

National Audit Office

DEPARTMENT FOR CONSTITUTIONAL AFFAIRS

Fines Collection

The National Audit Office scrutinises public spending on behalf of Parliament. The Comptroller and Auditor General, Sir John Bourn, is an Officer of the House of Commons. He is the head of the National Audit Office, which employs some 800 staff. He, and the National Audit Office, are totally independent of Government. He certifies the accounts of all Government departments and a wide range of other public sector bodies; and he has statutory authority to report to Parliament on the economy, efficiency and effectiveness with which departments and other bodies have used their resources. Our work saves the taxpayer millions of pounds every year. At least £8 for every £1 spent running the Office.



National Audit Office

DEPARTMENT FOR CONSTITUTIONAL AFFAIRS

Fines Collection

LONDON: The Stationery Office
£9.25

Ordered by the
House of Commons
to be printed on 22 May 2006

This report has been prepared under Section 6 of the National Audit Act 1983 for presentation to the House of Commons in accordance with Section 9 of the Act.

John Bourn
Comptroller and Auditor General
National Audit Office

17 May 2006

The National Audit Office study team consisted of:

Geraldine Barker, Stuart Kinross,
Vincent McCarthy, Barbara Carvalho,
Robert Reeve, Louise Sumner,
James Edmands, Adam Crossley,
Phil Hart, Liz Fox, Momodu Kawa and
Matthew Atkinson, under the direction
of Janice Lawler.

This report can be found on the National Audit Office web site at www.nao.org.uk

**For further information about the
National Audit Office please contact:**

National Audit Office
Press Office
157-197 Buckingham Palace Road
Victoria
London
SW1W 9SP

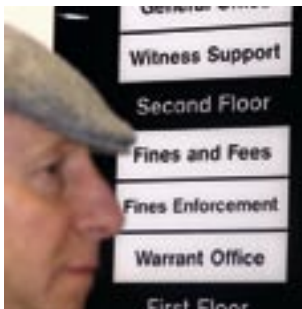
Tel: 020 7798 7400

Email: enquiries@nao.gsi.gov.uk

© National Audit Office 2006

CONTENTS

EXECUTIVE SUMMARY	1
PART 1	
Introduction	6
Fines are the most commonly imposed sentence in magistrates' courts	7
The National Audit Office last reported on this subject in 2002	8
Her Majesty's Courts Service collects and enforces fines	8
The Department for Constitutional Affairs is spending an additional £28.6 million to improve fines collection and enforcement	9
The Department for Constitutional Affairs has increased its target for the payment rate	11
The scope and methodology of the study	11
PART 2	
Has performance improved?	12
The payment rate for 2004-05 was 80 per cent but it is not possible to compare performance with that prior to 2003-04	13
The payment rate has weaknesses	14
The Department for Constitutional Affairs needs to develop new performance measures	14



PART 3

Scope for further improvement in the collection and enforcement of fines	20
Magistrates still do not always have sufficient information about the defendant	21
Failure to establish offenders' means may lead to legal cancellation of fines	23
Only five per cent of offenders pay their fine on the day of the hearing	24
Defendants are given a number of options of payment methods	25
The Courts Act has allowed new sanctions to be used at the point of sentencing	25
Fines Officers have freed up court time	26
Magistrates' courts have to take enforcement action against most offenders	26
Her Majesty's Courts Service has access to more information with which to track defaulters	27
Prosecutors do not always provide enough information about the offender	27
Areas are becoming more proactive in reminding defaulters to pay their fines	28

Distress warrants have limited impact on defaulters	28
Civilian Enforcement Officers are expensive	28
The Department plans to introduce a National Enforcement Service	29
Magistrates feel that they have limited options for dealing with defaulters	29
Inadequate management information is delaying collection and enforcement	30

APPENDICES

1 Previous parliamentary interest	32
2 Methodology	34
3 Analysis of potential financial savings from changes in the collection and enforcement of fines	38
4 The Payment Rate in England and Wales, 2004-05	40

EXECUTIVE SUMMARY



Overall conclusions on value for money

1 In 2004, over one million fines and other financial penalties were imposed by the courts. Responsibility for their collection and enforcement lies with the Magistrates' courts. In the financial year 2004-05 penalties totalling some £352 million were imposed, £75 million were cancelled and some £222 million were collected.¹ The monies collected and cancelled include not only fines imposed in that year but also others outstanding from earlier years.

2 Since we last reported on this subject,² the Department for Constitutional Affairs (the Department) has introduced a wide-ranging programme of legislative and procedural changes which is improving the collection and enforcement of fines. This includes a more pro-active approach by fines collection staff and a wider range of options for magistrates to deal with defaulters. But there is still room for improvement, particularly in the initial stages of the process. At present, the balance of effort is not right, with too much expenditure invested in the later stages of enforcement, which are less effective. The Department is now seeking to improve the process at the early stages, for example, with measures introduced through the Courts Act 2003, such as

the requirement for defendants to provide the court with information on their means prior to sentence, and through its work to examine the effectiveness of different payment methods. In our view, the key determining factors in bringing about further improvements are:

- Setting an appropriate fine at the outset – too many court hearings are wasted on cancelling fines because insufficient information was available at the initial hearing to assess the offender's ability to pay.
- A more robust approach by the courts in requiring immediate payment by the offender – either in full or as the first instalment of an agreed payment plan – and in providing facilities to enable offenders to pay their fine at the court building.
- Proactive involvement by Fines Officers to agree the terms, and monitor the payment, of fines, when they are not paid in full immediately. By 31 March 2006 80 Fines Officers were in place supported by around 1,800 staff who can use the same powers.

A 25 per cent reduction in the number of legally cancelled fines would result in potential savings of £6.9 million per annum, and prompter payment of fines in line with our recommendations would yield further annual savings of just under £1 million.

¹ Source: *Magistrates' Courts Business Returns, Annual Report, 2004-05*.

² Report by the Comptroller and Auditor General, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*, HC672, Session 2001-2002.

Main findings

Performance measurements

3 The Department uses the annual payment rate as its high-level performance measure of the collection of fines. This is calculated by dividing the amount of fines collected in a year by the amount of fines imposed. The monies collected may relate to fines and other financial penalties imposed in that or earlier years. Since we last reported the Department has improved the accuracy and consistency of the data relating to the payment rate. It is not possible, however, to make reliable comparisons with data relating to before October 2004, as the Department has changed the method of calculating the payment rate twice since 1999, for example, excluding cancelled fines and confiscation orders.³ The net effect has been to reduce the amount of fines owed.

4 The payment rate has weaknesses as a measure of performance and its shortcomings are understood by the Department which is developing alternative performance measures. For example, the payment rate does not measure the proportion of fines imposed in a year that have been collected but includes fines from previous years. Nor does it measure how many of those sentenced with fines actually pay. As part of our examination, we developed and tested alternative performance measures which should enable the Department better to assess the effectiveness of their fines collection and enforcement. (Paragraphs 2.5 to 2.9.)

Setting an appropriate fine

5 Accurate means information is needed to set an appropriate fine at the outset. Failure to do so may result in later hearings to reduce or cancel the fine, which is an expensive waste of court time. In 2004-05, legally cancelled fines amounted to £69 million, just under 20 per cent of the total fines imposed. Her Majesty's Courts Service has improved the information available to magistrates about the offender's ability to pay by introducing a standardised means information form. Failure to provide information or submitting false information may now result in a fine of £500 and

£2,500 respectively. In addition, legal advisers should inform magistrates about the offender's payment history, including any outstanding accounts. We found, however, that magistrates still do not always have enough information to impose an appropriate fine, particularly if a defendant is not present at a hearing; non-attendance is common in motoring offences, which account for 58 per cent of all fines imposed, as attendance is not required and cases can be dealt with by way of a written guilty plea. Only 37 per cent of the fines cases we examined on file had means information available, compared with 66 per cent where we observed sentencing hearings.⁴ The courts sought verification of means information in only 29 per cent of the latter cases. (Paragraphs 3.3 to 3.4.)

6 We estimate that the initial cost to enforce cases that are later cancelled is just under £21 million each year and to hold court hearings to cancel them is about £6.8 million. Reducing the number of legally cancelled fines by 25 per cent would release funds of about £6.9 million a year.⁵ (Paragraphs 3.5 to 3.6.)

Prompter collection of fines

7 The Department issued an "Effective Practice Guide – Bench Engagement" in January 2004, which clarifies that fines are payable immediately. There has been a slight increase in the number of offenders who pay on the day, with five per cent of offenders in our sample doing so, compared with between 1.3 per cent and 4.3 per cent when we last reported.⁶ Devon and Cornwall have pursued an active policy of asking offenders for immediate payment, accepting other payment terms only when they are satisfied that the offender has no means to pay immediately. To test the impact of this policy, we carried out a further review of all fines imposed in the last week in January in Devon and Cornwall and found that ten per cent of offenders paid their fines immediately. If all areas achieved this level of performance, it could potentially double the amount paid immediately from £7.4 million per annum to £14.8 million. This would lead to savings of just under £1 million in enforcement costs which would otherwise be incurred. (Paragraphs 3.7 to 3.8.)

³ Confiscation orders are for the return of money and other goods acquired through criminal activity, for example, money laundering. They are usually for larger sums of money and historically have been difficult to collect.

⁴ Means forms are often taken off files and sent to a Central Fines Unit. This may explain the lower rate obtained from our file review, although we were unable to verify that this had happened in the cases we examined.

⁵ Reducing the number of legally cancelled fines would release £5.15 million in enforcement costs (25% of £20.6 million) and £1.7 million in hearings (25% of £6.8 million).

⁶ Data was gathered during a one day sample of five courts chosen to cover a wide range both in terms of the character and performance of the area served.

8 Through the Courts Act 2003, the Department has put in place new sanctions to encourage offenders to pay their fine, such as extended use of attachment of earnings orders and clamping. As these measures are being phased in nationally by March 2006 it was too soon at the time of our fieldwork to establish their impact. It was noticeable, however, that a greater proportion of offenders paid their fines in Devon and Cornwall (67 per cent) and Cumbria (57 per cent), which both piloted many of the sanctions, than in our review overall (52 per cent).

9 Sixty nine per cent of the cases we examined required enforcement action. Her Majesty's Courts Service is more proactive now in chasing defaulters:

- Her Majesty's Courts Service staff have access to a greater range of information sources to track defaulters including: the Police National Computer; Equifax, a credit referencing agency, and the Department for Work and Pensions' Customer Information System;
- All the areas we visited now send reminders;
- Some staff have been trained in, and use, assertive questioning techniques to remind and encourage defaulters to pay; and
- Her Majesty's Courts Service has organised "blitzes" with the police to target serial defaulters and bring them back to court.

10 The Courts Act 2003 also introduced Fines Officers who liaise with offenders and may vary the terms of payment in favour of the defendant without the need for a court hearing. There are around 80 Fines Officers plus some 1,800 staff who can use the new powers. Evidence suggests that they could reduce the number of hearings to re-consider payment terms, by one third, leading to potential savings of £6.5 million over five years. (Paragraphs 3.11 to 3.20.)

11 There are still problems with enforcing fines, once an offender has defaulted:

- many defaulters move frequently and prosecutors do not always provide enough information with which to trace them;
- distress warrants issued to bailiffs to seize goods in lieu of fines have limited success. Only 19 per cent of the warrants issued in cases in our file review resulted in any kind of payment;
- if all other measures fail, Civilian Enforcement Officers employed by the Courts execute warrants requiring defaulters to attend court or to see a Fines Officer, but this is expensive. We estimate that this costs some £11 million each year and exceeds the amount collected by the Civilian Enforcement Officers, although justice has to be seen to be done and all defaulters must be pursued. Civilian Enforcement Officers also have a great deal of flexibility in terms of their working hours and approach to their duties which leads to variations in practice and effectiveness between areas;
- magistrates still feel that they have limited options for dealing with defaulters although, at the time of fieldwork, the new provisions of the Courts Act had not been rolled out in all parts of the country;⁷
- Libra, the IT case management application for Her Majesty's Courts Service, has still not been implemented. This is causing problems for enforcement, for example, making it more difficult to check on the payment history of an offender or for outstanding warrants in other areas and to introduce new performance indicators. (Paragraphs 3.32 to 3.34.)

⁷ The scheme will be live in all areas by the end of March 2006.



RECOMMENDATIONS

Performance indicators

12 As part of its existing work to develop new performance indicators, Her Majesty's Courts Service should develop indicators that show:

- the number of offenders annually who pay their fine either in full or within the terms of their payment plan as a proportion of the number of offenders who have had a fine imposed in that year;
- the percentage of fines by value imposed annually that are collected in that year;
- the rate of change of arrears compared with the previous year; and
- the number of offenders in the year requiring enforcement action.

Setting an appropriate fine

13 Her Majesty's Courts Service should reinforce guidance to the courts' legal advisers that before magistrates impose a fine, they provide details of any fines that remain unpaid by the defendant.

14 Her Majesty's Courts Service should remind legal advisers of the requirement for offenders to provide and, where possible, verify means information before they are sentenced, to enable courts to set an appropriate level of fine. Specifically, they should adopt the practice followed in Devon and Cornwall whereby means forms are provided outside the court and must be completed before the case is heard.

Prompter collection of fines

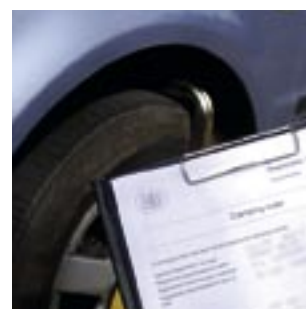
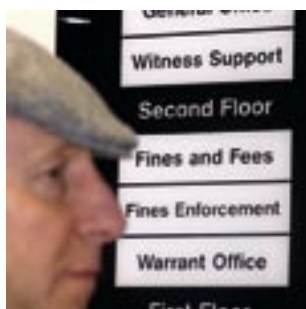
15 Her Majesty's Courts Service should draw on the example of Devon and Cornwall, to publicise to legal advisers the benefits of adopting a more robust approach to requiring offenders to pay fines immediately.

16 Her Majesty's Courts Service should make payment facilities (including cash) available at each court and encourage staff to take steps to overcome problems with the physical layout of some courts which allow offenders to leave without paying fines which they have undertaken to pay immediately.

Allocation of resources

17 In setting up the National Enforcement Service, Her Majesty's Courts Service should:

- Increase the effort devoted to the early stages of collection and enforcement of fines so that more court staff liaise with offenders as soon as a fine has been imposed; initiate reminders by post, text and telephone; and monitor cases throughout the entire enforcement process.
- Re-negotiate the terms and conditions of employment for all fines officers and Civilian Enforcement Officers in exchange for more flexible working hours, to enable them to make telephone calls and home visits at times when defaulters are most likely to be at home.
- Provide more training to, and closer management of, Civilian Enforcement Officers so that they adopt a more consistent and effective approach to their duties.



Availability of information from prosecuting authorities

18 The Department should review the effectiveness of the current protocol requiring prosecuting authorities to provide specific information on offenders to enable the collection of fines, and, if appropriate, consider the need for legislation to make such provision mandatory.

Adequacy of management information

19 The Department needs to urgently address the problems caused by the continued delay of the Libra IT system, namely:

- the difficulties in interrogating information by surname on a national basis;
- the delays in compiling performance data;
- problems in checking the payment history of an offender on a national basis; and
- the inability of courts at the time of sentencing to access databases to check addresses and National Insurance numbers.

PART ONE

Introduction



Fines are the most commonly imposed sentence in magistrates' courts

1.1 A fine⁸ is the most commonly imposed sentence for offences dealt with by magistrates' courts in England and Wales. In 2004, 73 per cent (over 1,080,000) of all offenders were fined by magistrates' courts.⁹ The overwhelming majority of fines are imposed on individuals, with less than one per cent of fines incurred by companies and public bodies. Fines totalling £352 million were imposed in 2004-05. In the same year about £75 million was cancelled either by court staff for reasons such as death, or by the courts following an appeal, imprisonment or genuine financial hardship; and £222 million was collected.¹⁰ The figures include amounts collected or cancelled not only against fines imposed in 2004-05 but also others outstanding from earlier years.

1.2 Fines may be imposed for a variety of offences. Motoring offences accounted for 58 per cent (over 600,000 cases) of all fines imposed on individuals by magistrates' courts in 2004. The remaining 42 per cent of fines (over 450,000 cases) were for offences including theft, drug offences, criminal damage and television licence evasion.¹¹ Magistrates' courts are responsible for collecting and enforcing all fines imposed by the criminal justice system.¹² The satisfactory discharge of this function is important:

- to sustain public confidence in the criminal justice system;
- to punish offenders and to deter future criminal acts; and
- to ensure the victims of crime receive any compensation awarded.

8 The term fine is used throughout this report to mean fines or other financial penalties including compensation and prosecutors' costs.

9 Sentencing Statistics 2004 – Research and Statistics Directorate of the Home Office (October 2005).

10 Magistrates' courts Business Returns Annual Report 2004-05.

11 Sentencing Statistics 2004 – Research and Statistics Directorate of the Home Office (October 2005).

12 Magistrates' courts collect fines imposed by the Crown Court as well as those it sets itself.

1.3 The Criminal Justice Act 2003 requires the courts to impose a fine that reflects the seriousness of the offence, having regard to the defendant’s financial circumstances. Where the defendant does not attend a hearing, the magistrate will use judicial discretion to set an appropriate fine based on any information that is available about the defendant’s circumstances. The maximum fines allowed are illustrated in **Figure 1**. Some offences have a minimum level of fine. For example, those convicted of failing to tax a vehicle are fined a minimum of £1,000, irrespective of their financial means.

The National Audit Office last reported on this subject in 2002

1.4 In 2002, the National Audit Office report, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*,¹³ concluded that there was an urgent need to improve the efficiency and effectiveness of collection, as the process was over-complex, time-consuming, and hampered by unreliable management information. Following their examination of the report, the Committee of Public Accounts made a number of recommendations to the Department for Constitutional Affairs,¹⁴ including:

- improving its oversight of the performance of the magistrates’ courts committees;
- encouraging prompter payment of fines by providing magistrates with more information about defendants’ means;
- promulgating best practice in imposing and enforcing fines; and
- pursuing unpaid fines more vigorously, for example, by drawing on different sources of information on the whereabouts of defaulters.

Progress in implementing these recommendations is shown in Appendix 1.

1 The maximum fines that a magistrates’ court may impose

This figure shows that there are five levels of fine that can be imposed by a magistrate.

Level of fine and maximum penalty	Example of offence
Level 1 – £200	Drunk in a public place
Level 2 – £500	Drunk in a designated sports stadium
Level 3 – £1,000	Television licence evasion
Level 4 – £2,500	Careless driving
Level 5 – £5,000	Taking a motor vehicle without the owner’s consent

Source: Home Office Statistical Bulletin, *Criminal Statistics 2003*, England and Wales

NOTE

The maximum fine that may 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.

Her Majesty’s Courts Service collects and enforces fines

1.5 The Courts Act 2003 abolished the 42 independent magistrates’ courts committees in England and Wales, replacing them with a new unified courts administration, Her Majesty’s Courts Service, which came into effect on 1 April 2005. It operates as an executive agency of the Department, and is responsible, among other things, for administering the collection and enforcement of fines in England and Wales, employing an estimated 1,900 staff in this function. The annual budget delegated to the regions for enforcement is £66 million. The regions can choose to supplement it. The Department estimates that total expenditure on enforcement is in the region of £103 million.¹⁵

13 Report by the Comptroller and Auditor General, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*, HC672, Session 2001-2002.

14 Sixty-Eighth Report by the Committee of Public Accounts, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*, HC999, Session 2001-2002.

15 £66 million direct cost, plus £13 million overheads plus £18 million capital charge plus £6 million share of estates. Source: Her Majesty’s Court Service Finance Full Cost Pricing Model.

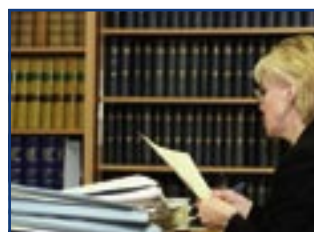
1.6 Her Majesty's Courts Service, which is also responsible for Crown and county courts, is organised into seven regions comprising 42 local justice areas. Once the Crown court or a magistrates' court has imposed a fine, collection and enforcement are administered through magistrates' courts accounting divisions within each local justice area. Some areas operate one accounting division, for example, Northamptonshire, while others operate several, for example, West Yorkshire has three. **Figure 2** outlines the responsibilities of the parties involved in collection and enforcement at a local level.

The Department for Constitutional Affairs is spending an additional £28.6 million to improve fines collection and enforcement

1.7 In response to the reports by the National Audit Office and the Committee of Public Accounts, the Department introduced the Criminal Enforcement Programme, aimed at improving the effectiveness of fines enforcement from imposition to collection. The programme covers all 42 local justice areas and is managed by a Board, comprising representatives from the Department, the magistrates' courts, the Prime Minister's Delivery Unit, and the Treasury. The Department is proposing to spend £28.6 million on the Criminal Enforcement Programme from 2003-04 to 2007-08.¹⁶

1.8 The Courts Act 2003 introduced a number of new measures to assist in the collection and enforcement of fines. These include granting the courts the power to order vehicle-clamping as an enforcement measure and to register fines in the Register of Fines, Orders and Judgements thereby potentially affecting the defaulter's credit rating. A full list of the new sanctions available under the Act is given in **Figure 3 overleaf**.

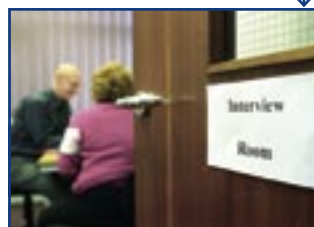
2 Fines collection and enforcement at a local level



Legal adviser will provide advice to the magistrate on matters of law, practice and procedure



Magistrate will pass sentence resulting in a fine being imposed



Fines officer manages the collection and enforcement process and can vary the payment plan in favour of the offender



Court administration staff will issue summonses, notices, and reminders as well as receiving payments



Bailiff will look for defaulters and serve distress warrants



Civilian Enforcement Officer will look for defaulters and execute arrest warrants

Source: National Audit Office

16 Figure from the Department for Constitutional Affairs.

3 Provisions in the Courts Act 2003

This figure lists the sanctions introduced by the Courts Act to improve the enforcement of fines.

Sanction	Definition
Attachment of Earnings Orders	Where the defendant cannot pay immediately but is in employment, the court may issue an order to deduct payments from earnings automatically.
Applications for Benefits Deductions	Where the defendant cannot pay immediately but is entitled to a relevant benefit, the court may issue an order that requires automatic payment to be deducted from benefits. ¹
Collection order	Issued on imposition, it states the amount of the fine due, specifies the fines office to which it is due, and explains that the fine is subject to sanctions if it goes into default.
Appointment of Fines Officers	Fines Officers are responsible for making sure that fines and compensation orders get paid. They may vary payment terms, but only on application by the offender (who will be expected to provide supporting evidence), and may impose sanctions on defaulters who refuse to co-operate, without the need for further court hearings.
Fines increase	Where an offender defaults, a financial increase may be applied. This is a judicial decision. Once applied, an increase cannot be removed even if the offender keeps to the new payment terms.
Identifying the means of the offender prior to sentencing	All defendants are required to provide information about their means to the court prior to sentence to assist it in imposing a financial penalty at an appropriate level. If an offender fails to provide without good reason information about their income and expenditure, a fine not exceeding £500 may be imposed. A fine of up to £2,500 may be imposed on anyone who submits false information.
Immobilisation of vehicles	Court and Fines Officers have the power to order the clamping of any vehicle registered to the defaulter, subject to certain safeguards, in the event of default.
Discharge of fines by unpaid work	This power, which is still being piloted, is an option at the point of sentence and post-sentence to be exercised by the court if the fines officer subsequently establishes that the offender does not have the means to pay the fine.
Fines registration	The Court and Fines Officers may register a fine in the Register of Fines, Orders and Judgements thereby potentially affecting the defaulter's credit rating in the event of default.

Source: Courts Act, 2003

NOTE

¹ Deductions from benefit and attachment of earnings were already in use but were strengthened by the Act to allow for automatic imposition as soon as an offender defaults on their fine.

The Department for Constitutional Affairs has increased its target for the payment rate

1.9 The Department measures its performance in collecting and enforcing fines using a method known as the payment rate. This is calculated by dividing the amount of fines collected in a given period by the net amount of fines imposed. The net amount excludes those fines legally cancelled by magistrates because an offender's circumstances have changed, and those cancelled administratively by the Department.¹⁷ The payment rate contributes to the Department's Public Service Agreement target on criminal enforcement and, in 2000-01, was 63 per cent, rising to 80 per cent by 2004-05. The payment rate for 2005-06 was 83 per cent against a target of 81 per cent.

The scope and methodology of the study

1.10 Our examination focused on whether the resources invested by Her Majesty's Courts Service, and the changes made in practices and procedures since our last report, have led to improvements in the enforcement and collection of fines; and whether there is still scope to collect fines more quickly and economically. Our methodology consisted of the following main strands and is described in full in Appendix 2:

- a review of a representative sample of 665 fines imposed during the week beginning 24 January 2005 to establish whether they had been paid within six months, and what, if any, enforcement action had been taken;
- a further review of all fines (626) imposed in Devon and Cornwall during the week beginning 24 January 2005 to establish the success of the area's policy to ask defendants to pay their fines immediately (see Appendix 3);
- a review of enforcement action on 47 default cases at Exeter Magistrates' Court;
- an analysis of the efficacy of the payment rate as the Department's main measure of performance;
- interviews with key players in the enforcement process, both within the Department and at magistrates' court sites; visits with Civilian Enforcement Officers to fines defaulters, and discussion with an approved enforcement agency.
- an analysis of a number of documentary sources;
- observation of sentencing procedures at over 100 hearings and analysis of the sentencing procedures for a further 111 hearings where fines were imposed.

¹⁷ Fines may be administratively cancelled if an offender has died, emigrated or been admitted to a mental institution. In the case of a company, a fine may be administratively cancelled if it goes bankrupt.

PART TWO

Has performance improved?



2.1 This part examines:

- changes in the payment rate since 2002 and the extent to which they reveal changes in performance; and
- the efficacy of the payment rate as the Department's main measure of performance.

The payment rate for 2004-05 was 80 per cent but it is not possible to compare performance with that prior to 2003-04

2.2 The Department uses the annual payment rate as its high-level performance measure for the collection of financial penalties.¹⁸ The rate is calculated by dividing the amount of fines collected in a year by the net amount¹⁹ of fines imposed. The monies collected may relate to fines imposed in that year or earlier years. In 2002-03, when we last reported on performance, the Department achieved a national payment rate of 55 per cent, reflecting that the net amounts imposed in that period totalled £426 million and collections were £236 million. By 2004-05, the national payment rate had increased to 80 per cent, with net fines imposed for that year amounting to £277 million and collections totalling £222 million.²⁰ Appendix 4 shows also that there was a wide variation in the payment

rate between areas in 2004-05, with Devon and Cornwall achieving a payment rate of 126 per cent, and Dorset achieving a payment rate of 62 per cent.

2.3 Whilst the increase from 55 per cent to 80 per cent suggests that performance in fines collection has improved since we last reported, it is not possible to compare directly current performance with that of earlier years for two reasons. Firstly, although the Department has done much to improve the consistency and accuracy of data used to calculate the payment rate since we last reported, data relating to before October 2004 is less reliable. Secondly, the Department has changed the method of calculation of the payment rate twice since 1999 (**Figure 4 on page 15**). Confiscation orders are now excluded from the payment rate formula as they relate to the return of assets gained by criminal activity rather than a financial penalty, are usually for large amounts and are difficult to collect, thus having a disproportionate effect on the payment rate. Likewise, legally cancelled amounts, where the magistrate decides in the light of further information that the fine is inappropriate, are now excluded. In addition, to ensure that all financial impositions are pursued fully, a new write-off policy limits the ability of court staff to administratively cancel fines to only those who have died, emigrated, are in a mental institution or, in the case of a company, have been wound up. The net effect has been to reduce the amount of fines owed. This is illustrated in **Figure 5 on page 15**, which

18 These include fines, compensation, and costs.

19 That is, all fines imposed less those legally cancelled and those administratively cancelled.

20 The figure of £426 million includes confiscation orders, compensation and costs. The figure of £277 million excludes confiscation orders, and civil amounts. The change does not necessarily mean that magistrates have reduced the value of fines or imposed fewer fines by number. Figures from statistics by the Department for Constitutional Affairs on the payment rate, 2004-05.

shows that from 2002-03 to 2004-05, the total amount of fines and other penalties collected remained broadly the same but, following the change in the calculation of the payment rate, there was a sharp drop in the net amount of fines imposed. This in turn contributed to an increase in the payment rate.

The payment rate has weaknesses

2.4 As a measure of performance, the payment rate has weaknesses:

- it does not measure the proportion of fines imposed in a year that have been paid, as the amount collected will include fines relating to earlier years;
- it measures the **value** but not the **number** of fines collected. As such, it is not an effective measure of enforcement, as it does not identify how many offenders have paid their fine. There is a risk that enforcement teams might focus on the larger fines rather than ensuring that sentences are enforced on all offenders;
- the imposition or payment of large company fines may have a disproportionate effect on the payment rate. For example, in November 2005, a large company fine of £10 million went to appeal with the result that it could not be collected. The inclusion of this imposition within the payment rate calculation had the effect on the national payment rate of reducing it from 83 per cent to 78 per cent. Her Majesty's Courts Service now has Treasury approval to exclude large unenforceable impositions from the payment rate.
- it does not provide a good basis for comparing performance between areas. For example, while Dorset had the lowest payment rate in 2004-05, this was caused largely by an outstanding company fine of £800,000, against which an appeal was lodged and over which the area could take no action. In 2001-02, Dorset had a payment rate of 89 per cent, the best in the country at that time.²¹

The Department for Constitutional Affairs needs to develop new performance measures

2.5 To address the weaknesses outlined in paragraph 2.4 above, we have developed alternative performance measurements that together would enable the Department better to assess the effectiveness of their fines collection and enforcement. To illustrate the results, we used a sample of 665 fines imposed by eight local justice areas in the last week of January 2005. The Department started developing a new set of targets in October 2005 and will be able to collate similar data once the Libra IT system is fully operational (see paragraphs 3.33-3.36).

a) The percentage of fines (by value) imposed annually that are collected

2.6 From our sample, we identified that 52 per cent of the fines imposed by value had been paid by the end of the first week in August 2005. This was calculated on the basis of net impositions (that is, impositions less transfers²²) of £114,143 and collections of £59,177.²³ **Figure 6 on page 16** shows how the eight areas in our sample performed using this measure. As like is being compared with like, calculating the payment rate in this way would be a more accurate measure of performance than that used currently.

b) The annual percentage change in outstanding balances

2.7 The total amount of financial penalties outstanding at the end of the financial year 2004-05 was some £416 million.²⁴ A further performance measure that would assess the impact made on outstanding debt would be the rate of change in arrears of fines. We used the Department's data on outstanding balances shown in its quarterly statements to calculate the rate of change from October-December 2004 to July-September 2005 (**Figure 7 on page 16**).²⁵ This showed that outstanding monies grew and that the rate of increase fluctuated but fell overall from 3.5 per cent and 3.1 per cent during this period.

21 Sixty-Eighth Report by the Committee of Public Accounts, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*, HC999, Session 2001-2002.

22 Fines totalling £130,860 were imposed in that week but £16,717 was transferred to other courts for enforcement as the offenders lived in a different jurisdiction to that in which the offence took place.

23 Collections were calculated on the basis of monies received by the first week in August. Some areas consolidate all fines imposed into single accounts for individuals for ease of administration and enforcement. In these instances payments are credited against an account rather than to a fine. In some cases, payment had been made against earlier fines but as more money was outstanding than the fine imposed in January, we have not included these in the amounts collected.

24 Figures from statistics by the Department for Constitutional Affairs on the payment rate, 2004-05.

25 Calculated as the outstanding balance of fines for each quarter as a percentage of the opening balance (calculated in turn as the closing balance minus the change in balance). The figure for the opening balance of fines outstanding is subject to adjustment in each quarter to reflect any errors discovered in the data for the previous quarter's figures. However, since October 2004, these adjustments have been relatively minor, amounting to less than one per cent of the opening balance in each quarter. The effect of these adjustments would be to add, at most, less than 0.02 per cent to the rate of increase of outstanding balances.

4 Methods used by the Department to calculate the payment rate since 1999

The Department has changed its method of calculating the payment rate twice since 1999.

Period during which the method was used	Definition of method	Payment rate achieved
September 1999 – March 2003	Amount paid divided by new amount owed (all criminal fines plus civil fines plus confiscation orders)	55 per cent (March 2003) ¹
April – December 2003	Amount paid divided by new amount owed (all criminal fines less confiscation orders and fines that had been legally cancelled by a magistrates' court)	72 per cent (December 2003)
January 2004 –	Amount paid divided by new amount owed (all criminal fines less confiscation orders less those legally cancelled less those administratively cancelled)	80 per cent (March 2005)

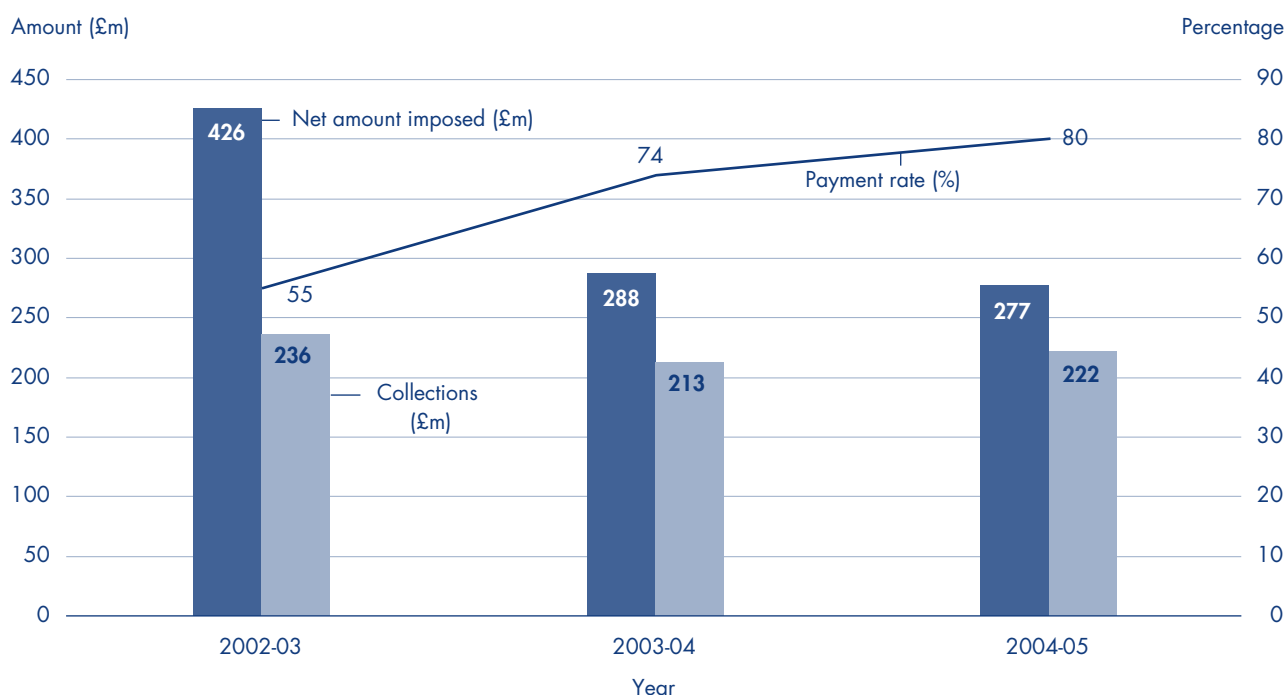
Source: National Audit Office

NOTE

¹ By June 2003, the Department had achieved a payment rate of 69 per cent.

5 The payment rate, 2002-03 to 2004-05

This figure shows that the payment rate increased as a result of changes in the calculation of fines imposed.



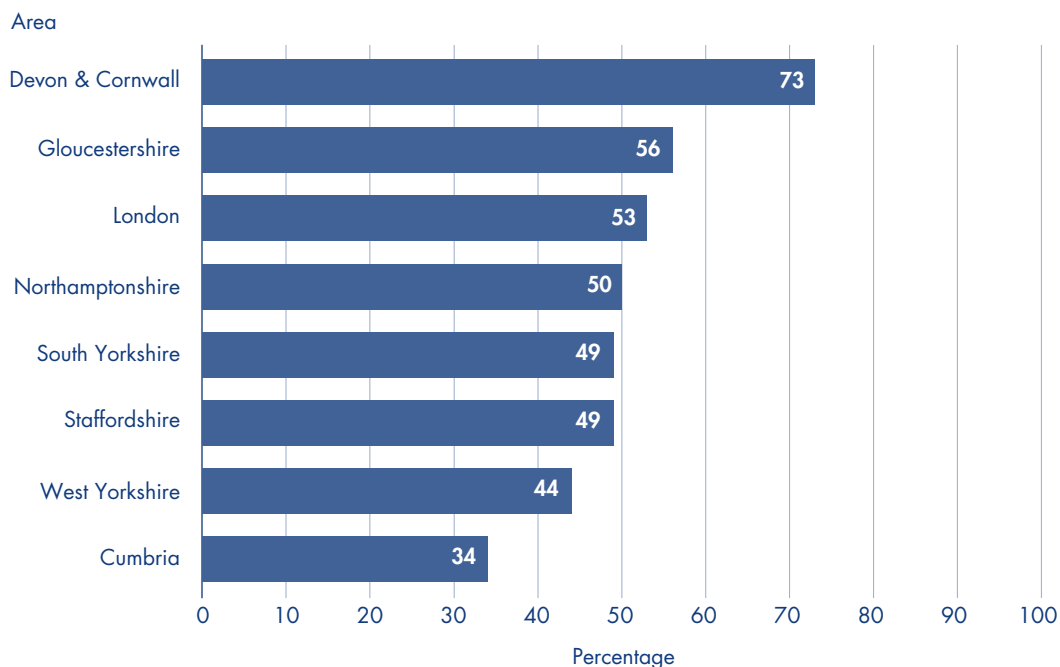
Source: National Audit Office analysis of Departmental data¹

NOTE

¹ Figures for 2002-03 include confiscation orders, administratively cancelled, and legally cancelled fines. Figures for 2003-04 include those fines administratively cancelled prior to January 2004. The figure of £288 million for 2003-04 was therefore calculated on the basis of the April-December 2003 definition of the payment rate for the first three quarters of the financial year and the January-March 2004 definition for the last quarter of the financial year.

6 Proportion of fines collected within six months by value for the areas in our fines review

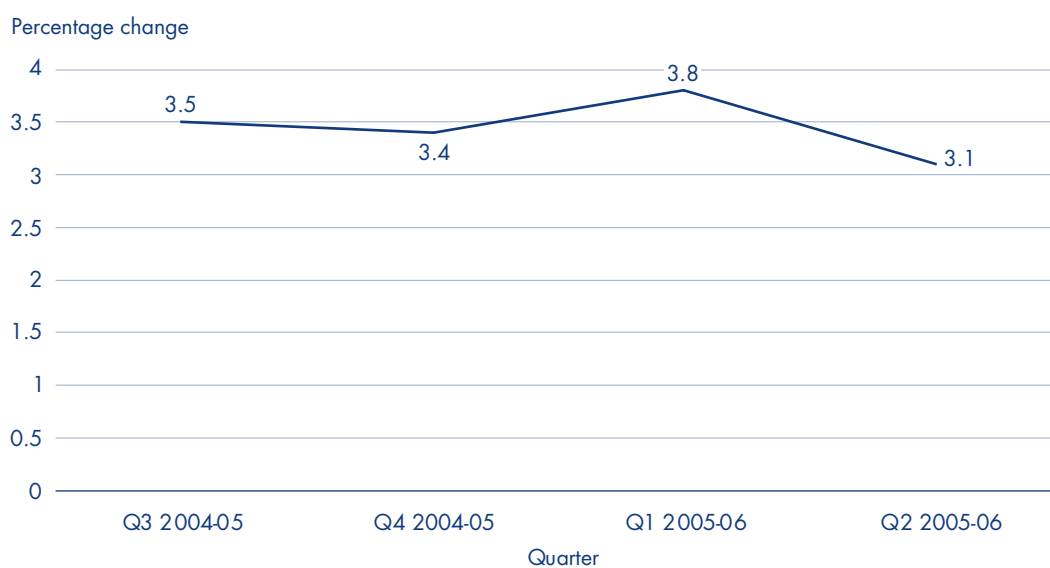
This figure shows that the proportion of fines collected by value varied between 73 per cent in Devon and Cornwall, and 34 per cent in Cumbria.



Source: National Audit Office review of a sample of fines imposed in the last week of January 2005

7 Rate of change in outstanding balances from October 2004

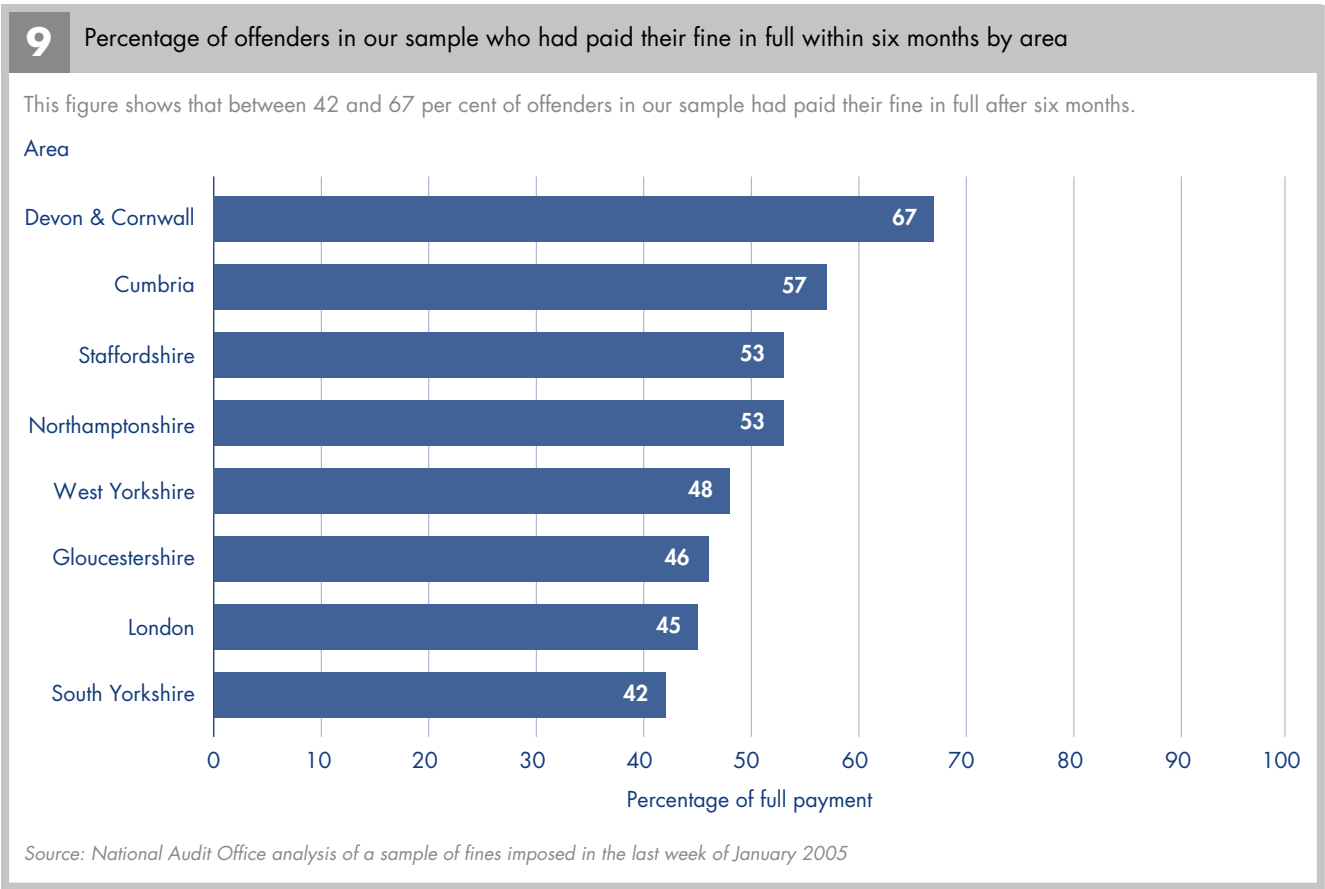
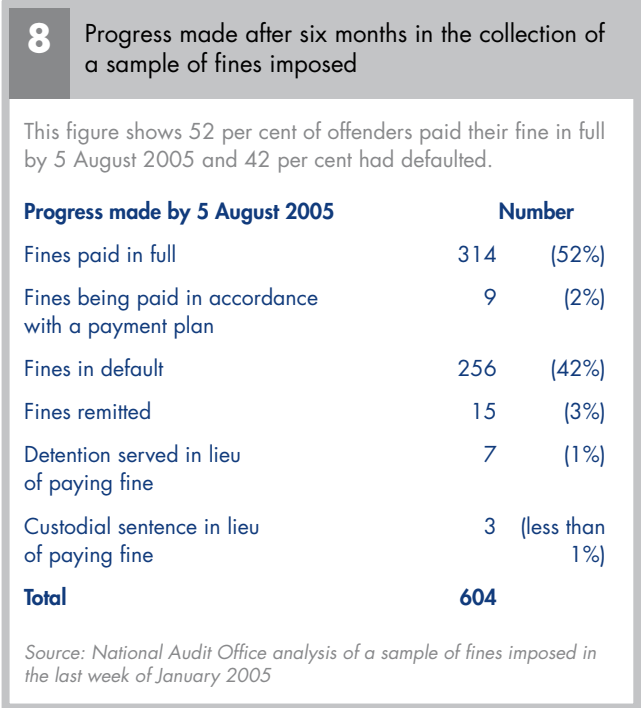
This figure shows that while arrears grew the rate of increase has decreased in the last year.



Source: National Audit Office analysis of Departmental quarterly payment rate statistics

c) The number of offenders annually who pay their fine

2.8 A further measure that would give the most accurate picture of performance is the number of offenders who pay their fine within a given period, either by paying it on the day of conviction or abiding by the terms of their payment plan. This indicator is important to establish that justice is being administered in respect of all offenders. Our sample of fines imposed in the last week of January 2005 gave us information on 665 fines. Of these, 61 were transferred to other areas for collection and enforcement. The progress made in the remaining 604 cases by 5 August 2005 (just over 6 months) is presented in **Figure 8**. Fifty two per cent had paid their fine in full and 42 per cent had defaulted. In 182 cases (30 per cent) no payment at all had been made towards the fine. **Figure 9** shows the proportion of offenders in each of the eight areas who had paid their fine in full during this period. It is noticeable that Cumbria which had performed worst in terms of the value of fines collected (Figure 6) was the second best performer in terms of the percentage of fines collected.



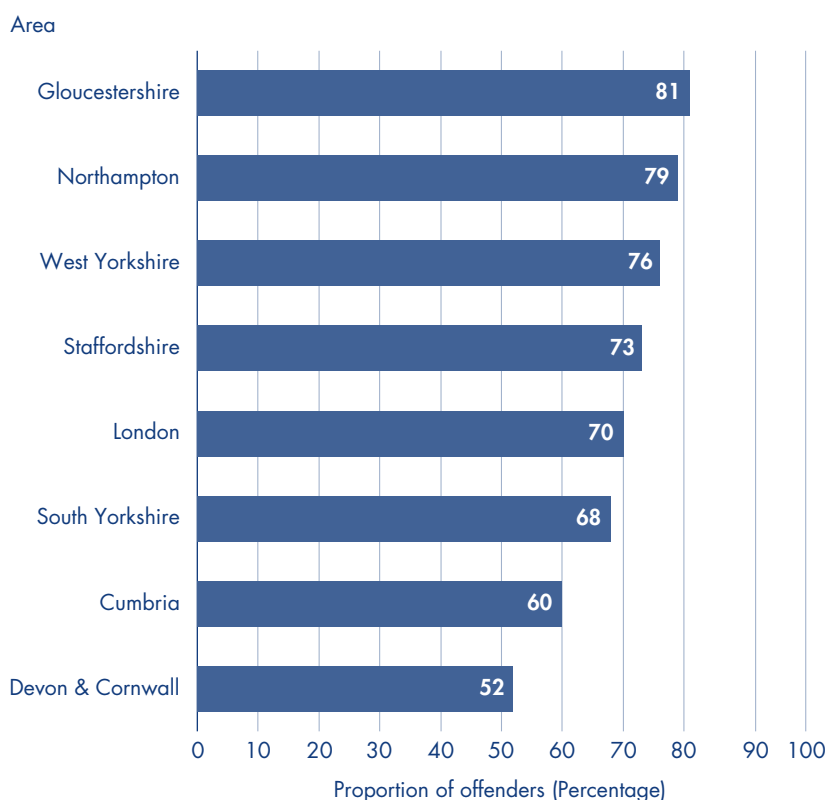
d) The number of offenders who need enforcement

2.9 Our review showed that 69 per cent of the fines we examined required enforcement action of some kind to obtain payment. This suggests that there is still a culture of non-payment until forced to do so among offenders.

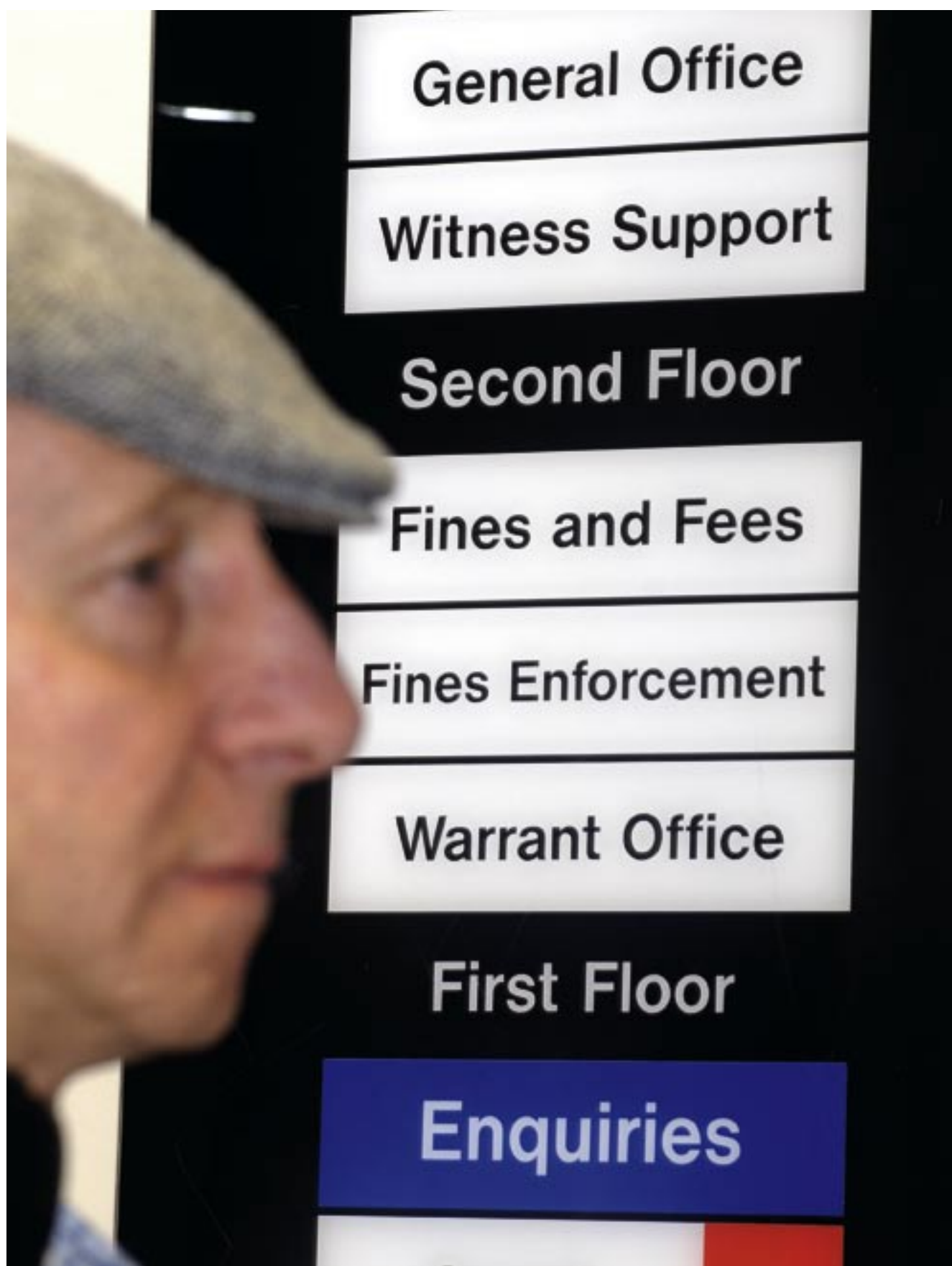
Figure 10 does show, however, that performance varied in the areas we visited and some areas such as Devon and Cornwall and Cumbria achieved a better level of performance against this measure. Tracking performance against this measure over time would allow Her Majesty's Courts Service to monitor whether the non-payment culture among offenders was changing. The Department recognises that compliance with court orders is important and provides better value for money than enforcement activity, so is developing a compliance strategy and giving consideration to a compliance target.

10 The percentage of offenders in our sample who require enforcement

This figure shows that the percentage of offenders requiring enforcement action ranged from 52 per cent (Devon and Cornwall) to 81 per cent (Gloucestershire).



Source: National Audit Office analysis of a sample of fines imposed in the last week of January 2005



PART THREE

Scope for further improvement in the collection and enforcement of fines



3.1 The prompt collection of fines is important, both to ensure the speedy administration of justice, and to avoid the additional costs to the taxpayer of enforcement. In this part of the report we examine the scope for improving the collection and enforcement of fines, including the potential for financial savings, using the data from our sample of cases, together with the evidence gathered during interviews and court hearings.

3.2 **Figure 11 overleaf** outlines the process for the collection and enforcement of fines. In summary, courts must have in place arrangements and processes to: obtain information about the defendants' means so that magistrates may impose an appropriate fine; inform defendants about payment terms and methods; collect fines; send reminders; and take action when offenders default. Finally, if the offender remains in default after enforcement action has been attempted, a magistrate may cancel the fine if the offender's circumstances have changed or, exceptionally, impose a custodial sentence in lieu of payment.

Magistrates still do not always have sufficient information about the defendant

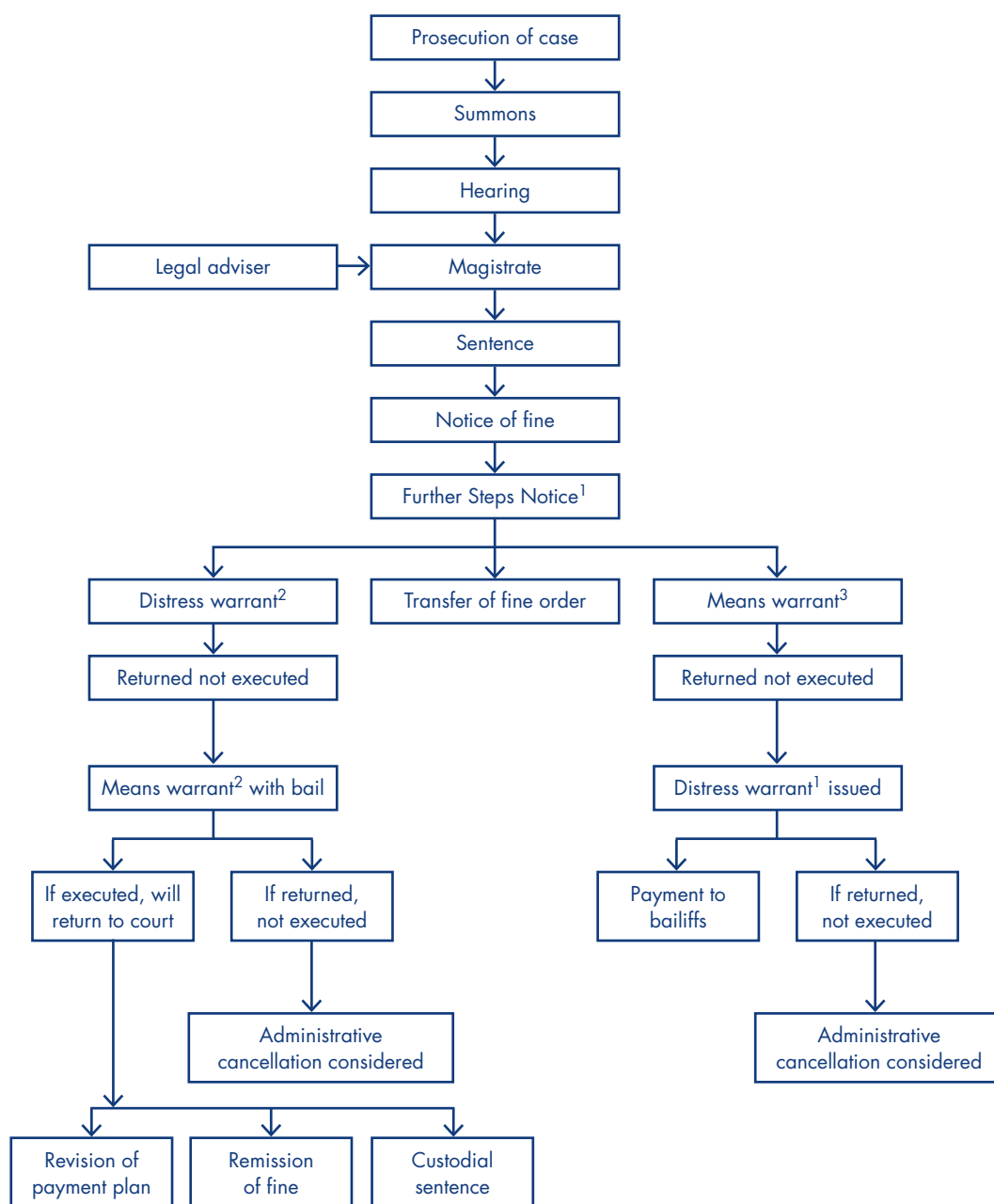
3.3 The Criminal Justice Act 1993 requires the courts to impose a fine that reflects the seriousness of the offence, having regard to the defendant's financial circumstances. In their report on Fines Collection, the

Committee of Public Accounts concluded that magistrates lacked sufficient information on the offender's means and payment history of previous fines.²⁶ These are essential if magistrates are to assess an appropriate level of fine that can be paid immediately, or that can be paid by instalments with immediate effect, or are to consider imposing an alternative sentence, if offenders have a history of non-payment. In response to this, the Department for Constitutional Affairs has introduced, through the Courts Act, 2003:

- A standardised means information form that should be sent with the summons, which all defendants are required to complete and bring to the court on the day of the hearing or to send in if they propose not to attend. Defendants are asked to verify this information by supplying a payslip or benefits book.
- Two new offences of failure to provide means information and giving false information on a means form, punishable by fines of up to £500 or £2,500 respectively.
- Guidance on "Bench Engagement" issued in January 2004, which states that legal advisers should ensure the "bench knows if the defendant has any outstanding accounts, the total money owed, and if the amounts are being paid".

²⁶ Sixty-Eighth Report by the Committee of Public Accounts, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*, HC 999, Session 2001-2002.

11 Stages in fines collection and enforcement



Source: National Audit Office

NOTES

- 1 A Further Steps Notice details all the steps available to the court if payment is not made. This includes the measures introduced in the Courts Act 2003, such as clamping of vehicles. It also gives the defaulter the right to appeal within ten days against the proposed action.
- 2 A distress warrant is served by bailiffs and is used to seize goods to the value of the defaulter's debt. The bailiff will charge a fee payable by the defaulter.
- 3 A means warrant with bail is served on a defaulter by a Civilian Enforcement Officer. The defaulter will be asked to sign the warrant agreeing to return to court on a given day.

3.4 We found that, despite these measures, magistrates do not always have access to information on the defendants' means and payment history:

- information on the defendant's means is less likely to be available when defendants do not attend court. In our review of files, we found evidence of means information in only 36 per cent of cases,²⁷ compared with 66 per cent of the 111 sentencing hearings we observed where a fine was imposed;²⁸
- even where information is available it is not always verified. In only 29 per cent of the sentencing hearings we observed where information was given, did the court seek to verify the information. Magistrates told us that offenders often do not bring verifying information with them. Some magistrates told us that they would therefore question the offender to test the information provided;
- the availability of means information varies between areas (see **Figure 12 overleaf**). Means forms were available in only five per cent of cases at Leeds Magistrates' Court (West Yorkshire). Ushers told us that the volume of numbers meant that they were unable to collect all the means forms brought to the court. In contrast, in Devon and Cornwall, the ushers, legal advisers and magistrates worked together to ensure that, wherever possible, means forms were completed before the hearings, by providing forms and pens outside the court and refusing to hear the case until the form was filled in. In our sample, means forms were available in 67 per cent of the cases we reviewed in Devon and Cornwall;²⁹ and
- our interviews with magistrates and legal advisers indicated that information about outstanding fines and the offender's payment history is not always available. One legal adviser in London told us that there may not be time before the hearing to check databases in other areas, if the offender comes from another part of London. Apart from the North East London area, which has an amalgamated database for the courthouses contained within it, all other Areas in London have separate databases for each courthouse.

This means that a court may have to check 25 individual databases to obtain this information. This still would not pick up if the individual has outstanding fines in other parts of London or the country. The Magistrates' Courts Service Inspectorate also concluded that information on existing accounts was unsatisfactory in a few areas.³⁰

Failure to establish offenders' means may lead to legal cancellation of fines

3.5 The courts may cancel a debt where an offender's circumstances change such that he is unable to pay the fine imposed. The courts do not collect figures on the number of fines that are legally cancelled, only their value. In 2004-05, they amounted to £69 million, just under 20 per cent of the total value of fines imposed.³¹ Estimated as a proportion of the total number of fines, this would be equivalent to 214,000 cases, although the Department told us that the real number of cases is likely to be lower as legally cancelled fines will often be the higher value cases and the reason for cancellation will be that they were set too high in the first place (for example, because the offender was absent). In some cases, fines are remitted in part, and in others they are cancelled in full. In a small number of cases (1,830 in 2004)³² cancellation occurs because the offender has served a custodial sentence in lieu of paying the fine. The Lord Chancellor has recently commented on the waste in court time that arises when sentencing takes place without the necessary means information as follows:

*"Accurate information on the means of a defendant is essential if immediate consideration of a fine is to be made, should the defendant be found guilty. In many cases, incomplete and inaccurate information leads to maximum financial penalties being imposed only for the offender to re-appear in court at a later date to have a more appropriate fine imposed. This wastes court time, delays the proper disposal of justice and leads to unnecessary defaulting."*³³

27 From our file review of 665 fines imposed in the last week of January. This contained some cases such as motoring offences, where the defendant did not attend the hearing because they pleaded guilty by post so attendance was not required. Means information is often taken off the file and sent to a Central Fines Unit, which may explain the low rate achieved, although we could not verify whether this happened in the cases we examined.

28 Defendants attended all these hearings.

29 Under the Courts Act, means forms tend to be taken off files and sent to enforcement staff, which meant that some of the cases in our sample may have already had their means forms removed. We had no way of verifying this.

30 *A Review of Financial Penalty Enforcement Practices in Magistrates' Courts in England and Wales* by MCSI Inspection of Court Services (February 2005).

31 Figures from statistics by the Department for Constitutional Affairs on the payment rate, 2004-05.

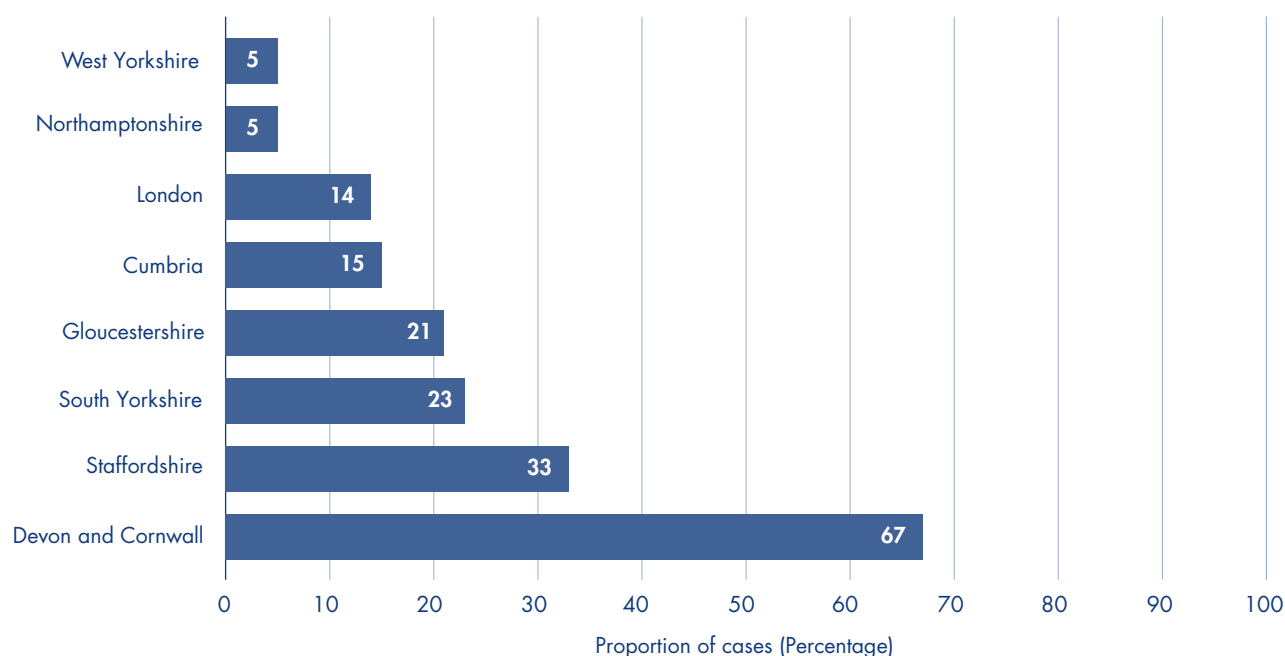
32 National Offender Management Service, *Population in Custody Quarterly Brief*, April – June 2005, England and Wales.

33 Department for Constitutional Affairs, *Supporting Magistrates' Courts to Provide Justice*, November 2005.

12 Availability of means forms

This figure shows that the availability of means forms varied between 67 per cent of cases in Devon and Cornwall, and five per cent in West Yorkshire and Northamptonshire.

Area



Source: National Audit Office analysis of a sample of fines imposed in the last week of January 2005

3.6 We estimate that the cost of court hearings to cancel fines is approximately £6.8 million a year. In addition, the cost of initially enforcing cases which are ultimately cancelled is estimated at just under £21 million per year (one-fifth of the annual cost of fines collection and enforcement). A proportion of these cancellations will have arisen because of a change in circumstances but others will be due to inappropriate sentencing. Reducing the number of legally cancelled fines cases by 25 per cent would release funds of about £6.9 million per annum.³⁴ In addition to legal cancellations, fines may be administratively cancelled when an offender dies or emigrates. In 2004-05, there were £6 million of such fines.

Only five per cent of offenders pay their fine on the day of the hearing

3.7 It is rare for offenders to pay their fine in full on the day. When we last reported on this subject, we found during a one-day sample of five courts³⁵ that the number of fines paid on the day ranged from 1.8 per cent to 4.3 per cent. From our file review of 665 cases, this had improved but was still very low, with only five per cent paid on the day. Although the Department's Bench Engagement guidance encourages magistrates to ask the defendant to pay the fine immediately, we found that the extent to which this guidance is put into practice varies between areas.³⁶ As in our previous report, we found that most offenders (65 per cent) in our sample were allowed between seven and 28 days to pay. The longest period

³⁴ Work carried out by the Department for Constitutional Affairs on its Regulatory Impact Assessment for the Courts Act indicates that each hearing costs £32 (figure has been updated to take account of inflation). Costs of hearings are calculated as follows: 214,000 x £32 = £6.8 million. Reducing legal cancellations by 25 per cent would release £5.15 million in enforcement cost (25 per cent of £20.6 million) and £1.7 million in hearings (25 per cent of £6.8 million).

³⁵ Courts were chosen 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 fines.

³⁶ There is also guidance available to magistrates in the Magistrates' Courts Sentencing Guidelines. These guidelines, and those from the Sentencing Guidelines Council, are judicially produced and courts can have regard to them. Guidance from the Department has a different status and must not appear to influence sentencing decisions.

given to offenders to pay was three months, which applied in three of the cases. Only seven per cent of offenders were asked for immediate payment, but 77 per cent of those who were asked, paid. More offenders (nearly a quarter) in our sample in Devon and Cornwall, however, were asked to pay immediately.

3.8 To test further the extent to which this policy is applied in Devon and Cornwall and to assess its impact, we examined all the fines imposed in the area in the last week of January 2005 (626 fines). Magistrates and legal advisers in Devon and Cornwall tell offenders that their fine is due immediately, but if after examining the means forms and questioning them it appears that the offender has no way of paying immediately, they will set other terms. Nevertheless, more offenders are asked to pay immediately in Devon and Cornwall than in other areas we examined. In our sample, 80 offenders (just under 13 per cent) were asked to do so. Of these, 63 (just under 79 per cent) paid immediately. This was equivalent to ten per cent of all fines imposed and twice the average for our sample of all areas visited. If other areas were to achieve a similar rate, this could potentially double the amount brought in immediately from £7.4 million³⁷ to £14.8 million, reduce the risk of non-payment and save on collection and enforcement costs of just under £1 million.³⁸ Magistrates and legal advisers in Devon and Cornwall told us that their robust approach also means that the culture among offenders is changing so that offenders now expect to have to pay their fine. This is reflected in Devon and Cornwall's results in our survey with 67 per cent of offenders paying their fine within the six month period, compared to 52 per cent in our sample overall, and just over 50 per cent requiring enforcement action compared with the overall average of 69 per cent.

Defendants are given a number of options of payment methods

3.9 The options for how defendants may pay their fine are increasing: most commonly they are by post, credit or debit card, in person or through a pay-in book. In West Yorkshire, offenders may pay at 1,100 locations throughout the area using a variety of payment methods or by an automated payline while, in Staffordshire, 2,500

additional paying facilities have recently been introduced. In Northamptonshire the central administration office where payments are processed is quite isolated, and very difficult to reach by public transport. At the time of our visit there were no facilities available for offenders to pay their fines in cash at courts. Northamptonshire was considering installing cash machines to make it easier for offenders to pay and by end of March 2006, these had been installed in three of the six court sites (Northampton, Corby and Wellingborough). The Department for Constitutional Affairs has launched a project to consider the effectiveness of the various payment methods and to establish national standards.

3.10 Even with increased payment methods, some offenders will try to avoid payment, particularly if the physical layout of the courts allows them to leave without paying. For example, the court and the court offices in Barnstaple are on different floors of the same building. Some offenders were agreeing to pay their fine on the day but subsequently leaving the building without doing so. Court staff resolved this by installing payment facilities (accepting cash, cheque and credit/debit cards) in the court, thereby giving offenders less chance to "escape". The courts in Plymouth had a similar problem and now ask ushers to escort offenders to the fines office and to return the receipt to the court to ensure that the fine is paid.

The Courts Act has allowed new sanctions to be used at the point of sentencing

3.11 As discussed in Part 1, the Courts Act 2003 has given magistrates further options at the point of sentencing to improve the collection and enforcement of fines. Three of the eight areas we visited (Cumbria, Devon and Cornwall, and South Yorkshire) were Courts Act pilots as shown in Appendix 2. Given that these measures were being phased in by March 2006, it was too early at the time of our fieldwork (August to December 2005) to come to any firm conclusions about their impact on payment nationally, although Devon and Cornwall and Cumbria achieved higher levels of performance in the number of fines paid within six months than the other areas.

37 Calculated as follows: five per cent of number of fines (1,070,180) x £138 (average fine) equals £7.4 million; ten per cent of 1,070,180 x £138 equals £14.8 million, giving an extra £7.4 million paid immediately.

38 Calculation of this figure is described in Appendix 3.

3.12 Generally, we found that:

- attachments of earnings and deductions from benefits orders and unpaid work were not common at the time of our fieldwork. There were only six attachment to earnings orders and 28 deduction from benefit orders in our sample, although the Department has told us that deductions from benefit orders have increased by 68 per cent nationally in recent years, rising from 18,500 in December 2002 to 31,100 in May 2005;
- problems with courts' IT systems meant that a manual check had to be done every month on attachments of earnings orders to determine default reasons: whether, for example, an individual's circumstances had changed, or the employer had stopped making payments;
- if an offender paying through a deduction from benefits order changes benefit or becomes employed, the enforcement process takes several weeks to catch up with the changed circumstance. In Carlisle, we saw a defendant who had been brought back to court because he worked occasionally and had assumed that the deductions from his benefit had continued. To get round this problem, Staffordshire have a local agreement with the Department of Work and Pensions to keep deduction from benefit orders alive for four weeks after a benefit has been changed or stopped just in case the offender returns to that benefit. This has proved effective and the Department are informing other areas about it;
- the sanction of unpaid work in lieu of a fine is still being piloted, and has not been evaluated, but some magistrates have misgivings about offenders working off their fine at a higher rate – £6 per hour – than the minimum wage. We found one example, however, where it had a positive impact as the offender was offered permanent employment in the charity shop where she had been sent to do unpaid work;
- at the time of our fieldwork, collection orders were used only in pilot areas. Their wider introduction should help to redress the variation in instructions given to defendants on the need to pay, and the consequences of not doing so, identified by the Magistrates' Court Service Inspectorate in February 2005;³⁹

- vehicle clamping is used rarely as a car has to be worth at least £4,000 for an order to be made. In some circumstances, however, the threat itself appears to be effective. Forty car-clamping orders had been made in Exeter by the time we visited, of which 20 were successful. In most cases people paid their fine on receipt of the letter threatening this sanction and were not actually clamped; and
- on fines increases, staff in Cumbria told us that it did have some effect as a threat as offenders would return to court rather than pay the increase.

Fines Officers have freed up court time

3.13 The Courts Act 2003 enabled courts to introduce Fines Officers to liaise with the offender, manage the case, and deal with the administrative aspects of paying the fine. Eighty Fines Officers were in place by 31 March 2006, supported by 1,800 staff who can use the same powers. Fines Officers do not have the power to cancel or reduce the fine but they may vary the terms of payment in favour of the defendant without a court hearing.

3.14 Magistrates and staff in Cumbria, Devon and Cornwall, and South Yorkshire told us that Fines Officers had freed up the court's time in their area. In East Cornwall, for example, the number of court hearings held to re-consider payment terms dropped by nearly 29 per cent between 2004 and 2005. Annually such hearings cost £8 million across the country.⁴⁰ This indicates that, once Fines Officers are in place in all courts, potentially savings of £6.5 million over five years could be achieved.⁴¹

Magistrates' courts have to take enforcement action against most offenders

3.15 Our review of fines showed that 69 per cent of the cases we looked at required some form of enforcement action. Figure 11 above shows the stages in the enforcement process. The process of reminding offenders to pay their fines and taking enforcement action can be difficult as many defaulters move frequently and are difficult to trace.

³⁹ MCSI Inspection of Court Services, *A Review of Financial Penalty Enforcement Practices in Magistrates' Courts in England and Wales*, February 2005.

⁴⁰ Department for Constitutional Affairs' Regulatory Impact Assessment for the Courts Bill, July 2003.

⁴¹ The Department invested £5 million in introducing Fines Officers. Reducing payment hearings by 29 per cent would lead to value for money gains of £2.3 million each year giving a net saving of £6.5 million over five years. Figures are taken from the Department's Regulatory Impact Assessment for the Courts Bill: Proposals to improve fine enforcement July 2003, which have been updated for inflation.

Her Majesty's Courts Service has access to more information with which to track defaulters

3.16 Following a recommendation by the Committee of Public Accounts, the Criminal Enforcement Programme has arranged access for local justice areas to new information sources when attempting to trace defaulters including:

- the Police National Computer, which provides information on, for example, aliases, associates, contact details, details of bail conditions, passport numbers, and past convictions and offences;
- Equifax, a credit referencing agency, that enables courts' staff to instantly check addresses, telephone numbers and identify where defaulters' records may have changed from those held by the court. Equifax has been able to provide new information in 42 per cent of cases checked;
- the Department for Work and Pensions' electronic Customer Information System which allows courts' staff to instantly check the latest whereabouts of offenders. It is expected that up to 340,000 enquiries will be made on this system each year. So far about half of the enquiries made have resulted in new information.

Prosecutors do not always provide enough information about the offender

3.17 In some cases, prosecutors do not provide enough information about the offender at the outset, which may result in delays and failures in enforcement. For each case, prosecutors must provide the name and address of the offender, and details of any previous convictions. But other details such as the date of birth or national insurance number, which are essential for tracking down some offenders, are not mandatory. This has proved problematic in respect of a number of prosecuting authorities:

- Twenty three (32 per cent) of the cases prosecuted by the Driver Vehicle Licensing Authority in our review of cases did not contain a date of birth. Moreover, the Authority does not require proof of address when cars are registered. This causes problems if an offence is proven in the absence of the defendant (which is common), as the only evidence that the court has of the address comes from the Authority's records.
- TV Licensing told us that it always asks for names, addresses, dates of birth and national insurance numbers but has no legal power to require this information.⁴²
- Travel companies bringing prosecutions against defendants charged with fare evasion on public transport do not have the means to verify the information provided by the individual. For example, they do not have access to police records, and so cannot tell the court whether the individual has any aliases. This makes a large number of warrants unenforceable, which is a particular problem in large Metropolitan areas.

3.18 In order to overcome these problems, the Department has agreed a protocol with prosecutors that they will supply on all summonses: full name; full address (including the post code); date of birth; and, wherever possible, a national insurance number. The Department plans to improve the effectiveness of the protocol by continuing to press prosecutors to collect the required details and to encourage them to verify the information obtained before applying to the courts for summonses. In addition, the Department will carry out a further evaluation of the effectiveness of the protocol and, in the absence of any significant improvement, consider introduction of mandatory data.

⁴² TV Licensing's own figures show that nationally, TV Licensing obtains telephone numbers in 75 per cent of its cases and in a survey of 500 cases in February 2006, TV Licensing obtained the national insurance number in 58 per cent of cases.

Areas are becoming more proactive in reminding defaulters to pay their fines

3.19 All the areas we visited now issue reminders either by post, telephone or a combination of both, once a defendant has defaulted. Our file review showed that this tended to happen 15 days after default. Gloucestershire issued reminders on average two days after default; and Gloucestershire and Staffordshire have started to use text messages. We found that generally letter and telephone reminders yielded full payment in only around 10 per cent of cases, and partial payment in less than 15 per cent. (Gloucestershire's figures were 13 per cent and eight per cent respectively.) Reminders were more successful when staff were more proactive, for example, making calls outside office hours at times when recipients are most likely to be at home. Cumbria, which telephones offenders during the reminder stage as well as making contact by post, achieved full payments in 23 per cent of cases and partial payments in 26 per cent, respectively.

3.20 Proactive telephone chasing is used by trained staff throughout Devon and Cornwall. In Exeter, we found that staff trained in assertive questioning techniques were using telephone chasing to good effect, sometimes in conjunction with letters. Assertive questioning techniques are designed to let recipients know they are responsible for paying their fines, and that their personal situation is known to the courts, using the means information forms and information from sources such as Equifax. The direct nature of this form of contact puts greater pressure on the defaulter to pay. Unlike most areas, all staff in Exeter have been trained in assertive questioning techniques. We sampled records held on 47 cases by Exeter Magistrates' Court, where a combination of letters and phone calls were made to chase payment in March 2005. Thirty-eight of the cases had paid off their fine by the end of the month. On average, only one call had to be made to each defaulter and the money was received within eight calendar days. The average amount owing in each case was £130.

Distress warrants have limited impact on defaulters

3.21 Distress warrants empower bailiffs, approved enforcement agencies, Civilian Enforcement Officers or the police to seize goods in lieu of a fine. Many areas have negotiated local contracts with bailiffs to undertake this work. Between April and December 2004, the Department estimated that some 500,000 distress warrants were executed by bailiffs. They derive their income from this work by charging a fee on top of the debt owed by the defaulter. From April 2006, all enforcement contracts will be taken out of the local justice areas and let on a regional basis.

3.22 Bailiffs have limited success. From our file review, of the 121 distress warrants issued, 11 per cent of fines were fully paid and eight per cent were paid in part after the warrant was issued. The Magistrates' Courts Service Inspectorate review of financial penalties commented that performance from bailiffs has often been poor and there is a need to manage their performance closely. This could be difficult given the way in which they are remunerated and the fact that they bear all the financial risk of non-collection. The Magistrates' Courts Service Inspectorate also commented on the lack of flexibility which can impede payment of fines. Once a distress warrant is with the bailiffs, the courts cannot accept payment even if the defaulter wishes to pay.

Civilian Enforcement Officers are expensive

3.23 If, for example, a defaulter ignores warnings, or action by bailiffs has been unsuccessful, the majority of courts use their own Civilian Enforcement Officers to execute warrants requiring the defaulter to return to court or, in some areas, to liaise with a Fines Officer. Civilian Enforcement Officers will visit the last known home of the defaulter to execute the warrant or to gather intelligence on their whereabouts. There are 640 Civilian Enforcement Officers costing an estimated £11 million each year. We accompanied a number of Civilian Enforcement Officers in the eight areas we visited and found some work flexible hours to maximise the potential for finding defaulters at home, while others worked fixed hours. There were also differences in whether officers pursued defaulters at work, or accepted payment on the doorstep.

3.24 The workloads of Civilian Enforcement Officers also vary greatly between areas and targets were not in place in most of the areas we visited. Civilian Enforcement Officers in Devon and Cornwall do have a target of executing 40 per cent of all warrants in a given month and most achieve over 50 per cent. Civilian Enforcement Officers may be subject to a management enquiry if they do not achieve the target but we were told that this tends not to happen. In all areas, we noted a backlog of warrants. At the end of June 2005, this ranged from just under 100 warrants per Civilian Enforcement Officer to over 1,000, the equivalent of one to ten weeks' work, on average.

3.25 The way in which Civilian Enforcement Officers enforce payment of fines by defaulters is not cost-effective. Figures collected from seven of the eight areas we visited show that, in June 2005, the total amount collected by Civilian Enforcement Officers was £187,836. The total cost of collections (in respect of salaries) was £166,112. The Department was unable to provide us with costs on overheads such as accommodation and office services, but if these were included, the cost of employing Civilian Enforcement Officers would outweigh the amounts collected.

The Department plans to introduce a National Enforcement Service

3.26 The Department is planning the introduction of a National Enforcement Service to provide a new national framework for enforcement of fines. The Service is expected eventually to involve 4,000 staff, including current enforcement staff, and will work across the criminal justice system with the courts, police, and probation service in England and Wales to reduce duplication of effort and improve intelligence sharing. It is to be piloted in the North West with a national roll-out planned from April 2007. In dealing with hardcore offenders, the Service will have new powers of arrest and of entry to premises.

3.27 In making these plans, the Department might reconsider whether it has the right balance of resources between the early and final stages of enforcement and consider the cost-effectiveness of Civilian Enforcement Officers in executing warrants and gathering intelligence on the street. A more productive use of resources would be to extend and implement more widely the role of the Fines Officer, so that there is a sizeable body of staff who:

- liaise with defendants as soon as a fine has been imposed;
- initiate telephone and written reminders to prevent, and respond to, default; and
- monitor cases through the entire enforcement process.

Magistrates feel that they have limited options for dealing with defaulters

3.28 The majority of magistrates we spoke to believed there were not enough options for dealing with persistent defaulters for whom the courts did not act as a deterrent, although at the time of our fieldwork, the new provisions of the Courts Act had not been rolled out in all parts of the country. This perception was confirmed by the administrative staff in Leeds who use assertive questioning techniques. They told us they do not use the courts as a deterrent as this is seen as "the easy way out". The options currently open to magistrates include:

- imposing a community sentence order on those under the age of 21;
- using detention in lieu of the fine;
- increasing the fine by 50 per cent; or
- a custodial sentence in remission of the fine. However, judicial rulings in the past decade, particularly in the High Court, have restricted the use of this option as it must be the "option of last resort".⁴³ The number of defaulters sent to prison decreased between 1994 and 2004 from 22,469 to 1,830.⁴⁴

⁴³ Regina v Oldham Justices and another, ex parte Cawley and other applications, Queen's Bench Division, November 1995. The Magistrates' Courts Act, 1980, states that all enforcement measures should have been actively tried or considered before imprisonment can be imposed by the courts.

⁴⁴ Figure for 1994 from Sixty-Eighth Report by the Committee of Public Accounts, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*, HC999, Session 2001-2002. Figure for 2004 from National Offender Management Service, *Population in Custody Quarterly Brief*, April - June 2005, England and Wales.

3.29 In the hearings we observed, magistrates applied a variety of sanctions to defaulters. In Carlisle, for example, a defaulter who had recently served a 39-day prison sentence for non-payment of fines totalling £1,400, asked to pay his fines out of his benefits, to which the court agreed. In Stratford, London, the court agreed that a defendant who owed £3,000 dating back to 2002 should pay his fine out of the proceeds of the sale of his house which was about to be auctioned. Finally, during a case in Leeds, an offender offered to pay a £300 fine in full but on hearing the circumstances of the defaulter, the magistrates asked her instead to sit at the back of the court for 90 minutes, and reduced the fine to £100.

3.30 Both at a local and national level, Her Majesty's Courts Service is looking at more innovative ways to deal with serial defaulters, which may lead to more success if applied more widely. "Blitzes" on serial defaulters have been introduced under the Targeted Intervention element of the Criminal Enforcement Programme. The most high-profile of these blitzes have been the "Payback" operations, involving the courts and police, which have been run across the country on three occasions so far, the latest being in October 2005. In all, these have reduced court debt by £4.5 million. About £3.3 million was collected with the balance accounted for by the imprisonment of defendants, whose fines were then remitted and legal cancellations where the court determined that there had been a change in circumstance, but they are relatively expensive operations. Staff costs are not available for Payback One and Three, but we estimate that staff costs for Payback Two were £477,447, just under 43 per cent of the sum recovered in fines. In addition, the Department paid advertising costs of £822,000 for the three campaigns. **Figure 13** shows the impact that these operations had. Apart from the money recovered, the Department has reported that Operation Payback has helped to spread the message to defaulters that fines will be pursued and encourage co-operation among the Criminal Justice Agencies. The Department found that defaulters continued to come forward to make payment after the main blitz, which in turn reduced the percentage of hardcore defaulters.

Inadequate management information is delaying collection and enforcement

3.31 Good management information is crucial to the effective collection and enforcement of fines. Each local area uses one of three IT systems – EQUIS, LCIS, and MCS – which offer varying levels of functionality and, most crucially, have no common interface.⁴⁵ It costs £23 million each year to run these systems. Current problems, some of which we have commented on already, include:

- difficulties in interrogating information by individual, as information is held on cases;
- delays in compiling performance data because of the need to use manual systems;
- problems in checking the payment history of an offender because of a lack of a central database; and
- an inability to verify identity in court by using databases held by other agencies to check addresses and National Insurance numbers.

3.32 The planned introduction of Libra, which will replace these systems, means that funding for upgrading these systems has been withdrawn, with the result that they are becoming increasingly obsolescent. Libra consists of an IT infrastructure and a case management application, which will:

- hold personal information on defendants, allowing searches against surname to take place whenever a new case is entered on the system;
- provide a single national database, which means that once an account is in place, enforcement across the country will become easier; and
- provide links to the National Strategy for Police Information Systems which allows receipt of new case details and updating police with case results.

⁴⁵ Sussex uses a fourth system unique to that area.

13 Impact of Operation Payback

This figure shows that Operation Payback has collected £3.3 million in unpaid fines.

	Payback 1	Payback 2	Payback 3
Total amount collected	£631,298	£1,320,702	£1,413,112
Number of areas involved	35	42	42
Number of warrants targeted	37,021	66,865	79,776
Number of warrants executed	10,640	24,512	27,330
Number of warrants executed as a proportion of those targeted	29%	37%	34%
Number of Civilian Enforcement Officers involved	459	970	899
Number of police involved	623	1,539	1,162
Estimated cost of Civilian Enforcement Officers	Not known	£191,874 ¹	Not known
Estimated cost of Police	Not known	£285,573 ²	Not known
Advertising costs	£230,000	£292,000	£300,000

Source: PA Consulting and the Department for Constitutional Affairs

NOTES

1 Civilian Enforcement Officers worked 14,558 hours (source PA Consulting's evaluation of Payback Two) multiplied by £13.18.

2 PA Consulting's evaluation showed that police in London worked an average of 7.94 hours multiplied by an hourly rate of £23.37 and by 1,539 police officers gives a total cost of £285,573.

3.33 The roll out of Libra is planned in two phases. The first phase provides new case facilities, including links into agencies such as the Police, Television Licensing, and the DVLA and for management and enforcement of fine accounts, which are similar to the existing legacy EQUIS system. The second phase will enhance the fine account administration and include facilities to accept on-line payments, track pre-court means information, and enforce the sanctions provided for by the Courts Act. Phase 1 will be rolled out across magistrates' courts over the next year. A pilot has already been run at Kingston-on-Thames Magistrates' Court, which has used Libra since December 2005. The strategy for Phase 2 has been revised so that roll-out is incremental rather than simultaneous across the country.

3.34 The contract for Libra was let in 1998 but delays have meant that it will not be introduced until 2006-07. The delays have caused problems with the implementation of the Courts Act requiring resource-intensive manual workarounds as the legacy IT systems cannot support the sanctions, which were designed to be implemented using Libra Phase 2. Indeed, the PA Consulting report on the Courts Act recommended that the sanctions should not be introduced until such time as Libra Phase 2 is introduced.⁴⁶

46 Department for Constitutional Affairs, *Courts Act 2003: Final evaluation report*, 18 November 2004.

APPENDIX ONE

Previous parliamentary interest

This appendix outlines the recommendations made by the Committee of Public Accounts in its 68th report of 2001-02, *Collection of Fines and Other Financial Penalties in the Criminal Justice System*, and the actions since taken by the Department in response.

PAC main conclusion (i): Fines account for some 70 per cent of all sentences imposed by courts, and yet only about 60 per cent of fines are paid. Payment of fines appears to be almost voluntary over much of the country, undermining the effectiveness of the criminal justice system.

Actions taken by the Department

- The Courts Act 2003 introduced a series of new sanctions to improve the collection and enforcement of fines.
- The establishment of the Criminal Enforcement Programme and the creation of a targeted interventions project for poorer performing areas have led to the payment rate standing at 83 per cent against the 81 per cent national target.
- Her Majesty's Treasury approved additional funding of £22 million for the Criminal Enforcement Programme in 2004-05 from the netting off scheme which allows a percentage of the proceeds from the collection of fines to be used to fund the programme.
- A new, automated Debt Analysis Return has been developed and introduced to ensure greater accuracy of data being reported by areas.
- The Targeted Intervention team designed and supported Operation Payback (a national blitz on fines) in March and November 2004, and in October 2005.
- A series of effective practice guides on fines collection and enforcement have been produced.

- Wider use of Attachment of Earnings and Deductions from Benefits orders have been introduced with the maximum amount that can be deducted from benefits raised from £2.80 to £5 per week.
- New offences have been introduced for non-provision, or provision of false, means information.
- A redesigned enforcement process was developed to support the new measures introduced by the Courts Act, increase the effectiveness of Fines Officers and to integrate civil and criminal enforcement.
- Proposals have also been developed for mandatory Deductions from Benefits and Attachment of Earnings in all cases where compensation is ordered.

PAC main conclusion (ii): There is a lack of clarity and accountability in the responsibilities for managing the collection and enforcement of financial penalties. The Department has no direct control over magistrates' courts' committees in respect of their collection activities. Supporting management information systems are inadequate, being unable for example to provide basic data to match cash collected against fines imposed for a particular financial year. And magistrates may have insufficient information on existing outstanding fines when sentencing an offender.

Actions taken by the Department

- Her Majesty's Court Service, providing unified administration of the courts, was formed on 1 April 2005.
- Revised guidance and monthly data collection routines have led to greater accuracy in the debt analysis figures.
- The Libra IT system has been delayed. Delivery to the magistrates' courts began in December 2005, with full completion running into 2007.
- The guidance on "Bench Engagement" states that legal advisers should ensure "the bench knows if the defendant has any outstanding accounts, the total money owed, and if the amounts are being paid".

PAC main conclusion (iii): Since 1989, successive official reports have highlighted weaknesses in the systems for collecting financial penalties but the Department has not given them sufficient priority. The Department should now explore options to improve performance significantly by: looking at the scope to centralise some collection procedures regionally or nationally; implementing management information systems which facilitate proper debt management, and assist magistrates when sentencing; establishing centres of excellence to promote good practice; delegating more enforcement responsibilities to administrative staff where appropriate; reviewing the scope to bring together the separate arrangements for enforcing criminal and civil penalties; reviewing the scope for initiatives or penalties to encourage the prompt payment of fines; and widening the sentencing options available to courts when dealing with defaulters, for example, sequestrating assets such as cars, or by registering unpaid fines, limiting a defaulter's ability to obtain credit.

Actions taken by the Department

- A National Enforcement Service will be piloted in 2006 with national roll-out expected a year later.
- A number of proposals have been made for centralising and regionalising some business activities, for example, call centres for telephone enforcement, and regional accounting centres.
- Contracting out has been considered as a possibility in the long-term.
- The Courts Act 2003 allows magistrates to refer sentenced cases to Fines Officers for the management and collection of accounts.
- Discharge of fines by unpaid work is being piloted in five areas.
- The Final Evaluation report on Courts Act pilots was produced by PA Consulting in November 2004.
- Introduced clamping and registration sanctions for default.
- Development of plans to integrate criminal and civil enforcement.

PAC main conclusion (iv): Victims awarded compensation receive their award only when the offender pays the courts. Payment can therefore be delayed by months or years, or may never happen if the offender disappears. Such a process does little to restore victims' faith in the criminal justice system. The Department, together with the Home Office, should explore whether other options exist, for example, the introduction of a fund from which victims could be compensated immediately, and which would be reimbursed by the offender.

Actions taken by the Department

- The Home Secretary launched the Victims Fund on 28 April 2004, committing £4 million of recovered assets to support for victims of rape and sexual assault.
- The principal source of income for the fund is to be a surcharge in criminal convictions and fixed penalty notices for criminal offences.

APPENDIX TWO

Methodology

Visits to court service areas

Areas visited

The eight areas visited covered all the Courts Act initiatives and pilot schemes, and were spread across a range of poor, good and excellent performers according to the payment rate measure:

- Two targeted intervention areas (Greater London and West Yorkshire).
- Three of the Courts Act pilot areas (Cumbria, Devon and Cornwall, South Yorkshire).
- Staffordshire, which piloted the use of the Police National Computer.
- Two areas, each of a similar size, where no initiative or pilot was run, one of which (Northamptonshire) had performed excellently and had increased its payment rate while the other (Gloucestershire) was a poorer performing area at that time.⁴⁷
- In terms of size, three of the areas imposed more than £10 million in fines; two areas between £5 million and £10 million; and three areas imposed less than £5 million fines in 2003-04.

The following figures show the Courts Act sanctions being piloted in the areas we visited and the characteristics making up each area.

TABLE 1			
Courts Act sanctions being piloted in the areas we visited			
Sanction	Cumbria	Devon and Cornwall	South Yorkshire
Attachment of Earnings Orders	✓	✓	✓
Deduction from Benefits Orders	✓	✓	✓
Fines increases	✓		
Fines Officers	✓	✓	✓
Collection Orders	✓	✓	✓
Registration			✓
Clamping		✓	
Payment work	✓	✓	✓

Review of local procedures

We interviewed key staff members to gain an understanding of enforcement techniques and how their area had implemented any initiatives. Staff included magistrates, legal advisers, fines officers, fines champions, enforcement managers, and court administrative staff. We also accessed locally held management information, including debt analysis returns and performance statistics.

In all the areas visited, we shadowed Civilian Enforcement Officers as they went about their duties “in the field”. This allowed us to gain an understanding of the enforcement techniques used at the point of contact between enforcement staff and offenders.

47 However, at the time of fieldwork we saw that measures were being taken to improve performance, for example by texting reminders to defaulters and monitoring the performance of Civilian Enforcement Officers. Our file review also showed that Gloucestershire collected more by value of fines imposed than the average achieved by all areas (56 per cent compared to 52 per cent) and that it performed better than London and South Yorkshire in terms of the number of fines collected.

TABLE 2**Characteristics of the areas we visited**

	Cumbria	Devon & Cornwall	Gloucestershire	London
Area	Rural 696,580ha	Rural 1,012,763ha	Rural 268,838ha	Metropolitan 157,283ha
Population (2001)	487,607	1,576,086	564,559	7,172,091
No of courthouses	6	16	6	36
No of magistrates (2004-05)	299	721	249	3,058
Owner occupied dwellings (%)	72.3	73.5	74.3	56.5
Unemployment rate (%)	3.6	4.0	3.6	6.9
Payment rate (2004-05)	97%	126%	74%	68%
	Northamptonshire	South Yorkshire	Staffordshire	West Yorkshire
Area	Rural 233,213ha	Urban 154,431ha	Rural 262,333ha	Metropolitan 203,844ha
Population (2001)	629,676	1,266,338	806,737	2,079,211
No of courthouses	6	4	6	8
No of magistrates (2004-05)	351	711	543	1,254
Owner occupied dwellings (%)	73.7	64	76.1	67.1
Unemployment rate (%)	3.0	5.1	3.6	4.3
Payment rate (2004-05)	115%	86%	87%	78%
	England and Wales			
Area	Mixed 15,102,075ha			
Population (2001)	52,041,916			
No of courthouses	378			
No of magistrates (2004-05)	28,029			
Owner occupied dwellings (%)	68.9			
Unemployment rate (%)	5.0			
Payment rate (2004-05)	80%			

Sources: Office for National Statistics; Magistrates' Association; and National Audit Office review of a sample of fines imposed in the last week of January 2005.

Case file review

File review was the primary source of information for evaluating the effectiveness of the enforcement process. We randomly sampled between 80 and 100 cases in each area we visited. All the cases originated during the week beginning 24 January 2005 and were followed until 5 August 2005. In some areas, it was possible to select the whole sample from the one court; in other areas, the sample had to be selected from several courts. In Cumbria, our sample covered every fine imposed during that week. The cases were selected from the following magistrates' courts:

Cumbria – Barrow, Carlisle, Kendal, and Penrith.

Devon and Cornwall – Bodmin and Exeter.

Gloucestershire – Gloucester.

London – Greenwich (the documentation of local practices was carried out at Stratford).

Northamptonshire – Corby, Daventry, Kettering, Northampton, Towcester, and Wellingborough.

South Yorkshire – Sheffield.

Staffordshire – Burton, Cannock, Stafford, and Tamworth.

West Yorkshire – Leeds.

For each case reviewed, we recorded details about the offence; the prosecuting authority; whether means information was available; the level of fines imposed; the payment terms; and the type of enforcement action taken when a case went into default. In 67 per cent of the cases we examined, the Police were the prosecuting authority; in nine per cent, the Driver and Vehicle Licensing Authority; in six per cent, local authorities; and in two per cent, Television Licensing.⁴⁸ A summary of the file review is provided in [Table 3](#).

We also reviewed enforcement action on 47 default cases at Exeter where staff used assertive questioning techniques when telephoning offenders.

Other Methods

Review of all fines imposed in Devon and Cornwall week beginning 24 January 2005

We followed up our earlier work in Devon and Cornwall by returning to the area so that we could look at every fine imposed in that week to establish the extent to which magistrates were asking for immediate payment and the impact this had on the payment rate. This involved examining fines from all the magistrates' courts which sat during that week within the area:

Central Devon – Exeter.

East Cornwall – Bodmin and Liskeard.

North Devon – Barnstaple.

Plymouth District – Plymouth.

South Devon – Newton Abbot, Torquay, and Totnes.

West Cornwall – Camborne, Penzance, and Truro.

The area's other five magistrates' courts (Cullompton, Honiton, Isles of Scilly, Launceston, and Okehampton) did not have any sittings during that week. We used the information from this work to establish potential financial savings for the Department through ensuring that defendants are asked to pay their fines immediately.

[Table 4](#) provides a summary of this review.

TABLE 3

	Cumbria	Devon & Cornwall	Gloucestershire	London	Northamptonshire	South Yorkshire	Staffordshire	West Yorkshire	Total
Cases sampled	80	100	81	80	80	80	84	80	665
Value (£)	13,587	19,136	15,838	17,396	14,019	12,427	25,006	13,451	130,860

⁴⁸ The remaining 16 per cent of fines were prosecuted by a variety of bodies, including the Department for Work and Pensions, the Child Support Agency, the Inland Revenue, travel companies, and the RSPCA.

TABLE 4

	Central Devon	East Cornwall	North Devon	Plymouth	South Devon	West Cornwall	Total
Cases	101	94	67	159	121	84	626
Value (£)	15,911	7,351	11,579	29,717	24,405	13,669	102,632
Asked to pay immediately	20	14	12	18	2	14	80
Paid immediately	18	13	8	10	0	14	63

An analysis of the payment rate

We examined the Department's use of the payment rate as its main performance measure by analysing the Department's data on the payment rate from 2002-03 as expressed in its quarterly reporting periods.

Interviews with key officials in the Department and elsewhere

We interviewed staff from the Department's Criminal Enforcement Programme to gain an understanding of the changes being made by the Department to the enforcement process. We also interviewed the Regional Directors from London, the North East, the North West, the Midlands, and the South West responsible for each of the areas we visited to establish their strategic oversight of fines enforcement. In addition, we interviewed staff from the Libra IT project and from Drakes, an approved enforcement agency that carries out enforcement work throughout the country.

Document review

We examined a variety of documents related to fines collection and enforcement, including the Courts Act 2003; the Department's internal audit reports on the payment rate; the Criminal Enforcement Programme Definition document; practice guides on enforcement issued by the Department; PA Consulting's report on Operations Payback 1 and 2, and on the implementation of the Courts Act; and reports on fines collection by the Home Office and the Magistrates' Courts Service Inspectorate.

Court observations

We randomly observed proceedings in fines courts in Carlisle, Leeds, and London where we witnessed around 100 hearings. We also carried out analysis of 111 further hearings at fines courts in Blackpool, Cambridge, Hexham, Hull, Leyland, Manchester, Preston, and Wrexham. This work yielded valuable information on the degree to which defendants provide means information and the way in which magistrates and/or fines officers arrange payment plans.

APPENDIX THREE

Analysis of potential financial savings from changes in the collection and enforcement of fines

Reduction in the number of legally cancelled fines. Work carried out by the Department for Constitutional Affairs for its Regulatory Impact Assessment for the Courts Act, indicates that each hearing costs £32 (this figure has been uprated to take account of inflation). We estimate that the proportion of cases that are legally cancelled amounts to 214,000 (20 per cent of the total number of fines cases). The Department told us that this may be an overestimate as cancelled fines are likely to be of a higher value, hence the reason for cancellation, but as there was no alternative data we have used the figure of 214,000 to estimate the likely costs of cancellation. This is based on the proportion of fines cancelled (£69 million) out of total fines imposed (£352 million), which is just under twenty per cent. This percentage was applied to the number of fines, giving just over 214,000. 214,000 cases at £32 equates to £6.8 million. In addition, the cost of enforcing cases that are ultimately cancelled is estimated at just under £21 million (one fifth of the annual cost of fines collection and enforcement).

Savings by asking defendants for immediate payment. In our census of fines imposed in Devon and Cornwall during the week beginning 24 January 2005, 80 offenders (just under 13 per cent) were asked for immediate payment. Of these cases, 63 (just under 79 per cent) paid immediately. We therefore calculated that if five per cent of the 1,070,180 fines imposed on individuals in 2004 were paid on the day (average fine £138), it would result in £7.38 million being collected. If this proportion were doubled to ten per cent in line with Devon and Cornwall, £14.76 million could be collected, giving an extra £7.38 million paid immediately. This could potentially lead to savings of £0.99 million in enforcement costs calculated as follows:

- In our survey, 406 cases were not asked for immediate payment or for scheduled payments. It took an average of 31 days to pay these fines off. Given that an extra 53,509⁴⁹ fines could be paid off immediately if Devon and Cornwall's example were followed nationally, and that there would not be a period of 31 days prior to their being paid, the Government would save **£28,222** in lost interest at the current base rate of 4.5%. ($53,509 \times 138 \times (0.045/365 \times 31)$.)
- The 53,509 cases would also be subject to enforcement costs over the 31 day period. Each case would be dealt with by a fines officer. Fines officers are paid on average £15,500 p.a.,⁵⁰ which equates to £8.06 per hour ($15,500 / (37 \times 52)$). Assuming that each officer spent an average of an hour on each case, the cost of using fines officers on all these cases would be **£431,282**. ($53,509 \times 8.06 = 431,282$.)
- Of the 406 cases from our survey, 203 were the subject of primary reminder action. In 2003-04, the Department calculated that the cost of a reminder was £2.80. Allowing for inflation, the cost of a reminder in 2005-06 is £2.93. Therefore, if half of the 53,509 cases were subject to reminders, the cost would be **£78,391**. ($0.5 \times 53,509 \times 2.93$.)
- Of the 406 cases from our survey, 280 (69%) were the subject of enforcement action other than primary reminders:
 - 11 received secondary reminders; 119 received bail and no bail warrants; 13 received a summons; 12 deductions from benefit orders (DBOs); 14 bad debt letters; 17 received court orders; and one an attachment of earnings order (AEO). The remaining 94 were subject to actions (including 74 distress warrants) that it would be very difficult to quantify, for example, adjournments and means enquiries.

⁴⁹ Calculated as five per cent of 1,070,180.

⁵⁰ This figure does not include overheads such as national insurance and pensions. Therefore, it is an under-estimate.

- Secondary reminders: £4,248 ($11/406 \times 53,509 \times 2.93$).
- Warrants: £417,499 ($119/406 \times 53,509 \times 26.62$). The average cost of using Approved Enforcement Agencies to execute such warrants in 2004-05 was £26. This figure has been adjusted for inflation.
- Summons: £5,020 ($13/406 \times 53,509 \times 2.93$). The cost of issuing a summons is assumed to be the same as issuing a reminder.
- DBOs: £7,829 ($12/406 \times 53,509 \times 4.95$). In 2004-05, the Department calculated that the cost of issuing a DBO was £4.85 which has been adjusted for inflation.
- Bad debt letters: £5,406 ($14/406 \times 53,509 \times 2.93$). The cost of issuing a bad debt letter is assumed to be the same as issuing a reminder.
- Court Orders: £6,565 ($17/406 \times 53,509 \times 2.93$). The cost of issuing a court order is assumed to be the same as issuing a reminder.
- AEOs: £859 ($1/406 \times 53,509 \times 6.52$). In 2004-05, the Department calculated that the cost of issuing an AEO was £6.38, which has been adjusted for inflation.

Total: **£447,426**

- Total annual savings from adopting Devon and Cornwall's interpretation of this policy nationwide would amount to **£985,321**. ($£28,222 + £431,282 + £78,391 + £447,426$.) It can, therefore, be concluded that by collecting £7,384,242 on the day of hearings, the Department could save just under £1 million on the costs of allowing these cases to remain open beyond that date.

The use of fines officers in lieu of fines courts. We examined the use of fines officers in East Cornwall during 2004 and 2005. The number of court hearings held to re-consider payment terms when an offender's financial circumstances changed decreased by nearly 29 per cent between 2004 and 2005. Annually, such hearings cost £8 million across the country. If 81,000 hearings (29 per cent) were reduced from the 280,000 enforcement court hearings each year, this would lead to value for money gains of £6.5 million over five years.⁵¹ We used figures from the Department's Regulatory Impact Assessment for the Courts Bill, uprated for inflation.

51 Figure arrived at through deducting 29 per cent (81,000 cases) from £8 million (the annual cost of 280,000 cases), which gives £2.3 million per year. The Department's investment of £5 million in fines officers is then deducted from that figure to leave £1.3 million per year over five years.

APPENDIX FOUR

The Payment Rate in England and Wales, 2004-05

Magistrates' Courts Committee	Payment rate (%)	Magistrates' Courts Committee <i>continued</i>	Payment rate (%) <i>continued</i>
Devon & Cornwall	126	Dyfed Powys	83
Northamptonshire	115	Northumbria	83
South Wales	109	Nottinghamshire	82
Gwent	104	Sussex	82
North Yorkshire	102	Cheshire	79
Suffolk	102	Hampshire & IOW	79
Wiltshire	99	Humberside	79
Cumbria	97	Norfolk	79
Kent	95	Bedfordshire	78
Leicestershire	95	Lincolnshire	78
North Wales	92	West Yorkshire	78
Derbyshire	91	Hertfordshire	77
Durham	91	Gloucestershire	74
West Mercia	90	Warwickshire	72
Essex	88	Greater Manchester	70
Surrey	88	Greater London	68
Avon & Somerset	87	West Midlands	67
Staffordshire	87	Merseyside	66
Cambridgeshire	86	Thames Valley	65
Cleveland	86	Dorset	62
South Yorkshire	86	National average	80
Lancashire	85		