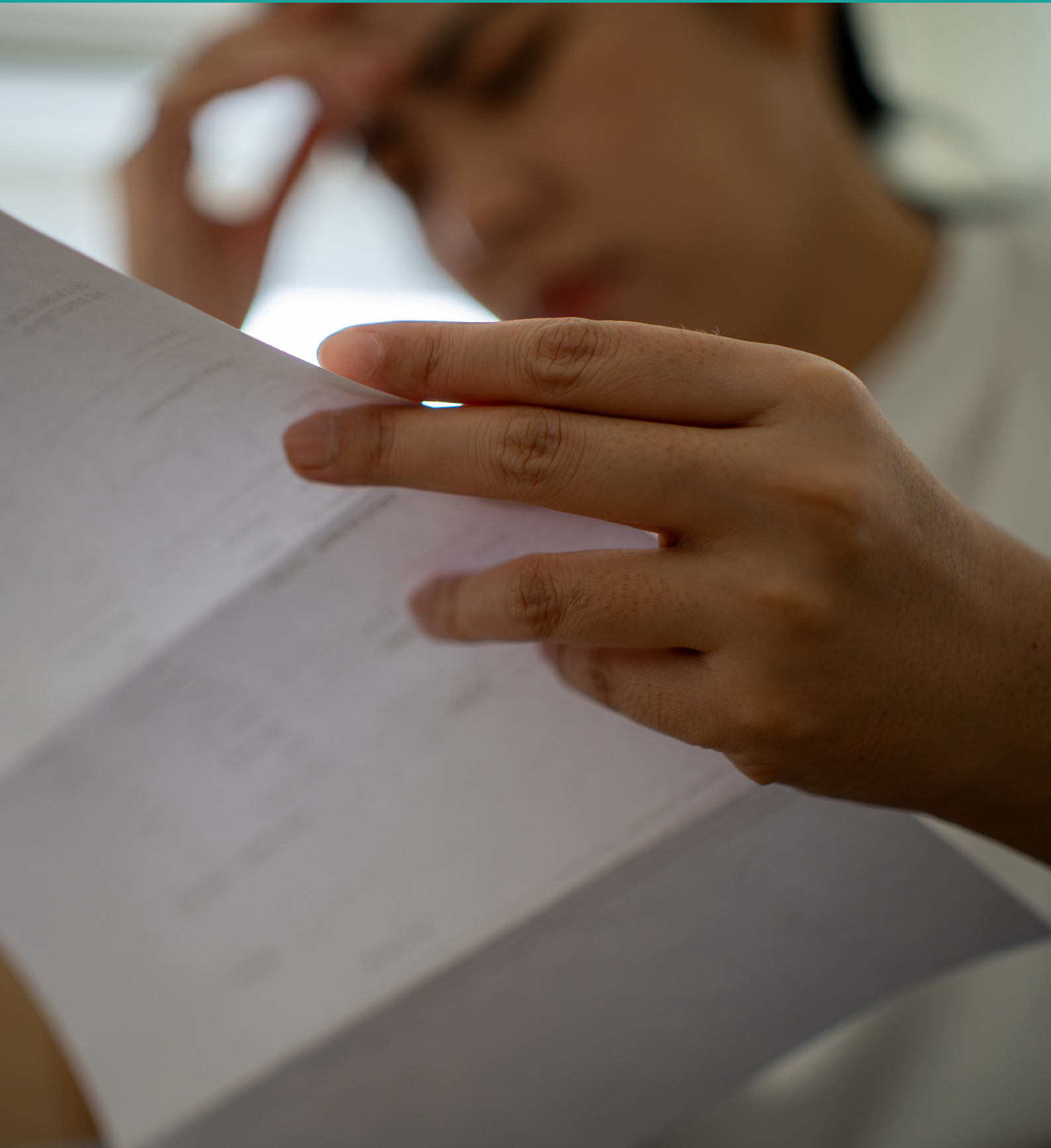


A fairer and more effective system for fines and financial orders in magistrates' courts



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Executive summary

Introduction

Sentencing legislation and guidance aim to create a system of fines and financial orders that has an equal impact on people of different means, and where no one is asked for more than they can afford. However, our 2024 research report – “*Where the hell am I going to get that money from?*” – highlighted that, in practice, the system has disproportionate and harmful effects on people on low incomes. We called for a fairer and more effective system, built on a consistent framework for ordering, setting and reviewing fines and financial orders, which is responsive to the financial circumstances of individuals and centres considerations of affordability and proportionate impact.

In this, our second research report, we outline practical options for achieving this much-needed reform. Through a combination of research methods, we have created a detailed map of how key existing processes are working in practice, generated ideas for reform in partnership with key stakeholders, and tested these with service users, court practitioners and officials as well as stakeholders with knowledge of financial inclusion.

Research findings

Collecting financial information

Our research found that collection of people’s financial information was inadequate, with the system’s plan for “equal impact” often falling at the first hurdle. We found the primary mode of collection, manual completion of a paper “MC100 means” form at court, is outdated, poorly used and does not clearly link to current frameworks for setting fines and financial orders. It is also overly complex and onerous: in practice, the form is almost never completed by the most financially vulnerable, and, to our surprise, some courts have abandoned its use altogether.

Replacing the form with a new version which is fit for purpose and makes effective use of modern technology was considered by practitioners and service users alike as essential to imposing proportionate fines and financial orders. They saw real-time verification of income at court – facilitated by data connections with the Department for Work and Pensions (DWP) and HM Revenue & Customs (HMRC) – as key to: (i) reducing the administrative burden on people who might struggle to provide financial details; (ii) increasing revenue by imposing appropriate fines on high earners; and (iii) supporting decision-making in cases where the sentence is issued without input from the individual.

Alternatives to financial penalties for the poorest

Perhaps the most pressing challenge raised through our research was the need for better options in cases where a person is too financially vulnerable to be fined. While we welcome the recent addition to the sentencing guidelines which states that “*It is important that a fine is not imposed on an offender without sufficient means to pay*”,¹ clarity is needed on how this will apply in practice and what the court can do instead. Practitioners and service users discussed the relative merits of various alternatives, including conditional discharges, out of court resolutions, unpaid work and deferred sentencing. Conditional discharges with a referral to relevant services such as debt or housing advice were widely considered an appropriate and problem-solving approach for many of these cases.

Setting fine and financial order amounts

Our research strongly indicates that the process for setting the amount of fines and financial orders lacks transparency and risks imposing sentences which have a disproportionate impact. In particular, financial orders (such as prosecution costs) were described as “*hidden costs*” by service users, which often made the total amount impossible to pay, resulting in service users’ feeling the total punishment was disproportionate to the offence. Practitioners considered the surcharge particularly problematic because it offers judges and magistrates almost no discretion to take account of defendants’ financial circumstances. Practitioners and service users called for comprehensive guidance for setting fines and financial orders that considered the full weight of their impact in the round.

Managing existing fines and financial orders

Our research generally found the fine payment system to be inflexible and ineffective, especially when people need additional assistance with paying fines. This included situations where a change in someone’s financial circumstances might make their original payment plan unaffordable, or where people fell behind on payments. Many service users told us that they were not aware of the option of reviewing existing fines, and those who did seek review often found fines officers unresponsive and unhelpful. While we heard of, and witnessed, positive practice at enforcement courts, magistrates were often frustrated at wasting court time doing what the fines office ought to be doing or remitting fines that people were clearly unable to afford from the outset.

Participants called for a problem-solving approach to changed financial circumstances and non-payment of fines and financial orders. Under this approach, people who are struggling to pay or fall behind on payments would be offered opportunities to engage, explain their difficulties and explore alternative arrangements. Participants also saw a transparent and user-friendly online system for paying and managing fines and financial orders as essential.

Recommendations

We propose six key changes to the system of fines and financial orders in magistrates’ courts. These changes aim to: ensure that fines and financial orders have an equal impact on people on low incomes; improve the timeliness and efficiency of the process; and better support people who struggle to navigate the system, such as those with poor financial literacy. These changes can further serve the interests of the system by maximising income through levying appropriate fines and fees on high earners, and reducing the costs and court workload associated with enforcement.

1. Reform sentencing guidelines to be more comprehensive and consistent

New guidance should be created which provides courts with a framework for determining the maximum total amount which a person can be reasonably ordered to pay across all their fines and financial orders. This should be based on a person’s disposable income, after essential outgoings have been taken into account. The framework should allow appropriate room for judicial discretion, including providing the option of waiving the surcharge where a person cannot afford to pay it. Existing guidance should be expanded to include an objective definition of “*reasonable ‘subsistence’*”.

2. Develop a new and more streamlined system for collecting financial information

A new means form should be developed to identify how much of a person’s income is going on essential outgoings and how much remains as disposable income. It should be accessible online and in paper in advance of a hearing as well as on the day. HMCTS (HM Courts and Tribunals Service) should partner with Community Advice or other local third-sector services that can provide support for defendants to complete the form within the court building.

3. Improve courts' access to income and fine data to assist improved decision-making

Courts should be enabled to access HMRC and DWP records to verify people's income, helping them determine appropriate levels of fines and financial orders "live" in both physical court and Single Justice Procedure cases. Courts should also be able to more readily view existing fines on account, as well as deductions from benefits and attachment of earnings orders, and use this information to inform the ordering and setting of a new fine.

4. Ensure that courts can identify and provide alternatives to people unable to pay a fine

Magistrates should receive comprehensive training on effectively discussing financial issues with service users and working with people who are struggling financially. The court should employ a standard checklist to help identify defendants who cannot afford to pay any amount. Sentencing guidelines should clearly indicate options that are available to courts where the suitability of a fine is otherwise indicated but the person lacks the means to pay. These might include: referral back for reconsideration of an out of court resolution, and conditional discharge coupled with a referral to an advice or support service.

5. Create a transparent, user-friendly and problem-solving system for paying and managing fines and financial impositions

HMCTS should set up a single online system where people can disclose financial information, make payments, check their fines balance and notify courts about a change in financial circumstances or that they are struggling to make payments. This new system should be supported by assistance (including through assistive chatbots online), affording people opportunities to engage, explain their situation and explore alternative arrangements. Where fine and financial order payments fall into arrears, the first response should include the opportunity for people to use the online system to report a change in circumstances.

6. Empower specially trained fines officers to review fine and repayment levels when circumstances change or new information comes to light

Fines officers with specific training should be empowered to make adjustments to fines and financial orders in specific circumstances, such as when a person updates their financial information via the online system.

Conclusion

Fines remain by far the most used sentence given by the criminal courts. The current system for fines and financial orders has a significant and unintended negative impact on the poorest, who find themselves facing far harsher sanctions than their wealthier counterparts. However, it also has a significant negative impact on the court service. At present, 50% of criminal court fines remain unpaid 12 months after sentencing, creating a major administrative burden on already over-stretched courts. We believe that the practitioner and service user-tested recommendations outlined above can address these problems, and deliver a fairer, more effective system of fines and financial orders in magistrates' courts.

Introduction

In 2024, we published the first research report in our two-phase project on the impact of court fines and financial orders on people on low incomes.² It flagged that three out of four people who are sentenced in criminal court are punished with a fine and that 50% of these fines remain unpaid 12 months after sentencing. Our analysis of Citizens Advice client data strongly suggested that people who struggle to pay are often in our most economically vulnerable communities. Their clients with criminal court fine arrears were twice as likely to report living in social housing and nearly twice as likely to be unemployed as other client groups.

Sentencing legislation and guidance includes a range of safeguards which appear to outline a system of fines and financial orders that ought to have an equitable effect on people of different means, and where no one is asked for more than they can afford. But our report – the first in a generation to look specifically at the impact of criminal court fines in England and Wales – highlighted disproportionate and harmful effects on people on low incomes in practice. Many of our interviewees, who were on low incomes and had received fines, reported that the financial burdens placed on them by the court had taken them further into debt, with some pushed into destitution and further offending in order to pay. Those who struggled to pay faced a system that lacked the flexibility to respond to changing circumstances and was quick to trigger expensive and threatening commercial collections processes when payments were missed. Magistrates repeatedly told us that, in the absence of other options, they felt compelled to impose fines on people in poverty, knowing that they had little hope of being paid.

Our report called for a fairer and more effective system, built on a consistent framework for ordering, setting and reviewing fines and financial orders, which is responsive to the financial circumstances of individuals, and which centres considerations of affordability and proportionate impact. In this, our second-phase research report, the focus is on practical recommendations for reform. Drawing from insights on areas where reform would be most achievable and impactful, we have focused on three processes:

- i) how financial information is collected by the court;
- ii) how the court orders and sets amounts and payment plans for fines and financial orders, both using financial information and in the absence of some or all of this; and
- iii) how the court adjusts fine and financial order amounts or payment plans in light of changing financial circumstances or non-payment due to affordability.

Through a combination of research methods (outlined below), we created a detailed map of how these existing processes are working in practice, generated ideas for reform in partnership with key stakeholders, and tested these with service users, court practitioners and officials as well as stakeholders with knowledge of financial inclusion. Together, the resulting recommendations for reform aim to: ensure that key processes around fines and financial orders do not have an unequal impact on people on low incomes; improve the timeliness and efficiency of these processes; and better support people facing barriers in navigating the system, such as those with poor financial literacy.

Background

Summary of phase one research

Phase one of our research consisted of: (i) qualitative interviews with 56 people with experience of fines across England and Wales and who live on a low income; (ii) a legal review of how the current sentencing framework works in respect of fines; (iii) a literature review on academic research into court fines and links between offending and poverty; (iv) a review of existing public data on court fines; (v) a quantitative analysis of Citizens Advice data for clients who faced fine arrears between 2019 and 2023; and (vi) two workshops with 14 magistrates, organised in partnership with the Magistrates' Association.

The research report was published in May 2024 and found that:

- A large number of the offences for which court fines are imposed are strongly linked to people's pre-existing poverty, such as TV licence evasion.
- Many of the 56 people we interviewed, on low incomes and who have been sentenced to fines, reported that the financial burdens placed on them by the court had pushed them further into debt, with some pushed into destitution and into further offending to pay off the court fine.
- For some, the financial burden of court payments took a severe toll on their mental and physical health, particularly where they faced prolonged payment periods.
- While fine amounts are meant to be determined by an individual's financial circumstances, we heard a range of experiences in relation to how that is currently being assessed, with some people not recalling being asked about their circumstances at all and others finding the process confusing and intimidating, prompting some to overestimate the amount they could reasonably pay.
- The imposition of other non-means-tested financial orders alongside the fine, such as prosecution costs, often pushed the total amount owed to the court up from something affordable to an amount that felt impossible to pay in the time allowed.
- Court fine enforcement action (which is subject to less regulation than commercial credit recovery), particularly the threat of bailiffs, added further financial and wellbeing strains, especially for those already struggling to make insufficient household budgets last.
- Our workshops with magistrates suggested that they often felt their hands were tied, leaving them to sentence people on low incomes to fines that the magistrates knew they could not pay. Many of the issues raised in our interviews, especially around how the court assesses people's financial circumstances, were frustrating to magistrates too.
- Many of the people we spoke to felt that a fine was, in theory, an appropriate punishment for the offence they committed, but that in practice the amount they eventually needed to pay was seen as excessive and unjust.

Policy update

Since the publication of our phase one research report in May 2024, there have been a number of further calls for reform to the system of fines and financial orders in magistrates' courts. The May 2025 Independent Sentencing Review stated:

“ [D]espite sentencing guidelines stating that fines should not contribute to financial hardship, evidence provided by organisations such as Transform Justice, the Magistrates' Association and the Centre for Justice Innovation suggested that for low-income offenders the financial impact of fines is disproportionately punitive and therefore fines are not always experienced equally by offenders.”³

It noted that community sentencing options including fines can prove “more restrictive and punitive for some offenders than others”, explaining:

“ For example, it could be the case that for an offender with sufficient means, a driving ban may be more punitive than a £5,000 fine that they could put on a credit card, whereas for someone with little means, a £100 fine may be incredibly punitive. A large, targeted fine may also be experienced as more punitive for some offenders than a short period in custody.”⁴

The review argued that the current sentencing framework limits the judiciary's ability to tailor community punishments and deploy them flexibly, urging reform of fines guidelines “to avoid disproportionate punishment of low-income and low-level offenders”.⁵

Next, acknowledging that some people will struggle to pay any fine amount, the Sentencing Council added the following to its guidelines on the imposition of community and custodial sentences: “It is important that a fine is not imposed on an offender without sufficient means to pay”.⁶ Having been delayed as a result of concerns around other parts of the revised guidelines, the addition was finally made effective from 1 September 2025.

The 2025 Sentencing Bill expands on the range of financial orders available to courts by introducing Income Reduction Orders (IROs) that can be issued alongside a suspended sentence. IROs enable courts to order people to pay a percentage of their taxable monthly income above a certain threshold, for up to the duration of their sentence, as a financial penalty. According to the Ministry of Justice's factsheet on the bill, these orders will be issued to those “deemed likely to generate a significant income” above a minimum threshold to be determined by regulations.⁷ While it is noted that IROs “may be particularly useful for higher income offenders who may be less likely to feel penalised for their offence as those with lower incomes”, it is unclear how and to whom they will be applied in practice. As well as affording greater flexibility to apply punitive sentences where custody would otherwise have been ordered, a further stated benefit of IROs is that they will “help assure the public that sentence served in a community setting remain punitive and are seen as deterring criminal activity”.⁸ Given that the principle of “equal impact” underpinning the current fines framework does not translate into practice – with those on lower incomes often treated more punitively – we have concerns that the same may be the case for IROs.

Companion policy report

This research report should be read alongside its companion policy report “*Justice in arrears: Policy options beyond the court fine*”.⁹ While this research report looks at how the court process can be improved where cases do come to court and are likely to lead to a fine, the policy report explores more radical policy reforms with a view to ensuring only the cases that need to come to court do so. The policy report first explores public attitudes to the use of court fines, and provides useful insights into the public appetite for change. It then looks at four areas of reform, proposing better solutions for cases that currently result in court fines that often go unpaid. These are: 1. increase the use of out of court resolutions; 2. review and reform the fixed penalty notices; 3. enforce rail fare evasion via the civil justice system; and 4. decriminalise poverty-related offences.

Research methods

The data collection in this phase of the project included five strands:

- **Court observations:** we observed cases where fines and financial orders were being imposed or reviewed in nine magistrates’ courts. We observed 68 relevant cases: 47 in standard court, 4 in a women’s intensive supervision court and 17 in a fines enforcement court. The aim was to triangulate findings of our phase one service user interviews to create a detailed map of how existing processes around fines and financial orders in magistrates’ courts are working in practice.
- **Court practitioner interviews:** we interviewed and received written responses from several current and former court practitioners, including court clerks, magistrates, legal advisers, senior HMCTS (HM Courts and Tribunals Service) staff and defence lawyers. Questions covered how processes around fines are working in practice, as well as barriers to and ideas for reform.
- **Solutions-focused practitioner workshop:** we convened an online workshop for ten current and former court practitioners with interest and expertise in the fines and financial orders system. We presented the findings from phase one as well as emerging phase two findings from court observations and practitioner interviews. Attendees discussed potential solutions to the challenges highlighted and how these could be best operationalised.
- **Public opinion polling:** we commissioned independent opinion polling by Survation of 1,014 UK adults to test public attitudes around the use of fines, including appetite for reform.
- **Service user focus groups:** we conducted two focus groups with a total of ten people with experience of being fined in magistrates’ court in partnership with User Voice. The project team presented on the challenges and potential solutions identified by the research. The attendees provided a sense check to initial recommendations, sharing their experiences and proposing practical reforms.

Our findings also draw on the rich research conducted in phase one, in particular the qualitative interviews with service users and the magistrates’ workshops.

SECTION ONE

Collecting financial information

How is means information supposed to be collected?

Sentencing legislation and guidelines emphasise that courts must take into account the financial circumstances of the person when determining the size of fines and the amount of prosecution costs to be paid. Relevant financial details are commonly collected via the MC100 “means form”, which collects information about income and outgoings. Where a person does not provide financial information, the court may make its own judgment as to their financial circumstances and may rely on the default income figure of £440 per week (equivalent to roughly £23,000 per year).¹⁰

Ensuring the fines system has an “*equal impact on offenders with different financial circumstances*” depends, in the first instance, on the accurate provision of people’s financial information.¹¹ As such, a key focus of our research is how effectively this information is collected in practice. Getting the first part of the process right is critical, because, as the people we polled largely agreed (86% of those who expressed a view), “*Courts should only set the total amount of a fine when they have an accurate understanding of a person’s financial circumstances.*”

The primary collection tool is the MC100 (*Statement of assets and other financial circumstances*) – a form which details income and outgoings. Where a MC100 – commonly referred to as a “means form” – is not used, oral representations as to the defendant’s financial circumstances are usually made instead. Where the defendant is not present, the court will commonly make use of the default income amount, currently set at £440 per week.¹²

While we observed and heard of some effective practice, there was a general consensus among practitioners and service users alike that, in general, the collection of financial information is inadequate. In fact, a small but worrying number of service users reported having had no discussions about their financial circumstances before receiving their fine at court. One said:

“ | *I think they should have asked what my financial situation was before, or at least, enquired. I don’t know how much of a difference it would have had, but definitely, if you’re going to impose a fine such as that, or any fine, you need to know that someone can pay it off.*”

Interestingly, some practitioners we spoke to did not regard collection of financial information as an issue, or at least not one worth dwelling on, given case volume, time considerations, and the fact that it is usually low-level offending at issue. On this view, a broad-brush approach is to be expected, with one interviewee saying, “*We get sketchy information, and in our courts, we live with that*”, and another declaring:

“ | *The government and society can’t afford the kind of in-depth examination of somebody’s personal situation for urinating in the street or, I don’t know, driving without due care and attention and so on. It’s never going to be individually based.*”

However, given the significant impact that fines and financial orders can have on people on low incomes, we would argue that it is important to ensure that the system of financial information collection is fit for purpose. Indeed, effective financial information capture not only ensures a just outcome, but it also makes the court process more likely to be experienced as procedurally fair and therefore the justice system, as a whole, more likely to be regarded as legitimate.

Our research identified a number of shortcomings and corresponding potential improvements to the process of financial information collection. These are set out below.

The purpose of collecting financial information is communicated poorly

Practitioners and service users alike wanted the purpose of financial information collection to be made clearer in the MC100 and at court. While the subheading of the MC100 is “*Make sure you can pay your fine*”, it is only halfway down page 3, after the form itself, that the way in which the information will be used is briefly stated: “*In deciding the amount of any fines or other financial impositions the court will take into account the information you have given about your financial circumstances including your assets.*” In observations, when asking defendants about their financial circumstances, magistrates rarely explained why they needed this information and how it would be used.

It is therefore unsurprising that our research highlighted a reluctance among some defendants to provide information on their financial circumstances for fear of how it would be used. One service user stated, “*I don’t know where the information goes, so I don’t want to give them the information*”, while another said they believed the information they provided to the court was shared with the Job Centre, which then made intrusive enquiries about their spending. Such mistrust in the system led another service user to declare: “*Them knowing my name is bad enough.*”

There is insufficient time to complete the form

High up the list of service users’ priorities was more time to gather the requisite information and seek assistance to complete the MC100. Indeed, many service users said they only became aware of the means form at court, forcing them to complete it in very limited time and at a point of high stress. As one person put it, “*[I]t’s stressful going to court... I think it distracts you from your purpose of being there.*” Another, agreeing, said: “*The whole stress and everything you’re going through in that moment, to then be handed this form and to try to focus on your outgoings is a bit difficult... you’re not going to sit there and think, ‘Okay, yeah, I pay this for my rent and mortgage, this is my council tax, this is my...’ You’re not going to think that way.*” For some participants, the solution was ensuring advance access by routinely posting the form alongside the summons to court and/or making it available online with the weblink sent via SMS and email where possible.

A small number of others floated the idea of having a placeholder decision as to the fine amount made in court, and it being held in abeyance for a set period, say 28 days, to enable the defendant more time to provide financial information. One service user suggested the following: “*It could be like, ‘Due to the information we have at hand, this is the decision we’ve made. If you want to add any more additional information that will affect whatever, you have a period of time.’*” Another said: “*I think, if you’re going to be fined, you should be fined in, like, 28 days’ time, which gives you enough time to get whatever documents you need together, or get support in getting those documents, to reflect on what you honestly can afford.*”

However, most were wary about moving to a system where providing information after a hearing becomes the standard. They pointed to this likely worsening existing backlogs and, as one service user put it, “*just prolonging the inevitable, making things longer*”. They were clear, however, that there should be a straightforward means of providing information after the hearing if the decision was made on the basis of incomplete or inaccurate financial information.

Assistance is not routinely available

Service users stressed the lack of any formal support options to help them complete the MC100. It was felt that most people would want to avail themselves of help with what was largely considered a “complicated” and “overwhelming” form. As one said, “If someone would’ve just been there to help me fill that out in the court, or someone, it might bloody work.” The situation was seen as particularly acute for those with additional needs. A service user asked, “What about people who have got dyslexia, or ADHD, or all these different things, or they might not be able to read and write...?”

Moreover, the research highlighted that defence lawyers cannot necessarily be relied on to plug this gap, with one practitioner, for example, declaring that solicitors “don’t consider it an important part of their role”. In the absence of assistance, it is clear that the means form may go unused, or ineffectively used, risking fines and financial orders being set at an inappropriate level. For example, a service user recalled:

“ And they’re like, ‘Here are some forms, take these forms,’ and I’m like – sometimes I want to say to that usher, ‘Couldn’t you just spend a bit of time with me, take some time on me, and just show me what to do?’ Otherwise, that ends up in the B.I.N. I just don’t understand it, and it gets to me.”

Service users strongly called for having a trained worker stationed at the court tasked with helping people complete means forms and fielding any questions about the process, from information-gathering through to enforcement, as one put it, “A financial advocate.” Crucially, they stressed the importance of their being “independent” of the court.

The idea of routinely available support was also welcomed by practitioners. For example, a magistrate said: “I think, definitely, having someone help them fill them out, fill it out, so that they understand the importance that’s placed on the information they’re providing.” Similarly, practitioners from community-based advice charities at the solutions workshop stressed that, before being in a position to complete the MC100 form meaningfully, people need advice, for example, on priority debts. They flagged that their clients tend to overestimate how much they can afford to pay in fines and need some challenge and guidance to help them provide more accurate information.

However, other practitioners, while acknowledging the need for support with the MC100, were more circumspect, concerned about resource implications. One said: “Ideally, you could have, say, an officer in court to interview the defendant and help them fill in the form, but who’s going to pay for that? That would give you better quality information, but I don’t see the resources for that.”

Service users were also alive to the resource constraints facing the system and so suggested potentially less costly alternatives. Among these was defence lawyers being formally tasked with assisting clients to complete the means form. One service user explained, “[Y]ou’re going to be a lot more receptive, to be honest, or have that conversation with your legal team, because he’s on your side, rather than seeing it as us against them.” It was noted, however, that many defendants are unrepresented, and so this option would not offer universal coverage.

A popular suggestion among service users and practitioners alike was for courts to partner with advice charities who could co-locate a staff member at court. One service user said, “I think there are so many charities that would be willing to do that, if the courts let them.” Practitioners from community-based advice charities at the workshop welcomed the idea of such partnerships, but urged that they should not be seen as a low-cost solution; funding must be such that their costs are fully covered.

The MC100 is used inconsistently

Our court observations flagged that the use of the means form varies widely between courts and between individual benches. In some courts, the form is a key part of the court's operations, while in others it has apparently been eliminated altogether. Some magistrates routinely asked for the means form, with one even proposing adjournment where a form was not completed, while others only engaged with it if raised by the defendant or their lawyer. Many practitioners pinpointed COVID as a turning point in practice, with one, for example, explaining: *"Before COVID, if you appeared in court, you always produced a means form. After COVID, it was a little bit more hit and miss."* There were strong calls among practitioners to formalise the use of the MC100 in every case, thereby addressing the form's inconsistent use and promoting appropriate decision-making.

Practitioners also expressed doubts that the MC100 was completed by service users in Single Justice Procedure (SJP) cases.¹³ Given that most offences to which the procedure applies are relatively minor, they suggested that defendants are unlikely to provide information about their means, via the MC100 or otherwise. As one practitioner said, *"They are sent their means forms with their court papers, but of course, the vast majority, or a lot of people, don't ever respond to those. So we don't actually get their means information at all."* Unless the individual provides this information, the court proceeds on the basis of an assumed relevant weekly income of £440, which may be wholly unrealistic in the case at hand.

Without first addressing this inconsistency, improving the means form can only achieve so much. As one service user said: *"[Y]ou could fill that out and be as detailed as you want. In my experience, every time I've gone to the magistrates and filled one of these out, they're not reading it."* Others questioned whether it was appropriate to use the MC100 in all cases. For example, a service user asked: *"Why would they actually ask you for all this, though, if you were homeless and you're not working?"* As a potential solution to this, it was suggested that the form could be amended to facilitate clearer identification of people without the means to pay any amount of fine at all. One service user proposed an addition to the form: *"Just a simple box that just says, 'Can I afford this?' Because the judge might not have got that information."* Others were sceptical, noting that people would be reluctant to tick such a box out of fear of being given a more serious punishment in place of a fine.

As an alternative, it was suggested that magistrates should be encouraged to be more aware of financial vulnerability and to probe where necessary to establish whether a defendant might be unable to pay any amount at all without hardship. During observations, some magistrates demonstrated laudable professional curiosity when affordability was in question and asked appropriate questions to gain a fuller picture of the defendant's financial circumstances.

Important aspects of a person's finances are not captured

Some service users said they would appreciate the opportunity to provide oral representations in court, flagging that these could provide important insights into their financial situation that the MC100 alone could not. This was echoed by some magistrate interviewees who expressed frustration at gaps in the form, such as any deductions being made from a person's benefits or whether they have existing court fines or are paying off other loans. Demonstrating the importance of oral representations, a magistrate told us that they used their discretion to reduce the fine if a person said they had lost their job or if they were a carer. As well as resulting in a fairer fine, oral representations can make the process itself more fair, with voice being a key tenet of procedural fairness. An addition to the sentencing guidelines could ensure people are routinely given the opportunity to provide oral representations regarding their financial circumstances.

In SJP cases and other hearings where the defendant is absent, there is no opportunity of oral representations or dialogue between the court and the defendant on means or the viability of instalments. This may mean that higher fines are imposed, more frequently, on people who cannot afford to pay them.

However, oral representations should not be seen as a panacea. During court observations, these representations as to financial circumstances often only amounted to defendants being asked their weekly income or to confirm that they were in receipt of benefits. Moreover, due to the stress of the situation and in fear of a more severe sentence should they indicate their inability to pay, defendants may well overstate their financial position when asked. As a practitioner explained, “[T]here are different motivations operating in terms of the offender. Sometimes they’re saying they can pay because they think they’re going to jail if they say they can’t pay.”

At times, finding out that someone was on benefits was the beginning and end of the financial information collection process. As one magistrate said, “[I]f somebody’s on benefits, actually, that’s all they need to say to us because we then know to go to £120.” (where a person’s only source of income is state benefit, the relevant weekly income is deemed to be £120, as outlined in section 2).¹⁴ While people in our service user focus groups welcomed a separate approach for those on benefits, they cautioned against a blanket approach, stressing that people on benefits are not a homogenous group. While it is important to flag where people are in receipt of benefits and therefore of lower means, they highlighted that there must be room to respond to individual circumstances too.

We did observe some positive practice from defence solicitors. For example, one gave a comprehensive oral account of their client’s special financial circumstances, resulting in the bench agreeing to reduce the fine, and another made it clear that their client had no means to pay, resulting in a conditional discharge being ordered. However, at times during observations, the only financial information a lawyer gave was that the defendant was on benefits, when further details (e.g. around insecure housing or additional financial commitments) may have given the court a clearer picture of their ability to pay.

When asked whether the process of collecting financial information is different for unrepresented defendants, one practitioner replied:

“ It isn’t really different. It’s possible that an advocate might give a bit of extra information about dependants and heavy outgoings, but actually, they don’t do that very often either. Advocates are a bit skimpy on finding out means information from defendants.”

Indeed, if a lawyer sees a fine as a win in itself, by avoiding a community sentence, there may be less incentive for them to provide detailed information to have it reduced.

One suggestion, in addition to oral representations being routinely asked for, was adding a free-text box to the MC100 for people to input any other information they consider important regarding their financial circumstances, which might not otherwise be accounted for.

Time constraints result in poor information capture

Practitioners highlighted that magistrates, contending as they do with tight timescales, can usually only garner a surface-level understanding of people’s financial circumstances. One said: “If you had more time you could look at, you know, that person’s circumstances and what’s really going on in their lives. And again in a busy court, you won’t have time to really dig into that.”

Practitioners explained that, in the context of a busy court list and mounting backlogs, a lack of financial information is rarely considered to be sufficient cause for an adjournment. As one interviewee put it, “You cannot afford to devote too much time to one case. So I’m afraid it’s rough justice.” Service users also doubted the courts’ ability to effectively assess defendants’ financial circumstances in the time available. For example, a service user said: “How has he [the magistrate] got a split second, like, to take a glance at it and work out what your fine will be? It’s luck of the draw. It’s impossible. It’s not being assessed properly.”

Time considerations were also cited as the reason evidence of financial circumstances is largely not requested. A practitioner explained that, while they can technically ask for evidence of information detailed in a means form, *“practically it is not something we do because it would simply jam up the wheels of justice”*.

Technology is outmoded

Service users wanted to see better use of technology, calling for online submission of the MC100 to be facilitated. As one suggested, *“How about they just digitise the whole thing?”*, adding, *“if it’s digitised, it’s going to go through a lot quicker, and it’s going to get sorted a lot quicker, it’s a lot easier, a lot more understandable.”* However, the need for safeguards for people not able to engage with an online system was also urged. A service user asked, *“[B]ut what about people that are homeless and don’t have mobile phones?”*

Court practitioners spoke of digitisation as crucial to improving central data collection around financial circumstances. They noted that while there had been an initiative to scan all MC100s, something more comprehensive is needed. In terms of financial information, the online system suggested would enable people to input their National Insurance number – to link to DWP (Department for Work and Pensions) and HM Revenue & Customs (HMRC) systems as discussed below – and add any other pertinent information in advance of their court hearing, or after the fact as needed. (The online system proposed would also be used for review, payment and enforcement purposes.) Practitioners were unclear as to whether or how an online system would help address the issues arising where a person does not attend court, but as a practitioner contended, *“[T]he biggest issue in terms of information capture is where people are dealt with in their absence.”*

Coupled with the idea of moving the current paper system to an online one was the call for real-time verification of income. Several practitioners called for improvements to HMCTS’ data connections with the DWP and HMRC in court. They argued this would address widespread inaccurate and incomplete provision of financial information and help simplify the means form. As one senior HMCTS practitioner explained:

“ What would be good in terms of the fines form and so on is if we were actually able to see people’s income in HMRC systems and see people’s benefits in DWP systems. If we do that, the fines form becomes a much more straightforward thing. You’d need to provide some space for people to represent special circumstances or something like that. If you can see their income and you can see their benefit income, you’re in a much better position to make a fair fine.”

Interestingly, several service users assumed information on their financial circumstances was already available to the courts and so thought the means form was at best a waste of their time and at worst a power play by the authorities. One said, *“It’s all linked up, all the systems are linked up, so they know how much money you’re getting... It’s just there for paperwork’s sake.”*

A major draw of this proposed system was said to be more appropriate and effective leveraging of fines revenue from well-off people. As one practitioner noted, it would *“be extremely helpful for the higher earners”*. Indeed, a common frustration with the current system was that it enables well-off people to withhold financial information and instead rely on the default income of £440 per week (this is equivalent to just less than £23,000 per year, around two-thirds of the UK median income for full-time employees).¹⁵ This means that some high earners could pay a significantly smaller proportion of their real income in fines than those worse off. As one respondent explained:

“ Anyone who is not on benefits knows that they are generally far better off ignoring that [the means form] – as they’ll get a default fine based on the default £440 value rather than their actual, higher wage. Courts don’t have the time nor willpower to force defendants to attend a means enquiry to force the point.”

It was suggested that increasing the fines levied on higher earners through verification of income could free up resources for a more responsive approach to those on lower incomes. As one practitioner urged: *“[I]f we can get more money off the higher earners, we can then take a much more nuanced position in relation to the people who are really, really struggling to pay fines.”*

It was also suggested that this method – by lessening the burden on defendants of providing financial information – would help address the fact that defendants are not always in a position to provide the relevant information. For example, a service user reported, *“I never had that information to hand at all, because my life was very chaotic, I was using every single day, multiple times a day, hard drugs, so I didn’t have a clue.”* However, it was pointed out that the system would rely on people having access to their National Insurance numbers, which cannot be assumed.

SECTION 2

Ordering a fine and setting the amount

As fines and financial orders are often ordered and set on the basis of imperfect information, it is unsurprising that our research highlights concerns that they are having a disproportionate impact on poorer people. In this section, we discuss our findings on the shortcomings in practice around ordering a fine and setting the amount of fines and financial orders, as well as potential solutions to these.

Policy and guidance around imposing a fine

The availability of a fine as a possible sentencing outcome is driven by the offence, specifically whether a fine is a possible disposal for that particular offence. A fine is available as a disposal for the court for all summary only offences¹⁶ and most either way offences¹⁷ (cases mostly heard in their entirety in the magistrates' court), and it remains an option for most indictable offences (heard in the Crown Court), except for the most serious offences.¹⁸ Fines can be used along with any other non-custodial sentence (except absolute and conditional discharges). Courts can issue a fine instead of and in addition to custody, depending on the offence. Imposing a fine in addition to custody is likely to be rare, unless a substantial profit has been made from the offence.

The decision to impose a fine is determined by the seriousness of the offence (the "offence category"), after the court assesses culpability and harm.¹⁹ In imposing a fine, the court must have regard to both their overriding objective to deal with cases justly²⁰ and to the five purposes of sentencing,²¹ and it may be that alternative disposals better satisfy these overriding objectives. The sentencing guidelines also state: "*It is important that a fine is not imposed on an offender without sufficient means to pay.*"²²

Fines are generally considered a less severe outcome than a community sentence and more severe than a discharge, although there is not an official hierarchy.

Identifying and responding to cases where fines are not appropriate

Perhaps the most pressing challenge raised through our research was the need for a better response in cases where ordering a fine is not appropriate due to a person's financial circumstances. Our research in phase one highlighted a group of people who will struggle to pay any amount, no matter how tailored their fine is. This is because their monthly budget already does not meet their basic costs, or because they are experiencing issues around extreme poverty, such as homelessness.

Our research in this phase further supports the need for a more nuanced approach for this cohort of people. For example, in our polling, 59% of those who expressed a view agreed that "*People who are living in poverty and commit a crime should not be given a fine as a punishment*"; and 59% of those who expressed a view agreed that "*People who are homeless and commit a crime should not be given a fine as a punishment.*"

Current practice

While the sentencing guidelines make clear that a fine "*should not force the offender below a reasonable 'subsistence' level*", our research demonstrates that people are being subjected to fines contrary to this. For example, one service user shared:

" | *I'm living day-to-day... hand to mouth. To find an extra £20... It may not seem a lot but it's a hell of a lot for me a month to think, 'Right, what have I got to cut back on now?', especially, [with] the cost of living going up.*"

In such cases, the imposition of a fine not only causes disproportionate financial harm but it also has little hope of being paid. As one service user told us: *“They’ve nobbled me with the £750 [fine], which is crippling, and so far I haven’t paid a penny of it. I’m of no fixed abode, I told them in court... and they just went, ‘Right, you’ve been fined, off you go.’”* Similarly, during observations, in one court existing unpaid fines accounts were often flagged but appeared not to be taken into account when ordering a further fine. This meant, for instance, that someone was given a further £280 to pay despite owing £2,563 in existing court fines that they had no means to pay.

Practitioner interviews and court observations made it clear that magistrates are alive to this problem. In interviews, magistrates expressed frustration and a sense of powerlessness when sentencing a person, whose offence is not serious enough to meet the threshold of a community sentence, to a fine they will obviously struggle to pay. As one put it:

“ I mean, just the reality is that many of the people who appear in court you knew would never pay, and not through unwillingness, but because of an inability to pay, but you had to go through the motions and impose the fines. There was no other penalty you could impose.”

Similarly, a magistrate said, *“It’s not something that we’d want to do, but we lack any alternatives and I think that is a problem for the court.”* It was suggested that in these cases, enforcement at court was relied on as a backstop, with magistrates assuming the fine would eventually be remitted.

Frustration was especially high where there were concerns that the fine might make the financial problems or social issues that had led to the offending in the first place worse, for example where someone was shoplifting for food. As one respondent wrote, *“Given that lack of money is normally the root cause of their offending or a major contributing factor, increasing how much you confiscate from their benefits doesn’t really help.”* During court observations, we witnessed several cases of people who were homeless, unemployed, or on benefits receiving a fine for an incident that was directly linked to poverty or mental health crises. For example, a man, convicted of driving or being in charge of a motor vehicle with an alcohol concentration above the prescribed limit, was ordered to pay £250 (£120 fine plus additional financial orders), despite his solicitor explaining that he was unemployed and homeless, and living in a van that was stationary at the time of the offence.

Many felt imposing a fine in such instances was futile. As one practitioner said, *“If somebody has self-evidently got no means whatever, then imposing a fine which you know, sooner or later, is going to have to be written off is pointless.”* The public tended to agree, with 75% of those who expressed a view in our polling agreeing that *“Courts should not impose fines on people who they know will be unable to pay them.”*

Despite it being suggested by some as an option, practitioners on the whole were wary of giving these individuals a community order, regarding it as up-tariffing on the grounds of poverty. As one magistrate said, *“Is it best to essentially pump up the charges to make it fit a community threshold when in reality if the person in front of you were a bit wealthier, you would just give a fine?”* In any case, it was noted that even when the court does impose a community order, it is still compelled to impose at least a surcharge and sometimes other financial orders, which means every individual called to court leaves with some kind of bill to pay regardless of existing vulnerability or disadvantage. This is exacerbated by the requirement that every community order includes a punitive element. Where people are too vulnerable to complete unpaid work or comply with a curfew (for example because they are sleeping rough) this means that the order must be accompanied by a fine.

In a number of cases during court observations, the defendant seemed on track to receive a fine but when it became apparent that they would be unable to pay, a conditional discharge was instead ordered. For instance, in one case, magistrates praised the defendant for recovering from *“entrenched drug addiction”* and indicated that a big fine would set him back, so instead, though the reasoning was not explicitly stated, they ordered a conditional discharge. While this was likely the most just outcome, the grounds were not articulated and it relied on the particular approach of those on the bench at the time,

presenting a barrier to consistency and accountability of decision-making. In our polling, an overwhelming 94% of those who expressed a view agreed that *“Where courts know that there are people who are unable to pay fines, an alternative punishment should be used.”* It is clear, then, that an alternative sentence should formally be put in place where a defendant is unable to pay.

Alternatives to fines

The Independent Sentencing Review published in May 2025 recommended that sentencing guidelines should be revised *“to allow fines to be imposed more flexibly to avoid disproportionate punishment of low-income and low-level offenders”*.²³ The Sentencing Council added the following to the sentencing guidelines, effective from 1 September 2025: *“It is important that a fine is not imposed on an offender without sufficient means to pay.”*²⁴ While this recognition of the issue is welcome, more clarity is needed on what the court can do instead. During our research, some potential solutions were identified which could be an alternative action for the court in place of ordering a fine where the defendant has insufficient means to pay. These are set out below.

Conditional discharge

Several practitioners called for conditional discharges to be considered as standard where someone has insufficient funds to pay a fine. Under a conditional discharge, an individual is released from court without any further action and required not to commit another offence within a set time, or they will be charged for both. During court observations, conditional discharges were used ad hoc as an alternative to a fine where affordability was in question. This reflected some practitioners’ experience, with one, for example, recalling: *“We saw that used a lot, people were sympathetic to conditional discharge.”* Another practitioner, welcoming such use of conditional discharges, explained it as *“a sentencing panel trying to make sense of a messy system when it comes down to it”*.

Others, however, considered the use of conditional discharge in such circumstances as uncommon and indicated that it could be seen as too lenient to be an acceptable alternative to a fine. For instance, one practitioner said:

“ [Y]ou’re probably not going to impose a conditional discharge simply because the defendant can’t afford to pay a fine. Sometimes, on very rare occasions, you might, but it’s going down the scale, if you like. You’re effectively saying punishment isn’t appropriate in a particular case. So it’s problematic.”

That said, it was suggested that conditional discharges may have the upper hand when it comes to impact on reoffending. One practitioner, for example, said, *“[F]ines have very little rehabilitative value. That’s one of their drawbacks. But actually, conditional discharge might have a little bit in that it hangs over them.”*

Indeed, people were keen on leveraging this rehabilitative potential by coupling a conditional discharge with signposting to support. As one practitioner said, *“Ideally, you’d like courts to order something which might actually make their lives better in some way, if you’ve got somebody who’s dealing with addiction issues and so on and so forth.”* The Independent Sentencing Review flagged Community Advice, a Centre for Justice Innovation-run service at Highbury Magistrates’ Court, as an example of provision of support and referral for those who receive fines.²⁵ Service users were also eager for the alternative to focus on addressing the root causes of offending rather than on punishment for punishment’s sake. One, for example, said, *“You can turn a negative into a positive... Do it to improve people, not to just punish people.”* Another suggested:

“ Maybe that thing you engage in may be something that’s going to help you so you don’t end up in those situations again, so you go to, like, counselling or whatever, that’s your fine, basically, so you get that help and that support that you need, so then you’re not back into that cycle again. You break the cycle. That’s what it’s about, isn’t it?”

They pointed to cost savings being made over time, with one service user explaining:

“ So to begin with, it might cost a little bit more, but in the long run, it would cost less, because they would be dealing with the problems without going to hire bailiffs to send for people that aren't going to pay the money, to be clogging up the court system again.”

Crucially, practitioners and service users alike were clear that support ought to be signposted, not mandated. As one service user said: *“That is a very good fucking word that you just said, signposting.”* Another suggested, *“Give someone an opportunity, ‘Would you like to engage with this project, this outreach programme, this workshop?’ I think most people would want to engage.”* Practitioners, however, expressed concern that mandated support sessions may amount to up-tariffing and, in any case, the resource implications would present a barrier. One interviewee highlighted that policymakers would *“have to consider the availability of services... there are probably an awful lot of other people in the queue ahead of them for that.”*

Out of court resolutions

Another potential alternative to fines for this cohort is to deem these cases not appropriate for court at all. Under this approach, sentencers could, where they feel a fine is inappropriate, make greater use of a seldom-used power to roll cases back from court to be re-considered by the police for an out of court resolution (OOCR). This would direct individuals towards support services, while reducing the burden of conditions they may struggle to comply with, and importantly without imposing the financial orders they would have received at court.

Some practitioners expressed doubts about rolling cases back in this way. Concerns included that police have criteria that would have already been applied, that they do not necessarily have the capacity to consider people's vulnerability, and that the decision sits with the police and Crown Prosecution Service (CPS) rather than the court.

Others, however, stressed that a referral into a light-touch intervention that is well set up to reduce the harms of their offending and engage with the underlying behaviours would, for many, be a more pragmatic and problem-solving outcome than a fine. They pointed to schemes operating across the country that routinely offer OOCRs in cases that would otherwise have gone to court. Among these is, for example, The Out-of-Court Diversion Suite run by Cambridgeshire Constabulary, which diverts individuals who have committed low-level offences, such as cannabis possession and shoplifting, into a trauma-informed approach to address their offending behaviour.²⁶ On this view, wider use of OOCRs would help ensure unsuitable cases do not end up in court, but a roll-back facility is an important backstop.

Unpaid work orders

The idea of re-introducing the option to convert a fine into an unpaid work order – which was piloted in the mid-2000s then discontinued in practice with no order being made since 2009 – for those unable to pay a fine was discussed by research participants and largely rejected. There was some support for unpaid work orders, but supporters did not frame it as the best or even a good solution, but rather as the least bad option when compared to an unaffordable fine. For example, a practitioner said, *“[Y]ou could see unpaid work as being a helpful route out of increasing poverty and robbing Peter to pay Paul all the time.”* Similarly, a practitioner suggested, *“If they are worried sick about the prospect of a fine, they may appreciate a different option.”* The majority of practitioners who expressed an opinion on this disagreed with unpaid work orders on principle. One interviewee said, *“[Y]ou're really almost just punishing people who can't afford to pay their fines then”,* while another stated:

“ You shouldn't move up the scale in terms of the penalty imposed just because somebody can't afford to pay a fine, because otherwise you're effectively punishing somebody more severely because they're poor or punishing somebody who can afford to pay a fine less severely. That's not appropriate either.”

Several practical barriers to unpaid work orders were also flagged. For example, practitioners urged caution as there is limited capacity to deliver these orders. A magistrate told us that it is near impossible to find an unpaid work placement in their rural area and that, in any case, the limited transport options make them very difficult to attend. Another practitioner said that these orders are also an issue in urban areas due to probation staff shortages, arguing that the idea of bringing a whole new workstream to an already struggling probation system is a non-starter. It is clear, then, that, leaving to one side the questionable reasoning behind using unpaid work orders for this cohort, a better functioning probation system would be needed if unpaid work was to be a viable option.

Deferred sentencing

Another alternative suggested was deferred sentencing, whereby the court pauses sentencing and ultimately suspends it if the individual complies with requirements imposed by the court. As well as potentially avoiding a fine, this could provide an opportunity for the person to engage with rehabilitative services without raising the threshold to a community order. Some practitioners saw the benefit of this option particularly in cases where substance use is a factor. This is because deferred sentencing can be seen to hinge on a carrot and stick approach, and a better condition than “do not offend” can readily be set in such cases. However, practitioners were generally wary, noting that deferred sentencing could exacerbate court backlogs by producing a further hearing and may only prove useful in a small number of cases.

Setting the amounts of fines and financial orders

Setting fine amounts

Policy and guidance around setting fines

The Sentencing Council’s Explanatory Materials on Fines and Financial Orders states that the aim of the fine is to “*have an equal impact on offenders with different financial circumstances; it should be a hardship but should not force the offender below a reasonable ‘subsistence’ level.*” Normally a fine should be of an amount that is capable of being paid within 12 months, though there may be exceptions to this.

The court sets the amount of a fine after considering how serious the offence is and how much money the person can pay based on their income. The maximum fine allowed in both magistrates’ courts and the Crown Court is unlimited. A fine is usually based on one of six bands (A–F). The selection of the relevant fine band, and the position of the individual offence within that band, is determined by the seriousness of the offence. The starting point of the bands ranges from 50% to 150% of weekly income. Financial circumstances are taken into account by expressing that position as a proportion of the person’s relevant weekly income.²⁷

Where a person is in receipt of income from employment or is self-employed and that income is more than £120 per week after tax deduction and national insurance (or the self-employed equivalent), the actual income is the relevant weekly income. Where a person’s only source of income is state benefit (including where there is relatively low additional income as permitted by the benefit regulations), the relevant weekly income is deemed to be £120. The same amount applies where a person is in receipt of income from employment or is self-employed but the amount of income after tax deduction and national insurance is £120 per week or less.²⁸

Transparency of the process

During our court observations, the standard scale of fines and fine bands were rarely mentioned when fines were being set, and how the court settled on the amount usually went unexplained. Likewise, service users reported that the process of determining fine amounts was opaque and called for clear explanation. Coupled with the patchy financial information collection described in section one, this led some to believe that fines are set without reference to means. For example, a service user declared: *“They never adapt the fines to people’s income, or outgoings, and it’s always, I think they’ve just got set markers for fines; it doesn’t matter if you’re on the dole or you’re a millionaire.”*

In the absence of a transparent decision-making process, others gave the court even less credit and suggested that fines are set wholly arbitrarily. For example, a service user said: *“Let’s be real, most magistrates just make up a number – I swear they just pick a number out of the sky, and just go, ‘Yeah, that’ll do, job done.’”*

Use of financial information

Practitioners were generally less sceptical than service users of the court’s ability to ensure equal impact on people with different financial circumstances when setting fines. As one interviewee said, *“[T]aking relevant weekly income as a starting point is intended to do that.”* Others, however, were more circumspect, highlighting that the court’s ability to ensure equal impact hinges in large part on the quality of financial information they have access to. For example, a practitioner noted: *“It’s difficult because of the lack of information. The difficulty that some of the clientele in magistrates’ courts have in articulating their circumstances in the first place and so on.”* Even where a MC100 is filled out in full, the fact that outgoings largely go to indicating the potential rate at which a fine should be paid rather than setting the fine amount itself means the defendant’s actual disposable income is not being used to set fine amounts (though *“reasonable living expenses”* are factored into the starting points and ranges for each fine band).²⁹

Moreover, our research suggested that fines are sometimes set without due reference to financial information even where this is accessible to the court. A number of people we spoke to could not recall there being any discussion of their financial circumstances in setting their fine and some recalled completing an MC100 form but not being asked for it during their hearing. One service user said: *“But you could fill that out and be as detailed as you want. In my experience, every time I’ve gone to the magistrates and filled one of these out, they’re not reading it.”* At times information relating to affordability was raised in court and so should have been considered when setting the fine amount or payment plan, but defendants were instead told to raise it with the fines office after the fact. In one hearing, we observed the defendant interrupting proceedings to tell the magistrates that he could not afford to pay but no adjustments were made and he was instead told to discuss his circumstances with the fines office. It was clear, then, that magistrates often rely on the fines office or enforcement court as backstops.

All this said, we did hear of and observe nuanced practice when it came to using financial information. For example, a court practitioner said, *“Clearly, if somebody attends court in person and does have some compelling evidence to give about their unusual personal circumstances, well it would be stupid not to take that into account.”* In one case during observations, the court was careful to confirm that the driving disqualification ordered would not result in loss of employment before ordering and setting the accompanying fine. In another case, on discovering the defendant had limited means, the bench issued a fine but deemed it served due to time spent waiting at court. While concerns were expressed about setting appropriate fine amounts in SJP cases in the absence of means information, a practitioner suggested other information may be drawn on to avoid relying on assumed income. They explained:

“ [Y]ou might have another source of information. I suppose an example of that would be on a Single Justice Procedure, sometimes somebody might say in mitigation, they might plead guilty, they might apologise, and they might say, ‘I’m a student.’ But not give any income. But in that case, I think the fact they’re a student would suggest that we’ve got some information, and that therefore, the fine would be lower at, sort of, benefit level, rather than 440.”

Defendants’ voices in the process

During observations, at times only lip service was paid to giving defendants a voice. For example, a magistrate brusquely asked, “*Could you pay within 28 days? Sure?*”, making it difficult for the defendant to answer in anything but the affirmative. Defendants’ acquiescence could be a result of the tense adversarial environment, fear of a more punitive alternative punishment or lack of understanding. There were a couple of instances during our observations where the defendant appeared to have difficulty with English but no translator was provided. At the other end of the spectrum, we saw instances of magistrates seeking comprehensive oral representations as to the defendant’s financial information and asking the defendant or their defence lawyer to propose an affordable payment plan.

Practitioners’ concerns

As well as expressing worries about the court’s ability to set fair fines given the flawed financial information collection system, practitioners had concerns about the process of fine setting itself. For example, the fines calculator was criticised for not having a function whereby more detailed information about the person’s finances, in addition to their income, could be entered. Others expressed frustration with how fine bands and levels can have a disproportionate impact on those on lower incomes. As one magistrate said, “*richer people get off more lightly if they are butting up against a level*”, explaining:

“ *The classic is the footballer with a motoring offence and it’s a Band C fine, but actually, you can’t go above level five. So, the footballer who earns an income of, what? £70,000 a week, pays no more than 5,000, if it’s a level five. Whereas the person on benefits at a Band C would be 150% of their income.*”

Some magistrates described how there would often be conflict between the three magistrates sitting over setting the fine amount. They explained that, due to the scope for discretion over this process, magistrates must negotiate with each other over how much they feel that the person ought to pay. This was seen to lead to inconsistent outcomes. Finally, and perhaps most pressingly, it was suggested that, even with financial information to hand and unburdened by time constraints, affordability assessments may simply be beyond magistrates’ expertise. As one magistrate told us:

“ *It always makes me feel slightly uncomfortable that I should be in a position where I’m sat there expected to be able to make light of other people’s financial situation and go, ‘Oh, well, it looks like you’ve got £500 a month. Therefore, I think you can afford X’ when actually I don’t know what’s going on within their household.*”

Setting financial order amounts

Policy and guidance around setting financial orders

There are a number of additional financial orders that the courts are able to impose alongside the fine,³⁰ including the surcharge (often known as the victim surcharge), prosecution costs, and compensation orders. Guidance around affordability varies across different financial orders. Sentencing guidelines state that prosecution costs should not exceed the person’s means when added to other financial orders that are imposed.³¹ There is no limit on the size of the compensation order, but the court is required to take into account the person’s means, and they are empowered to scale down the amount or allow additional time to pay (up to three years) if the offender has “*little money*”.³² There is less flexibility over the surcharge amount, which is always 40% of the fine.³³ When the person has insufficient means to pay both the surcharge and compensation, the total can be adjusted, but the compensation must always be prioritised.³⁴

Some practitioners considered the framework for setting fines to be suitably income adjustable, but suggested that other financial orders added on risked unequal impact. One, for example, said, *“I think in terms of the actual fine itself, it’s not an issue. It becomes more of an issue with all the add-ons, doesn’t it?... So when you’ve got your surcharge, costs and potentially compensation to pay, and particularly compensation, I think, can sometimes skew.”* Indeed, during observations we saw financial orders routinely making up a large proportion of the total amount to be paid.

While nearly every service user that we spoke to was aware that other financial orders had been added to their fine total, there was much less understanding about how they had been calculated. People often recalled how these *“hidden costs”* appeared disproportionate to their offence and made the overall amount unrealistic to pay. This caused diminished feelings of trust in the justice system, and the notion that additional financial orders were driven by extracting as much money as possible, rather than seeking justice for the offence committed. In some cases, as service users told us and we observed in court, the financial orders doubled or tripled the amount that was owed to the court. As one service user recounted:

“ I thought it was quite extreme, because the actual fine itself was only £60. But then with all the interest on top and the court fees and all that, that’s what it adds up to. But yes, it’s quite steep really. It’s quite a lot of money if you don’t have it.”

However, during observations, we did see instances of magistrates considering the package (i.e. the fine together with any financial orders) as a whole in terms of affordability and waiving elements as appropriate. Practitioners also flagged this as common practice. One magistrate, for example, explained:

“ We know that lots of people are on very low incomes and can’t afford a big fine. In general, they don’t get a big fine, and we try and reduce it. So, by things like giving priority to compensation, or doing a day as deemed served. Or not awarding costs.”

Surcharge

Many magistrates believed that the surcharge is often set too high for people on low incomes, and one suggested that it was responsible for pushing people into debt. They took issue with the recent changes made to how the surcharge is calculated, with one magistrate stating, *“We then have to add the surcharge, which is now 40% of the fine, which I think most magistrates find difficult.”* The court is required by the sentencing guidelines to add the surcharge to the fine total, even where concerns exist about the person’s ability to pay. With no discretion, some magistrates employ a workaround. As one interviewee explained: *“We have no discretion about the victim surcharge. We have to impose it, unless you decide to do something like a day deemed served, in which case, you can deem the surcharge.”*

During observations, one case in particular highlighted the inflexibility of the surcharge. The defendant was street homeless with no income and was not in receipt of benefits. The bench waived the prosecution costs on the basis of his financial circumstances, but felt bound to impose the surcharge of £114. However, they allowed this to be paid over a year and once the defendant was in receipt of benefits.

Unsurprisingly, it was commonly suggested that the surcharge should be made more means adjustable. A practitioner, for example, said, *“If there is a way of having a sliding scale of that surcharge depending on people’s means, then I think that would be a little bit fairer.”* There was clear scepticism as to the purpose of the surcharge. A handful of service users expressed confusion and anger over paying the *“victim”* surcharge, either because they knew the money did not go to the victim involved in their case or because they had committed offences that did not involve a victim at all. Similarly, some magistrates considered the surcharge to be an income-generation tool, with one saying: *“I think it’s a way of funding the system rather than actually dealing with the people that are in front of us.”*

Compensation orders

Practitioners praised the flexibility in the guidelines around compensation orders, which helps ensure poorer people are not disproportionately impacted by the package of financial orders. One interviewee said:

“ The guidelines also say that if you’re awarding compensation – so, say, it’s an assault – and somebody has a low income, you can give priority to compensation. Which means that, actually, all they end up paying is the compensation. My experience is that’s used quite often as a way of punishing the person, giving some compensation to their victim, but also taking account of the fact that they’ve got a very low income.”

We saw instances of this during observations. For example, in one case the defendant, who was charged with theft, was ordered to pay compensation for the cost of the stolen goods (£279.97), but had other financial orders waived. Compensation was prioritised because the defendant was of limited means and already had an existing fines account with an ongoing deduction from benefits order.

However, magistrates are not necessarily au fait with the guidelines on compensation so the benefits are not always leveraged and outcomes are inconsistent. For example, a former legal adviser highlighted that there was overuse of the three-year maximum period, potentially resulting in unfairly long payment periods for people on low incomes.

Prosecution costs

During observations, we frequently saw prosecution costs being waived or significantly reduced on account of the defendant’s means. For instance, a defendant had their prosecution costs waived because they were on low income, not claiming any benefits and had £10,000 debt in the form of housing arrears. This echoed the experience of practitioners too. One former magistrate noted:

“ Clearly, there was a discretion around awarding prosecution costs, and yes, I would often exercise that discretion not to impose those costs on top of the fine and other surcharges if I felt it was unrealistic to expect that to be paid. At the end of the day, the prosecution were a public body. They were funded. They weren’t going to lose out. Nobody felt bad about depriving them of their costs.”

Another magistrate pointed to inconsistent outcomes resulting from differing approaches to using the discretion around prosecution costs. They said:

“ Magistrates vary. My practice, and when I’m on a bench, I’ll try and persuade the others too, that if somebody is on benefits, that we should reduce the costs, or halve them, say. Not everybody agrees. But I think a lot of magistrates do reduce the costs, and in some cases, we won’t award them at all.”

Differing approaches were apparent during observations too, with some magistrates being quick to waive prosecution costs and others appearing to steadfastly insist on them in spite of low means. In an example of the former approach, despite a reported income of over £3,000 per month, the court waived prosecution costs due to the defendant’s recent financial hardship (he had had his car burgled and damaged and his phone stolen together with a large amount in cryptocurrency from his online wallet). In an example of the latter approach, the court ordered £85 in prosecution costs to be paid, despite being told that the defendant had recently moved into a hostel, having previously been homeless and living in a tent for a long period.

Arranging payment

Policy and guidance around arranging payment

All fines and court orders are, by default, payable in full on the day they are imposed. The Sentencing Council's Explanatory Materials on Fines and Financial Orders encourages the courts to ask for immediate payment of the fine. If that is not possible, both the magistrates' and the Crown Courts have the power to order payment in instalments. The fine should normally be payable within 12 months, though this might rise to 24 months for more serious band E and F fines. However, payments should be set at a realistic rate taking into account the person's disposable income. The guidelines offer a suggested starting point of 5% of the person's net weekly income each week but notes if the offender has dependants or larger than usual commitments, the weekly payment is likely to be decreased.³⁵

The 2003 Courts Act enables magistrates' courts to impose, with the person's consent, an attachment of earnings order, which deducts payments for the unpaid sums from the employee's pay, and a deduction from benefits order,³⁶ whereby a fixed amount is taken from benefits until the individual has paid off the debt they owe.

As flagged in our 2024 report,³⁷ the approach taken to determine whether someone paid through monthly instalments or deductions tended to mirror practices on how means information is collected in court; it is a messy, inconsistent and unreliable process, in part due to the information available to the court and in part due to the process and procedures by which this information is gleaned. One service user recalled:

" I think they deduct about £18 to £25 roughly out of each month, you're paying that. And I didn't even get a say in it. They never asked me if it was affordable. They went to the benefit system and then they decide what you can afford, without knowing anything about your situation, your lifestyle, or anything."

During observations, where a person was on benefits, deduction from benefits was the usual means of payment. Immediate payment was the expectation where defendants clearly had the means to do this. Where this was not the case, defence lawyers and defendants often requested, and were granted, payment by instalments, and sometimes magistrates would themselves offer the option. This aligned with practitioners' experience, with a magistrate, for example, saying: "Nearly all defendants – no, that's not entirely true – ask for instalments. We grant them readily because we accept that's the reality." Another practitioner noted that, in their experience, instalments schedules are not usually imposed top down but arrived at in collaboration with the defendant or their lawyer. They said: "[T]here is a process of negotiation about the level of the instalments." It was flagged that people who do not attend their hearing or have their cases heard through the SJP may be less likely to be offered a payment plan as they are not present to negotiate one.

The sentencing guidelines state: "[I]f periodic payments are allowed, the fine should normally be payable within a maximum of 12 months." However, practitioners flagged that this deadline is in reality not being met for people on low incomes and called for more stringent application of the guideline. One magistrate said, "I mean, heavens, there are people who are going to be paying £5 a week for the rest of their lives", while another practitioner recalled: "I did see one fine that was going to take 108 years to pay." This accords with what we saw during court observations, with monthly repayment amounts often appearing reasonable on their face, but the overall size of the fine meaning that it would hang over the defendant for years.

As our phase one report details, issues were also encountered with deduction from benefits and attachment of earnings orders. For example, one former magistrate explained:

“ [Y]ou need to know that they’re not already subject to a deduction from benefit order, and you don’t know that. The defendant may not know and may not know their National Insurance number, and you don’t have the ability, or you didn’t have in my day, to contact DWP and say, ‘Is there an order already in place?’”

In terms of attachment of earnings orders, one concern among service users was that their employer having knowledge of their fine would put their job at risk, but whether the court was sympathetic to this appeared to rest on the make-up of the bench.

Concerningly, service users often left court not knowing their payment arrangements. A couple of practitioners recalled that ushers handing collection orders out at the end of the hearing was once commonplace in their courts and called for the return of this practice. As well as these paper copies, it was proposed that email and mobile phone contact details should be collected in court and these channels should be used alongside post to send the collection order and further communicate with people about their fines and financial orders.

SECTION THREE

Managing existing court fines

The final area of practice we examined with a view to reform is the system's response where there is a change in someone's financial circumstances – resulting, for example, from having a baby or loss of employment – making their fine or payment plan no longer affordable, or non-payment due to affordability. Below we discuss the issues our research identified in current practice as well as potential solutions. We also discuss instances where a financial package is set on the basis of assumed income or partial or incorrect information (usually, but not always, where the person was not present in court) and the person seeks to have it revised in line with accurate financial information.

Policy and guidance around fines officers' response to changing circumstances and non-payment

A person may apply to the fines office for a variation in payment terms, provided they are not in default on the order. They may only apply if: there has been a material change in their circumstances since the collection order was made; or they provide information about their circumstances that was not available to the court when the original payment terms were set.³⁸ As well as allowing payment by instalments, the fines officer may vary the number of instalments, the amount of any instalment, and the date on which any instalment should be paid.³⁹

A fines officer may refer a case to the magistrates' court at any time before the fine is paid in full, enabling the court to deal with cases where there may be exceptional or mitigating circumstances which the fines officer does not have the powers to deal with appropriately.⁴⁰ They may also issue a summons requiring the person to attend court.

On first default, if the person is not already subject to an attachment of earnings or deduction from benefits order, a fines officer must make an attachment of earnings order or make an order for benefit reduction, unless it is impracticable or inappropriate to do so.⁴¹ If the collection order remains unpaid, the fines officer must refer the person to the magistrates' court or deliver a "further steps notice" to take one or more of the following steps: issue a warrant of control for the purpose of recovering the sums due; make an attachment of earnings order; make a deduction from benefits order; make a clamping order; register the sum in the register of judgments and orders; or take civil proceedings in High Court or County Court.⁴²

Understanding of the process

The system allows people to apply to a fines officer for further time to pay, to pay by instalments, or to change the instalments they have been ordered to pay. However, our research made clear that many are unaware that they can notify the fines office of a change in their financial circumstances or that they are having trouble paying their fine and have the fine reviewed and potentially remitted at court. As one service user said: "I didn't even know that was available, or possible to do." Moreover, service users often reported not having received a collection order during or after their court hearing, meaning some were unaware of what they owed in the first place, let alone how they could pursue a review. As one person said: "So I couldn't even tell you how much fines I owe, what I owe, when I'm meant to pay."

There were calls for an awareness-raising initiative around the review process, enabling more people to avail themselves of the option. One practitioner insisted: “People should understand more that they can go back to the system and renegotiate effectively.” During observations, whether the possibility of review in the case of changed financial circumstances or difficulty paying was mentioned hinged on the make-up of the bench. Some magistrates flagged it as a matter of course, while others never did. One magistrate said they routinely emphasised the importance of reaching out if payment became challenging, and warned about the enforcement consequences that would happen if they did not:

“ If it is a large fine and they are going to struggle, I always say come back... don't put your head in the sand; come back if you can't pay it. Rather than allowing the bailiffs to come and knock on your door, which will then increase your costs. [...] you need to come back and discuss it, and then we can review it.”

Service users appreciated the process being brought to their attention, with one, for example, recalling:

“ Actually the court did say as well if ever I'm in trouble and I can't make a payment make sure I tell them, which I have done in the past because I really struggled one month. I just could not afford the £20 so I spoke to them and they were, 'Okay, you have done the right thing, you have let us know.'”

It was therefore suggested that the review process should be routinely flagged and explained in the first hearing. As a practitioner said: “maybe more of that kind of in-your-face advertising, ‘If your circumstances change, it's really important that you contact X, because they will be able – they may be able – to adjust your payments, or they will be able to adjust...’” A standard script and accompanying handout were suggested to embed this practice. It was hoped that better information would result in more people proactively seeking to have their fines reviewed, rather than letting the situation snowball and ending up at an avoidable court hearing. As one magistrate explained, “[W]e're reliant on them failing to pay in order to come back and then address it.”

Seeking a review from the fines office

Contacting the fines office

People who did reach out to the fines office reported that it was not always easy to make contact. A service user recalled, “[N]ine times out of – well, in my experience, I've been cut off quite a few times, you wait an hour, and then your line just goes”. Furthermore, with fines officers largely no longer situated in courts, the process of contacting them is harder for some. Service users wanted more and better ways of making contact with the fines office. They suggested a callback function to save them waiting in a queue for hours, and that a chatbot would be useful in helping resolve common issues. Several called for a return of fines officers being located in court, or, failing that, a designated person who could field questions, even if that meant signposting to the relevant fines office.

Fines office practice

Where people did make contact, far from the transparent, staged and proportional system of enforcement called for, they often encountered a heavy-handed and inconsistent approach. The fines office did not always respond appropriately, leading to unnecessary escalation or a person being left below the level of subsistence by paying the fine as it stands. One service user said, “The customer service on their line is shocking.” It was also noted that fines officers were often quick to refer cases back to court even though they could have exercised their powers to deal with them. Many service users had their requests to set up or amend a payment plan refused, either because they were told it was not in the fines office's powers, or they were told that it was already within their means to pay. One service user recalled:

“ It [the fines payment] just comes out. And when I clock on, I realise, I phone them [the fines office] up and have an anxiety attack over the phone. They said, ‘I can’t lower it [...] By law, you can’t lower it.’”

Two people had been told by the fines office that they would need to write to the court with more proof about their income if they wished to reduce the payments. Neither did this as they felt the process sounded too stressful and time-consuming to pursue. A service user said, *“I just think the whole process sounds like extra stress. I don’t want to go in front of a judge again.”*

It was clear, then, that despite people struggling to afford their current payment amounts, most found the system unresponsive to their financial difficulty. In a further example, a service user recalled:

“ The original payment plan that it was, it was £20 and I was struggling to pay that because I was out of work. I came back and still offer that, when I was struggling; they told me I had to pay a minimum of £40 a week. I was like, ‘Have you not listened to a word I’ve said? How can you come back with a higher figure?’”

One service user took pains to avoid having to interact with the fines office, opting to fall behind on council tax to cover their fine payments as they felt that the local authority would be more accommodating in adjusting payment plans. Fines offices failing to engage with service users created additional difficulties for the service user and made it less likely that the fine would be paid. For example, a service user recounted how, having missed a fine payment, an attachment of earnings order was issued without warning. This resulted in him being fired from his job and left him unable to pay future instalments. He explained:

“ So it had the complete opposite effect, it had the complete opposite effect, and instead of actually allowing me to pay back, and, you know, working with me to be able to pay it back, I actually ended up in a position where I couldn’t pay anything.”

Practitioners too flagged practice in this area as ripe for improvement. For example, one interviewee said: *“It seemed clear to me that the enforcement system needed to improve its engagement with people who were struggling to pay.”* However, some were sceptical of the claim that enforcement and review powers were unresponsive to those struggling to pay. As one practitioner put it:

“ When we looked at enforcement and in terms of the options available, it was very much in terms of getting hold of the people who won’t pay rather than can’t pay. Just to reassure you, in a way, there’s not a great focus in the enforcement service about catching people who have got no money and doing something about it.”

However, we have already seen that the system as currently configured cannot necessarily distinguish between those who can pay and those who cannot, nor can it necessarily order an affordable financial package, with many people reporting unmanageable financial burdens being placed on them by the court. The threat of enforcement action can cause real distress even if it is never acted upon. Moreover, a system that purports to do something it has no capacity or intention of doing risks losing legitimacy.

Issues with the fines office were not a universal experience. A small number found the fines office a useful source of support when they encountered financial difficulties and were able to set up a new payment schedule or received valuable debt advice. For example, one person was advised against taking out a payday loan, had their debt collection process halted and a new payment plan agreed. A few people who had become unemployed while they were paying off their fine were able to contact the fines office and set up deductions from their new benefit entitlements. That said, these instances appeared to be outliers. Fines offices were largely experienced as hard to access, unhelpful and inflexible, and in some cases, people reported receiving advice that seemed to be out of line with legislation and guidance.

Ideas for reform

Service users and practitioners alike called for a problem-solving approach to non-payment of fines and financial orders, with people who fall behind on payments offered opportunities to engage, explain their difficulties and explore alternative arrangements. To help achieve this, robust, customer service-orientated training for fines officers was proposed, with a focus on effective engagement with people struggling financially and a refresher on the purpose and extent of their powers. The return of HMCTS “*finer champions*” – officers or teams with solid working practices – spreading best practice in responding to changed financial circumstances was also suggested. It was hoped this would drive standards up and improve consistency, addressing what one interviewee described as “*the patchiness and variability of engagement of the enforcement system*”. Promisingly, a practitioner assured us that improvements are already in train: “*There is a drive to identify good practice, roll out good practice and make sure it’s followed nationally.*”

It was also felt that some of the inflexibility displayed by fines officers could be tempered by improved financial information collection. One benefit of real-time verification of income, a proposal discussed in section one, is that fines officers can have greater confidence in the financial information provided and so be more nuanced in their approach to enforcement. As a practitioner explained:

“ *Some of the nastiness at the edges of fine enforcement... it’s driven by a general hard-nosed view of the fines enforcement people that people are trying to get away with murder. Therefore, they have to put a lot of hurdles up in front of them to make sure they’re not fiddling them. If there’s more confidence in the enforcement machinery, people can’t get away with murder because you’ve got access to HMRC and DWP systems and you understand about their income and so on. That is enabling you to be more sensitive in your application of it.*”

Helpful reforms to this end may already be underway, with a practitioner indicating that HMCTS’s focus when it comes to enforcement is a better use of technology. They said the aim was to “*enable much more digital working in terms of people engaging with the system and in terms of using it for enforcement*”.

Service users wanted a more problem-solving approach to payments. Firstly, some struggled with the onus being on them to raise the change in their financial circumstances and suggested the fines office should have a more proactive approach. For example, a focus group participant suggested: “*[T]hey check in with you periodically, so every three months, or whatever, they phone you up and say, ‘Look, how are you finding this? Have your circumstances changed, where you can’t afford—’.*” Next, some wanted payments set up in a more dynamic way, following the student finance system, with payments only taken when income is above a certain amount. Lastly, service users called for more flexibility in payment plans to account for months when their budget was tighter. For example, a service user told us that paying for her child’s residential trip, which cost £400, meant that she had no means to pay her fines instalment that month, and would have welcomed the opportunity to defer it. It was suggested that facilitating deferred payment requests through an online system would make them more readily accessible.

It was further proposed that, following training, the fines office could provide debt advice or signpost to this where people are having trouble making payments. In our polling, 89% of those who expressed a view agreed that “*Where people are struggling to pay their court fines, they should be provided with debt advice*”.

Review and remittance of fines at court

Policy and guidance for review and remittance of fines at court

If the fines office refers a person to the magistrates' court following non-payment, and they have still failed to pay the whole or any part of the sum within the time allowed by the court, the magistrates' court may then (i) issue a summons or warrant requiring the person to appear; or (ii) issue a warrant to arrest the person and bring them before the court, to conduct a means enquiry to investigate the person's ability to pay.⁴³

Following a means enquiry, magistrates may grant further time for the person to pay, arrange payment by instalments or reduce the amount of each instalment.⁴⁴ The court may remit the whole or any part of the fine having regard to any change in the person's circumstances since conviction.⁴⁵ This requirement may be satisfied where the person's means have changed since the fine was imposed, or arrears have accumulated by the imposition of additional fines to the point where repayment of the total amount within a reasonable time becomes unlikely, or the defaulter is serving a period of imprisonment.

The court may also remit or reduce the fine where the fine was imposed in the absence of adequate information about the person's means, either because the offender was convicted in his or her absence or failed to comply with an order to furnish information concerning his or her means. The power to remit is restricted to fines and there is no equivalent power in respect of compensation orders.⁴⁶

Current practice

Several magistrates spoke of adjusting payment plans when they became unmanageable for those on a low income. For example, one magistrate recalled:

" She had £2,300 worth of outstanding fines for not paying a TV licence. She had been in court and never before. So we remitted all of those fines. Seven of them were down to £40 each. So, she came to court and with her new fine, which was about £1,200, I think she walked away £2,000 better off than she did when she arrived. So we do have that discretion."

We saw similar responsive practice when observing a fines enforcement court. Magistrates worked closely with the legal adviser to remit the fines in whole or in part, and set up or amend payment plans in collaboration with the service user. The reasons cited were largely either inaccurate information at the time of initial sentencing, including in one instance the court not being aware that the defendant was long-term homeless and had no recourse to public funds, or "significant change in circumstances" since the fine was imposed, often meaning loss of employment. However, we also observed some poor practice. For example, a payment plan being revised but the new version meaning the package would take seven years to pay off, and a magistrate asking a defendant what he could afford to pay each month, but then settling on double this without further discussion.

It was also noted that means hearings tend to suffer from the same issue of poor financial information capture as initial hearings do, with one practitioner saying:

" It's quite difficult to do a means enquiry, actually, because people invariably just turn up, or they don't turn up, and they haven't brought any evidence with them at all. They're usually unrepresented. So, you just have to ask them a series of questions and believe them."

Similarly, we were told that magistrates often found the fine histories presented at enforcement hearings difficult to digest. A practitioner noted that the printouts provided by their central fines unit is replete with jargon and idiosyncrasies, while a magistrate said: *“When somebody comes with a means enquiry, you get a rather unhelpful list of fines, which is quite difficult to read. Legal advice, sort of, waves it in front of you, and you get a quick look.”* During observations, there were discrepancies between the fines account information defendants were given and the information held on the system. In one case, for example, the amount owed stated in a letter sent to service user was £1,160, while the amount according to the court system was £3,449.47.

Practitioners flagged that while a fine can be revised in line with accurate financial information after it has been ordered, the person may still end up worse off than if they provided the information earlier. As one practitioner said:

“ So you end up looking at over £500 for a £1.70 bus ticket or something, but then the defendant does still have the opportunity to contact the court and give their means information and get that fine reduced to a reasonable amount. The difficulty with those cases is the court then can't reduce the costs because you can't omit court costs... If they reduce the fine, the surcharge gets reduced as well, but not the court costs. So you could still end up with an amount that is higher than it would have been had they actually responded to their summons or single justice notice.”

Ideas for reform

Comprehensive training for magistrates on effectively discussing financial issues with service users and working with people struggling financially was commonly called for. It was felt that this would result in fewer cases requiring enforcement action and, where a case did end up at court for enforcement, improved outcomes.

Echoing calls for having a clear alternative to a fine in place where people are not able to pay any amount, it was suggested that, rather than remitting the fine, being able to convert it would be a useful option in some cases. As one practitioner said: *“Apart from conversion of a fine to another penalty, I don't think the fines enforcement people would say that they've really not got enough tools in their armoury.”*

Practitioners noted that while the court has the power to reopen cases, there are hurdles, and so introducing legislative change to enable the court to downgrade a sentence of a fine to a conditional discharge without needing the person present was suggested. However, some expressed concerns about what they considered *“down-tarrifing”*, noting this could be demotivating to magistrates who will have considered the appropriate sentence. In response, it was said that this option would likely only be needed where the person did not attend the initial hearing, but has since provided evidence of, for example, debt or other vulnerabilities indicating the suitability of a conditional discharge over a fine.

Issues around information collection and access could be addressed by implementing some of the improvements suggested in section one, including, for example, enabling courts to access HMRC and DWP records to verify defendants' income, and embedding a comprehensive online system for fines and financial orders. A further proposal to ensure the smooth running of cases was that, where not already in place, courts should consider having a regularly scheduled enforcement court. This could enable magistrates with expertise in these cases to sit and for focus to be maintained on fines and financial orders, rather than switching between case types.

It was stressed by practitioners that means enquiries and unpaid fines hearings add to already unmanageable court caseloads. Magistrates expressed frustration at wasting court time remitting fines that people were clearly unable to afford from the outset. It was felt that court enforcement was being relied on in the absence of solid financial information capture and a clearly mandated and consistently used alternative to fines where someone is not able to pay any amount. As well as the proposals set out in sections one and two to put these in place, some other means of lightening the load on courts were suggested.

First, some practitioners suggested that people, so long as they provide evidence of their financial circumstances, should not be expected to attend court for a means enquiry to have their fine considered for remittance. To lessen the court resources involved, it was proposed that these cases could be dealt with by a single magistrate and a legal adviser, as in the SJP model. A practitioner said:

“ It’s not something that necessarily requires a face-to-face hearing because if you put in an online application evidencing the fact that your circumstances have changed, the court could look at that and deal with it without the defendant being there, I would have thought.”

Next, it was proposed that fines officers should be able to remit fines, provided tightly defined standards are met by the evidence provided. One practitioner suggested that legal advisors, being amply trained, should be empowered to remit fines. However, this was viewed sceptically by many practitioners who insisted that this power ought to be reserved by magistrates. One practitioner said:

“ One of the difficulties for the fine enforcement teams is that a fine is a fine. You can’t write off a fine because it’s not cost-effective to pursue it, unless they’re dead. That is because it’s a criminal penalty. If they acted like, I don’t know, Nationwide Building Society or whatever and wrote off debts, the Daily Mail would be all over the government and saying, ‘This is ridiculous. You need it to be a judicial decision if you’re doing anything.’”

Another practitioner suggested that court is the best arena for some enforcement cases due to their complexity:

“ I was reminded about how much of this is just the messiness and chaos of people’s lives. Changing address and not telling people, not having your mail forwarded and just not getting letters and stuff getting worse and worse because of that. You just need to get that in front of a sensible judge or a bunch of magistrates and get it sorted.”

Practitioners also suggested that fines officers could lessen the burden of enforcement on courts by making full use of their powers rather than escalating to court so readily. As flagged above, service users were sometimes told that amending a payment plan was beyond the fines office’s powers and that the matter would have to be referred to court. Similarly, we were told that some fines teams refused to adjust payment plans at all, and instead escalated all these decisions to court.

Conclusion and recommendations

Sentencing Council guidelines suggest that fines should have an “equal impact on offenders with different financial circumstances” which should not “force the offender below a reasonable ‘subsistence’ level”.⁴⁷ Similar principles apply to key financial orders, with prosecution costs to be set at a level which it is “reasonable to order him or her to pay” and compensation orders to be set with “regard to the means of the offender”.

However, our research has found that these principles are consistently breached in practice, with the system proving disproportionately punitive to those on low incomes. Many of the people we spoke with, on low incomes and who have been sentenced to fines, reported that the financial burdens placed on them by the court had pushed them further into debt, with some pushed into destitution and further offending to pay. Those who struggled to pay faced a system that lacks the flexibility to respond to changing circumstances and is quick to trigger expensive and threatening commercial collections processes when payments are missed. Magistrates repeatedly told us that, in the absence of other options, they felt compelled to impose fines on people in poverty, knowing that they had little hope of being paid.

This report has identified that these negative outcomes stem from fundamental issues in the way in which information about people’s financial circumstances is collected and how that information is used to order, set and review fines, financial orders and payment plans. However, we also identified an enthusiasm amongst both justice system practitioners and service users to improve the way the system works.

We believe that improvements to the imposition and collection of fines and financial orders can achieve our three aims, namely: ensuring the system does not have an unequal impact on people on low incomes; improving timeliness and efficiency; and better supporting people facing barriers in navigating the system such as those with poor financial literacy. The improvements can further serve the interests of the system by maximising income by levying appropriate fines and fees on high earners, and reducing the costs and court workload associated with enforcement.

Six key changes

Achieving these benefits would require six key changes to the system for imposing fines and financial orders:

1. Reform sentencing guidelines to be more comprehensive and consistent

Current sentencing guidelines include different rubrics around affordability for fines and the most common financial orders. Fines are set in direct relationship to a person’s weekly income; prosecution costs and compensation orders are governed by relatively vague language; and the surcharge does not make any allowance for affordability. This creates a situation where magistrates and judges, who have no formal training in personal finance, are asked to make judgments about how much, often financially vulnerable, people can afford to pay and how quickly.

Existing guidelines should be revised to ensure that magistrates and judges have access to a practical and objective framework for determining how much a person can afford to pay, given their financial circumstances. New guidance can support magistrates and judges to make more appropriate and consistent decisions, helping ensure that financially vulnerable people do not face disproportionately severe impacts and are not forced below a reasonable subsistence level and that high earners experience meaningful consequences.

- a. New guidance should be created which provides courts with a framework for determining the maximum total amount which a person can be reasonably ordered to pay across all their fines and financial orders (including the Sentencing Bill's new Income Reduction Orders). This should be based on a person's disposable income, after essential outgoings have been taken into account. The framework should allow appropriate room for judicial discretion, including providing the option of waiving the surcharge where a person cannot afford to pay it.
- b. Existing guidance, which suggests that fine repayments should not push a person below a "reasonable 'subsistence' level", should be expanded to include an objective definition of "reasonable 'subsistence'". The level of subsistence should be defined at the point where a person's income is equal to their essential outgoings. This will, in practice, mean that people in negative budgets – whose essential outgoings already exceed their income – should be recognised as not able to pay any amount of fine or financial order.

2. Develop a new and more streamlined system for collecting financial information

The MC100 means form is currently the only tool for the collection of financial information. However, it is outdated and poorly used. It is difficult for people to complete, and it does not clearly link to current frameworks for setting fines and financial orders. In practice, it seems that the form is almost never completed by the most vulnerable, and some courts have abandoned its use altogether. Replacing the tool with a new version which is fit for purpose and makes effective use of modern technology is an essential component of imposing proportionate fines on people on low and high incomes.

- c. The court should develop a new form that captures a set of financial and other information which can be used to identify how much of a person's income is going on essential outgoings and how much remains as disposable income. This should include details of key outgoings as well as other relevant information, such as dependants.
- d. The new form should be made accessible in advance of a hearing alongside the court summons or Single Justice Procedure notice. People should be able to complete the form online or in paper. People should also be given the opportunity to complete a paper form on the day of a hearing.
- e. HMCTS should partner with Community Advice or other local third-sector services that can provide support for defendants to complete the form and respond to other queries about the fines process, within the court building. This support should be signposted by court staff.
- f. Where a person is unable to complete the form in advance or on the day of their hearing, a set of default values should be used. The person should be able to use the online system to complete the form after the hearing has concluded (similar to the existing statutory declaration system) and have their fines and financial orders re-assessed.

3. Improve courts' access to income and fine data to assist improved decision-making

Both service users and practitioners were strongly supportive of giving courts access to other government record-keeping systems to assess people's incomes and their existing court debts. This was seen as key to reducing the administrative burden on people who might struggle to provide financial details, increasing revenue by imposing appropriate fines on high earners, and supporting decision-making in cases where the sentence is given without input from the individual.

- g. Courts should be enabled to access HMRC and DWP records to verify people's income, helping them determine appropriate levels of fines and financial orders "live" in both physical court and SJP cases.
- h. Courts should also be able to more readily view existing fines on account, as well as any existing deductions from benefits and attachment of earnings orders, and use this information to inform the ordering and setting of a new fine.

4. Ensure that courts can identify those who are unable to pay a fine and have access to appropriate alternatives

A recently re-introduced revision to the sentencing guidelines states that “[i]t is important that a fine is not imposed on an offender without sufficient means to pay.” In order to enable the courts to effectively and consistently apply this guideline, they must be provided with two tools: a clear framework for identifying those who lack sufficient means to pay and guidance on appropriate alternatives.

- i. Magistrates should receive comprehensive training on effectively discussing financial issues with service users and working with people who are struggling financially.
- j. The court should employ a standard checklist to help identify defendants who cannot afford to pay any amount, including those who are destitute, those whose offending is driven by financial hardship, those with unstable or no housing and those facing a negative budget. People might be identified as falling into these categories via a number of routes, including information gathered via a means form, oral representations made by the person themselves or their representative, or information provided as part of a pre-sentence report.
- k. In cases where a fine is issued in the person’s absence (including SJP cases), if information submitted by them after the sentence is imposed suggests that they are not able to pay any fine, the case should be referred back to court for consideration of an alternative sentence.
- l. Sentencing guidelines should clearly indicate options that are available to courts where the suitability of a fine is otherwise indicated but the person lacks the means to pay. Potential options might include:
 - i. Where offences are minor enough that an out of court resolution could be an appropriate disposal, courts should have access to a well-defined process to refer a case back to CPS and police for reconsideration.
 - ii. Systematic use should be made of conditional discharges in place of fines for minor offences. Where appropriate, conditions can include no-obligation referrals to debt or other financial advice or to other community services.

5. Create a transparent, user-friendly and problem-solving system for paying and managing fines and financial impositions

The system for paying fines and financial orders is cumbersome and difficult, creating barriers to payment. People struggle to understand their obligations, to make repayments and to check their accounts. Addressing these issues would not only improve perceptions of the court process, but also has the potential to increase repayment rates. Changes in financial circumstances, such as employment or caring responsibilities, can often make it difficult for people to repay fines or force them below a reasonable subsistence level. In these cases, a system which has the flexibility to adapt to these changes will avoid disproportionate impacts and may reduce the burden on courts of managing the enforcement of unpaid fines.

Far from the transparent, staged and proportional system of enforcement called for, service users often encountered a heavy-handed and escalatory approach. The fines office did not always respond appropriately, leading to unnecessary escalation or a person being left below the level of subsistence by paying the fine as it stands. A more problem-solving approach would help address these issues.

- m. HMCTS should set up a single online system where people can disclose financial information, make payments, check their fines balance and notify courts about a change in financial circumstances or that they are struggling to make payments.

- n. Email and mobile phone contact details should be collected in court and these channels should be used alongside post to communicate about fines and financial orders.
- o. Magistrates should have a brief standard script explaining the online fines system and the process for revising and reviewing fines. This information should also be detailed in the collection order which should be handed to the person on leaving their hearing, as well as posted and sent via SMS and email. In cases where a fine or financial order is issued in the person's absence (including SJP cases), information about how to use the online portal should be sent alongside notice of the court's decision
- p. Steps should be taken to support people in using the online system, including using assistive chatbots online. A guide to the online system should be produced for relevant third-sector advice providers such as Citizens Advice and community advice services. People should also be offered the option of visiting a court in person to receive support from HMCTS staff.
- q. A problem-solving approach to non-payment of fines and financial orders should be embedded, with people who fall behind on payments offered opportunities to engage, explain their difficulties and explore alternative arrangements.
- r. Where fine and financial order payments fall into arrears, the first response should include the opportunity for people to use the online system to report a change in circumstances.

6. Empower specially trained fines officers to review fine and repayment levels when circumstances change or new information comes to light.

Reviewing and amending fines is a significant burden on courts, with many courts having to devote one or more sittings a week specifically for that purpose. However, in a context where there are clear and objective guidelines for setting fines and financial orders, much of this work can be devolved to fines officers with specific training in financial assessment. A more problem-solving and easier to access system for review will also reduce the number of collection orders which go into arrears, increasing the speed of repayment and reducing the court time devoted to enforcement.

- s. Fines officers with specific training should be empowered to make adjustments to fines and financial orders in specific circumstances, such as when a person updates their financial information via the online system. They should review the updated information in line with structured guidance and, as appropriate: adjust the fine within the range of the band, revise any accompanying financial orders, set up or revise a payment plan, or refer the case back to the court to be remitted in whole or in part. They should also be empowered to authorise temporary pauses on payment arrangements where a person is facing a short-term financial difficulty.

A fairer, more effective system

As set out above, the current system for fines and financial orders has a significant and unintended negative impact on the poorest, who find themselves facing far harsher sanctions than their wealthier counterparts. However, it also has a significant negative impact on the court service. At present, 50% of criminal court fines remain unpaid 12 months after sentencing, creating a major administrative burden on already over-stretched courts.

Developing a new system for managing fines and financial orders will come with costs, both in resources required for development and in a longer-term reduction in the charges levied on the most financially vulnerable. But given the expense and burden of chasing payments from these people, these costs may well be less than anticipated, and the benefits achieved by levelling appropriate fines on higher earners will be significant. Most importantly though, a system which ensures that the burden of fines and financial orders is felt equally, regardless of the person's means, is essential to meeting the goals of the existing sentencing framework – and essential to natural justice.

Endnotes

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13. The Single Justice Procedure enables a single magistrate, supported by a legal adviser, to decide adult, summary-only, non-imprisonable and victimless offences, including company prosecutions. SJP applies when a defendant has pleaded guilty or has not responded to a notification that they're being prosecuted. The court can only impose: a discharge; a fine; and/ or ancillary orders (like compensation and disqualification from driving). It cannot impose a community order or custodial sentence. The SJP is carried out on a remote basis. See, for example, 'Explaining the Single Justice Procedure in the magistrates' court'. Available at: <https://insidemcts.blog.gov.uk/2021/10/26/explaining-the-single-justice-procedure-in-the-magistrates-court/>
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15. The median household income in the UK was £36,700 for the financial year ending 2024 according to the Office for National Statistics. Available at: <https://www.ons.gov.uk/peoplepopulationandcommunity/personalandhouseholdfinances/incomeandwealth/bulletins/householddisposableincomeandinequality/financialyearending2024>
16. While our review of the law conducted in phase one did not check every single summary offence, we were unable to find any examples during the review where it is not available as possible disposal.
17. A fine is not available for use by the courts for all either way offences. For example, sexual activity with a child (if no penetration) is an either way offence but the least severe sentence is a community order, i.e. no fine is available for that offence. So, for the more serious either way offences, the only options for the court are a community order and custody (i.e. it is deemed too serious for a fine).
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42. Schedule 5, paragraphs 37 and 38, Courts Act 2003.
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Funded by Aberdeen Group Charitable Trust (registered charity number SC040877), under the Trust's prior charitable name, abrdn Financial Fairness Trust.

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With thanks to:

User Voice, Adjoa Abekah-Mensah, Kevin Sadler, Robert Zara

Cover image: [Tunyada Kongkapan \(istockphoto.com\)](https://www.istockphoto.com)