



# EFFECTIVE PENALTY ENFORCEMENT

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A REVIEW OF THE IMPACT  
OF CURRENT FINE DEFAULT  
STRATEGY AND SERVICES

**JULY 2021**

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Laid before the Northern Ireland Assembly under Section 49(2) of the Justice (Northern Ireland) Act 2002 (as amended by paragraph 7(2) of Schedule 13 to The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010) by the Department of Justice.

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# LIST OF ABBREVIATIONS

<b>BCS</b>	Business Consultancy Services
<b>CJI</b>	Criminal Justice Inspection Northern Ireland
<b>DfC</b>	Department for Communities
<b>DoJ</b>	Department of Justice
<b>FCS</b>	Fine Collection and Enforcement Service
<b>HMRC</b>	Her Majesty's Revenue and Customs
<b>ICOS</b>	Integrated Court Operation System
<b>IT</b>	Information Technology
<b>NICTS</b>	Northern Ireland Courts and Tribunals Service
<b>NIPS</b>	Northern Ireland Prison Service
<b>PAC</b>	Public Accounts Committee
<b>PBNI</b>	Probation Board for Northern Ireland
<b>PRT</b>	Prison Review Team
<b>PSNI</b>	Police Service of Northern Ireland

# CHIEF INSPECTOR'S FOREWORD

It is an entirely reasonable expectation that penalties and fines imposed by our courts are effectively enforced to ensure there is a consequence for committing a criminal offence and help prevent reoffending. Community confidence in justice is damaged when people who do the crime don't pay the fine.

Thousands of fines worth millions of pounds are imposed in our courts every year. They are the most common penalty and just over one third of offenders pay them without further intervention or action.

The Fine Collection and Enforcement Service was established in 2018 with new powers to pursue and enforce payment or disposal by another way. The intention was to encourage engagement and more affordable payment plans and discourage those who chose to ignore the court and manipulate the system by serving some time in prison for a number of accumulated fines while benefiting from remission.

At point of conviction and case disposal, the judiciary need current and accurate information on the contact details and means of offenders to inform the penalties they impose; this is especially important when compensation is ordered and a victim believes they will receive it.

Legislation and supporting technology need to keep pace and enable enforcement powers and services to do what was intended - engage with the

people who can't pay and take swift action against those who won't pay. The three year absence of the Northern Ireland Assembly meant legislative reform to enable Universal Credit benefit deduction was not able to progress, however, this has recently been achieved through an Order and will become operational this summer, allowing a backlog of cases to be dealt with.

The Fine Collection and Enforcement Service has made a good start but they need the right tools to help them do their job and maximise their potential.

Relying on letters sent by post to initiate communication and effectively engage and encourage fine payment combined with the inefficiencies of attempting personal summons service on debtors for default hearings, is applying old-fashioned communication methods to a 21st Century world. It is common practice to be asked to provide an email address or mobile telephone number when entering into a utility contract or buying goods online, so why can these details not be provided to a court that may need to contact a person who hasn't paid a fine imposed on them?

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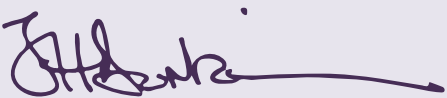
Supervised Activity Orders were intended to provide an alternative option for the judiciary to impose if an offender didn't have the means to pay a fine and it was an appropriate alternative. The investment in establishing them was never realised and the reasons for this need to be explored and understood.

The backlog of 'legacy' fines and accumulating unpaid fines won't go away by itself, it will only continue to grow without the resources and legislative powers to take effective action. The longer this continues the harder it will be to contact offenders and have any reasonable chance of a penalty having the impact a court intended.

This report has a number of recommendations to deliver better services and outcomes through legislation, enabling powers and better processes and information to build on success to date and enable the Fine and Collection Service to fulfil its potential.

This inspection was the first completed during the COVID-19 pandemic without on-site fieldwork and fully utilised video conferencing and telephony to engage with inspected organisations and stakeholders.

I am grateful to the Inspection Team, Dr Ian Cameron, Muireann Bohill and Rachel Lindsay, and to all the inspected organisations, particularly the Northern Ireland Courts and Tribunals Service, who supported the Inspection.



### Jacqui Durkin

Chief Inspector of Criminal Justice  
in Northern Ireland

July 2021

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



# EXECUTIVE SUMMARY

Public confidence in the justice system depends on whether people believe that justice is being done and that it is fair and effective. This required a robust and effective enforcement process when someone defaults on the terms of a Court order.

There was a need for a strict regime for the payment of fines to maximise compliance and minimise recourse to police enforcement and imprisonment of defaulters.

## Inspection Methodology

The usual Criminal Justice Inspection Northern Ireland methodology was deployed, however, this Inspection took place during the coronavirus COVID-19 pandemic and when restrictions were in place that limited Inspectors' opportunity to undertake on-site fieldwork as would normally be done during an Inspection of this nature.

This meant that Inspectors did not visit the Northern Ireland Courts and Tribunals Service Fine Collection and Enforcement Service to examine the computer and workflow systems. Inspectors however did carry out interviews remotely by video link or teleconference. Where possible other internal reports or contemporaneous sources of information have been used to provide as full a picture as possible of the inspection topic. Nevertheless, Inspectors are confident that the work undertaken has provided a sufficient overview to allow an informative Inspection Report.

## Introduction

The Prison Review Team reported in 2011 that imprisonment for fine default did nothing to address the needs of offenders or society, and made prisons much more difficult to run. Nor did it do anything to deal with the actual problem of people who were either too poor to pay a fine, or who could avoid payment at the further public expense of a couple of days in prison. It recommended that supervised activity or distraint of income should be the presumption in cases of fine default.

## Strategy and Governance

The Justice Act (Northern Ireland) 2016 provided for the enforcement and collection of fines and other penalties and commenced on 1 June 2018.

It allowed the Court to make a collection order when imposing a financial penalty: collection and enforcement was then delegated, under the authority of the order, to an administrative centralised collection service within the Northern Ireland Courts and Tribunals Service: the Fine Collection and Enforcement Service.

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There were powers for Collection Officers to agree instalment orders or additional time to pay with debtors; powers for the deduction of payments from a debtor’s income from either earnings or relevant welfare benefits; powers to access bank accounts and for the seizure of vehicles in cases of non-payment; revised powers relating to the use of supervised activity orders to allow debtors to work in the community; and limitations on sentence remission for those in custody for fine default.

Inspectors have recommended that the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 are amended to ensure there is clarity in legislation to remove sentence remission for fine default.

**Delivery**

The Fine Collection and Enforcement Service had dedicated Collection Officers with a range of powers to enforce financial penalties. The original staffing structure had been reviewed and restructured to focus on distinct processing areas to improve efficiency.

Collection Officers had to refer cases back to Court if the debtor could not be traced. This was not an effective use of resources when there was an opportunity to clarify the person’s identity at the initial Court hearing, and Inspectors have recommended that steps should be taken to allow the required personal information, including contact details, to be obtained at the time the collection order is made.

The legislation provided for deductions to be taken from specified relevant benefits of fine debtors by the Department for Communities on application by a Collection Officer, and while the process

was generally working effectively there was potential to improve efficiency by automation of the recording of the payments update process.

Universal Credit was being developed, but did not exist, when the legislation was passed, and to facilitate its future inclusion, there was provision to allow the Department of Justice to add relevant benefits to the list. Work was ongoing within the Department of Justice to make the Order at the time of the Inspection. The Northern Ireland Courts and Tribunals Service was unable to apply for deduction from benefits from the growing number of people who had been moved to Universal Credit and there was a large number of pending cases awaiting a change in the legislation. The Justice Act (Northern Ireland) 2016 (Relevant Benefits) Order (Northern Ireland) 2021 was passed on 29 June 2021 and the backlog of relevant debtors can now be dealt with.

Where a debtor was receiving earnings from employment, the Collection Officer could make an attachment of earnings order to allow for the payment of fines to be recouped through regular deductions taken from an employee’s wage. There had been a small number of cases where employers had been reluctant to participate willingly with the requirements of the Collection Officer, and the Northern Ireland Courts and Tribunals Service should establish a process to institute prosecutions of employers where continued non-compliance occurs following receipt of a warning letter.

It had been the intent of the Department of Justice that the introduction of the Justice Act (Northern Ireland) 2016 would prioritise the supervised activity order in statute.



The effect had not reflected the intent, and at the time of writing supervised activity orders made up a small percentage of default referral hearing outcomes. This Report makes a strategic recommendation that the Department of Justice should re-examine, after discussion with the relevant parties, the intention of the Justice Act (Northern Ireland) 2016 to prioritise the supervised activity order in statute and make it the default penalty for smaller outstanding fine payments.

There was also a need for the Department of Justice to amend its web content to provide more accurate information about the potential outcomes of fine default referral hearings, including the option of a supervised activity order.

Fines which had defaulted prior to the Justice Act (Northern Ireland) 2016 were referred to as legacy cases. There was a very large number of these with outstanding debts in excess of £13 million. The Fine Collection and Enforcement Service was not resourced to deal with this backlog, and the Northern Ireland Courts and Tribunals Service was preparing a business case for a temporary Legacy Fine Unit for a two-year period to deal with legacy cases: Inspectors have made a strategic recommendation that work to establish a temporary Legacy Fine Unit should be expedited.

There was a discrepancy in the way outstanding fine warrants were recorded by the Police Service of Northern Ireland and the Northern Ireland Courts and Tribunals Service on their respective computer systems, and a change in the Integrated Court Operation System was required to provide the necessary

management information to allow for police to take targeted action to execute older warrants and those warrants which had been re-issued a number of times.

**Outcomes**

The business case that established the Fine Collection and Enforcement Service on 1 June 2018, had the following aims:

- to increase the number of financial penalties paid prior to default hearing;
- to reduce the number of fine warrants being issued to the Police Service of Northern Ireland for enforcement; and
- to reduce the number of defendants going to prison for non-payment of what can be relatively small value financial penalties.

The first of these had been achieved, and at the time of the Inspection, all default cases were being actively managed by the Fine Collection and Enforcement Service. As processes became established, and staff had become more acquainted with the legislation and procedures, performance had improved and the amount of debt recovered had increased year-on-year.

The service rate for summonses for default referral hearings was poor and had implications for the effectiveness of Court business. The Northern Ireland Courts and Tribunals Service should continue to explore, in consultation with the Judiciary, what options are available to improve performance.

The outcomes of fine default referral hearings showed a very low number of supervised activity orders imposed on people who had defaulted on payment of a fine.

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The Northern Ireland Courts and Tribunals Service did not have statistics that identified debt by offence type for fines referred for enforcement action. Inspectors view this as an area where analysis could provide management information to improve service delivery.

Inspectors forwarded a survey to recent users of the Fine Collection and Enforcement Service, and while the response rate was too low to be considered statistically significant, those that did respond suggested that generally it was meeting the needs of service users.

However, while recognising the Fine Collection and Enforcement Service’s achievements, the cumulative effect of the outstanding legacy cases; the delay in implementing Universal Credit as a deductible benefit; the low personal service rate for summonses for fine default referral hearings; and the lack of good quality personal contact information at the earliest point for debtors against whom a collection order is made, are a significant cause of the high level of outstanding Northern Ireland Courts and Tribunals Service debt. Action to address these areas should be a priority for the Northern Ireland Courts and Tribunals Service and the Department of Justice to address the deficit.

The second main aim of establishing the Fine Collection and Enforcement Service was to reduce the number of fine warrants being issued to the Police Service of Northern Ireland for enforcement.

This had been achieved. There has been a downward trend over the past five years, including from June 2018 when the Fine Collection and Enforcement Service was established. As the number of warrants issued had fallen over time, the clearance rate had steadily risen.

Historically there had been difficulties with the police executing money warrants and the situation was now better managed and was continuing to improve. At 2 April 2021 there were 1,314 outstanding warrants; 294 (22%) of which were over 12 months old.<sup>1</sup>

The third main aim of establishing the Fine Collection and Enforcement Service was to reduce the number of defendants going to prison for non-payment of what can be relatively small value financial penalties. This had been partly achieved.

Committals to prison for fine default remained significant but had been on a downward trend since 2016-17. The number of prison receptions for fine default decreased substantially from 2016-17 to 2019-20.

So while the number of fine defaulters committed to prison had been reducing, overall the numbers remained significant, both as a proportion of fine default referral hearing outcomes, but also in real terms.

<sup>1</sup> These do not include legacy cases.

# RECOMMENDATIONS

## STRATEGIC RECOMMENDATIONS

### STRATEGIC RECOMMENDATIONS 1

The Department of Justice, in consultation with relevant parties including the Judiciary, should re-examine the intention of the Justice Act (Northern Ireland) 2016 and the assumptions in the business case to establish the Fine Collection and Enforcement Service to prioritise the supervised activity order in statute and make it the default penalty for outstanding fine payments below £1,000. Within nine months of the publication of this report, the Department of Justice should produce an action plan to further reduce the numbers of people sent to prison for fine default

**(paragraph 3.97).**

### STRATEGIC RECOMMENDATIONS 2

Within nine months of the publication of this report, the Northern Ireland Courts and Tribunals Service should establish a temporary Legacy Fine Unit to effectively deal with the outstanding legacy fine debt cases, and secure agreement with the Judiciary on how the backlog of cases will be managed by the Courts

**(paragraph 3.105).**

## OPERATIONAL RECOMMENDATIONS

### OPERATIONAL RECOMMENDATIONS 1

The Department of Justice should progress an amendment to the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 in accordance with the provisions of the Justice Act (Northern Ireland) 2016

**(paragraph 2.42).**

### OPERATIONAL RECOMMENDATIONS 2

Within six months of the publication of this report, the Northern Ireland Courts and Tribunals Service should produce an action plan, to allow the required personal and identity information, including mobile telephone and email address contact information, to be obtained from people against whom a collection order is made, at the Court where the order is made when it is made

**(paragraph 3.36).**

### OPERATIONAL RECOMMENDATIONS 3

The Northern Ireland Courts and Tribunals Service should effectively resource the Fine Collection and Enforcement Service to deal with the accumulated backlog of outstanding cases following the addition of Universal Credit as a deductible benefit after the passing of the Justice Act (Northern Ireland) 2016 (Relevant Benefits) Order (Northern Ireland) 2021

**(paragraph 3.60).**

### OPERATIONAL RECOMMENDATIONS 4

Within six months of the publication of this report, the Northern Ireland Courts and Tribunals Service should establish a process for sending warning letters to employers who fail to comply with the legislation on attachment of earnings within the stipulated period. Prosecutions should be progressed against employers where there is continued non-compliance

**(paragraph 3.65).**

### OPERATIONAL RECOMMENDATIONS 5

The Northern Ireland Courts and Tribunals Service should amend the Integrated Court Operation System to provide data on the dates outstanding fine warrants were first issued, together with information on the frequency of re-issues, within nine months of the publication of this report

**(paragraph 3.118).**

## **AREAS FOR IMPROVEMENT**

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The Northern Ireland Courts and Tribunals Service should automate the deduction from benefits record of payments update process within six months of the publication of this report **(paragraph 3.50)**.

The Department of Justice should amend its web page about Fine Default Referral Hearings to provide more accurate information about the potential outcomes, including the option of a supervised activity order **(paragraph 3.91)**.

The Northern Ireland Courts and Tribunals Service should analyse debt type for outstanding fines referred to the Fine Collection and Enforcement Service as management information to improve service delivery **(paragraph 4.30)**.

The Police Service of Northern Ireland should utilise management information to focus action on the execution of older warrants and those warrants which had been re-issued a number of times **(paragraph 4.46)**.

# CHAPTER 1: INTRODUCTION

## BACKGROUND

- 1.1 Public confidence in the justice system depends on whether people believe that justice is being done and that it is fair and effective. This required a robust and effective enforcement process when someone defaults on the terms of a Court order.<sup>2</sup>

### **Criminal Justice Inspection Northern Ireland (CJI) Report**

- 1.2 An Inspection Report in 2010 found the approach to penalty enforcement was widely seen as outdated. The Police Service of Northern Ireland (PSNI) regarded collecting fines as a poor use of a Police Officer's time, and the processing of large numbers of admissions to prison for very short sentences placed a disproportionate burden on the Northern Ireland Prison Service (NIPS).
- 1.3 The report called for the Court to have the information it needed about an offender's means and previous fine-paying history, and early intervention by the Northern Ireland Courts and Tribunals Service (NICTS) to encourage defaulters to pay.
- 1.4 There was a need for substantial changes to the enforcement process and Inspectors made recommendations, directed across the criminal justice system, for a stricter regime for the payment of fines to maximise compliance and minimise recourse to police enforcement and imprisonment.<sup>3</sup>
- 1.5 A subsequent Follow-up Review in 2012 found there had not been the substantive changes required to the enforcement process, nor had there been a stricter regime introduced to maximise compliance and minimise police enforcement and the use of imprisonment. Only when this had been completed - as outlined in the original inspection report - would the social and financial cost of short-term sentences for fine default, and the operational impact on the Courts, police and prisons be addressed.<sup>4</sup>

2 *CJI, The Enforcement of Fines, March 2010*, available at <http://www.cjini.org/getattachment/d11d51ea-501e-45ea-bfe8-0c92f831830d/The-enforcement-of-fines.aspx>

3 *CJI The Enforcement of Fines, March 2010*, available at <http://www.cjini.org/getattachment/d11d51ea-501e-45ea-bfe8-0c92f831830d/The-enforcement-of-fines.aspx>

4 *CJI, The Enforcement of Fines, A Follow-up Review of Inspection recommendations*, July 2012, available at <http://www.cjini.org/getattachment/4c885d6d-9ffe-4791-83b4-26d374631f45/report.aspx>

### Prison Review Team (PRT) Report

- 1.6 The 2011 Prison Review Report acknowledged that prisons were a necessary part of an effective criminal justice system: they were the most extreme punishment a Court could impose, and should be the last, not the first, resort of an effective criminal justice system. Prison capacity offered sentencers and society an apparently easy answer to complex problems and encouraged the imprisonment of those who need not, or should not, be there.<sup>5</sup>
- 1.7 The prison population in Northern Ireland was inflated because of fine defaulters and remand prisoners, and it was the PRT view that it was indefensible that the opportunities to provide supervised activity orders as an alternative to custody for fine default, provided in the Criminal Justice Order 2008,<sup>6</sup> had not been taken up. Pilot projects, which the Probation Board for Northern Ireland (PBNI) had been ready to operate were deferred, and the proposal for a pilot in Craigavon alone was insufficient. The PRT Report called for two additional pilots in higher density areas with a view to wider roll-out by 2013. Legislation should then be amended and strengthened so that there was a presumption in favour of a supervised activity order, (or distraint of income for those who can afford it), for fine default; and the PBNI and other services should be resourced to support this. Following that custody should be a wholly exceptional disposal for fine defaulters.<sup>7</sup>
- 1.8 In January 2012 a supervised activity order pilot was launched in Newry and Mourne Petty Sessions District which operated until 31 December 2012. At the launch of the pilot the Minister of Justice said that sending fine defaulters to prison for a short period of time was unsustainable, and that supervised activity orders were an important part of dealing with the problem.<sup>8</sup>

5 PRT, *Review of the Northern Ireland Prison Service, Conditions, management and oversight of all prisons. Final Report, October 2011*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/owers-review-of-the-northern-ireland-prison-service.pdf>

6 *The Criminal Justice Order (Northern Ireland) Order 2008* Section 45: Supervised activity order (SAO) for default in payment of certain fines. This provides for an offender, which has a fine imposed of up to £500, to be placed on a SAO requiring him/her to attend a place of supervision and engage in activity as instructed by the supervising officer, of not less than 10 hours and not more than 100 hours (50 hours if fine is up to £200). Available at <http://www.legislation.gov.uk/nisi/2008/1216/article/45>

7 PRT, *Review of the Northern Ireland Prison Service, Conditions, management and oversight of all prisons. Final Report, October 2011*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/owers-review-of-the-northern-ireland-prison-service.pdf>

8 <http://www.dojni.gov.uk/index/media-centre/news-archive/press-release-archive-2012/january-2012/ford-launches-pilot-scheme-to-tackle-fine-default.htm>

- 1.9 Two pilots had been undertaken, however in one the numbers involved were insufficient for a full evaluation. In the subsequent evaluation<sup>9</sup> of the Newry and Mourne pilot, outcomes were not in keeping with the PRT ethos of providing an alternative to custody for fine default, as in the overwhelming majority of cases the Judge chose prison as the default option. A supervised activity order was only imposed in 7% of charges.<sup>10</sup>

### Public Accounts Committee (PAC) Report

- 1.10 A PAC Report<sup>11</sup> on the NICTS Trust Statement for the year ended 31 March 2013 highlighted the value of unpaid financial penalties as significant, and raised concerns about fine collection and enforcement measures in the NICTS and the system for dealing with fine defaulters.<sup>12</sup>
- 1.11 The total debt for unrecovered financial penalties was £19 million: the PAC said it was vital that the justice system sends out the right message, and it was essential that the NICTS made every effort to fully recover financial penalties.

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9 The evaluation of the supervised activity order (SAO) pilot findings included:

- 2,326 charges met the requirements of use of a SAO;
- for 93% (2,174) the Judge chose prison as the default option;
- a SAO was used in 7% of cases (152);
- of those 96% were police cases: 4% were Departmental;
- motoring offences (38%), offences against the state (13%) and theft (13%) accounted for the largest proportion of charges;
- for SAOs average fine amount was £164.11. For 57% the fine imposed was under £200
- supervised activity hours averaged 41. Only 10% resulted in more than 50 hours being imposed;
- 61% of charges (93) resulted in the supervised activity order being subsequently activated
- 50 supervised activity orders were activated in respect of 45 individuals (82% male, 18% female);
- 38% (19 of the 50) were breached for non-compliance; and
- Time taken to complete a supervised activity order ranged from 31 to 205 days (99.5 day average).

• *DoJ Statistics and Research Branch. July 2013 Evaluation of supervised activity order Pilot Scheme: Newry – 2012.*

10 *CJI, Report to Oversight Group on Completed Prison Review Team Recommendation 1 and Resubmitted Recommendation 2, 25 November 2015.*

11 *PAC, Report on Northern Ireland Courts and Tribunals Service Trust Statement for the year ended 31 March 2013, available at <http://www.niassembly.gov.uk/globalassets/documents/reports/public-accounts/nia-2151116.pdf>*

12 *Report on Northern Ireland Courts and Tribunals Service Trust Statement for the year ended 31 March 2013, available at <http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/public-accounts-committee/reports-2011-2016/report-on-northern-ireland-courts-and-tribunals-service-trust-statement-for-the-year-ended-31-march-2013/>*



- 1.12 Costs were excessive for the PSNI, the NIPS and the NICTS, and reform was urgently required which should remove the PSNI from the process. The PAC made six recommendations to address these criticisms.<sup>13</sup>

### Report of the Comptroller and Auditor General

- 1.13 A subsequent report found the level of outstanding debt at May 2019 (which excluded confiscation orders) was £20.5 million and the level of overdue debt was £13.8 million (67%), an increase in overdue debt of 19% over the past 12 months. The NICTS attributed this increase to benefit deduction payments, which were slower but more regular, the impact of the suspension of referral hearings and the low service rate for referral hearing summonses.<sup>14</sup>
- 1.14 Following the Justice Act (Northern Ireland) 2016 and secondary legislation including the Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018, fine default referral hearings now occurred at the end of the Fine Collection and Enforcement Service (FCS) process when all collection options had been exhausted. This was expected to decrease the number of cases being returned to the Court, thereby reducing the need for default hearings.
- 1.15 The new arrangements had resulted in a significant decrease in the number of warrants issued. In 2018-19, 2,880 warrants were issued to be actioned by the PSNI: in 2017-18 there were 10,305. The PSNI overall average performance for warrant execution in the 2018-19 year was 79%.

<sup>13</sup> The PAC recommendations were:

1. The NICTS should put in place a robust system to identify an individual's ability to pay before a fine is imposed. This would allow the Court to consider options at the outset to prevent fine default, including instalment orders, non-monetary supervised activity orders and other measures, such as deductions from earnings or benefits.
2. The governance arrangements and control structures in place over fine collection and enforcement are unacceptable. The Committee recommends that, roles and responsibilities are well defined and accountability and reporting lines should be clear. The NICTS should monitor all warrants issued and the PSNI should ensure that robust reconciliations are undertaken between warrants executed and cash collected. In the Committee's opinion the DoJ should be providing effective oversight and co-ordination, with regular reporting of performance to Senior Management and the Board.
3. Targets should be set to ensure that all warrants are executed on a timely basis. The NICTS should undertake regular reconciliations of all warrants issued to the PSNI and should seek explanations for warrants that have been outstanding for more than six months.
4. The DoJ ensures that alternative methods for collecting outstanding fines are implemented immediately, ahead of the wider reform programme. The new measures should include a system for making payment by a debit card at a police station. This would help to eliminate the risk associated with cash collection. Where cash collection is unavoidable rigorous controls should be implemented to help mitigate the risks.
5. The costs associated with fine enforcement are, in the Committee's view, excessive and the current system is neither efficient nor effective. The Committee strongly recommends that the system is reviewed as a matter of urgency with a view to largely removing the PSNI from the process and replacing it with a civilian collection service. This would help to release resources for front line police work. Further, the Committee recommends that consideration should be given to whether committal remains an appropriate sanction and a greater emphasis should be placed on ensuring that defendants pay the fine imposed rather than serving a prison sentence.
6. The timetable for reform has already slipped and the Committee recommends that the DoJ takes all steps necessary to re-examine the current legislative timeframe and, at the very least, take all the necessary steps to ensure that there is no further slippage. A key objective of reform should be to ensure the system represents value for money and makes the best use of the limited public resources available. *Public Accounts Committee. Report on Northern Ireland Courts and Tribunals Service Trust Statement for the year ended 31 March 2013*, available at <http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/public-accounts-committee/reports-2011-2016/report-on-northern-ireland-courts-and-tribunals-service-trust-statement-for-the-year-ended-31-march-2013/>

<sup>14</sup> *Northern Ireland Courts and Tribunals Service Trust Statement For the year ended 31 March 2019, Laid before the Northern Ireland Assembly on 25 March 2020*, available at [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen_0.pdf)

- 1.16 At 31 March 2019, a total of 2,451 warrants were outstanding and of these 1,864 (76%) were over 12 months old. The PSNI had been contacting Police Officers, updating and returning logs with attempts at execution recorded. These were then reviewed by the NICTS. The number of outstanding warrants over 12 months old had reduced to 1,438 as at December 2019.<sup>15</sup>
- 1.17 The Report concluded that the Department of Justice (DoJ) had taken steps to address all the issues in the PAC report including new governance arrangements and control structures over fine collection. Targets had been set to monitor the execution of warrants, and a system was established to allow the numbers of warrants issued to the PSNI, and those still outstanding, to be reconciled.
- 1.18 The Report expected debt collection rates to be improved by the operation of the FCS and its new powers, but there would be continued monitoring of the effectiveness of the initiatives taken by the DoJ to see evidence of a more successful debt collection process.<sup>16</sup>

### Use of fines as a Court disposal and enforcement provisions in Great Britain and the Republic of Ireland

- 1.19 The imposition of a fine was generally the most common method of Court disposal, although the extent of this varied across jurisdictions. All countries had legislated to give the Courts increased powers to secure collection.

#### *England and Wales*

- 1.20 In England and Wales fines were the most common sentence, accounting for 78% of all sentences, an increase of 12 percentage points in the last decade.<sup>17</sup>

**Table 1: England and Wales. Total offenders sentenced 12 months ending September 2019.**

<b>Total offenders sentenced<sup>18</sup></b>	<b>1,187,372</b>
<b>Immediate custody</b>	75,771 (6.38%)
<b>Suspended sentence</b>	39,332 (3.31%)
<b>Community sentence</b>	89,813 (7.56%)
<b>Fines</b>	923,360 (77.76%)
<b>Compensation</b>	4,745 (0.39%)
<b>Other Disposals</b>	54,351 (4.57%)

<sup>15</sup> These do not include the older legacy cases.

<sup>16</sup> *Northern Ireland Courts and Tribunals Service Trust Statement For the year ended 31 March 2019 Laid before the Northern Ireland Assembly, 25 March 2020*, available at [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen_0.pdf)

<sup>17</sup> *Criminal Justice Statistics quarterly, England and Wales, April 2018 to March 2019*, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/825364/criminal-justice-statistics-quarterly-march-2019.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/825364/criminal-justice-statistics-quarterly-march-2019.pdf)

<sup>18</sup> *Criminal Justice System statistics quarterly: September 2019*, available at <https://www.gov.uk/government/statistics/criminal-justice-system-statistics-quarterly-september-2019>

- 1.21 The payment rates over time are shown below, and on average 12% of fines were paid in the month they were imposed.

**Table 2 : Her Majesty's Courts and Tribunal Service management information: Financial impositions and amounts paid England and Wales, annually 2011-2018.<sup>19</sup>**

Year	Fines Imposed £million	Amount Paid				
		Imposition month £million/%	Within 3 months £million/%	Within 6 months £million/%	Within 12 months £million/%	Within 18 months £million/%
2011	171.7	23.6/14%	52.9/31%	65.5/38%	80/47%	87.6/51%
2012	238.4	28.3/12%	73.5/31%	91/38%	111.4/47%	122.4/51%
2013	232.6	28/12%	68/29%	86.3/37%	106.1/46%	117.7/51%
2014	241.4	26.3/11%	68.5/28%	90.1/37%	110.9/46%	124.8/52%
2015	280.1	33.4/12%	86.7/31%	111.9/40%	138.1/49%	151.3/54%
2016	378	53.9/14%	130.5/35%	167.1/44%	200/53%	215/57%
2017	419.7	44.7/11%	149.3/36%	182.7/44%	217.1/52%	-
2018	375.2	33.7/9%	117/31%	-	-	-

- 1.22 Collection powers included deductions from benefits, attachment of earnings, clamping and seizure of vehicles, and for the Court to impose unpaid work requirement on fine defaulters.<sup>20</sup>

### Scotland

- 1.23 In Scotland, of people convicted during 2018-19:

- 48% were issued financial penalties (37,294);
- 19% were issued community sentences (13,783); and
- 16% were issued custodial sentences (12,220).

The remainder were issued other sentences (13,783), which were mostly admonishments.<sup>21</sup>

19 *Criminal Court Statistics: January to March 2019 (tables)*, available at

<https://www.gov.uk/government/statistics/criminal-court-statistics-quarterly-january-to-march-2019>

20 *Northern Ireland Assembly, Research and Information Service Research Paper 49-2015, Fine Collection and Enforcement Mechanisms, August 2015*, available at

<http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2015/paj/10215.pdf>

21 *Criminal proceedings in Scotland: 2018-2019*, available at

<https://www.gov.scot/publications/criminal-proceedings-scotland-2018-19/pages/4/>

- 1.24 Scottish legislation under the Criminal Proceedings (Reform) (Scotland) Act 2007, introduced new arrangements for the enforcement of fines and other financial penalties. These included provision for the appointment of Fines Enforcement Officers, who could apply to the Court for enforcement sanctions including, deduction from benefits, arrestment of earnings or funds held in bank accounts for the purpose of obtaining payment of a fine or a penalty, and a seizure order to immobilise and impound an offender's vehicle.<sup>22</sup>

**Table 3: Scotland fine collection rates.**<sup>23</sup>

Court	Three year collection rates - the value paid or were 'on track' as a percentage of the value to be paid for fines or penalties imposed between 2016-17 and 2018-19 as at April 2020	Three year collection rates – the number fully paid as a percentage of the value to be paid for fines or penalties imposed between 2016-17 and 2018-19 as at April 2020
Sheriff Court Fines	91%	79%
Justice of the Peace Court fines	90%	85%
Fiscal Penalties	78%	67%

### *Republic of Ireland*

- 1.25 In 2019 fines made up 22.47% (55,653 of 247,628) of the summary offence outcomes in the District Court, and 10.6% (5,713 of 53,878) of indictable offences. For specific road traffic offences fines were 27.97% (21,291 of 76,105). In the Circuit Court fines were 0.57% (67 of 11,574) of offences.<sup>24</sup>

22 Northern Ireland Assembly, *Research and Information Service Research Paper 49-2015, Fine Collection and Enforcement Mechanisms, August 2015*, available at <http://www.niassembly.gov.uk/globalassets/documents/raise/publications/2015/paj/10215.pdf>

23 Scottish Courts and Tribunals Service. *Quarterly Fines Report 44 – Quarter 3 2019/20*, available at <https://www.scotCourts.gov.uk/docs/default-source/aboutscs/reports-and-data/quarterly-fines-reports/qfr44/quarterly-fines-report-44---2019-20-q3.pdf?sfvrsn=2>

24 Irish Courts Service, *Annual Report 2019*, available at <https://www.Courts.ie/acc/alfresco/9bd89c8a-3187-44c3-a2e9-ff0855e69cb5/CourtsServiceAnnualReport2019.pdf/pdf#view=fitH>

**Table 4: Fines imposed by Courts in the Republic of Ireland 2017-20.<sup>25</sup>**

Fine Status <sup>26</sup>	Jan – Dec 2017		Jan – Dec 2018		Jan – Dec 2019		Jan – Dec 2020	
	No. of Fines	Value of Fines	No. of Fines	Value of Fines	No. of Fines	Value of Fines	No. of Fines	Value of Fines
No of Fines Paid	29,578 43.33%	€8,524,210	24,201 36.28%	€7,115,976	22,033 34.83%	€6,646,619	8,985 24.07%	€2,440,139
No of Fines Part Paid	728 1.06%	€282,981	707 1.05%	€286,018	797 1.25%	€341,819	1,131 3.03%	€522,408
No of Fines Appeal/ Judicial Pending	97 0.14%	€81,703	183 0.27%	€108,141	814 1.28%	€452,801	1,398 3.74%	€630,450
No of Fines Due	31,132 45.6%	€10,999,618	40,615 60.89%	€13,126,024	39,362 62.22%	€13,741,323	25,774 69.06%	€7,933,634
No of Fines Refundable	130 .19%	€87,960	89 0.13%	€58,751	70 0.11%	€41,577	21 0.05%	€21,648
No of Fines Uncollectible	6,630 9.71%	€2,004,057	907 1.35%	€209,988	149 0.23%	€35,467	9 0.02%	€2,795
<b>Total</b>	<b>68,295</b>	<b>€21,980,531</b>	<b>66,702</b>	<b>€20,904,901</b>	<b>63,225</b>	<b>€21,259,608</b>	<b>37,318</b>	<b>€11,551,077</b>

- 1.26 The Fines (Payments and Recovery) Act 2014 allowed for the payment of fines by instalment over a 12-month period, subject to certain conditions. Where a person defaulted in making payment the matter would be brought back to Court, which may result in the making of an attachment of earnings order or a community service order.
- 1.27 The Minister for Justice, Equality and Defence commenced the Fines (Payment and Recovery) Act 2014<sup>27</sup> in January 2016, which provided for attachment orders to deduct specified sums from the defaulter's earnings;<sup>28</sup> there was no provision for the deduction of fines from social welfare payments. The Minister has said that there were no plans to introduce such arrangements.<sup>29</sup>

25 Data from the Courts Service Ireland

26 Explanation of Fines Status

- Fine Paid Fine paid in Full;
- Fine Part Paid Fine Part Paid;
- Fines appeal/Judicial Review Fine under Appeal or pending Judicial Review;
- Fines Due Fine still outstanding;
- Fine Refundable Fine was paid but now refundable possible after the outcome of an appeal/set aside; and
- Fine Uncollectible Judge cancelled debt/Defendant deceased.

27 <http://www.irishstatutebook.ie/eli/2014/act/7/enacted/en/print#sec20>

28 Department of Justice and Equality Press Release, Minister Fitzgerald commences Fines (Payment and Recovery) Act 2014, 11 January 2016, available at <http://www.justice.ie/en/JELR/Pages/PR16000009>

29 [https://www.citizensinformationboard.ie/downloads/relate/relate\\_2014\\_06.pdf](https://www.citizensinformationboard.ie/downloads/relate/relate_2014_06.pdf) See also Department of Justice Press Release Minister Shatter publishes Fines (payment and Recovery) Bill 2013, 19 July 2013, available at <http://justice.ie/en/JELR/Pages/PR13000311>.

*Northern Ireland*

- 1.28 In Northern Ireland, fines were by far the largest category of Magistrates' Courts disposals. In 2019, monetary penalties amounted to 3.4% of convictions in the Crown Court, and 57% of convictions in the Magistrates' Court.

**Table 5 Percentage of convictions by offence and disposal type: Crown Courts 2019.<sup>30</sup>**

Crime category	Imprisonment	Suspended custodial	Community sentence	Monetary Penalty (No)	Discharge	Other
Violence against the Person	43.9%	32.9%	17.6%	3.3% (10)	2%	0.3%
Sexual Offences	48.4%	23%	27.8%	0%	0%	0.8%
Robbery	90.9%	5.5%	3.6%	0%	0%	0%
Theft	38.2%	32.6%	23.6%	2.2% (2)	1.1%	2.2%
Burglary	76.6%	13.7%	9.7%	0%	0%	0%
Criminal Damage	44.7%	21.1%	28.9%	2.6% (1)	2.6%	0%
Drugs Offences	44%	32.3%	21.4%	1.6% (4)	0.8%	0%
Possession of Weapons	59.1%	22.7%	13.6%	4.5% (1)	0%	0%
Public Order Offences	25%	39.8%	13.6%	18.2% (16)	3.4%	0%
Motoring	50.9%	23.6%	16.4%	9.1% (5)	0%	0%
Fraud	22.2%	66.7%	8.9%	2.2% (1)	0%	0%
Miscellaneous crimes against society	22.3%	52%	19.6%	4.1% (6)	2%	0%
<b>Total</b>	<b>45.1%</b>	<b>31.7%</b>	<b>18.2%</b>	<b>3.4% (46)</b>	<b>1.2%</b>	<b>0.3%</b>

- 1.29 Motoring offences, drugs offences, public order, violence against the person and miscellaneous crimes against society comprised the majority of cases disposed of by way of a monetary penalty in the Magistrates' Courts.

<sup>30</sup> Analytical Services Group, DoJ Court Prosecutions, Convictions and Out of Court Disposals Statistics for Northern Ireland 2019, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/prosecutions-convictions-and-diversionary-disposals-2019-published-version.pdf>

**Table 6 Percentage of convictions by offence and disposal type: Magistrates' Courts 2019.<sup>31</sup>**

Crime category	Imprisonment	Suspended custodial	Community sentence	Monetary Penalty (No)	Discharge	Other
Violence against the Person	21.1%	27.7%	23.9%	19.8% (632)	6.5%	1%
Sexual Offences	25.8%	14.4%	51.5%	2.1% (2)	4.1%	2.1%
Robbery	25%	25.0%	25%	0%	25%	0%
Theft	24.9%	27%	20.6%	20.5% (421)	7%	0%
Burglary	48.2%	16.5%	29.1%	3.2% (9)	2.9%	0%
Criminal Damage	21.9%	23.6%	29.7%	18.7% (244)	5.7%	0.4%
Drugs Offences	11.1%	15.7%	18.3%	49.4% (1150)	5.4%	0%
Possession of Weapons	22.2%	28.2%	21.6%	19.2% (70)	8.2%	0.5%
Public Order Offences	12.3%	31.9%	12.7%	33.2% (606)	9.3%	0.7%
Motoring	2%	4.6%	3.3%	88.9% (10,021)	0.3%	0.9%
Fraud	15%	30.8%	23.5%	26.5% (69)	4.2%	0%
Miscellaneous crimes against society	22.4%	18.8%	11.8%	37.6% (262)	9.2%	0.3%
<b>Total</b>	<b>11%</b>	<b>15.1%</b>	<b>12.5%</b>	<b>57.0% (13,486)</b>	<b>3.7%</b>	<b>0.7%</b>

<sup>31</sup> Analytical Services Group, DoJ, Court Prosecutions, Convictions and Out of Court Disposals Statistics for Northern Ireland 2019, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/prosecutions-convictions-and-diversionary-disposals-2019-published-version.pdf>

## Male/Female Convictions

**Table 7: Prosecutions and convictions in Courts in Northern Ireland by gender of defendant, 2019.<sup>32</sup>**

Crown Court	Male	% of total	Female	% of total	Other	% of total	Total
Conviction	1,183	88.3%	152	11.4%	4	0.3%	1,339
No conviction	163	83.6%	32	16.4%	0	0%	195
<b>Total findings</b>	<b>1,346</b>	<b>87.7%</b>	<b>184</b>	<b>12%</b>	<b>4</b>	<b>0.3%</b>	<b>1,534</b>
<b>% convictions</b>	<b>87.9%</b>		<b>82.6%</b>		<b>100.0%</b>		<b>87.3%</b>
Magistrates' Courts	Male	% of total	Female	% of total	Other	% of total	Total
Conviction	19,325	81.6%	4,325	18.3%	22	0.1%	23,672
No conviction	3,506	81.6%	784	18.3%	5	0.1%	4,295
<b>Total findings</b>	<b>22,831</b>	<b>81.6%</b>	<b>5,109</b>	<b>18.3%</b>	<b>27</b>	<b>0.1%</b>	<b>27,967</b>
<b>% convictions</b>	<b>84.6%</b>		<b>84.7%</b>		<b>81.5%</b>		<b>84.6%</b>
All Courts	Male	% of total	Female	% of total	Other	% of total	Total
Conviction	20,508	82.0%	4,477	17.9%	26	0.1%	25,011
No conviction	3,669	81.7%	816	18.2%	5	0.1%	4,490
<b>Total findings</b>	<b>24,177</b>	<b>82.0%</b>	<b>5,293</b>	<b>17.9%</b>	<b>31</b>	<b>0.1%</b>	<b>29,501</b>
<b>% convictions</b>	<b>84.8%</b>		<b>84.6%</b>		<b>83.9%</b>		<b>84.8%</b>

1.32 Where the Court disposal was one of a monetary penalty there was a higher proportion of female offenders who received a fine as a disposal. For those offenders who received monetary disposals the breakdown was as follows:

<sup>32</sup> Note: Includes sex not stated, transgender and other offenders, that is companies, public bodies etc. *Analytical Services Group, DoJ Court Prosecutions, Convictions and Out of Court Disposals Statistics for Northern Ireland, 2019*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/prosecutions-convictions-and-diversionary-disposals-2019-published-version.pdf>



**Table 8: Number and percentage of convictions for monetary disposal and Court type, 2019.<sup>33</sup>**

Gender	Crown Court		Magistrates' Court		All Courts	
	Number	% Convictions disposed of by monetary penalty	Number	% Convictions disposed of by monetary penalty	Number	% Convictions disposed of by monetary penalty
Male	36	3.0%	10,823	56%	10,859	53%
Female	6	3.9%	2,650	61.3%	2,656	59.3%
Other	4	100%	13	59.1%	17	65.4%
Total	46	3.4%	13,486	57%	13,532	54.1%

<sup>33</sup> Includes sex not stated, transgender and other offenders, that is companies, public bodies etc. *Analytical Services Group, DoJ, Court Prosecutions, Convictions and Out of Court Disposals Statistics for Northern Ireland, 2019*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/prosecutions-convictions-and-diversionary-disposals-2019-published-version.pdf>

## CHAPTER 2: STRATEGY AND GOVERNANCE

### PRT Report

- 2.1 The *PRT Report* (the Report) said that the prison population rise reflected a continuing failure to get to grips with longstanding population drivers, one of which was fine defaulters. It did nothing to address the needs of offenders or society, and made prisons much more difficult to run, with significant resources devoted to the crucial early processes of committal and assessment. Nor did it do anything to deal with the actual problem of people who were either too poor to pay a fine, or who could avoid payment at the further public expense of a couple of days in prison.
- 2.2 The Report cautioned that building more capacity was not the answer without tackling some of the long-running issues that drive up the prison population<sup>34</sup> including imprisonment for fine default, and recommended supervised activity orders as the norm for fine defaulters. The Report's first recommendation was:

*'There should be supervised activity order pilot schemes in more than one location, rolled out during 2012. Building on the lessons learnt, and the resources required, there should be legislation in 2013 so that supervised activity or distraint of income is a presumption in cases of fine default'*<sup>35</sup>

### Programme for Government

- 2.3 The *draft Programme for Government*<sup>36</sup> had Indicator 38 to increase the effectiveness of the justice system: the lead measure being the proportion of criminal cases processed within guideline time limits.
- 2.4 The rationale was that access to justice and speedy resolution for victims in terms of cases reaching an end point was a vital element of confidence in the justice system, and the lead measure was one element of understanding the effectiveness of the justice system. Overall confidence, justice outcomes, and efficiency were also measures of how the system performed. However, speed of the system was a vital measure and required understanding on an end-to-end basis, but also in terms of the key stages of the process.<sup>37</sup>

34 Others were lengthy periods spent on remand, and the ineffectiveness of short custodial sentences.

35 *Prison Review Team. Review of the Northern Ireland Prison Service. Conditions, management and oversight of all prisons. Final Report, October 2011, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/owers-review-of-the-northern-ireland-prison-service.pdf>*

36 *Draft Programme for Government Framework 2016-21, available at <https://www.northernireland.gov.uk/sites/default/files/consultations/newnigov/draft-pfg-framework-2016-21.pdf>*

37 *Draft Programme for Government Framework 2016 – 21, available at <https://www.northernireland.gov.uk/sites/default/files/consultations/newnigov/draft-pfg-framework-2016-21.pdf>*

- 2.5 To further Indicator 38, it was the DoJ's intention to bring forward an end-to-end measure starting with the date on which a crime was reported to the police and ending on the date on which the Court disposed of the case.<sup>38</sup> So while the effective enforcement of judicial penalties was part of the overall effectiveness of the criminal justice system and affected public confidence, the lead measure with an end-to-end process which finished with the Court disposal of the case did not consider the effectiveness of penalty enforcement.<sup>39</sup>

### **The DoJ Corporate Plan 2019-22 and Business Plan 2020-21<sup>40</sup>**

- 2.6 The *DoJ Corporate and Business Plan* outlined five priority work areas which included to deliver an effective justice system, and to secure confidence in the justice system. Although not referred to specifically, both of these are relevant to the effectiveness of fine penalty enforcement.
- 2.7 There was no specific reference in the *DoJ Corporate and Business Plan* to the use or effectiveness of supervised activity orders as a means of reducing the number of people sent to prison for fine default.

### **The NICTS**

- 2.8 The NICTS acted as an agent for the Northern Ireland Consolidated Fund, and was responsible for the collection of revenue from monetary penalties imposed each year by the Judiciary, the PSNI and the Driver and Vehicle Agency. These impositions included fixed penalty notices, penalty notices, Court imposed monetary penalties (namely fines, extra costs, other party costs, compensation for victims of crime, offender levy and fixed penalty enforcement fines), and confiscation orders.<sup>41</sup> The revenue collected was payable to either the Northern Ireland Consolidated Fund or other third parties who were typically other Government Departments and victims of crime who have been awarded compensation by the Court.<sup>42</sup>
- 2.9 The NICTS *Business Plan<sup>43</sup> 2018-2019* provided for the establishment of a new FCS during 2018-19 to modernise the way in which fines and other penalties were collected, including the introduction of attachment of earnings; deduction from benefits and bank freezing orders. In addition, Courts would have a broader range of options to deal with non-payment, including supervised activity orders.

38 *Draft Programme for Government Framework 2016-21*, available at <https://www.northernireland.gov.uk/sites/default/files/consultations/newnigov/draft-pfg-framework-2016-21.pdf>

39 See also DoJ, *Draft PFG delivery Plan 16-21, Indicator 38: Effectiveness of the Justice System*, available at <http://nics.intranet.nigov.net/justice/documents/programme-government-doj-indicators>

40 *DoJ Corporate Plan 2019-2022 and Business Plan 2020-2021*, available at [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/doj-corporate-business-plan-20\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/doj-corporate-business-plan-20_0.pdf)

41 Confiscation orders were not within the remit of the Fine Enforcement and Collection Service.

42 *Northern Ireland Courts and Tribunals Service Trust Statement, For the year ended 31 March 2019, 25 March 2020* available at [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen_0.pdf)

43 *NICTS Business Plan 2018-19*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/NICTS%20Business%20Plan%202018-19.pdf>

2.10 There was a business objective to manage the timely and effective implementation of the new FCS and conduct an initial review of performance standards and service delivery for implementation by March 2019. The NICTS *Business Plan 2019-20*<sup>44</sup> also had a business objective to support the DoJ in its review of the FCS. There was no objective in relation to supervised activity orders.

2.11 Fine Payments to the NICTS could be made by a variety of means: from January 2010, fines<sup>45</sup> could be paid to the NICTS online, by telephone using a credit or debit card, or by posting a cheque or postal order. They can also be paid in person at a Court.

### Justice Act (Northern Ireland) 2016

2.12 The Justice Act (Northern Ireland) 2016<sup>46</sup> received Royal Assent on 12 May 2016. Part 1 provided for the enforcement and collection of fines and other penalties and commenced on 1 June 2018.

2.13 Part 1 and related secondary legislation<sup>47</sup> provided an approach to the payment, collection and enforcement of financial penalties whereby the Court could make a collection order when imposing a financial penalty. Collection and enforcement was then delegated, under the authority of the order, to an administrative NICTS centralised collection service: the FCS.

2.14 The provisions applied to fines, compensation orders, the offender levy, costs imposed by Court, fixed penalties and penalty notices and any other sums that were subsequently registered or treated as Court fines for the purpose of enforcement. They also applied to any such sums due when imposed by Courts in Northern Ireland, or where a Court in Northern Ireland was responsible for their enforcement, for example, sums due as a result of their being transferred to Northern Ireland from Great Britain.<sup>48</sup>

44 *NICTS Business Plan 2019-20*, available at [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/NICTS%20Business%20Plan%2019\\_20%20Final.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/NICTS%20Business%20Plan%2019_20%20Final.pdf)

45 The term "fine" covers Court-imposed monetary penalties, juror fines and fixed penalties which have been registered with the Court.

46 <https://www.legislation.gov.uk/nia/2016/21/contents>

47 A number of other provisions were also relevant:

- the Enforcement of Fines and Other Penalties Regulations (Northern Ireland) 2018;
  - the Magistrates' Courts (Amendment No. 2) Rules (Northern Ireland) 2018;
  - the Social Security (Fines) (Deduction from Benefits) Regulations (Northern Ireland) 2018;
  - the Enforcement of fines and Other Penalties (Revocations) Orders (Northern Ireland) 2018; and
  - the Magistrates' Courts (Fees) Amendment Order (Northern Ireland) 2018.
- *The Northern Ireland Courts and Tribunals Service. Court Operations Guidance – Fine Collection and Enforcement Changes*. Internal Document.

48 *DoJ Guidance for the Collection and Enforcement of fines and Other Penalties under the Justice Act (Northern Ireland) 2016*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/guidance-for-collection-and-enforcement.pdf>

2.15 Part 1 provided for:

- the functions and designation of Collection Officers;
- Courts to make a collection order when imposing (or registering) a financial penalty;
- Collection Officers to contact the debtor in default;
- improved access to benefit, income and vehicle ownership information for the purposes of collection and enforcement;
- ability for Collection Officers to agree instalment orders or additional time to pay with debtors;
- new powers for the deduction of payments from a debtor's income from either earnings or relevant welfare benefits to clear financial penalties;
- powers to access bank accounts and for the seizure of vehicles in cases of non-payment;
- revised powers relating to the use of supervised activity orders to allow debtors to work in the community;
- a new summons procedure for default referral hearings;
- power to issue an arrest warrant for non-attendance at a referral hearing; and
- limitations on sentence remission for those in custody for fine default.

### **Fine Collection and Enforcement Statutory Guidance**

2.16 Statutory guidance had been produced in accordance with section 26 of the Justice Act (Northern Ireland) 2016 which Collection Officers must have regard to when carrying out their duties. The guidance explained the collection order and its operation, the role of the Collection Officer, what penalties were included, the collection and enforcement orders, Court powers, offences and appeals.<sup>49</sup>

### **Collection Officers**

2.17 The legislation provided for the DoJ to designate civil servants in the Department as Collection Officers. The general functions of a Collection Officer were:

- to provide debtors with information and advice about payment of the sums due; and
- to secure compliance with collection orders.

### **Collection Orders**

2.18 Collection orders were created to allow for the payment of fines through various collection and enforcement options, administered by a Collection Officer.

2.19 A collection order was made by a Court and directed how the sum due may be paid. It set out the terms of how the payment is to be collected as well as the time period according to the option chosen, and enabled Collection Officers to undertake certain collection and enforcement action if default occurred.

<sup>49</sup> DoJ *Guidance for the Collection and Enforcement of fines and Other Penalties under the Justice Act (Northern Ireland) 2016*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/guidance-for-collection-and-enforcement.pdf>

2.20 The Collection Officer's powers under the collection order came into effect when the debtor failed to pay the sum due within the time appointed by the Court at the point of its making.

2.21 Where the debtor was an individual, the Collection Officer must take reasonable steps to contact the debtor in order to verify or obtain pertinent financial and personal information.<sup>50</sup> Where the debtor was a company, the Collection Officer will endeavour to contact an officer of that company to verify or obtain the relevant information.<sup>51</sup>

### Enforcement Orders and their sequencing

2.22 The Justice Act (Northern Ireland) 2016 provided for sequencing of enforcement action by the Collection Officer:

- the Collection Officer must first consider extension of time and payment by instalments (where applied for by the debtor);
- the Collection Officer may then consider either an attachment of earnings order or an application for deductions from benefits (whether or not the debtor has applied to the Collection Officer for such orders or consents);
- if the debtor is in receipt of a relevant benefit, the Collection Officer may make an application to the Department for Communities (DfC) for deductions from benefits;<sup>52</sup>
- where the debtor is receiving or expecting to receive earnings from employment then the Collection Officer may make an attachment of earnings order;
- if the debtor is both in receipt of a relevant benefit and is in employment, the Collection Officer may use their discretion to choose which option to apply for or impose;

50 This includes:

- debtor's full name, address, date of birth and National Insurance number;
- earnings or income the debtor receives or expects to receive;
- employer details;
- details of any welfare benefits the debtor is in receipt of;
- details of any bank accounts held in the debtor's sole name; and
- details of any vehicle registered to the debtor.

51 This includes:

- the company's name and registered address;
- details of any bank account the company holds; and
- details of any vehicle registered to that company.

52 Priority: The collection of fines is placed sixth in the list of priority payments that can be taken by way of a deduction order. Deduction orders for payments which rank above fines in that list will be dealt with first. The priority is as follows:

- (a) housing costs and hostel payments;
- (b) service charges for fuel and rent;
- (c) fuel costs;
- (cc) water charges;
- (d) rates;
- (dd) fines etc.;
- (e) payments in place of payments of child support maintenance;
- (f) integration loans.

*Justice Act (Northern Ireland) 2016, section 15(1)(c). The Social Security (Fines) (Deduction from Benefits) Regulations (Northern Ireland) 2018 Regulation 5 amending Social Security (Claims and Payments) Regulations (Northern Ireland) 1987 Schedule 8A Paragraph 9(1)(b).*

- where the above options have not secured payment of the outstanding amount then the Collection Officer may make an interim bank account order and refer the debtor's case to the responsible Court; and
- should an interim bank account order fail or be considered inappropriate, the Collection Officer may consider a vehicle seizure order. Only the responsible Court may make a vehicle seizure order, and it may only be requested if the Collection Officer is satisfied of the debtor's eligibility for that order.

2.23 When a Collection Officer refers the debtor's case to the Court for a default referral hearing they must provide a report detailing:

- all actions taken to date;
- any contact with the debtor or steps taken to make contact;
- information obtained or verified regarding the debtor; and
- any steps the debtor has taken to provide payment towards the sum due.

### **Court Powers**

2.24 Where a default case is referred back to Court, the Court has a full suite of powers under the Justice Act (Northern Ireland) 2016 to deal with the debtor and recoup the outstanding amount.

2.25 The following options are open to the Court regardless of whether the Collection Officer has already tried them or not:

- (a) extension of time;
- (b) allow payment by instalment;
- (c) where applicable, require the Collection Officer to make an application for deduction from benefits or make an attachment of earnings order;
- (d) make a bank account order (regardless of whether the Collection Officer has made an interim order);
- (e) make a vehicle seizure order (regardless of whether the Collection Officer has applied for it);
- (f) issue a warrant of distress;
- (g) if the debtor is aged over 18 make a supervised activity order;
- (h) if the debtor is aged 16 or 17 make an attendance centre order;
- (i) issue a warrant of committal to prison; and
- (j) remit the fine wholly or in part having regard to any change in the debtor's circumstances since the conviction concerned.



### Presumption in favour of Supervised Activity or Dstraint of Income

- 2.26 It was the view of the PRT that supervised activity orders should be the norm for fine default, and custody should be a wholly exceptional disposal for fine defaulters. It recommended that legislation should be strengthened so that there was a presumption in favour of a supervised activity order, and supervised activity or dstraint of income was a presumption in the legislation for cases of fine default.<sup>53</sup> The Justice Act (Northern Ireland) 2016 had been drafted to take account of this.<sup>54</sup>
- 2.27 Section 9 (3) of the Justice Act (Northern Ireland) 2016 provided that the Court may not make a supervised activity order or an attendance centre order without having considered and dismissed each of the options at (a) - (f).
- 2.28 Section 9 (4) also provided that the Court may not issue a warrant of committal or remit the fine in whole or in part without having considered and dismissed either a supervised activity order or an attendance centre order and accordingly, each of the options under (a) - (f).
- 2.29 Also, where a supervised activity order or a warrant of committal to prison was chosen and imposed, the Court must outline its reasons for doing so (s9 (5)).

### Issue of Fine Warrants to the PSNI

- 2.30 The PAC recommendation<sup>55</sup> (see Chapter 1), was that targets should be set to ensure that all warrants were executed on a timely basis, and that the NICTS should undertake regular reconciliations of all warrants issued to the PSNI, and seek explanation for warrants outstanding for more than six months.<sup>56</sup> A Service Level Agreement was developed subsequently between the PSNI and the NICTS to formalise the arrangements for the timely execution, exchange and management of records of fine default warrants.

53 PRT, *Review of the Northern Ireland Prison Service, Conditions, management and oversight of all prisons. Final Report, October 2011*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/owers-review-of-the-northern-ireland-prison-service.pdf>

54 Imprisonment for fine default in Northern Ireland continues to be raised by the Northern Ireland Human Rights Commission in its annual statements – while it welcomed the Justice Act (Northern Ireland) 2016 in its 2018 statement, imprisonment for fine default remained on ‘amber’ status in the 2020 annual statement. In respect of the right to liberty and security of the person, the annual statement said there had been a lack of movement in introducing a statutory prohibition on imprisonment for fine default. *Northern Ireland Human Rights Commission, The 2020 Annual Statement, Human Rights in Northern Ireland, December 2020*, available at [https://www.nihrc.org/uploads/publications/NIHRC\\_Annual\\_Statement\\_2020.pdf](https://www.nihrc.org/uploads/publications/NIHRC_Annual_Statement_2020.pdf)

55 PAC, *Report on Northern Ireland Courts and Tribunals Service Trust Statement for the year ended 31 March 2013*, available at <http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/public-accounts-committee/reports-2011-2016/report-on-northern-ireland-courts-and-tribunals-service-trust-statement-for-the-year-ended-31-march-2013/>

56 Following a Divisional Court ruling in March 2013 (McLarnon et al. see Footnote 89), all fine warrants issued by a judge at a default hearing now contain a stated time period, up to a maximum of 12 months, for police to enforce the fine warrant. The Service Level Agreement states it would not be appropriate, in such circumstances, to commence a review process for warrants outstanding for six months. The review process takes place at the expiry of the stated time period.



- 2.31 The PSNI agreed a target to execute 75% of fine default warrants within the specified period of time for enforcement, or where this did not exist, within 12 months from the date of issue. It would also notify the NICTS of any unexecuted fine default warrants within one month of the expiry of the time period for execution; and provide an electronic warrant log setting out all attempts made to execute the warrant, circumstances which led to non-execution, and a recommendation regarding re-issue or remittance.
- 2.32 The PSNI also undertook to have a minimum of 75% of all monies received from the execution and subsequent payment of fine default warrants with the NICTS within 30 days.
- 2.33 The NICTS would inform the Judiciary fortnightly of all warrant logs received from the PSNI for remittal or re-issue and would notify the PSNI within three days of any judicial determination of the warrant log.
- 2.34 Designated NICTS and PSNI staff would jointly review quarterly performance data on the number of fine default warrants issued, executed, outstanding, returned unexecuted and subsequently re-issued.<sup>57</sup>
- 2.35 Within the PSNI comprehensive service guidelines had been issued in 2018 for the execution of monetary penalty and default fine warrants, and their prioritisation, execution and management were a District responsibility.
- 2.36 The service guidelines stressed that the PSNI must be able to evidence attempts at execution of default fine warrants for the Judiciary to consider re-issue or remittal, and the efforts of attempted execution should depend upon the gravity of the offence and/or whether there were multiple fine warrants.
- 2.37 They also provided for PSNI systems to be updated as far as possible, in real time as soon as a warrant was executed, either by arrest or payment. Controls were in place for Police Officers and staff when dealing with the execution of warrants by receiving cash payments.<sup>58</sup>

### **The NIPS: use of remission for fine defaulters**

- 2.38 In the *Enforcement of Fines* Inspection Report, Inspectors found that many defaulters were relaxed about going to prison for a short period to free themselves of their fines. Experienced offenders timed their custody to cause them minimum inconvenience. The system was costly to the NIPS, provided little incentive to defaulters to pay their fines, and on the contrary, it provided a positive incentive to opt for a period of custody.<sup>59</sup>

57 *Service Level Agreement between Police Service of Northern Ireland and Northern Ireland Courts and Tribunals Service, Execution of fine default warrants by PSNI.* Internal document.

58 *PSNI, Service guidelines for the execution of monetary penalty and default fine warrants, 2018.* Internal document.

59 *CJI Enforcement of Fines, March 2010*, available at <http://www.cjini.org/getattachment/d11d51ea-501e-45ea-bfe8-0c92f831830d/The-enforcement-of-fines.aspx>

- 2.39 The Justice Act (Northern Ireland) 2016 ended the opportunity for fine defaulters to avail of remission for their sentences, and s32 (1) provided for limitations on remission

*'32 (1) In section 13 of the Prison Act (Northern Ireland) 1953<sup>60</sup> (prison rules), after subsection (7) insert—*

*(7A) Prison rules may not provide for—*

- (a) the grant of remission to a person imprisoned or detained in default of a payment of a sum adjudged to be paid by or imposed on his conviction of an offence or a sum treated for the purposes of any statutory provision as if it were a sum so adjudged or imposed;*
- (b) the grant of remission to an offender in respect of a period of imprisonment under paragraph 5 or 6 of Schedule 3 to the Criminal Justice (Northern Ireland) Order 2008 (supervised activity order).<sup>61</sup>*

- 2.40 The Prison Act (Northern Ireland) 1953 had been amended accordingly. However, the Prison and Young Offenders Centre Rules (Northern Ireland) 1995, which were made by the DoJ in pursuance of section 13 of the Prison Act (Northern Ireland) 1953,<sup>62</sup> as extended by section 2 of the Treatment of Offenders Act (Northern Ireland) 1968,<sup>63</sup> had not been amended in line with the above. At the time of writing these still stated:<sup>64</sup>

*'30 (1) A prisoner serving a sentence of imprisonment for an actual term of more than 5 days may, on the ground of his good conduct, be granted remission in accordance with the provisions of this rule, but this rule shall not permit the reduction of the actual term to less than 5 days.*

*(2) The remission granted shall not exceed half the total of the actual term and any period spent in custody which is taken into account under section 26(2) of the Treatment of Offenders Act (Northern Ireland) 1968 (which relates to the duration of sentences).*

*(8) For the purposes of this rule*

- (b) a person committed to prison in default of a payment of a sum adjudged to be paid by a conviction shall be treated as serving a sentence of imprisonment.'*

60 <https://www.legislation.gov.uk/apni/1953/18/section/13>

61 *The Justice Act (Northern Ireland) 2016*, available at <https://www.legislation.gov.uk/nia/2016/21/introduction>

62 1953 c. 18 (N.I.) as modified by S.I. 1973/2163 (1973 III, p. 7541). *Prison Rules. The Prison and Young Offenders Centre Rules (Northern Ireland) 1995*. Northern Ireland Prison Service, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/prison-young-offender-centre-rules-feb-2010.pdf>

63 1968 c. 29 (N.I.) as modified by S.I. 1973/2163. *Prison Rules. The Prison and Young Offenders Centre Rules (Northern Ireland) 1995*. Northern Ireland Prison Service, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/prison-young-offender-centre-rules-feb-2010.pdf>

64 *Prison Rules. The Prison and Young Offenders Centre Rules (Northern Ireland) 1995*, Northern Ireland Prison Service, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/prison-young-offender-centre-rules-feb-2010.pdf>

- 2.41 As a result the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 also provided for remission for fine defaulters.<sup>65</sup>
- 2.42 The NIPS told us it has no issues with sentence calculation for fine defaulters under the current arrangements and Prison Rules had not changed for other types of sentences. However, Inspectors believe there is the potential to cause confusion and Prison Rules should clarify and reflect the amended legislation.

**OPERATIONAL RECOMMENDATION 1**

**The Department of Justice should progress an amendment to the Prison and Young Offenders Centre Rules (Northern Ireland) 1995 in accordance with the provisions of the Justice Act (Northern Ireland) 2016.**

- 2.43 Notwithstanding the anomaly regarding the Prison and Young Offenders Centre Rules (Northern Ireland) 1995, the NIPS had issued instructions to staff to update the fine calculation period for prisoners committed for fine default in line with the provisions of the Justice Act (Northern Ireland) 2016. A new sentence type entitled ‘Fined – 0% Remission’ had been added to Prison Record and Inmate Management System to accommodate the calculation of fine sentence periods where the qualifying offence date was on or after 1 June 2018 (the date of the implementation of the Justice Act (Northern Ireland) 2016). People committed to prison for fine default were still entitled to 50% remission if the offence took place prior to 1 June 2018, which undermined the effectiveness of a fine as a penalty, and potentially impacted on victims if compensation ordered is never received and cleared by committal to prison.

65 *The Prison and Young Offenders Centre Rules (Northern Ireland) 1995*, available at <https://www.legislation.gov.uk/nisr/1995/8/made>

## CHAPTER 3: DELIVERY

### The Fine Collection and Enforcement Service

- 3.1 The Justice Act (Northern Ireland) 2016 included provision for the establishment of a FCS within the NICTS creating dedicated Collection Officers with a range of new powers, which extend the ways in which financial penalties could be paid and enforced. Following a business case, which was approved in April 2016, the FCS was established on 1 June 2018, with the aim to:
- increase the number of financial penalties paid prior to default hearing;
  - reduce the number of fine warrants being issued to the PSNI for enforcement; and
  - reduce the number of defendants going to prison for non-payment of what can be relatively small value financial penalties.
- 3.2 The initial FCS staffing structure in the business case was:
- one Deputy Principal;
  - two Staff Officers;
  - 14 Executive Officers (grade one); and
  - two Administration Officers.
- 3.3 Following operation of the FCS, and implementation of its powers under the Justice Act (Northern Ireland) 2016, the NICTS found that the staffing structure did not provide an effective approach for business delivery, and the grading of the Collection Officers at Executive Officer grade 1 was not consistent with the role. This was also recognised in both the DoJ and the Business Consultancy Services (BCS) reviews referred to at paragraph 3.32.
- 3.4 The NICTS took action and introduced structural changes which involved the introduction of three separate teams focusing on distinct areas of processing, these were:
- a frontline services team;
  - a deductions team; and
  - an attachment of earnings and bank account team.
- 3.5 The NICTS utilised the funding from Executive Officer vacancies to introduce agency staff at Administration Officer level into the FCS.

3.6 The use of agency staff in itself was problematic, and was recognised in both the DoJ and the BCS reviews, and by the NICTS, and a business case had been made to replace the agency staff with permanent appointments giving a proposed structure of:

- one Deputy Principal;
- two Staff Officers;
- three Executive Officers (grade one);
- five Executive Officers (grade two); and
- 14 Administration Officers.

3.7 The business case compared the five-year costs of the proposed structure with the original structure of the Fine Collection and Enforcement Service as it was established on 1 June 2018.

**Table 9: Projected five-year costs of original and proposed FCS staffing structure.<sup>66</sup>**

	2021-22	2022-23	2023-24	2024-25	2025-26	Total
<b>Original FCS Structure (£)</b>	711,919	726,158	740,681	755,494	770,604	<b>3,704,856</b>
<b>Proposed FCS Structure (£)</b>	908,337	926,503	945,033	963,934	983,213	<b>4,727,020</b>

3.8 At the time of writing the business case was still under consideration by the NICTS. The NICTS were able to recoup FCS costs from fine payments through an arrangement with Her Majesty’s Treasury referred to later in this report.

3.9 During the fieldwork Inspectors spoke to FCS staff, permanent and agency, from teams across the three processing areas and were impressed with their knowledge of the fine collection procedures and their motivation; particularly during the difficult working arrangements during the period affected by the coronavirus COVID-19 pandemic.

***Oversight Board***

3.10 The FCS had an Oversight Board chaired by the NICTS Chief Executive with representatives attending from stakeholders such as the PSNI, the NIPS, the DoJ and the PBNI. The NICTS provided detailed updates on FCS activity and progress to the Board.

**Process for fine default from point of sentence**

3.11 The Court, following conviction, had sole responsibility for determining the level of fine and period of time allowed for payment.

<sup>66</sup> NICTS data. The business case has subsequently been now approved and as a result FCS transformation is progressing.

- 3.12 Collection orders had been created by the Justice Act (Northern Ireland) 2016 to allow for the payment of fines through various collection and enforcement options, administrated by a Collection Officer in the FCS.
- 3.13 A collection order set out the terms of how the payment was to be collected as well as the time period according to the option chosen, and enabled Collection Officers to undertake collection and enforcement action if default occurred.
- 3.14 In cases initiated before the 1 June 2018 (the commencement of the Justice Act (Northern Ireland) 2016), referred to as legacy cases, a collection order may be made against a debtor who had defaulted on a fine but the Court had yet to deal with the debtor for his/her default.
- 3.15 The collection order set out clearly the decision of the Court,<sup>67</sup> the amount of fine to be paid, the time frame allotted for payment and various payment options, information about contacting the Collection Officer responsible for enforcing the order, and the consequences of non-compliance.
- 3.16 The Collection Officer's powers under the collection order took effect when the debtor failed to pay the sum due within the time appointed by the Court.
- 3.17 Collection Officers administrated the collection orders and enforced the payment orders contained therein. They could provide advice to, and can seek information from, the debtor in order to assess which enforcement method will be most effective in each individual case.
- 3.18 A Collection Officer's functions under the Justice Act (Northern Ireland) 2016 were to:
- provide debtors with advice and information about payment;
  - secure compliance with the collection order; and
  - such further function as may be specified by regulations.<sup>68</sup>
- 3.19 If the Collection Officer cannot secure compliance with their information requests, they may apply to the Court for a summons to require the debtor to attend the Collection Officer at the time and place specified in the summons. Failure to attend without reasonable excuse was an offence. Summons for interview was identified as a time consuming task, which yielded very little benefit, and the Oversight Board made the decision to cease this practice in November 2018.

67 A collection order must include the following information:

- The amount of the sum due;
- Each separate amount which may make up the total sum due;
- If any portion has been paid by the debtor, the amount of that portion and the outstanding amount to be collected;
- Information about how payment may be made under the terms of the order;
- Information about contacting the Collection Officer responsible for enforcing the order; Information to the debtor which explains the effect of the order and any consequences for non-compliance; and
- If the Court orders an application for deductions from benefits or makes an attachment of earnings order, the terms of those orders. *Justice Act (Northern Ireland) 2016, section 3(4)*

68 *The Justice Act (Northern Ireland) 2016. s2(2).*

## Means Enquiry Form

- 3.20 The FCS section of the DoJ website contained a section for people having difficulty paying an outstanding fine penalty.<sup>69</sup>
- 3.21 It stated that people having difficulty paying or who have questions about making payments should contact the FCS immediately, and if requesting additional time to pay or payment via instalments, a Means Enquiry Form should be completed and returned to the FCS for consideration. A link was provided to the form that asked for personal and financial information regarding income, benefits and outgoings,<sup>70</sup> as provided for by the Justice Act (Northern Ireland) 2016. On the website, it was clear that the Means Enquiry Form was a document for completion post-conviction.
- 3.22 The Public Prosecution Service for Northern Ireland forwarded Means Enquiry Forms, provided by the NICTS, to all defendants in summary cases attached to their summons.
- 3.23 The form stated that:
- the Court will consider your financial circumstances if you are to be fined;
  - completing the form will help the Court set your fine at a level you can pay; and
  - it will help the Court decide whether you should be allowed time to pay the fine or to pay by instalments.
- 3.24 While the form did state that the information given may be used by the NICTS to enforce collection of any Court-ordered penalty, it also implied that there was a legal obligation on the person to complete the Means Enquiry Form and provide financial information prior to the Court hearing<sup>71</sup>. It stated:

69 <https://www.justice-ni.gov.uk/articles/fine-collection-and-enforcement-service>

70 DoJ website. Available at <https://www.justice-ni.gov.uk/articles/fine-collection-and-enforcement-service>

71 The position was similar to that in England and Wales where a form MC 100 (Statement of assets and other financial circumstances) was be attached to a summons for Magistrates' Court proceedings. [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/688361/mc100-eng.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/688361/mc100-eng.pdf). The difference was however, that in England and Wales it was an offence not to provide the Court with a statement of assets and other financial circumstances following an official request, to make a false statement or to knowingly fail to disclose material facts.

(1) A person who is charged with an offence who, in furnishing a statement of financial circumstances (whether a statement of assets, of other financial circumstances or of both) in response to an official request—

- (a) makes a statement which he knows to be false in a material particular;
- (b) recklessly furnishes a statement which is false in a material particular; or
- (c) knowingly fails to disclose any material fact, shall be liable on summary conviction to imprisonment for a term not exceeding three months or a fine not exceeding level 4 on the standard scale or both.

(1A) A person who is charged with an offence who fails to furnish a statement of financial circumstances (whether a statement of assets, of other financial circumstances or of both) requested by an official request shall be liable on summary conviction to a fine not exceeding level 2 on the standard scale.

(2) For the purposes of this section an official request is a request which—

- (a) is made by the designated officer for the magistrates' Court or the appropriate officer of the Crown Court, as the case may be; and
- (b) is expressed to be made for informing the Court, in the event of his being convicted, of his financial circumstances for the purpose of determining the amount of any fine the Court may impose and how it should be paid. *The Criminal Justice Act 1991*, available at <https://www.legislation.gov.uk/ukpga/1991/53/section/20A>



**'Your legal obligations**

*This is an official request from the Clerk of Petty Sessions. Please complete this means enquiry form and return it to the Court, either by posting it to the Court where your case is to be heard, or by bringing it with you on the morning of Court.*

*It is an offence when responding to an official request to:*

- *make a false statement;*
- *knowingly fail to disclose material facts.*

*You should **provide evidence** [original emphasis] of your financial circumstances e.g. payslips, benefit statements, bills. Therefore, please send copies of these along with your completed form, or bring them with you on the day of your hearing.'*

- 3.25 The information available to the Court pre-conviction had been addressed in previous Inspection reports. The 2010 Inspection of the *Enforcement of Fines*<sup>72</sup> report made the recommendation:

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

- 3.26 In a subsequent *Follow-up Review*<sup>73</sup> it was found that the recommendation had only been partly achieved. Inspectors recognised the work that the NICTS had undertaken, but the potential benefits had not been realised. Inspectors understood the arguments against making completion of the Means Enquiry Form mandatory, and in particular were conscious of the potential to increase avoidable delay, and to further criminalise people attending Court. However, with a completion rate of less than 1%, it was clear that the Means Enquiry Form scheme was not operating successfully. In the Review, Inspectors urged the NICTS, in consultation with the Fine Enforcement Project Group,<sup>74</sup> to fundamentally review the operation of the Means Enquiry Form and information initiative, with a view to dramatically increasing the completion rate. If the completion rate could be raised to an effective level, then the DoJ and the NICTS should reconsider the original Inspectorate recommendation that completion of the Means Enquiry Form should be mandatory.<sup>75</sup>

72 *CJI, The enforcement of fines, March 2010*, available at <http://www.cjini.org/getattachment/d11d51ea-501e-45ea-bfe8-0c92f831830d/The-enforcement-of-fines.aspx>

73 *CJI, The enforcement of fines, A follow-up review of Inspection recommendations, July 2012*, available at <http://www.cjini.org/getattachment/4c885d6d-9ffe-4791-83b4-26d374631f45/report.aspx>

74 The Fine Enforcement Project Group was replaced by the Fine Collection and Enforcement Programme Board in May 2013 which itself was formally closed in September 2018.

75 *CJI, The enforcement of fines, A follow-up review of Inspection recommendations, July 2012*, available at <http://www.cjini.org/getattachment/4c885d6d-9ffe-4791-83b4-26d374631f45/report.aspx>



- 3.27 The ability of a person to pay any fine had also been raised in 2014 by the PAC which recommended that the:
- 'NICTS should put in place a robust system to identify an individual's ability to pay before a fine is imposed. This would allow the Court to consider options at the outset to prevent fine default, including instalment orders, non-monetary supervised activity orders and other measures, such as deductions from earnings or benefits.'*<sup>76</sup>
- 3.28 The NICTS and the DoJ accepted this recommendation, and in 2016 reported it had been fully implemented. Means information was requested from offenders prior to Court, on a voluntary basis, through the Means Enquiry Form. The NICTS response went on to state that although the return rate for these forms prior to Court remained low, the Judge still had the ability to obtain this information in Court from the offender or his/her legal representative prior to imposing a fine. In Court, following conviction, the Judiciary also had access to an offender's fine history record, showing any previous fines in the last three years and how these fines had been cleared or if they remain outstanding.
- 3.29 The response included that the NICTS had written to the Law Society and the Bar Library to request that an e-alert reminder issued to members or that a note is placed in the Law Society magazine to encourage the completion of the necessary Means Enquiry Forms in respect of defendants.
- 3.30 It would be the view of Inspectors that the action taken by the NICTS in response to this recommendation could not be considered to have been sufficient to 'put in place a robust system to identify an individual's ability to pay before a fine is imposed'.
- 3.31 Inspectors understand that there was a very low completion rate for Means Enquiry Forms pre-conviction, those that were would be attached to the Judge's papers. The NICTS did not retain records of the numbers of forms completed and returned.
- 3.32 The BCS Report highlighted the high number of cases which were returned to Court for a default referral hearing because the debtor could not be traced. It said that this was neither an efficient nor effective use of resources and recommended that the NICTS should obtain the National Insurance number and date of birth when the accused is first notified to attend Court and enter these on the NICTS Integrated Court Operation System (ICOS).

<sup>76</sup> Public Accounts Committee. Report on Northern Ireland Courts and Tribunals Service Trust Statement for the year ended 31 March 2013 25 March 2020 available at <http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/public-accounts-committee/reports-2011-2016/report-on-northern-ireland-courts-and-tribunals-service-trust-statement-for-the-year-ended-31-march-2013/>

- 3.33 It would be the view of Inspectors that more needed to be done to ensure that the NICTS confirms the identities of people receiving fines, including basic information like a National Insurance number and date of birth at the initial Court hearing.
- 3.34 Inspectors were acutely aware of the potential implications of making completion of the Means Enquiry Form mandatory, particularly for increasing avoidable delay in the Court process and further criminalising people attending Court.
- 3.35 Just over 30% (over 13,500) fine default cases were sent to a default referral hearing because the Collection Officer had been unable to recover the money from the debtor, and had exhausted the available measures: a high number of which were because the debtor could not be traced. It was not an effective use of Collection Officer's, the NICTS, or the Court's time for a case to go through the FCS process and then to a default referral hearing, when there was an opportunity for the NICTS to clarify the person's identity at the initial Court hearing.
- 3.36 The NICTS should take action to address this issue.

**OPERATIONAL RECOMMENDATION 2**

**Within six months of the publication of this report, the Northern Ireland Courts and Tribunals Service should produce an action plan to allow the required personal and identity information, including mobile telephone and email address contact information, to be obtained from people against whom a collection order is made, at the Court where the order is made when it is made.**

**Powers of the Collection Officer**

- 3.37 The Justice Act (Northern Ireland) 2016 specified the sequencing of the enforcement measures available to Collection Officers.

**Requirement to provide information**

- 3.38 Collection Officers had information requiring powers to obtain or verify information regarding the debtor's details and financial circumstances.<sup>77</sup> There were also powers to verify or obtain information where the debtor was a company.

**Summons powers**

- 3.39 If the Collection Officer could not secure compliance to an information request, they may apply to a Magistrates' Court for a summons to require the debtor to attend on the Collection Officer at a time and place specified in the summons.<sup>78</sup>

<sup>77</sup> These are:

- Debtor's full name, address, date of birth and National Insurance number;
- Earnings or income the debtor receives or expects to receive;
- Employer details;
- Details of any welfare benefits the debtor is in receipt of;
- Details of any bank accounts held in the debtor's sole name; and
- Details of any vehicle registered to the debtor. *Justice Act (Northern Ireland) 2016, section 5(2) and 5(7)*

<sup>78</sup> For each summons served by the summons servers the NICTS is charged £17.00. *Source NICTS*

*Variation powers*

- 3.40 Collection Officers also had powers to vary the terms of the collection order at the request of the debtor, and may vary the order by allowing an extension of time to pay, or payment by instalments, or to vary the instalment amounts or periods if these were already in place.

*Deductions from benefits*

- 3.41 When a case was referred to the FCS to pursue fine recovery, a reminder letter and text message, where a mobile phone number was known, was sent to the debtor setting out all of the recovery options available to the Collection Officer, and to encourage the debtor to make contact with the Collection Officer within 10 days.
- 3.42 If no contact was received the case then moved to the Deductions Team to complete a benefit check.
- 3.43 For benefits checks FCS staff used a Department of Work and Pensions portal, Searchlight, to establish if a debtor was in receipt of benefits. Collection Officers had restricted access which limited their ability to identify individuals. Where a Searchlight check was unable to identify an individual, the case had then to be forwarded to the DfC for a further check to be made by staff who had a greater level of access to the system.
- 3.44 This was time consuming and inefficient for both the NICTS and the DfC, and the NICTS was in discussion with the DfC to establish if FCS staff could have better access to Searchlight. At the time of writing this work was ongoing. Inspectors would support the NICTS case that increased access for Collection Officers would provide efficiency gains for both Departments, and would streamline the process to identify debtors in receipt of benefits.
- 3.45 If it was established that the debtor was in receipt of benefits, then a further reminder letter was sent to the debtor advising that if no contact was made within 10 days, a formal application would be made to the DfC to have fine recovery made directly from the debtor's benefits.
- 3.46 If the debtor failed to make contact, the Collection Officer would then make a formal deduction from benefits application to the DfC.
- 3.47 The DfC had sole responsibility for deciding if a deduction from benefit should be made.<sup>79</sup> The maximum amount deducted by the DfC through its third party deductions scheme was £5 per week.

<sup>79</sup> Assessment is made in accordance with The Social Security (Fines) (Deduction from Benefits) Regulations (Northern Ireland) 2018.

- 3.48 It was possible that the DfC may be dealing with more than one deduction from benefit in relation to a single debtor: deduction from benefits linked to outstanding fines, was sixth on the payment priority order:
- housing costs and hostel payments;
  - service charges for fuel and rent;
  - fuel costs;
  - water charges;
  - rates;
  - fines etc.;
  - payments in place of payments of child support maintenance; and
  - integration loans.
- 3.49 A debtor had a right of appeal against a decision to deduct from benefits made by the DfC.
- 3.50 Each month a remittance was sent by the DfC to the FCS, in the form of a spreadsheet, detailing the deduction from the debtors' benefits which had been taken that month. FCS records could not be updated automatically and staff in the FSC had to undertake a manual update of the records for each debtor. This could take five to six days each month as the remittance could contain up to 2,700 records of deduction from benefits. This was a very time-consuming process, which would continue indefinitely, and the numbers involved were likely to significantly increase when Universal Credit was added to the list of relevant benefits. This was also recognised in the BCS review, and at the time of writing the NICTS was pursuing the matter with its Digital Transformation Team. **As an area for improvement the Northern Ireland Courts and Tribunals Service should automate the deduction from benefits record of payments update process within six months of the publication of this report.**
- Deductions from benefits - Universal Credit**
- 3.51 Section 14 (1) of the Justice Act (Northern Ireland) 2016 provided for the Department for Social Development<sup>80</sup> to deduct sums from amounts payable to the debtor by way of a relevant benefit for the purpose of securing payment of the outstanding amount.
- 3.52 Section 14(2) stated this may be deducted in the case of a debtor who, at the time of the application, was an individual aged 18 or over, and was in receipt of a relevant benefit, defined in s14(3) as:
- income support;
  - jobseekers' allowance;
  - state pension credit; and
  - employment and support allowance.

80 As of the 9 May 2016 the Department for Social Development was dissolved with its responsibilities largely taken on by the Department for Communities (DfC).

- 3.53 Universal Credit was being developed, but did not exist, when the Justice Act (Northern Ireland) 2016 was passed. To facilitate its future inclusion, provision was taken to allow the addition of benefits to s14 (3) by way of an Order.
- 3.54 Section 14 (7) stated that the DoJ may by Order, amend this section to add a benefit to the list of relevant benefits or remove a benefit from the list. During the inspection the Justice Act (Northern Ireland) 2016 had not been amended to include Universal Credit as a relevant benefit, and the NICTS was unable to apply for deduction from benefits from the growing number of people who had been moved to Universal Credit.
- 3.55 In October 2020 the Committee for Justice considered information from the DoJ on a proposal to make a Statutory Rule under section 14(7) of the Justice Act (Northern Ireland) 2016, to add Universal Credit to the list of benefits from which payments can be taken under the Act: the Committee agreed that it was content with the proposal.<sup>81</sup>
- 3.56 As the DfC was responsible for the deduction from benefits, any Order that could be viewed as cross-cutting would need Northern Ireland Executive approval. Inspectors understand that it was intended to bring the Order before the Northern Ireland Executive to debate at that time however, the DfC became aware of Judicial Reviews in respect of the deductions from Universal Credit in England and Wales and the progression of the order was delayed until the outcome of the Judicial Reviews were known. At the time of writing the judgment had been delivered and Inspectors understand that it was the view within the DoJ that the ruling would not affect the position in Northern Ireland, and it was its intention to have the matter debated before the summer recess.
- 3.57 Where it was established that a fine defaulter was receiving Universal Credit the NICTS took the decision that, rather than refer these cases back to a default review Court, they would be held pending inclusion of Universal Credit as a relevant benefit.
- 3.58 At November 2020 there were approximately 4,700 cases awaiting a change in the legislation with debts totaling approximately £1.12 million.<sup>82</sup>

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81 *Committee for Justice, Minutes of Proceedings, Thursday 8 October 2020*, available at <http://www.niassembly.gov.uk/globalassets/documents/committees/2017-2022/justice/minutes-of-proceedings/2020---2021/mops-8-october-2020.pdf>

82 *NICTS data*.

- 3.59 Universal Credit was replacing a number of other benefits<sup>83</sup> as the only income-based benefit, and it was intended that all claimants would be moved to Universal Credit by 2023: it was being rolled out incrementally, and all new claimants or people with changed circumstances transferred to Universal Credit. As a result, the number of people claiming Universal Credit was growing,<sup>84</sup> and those claiming other benefits, which did qualify for deductions under the Justice Act (Northern Ireland) 2016, were reducing. This impacted on the ability of the Courts and the FCS to enforce payment.
- 3.60 On 29 June 2021 the legislation was amended by the Northern Ireland Assembly through the Justice Act (Northern Ireland) 2016 (Relevant Benefits) Order (Northern Ireland) 2021 and made Universal Credit a relevant deductible benefit. This will immediately create a backlog of cases for the FCS and the DfC to deal with and preparations need to be made between the two organisations to ensure that this is managed. Inspectors were aware that the NICTS was in contact with the DfC to progress this matter.

**OPERATIONAL RECOMMENDATION 3**

**The Northern Ireland Courts and Tribunals Service should effectively resource the Fine Collection and Enforcement Service to deal with the accumulated backlog of outstanding cases following the addition of Universal Credit as a deductible benefit after the passing of the Justice Act (Northern Ireland) 2016 (Relevant Benefits) Order (Northern Ireland) 2021.**

*Attachment of earnings*

- 3.61 Where the debtor was receiving or expecting to receive earnings from employment the Collection Officer may make an attachment of earnings order. These orders allowed for the payment of fines to be recouped through regular deductions taken from an employee's wage. Earnings included wages or salary, pension or statutory sick pay.<sup>85</sup>

83 • Jobseeker's Allowance (income-based)  
• Employment and Support Allowance (income-related)  
• Income Support  
• Working Tax Credit  
• Child Tax Credit.

*Universal Credit, What you need to know, Department for Communities, available at <https://www.communities-ni.gov.uk/sites/default/files/publications/communities/dfc-universal-credit-introduction.pdf>*

84 The number of claimants in Northern Ireland on Universal Credit rose from 100 in October 2017 to 132,640 in August 2020. *Department for Communities, Universal credit statistics - August 2020, available at <https://www.communities-ni.gov.uk/publications/universal-credit-statistics-august-2020>*

85 None of the following shall be treated as earnings—

- sums payable by any public department of a territory outside the United Kingdom;
- pay or allowances payable to the debtor as a member of Her Majesty's forces other than pay or allowances payable by an employer to that person as a special member of a reserve force (within the meaning of the Reserve Forces Act 1996(3));
- pensions, allowances or benefits payable under any statutory provision relating to social security;
- pensions or allowances payable in respect of disablement or disability;
- guaranteed minimum pension within the meaning of the Pension Schemes (Northern Ireland) Act 1993(4);
- working tax credit payable under section 10 of the Tax Credits Act 2002(5);
- sums paid to reimburse expenses wholly and necessarily incurred in the course of the employment. *Justice Act (Northern Ireland) 2016, section 6(12) and 18(6), and The Enforcement of Fines and Other penalties Regulations (Northern Ireland) 2018 Regulation 6*

- 3.62 Where a debtor was not receiving benefits an enquiry would be made with Her Majesty’s Revenue and Customs (HMRC) to establish if the debtor was in employment. Up to January 2021 there had been almost 17,000 requests made by Collection Officers to HMRC. Like the position regarding Searchlight this was an inefficient process and the NICTS had been in discussion with HMRC with a view to providing Collection Officers with direct access to the system. At the time of writing these discussions were ongoing and the NICTS was hopeful that the matter could be satisfactorily resolved.
- 3.63 The Collection Officer may request that the debtor or the employer provides a statement of earnings within 14 days from the date of the direction, and the attachment of earnings order set out the amount to be recovered from the debtor’s earnings, and how the payments were to be made. The rates of deductions were dependent on the level of earnings: rates were specified in the DoJ guidance.<sup>86</sup>
- 3.64 FCS staff had experienced increased difficulty contacting staff working in companies’ human resources and payroll departments because of the coronavirus COVID-19 pandemic, as many of them were working from home and could be difficult to reach.
- 3.65 There had been a small number of cases where employers had been reluctant to participate willingly with the requirements of the Collection Officer. FCS staff would write to the employer to warn them about the consequences of non-participation, but at the time of writing, there was no established process within the FCS to institute a prosecution if the non-compliance continued. Inspectors understand that the NICTS was exploring this matter with its legal staff to establish a process to prosecute non-compliance.

**OPERATIONAL RECOMMENDATION 4**

**Within six months of the publication of this report, the Northern Ireland Courts and Tribunals Service should establish a process for sending warning letters to employers who fail to comply with the legislation on attachment of earnings within the stipulated period. Prosecutions should be progressed against employers where there is continued non-compliance.**

*Bank Account Orders*

- 3.66 Bank account orders allowed for the payment of fines to be recouped by the Court from wilful defaulters who had the money to pay but refused to do so.

86 DoJ, *Guidance for the Collection and Enforcement of fines and Other Penalties under the Justice Act (Northern Ireland) 2016*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/guidance-for-collection-and-enforcement.pdf>

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- 3.67 An interim bank account order could be made by the Collection Officer to ‘freeze’ money in the debtor’s account,<sup>87</sup> which ordered the deposit-taker not to do anything that:
- would reduce the credit balance of the debtor’s account below the specified amount; or
  - if the credit balance was already below the specified amount, would reduce it further.
- 3.68 A Court hearing was then held to determine if a bank account order should be made, and to order the sum to be removed from the account and paid to the Court. The Collection Officer must attend the hearing to give any evidence the Court may require.<sup>88</sup>
- 3.69 Even though there was a relatively low number of bank account orders issued, the requirement for a Collection Officer to attend Court was resource intensive for FCS staff, particularly if held outside Belfast. However, as a result of the coronavirus COVID-19 pandemic, changed working practices had been put in place to allow the Collection Officer to attend the hearing and give such evidence as the Court may require remotely via video link. There did not appear to be any reason why this could not continue when the Courts returned to normal working arrangements.

### **Vehicle Seizure Orders**

- 3.70 Vehicle seizure orders allowed for the payment of fines to be recouped by the Court through the seizure of vehicles from wilful defaulters who had the money to pay. They were a method of last resort and could only be imposed by a Court.
- 3.71 The order directed that the vehicle in question was seized, and if payment of the outstanding amount was not made, the vehicle would be sold or otherwise disposed of, and the proceeds of sale used to pay the outstanding amount owed by the debtor.
- 3.72 There were stringent criteria that the Collection Officer must be satisfied about before requesting a vehicle seizure order to the Court:
- the debtor is the sole owner of the vehicle and that it is registered in the debtor’s name;
  - the debtor has sufficient means to actually pay the outstanding amount; and
  - the value of the vehicle is sufficient to pay the outstanding amount, and the amount of any charges likely to be imposed and costs likely to be incurred in connection with executing a vehicle seizure order in relation to the vehicle.

87 An interim bank account order may only be made when the Collection Officer is satisfied that-

- the account is held in the debtor’s sole name;
- there are funds in the account. *Justice Act (Northern Ireland) 2016, section 6(5).*

88 *Section 9 Justice Act (NI) 2016. Also Department of Justice. Guidance for the Collection and Enforcement of fines and Other Penalties under the Justice Act (Northern Ireland) 2016. Available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/guidance-for-collection-and-enforcement.pdf>*



3.73 A vehicle seizure order may not be made in respect of the following vehicles:

- a vehicle which displays a disabled person's badge or recognised badge;
- a vehicle which it is reasonable to believe is used for the carriage of a disabled person;
- a vehicle used for police, fire and rescue or ambulance purposes; and
- a vehicle used by a medical practitioner on call with a badge on display confirming their status.

3.74 There had been no vehicle orders instituted at the time of the Inspection, and as the vehicle seizure order was a method of last resort, Collection Officers were of the view that it would be difficult to meet the criteria to make application to the Court. For example if the vehicle was purchased or leased under finance arrangements the debtor would not be the 'sole owner'. In addition under the sequencing arrangements the Collection Officer would first have had to consider deductions from benefit, attachment of earnings and a bank account order before a vehicle seizure order. If none of these were possible it would be difficult for the Collection Officer to satisfy the Court that the debtor had 'sufficient means to pay the outstanding amount'.

3.75 The Courts would also have to consider proportionality, for example if a vehicle seizure order could have adverse implications for other family members, who had not committed the offence to which the outstanding fines applied.

### **Fine Default Referral Hearings**

#### *Service of Summonses*

3.76 A referral hearing was a hearing under Section 9 of the Justice Act (Northern Ireland) 2016, where the Collection Officer may refer the case to the responsible Court where the debtor was in default, or at any time considered appropriate by the Collection Officer under s6(1) or 8(2).

- 3.77 Prior to the Justice Act (Northern Ireland) 2016, default hearings were introduced in 2014. Following the Divisional Court ruling in *McLarnon and others* in March 2013,<sup>89</sup> there was a requirement by the Judiciary, that default hearing notices would be served personally on the debtor<sup>90</sup> by a summons server who was paid a service fee. This was to satisfy the Court that the debtor was aware of the outstanding financial penalty proceedings, given the limited default options that were available at a default hearing, which mainly resulted in the issue of a committal warrant for imprisonment for fine default.
- 3.78 Since the commencement of the Justice Act (Northern Ireland) 2016 in June 2018, a much wider range of enforcement powers had been available and committal for fine default should now only be considered if the other options available had been considered and dismissed.
- 3.79 In addition, if a collection order had been made at the point of imposing the financial penalty, once the date for payment had passed, a Collection Officer would attempt to recover the outstanding amount through the range of collection options provided. Only if these were unsuccessful would the Collection Officer refer the case back to Court for enforcement. All contact between the debtor and the Collection Officer and attempts to recover the outstanding amount would be included on the Court order sheet provided to the Judge at the referral hearing.
- 3.80 The low personal service rate (around 32%) of summonses listed for a referral hearing had led to the Court being unable to progress fine default cases, causing the financial penalty to remain outstanding.
- 3.81 The NICTS had been in contact with the Office of the Lord Chief Justice to explore if other service methods, permissible under the Magistrates' Courts Rules (Northern Ireland) 1984, could be accepted by the Judiciary, however this remained a matter for an independent judicial decision.

89 *McLarnon, McKeown and Chakravartis' Applications* [2013] NIQB 40, available at <https://judiciaryni.uk/sites/judiciary/files/decisions/McLarnon%20%28Michael%29%2C%20McKeown%20%28Gerald%29%20and%20Chakravartis%E2%80%99%20%28Leon%29%20Applications%20%28Leave%20stage%29%20and%20in%20the%20matter%20of%20decisions%20of%20the%20Chief%20Constable%20of%20Police%20Service%20for%20Northern%20Ireland.pdf>

90 Judgments delivered in March 2013 in relation to five cases that had been lodged challenging the arrangements for imposing and enforcing fines found that a number of long established processes failed to fully comply with the legislative provisions in a number of respects:

- the Court should not consider how to deal with default at the point of sentence but should only do so after the default has occurred;
  - the defendant should be given notice of the date of the 'default hearing' and should be given the opportunity to attend and make representations;
  - when using the imprisonment option, the Court must correctly apply its discretion to determine the appropriate period and should not automatically select the band maximum. It must also articulate this period in Court for the sentence to be valid; and
  - where a Court issues a fine default it should specify a period of time (of up to 12 months) within which the warrant must be executed. If this period expires the police should return the warrant to the Court to allow a Judge to determine if the warrant should be re-issued or cancelled.
- *Northern Ireland Assembly, Report on Northern Ireland Courts and Tribunals Service Trust Statement for the year ended 31 March 2013* on 25 March 2020 available at <http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/public-accounts-committee/reports-2011-2016/report-on-northern-ireland-Courts-and-tribunals-service-trust-statement-for-the-year-ended-31-march-2013/>

3.82 The service rate for summonses for default referral hearings was poor and had implications for the effectiveness of Court business, and the NICTS should continue to explore, in consultation with the judiciary, what options would be available to improve performance.

### *Court Powers on referral of a debtor's case*

3.83 The Collection Officer may at any point they see fit, refer the matter back to the responsible Court, this included where all fine recovery available options had been exhausted and it had not been possible to collect the amount owing to the Court.

3.84 Where the Collection Officer referred a case back to Court, the Court had a full suite of powers under the Justice Act (Northern Ireland) 2016 to deal with the debtor and recoup the outstanding amount where a collection order had been made.

3.85 The Justice Act (Northern Ireland) 2016 made the following options available to the Court, regardless of whether the Collection Officer had tried them or not:<sup>91</sup>

- a) extension of time;
- b) allow payment by instalment;
- c) where applicable, require the Collection Officer to make an application for deduction from benefits or make an attachment of earnings order;
- d) make a bank account order (regardless of whether the Collection Officer has made an interim order);
- e) make a vehicle seizure order (regardless of whether Collection Officer has applied for it);
- f) issue a warrant of distress;
- g) if debtor is aged over 18 make a supervised activity order;
- h) if the debtor is aged 16 or 17 make an attendance centre order;
- i) issue a warrant of committal to prison; and
- j) remit the fine wholly or in part having regard to any change in the debtor's circumstances since the conviction concerned.

### **Supervised activity orders**

3.86 The DoJ business case to create the FCS, including the introduction of supervised activity orders across Northern Ireland, had explicit aims which included:

- the introduction of supervised activity orders as a default sanction rather than imprisonment; and
- to substantially reduce the numbers of people committed to custody for non-payment of a fine.<sup>92</sup>

<sup>91</sup> It should be note that there are options available to the Court which are not available to a Collection Officer.

<sup>92</sup> DoJ, Fine collection and enforcement service, Outline business case.

- 3.87 The Justice Act (Northern Ireland) 2016 provided that the Court may not make a supervised activity order or an attendance centre order without having considered and dismissed a number of other options.<sup>93</sup>
- 3.88 Also the Court may not issue a warrant of committal or remit the fine, in whole or in part, without having considered and dismissed either a supervised activity order or attendance centre order and accordingly, each of the named options,<sup>94</sup> ((a) to (f) at paragraph 3.85).
- 3.89 Where a supervised activity order or a warrant of committal to prison was chosen and imposed, the Court must outline its reasons for doing so.<sup>95</sup>
- 3.90 On the DoJ web page about Fine Default Hearings<sup>96</sup> there was a section entitled 'what will happen at Court if I attend?' and under this section it stated that the Judge may:
- give further time to pay or make an instalments order;
  - issue a warrant for immediate committal (imprisonment);
  - issue a warrant for distress (seize goods to the value of the warrant and any associated costs).
- 3.91 There is no reference made to the option of the Judge making a supervised activity order. **As an area for improvement, the Department of Justice should amend its web page about Fine Default Referral Hearings to provide more accurate information about the potential outcomes, including the option of a supervised activity order.**
- Delivery of Supervised Activity Orders by the PBNi*
- 3.92 The DoJ had estimated the key volumes in respect of the potential workload of a newly established FCS and the cases that would potentially go to supervised activity order, and had drawn on the experience of Scotland, which had a similar model.<sup>97</sup>

93 These are:

- (a) extension of time;
- (b) allow payment by instalment;
- (c) where applicable, require the Collection Officer to make an application for deduction from benefits or make an attachment of earnings order;
- (d) make a bank account order (regardless of whether the Collection Officer has made an interim order);
- (e) make a vehicle seizure order (regardless of whether Collection Officer has applied for it);
- (f) issue a warrant of distress. *Justice Act (Northern Ireland) 2016, section 9(3)*

94 These are:

- (a) extension of time;
- (b) allow payment by instalment;
- (c) where applicable, require the Collection Officer to make an application for deduction from benefits or make an attachment of earnings order;
- (d) make a bank account order (regardless of whether the Collection Officer has made an interim order);
- (e) make a vehicle seizure order (regardless of whether Collection Officer has applied for it);
- (f) issue a warrant of distress. *Justice Act (Northern Ireland) 2016, section 9(4)*

95 *Justice Act (Northern Ireland) 2016, section 9(5).*

96 <https://www.justice-ni.gov.uk/articles/fine-default-hearings>

97 *CJI, Report to Oversight Group on Completed Prison Review Team Recommendation 1 and Resubmitted Recommendation 2, 25 November 2015, Close-work Package at Appendix 1*

- 3.93 The DoJ outline business case for the establishment of a FCS made the assumptions that:
- supervised activity orders would be prioritised in statute, as the default penalty where appropriate for outstanding amounts of £1,000 or less;
  - supervised activity orders would only be made where the defendant or their representative appear at the default hearing;
  - it was estimated that 23% of those that receive notification would attend a default hearing;
  - NICTS information showed that 99% of fines and monetary penalties were for £1,000 or less. It was therefore estimated that in approximately 99% of cases where the defendant or their representative attends Court at a default hearing a supervised activity order will be made (estimated 1,000 supervised activity orders will be made per annum); and
  - the PBNI confirmed that it could deliver 1,000 supervised activity orders each year and would recruit eight Probation Service Officers to deliver this service at a cost of £333,000.<sup>98</sup>
- 3.94 The PBNI had recruited and trained eight Probation Service Officers to deliver supervised activity orders, and in conjunction with NIACRO,<sup>99</sup> had produced a three-hour pre-placement programme for participants as part of the order.
- 3.95 The very small number of supervised activity orders, three at the time of writing (.06% of the PBNI caseload),<sup>100</sup> had meant that the Probation Service Officers had been redeployed to other duties within the PBNI.
- 3.96 The NICTS and PBNI met with the Judicial Studies Board to discuss the outcomes of default referral hearings and to provide information about how the PBNI would deliver a programme to those defaulters given supervised activity orders.
- 3.97 It had been the intent of the DoJ that the introduction of the Justice Act (Northern Ireland) 2016 would prioritise the supervised activity order in statute and make their imposition the default penalty instead of committal for outstanding amounts of £1,000 or less. The effect had not reflected the intent, and at the time of writing supervised activity orders made up 0.1% of default referral hearing outcomes: committals to prison were almost 60% (see Chapter 4).

98 Department of Justice. *Fine collection and enforcement service. Outline business case.*

99 Prior to 2012, NIACRO was known as the Northern Ireland Association for the Care and Resettlement of Offenders.

100 PBNI Caseload Statistics Report, Financial Year 2018-19, May 2019, available at

<https://www.pbni.org.uk/wp-content/uploads/2019/05/Caseload-Statistics-Report-2018.19.pdf>

It should be noted that the PBNI is not currently funded for the £333,000 as assumed in the DoJ business case.

**STRATEGIC RECOMMENDATION 1**

The Department of Justice, in consultation with relevant parties including the Judiciary, should re-examine the intention of the Justice Act (Northern Ireland) 2016 and the assumptions in the business case to establish the Fine Collection and Enforcement Service to prioritise the supervised activity order in statute and make it the default penalty for outstanding fine payments below £1,000. Within nine months of the publication of this report, the Department of Justice should produce an action plan to further reduce the numbers of people sent to prison for fine default.

**Legacy Cases**

- 3.98 Section 3 (7) the Justice Act (Northern Ireland) 2016 provided for the Courts to make collection orders on cases defaulted prior to 1 June 2018, provided that the Court had not already dealt with the person for the default: these cases are referred to as legacy cases.
- 3.99 Collection Officers had the same powers for legacy cases except that Sections 20 (9) and 23 (9) do not permit the use of bank account orders or vehicle seizure orders on legacy cases.
- 3.100 At 1 July 2020 there were approximately 52,600 legacy cases without collection orders. The outstanding debt in relation to these cases was approximately £13.4 million.<sup>101</sup>
- 3.101 The FCS was not resourced to deal with the backlog of legacy cases, and it was having an impact on the day-to-day operation of the service. A decision was taken within the NICTS to suspend FCS action in respect of legacy cases, with the exception of those individuals who also had a current outstanding fine case.
- 3.102 The DoJ internal review and BCS review both acknowledged the issue of resources to deal with the backlog of legacy cases, and at the time of writing the NICTS was preparing a business case for a temporary Legacy Fine Unit consisting of 15 staff for a two-year period to deal with legacy cases.
- 3.103 To allow Legacy Fine Unit Collection Officers to have the powers under the the Justice Act (Northern Ireland) 2016 will require collection orders to be made in respect of the legacy cases by a Court. The referral of 50,000 cases to the Courts for collection orders, and the subsequent numbers returned for fine default referral hearings, will have an impact on Court business, and the NICTS will have to discuss with the judiciary how this can best be managed.

101 NICTS data.

- 3.104 In the interim, the NICTS had commenced work to identify where legacy cases were linked to a 'live' FCS case and in order to progress these a collection order needed to be made by the Court. At October 2020 a total of 2,000 requests had been made to the Court and 1,334 collection orders issued.
- 3.105 While Inspectors acknowledge the work undertaken by the NICTS to produce the business case, as well as the work to link legacy cases to live fine default cases, progress should be expedited to address the backlog of legacy cases. The longer this continues the harder it will be to contact debtors and potentially recover sums due, including those of victim compensation.

## STRATEGIC RECOMMENDATION 2

**Within nine months of the publication of this report, the Northern Ireland Courts and Tribunals Service should establish a temporary Legacy Fine Unit to effectively deal with the outstanding legacy fine debt cases, and secure agreement with the Judiciary on how the backlog of cases will be managed by the Courts.**

### Offences

- 3.106 The Justice Act (Northern Ireland) 2016 created a number of offences to ensure compliance with, and the effectiveness of, the fine collection arrangements. A debtor encompassed not only an individual but companies as well.<sup>102</sup>
- 3.107 Offences included the following:
- failing to provide information to the Court or Collection Officer when requested, or knowingly providing false information;
  - failing to comply with a request for a statement of earnings;
  - a deposit-taker failing to provide information held on a debtor's accounts;
  - an employer failing to notify that the debtor is no longer employed; and
  - failing to comply with an attachment of earnings order or bank account order; and concealment of a vehicle where a debtor has been informed of the Collection Officer's intention to apply for a vehicle seizure order.

### Reviews of the FCS

- 3.108 There had been two reviews of the operation of the FCS. An internal DoJ Review reported in September 2019, and looked at FCS internal processes and procedures, information technology (IT) functionality, management information and reporting, and staffing. Many of these areas were also examined by, and subsequently reported in, the BCS Review.

<sup>102</sup> DoJ, *Guidance for the Collection and Enforcement of fines and Other Penalties under the Justice Act (Northern Ireland) 2016*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/guidance-for-collection-and-enforcement.pdf>



- 3.109 A BCS Review of structure, processes, efficiencies and the appropriateness of ICOS to support the processing and management of the FCS reported in June 2020. Its findings included that staff turnover and use of agency staff had a detrimental impact on staff knowledge and case progression, and recommended stabilising the process with posts filled by permanent staff.
- 3.110 The review also found that ICOS, used by the FCS, was a case management system, not a workflow system and recommended work queues to be developed to reflect FCS processes. Also, multiple cases relating to a single debtor were not readily identifiable within ICOS.
- 3.111 FCS staff expressed frustration to Inspectors about aspects of the current IT system, for example; cases involving multiple fines were not automatically linked and had to be individually updated and managed. These inefficiencies needed to be addressed in the changes to ICOS as a result of the DoJ and BCS reviews, to more effectively manage workflow at the various process stages. The NICTS had accepted the recommendations in principle and had requested consideration of the IT implications and cost of the change.
- 3.112 The DoJ Review also highlighted that an absence of targets available for each stage of the enforcement process made effective management difficult. The BCS Review identified a similar issue and recommended that the NICTS identify the data required to effectively manage staff and workflow. The NICTS was progressing the necessary changes to ICOS to take account of the recommendation and work was continuing at the time of the Inspection in conjunction with the Digital Transformation Team.
- Execution of fine default warrants**
- 3.113 As referred to in Chapter 2, there was a Service Level Agreement between the PSNI and the NICTS about the exchange and management of records of fine default warrants and their timely execution by the PSNI.
- 3.114 Within the PSNI all fine warrants were received at the northern Occurrence Case Management Team where there was central coordination and management. Fine warrants were forwarded to Local Policing Teams in the respective District and allocated to individual officers to execute with review by a supervisor every 28 days.
- 3.115 The PSNI had a target to execute 75% of fine default warrants within the specified period of time for enforcement, or where this did not exist, within 12 months from the date of issue, at which point any unexecuted warrants would be returned to the NICTS, together with the warrant log, which would be referred to the judiciary for a determination on whether to re-issue or remit.



- 3.116 During the Inspection it became apparent that there was a discrepancy in the way outstanding fine warrants were recorded by the PSNI and the NICTS on their respective IT systems. The NICTS ICOS data was based on an inbuilt analysis within the report functionality on first and last warrant data information to calculate the outstanding time period.
- 3.117 As a result NICTS data could not provide accurate details of the dates warrants were first issued, nor the number of times they had been re-issued. Some outstanding warrants dated back to 2014 and Inspectors would consider it important for the PSNI and the NICTS to have the necessary management information to allow for police to take targeted action to execute older warrants and those warrants which had been re-issued a number of times.
- 3.118 The NICTS recognised the recording discrepancy and had advised Inspectors that it will raise a change request to have the ICOS calculation formula amended to allow information to be available on the date outstanding warrants were first issued and the number of times they had been re-issued.

**OPERATIONAL RECOMMENDATION 5**

**The Northern Ireland Courts and Tribunals Service should amend the Integrated Court Operation System to provide data on the dates outstanding fine warrants were first issued, together with information on the frequency of re-issues, within nine months of the publication of this report.**

## CHAPTER 4: **OUTCOMES**

- 4.1 Chapter 1 of this report referred to public confidence in the justice system which depended on whether people believed that justice was being done and that it was fair and effective. One element of this was the requirement for a robust and effective enforcement process when someone received a fine at Court and then subsequently defaulted on the terms of the Court order. This chapter examines the outcomes and the effectiveness of the enforcement process and the performance of the FCS in the collection of outstanding fines.
- 4.2 It also looks at the overall level of outstanding fine debt in relation to Court ordered financial penalties, and the PSNI performance in the execution of fine warrants as further indicators of the robustness and effectiveness of the overall enforcement process.
- 4.3 The business case that established the FCS on 1 June 2018 included a number of aims, and these have been used by Inspectors as benchmarks against which to measure outcomes:
- to increase the number of financial penalties paid prior to default hearing;
  - to reduce the number of fine warrants being issued to the PSNI for enforcement; and
  - to reduce the number of defendants going to prison for non-payment of what can be relatively small value financial penalties.

### **FCS Performance**

- 4.4 The first of the main aims of the FCS was to increase the number of financial penalties paid prior to default hearing. This had been achieved.
- 4.5 As referred to in Chapter 3, the NICTS had reviewed the staff grading structure in the FCS and restructured its operation to create separate teams focusing on specific areas of processing: this had led to improvements.
- 4.6 At the time of the inspection all default cases were being actively managed in the FCS. It was recognised that there had been fewer Court sittings because of the coronavirus pandemic and the numbers of cases being referred to the FCS was lower than would normally be expected: there had been 18% fewer collection orders activated in the FCS in 2020 than in 2019.<sup>103</sup>

<sup>103</sup> NICTS data.

- 4.7 By the end of 2020 the FCS had collected approximately £3.6 million in unpaid monetary penalties from debtors who had failed to pay within the time specified by the Court.
- 4.8 As processes became established and staff had become more acquainted with the legislation and procedures, performance had improved. At the time of the Inspection a backlog of new defaulted collection orders awaiting action in the FCS had been fully cleared, and all cases were under active management. The amount of money collected by the FCS had increased incrementally:
- from 1 June 2018 to 31 May 2019 £770,000 was recovered;
  - from 1 June 2019 to 31 May 2020 £1.77 million was recovered; and
  - from 1 June 2020 to 24 February 2021 (almost nine-month period) £1.4 million was recovered.
- 4.9 To February 2021 the money collected had exceeded the projected costs of the proposed staffing structure included in the business case as outlined in Chapter 3.
- 4.10 In the 2020 calendar year:
- the FCS recovered £1.82million, an increase of £288,000 (18.8%) on the previous 12-month period;
  - £557,000 was been collected through deduction from benefits, an increase of £263,000 (89.6%) on the previous 12-month period;
  - £240,000 was collected through attachment of earnings orders, an increase of £89,000 (59.2%) on the previous 12-month month period; and
  - 6,879 cases were paid in full an increase of 1,155 (20.2%) on the previous 12-month period.<sup>104</sup>
- Fines Paid Prior to Default***
- 4.11 During 2012, NICTS information showed that approximately 45% of fines were paid without intervention, and a further 9% were paid following the intervention of the NICTS Fine Collection Team.<sup>105</sup>
- 4.12 From the establishment of the FCS in June 2018 up to January 2021, of the 72,756 collection orders made by the Courts, 46,188 (63.5%) defaulted and were activated in the FCS. Therefore, the number of fines on collection orders paid without intervention decreased from 45% in 2012 to 36.5% from June 2018 to January 2021. In England and Wales from 2011-2018 an average of 12% of fines were paid in the month of issue. In the Republic of Ireland 34.6% were paid from 2017-20.
- 4.13 The number of fines paid following intervention by the FCS had however, increased significantly from 9% in 2012, and to November 2020:

<sup>104</sup> NICTS data.

<sup>105</sup> DoJ, *Fine Collection and Enforcement Service, Outline Business Case*. Internal NICTS document.

- 15.1% of defaulted collection orders were paid in full following initial contact by the FCS;
- 12.3% of defaulted collection orders had payment plans agreed;
- 38.1% of defaulted collection orders had been referred for deduction from benefit; and
- 9.9% of defaulted collection orders had been referred for attachment of earnings.<sup>106</sup>

**Progression of cases following the issue of a collection order**

4.14 The following tables show the progression from the issue of a collection order to the final outcome.

**Table 10: Collection orders issued to 30 November 2020.<sup>107</sup>**

	Number	Percentage
Collection orders issued by the Court	69,382	100%
Paid prior to default	25,551	36.8%
Defaulted and referred to FCS	43,831	63.2%

4.15 Of the collection orders which were activated in the FCS:

**Table 11: Collection orders referred to the FCS to 30 November 2020.<sup>108</sup>**

	Number	Percentage <sup>109</sup>
Defaulted and referred to the FCS	43,831	100%
Paid in full following initial contact by the FCS	6,639	15.1%
Payment plans agreed	5,413	12.3%
Referred for deduction from benefit (including pending deduction from benefit/Universal Credit)	16,698	38.1%
Referred for Attachment of Earnings (including pending Attachment of Earnings)	4,355	9.9%
Interim bank account order issued	372	0.1%
Court ordered bank account order	94	0.02%
Vehicle seizure order	0	0%
Referred to Court for default referral hearing	13,519	30.8%

106 NICTS data. It should be noted that a case may be in more than one category, for example, a payment plan agreed which then defaults and goes to another enforcement method.

107 NICTS data.

108 NICTS data.

109 It should be noted that the percentages total more than 100, as a case may be in more than one category, for example a payment plan agreed which then defaults and goes to another enforcement method.

4.16 The revenue sources<sup>110</sup> for money collected by the FCS were:

- £2.36 million by online, credit transfer, counter, telephone and postal payments;
- £853,000 has been recovered from benefits; and
- £393,000 has been recovered from earnings.

### Fine Default Referral Hearings

4.17 If the Collection Officer had been unable to recover the money from the debtor and had exhausted the various measures provided for in the Justice Act (Northern Ireland) 2016, the matter would be referred back to Court for a default referral hearing.

4.18 There had been a large number of cases returned to Court for a fine default referral hearing which amounted to just over 30% (13,519) of all the defaulted collection orders which had been passed to the FCS.

4.19 The BCS Review highlighted the high number of cases returned to Court because the debtor could not be traced. Where the Collection Officer had been unable to trace the debtor, and for example did not have the person's National Insurance number, there were no options open to the Collection Officer other than referring the case back to Court for a default referral hearing.

**Table 12: FCS cases referred for default referral hearing to 30 November 2020.<sup>111</sup>**

	Number	Percentage
Referred cases	13,519	100%
Summons issued	7,169	53%

### Service of summonses for default referral hearings

4.20 In Chapter 3 the low personal service rate for summonses for cases listed for a referral hearing was stated, which had meant that the Courts had been unable to progress a number of fine default cases, causing the financial penalty to remain outstanding while incurring additional service costs.

110 NICTS data to 31 December 2020.

111 NICTS data.

**Table 13: Fine default summonses service rates.<sup>112</sup>**

Fine default summonses issued by the NICTS. Service rates to 30 November 2020	Number	Percentage
Default summons issued	7,169	100%
Served	2,293	32%
Not served <sup>113</sup>	4,402	61.4%
Out for service	474	6.6%

*Outcomes of fine default referral hearings*

- 4.21 The outcome of fine default referral hearings had primarily resulted in committals to prison, debtors given additional time to pay, and fines remitted by the Court.
- 4.22 To 30 November 2020 there had only been three supervised activity orders imposed on people who had defaulted on payment of fines.

**Table 14: Outcomes of fine default referral hearings to 30 November 2020.<sup>114</sup>**

	Number	Percentage <sup>115</sup>
Served Summonses	2,293	100%
Additional time to pay	817	35.6%
Bank account order	65	2.8%
Supervised activity order	3	0.1%
Committal to Prison	1,355	59.1%
Distress Warrant	4	0.2%
Remittal	441	19.2%

- 4.23 To January 2021 there were almost 17,000 fines awaiting fine default referral hearings with the outstanding fines totalling £3.2 million.

<sup>112</sup> NICTS data.

<sup>113</sup> Summonses which are not served are either returned for summons servers to make further attempts at service or may be re-issued by the Court.

<sup>114</sup> NICTS data.

<sup>115</sup> It should be noted that the percentages total more than 100, as a summons may include a number of fines.

**Table 15: Number of fines awaiting default referral hearings to 31 January 2021.<sup>116</sup>**

Court	Number of Fines <sup>117</sup>	Amount Outstanding (£)
Antrim	540	108,390
Armagh	569	99,816
Ballymena	657	114,707
Coleraine	772	164,743
Craigavon	1,293	229,817
Downpatrick	489	71,563
Dungannon	853	175,733
Enniskillen	560	90,755
Laganside	5,160	950,302
Limavady	212	40,180
Lisburn	563	120,572
Londonderry	1,314	243,507
Magherafelt	244	37,245
Newry/Banbridge	1,679	370,500
Newtownards	1,008	238,635
Omagh	442	91,941
Strabane	459	80,147
<b>Total</b>	<b>16,814</b>	<b>3,230,551</b>

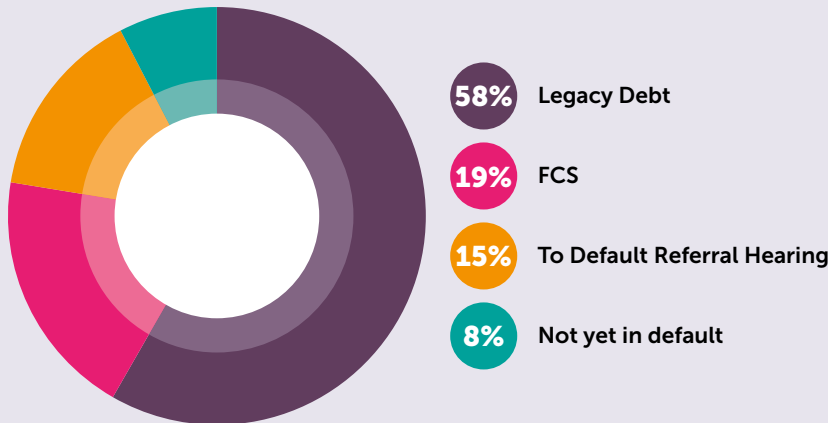
**Level of outstanding NICTS debt**

4.24 In January 2021 the NICTS level of outstanding debt in relation to financial penalties, excluding confiscation, was £22.3 million.

<sup>116</sup> NICTS data.

<sup>117</sup> This is the number of fines, not the number of collection orders or Court cases, as an individual defaulter may have more than one fine.

**Chart 1: NICTS Outstanding Debt**



4.25 Of this:

- £1.7 million (8%) had not passed its payment due date and was not yet in default;
- £3.2 million (15%) had been referred to a default referral hearing;
- £4.3 million (19%) was with the FCS for collection; and
- £13 million (58%) was legacy debt.<sup>118</sup>

4.26 It is important to recognise what the FCS had achieved, and its performance improvement over time. However, the cumulative effect of the outstanding legacy cases, the enforcement of which will become more difficult the longer the delay continues; the delay in implementing Universal Credit as a deductible benefit; the low personal service rate for summonses for fine default referral hearings, and the lack of good quality personal contact information at the earliest point for debtors against whom a collection order is made, are a significant cause of the high level of outstanding NICTS debt. Action to address these areas should be a priority for the NICTS and the DoJ to tackle the deficit and fulfil the intent of the Court that a penalty is imposed.

### **Analysis of debt type**

4.27 The NICTS did not collect statistics which identified the debt by offence type for fines referred to the FCS.

4.28 The BCS Review commented that there was no analysis of debt type and recommended the payment profile of cases by debt type should be considered to understand the effectiveness of different intervention strategies.

118 Cases prior to 1 June 2018 without collection orders. NICTS data.



4.29 The NICTS did not accept the recommendation: the reasoning was that while accepting that the ability to analyse fine recovery against offence type would enable the FCS to complete management reports in a meaningful manner, the Justice Act (Northern Ireland) 2016 and subsequent Regulations determined how fine recovery was to be sequenced. As a result, this information would not enable the FCS to target an offence code for a selected fine recovery option basis. In addition, if someone is in receipt of benefits, then the FCS had only one option available to it under the legislation.

4.30 Inspectors recognise this rationale, however, could see value in the NICTS having a better understanding and analysis of debt type, not from an enforcement perspective as every unpaid fine needs to be recovered irrespective of offence type, but as management information to improve service delivery. For example, reference has been made to the number of cases returned to the Courts for fine default referral hearings because the debtor could not be identified: analysis of these cases against fine type may identify improvements that could be made in conjunction with the prosecuting agencies, or in clarifying the identities of those against whom collection orders are made at the initial Court hearing (see Operational Recommendation 2). **As an area for improvement the Northern Ireland Courts and Tribunals Service should analyse debt type for outstanding fines referred to the Fine Collection and Enforcement Service as management information to improve service delivery.**

### Coronavirus COVID-19 Pandemic

4.31 The coronavirus COVID-19 pandemic caused FCS operations to cease for a 12-week period where fine notices and post were only processed one day per week. These had resumed with home and office working, but working arrangements continued to impact the FCS, including the inability to bring in replacement agency staff due to limited office accommodation associated with health and safety restrictions; an increase in Universal Credit cases; and increased difficulty in the application of attachment of earnings recovery options.

4.32 Staff resources were maximised by applying a mixture of home working, office-based working and rotational-working to allow for appropriate social distancing.

4.33 There had been fewer Court sittings and the numbers of cases being referred to the FCS was lower than would normally be expected. The FCS workload had decreased and from 1 January 2020 to 31 December 2020:

- 24,262 collection orders had been made in Court a decrease of 6,711 (21.7%) on the previous 12 months; and
- 17,038 collection orders were activated in FCS, a decrease of 3,733 (18%) on the previous 12 months.<sup>119</sup>

119 NICTS data.

**FCS Customer Service**

- 4.34 In order to seek the views of FCS service users, Inspectors were provided with email addresses for 55 individuals who had been in contact with the FCS during a four-week period in February to March 2021.
- 4.35 The 55 individuals were sent an email by Inspectors inviting them to provide their views with a link to a feedback survey included. Forty five emails were successfully delivered to the recipients. Six responses were received resulting in a 13% response rate (based on a possible 45 responses). Given the low response rate any findings should be treated with a degree of caution, and would not be considered to be statistically significant. Full details of those responses are outlined in Appendix 2 and are summarised below.
- 4.36 Service users who responded reported high levels of satisfaction with the communication and information provided on the fine and the collection order, with most stating that they understood the nature of the fine, and how and when it was to be paid. Most respondents also stated that the collection order was easy to understand, explained how payment could be made, provided them with information about contacting the Collection Officer responsible for enforcing the order, and explained the consequences of non-compliance.
- 4.37 When asked about contact with the Collection Officer all respondents stated that the Collection Officer sought information from them about their current financial circumstances, and most said that the Collection Officer provided them with advice and information about payment. Respondents confirmed that the Collection Officer provided them with relevant information on how to pay the outstanding fine debt in full, and an extension of time to pay the fines or payment by instalments.
- 4.38 All respondents stated that it was easy to make contact with the Collection Officer to discuss their case, that they were able to provide them with all the information they needed regarding the payment of the outstanding fine debt, that they were helpful when dealing with their case, and that they felt the information they provided regarding their financial circumstances was adequately taken into account by the Collection Officer.
- 4.39 Overall, respondents were asked to rate how satisfied they were with the service provided to them by the FCS on a scale of one (not at all) to four (completely). The average of these ratings was 3.3, which suggested that generally the FCS was meeting the needs of service users who responded to the survey.

**Fine Incentive Scheme**

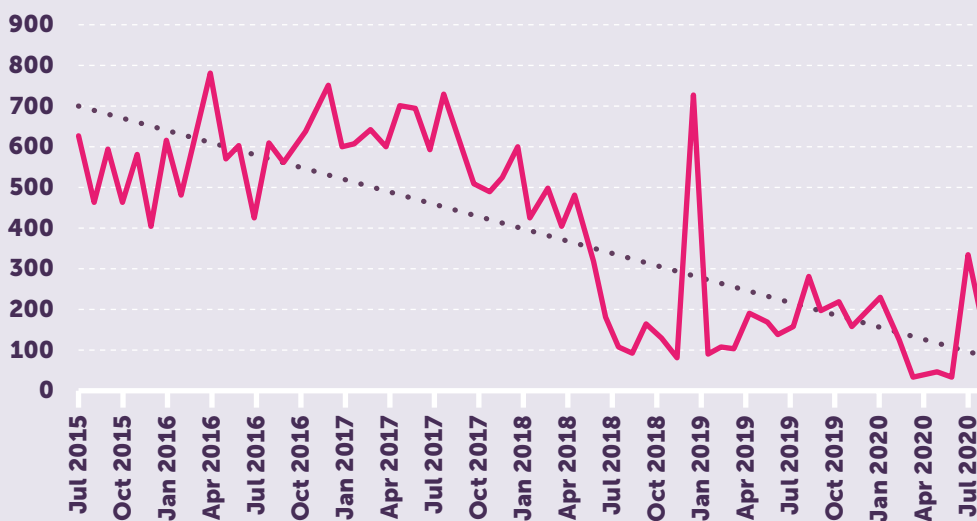
4.40 There was a Fine Incentive Scheme with Her Majesty’s Treasury, which allowed for the NICTS to retain 75% of fines over the 65% target rate up to £1 million to reinvest in Courts. The target was exceeded (67.2%) in 2019-20 due to the improved performance of the FCS team.

4.41 The calculation for the Fine Incentive Scheme was based on the amount of fines recovered against the amount of fines imposed. Due to the reduced number of Court sittings because of the coronavirus COVID-19 pandemic it was anticipated that the target would be disproportionately exceeded for 2020-21, as the level of fine imposition was lower than would normally be the case.

**Warrants**

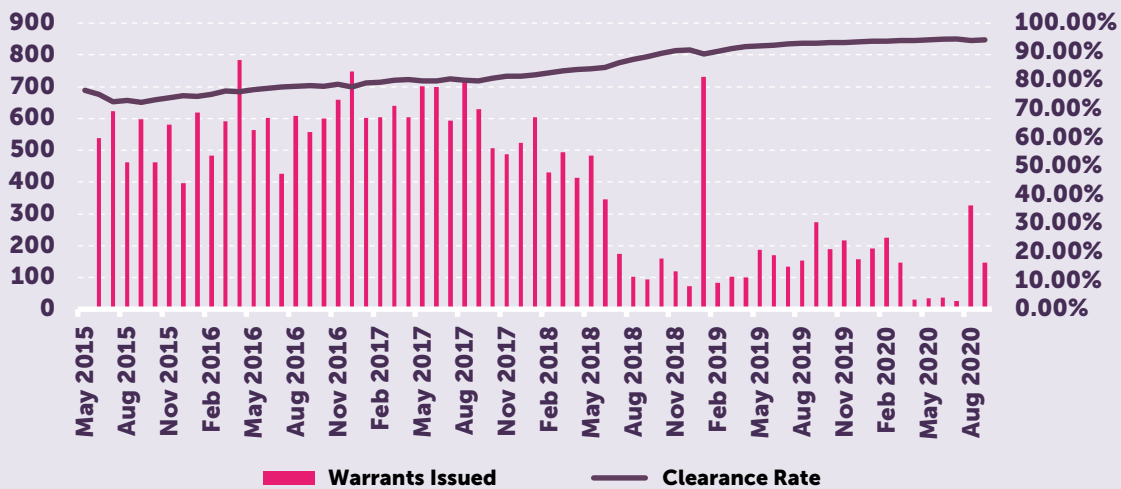
4.42 The second main aim of establishing the FCS was to reduce the number of fine warrants being issued to the PSNI for enforcement. This had been achieved. There has been a downward trend over the past five years, including from June 2018 when the FCS was established.

**Chart 2: Fine Warrants issued to the PSNI July 2015 to September 2020.<sup>120</sup>**



4.43 As the number of warrants issued had fallen over time, the clearance rate had steadily risen from mid-70% in 2015 to mid-90% in September 2020.

<sup>120</sup> NICTS data.

Chart 3: Warrants issued to the PSNI and Clearance Rate.<sup>121</sup>

The cumulative trend data show that police performance in executing warrants had improved.

- 4.44 Historically there had been problems with the police executing money warrants and at 2 December 2011 there were 38,945 outstanding.<sup>122</sup> The situation was now better managed and was continuing to improve: at 2 April 2021 there were 1,314 outstanding warrants; 294 (22%) of which were over 12 months old,<sup>123</sup> down from 2,451 in March 2019.<sup>124</sup>
- 4.45 When more accurate fine warrant data becomes available (see Operational Recommendation 4) **as an area for improvement the Police Service of Northern Ireland should utilise management information to focus action on the execution of older warrants and those warrants which had been re-issued a number of times.**

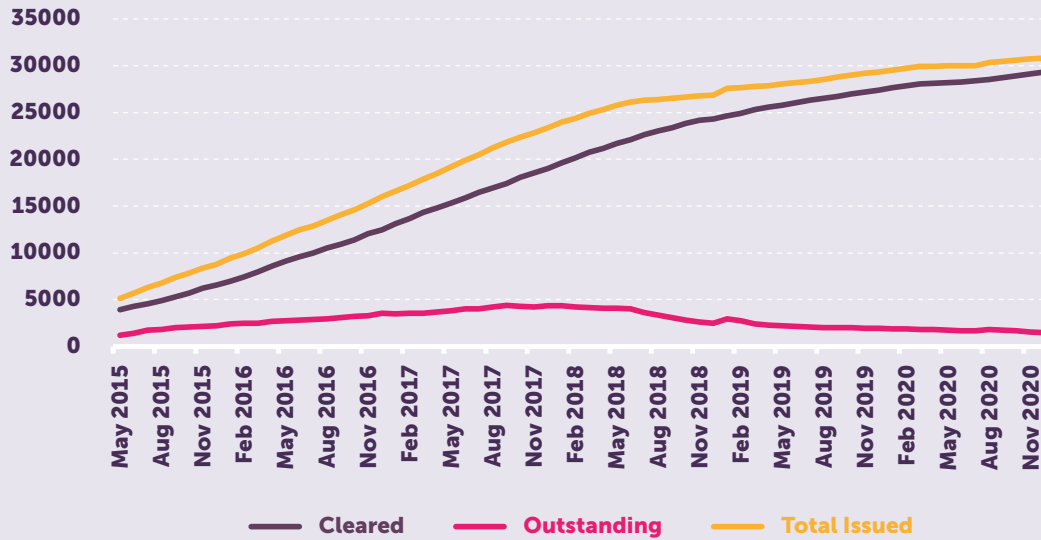
121 NICTS data.

122 Northern Ireland Assembly Written Answer AQW 5512/11-15, answered 16 December 2011, available at <http://aims.niassembly.gov.uk/questions/writtensearchresults.aspx?&qf=0&qfv=1&ref=AQW 5512/11-15>.

123 NICTS data.

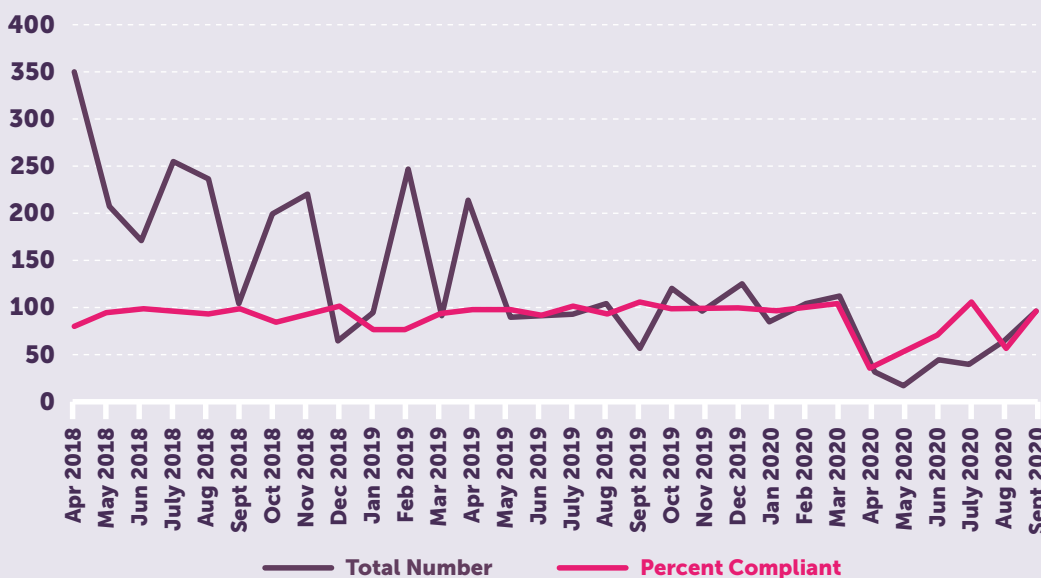
124 NICTS Trust Statement For the year ended 31 March 2019, Laid before the Northern Ireland Assembly, 25 March 2020, available at [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen_0.pdf)

Chart 4: Cumulative Warrants Cleared and Outstanding.<sup>125</sup>



4.46 In the Service Level Agreement the PSNI undertook to have a minimum of 75% of all monies received from the execution and subsequent payment of fine default warrants with the NICTS within 30 days. With the exception of six individual months this target had been met from April 2018 to September 2020.

Chart 5: Payment of fine warrant money to NICTS within 30 days.<sup>126</sup>



**Committal to prison for Fine Default**

4.47 The third aim of the FCS was to reduce the number of defendants going to prison for non-payment of what can be relatively small value financial penalties. This had been partially achieved.

125 NICTS data.

126 NICTS data.

**EFFECTIVE PENALTY ENFORCEMENT**

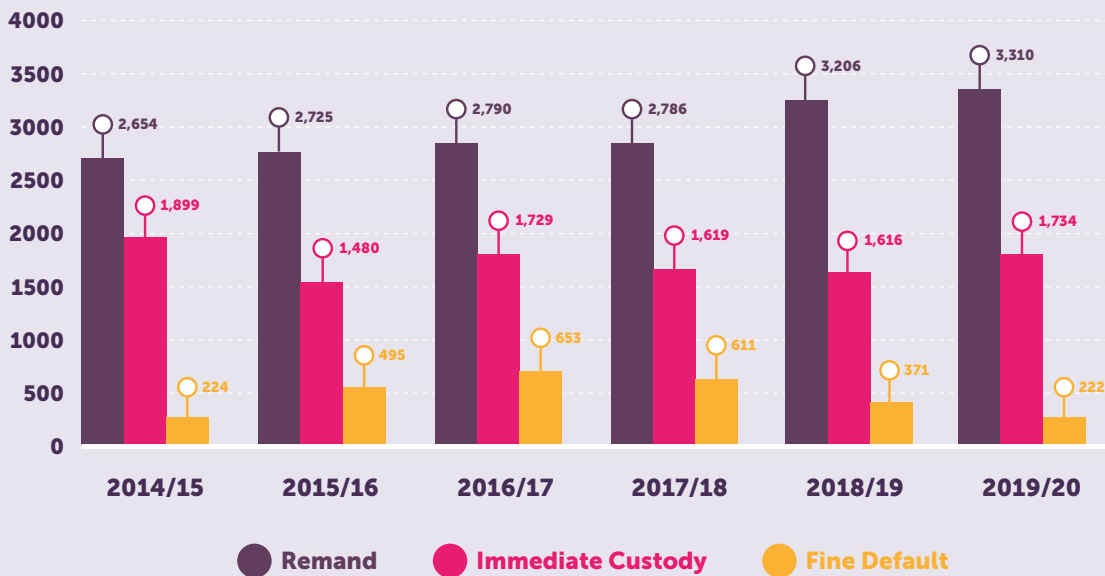
A REVIEW OF THE IMPACT OF CURRENT FINE DEFAULT STRATEGY AND SERVICES  
**JULY 2021**

4.48 Following the publication of the PRT Report, Inspectors reported<sup>127</sup> to the PRT Oversight Group that committals to prison for fine default had decreased over the period October to December 2011 to October to December 2012. Male fine defaulters had decreased from 419 to 401 (with a peak of 492 in January to March 2012). Females had risen slightly from 98 to 99, although female numbers also peaked at 137 during the period January to March 2012.

4.49 More recent data showed that committals to prison for fine default<sup>128</sup> remained significant and increased from 2014-15 to 2016-17, although had been on a downward trend since 2016-17. The proportion of women committed to prison for fine default, as a percentage of receptions, was higher than for men. The number of receptions for fine default (where the individual was received into custody solely for fine default offences) decreased substantially from 653 in 2016-17 to 222 in 2019-20.

Committals to prison for fine default were a small proportion of the overall numbers of people committed to prison each year.

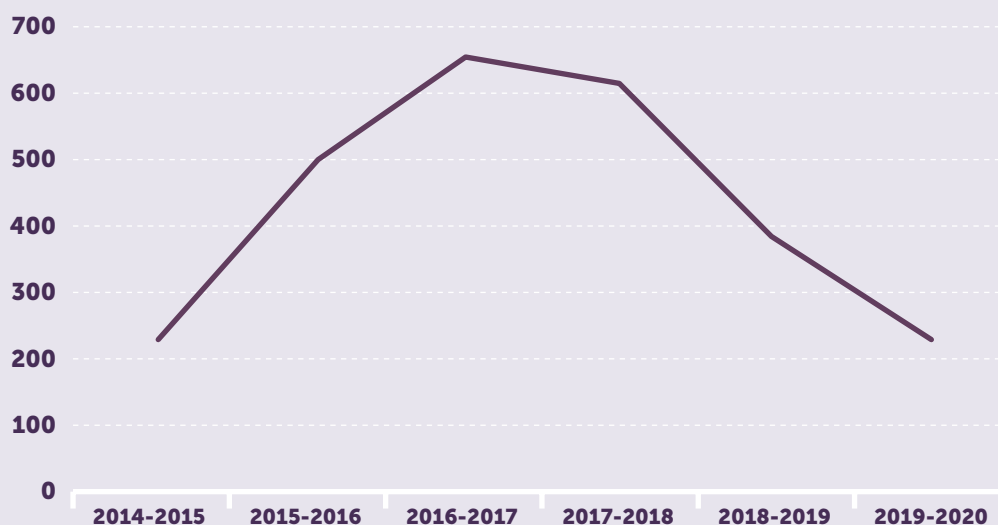
**Chart 6: Prison Receptions by Prisoner Type, 2014-15 to 2019-20.<sup>129</sup>**



127 *CJI Report to Oversight Group on Completed Prison Review Team Recommendation Four, March 2013.*

128 The average daily fine default population accounted for a small proportion of the overall average daily prison population (0.3%). Figures have remained fairly similar over each of the last five financial years with fine defaults never exceeding a daily average of seven since 2014-15. *The Northern Ireland Prison Population 2018/19 27 September 2019*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/ni-prison-population-18-19.pdf>. It should be noted that daily prison population snapshots are downloaded from the PRISM system as at midnight; the average daily prisoner population for a given year is derived from the average of these. *The Northern Ireland Prison Population 2019/20 25 September 2020*, available at [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/921236/Northern\\_Ireland\\_Prison\\_Population\\_2019\\_20.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/921236/Northern_Ireland_Prison_Population_2019_20.pdf)

129 *DoJ Analytical Services Group, The Northern Ireland Prison Population 2019-20, 25 September 2020*, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/justice/northern-ireland-prison-population-2019-20.pdf>

**Chart 7: Prison Receptions for Fine Default 2014-15 to 2019-20.****Table 16: Prison Receptions for fine default by Gender and Establishment.**<sup>130</sup>

Fine Default	2015-2016 (% of respective establishment receptions)	2016-2017 (% of respective establishment receptions)	2017-2018 (% of respective establishment receptions)	2017-2018 (% of respective establishment receptions)	2019-2020 (% of respective establishment receptions)
Maghaberry Male	405 (10.5%)	547 (12.5%)	532 (12.9%)	308 (7.2%)	181 (4.1%)
Magilligan Male	0	0	1 (3%)	1 (2.3%)	2 (4.8%)
Hydebank Wood Male	35 (6.7%)	38 (7.4%)	20 (4.2%)	25 (4.9%)	18 (4%)
Ash House Female	55 (15.5%)	68 (16.6%)	58 (13.7%)	37 (9%)	21 (5.1%)
<b>Total Fine Receptions</b>	<b>495</b>	<b>653</b>	<b>611</b>	<b>371</b>	<b>222</b>
All Maghaberry Receptions	3,852	4,366	4,170	4,288	4,421
All Magilligan Receptions	0	0	33	43	41
All Hydebank Wood Male Receptions	519	511	466	510	451
All Male Receptions	4,371	4,847	4,669	4,841	4,913
All Female Receptions	355	410	423	411	409

<sup>130</sup> The Northern Ireland Prison Population 2018-19, 27 September 2019, available at

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/ni-prison-population-18-19.pdf>

DoJ Analytical Services Group, The Northern Ireland Prison Population 2019-20, 25 September 2020, available at

<https://www.justice-ni.gov.uk/sites/default/files/publications/justice/northern-ireland-prison-population-2019-20.pdf>

- 4.50 The sentence lengths for fine default committals were primarily fewer than 14 days and data<sup>131</sup> from the NIPS showed that from 2015 to 2020 these were:

**Table 17: Sentence Length for Fine Default 2015 - 2020.**<sup>132</sup>

Sentence Length for Fine Default	Maghaberry	Hydebank Wood Male	Ash House Female
7 days or fewer	52.6%	61.4%	62.1%
8-14 days	37.8%	28.9%	32%
15-28 days	4.2%	1.2%	4.4%
Over 28 days	5.1%	8.4%	1.4%

- 4.51 So while the number of fine defaulters committed to prison had been reducing from 2016-17, overall the numbers remained significant, both as a proportion of fine default referral hearing outcomes, but also in real terms.
- 4.52 The numbers were such that it could not be considered that the aim of the DoJ FCS business case to introduce supervised activity orders as a default sanction, rather than imprisonment had been achieved.
- 4.53 Nor could it be considered that the current position was in line with the PRT position that supervised activity orders should be the norm for fine defaulters, and custody should be a wholly exceptional disposal for people defaulting on fine payments.

<sup>131</sup> Data was not available for Magilligan.

<sup>132</sup> NIPS data.



# APPENDIX 1: TERMS OF REFERENCE

## AN INSPECTION OF EFFECTIVE PENALTY ENFORCEMENT - REVIEW OF IMPACT OF CURRENT FINE DEFAULT STRATEGY AND SERVICES

### TERMS OF REFERENCE

#### Introduction

Criminal Justice Inspection Northern Ireland (CJI) proposes to undertake an inspection of Effective Penalty Enforcement to review the impact of current fine default strategy and services.

The main organisation to be inspected will be the Northern Ireland Courts and Tribunals Service (NICTS) as the core agency responsible for the fine default strategy. However, other parts of the criminal justice system are central to the effective delivery of justice in these areas and the inspection will also include the Police Service of Northern Ireland (PSNI), the Northern Ireland Prison Service (NIPS), the Probation Board for Northern Ireland (PBNI) and the Department of Justice (DoJ) as key stakeholders and service delivery partners.

#### Context

Public confidence in the justice system depends on whether people believe that justice is being done and that it is fair and effective, and there is a need for a robust and effective enforcement process when someone defaults on the terms of a Court order.<sup>133</sup>

In an Inspection Report in 2010 Inspectors called for substantial changes to the enforcement process and made recommendations, directed across the criminal justice system, for a stricter regime for the payment of fines to maximise compliance and minimise recourse to police enforcement and imprisonment.<sup>134</sup>

The 2011 Prison Review report emphasised that prisons should be the last, not the first, resort of an effective criminal justice system; it found that the prison population in Northern Ireland was inflated with fine defaulters, and opportunities to provide supervised activity orders as an alternative to custody for fine default had not been taken up.<sup>135</sup>

133 Criminal Justice Inspection Northern Ireland, *The Enforcement of Fines*, March 2010, available at <http://www.cjini.org/getattachment/d11d51ea-501e-45ea-bfe8-0c92f831830d/The-enforcement-of-fines.aspx>

134 *Ibid.*

135 *Prison Review Team, Review of the Northern Ireland Prison Service, Conditions, management and oversight of all prisons, Final Report*, October 2011, available at <https://www.justice-ni.gov.uk/sites/default/files/publications/doj/owers-review-of-the-northern-ireland-prison-service.pdf>

The Public Accounts Committee (PAC) report on the NICTS Trust Statement for 2012-2013 highlighted the value of unpaid financial penalties as significant, and raised concerns about fine collection and enforcement measures in the NICTS and the system for dealing with fine defaulters. The PAC said it was vital that the justice system sent out the right message and it was essential that the NICTS made every effort to fully recover financial penalties.<sup>136</sup>

The Justice Act (Northern Ireland) 2016 created new powers for criminal Courts to make a collection order when imposing a financial penalty, and included various measures to collect outstanding debt including deduction from benefits or income, vehicle seizure and powers to access bank accounts. The NICTS had established a Fine Collection and Enforcement Service which commenced operation in June 2018.

A subsequent report<sup>137</sup> by the Comptroller and Auditor General on the 2018-19 NICTS Trust Statement found that while steps had been taken to address the issues in the PAC report there was still a substantial debt outstanding which was unlikely to be recovered.

### **Aims of the inspection**

The aim of the inspection is to examine and assess the effectiveness and impact of current fine default strategy and services in Northern Ireland, with specific emphasis on the NICTS, and including the PSNI, NIPS, PBNI and DoJ, with a view to securing improvement.

The objectives of the inspection are to:

- examine the effectiveness of organisational strategies with regard to effective penalty enforcement;
- review the processes for fine penalty enforcement, how operational delivery is structured to meet the needs and expectations of stakeholders and victims, and to assess effectiveness and potential areas for improvement;
- examine and assess the outcomes of strategies and delivery mechanisms for penalty enforcement against historic collection rates, targets and expectations;
- examine management information, resource utilisation and the performance of the justice organisations to enforce Court-ordered financial penalties; and
- examine how the above aspects of penalty enforcement are benchmarked against good practice in neighbouring jurisdictions.

Other matters of significance as they arise during inspection will also be considered.

136 *Report on Northern Ireland Courts and Tribunals Service Trust Statement for the year ended 31 March 2013*, available at <http://www.niassembly.gov.uk/assembly-business/committees/2011-2016/public-accounts-committee/reports-2011-2016/report-on-northern-ireland-courts-and-tribunals-service-trust-statement-for-the-year-ended-31-march-2013/>

137 *Northern Ireland Courts and Tribunals Service Trust Statement For the year ended 31 March 2019, Laid before the Northern Ireland Assembly on 25 March 2020*, available at [https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen\\_0.pdf](https://www.justice-ni.gov.uk/sites/default/files/publications/justice/nicts-trust-statement-eighteen-nineteen_0.pdf)

## Methodology

The inspection will be based on the Inspection Framework. The three main elements of the inspection framework are:

- strategy and governance;
- delivery; and
- outcomes.

Constants in each of the three framework elements and throughout each inspection are equality and fairness, together with standards and best practice. The inspection methodology can be found at [www.cjini.org](http://www.cjini.org).

The Inspection will give due consideration to the relevant human rights laws.

## Research and review

Collection and review of relevant documentation such as previous inspection and other reports, the NICTS and criminal justice agency policies and procedures, management information, data, minutes of meetings and related documentation.

## Delivery

- Terms of reference will be prepared and shared with the NICTS and the other criminal justice organisations prior to the commencement of the inspection. Liaison officers for each body should be nominated for the purposes of the inspection.
- The NICTS as the primary organisation will be given the opportunity to complete a self-assessment of its approach to effective penalty enforcement, and to provide an outline of current progress and any management information deemed relevant.
- Management information, data and other relevant documentation held by the criminal justice agencies will be examined.
- Interviews and focus groups will be conducted with the NICTS and other criminal justice agency staff, and relevant stakeholders to give an insight into the issues affecting effective penalty enforcement.
- Progress in the development of performance and management information will be examined.
- Evidence of planning and decision-making leading to performance improvement and recognition of future development will be assessed.
- Where appropriate benchmarking and identification of best practice within and outside Northern Ireland.
- Fieldwork requiring face-to-face contact will be planned and risk assessed in consultation with the relevant organisation or individual and public health advice such as social distancing will be followed. All timescales are indicative and dependent on developments with the Coronavirus pandemic.

**Feedback and writing**

Following completion of the fieldwork, which is planned to take place from October to November 2020, and analysis of data, a draft report will be shared with the inspected agencies for factual accuracy check. The Chief Inspector will invite the organisations to complete an action plan to address any recommendations. If the plan has been agreed and is available, it will be published alongside the final inspection report. The inspection report will be shared, under embargo, in advance of the publication date with the NICTS and other inspected bodies.

**Inspection publication and closure**

- The final report is scheduled to be completed by March 2021;
- the report will be sent to the Minister of Justice for permission to publish;
- when permission is received the report will be finalised for publication;
- the Chief Inspector’s press release will be shared with the NICTS and the other criminal justice organisations prior to publication and release; and
- a suitable publication date will be agreed and the report issued.

# APPENDIX 2: FINE COLLECTION AND ENFORCEMENT SERVICE SERVICE USER SURVEY RESPONSES

Questionnaire surveys were emailed to 55 service users who had been in contact with the FCS during a four-week period between February and March 2021 and had agreed to receive an email for this purpose. A total of 45 responses were successfully delivered to the recipient. Six responses were received in total. Responses are therefore based on six completed surveys (13% response rate). Given the low response rate any findings must be interpreted with caution. The responses to the questionnaire survey were as follows:

### On the fine(s) and the Collection Order:

- Out of six responses, 83% (5 respondents) stated that when they received the notification of the fine at Court they understood the nature of the fine and how and when it was to be paid;
- In respect of the collection order served upon them in relation to their fine:
  - 67% (4 of 6 respondents) said it was easy to understand (one stated it was not and one was unsure/couldn't remember);
  - 83% (5 of 6 respondents) said it explained how payment could be made (one was unsure/couldn't remember);
  - 83% (5 of 6 respondents) said it provided them with information about contacting the Collection Officer responsible for enforcing the order (one was unsure/couldn't remember);
  - 83% (5 of 6 respondents) said it explained the consequences of non-compliance (one was unsure/couldn't remember).
- One respondent highlighted that information received electronically would be better than paper-based, stating: *'An email containing this information would have been better, papers can easily be misplaced in fact I ended up losing mine and had to look around on the NI Court website for the payment line.'*

### On contact with the Collection Officer in the NICTS FCS:

- 100% (6 of 6 respondents) said the Collection Officer sought information from them about their current financial circumstances;
- 83% (5 of 6 respondents) said the Collection Officer provided them with advice and information about payment (one stated they didn't know/couldn't remember);
- One respondent was positive about their contact with the Collection Officer: *'He was nice and helped me set up so fine came out of benefits'* and another again raised the potential for technological enhancements: *'It would be much easier if an option to make payment online was introduced. One could insert their reference number and visit the website easily at any time. With the phone call way there is much restriction. Heading to a bank to make a standing order is also a very demanding as such. Could you not offer direct debit set up? Online in addition to on the phone'*.<sup>138</sup>

<sup>138</sup> The NICTS website provides an option to pay a fine online with a debit or credit card via at <https://www.justice-ni.gov.uk/articles/fine-collection-and-enforcement-service>

- Respondents said the Collection Officer provided them with relevant information<sup>139</sup> on the following:
  - how to pay the outstanding fine debt in full (100%, 6 of 6 respondents);
  - an extension of time to pay the fines or payment by instalments (100%, 6 of 6 respondents);
  - an attachment of earnings order (33%, 2 of 6 respondents) with 3 respondents (50%) stating that they had not been given this information and 1 (17% who were unsure/couldn't remember);
  - a bank account order (33%, 2 of 6 respondents) with 3 respondents (50%) stating that they had not been given this information and 1 (17% who was unsure/couldn't remember);
  - a vehicle seizure order (33%, 2 of 6 respondents) with 4 (67%) respondents stating that they had not been given this information;
- 100% (6 of 6 respondents) said it was easy to make contact with the Collection Officer to discuss their case;
- 100% (6 of 6 respondents) said the Collection Officer was able to provide them with all the information they needed regarding the payment of the outstanding fine debt;
- 100% (6 of 6 respondents) said the Collection Officer was helpful when dealing with their case;
- 100% (6 of 6 respondents) said they felt the information they provided regarding their financial circumstances was adequately taken into account by the Collection Officer.

### Overall:

- On a scale of 1 (not at all) to 4 (completely) on average respondents (n=6) rated their satisfaction with the service provided to them by the FCS as 3.3.

### Equality Monitoring:

In order to meet its obligations as a public body CJI asked respondents a series of questions against the Section 75<sup>140</sup> categories to assess whether responses were received from a range of backgrounds. The responses were as follows:

- 67% (4 of 6 respondents) stated that they were aged 40-49 years old with one respondent (17%) aged 22-29 years and one respondent (17%) aged 30-39 years;
- 67% (4 of 6 respondents) stated that they were male with 33% (2 of 6 respondents) stating they were female;

<sup>139</sup> Based on the information provided to the Collection Officer via the Means Enquiry Form and the sequential nature of the options being offered to the service user, some will not have been provided about information not relevant to their case (for example, attachment from earnings will be not relevant if they are not working; a bank account or vehicle seizure order will not be relevant if they have set up a payment plan or are having the fine deducted from their benefits).

<sup>140</sup> Section 75 of the Northern Ireland Act 1998 places a statutory obligation on Public Authorities to carry out their functions with due regard to the need to promote equality of opportunity and good relations in respect of religious belief, political opinion, gender, race, disability, age, marital status, dependants and sexual orientation. See <https://www.equalityni.org/S75duties> for more information. Inspectors used the monitoring categories as recommended by the Equality Commission NI. Respondents were free to choose not to answer any or all of these questions.

## EFFECTIVE PENALTY ENFORCEMENT

A REVIEW OF THE IMPACT OF CURRENT FINE DEFAULT STRATEGY AND SERVICES

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- 67% (4 of 6 respondents) stated that they had personal responsibility for the care of dependents; one took care of a child/children, two for the care of a person with a disability and two for the care of a dependent older person;
- none of the 6 respondents were married or in a civil partnership;
- 50% (3 of 6 respondents) stated that they were a member of the Roman Catholic community, 33% (2 of 6 respondents) stated that they were a member of the Protestant community and 17% (1 of 6 respondents) stated that they were a member of neither the Protestant nor the Roman Catholic community;
- 83% (5 of 6 respondents) stated that they were of 'White' ethnicity and 17% (1 of 6 respondents) stated that they were of Indian ethnicity;
- all respondents (100%) spoke English as a first language;
- in terms of religion 50% (3 of 6 respondents) stated that they were Roman Catholic and 17% (1 of 6 respondents) stated that they were from the Presbyterian Church of Ireland; Methodist; and no religion respectively; and
- all respondents (100%) said that they were straight/heterosexual.



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