

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

HM Courts and Tribunals Service Trust
Statement for the year ended 31
March 2012

Report of the Comptroller and Auditor General to the House of Commons on the HM Courts and Tribunals Service Trust Statement for the year ended 31 March 2012

Introduction

1. Government bodies responsible for collecting revenue on behalf of the Consolidated Fund¹ – including taxation, duties, or fines and penalties – are required to produce a Trust Statement. Trust Statements account for the transactions and balances specific to these collection activities, and are separate from the statutory accounts of collecting entities.
2. HM Courts and Tribunals Service ('HMCTS'), 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).
3. HMCTS is also responsible for remitting these receipts to the relevant parties as established in cross-government agreements, including: victims of crime; the Home Office; HMCTS itself²; 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.
4. The duty to produce the Trust Statement was introduced in 2010-11 and the transition period was short. Key systems which maintain data relating to fines and penalties – which are case management systems, and not designed for financial reporting – did not have the capability or functionality to support financial statements.
5. As a result of these issues, HMCTS is not able to produce the records to support key areas of the accounts, and because of the significance of these areas I have no option but to disclaim my opinion. However, I recognise that HMCTS is working to improve the quality of the information available and expect these issues to be progressed as systems capability is increased.

Audit opinions

6. For 2011-12, I have been able to gain assurance over the regularity of the income and expenditure for the year relating to the Trust Statement. This means that in my opinion, in all material respects, the transactions relating to fines and penalties processed by HMCTS, and recorded in the financial statements, conform to the relevant statutory and other authorities.

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 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.

7. However, there remain significant issues affecting the truth and fairness of the financial statements in respect of receivables, cash and fixed penalties. In my view the possible effect of these, taken together, are sufficiently significant and pervasive that I cannot form an overall opinion. This is described in my audit certificate as a 'disclaimer of opinion' on the financial statements.
8. The rest of my report outlines the progress HMCTS has made since 2010-11; the significant issues impacting on my opinions in the current year; and the actions planned and required by HMCTS to make further improvements.

Significant developments since the 2010-11 Trust Statement

9. In my report on the 2010-11 Trust Statement, I disclaimed my opinions on the financial statements and on regularity. This reflected the fact that HMCTS could not provide me with the accounting records to support the accounts or my audit work. The financial statements were based principally on summary reports produced by Libra, but management could not provide the transactional records underlying this aggregated information.

Improved ability to extract financial transactions

10. For 2011-12, HMCTS has extracted transactional information from Libra. This is a significant improvement and it also enabled me to carry out audit work that was previously not possible. In particular, I have tested a sample of in-year transactions (impositions processed through Libra). As a result of this, and my examination of fixed penalties at the point of receipt by HMCTS, I have been able to issue an unmodified opinion on regularity.

Debt – evidence available to support the receivables balance

11. HMCTS was able to produce a listing, as at 31 March 2012, of individual fines and confiscation order debts to support the receivables balance in the 2011-12 Trust Statement. This was a significant improvement on 2010-11, when no transactional information was available.
12. However, I was not able to complete my audit work satisfactorily because HMCTS were not able to provide sufficient evidence over the opening balance of receivables. Although I was able to inspect summary electronic records on the relevant case management system, HMCTS could not provide the original case files for audit purposes for several older debts. For three out of six regions visited for this audit testing, case files were not kept beyond three years. HMCTS was also not able to provide bank statements for this testing, or sufficient evidence to support the completeness of the balance.
13. These issues limited my ability to audit the opening receivables balance – and, consequently, on receivables overall. The limitations also impact the payables and disbursements figures in the Trust Statement. These figures are derived from the receivables balance, to identify the amounts payable to other parties, such as the Home Office, when debts are collected.

Cash and cash flows

14. The Trust Statement should include only those cash balances and cash flows relating to the fines and penalties that HMCTS are responsible for collecting.
15. This cash is initially collected into bank accounts controlled by local HMCTS accounting centres, then transferred to central HMCTS bank accounts and ultimately on to the Consolidated Fund and other parties.
16. From my testing I was able to confirm that local cash collections for all streams, other than fixed penalties, have been accurately recorded on Libra, and that HMCTS has processes in place which operate to ensure that in all material respects the correct amount is passed onto the Consolidated Fund and other parties.
17. However, HMCTS do not maintain a system which accounts for the end-to-end movement of Trust Statement cash. As a result, once the cash has transferred to the central bank account, HMCTS is not able to separately identify balances proper to the Trust Statement from balances related to HMCTS' operating activities.
18. Management are therefore unable to prove the accuracy or completeness of the cash balance recognised in the Trust Statement, or confirm that all cash proper to the Trust Statement held in either local or central accounts, has been recognised. For the same reasons I am not able to express an opinion in respect of cash flows reported in the Statement of Cash Flows.
19. The lack of evidence in this area has been a key driver of my decision to disclaim the financial statements.

Fixed penalties

20. HMCTS are operationally responsible for the fixed penalty collections on the receipt of cash, and do not possess accounting records supporting the imposition of fixed penalties necessary to support accruals-based financial statements. Information concerning the point of issue of fixed penalties is provided by local police forces; however, these are not sufficiently robust to provide a reliable figure for use in the Trust Statement. Management's view is that there is no realistic prospect for improvement until the national rollout of Pentip, the new system for fixed penalty reporting being developed by the Home Office, is complete.
21. As at the date of my report, Pentip implementation is still in progress. As a result, management do not possess reliable accruals-based accounting records in relation fixed penalties and so I have not been able to give an opinion on the related revenue and receivables balances. This has contributed to my disclaimer of opinion on the financial statements, although it has not affected my opinion on regularity since I have been able to evaluate a sample of collected fixed penalties against the relevant authorities.

Further steps planned and required by HMCTS

22. While the Ministry and HMCTS have confirmed that any replacement for existing systems will include appropriate accounting functionality, the timing for replacement is highly uncertain. They have also confirmed that any replacement would have to be demonstrated to provide value for money.
23. HMCTS therefore continues to face a critical challenge given that the systems and processes governing fines and penalties were not designed for financial reporting
24. In this context, HMCTS should continue its ongoing review of existing systems and how functionality can be improved to provide a more comprehensive set of data and accounting records to support the Trust Statement. HMCTS should also consider how improved financial reporting might support improvements in collection and enforcement.
25. As a priority, HMCTS should ensure that its systems for financial reporting:
 - account for the flow of cash from end-to end, i.e. on their collection at local centres to their surrender to other parties;
 - appropriately exclude any transactions or balances outside the scope of the Trust Statement; and
 - incorporate the accruals-based information contained in case management systems such as LIBRA.
26. On debt, HMCTS continues to develop its processes for enforcement and collection activities, to maximise the recovery of fines, confiscation orders and penalties. Recent initiatives, including a pilot project for the outsourcing of fine enforcement, are outlined by HMCTS in the Foreword.
27. HMCTS should continue to review its impairment policies against performance in enforcement, to ensure that aged debt is properly considered and discounted in the Trust Statement.
28. On fixed penalties, HMCTS has 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 design and implementation of this system is being led by the Home Office. As a key stakeholder, HMCTS should continue to work with the Home Office and police forces to ensure a successful national implementation and that Pentip will provide sufficient and reliable records for the Trust Statement.

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18 January 2012

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