Shrewsbury, Oswestry and Drayton. Shrewsbury was one of two accounting areas in Shropshire, which merged with Hereford and Worcester Magistrates' Courts Committee in April 2001 to form West Mercia Magistrates' Courts Committee. Enforcement in Hereford and Worcester was already centralised, and at the time of our visit there were proposals to centralise further for the new committee. There was already a centralised warrants office, dealing with warrants of arrest and breach of community penalties for all West Mercia.

Visits

During our visits we:

- interviewed magistrates, Justices' Chief Executives, legal advisers, fines enforcement staff, civilian enforcement officers, and representatives of bailiff companies and other private enforcement agencies as appropriate;
- observed proceedings in sentencing and fines enforcement courts;
- observed the work of a civilian enforcement officer executing bail warrants;
- identified the enforcement process; the methods used and the time intervals allowed;

Summary of key statistics in the five areas visited by the National Audit Office

Area served	Avon (Woodspring)	Brent	Cheshire	Durham (South)	Shrewsbury
	Urban 477,512 hectares ¹	Metropolitan 4,421 hectares	Rural 233,401 hectares	Urban 242,097 hectares ³	Rural 347,704 hectares ⁴
Population	1,503,900 ¹	253,200	992,000	591,500 ³	435,000 ⁴
No of courthouses	11 ¹	1	9	7 ³	7 ⁴
No of criminal defendants proceeded against 1999-2000	68,261 ¹	10,045	32,788	26,839 ³	15,963 ⁴
recorded crime - offences per 100,000 popn 99-00	9,882 ¹	13,784 ²	6,556	8,029 ³	7,642 ⁵
Claimants as % estimated total workforce Sept 2000	2.2 ¹	5.9	2.2	5.6 ³	2.3 ⁴
Computer system	ICL	Equis	ICL	Equis	Unisys
Payment rate 2000-01 (national average 63%)	62% ¹	51% ²	67%	67% ³	62% ⁵
Arrears rate 2000-01 (national average 54%)	73% ¹	51% ²	51%	35% ³	50% ⁵
Write-off rate 2000-01 (national average 19%)	13% ¹	22% ²	8%	10% ³	34% ⁵
Cancellation rate 2000-01 (national average 20%)	22% ¹	17% ²	23%	31% ³	24% ⁵

NOTES

1. Figures for entire Avon and Somerset Magistrates' Courts Committee.
2. Figures for entire Greater London Magistrates' Courts Authority.
3. Figures for entire Durham Magistrates' Courts Committee.
4. Figures for entire Shropshire Magistrates' Courts Committee.
5. Rate for entire West Mercia Magistrates' Courts Committee.

- examined a selection of cases, chosen to illustrate and bring insights into the problems encountered in enforcement. In our selection we tried to ensure that we covered all types of penalty, from all possible sources, and obtained cases demonstrating most of the methods used by the courts and most of the end results they achieved; and
- examined statistics and performance reporting, including: the basis of the returns made to the Lord Chancellor's Department; the use of the measures recommended by the Inspectorate; and any local systems of performance reporting.

We also made shorter visits to six other courts to discuss enforcement issues and local processes and systems:

Barnsley Magistrates' Court

Bolton Magistrates' Court

Dorset Magistrates' Court

Leicester Magistrates' Court

Rotherham Magistrates' Court

Watford Magistrates' Court (alongside a research team commissioned by the Home Office).

Third parties consulted

We also liaised with the Magistrates' Courts Service Inspectorate, meeting them to discuss issues in fines enforcement and drawing on their reports of the last three years. An Inspector joined us on one of our visits to magistrates' courts.

We consulted the following third parties associated with the magistrates' courts service:

- Magistrates' Association;
- Association of Justices' Chief Executives;
- Central Council of Magistrates' Courts Committees;
- Justices' Clerks Society;
- Association of Magisterial Officers;
- District Judge (Inner London Magistrates' Courts Service); and
- Justices' Chief Executive Staffordshire Magistrates' Courts Committee.

We compared the processes used by the courts with best practice in debt collection from the public and the private sector, drawn from consultation with:

- Child Support Agency;
- Institute of Credit Management;
- Professor Nick Wilson, Professor of Credit Management, Leeds University Business School; and
- Tony Ash, Credit Management Consultant.