



Independent assessment for continuous improvement

Thematic Review: A Joint Inspection of the Enforcement of Community Penalties

June 2005

Thematic Review

A joint inspection of the Enforcement of Community Penalties

carried out in

December 2004 and January 2005

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Chief Inspectors' Foreword

In the light of an increasing focus on the enforcement of penalties imposed by courts, the then HM MCSI, as a single Inspectorate, inspected the enforcement of financial penalties during the first half of 2004/05. The inspection report was published in March 2005. There are now well-established arrangements for the five inspectorates of the criminal justice system to undertake joint inspections of cross-cutting issues and the Criminal Justice Chief Inspectors Group agreed to include the inspection of the enforcement of community penalties in its programme of joint activities for 2004/05. HM MCSI (now HMICA) carried out this work, together with HM Inspectorates of Probation and Constabulary. The fieldwork took place in December 2004 and January 2005.

The objectives of this joint inspection were to:

- ◆ assess the effectiveness of strategic and operational work between and within courts, probation areas, Youth Offending Teams (YOTs) and police services to enforce community penalties
- ◆ identify good practice and make any recommendations necessary for improving the effectiveness of enforcing community penalties.

Some activities are common between financial and community penalty enforcement – for example, tracing offenders and executing arrest warrants. To ensure consistency, where appropriate, this report has been linked to the findings and recommendations of the MCSI report into the enforcement of financial penalties¹.

The key finding of this inspection is that there is a great deal of effective work to enforce community penalties which is not yet fully co-ordinated between the agencies involved. This was underlined by the number of occasions in inspection focus groups (consisting of staff from different agencies) when issues were raised by one agency and immediate offers of assistance made by another; there is a willingness to co-operate but currently insufficient mechanisms to bring practitioners together.

This situation has been identified by Ministers and policy makers and is to be dealt with through the creation of the National Enforcement Service (NES). This 'virtual agency' is planned to have at its heart the co-ordination of all enforcement activity between agencies. Much of this strategic thinking was taking place at the same time as – and shortly after – the fieldwork for this inspection, but before the publication of the report. The specific plans for the NES are currently at an early stage but have the potential significantly to improve inter-agency working as reflected in our first recommendation.

Feeding in to developing policy and planning on the enforcement of community penalties

We welcome the fact that community penalty enforcement is currently subject to several centrally-driven improvement initiatives. We have been keen to reflect these in the report and to feed into this fast-developing area of work as effectively as possible.

¹ *A Review of Financial Penalty Enforcement Practices in Magistrates' Courts in England and Wales – MCSI Inspection of Court Services, February 2005.*

During the course of the inspection Local Criminal Justice Boards (LCJBs) were consulted upon a planned LCJB target for community penalty enforcement. A target was subsequently set for 2005/06, and notified to LCJBs in early March 2005. Inspectors appreciated that a great deal of local planning to meet the target would begin to take place in March and April 2005 and, in consequence, it was decided to:


- ◆ forward the results of the case file analysis to the NPD, DCA and OCJR in order to inform the process of setting the target. This analysis provided the only baseline data in existence at the time the target was set
- ◆ issue a short synopsis of the inspection findings (including useful practice, recommendations and other areas for improvement) to the national heads of the agencies involved, key policy staff and the senior managers of local police forces, probation areas and HM Courts Service areas in England and Wales. It is hoped that the prompt provision of inspection findings will provide an early opportunity for an independent view of the key issues to be considered during the planning process.

In addition, in February 2005 the DCA was in the process of writing an Effective Practice Guide on the enforcement of community penalties. Inspectors were able to contribute suggestions to this guidance arising out of our judgements and the evidence gathered.

Our four recommendations aim to:

- ◆ improve inter-agency planning and operational activities
- ◆ remind all agencies of the need for legal duties in the field of diversity to be discharged
- ◆ create the conditions to improve community penalty enforcement by YOTs
- ◆ ensure that the Police National Computer is utilised to full effect in executing warrants in community penalty cases.

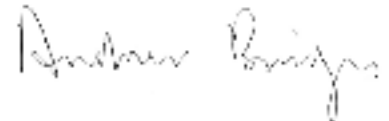
We shall, in due course, be putting in place mechanisms to monitor progress made against these recommendations.



Sir Ronnie Flanagan
HM Chief Inspector
HMIC



Dr Stella Dixon
Former HM Chief Inspector
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HM Chief Inspector
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Executive summary

Detailed findings and good practice examples can be found in the main report. A list of the recommendations follows this executive summary.

Overall findings

Whilst there are some good single agency strategic approaches to community penalty enforcement (CPE), these have not been harnessed by LCJBs to provide an overarching strategy and approach to improving outcomes. Despite some examples of good practice, overall, action taken to enforce community penalties is not yet effective, particularly because some responsibilities are unclear. Inter-agency performance information or management is very limited and prompt and effective enforcement is hindered by limited attempts to ensure that staff understand the processes of other agencies.

Specific findings in brief

The lack of an LCJB focus on CPE reflects the previous lack of a national inter-agency steer, although this is now in the process of changing. The creation of a new joint end-to-end CPE timeliness target provides a good focus for efforts to improve the efficiency of breach actions. However, there are indications that current performance against the target is poor.

Current LCJB plans to deliver good performance on CPE are at an early stage and tend to focus on one aspect of the process; warrant execution. Therefore, there are no effective joint plans to deliver good performance in CPE overall by identifying the system capacity required, key responsibilities and key information flows.

Some agencies have not developed structured operational plans to deliver good performance, sometimes assuming, instead, that pre-existing inter-agency protocols would be sufficient. However this does not ensure effective practices because protocols are often dated, do not include targets and are not being monitored.

Best practice is not systematically identified, shared and adopted, although there are now some useful centrally sponsored efforts to begin such activity.

Strategic issues of diversity in relation to CPE are not identified or addressed and the value of, for example, effective joint work on priority breach cases is not widely utilised to promote confidence in the criminal justice system.

In line with the general lack of an LCJB focus on CPE, the human resource requirements to ensure effective CPE are not identified on a systematic inter-agency basis.

The use of more specialised enforcement staff – for example, Probation Area staff who regularly prosecute breach cases – is proving beneficial.

Generally, staff in CJAs are appropriately trained in terms of their own agency's processes. However, there is little evidence of structured attempts to ensure that staff understand the processes of other agencies, which hinders prompt and effective enforcement.

There are no processes to ensure that generic diversity training is applied in the field of CPE.

At the time of the inspection, there were no national inter-agency targets in the field of CPE. Agencies have not adopted local targets and there is very limited inter-agency performance information or management.

Some existing single agency CPE targets are unhelpful to other agencies in meeting their CPE targets. For example, magistrates' courts have a national target to execute warrants within 14 calendar days for youths or 28 calendar days for adults but some police forces have other targets – sometimes up to 90 days to execute a warrant.

There are dangers that agencies may prioritise the meeting of performance targets above achieving good overall case outcomes.

The parameters of some national performance measures – for example, the DCA SSI 5 measure of warrant execution timeliness – are not expressed effectively, allowing areas to record performance differently, which undermines the usefulness and validity of national data.

The effectiveness of agency and inter-agency processes varies from the very good to poor. For example, the worst performing area takes twice as long as the best performing area in 'relevant failure to first hearing'.

There are examples of initial good communication between the courts and probation service or YOT but after an offender's failure to attend a court hearing the flow of information is generally not effective. This means that it is essential that effort is put into ensuring, in particular, that the offender attends the first breach hearing.

Despite some examples of good practice, overall, action taken to enforce community penalties is not yet sufficient.

Recommendations

Recommendation 1

That, by September 2005, LCJBs introduce clear and comprehensive joint plans to deliver the proposed inter-agency target for breach case completion and maximise the wider effectiveness of CPE. In support of this, that:

- ◆ individual agency actions help ensure that joint plans are effectively implemented
- ◆ inter-agency service commitments are clearly expressed, monitored and reviewed
- ◆ inter-agency training requirements are identified and met
- ◆ responsibilities for warrant execution and the sharing of offender information are clear, effectively promulgated and monitored.

Recommendation 2

That Chief Constables, National Probation Service Chief Officers, YOT Managers and HM Courts Service Area Directors ensure that there is no unlawful discrimination in community penalty enforcement and that LCJBs ensure that strategic issues relating to diversity and community penalty enforcement are identified and addressed.

Recommendation 3

That, in accordance with national standards, all YOTs ensure that they issue appropriate guidance to staff so that decisions about whether absences are acceptable or not are made equitably and these decisions are clearly recorded.

Recommendation 4

That, by September 2005, ACPO, in consultation with HM Courts Service, develop and promote a joint national standard to govern the timeliness of the entry of breach of community penalty arrest warrants onto the PNC.

Introduction and background

Policy and strategic context

- 1 The criminal justice system (CJS) is heavily focused upon efforts to identify offenders and to bring them to justice. For those who are convicted of an offence, the courts have a wide range of sentencing options, including discharge, financial penalty, community penalty and custody. Community penalties are defined for the purposes of this thematic inspection as those penalties not being financial or custodial and which are enforced through action by Youth Offending Teams (YOTs) or probation areas in magistrates' courts or the Crown Court. For clarity, this inspection has not examined arrangements to enforce the electronic tagging of offenders.
- 2 Community penalties have increased as a proportion of all sentences, with the proportion of offenders aged 21 and over sentenced to community penalties for indictable offences increasing from 16.7% in 1991 to 26.3% in 2001². The effectiveness of the CJS is highly dependent upon the extent to which penalties are enforced: both offenders and the general public need to believe that the sentence of the court will be carried out, or the incentive not to commit crime will be reduced and the rehabilitative purpose of many sentences will be undermined. Lord Falconer underlined this point in a speech to the Howard League for Penal reform in 2004: *"If we want to increase the use of fines and community sentences as options, public confidence will be weakened if these two very broad categories are not perceived to be effective and if they are not perceived to be enforced"*. There is evidence³ that reconviction rates are reduced for those offenders who have been subject to comprehensive and appropriate enforcement actions, demonstrating the contribution that effective enforcement can make to wider strategies to reduce offending.

Strategic context of community penalty enforcement

The Criminal Justice Strategic Plan for 2004 – 2008⁴ states that, by 2008, *'Community penalty breaches will be brought to court faster and more reliably and we need to speed up the process and improve its effectiveness.*

We plan to do this by:

- ◆ *prioritising prolific offenders. We are now working to address this so that we target our resources to best effect for the community.*
- ◆ *developing a fast track national standard to ensure prolific offenders are returned rapidly to court.*
- ◆ *tightening up procedures – the Criminal Justice Act 2003 removes Probation Officers' discretion not to breach an offender where they fail to complete their penalty.*

² Criminal Statistics England and Wales, Table 7.10 (Home Office 2003).

³ *Investigating links between probation enforcement and reconviction* (Home Office RDS Online Report 41/03).

⁴ *Cutting Crime, Delivering Justice – A Strategic Plan for Criminal Justice 2004-08* (OCJR 2004).

- ◆ *setting clear end-to-end targets for improvement – it is important that targets are simple, clear and understandable, both to those working in criminal justice, and the public.*
- ◆ *from 2005 onwards, redesigning our targets for community penalty breach enforcement to take into account the full end to-end process from when an offender breaches to their appearance in court; fostering closer working relationships between probation and the courts, through the steps we are taking to improve joint working across the system.*

Making these changes will demonstrate that defaulting on a community penalty is taken very seriously by the Criminal Justice System, and will ratchet up the credibility of community penalties among sentencers, and the public’.

- 3 Enforcement is a truly inter-agency activity involving actions by:
 - ◆ probation areas and youth offending services to monitor compliance with court orders, to prosecute where a breach is alleged and to risk assess the dangers and vulnerabilities of offenders for those executing warrants
 - ◆ magistrates’ courts and Crown Court administrative staff to give sufficient priority to breach cases, and, in the case of magistrates’ courts, ensure that warrants issued for a failure to appear are executed
 - ◆ the police to assist court officers in tracing offenders, or to execute warrants themselves.
- 4 The enforcement of all orders of the court took on an increased political significance under the last two public spending rounds. Significant initial attention was focused on improving accountability for performance through the formal transfer of responsibility for the execution of all post-sentence warrants to magistrates’ courts in April 2001. The importance of warrant execution was also recognised in 2001 by the creation of a national timeliness target for Magistrates’ Courts Committee (MCC) warrant execution. In 2003 a *Criminal Enforcement Programme* of work within the Department for Constitutional Affairs (DCA) was created to co-ordinate court based improvements in the enforcement of financial penalties, community penalties and confiscation orders.
- 5 The National Probation Directorate (NPD) made the enforcement of community penalties a key performance objective in 2001, incorporating enforcement performance into Service Delivery Agreements and the Performance Bonus Scheme that impacts upon area funding. A series of instructions and circulars to probation areas has also been issued, designed to drive up performance against the target set.
- 6 The Youth Justice Board (YJB) has set clear national standards regarding the enforcement of community penalties for youths by YOTs although it has not developed performance measures to assess whether these standards are met.
- 7 The formal responsibility for the enforcement of breach of community penalty warrants was transferred from the police to the magistrates’ courts service in 2001. Since that time, police involvement has varied between criminal justice areas. Magistrates’ Courts Committees were able to contract all or part of warrant execution back to the police, although in 2000 ACPO policy was that police forces should not contract back. Some police forces did formally contract

responsibility for some (e.g. youth warrants) or all breach warrants but *all* police forces have a continuing role in breach warrant execution because:

- ◆ those warrants which other enforcement agencies cannot execute, because the offender cannot be traced, will be placed on the police national computer (PNC) to be executed by the police when the offender comes to their attention again
 - ◆ the National Criminal Intelligence Service (NCIS) National Intelligence Model⁵ (NIM) uses the existence of factors such as outstanding warrants to assist with the targeting of priority offenders. Increasingly, therefore, the police will have operational reasons to want to execute particular warrants
 - ◆ those warrants which other enforcement agencies cannot execute because the offender is assessed as a high risk will require the particular skills and resources of the police
 - ◆ if a judge issues a bench warrant following a failure to attend a Crown Court hearing, this is addressed to the police.
- 8 Police forces have not been subject to the same departmental focus on breach of community penalties as has the NPS or Magistrates' Courts Service. However, the adoption of the NIM, the National Policing Plan's focus on developing policing priorities through inter-agency consultation and ACPO guidance on prioritising warrants through a formal grading process, all provide a clear strategic impetus to police forces to play a full part in community penalty enforcement.
- 9 There are now good inter-agency links at a policy-making level between many of the different stakeholders in community enforcement. A Criminal Justice System Enforcement Programme Board is responsible for delivery of the enforcement strand of the Criminal Justice Strategy outlined above. A Community Penalty Enforcement Group (CPEG) drives forward the particular community penalty agenda, which is jointly managed by the NPD and the DCA. The CPEG would further benefit from the involvement of the YJB and ACPO. The National Criminal Justice Board has announced plans for a still more co-ordinated approach to enforcement of all types through the creation of a National Enforcement Service.
- 10 Until recently, there have been no efforts to assess the efficiency of community penalty enforcement across criminal justice agencies. Community penalty enforcement may have been characterised as a succession of single agency or bilateral actions, some with single agency national standards attached. At national and local levels, it is accepted that community penalty enforcement is actually a multi-agency activity. This was reflected in April 2005 with the publication of the Local Criminal Justice Board (LCJB) end-to-end target envisaged in the CJS Strategic Plan. The target requires:
- ◆ an average time of 35 working days from second unacceptable breach of a community penalty to resolution of the case; and
 - ◆ 50% of breaches of community penalties to be resolved within 25 days of a second unacceptable breach.
- 11 The introduction of the target is intended to refocus inter-agency efforts to process the alleged breach of community penalty cases in a timely manner. Agencies do not currently collate the data required to measure performance against the target, and the inspection casefile analysis provided the only baseline information when the target was being set. Performance against the target in the (relatively small) inspection sample was an average from breach to resolution of 60 days and 20% resolved within 25 days, indicating that a significant increase in

⁵ See <http://www.policereform.gov.uk/docs/nimsections/natintellwhy.pdf> for further details.

performance may be required in many criminal justice areas. Annex C provides further details on the casefile analysis findings.

Inspection Methodology

- 12 The methodology is described in detail in Annex A.
- 13 The inspection framework sets out the criteria against which agencies are assessed and is included as Annex B. Members of an inspection reference group, drawn from the agencies that have a stake in community penalty enforcement, helpfully commented on the draft framework to ensure that it was comprehensive and valid.

Simplified overview of the process of enforcing an alleged breach of a community penalty

After a community penalty is imposed, the court supplies a copy of the order to the YOT or probation area and the supervising officer clearly explains the requirements of the order and the consequences of failing to comply with it.

Following commencement of the order, YOT and probation staff apply clear guidance about acceptable/unacceptable failures to comply with the order, giving clear warnings about, and clearly recording, any failures to comply.

When either one or two warnings (depending on the type of case) have been given to the offender for unacceptable failures to comply (although in serious cases no warning may be given), a prompt decision is made to take action for breach of the community penalty order. Contact is made with the court to initiate proceedings and establish a first hearing date. There is an NPS target to initiate breach action within ten working days of the failure in 90% of cases and a YJB standard to initiate action within five working days. Most cases are heard in magistrates' courts (including the youth court) but some breach cases go straight to the Crown Court.

The offender is informed of the first hearing date and YOT or probation staff prepare for the first hearing.

If the offender fails to attend the hearing, a warrant with or without bail may be issued. If a warrant is issued without bail, the offender is arrested and brought directly back before the court. A warrant with bail will provide a date on which the offender should surrender to the court. There is a DCA target that 75% of adult warrants should be executed within 28 calendar days and youths in 14 calendar days.

Once a warrant has been issued, it is passed to a Civilian Enforcement Officer, an authorised enforcement agency or the police for execution. YOT or probation staff prepare a risk assessment, which is passed to the court enforcement office before an attempt to execute the warrant is made. If an offender is deemed to be high or medium risk, the warrant is usually passed to the police to execute. At any point during the enforcement process, details of the warrant may be entered onto PNC. The police may proactively execute the warrant or execute it if the offender subsequently comes to police attention for other reasons.

On attending court, an offender may enter a plea. If pleading guilty to the offence(s), the offender is sentenced, which might involve the order being revoked and the offender being re-sentenced for the original offence. If pleading not guilty, the case is listed for trial. In certain circumstances, the magistrates' court may commit the case to the Crown Court.

Prior to a guilty plea or a finding of guilt by the court, YOT or probation staff may ask for the proceedings to be withdrawn.

Inspection findings 1:

Strategic and operational partnerships and planning

In this section we were looking for:

- ◆ *clear and effective strategies and approaches to promoting confidence in the CJS through the effective enforcement of community penalties*
- ◆ *clear and effective plans to implement those strategies*
- ◆ *effective joint working that supports the enforcement of community penalties.*

Overall assessment

Whilst there are some single agency strategic approaches to community penalty enforcement (CPE), these have not been harnessed by LCJBs to provide an overarching strategy and approach to improving outcomes. This reflects the previous lack of a national inter-agency steer, although this is now in the process of changing. Current LCJB plans to deliver good performance on CPE are at an early stage and tend to focus on one aspect of the process: warrant execution. There are, however, no effective joint plans to deliver good performance in CPE overall by identifying the system capacity required, key responsibilities and key information flows. Some local agencies have not developed structured operational plans to deliver good performance, sometimes assuming, instead, that pre-existing inter-agency protocols would be sufficient. This does not ensure effective practices because protocols are often dated, do not include targets and are not being monitored. The creation of a new joint end-to-end CPE timeliness target provides a good focus for efforts to improve the efficiency of breach actions, although there are indications that current performance against the target is poor. Best practice is not systematically identified, shared and adopted, although there are now some useful centrally sponsored efforts to begin such activity. Although there are some examples of good bilateral working, joint working to achieve an effective end-to-end CPE process is underdeveloped. Strategic issues of diversity in relation to CPE are not identified and addressed and the value of, for example, effective joint work on priority breach cases is not widely utilised to promote confidence in the CJS.

Clear and effective strategies

- 1.1 During interview, LCJB Chairs and agency Chief Officers were keen to impress upon Inspectors the large number of competing priorities that LCJBs have to deal with. In many areas, interviewees felt that it is only possible to take strategic action on performance when a target has been set by central government. Inspectors accept that, in the face of competing priorities, it is reasonable for LCJBs to make choices based on what central government has identified as a key priority through the setting of a target. Given the previous lack of an end-to-end target, it is perhaps not surprising that LCJBs did not have strategic plans to enforce community penalties. Interviewees felt that, since the inception of LCJBs, the Narrowing the Justice Gap agenda has focused attention on performance at the front of the CJS i.e. activity to catch offenders and bring them before the court. Where strategic plans do cover enforcement performance this is typically in terms of improving the execution of warrants. This is allied to central government activity to improve warrant execution of all types. Inspectors welcome joint activity on improving warrant execution performance as a key part of the enforcement process. However, Inspectors also encountered misunderstanding at a strategic level as to who is responsible for executing warrants. Focusing efforts on warrant execution in itself

does not replace the need to examine the whole process of enforcement of community penalties from end to end. The need for a significant improvement in performance against the new joint target, referred to in paragraph 10, means that LCJBs will need rapidly to map the overall process and identify inefficiencies. It is likely, for example that some processes will have been designed and resourced before more complex community penalty orders were introduced, which require more frequent supervision by a wider range of bodies. LCJBs may therefore need to ensure that systems have the capacity to enable such a significant increase in performance.

- 1.2 Many interviewees responded to questions about strategy in terms of strategies to improve performance. Whilst that is important, the government has also set a PSA objective (PSA 2) to improve confidence in the CJS. LCJBs are able to identify their own local agenda and priorities for how to increase public confidence. Inspectors explored how far members of the public raise community penalties as an issue through consultation mechanisms. Inspectors also explored how far LCJBs identify any messages about the enforcement of community penalties that they wish to use to reinforce confidence in the CJS.
- 1.3 Interviewees consistently stated that there is no public interest in CPE, the main public focus being on initial sentencing. There is no evidence that LCJBs have identified any aspect of community penalties, including enforcement, as a threat to, or strength of, the CJS. This is despite the fact that the Criminal Justice System Strategic Plan overtly referred to the need to instil public confidence in community sentences. There are examples of effective inter-agency practice, for example, in fast tracking enforcement against priority offenders, which could be utilised to create community interest in enforcement. The only significant publicity given to the subject is as a result of Home Office sponsored research into public attitudes to community sentences published in December 2004. The research identifies a lack of public knowledge and some misconceptions about community penalties. This resulted in press releases, co-ordinated by the Home Office and issued by probation areas, being distributed in each criminal justice area in December 2004. The research is valid and useful in establishing a baseline of public knowledge and the press releases send key messages usefully backed up with local examples. However, such initiatives have maximum benefit if integrated into area criminal justice board activity. Inspectors consider that there is a need for LCJBs to be more proactive in identifying opportunities arising from effective enforcement, such as fast tracking priority offenders, to promote confidence in the CJS.

Clear and effective plans to implement strategies

- 1.4 In the absence of LCJB overarching strategies, Inspectors examined single agency plans to establish how each agency plans to meet its obligations in the field of CPE. Some agencies have thorough business or operational plans, which specifically refer to actions required to enforce community penalties successfully.

Example of specific agency planning for enforcement:

In the South Wales MCC, the Bridgend Clerkship operational plan for April 2004 – March 2005 contained details of strategic issues and actions as follows:

Execution of warrants for breach of community penalty orders to be expedited by means of procedures set out in the South Wales protocol.	Desired Results – to assist in achieving the CJS objectives of the Persistent Offender Initiative detailed in the Narrowing the Justice Gap Local Action Plan.
To assist in developing and implementing a multi-agency warrants communication strategy in accordance with the Local Narrowing the Justice Gap Action Plan.	Target date April 2004. Desired Results – provide for the expeditious execution of arrest warrants, prioritising and targeting as appropriate.

- 1.5 However, this type of specific planning is the exception. The lack of specific plans appears to stem from a feeling that enforcement is core business activity, and therefore subject to standard processes and inter-agency service level commitments. Although there are many inter-agency protocols that set out agreed levels of service from each agency, there is still a need for each agency to plan how it will meet these commitments. The danger of excluding meeting service commitments from organisational plans is that activities will not be adequately resourced or monitored. The fact that an activity forms a part of core business does not preclude the need for explicit plans to ensure that the activity is properly undertaken.

Recommendation 1:

That, by September 2005, LCJBs introduce clear and comprehensive joint plans to deliver the proposed inter-agency target for breach case completion and maximise the wider effectiveness of CPE. In support of this, that:

- ◆ **individual agency actions help ensure that joint plans are effectively implemented**
- ◆ **inter-agency service commitments are clearly expressed, monitored and reviewed**
- ◆ **inter-agency training requirements are identified and met**
- ◆ **responsibilities for warrant execution and the sharing of offender information are clear, effectively promulgated and monitored.**

Diversity and race equality

- 1.6 No LCJB visited in this study has either specific community penalty diversity or race equality strategies, or more general diversity strategies that can be applied to specific issues.
- 1.7 All individual agencies have general diversity policies, and all are required under the Race Relations (Amendment) Act 2000 (RR(A)A) to be covered by a Race Equality Scheme. There is little evidence that these Race Equality Schemes have been applied on an individual agency basis to community penalty enforcement, and for some agencies this might mean a failure to

fully comply with the statutory duty to promote race equality. This is because the Race Equality Scheme should set out the arrangements for, amongst other things:

- ◆ assessing and consulting on the likely impact of proposed policies on the promotion of race equality
- ◆ monitoring existing policies for any adverse impact on the promotion of race equality.

1.8 There is no evidence from the areas visited that proposed or current policies on the enforcement of community penalties have been assessed for their impact on race equality. However activities such as offering some offenders appointments at home, making judgements about compliance and how to execute warrants could potentially have an impact on race equality. It is clear that data on the progress of minority groups through many parts of the criminal justice system is available. However, it is held in a number of different places and, for example, only one probation area visited has analysed enforcement cases by gender and ethnicity and no MCC visited has analysed warrant execution by gender or ethnicity. The data is not effectively collated or analysed in individual agencies or across LCJB areas to provide insight into the likely or actual impact of policies or how well the particular needs of diverse groups in the community are met.

1.9 These are not new issues to be raised by Inspectorates⁶, and there remains a need for criminal justice agencies to discharge their duties in particular under the RR(A)A effectively. Inspectors believe that it is necessary for leadership in the field of diversity to be demonstrated by LCJBs. This must be recognised as a key component of increasing public confidence in the CJS.

Recommendation 2:

That Chief Constables, National Probation Service Chief Officers, YOT Managers and HM Courts Service Area Directors ensure that there is no unlawful discrimination in community penalty enforcement and that LCJBs ensure that strategic issues relating to diversity and community penalty enforcement are identified and addressed.

Promoting good practice

1.10 In general, most local agencies' practice does follow appropriate national guidance. Probation guidance is well developed and well observed locally. Courts have regard to national guidance, although this is now dated so the prospect of a new effective practice guide being issued shortly is to be welcomed. Police practice is informed by ACPO guidance on warrant prioritisation and the use of the National Intelligence Model (NIM). It is, however, disappointing to find that some YOTs are not following YJB national standards for handling breach of community penalties. This includes not adequately defining or recording acceptable and unacceptable reasons for failure to comply with court orders. Failure to implement national guidance is dealt with further at paragraph 4.12.

⁶ See for example *A Review of Race Issues in the Magistrates' Courts Service* – MCSI 2003, *Review of progress against recommendations made in MCSI's Review of Race Issues in the Magistrates' Court Service* – MCSI 2004, *Towards Race Equality Follow Up Report* – HMI Probation 2004 and *Winning the Race – Revisited* – HMIC 1999.

- 1.11 Although local structures to identify and promote good practice are limited, there are some good examples, including:
- ◆ one senior probation manager in Southwark writes to members of his staff to acknowledge their good practice
 - ◆ new specialist enforcement staff in Derbyshire receive presentations on good practice from existing staff
 - ◆ in West Mercia, inter-agency meetings to draft a new protocol include strong efforts to identify good practice (although not all stakeholder agencies are properly represented in the discussions).
- 1.12 However, the majority of efforts to establish and promote good practice are centrally sponsored as part of departmental efforts to improve performance. Examples of this include:
- ◆ pilot projects in two criminal justice areas which are exploring how to fast track warrants on priority cases
 - ◆ visits by officials to a number of criminal justice areas to explore local practices and assist improvement in poorer performing areas
 - ◆ a well organised and attended inter-agency conference in the West Midlands region. The conference took a very practical approach and brought together practitioners from different criminal justice areas and agencies to map the enforcement process and bring out key issues for discussion. Practitioners in one criminal justice area subsequently used the conference discussions to inform the drafting of a new protocol
 - ◆ a joint DCA/NPD protocol for expedited listing and notification of hearings
 - ◆ the publication of an HMCS Effective Practice Guide on warrant execution.
- 1.13 Whilst the centrally sponsored initiatives are welcome, they do not replace the need for local agencies to identify what works and what can be transferred to other settings. Agencies, at both national and local levels, need to give more thought to the systematic capture and sharing of good practice.

Effective joint working to improve the enforcement of community penalties

Communication

- 1.14 Local communication at a senior level is good, with Chief Officers meeting and working frequently together as the LCJB, although as yet without a strong focus on enforcement of community penalties. There are also good relationships at a senior operational level, with people meeting regularly to discuss ongoing issues. There are now well established inter-agency meetings to discuss LCJB performance issues and initiatives such as PYOs, PPOs and the ETMP. These fora are increasingly effective in managing inter-agency performance and resolving rubbing points. Informal communication at an operational level is also generally good – for example, enabling priority cases to be dealt with promptly, or particular information about an offender to be relayed. Inspectors recognise a widespread willingness amongst practitioners to work across professional boundaries to achieve shared outcomes.
- 1.15 However, some important relationships are not yet effective. For example, many senior police officers have a sense of unease about working in partnership with private enforcement contractors, and operational collaboration is patchy. It is also clear that police officers do not always recognise the value of the intelligence information held by other agencies. Where agencies are dependent on information from partners to achieve their own targets, efficient

methods of obtaining the information do not always exist and the full potential of existing systems is not utilised. Whilst informal operational communication is generally good, there is scope for better formal mechanisms to meet counterparts from other agencies and resolve issues, and for training on the working practices of other agencies.

- 1.16 On several occasions during the review, the value of formal mechanisms was demonstrated during inter-agency inspection focus groups, when people from different agencies who worked on similar parts of the enforcement process were brought together for the first time. The discussions provided an opportunity to develop an understanding of each other's working processes and led to offers of practical mutual assistance being made. For example, in one warrant execution focus group, the police offered to provide CEOs with photographs to assist with the identification of offenders on the doorstep and the police gained a new understanding of the useful information on target criminals held by the CEOs.
- 1.17 Joint inspections often identify joint working problems caused by incompatible, or not joined-up, IT systems. Such problems also exist in relation to CPE. Examples include:
- ◆ one police force has an excellent warrant tracking database which cannot be shared electronically with the court for technical reasons
 - ◆ there is no national court (magistrates and Crown) database of offenders held in custody, and therefore CEOs often make unnecessary visits to their homes (but this will be improved when all court areas have their own access to the PNC)
 - ◆ in a large metropolitan area, CEOs undertaking an Automatic Number Plate Recognition (ANPR) operation with the police had to have six people standing by in the office to check six different court databases for outstanding warrants
 - ◆ one LCJB Chair commented that IT systems are not yet sufficiently developed to enable the straightforward tracking of offenders through the system in terms of gender or ethnicity, for example
 - ◆ one YOT is unable to access the CJIT secure e-mail system for technical reasons
 - ◆ one probation area's self-assessment highlighted delays caused by the lack of a single inter-agency IT-based case management system.

These issues further underline the need for joined-up IT systems to be developed urgently in order to bring about improvements in performance.

Inter-agency protocols or service level agreements (SLAs) about the enforcement of community penalties

- 1.18 In many areas there are a number of formal agreements between agencies, although staff in some areas said that formal written agreements are not necessary because relationships are already good; most existing SLAs and protocols are perceived by practitioners to be worthwhile and effective. However, there are few examples of regular review or effective monitoring of SLAs or protocols and it is not clear that they are referred to frequently. They may be used mostly as a reference point when disputes arise.
- 1.19 Several of the agreements began in 2000 and are now dated. Inspectors suggest that the introduction of the new end-to-end target, and the measures set out in the Criminal Justice Act 2004, make this an opportune time to review inter-agency agreements. In one area, a useful draft protocol which incorporates good practice has been negotiated. The protocol includes a very useful timetable for each stage of the enforcement process, enabling the end-to-end period to be benchmarked and performance to be managed. Unfortunately, the protocol was not complete during the fieldwork and it appears that some agencies have not been as fully involved in the development process as others.

- 1.20 Recommendation 1 incorporates the need for inter-agency expectations to be fully agreed and recorded, and for such agreements to be effectively monitored and reviewed in the light of experience. Only then will inter-agency agreements fulfil their potential to:
- ◆ continually ensure that agencies work together effectively, incorporating good practice in a fluid situation
 - ◆ bring clarity and consistency to decision making
 - ◆ reduce the business risk that inter-agency arrangements might break down if key staff leave
 - ◆ assist in the induction and training of staff.

Inspection findings 2: People

In this section we were looking at whether sufficient, trained, staff are deployed on the enforcement of community penalties.

Overall assessment

The human resource requirements to ensure effective CPE are not identified on a systematic, inter-agency basis. The use of more specialised enforcement staff is proving beneficial. Generally, staff in CJAs are appropriately trained in terms of their own agency's processes. However, there is little evidence of structured attempts to ensure that staff understand the processes of other agencies, which hinders prompt and effective enforcement. There are no processes to ensure that generic diversity training is applied in the field of CPE.

- 2.1 There was no overarching, inter-agency, strategic approach to issues of staff deployment and skills. Inspectors therefore examined individual agency approaches to these matters. Inspectors would expect the forthcoming LCJB activity relating to the achievement of the new national target to be accompanied by a structured assessment of the LCJB's human resource requirements to deliver over-arching strategies.
- 2.2 During inspection focus groups, operational staff were asked about their knowledge of any agency lead officers or champions for enforcement. During 2004, all MCCs identified enforcement champions at a senior level. Most of the operational staff questioned, particularly the non-specialist enforcement staff, were not aware of such roles. This does not mean that the champions are not achieving anything in the field of CPE, but it does call into question the effectiveness of the leadership and inspirational role for such champions. In probation areas, senior members of staff are clearly driving forward the achievement of the probation target (see paragraphs 3.14 and 3.15). In those police forces visited, warrant execution fell into the very broad strategic portfolio responsibilities of ACPO ranks and the operational responsibilities of heads of criminal justice or crime investigation at a divisional level, but there were no lead officers as such. Few YOTs have senior staff or operational managers driving forward enforcement issues because, it was said, enforcement has not been subject to a YJB target.
- 2.3 Generally, each agency has good arrangements for the training of its own staff in the skills and knowledge required to undertake specific roles in enforcement. However, interviews with staff from all agencies made it clear that the greatest training needs are to understand the working practices and needs of other agencies and the enforcement process from end to end.
- 2.4 Where there is good understanding of inter-agency processes, this improves enforcement efficiency and effectiveness. In South Wales and Sunderland, specific arrangements are in place for the enforcement of alleged breaches of Intensive Supervision and Surveillance Programme orders. Although these did not involve formal training, there were mechanisms to ensure good understanding and communication between agencies e.g. joint implementation meetings, nominated single points of contact, attendance by YOT staff at police tasking meetings and presentations by YOT staff to Crown Court Judges and court staff. Recommendation 1 underlines the need for improvements in enforcement, as an inter-agency process, to be supported by inter-agency training.

2.5 Other training needs include ensuring that:

- ◆ all relevant staff are included in training – for example where new initiatives occur the needs of administrative staff should be identified and met
- ◆ YOT staff can use their internal data recording systems to leave an audit trail of decisions about enforcement action (or the lack of it). Some YOT staff are unsure how to use the system with the consequence that their decisions are less open to supervision
- ◆ YOT staff understand the importance of enforcement and compliance as key elements of achieving the purpose of community penalties.

These last two training needs are related to the low overall priority that enforcement is given by some YOTs.

2.6 Many staff from different agencies have received training in valuing diversity or anti-discrimination. It is welcome that such initiatives are so widespread and staff have positive views about such training. However, staff are not yet able to relate the generic training received to specific situations which might occur during the enforcement of community penalties. This is coupled with a lack of organisational guidance about such matters. A good example of the type of issue which might arise is the question of whether to arrest someone from a particular faith on a Holy Day. It is accepted, for example, that it would be potentially valid for a court case not to be listed on a day of religious observance, but no warrant officer or police officer had thought about the appropriate response to the same issue whilst executing a warrant, and there is no guidance about it. What is of concern is that the potential issues have not been considered and staff are not able to apply the training they have received.

2.7 It is clear that many agencies have moved to create more specialised enforcement posts. This is a positive development which is now repaying the investment. For example, in Southwark, a highly skilled probation enforcement officer prepares and presents cases in court. He has excellent relationships with court administrative and enforcement staff and is able to take professional decisions about, for example, which cases to fast track. Other probation areas have similar posts. Many police forces have warrant managers, who are sometimes serving police officers and sometimes civilians. Such managers collate intelligence and can either execute warrants themselves or task police officers to do so. Some MCCs, or their approved enforcement agencies, have created special teams of enforcement officers to execute breach warrants. For example, the Greater London Magistrates' Courts Authority (GLMCA) has begun to dedicate enforcement officers and a pool car to the execution of breach warrants in Southwark. This increases the motivation of staff, and even if the offender is not at home when officers call, the news of the increased effort encourages other offenders to surrender to the court within a few days of the visit.

2.8 Other agencies have explored how far enforcement can be made into a more streamlined administrative process. Some probation areas have passed responsibility for preparing papers for breach court hearings to administrative staff. Potentially useful administrative systems have been set up, including standard templates. However, administrative staff report that they do not always receive training in how to operate the systems. In addition the systems rely upon good communication between supervising officers and administrators, and this is not always effective in practice. For example, administrators report that supervising staff do not always communicate that they have agreed a change to an appointment with an offender. When the original appointment is not kept, the administrative staff unnecessarily follow the procedure for breaching the offender. Inspectors support innovative attempts to improve efficiency but the implementation of such developments must be fully planned and resourced, and monitored for overall effectiveness.

2.9 Staff shortages were indicated in two agencies in two criminal justice areas. One of these shortages is recognised, but long standing, and is having a serious impact on the enforcement of community penalties in that area. Unfortunately, the current performance targets and reporting systems mask the problem. In the other area, there are indications that a contractor does not have sufficient numbers of staff available. However, it has been difficult for the criminal justice agency to obtain accurate and up-to-date information from the contractor to establish the extent of this and to manage the situation.

Inspection findings 3: Performance management

In this section we were looking for appropriate improvement targets for the enforcement of community penalties set within and between agencies and that their achievement is effectively managed.

Overall assessment

At the time of the inspection, there were no national inter-agency targets in the field of CPE. Agencies have not adopted local targets and there is very limited inter-agency performance information or management. Some existing single agency CPE targets are unhelpful to other agencies in meeting their CPE targets. For example, magistrates' courts have a national target to execute warrants within 14 calendar days for youths or 28 calendar days for adults but some police forces have other targets – sometimes up to 90 days to execute a warrant. There are dangers that agencies may prioritise the meeting of performance targets over achieving good overall case outcomes. The parameters of some national performance measures are not expressed effectively, allowing areas to record performance differently, which undermines the validity of national data and its usefulness in driving up improvement.

Inter-agency performance management

- 3.1 The absence, as yet, of a joint agency target has inhibited the development and use of joint performance data in the field of community penalty enforcement. Inspectors were told of only one exercise to collect data that measured the speed of throughput of breach cases, and this data has not been shared between agencies.
- 3.2 Inspectors support the setting of an end-to-end target as an important method of encouraging agencies to plan together for improvements in systems and processes. The current position of there being two targets which apply to different parts of the enforcement process does not help agencies make overall improvements to performance. Agencies do not currently have any baseline data from one end of the process to the other and this will make it difficult for them to calibrate their efforts to achieve a challenging target.
- 3.3 One area has trialled a fast track process for getting offenders into court promptly. Local managers pointed to a success rate of 50% in getting offenders to court without the need for a summons or a warrant. Inspectors welcomed this evaluation but noted that it was based on a relatively small inspection caseload sample. It is not clear whether any evaluation would have been undertaken if the inspection fieldwork had not taken place.
- 3.4 Staff in several agencies in two of the criminal justice areas visited have given some thought to how inter-agency performance management might work, following the introduction of the new national target. The draft inter-agency protocol in West Mercia, which breaks down each part of the enforcement process into a target number of days, offers a useful approach to planning to meet the overall target.

Single agency performance management

- 3.5 Self-assessment returns indicate that performance management of single agency aspects of the enforcement of community penalties within magistrates' courts and probation areas is well established. This is less so for YOTs because enforcement is subject to a YJB national standard to commence enforcement action within five working days of the third unacceptable failure to comply, but not to a performance target. Police respondents indicate general performance management of warrant execution, but not specifically of breach warrants.

- 3.6 There are currently two single agency targets in the field of CPE, one for magistrates' courts and the other for probation areas.

Magistrates' court target

- 3.7 For magistrates' courts, the DCA set the following performance target in 2001:
- ◆ *75% of adult warrants completed within 28 days of issue and 75% of youth warrants completed within 14 days of issue.*

In June 2004 this was revised to become a national standard and local, banded targets were set to deliver an aggregate national performance of 61%. The performance against this target is monitored by the DCA strategic steer indicator SSI 5, making it one of the six most significant indicators for magistrates' courts.

- 3.8 The 75% target has been criticised by practitioners as being impractical, given the difficulties of obtaining co-operation from offenders who are already alleged to be in breach of an order. Certainly, achievement against the target has been very poor, with only 37% of warrants completed within the timeliness standard between April 2003 and March 2004. Nonetheless, the national average is improving.
- 3.9 Enforcement staff in some areas, particularly those with large transient urban populations, are unhappy about being judged solely by the timeliness of warrant execution as opposed to the overall success rate of warrants executed. Understandably, they feel that the task of tracing offenders who have already (allegedly) failed to comply with an order of a court – in areas where there is a culture of changing addresses and a failure to co-operate with authority – is a very difficult one. They are proud of their determined efforts to execute warrants and wish to see recognition of their success, although it might take a long time to trace someone. Inspectors support efforts to ensure the prompt execution of warrants but recognise that staff motivation is improved by the recognition of overall success.
- 3.10 Inspectors identified one area that uses a private approved enforcement agency (AEA) to execute warrants. This company returns to the court most warrants that it has not been able to execute within 28 calendar days of issue. The warrants are then passed to the police to execute. However, the MCC records the returned warrants as withdrawn for the purposes of SSI 5, despite the fact that they are still 'live'. The MCC's argument is that the warrants are withdrawn from the AEA. This has the effect of showing a high performance against the target, and a higher comparative performance than those MCCs which only show a warrant as withdrawn if it has been formally withdrawn as a judicial decision.
- 3.11 Inspectors sought clarity from the DCA about the definitions used for SSI 5. The original performance target from 2001 indicated that warrants should be either executed or withdrawn within 14 or 28 calendar days. However, in a letter to Justices' Chief Executives (JCEs) in June 2003, the DCA stated "*The wording of the new standard omits reference to 'withdrawn warrants' because of the confusion and practical problems over the interpretation of the phrase. Instead, we have substituted 'completed'*".⁷ Unfortunately, it appears that, despite recognising that the term 'withdrawn' warrants was unclear, the substitute word 'completed' was not defined, although officials still expect the definition to include warrants which have been executed or withdrawn.

⁷ JCE letter 193/04.

- 3.12 The effect of this lack of definition has been to allow MCCs to record performance differently, and Inspectors are aware of at least three ways in which the start or end points for the measure can be adjusted – for example, by starting the 14 or 28 days from when a CEO receives full information on the offender, rather than from the date of issue of the warrant. Inspectors suggest that these differences must significantly undermine the validity of the national SSI 5 data, and suggest that HMCS should clearly and precisely define the warrant execution measure SSI 5 in order to rectify this situation.
- 3.13 The main difficulty for courts in managing performance against this target is that the courts have the responsibility for it, but do not always have direct control over warrant execution. This is because, in most areas, some warrants are the responsibility of the police to execute, and courts cannot directly task police officers with specific activities. It would be possible for this to be tackled by good inter-agency protocols or service level agreements that are jointly monitored, but Inspectors did not identify any areas in which regular performance management meetings take place between the court and the police. Indeed, in several areas, difficulties are caused by the fact that the police have different targets for warrant execution from the court's targets, or where staff have inconsistent views of what the target is. For example:
- ◆ one police force has a 90-day warrant execution target against the national court target of 75% executed within either 14 or 28 days
 - ◆ in one area the police divisional commander said that the execution target is 40 days but the warrants clerk said it is between two and ten days depending on the grade of warrant
 - ◆ in another area, the divisional commander said that the target is 20 working days but five days for priority cases, whereas the warrants manager said that there are no targets.

National Probation Service target

- 3.14 The National Probation Directorate has issued a performance standard that requires contact to be made with the court within ten working days of the second unacceptable failure to comply with the order. The NPD has interpreted this to mean that the court will be contacted and a date for prosecution will be sought. A performance target has been set that the standard will be complied with in 90% of cases. This is the basis for a key measure of the performance of probation areas by the NPD.
- 3.15 Over the past four years, significant efforts have been made to ensure that performance against this standard is high. These efforts have been underpinned by the development and consistent use of a comprehensive national probation standard monitoring system. Probation staff at all levels are very focused on performing well in this, particularly because it is one factor which determines local area funding. Inspectors are impressed by these clear efforts to ensure that breach action is commenced promptly, and performance is currently at 89% nationally.
- 3.16 Inspectors identified one probation area with staff shortages, where there were indications that attempts to meet the national standard literally, led to a practice of writing a templated letter to the court which did not request a court hearing date nor formally initiate breach action. Inspectors were advised that court staff were not sure what to do with the letters because they require no court action, and actually pass them back to the probation enforcement officer. Inspectors do not feel that this practice meets the spirit of the national standard nor the detailed guidance issued by the NPD. The NPD should ensure that the data returns from all areas properly interpret its guidance.

3.17 Inspectors acknowledge that it is often useful to set targets against measures that are indicative of an efficient service. It is then important for agencies to manage performance against key targets. However it is also important to recognise that many targets measure *outputs* (what is produced) rather than *outcomes* (what effect the activity has) and it is outcomes which are ultimately important. In the performance driven culture of modern government organisations, it is possible for managers to focus on meeting targets whilst losing sight of the outcome. It is important for managers to record performance accurately, so as not to mask problems, and also to allow targets to be missed, within reason, if a better overall outcome can be achieved by doing so. For example, if missing the 28-day warrant execution target by a small margin allows the warrant to be successfully executed and the offender brought back to court, that is a good overall outcome and it would be unfortunate for courts to withdraw warrants prematurely to meet an arbitrary target. Inspectors wish to encourage agency performance management frameworks to balance the achievement of targets with the need to achieve overall outcomes that are just and effective.

Inspection findings 4: The process from unacceptable failure to comply with the order to conclusion of the breach case

In this section we were looking for effective agency and inter-agency processes and procedures, particularly concerning the flow of information between agencies, and that appropriate action is taken to enforce community penalties.

Overall assessment

The effectiveness of agency and inter-agency processes varies from the very good to poor. For example, the worst performing area takes twice as long as the best performing area in 'relevant failure to first hearing'. There are examples of initial good communication between the courts and probation or YOT but, after an offenders' failure to attend a court hearing, the flow of information is generally not effective. Despite some examples of good practice, overall, action taken to enforce community penalties is not yet sufficient.

Order is made and sent to YOT or probation

- 4.1 In the majority of areas, orders are usually received from the courts by the YOT or the probation area in a timely manner, although there are isolated incidents of probation apparently not receiving such orders. Where this is the case, probation officers or YOT members could be hindered in taking prompt breach action, as this requires a copy of the order.

Order is explained to the offender

- 4.2 There is clear evidence of understanding by probation officers and YOT members that it is important to explain fully the requirements of the order and the consequences of any failure to comply at the point of commencement. Practice varies, with some YOT and probation areas having clear leaflets explaining this, with an expectation that offenders sign copies of information given, to create a contract.

Contact with the offender is required in accordance with the national standard

- 4.3 In all probation areas inspected, the majority of offenders were offered appointments broadly inline with national standards. In three areas, all the adult offenders in the sample were offered the appropriate number of appointments. The performance in YOTs is more varied. Cases within the sample in four YOTs were found to be meeting the national standards fully; the two remaining YOTs (on small sample sizes) were failing to offer the required number of appointments.
- 4.4 In one YOT in a large geographical area, some staff are conducting a high number of home visits. Whilst it is perfectly acceptable to undertake home visits in these circumstances, there is no evidence that this is being done consistently between members of the team or is based on any policy or objective criteria, leading to the risk of discriminatory practice.

Clear warnings are given for all unacceptable failures to comply

- 4.5 There is clear evidence in most YOTs and probation areas of clear, well-written letters available as standard templates for issuing to offenders in the event of an alleged failure to comply with an order. These letters seek an explanation for absences and clearly set out the requirement for offenders to provide evidence to justify their absence. Such letters are sent in a timely manner. In addition to this, some YOTs are active in telephoning young offenders to chase up any absences on the day. Some YOTs instigate a meeting between the young person, their parent, the caseworker and their manager to ascertain the reasons for any failure to comply and to underline the seriousness with which non compliance is viewed.
- 4.6 Some YOTs do not have clear standardised procedures for the issuing of warnings, which leads to inconsistent practice. Although the sample sizes are small, it is clear that practice in two of the YOTs inspected is poor in this respect.

There is clear guidance about acceptable/unacceptable failures to comply

- 4.7 In probation areas and some YOTs there is clear management guidance for practitioners concerning the types of absences and behaviour which should lead to breach action. This guidance also specifies the types of evidence that would be needed to justify any absence: for example, the need to produce a medical certificate or letter from an employer.
- 4.8 Half of the YOTs inspected lack clear written guidance that is understood by staff, and, as a consequence, there is a risk of inconsistent practice and discrimination.

YOTs and probation areas have systems to record clearly when failures to comply have occurred

- 4.9 All probation areas have systems that enable them to record apparent failures to comply with an order, and subsequently designate those failures as acceptable or unacceptable.
- 4.10 Although all YOTs inspected have systems that enable them to record absences and designate them as acceptable or unacceptable, only a minority uses these systems sufficiently. Some YOT operational managers afford little priority to enforcement which leads to poor and inconsistent practice amongst staff. Some YOT staff have insufficient skills and knowledge of data systems to make accurate records, making the quality assurance of their decision making difficult.

Judgements about acceptable/unacceptable reasons for non-compliance

- 4.11 In all probation areas, the case sample inspected showed high levels of consistent good practice in case managers' judgements about offenders' non-attendance. However, only two YOTs were judged to be performing satisfactorily. In the majority of YOTs inspected there is insufficient consistency, poor judgement or a failure to enquire sufficiently and record the acceptability or unacceptability of the reason given for non-attendance.

Recommendation 3:

That, in accordance with national standards, all YOTs ensure that they issue appropriate guidance to staff so that decisions about whether absences are acceptable or not are made equitably and these decisions are clearly recorded.

Contact with the court is within the relevant national standard and the process of obtaining the date of the first hearing

- 4.12 The national standards for adult offenders and youths differ. The adult standard requires contact to be made with the court within ten working days. The NPD has interpreted this to mean that the court will be contacted and a date for prosecution will be sought. This is the basis for a key measure of the performance of probation areas by the NPD. YOTs are required to “*initiate breach proceedings within five working days*”. This does not form part of the key performance indicators for YOTs.
- 4.13 For adult offenders, there is a raft of performance data showing a steady improvement over time, with national performance in the percentage of cases initiated within the ten-day standard currently at 89%. The case sample read during the inspection indicated performance consistent with NPD data. Within the sample of case files read, the range of performance against the national standard was between 40% and 96%. (There are data problems in the area with the lowest performance in the inspection and the sample size is very small.) Overall performance against the national target was assessed at 84.7%.
- 4.14 Despite the absence of a national monitoring system for youths, Derbyshire YOT achieved a very creditable figure of just under 90% for those cases instigated in five working days. This was the best performing YOT. Although the samples were small, two YOTs contained no examples of breach being initiated within five working days. The overall performance was 46.8%
- 4.15 There are some examples of innovative approaches to the initiation of proceedings. Historically, the principal means of initiating breach proceedings has been the laying of information by probation officers or YOT members in the magistrates’ court, leading to the issue of a summons. However, some areas have developed additional methods of initiating proceedings with a view to speeding up processes and reducing the administrative effort required. For example:
- ◆ With the consent of the court, some probation areas and YOTs are writing a formal letter to the offender asking them to attend court. This is perceived to be more efficient where there is a local culture of compliance with requests to attend court. Other areas wishing to consider this approach would need to risk assess the likelihood of success in their particular circumstances.
 - ◆ Probation areas and YOTs are applying for warrants (usually with bail), as this is perceived to be more effective in securing the attendance of the offender at the first hearing. There is no management information to allow judgements to be made about the workload implications or potential benefits of this practice for inspectors to form an overall judgement. Areas wishing to consider such an approach would need to risk assess the likelihood of success in their particular circumstances.
 - ◆ If the whereabouts of the offender is not known, the usual procedure is to seek a warrant.

- 4.16 There are wide variations in the time elapsed between the breach which triggers enforcement action and the date of the first hearing, and some unacceptable delays. For example, the inspection casefile sample found that the average number of **working** days from the start of the breach process (relevant failure) to the first listing of the case in a magistrates' court is 39. This covers a range of an average of 25 days in the best performing area to 56 days in the worst performing area.
- 4.17 Many court areas have agreed to schedule dedicated adult breach of community penalty prosecution courts, sometimes as a stand-alone court or alternatively as part of a mixed 'private prosecutions' (i.e. not CPS) court. Youth cases are typically heard in mixed youth court lists. Some areas have arrangements to allow the probation area a maximum number of cases per court sitting. When these are filled it may be possible to add in a small number of additional cases – for example, if they need to be fast tracked. The Telford court in West Mercia has sufficient courtroom and legal adviser capacity to run additional courts every week. Commendably, the court has agreed to prioritise CPE by offering the probation area additional slots for breach courts. Coupled with the fact that the offender is not summonsed but invited to attend the hearing, the first hearing can be held only a few days after the breach action is initiated.
- 4.18 Clearly, not all courts are in a position to take the actions described above. The inspection casefile analysis and interviewee responses indicate that the first court hearing might regularly be held six weeks after the laying of the information. If the ten working days between the breach and the action being initiated are added to this it can be two months before the offender reaches court. In addition in some areas there are further significant delays (of several months in some cases) in obtaining a trial date for not-guilty plea cases. Whilst finite court resources are part of the reason for significant delays, such delays undermine efforts to make offenders responsible for their actions. The joint DCA/NPD circular PC13/2005⁸ issued in February 2005, encourages courts and probation areas in efforts to minimise delay in getting cases to court.

The offender is informed of the date of the hearing

- 4.19 Securing the offender's attendance at the first hearing is a significant factor in the effective prosecution of a breach. The offender will be informed by letter (and in many cases in person, as well) of the fact that they are alleged to be in breach by the supervising officer. Depending on the local procedures, this letter will either:
- ◆ indicate the date the offender is expected to attend court
 - ◆ inform the offender that a summons is being sought and the date will be made known to them shortly; or
 - ◆ inform the offender that a warrant is being sought.
- 4.20 Good practice was observed in one YOT which had developed a clear formal letter about the enforcement action that had been taken, and accompanied this with a separate letter written in terms understandable by the young people themselves.

⁸ *DCA/HMCS & NPS Joint Protocol For Expedited Listing And Notification Of Hearing In Community Penalty Breaches* – Probation Circular 13/2005 February, 2005.

- 4.21 The process of physically issuing a summons varies within and between areas, for example practices might differ between YOT and probation summonses. In some cases the court sends out the summons but in others it is posted by the prosecuting agency. This might incur a time delay in passing papers back and forth and all agencies need to minimise all avoidable delays.
- 4.22 Several police forces pointed out that there is a requirement for them to enter onto the PNC the fact that a summons has been issued for an alleged breach of a community penalty. The police felt that arrangements to advise them of the summons issue were often ineffective. This issue would benefit from exploration at a national level between the NPD, YJB and ACPO, with a view to clear guidance on the matter being provided to YOTs and probation areas.

YOT or probation prepares for the prosecution of the breach

- 4.23 All probation areas inspected have procedures to ensure the efficient prosecution of breach. The details of these procedures vary in accordance with local need and the requirements of the courts. All areas provide breach reports that most courts feel able to use to facilitate sentencing. When re-sentencing for the original offence, courts are either provided with a recent pre-sentence report (PSR) and details of the original offence, or a new PSR. Probation practice appears to have developed to meet the needs of local sentencers.
- 4.24 Some YOTs are very well prepared to meet the courts' information needs about breach actions and have good procedures. Other YOTs are ill-prepared for breach, as it is not a common occurrence for many members of staff to be involved in a prosecution. The relative infrequency of breach, and the absence of specialist staff, means some staff are uncertain of how to proceed.

Arrangements to identify appropriate cases for fast track

- 4.25 Approaches to fast tracking vary from area to area, but all YOT and probation staff interviewed were satisfied that action would be sufficiently swift if the risk were assessed as high. Some fast track arrangements are informal and unrecorded and Inspectors suggest that, whilst operational flexibility is important, such informal arrangements run the risk that inconsistent criteria will be applied to cases and not all parties will appreciate that the case is being fast tracked.
- 4.26 Increasing thought is being given to formal fast track schemes, mainly as a part of Narrowing the Justice Gap plans, particularly involving Priority or Persistent Offenders or Persistent Young Offenders. The YOT inspection casefile sample demonstrated that breach action is more prompt for priority cases. Inspectors support such moves to focus resources on the highest risk cases.

Issues relating to court hearings

- 4.27 Inspectors examined what action takes place to minimise the number of court hearings that are ineffective, i.e. do not go ahead as planned. A major cause of such ineffective hearings is often the failure of the offender to attend, and it is therefore an investment to take steps to ensure the offender's attendance. YOTs are particularly likely to take action to ensure attendance by reminding young people of their obligation to attend court by letters, phone calls, visits to the home and contact with parents.

- 4.28 Local agencies do not monitor breach hearing outcomes as they now monitor criminal trials, and it is therefore difficult to identify trends in the causes of adjournments. Inspectors suggest that such monitoring should now be extended to breach hearings in order to inform plans for meeting the end-to-end target.
- 4.29 When sentencing or re-sentencing an offender for a breach, the Bench or Judge requires an up-to-date antecedent history. In the past there have been problems in obtaining information from the CPS, but steps have now been taken to resolve this problem. YOT and probation staff hold the details of the offence history to the date of the original conviction and supply it to the court. There is, however, some uncertainty about which agency is responsible for providing the court with the details of offences committed since the community penalty was handed down. This remains to be resolved and may benefit from some focus at national level.

Effective passage of cases between magistrates' courts and the Crown Court

- 4.30 Interviewees identified few problems with the process of committing cases from the magistrates' courts to the Crown Court. There is a national standard for the transfer of committal papers and performance against this is high. Some respondents identified confusion amongst probation practitioners over when cases should go straight to the Crown Court for enforcement. This issue may bear some examination by policy makers with a view to ensuring that the legislation is as straightforward as possible, or to issuing clear guidance to practitioners.

Prompt provision of court outcomes and orders to other agencies

- 4.31 The promptness of providing court results to other agencies was not raised as a significant issue by interviewees. Both magistrates' courts and the Crown Court have a target to provide court results within three working days of the hearing and performance against the target is measured and, for the magistrates' court, reported. It remains important that all courts continually meet this target so that all agencies can respond to developments in cases promptly.
- 4.32 Several interviewees mentioned that some Crown Court results are not always communicated effectively. This involves cases in which, at a sentencing hearing, the defence advocate invites the Judge to revoke all existing penalties when sentencing for a later matter. At this point there would typically not be a member of probation staff in court so the original sentencing court and the supervising YOT or probation area rely on the Crown Court to notify them of the revocation. Interviewees indicated that this notification often does not take place. This results in enforcement staff making wasted efforts to execute warrants that are no longer valid. Crown Court staff stated that they would inform the sentencing court of any revocations and any Crown Court result ought to be placed onto the PNC. However, this is still said to be a significant issue in some areas and Inspectors urge HMCS managers to ensure that there are robust systems to ensure that all court results are communicated effectively.

Arrangements for ensuring that warrants are appropriately executed

- 4.33 Overall, Inspectors found local inter-agency arrangements for the execution of warrants to be lacking in clarity and suffering from gaps in communication. Those executing warrants require information about the risks posed by the offender, for example, whether they may harm themselves or others. Probation staff, YOT and police officers have access to the information required to risk assess, but court staff often have to apply this information. The NPD issued a helpful circular in 2004⁹ reiterating the need for probation staff to provide courts with risk assessment information and attaching a useful template. Court staff reported that risk assessment information is generally provided by probation staff. However, there is no corresponding YJB circular to YOTs. Court staff reported that, as a result, YOT risk assessment information is often not provided or is limited. Inspectors therefore suggest the YJB issue instructions to YOTs regarding risk assessments, to mirror the Probation Circular. In addition, the YJB may wish to consider setting up arrangements to receive all Probation Circulars so that an assessment can be made as to whether a similar circular should be sent to YOTs.
- 4.34 Often the most significant task for enforcement staff is to trace an offender who has moved or who has given false details. The MCSI thematic report on fine enforcement considered this matter in detail¹⁰. Inspectors found similar issues in this joint inspection. The police hold a great deal of information on offenders but this is not always easily accessible to court enforcement officers (CEOs). Some police forces, such as West Mercia, give the court helpful summary intelligence information, whereas others provide a bare minimum and sometimes take a few days to do so. Often individual CEOs make good personal links with police officers and are able to access information. However, it is inefficient, and sometimes inappropriate to rely on the individual personal relationships for data sharing and far preferable for agencies to have good systems. Following agreement between the DCA and ACPO, magistrates' courts are in the process of receiving direct access to the PNC to assist in tracing offenders. This, together with national access to DWP records and a credit reference database, provides enforcement staff with valuable new ways of tracing offenders. However, Inspectors also found that existing sources of information – such as court records, means enquiry forms and police court liaison officers – are not used to their full potential in tracing offenders. There is also an issue about the number of offenders for whom a breach warrant is issued when they are already in police or prison custody. This causes a great deal of wasted effort and brings the CJS into disrepute because it shows a breakdown in communication. Local agencies need to agree arrangements for the prompt checking on PNC and with HM Prison Service when breach action is being considered and again when any warrant has been issued.
- 4.35 Court staff are also to begin to enter breach warrants directly onto the PNC, instead of passing them to police staff to enter. At present, in most areas, there is a delay between the warrant being issued and its being entered on the PNC. This delay is as long as 28 days in some police areas. This is typically in those areas which have an AEA. The delay is caused by the practice of physically transferring the warrant to the AEA, which allows the agency time to make attempts to execute warrants within the DCA target of 28 days. It is only when the warrant is sent to the police unexecuted that it is put onto the PNC. The police are also said to favour a delay in entering warrants onto the PNC, because the administrative effort to put them on immediately is wasted if enforcement officers make their first visit the day afterwards

⁹ Probation Circular 17/2004: Enforcement: Offender Additional Information Sheet.

¹⁰ *A Review of Financial Penalty Enforcement Practices in Magistrates' Courts in England and Wales* paragraphs 1.44 to 1.54 (HM MCSI February 2005).

and execute the warrant. Inspectors are concerned about the impact of more than two days' delay in warrant entry. Offenders may come to the attention of police for any number of reasons and, if the warrant is not on the PNC, an offender may be stopped for another matter and allowed to leave with the warrant unexecuted.

- 4.36 In addition, schemes to prioritise action against high risk offenders using the National Intelligence Model will fail if the police do not receive notification of the existence of a warrant promptly. In one area the police have a highly developed PPO scheme but are only told that some of their key target suspects have warrants outstanding 28 days after the warrant was issued.
- 4.37 Some police forces place warrants onto local intelligence systems. However, offenders are highly mobile and may be in a different police force area where, again, they may be stopped and released unless the warrant is recorded on the national system.
- 4.38 Inspectors noted that communication about the rollout of direct court PNC access and the practical implications of this (such as who removes a warrant entry if it is executed out of court office hours) between the courts and police is patchy. Inspectors encourage the creation of outline agreements between courts and the police at a national level which can be adapted to local situations. The introduction of court data entry onto the PNC needs to be accompanied by good communication and careful planning which involves all stakeholders.

Recommendation 4:

That, by September 2005, ACPO, in consultation with HM Courts Service, develop and promote a joint national standard to govern the timeliness of the entry of breach of community penalty arrest warrants onto the PNC.

- 4.39 The commencement of direct court entry of warrants onto the PNC will assist attempts to end the physical transfer of warrants from one agency to another. Those executing a warrant do not have to have it in their possession, and there appear to be benefits from the court retaining the warrant and notifying others of its existence. Pilot projects are on the way to test this, the biggest potential problem being the risk of being arrested twice on the same warrant if the first arrest is not communicated effectively to all relevant parties.
- 4.40 In several of the areas visited there are misconceptions about which agencies undertake breach warrant execution. In some areas, for example, senior managers from different agencies believed the police do not execute breach warrants, whereas in fact they do. In other areas, Inspectors were told that the police execute breach warrants whereas in practice they do not. In one area evidence from the police flatly contradicted what court and probation staff said about whether the police executed breach warrants. With the reliance on the National Intelligence Model, police officers will be specifically interested in particular offenders and may take over the execution of particular warrants. This makes the overall picture less easy to categorise but Inspectors refer to the need for clarity about which agency is responsible for executing which warrants in Recommendation 1.
- 4.41 Co-operation between those who execute warrants is essential: enforcement staff may gather valuable intelligence about offenders for the police and the police will need to assist enforcement staff if a public order situation arises. Co-operation currently varies between excellent and poor. For example, in some areas the police are willing to provide court enforcement officers with photographs of offenders to enable identification, whereas in others this is resisted.

- 4.42 As was mentioned in paragraph 1.15, there are some tensions between AEAs and the police. Some senior police officers are unsure about the skills and background of AEA staff and managers. Inspectors were told that AEA staff sometimes resent the police executing warrants which would have earned them a fee, and that one AEA withholds intelligence about the efforts it has made to execute warrants when the warrants are passed to the police, because the original contract did not oblige them to do so. Many respondents, including senior court managers, CEOs and AEA staff, stated that in their opinion responsibility for executing community penalty breach warrants should never have been transferred from the police. There is a strong feeling that only the police have the training and resources to execute such warrants safely and promptly.
- 4.43 Arrangements to track and manage warrants are currently patchy. Police forces have good initial arrangements through warrant managers or officers and one police force has a highly developed warrants database which unfortunately is not used to track breach warrants. Currently, YOT and probation staff are not involved in monitoring or managing cases where a warrant has been issued, However, Derbyshire Probation Area reported that the latest version of the CRAMS IT system will have a new enforcement function. This will be used by breach officers to log warrants and have a case progression and monitoring role. Court approaches to warrant monitoring vary. Some have good IT databases, others retain a manual system which is not as functional. One court area is developing good plans to pass responsibility for monitoring the status of breach cases to the case progression officer, who is usually employed in ensuring that trials and other criminal hearings are effective. Although warrant monitoring arrangements are improving, they are not currently consistent or structured so that information can pass easily between agencies. Initially police breach warrant management is often good, with proactive efforts to execute warrants particularly for priority offenders. However, such efforts then decline, so that execution only takes place if the offender comes to police attention for other matters. The management of out of area warrants is also problematic, with police forces able to give a minimal priority to all but the highest risk offenders, and no-one from the 'sending' force chasing up their efforts. Inspectors have incorporated the need for good warrant monitoring and management into Recommendation 1.
- 4.44 Inspectors were told that warrants without bail in some areas are executed by enforcement staff single-handedly. Inspectors are concerned that this can leave both the officer and the offender vulnerable – particularly if the offender is a young person or of the opposite sex to the arresting officer – and suggest that this practice is reviewed without delay. There is a statutory obligation for all AEA staff to be criminal record checked but no similar obligation for CEOs to be vetted. Inspectors suggest that all staff who deal with people in vulnerable situations are fully and regularly checked for their suitability and receive appropriate training in human rights and awareness of child protection.

Case review and conclusion where a warrant is unexecuted

4.45 Within overall arrangements to manage cases, Inspectors explored what happens to cases in which a warrant remains unexecuted for many months. This is a single and inter-agency issue:

- ◆ YOT and probation staff have their own casefiles and work allocations which need to be managed
- ◆ the magistrates' court has its enforcement records and warrant officer work allocations
- ◆ the police have the efficient tasking of officers and the audit requirements of the PNC system to consider

but decisions about whether a case is considered to be 'live' for each individual agency are interdependent.

4.46 Interview responses varied. Some areas stated that warrants are reviewed after a fixed time, between 12 months and three years. One probation area reported that it reviews warrants internally, but tells no one else if a casefile is closed. One area reported that the warrant is reviewed once the AEA has initially attempted and failed to execute it, others reported no reviews and that warrants remain on the PNC indefinitely and probation service filing cabinets contain many old, unresolved cases.

4.47 Opinion varied as to which agency has the responsibility to review the case. Some probation staff respondents stated that it was the court's original order and warrant that is being enforced and so the onus is on the court. Court staff respondents stated that warrants are issued on application by the YOT or NPS, following the laying of information by one of those agencies. Hence, the responsibility for reviewing a case and requesting a warrant to be withdrawn is that of the prosecuting agency.

4.48 Additionally, there is a related policy issue about whether it is ever right to cease enforcement action and withdraw a warrant if an offender avoids the authorities for a significant period of time. One view is that offenders should not benefit from failure to comply with an order of the court. Another is the need for public bodies to expend resources only on pursuing cases with a reasonable prospect of success, and the need to be proportionate. For example, the prosecution of what is a minor breach, toward the end of a community sentence some years after it happened, might not be in the interests of justice.

4.49 It is not for Inspectors to resolve these issues, but there is a need for clarity and regularity in decision making. Inspectors believe that local YOTs, probation areas, courts and the police should ensure that all cases are appropriately reviewed, agreed decisions about their status made and communicated effectively to each other.

Annex A

Inspection methodology

Six criminal justice areas were identified in which fieldwork could take place. The areas were selected to enable Inspectors to examine:

- ◆ areas with a range of good and poor performance against court and national probation standards
- ◆ the implications of using different methods of warrant execution – i.e. by magistrates' court enforcement officers, private contractors and police officers
- ◆ a mixture of predominantly urban or rural areas.

Within each criminal justice area, one magistrates' court was selected as a focal point for fieldwork, together with the local agencies that related to that court, and the Crown Court to which cases are committed from that court.

Before each fieldwork visit, the heads of the police force, YOT, National Probation Area, magistrates' court and Crown Court were invited to complete a self assessment document and to supply a limited set of briefing documents. In addition, the local managers of each agency in the specific area of focus were also invited to complete a self-assessment.

During the fieldwork, a range of managers and practitioners from each agency was interviewed. Inspectors aimed as far as possible to interview staff from different agencies, but who have responsibility for similar parts of the enforcement process, together in focus groups. Inspectors from different inspectorates interviewed together, in order to maximise the ability to understand and raise inter-agency issues.

Finally, in each area a sample of casefiles from the magistrates' court, YOT and probation area was examined. The sample was selected by requesting the magistrates' court to identify the last 30 completed community penalty breach cases (both adults and youths) to have been heard, unless this was more than 12 months before the fieldwork visit. This provided a sample of cases where a breach had been proven in court. Inspectors then removed any cases which did not fall within the scope of the inspection, such as breaches of electronic tagging orders or those brought by YOTs which were not the subject of the fieldwork. This reduced the 30 cases, leaving between ten and 23 cases per area to be analysed. The total sample of casefiles analysed is 92. The magistrates' court YOT and probation area then provided their equivalent casefile for each case in the sample.

The dates of key events, such as the second unacceptable absence, were gathered from court and YOT or probation files. The time elapsed between key events was calculated and findings are summarised in Annex C.

Inspectors from HMI Probation also undertook a standard qualitative analysis of the YOT and probation files in order to establish, for example, whether the decision to take breach action is clearly recorded, in accordance with appropriate guidance and taken within the timescale prescribed by the national standard which applied.

Annex B

Inspection framework

Defining elements	Indicative evidence
Strategy and Approach <i>There are clear and effective strategies and approaches to promoting confidence in the CJS through the effective enforcement of community penalties.</i>	<p>LCJB strategies set a clear direction for the enforcement of community penalties.</p> <p>Effective local policy and practice is appropriately informed by clear, comprehensive and up to date national guidance.</p> <p>Confidence in the CJS is promoted by the provision of information about CPE to the public.</p>
Implementation and Planning <i>There are clear and effective plans to implement strategies for the enforcement of community penalties.</i>	<p>The LCJB has effective plans to deliver good performance in the enforcement of community penalties.</p> <p>CJ agency operational plans effectively implement LCJB strategies to enforce community penalties.</p> <p><i>Best practice in the enforcement of community penalties within and between agencies is identified, shared and systematically adopted.</i></p>
People <i>Sufficient trained staff, who have appropriate awareness of their role in agency and interagency processes, are deployed on the enforcement of community penalties.</i>	<p>LCJB operational plans are linked to an LCJB training strategy.</p> <p>Appropriate champions for CPE have been appointed within each agency.</p> <p>Appropriate staff resources are deployed on CPE.</p> <p>Single agency and inter-agency training needs in the field of CPE, including in relation to diversity, are identified and met.</p> <p>Staff have a clear understanding of agency and inter-agency processes and priorities (as they relate to the enforcement of community penalties) and understand their role in these.</p>

Inspection framework – continued

Defining elements	Indicative evidence
<p>Processes and Procedures <i>There are effective agency and inter-agency processes and procedures, particularly concerning the flow of information between agencies, and appropriate action is taken to enforce community penalties.</i></p>	<p>Offender attendance across all interventions is monitored by the probation or YOT case manager with appropriate action taken, where necessary, to ensure compliance.</p> <p>Probation or YOT staff judgements about acceptability/unacceptability of absences are appropriate.</p> <p>Probation and YOT action on enforcement takes place within the agreed national standards timescale. The area meets any national target for enforcement.</p> <p>There are arrangements to identify appropriate cases for fast track.</p> <p>Arrangements for the issuing of breach summonses are prompt and effective.</p> <p>Arrangements for the execution of warrants, including risk assessment and tracing people wanted on a warrant are appropriate and effective.</p> <p>There is an appropriate service level agreement or protocol between the magistrates’ court and the YOT and Probation area to guide the scheduling of breach cases in the magistrates’ court. The protocol or SLA is implemented effectively.</p> <p>Action is taken to minimise the number of breach hearings that do not go ahead on the day in the magistrates’ court.</p> <p>There is an effective and prompt process for passing cases between the magistrates’ and Crown Courts.</p> <p>Offenders are provided with timely notification of the requirement to attend court.</p> <p>Arrangements to obtain antecedent history and details of the original offence are prompt and effective.</p> <p>The outcome of hearings is provided accurately and promptly to all interested parties and entered onto the PNC in line with police national targets.</p> <p>Breach cases are completed within any national targets.</p>

Inspection framework – continued

Defining elements	Indicative evidence
	<p>There are effective arrangements for the prompt provision of court orders to the YOT or Probation area.</p> <p>Agencies ensure that all procedures and processes promote diversity, do not unlawfully discriminate, and respect the rights of the offender.</p>
<p>Performance Management <i>Appropriate targets are set in the field of the enforcement of community penalties within and between agencies, communicated effectively and their achievement is effectively managed.</i></p>	<p>Appropriate inter-agency targets are set and communicated effectively.</p> <p>Inter-agency performance information is produced, reported and circulated appropriately and used to take action to achieve targets.</p> <p>Appropriate agency targets are set and communicated effectively.</p> <p>Agency performance information is produced, reported and circulated appropriately and used to take action to achieve targets.</p>
<p>Partnerships <i>Effective joint working supports the enforcement of community penalties.</i></p>	<p>There is effective communication between agencies at a senior and operational level, supported by an appropriate use of information and communication technology.</p> <p>Inter-agency expectations are clearly defined in appropriate SLAs and protocols, which are communicated, implemented, monitored and reviewed effectively.</p>

Annex C

Summary of findings from casefile analyses

Methodology

Magistrates' courts in each of the six areas to be inspected were asked to provide a case file sample of the last 15 adult and 15 youth cases completed in their courts for proceedings of alleged breach of community penalties. These cases were then tracked through from the relevant probation and YOT offices to their completion in court. Data from the magistrates' courts file for each case was collected in terms of the elapsed time between fixed points. The corresponding YOT or probation file was examined by an Inspector from HMI Probation in order to establish whether the decision to take breach action is clear, properly recorded and in accordance with guidelines and standards. These judgements are reflected in paragraphs 4.5 to 4.15.

The attached table shows the data for the 92 cases we were able to track from relevant breach to completion in a magistrates' court. The data is presented for the full sample and also for each area.

The term 'relevant failure' is used to describe the offender's failure to comply with an order, when YOT or probation would be expected, under the relevant national standard, to begin the process of breach. 'Conclusion' is the date of the final magistrates' court hearing.

Overview of findings

- ◆ The average number of working days from the start of the breach process (relevant failure) to the conclusion of the case in court is 60. The worst performing area takes two and a half times longer on average than the best performing area. The average number of working days from the start of the breach process (relevant failure) to the first listing of the case in a magistrates' court is 39. This covers a range of an average of 25 days in the best performing area to 56 days in the worst performing area.
- ◆ 51% of cases are completed at first hearing, though the range between best and worst performing areas is 78% – 7%.
- ◆ The number of cases finalised at first hearing, where the first hearing is within 25 days of the relevant failure, is 18 (20%). Two of the six areas had no cases in this category.

All cases			
	All cases	Adults	Youths
Total number of cases*	92	60	32
Average number of working days between date of relevant failure and date of first hearing	39	40	36
Number of cases finalised at first hearing	47	30	17
Percentage of cases finalised at first hearing	51%	50%	53%
Number of cases finalised at first hearing where first hearing was within 25 days of relevant failure	18	11	7
Percentage of cases finalised at first hearing where first hearing was within 25 days of relevant failure	20%	18%	22%
Average number of working days from date of relevant failure to conclusion	60	67	47

* The total sample is made up of 76 cases where the offender is male and 16 cases where the offender is female. The ethnicity of offenders in the sample, as a proportion of those whose ethnicity was known, is 87% white British. Due to the small numbers involved, data is not divided by gender or ethnicity.

Area A			
	All cases	Adults	Youths
Total number of cases	10	5	5
Average number of working days between date of relevant failure and date of first hearing	41	51	30
Number of cases finalised at first hearing	6		
Percentage of cases finalised at first hearing	60%		
Number of cases finalised at first hearing where first hearing was within 25 days of relevant failure	1		
Percentage of cases finalised at first hearing where first hearing was within 25 days of relevant failure	10%		
Average number of working days from date of relevant failure to conclusion	47	51	43

Area B			
	All cases	Adults	Youths
Total number of cases	12	8	4
Average number of working days between date of relevant failure and date of first hearing	53	34	90
Number of cases finalised at first hearing	5		
Percentage of cases finalised at first hearing	42%		
Number of cases finalised at first hearing where first hearing was within 25 days of relevant failure	0		
Percentage of cases finalised at first hearing where first hearing was within 25 days of relevant failure	0%		
Average number of working days from date of relevant failure to conclusion	91	91	90

Area C			
	All cases	Adults	Youths
Total number of cases	14	10	4
Average number of working days between date of relevant failure and date of first hearing	28	30	24
Number of cases finalised at first hearing	9		
Percentage of cases finalised at first hearing	64%		
Number of cases finalised at first hearing where first hearing was within 25 days of relevant failure	8		
Percentage of cases finalised at first hearing where first hearing was within 25 days of relevant failure	57%		
Average number of working days from date of relevant failure to conclusion	36	32	47

Area D			
	All cases	Adults	Youths
Total number of cases	14	12	2
Average number of working days between date of relevant failure and date of first hearing	56	58	43
Number of cases finalised at first hearing	1		
Percentage of cases finalised at first hearing	7%		
Number of cases finalised at first hearing where first hearing was within 25 days of relevant failure	0		
Percentage of cases finalised at first hearing where first hearing was within 25 days of relevant failure	0%		
Average number of working days from date of relevant failure to conclusion	94	98	69

Area E			
	All cases	Adults	Youths
Total number of cases	19	10	9
Average number of working days between date of relevant failure and date of first hearing	25	21	29
Number of cases finalised at first hearing	8		
Percentage of cases finalised at first hearing	42%		
Number of cases finalised at first hearing where first hearing was within 25 days of relevant failure	5		
Percentage of cases finalised at first hearing where first hearing was within 25 days of relevant failure	26%		
Average number of working days from date of relevant failure to conclusion	59	82	34

Area F			
	All cases	Adults	Youths
Total number of cases	23	15	8
Average number of working days between date of relevant failure and date of first hearing	37	44	24
Number of cases finalised at first hearing	18		
Percentage of cases finalised at first hearing	78%		
Number of cases finalised at first hearing where first hearing was within 25 days of relevant failure	4		
Percentage of cases finalised at first hearing where first hearing was within 25 days of relevant failure	17%		
Average number of working days from date of relevant failure to conclusion	44	48	36

Annex D

List of areas visited

<i>Criminal Justice Area</i>	<i>Area of specific focus</i>	<i>Crown Court Centre</i>
South Wales	Bridgend	Cardiff
Cumbria	Workington	Carlisle
Northumbria	Sunderland	Newcastle
West Mercia	Telford	Shrewsbury
Derbyshire	Chesterfield	Derby
London	Southwark	Inner London Sessions House

Annex E

Inspection reference group members

Ged Bates	National Probation Directorate
Neil Clarke	Justices Clerks Society
Peter Gray	National Audit Office
Francis Habgood	Association of Chief Police Officers
Pauline McLoughlin	National Probation Directorate
Paul McGladrigan	Department for Constitutional Affairs
Joyce Stewart	Department for Constitutional Affairs
Alison Wedge	Office of Criminal Justice Reform
Kirsty Wildgoose	Office of Criminal Justice Reform
Mary Wyman	Youth Justice Board

Annex F

Inspection team members

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Suki Binning	HMI Probation
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Lori Buckley	HM MCSI
Penny Rickards	HM MCSI
Andy Smith	HMI Probation
Rita Tucker	HMI Constabulary

Glossary

AEA	Approved Enforcement Agency
ACPO	Association of Chief Police Officers
ANPR	Automatic Number Plate Recognition
CEO	Civilian Enforcement Officer
CJIT	Criminal Justice Information Technology
CJS	Criminal Justice System
CPE	Community Penalty Enforcement
CPS	Crown Prosecution Service
DCA	Department for Constitutional Affairs
ETMP	Effective Trials Management Programme
GLMCA	Greater London Magistrates' Courts Authority
ISSP	Intensive Supervision and Surveillance Programme
LCJB	Local Criminal Justice Board
MCC	Magistrates' Courts Committee
MCS	Magistrates' Courts Service
NCIS	National Criminal Intelligence Service
NIM	National Intelligence Model
NPD	National Probation Directorate
OCJR	Office for Criminal Justice Reform
OPSR	Office for Public Service Reform
PNC	Police National Computer
PPO	Persistent or Priority Offender
PSR	Pre-sentence report
PYO	Persistent Young Offender
SLA	Service Level Agreement
SSI5	Strategic Steer Indicator 5 – A DCA performance indicator on the promptness of execution of breach warrants.
YJB	Youth Justice Board
YOT	Youth Offending Team

HMICA contact details:

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