



HM Courts &  
Tribunals Service

# **HM Courts & Tribunals Service**

## Trust Statement 2011–12



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Tribunals Service

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### **Trust Statement 2011–12**

Her Majesty's Courts & Tribunals Service is an Executive Agency of the Ministry of Justice.

Presented to the House of Commons pursuant to Section 7 of the Government Resources and Accounts Act 2000

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## Foreword

### Background

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#### Legislative requirements

Following a new requirement from HM Treasury in 2011, introduced under section 7 of the Government Resources and Accounts Act 2000, Her Majesty's Courts & Tribunals Service is required to produce a Trust Statement. The overall scope and form of the accounts are determined by Treasury direction.<sup>1</sup> The Statement is part of HM Treasury's Alignment (Clear Line of Sight) Project which seeks to simplify Government's financial reporting to Parliament and ensure that reporting is more consistent, transparent and straightforward.

#### Purpose of accounts

The Trust Statement provides an account of the collection of revenues, which by statute or convention are due to the Consolidated Fund<sup>2</sup> and where the entity undertaking the collection is consequently acting as agent rather than principal.

HM Courts & Tribunals Service acts as an agent responsible for collecting financial penalties imposed by the judiciary and the police. These impositions comprise fines (including court-imposed fines, overdue fixed penalties registered as fines, prosecutors' costs and compensation to victims imposed by the magistrates' and Crown Court), fixed penalty notices and confiscation orders.

#### Previous reporting arrangements

Since the creation of Her Majesty's Courts Service (HMCS) on 1 April 2005, the Departmental Resource Accounts, which included HMCS, have shown the amounts outstanding from various kinds of court impositions. This was disclosed in the former Department for Constitutional Affairs (DCA) Resource Accounts in 2005–06 and 2006–07, and the Ministry of Justice (MoJ) Resource Accounts from 2007–08 to 2009–10. With the introduction of the Trust Statement, the debtor and associated creditor for outstanding impositions are no longer included in the MoJ resource accounts, instead forming part of the Trust Statement. In addition, the Trust Statement records Income and Expenditure relating to these impositions, the third party bodies to which the funds are disbursed and the year-end balance owed to the

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<sup>1</sup> FReM Chapter 13 and Treasury Accounts Direction Annex E to DAO (GEN) 02/10.

<sup>2</sup> The Consolidated Fund is the central account administered by HM Treasury which receives government revenues and makes issues to fund expenditure by Government Departments.

Consolidated Fund. Furthermore Fixed Penalty Notice debt is included and Victim Surcharge debt is disclosed separately from Fines.

The Trust Statement accounts do not include the costs of running HM Courts & Tribunals Service, which are reported separately in the HM Courts & Tribunals Service Annual Report & Accounts 2011–12 (HC 323), which also sets out the general direction and priorities for the agency, detail of its management and the Chief Executive's report.

### **Overall financial position**

From the perspective of the activities affecting the figures reported in the Trust Statement, although acknowledging there is still scope for improvement, I am encouraged to be able to report that the overall payment rate of impositions has increased from 93% in 2010–11 to 106% in 2011–12. The payment rate reflects the relationship between the value of fines collected in a year and the value of fines imposed. The monies collected may relate to fines and other financial penalties imposed in the reported financial year or earlier years.

## **Scope**

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The structure of the Trust Statement is inherently simple, reflecting the cash flows associated with the imposition and collection of fines, confiscation orders and fixed penalty notices. However the Statement also reflects the complex inter-dependencies between HM Courts & Tribunals Service and a number of other departments and agencies involved in the enforcement process, including the Home Office (HO) and Crown Prosecution Service (CPS).

The Trust Statement reflects income from fines and penalties, expenditure in the form of costs of collection, where there is an express statutory provision for those costs to be deducted from the revenue collected, any provision for uncollectible amounts in accordance with International Accounting Standard (IAS) 36 and any amounts covered by legislation which allows the revenue collected to be retained by the entity.

HM Courts & Tribunals Service collects a number of different types of imposition, which are described below:

**Fines, prosecutors' costs and compensation orders** – These items are imposed by both magistrates' and Crown courts but are enforced by magistrates' courts. Fines monies collected by HM Courts & Tribunals Service are surrendered to the Consolidated Fund after costs of enforcement and collection are retained by the MoJ under specified fine incentive schemes. Prosecutors' costs and compensation order monies are passed by HM Courts & Tribunals Service to either Crown or private prosecutors and the victims of the crimes committed respectively.

**Confiscation Orders** – Confiscation orders are imposed by the Crown Court under the Proceeds of Crime Act 2003 and are enforced by HM Courts & Tribunals Service, the Crown Prosecution Service and Serious Fraud Office

(SFO). Confiscation orders are typically larger in value than other imposition items and smaller in volume. Confiscation order receipts are surrendered to the Home Office, with a portion subsequently returned to HM Courts & Tribunals Service under the Asset Recovery Incentive Scheme.

**Penalty Notices** – Penalty Notices are imposed by the police and other agencies and include both Fixed Penalty Notices (FPNs) for traffic rule violations and Anti-Social Behaviour Orders (ASBOs). Notices that remain unpaid after 28 days are converted into fines and enforced as detailed above. Receipts of Penalty Notices and the associated fines are surrendered to the HM Treasury Consolidated Fund.

**Victim Surcharge** – An additional surcharge is added to fines that are imposed and are enforced as detailed above. The receipts obtained from the collection of these monies by HM Courts & Tribunals Service are passed to the Justice Policy Group of the MoJ to fund victims' services.

The HM Courts & Tribunals Service Trust Statement reflects expenditure for the write off of fines and impairment of outstanding fines and confiscation orders. With the agreement of HM Treasury the MoJ is permitted to retain an element of fines collected as income through two netting-off schemes and a fine incentive scheme. The Warrant Enforcement netting off scheme permits MoJ to retain revenue equal to the Pre Courts Act 2003 cost of enforcing and collecting fines, whilst the Courts Act national roll-out netting off scheme, permits the retention of an amount equal to the employment costs of the court officers appointed in compliance with the Courts Act 2003. The Fine Incentive Scheme permits MoJ to retain an amount of fines collected equating to 75% of fine receipts in excess of receipts attributable to a 75% payment rate, a measure of fine collection rates.

Magistrates' courts are responsible for the collection of fines and police forces for fixed penalty notices. The majority (85%) of confiscation orders are collected by bodies other than HM Courts & Tribunals Service, including the Serious Fraud Office, Crown Prosecution Service, Department for Work and Pensions (DWP) and local authorities. Fines and ancillary receipts are remitted to the Consolidated Fund through the Trust Statement. Receipts of confiscation orders, prosecution costs and compensation orders are remitted to appropriate third parties, including government departments and the victims of crime. These remittances are reflected through the disbursements disclosed in the Statement of Revenues and Expenditure.

The role of the Trust Statement means that the 'bottom line' reflects the balance at the year-end that is due to the Consolidated Fund. The nature of the statement means that all income is offset by expenditure and disbursements to third parties. In the simplest of cases all income would be disbursed to the Consolidated Fund however in the case of the HM Courts & Tribunals Service Trust Statement this value is impacted by credit losses (write offs and impairments) and disbursements to other third parties.

## Challenges and issues

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The Libra case management system is the principal operational tool used by staff in courts to drive the enforcement function. Although the system is dated, the information provided by Libra is fit for the day to day enforcement function and it has underpinned a significant year on year improvement in the rate of collection. However, the system was not designed to produce accruals based financial information in the way now required by the Trust Statement. There is no strong value for money case to replace the Libra system however we are considering options as part of a strategic review of our ICT requirement.

We have worked with the suppliers of the Libra system to extract transactional information. As noted by the Comptroller and Auditor General (C&AG) in his report this represents a significant improvement and has enabled him to carry out audit work which was previously not possible. As a result the C&AG issued an unqualified opinion on regularity. The audit certificate issued by the C&AG is shown at pages 25–27 this should be read in conjunction with the C&AG's accompanying report (see pages 28–32) and the Annual Governance Statement.

Although substantial improvements have been made in terms of our ability to extract transactional information the C&AG considered issues regarding receivables, fixed penalties and cash were pervasive to the financial statements as a whole and as a result has disclaimed his opinion on the truth and fairness of the financial statements. These reflect the significant limitations we face in improving the quality of information on historic opening receivables balances and our ability to influence the fixed penalties system which is operated and maintained outside the control of the Ministry of Justice.

Work is in progress to implement changes to the cash reporting arrangements. We are developing a system which allows the separate identification of cash balances relating to the Trust Statement once cash has been transferred from local accounting centres to central bank accounts. The C&AG has stated in his report that the lack of evidence in this area was a key driver in his decision to disclaim the financial statements.

## Financial Review of 2011–12 Trust Statement

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During 2011–12 the value of outstanding impositions decreased from £1.9 billion to £1.8 billion, a decrease of 5%. Gross income receivable also decreased from £951 million to £472 million, a decrease of 50%. However the collection of fines continued to improve with recovery rates increasing by 13% compared to the prior year. The table on the following page shows the improvement in the fines payment rate since 2008–09.<sup>3</sup>

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<sup>3</sup> Note that the payment rate figures have not been subject to audit.

The table shows an increase in the payment rate for both court fines and confiscation orders. The significant increase in the payment rate for confiscation orders is directly linked to a combination of increased collections in the year and a reduction in the level of new confiscation orders imposed in the year. In addition, there have been a number of instances of very large value confiscation orders that were imposed in 2010–11 having been reduced following subsequent review. For example two cases totalling £198 million which were imposed in the prior year were reduced to £49 million during 2011–12.

<b>Annual Payment Rate</b>	<b>2008–09</b>	<b>2009–10</b>	<b>2010–11</b>	<b>2011–12</b>
<b>Court Fines</b>				
Annual Court Fine Payment Rate*	85%	86%	93%	106%
<b>Confiscations</b>				
Annual Confiscations Payment Rate*	42%	56%	22%	207%

\* The payment rate is an HM Courts & Tribunals Service Key Performance Indicator (KPI) for the monitoring of the enforcement of Orders of the Court and reflects the relationship between the value of fines collected in a year and the value of fines imposed. The monies collected may relate to fines and other financial penalties imposed in that or earlier years. This information is disclosed in the HM Courts & Tribunals Service Annual Report and Accounts. Following a review, the payment rate is being replaced with a more sophisticated measure of enforcement.

Each class of debt has been assessed separately to determine the appropriate level of impairment at the year end. In most cases this has resulted in a reduction in the value of the impairment, which has led to a reduction in the impairment provision as a whole by £22 million compared to the prior year. This is primarily due to the implementation of a number of performance reports which provide more robust data concerning the length of time it takes for debt to be repaid. This indicates that in many instances impositions are paid but take a longer period of time than previously anticipated. This is partly as a result of enforcement initiatives which have resulted in enhancements to the Department for Work and Pensions (DWP) database, which has helped in the identification of offenders who are suitable for deduction from Benefit Orders (DBOs) and attachment of earnings (AOEs) orders.

The reduction in the expenditure (credit losses, i.e. write offs and change in the value of impairment, see note 2) balance in the year from £435 million to £43 million is also linked to the reduction in the year end impairment value.

The total income and expenditure balances have resulted in an increased net revenue position of £128 million that is payable to the Consolidated Fund.

## Future developments

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To build on improvements made in recent years in fine collection, HM Courts & Tribunals Service is underway with an ambitious programme of reform. Whilst implementing the Criminal Compliance and Enforcement Services Blueprint we have identified a number of areas where fundamental change is necessary in order to further increase fine collection, better serve the public and deliver value for tax payers' money. To meet these challenges HM Courts & Tribunals Service is exploring the potential of creating a partnership with a commercial partner. This would bring the commercial experience, innovation and investment in technology that HM Courts & Tribunals Service needs to further improve. It will enable the automation of many of the manual administrative processes and in turn decrease the cost of providing fine enforcement and increase the amount of fines that are paid. The innovation this will bring and the increased use of automated administrative processes will free up staff time to be more pro-active in pursuing offenders to ensure they comply with their court order.

## Enforcement Initiatives

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### Fine Enforcement in HM Courts & Tribunals Service

HM Courts & Tribunals Service is responsible for enforcing the payment of financial impositions ordered by the courts. Courts impose fines, costs, compensation orders, victim surcharge orders and confiscation orders and we process payments due from fixed penalties imposed by police forces. We are also responsible for the enforcement of any fixed penalties which remain unpaid after the specified payment time and are then registered as fines.

In 2011–12, Courts imposed fines totalling £328 million in value (2010–11 £352m). In addition, £59 million of assets were ordered by the courts to be confiscated from offenders (2010–11 £499m) and a total of £85 million of fixed penalty notices were imposed (2010–11 £100m).

Although many people respect the punishment of the court and pay promptly, fully enforcing the debt is a challenging part of our business. This is not debt in a commercial sense, where individuals have chosen to make a purchase and where we have confidence in their means to pay. In many cases, the court has incomplete information about the whereabouts of the offender and others go to extreme lengths to avoid payment by concealing their assets and the proceeds of their crimes. But through the use of more targeted approaches and increasingly sophisticated techniques, we have been successful in improving the compliance rate and reducing the level of outstanding debt.

The information in this Trust Statement reflects the joint work of other partner Agencies in the Criminal Justice System, including the Crown Prosecution Service and the Serious Fraud Office that have responsibility for enforcing specific confiscation orders.

To further improve the strength of this joint working, a Ministerial Working Group has been established under the Chairmanship of Home Office Minister, James Brokenshire.

### **Fine Enforcement Restructure**

During 2011–12 HM Courts & Tribunals Service has continued its work to streamline the enforcement function into a single national structure, integrating the previous 18 separate teams. The function now operates under a single Head of Enforcement, providing greater coherence and further reducing administration costs.

### **New performance reports**

HM Courts & Tribunals Service introduced new performance indicators from April 2011 to monitor the imposition and collection of financial impositions. The new indicators show more clearly how long it takes for impositions to be collected, how much of the impositions made within a period are collected within the month of imposition or within subsequent months, how many accounts are closed in a specified period, how many are compliant with payment terms and how many are in arrears. Data on these reports are available from April 2011 onwards on a quarterly basis at <http://www.justice.gov.uk/statistics/courts-and-sentencing/judicial-quarterly>. HM Courts & Tribunals Service are assessing the data to understand what business issues drive the performance data and are reviewing the data on a monthly basis to identify trends.

### **Operation crackdown**

During 2011–12 all regions carried out joint ‘Crackdown’ operations with the police to target defaulters in specific areas. The initiative attracted positive media coverage and one of the operations in the Midlands was covered by a TV documentary about the police. In 2012–13 regions will again run local operations at least twice per year.

### **Standard operating procedures**

The Criminal Enforcement Continuous Improvement (CI) Board, which is made up of enforcement operational representatives from each of the seven HM Courts & Tribunals Service regions, is working to create standard operating procedures for the main compliance and enforcement functions, which will then be mandated for use by all regions. The standard operating procedures are developed using Lean methodology and provide greater assurance that key controls and recording systems are operating effectively.

### **Cross Government project on debt and data sharing**

Following the publication of the interim government report into Fraud Error and Debt<sup>4</sup> on 6<sup>th</sup> February 2012, HM Courts & Tribunals Service has been working

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<sup>4</sup> Financial Management Report 2011 on the Ministry of Justice (HC 1591, Session 2010–12)

with the project team based in Cabinet Office and other government departments to drive forward the report's recommendations. HM Courts & Tribunals Service has identified a legal gateway through which it can share fine account data with HMRC for analytical purposes. This allows cross matching to identify what proportion of debtors, owe money to HMRC, DWP and HM Courts & Tribunals Service. HM Courts & Tribunals Service is also working with the project to secure data sharing powers across government for enforcement purposes, which will mean more money can be collected directly from employers through Attachment of Earnings Orders.

### **Changes to Victim Surcharge**

The MoJ published a response to the Government's consultation on victims and witnesses and also laid before Parliament secondary legislation to increase and extend the Victim Surcharge. The changes extend the victim surcharge to all sentences rather than just imposing this with fines as is the current practice. The revised victim surcharge amounts will be on a scale which depends on the sentence or level of fine imposed and will be a minimum of £20 up to a maximum of £120. The changes will significantly increase the number of financial accounts to be collected and came into effect on 1<sup>st</sup> October 2012.

### **Behavioural Insights texting pilot**

Enforcement has piloted an innovative approach based on 'Nudge' theory. Personalised text messages are sent to people who have failed to pay their fine to give them one final chance to pay before issuing a distress warrant to the bailiffs. From January 2012, texts have been sent out each week randomly allocated to one of the following five conditions:

- a) Standard text message: this message states that the recipient has not paid their fine and that if they do not pay a warrant will be issued to the bailiffs. It also provides the telephone number to call and their reference number.
- b) Personalised text message – name: this message is the same as the standard text message (a) but begins with the recipient's first name.
- c) Personalised text message – amount owed: this replicates the standard text message (a) but includes the specific amount owed by the recipient.
- d) Personalised text message – name and amount owed: this message also contains the same text as the standard text message (a) but begins with the recipient's first name and includes the specific amount they owe.
- e) No text message: this will act as the control so we can determine how effective text message prompts can be to recover court fines.

The responses to the different messages are being analysed to determine the effect of personalisation on the response rate, time to payment and size of payment made. The pilot will be fully evaluated and considered for wider roll out.

### **Civil Enforcement for confiscation orders**

A central Civil Enforcement Team (CET) has been established based in Leeds. The CET is working through national batches of confiscation orders where it could be beneficial to make an application to the County Court to apply for a charging order against the Defendant's property. The charging order secures the debt, but still allows the house to be sold. There have been numerous examples of defendants realising assets then spending the money without satisfying the confiscation order. By using a charging order HM Courts & Tribunals Service can ensure that if the property is sold it pays off the confiscation order thereby reducing or removing the period in default.

The Proceeds of Crime Act (POCA) 2002 amends s87 of the Magistrates' Courts Act and makes civil enforcement of a confiscation order recoverable by the designated officer of the magistrates' court. As a result HM Courts & Tribunals Service can use this enforcement tool in appropriate cases even where other enforcement action is being taken or enforcement has been adjourned to allow a house sale to take place. This action can also be taken if a property has been put into the name of a third party.

HM Courts & Tribunals Service has instructed Treasury Solicitors to act in contested charging order applications or in cases where the application is transferred to the defendant's local court. They will also be instructed to act should an application for an order for sale be made.

### **Basis for the Preparation of the Trust Statement**

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The HM Treasury accounts direction, issued under Section 7(2) of the Government Resources and Accounts Act 2000, requires HM Courts & Tribunals Service to prepare the Trust Statement to give a true and fair view of the state of affairs relating to the collection and allocations of fines, penalties, costs awarded by the courts, compensation and confiscation orders ordered by the courts and the revenue income and expenditure and cash flows for the financial year. Regard shall be made to all relevant accounting and disclosure requirements given in *Managing Public Money* and other guidance issued by HM Treasury and the principles underlying International Financial Reporting Standards (IFRS).

HM Courts & Tribunals Service has worked closely with HM Treasury to ensure that the accounting policies that underpin these accounts are comprehensive, appropriate, and supported to a sufficient level of detail by reports from the business systems.

## **Selection of Appropriate Accounting Policies for the Trust Statement and Use of Judgements and Estimates**

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As Accounting Officer, it is my responsibility to apply suitable accounting policies in the preparation of the Trust Statement. The underlying approach to accruals measurement is that revenues from fines and penalties are deemed to accrue at the point at which the imposition is imposed. Revenues are recognised in the period in which the event that generates the revenue occurs.

We have used estimates to calculate the impairment of the outstanding debt balance. In preparing our estimates we have to take account of areas of uncertainty around those factors which determine future revenue flows. We therefore have to make judgments concerning some of these factors and we have procedures in place to do this. These calculations have been undertaken for each income stream and take into account previously set impairment thresholds, historical collections data and, for items with a value in excess of £7 million, have been assessed on an individual basis. However, because of the areas of uncertainty involved, there will inevitably be differences between our forecasts and future outturns. These differences arise because of the need to make judgments on areas of uncertainty and are not considered to be indicative of deficiencies in our procedures.

The accuracy of the estimates included in the Trust Statement will be reviewed and updated as more data becomes available. From 2011–12 new reports monitoring collections will provide additional data which can be used to further inform these calculations.

## **Auditors**

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The Trust Statement is audited by the Comptroller and Auditor General under Section 7(4) of the Government Resources and Accounting Act 2000. The C&AG's fee for the audit of the 2011–12 Trust Statement was £100,000. This is charged on a notional basis and recognised in the resource accounts of the MoJ. No non-audit work was carried out by the auditors for HM Courts & Tribunals Service.

**Peter Handcock**  
**Accounting Officer**

**16 January 2013**

## Statement of Accounting Officer's Responsibilities

Under the Government Resources and Accounts Act 2000, HM Treasury has directed HM Courts & Tribunal Service to prepare for each financial year a Trust Statement detailing the impositions revenue collected by the department as an agent for others, in the form and on the basis set out in the Accounts Direction. The accounts are prepared on an accruals basis and must give a true and fair view of the state of affairs of HM Courts & Tribunals Service and of its revenue and expenditure, financial position and cash flows for the financial year.

In preparing the statement, the Accounting Officer is required to comply with the requirements of the Government Financial Reporting Manual and in particular to:

- observe the Accounts Direction issued by HM Treasury, including the relevant accounting and disclosure requirements, and apply suitable accounting policies on a consistent basis;
- make judgements and estimates on a reasonable basis;
- state whether applicable accounting standards as set out in the Government Financial Reporting Manual have been followed, and disclose and explain any material departures in the statement; and
- prepare the statements on a going concern basis.

HM Treasury has appointed the Permanent Secretary of MoJ as Principal Accounting Officer of the Department. Peter Handcock as Chief Executive of HM Courts & Tribunals Service holds the role of Accounting Officer for the purposes of the Trust Statement.

The responsibilities of an Accounting Officer, including responsibility for the propriety and regularity of the public finances for which the Accounting Officer is answerable, for keeping proper records and for safeguarding HM Courts & Tribunals Services' assets, are set out in *Managing Public Money* published by HM Treasury.

# Governance Statement 2011–12

## 1. Introduction

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This Governance Statement is provided in my role as Accounting Officer for HM Courts & Tribunals Service, the new Agency formed by the integration of the former HM Courts Service and the former Tribunals Service with effect from 1 April 2011.

HM Courts & Tribunals Service is an agency of the MoJ whose key aim is to run an efficient and effective courts and tribunals system which enables the rule of law to be upheld and provides access to justice for all.

As Accounting Officer, I have established a governance framework and management structure for the new organisation to support me in the management of our key risks. I am satisfied that I have the necessary systems and processes in place to maintain an effective system of internal control which supports the achievement of policies, aims and objectives, whilst safeguarding the public funds and assets for which I am personally accountable. This statement describes the control framework in place over the recording and collection of fines and confiscation orders, including the penalties imposed by the police service and also the onward remitting of these collections to the relevant parties and ultimately the Consolidated Fund. The HM Courts & Tribunals Service Annual Report and Accounts for 2011–12 (HC 323) provides a more detailed explanation of the wider control framework.

HM Courts & Tribunals Service operates in accordance with its published Framework Document, which sets out the basis of an operating partnership between the Lord Chancellor (Secretary of State for Justice) and the Lord Chief Justice. As Chief Executive I am responsible to both, for the day-to-day operations and administration of the agency and leadership of its staff. As Chief Executive and Accounting Officer I am also accountable to the MoJ Permanent Secretary and ultimately to Parliament.

The first year has been a challenging one for the new Agency. We have delivered substantial organisational reform, which has streamlined our headquarters and regional structure. As a result, we have reduced overhead cost and been able to protect resources for front line work. Our first Annual Report highlighted the achievement of our results in our main business areas.

## 2. Governance Framework and Management Structure

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The most significant aspects of the management structure and framework are summarised below. We have completed light touch reviews of our governance framework during 2011–12. A more rigorous evaluation will be conducted for 2012–13 when the Board and its sub-Committees have been operating for a more significant period of time.

**HM Courts & Tribunals Service Board** – the Board provides a vital role in shaping and directing the organisation ensuring we are equipped to deliver high quality and cost effective services to court and tribunal users. It provides leadership on the broad direction for the organisation in delivering the aims and objectives agreed by the Lord Chancellor and the Lord Chief Justice. The Board has overall responsibility for Corporate Governance within HM Courts & Tribunals Service.

There are two formal sub-Committees to the Board which are involved in the oversight and monitoring of the Trust Statement preparation process which are:

**The Audit Committee** – the Audit Committee is an advisory body which supports the Chief Executive, in his role as Accounting Officer, and the Board in their responsibilities for risk management, control and governance. The Committee reviews the comprehensiveness of assurances from internal and external audit, executive management and other sources, and reviews the reliability and integrity of those assurances. The Chair of the Committee provides a report highlighting and escalating issues to the Board after each quarterly meeting.

**The Change and Modernisation sub-Committee** – the Committee has overall responsibility for developing and promoting change to deliver the strategic objectives for the organisation on behalf of the Board, supporting the Board in its delivery of the agency strategy, policies and services. The Committee was established from July 2011.

Full details of the membership and attendance records of the Board and its sub Committees are shown in the tables one to three on pages 23–24.

The following form part of the wider HM Courts & Tribunals Service management structure, including the management structure within the enforcement function.

**The HM Courts & Tribunals Service Senior Management Team (SMT)** – the Chief Executive and his lead Directors of all functions make up the SMT. The team meet fortnightly to review performance across the organisation and deal with all other business that may arise. In addition, on a monthly basis the meeting is extended to encompass the regional Delivery Directors, enabling regional business as usual activity to be discussed. This Committee is also responsible for reviewing the corporate risk register on an alternate monthly basis.

**Governance Working Group** – an internal group, comprising senior operational and policy staff, established to oversee the development of a proportionate assurance framework for the new organisation. The key aim of the group is to ensure that appropriate and proportionate assurance controls are in place to deal effectively with risk.

**Trust Statement Management Board** – The Trust Statement Management Board was established in March 2012 to co-ordinate the preparation of the 2011–12 Trust Statement. Membership is drawn from across the HM Courts & Tribunals Service incorporating all areas impacted by the Trust Statement including finance, IT, enforcement, governance, audit and performance.

**Enforcement Senior Management Team (SMT)** meets monthly to review the performance and effectiveness of the Enforcement function.

**Cross Government Debt Programme Board** – The Cross Government Programme Board, chaired by the Cabinet Office and including representation from HM Courts & Tribunals Service, has been established to drive forward a programme of work designed to ensure greater effectiveness and efficiency in management and collection of money rightfully owed.

**HM Courts & Tribunals Service PentiP (Fixed Penalty) Project Board** – The PentiP Project Board has been in existence since 2009 and was established under the former HM Courts Service. Its remit is to implement the new system to record fixed penalty notices issued by the police. The Home Office retains overall responsibility for the implementation of PentiP.

### **Corporate Governance in Central Government Departments – Code of Good Practice**

During this reporting year the “Corporate Governance in Central Government Departments – Code of Good Practice” was published through HM Treasury. The code applies directly to the MoJ. HM Courts & Tribunals Service has adopted key principles as best practice where appropriate. A review of the code has identified that we are compliant with key principles that are relevant to the Trust Statement.

### **Ministerial Directions**

There have been no ministerial directions relating to the Trust Statement.

### **Data Security**

There have been no significant data losses relevant to the Trust Statement.

### 3. Risk Management

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Risk Management systems are in place to identify, assess and prioritise risk efficiently and effectively and to ensure risk is managed to an acceptable level.

The risk policy, encompassing Regional, Directorate and Corporate level risks, builds upon the arrangements used successfully in the former HM Courts Service and those in use across the MoJ.

Risks are reviewed regularly by the senior executive team and the Board, to ensure that management plans are effective. The most significant risks are escalated to the MoJ Corporate Risk Register. Risks to the successful completion of the Trust Statement were identified and reviewed regularly by the Trust Statement Management Board.

As a result, I am content that risks have been managed and mitigated through effective actions.

#### Internal Control Framework

Limitations in the functionality of the legacy case management systems used by the business to support its Enforcement activity impacted our ability to produce information in the form necessary to meet the requirements of the 2010–11 Trust Statement.

The Libra case management system is the principal operational tool used by staff in courts to support the enforcement function. Although the system is dated, system and administrative controls are in place; it is effective in supporting the day to day enforcement function and it has underpinned a significant year on year improvement in collection rates. However, as a 'live' case management system it was not designed to manipulate and report transaction-level financial data in the way required to support the transactions and balances reported in the Trust Statement. The Vehicle Procedures and Fixed Penalty Office (VP/FPO) system, on which Fixed Penalty Notices are recorded, is also set up in this way.

Since the Comptroller and Auditor General disclaimed his opinion on the HMCS Trust Statement for 2010–11 significant work has been undertaken with suppliers to find new ways to extract information from our legacy systems. As a result we have found cost-effective ways to provide better quality data to support the Trust statement.

Due to the VP/FPO system being outside the control of HM Courts & Tribunals Service it has not been possible to improve the reporting over Fixed Penalties. This has continued to have a significant impact upon the ability of HM Courts & Tribunals Service to meet the reporting requirements of the Trust Statement for this class of imposition.

The limitations in system functionality noted above concerning the outstanding debt opening balance and Penalty Notices together with the inability to separately identify balances relating to the Trust Statement after cash has

transferred to HM Courts & Tribunals Service central bank accounts has resulted in the C&AG disclaiming his opinion on the Trust Statement in respect of the financial statements (see pages 25–27). This should be read in conjunction with the C&AG's accompanying report (see pages 28–32).

Our improved ability to extract transactional information has enabled the C&AG to carry out audit work which was previously not possible. As a result of this the C&AG is able to issue an unqualified opinion on regularity. This represents a substantial advancement on the position recorded in 2010–11 where the C&AG disclaimed his opinion on regularity.

The VP/FPO system is in the process of being replaced by a new enforcement system, PentiP. This includes financial reports reporting functionality and should enable improved reporting functionality over these balances in future years.

There continues to be a robust control framework in place around these systems to ensure that they are fit for operational purpose in terms of the recording and monitoring of impositions. This control framework has been in place throughout 2011–12.

Key features of this control framework are:

- Segregation of duties and system access rights;
- Monthly and quarterly verification and checking of all system control totals including receipts, payments, outstanding impositions and monies held for third parties;
- Monthly returns to the central finance team, Liberata (the case processing team) and the Crown Prosecution Service (CPS). Standard templates and Finance Guidance Letter (FGL) ensure consistency of format and review and timeliness of preparation;
- Verification of cash balances through completion of daily, monthly and quarterly bank reconciliations at individual accounting centres;
- Changes to defendant records are monitored on a regular basis to ensure that they are fully supported by documentary evidence and approved by an appropriate officer;
- All cases that are presented in court are entered onto the Libra system prior to the case being heard mitigating the risk of cases not being recorded on the Libra system. Following the conclusion of each case the record must undergo a process of being 'resulted' in Libra to record the penalty imposed. All un-resulted records are monitored to mitigate the risk of any fines not being recorded on the system;

I agreed a programme of Internal Audit reviews with the MoJ Head of Internal Audit. The Audit programme was based on a joint assessment of the HM Courts & Tribunals Service Risk Register with additional scrutiny of areas most vulnerable because of the restructure. Further details of this work are available in the HM Courts & Tribunals Service Annual Governance Statement.

## 4. Oversight and Assurance

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As Accounting Officer, I have responsibility for reviewing the effectiveness of the system of internal control. My review of the effectiveness of the system of internal control is informed by the work of my executive managers who have responsibility for the development and maintenance and reporting of the internal control framework, together with observations made by the external auditors in their management letters and other reports.

The Board are updated on the risk profile and effectiveness of the systems of internal control through the receipt of minutes from the Audit Committee, through a review of the HM Courts & Tribunals Service performance reports and through direct feedback from the Chair of the Audit Committee. Specifically in relation to the Trust Statement the Board have been provided with an improved level of data for this year's statement which supports the improvements noted in the report of the C&AG.

My immediate Directors provide me with quarterly Statements on Internal Control, which include control issues raised by directorate and regional management teams, and escalated and reviewed by senior management teams. These statements included reporting on sources of internal control and this in turn provided assurance of managements' compliance with operational policies, procedures and established key controls. The Assurance Programme which reports compliance issues at the operational level was in place across the former HM Courts Service and subsequently successfully rolled out to offices in the former Tribunals Service.

My review of the effectiveness of the system of internal control has not highlighted any issues with the performance of Libra as a case management system, and as such I have confidence that it is fit for purpose for HM Courts & Tribunals Service. Each case recorded on Libra has a full payment and enforcement history. Courts are required to carry out daily, monthly and quarterly bank reconciliations. When these have been satisfactorily completed courts are required to retain their paperwork, and totals are then cleared down on Libra, leaving the current position. In addition, Libra provides management information on amendments to creditor and debtor accounts, the current position on enforcements, and time allowed for debts to be paid.

We have performed extensive reviews of the quality of data processed onto Libra. Whilst we have found some instances where there is some inconsistency in the way in which mandatory Standard Operating Procedures (SOPs) are being adopted there is no evidence of significant weakness in the control environment or the operational robustness of the systems. We are in the process of reviewing the SOPs that are in place and both refining them and re-communicating them where appropriate.

### **National Audit Office – Value for money reviews**

In November 2011 the National Audit Office reported on HM Courts & Tribunals Service management of its income (including fines and penalties income which HM Courts & Tribunals Service collects on behalf of third parties) through its Financial Management Report 2011 on the Ministry of Justice (HC 1591, Session 2010–12). The NAO issued an overall recommendation that the MoJ should make more progress dealing with the strategic difficulties that hinder improvements in collecting fees, fines and assets under confiscation orders. These points are explained below along with a summary of recent progress and ongoing efforts by HM Courts & Tribunals Service in each area.

On fine collections – the NAO noted that the Public Accounts Committee (PAC) has criticised the MoJ’s principle measure of performance in fine collection, which calculates how much is collected as a percentage of fines levied in year, on the basis that much of the income collected relates to previous years. HM Courts & Tribunals Service has now developed three new measures for fine collection performance which are reported to the Departmental Board, these now form part of the MoJ published statistics and were first published as ‘experimental statistics’ in the Court Statistics Quarterly Report – Oct–Dec 2011 on 29 March 2012.

On confiscation order collections – the NAO noted HM Courts & Tribunals Service role as one of several lead enforcement agents for confiscation orders, which are reported on in total in the HM Courts & Tribunals Service Trust Statement, and the fact that there has been little change in the amount of confiscation orders collected despite a rising balance of debt. As the NAO describe, this is due to a variety of factors including large one-off confiscation orders in 2010–11; the continued accrual of interest on outstanding orders; and legislative restrictions which prevent HM Courts & Tribunals Service from writing off orders which it considers irrecoverable. HM Courts & Tribunals Service continues to work with its partners in the criminal justice system in this complex area to improve both the quality of information held in respect of confiscation orders on the Joint Asset Recovery Database, and overall collection performance.

The Justice Select Committee has recommended in its report “The Budget and Structure of the Ministry of Justice”, published on 18 August 2012, that confiscation orders which are not HM Courts & Tribunals Services’ responsibility to collect are removed from their accounts. The MoJ have suggested that a working group comprising colleagues from the Crown Prosecution Service, the Serious Fraud Office and HM Treasury is set up to consider how we can best account for unpaid monies owed to Government as a result of confiscation orders.

Further information on the current Enforcement Initiatives within HM Courts & Tribunals Service is provided in the Trust Statement Foreword.

As Accounting Officer for HM Courts & Tribunals Service I am responsible under the Road Traffic Offenders Act 1988 for the collection of Penalty Notices and for their subsequent remittance to the Consolidated Fund.

I maintain effective systems of control in the Fixed Penalty offices which operate as part of my organisation, however the end-to-end system of controls and reporting for Fixed Penalties stretches outside of HM Courts & Tribunals Service, and into areas for which I have no responsibility. For example roadside penalties are issued and registered by front line police operating within 43 different constabularies.

We have held discussions with those responsible for reviewing controls which operate outside of HM Courts & Tribunals Service but I have made no assessment of their effectiveness in this statement.

The Audit Committee oversees the adequacy and effectiveness of the risk management processes and the system of internal control for the organisation. The Committee regularly reviewed the corporate risk register and the production of the Trust Statement. The Audit Committee Chair has free and confidential access to the MoJ Audit Committee Chair, the Internal Audit and Assurance Division and the external auditors as required.

### **HM Courts & Tribunals Service Banking and Cash Processing Arrangements**

Following the external audit of the HM Courts & Tribunals Service 2011–12 Annual Report and Accounts the NAO made a recommendation to streamline the HM Courts & Tribunals Service banking and cash processing arrangements in order to further improve the level of control.

Currently there is a clear audit trail in place that underlies the cash balances that are collected by local Magistrates Courts and recorded in individual bank accounts. Cash processing arrangements within the agency are more complex and involve the movement of balances between a number of inter-related bank accounts within the HM Courts & Tribunals Service and the Corporate Ministry prior to balances being remitted to the Consolidated Fund.

I am content that the cash processing arrangements in place ensure that all cash balances are captured within the local Magistrates Courts and within the central accounting function. I support the NAO's recommendation that changes can be made to the cash processing arrangements to make the audit trail underlying these transactions more transparent. A working group has been established to review these current arrangements and implement amendments before 31 March 2013.

## 5. Significant Control Issues

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Through the course of assurance activity the following issues have been identified as significant to the organisation. I am confident that each of the control issues has been subjected to rigorous review and that comprehensive action plans are in place to address identified weaknesses.

**Legacy Case Management Systems** – As noted previously, whilst our legacy case management systems are effective in supporting the day to day enforcement function, they were not designed to provide accruals based information in the form now required to support transactions and balances in the Trust Statement. They operate in real-time, which is a key requirement of the operational function but they are not able to report balances or transactions retrospectively. We do not believe there is a strong value for money case to replace the existing Libra system in the immediate term and have developed alternative ways to significantly improve the quality of data provided for audit.

There are similar limitations in the VP/FPO case management system, on which Penalty Notices are recorded. The implementation of a replacement system (PentiP) is underway and expected to complete in 2013. On that basis, there was no case to invest further in the legacy system ahead of its replacement.

**Resulting processes** – A member of staff from a magistrate's court was found guilty under the Bribery Act. The individual has been dismissed, and disciplinary action is being considered against one other. A number of internal reviews and audits were completed to fully review the effectiveness of existing controls. As a result, revised mandatory instructions were issued to all Courts and changes have been made to improve IT systems. All other actions identified in the audit work are either complete or on target. A 'lessons learned' exercise was completed with a report issued to Delivery Directors and Cluster Managers.

I have made no assessment of the effectiveness of controls over fixed penalty recording that operate outside of HM Courts & Tribunals Service.

**Peter Handcock CBE**

**Chief Executive and Accounting Officer**

**16 January 2013**

## Attendance at HM Courts & Tribunals Service Board and Committees

**Table 1: – HM Courts & Tribunals Service Board**

<b>Members</b>	<b>No. meetings attended out of a possible 9</b>
Robert Ayling – Independent Chairman	8
Francis Dobbyn – Non Executive Member	9
Alison White – Non Executive Member	9
Lord Justice Carnwath – Senior President of Tribunals	7
Lord Justice Goldring – Senior Presiding Judge	8
District Judge Michael Walker – Judicial Member	7
Peter Handcock – Chief Executive	9
Steve Gillespie – Finance Director	8
Shaun McNally – Director of Crime	9
Kevin Sadler – Director of Civil, Family and Tribunals	9

Other members of the SMT attend the Board regularly as the business agenda dictates. External Auditors have also attended to observe governance in practice.

**Table 2: HM Courts & Tribunals Service Change and Modernisation Sub Committee**

<b>Members</b>	<b>No. meetings attended out of a possible 8</b>
Director of Strategy and Change – Chair	7
Deputy Director of Strategy and Change	8
Finance Director	7
HR Director	7
IT Director	8
District Judge – Judicial Representative – Courts	8
Judicial Representative – Tribunals	4
Director of Civil, Family and Tribunals (or representative)	8
Delivery Director for the South East	6
Deputy Director of Crime (or representative)	8
Alison White – Non Executive Member	1 (out of a possible 3 from January 2012)

Other members of executive management attend as required.

**Table 3: HM Courts & Tribunals Service Audit Committee**

	<b>No. meetings attended out of a possible 3</b>
<b>Members</b>	
Francis Dobbyn – Non Executive – Chair	3
Alison White – Non Executive Member	3
District Judge Michael Walker – Judicial Member	3
Judge Colin Bishopp – Judicial Committee Member	1
<b>Regular Attendees</b>	
Peter Handcock – Chief Executive	2
Steve Gillespie – Finance Director	3
Hannah Witty – Head of Governance and Assurance	3
Gary Spooner – Head of Operational Assurance and Compliance	2
Joyce Drummond Hill – Head of Internal Audit and Assurance (or representative)	3
National Audit Office and Pricewaterhouse Coopers Audit Team	3

## **The Certificate of the Comptroller and Auditor General to the House of Commons**

I certify that I have audited the financial statements of the HM Courts & Tribunals Service (HMCTS or 'the agency') Trust Statement for the year ended 31 March 2012 under the Government Resources and Accounts Act 2000. The financial statements comprise the Statement of Revenue and Expenditure, the Statement of Financial Position, the Statement of Cash Flows and the related notes. These financial statements have been prepared under the accounting policies set out within them.

### **Respective responsibilities of the Accounting Officer and auditor**

As explained more fully in the Statement of Accounting Officer's Responsibilities, the Accounting Officer is responsible for the preparation of the financial statements and for being satisfied that they give a true and fair view. My responsibility is to audit, certify and report on the financial statements in accordance with the Government Resources and Accounts Act 2000. I conducted my audit in accordance with International Standards on Auditing (UK and Ireland). Those standards require me and my staff to comply with the Auditing Practices Board's Ethical Standards for Auditors.

### **Scope of the audit of the financial statements**

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the circumstances of HMCTS and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by HMCTS; and the overall presentation of the financial statements. In addition I read all the financial and non-financial information in the Trust Statement to identify material inconsistencies with the audited financial statements. If I become aware of any apparent material misstatements or inconsistencies I consider the implications for my certificate.

I am required to obtain evidence sufficient to give reasonable assurance that the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### **Opinion on regularity**

In my opinion, in all material respects the expenditure and income recorded in the financial statements have been applied to the purposes intended by Parliament and the financial transactions recorded in the financial statements conform to the authorities which govern them.

### **Basis for disclaimer of opinion on financial statements**

The audit evidence available to me was limited because:

- HMCTS has not retained the original records to support, for audit purposes, some older fines and penalties within the opening receivables balance;
- the banking and accounting processes related to fines and penalties processed by HMCTS do not allow management to separately identify all of the cash and cash flows relating to Trust Statement activities; and
- HMCTS do not have access to reliable information about fixed penalties at the point they are issued by the police.

As a result, I have been unable to obtain sufficient appropriate audit evidence in respect of my opinion on financial statements over receivables, and the related disbursements and payable balances; cash and cash flows; or fixed penalty impositions. These limitations have a potentially pervasive effect on the Statement of Financial Position and Statement of Cash Flows and I have therefore decided to disclaim my opinion on the financial statements.

I have been able to perform sufficient audit work on the in-year transactions reflected in the Statement of Revenue and Expenditure to support an unmodified opinion on regularity.

These issues are discussed in further detail in my Report.

### **Disclaimer of opinion on financial statements**

Because of the significance of the matters described in the *Basis for Disclaimer of Opinion on Financial Statements* paragraphs, I have not been able to obtain sufficient appropriate audit evidence to provide a basis for an audit opinion on the financial statements. Accordingly I do not express an opinion on the financial statements.

### **Opinion on other matter**

In my opinion:

- the information given in the Foreword to the Trust Statement for the financial year for which the financial statements are prepared is consistent with the financial statements.

### **Matters on which I report by exception**

In respect of the issues described under *Basis for disclaimer of opinion on financial statements*:

- adequate accounting records have not been kept; and
- I have not received all of the information and explanations I require for my audit.

I have nothing to report in respect of the following matters which I report to you if, in my opinion:

- the financial statements are not in agreement with the accounting records and returns; or
- the Governance Statement does not reflect compliance with HM Treasury's guidance.

**Report**

My report, which follows, provides further detail on my audit opinions.

**Amyas C E Morse**

**Comptroller and Auditor General**

National Audit Office  
157–197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

17 January 2013

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

### **Introduction**

1. Government bodies responsible for collecting revenue on behalf of the Consolidated Fund<sup>5</sup> – including taxation, duties, or fines and penalties – are required to produce a Trust Statement. Trust Statements account for the transactions and balances specific to these collection activities, and are separate from the statutory accounts of collecting entities.
2. HM Courts & Tribunals Service ('HMCTS'), an Executive Agency of the Ministry of Justice ('the Ministry'), is responsible for the collection of fines and confiscation orders (imposed by the judiciary in magistrates' and Crown courts) and penalties (imposed by the police).
3. HMCTS is also responsible for remitting these receipts to the relevant parties as established in cross-government agreements, including: victims of crime; the Home Office; HMCTS itself;<sup>6</sup> and, for any remaining balance, the Consolidated Fund. From 1 April 2010, HMCTS has been required to account for these revenues through a Trust Statement.
4. The duty to produce the Trust Statement was introduced in 2010–11 and the transition period was short. Key systems which maintain data relating to fines and penalties – which are case management systems, and not designed for financial reporting – did not have the capability or functionality to support financial statements.
5. As a result of these issues, HMCTS is not able to produce the records to support key areas of the accounts, and because of the significance of these areas I have no option but to disclaim my opinion. However, I recognise that HMCTS is working to improve the quality of the information available and expect these issues to be progressed as systems capability is increased.

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<sup>5</sup> The Consolidated Fund is the central account administered by HM Treasury which receives government revenues and makes issues to fund expenditure by government Departments.

<sup>6</sup> HMCTS is permitted by cross-government agreement to retain a percentage of fine and compensation order collections to contribute to the cost of its operations.

**Audit opinions**

6. For 2011–12, I have been able to gain assurance over the regularity of the income and expenditure for the year relating to the Trust Statement. This means that in my opinion, in all material respects, the transactions relating to fines and penalties processed by HMCTS, and recorded in the financial statements, conform to the relevant statutory and other authorities.
7. However, there remain significant issues affecting the truth and fairness of the financial statements in respect of receivables, cash and fixed penalties. In my view the possible effect of these, taken together, are sufficiently significant and pervasive that I cannot form an overall opinion. This is described in my audit certificate as a ‘disclaimer of opinion’ on the financial statements.
8. The rest of my report outlines the progress HMCTS has made since 2010–11; the significant issues impacting on my opinions in the current year; and the actions planned and required by HMCTS to make further improvements.

**Significant developments since the 2010–11 Trust Statement**

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

**Improved ability to extract financial transactions**

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

**Debt – evidence available to support the receivables balance**

11. HMCTS was able to produce a listing, as at 31 March 2012, of individual fines and confiscation order debts to support the receivables balance in the 2011–12 Trust Statement. This was a significant improvement on 2010–11, when no transactional information was available.
12. However, I was not able to complete my audit work satisfactorily because HMCTS were not able to provide sufficient evidence over the opening balance of receivables. Although I was able to inspect summary electronic records on the relevant case management system, HMCTS could not provide the original case files for audit purposes for several older debts. For three out of six regions visited for this audit testing, case files were not kept beyond three years. HMCTS was also not able to provide bank

statements for this testing, or sufficient evidence to support the completeness of the balance.

13. These issues limited my ability to audit the opening receivables balance – and, consequently, on receivables overall. The limitations also impact the payables and disbursements figures in the Trust Statement. These figures are derived from the receivables balance, to identify the amounts payable to other parties, such as the Home Office, when debts are collected.

### **Cash and cash flows**

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

### **Fixed penalties**

20. HMCTS are operationally responsible for the fixed penalty collections on the receipt of cash, and do not possess accounting records supporting the imposition of fixed penalties necessary to support accruals-based financial statements. Information concerning the point of issue of fixed penalties is provided by local police forces; however, these are not sufficiently robust to provide a reliable figure for use in the Trust Statement. Management's view is that there is no realistic prospect for improvement until the national rollout of Pentip, the new system for fixed penalty reporting being developed by the Home Office, is complete.

21. As at the date of my report, PentiP implementation is still in progress. As a result, management do not possess reliable accruals-based accounting records in relation fixed penalties and so I have not been able to give an opinion on the related revenue and receivables balances. This has contributed to my disclaimer of opinion on the financial statements, although it has not affected my opinion on regularity since I have been able to evaluate a sample of collected fixed penalties against the relevant authorities.

### **Further steps planned and required by HMCTS**

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

28. On fixed penalties, HMCTS has informed me that improvements in respect of fixed penalties are unlikely to progress significantly until the roll-out of the national replacement for the current VP/FPO system, PentiP. The design and implementation of this system is being led by the Home Office. As a key stakeholder, HMCTS should continue to work with the Home Office and police forces to ensure a successful national implementation and that PentiP will provide sufficient and reliable records for the Trust Statement.

**Amyas C E Morse**

**Comptroller & Auditor General**

National Audit Office  
157–197 Buckingham Palace Road  
Victoria  
London  
SW1W 9SP

17 January 2013

## Statement of Revenue and Expenditure for the year ended 31 March 2012

	Notes	2011–12 £000	2010–11 £000
<b>Impositions Revenue</b>			
<b>Fines and Penalties</b>			
Court Fines		188,530	210,010
Fixed Penalty Notices		85,179	100,118
Crown Prosecutors' Costs		42,452	44,286
Prosecutors' Costs		55,898	55,261
Compensation		29,927	29,622
Confiscation Orders		59,031	498,893
Victim Surcharge		11,234	12,552
<b>Total Impositions Revenue</b>		<b>472,251</b>	<b>950,742</b>
<b>Less Expenditure</b>			
Credit Losses	2	43,469	434,693
<b>Total Expenditure</b>		<b>43,469</b>	<b>434,693</b>
<b>Less Disbursements</b>			
Revenue retained under statute by Ministry of Justice towards the cost of collection and administration	3	93,500	91,774
Prosecutors' Costs Revenue for the Crown Prosecution Service		43,842	26,715
Prosecutors' Costs Revenue		54,999	60,325
Compensation Revenue for other parties		36,455	63,190
Confiscation Order Revenue		60,073	147,100
Victim Surcharge Revenue for the Ministry of Justice		11,735	13,604
<b>Total Disbursements</b>		<b>300,604</b>	<b>402,708</b>
<b>Total Expenditure and Disbursements</b>		<b>344,073</b>	<b>837,401</b>
<b>Net Revenue for the Consolidated Fund</b>		<b>128,178</b>	<b>113,341</b>

## Statement of Financial Position as at 31 March 2012

	Notes	2011–12 £000	Restated 2010–11 £000
<b>Current Assets</b>			
Receivables	4	358,962	414,220
Cash at Bank and in Hand		68,818	69,600
<b>Total Assets</b>		<b>427,780</b>	<b>483,820</b>
<b>Current Liabilities</b>			
Payables	5	280,557	357,091
<b>Total Liabilities</b>		<b>280,557</b>	<b>357,091</b>
<b>Total Net Assets</b>		<b>147,223</b>	<b>126,729</b>
Represented by:			
<b>Balance on Consolidated Fund</b>	6	<b>147,223</b>	<b>126,729</b>

**Peter Handcock**  
Accounting Officer  
16 January 2013

The notes on pages 36 to 43 form part of this statement.

## Statement of Cash Flows for the year ended 31 March 2012

	2011–12 £000	2010–11 £000
Cash collected by HM Courts & Tribunals Service	484,233	497,575
Cash paid to Third parties	(330,687)	(318,529)
Cash paid to the Consolidated Fund	(154,328)	(175,384)
<b>(Decrease)/increase in cash in this period</b>	<b>(782)</b>	<b>3,662</b>

### Notes to the Cash Flow Statement

#### Analysis of Changes in Net Funds

	2011–12 £000	2010–11 £000
(Decrease)/increase in Cash in this Period	(782)	3,662
Net Funds at 1 April (Net Cash at Bank)	69,600	65,938
<b>Net Funds at 31 March (Closing Balance)</b>	<b>68,818</b>	<b>69,600</b>

## Notes to the Trust Statement

### 1. Statement of accounting policies

#### 1.1 Basis of Accounting

The Trust Statement is prepared in accordance with:

- the accounts direction issued by HM Treasury under section 7(2) of the Government Resources and Accounts Act 2000;
- the 2011–12 Financial Reporting Manual (FReM) issued by HM Treasury, in particular Chapter 13 which deals with Trust Statements; and
- the accounting policies detailed below which have been agreed between HM Courts & Tribunals Service and HM Treasury and have been developed in reference to International Financial Reporting Standards (IFRS) as adapted or interpreted for the public sector context and other relevant guidance. The accounting policies have been applied consistently in dealing with items considered material in relation to the accounts.

The income and associated expenditure contained in these statements are those flows of funds which HM Courts & Tribunals Service handles on behalf of the Consolidated Fund and other entities, where it is acting as an agent rather than as principal. The sense in which these financial statements elements are used is described within the Foreword above.

The financial information contained in the statements and in the notes is rounded to the nearest £000.

#### 1.2 Accounting Convention

The Trust Statement has been prepared on an accruals basis in accordance with the HM Treasury's accounts direction and the FReM as detailed in "Basis of Accounting" above.

#### 1.3 Revenue Recognition

Fines and penalties are measured in accordance with IAS 18. They are measured at the fair value of amounts received or receivable net of judicial remissions. Revenue is recognised when a penalty is validly imposed and an obligation to pay arises. Revenue is de-recognised if a penalty is cancelled due to settlement by another valid means, including imprisonment or undertaking a training course. The de-recognition of revenue is recorded as a reduction against revenue.

## 1.4 Expenditure

Credit losses (imposition write offs and the change to the value of impairment in year) are accounted for on an accruals basis.

## 1.5 Receivables

Receivables are shown net of impairments in accordance with the requirements of the FReM and IAS 36. Each class of debt has been assessed separately using performance reports to provide data concerning the length of time it takes for debt to be repaid.

## 1.6 Payables

Payables are shown net of impairments and are accounted for on an accruals basis.

## 1.7 Disbursements

Disbursements are shown net of impairments in accordance with the requirements of the FReM and IAS 36. Disbursements are stated on an accruals basis and are not payments of cash in the period. They represent accruals value of impositions for the year (net of impairment), payable once received to parties other than the Consolidated Fund.

The MoJ is permitted to retain an element of fines collected as income. This is shown as Revenue retained under statute by the MoJ. The income comprises netting-off and fine incentive scheme income. There are two netting off schemes; the Warrant Enforcement Scheme, permitting to retain an amount equal to the pre courts act 2003 cost of enforcing and collecting fines; the Courts Act national roll-out scheme, permitting MoJ to retain an amount equal to the employment costs of the court officers appointed in compliance with the Courts Act 2003. There is only one Fine Incentive Scheme. The scheme permits MoJ to retain an amount of fines collected equating to 75% of fine receipts in excess of receipts attributable to a 75% payment rate. These monies are accounted for as expenditure. This treatment is required by the FReM where legislation permits that part of the revenue collected be retained by the entity. The associated impositions are therefore recorded gross within revenue.

## 1.8 Net revenue for the Consolidated Fund

Net Revenue for the Consolidated Fund is the value of impositions for the year (net of impairment) that are payable to the Consolidated Fund for those categories of imposition applicable (Court Fines and Fixed Penalty Notices only).

## **1.9 Critical accounting judgments and estimates**

Estimates and judgements are continually evaluated and are based on historical experience and other factors, including expectations of future events that are believed to be reasonable under the circumstances.

When preparing the Trust Statement, HM Courts & Tribunals Service makes estimates and assumptions concerning the future. The resulting accounting estimates will, by definition, seldom equal the actual results. The estimates and assumptions that have a significant risk of causing a material adjustment to the carrying amounts of assets and liabilities within the next financial year are addressed below.

### **i) Impairment of debt**

Receivables are shown net of impairments in accordance with the requirements of the FReM and IAS 36, see note 4.

### **ii) Credit losses**

Debt written off as uncollectible and any change in value of impairment are shown as expenditure. Confiscation Orders can not be written off by default because of underlying legislation.

## 2. Credit Losses

	Notes	2011–12 £000	2010–11 £000
Debts written off	2.1	65,142	50,974
Increase/(decrease) in Impairment of Debt for year	4	(21,673)	383,719
<b>Total</b>		<b>43,469</b>	<b>434,693</b>

### 2.1 Debts written off

	2011–12 £000	2010–11 £000
Court Fines	48,802	38,685
Crown Prosecutors' costs	4,451	2,823
Prosecutors' Costs	8,611	7,915
Compensation	1,842	1,046
Victim Surcharge	1,436	505
<b>Total</b>	<b>65,142</b>	<b>50,974</b>

Debts written off' are the amounts reportable to Parliament under rules on disclosure of Losses and Write Offs in *Managing Public Money* Annex A.4.10.24. under the category 'Claims waived or abandoned'.

### 3. Expenditure

#### Revenue retained under statute by Ministry of Justice towards the cost of collection and administration

	2011–12 £000	2010–11 £000
Warrant Enforcement revenue	66,600	66,600
Fine Incentive revenue	20,000	18,274
Courts Act revenue	6,900	6,900
<b>Total</b>	<b>93,500</b>	<b>91,774</b>

MoJ is entitled under statute to retain elements of fines collected as revenue. These costs of collection and administration are charged as expenditure in the Trust Statement.

#### 4. Receivables

2011–12	Fines £000	Fixed Penalty Notices £000	Crown Prosecutors' Costs £000	Prosecutors' Costs £000	Compensation £000	Confiscation Orders £000	Victim surcharge £000	Total £000
<b><u>Impositions outstanding</u></b>								
<b>At 1 April 2011 b/f (Restated)</b>	<b>413,158</b>	<b>9,430</b>	<b>59,386</b>	<b>72,041</b>	<b>70,122</b>	<b>1,254,279</b>	<b>10,488</b>	<b>1,888,904</b>
New impositions	188,530	85,179	42,452	55,898	29,927	59,031	11,234	472,251
Collections	(156,120)	(88,550)	(38,683)	(44,615)	(27,958)	(118,142)	(10,165)	(484,233)
Write offs	(48,802)	-	(4,451)	(8,611)	(1,842)	-	(1,436)	(65,142)
<b>At 31 March 2012</b>	<b>396,766</b>	<b>6,059</b>	<b>58,704</b>	<b>74,713</b>	<b>70,249</b>	<b>1,195,168</b>	<b>10,121</b>	<b>1,811,780</b>
<b><u>Impairment (provision for uncollectible debt)</u></b>								
<b>At 1 April 2011 b/f (Restated)</b>	<b>298,279</b>	<b>542</b>	<b>43,582</b>	<b>52,800</b>	<b>57,018</b>	<b>1,014,689</b>	<b>7,774</b>	<b>1,474,684</b>
Increase/(decrease) for the year	(13,111)	(194)	(1,390)	899	(6,528)	(1,042)	(500)	(21,866)
<b>At 31 March 2012</b>	<b>285,168</b>	<b>348</b>	<b>42,192</b>	<b>53,699</b>	<b>50,490</b>	<b>1,013,647</b>	<b>7,274</b>	<b>1,452,818</b>
<b>Receivables Net Book Value at 31 March 2012</b>	<b>111,598</b>	<b>5,711</b>	<b>16,512</b>	<b>21,014</b>	<b>19,759</b>	<b>181,521</b>	<b>2,847</b>	<b>358,962</b>
<b>Receivables Net Book Value at 1 April 2011 (Restated)</b>	<b>114,879</b>	<b>8,888</b>	<b>15,804</b>	<b>19,241</b>	<b>13,104</b>	<b>239,590</b>	<b>2,714</b>	<b>414,220</b>

As a result of the improvements made during 2011/12 to extract transactional information it was assessed that the opening balances are more accurately calculated by taking the closing position less in-year movements. Accordingly the opening balances reported in the 2010–11 Trust Statement have been restated.

## 5. Payables

2011–12	Creditors On which Cash Received £000	Creditors On which Cash Receivable £000	2011–12 Total £000
Home Office	27,477	181,520	208,997
Crown Prosecution Service	3,437	16,512	19,949
Others	7,991	43,620	51,611
<b>Total</b>	<b>38,905</b>	<b>241,652</b>	<b>280,557</b>

2010–11	Creditors On which Cash Received £000	Restated Creditors On which Cash Receivable £000	Restated 2010–11 Total £000
Home Office	28,520	258,882	287,402
Crown Prosecution Service	170	17,056	17,226
Others	6,445	46,018	52,463
<b>Total</b>	<b>35,135</b>	<b>321,956</b>	<b>357,091</b>

## 6. Balance on the Consolidated Fund Account

2011–12	On which Cash Received £000	On which Cash Receivable £000	2011–12 Total £000
Balance on Consolidated Fund Account as at 1 April	4,288	122,441	126,729
Balance on Consolidated Fund Account as at 31 March	29,913	117,310	147,223
2010–11	On which Cash Received £000	On which Cash Receivable £000	Restated 2010–11 Total £000
Balance on Consolidated Fund Account as at 1 April	36,643	200,561	237,204
Balance on Consolidated Fund Account as at 31 March	4,288	122,441	126,729



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