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Department for
Constitutional Affairs
Justice, rights and democracy

Supporting Magistrates' Courts to Provide Justice



HER MAJESTY'S
COURTS SERVICE
hmcs



Supporting Magistrates' Courts to Provide Justice

Presented to Parliament
by the Secretary of State for Constitutional Affairs and Lord Chancellor
by Command of Her Majesty

November 2005

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Foreword by the Secretary of State and Lord Chancellor

It is difficult to over-estimate the contribution magistrates' courts make to their local communities. They are a permanent part of our justice system.

Each and every day they sit, the courts help to make our communities safer and more secure. They deal with the small minority of people who commit crime and anti-social behaviour. They respond quickly and effectively to childcare cases. And they help people resolve their disputes as fairly as possible.

Magistrates themselves demonstrate a particular commitment to public service and to making their communities better and safer places to live. They show fairness, decisiveness and the ability to apply reason and common sense. In carrying out their duties, magistrates make a tremendous contribution to the safety and prosperity of the country.

District judges bring specialist knowledge and expertise to the magistrates' courts. And the justices' clerks and the court staff help ensure justice is effectively carried out.

The magistrates' courts are an important and valued part of the justice system. I recognise and value the work of magistrates and magistrates' courts. I have visited many different courts over the past twelve months; I have seen for myself the contribution they make and the diligence with which they carry out their duties. I pay tribute to them and thank them for their efforts.

But I wanted to know whether we could do even more to make magistrates' courts as efficient and effective as possible. This is why, last year, I launched the *Supporting Magistrates to Provide Justice* programme.



The programme was designed to look at how we could help make improvements to the way magistrates' courts operate. To find out, we asked the experts: magistrates, district judges, justices' clerks, our administrative staff and our Criminal Justice System (CJS) partners in the local criminal justice boards. They responded in their thousands.

I am incredibly grateful for these responses. We have looked closely at what people said and have analysed their comments closely. We have listened to people's concerns and, wherever we can, have already begun to act upon them, in collaboration with our colleagues across the Criminal Justice System.

There are areas where we can – and must – improve. This paper sets out where we will be taking forward further reforms – many of them based directly on the ideas and suggestions from magistrates, district judges and court staff. This needs to be a platform from which we deliver simpler, speedier justice for our communities. Cases take too long to come on. The process is too complex. We need to help magistrates to deliver for the law-abiding citizen.

A handwritten signature in black ink that reads "Charlie Falconer". The signature is written in a cursive, flowing style.

Rt Hon Lord Falconer of Thoroton QC
Secretary of State for Constitutional Affairs
and Lord Chancellor

Executive summary

1 The effective administration of justice is vital to the safety, security and prosperity of our country. The magistracy and magistrates' courts are at the heart of the Government's vision for delivering justice and reducing crime and anti-social behaviour. They play a vital role in delivering justice: magistrates' courts deal with nearly 95% of all criminal cases in England and Wales.

2 This report is part of the *Supporting Magistrates to Provide Justice* programme and follows a major communications exercise. The Department of Constitutional Affairs (DCA) asked all those that work in and with magistrates' courts what could be done to improve the performance of the courts and the public's confidence in them. 2,300 people responded and we are grateful for their contribution.

3 Magistrates' courts must be **connected** to their community, they should be **respected** and valued by the community, and they must be **effective** and fair in dealing with the cases before them. There must also be improved procedures for the **recruitment and retention** of magistrates.

4 Working trilaterally with the CJS agencies (DCA, Home Office and Office of the Attorney General), much has already been done in response to the views expressed during the communications exercise. This paper reviews our progress and sets out our proposals for further changes and reforms.

To ensure magistrates' courts are better *connected* to their community:

The Government has:

- Introduced Community Payback.
- Increased by a third our funding for support of the Magistrates' Associations' *Magistrates in the Community* projects.
- Supported the Lord Chief Justice in issuing guidance that supports magistrates' involvement with the work of local Crime and Disorder Reduction Partnerships.

The Government will:

- Extend the concept of community justice – learning from models such as the Liverpool Community Justice Centre.
- Expand the highly successful Magistrates' Mock Trial competition.
- Establish communications strategies in each courts area to engage the media to achieve a better understanding of the work of Magistrates' courts.
- Develop proposals for how the magistracy, along with the judiciary will be supported by the Communications Unit of the Office of the Lord Chief Justice.

To ensure magistrates courts are *respected* and valued:

The Government has:

- Introduced Case Progression Officers and established clear case progression responsibilities for magistrates and district judges.

- Established explicit responsibilities for all parties in criminal cases who will be obliged to nominate a named person responsible for the effective progress of the case.
- Made it a criminal offence for defendants who fail to provide information about their financial means.
- Introduced automatic attachment to earnings and deductions from benefits from source following an offender's first default and increased the level of deductions from benefits from £2.80 to £5 from December 2004 to enable fines to be paid off more quickly.
- Established a national enforcement service.

The Government will:

- Make it clear that defendants who fail to attend court without good reason can expect their trial and, if found guilty, their sentencing to proceed in their absence.
- Establish Witness Care Units in all areas by December 2005.
- Establish video links in court and separate witness waiting facilities.
- Appoint Fines Officers in every courts area and prioritise the use of Compensation Orders.
- Improve the way in which we communicate with victims following the award of compensation.
- Extend the facility for offenders to make payments through payment cards and address the lessons learnt during Operation Turn-up.

To ensure courts are more *effective* in dealing with cases:

The Government has:

- Appointed uniformed court security officers with the power to search, exclude, remove or restrain people from or in the court building.

The Government will:

- Consult on its intention to deal with selected low-level offences in alternative ways to ensure the best use is made of magistrates' court time. This will include:
 - Handling the administrative and judicial processes in TV licence cases without automatic recourse to a full magistrates court bench.
 - Options for more efficient handling of summonses and liability orders in council tax cases.
 - Establishing an administrative process with the DVLA that will enable uncontested high volume, low level motoring offences to be dealt with outside of the courts.
 - Consideration of extending the use of dedicated courts to handle road traffic offences building on the experience of the London Traffic courts.
- Establish a 5-Year Estates Strategy focussed on the needs of the public and victims and witnesses in particular that will raise the standard of our courthouses.
- Introduce new offences of obstructing and injuring court security officers.
- Set and publish standards for our customer services.

To improve the *recruitment and retention* of magistrates:

The Government has:

- Provided every local Advisory Committee with a range of tools and resources, such as advertisements for local papers and radio, to support the recruitment and selection of new magistrates.
- Established a national free-phone (0800 003 007) for handling enquiries and issuing application packs on how to become a magistrate.
- Created a new website dedicated to prospective candidates or employers.
- Made substantial improvements to the approval process making it quicker and more flexible.
- Established a working party of senior employers groups to address the barriers that prevent those in full time employment from taking up the role of a magistrate.
- Put in place a process whereby the Lord Chancellor will award magistrates of over 20 years standing with certificates for long service.
- Introduced new guidance allowing magistrates to use the post nominal letters JP (Justice of the Peace) in all but a few specified circumstances.
- Agreed that the modern magistracy should no longer be referred to as 'lay'.

The Government will:

- Provide all Advisory Committees with the help of recruitment specialists to target local employers.
- Provide jurors on completion of their period of service with recruitment material on applying for the magistracy.
- Reduce the time from recommendation to appointment of magistrates from 10 to 6 weeks (including a criminal records check).
- Consult on new arrangements about enabling magistrates to take time off from work.
- Consult on the reduction of the minimum-sitting requirement of all magistrates from 26 to 24 half days.
- Develop training programmes, which maximise the opportunities afforded through new technologies to deliver training to magistrates in ways that fit with their other commitments to work and family.
- Introduce good practice guidelines for minimising and managing the cancellation of magistrates' scheduled sittings at short notice.

Much achieved, much more to do

5 This is not the end of the Supporting Magistrates to Provide Justice programme – this is the next step in a continuous drive to provide the public with the service they expect from a modern magistrates' courts system.

6 We will continue to look for further improvements so that our services are as efficient and effective as possible, making best use of the capacity of the courts, and of the talent and expertise of those working in them.

7 We are grateful to everyone who has contributed to the work that led to this report.

Introduction: The magistrates' courts in context

Background and historical context

1 The effective administration of justice is vital to the safety, security and prosperity of our country. If people are confident that the justice system is fair, impartial and carried out by people from their own communities, they will be more likely to respect and support those who are responsible for enforcing it. Magistrates are critical to this approach and provide a clear link between the community and the justice system.

“I don't believe that sentences always need to be passed within the magistrates' court system, taking up court time and court costs, clogging up the system.”

A magistrate

2 The role of the magistrate dates back to the 12th century, when Richard I appointed the first 'Keepers of the Peace' in 1195. These 'Keepers' had a policing role, which continued to evolve until the Justice of the Peace Act in 1361 introduced 'justices', who served on a permanent basis and with an increasingly judicial role¹.

3 In the mid 19th century magistrates lost their policing role to the embryonic police force and their administrative role to the emerging local councils. But they retained their judicial duties².

4 In the early part of the last century, magistrates were increasingly appointed on the basis of their personal qualities, rather than based on wealth, property-ownership or status.

5 The modern day magistracy bears little resemblance to its ancient origins. It is now more diverse, drawn from all social backgrounds and has different powers and responsibilities. But the qualities of today's magistracy – fairness, good character, understanding of people and the application of sound judgement – have been consistent for decades.

6 Until 31 March 2005 the magistrates' courts were administered on a local basis, by 42 individual Magistrates' Courts Committees (MCCs). At the same time the County, Crown and Supreme Courts were administered by the Court Service, an executive agency of the Department for Constitutional Affairs. The 2002 White Paper *Justice for All* recommended that a single agency should be developed to support the delivery of justice in *all* courts in England and Wales and enable the provision of improved and consistent service to *all* court users. The Courts Act 2003 provided the legal framework that enabled the changes to be made and a single national service, Her Majesty's Courts Service, was established on 1 April 2005.

7 The creation of Her Majesty's Courts Service (HMCS) has created a comprehensive national courts service that encompasses the magistrates' courts. We now have the ability to target investment in the courts and make better use of the capacity within different courts in order to deliver better services to the public. Magistrates' courts have a critical role to play in ensuring that we continue to innovate and improve our services.

“I think a lot of young people feel terribly disenfranchised, disempowered and certainly in poorer cities and areas they feel very peripheral to the establishment, the system and rightly so. And the magistracy gives them a foot in; it gives them a way in to feel part of the system, to feel empowered.”

A magistrate

¹ Bryan Gibson, *Introduction to the magistrates' court*, Waterside Press: Winchester, 2001.

² Michael Berlins and Clare Dyer, *The Law Machine*, Penguin Books, London 2000.

The magistrates' courts today

Magistrates

8 There are more than 28,000 magistrates in England and Wales. The role of magistrate is vital to the operation of the justice system and they are a key part of the judicial family. Magistrates' courts deal with over 95% of all criminal cases in England and Wales. Magistrates make an essential contribution to reducing crime and anti-social behaviour and ensuring our communities are safe and secure. They also make a significant contribution to the civil and family justice system.

“...I feel very proud of myself that my own community is giving me that much respect but they feel respected as well, that they feel that whatever the judgment will be passed will be fair.”

A magistrate

9 The Government greatly appreciates the work of magistrates and recognises that their role is central to the justice system. The Government also acknowledges that the role can be a demanding one. By becoming a magistrate, people are making a significant commitment to their communities both in time and energy. The Government is determined to do more to help and support magistrates. This report sets out what we have done and the further steps we will take to support the magistracy and magistrates' courts more effectively.

District judges (magistrates' courts)

10 The role of district judges (magistrates' court) in the magistrates' court is a critical one. The Government highly values the work all district judges (magistrates' court) do. They bring legal expertise to the Bench and help progress complex, lengthy or technical cases.

11 Where there is a new area of the law, district judges (magistrates' court) can help courts understand new legislation. The expertise they bring means that courts can deal with unusual or complex cases fairly and promptly. District judges (magistrates' court) also provide an around-the-clock response to deal with extradition and terrorism cases and provide assistance when a court is flooded with cases. District judges (magistrates' court)

can provide guidance, support and advice on complicated issues and in difficult circumstances.

“We get a lot out of life and it's putting something back in ...doing something that's worthwhile.”

A magistrate

Justices' clerks

12 Justices' clerks have been valuable contributors to the criminal justice system for a very long time. The appointment requires the post-holder to be a solicitor or barrister of five years' standing, or be a solicitor or barrister with five years' experience of working in magistrates' courts.

13 The justices' clerk plays an essential role in the magistrates' court. He or she is the senior lawyer to the magistracy and provides consistent and accurate advice to the bench, both personally and through the team of legal advisors. They are also responsible for the training of magistrates, subject to the guidance of the Judicial Studies Board, and facilitate the bench in its dealings with court users and partner agencies.

“Why have we been constantly told that we can't use the letters JP? Surely it would be better for the public to know who we are, to show that we do live and work locally and that we are approachable.”

A magistrate

Court staff

14 Much of the work of the Magistrates' courts takes place outside the courtroom from preparing cases for trial to ensuring fines imposed by Magistrates are enforced. Well-trained and competent court staff are needed to ensure that this work is conducted smoothly and that Magistrates are supported in exercising their duties. Court staff have a commitment to providing a quality service, and often develop and work on initiatives that go beyond their normal call of duty. The Government values their dedication to public service.

The current context

15 The crime rate is falling. The chance of becoming a victim of crime is at its lowest since the British Crime Survey (BCS) began in 1981. The BCS reported a 7% drop in crime compared with 2003-04. In particular, violent crime was down 11%. Vehicle crime and domestic burglary were also down (by 11% and 20% respectively). Perceived anti-social behaviour was steady, with 17% believing there was a serious problem with disorder in their area

16 The 2004/05 BCS shows that confidence in the CJS has improved in all areas (where a trend is possible) compared with the previous year. Perceptions about crime³ are also showing a more positive picture. The proportion of people who believe that crime has increased over the past two years, both in their local area (42%) and in the country as a whole (61%), has fallen compared with the previous year.

17 Between 1993-2003 the following trends in sentencing in the magistrates' courts were observed: the number of indictable offences did not increase or decrease significantly, the use of custody increased, the use of community sentences increased and the use of fines decreased.

“We're so glad we took part in the Mock Trials; the competition is a great learning experience. We now have a far better understanding of court cases and the law in general.”

A member of the public

- The numbers sentenced per year for indictable offences in magistrates' courts varied between approximately 187,500 (in 1996) and 220,500 (in 1999)⁴.
- The use of custody increased (from 6% to 16%)⁵, remaining constant from 2001 onwards.
- The use of community sentences has increased (from 21 to 26%)⁶.

“The Magistrates in the Community initiative is gradually correcting the media image of the magistracy. More can be done with schools, colleges and community bodies.”

A magistrate

18 Between 2003 and 2004 the activity in court has changed as follows: more offences were brought to justice, more people were tried, fewer people were sentenced to custody, and more anti-social behaviour orders (ASBOs) were ordered.

- Around 2,037,000 defendants were proceeded against at court in 2004 (around 2,001,000 in 2003).⁸
- Around 1,534,000 people were tried at the Magistrates' courts in 2004 (around 1,464,000 in 2003).⁹
- Around 61,000 people were sentenced to custody at the magistrates' courts in 2004 (around 63,000 in 2003).¹⁰
- 2,293 ASBOs were given in 2004 (1,040 in 2003).

³ British Crime Survey Data 2004/05 publication.

^{4, 5, 6, 7} Sentencing Guidelines Council Newsletter – The sentence May 2005, Issue 2.

^{8, 9, 10, 11} Sentencing Statistics 2004, England and Wales.

“Courts could probably be readier to hear cases in the absence of defendants.”

A district judge

19 The average sentence length for those sentenced to immediate custody fell sharply between 1993 and 1998 from 3.2 months to 2.6 months. From 1998 to 2003, the average sentence length has remained fairly constant at 2.5 months.¹¹

20 We need to review the way we deliver public services through the courts to reflect this changing backdrop, the opportunities presented by the creation of a national Magistrates' Service and the views of those who operate, use and rely on the magistrates' courts.

Supporting magistrates to provide justice

21 At the Annual General Meeting of the Magistrates' Association (MA) on 26 October 2004 Lord Falconer, the Secretary of State for Constitutional Affairs and Lord Chancellor, launched a new programme: 'Supporting Magistrates to Provide Justice'.

22 The aim of the programme was to identify the key issues of concern for magistrates and to develop a plan to improve the support provided to them. The Secretary of State outlined four key areas:

- helping to ensure magistrates are **connected** to their communities
- ensuring magistrates are **respected** and valued, with court orders obeyed

making sure magistrates are **effective** in dealing fairly and efficiently with the cases before them and

- **recruitment and retention** of magistrates.

23 A fundamental part of the programme was to make sure individual magistrates had the opportunity to express their concerns and suggest areas for improvement. The programme included:

- a series of visits by the Secretary of State and other Ministers to magistrates' courts across England and Wales. These visits included discussions with magistrates, district judges, victims, witnesses and court staff

“TV licences, tax discs and non-endorsable traffic matters should be dealt with elsewhere.”

A district judge

- the distribution of a questionnaire to develop qualitative information from magistrates, district and deputy district judges, magistrates liaison judges, justices' clerks, a range of defence solicitors and senior managers in HMCS. It was also available to the public via the internet
- a series of focus groups with members of the public and in-depth telephone interviews with individual magistrates
- involvement of stakeholders in the progress of the programme and consideration of the ideas it generated.

“More must be done to ensure that victims who have been awarded compensation are kept informed throughout the enforcement process.”

A magistrate

¹² Sentencing Guidelines Council Newsletter: The sentence, May 2005 – Issue 2.

24 The senior presiding judge, the senior district judge, the Magistrates' Association, the Justices' Clerks' Society, magistrates' courts staff unions and all the criminal justice departments have supported this programme.

Results of the communications exercise

25 The full results from this exercise are set out in *Supporting Magistrates to Provide Justice Response Paper*, published in March 2005 (www.dca.gov.uk/magist/support/response.pdf).

26 2,300 written submissions were received in response to the communications exercise. Magistrates made up 2,144 of the responses, with the others coming from district and deputy district judges, Local Criminal Justice Boards (LCJBs), magistrates' liaison judges, Advisory Committee members, court staff, other members of the legal profession, and members of the general public.

“Keep witnesses and the public separate from defendants as this is a major barrier to coming to court.”

A magistrate

27 The exercise produced around 10,000 separate suggestions. Many took up similar themes. We have analysed the responses and grouped them within the key themes of **connected, respected, effective and recruitment/retention.**

“Regular court open days, well advertised locally, would help promote public awareness of the work of lay magistrates.”

A deputy district judge

28 On 14 March 2005 we hosted a conference for over 400 people from across the criminal justice system, including a significant number of magistrates, to present feedback on the responses received from the exercise.

29 Our clear intention is to improve the services we deliver to the public. We have reviewed what we do, how we do it and how best we can support those working in the courts to provide the best possible service. This report sets out the improvements we, working collaboratively across the CJS, have already made and the further measures we will develop in order to improve support for magistrates' courts and service to the public.

Chapter 1: Communities – Connected

Summary of actions

The Government has:

- Introduced Community Payback (para 1.14).
- Increased by a third our funding for support of the Magistrates Association's *Magistrates in the Community* projects, allowing magistrates to meet the community in a more structured way. (para 1.18).

The Lord Chief Justice has:

- Issued guidance, which supports Magistrates' involvement with the work of local Crime and Disorder Reduction Partnerships (para 1.12).

We will:

- Extend the concept of community justice – learning from models such as the Liverpool Community Justice Centre (paras 1.7-1.9).
- Expand the highly successful Magistrates' Mock Trial competition (paras 1.22-1.23).
- Establish communications strategies in each courts area that engage the media to achieve a better understanding of the work of Magistrates' courts and the Magistracy (para 1.28).
- Develop proposals for how the Magistracy, along with the judiciary, will be supported by the Communications Unit of the Office of the Lord Chief Justice (para 1.29).

Connected with the community

1.1 Magistrates' courts and the magistracy are at the heart of delivering community justice. The magistracy, drawn from local communities, is the lynch pin in delivering justice locally. Magistrates' courts play an essential role in making our communities safer places for everyone who lives, works and plays in them.

1.2 We will support magistrates in understanding the current priorities and concerns faced by the local people they serve. Magistrates must be able to keep abreast of the changing issues facing their evolving and increasingly diverse communities. The courts should continually search for new and innovative ways to respond to the needs of the public.

1.3 This Government is determined to tackle the crime and anti-social behaviour that blight so many communities. The *'Together'* campaign was launched in 2003 to provide support for front-line workers and the general public in tackling anti-social behaviour. Anti-social behaviour will be tackled, not tolerated.

1.4 The courts have a clear role to play in tackling anti-social behaviour. Magistrates in all courts deal with the persistent anti-social actions of the few, which make a misery of the lives of so many. There are now 154 Anti-Social Behaviour Response Courts, in 30 different LCJB areas, which bring together best practice in listing such cases.

1.5 Dedicated courts have also been used to deal with domestic violence cases. Domestic violence courts were initially piloted in Croydon and Caerphilly and proved to be successful in supporting victims and witnesses, and ensuring that the number of cases where no evidence was offered fell from 46% to 28%. Domestic violence courts are now up and running, or planned, in 18 areas.

1.6 Similarly, we are committed to piloting dedicated drugs courts in West London and Leeds later this year.

Community justice

1.7 The Community Justice Centre in Liverpool¹³ has taken this a step further through a holistic approach of empowering local people to engage with and influence the priorities of the court. The CJC delivers justice at a local level. It brings together the many agencies and service providers operating in the criminal justice system under the leadership of one judge, able to exercise multiple jurisdictions. It adopts a problem-solving approach towards offenders that combines help for underlying problems with punishment that, as far as possible, makes viable reparation to the community. As part of the pilot, the judge has direct contact with local people at meetings to hear at first-hand their concerns and priorities for the criminal justice system, and to report back about action taken to address these.

1.8 We will look at the benefits delivered by this approach and see how it might be built upon in other courts. For instance, work has begun to develop an initiative in Salford to test how community justice problem-solving and community engagement can be integrated into the mainstream Magistrates' courts system. Community justice is a locally based problem-solving approach to anti-social behaviour and crime. It will make the court and other criminal justice agencies more responsive to the concerns of their local community and will increase public confidence in the criminal justice system.

1.9 The Salford initiative will ensure a timely response to crime and anti-social behaviour. As in Liverpool, sentences imposed by the court will include a reparative element, and offenders will be put into programmes to tackle the underlying causes of offending.

1.10 One idea worthy of further consideration is that some young people would benefit from seeing what happens in an adult prison or Young Offenders Institution. Spending a day in such an establishment on a supervised visit could be beneficial in deterring young people from offending. This might be organised by local youth groups or as part of a young offender's supervision in the community. Such visits are already taking place in parts of England and Wales and we would encourage their wider use.

Crime and Disorder Reduction Partnerships (CDRP)

1.11 Crime and Disorder Reduction Partnerships (known in Wales as Community Safety Partnerships) include representatives from local, police, fire and health authorities. Working together they carry out an audit to identify the prevalence of different crime, disorder and drug problems in their area and develop a strategy to tackle them. There are 376 partnerships across England and Wales.

1.12 In March 2005 the Lord Chief Justice issued guidance to all magistrates on how they should work with CDRPs. Engagement with CDRPs fosters a greater understanding within the magistracy of the pressures facing other local agencies. It also fosters greater understanding of the work of the magistrates' courts and pressures faced by them. Magistrates are able to bring a different perspective to discussions within the CDRP and add value particularly in relation to the efficacy of local programmes for tackling crime and anti-social behaviour. Closer working between all local agencies and the courts will help to ensure a better service to the public throughout the justice system.

¹³ For more information, write to North Liverpool Community Justice Centre, Freepost 22064, Liverpool L2 2QY, tel: 0151 515 3086 or email views@cjc.gsi.gov.uk

Community Orders

1.13 Community Orders were introduced in the Criminal Justice Act 2003 to increase the flexibility of sentencing options available in the magistrates' court for offenders over the age of 16. Each order may include an Unpaid Work Requirement (formerly a 'Community Punishment Order'). Unpaid Work Requirements make offenders undertake a range of tasks, supervised by the National Probation Service, that not only punish offenders for their offence but also contribute to improving the local environment and other community resources. The Government believes members of communities affected by crime and anti-social behaviour should help determine the types of work and projects that are undertaken through unpaid work requirements of community orders.

1.14 In August 2005 the National Offender Management Service launched Community Payback. Members of the public are able to select unpaid work projects to be undertaken by offenders sentenced by the courts to unpaid work requirements of community orders.

1.15 Every year, communities across the country benefit from over 5 million hours of labour provided by offenders. Community Payback offers members of the public, who will be appointed to local panels, the chance to have their say on the type of projects that should be undertaken in their area.

1.16 In the past, such projects have brought derelict areas and buildings back into public use, cleared churchyards, country streams and unused allotments, and repaired park benches and playground equipment. Now the communities themselves will help set the agenda for future activities.

Community engagement

1.17 The Government greatly appreciates the important work thousands of magistrates voluntarily undertake outside of sitting *in addition* to their judicial duties. Over 3,000 magistrates are actively involved in the Magistrates' Association-sponsored *Magistrates in the Community* initiatives. These local initiatives aim to raise public understanding of magistrates and magistrates' courts through giving presentations to primary and secondary schools, community groups and employers.

1.18 The Government has increased its funding to the Magistrates in the Community initiative by a third, from £90,000 in 2004 to £120,000 in 2005. Participation in the Magistrates in the Community initiative is now fully recognised to be part of a justice's duties, so magistrates may claim expenses incurred through these activities.

1.19 Numerous open days take place during the year that see thousands of people visiting local magistrates' courts to learn more about the work of the court. What we learn from these open days is that many people are interested in the courts. We will embrace that interest and ensure that more people are aware that courts are, other than in exceptional circumstances, open to the public whenever they visit. We will be working with court managers and the local media to advertise the courts being open.

1.20 The '*Local Crime – Community Sentence*' programme builds on the proven success of MIC, in that the project involves a magistrate and a probation officer speaking to a variety of community groups to deliver information on how offenders are dealt with when they have committed a crime serious enough for a community sentence. LCCS has the support of the Lord Chief Justice and is recognised as a key player in raising awareness and confidence in community sentences.

1.21 The Lawyers-Schools Twinning Scheme is a programme designed by the Citizenship Foundation for lawyers and schools. It consists of a series of workshops facilitated by a trainee or qualified solicitors. The purpose of the scheme is to help young people learn about the law, the justice system and current legal and moral issues. There is scope to use this programme to advertise that courts are open and the general public can visit them while they are in session. The Citizenship Foundation is currently considering whether this could be part of the programme.

Magistrates' National Mock Trial Competition

1.22 The Magistrates' National Mock Trial Competition is an innovative and exciting way for young people to learn about the criminal justice system and specifically the role of the Magistracy and courts. Around 370 state schools, 4,500 pupils and 65 magistrates' courts throughout England, Wales and Northern Ireland are involved in the competition every year. We will work closely with the Citizenship Foundation and the Magistrates' Association on the future development of the scheme to involve more schools.

1.23 Teams consist of 12 or 13 students, from Years 8 and 9, who use carefully constructed witness statements to prepare the prosecution and defence of a specially written criminal case. Students take the role of lawyers, witnesses, magistrates and court staff and compete against other schools in a live format. Magistrates and other legal professionals judge their performances and all the heats take place in magistrates' courts, usually on Saturdays.



Students from Wood Green School, Oxfordshire, winners of the 2005 Mock Trial Competition

Courts Boards and local people

1.24 The creation of HMCS on 1 April 2005 also saw the establishment of Courts Boards in each of the 42 administrative areas. The Courts Boards work in partnership with HMCS to achieve effective and efficient administration of the courts. They do not manage or administer the courts themselves, but provide views, give advice and make constructive recommendations to their Area Directors with the intention of fostering improvements in the services that HMCS provide in the local area. Membership of each Courts Board must include a judge,

two magistrates from within the Courts Board area, two people with knowledge or experience of the courts in the local area and two people who are representative of people living in the Courts Board area. This diverse membership ensures that there is an effective avenue for communication between the administration, court users and the local community. It also means that members' links with, and knowledge of, stakeholder groups and different communities can inform the Courts Board's recommendations.

Communications and working with the media

The courts

1.25 The Government supports the principle that justice should not only be done but that it should also be *seen* to be done. The media has an important role to play in meeting this goal. The local press has traditionally provided court reports, written by reporters who regularly cover criminal justice matters. But there is more we can do to ensure the local media is better informed about the work of the magistrates' courts.

1.26 Currently, no report can be published in the media, which reveals the name, photo, address or school of any child, or young person concerned in youth court proceedings. The youth court does have the option of lifting the reporting restrictions, where appropriate, to enable media reports to identify the young person or children involved, after conviction.

1.27 The media have statutory rights to attend the youth court and may report the proceedings even where the automatic restrictions have not been lifted **provided they do not identify any child or young person**. The Government will ensure that all youth courts are fully aware that they have the discretion to lift the reporting restrictions in any case involving children or young person upon application where they find it appropriate. The guidance issued to all youth courts is currently being reviewed.

1.28 The Government believes the role of the magistracy should be visible to the communities they serve. We will create a national and local communication strategy that will improve media handling across each of the 42 areas, to promote and support the work of the magistracy and the magistrates' courts. We will also develop tools to assist magistrates' courts' staff with media queries, as well as liaising with local schools and community groups, building on the existing Magistrates in the Community programme.

1.29 The Lord Chief Justice of England and Wales assumes the role of head of the magistracy in April 2006. He will be supported by a new judicial communications unit. A communications support plan for magistrates will form a major strand of a judicial communications strategy currently being developed by the unit. It will focus on providing better information to regional media on the work of their local magistrates. The role of the magistrate is a highly visible one and, on occasion, support and advice will be provided for those whose decisions engage media interest.

Local Criminal Justice Boards

1.30 Media engagement is not just an issue for the courts and the magistracy but for all agencies involved in criminal justice. Local Criminal Justice Boards enable all CJS agencies to work in a co-operative, co-ordinated way. They each have a dedicated communications capacity. HMCS Communications will work with LCJB colleagues to promote the work of magistrates' courts.

Plain English paperwork

1.31 Fortunately, most people never have a reason to attend court as part of the proceedings. But for those who do find themselves the victim of a criminal act or the witness to a crime, their contact with the court must be made as easy and comfortable as possible.

1.32 We will establish minimum standards for producing information leaflets, forms, signage and directories in Plain English. All courts must have clear signage directing court users into and around the court. Many areas have already produced useful leaflets and booklets explaining how magistrates' courts work, and the roles and responsibilities of the justices and court officials. We will ensure consistency across all magistrates' courts on good practice. We will also make available information on how magistrates and district judges reach their sentencing decisions, in order to help victims and offenders to understand how and why a particular sentence is given. This information is currently available on the internet (www.jsboard.co.uk/magistrates/adult_court/index.htm), but we will ensure that it is more accessible to court users and the public. Court information will be available in a number of languages other than English to match local requirements.

Chapter 2: Courts – Respected

Summary of actions

The Government has:

- Introduced Case Progression Officers and established clear case progression responsibilities for magistrates and district judges (paras 2.10-2.20).
- Established explicit responsibilities for all parties in criminal cases, who will each be obliged to nominate a named person responsible for ensuring they are doing all they can to support the effective progress of the case (para 2.14).
- Made it a criminal offence if defendants fail to provide information about their financial means (para 2.45).
- Introduced automatic attachment to earnings and deductions from benefits at source following an offender's first default, and increased the level of deductions from benefits from £2.80 to £5 from December 2004, to enable fines to be paid off more quickly (paras 2.47-2.48).
- Established a national enforcement service (paras 2.78-2.81).

We will:

- Make it clear that defendants who fail to attend court without good reason can expect their trial and, if found guilty, their sentencing to proceed in their absence (para 2.6).
- Establish Witness Care Units in all areas by December 2005 (paras 2.23-2.25).
- Establish video links in court and separate witness waiting facilities (para 2.27).
- Appoint Fines Officers in every area and prioritise the use of Compensation Orders (paras 2.54-2.60 and 2.42).
- Improve the way in which we communicate with victims following the award of compensation (para 2.43).
- Extend the facility for offenders to make payments through payment cards and address the lessons learnt during Operation Turn-up (paras 2.50-2.53 and 2.72-2.75).

Making court orders work

2.1 Courts are respected when the services and facilities they provide meet the needs of those that use and rely on the court, particularly victims and witnesses. This Government is committed to improving court facilities, providing efficient court processes and giving magistrates the authority to ensure their orders are obeyed.

2.2 Respect also relies on belief in the justice system being fair and equal. The reasons for allowing flexibility in the sentencing guidelines are self-evident, yet this flexibility makes it inevitable that magistrates or district judges might, presented with the same offence, each arrive at a slightly different sentence.

2.3 We believe that both magistrates and district judges should work together to ensure a reasonable degree of consistency in sentencing, so that there can be no perception amongst court users that some benches might be more lenient. We will therefore, together with the Sentencing Guidelines Council, work to develop mechanisms for sharing knowledge and best practice between magistrates and district judges.

2.4 When offenders are convicted, the sentence ordered by the court must be carried out. Respect for the criminal justice system is dependent on it. Justice for the victim and law-abiding public is dependent on it. The rehabilitation of the offender is also dependent on it.

2.5 The failure of offenders to comply with court orders significantly undermines public confidence in our justice system. The decision of a defendant not to turn up at court is not of itself an adequate reason for postponing a criminal case.

2.6 Failure to attend a court hearing without a genuine reason creates a costly disruption to the work of the court and increases the burden on victims and witnesses. It also breeds disrespect for the courts and the rule of law. Defendants who fail to turn up to court without good reason should expect to be tried and sentenced in their absence.

2.7 In January 2004 the Lord Chief Justice issued a practice direction that advocated dealing with Bail Act Offences immediately. This included imposing a sentence before proceeding with the original charge(s) against the defendant. The Sentencing Advisory Panel will be undertaking a public consultation on the sentencing issues for these offences.

2.8 In January and February 2005 all 42 former Magistrates' Courts Committees contributed to Operation Turn-up, which was a series of enforcement blitzes on people who had failed to appear at court. Operation Turn-up resulted in a reduction of over 20% of the number of outstanding failure to appear warrants.

2.9 We are building on the success of Operation Turn-Up. Local Criminal Justice Boards have set targets to further decrease the number of outstanding failure to appear warrants. Courts also have a target to notify the police within one day of issuing any failure to appear warrant.

Trial preparation

2.10 The Government recognises the negative impact on public confidence in the justice system when a hearing is cancelled on the day it was due to go ahead and is postponed to a later date. This is known as an ineffective trial.

2.11 The cost to the criminal justice system is £270 for every ineffective trial in the magistrates' court. Progress has already been made in reducing the number of ineffective trials in magistrates' courts, from 30.9% in July-September 2002 to 22.7% in January-March 2005, but more can be done.

2.12 Magistrates and district judges require effective tools to manage the timely progression of criminal cases. The Criminal Case Management Framework (CCMF) issued in July 2004 provides operational practitioners, for the first time, with guidance on how cases can be managed efficiently and effectively from pre-charge through to conclusion.

2.13 The Criminal Procedure Rules 2005 were introduced last April. They apply to all parties in the criminal courts, including the court administration, the prosecution, defence and police. For the first time in English legal history, the Criminal Procedure Rules consolidate all rules governing the practice and procedure of the criminal courts.

2.14 Part 3 of the Rules also introduces new powers to manage the progression of criminal cases. The Rules make explicit the judiciary's responsibility for case management and, for the first time, sets out new duties of the court. In particular, these duties are to:

- “nominate a judge, magistrate, justices' clerk or assistant justices' clerk to manage the case
- give a direction on its own merit or on application by a party
- to specify the consequences of failing to comply with directions.”

2.15 The rules impose clear responsibilities on each party to nominate an individual responsible for progressing the case, and inform other parties and the court who the individual is and how to contact them.

2.16 The Criminal Procedure Rules will ensure that all parties fully understand their respective responsibilities and the role they and others play in the delivery of justice. The second edition of the Criminal Case Management Framework was issued on the 21 July 2005. The revisions include changes in procedure as a result of the introduction of the Criminal Procedure Rules on case management.

2.17 By December 2005 all areas will have completed their implementation of Effective Trial Management proposals, which include updating their local frameworks to ensure they are consistent with the revised and updated Criminal Case Management Framework. The Framework is consistent with the Criminal Procedure Rules – the Rules say what needs to be done and the Framework provides the detail.

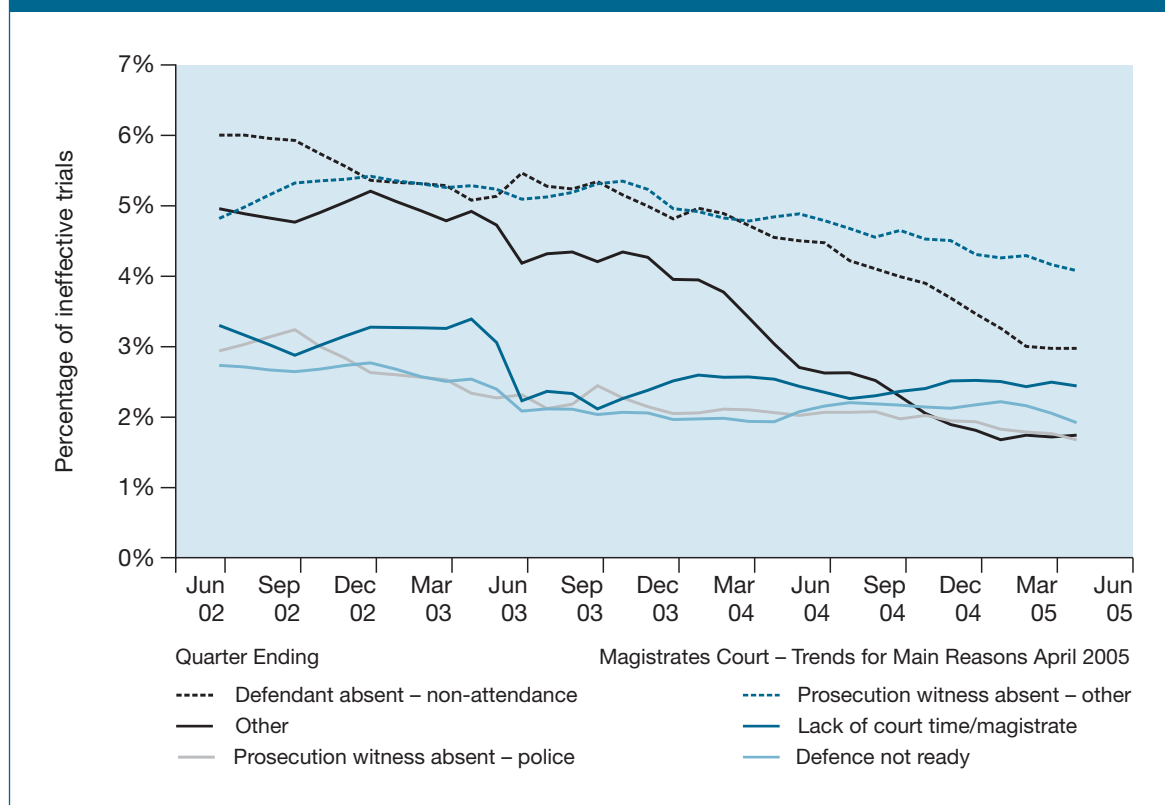
2.18 Within the parameters set by the Criminal Procedure Rules, resident judges and magistrates will be able to decide locally any changes that need to be made to court practices.

2.19 Under the Effective Trial Management Programme, we began testing proposals to reduce ineffective trials including the use of dedicated Case Progression Officers who

will certify trial-readiness. The best practice identified in the pilot areas has now been taken forward in the Criminal Case Management Framework, as all areas implement new ways of working. Areas where early implementation has taken place have shown reductions of between 4.6% and 11.5% in the number of trials that fail to take place when scheduled.

2.20 *The Magistrates' Courts Effective, Cracked, Ineffective and Vacated Trials Guidance*, together with two new monitoring forms, was issued to courts on 11 August 2005. It now routinely and systematically collects data, qualitatively and quantitatively, about causes of failure to proceed in all trials. This data will be used to address shortcomings both with individual court users (e.g. prosecutors and their agents, defence solicitors and police) and with their agencies to avoid repetition of professional failure. Her Majesty's Courts Service (HMCS) will provide regular feedback to criminal justice system (CJS) partners and defence solicitors/barristers, and the Legal Services Commission (LSC) and will equally welcome feedback on unacceptable court failure. There are also financial impositions available to courts for wasted costs orders.

Figure 1: How the rate of ineffective trials has decreased since 2002



Victims and witnesses

2.21 This Government is determined to put the needs and concerns of victims and witnesses at the heart of the criminal justice system, as their active participation is essential in bringing more offences to justice and increasing public confidence in the system. We are modernising the system by introducing reforms to bring these improvements about.

2.22 We have developed a statutory Victims' Code of Practice which sets out clearly the services which victims can expect to receive from criminal justice agencies, including the courts, and when they should expect to receive them. It contains over 50 service obligations that the agencies will be required to provide to victims when it is implemented in April 2006. The obligations on the courts include informing joint police/CPS Witness Care Units of court decisions within one working day in cases involving other victims, so that victims can be informed promptly about court orders. Another obligation on court staff is that they must ensure, as far as is reasonable within their control, that victims who are witnesses do not have to wait more than two hours before giving evidence.

Supporting witness attendance

2.23 The *No Witness, No Justice* project introduces Witness Care Units (WCUs) across England and Wales with the aim of addressing victims' and witnesses' needs in order to reduce the number who fail to turn up on the trial date. This will lead to fewer ineffective trials and higher victim and witness satisfaction. The national rollout of WCUs is underway. Each Criminal Justice Area had one WCU up and running by March 2005 and all WCUs will be in place by December 2005.

2.24 WCUs bring the police and CPS together and provide a single point of contact for victims and witnesses. A needs assessment is carried out for all victims and witnesses who are being called to court to identify any problems that could prevent the witness giving evidence or attending court. These problems might include childcare or transport problems, language difficulties, disabilities or particular concerns such as intimidation. Witness care officers co-ordinate the support and services provided to the witness and keep them informed throughout the case.

2.25 Witness Care Units, set up as part of the *No Witness, No Justice* project, will ensure that witnesses receive a more thoughtful service, with any needs they have considered from the time a statement is first taken. If the case proceeds to court, witnesses will regularly be kept up-to-date on how the case is proceeding, if and when they are required to give evidence and informed about the final outcome. Witnesses will have a single point of contact within the criminal justice system and they will receive a responsive service that seeks to support each witness in a way tailored to meet their individual needs. At present, there are over 100 Witness Care Units that are up and running, with full nation-wide coverage planned for the end of 2005. The Government is also committed to building a nation-wide network of victim support units that provide practical help to victims of crime.

2.26 As well as the Witness Care Units, we are developing a Witness Charter, which will set out the core standards of service which witnesses should receive at every stage in the process. This will ensure that all witnesses will know what to expect and how they should be treated as they go through the system. We will be consulting on the Charter later this year.

2.27 Many of these reforms will help to improve the experience of victims and witnesses when they attend court by making them feel more secure, better informed, valued and appreciated. For example, video links enable vulnerable and intimidated witnesses to give evidence in a safe environment. Witnesses can fully participate, while being protected from coming into direct contact with people who may try to intimidate them into not giving evidence. Since 2003, we have been taking forward a programme designed to see video links in 75% of all magistrates' courts by March 2006. This was achieved one year ahead of target. We also have a programme to provide dedicated witness waiting facilities for prosecution and defence witnesses in 90% of magistrates' courts by December 2008. By June 2005 85% of magistrates' courts were providing separate witness facilities.

2.28 £4million from the Victims' Fund has been allocated to develop community-based services for victims of sexual crime. The money has been awarded to a range of voluntary and community sector organisations and partnerships across England and Wales, such as Rape Crisis and survivor organisations. It will help to continue and extend their valuable work in providing practical and emotional support, counselling, information and advocacy services.

Enforcement

2.29 Respect for the courts and the criminal justice system will only improve when the public has confidence that the orders of the court are obeyed, quickly and in full.

Improving the collection of fines and compensation orders

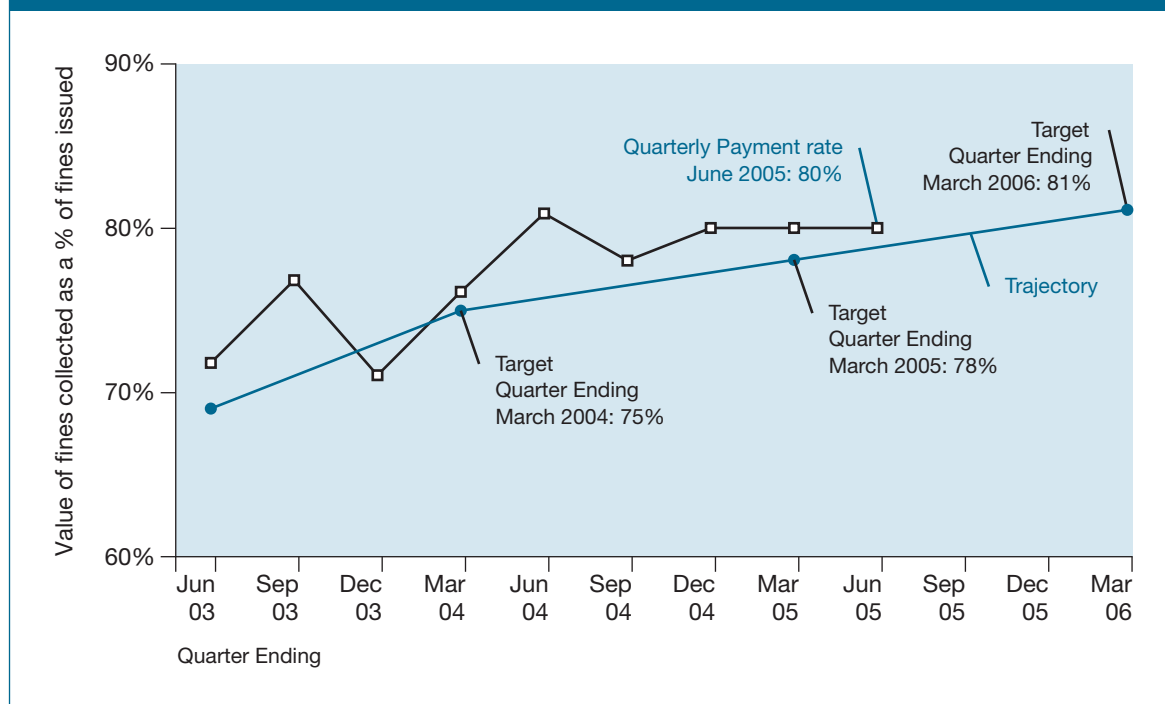
2.30 When a court sentences an offender, the sentence must be carried out. The Government recognised in 2003 that there was an unacceptable level of performance in the collection of fines, undermining them as an effective penalty. In September 2003 DCA established the Fine Enforcement Programme to tackle the problem.

2.31 The Fine Enforcement Programme has successfully delivered successive improvements in the collection and enforcement of financial impositions, i.e. fines, costs orders and compensation orders. In June 2003 the payment rate was 69%. By March 2005 this had improved to 80%. The target payment rate for 2005/06 has been set at 81%.

2.32 To support courts' Civilian Enforcement Officers, we have been piloting a range of new measures that came into force through the Courts Act 2003. Offenders who flout their obligations to pay up could find themselves:

- registered on the Register of Fines, Judgments and Orders for non-payment of fines
- with their vehicles clamped
- facing a larger fine if they fail to comply in the first instance and/or
- facing a fine of up to £500 if they do not give full information about their means to the court.

Figure 2: Improvement in the National Payment Rate from June 2003 to June 2005



Comprehensive National Fines Register

2.33 A comprehensive national register will contain all fines that have been imposed by the court. This means there will be a full national picture of all fines, so every magistrates' court will have access to an offender's 'court account' and will be able to see if an offender has had any fines imposed in any other court.

2.34 Live trials of LIBRA (the internal IT system of the magistrates' courts service) have already begun ahead of the national rollout in early 2006. It will initially be possible to have area-based fines registers. Each area will be able to log into another area (with permission) and see what fines have been imposed. After LIBRA has been entirely rolled out in mid 2007, HMCS has committed to having a register that will hold all outstanding fines on offenders' accounts. This will be a 'data warehouse' where all area data can be stored.

Compensation orders

2.35 In 1972 the Compensation Order was introduced, giving magistrates' courts and the Crown Court a general power to order an offender to pay compensation for personal injury, loss or damage resulting from a criminal offence. The Order reinforced the principle that reparation has an important role in the penal system. It also removed the requirement for the victim to subsequently take the matter to the civil courts in order to secure compensation.

2.36 Compensation orders are part of the range of sentences available to the criminal courts, and the courts are required to consider making a compensation order in every case where the victim has suffered personal injury, loss or damage to property. When they do not make a compensation order, the court must document its reasons.

2.37 The level of the compensation order is based on a calculation of the value of the loss or damages suffered by the victim, as set out in a list of Tariffs used in the civil and criminal courts. The level of compensation awarded is mediated by considering the offender's means and ability to pay. The loss of income, which accompanies a custodial sentence, normally results in no compensation order being levied when a person is sent to prison. Offenders are usually allowed time to pay, and to pay by instalments.

2.38 The offender makes their compensation payments to victims via the court, as part of a financial imposition, which includes court costs and fines. Depending on the means of the offender, the court can order that payments be made in instalments over a set period of time. We ensure that victims have priority by structuring the payment scheme so that, when paid in instalments, the compensation order is always paid first. However, when an offender fails to make any payment, the victim fails to receive their due compensation. In too many cases, the payment of compensation drags on for too long and is paid in small amounts.

2.39 The Government acknowledges the particular frustrations experienced by victims of crime when offenders fail to pay their compensation orders in a timely fashion and understands that speedy payment of the compensation order aids the process of recovery that all victims undergo following the crime. Delayed payments prolong this process, undermining the victim's ability to get on with their life.

2.40 New guidance will be issued on making compensation orders, which pulls together all the initiatives that aim to ensure all offenders make appropriate recompense to their victims.

2.41 In 2004 the payment rate of compensation orders was only 50.36%, which is much lower than the national average for all fines. This must improve.

2.42 Our policy has been, and remains, that the payment of compensation awards to victims is given the highest priority. We are determined to ensure that this is effectively implemented. We will improve compliance and enforce orders when offenders fail to pay, sharing best practice learned through Operation Payback.

2.43 We will also improve the way in which the courts communicate with victims following the award of compensation. All victims will receive contact from the court to explain the process and detail the reparations. Ongoing information will also be provided to ensure that victims are aware of the status of the payment of their compensation.

Financial means

2.44 In April 2004 the Standard Means Form was introduced to assist defendants in providing their financial circumstances. The form details the defendant's employment situation, income and expenditure. Magistrates use this information when considering the level of a fine.

2.45 We have made it an offence not to provide information about financial means, when charged with an offence and following an official request by the court. The information can be provided to the court either verbally or as a written response. Failure to provide means information can lead to a fine of up to £1000.

2.46 Initial studies have shown that where a court has a completed Standard Means Form at the outset, with information that can be subsequently used in an Attachment of Earnings or Deduction from Benefit Orders, this acts as an effective deterrent to non-compliance with fines payment.

2.47 The Government supports the imposition of Attachment of Earnings Orders or Deduction from Benefits Orders at the time of sentencing on an existing defaulter and automatically on default by any other offender.

2.48 From December 2004 the amount that can be deducted from Income Support or Jobseeker's Allowance, in the form of a Deductions from Benefits Order, increased from £2.80 per week to £5.

2.49 'Fine payment work orders' are currently being piloted in Cheshire, Cumbria, Cambridgeshire, Devon and Cornwall and South Yorkshire. These allow offenders who lack the means to pay an appropriate fine to 'work off' their punishment through carrying out unpaid work in the community. The Government will review the performance of these pilot studies on their completion and consider nation-wide introduction of this alternative sentence.

Payment cards

2.50 At the time a fine is imposed, the offender receives an order that details how payments can be made. HMCS has taken forward the payment arrangements for each local area as they existed under the previous magistrates' courts' Committees. These arrangements varied from area to area.

2.51 Payment cards have been used in many court areas for a number of years and half of the HMCS areas currently have this facility, which is provided by three different suppliers. The contracted supplier issues the card on the advice of the court. The card allows for payments to be made wherever there is a machine that supports the scheme. Payment machines are typically found in corner shops, petrol stations and post offices.

2.52 The payer presents the payment card with the payment he/she wishes to make; the card is swiped through a dedicated machine. The court is immediately notified of payment via the contracted supplier. Payment is usually received in the court's account within 10-14 days.

2.53 Where not already in place, courts are encouraged to develop flexible payment methods. In the long term we will identify which methods of payment work most effectively and why, and ensure that all courts act on this information.

Fines Officers

2.54 Paying fines and complying with court orders, whether to attend court or undertake community punishment are not optional. The Government is determined that all court orders will be rigorously enforced.

2.55 Through the Courts Act 2003 we created a new role of Fines Officer. Fines officers will be responsible for the administrative management of fines and will have at their disposal a range of new enforcement measures powers to deter offenders from defaulting. By March 2006 every area will have at least one fines officer. Numbers will vary in each area depending on workloads and the size of the area.

2.56 This role will be key to delivering sustained, improved enforcement performance and will be responsible for enforcing accounts that have defaulted. Fines officers will be responsible for the day-to-day management of the court order. The fines officer is not a judicial figure and their decisions will be subject to appeal to the court. Some decisions are reserved entirely for the court, specifically fines payment work orders (see para 2.56 below), the sanction to increase a fine and the selling of a clamped vehicle.

2.57 Magistrates in the courtroom currently set payment terms for fines and court orders. The Standard Means Form will give Magistrates the information they need to set the level of fine and/or Compensation Order. Fines officers will now relieve the bench of the time-consuming burden of having to negotiate terms for the payment of a fine that cannot be paid immediately.

2.58 The fines officer will confirm and, where necessary, complete the information provided by offenders on their means, direct offenders to debt management information where appropriate and explain the offender's responsibilities for paying their financial impositions. In the pilot areas, this process has been demonstrated to reduce default, as offenders better understand the consequences following default.

2.59 In addition, the fines officer will be able to place the name of an offender on the Register of Fines and Judgments. Data on the register will be accessible to anyone, including those from whom an offender might be seeking employment, accommodation and/or access to services generally. Those registered may have their ability to take out loans and enter other credit arrangements severely restricted.

2.60 Fines officers will also have a new power to issue a clamping order on a defaulter that allows the defaulter's car to be clamped, towed away and held in storage, until the original fine and additional costs are paid. If the defaulter does not pay the full amount within a 30-day period, magistrates can issue a further order for the car to be sold with the proceeds used to pay the outstanding debt. The evaluation of the Fines Collection Scheme found the clamping sanction to be a very powerful tool. The threat alone of the car being clamped has proved to be highly effective in recovering fines.

2.61 For those offenders who are having difficulty managing their financial affairs, Fines officers will be tasked with directing them to specialist advice agencies.

Fine Payment Work Orders

2.62 For those who genuinely cannot afford to pay, we will be looking to introduce the option for the court to make a Fine Payment Work Order. We are piloting this Order in a number of areas. Orders made so far have involved working in a church or serving in charity shops to discharge the fine. In Chapter 1, we described how the National Probation Service will involve members of the public in determining future projects.

Failure to pay

2.63 Magistrates will have the power to increase the fine when payment terms have not been complied with. Following the findings of a pilot study, the Government believes that this is currently a more effective measure than late fines being made subject to an interest charge. We will, however, keep this issue under review.

2.64 The Government is committed to the judiciary having a range of penalties at their disposal, with the independence to impose the most appropriate sentence within the guidelines established by the Sentencing Guidelines Council.

2.65 A custodial penalty remains the ultimate sanction for wilful default under the new legislative framework in the Courts Act 2003. Non-payment of fines or breaches of court orders could result in a custodial sentence. The Government is determined to improve compliance in the first instance and to reinvigorate fines as a credible penalty.

Operation Payback

2.66 The Government believes that a variety of enforcement techniques should be employed to prevent defaulters becoming so familiar with the process that they know how to avoid being traced. In 2004 we undertook a series of nationally co-ordinated enforcement campaigns entitled '*Operation Payback*', across England and Wales. Magistrates' courts, working with the police, targeted specifically selected defaulters.

2.67 Operation Payback proved a resounding success, recovering in excess of £2.4 million in uncollected fines and encouraging close working between criminal justice system agencies. The operations have sent a clear message to offenders that the Government will not tolerate non-payment of fines. Further blitzes have been planned and a third national Operation Payback is scheduled for late 2005.

2.68 This year courts will be allowed to publish in the media the details and photographs of fine defaulters wanted on warrant. The purpose of this is to seek the assistance of the public in tracing a selection of offenders that have defied all other attempts to execute process. Steps will be taken to confirm that doing so is fair and proportionate to the individual. Each court has been sent a set of clear guidelines to provide a steer on the steps that should be taken before publishing the defaulter's details.

2.69 In June 2003 the Government announced that outstanding fines would no longer be written off.

2.70 We will look to enhance our ability to specifically target the older accounts where it is clear that the magistrates' courts enforcement teams have done everything within their power to try and trace offenders and collect monies owed.

2.71 In two HMCS areas we are currently piloting the use of a private-sector debt collection agency to pursue 'uncollectable' debt, i.e. those accounts where the court had already tried all it could to enforce the fine. We are also running an in-house exercise on similar old cases so that we can compare and contrast results with the pilots. We will analyse the results of both exercises and bring forward a strategy to ensure that old debts are pursued and offenders expected to pay their fine no matter how long it has been outstanding.

Fail to appear (FTA) warrants

2.72 For the first time, Local Criminal Justice Boards have been set targets to further decrease the outstanding number of fail to appear (FTA) warrants

2.73 Building on the success of *Operation Turn-up*, a series of local campaigns by police forces to reduce the overall number of outstanding warrants, the aim is to reduce outstanding FTA warrants by a further 19% in England and Wales by April 2006.

2.74 Courts also now have a target to notify the police of 90% of all FTA warrants within one working day and 100% within three working days.

2.75 We will crack down on the hard core of people who snub the courts. Respect for the court means enforcing the orders of the court and compliance in the first instance. We will make sure that trials go ahead when scheduled and are not repeatedly put off. Improving attendance at court by defendants and witnesses enhances our service to victims of crime and the law-abiding public.

Community Penalty Breach Warrants

2.76 Also, since 1 October 2005, for the first time national end-to-end targets have been set for the resolution of cases where offenders breach a community order. Local Criminal Justice Boards are responsible for the delivery of the targets at area level. The targets to be achieved by the end of March 2006 are:

- Community Penalty Breach Proceedings should take an average of 35 working days from the relevant unacceptable failure to comply to resolution of the case.
- 50% of all breach proceedings should be resolved within 25 working days of the relevant unacceptable failure to comply.

2.77 These targets will require all agencies (HMCS, NOMS, Youth Justice Board) to review their processes, and work together to speed up the end-to-end process from unacceptable absence to resolution.

National Enforcement Service

2.78 In March 2005 the Government announced the formation of the National Enforcement Service (NES). It will be tested in the North West region in April 2006, with a full national rollout proposed for April 2007.

2.79 The NES will put in place a framework for improved enforcement and sentence compliance and ensure respect for the authority of the courts. The NES will have a distinct and clearly identifiable body of enforcement professionals that will focus on fine defaulters, compensation, those skipping bail and community penalty breaches.

2.80 This is not about creating a brand new organisation, but about introducing a more effective consortium approach to enforcement across the CJS agencies

2.81 As a result, we will reduce duplication of effort both in the office and on the doorstep and build closer links between all the criminal justice agencies. The NES will be a more professional and effective organisation that will deliver better sentence compliance, leading to increased public confidence in the CJS.

Chapter 3: Courts – Effective

Summary of actions

The Government has:

- Appointed uniformed court security officers with the power to search, exclude, remove or restrain people from or in the court building (para 3.63).

We will:

- Consult on proposals to deal with selected offences in alternative ways. This will include:
 - Alternative methods for handling the administrative and judicial processes in TV Licence cases (paras 3.12-3.21).
 - Options for more efficient handling of summonses and liability orders in Council Tax cases (paras 3.22-3.29).
 - Establishing an administrative process with the DVLA that will enable uncontested high-volume, low-level motoring offences to be dealt with outside the courts (paras 3.30-3.45).
 - Extending the use of dedicated courts to handle road traffic offences building on the experience of the London traffic courts (paras 3.36-3.37).
- Establish a five-year Estates Strategy focussed primarily on the needs of the public and victims and witnesses, which will raise the standard of facilities at our courthouses (para 3.58-3.59).
- Introduce new offences of obstructing and injuring court security officers (para 3.64).
- Set and publish standards for our customer services (paras 3.73-3.78).

More effective courts

3.1 Our courts have a very important role to play in the lives of every citizen. For the community to feel truly connected with the magistracy and to genuinely respect the work of the magistrates' courts, it is critical that the courts deliver effective court services.

Alternative ways of dealing with some court work

3.2 The Government is committed to making the most effective use of the time, expertise and skills of magistrates and district judges. The courtrooms should not be full of uncontested, low-level cases that do not require the magistrates and district judges to use their judicial skills to the fullest.

3.3 There is considerable scope for some criminal matters (and civil matters that are heard in the magistrates' courts) to be dealt with in ways that do not require presentation before a full bench of the magistrates' court. Respondents to the communications exercise suggested that such a move would allow more court resources to be focussed on the more complex, higher-level cases.

3.4 The Government is committed to increasing the expedition of cases and ensuring respect for the law and the courts. We must ensure there is sufficient capacity within courts to enable those high-level cases requiring judicial input to be able to come before the court quickly. For example, the Criminal Justice Act of 2003 has made provisions to raise the sentencing powers of magistrates to a maximum custodial sentence of 12 months from the current maximum of 6 months. This may increase the workload in magistrates' courts of higher-level cases.

3.5 We are looking at a range of alternative processes and methods of disposal for some of the high-volume, relatively low-level work in ways that do not adversely impact on deterrence or the quality of justice. This will facilitate swifter and more efficient justice and create capacity to deal with those that remain in the magistrates' court. The examples of TV licensing, council tax and some driving offences are discussed below. We will review and consult on the potential for disposing of certain types of cases by summary justice by paper, with the usual recourse of judicial appeal.

3.6 The process for the issuing of summonses varies according to the type of offence and the prosecuting body involved.

3.7 Powers in the Criminal Justice Act 2003 have enabled the police to issue a summons for minor offences. This removes the delay caused by having the summons first presented before the court for authorisation.

3.8 We will consult on the potential for this power to be extended to other prosecution bodies removing the need for courts to authorise summonses where these can be appropriately transferred. This should lead to increased efficiency. There were nearly 500,000 summonses for criminal offences issued by persons other than the police in 2004, of which nearly 75,000 were for summary motoring offences and nearly 400,000 for non-motoring summary offences.

3.9 The Government will also develop a new model to provide a speedier process for uncontested minor documentary offences, including handling some offences, such as fixed penalties, entirely by post.

District judges sitting without legal advisors

3.10 In collaboration with the judiciary, we are developing guidance outlining when district judges (DJs) can sit without legally qualified advisors. The guidance will:

- reflect the operational issues on the ground (including clarifying the current position as to DJs sitting without legally qualified advisors)
- differentiate assistance provided to DJs by legally qualified advisors and Administrators
- Provide examples of cases where the DJ could:
 - sit with an administrative court clerk
 - sit with a legally qualified advisor.

3.11 This should free up legal advisors on these occasions to fulfil other duties such as training Magistrates' colleagues and managing cases.

TV licensing

3.12 Using a TV without a licence is an offence of strict liability, carrying a maximum penalty of £1,000 (level 3 fine). The offence is governed by the Communications Act 2003, which superseded the Wireless Telegraphy Act 1949 on 1 April 2003.

3.13 The BBC's Royal Charter expires at the end of 2006 and the process of Charter Review is currently underway. In a Green Paper published earlier this year, the Government signalled its intention that the licence fee would remain the main source of BBC funding for the next ten years, but undertook to consider whether collection could be made more efficient or enforcement less severe.

3.14 TV Licensing (TVL) is the trading name of the BBC agency responsible for collection of the licence fee. On identification of non-payment of licence fee, TVL sends a draft summons to the magistrates' court for authorisation by a magistrate or justice's clerk.

3.15 TV licence fee evasion continues to fall in the U.K from 5.7% last year to 5.0% at March 2005.

3.16 The cost of collecting the licence fee has continued to fall from 5.4% of total revenue in 2003/4 to 5.2% in 2004/5 (see chart below). This reduction in evasion and controlling collection costs means that the combined cost has now fallen to 10.2% of total licence fee income, from 18.9% in 1991/1992 when the BBC took direct responsibility for licence fee collection from the Home Office. TV licensing cases make up 12% of court cases by volume but these cases take up only 0.3% of the courts' time.

3.17 The Government acknowledges the work that TVL have undertaken to improve their case preparation and to work more effectively with the courts. By creating dedicated Court Presenters, implementing enforcement best practice and streamlining administrative processes in consultation with the courts, much has been achieved to make the present arrangements work more efficiently. The Government believes, however, that by continuing to work with the BBC further efficiencies can be delivered.

3.18 The responses to our communications exercise suggested a number of alternative methods for dealing with TV licence cases that would not require recourse to the court in the first instance. These included using a different penalty for the offence, such as Fixed Penalty Notice (also recommended for consideration in the *Auld Report*¹⁴), or a new penalty of a fine with condition attached.

3.19 Administrative alterations to the existing process were also suggested to remove or reduce some of the back-office burden of these cases, including transfer of the power to issue and authorise summons to TVL and centralisation of the administration of these cases. We have considered all of these suggestions.

3.20 The number of licence evaders is declining. To radically change the system in terms of penalties available might serve to reduce the deterrent that currently exists and actually increase the volume of cases that result in a court hearing. BBC research estimates that at least 43% of the population are deterred from offending by the prospect of £1000 fine in court. However, the Government recognises that there are improvements that can be made to the way the cases are currently handled once they reach the courts.

3.21 We will introduce greater use of dedicated administrative offices for the processing, authorising and issuing of summonses and consider the alternatives to requiring a full magistrates' court bench for all first hearings. We will also explore the benefits that might be gained, and the public acceptability, of adopting a system where the BBC/TVL would be given the power to authorise and issue its own summonses/postal requisitions, where all administrative work in these cases would then be bulk-processed, and where any resultant guilty pleas would be handled without recourse to a full magistrates' court hearing.

Council tax

3.22 There are approximately 23 million dwellings subject to council tax in England and Wales. In 2003/04, there were 4 million summonses processed by magistrates' courts administrative staff for non-payment of domestic council tax, with 2.5 million liability orders and 50,000 arrest warrants issued by the magistrates' court. There were an additional 400,000 summonses, 200,000 liability orders and 3,000 arrest warrants in non-domestic rates cases.

3.23 Where an outstanding amount of council tax has not been paid after reminders have been sent, a local authority may apply to the magistrates' court for authorisation to issue a summons to the non-payer. The summons states the time and place of the hearing to establish liability. A liability order, if granted by the court, formally establishes that there is a debt and enables the local authority to take enforcement action.

¹⁴ *A Review of the Criminal Courts of England and Wales by the Right Honourable Lord Justice Auld*, September 2001 (<http://www.criminal-courts-review.org.uk/>).

3.24 Local authorities have a range of enforcement tools that they may use to recover the debt. For example, they may recover the sums owed by seeking an attachment from the debtor's earnings, levy distress on the debtor's goods or take a charge on the debtor's property.

3.25 Ultimately, local authorities have the power to seek a committal to prison but can only do so after at least one other enforcement measure (distress) has been taken. Before issuing a committal warrant, the magistrates' court must hold a means hearing to establish whether the debtor has the means to pay the debt.

3.26 As described above, if a case proceeds to a committal hearing, there can be 3 separate interactions between the local authority and the local court concerned. Not all of these involve a value-adding element for the court or the magistracy, as some are simply formal authorisation arrangements that do not require judicial skills.

3.27 We will work with local authorities and other key stakeholders to find ways to reduce the burden on magistrates' courts in dealing with council tax matters. There is currently no national standard for the way that these cases are handled. Some areas have established highly effective working relationships between the local authority and the local court whilst other areas rely on more ad hoc arrangements. Therefore, in the shorter term we will focus on the identification of best practice across all courts and ensure this is shared nationally.

3.28 We will also consult on whether the current process for issuing/authorising summonses and other processes should be changed. Judges and magistrates would continue to be responsible for adjudicating on contested cases, handling committal to prison cases and issuing arrest warrants.

3.29 In addition, we are assessing the potential benefits and the deterrent effect that may be generated by using provisions, already in place in the Courts Act 2003, to register with credit reference agencies those who fail to comply with a liability order.

Motoring

3.30 There are approximately 32 million licensed vehicles and 38 million licensed drivers in Great Britain. The non-compliant are a small minority, yet they pose a considerable burden on the courts.

3.31 Summary motoring offences make up 50% of total court proceedings. These offences include:

- driver licensing prosecution (472,000 cases in 2003)
- motor insurance prosecutions (573,000 cases in 2003) (see para 3.46)
- vehicle test prosecutions (372,000 cases in 2003)
- vehicle registration and vehicle excise duty (VED) cases (274,000 cases in 2003).

3.32 Unlike TV licensing and council tax offences, a number of different prosecuting authorities can undertake proceedings in court for documentation offences. Driving licence, insurance and most vehicle test offences are prosecuted by the Crown Prosecution Service for the police. The Vehicle Operator Services Agency (VOSA) prosecutes some vehicle test offences, as well as offences relating to commercial operators, e.g. operator licensing, tachograph, overloading, and other commercial vehicle roadworthiness offences. The Driver and Vehicle Licensing Agency (DVLA) prosecutes for vehicle registration and excise licence offences.

3.33 There are an increasing number of offences detected by Automatic Number Plate Recognition (ANPR) technology. Police ANPR cameras are linked to various databases containing details of vehicles with a possible association with an offence. When a passing vehicle is checked by an ANPR camera and matched against a database, the police can take appropriate action, which can include the issue of a Fixed Penalty Notice (FPN).

3.34 Work is already underway in both DVLA and the court system to ensure that Summary Vehicle Excise Duty cases are dealt with expediently, particularly persistent offenders. Evidence suggests that the quicker the time from offence to disposal, the greater the likelihood of receiving payment. Actions include:

Civil offences

- In January 2004 the Government introduced a scheme of Continuous Registration. This introduced a new offence of being the registered keeper of an unlicensed vehicle. This offence carries a civil penalty. The DVLA identifies offenders through its database and they are offered a late licensing penalty, which is similar to a fixed penalty regime. For those that do not pay the penalty, payment is enforced through the county court process rather than magistrates' courts.

Criminal offences

- Improved preparation and processing of Vehicle Excise Duty cases through speedier identification and processing of up to date information enables easier tracking of defendants, which leads to more out of court settlements being paid.
- Improved sharing of information between interested parties, e.g. between the court and the Department of Work and Pensions, with regards to up-to-date personal details, will improve the tracking of offenders.
- Clarification of the rules for the registration of Motability vehicles will ensure clear and consistent understanding by the DVLA and the magistrates' courts.
- Development of an intelligent web service is being explored, which will enable courts to process cases more efficiently by improving the communication links between courts and the DVLA. It will result in fewer cases being adjourned for reason of lack of defendant's documentation.
- A trial is underway to ascertain if better service and improved tracking of offenders can be delivered using the recorded delivery process, rather than the first-class post.

3.35 DVLA has done much to reduce the burden on the Courts and to improve the efficiency of their prosecutions. The majority of cases of using an unlicensed vehicle are settled out of court. For many years, DVLA has used the powers in the Customs & Excise Management Act 1979 to mitigate a penalty and offer an out-of-court settlement that is based on the amount of vehicle excise duty evaded. DVLA can also impound cars and dispose of vehicles for non-payment of Vehicle

Excise Duty. In 2003/04 534,000 cases were settled out of court. Those that do proceed to court are persistent offenders, i.e. those that have committed a Vehicle Excise Duty offence on at least two previous occasions, or those that do not accept the offer to settle out of court. In 1991/2, DVLA began to employ their own lay advocates and undertook their own prosecutions, thereby relieving the burden on the Crown prosecutors.

Designated sittings for DVLA cases ('DVLA courts')

3.36 In 2000/01 five dedicated DVLA courts were set up in London to deal with all VED and registration offences in the capital at specified sittings. These courts have enabled these cases to be dealt with in greater numbers and with greater efficiency without apparent detriment to the public. The situation nationally varies with some areas adopting similar systems to help facilitate fewer sessions, while other areas continue to list on a case-by-case basis.

Traffic courts in Greater London

3.37 In 2004 a decision was made to designate five London courts to deal with all traffic offences for specified areas. These courts have brought apparent benefits for the prosecution and the number of sessions required in court: there has been a reduction in the number of sessions from 120 to 28. The full extent of their benefits is still being evaluated. Any extension of these courts will be subject to further consultation, which will be carefully considered against the potential impact on the principle of local justice.

Making best use of Fixed Penalty Notices

3.38 Fixed Penalty Notices (FPNs) are already available for a number of motoring offences. As part of our effort to improve effectiveness, the Government is monitoring the impact of existing FPNs and will consider whether there is a case for introducing FPNs for a wider range of motoring offences.

Improved IT and data exchange

3.39 There are potential efficiencies to be gained through improved IT and data exchange. Work is underway to drive this forward, including improvements to the exchange of data on driver details. Phase one of DVLA's project to re-engineer the drivers' database is due to go live in November 2005. Following the necessary IT provision being rolled out to the courts and access arrangements being agreed with DVLA, it will provide the platform to allow access from any court to driver records direct from DVLA in real time. Phase two in 2007 will allow a real time two-way exchange (driver data to courts and sentencing data to DVLA). This will help to reduce the number of cases that are currently adjourned for sentence when the offender has failed to bring their driving licence with them.

Persistent offenders

3.40 There is a need for a strategy for dealing with persistent offenders through the magistrates' courts. DVLA and HMCS will develop a fast-tracking approach along with other options, such as listing fine defaulters with credit reference agencies.

Improving the summons process

3.41 As in the case of council tax and local authorities, the Government will use the Criminal Justice Act 2003 to extend to the DVLA 'public prosecutor' status to allow them to authorise all of their own summons without the requirement of magistrates' court scrutiny. In 2004/05, DVLA issued 363,000 summonses for VED and vehicle registration offences.

Streamlining processes for minor offences with guilty pleas

3.42 In the longer term, we will work with the DVLA to streamline the prosecution of less serious motoring offences. The Agency has done some initial work to understand the possible scope for a system for dealing with less serious and more straightforward motoring offences, where they can be dealt with outside court sittings.

3.43 The proposal concentrates on the handling of the high-volume, low-complexity cases, which might best lend them to being handled administratively rather than have to be considered by magistrates. In all cases, the

offender would retain the right for their case to be heard at court, but where the standard penalty offered is acceptable to the subject, a straightforward disposal of the offence could be delivered efficiently.

3.44 We will also explore the role that DVLA might play, employing for a wider range of offences the Agency's well-established infrastructure, assets and expertise in the field of Vehicle Excise Duty enforcement. The use of wheel clamping, vehicle impounding and intelligence-led enforcement, together with a national network of enforcement officers operating from the Agency's 40 local offices, provides further options for dealing with less serious offences outside the magistrates' courts system.

3.45 Involving DVLA more directly in the administration and disposal of offences may also provide real benefits in the accuracy and the currency of information held about drivers and their vehicles. This would, in turn, have a positive impact on the detection of motoring offences where enforcing bodies rely on DVLA data.

Driving without insurance

3.46 Driving without insurance is one of the most common motoring offences and also one where the offender's actions are likely to have a significant detrimental impact upon innocent members of the public. Professor David Greenaway's report *Uninsured Driving in the United Kingdom* was published in July 2004. The Government is working closely with the insurance industry and other stakeholders to take forward his recommendations as appropriate.

3.47 The Government accepted all but three of Professor Greenaway's recommendations. We have introduced:

- seizure of vehicles – police now have powers to seize uninsured vehicles, pending production of a valid certificate (measure introduced by the Serious Organised Crime and Police Act 2005 on 1 July 2005)
- police access to the Motor Insurance Database so they can identify unlicensed vehicles at the roadside (measures introduced by the Serious Organised Crime and Police Act 2005 on 1 July 2005)

- Government websites – information on the requirements of motor insurance should be available through Government websites e.g. Direct.gov. This was completed in January 2005.
- the Road Safety Bill to Parliament, which contains proposals to introduce measures for tackling uninsured driving (paragraph 3.55).

We will:

- increase roll-out of ANPR camera teams
- work with the insurance industry to develop products that price young drivers into the market
- update the Highway Code and Theory Test so that the purpose of and requirement for third party insurance feature more prominently.

3.48 The Government is committed to tackling this crime. There is currently an imbalance between the cost of motoring insurance and the penalties that are commonly awarded to offenders in these cases.

3.49 The average annual cost of a motor insurance premium is £370. However, as Professor Greenaway's report pointed out, this figure is misleading as the typical offender is likely to be young and male with an insurance premium considerably higher than the average. Public perception often compares the penalty for driving without insurance with the annual insurance premium. It is important to note, however, that an offender can only be prosecuted on the occasion of the offence, unless it can be proved that the offender has been using an uninsured vehicle for a period of time.

3.50 Critics of the current system rightly point out that motor insurance premiums are not means-tested and question why the penalties for driving without insurance should be so low. The belief is: "If you can't afford the insurance, you can't afford to drive: insurance is not optional". The Government is determined to ensure that, in future, the penalties imposed on offenders will accurately reflect both the seriousness of the offence and the cost of insurance.

3.51 Driving without insurance is currently punishable by Fixed Penalty Notice of £200. As with other FPNs, an offender can choose to

go to court, or where an offender defaults on payment, it is automatically converted to a fine 50% higher i.e. £300.

3.52 If the offence goes to court, upon conviction magistrates currently have the following sentencing options available to them in their sentencing guidelines:

- fine of up to £5,000
- obligatory licence endorsement of 6-8 points, or disqualification
- community rehabilitation
- a curfew – up to 12 hours a day for up to 6 months
- automatic disqualification upon committal of a second offence within four years
- imprisonment for driving while disqualified.

3.53 Under the Criminal Justice Act 2003, and available since April 2005, the following sentencing options have been introduced:

- 12 community sentencing options including, for example, up to 300 hours of unpaid work
- The Management of Offenders and Sentencing Bill gives provisions to magistrates to enable them, despite any means test data, to fine up to the Fixed Penalty Notice amount (£200).

3.54 The Road Safety Bill, currently before Parliament, contains proposals to introduce additional measures to tackle uninsured driving. These are:

- a new offence of being the registered keeper of a vehicle, the use of which is not insured
- give an enforcement body powers to enforce the above offence and to be given access to the motor insurance database and vehicle register, to enable it to identify uninsured vehicles from the record
- that the enforcement body can prosecute insurers or policy holders who fail to supply information about insured vehicles, already required by law, to the motor insurers' information centre
- that the enforcement body has the powers to issue FPNs, wheel clamp, remove or dispose of uninsured vehicles and prosecute offenders.

3.55 In relation to the final measure, DVLA has already had these powers for Vehicle Excise Duty offences and they are proving to be an extremely effective deterrent in ensuring compliance. In the year beginning September 2004, DVLA clamped 38,967 cars of people who failed to comply with orders made against them. Of these, 18,113 were subsequently disposed of (99% destroyed, 1% sold).

Customer-focussed service

3.56 On 1 April 2005 responsibility for the administration of all courts, including the ownership and management of court buildings was transferred to HMCS. Prior to this, 42 separate Magistrates' Courts Committees (MCCs) were responsible for the administration of magistrates' courts in their area and court buildings, in most cases, were the property of the relevant local authority.

3.57 HMCS is developing a range of national standards that will be tailored for implementation according to local circumstances. Work is already well underway to identify best practice across the former Court Service and MCCs.

3.58 A 5-Year Estates Strategy is being developed to improve the quality of our court accommodation with a particular focus on the needs of the public. Key features include:

- making the best use of the existing estate through renovations and enhancements before embarking on new builds
- a Design Guide that establishes Priority Minimum Standards against which all buildings, existing and new, will be measured.
- Courts Boards (see para 1.24) will play a role in developing the plans HMCS will put to the Secretary of State for its estate.

3.59 The Estates Strategy is driven by the development of the HMCS 5-Year Plan, which is looking beyond the building portfolio into the potential for more innovative ways of delivering the services that the public expects from a modern court service. These include the feasibility of mobile court services, and the use of alternative venues for court hearings. It will also give consideration to whether or not current court opening times are the best and most convenient way to provide a public service.

Court security officers

3.60 The public have a right to feel safe when they are attending court, especially as a victim or witness.

3.61 Security arrangements in Magistrates' courts are being reviewed together with the current arrangements in the Crown Court and county courts. New security policy and guidance will be issued for consultation in the autumn.

3.62 Following that consultation process, we will issue a new national manual *Safe and Secure: Effective Management of Security within Her Majesty's Courts Service* in early 2006 that will outline the minimum security standards for all courts and offices. This manual will build on the success of *Safe and Secure: Guidelines for Effective Security in Magistrates' Courts*.

3.63 On 1 April 2005 we enacted provisions in the Courts Act 2003 to create Court Security Officers from existing security staff. Court security officers have new powers to search all persons seeking to enter a court building, exclude, remove or restrain persons from or in the court building and request the surrender of or seize prohibited items.

3.64 We have introduced specific offences of obstructing and injuring a court security officer whilst in the execution of their duties. They carry maximum penalties of a fine not exceeding £1,000 for obstruction and a maximum of 6 months imprisonment or a fine not exceeding £5,000 or both for assault.

3.65 We will also encourage relevant neighbourhood beat officers and/or Police Community Support Officers (PCSOs) to visit magistrates' courts where they exist on particular policing areas as part of a patrol regime. In this capacity, these officers would be able to deal with specific issues affecting the courts.

3.66 All courts will be required to undertake an annual risk assessment of the building and facilities. There will be a requirement in the risk assessment process to seek input from magistrates, court users and other professionals who use the court on a regular basis.

3.67 The Annual Risk Assessment (ARA) will assess how well the physical building and security services comply with the published minimum standards and ensure that interim arrangements are put in place during any period while existing buildings are brought up to standard.

3.68 The ARA will foster a greater understanding of security issues at a local level and encourage a more joined-up and considered approach to adapting customer services and security operations to the reality of the available physical resources.

Access to up-to-date information

3.69 To fulfil their role efficiently and effectively, magistrates need to be able to access a vast range of information quickly. Accurate information on the means of a defendant is essential if immediate consideration of a fine is to be made, should the defendant be found guilty. In many cases, incomplete and inaccurate information leads to maximum financial penalties being imposed only for the offender to re-appear in court at a later date to have a more appropriate fine imposed. This wastes court time, delays the proper disposal of justice and leads to unnecessary defaulting.

3.70 The courts need access to other government data systems to be able to verify the information provided by defendants. To help offenders with wider financial problems, courts need to be able to refer them quickly to debt advice, and the effectiveness of being able to take this action immediately is being tested through community justice initiatives.

3.71 At the time of hearing a case, magistrates must have available accurate information on past offences, outstanding warrants and a defendant's driving and vehicle licence status.

3.72 We have already provided magistrates' courts with access to a credit reference database and we are in the process of completing rollout of access to the Police National Computer and DWP customer information systems. We will look to establish secure and appropriate links between the IT systems of the courts and that of the DWP and its agencies, HM Revenue and Customs (including the former Inland Revenue), DVLA, Police and National Offender Management Service.

Customer Service Strategy and Charter Mark

3.73 HMCS is committed to a five-year Customer Service Strategy designed to put the public at the heart of everything it does, getting things right the first time and learning from any mistakes.

3.74 We will set Customer Service Standards and these will be published in all court buildings and on our public websites by March 2006. Standards will address wide-ranging areas such as court opening times, complaints procedures, use of Plain English, and catering facilities.

3.75 We will also put in place comprehensive complaints monitoring procedures and we will consult the public on the services they most value to inform our future standard-setting.

3.76 Her Majesty's Inspectorate of Court Administration (HMICA) replaced Her Majesty's Courts' Service Inspectorate (MCSI), with effect from 1 April 2005. HMICA has a remit to inspect court administration in HMCS and the Children and Family Court Advisory and Support Service (CAFCASS). In taking on its wider remit to inspect court administration in Crown, county and magistrates' courts, HMICA has decided in the first instance to focus on the quality of service provided to court users. It has started by looking at the service provided to victims and witnesses, and will then move onto defendants and jurors. HMICA will also work with other criminal justice inspectorates on six joint inspections of criminal justice areas, and one in Northern Ireland.

3.77 The Charter Mark is the public service measure of customer service excellence. As well as being an improvement tool, it provides an assessment framework to measure how we perform for our customers and involve them as we develop our services in imaginative and effect ways.

3.78 HMCS has embarked on an ambitious 4-year programme to achieve Charter Mark accreditation for each area and ultimately corporate accreditation – reflecting our desire to deliver first-class court services.

Chapter 4: Recruitment and retention of the magistracy

Summary of actions

The Government has:

- Provided every local Advisory Committee with a range of tools and resources, such as advertisements for local papers and radio, to support the recruitment and selection of new magistrates (para 4.20).
- Established a national freephone number (0800 003 007) for handling enquiries and issuing application packs on how to become a Magistrate (para 4.25).
- Created a new website on 15 August 2005, dedicated to prospective candidates and employers (para 4.22).
- Made substantial improvements to the approval process making it quicker and more flexible (paras 4.27-4.28).
- Established a working party of senior employers groups to address the barriers that prevent those in full-time employment from taking up the role of a Magistrate (paras 4.30-4.34).
- Put in place a process whereby the Lord Chancellor will award magistrates of over 20 years standing with certificates for long service (para 4.74).
- Introduced new guidance allowing magistrates to use the post-nominal letters JP (Justice of the Peace) in all but a few specified circumstances (para 4.77).
- Agreed that the modern magistracy should no longer be referred to as 'lay' (paras 4.78-4.80).

We will:

- Provide all Advisory Committees with the help of recruitment specialists to target local employers (para 4.19).
- Provide jurors, on completion of their period of service, with recruitment material on applying for the magistracy (para 4.26).
- Reduce the time from recommendation to appointment of magistrates from 10 to 6 weeks (including a criminal records check) (para 4.28).
- Consult on new arrangements about enabling magistrates to take time off from work (para 4.36).
- Consult on the reduction of the minimum sitting requirement of all magistrates from 26 to 24 half- days (paras 4.50-4.51).
- Develop training programmes, which maximise the opportunities afforded through new technologies to deliver training to magistrates in ways that fit with their other commitments to work and family (paras 4.58-4.69).
- Introduce good practice guidelines for minimising and managing the cancellation of magistrates' scheduled sittings at short notice (paras 4.72-4.73).

A modern, diverse magistracy

4.1 The work of magistrates and the magistrates' courts is at the very heart of community justice in the country. They deal with nearly 95% of criminal cases and around 50,000 family cases each year. They deal with many of the crimes that most concern the public including alcohol-related violence, crimes against property and anti-social behaviour.

4.2 The benefit of a volunteer magistracy is that they are able to represent the views of the community in coming to their decisions. This is matched by a highly professional approach to discharging their responsibilities.

4.3 In order to ensure that the magistracy is able to continue to fulfil this critical role, the Government believes that the magistracy needs to reflect the make-up of the community in terms of age, gender and ethnicity. This chapter sets out our plans for achieving this by 2010.

4.4 District judges, formerly known as Stipendiary Magistrates, also play a critical role in the magistrates' courts. Magistrates and district judges bring their own particular benefits and the courts are stronger through the availability of both judicial branches. It is important that the majority of magistrates' court work continues to fall to magistrates, supported by district judges appointed for England and Wales to sit in the larger courts and where their professional skills are required for a complex or demanding case. We must ensure we have the best mechanisms in place to enable them to share their respective skills and experiences. For example, there is potential for district judges (magistrates) to share their experience of more complex cases with magistrates.

4.5 The appointment of magistrates is currently made by the Secretary of State for Constitutional Affairs (in his capacity as Lord Chancellor), on advice of local Advisory Committees. Advisory Committees consist of representatives from the magistracy and other lay members who recruit, interview and recommend suitable candidates to the Lord Chancellor. The involvement of local people in the recruitment of magistrates is an essential element in ensuring the magistracy truly reflects its local community.

Magistrates' National Recruitment Strategy

4.6 In October 2003 the Lord Chancellor launched the Magistrates' National Recruitment Strategy (MNRS) and as part of that strategy published research in September 2004 that examined the barriers to recruitment and retention of magistrates. Its findings were supported by the underlying concerns put forward through the Supporting Magistrates Programme's communication exercise.

Public misconceptions

4.7 The MNRS and Support Magistrates to Provide Justice research drew up consistent findings:

- The public viewed magistrates as mostly white, older, middle-class and professional (even those who were themselves considering becoming a magistrate).
- There was a strong expectation that a magistrate needed to have a formal university education. Few people appreciated that the position was voluntary and no qualifications are required.
- There was little knowledge of the level of commitment required or of the application process.
- Although 9 out of 10 people said they had heard of magistrates, fewer than one in six of these claimed to know a lot about them¹⁵.
- Awareness and knowledge of magistrates is considerably higher amongst certain groups of the population¹⁶. Knowledge of magistrates is higher for older age groups, with a peak at 55-65. Knowledge of the magistracy is also higher among people in professional and managerial occupations.
- 14% of 18-24 year olds say they have never heard of magistrates and a further 43% say they have heard of magistrates but they know nothing about them.
- Levels of knowledge of magistrates are lower among the BME population, particularly among Asians¹⁷.

^{15, 16, 17} Source: DCA Consumer Strategy "National Survey on CJS Engagement".

- 35% of Asians said they had never heard of magistrates, compared to 24% among the black population and 6% of the white population.
- People who said they would be “very interested” in working as a magistrate were twice as likely to say they “knew a lot about it” than those who said they had “no interest”.

The magistracy and the community

4.8 The Government believes that the magistracy’s local membership should reflect the composition of the communities it serves. The statistics below demonstrate that the existing level of diversity is widely proportionate with the rest of the population in terms of gender and race, but the Government would like to see more applications to the magistracy from younger, working people. The Government is committed to equality of opportunity and judicial diversity.

4.9 The barriers experienced by some people when putting themselves forward for the magistracy must be addressed, especially for those in full-time employment and those who simply do not see the magistracy as a personal option.

More magistrates in some areas

4.10 There are more than 28,000 magistrates in England and Wales. The Government welcomes the efforts that have been made to ensure that the work of the courts continues in those areas with a shortage of magistrates. But we recognise that there is more to be done to ensure every area has the required numbers of local magistrates. Some areas have adequate numbers of magistrates to share the work of the courts e.g. Warwickshire, but other areas have too few magistrates, e.g. London. We will target action on those areas facing the greatest problems.

4.11 The workload of the courts varies over time. Recent initiatives such as increasing the numbers of offenders brought to justice, changes to court procedures and proposals such as those outlined in Chapter 3 will all have an impact on the levels of business in the courts. Local areas require robust business projection models, specific to their particular needs. These will support the Advisory Committee in setting targets for the future requirement of their local magistracy.

Figure 3: Composition of the magistracy

Age				Gender		Ethnic background				
18-40	40-49	50-59	60-69	Male	Female	White	Asian	Black	Other	Not known
988	4,377	11,754	11,181	14,273	14,027	26,401	952	626	249	72
3.5%	15.5%	41.5%	39.5%	50.4%	49.6%	93.3%	3.4%	2.2%	0.9%	0.3%
England and Wales Population (2001 Census)¹⁸										
46.4%	20.3%	19.2%	14.1%	48.7%	51.3%	90.9%	4.6%	2.3%	0.9%	1.3%

¹⁸ Source of data: age and gender statistics are from <http://www.statistics.gov.uk/>, ethnic background data are from the Commission for Racial Equality.

4.12 Since the launch of the MNRS in 2003, recruitment to the magistracy has increased each year by nearly 10% on the previous year's recruitment. But there are still some parts of the country that are having difficulty in recruiting the numbers they need. To address this deficit, we will seek to identify the profile of how many magistrates we will require in the next 5 years and target our actions in those areas of greatest need.

A husband is guilty of threatening behaviour towards his wife. The man is no longer living in the family home, but his wife is clearly frightened of him. This is his third offence.

PRISON?

The man appears contrite, but he is an alcoholic and this makes his behaviour unpredictable. Sending him to prison would mean he loses his job and will do nothing to treat his addiction.

COMMUNITY SENTENCE?

YOU DECIDE BECOME A MAGISTRATE

You don't need legal experience or qualifications to serve as a magistrate – they come from every imaginable background.

You do need to be aged between 18-65 and able to sit for a minimum of 26 half-days each year. Magistrates aren't paid, but many employers allow time off with pay, or you can claim a loss of earnings allowance. We welcome applications from all sectors of the community, especially those currently under-represented in the magistracy – younger people and people from ethnic minority groups.

To find out more, call 0800 003 007 or go to www.magistrates.gov.uk

dca Department for Constitutional Affairs
Justice, rights and democracy

You Decide: Become a Magistrate – the key message of a new media campaign produced by DCA to recruit more magistrates

The way forward

4.13 The modern day magistracy has many strengths. It is community-based and increasingly drawn from all social backgrounds. We build on those strengths while making the improvements and changes needed to ensure that the magistracy is equipped to meet the challenge of effectively delivering justice in a 21st century democracy.

4.14 There are three key areas that we will address:

- **Recruiting more magistrates.** We will recruit more by identifying the numbers of magistrates each area needs, ensuring we broaden the pool of people applying to

become magistrates and, when people apply, have in place efficient and effective recruitment practices, appropriate training and on-going support.

- **Representative of the community.** In many aspects, particularly with regard to gender, the magistracy is reflective of the wider community. There are three areas we will make progress on: reducing the age profile of the magistracy, recruiting more magistrates in employment and recruiting more magistrates from Black and Minority Ethnic (BME) communities.
- **Magistracy supported by employers.** We will work to ensure that employers recognise the tangible benefits to their business of employing magistrates, and to support employees who take on the important duties of a magistrate.

Supporting Advisory Committees

4.15 Advisory Committees are currently responsible for the recruitment of magistrates. They too are made up of public volunteers and give a great deal of their time to this role.

4.16 We will improve support to Advisory Committees so that they are able to attract, select and appoint people into the Magistracy from the widest pool possible.

4.17 The magistracy has to compete hard for new volunteers, not just within the justice system, but also against other sectors such as education and sports, organisations such as the Citizens Advice and positions such as School Governorships.

4.18 We have developed new materials to advertise the concept of the magistracy to the widest possible audience and in August 2005 produced new application materials for those embarking on the process of becoming a magistrate.

4.19 The key features of the new material and the related recruitment processes are:

- a consistent identity, nationwide, that has been thoroughly researched and tested
- a communication toolkit that will allow every Advisory Committee to plan a campaign according to local need within a consistent generic framework

- a portfolio of materials that includes information specifically aimed at employers
- a new, more streamlined process to enable Advisory Committees to access support and advice from professional expertise and DCA for their campaigns. For example, our advisors will help Committees to better target local employers.

4.20 The Government has provided all Advisory Committees with a range of professionally developed advertisement and recruitment materials. They have been issued with a communications toolkit that includes:

- templates of press advertisements
- posters
- advertisements for use on local radio
- articles for placing in local newspapers and
- ideas on how to work with local community groups and employers.

4.21 Employer representative groups, including the Confederation of British Industry, Institute of Directors and Federation of Small Businesses, have welcomed this new material and have commended it for its professional approach.

4.22 The material is complemented by a new website www.magistrates.gov.uk for magistrates and those interested in the work of the magistracy. It also includes a section specifically aimed at employers and potential employers of magistrates.

4.23 We are working with the Magistrates' Association to ensure that anyone considering becoming a magistrate has the opportunity to talk to an existing member of the magistracy about the role.

4.24 We are also developing a six-month national campaign to target employers, using direct mail and advertising in a selection of broadsheet newspapers and popular business publications. Local Advisory Committees may wish to consider complementing paid advertising with presentations to local community groups and television or radio interviews.

4.25 We have already established a national freephone number (0800 003 007) to manage initial enquiries from potential magistrates.

4.26 Finally, we will be providing people who have completed jury service with information about becoming a magistrate. Jury service offers a unique insight into the criminal court process. Evidence from our consumer research confirms that those who have served on a jury had a better understanding and knowledge of magistrates' work because they could imagine what kind of work magistrates would do. Many might welcome the opportunity to serve their community through further involvement in the criminal justice system. We will provide the Crown Court with specifically designed recruitment information that will be made available to jurors on completion of their service.

Appointing new magistrates

4.27 The Government undertook a full review of the appointment process in March 2005. As a result, we have removed the requirement for Advisory Committees to provide submissions at single fixed points during the year. Advisory Committees are now free to submit recommendations at any time. This will reduce the length of time between candidates completing the Advisory Committee's recruitment procedures and, if successful, their formal appointment by the Lord Chancellor.

4.28 We have also reviewed every stage of our internal procedures and have instituted changes. The period of time from the receipt of a recommendation from the Advisory Committee to notification to the Advisory Committee of success (or otherwise) has been reduced from on average ten weeks to six weeks, which includes a Criminal Records Bureau check. We continue to look for further efficiencies in that process.

4.29 The independent Judicial Appointments Commission (JAC) will be launched in April 2006. Once it is fully established and operational, responsibility for the appointment process will transfer from the Lord Chancellor to the Commission, improving transparency and accountability.

Working with employers

4.30 The Lord Chancellor has established a working group to identify ways to address the challenges faced by employed magistrates, including difficulties in getting time off work. This concern was consistent amongst the existing magistracy during the communications exercise.

4.31 The working group includes representatives of:

- the Institute of Directors
- the Confederation of British Industry
- Trades Union Congress
- Business in the Community
- Federation of Small Businesses
- the Judicial Studies Board
- the Magistrates' Association.

4.32 The purpose of the working group is:

- “To provide expert input to inform the direction of the Government’s commitment to forge a partnership with employers on increasing employer support for working Magistrates.”

4.33 The group’s work is to address the following key themes:

- increasing the visibility of magistrates in the workplace
- emphasising the benefits and value of the training
- ensuring support at the top reaches down the management chain
- encouraging flexibility on both sides
- further research on the issues
- finding practical solutions that meet the needs of business.

4.34 A number of proposals have emerged from the group’s discussion including:

- encouragement for large employers to set up a forum/interest group for employees who are magistrates and guidance for employers through the process of supporting a volunteer group in their business
- joining an existing forum for younger people and volunteering
- the establishment of a network to effectively channel information to employers

- HMCS should take part in the Business in the Community Awards to help support magistrates as part of many companies’ advocacy of corporate social responsibility.

4.35 The existing legislation on time off lacks clarity and is open to misinterpretation. The Government recognises that a change to address this is desirable. Under the 1996 Employment Act, it is for the employer to determine what constitutes ‘reasonable’ time off. The criteria on which that decision should be based [Section 50(4)] are very difficult for non-lawyers to interpret. Evidence suggests that in a significant number of instances magistrates are refused sufficient time off. More often than not, this seems to be owing to a misunderstanding of the requirement to grant time off rather than deliberate intransigence on the part of the employer.

4.36 We are considering an alternative provision, with a procedure the same as that which exists under Section 47 of the Employment Act 2002 dealing with flexible working for parents of children under 6 or disabled children. This legislation is much clearer and easier to interpret. It also sets out clear and workable requirements on both the employer and the employee in terms of how the request for time off shall be made and determined, including a requirement to give reasons for a refusal. This would reduce the potential for misunderstanding and misinterpretation inherent in the 1996 Act. Finally, the 2002 Act is designed to avoid disagreements escalating to legal proceedings, for example with its provision for internal appeals.

A magistracy that reflects its community

4.37 There are two key elements to creating a more representative magistracy. The first is engagement and aims to raise awareness of what magistrates do and who can become a magistrate. It involves emphasising the value of magistrates to society, and showing what the individuals who become magistrates gain from it.

4.38 Secondly, becoming a magistrate must be a realistic option for all sectors of the community. Younger people, those in full-time employment and people from black and ethnic minority communities often do not feel able to become a magistrate. These groups are currently under represented in the magistracy.

Black and minority ethnic magistrates

4.39 Nationally, the proportion of magistrates from Black and Minority Ethnic (BME) communities aligns with the overall population. Around 7% of all magistrates come from the BME communities, making the magistracy only slightly under-representative of the wider population where 8% come from BME communities. However, there are individual benches that need more support to ensure the level of ethnic representation in the magistracy is significantly more reflective of the local population. Examples of where we need more BME magistrates are: London, Liverpool and Avon.

4.40 The MNRS Implementation Paper gave Advisory Committees' guidance on areas that have been identified as needing to recruit a greater proportion of ethnic minority candidates. To help the Advisory Committees, we are developing a national protocol for their use on how best to engage with their local BME communities. One measure we have already undertaken is the introduction of the Magistrates Shadowing Scheme, a recruitment programme first launched in 2001 specifically to target BME communities. We will consider how else we might be able to support the Committees – potentially through a diversity awareness training programme.

4.41 The Magistrates Shadowing Scheme is run in partnership with Operation Black Vote and the Magistrates' Association. It enables people from BME communities to gain direct experience of the work magistrates do and how the criminal justice system works at a local level. One of the key elements of the Scheme is that participants are asked to hold meetings in the communities to share their experiences. www.obv.org.uk/Magistrate/2003/

4.42 Over the next five years the Government will focus engagement on those areas where greater ethnic diversity is needed. This will be supported by our general commitment to substantially increase awareness of the role and value of our magistrates. This is particularly important in the light of the findings highlighted in the DCA's consumer research.

More, younger magistrates

4.43 Redressing the age imbalance on the Bench is particularly important. The Government is grateful for the contribution of older and more experienced magistrates. However, a significant

proportion of existing magistrates will reach judicial retirement age shortly. We need to recruit a new generation of magistrates to meet the demands placed on the magistrates' courts.

4.44 In recent years, it has become increasingly difficult to recruit magistrates in their 30s and 40s and we will take action to remedy this. Exceptional candidates may apply to become a Magistrate at eighteen years of age. However, typically most people will be in their thirties when they consider applying.

4.45 A key characteristic of present day society is the ever-increasing demand on younger people's time. Many of the bright and capable people we need to attract to the magistracy are already juggling the commitments of time-consuming careers, family lives and a variety of leisure pursuits. We need to make the magistracy a more viable option to younger people. For example, we are consulting employers' organisations about what might be a reasonable sitting pattern for younger people in employment. We will also consult on opening up the CJS Law Scholarship to applicants to the magistrates' bench. If evidence suggests that this offer will succeed in widening the pool of prospective candidates, we will consider how we might advertise these opportunities appropriately.

Lawyer magistrates applying to the judiciary

4.46 As part of our programme to increase judicial diversity, we will be making a limited exception to the established policy that no one is appointed to salaried judicial office without first having served in a fee-paid post. We will allow solicitors and barristers who sit as magistrates to use their JP sittings in lieu of fee-paid sittings when applying for salaried judicial office. The details of this policy continue to be worked through with a working group of key stakeholders.

4.47 In normal circumstances, lawyers who are magistrates will continue to need fee-paid experience before being able to apply for salaried judicial office. They will, like other lawyers who meet the statutory eligibility criteria, need to successfully complete the selection procedure to become a deputy district judge and gain experience in that role. We are currently considering, with the benefit of stakeholders' views, the amount of fee-paid sitting experience which would be required

before such a person could then apply in an open competition for salaried judicial office (in other words, to what extent their magistrate sittings would be counted in lieu of fee-paid sittings). However, in exceptional cases, it will be possible for such a person to be able to apply for salaried judicial office without having first sat as a fee-paid judge. We are currently considering how to define such exceptional circumstances.

Sittings requirements

4.48 Magistrates currently sit in half-day sessions, with each court session lasting approximately two and a half hours. Courts usually conduct a morning and an afternoon sitting.

4.49 We need to ensure there is the right balance between sitting requirements and recognising the other demands that people face, such as work and family life.

4.50 The Government believes that each magistrate should sit a minimum number of times each year so that they can build their experience and maintain their competence. The current minimum of 26 half-day sittings per year represents a high level of commitment. This may act as a deterrent for some people and make it difficult for existing members of the magistracy to continue in the role, especially as magistrates also give additional time voluntarily to attend mandatory and optional training sessions.

4.51 To ease this burden, we are consulting on the feasibility of reducing the minimum number of sittings to 24. We consider that this might be a more appropriate minimum to ensure that each magistrate maintains their competencies but has more time to receive the current training. In doing this, it is hoped to broaden out the accessibility of the magistracy to younger, working people.

4.52 In practice, almost all magistrates sit more than the minimum. The DCA currently sets each Advisory Committee a target average number of sittings of 35. This figure has been used by Advisory Committees to help determine the total number of magistrates required for each bench.

4.53 The use of such an arbitrary average fails to account for differing needs and availability of each magistrate. A magistrate in full-time employment is most likely to be able to sit,

on average, fewer days than a magistrate who has retired from paid work. Therefore, we will remove the requirement for Advisory Committees to achieve an overall average sitting.

4.54 The strength of the magistracy lies in the fact that it is made up of people who have other roles and responsibilities in their community as employees or business people, carers, home makers or parents, students and volunteers. Not all these people can sit for the same amount of time.

4.55 In order to ensure that the bench is as representative as possible and that the same people are not sitting all the time we are, as part of a wider consultation, considering whether a maximum annual sitting requirement of 60 half-days would be appropriate.

4.56 Minimum and maximum annual sittings will help to ensure the magistracy is representative and that all magistrates have sufficient opportunity to gain the experience they need to be most effective. They should also provide a more effective basis on which to determine the total numbers of magistrates required on each bench.

Flexible time for sittings

4.57 Where practical arrangements can be made with other key CJS agencies, we must introduce greater flexibility in when magistrates are required to sit. The opening hours for courts will be subject to minimum standards of 5 hours per day, for each day that they are open, usually from 10am to 4pm with an hour for lunch. These standards will not restrict individual courts and/or local areas from opening their courts outside of these hours

Flexible training of magistrates

4.58 Since 1 April 2005 the Judicial Studies Board (JSB) has taken on a strengthened role for magistrates' training in conjunction with Her Majesty's Courts Service. The new arrangements will see greater consistency in the content and manner of training across England and Wales, supporting the local delivery of magistrate training by justices' clerks.

4.59 The Magistrates National Training Initiative 2 (MNTI 2) is a more refined, less complex weighted set of competencies for magistrates, supported by clear national standards. The JSB has established systems

to ensure that the appraisal of magistrates takes place in a timely and effective manner across the country.

4.60 Magistrates are required to undertake training before sitting as a justice in the adult court, as a chairman in the adult court, and as a justice and chairman in the youth and family proceedings courts. This is the only compulsory training that magistrates must undertake.

4.61 There is a great deal of other training offered to magistrates. None of this training is compulsory, in the sense that magistrates who do not undertake it are not removed or unable to sit. However, the training is intended to support a magistrate's competence. The Bench Training and Development Committee (BTDC) appraises magistrates, so if the failure to attend training had resulted in a magistrate failing to demonstrate competence, the BTDC could require him or her to re-train.

4.62 MNTI 2 places greater emphasis on the required skills and behaviours, whilst also defining the underpinning knowledge needed by magistrates. The important key themes of diversity and equality are integrated within the scheme.

4.63 MNTI 2 is an important tool for securing the effectiveness and credibility of judicial decision-making; it is a key support for the new Magistrates' National Recruitment Scheme; and it supports the wider objectives of the criminal justice system.

4.64 The JSB exercises judicial oversight and key responsibilities for the training of magistrates on behalf of the Lord Chancellor. From 1 April 2006 the Lord Chancellor's responsibility for training the judiciary will transfer to the Lord Chief Justice (as a consequence of the Constitutional Reform Act 2005).

4.65 Magistrates are inducted with a comprehensive training programme at the time of appointment, and all magistrates receive appraisal through a rigorous competence framework. Regular training sessions ensure that all magistrates are kept abreast of changes in the criminal justice system. Magistrates voluntarily give their time to meet these requirements in addition to exercising their judicial functions.

4.66 The JSB will work with Her Majesty's Courts Service to improve and widen magistrates' access to training. Training materials will be

designed so that they can be used flexibly to meet the needs of individual magistrates at area level. Where appropriate use will be made of hard-copy distance learning materials, self-study packs and e-communications via internet links and DVDs.

4.67 Magistrates and justices' clerks will be involved in the development and design of training programmes. Through its monitoring and evaluation function, the JSB will identify good practice in training provision, enabling magistrate trainers to learn from the experience of colleagues and magistrates in other areas.

4.68 The Sector Skills Development Agency will make funding available to Skills for Justice, via SkillsActive (the Sector Skills Council for Active Leisure and Learning), to develop and improve links with voluntary and community organisations in the sector.

4.69 Skills for Justice will provide support and advice, enabling the voluntary and community sectors to be more fully represented in Skills for Justice research, skills needs assessment and sector skills agreements.

Supporting commitment to the magistracy

4.70 The responses to our communications exercise indicated that magistrates fully understand the essential role they play in delivering local justice. Responses from magistrates revealed an acknowledgement that the contribution their service makes to the community is often its own reward.

4.71 The Government is grateful for the efforts existing magistrates have made in rearranging busy personal schedules and juggling other responsibilities in order to be available to sit. Magistrates are entitled to have this commitment suitably recognised and respected by the Government and the public.

4.72 Whilst sitting schedules are established well in advance of the day a court sits, it is inevitable that from time to time a magistrate will not be able to sit when scheduled for reasons beyond their control. It will also be the case that, despite the best practices of the court, there will be times when a scheduled bench will not be required to sit and will be cancelled at relatively short notice.

4.73 The Chief Executive of HMCS and the Senior Presiding Judge will, however, issue good practice guidance on the cancellation of magistrates' courts. The guidance will establish standards for each courts area and their local judiciary, requiring them to produce transparent and agreed mechanisms for keeping these situations to a minimum, and effectively managing them according to local needs.

Recognising long service and titles

4.74 In addition to the day-to-day commitment made by the magistracy, the Government appreciates the commitment made by a great many magistrates who selflessly serve their community, year on year. In recognition of their contribution to the justice system, the Government will introduce a long-service certificate to be awarded by the Lord Chancellor to all magistrates who have served for 20 years or more, in addition to the existing arrangements whereby the Lord Chancellor sends a personal letter of thanks to magistrates on their judicial retirement at 70.

4.75 It has long been the rule that the post-nominal letters JP, which stand for Justice of the Peace, can only be used after a magistrate's name in very specific circumstances. Since 2001 it has been limited to being used directly in connection with magisterial duties.

4.76 The fact that an individual is a magistrate is, however, a matter of public record. Magistrates are right to feel honoured about their status and what it says about them. Moreover, there is a need to raise public awareness of the wide range of people who hold this office.

4.77 The Government acknowledges that concern on the part of magistrates that they could inadvertently fall foul of the rules has meant many magistrates simply never use the post-nominal letters JP. We have therefore relaxed these rules and have issued a circular providing clear guidance to magistrates, Advisory Committees, justices' clerks and Bench chairpersons on how the letters may be used.

4.78 The term *lay* magistrate has historically been used in part to distinguish Justices of the Peace from the district judges. It has also been used to convey the fact that magistrates are not required to be members of the legal profession.

4.79 The Government acknowledges that the use of the word 'lay' fails to properly convey the conscientious and professional attitude of the magistracy. Magistrates undergo extensive training and continual and rigorous post-appointment appraisal.

4.80 We will not change legislation relating to the definition of Justice of the Peace, but it will be Departmental policy that, when referring to Justices of the Peace as magistrates, the prefix 'lay' will no longer be used.

Conclusion

Much achieved – much more to do

5.1 Magistrates and magistrates' courts have a critical role to play in the delivery of justice. They are at the forefront of delivering local, community-based justice and are responsible for handling the vast majority of all criminal cases in this country.

5.2 Of course they do not and cannot function alone. It is only when all the parties involved in the criminal justice system work together that we will deliver justice efficiently, effectively and in a way that restores the public's confidence.

5.3 We are determined to support magistrates and magistrates' courts in their vital work. We asked what could be done to help magistrates and court staff fulfil their duties and ultimately to improve services to the public. We are grateful to everyone who took the time to respond.

5.4 As a result we have, in this report, proposed changes to:

- methods of engaging with our communities
- court procedures and services
- court environment and security and
- magistrate recruitment practices.

5.5 We can only make these changes with the support and collaboration of our colleagues across the justice system. Some of them will require legislation that will be brought forward as soon as parliamentary time allows.

5.6 There are many great stories to tell about local justice and the valuable work of the courts. But we cannot be complacent. Excellent practice and great achievements sit alongside areas of poor performance. Too often, cases do not proceed for avoidable reasons – greatly inconveniencing witnesses and victims and wasting the resources of the court and all others involved in the case. Justice delayed is justice denied. We are determined to improve standards across the board, for magistrates, district judges, court staff and, above all, the law-abiding public.

5.7 This report sets out how we have responded to the views expressed during our extensive communications exercise and the changing circumstances in which the magistracy and those working in magistrates' courts fulfil their responsibilities. It also sets out our proposals for further changes and reforms.

5.8 But it is not the end of the story. There is a great deal more to do. We will continue to look for ways to improve our services so that they are as efficient and effective as possible, making best use of the capacity of the courts, as well as the talent and expertise of those working in them.

5.9 We look forward to continuing the highly productive working partnerships that led to this report and will lead to further improvements in the future.

If you have any queries or comments regarding this document or any other part of the SM2PJ programme, please contact the SM2PJ team at supporting.magistrates@dca.gsi.gov.uk or write to:

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