

Report by the Comptroller and Auditor General to the House of Commons

**HM COURTS SERVICE TRUST STATEMENT FOR THE
YEAR ENDED 31 MARCH 2011**

Report of the Comptroller and Auditor General to the House of Commons on the HM Courts Service Trust Statement for the year ended 31 March 2011

Introduction

1. Certain government entities collect revenues from taxation, duties, fines or penalties. These are required to be paid over to the Consolidated Fund¹ except where there is specific provision for them to be retained by the collecting body. From 1 April 2010 all revenues of this type must be accounted for by the collecting organisations in a separate account known as a 'Trust Statement'. Previously, Trust Statements were only required in respect of certain taxes and duties.
2. HM Courts and Tribunals Service ('HMCTS')², an Executive Agency of the Ministry of Justice ('the Ministry'), is responsible for the collection of fines and confiscation orders (imposed by the judiciary in magistrates' and Crown courts) and penalties (imposed by the police service). HMCTS is also responsible for remitting these collections to the relevant parties as established in cross-government agreements, including: victims of crime; the Home Office; HMCTS itself³; and, for any remaining balance, the Consolidated Fund. From 1 April 2010, HMCTS has been required to account for these revenues through a Trust Statement.

Disclaimer of opinion

3. I have not been able to reach an opinion on whether the HMCTS Trust Statement shows a true and fair view of the revenues, expenditure and financial position disclosed in the financial statements or of the regularity of the transactions described. This is because HMCTS has been unable to provide me with supporting information for the transactions and balances within the account. I have therefore been unable to consider whether the transactions and balances in the account are complete, proper to this account or have been appropriately raised in accordance with the relevant legislative provisions.
4. The purpose of the remainder of this report is to outline the reasons for the lack of appropriate records and supporting information, my findings in relation to collection procedures operated by HMCTS, and the action the Ministry and HMCTS propose to take in order to improve their accountability in this area.

¹ The Consolidated Fund is the central account administered by HM Treasury which receives government revenues and makes issues to fund expenditure by government Departments.

² HM Courts Service merged with the Tribunals Service on 1 April 2011 to form HMCTS. These accounts are prepared in the name of HM Courts Service since the period of account pre-dates this merger. Throughout this report I refer to HMCTS except when referring to activity prior to the merger date.

³ HMCTS is permitted by cross-government agreement to retain a percentage of fine and compensation order collections to contribute to the cost of its operations.

Lack of ability to extract full transaction data from underlying systems and impact on audit opinion

5. The 2010-11 Trust Statement is the first that HMCTS have been required to produce. Under direction from HM Treasury, HMCTS are required to present an account, on an accruals basis, of the revenues (relating to the fines, confiscation orders and penalties imposed), expenditure (relating to potentially irrecoverable debt and contributions payable to other government departments) and of any associated balances.
6. No accounting ledgers are maintained which link directly to the transactions underlying the Trust Statement. HMCTS has compiled the accounts from Libra – the case management system used by magistrates’ courts – and information provided by local police forces, based principally on the Vehicle Procedures and Fixed Penalty Office (VP/FPO) systems that they maintain.
7. The table below describes how management have prepared significant areas of the accounts, and the impact on my audit.

Account area(s)	Method of preparation	Impact on my audit
Revenue and receivables (except fixed penalties)	Management obtained hard copy summary reports (from Libra) for each HMCTS accounting centre. These reports show the aggregate level of fines and confiscation orders imposed on individuals (revenue) and the associated outstanding debt (receivables). HMCTS has not been able to provide the individual accounting records supporting this aggregated data for either revenue or receivables.	Since HMCTS has not been able to provide information at the individual transactional level for revenue or receivables, I have been unable to examine the transactions for accuracy or completeness, and therefore to give an opinion on whether the revenue and receivables recorded in the Trust Statement are fairly stated. For the same reason I have been unable to examine the regularity of these transactions.
Revenue and receivables (fixed penalties)	Management have based revenue and receivables for fixed penalties on HMCTS’ own cash records, supplemented by additional information from local police forces, who are responsible for recording fixed penalty notices at point of issue. HMCTS has not been able to provide individual accounting records supporting these balances, and has relied to a significant degree on estimation to compensate for missing returns from local police forces.	
Expenditure, disbursements , payables	The Trust Statement recognises, on an accruals basis: expenditure (estimated credit losses and the amount of revenue that will be retained by HMCTS); disbursements (the amount of revenue payable to other bodies); and payables (the amount due to HMCTS and other bodies). These elements are all calculated based on the figures for either revenue or receivables.	Expenditure, disbursements and payables are derived from revenue and receivables as outlined above, which I have not been able to examine because adequate accounting records are not available. I am therefore not able to given an opinion on these areas.

8. The impact of these uncertainties is that I have been unable to examine any element of the Statement of Revenue Expenditure or Statement of Financial Position. As this is pervasive to the financial statements as a whole, I am unable to offer an audit opinion on the accounts.
9. Furthermore, since management have not been able to provide information at the individual transaction level, I have not been able to determine whether adequate accounting records have been kept. I have been able to agree the accounts to aggregated financial information, but not to underlying accounting records. I have reported on these issues in my audit certificate.

Collection of fines, confiscation orders and penalties

10. As well as performing audit work on revenue, expenditure and the related balances, I have reviewed the procedures in place to ensure that cash received by HMCTS and subsequent remittances to the Consolidated Fund or to other parties are appropriately recorded. HMCTS is solely responsible for the collection of the fines and penalties described in this account, and for making appropriate remittances to third parties. HMCTS also has lead responsibility for enforcement, although in respect of confiscation orders this lead is shared with partner organisations.
11. On receipt of cash from fines, HMCTS uses the Libra system to record the receipt against a specific account for the person on whom the fine or penalty was imposed. A similar system operates at HMCTS' Fixed Penalty Offices, using the VP/FPO system. In both cases HMCTS operate controls, including bank reconciliations, to ensure that these cash receipts are identified and recorded appropriately. From my audit work, I am content that in all material respects, cash received in local bank accounts has been appropriately recorded.

Remittances to third parties

12. Once debts are collected, HMCTS ensures that cash is sent to other bodies and the Consolidated Fund in accordance with the relevant cross-government agreements. I am content on the basis of my audit work that the payments to the Consolidated Fund recorded in the accounts have been accounted for correctly.

Management of outstanding fines, confiscation orders and penalties

13. The total level of outstanding fines, confiscation order and penalties debt (receivables) at 31 March 2011 is £1.9 billion, which has increased from £1.5 billion in the previous year. Management have outlined the reasons for this increase in the Financial Review section of the Foreword. However, the debt (receivables) balance in the Statement of Financial Position is £457 million. The difference between this accounts figure and total debt of £1.9 billion comprises a provision against live debt to reflect doubts about its recoverability (£476 million) and an increasing balance of aged debt classified as 'inactive' (£937 million) where recent enforcement activity has failed to progress recovery. While in legal terms inactive debt remains due for collection, for the purposes of these accounts it has been fully impaired and so does not form part of the receivables balance in the accounts.

14. I reported on the collection of fines, confiscation orders and penalties in my recent report (*Ministry of Justice: Financial Management Report, HC 1591 2010-12*). I concluded in this report that there is room for improvement in the collection of these balances within the Ministry of Justice family. HMCTS and the Ministry have made some recent improvements, such as new performance measures to monitor collection rates, timeliness and levels of arrears for fines. Management have outlined further changes and developments in the Foreword, including a blueprint for enforcement and collection, and more collaborative working with other government departments and agencies with responsibilities for imposing fines, confiscation orders and penalties.

Further steps planned and required by the Ministry and HMCTS

15. For 2011-12, the Ministry plans to work with HMCTS and build on the progress to date.
16. The Ministry plans to investigate further the functionality of Libra to determine whether it is possible to provide evidence to support accruals-based financial reporting. In particular, the Ministry and HMCTS believe that it may be possible to obtain evidence over fines and confiscation orders if a suitable report is run shortly after the month end.
17. However, the Ministry and HMCTS have informed me that they may not be able to address these fundamental issues until Libra is significantly enhanced or replaced with a new case management and accounting system. The timing of this enhancement or replacement is currently uncertain. However, the Ministry have committed to ensuring that any replacement for Libra includes accounting functionality to enable financial reporting.
18. Similarly, the Ministry and HMCTS have informed me that improvements in respect of fixed penalties are unlikely to progress significantly until the roll-out of the national replacement for the current VP/FPO system, Pentip. The Home Office is responsible for the implementation of Pentip, but as a key stakeholder the Ministry plans to ensure as far as it can that the new system includes adequate accounting functionality.
19. Separately from developments in financial reporting, HMCTS continues to develop its processes around enforcement and collection activities with the aim of maximising the recovery of fines, confiscation orders and penalties. Whilst these developments are welcome, challenges remain in improving the quality of data and pursuing outstanding balances.

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