



Department of  
**Justice**

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**PROPOSALS FOR DRAFT LEGISLATION ON THE  
COLLECTION AND ENFORCEMENT OF FINANCIAL  
PENALTIES: EQUALITY AND REGULATORY IMPACT  
ASSESSMENTS**

**REPORT ON RESPONSES**

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## **Contents**

- 1. Introduction**
- 2. Outcome of the consultation**
- 3. Departmental response**
- 4. Conclusions and Way Forward**

## 1. Introduction

### Background

1.1 In May of this year, the Department of Justice published two consultation papers on its proposals for draft legislation on the collection and enforcement of financial penalties. The consultations provided the Department's Equality and Regulatory Impact Assessments of the proposals to be included in a prospective Justice Bill to be brought before the Assembly.

1.2 The purposes of the consultations were to describe the Department's legislative proposals ahead of publication of formal legislative proposals and to take views on equality and regulatory impact issues. The Department considered it important to share the detail ahead of formal production of the Bill to ensure that the full package would be available for consultation.

1.3 The creation of the legislation would be by way of a combination of primary and secondary legislation. Not all of the detail of the provisions would in all likelihood appear on the face of the Bill and supporting Regulations would be required. The Department saw it as important to describe the scheme in as much detail as possible for the purposes of consultation.

### The consultation

1.4 The consultations began on Monday 18 May and closed on Friday 10 July. Full details are available on the [DOJ website](#). The Department's draft legislation was subsequently published as the Justice (No. 2) Bill and was introduced into the Assembly on 30 June. It is available on the Northern Ireland Assembly's [website](#).

## 2. Outcome of the consultation

### Respondents

2.1 The consultations produced a very limited response – only three responses were received. The respondents who provided observations were, in the order received:

- a) The Department of Justice and Equality from the Republic of Ireland;
- b) The Police Service of Northern Ireland; and
- c) Newry, Mourne and Down District Council.

2.2 Given the limited numbers responding and the overlapping nature of the comments, the Department has therefore decided to produce a single composite report on both consultations.

### Responses

2.3 Taking each of the three responses in turn:

2.4 The Department of Justice and Equality did not comment on the Department's proposals or assessments, rather they described similar provisions that had been recently enacted in the Republic of Ireland. The Fines (Payment and Recovery) Act 2014 was signed into law on 16 April 2014 introducing payment of fines by instalment, recovery orders, attachment of earnings order, community service for default and ultimately imprisonment. Work is ongoing towards implementation which is expected to be complete later in 2015.

2.5 The Police Service of Northern Ireland was keen to see the creation of an effective Fine Collection and Enforcement Service which should have sufficient powers and access to information to deliver an accountable service designed to minimise the impact on vulnerable people. PSNI noted the impact of fine default levels on young male offenders and that a large number of prison receptions are for those on low incomes. PSNI also noted the disproportionate percentage of women

going into custody for fine default when compared to men and that non-payment of a fine for non-payment of a TV licence was more prevalent amongst women. PSNI concluded that offender income and capacity to pay should be factored in at point of sentence which may in itself merit further exploration.

2.6 Newry, Mourne and Down District Council welcomed the potential savings that a new collection and enforcement service would bring. The Council noted that the increased opportunities for community-based work may have an additional impact on other bodies and agencies including local Councils. As a body committed to working towards creating safer communities, the Council requested that any savings under the legislation are used for these purposes.

### 3. Departmental response

3.1 The Police Service of Northern Ireland expressed concerns about the impacts of financial penalties on young males; the differing patterns of default with regard to women; and noted the need to ensure that offender income and capacity to pay should be factored in at point of sentence.

3.2 In terms of the impact on young males, the Department is very aware of offending patterns and that this particular group makes up the majority of those appearing in courts. The Department is keen to ensure that as a group they are not at any particular disadvantage and addresses this in two main ways in terms of strategy and delivery:

- a) Strategic actions and activities exist at an overarching level to prevent offending, divert offenders, and provide for rehabilitation when the justice system is engaged. The existence of a cautioning system to divert young offenders from possible prosecution; existence of the Youth Justice Agency; and the Department's youth justice strategy focuses, inter alia, on early intervention, support, and the prevention of offending or re-offending are examples of those arrangements.
- b) The proposals themselves will deliver additional, positive options for young offenders. The proposals will, for example, remove custody solely for fine default for those under 18 years of age and will increase the availability of Supervised activity Orders and Attendance Centre Orders as community-based alternatives to custody.

3.3 In terms of the issues around women and fine default the Department is aware of the differing patterns between males and females. Again the Department is keen to ensure that, at a strategic level, women offenders are properly provided for and that within the detail of the proposals, both men and women benefit from the package.

- a) At a strategic level, two key Departmental initiatives are important: an offender management strategy and taskforce for reducing and responding to re-offending; and, to reflect what can be the differing needs of women in the justice system, a strategy for the management of women offenders. The 2010-2013 strategy to manage women offenders and those vulnerable to offending behaviour is available at the following [link](#). The refreshed strategy entitled Reducing Offending Among Women 2013- 2016 is available at the following [link](#).
  
- b) Within the proposals themselves, the Department's legislation will see an expansion in the range of options available to prevent default in the first instance; the ability of both the court and the collection officer to allow, for example, additional time to pay, payment by instalment, and voluntary deduction arrangements in the first instance before a more compulsory approach is considered.

Designed to tackle the problem of relatively minor offences leading to low level fines and potential imprisonment – the types of case that may be perceived as more prevalent amongst women offenders – the Department's proposals are intended to prevent imprisonment where it can be avoided. The increase in the availability of community-based options is another feature of the package that the Department believes will assist in changing any gender-based patterns.

3.4 In terms of ensuring that offender income and capacity to pay should be factored in at point of sentence, the Department is keen to stress that sentencing is a matter for the independent judiciary. Having said that, existing legislation allows for offender means to be considered where it is available. The creation of additional provisions as proposed by the Department will not only broaden the Court's options but will also allow the Collection Officer to adopt the most appropriate collection method.

3.5 The offender's means will, for example, play an important part in deciding if additional time or payment by instalments would be appropriate or if a deductions

order approach would be the best way to collect the penalty. Courts will also be able to consider the offender's situation on conviction and if appropriate allow a community-based option to be applied at point of sentence – an option that has not been previously available.

3.6 Newry, Mourne and Down District Council welcomed the increased opportunities for community-based work and indicated its support and commitment to such work. The Department welcomes the Council's commitment to safer communities and the close working it has with the Department by way of its Policing and Community Safety Partnership.

3.7 The Council commented on one aspect of the financial impacts of the proposals requesting that any savings under the legislation would be used for safer community purposes. The Department wishes to stress that the savings to be gained from the proposed arrangements will not be directly cash-releasing but will largely be realised in terms of the freeing up of valuable justice system resources.

3.8 Both police and prison resources will be freed up to allow services to be focused more appropriately to the benefit of communities. A civilian-based collection and enforcement service will largely replace the role currently played by police officers in relation to fine enforcement and will allow police to better target their efforts at crime prevention and detection. Prisons will also be able to focus on more serious offenders and their rehabilitation again to the ultimate benefit of communities.

3.9 The Department of Justice and Equality did not comment on the Department's proposals or assessments but simply described similar provisions that had been recently enacted in the Republic of Ireland by way of the Fines (Payment and Recovery) Act 2014.

3.10 The Department welcomes the information provided and notes the similarities with its own proposals in terms of payment of fines by instalment, recovery orders, attachment of earnings order, community service for default and ultimately imprisonment if that were to be the final outcome.



## 4. Conclusions and way forward

4.1 In considering both the Equality and Regulatory Impact Assessments the Department's conclusions are as follows.

### Equality assessment

4.2 In very broad terms the Department's equality assessment conclusions are that:

- a) The package as a whole is fair and equal to all Section 75 Groups. Its purpose is to prevent default; to provide collection and increased community supervision options; and to reduce the potential for imprisonment.
- b) The package is built around the independence of the Courts; strict legal requirements and Statutory Guidance for Collection Officers; flexibility in appropriate circumstances; and full opportunities for representations and appeals.
- c) Some of the proposals will have the potential to bite on certain groups – not Section 75 Groups – but, for example, those who may have lower incomes and might, in the past, have found it difficult to make payments.
- d) The package will therefore have extensive mitigating provisions to allow, for example, Collection Officers to agree additional time to pay, to consider opportunities for managed deductions from income, and for Courts to have additional community alternatives available. Where more stringent actions are required these would only be available to Courts.

### Regulatory Impact

4.3 For the Regulatory Impact Assessment the Department identified no costs to the voluntary sector and three costs to the private sector – two of which are fully mitigated. Private Sector impacts will be on the legal profession; employers; and

banks. The Department's Regulatory Impact Assessment conclusions are that the proposals:

- a) will have some minor cost impacts on the legal profession by reducing our outlay for Fine Default Hearings - though these will be savings to the public purse rather than extra charges that the legal profession will have to meet;
- b) will have some direct costs to employers (some of whom may have to implement attachment of earnings orders) and banks (should they be required to freeze accounts). The provisions however will be structured to ensure that they are to be used sparingly and will allow employers and banks to add administration charges to the defaulted amount; and
- c) that neither of these identified groups will face any additional costs.

#### Way forward

4.4 In overall terms, the Department's assessment is that in terms of the equality assessment, with the mitigations provided in the Bill, the provisions meet its Section 75 requirements. In terms of Regulatory Impact, the Department's assessment is that the proposals will make important savings to the public purse with limited impact on the legal profession; and, based on cost-recovery provisions, no impact on employers, banks or financial institutions.

4.5 The Department welcomes the comments made in the consultation and will undertake to:

- monitor the operation of the legislation and the new service as it rolls out; and
- continue its commitment to community safety and community based alternatives to imprisonment.

4.6 On that basis and, subject to any amendments that may be brought forward as the Bill progresses through the Assembly, the Justice Minister is content to

proceed with the legislation as proposed. The Minister thanks those who contributed to the consultation.

### Further information

4.7 For any further information on the consultation or this report on responses please contact:-

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