



Attorney General
& Justice

A fairer fine system for disadvantaged people

An evaluation of time to pay, cautions, internal review and the work and development order scheme

May 2011

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ISBN: 978-1-921590-61-0 (print)
978-1-921590-62-7 (online)

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List of acronyms

AGJ	NSW Department of Justice and Attorney General
BOCSAR	NSW Bureau of Crime Statistics and Research
IIBSoR	Institute for Innovation in Business and Social Research, University of Wollongong
LRC	NSW Law Reform Commission
OSR	NSW Office of State Revenue
RTA	NSW Roads and Traffic Authority
SDRO	NSW State Debt Recovery Office
WDO	Work and Development Order

Acknowledgments

The Department of Attorney General and Justice would like to extend its thanks to the individuals and organisations that assisted in this evaluation, including in particular:

- The State Debt Recovery Office
- Aboriginal Community Justice Groups
- Corrective Services NSW
- NSW Juvenile Justice
- NSW Aging, Disability & Home Care
- NSW Health, Mental Health and Drug & Alcohol Office
- Legal Aid NSW
- Catholic Care
- Homeless Persons' Legal Service
- Intellectual Disability Rights Service
- Illawarra Legal Centre Inc
- Marrickville Legal Centre
- Mission Australia
- Public Interest Advocacy Centre
- St Vincent de Paul Society
- Shopfront Youth Legal Centre
- The Institute for Innovation in Business and Social Research (IIBSoR), University of Wollongong
- All of the organisations, health practitioners and issuing agencies who participated in the on-line surveys on the reforms to the fine system and the Work and Development Order pilot.

1. Executive summary

The *Fines Further Amendment Act 2008* (NSW) made reforms to improve the system for the administration and enforcement of court fines and penalty notices, particularly for vulnerable groups. To this end, the amendments:

- allowed people who receive Centrelink benefits to refer a fine to the State Debt Recovery Office ('SDRO') early and without enforcement costs, so that they can access Time to Pay arrangements (including Centrepay) as a means by which to pay their fines (Centrepay is a direct debit facility that allows automatic regular deductions from Centrelink benefits).
- made it clear that law enforcement officers may give a caution instead of a penalty notice, in appropriate circumstances.
- introduced a statutory system for the administrative review of penalty notices on certain specified grounds.
- established a two-year pilot fine mitigation scheme called Work and Development Orders ('WDOs'). WDOs are orders, made by the SDRO, that allow certain disadvantaged people to clear their fine debt by undertaking unpaid work, courses or treatment, with the support of an approved organisation or registered health practitioner.

This evaluation assesses the implementation of these reforms, to determine how they have been operating in practice and whether they have been successful in meeting their objectives. The focus of the evaluation is on the WDO pilot, which is due to finish on 10 July 2011. The findings from this aspect of the evaluation will help determine whether or not the WDO pilot should be made permanent, in its current form or with modifications.

Overall, the evaluation has found that the reforms to the fine and penalty notice system are meeting their objectives. Allowing people on Centrelink benefits to access Centrepay as soon as they are issued with a court fine has led to the recovery of \$1,033,563 as at 4 April 2011, and a further \$3,357,169 in court fine debt is under management through Centrepay arrangements. Allowing people on Centrelink benefits to access Centrepay as soon as they are issued with a penalty notice has led to the recovery of \$1,604,363 as at 4 April 2011. A further \$5,929,825 in penalty notice debt is under management through Centrepay arrangements.

Most stakeholders report that the introduction of statutory powers to issue cautions and review penalty notices, supported by Guidelines from the Attorney General, has been helpful. However, there are some suggestions that the implementation of these statutory powers could be improved through training of relevant officers and monitoring. Minor changes to the Guidelines governing both internal review and cautioning are also recommended.

Importantly, the evaluation has found that the WDO scheme has provided an effective and appropriate response to offending by disadvantaged people. As at 31 March 2011, 645 people had been issued with WDOs and reduced \$205,400 worth of fine debt. A further \$1,826,440 worth of fine debt is under management through WDOs. As at 14 April

2011, there were 143 organisations and 77 health practitioners enrolled in the scheme. WDO clients and their supporting organisations and health practitioners are, overall, emphatically supportive of the scheme and there is near unanimous support from stakeholders for the scheme to be made permanent. The evaluation has found that the WDO scheme has helped to:

- Reduce reoffending in the fine enforcement system, and secondary offending in the broader criminal justice system. In particular, preliminary statistics indicate that 82.5% of WDO clients have not received another fine or penalty notice enforcement order since having their WDO approved
- Engage clients in appropriate treatment or activities that they may not otherwise have engaged in, including in particular mental health, drug and alcohol treatment
- Reduce client stress, anxiety and feelings of hopelessness and despair
- Promote client agency, self-esteem and self-efficacy
- Build client skills, provide them with an incentive to work, and may lead to employment or more employment opportunities
- Reduce costs to government associated with fine enforcement, ongoing offending behaviour, welfare dependency, mental health problems and drug and alcohol addiction.

There is a need to resolve some policy issues that have arisen during the WDO pilot. There has also been strong stakeholder feedback for the administration of the scheme to be improved, and for the scheme to be better supported. This evaluation therefore makes suggestions to streamline the application and reporting process, and to better support the SDRO to handle its administrative responsibilities. Furthermore, to ensure that the scheme expands across the state and that approved organisations and health practitioners are properly supported, it recommends the establishment of four small WDO regional support teams to be located within Legal Aid NSW offices and the Aboriginal Legal Service in Coffs Harbour, Dubbo, Nowra and Campbelltown. Once these measures have been taken, resources need to be allocated towards educational and promotional materials for both service-providers and people with fine debt who may be eligible to participate in the scheme. Regional and remote areas and Aboriginal communities need to be targeted in this process.

2. Summary of recommendations

It is recommended that:

Voluntary enforcement

- (1) The *Fines Act 1996* be amended to enable apprentices and trainees to “voluntarily enforce” their fines and penalty notices for the purposes of entering into a Time to Pay arrangement.

Cautions

- (2) The Attorney General’s Caution Guidelines be amended to include a statement of principle regarding the need to limit the entanglement of vulnerable people in the fine enforcement system.
- (3) The Attorney General’s Caution Guidelines be amended to provide that in deciding whether to issue a caution or a penalty notice, it may be relevant for an officer to consider whether the person has committed the same or similar offences previously (where this is practicable).
- (4) All agency-specific caution guidelines be reviewed for consistency with the Attorney General’s Caution Guidelines, by the Department of Attorney General and Justice (‘AGJ’) or any body given oversight responsibility for the penalty notice system.
- (5) Awareness-raising be carried out with all issuing agencies (and local councils in particular) on the cautioning power in the *Fines Act 1996* and the existence of the Attorney General’s Caution Guidelines. This awareness-raising could again be undertaken by AGJ or any body given oversight responsibility for the penalty notice system.
- (6) Comprehensive training be carried out for all enforcement officers on the cautioning power in the *Fines Act 1996* and the Attorney General’s Caution Guidelines. This training should focus on working with vulnerable people. AGJ or any body given responsibility for oversight of the penalty notice system could assist with materials for this training.
- (7) Compliance with the Attorney General’s Caution Guidelines be monitored by AGJ or any other body given responsibility for oversight of the penalty notice system.

Internal Review

- (8) The SDRO Review Guidelines be amended to better reflect the right of a penalty notice recipient to make an application for internal review and the grounds on which a penalty notice must be withdrawn under the *Fines Act 1996*.
- (9) The Attorney General’s Internal Review Guidelines be amended to include examples of what might constitute appropriate supporting evidence in an application for internal review.

- (10) The Attorney General's Internal Review Guidelines be amended to set out all circumstances in which an agency is not required to conduct an internal review.
- (11) The Attorney General's Review Guidelines be amended to ensure greater clarity and consistency with the *Fines Act 1996*.
- (12) The *Fines Act 1996* be amended to enable a person who has had their penalty notice confirmed upon review the option of court-electing up until the date for payment on the new penalty reminder notice.
- (13) The *Fines Act 1996* be amended to enable the SDRO to process an application for internal review even though a court-election has been received.
- (14) The legislative provisions in the *Fines Act 1996* governing court-election and internal review be reviewed and simplified.
- (15) The internal review system be monitored and publicly reported upon, potentially by any body given responsibility for oversight of the penalty notice system, if such a recommendation is made by the LRC.
- (16) Awareness-raising around the right to seek internal review be carried out by an appropriate agency or agencies, such as the SDRO, AGJ, Legal Aid NSW, and/or any body given responsibility for oversight of the penalty notice system, if such a recommendation is made by the LRC.

The Work and Development scheme

- (17) The WDO pilot scheme be made permanent.
- (18) All government agencies (not just NSW government agencies) be eligible for approval.
- (19) Compliance with any government funding (if received) be a selection criterion, rather than compliance with NSW government funding.
- (20) The WDO organisation application form specify whether the organisation is seeking local or global approval.
- (21) The WDO organisation application form have two lists to clearly indicate which activities the organisation intends to provide directly, and which activities local services would provide while the organisation provides case management.
- (22) A simpler and more streamlined application form and process apply to government agencies who wish to participate in the WDO scheme.
- (23) The WDO Guidelines set out the process to be followed to vary an organisation's approval. The Guidelines should stipulate that a letter/form for variation should be sent to the SDRO, and variations will be granted by the Assistant Director General of AGJ if the organisation has the same ABN, appropriate insurance, OH&S procedures, and suitably trained staff for any additional activities it is seeking to provide.
- (24) The WDO Guidelines confirm that inter-state organisations can apply to become approved in the WDO scheme (and that inter-state residents can apply for a WDO).

- (25) The process for enrolment as a health practitioner be amended to require health practitioners to provide documentary evidence of their registration.
- (26) The definition of acute economic hardship be drawn from or be based on an existing, arms-length means test(s).
- (27) The definition of acute economic hardship be taken to be satisfied if the person is in receipt of an eligible Centrelink benefit (as defined by the Director of the SDRO).
- (28) People with a serious addiction to drugs, alcohol or volatile substances, who are otherwise ineligible to participate in the WDO scheme, be allowed to participate on the condition that they undertake either drug and alcohol treatment or counselling.
- (29) The WDO Guidelines provide a more detailed explanation of the types of WDO activities, with examples.
- (30) The Guidelines be amended to expressly state that a client's attendance at case management meetings with their social worker or other case worker can be counted as counselling for the purposes of the WDO scheme.
- (31) Voluntary court-diversion programs, such as participation in the Magistrates Early Referral into Treatment (MERIT) or CREDIT (Court Referral of Eligible Defendants Into Treatment) programs, be eligible activities for a WDO. However, compulsory court-ordered programs should remain excluded from eligible WDO activities.
- (32) Educational activities undertaken as part of an apprenticeship or a traineeship be eligible activities for a WDO.
- (33) Mutual obligation activities undertaken for the purposes of Centrelink benefits be eligible activities for a WDO.
- (34) The WDO Guidelines clearly state that the SDRO does not verify that the activities proposed to be undertaken as part of a WDO are suitable and appropriate for the client. Rather, the onus is on the supporting organisation or health practitioner to ensure that this is the case.
- (35) The SDRO be provided with the resources to enhance its computer system to administer the WDO scheme, with a self-service portal and reporting capabilities;
- (36) Responsibility for determining client eligibility for the WDO scheme rest with the supporting approved organisation or health practitioner.
- (37) The requirements for proof of eligibility should be revised, with a view to providing a clear and specific list of evidence which the supporting organisation or health practitioner would need to keep on file to establish eligibility (applications for special consideration could be made to the SDRO where the requisite documentation was unavailable).
- (38) Resources be allocated for random audits of 5% of all WDOs issued in a two year period, to verify approved organisations' and health practitioners' compliance with record keeping requirements, including in particular proof of eligibility.
- (39) The new WDO computer system provide applicants with an acknowledgment that their WDO application has been received, which

shows the rate at which the applicant's fine debt will be reduced if all of the activities applied for are approved and carried out each month.

- (40) The WDO client application forms be revised to reflect the new application process, and taking into account issues raised in the evaluation, such as the need for question 7 (dealing with outstanding fines), the user-friendly nature of the on-line client application form, and the consistency of language used.
- (41) The WDO Guidelines be amended and simplified to reflect the new application process.
- (42) The WDO Guidelines be amended to expressly set out the consequences of making a fraudulent WDO application.
- (43) The WDO Guidelines stipulate that the maximum overall amount of fine debt that can be satisfied through a WDO each month is \$1000.
- (44) There be a consistent maximum amount of \$1000 per month for each category of WDO activity.
- (45) The WDO Guidelines define a full day as a 7 hour day.
- (46) There be a stand-alone category of "financial and other counseling" in the WDO Guidelines, with a cut out rate of \$50 per hour or \$350 per full day, to a maximum of \$1000 per month.
- (47) The minimum number of hours that a person must work per month be removed from the WDO Guidelines.
- (48) The cap on the number of hours that a person may undertake in a WDO be removed from the WDO Guidelines.
- (49) The online reporting form be reviewed and revised to ensure it is as user-friendly as possible.
- (50) The SDRO carry out awareness-raising so that approved organisations and health practitioners are made aware of the on-line reporting option.
- (51) The on-line reporting form be reviewed and revised to ensure it is as user-friendly as possible.
- (52) Awareness-raising be carried out so that approved organisations and health practitioners are made aware of the on-line reporting option.
- (53) The WDO Guidelines state that a variation or addition to the specific activities to be undertaken as part of a WDO will be permitted, provided that the organisation or health practitioner has approval to provide or supervise that kind of activity, and the supporting organisation or health practitioner sends an email to notify the SDRO.
- (54) WDO clients and their supporting organisation/health practitioner be able to access an on-line balance, or be provided with a monthly statement, that shows how much fine debt the client has satisfied and how much is outstanding (translated into hours or months of activities that need to be completed, as well as dollar amount outstanding).
- (55) The WDO Guidelines make provision for revocation of an organisation's approval, or a health practitioner's enrolment, if they fail seriously or repeatedly to comply with the conditions of their approval or enrolment. As recommended in recommendation 38, there must also be provision for the

audit of approved organisations and health practitioners to ensure compliance with their obligations under the scheme.

- (56) A network of regional WDO support teams be established across NSW to promote the WDO scheme and provide information, advice and other support to organisations, health practitioners and eligible individuals. The service should be centrally coordinated through the Central Sydney office of Legal Aid NSW, with small WDO teams based in Coffs Harbour, Dubbo, Nowra, and Campbelltown. To ensure Aboriginal engagement, the WDO support teams in Campbelltown, Coffs Harbour and North Western NSW should work with Aboriginal Field Officers that are currently being established in partnership with the Aboriginal Legal Service.
- (57) A set of promotional and educational materials about the WDO scheme be developed for organisations and health practitioners who may wish to participate in the scheme.
- (58) A set of promotional and educational material about the WDO scheme be developed for eligible individuals who may wish to participate in the scheme.

3. Background

3.1 The fine and penalty notice system

In 2008/09, NSW government agencies issued approximately 2.8 million penalty notices, with a total value of \$246.7 million.¹ The offences for which penalty notices may be issued are often referred to as “regulatory offences”, because they relate to standards established by law to regulate matters such as road and public transport, health and safety, and the environment. Penalty notices can be issued under 117 statutory provisions, for over 12,000 offences.² The majority are issued for traffic and vehicle related offences and the main issuing agencies are the NSW Police Force, Local Councils, RailCorp and the Roads and Traffic Authority (‘the RTA’).

There is no court hearing of a penalty notice offence unless a person elects to have the matter dealt with by the Local Court. If a person elects to go to court rather than pay the penalty notice, they risk a conviction being recorded, and a heavier penalty as well as court costs being imposed. Moreover, instigating a court challenge is usually an unrealistic option for disadvantaged people, including those who are homeless or suffering from a mental illness or intellectual disability. This is why most people do not elect to go to court, unless they have proof of their innocence. Of the 2.8 million penalty notices that were issued in 2008/09, only 1.05% of recipients elected to contest the matter in the Local Court.³

Court fines are distinct from penalty notices, in that they may be imposed by a court if a person is found guilty of an offence, following a hearing. While NSW does not have a strict sentencing hierarchy, fines fall toward the bottom end of the sentencing regime. Fines are the most common penalty issued by Local Courts. In 2009, the Local Court imposed 53,543 fines, making up almost half of all Local Court penalties in 2009 (53,543 fines were imposed out of a total of 116,915 penalties).⁴ Most fines are between \$200 and \$500.

3.2 Concerns around the impact of the fine and penalty notice system on disadvantaged groups

Any unpaid penalty notices and court fines are ultimately referred to the SDRO for enforcement action. The SDRO has the power, under the *Fines Act 1996*, to impose progressive sanctions on people who do not pay their fines and penalty notices. The hierarchy of sanctions is as follows:

- driver’s licence and vehicle registration suspension or cancellation
- civil enforcement – namely, a property seizure order, a garnishee order or the registration of a charge on land
- Community Service Order

¹ Office of State Revenue, NSW Treasury, *Annual Report 2008-2009* (2009) 27. See table 1.1.

² Information provided by the SDRO.

³ NSW Law Reform Commission, *Penalty Notices: Consultation Paper 10* (September 2010) 12.

⁴ Bureau of Crime Statistics and Research, *Penalty for Principal Offence in the Local Court 2009*, available at http://infolink/lawlink/bocsar/ll_bocsar.nsf/pages/bocsar_court_stats (accessed 25 February 2011).

- imprisonment (if the fine or penalty notice defaulter fails to comply with the Community Service Order).

This enforcement system works well for people who have an income and assets. Around 75 per cent of penalty notices, and 25 per cent of court fines, are finalised without the need for further enforcement action. The driver licence and vehicle sanctions are particularly effective in motivating people to pay.

However, the enforcement system works poorly for disadvantaged groups. It can, in fact, cause vulnerable people unintended harm. People who do not have the means to pay a fine in full or by instalments, or the ability to navigate the system and challenge a fine, incur further costs and penalties associated with the enforcement system, including the suspension and cancellation of their licence. When the NSW Sentencing Council reviewed the operation of the system in October 2006 it reported that:

It is clear beyond question that current enforcement procedures applicable to fines and penalties contribute to the difficulties of vulnerable people, particularly the unemployed, the young, prisoners, the Aboriginal community and those with intellectual or mental disability.⁵

Similar findings were made in the report of the Homeless Person's Legal Service and Public Interest Advocacy Centre, *Not Such a Fine Thing – Options for the Reform of the Management of Fines Matters in NSW* (April 2006) and the report of the Standing Committee on Law and Justice, *Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations* (March 2006).

Licence sanctions in particular can be crippling for some groups. Almost two-thirds of licence suspensions in NSW are for fine defaults rather than a result of demerit points.⁶ The number of licences suspended for fine default has also increased by 33% since January 2007.⁷ Driver sanctions have a disproportionate impact on people in remote and rural areas. Rural areas are among the most financially disadvantaged areas of the State. They also lack the public transport facilities of large cities. When people in rural areas lose their licences because they do not have the capacity to pay their fines, they may risk continuing to drive in order to attend classes or work, buy groceries, visit health professionals, or attend Centrelink interview.⁸ Driver licence sanctions also disproportionately affect Indigenous people. In a recent report prepared by the RTA, more than half the licence holders surveyed had had their licence suspended or cancelled for unpaid fines or demerit points.⁹ Close to half of those surveyed had outstanding debt to the SDRO.¹⁰

The imposition of driver licence sanctions can in turn lead to 'secondary offending'. This happens when people who have had their licence or vehicle registration suspended or

⁵ NSW Sentencing Council, *The Effectiveness of Fines as a Sentencing Option: Court Imposed Fines and Penalty Notices*, October 2006, 5.

⁶ 63% during the period January 2008 to June 2010. 28% are due to loss of demerit points. For raw figures, see <http://www.rta.nsw.gov.au/publicationsstatisticsforms/statistics/index.html> (accessed March 2011).

⁷ Ibid.

⁸ Standing Committee on Law and Justice, *Community Based Sentencing Options for Rural and Remote Areas and Disadvantaged Populations* (March 2006), NSW Sentencing Council, *The Effectiveness of Fines as a Sentencing Option: Court Imposed Fines and Penalty Notices*, October 2006.

⁹ Elliott & Shanahan Research, *Research report: An investigation of Aboriginal Driver Licencing [sic] Issues*, Prepared for the Roads and Traffic Authority, December 2008.

¹⁰ Ibid.

cancelled, continue to drive. Driving without a valid licence or a properly registered vehicle is a serious offence that can ultimately lead to imprisonment. Secondary offending is a particular problem for disadvantaged people. If a person lacks the financial capacity or the organisational skills to pay a fine or penalty notice, that person will inevitably fall into default and attract further sanctions. If they continue to drive, they potentially face imprisonment. This is undesirable, given that fines and penalty notices are intended to be penalties for minor infractions, or for offences which do not warrant imprisonment.

There are also indications that secondary offending is having a disproportionate impact on Aboriginal people. BOCSAR research shows that nearly a quarter of all Aboriginal appearances in the NSW Local Court are for road traffic and motor vehicle regulatory offences.¹¹ Furthermore, over the past 10 years, the number of Aboriginal people sentenced to imprisonment where their principal offence was driving while licence disqualified or suspended has increased by 35%.¹² In that period, Indigenous people constituted over 35% of all people incarcerated where their principal offence was driving while licence disqualified or suspended.¹³

As noted above, for most people, driver licence and vehicle sanctions are an effective tool to prompt payment of outstanding fines and penalty notices. However, for people who do not have capacity to pay their fines (in full or by instalments), these sanctions are largely ineffective. Furthermore, without a licence, their ability to go about day-to-day living and gain employment is limited, and they face the risk of secondary offending. Accordingly, there is a need for measures to ensure that vulnerable and disadvantaged people do not get caught up in the fine enforcement system.

3.3 The reforms made by the *Fines Further Amendment Act 2008*

The *Fines Further Amendment Act 2008* sought to address these concerns and mitigate the impact of the fine and penalty notice system on vulnerable groups. As noted in the Executive Summary, the key reforms introduced by this Act were as follows:

- People who receive Centrelink benefits may now refer a fine to the SDRO early and without enforcement costs, so that they can access Time to Pay facilities (including Centrepay) to pay their fines. (Centrelink is a direct debit facility that allows automatic regular deductions from Centrelink benefits).
- Law enforcement officers now have a clear legislative power to issue a caution instead of a penalty notice, in appropriate circumstances.
- People can apply to issuing agencies for the review of a penalty notice on certain specified grounds.
- Certain groups may apply to clear their fine debt through a WDO, which involves undertaking unpaid work, courses or treatment, with the support of an approved organisation or registered health practitioner. WDOs are open to people who are homeless, people who have an intellectual disability, cognitive

¹¹ Beranger, Boris, Don Weatherburn and Steve Moffat, "Reducing Indigenous Contact with the Court System", *Crime and Justice Statistics Bureau Brief: Issues Paper No 54*, Bureau of Crime Statistics and Research, Sydney, December 2010 at 3.

¹² From 194 in 2000 to 262 in 2009: NSW Bureau of Crime Statistics and Research, ref jh10-9430.

¹³ Ibid.

impairment or mental illness, or people who are experiencing acute economic hardship. This is a two-year trial.

This evaluation assesses the implementation of the key reforms. It focuses on the WDO scheme, which is the most significant and innovative of the reforms introduced by the *Fines Further Amendment Act 2008*. It evaluates both processes and outcomes in the WDO pilot.

3.4 The Law Reform Commission Inquiry into Penalty Notices

Around the same time that the *Fines Further Amendment Act 2008* was passed, the then Attorney General asked the NSW Law Reform Commission ('LRC') to inquire into, and report on, the laws relating to the use of penalty notices in NSW. The Terms of Reference asked the Commission to have particular regard to:

1. whether current penalty amounts are commensurate with the objective seriousness of the offences to which they relate;
2. the consistency of current penalty amounts for the same or similar offences;
3. the formulation of principles and guidelines for determining which offences are suitable for enforcement by penalty notices;
4. the formulation of principles and guidelines for a uniform and transparent method of fixing penalty amounts and their adjustment over time;
5. whether penalty notices should be issued to children and young people, having regard to their limited earning capacity and the requirement for them to attend school up to the age of 15. If so:
 - a. whether penalty amounts for children and young people should be set at a rate different to adults;
 - b. whether children and young people should be subject to a shorter conditional "good behaviour" period following a write-off of their fines; and
 - c. whether the licence sanction scheme under the *Fines Act 1996* should apply to children and young people;
6. whether penalty notices should be issued to people with an intellectual disability or cognitive impairment; and
7. any related matter.¹⁴

The LRC is expected to produce its final report towards the end of 2011. The recommendations ultimately made by the LRC are likely to overlap with some of the recommendations made by this evaluation.

¹⁴ NSW Law Reform Commission, *Penalty Notices: Consultation Paper 10* (September 2010), viii.

4. Methodology

This evaluation was coordinated by the Department of Attorney General and Justice ('AGJ'), with the assistance of an interagency WDO monitoring committee (comprised of government and non-government members), and independent research carried out by the Institute for Innovation in Business and Social Research (IIBSoR) at Wollongong University.

It involved the following:

- (a) an on-line survey on the use of cautions and internal review, sent to the SDRO and all key agencies that issue penalty notices. This survey received 86 responses. A summary report on these survey responses is at Appendix 1.
- (b) an on-line survey of all approved organisations and health practitioners participating in the WDO scheme. This survey received 121 responses. A summary report on these survey results is at Appendix 2.
- (c) interviews with eight selected approved organisations and 26 of their clients who participated in the WDO pilot. These interviews were carried out by Mr Duncan Rintoul from IIBSoR at Wollongong University. The full report on these interviews is at Appendix 3.
- (d) analysis of statistical data from the NSW Local Court, the SDRO and the Bureau of Crime Statistics and Research (BOCSAR). The SDRO statistics on the WDO scheme are at Appendix 4.
- (e) A review of the feedback provided by organisations and health practitioners when submitting their final WDO client reports to the SDRO.
- (f) A review of other miscellaneous and informal feedback provided by an interagency working group on Cautions and Internal Review, an interagency WDO Monitoring Committee, and approved organisations and other stakeholders involved in the WDO pilot.
- (g) A review of relevant submissions made to the NSW LRC inquiry into penalty notices, and results of consultations undertaken as part of this reference.

There are limitations to the evaluation. For instance, it was not possible to construct a strict counterfactual (eg, determine what would have happened in the absence of the reforms). Due to both time and resource constraints, only limited information was sourced around the implementation of cautions and internal review. Furthermore, there were only resources to interview a relatively small number of organisations and individuals participating in the pilot, and organisations who did not participate were not interviewed or surveyed. However, the evaluation has nonetheless been able to compile a range of valuable statistical and qualitative data from different sources to shed light on the impacts of the reforms to date.

5. Voluntary enforcement of court fines and penalty notices

Objective: Increased recovery of court fines and penalty notices from low-income-earners through Centrepay arrangements, and affording these clients the opportunity to avoid further enforcement costs.

5.1 Background

Centrepay is a means of allowing periodic deductions to be made from pensions, unemployment benefits, or other welfare payments. Many welfare recipients use this facility to pay bills such as rent, telephone and electricity. Since 2008, the SDRO has provided Centrelink recipients with the ability to deal with their fines through Centrepay. However, prior to the *Fines Further Amendment Act 2008* (NSW), a court fine or penalty notice was only referred to the SDRO if it had not been paid by the due date. As Local Courts and most issuing agencies did not have Centrepay facilities, this meant that Centrelink recipients could only access Centrepay facilities at the enforcement stage, when enforcement costs would apply. With the passage of additional time from the issue of fine until the enforcement stage, there was also the risk that it would be harder for the SDRO to locate the fine recipient, and enter them into a Centrepay arrangement.

The *Fines Further Amendment Act 2008* (NSW) addressed this issue, by enabling people on Centrelink benefits to have their court fines and penalty notices referred to the SDRO as soon as they are imposed, so that they may access the SDRO's Centrepay facilities (as well as other Time to Pay arrangements). This measure is known as "voluntary enforcement", and as such enforcement costs do not apply. Provision for the voluntary enforcement of penalty notices commenced on 10 July 2009. Provision for the voluntary enforcement of court fines commenced in January 2010.

5.2 Findings

The introduction of voluntary enforcement has facilitated significant recovery of court fines and penalty notices from Centrelink recipients.

Debt recovery as a result of voluntary enforcement of court fines

As at 04 April 2011:

- Over 13,000 court fines have been referred to the SDRO for the purposes of entering into a Time to Pay arrangement (primarily Centrepay).
- \$1,033,563 worth of court fine debt has been recovered through these arrangements.

- A further \$3,357,169 in court fine debt is under management through these arrangements.

Debt recovery as a result of voluntary enforcement of penalty notices

As at 4 April 2011:

- 28,683 penalty notices have been referred to the SDRO early for the purpose of entering into a Time to Pay arrangement (primarily Centrepay).
- This has led to the recovery of \$1,604,363.
- A further \$5,929,825 in penalty notice debt is under management through these Time to Pay arrangements.

Overall, voluntary enforcement has therefore resulted in the recovery of \$2,637,924 from low income earners in a relatively short time (approximately 15 months in respect of court fines and under two years for penalty notices). Over nine million dollars also remains to be recovered under these Time to Pay arrangements, not to mention the debt to be recovered under similar arrangements that will be established in the future. Furthermore, it is important to note that these arrangements have meant that thousands of individuals have been able to avoid falling into default with their fines, with associated enforcement costs and licence sanctions that follow. The evaluation therefore concludes that this amendment has been highly successful in meeting its objectives.

One additional suggestion that was made by the SDRO during the evaluation is that apprentices and trainees should be able to voluntarily enforce their court fines and penalty notices for the purposes of entering into a Time to Pay arrangement. This is sensible, given the very low incomes that people on apprenticeships and traineeships generally earn (they can be less than some Centrelink benefits). This will require legislative amendment, and the introduction of supporting policies and procedures around eligibility criteria and proof of eligibility.

The SDRO also suggested that there might be scope for broadening voluntary enforcement further, so that other disadvantaged clients are given the option of entering into Time to Pay arrangements at an early stage. The SDRO noted that in general 75% of penalty notices are paid and do not proceed to enforcement. It is of the view that more efforts could be placed into the remaining 25% of penalty notice recipients, so that they are engaged and do not fall into default. The evaluation notes this issue for further consideration.

5.3 Recommendation

In light of the above, it is recommended that:

- (1) The *Fines Act 1996* be amended to enable apprentices and trainees to voluntarily enforce their fines and penalty notices for the purposes of entering into a Time to Pay arrangement.

6. Issuing a caution instead of a penalty notice

Objective: Officers exercise discretion and issue cautions in place of penalty notices where appropriate, supported by training and appropriate guidelines

6.1 Background

In its report on the fine and penalty notice system, the NSW Sentencing Council was concerned that:

- *The Fines Act 1996* does not provide adequate guidance on when it is appropriate to issue a penalty notice.
- Transit, Local Council and National Parks and Wildlife Service officers do not have express legislative powers to proceed by way of a caution instead of a penalty notice.
- The strict liability nature of most offences and fixed penalties do not permit any allowance for the objective seriousness of the offence, or the personal circumstances of the offender.¹⁵

The NSW Sentencing Council stated that the penalty notice system would be:

...enhanced by the development of guidelines and a model code of conduct for issuing officers, which would permit greater discretion in, and guidance for, the use of a warning or a caution in those cases where that would be more appropriate than the issue of a penalty notice.

*Training in their use would be desirable and appropriate for officers empowered to issue penalty notices, particularly in remote and regional areas and in regions with a significant Aboriginal population.*¹⁶

Several major NSW issuing agencies (such as the NSW Police Force, RailCorp and the RTA) had already introduced cautions and warnings as a matter of policy and practice. The *Fines Further Amendment Act 2008* endorsed this good practice by amending the *Fines Act 1996* to make clear that officers who issue penalty notices may issue cautions in appropriate circumstances. Section 19A of the *Fines Act 1996* now provides that an officer may give a person an official caution instead of a penalty notice if the officer believes:

- a) on reasonable grounds that the person has committed a penalty notice offence; and
- b) it is appropriate to give an official caution in the circumstances.

¹⁵ NSW Sentencing Council, *The Effectiveness of Fines as a Sentencing Option: Court Imposed Fines and Penalty Notices*, October 2006 at 83, 86, 111.

¹⁶ *Ibid.*

In making this decision, the officer (other than a police officer) must have regard to applicable guidelines. These guidelines are either the Attorney General's Caution Guidelines, or guidelines adopted by the agency that are consistent with the Attorney General's Caution Guidelines.

These amendments commenced in March 2010, when the Attorney General's Caution Guidelines were also published.¹⁷ The Attorney General's Caution Guidelines were developed in consultation with a working group that comprised representatives of:

- the Department of Justice and Attorney General (as it then was)
- SDRO
- RTA
- the Department of Local Government (as it then was)
- NSW Police Force
- RailCorp
- Legal Aid NSW
- Australian Institute of Local Government Rangers
- Homeless Person's Legal Service
- Youth Justice Coalition
- Intellectual Disability Rights Service.

The Attorney General's Caution Guidelines provide that the matters that should be taken into account when deciding whether it is appropriate to give a person a caution instead of a penalty notice include the following:

- (a) The offending behaviour did not involve risks to public safety, damage to property or financial loss, or have a significant impact on other members of the public
- (b) The person is homeless
- (c) The person has a mental illness or intellectual disability
- (d) The person is a child (under 18)
- (e) The person has a special infirmity or is in very poor physical health
- (f) The offending behaviour is at the lower end of the seriousness scale for that offence
- (g) The person did not knowingly or deliberately commit the offence
- (h) The person is cooperative and/or complies with a request to stop the offending conduct
- (i) It is otherwise reasonable, in all the circumstances of the case, to give the person a caution.

¹⁷ Attorney General's Caution Guidelines under the Fines Act 1996, available at http://www.lawlink.nsw.gov.au/lawlink/legislation_policy/lp_lp.nsf/pages/lp_lp_cautionguidelines (accessed May 2011)

6.2 Findings

These reforms appear to have contributed to the objective of ensuring that officers exercise discretion and issue cautions instead of penalty notices where appropriate, supported by training and appropriate guidelines. A considerable number of submissions to the LRC Penalty Notices Consultation Paper stated that the express statutory power to caution and the supporting Attorney General's Caution Guidelines have been useful, both in providing guidance on when to issue penalty notices and the alternatives available.¹⁸ Stakeholders described them as "a step in the right direction", "a welcome measure" and "a good step forward".¹⁹ In the survey of all issuing agencies, 96.8% of responses (60 out of 62) also indicated that the Attorney General's Caution Guidelines are helpful. Survey respondents stated that the Guidelines "provide a solid base for adjudication policy", "reinforce officer discretion", and are "helpful in the fact that they are independent ...". The SDRO also commented that the "discretionary use of 'cautions' as opposed to the issue of a penalty notice is a positive thing and anecdotal feedback suggests that this has an immediate impact on changing behaviour".

6.2.1 Issues arising

a) Compliance in practice

While the positive feedback above is acknowledged, the extent to which these reforms have brought about any significant change in practice is unclear. For eight agencies that responded to the survey on cautions, cautioning is a new practice that was introduced following the amendments to the *Fines Act 1996*. However, for the remaining 54 agencies that responded (approximately 87% of all respondents), the reforms confirmed pre-existing practice: these respondents indicated that they issued cautions before the amendments to the *Fines Act 1996*. Furthermore, eight respondents to the survey indicated that their officers did not issue cautions,²⁰ and three answered that their officers did not have regard to any guidelines when issuing cautions.²¹ In the submission to the LRC Inquiry into Penalty Notices, the Youth Justice Coalition also reported:

Evidence from our members and young people strongly suggests that issuing officers are not issuing cautions as per the Attorney General's 'Caution Guidelines

¹⁸ See for instance, Division of Local Government, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 2, Land and Property Management Authority, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 8, Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9, NSW Food Authority *Submission to the LRC Consultation Paper 10: Penalty Notices* at 6, Maritime NSW *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9, Holroyd City Council, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 11, NSW Ombudsman, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 3, Shopfront Youth Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 8, Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7, Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7.

¹⁹ Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9, NSW Ombudsman, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 3, Shopfront Youth Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 8, Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7, Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7.

²⁰ Redfern Waterloo Authority, Camden Council, Cobar Shire Council, Gwydir Shire Council, Tamworth Regional Council, Nambucca Shire Council, RTA - Enforcement Litigation and Inspection Programs, and the Independent Transport Safety Regulator.

²¹ Singleton Council, an anonymous council response ('x'), and NSW Industrial Relations.

under the *Fines Act 1996* (the "caution guidelines"), and do not appear to be aware of their power to issue a caution under the caution guidelines.²²

The Illawarra Legal Centre also raised concerns over the extent to which the Attorney General's Caution Guidelines are being followed.²³

b) Training

As a related matter, it appears that training on the use of cautions and applicable guidelines is necessary to ensure proper implementation of the legislative amendments and accompanying guidelines around cautions. Some training in this area has been carried out. In the survey sent to all issuing agencies, 44 respondents indicated that their officers had been trained on the appropriate use of cautions, including training on applicable guidelines. However 18 agencies had not delivered such training. In the consultation for the LRC Penalty Notices Inquiry, the need for training was raised by many submissions.²⁴ The Division of Local Government, for instance, stated that it "supports the development of standardised training for enforcement officers, coordinated by a centralised body in consultation with relevant agencies."²⁵ This evaluation is of the view that the training of enforcement officers should be a responsibility of individual issuing agencies. However, if the LRC makes a recommendation for a central body to oversee and monitor the penalty notice system as a whole, this body could assist with training materials to ensure consistency.²⁶

c) Monitoring

Other stakeholders also suggested to the LRC that the effectiveness of the caution power and the Caution Guidelines would be enhanced through monitoring of compliance by issuing officers.²⁷ This evaluation agrees, and suggests that monitoring agency compliance with section 19A of the *Fines Act 1996* and the Attorney General's Caution Guidelines could be a responsibility of the body that is given responsibility for the oversight of the penalty notice system, if such a recommendation is made by the LRC.

d) Consistency between agency caution guidelines and the Attorney General's Caution Guidelines

Many agencies use their own guidelines to govern the issuing of cautions, either exclusively (12 respondents to the on-line survey), or in combination with Attorney General's Caution Guidelines (32 respondents to the on-line survey). This is permitted by the *Fines Act 1996*, so long as the agency's caution guidelines are consistent with the

²² Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7.

²³ Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7.

²⁴ NSW Legal Aid, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 10, LPMA, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 8, Division of Local Government, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 2, Redfern Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 2, Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7, and the Law Society of NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 6.

²⁵ Division of Local Government, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 2.

²⁶ Question 2.2 in the *LRC Consultation Paper 10: Penalty Notices* asks whether there should be a central body in NSW to oversee and monitor the penalty notice regime as a whole.

²⁷ NSW Legal Aid, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 10; Redfern Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 2.

Attorney General’s Caution Guidelines.²⁸ All respondents to the survey who use their own agency-specific caution guidelines indicated that their guidelines were consistent with those of the Attorney General. However, in consultation, the LRC indicated that some stakeholders queried this claim. Even some issuing agencies who responded to the on-line survey raised concerns around consistency in the issuing of cautions, in part due to discrepancies between the agency-specific and the Attorney General’s Caution Guidelines. For instance, one council commented:

Cautions are generally applicable [sic] to minor breaches of legislation such as a parking quick stop or a dog off lead.... most guidelines are followed (attorney general [sic] guidelines) however in some cases there is a contradiction between the caution guidelines and the Council enforcement policy. In those cases the policy is reviewed and a decision is made to either change to bring in line with attorney general [sic] guidelines or to adhere to the Council policy. It is not always consistent and the biggest critique is that not all councils follow guidelines or even the legislation when it comes to enforcement. This creates inconsistencies particularly on those matters that go to court.²⁹

In light of these issues, it would be beneficial to undertake a review of all agency-specific caution guidelines to ensure that there is, in fact, consistency with the Attorney General’s Caution Guidelines.

e) Amendments to the *Fines Act 1996* cautioning provisions and/or the Attorney General’s Caution Guidelines

There have been some calls for amendments to the *Fines Act 1996* cautioning provisions and/or the Attorney General’s Caution Guidelines. Set out below are some of the changes that were proposed in either the submissions to the LRC Consultation Paper on Penalty Notices or in the on-line survey to issuing agencies, with corresponding comments:

Table 1: Suggested changes to the caution provisions of the *Fines Act 1996* and/or the Attorney General’s Caution Guidelines

Proposed change	Comment
The Attorney General’s Caution Guidelines should include a statement of principle regarding the need to limit the entanglement of vulnerable people in the penalty notice system. ³⁰	The evaluation agrees that an inclusion of a statement of principle along these lines would be useful in reinforcing a key aim of the legislation and guidelines, but that it should refer to the fine enforcement system.
The <i>Fines Act 1996</i> or the Attorney General’s Caution Guidelines should mandate that penalty notices are not to be issued for inconsequential or “minor” offences, especially where the penalty amount may be excessive. ³¹	At present the Attorney’s Caution Guidelines state that the seriousness of the offence is one factor to be taken into account when deciding whether or not to issue a caution. The evaluation considers that this position is

²⁸ Section 19A(3), *Fines Act 1996* (NSW).
²⁹ Tumut Shire Council, response to the survey on cautions and internal review, March 2011.
³⁰ Homeless Persons’ Legal Service, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 15-17.
³¹ Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9 and Redfern Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 2.

	preferable to mandating when a penalty notice or caution should be issued.
<p>The Attorney General’s Caution Guidelines should provide that officers must exhaust other options (cautions/warnings) before issuing a penalty notice, especially for less serious offences and where recipient is a vulnerable person.³²</p>	<p>It will not always be appropriate to issue a warning or a caution before issuing a penalty notice. Furthermore, the Attorney General’s Caution Guidelines are not intended to be prescriptive or to remove officer discretion. They are intended as a guide only, and the seriousness of the offence and certain vulnerabilities are already required to be taken into account.</p>
<p>The Attorney General’s Caution Guidelines should apply to all agencies, including police or agencies that have issued their own guidelines, to ensure consistency.³³ The YJC, for instance, commented: “It seems unfair that one young person may be given a caution by a transit officer for being on a railway platform without a ticket, while another receives a \$50 fine from a police officer for the same offence. The law needs to be certain for all young people and not discriminate according to the issuing agency”.</p>	<p>At present this is not feasible. There are over 250 bodies that issue penalty notices in NSW, for a wide range of offences. Agency-specific guidelines are often needed to ensure that specific considerations relevant to each agency’s jurisdiction can be taken into account. It is important that any agency guidelines are consistent with the Attorney’s Caution Guidelines, but this issue will be addressed through the proposed review of all agency-specific caution guidelines.</p> <p>In respect of police specifically, the NSW Police Force is of the view that the existing law, training and operating procedures regarding all offences already address police discretion in sufficient detail.</p> <p>Finally, the issue of inconsistency across penalty notice amounts is being addressed by the LRC Inquiry into Penalty Notices.</p>
<p>There should be a clear provision in the <i>Fines Act 1996</i> that requires issuing officers to consider a caution before issuing a penalty notice.³⁴ (At present, the Act simply states that an officer “may issue a caution ...”).³⁵</p>	<p>While this approach may have merit, this evaluation considers it too premature to recommend any major changes to the legislative cautioning scheme at this time (the amendments have only been place for just over a year). The evaluation believes that comprehensive training of enforcement officers on the use of cautions (and in particular around working with vulnerable groups) should be carried out before further changes to the <i>Fines Act 1996</i> are made.</p>

³² Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9; Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7.

³³ Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9.

³⁴ Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 7, 8.

³⁵ Section 19A(1), *Fines Act 1996* (emphasis added).

<p>The <i>Fines Act 1996</i> should provide for the mandatory issuing of cautions in a limited set of circumstances.³⁶</p>	<p>As above.</p>
<p>The Attorney General's Caution Guidelines should direct the officer to consider the recipient's previous history of offences or cautions.</p>	<p>The Attorney General's Caution Guidelines already state that it may be relevant to consider whether the person has been issued with a caution for the same or similar offence before, but do not mention a person's previous history of offences.³⁷ It would be inappropriate and impractical for the officer to consider a person's offending history generally. However, it would be appropriate to state that in deciding whether to issue a caution, it may be relevant to consider whether the person has committed the same or similar offences before (where this is practicable).</p>
<p>The Attorney General's Caution Guidelines only provide for the issue of a caution where a penalty notice could be issued for the same behaviour. It may also be appropriate to issue a caution where, due to a technicality, a penalty notice could not be issued and the offence could not be proven beyond reasonable doubt in court.³⁸</p>	<p>This evaluation does not agree that a person should be given a formal caution for an offence if it cannot be proven that they committed the relevant offence.</p>

6.3 Recommendations

In light of the above findings, it is recommended that:

- (2) The Attorney General's Caution Guidelines be amended to include a statement of principle regarding the need to limit the entanglement of vulnerable people in the fine enforcement system.
- (3) The Attorney General's Caution Guidelines be amended to provide that in deciding whether to issue a caution or a penalty notice, it may be relevant for an officer to consider whether the person has committed the same or similar offences previously (where this is practicable).
- (4) All agency-specific caution guidelines be reviewed for consistency with the Attorney General's Caution Guidelines (by AGJ or any body given oversight responsibility for the penalty notice system).
- (5) Awareness-raising be carried out with all issuing agencies (and local councils in particular) on the cautioning power in the *Fines Act 1996* and the existence of the Attorney General's Caution Guidelines. This awareness-raising could again be undertaken by AGJ or any body given oversight responsibility for the penalty notice system.

³⁶ Homeless Persons' Legal Service, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 15-17.

³⁷ Clause 4.10, Attorney General's *Caution Guidelines under the Fines Act 1996*.

³⁸ Maritime NSW response to the on-line survey on cautions and internal review, February 2011.

- (6) Comprehensive training be carried out for all enforcement officers on the cautioning power in the *Fines Act 1996* and the Attorney General's Caution Guidelines. This training should focus on working with vulnerable people. AGJ or any body given responsibility for oversight of the penalty notice system could assist with materials for this training.
- (7) Compliance with the Attorney General's Caution Guidelines be monitored by AGJ or any other body given responsibility for oversight of the penalty notice system.

7. Internal review of penalty notices

Objective: Community members have access to a fair and transparent system of review after being issued with a penalty notice

7.1 Background

In its report on the fine and penalty notice system, the NSW Sentencing Council was concerned about the absence of a clear legislative power or procedure for the internal review of penalty notices.³⁹ The *Fines Further Amendment Act 2008* (NSW) responded to this concern by introducing a statutory system for the administrative review of penalty notices. Division 2A of Part 3 of the *Fines Act 1996* now deals with the internal review of penalty notices. It sets out a procedure for a person to apply to an issuing agency or the SDRO for a review of a decision to issue a penalty notice. An agency may decline to conduct a review:

- if a review has already been conducted,
- if the agency notifies the applicant in writing, within 10 days after receiving the application, that it has decided not to conduct a review and gives reasons for its decision, and
- in any other circumstances set out in the regulation.⁴⁰

The provision for a regulation was inserted to allow certain penalty notices to be exempt from the review process. This was on the understanding that some agencies that already have effective internal review processes in place may prefer not to modify their current practices. However, to date no agencies have applied for exemption under the regulation.

After reviewing a decision to issue a penalty notice, the reviewing agency may confirm the decision to issue a penalty notice or may withdraw the penalty notice. If a reviewing agency withdraws a penalty notice, it may, if it considers it appropriate to do so, give an official caution to the person as if it were an appropriate officer.⁴¹ Section 24E of the *Fines Act 1996* provides that a reviewing agency must withdraw a penalty notice if it finds any of the following grounds to be made out:

- a) the penalty notice was issued contrary to law,
- b) the issue of the penalty notice involved a mistake of identity,
- c) the penalty notice should not have been issued, having regard to the exceptional circumstances relating to the offence,
- d) the person to whom the penalty notice was issued is unable, because the person has an intellectual disability, a mental illness, a cognitive impairment or is homeless:

³⁹ NSW Sentencing Council, *The Effectiveness of Fines as a Sentencing Option: Court Imposed Fines and Penalty Notices*, October 2006 at xi, xv, 109 and 111.

⁴⁰ Section 24B, *Fines Act 1996*.

⁴¹ Section 24G, *Fines Act 1996*.

- i. to understand that the person's conduct constituted an offence, or
- ii. to control such conduct,
- e) an official caution should have been given instead of a penalty notice, having regard to the relevant guidelines under section 19A,
- f) any other ground prescribed by the regulations.

A reviewing agency must notify the applicant in writing of the outcome of the review within 42 days of receipt of the application, or within 56 days if additional information has been requested.

The Attorney General also issued Guidelines to support the statutory system of internal review in the *Fines Act 1996*. These Guidelines were again developed in consultation with a working group that again comprised representatives:

- Department of Justice and Attorney General (as it then was)
- SDRO
- RTA
- the Department of Local Government (as it then was)
- NSW Police Force
- RailCorp
- Legal Aid NSW
- Australian Institute of Local Government Rangers
- Homeless Person's Legal Service
- Youth Justice Coalition
- Intellectual Disability Rights Service.

The internal review amendments commenced in March 2010, and the Attorney General's Internal Review Guidelines were published at this time.

7.2 Findings

Feedback gathered in the evaluation indicates that the statutory system for internal review, supported by the Attorney General's Internal Review Guidelines, has helped ensure that community members have access to a fair and transparent system of review after being issued with a penalty notice. Several non-government stakeholders who made a submission to the LRC indicated that the reforms have been positive developments.⁴² Some Government stakeholders also submitted that the internal review amendments have been welcomed and/or are operating effectively.⁴³ The NSW Food Authority, for instance, stated that it had incorporated the Attorney General's Internal Review Guidelines into its compliance and enforcement policy, that the internal review process is in place, and that reviews had been completed.⁴⁴ Some positive feedback was also received in the survey sent to all penalty notice issuing agencies. One respondent

⁴² See for example Homeless Persons' Legal Service, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 27, Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9, Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 13.

⁴³ Maritime NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 12, Holroyd City Council, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 14, Division of Local Government, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 3.

⁴⁴ NSW Food Authority, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 8.

stated that the system of internal review “is appropriate and ensures transparency”. The SDRO also commented:

*[Internal review] is a viable administrative alternative to having the matter heard in Court. It also allows the client the opportunity to present extenuating circumstances that existed but were not apparent at the time of the detected offence.*⁴⁵

The overwhelming majority of survey respondents (almost 90%) also indicated that they find the Attorney General’s Internal Review Guidelines helpful.

In general, (as with cautions), the amendments appear to have confirmed pre-existing practice rather than brought about any significant change in practice. For most agencies, reviews of penalty notices are conducted by the SDRO and these reviews were conducted before the *Fines Further Amendment Act 2008*. In the on-line survey, twenty-nine respondents indicated that they conduct their own internal reviews. All 29 of these respondents indicated that they had conducted internal reviews prior to the amendments to the *Fines Act 1996*. Five respondents stated that their agency does not review penalty notices at all.⁴⁶ Only four respondents indicated that the number of internal reviews had increased since the internal review provisions were introduced into the *Fines Act 1996*,⁴⁷ and one of those respondents stated that the increase was not necessarily due to the changes in respect of internal review.⁴⁸

The SDRO reported that in the 12 months following the commencement of the internal review amendments to the *Fines Act 1996*, the SDRO processed 204,608 applications for review. It did not report any increase in the number of applications received since the commencement of the internal review legislative provisions. The SDRO does not currently have the capability to disaggregate review applications based on the grounds claimed, but improvements are currently being made to enable better management of this information in the future, when requests for review will be enabled online. Of the 204,608 review applications the SDRO received, 25% resulted in a caution, 7.2% resulted in a “no action”, and in 67.8% the penalty notice was to stand.

When conducting reviews, the SDRO uses both the Attorney General’s Internal Review Guidelines and the SDRO Review Guidelines. The Attorney General’s Internal Review Guidelines state that they do not apply if the agency has issued its own internal review guidelines, or has adopted the SDRO Review Guidelines. However, an agency’s internal review guidelines must not be inconsistent with the Attorney General’s Guidelines. In the survey sent to all issuing-agencies, 20 agencies indicated that they use their own review guidelines, 12 indicated they use the Attorney General’s Internal Review Guidelines, and 20 use the SDRO Review Guidelines (either alone or in combination). The SDRO Review Guidelines therefore continue to have an important role in the system for the internal review of penalty notices in NSW.

⁴⁵ NSW State Debt Recovery Office, response to survey on cautions and internal review, February 2011.

⁴⁶ These respondents were ‘x’ (anonymous), City of Canada Bay Council, Singleton Council, the Game Council of NSW, and the Independent Transport Safety Regulator (ITSR). However, ITSR indicated that it would conduct its own internal reviews of penalty notices when it has revised its penalty notices policy to incorporate cautions and internal reviews.

⁴⁷ These respondents were Manly Council, City of Sydney Council, City of Newcastle, and the Department of Environment, Climate Change and Water (as it then was).

⁴⁸ City of Newcastle.

7.2.1 Issues arising

a) The SDRO Review Guidelines

In its submission to the LRC, the Homeless Person's Legal Service (HPLS) highlighted some of the inconsistencies between the SDRO's Review Guidelines and the *Fines Act 1996*. The HPLS's comments bear quotation in full:⁴⁹

Firstly, the SDRO Review Guidelines use the title "What are the circumstances that [sic] I can ask for a review?", which implies that the various situations outlined in this column are a pre-requisite to applying for a review. The Fines Act 2006 [sic] (NSW) does not stipulate any pre-requisites for review, other than that the application must be in writing.

Secondly, and most importantly, the SDRO Review Guidelines fail to address all the circumstances in which a penalty notice must be withdrawn. The only reference is to "Vulnerable Persons –mental incapacity", and a corresponding description of "the circumstances that [sic] I can ask for a review":

The person issued the penalty notice has a diagnosed mental health condition and this condition was a contributing factor or lessens the responsibility of the person for the penalty notice.

The following advice is provided under the column titled "What evidence do I need?":

Report from a medical practitioner, health institution, and support agency or government department setting out history of mental health issues and how they resulted in or contributed to the offence.

There is no reference anywhere in the Guidelines to circumstances where the recipient of the penalty notice has an intellectual disability, a cognitive impairment or is homeless. This is a significant and unfortunate gap in the Guidelines, given that the Fines Act 1996 (NSW) explicitly states that a penalty notice must be withdrawn if the reviewing agency finds that the recipient was unable, because he or she had a mental illness, intellectual disability, cognitive impairment or is homeless to understand that the person's conduct constituted an offence or to control such conduct.

The evaluation agrees with these comments. Although the SDRO also uses the Attorney General's Internal Review Guidelines in its review process, it is important that the SDRO review guidelines provide a clear and comprehensive basis for review that is consistent with the provisions in the *Fines Act 1996* (NSW). The evaluation therefore recommends that the SDRO Review Guidelines be amended to better reflect the grounds on which a penalty notice must be withdrawn under the *Fines Act 1996*.

⁴⁹ Homeless Persons' Legal Service, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 28 (citations have been omitted).

b) Amendments to the Attorney General's Internal Review Guidelines

As noted above, almost 90% of issuing agencies who responded to the on-line survey indicated that they find the Attorney General's Internal Review Guidelines helpful. However, minor suggestions for amendment were made throughout the evaluation. The table below sets out and responds to these suggestions.

Table 2: Suggested amendments to the Attorney General's Internal Review Guidelines under the *Fines Act 1996*

Suggestion	Comment
The Department of Environment, Climate Change and Water (as it then was) suggested that the Attorney General's Internal Review Guidelines include the evidence that would be required when an applicant cites a medical condition as the reason for requesting the review (e.g. statement from a registered medical practitioner).	Clause 3.3 of the Guidelines currently states that the application for review must include "appropriate supporting evidence". The evaluation considers that it may be helpful to provide some examples of what might constitute appropriate supporting evidence, but without dealing with the issue prescriptively or exhaustively.
SDRO officers also asked if guidance could be provided as to what action should be taken where the client makes claims for which there is no supporting evidence, particularly where such evidence is unlikely to exist in the circumstances of the offence.	In situations where no evidence is likely to be available, the evaluation considers that the reviewing officer must exercise their discretion in light of all the circumstances of the case. It is not possible for the Guidelines to dictate a uniform way for dealing with these applications.
In the on-line survey, City of Sydney suggested that the number of internal reviews the agency has to conduct should be limited.	This is already provided for in the <i>Fines Act 1996</i> (section 24B states that an agency may decline to conduct a review if a review has already been conducted), but could be reiterated in the Guidelines.
SDRO officers suggested that the G Attorney General's Internal Review Guidelines could reiterate all circumstances in which a review does not have to be conducted (under the <i>Fines Act 1996</i>), and that current cl 4.16, which deals with Alternative Processes for Review, could be consolidated with this new section.	This suggestion will be adopted.
SDRO officers made a number of other recommendations for amendment to the Guidelines to achieve greater clarity and consistency with the <i>Fines Act 1996</i> .	The evaluation agrees that the Attorney General's Internal Review Guidelines should be reviewed and amended to ensure maximum clarity and consistency with the <i>Fines Act 1996</i> .

c) Time limits

An application for internal review can only be conducted up to the due date for payment of the penalty notice.⁵⁰ In its submission to the LRC Penalty Notices Consultation Paper, Legal Aid NSW commented that this time limit is problematic, especially for people who are homeless, intellectually disabled, or mentally ill.⁵¹ Legal Aid NSW acknowledged that the provision for annulment of a Penalty Notice Enforcement Order (PNEO) partially addresses this issue, but argued that it is not sufficient.⁵² Legal Aid NSW submitted that it should be possible to conduct an internal review at any stage.⁵³

It is not proposed to adopt this suggestion. The SDRO has emphasised that the NSW time limits for internal review are generous in comparison to other states, and that they are necessary given the volumes of penalty notices and internal review applications that the SDRO deals with, and the degree of automation necessary to handle those volumes and facilitate a timely follow-up and enforcement process. (As noted previously, the SDRO processes 2.8 million penalty notice and over 200,000 requests for review annually).

Furthermore, as acknowledged by Legal Aid NSW, if a penalty notice has proceeded to enforcement a person may apply for an annulment of the PNEO. As a result of amendments made by the *Fines Further Amendment Act 2008*, the *Fines Act 1996* now provides that before it annuls a PNEO, the SDRO is to seek internal review of each penalty notice to which the PNEO applies if:

- (a) it has reason to suspect that the penalty notice should be withdrawn having regard to the statutory grounds for internal review, and
- (b) a review of the decision to issue the penalty notice has not been conducted under this section or Division 2A (Internal Review).⁵⁴

In consultation carried out for this evaluation, Legal Aid NSW also raised concerns around the interaction of the time limits for internal review and court-election (the decision to have a penalty notice matter dealt with by a court). It noted that as result of the *Fines Further Amendment Act 2008*, section 23A of the *Fines Act 1996* provides that a person may elect to have a penalty notice matter dealt with by a court, but this election may not be made later than 90 days after the penalty notice was served.⁵⁵ Section 36 of the *Fines Act 1996* further provides that a person may court-elect by serving a written statement on the appropriate officer that the person so elects. Section 36(2) states that this statement must be served:

- (a) if no part of the amount payable under the penalty notice has been paid, on or before the due date specified in the penalty reminder notice for payment in relation to the offence concerned,
- (b) if the whole or any part of that amount has been paid, not later than 90 days after the penalty notice was served.

⁵⁰ Section 24A(3), *Fines Act 1996*.

⁵¹ Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 13.

⁵² Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 13.

⁵³ Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 13.

⁵⁴ Section 49A, *Fines Act 1996*.

⁵⁵ See section 23A, *Fines Act 1996*.

An application for internal review may be made up to the due date for payment of the penalty notice,⁵⁶ and must be completed within 42 days, or 56 days if the reviewing agency has requested further information.⁵⁷ If the reviewing agency, on review, decides to confirm the decision to issue a penalty notice, it must serve a penalty reminder notice on the person.⁵⁸ This new penalty reminder notice is said to replace any previous penalty reminder notice in respect of the offence.⁵⁹ However, section 24F(3) provides that the time for serving a statement to court elect under section 36(2)(a) continues to be the time specified in the penalty reminder notice that has been replaced. In other words, if no amount under the penalty notice has been paid, the person must court-elect before the due date for payment specified in *the original penalty notice*. This date will have lapsed in most cases.

The officer from Legal Aid NSW commented:

Assuming someone applied for a review immediately upon receiving a fine, which I think in most cases is unlikely, they could still be out of time to make a court election by the time the review has been conducted.

The time limits are difficult to get your head around. People who are illiterate, have disabilities, are homeless etc will struggle in many cases to understand them and that if they apply for a review they may well lose the option of court electing. These are precisely the kind of clients the review guidelines are on the face of it trying to help.

...
I think there is a danger that the review process could further disadvantage people by holding out false hope while effectively removing the opportunity for review by a court.⁶⁰

The Homeless Person's Legal Service agreed that the provisions around time-limits for internal review and court-election were confusing, and recommended in its submission to the LRC that the whole of the *Fines Act 1996* "be rewritten in plain English so that it is accessible and structured so that the rights of, and options available to, penalty notice recipients can be easily identified and understood".⁶¹

In consultation, the SDRO and Office of State Revenue (OSR) noted that section 24F(3) of the *Fines Act 1996* was originally introduced to address SDRO's concerns about court-election following a review being used as a delaying tactic. However, there have been complaints with the new scheme's operation in practice. These agencies are therefore in support of repealing section 24F(3) and amending section 36(2) to allow time to court-elect after a review, regardless of whether a payment has been made. That is, the person could still court-elect up to the due date on the replacement penalty reminder notice. This evaluation agrees with this proposal.

Finally, the SDRO raised concerns around section 24I of the *Fines Act 1996*, which deals with the interaction between court-election and internal review. Section 24I provides that if a person elects to have a matter dealt with by a court while a review is in progress, the

⁵⁶ Section 24A(3), *Fines Act 1996*.

⁵⁷ Section 24E(4), *Fines Act 1996*.

⁵⁸ Section 24F(1), *Fines Act 1996*.

⁵⁹ Section 24F(2), *Fines Act 1996*.

⁶⁰ Email from Andrew Taylor, Legal Aid NSW, to Louise Pounder, AGJ, 28 March 2011.

⁶¹ Email from Katherine Boyle, Homeless Persons' Legal Service to Louise Pounder, AGJ, 30 March 2011.

review is terminated on the person making that election. This provision was also inserted with the *Fines Further Amendment Act 2008*. Prior to these amendments, if a client submitted both an application for review and a court-election, it was the practice of the SDRO to first conduct the review, inform the client of the outcome, and then ask the client if they wished to proceed with the court-election. In many cases the client was satisfied with the outcome of the review and did not proceed with the court proceedings. The SDRO regarded this as a fair and appropriate customer service which has now been removed. This evaluation is comfortable endorsing SDRO's proposal to amend section 24I of the *Fines Act 1996*, so that receipt of a court-election is not a barrier to the SDRO concluding an internal review. This amendment would be consistent with the overall objectives of achieving fairness and flexibility in the fine system.

More generally, most stakeholders appear to agree that the processes around internal review and court-election and associated time limits have become confusing and, in parts, overly restrictive. The SDRO reiterates that timeframes are necessary in order to handle the substantial volume of penalty notices, reminder notices, correspondence, nominations and overall public contact to ensure a timely enforcement process. At the same time, it acknowledges that there are currently some (what the SDRO believe to be unintended) restrictions imposed by the existing legislation. It also agrees that the legislative provisions governing the opportunity for court-election are confusing and need simplification. The SDRO would also like the current requirement for multiple reminder notices to be reviewed, as it considers that a formal response to correspondence outlining the options for settlement of a matter should be sufficient. This evaluation therefore makes the general recommendation that there be a review and simplification of the provisions in the *Fines Act 1996* governing internal review and court-election.

d) An additional ground of mandatory withdrawal for children who are homeless, have a mental illness, or who do not have the capacity to pay the fine

As noted above, there are currently certain grounds on which a penalty notice must be withdrawn. In its submission to the LRC inquiry, the Youth Justice Coalition recommended that the *Fines Act 1996* be amended to provide an additional ground for mandatory withdrawal of a penalty notice where a penalty notice was issued to a person under 18 years of age and that person is homeless, suffers from a mental illness or does not have the capacity to pay the fine.⁶² The Youth Justice Coalition proposed that each of these criteria would need to be supported by a letter from the young person's caseworker, solicitor or specialist service provider. It commented that continuing to issue penalty notices to young people in these circumstances disadvantages and marginalises young people and unnecessarily penalises those in society who can least afford the monetary penalty and the sanctions that inevitably apply after failure to pay the fine.

This evaluation is very mindful of the difficulties that fines and penalty notices present for children and young people, particularly those who are disadvantaged. However, it is also aware that the LRC Inquiry into Penalty Notices is specifically considering the position of children and young people in the penalty notice system and whether they should be issued with penalty notices at all. It does not wish to make recommendations for legislative change in this area before the LRC's final report has been released later this year.

⁶² Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 9-10.

e) Monitoring

In its submission to the LRC Inquiry, the NSW Ombudsman submitted that all issuing agencies should have systems in place that monitor the way internal review requests are received, and that this data should be reported in their annual reports.⁶³

This evaluation agrees. In practice most reviews of penalty notices are done by the SDRO, and OSR annual report provides high level statistics on the number of requests for review received and the number of cautions issued. However, it would increase the transparency and accountability of the penalty notice system if more statistics on this process were available. This information would also be of value for public policy development. In Victoria, for instance, the *Infringements Act 2006* requires enforcement agencies to submit six-monthly reports to the Attorney General. Victoria's Infringement System Oversight Unit then compiles an annual report on the infringement notice system, which includes information on the numbers, types, and outcomes of internal review applications.⁶⁴ A similar process might be undertaken in NSW, if a similar body and process is recommended by the LRC.

f) Awareness-raising around the right to seek internal review

There were also calls in the LRC submissions for better publicity and awareness-raising around the right to seek internal review. The evaluation acknowledges that the SDRO currently publicises the option to seek a review: on penalty notices; on penalty reminder notes; in publications and on its website. However, it considers that there is still scope for further awareness-raising around this option. Further consideration would have to be given as to which body or bodies should carry out this task. Bodies that could be involved include the SDRO, AGJ, Legal Aid NSW, and any body given responsibility for oversight of the penalty notice system, if such a recommendation is made by the LRC.

7.3 Recommendations

In light of the above it is recommended that:

- (8) The SDRO Review Guidelines be amended to better reflect the right of a penalty notice recipient to make an application for internal review and the grounds on which a penalty notice must be withdrawn under the *Fines Act 1996*.
- (9) The Attorney General's Internal Review Guidelines be amended to include examples of what might constitute appropriate supporting evidence in an application for internal review.
- (10) The Attorney General's Internal Review Guidelines be amended to set out all circumstances in which an agency is not required to conduct an internal review.

⁶³ NSW Ombudsman, *Submission to the LRC Consultation Paper 10: Penalty Notices* at 4.

⁶⁴ See for instance, Department of Justice (Victoria), *Attorney General's Annual Report on the Infringements System 2009-2010*, at 9-10.

- (11) The Attorney General's Review Guidelines be amended to ensure greater clarity and consistency with the *Fines Act 1996*.
- (12) The *Fines Act 1996* be amended to enable a person who has had their penalty notice confirmed upon internal review the option of court-electing up until the date for payment on the new penalty reminder notice.
- (13) The *Fines Act 1996* be amended to enable the SDRO to process an application for internal review even though a court-election has been received.
- (14) The legislative provisions in the *Fines Act 1996* governing court-election and internal review be reviewed and simplified.
- (15) The internal review system be monitored and publicly reported upon, potentially by any body given responsibility for oversight of the penalty notice system, if such a recommendation is made by the LRC.
- (16) Awareness-raising around the right to seek internal review be carried out by appropriate agency or agencies, such as the SDRO, AGJ, Legal Aid NSW, and/or any body given responsibility for oversight of the penalty notice system, if such a recommendation is made by the LRC.

8. Work and Development Order scheme

Objective: Provide a meaningful, appropriate and effective response to offending by vulnerable groups, as an alternative to a monetary penalty.

8.1 Background

The WDO scheme is a fine mitigation scheme established under the *Fines Act 1996* to respond to concerns around the impact of the fine enforcement system on disadvantaged groups.⁶⁵ It allows certain disadvantaged groups to clear their fine debt by undertaking unpaid work, courses or treatment with approved organisations and health practitioners. The WDO scheme is open to people who: are homeless; have a mental illness, intellectual disability or cognitive impairment; or are experiencing acute economic hardship.⁶⁶ The specific activities that can be undertaken under a WDO are:

- Unpaid work with or on behalf of an approved organisation, or
- Mental health treatment and/or other medical treatment in accordance with a treatment plan developed by a mental health or other health professional; or
- An educational, vocational or life skills course; or
- Financial or other counselling; or
- Drug and/or alcohol treatment; or
- A mentoring program (if the person is under 25); or
- Any combination of the above.⁶⁷

WDOs are made by the SDRO. A WDO may only be made if the application is supported by an approved organisation, or in the case of mental health or medical treatment, a health practitioner qualified to provide that treatment.⁶⁸

The former Attorney General, in consultation with the former Treasurer, issued guidelines to govern the WDO scheme.⁶⁹ The WDO Guidelines address eligibility for a WDO, the application process (including proof of eligibility requirements), cut-out rates, and the criteria and process for becoming an approved organisation.

WDO applicants must specify, in their application, the nature and intensity of the work and/or development they propose (which must be consistent with the WDO Guidelines).⁷⁰

⁶⁵ Part 4, Division 8, Subdivision 1, *Fines Act 1996*.

⁶⁶ Section 99B(1)(b), *Fines Act 1996*.

⁶⁷ Section 99A, *Fines Act 1996*.

⁶⁸ Section 99B(2)(b) and section 99A, *Fines Act 1996*.

⁶⁹ These are available at <http://www.sdro.nsw.gov.au/publications.html> (accessed 18 April 2011)

⁷⁰ Section 99B(2)(c), *Fines Act 1996*.

This ensures that each WDO is appropriate to the applicant's circumstances. Once a person's application for a WDO is approved, the SDRO suspends enforcement action on the debt.⁷¹ The supporting organisation or health professional then oversees the person's participation in the relevant course, treatment or unpaid work.

Approved organisations and health professionals must make basic monthly reports to the SDRO on the progress of WDOs they are supervising, and when a WDO is completed.⁷² Completed WDOs are taken to fully or partially satisfy the person's fine debt.⁷³ Conversely, if a person does not complete their WDO, the balance of the fine debt becomes due and payable, and enforcement action can be recommenced at the SDRO's discretion.

The WDO scheme was initially implemented as a two-year pilot. It commenced on 10 July 2009, and clause 7 of the *Fines Regulation 2010* currently provides that an application for a WDO cannot be made after 10 July 2011.

The WDO scheme was developed by a Working Group of government agencies, in consultation with representatives from a range of non-government agencies. Since its establishment, the WDO pilot has also been overseen by a "WDO Monitoring Committee", chaired by AGJ, and comprising representatives from:

- The SDRO
- Corrective Services NSW
- NSW Juvenile Justice
- NSW Aging, Disability & Home Care
- NSW Health, Mental Health and Drug & Alcohol Office
- Legal Aid NSW
- Homeless Persons' Legal Service
- Intellectual Disability Rights Service
- The Youth Justice Coalition
- St Vincent de Paul Society
- Aboriginal Community Justice Groups
- Catholic Care.

⁷¹ Clause 9, WDO Guidelines, <http://www.sdرو.nsw.gov.au/publications.html> (accessed 18 April 2011).

⁷² See clause 11.2 of the WDO Guidelines, available at <http://www.sdرو.nsw.gov.au/publications.html> (accessed 18 April 2011).

⁷³ Section 99E, *Fines Act 1996*.

8.2 Findings

8.2.1. Summary of findings in relation to the WDO scheme

The WDO scheme is meeting its objective of providing a meaningful, appropriate and effective response to offending by vulnerable groups. As at 14 April 2011, WDOs had been issued to 657 people. Almost three quarters of WDO recipients are male. Their ages range from 18 to over 55, with the largest group being in the 26-40 age bracket. At least 9% of WDO recipients are Indigenous, and at least 4.7% are from Culturally and Linguistically Diverse Communities. Nearly all applications cite economic hardship, mental illness or homelessness (or a combination of the three) as grounds for the WDO. Only 32 WDOs have been given to people with an intellectual disability or cognitive impairment.

As at 14 April 2011, there were 143 organisations and 77 health practitioners participating in the scheme. There is great diversity in the organisations that are participating and the services they provide. They include large not-for-profit charities, such as the Salvation Army, the St Vincent de Paul Society, and Mission Australia, as well as local community-based organisations and government agencies, such as Juvenile Justice NSW and CRS Australia. Further detail regarding the demographics of WDO clients and approved organisations and health practitioners participating in the scheme is included as Appendix 4, and detailed in sections 8.2.10 and 8.2.11 of this report.

There has been almost unanimous support for the WDO scheme to be made permanent. In the survey issued to all approved organisations and health practitioners:

- 96% of respondents said the WDO scheme should continue
- almost 90% said that the scheme was of great benefit or some benefit to their clients
- almost 75% said the scheme was of great benefit or some benefit to their organisation.

The report on the research on the WDO scheme carried out by the University of Wollongong concluded that the WDO scheme is:

*a constructive and compassionate response by the SDRO, which is having its intended effects without causing any significant unintended negative consequences.*⁷⁴

As detailed in section 8.2.2, the evaluation has found that the WDO scheme helps to:

- Reduce reoffending in the fine enforcement system, and secondary offending in the broader criminal justice system. In particular, as at February 2011, 82.5% of WDO clients had not received another fine or penalty notice enforcement order since having their WDO approved. These are only preliminary results, but they are impressive and encouraging given the cohort.

⁷⁴ Rintoul D (2011), *Now I can move on: The impact of accumulated fine debt and the Work and Development Order scheme on disadvantaged people in NSW*. Unpublished report by the University of Wollongong for the NSW Department of Justice and Attorney General, April 2011, at iv.

- Engage clients in appropriate treatment or activities that they may not otherwise have engaged in, including in particular mental health, drug and alcohol treatment.
- Reduce client stress, anxiety and feelings of hopelessness and despair.
- Promote client agency, self-esteem and self-efficacy.
- Build client skills, provide them with an incentive to work, and may lead to employment or more employment opportunities.
- Reduce costs to government associated with fine enforcement, ongoing offending behaviour, welfare dependency, mental health problems and drug and alcohol addiction.

The evaluation has found that there are some issues around the scope of the WDO scheme that need to be resolved. Furthermore, there have been calls to improve the administration of the scheme and ensure it is properly supported and expanded across NSW. These issues are discussed in more detail below.

8.2.2. The benefits of the WDO scheme

As noted above, almost 90% of approved organisations and health practitioners who responded to the WDO on-line survey said that the WDO scheme was of great benefit or some benefit to their clients. Almost 75% of respondents also indicated that the WDO scheme was of great benefit or some benefit to their organisation. In the forms that approved organisations and health practitioners are required to submit to the SDRO on the completion of a WDO, almost 95% also reported that the WDO had met the client's needs. Benefits were also reported in the interviews with staff and WDO clients of approved organisations in the interviews undertaken by the University of Wollongong. Some of the benefits of the scheme that have been highlighted in the evaluation are detailed below.

a) Reduced reoffending

SDRO statistics show that people who have been issued with a WDO have been very unlikely to receive another fine or penalty notice enforcement order.⁷⁵ As at 19 February 2011, 82.5% of WDO clients (348 of 421 WDO clients) had not received another fine or penalty notice enforcement order since having their WDO approved. About 40% of these people were repeat offenders previously, having had four or more enforcement orders made against them in the two years prior to being issued with a WDO. Even those WDO clients that did receive a further enforcement order did so at a slower rate than before the WDO. These results are particularly impressive given the characteristics of WDO participants (i.e., they are either homeless, have a mental illness, intellectual disability or cognitive impairment, or they are experiencing acute economic hardship).

It is acknowledged that these results are preliminary only, as most participants have only been issued with a WDO relatively recently. However, the results are nonetheless encouraging, and will continue to be monitored to see if reoffending rates remain low over the long-term. Once sufficient time has elapsed, it will also be possible to analyse

⁷⁵ See Appendix 4 for these statistics in full.

whether WDO recipients have appeared before a court for a criminal offence after having been issued with a WDO.

The report by the University of Wollongong also found that WDO participants had different attitudes towards authority and offending. The report stated:

Many participants spoke of making a renewed commitment to 'clean living', buying train tickets, parking legally and generally trying to stay clear of trouble; for some this was the first time they had ever made that explicit commitment.⁷⁶

Quotes from two participants are illustrative:

I always buy a ticket now, because I'm trying to sort out my fines.⁷⁷

Right here today, for the first time in 20 years, I'm not on bail, or bond or on charge. This is my chance to be a cleanskin – it all balances on the WDO. It means my life.⁷⁸

While acknowledging that the WDO was not the only factor behind these changes, the report nonetheless considered it was a significant one.⁷⁹ This evaluation echoes these comments. A WDO may not be the only factor behind a person's commitment to law-abiding behaviour, but the feedback and statistics from the SDRO suggest that it can be an important trigger and an ongoing incentive.

Furthermore, as driver licence and vehicle registration sanctions imposed by the SDRO are lifted once a person enters into a WDO, the WDO scheme is likely to have an impact on secondary offending. Given the size of the pilot (some 600 people have participated), the impact of the scheme on rates of secondary offending is not going to be apparent from state-wide statistics. However, it is self-evident that lifting licence sanctions imposed by the SDRO will minimise the risk that people in fine debt will be charged with driving while licence suspended or cancelled due to fine default. It is important to note, however, that a WDO does not affect any court-imposed disqualification from driving. Therefore the risk of secondary offending following disqualification by a court still exists.

b) A tool for engagement

Various sources have indicated that a WDO acts as an incentive for clients to engage with, and remain engaged with, services and/or treatment. In the interviews conducted by the University of Wollongong, for instance:

Approved Organisations consistently [spoke] of the WDO as a very effective tool for engaging eligible clients in activities that have therapeutic, educational or restorative value, but are seen by the client as unappealing or requiring 'too much effort'.⁸⁰

⁷⁶ Rintoul, above n74 at 19-20.

⁷⁷ Cited in Rintoul, above n74 at 20.

⁷⁸ Rintoul, above n74 at 19.

⁷⁹ Rintoul above n74 at 20.

⁸⁰ Rintoul above n74 at iv.

One mental health nurse described the WDO as:

*... the most concrete and effective way of getting compliance with treatment I've seen. There's nothing else like it. [Clients] get quite excited about it.*⁸¹

This was reiterated by WDO clients who participated in the interviews: around half reported that had it not been for the WDO, they would not have undertaken some or all of their activities.⁸²

These points were also frequently made by respondents to the on-line survey of approved organisations and enrolled health practitioners. For instance:

The ability [for clients] to undertake activities to work towards satisfying their debts is motivating ... and hence they agree to interventions that aid them in their rehabilitation process. It is a double win for the client - they get to work off their debt without being further financially compromised and they are more receptive to valuable interventions to address their significant barriers.

It gave great motivation to clients who would normally be difficult to engage into a program to successfully complete something.

It offers some incentive for staying in treatment longer which will benefit the clients longer term success in behavioural change.

*It can be a great incentive for clients to stay in treatment and we can then hope to make some real difference through our programs.*⁸³

c) Mental health benefits

Unpayable fine and penalty notice debt has a negative psychological effect on debtors, manifesting itself in stress, anxiety, and feelings of hopelessness, despair and shame.⁸⁴ Conversely, the evaluation has found that working off fines through a WDO has positive psychological benefits for participants. The report on the research by the University of Wollongong found that the WDO scheme brought a sense of relief, peace, freedom and hope for participants.⁸⁵ Staff of approved organisations who were interviewed also commented on the specific mental health benefits of the scheme. For instance, a mental health nurse at a major Sydney hospital explained:

Engaging around half of our clients in treatment is really hard: usually there's denial and embarrassment about the illness, and the illness itself brings about a lack of 'reality' about their situation; plus then we offer them treatment that they don't like – medications that improve their thinking ability but have side effects that leave them feeling uncomfortable or worse.

⁸¹ Rintoul above n74 at 22.

⁸² Rintoul above n74 at 17.

⁸³ Anonymous responses to the WDO on-line survey, February 2011.

⁸⁴ These are outlined by Rintoul above n74 at iii, 12-13.

⁸⁵ Rintoul above n74 at 17-18.

When I say 'I could help you get your licence back', all of a sudden we've got engagement.⁸⁶

Another mental health worker also commented on the WDO's potential as an early intervention tool:

[A WDO] can easily be thought of as early intervention for mental illness. If you can prevent and reduce symptoms of mental illness with a WDO and the treatment that it engages clients in, this will reduce the cost to government down the track in a big way. Alcohol, smoking, violence, anti-social behaviour – you name it.⁸⁷

Representatives of approved organisations and health practitioners to the WDO survey also reported on the mental health benefits they saw for their clients:⁸⁸

The WDO has contributed to tangible mental health improvements for my client, as it has reduced a significant stressor in his life which has led to more active symptoms.

It enables young people who are at risk to decrease their anxiety about ever-increasing fines

Reducing the burden of debt has a positive impact on mental health.

Potentially a huge benefit for existing clients of the service, especially clients ... with mental health concerns.

An early letter of support for the WDO scheme from the CEO of the Schizophrenia Foundation made this point strongly:

We know the level of distress that a debt to the State Debt Recovery Office has on some of our consumers. Indeed in the past we believed that such a debt has led to an acute episode for individuals requiring hospitalisation.

Generally there is agreement from each service that has applied for [a WDO] that it has multiple benefits. Firstly it reduces the stress levels of the consumer involved. Then it creates an environment for engagement between the service and the consumer. Finally it is a vehicle for building trust and a therapeutic relationship. My hope is that it will have a final benefit of reducing the likelihood of acute admission for these consumers.⁸⁹

The WDO completion forms submitted to the SDRO also commonly reported decreased anxiety and less worry as client benefits resulting from the WDO.

⁸⁶ Cited in Rintoul above n74 at 23.

⁸⁷ Cited in Rintoul above n74 at 24.

⁸⁸ Anonymous responses to the WDO on-line survey, February 2011.

⁸⁹ Letter from Mr Rob Ramjan AM, CEO of the Schizophrenia Foundation, to Mr John Hatzistergos, NSW Attorney General (at the time), 7 May 2010.

d) Increased self-esteem, agency and self-efficacy

As a related matter, the evaluation has found that undertaking a WDO tends to build the self-esteem, agency and self-efficacy of participants. The report by the University of Wollongong emphasised that the WDO is seen as “a hand up, not a hand out”, which gives participants “the ability to help themselves”.⁹⁰ As participants in the interviews commented:

I'm paying it off, just with time (which I've got at the moment) not with money (which I don't have anyway).

One of my WDO clients didn't want to apply for a write-off, even though he was classic write-off material. He wanted to work it off instead: to make amends. To him, the WDO had a sense of justice.

I'm not getting away with it – I'm getting something out of it.⁹¹

As a WDO is not a write-off, participants make a commitment and actively address their debt through their activities, and thereby gain a sense of control and agency in their lives. This builds self-esteem, and counters feelings of powerless and hopelessness. For instance, one WDO participant commented:

If I can make progress on this, and I thought that was impossible, maybe I can also achieve other goals I thought were out of my reach⁹²

Organisations similarly reported that the WDO was used as a springboard for positive change in their clients' lives:⁹³

[K] had a youthful history of criminal activity that followed her into adulthood. K had various times in jail and had accrued significant fines debt and was unable to get her drivers licence. K has a large family to support and little means to do it. She started with dealing with her fines debt through [WDO] activities that led to some training and then a full time job. She reported that everything was insurmountable a few years ago and now she could see her way clear of debts to build more security for her family.

Once things seems hopelessly beyond fixing, with high fines debts and few options within reach. Now when you have to think twice about getting fines, your debts are disappearing, you can get your licence, go to TAFE or get other skills, work is just around the corner

The University of Wollongong Report also noted that self-efficacy is a known “key contributor to voluntary behaviour change”.⁹⁴

⁹⁰ Rintoul above n74 at 15.

⁹¹ All cited in Rintoul above n74 at 15.

⁹² Cited in Rintoul above n74 at 18.

⁹³ Both cited in Illawarra Legal Centre, record of an interview with Access Community Group in Corrimal, April 2011.

⁹⁴ Rintoul above n74 at 18, citing Social Cognitive Theory, eg A Bandura, “Exercise of personal agency through the self-efficacy mechanism”, in *Self-efficacy: thought control of action*, edited by R Schwarzer, Hemisphere; Washington DC, 1992.

e) An increased willingness and ability to work

The findings of the evaluation also indicate that undertaking a WDO can build participants' skills, provide them with an incentive to work, and lead to employment or increased employment opportunities. Firstly, any driver's licence sanctions imposed by the SDRO are lifted once a person signs up to a WDO. This is not only important for day-to-day living, but also opens up employment opportunities.⁹⁵ One WDO participant commented:

*I'm in a hurry to get employed – I know I'll need to strike while the iron's hot. I'll be free to go to work without any inhibition within the next few weeks, and I can afford the things I need for work, like boots and that.*⁹⁶

Secondly, undertaking WDO-related activities in itself can make participants more employable. The report by the University of Wollongong observed:

Both at The Glen and elsewhere, some WDO volunteers have gone on to be offered part time, casual or even full time work as a consequence of having proven themselves skilled and reliable. Others engaged in volunteer work have also reported that having current work (even if the work is voluntary) looks better on a job application than being currently unemployed ...

*A number of young people have also enrolled or re-enrolled in a TAFE course as a part of their WDO, and have since been inspired to study further and lift their expectations of the kind of work they might do in the future.*⁹⁷

Similar comments were made in the responses to the on-line survey of approved organisations and health practitioners.

f) Broader impact for the NSW Government

The research undertaken by the University of Wollongong also addressed the perceived benefits for the NSW Government. These relate to the benefits which have been highlighted above, and were summarised as follows:

*reduced welfare dependency and increased self-reliance, reduced offending behaviours, increased efficiency and effectiveness of existing programs (i.e. with better attendance and compliance), and reduced investigation and enforcement costs.*⁹⁸

As at April 2011, the SDRO estimates that it costs an average of \$12.49 to recover \$100 of revenue. However, for those debts that are difficult to recover (such as old debts, and debts from impecunious clients), the costs are likely to be higher. To enforce a debt, the SDRO may arrange the imposition of licence sanctions and, if this action is unsuccessful, it may pursue other options, including a property seizure order (involving the Sheriff) or a garnishee order (on a person's bank account or income). The longer the enforcement process takes, the costlier it becomes, and the more impecunious the offender, the less likely that debt recovery will be successful.

⁹⁵ Rintoul above n74 at 13.

⁹⁶ Cited in Rintoul above n74 at 19.

⁹⁷ Rintoul above n74 at 21.

⁹⁸ Rintoul above n74 at 23.

In the meantime, other agencies are also incurring costs in the enforcement process. The Shopfront Youth Legal Centre reports that about 15% of new matters involve unpaid fines, and a further 35% involve court appearances on criminal matters. Of the court matters, it is estimated that almost half involve secondary offending (i.e., traffic offences committed by young people who have lost, or cannot get, their licences due to unpaid fines). In a similar vein, the Homeless Person's Legal Service reports that fines probably make up about one third of ongoing case work. Case workers in government and non-government agencies also make many representations to issuing agencies and the SDRO in efforts to have fines waived or licences reinstated. Without a licence, people can lose access to training and employment opportunities (particularly in regional areas) and remain welfare dependent.

From an economic perspective, it therefore seems logical and preferable to make a modest investment in a WDO to promote education, treatment and voluntary work, rather than spend time and money attempting to recover unrecoverable debt.

There are also savings to Government arising from reduced reoffending rates. As the SDRO statistics show, most WDO clients have not received further fine or penalty notice enforcement orders. Furthermore, the risk of WDO clients engaging in secondary offending and potentially facing imprisonment is also minimised. The costs to government of secondary offending are considerable. BOCSAR statistics show that over the past 10 years, 9074 people have been imprisoned where their principal offence was drive while licence disqualified or suspended (2353 Indigenous people and 6711 non-Indigenous people).⁹⁹ It is not possible to tell what proportion of these people had their licence suspended or disqualified for fine default. However, in light of the fact that almost two thirds of licence suspensions are for fine default,¹⁰⁰ the proportion is likely to be significant. This data must be noted in the context of estimates that it costs up to \$270 a day, and \$98,550 a year, to incarcerate a person.¹⁰¹

Savings also arise as a result of WDO clients' engagement in, and compliance with, mental health treatment. Mental illnesses come at considerable cost to government and the community. For instance, research has shown that the real financial costs of bipolar disorder and associated suicides totalled \$1.59 billion in 2003, 0.2 per cent of GDP and over \$16,000 on average for each of nearly 100,000 Australians with the illness.¹⁰² For schizophrenia, the costs are even larger: real financial costs of the illness were estimated at \$1.85 billion in 2001, about 0.3 per cent of GDP and nearly \$50 000 on average for each of more than 37 000 Australians with the illness.¹⁰³ The WDO statistics show that as at 14 April 2011, approximately 200 people with mental illnesses have participated in the WDO pilot, and almost 150 people had undertaken medical or mental health treatment as part of their WDO. Furthermore, mental health practitioners stressed the effectiveness of the WDO in encouraging clients to undertake and comply with mental health treatment. The economic benefits arising from these outcomes (while not able to be quantified) must be acknowledged.

⁹⁹ Bureau of Crime Statistics and Research, ref: jh10-9430.

¹⁰⁰ Over 60% of licence suspensions during the period January 2008 to June 2010 were for fine default. 28% were due to loss of demerit points. For raw figures, see http://www.rta.nsw.gov.au/publicationsstatisticsforms/statistics/licence_stats.html (accessed March 2011).

¹⁰¹ Steering Committee for the Review of Government Service Provision, (2011), *Report on Government Services 2011*, Australian Government, 28 January 2011, Table 8 A.29.

¹⁰² Access Economics, *Bipolar Disorder Costs: An analysis of the burden of bipolar disorder and related suicide in Australia*, Report for SANE Australia, 2003.

¹⁰³ Access Economics, *Schizophrenia Costs: An analysis of the burden of schizophrenia and related suicide in Australia*, Report for SANE Australia, 2003.

Finally, there are benefits to government by virtue of the increased willingness and ability of WDO recipients to gain employment. Undertaking an educational, vocational or lifeskills course was the most popular activity in the WDO pilot (266 clients as at 14 April 2011), closely followed by unpaid voluntary work (246 clients). These activities are clearly associated with increased employability. The employability of these individuals is further enhanced by the fact that most regain their licence upon the making of a WDO. Getting disadvantaged people off Centrelink and into the workforce is therefore another way in which the WDO pilot can bring about savings to government.

Recommendations

In light of the benefits outlined above, this evaluation recommends that:

- (17) The WDO pilot scheme be made permanent.

The sections below deal with issues of policy and procedure that have arisen during the WDO pilot and in the evaluation.

8.2.3. Becoming an approved organisation

Current process

Currently, the WDO Guidelines provide that organisations may be approved to participate in the WDO scheme by the Director General of AGJ if they:

- Are a non-profit organisation with an ABN, a NSW government agency or a statutory body representing the Crown,
- Have current public liability and other appropriate insurance covering its activities,
- Have appropriately trained or accredited staff,
- Have Occupational Health and Safety (OH&S) policy and procedures, and
- have complied with the terms of any previous NSW government funding and any performance agreement (if previously NSW government funded).

In practice, officers from the SDRO, and a policy officer from AGJ, review applications from organisations and make a recommendation to the Director General as to whether or not approval should be given. In this process, officers review the application and certificates of insurance provided by the organisation, and also contact a nominated person(s) to verify compliance with government funding. Organisations are approved to provide, or case manage and refer clients to other services to undertake, specific types of activities that can be undertaken as part of a WDO.

Issues arising

a) Application process and criteria for approval

The processing of applications to become an approved organisation was initially slow. However, once these issues were remedied (largely through the amendment of relevant application forms), processing times improved. The survey results also appear to indicate that organisations do not find the process or criteria for approval too onerous. Approximately 60% of approved organisations rated the process of becoming approved

to participate in the WDO scheme as “fairly easy” and a further 20% rated the process as “very easy”. Only 20% considered the process “quite difficult” or “very difficult”. Limited feedback on this issue was available in the research undertaken by the University of Wollongong, but the report did comment that respondents:

had no complaints about the eligibility criteria or documentation requirements, describing them as ‘pretty basic stuff ... and much less onerous than your standard tender for program funding.’¹⁰⁴

However, it does appear that two aspects of the selection criteria could be modified. First, the WDO Guidelines (and application form) should specifically provide that Commonwealth and local government agencies can be approved to participate in the scheme. In particular, there are a range of Commonwealth government agencies working with people who are eligible for WDOs and there is no reason why they should not also be eligible to participate in the scheme. Second, the criteria for approval should simply refer to compliance with “government funding”, rather than compliance with “NSW government funding”. In practice this approach has been taken when an organisation has only received Commonwealth government funding.

b) Clearer application form for organisations seeking approval

Currently, the application form to become an approved organisation does not specify whether the organisation is seeking local approval (i.e., for a particular office or branch), or global approval (i.e., for the whole organisation). It would be useful if this were specified.

Furthermore, the application form asks organisations whether it intends to provide activities directly, or to refer clients to external services while it provides case management, but the checklist is not clear:

What services can you directly provide for eligible clients or what local services would you refer clients to (per section 2.6 of the WDO guidelines)?

<input checked="" type="checkbox"/>	financial or other counselling
<input type="checkbox"/>	mentoring programs for persons under 25 years of age
<input type="checkbox"/>	employment assistance
<input type="checkbox"/>	referral to external services
<input type="checkbox"/>	other services

At present, AGJ officers have to contact organisations to clarify this information, which adds to their workload and the time taken to process applications. As recommended by the University of Wollongong report, it would be clearer if this were split into two lists.

c) Varying an organisation’s approval

The WDO Guidelines also need to set out the process for varying an organisation’s approval. At present, this approval is granted by the Assistant Director General of AGJ, where AGJ and SDRO officers are satisfied that the organisation maintains the same ABN, appropriate insurance, and OH&S procedures, and that it has appropriate staff for any additional activities it is seeking to provide. It is proposed that this process be formally set out in the WDO Guidelines.

¹⁰⁴ Rintoul above n74 at 25.

d) Interstate organisations

The WDO Guidelines also need to confirm that interstate organisations can become approved to participate in the WDO scheme. Often clients who live on border towns will have fine debts from two states. There is no reason why interstate organisations should not be able to support eligible clients to satisfy their NSW fine debt through a WDO.

e) Government bodies

This evaluation also questions whether it is necessary for government agencies to submit a formal application to become approved in the scheme, given that there should be no concerns over their staff qualifications, governance, OH&S procedures and insurance coverage. It also notes that in the on-line survey, government agencies overall found it less easy than non-government agencies to be approved in the scheme.¹⁰⁵ It may be more appropriate for government agencies to complete a shorter form confirming that they wish to participate in the WDO scheme and outlining the services that they intend to provide and/or refer clients to. Provided the activities were appropriate, the Director General would then approve the agency to participate. This may address the concerns, expressed by some submissions to the LRC Inquiry, that more government agencies should participate in the scheme.¹⁰⁶

Recommendations

In light of the above, it is recommended that:

- (18) All government agencies (not just NSW government agencies) be eligible for approval.
- (19) Compliance with any government funding (if received) be a selection criterion, rather than compliance with NSW government funding.
- (20) The WDO organisation application form specify whether the organisation is seeking local or global approval.
- (21) The WDO organisation application form have two lists to clearly indicate which activities the organisation intends to provide directly, and which activities local services would provide while the organisation provides case management.
- (22) A simpler application form and process apply to government agencies.
- (23) The WDO Guidelines set out the process to be followed to vary an organisation's approval. The Guidelines should stipulate that a letter/form for variation should be sent to the SDRO, and variations will be granted by the Assistant Director General of AGJ if the organisation has the same ABN, appropriate insurance, OH&S procedures, and suitably trained staff for any additional activities it is seeking to provide.
- (24) The WDO Guidelines confirm that inter-state organisations can apply to become approved in the WDO scheme (and that inter-state residents can apply for a WDO).

¹⁰⁵ In the on-line WDO survey, 86.4% of non-government agencies reported that it was very easy or easy to enrol, compared with 62.5% of government agencies.

¹⁰⁶ Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

8.2.4. Enrolling as a health practitioner

Current process

At present the *Fines Act 1996* states that any health practitioner qualified to provide medical or mental health treatment can support applications for treatment to be undertaken under a WDO, and supervise that treatment. “Health practitioner” is defined to mean a registered medical practitioner, a registered psychologist, or a nurse.¹⁰⁷ The WDO Guidelines require health practitioners to ‘enrol’ in the scheme. In doing so they must agree to certain reporting requirements, and provide their registration number.

Issues arising

a) Minimising the opportunity for fraud

The enrolment requirements for health practitioners are clearly minimal. Accordingly, the great majority of health practitioners who responded to the survey reported that they found it “very easy” (45%) or “fairly easy” (40%) to participate in the WDO scheme. However, the concern that emerged during the trial is that the enrolment and support of a health practitioner is vulnerable to fraud. It is possible to search a health practitioner by surname alone on-line, and find out their registration number. There was one instance during the trial where a WDO applicant forged the enrolment and support of a health practitioner. This fraud was discovered by the SDRO before the WDO was granted, but the incident still highlighted the risk of such forgeries. This risk would be significantly reduced if health practitioners were required to provide some form of documentary evidence of their registration (for instance, the evaluation understands that health practitioners receive a letter confirming their registration, and may also apply for a certificate of registration).

Recommendations

In light of the above, it is recommended that:

- (25) The process for enrolment as a health practitioner be amended to require health practitioners to provide documentary evidence of their registration.

8.2.5. Eligibility for a WDO

Current law and practice

At present, the *Fines Act 1996* states that a WDO may be made if the applicant:

- has an intellectual disability, a mental illness or a cognitive impairment
- is homeless or
- is experiencing acute economic hardship.¹⁰⁸

¹⁰⁷ Section 99A, *Fines Act 1996*

¹⁰⁸ Section 99B, *Fines Act 1996*.

The WDO Guidelines define these terms. The WDO Guidelines also provide a definition of “personality disorder”. This is not a separate ground of eligibility, but rather is, for the purposes of WDO, taken to be included in the mental illness category.

Issues arising

a) Extending the WDO scheme to all children

In consultation carried out for the LRC Inquiry into Penalty Notices, some stakeholders submitted that WDOs should be automatically available to all children (all people under 18).¹⁰⁹ The Illawarra Legal Centre, for instance, stated that:

*Young people who face serious disadvantage find it difficult or impossible to navigate the options to resolve their fines debt. Those who live with disabilities, in rural and remote regions, or those who struggle with literacy and numeracy for example, find it hard to gain benefit from recent reforms made to the Fines Act ... All young people who incur fines under the age of 18 years should be given options to reduce or eliminate their fines debt under the WDO system.*¹¹⁰

This evaluation understands the concerns raised by these stakeholders. However, the LRC is specifically considering the position of children in the penalty notice system, including whether penalty notices should be issued to children at all. In this context, it would be premature to make any recommendations regarding children and the WDO scheme.

b) Broadening the definition of “acute economic hardship”

At present, the WDO Guidelines define acute economic hardship as follows:

A person is in acute economic hardship if:

- (a) meeting their basic needs (namely, the cost of accommodation, food, transport, utilities, phone, medical expenses and care of dependents) and*
- (b) allowing \$40 a fortnight in disposable income,*

*would leave them unable to repay their fine at the minimum instalment of \$10 per fortnight.*¹¹¹

The Shopfront Youth Legal Centre and the Youth Justice Coalition submitted that the definition of “acute economic hardship” needs to be broadened. The Shopfront Youth Legal Centre commented, “Most of our clients on Centrelink benefits are, in our view, suffering acute financial hardship, but proving this to the satisfaction of the SDRO is sometimes difficult”.¹¹² The Youth Justice Coalition stated that a criterion of “financial hardship” would be preferable.¹¹³

¹⁰⁹ Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices*; The Shopfront Youth Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

¹¹⁰ Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

¹¹¹ Clause 4.6 of the WDO Guidelines (2009).

¹¹² The Shopfront Youth Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

¹¹³ Youth Justice Coalition, Letter to Maureen Tangney, Department of Justice and Attorney General (as it then was), 8 April 2011.

The report by the University of Wollongong also reported that “[o]n balance, acute economic hardship was seen as the ‘hardest’ eligibility criteria to document, as it required multiple evidences relating to income and expenditure”.¹¹⁴

The SDRO also had difficulties with the definition. This is because firstly, it is time-consuming to calculate, and secondly, it is somewhat subjective, as it necessitates a judgment about what costs are reasonable for meeting a person’s basic needs.

Two changes are recommended to respond to these concerns. The first is that the definition of “acute economic hardship” should draw from or be based on existing, arms-length means tests, such as that used by Legal Aid NSW for grants of legal aid. The second is that the criteria of acute economic hardship should be taken to be satisfied if the person is in receipt of an eligible Centrelink benefit (as defined by the Director of the SDRO). Currently, this is the criteria for voluntary enforcement of a penalty notice and the following payments are deemed to be eligible Centrelink payments in that context: Newstart, Pensions, the Parenting Payment, Abstudy and Family Tax Benefits A and B. The definition of an eligible Centrelink benefit for the purposes of eligibility for the WDO scheme could be similarly or more tightly defined by the SDRO. This clear cut definition would bring considerable benefits in terms of administrative expedience for SDRO and approved organisations, which would in turn lead to more WDO applications and quicker approvals.

While there may be concerns that this would open the floodgates to the SDRO scheme, the evaluation considers that, on balance, this is unlikely. The change would undoubtedly lead to an increase in the numbers of WDO applications made under this ground (if only because it will become the easiest criteria to meet in most cases). However, the evaluation does not consider that the numbers would be unsustainable or that the change would lead to inappropriate individuals accessing the scheme. Sources indicate that living off Centrelink payments leave individuals and families living below the Henderson Poverty Line.¹¹⁵ Furthermore, the requirement for the support of an approved organisation or health practitioner will be an important safeguard. Given that organisations and health practitioners are not paid to support people on WDOs, they are careful as to whom they choose to support (they are unlikely to support people who they consider inappropriate or undeserving). The on-line WDO survey also indicated that approximately 70% of WDO clients have come from organisations’ or health practitioners’ existing client base. These organisations have their own intake and assessment policies and procedures, which necessarily limit who they provide services to. Finally, it is fair to conclude that not all people on Centrelink benefits will be able or interested in doing activities, as required by a WDO. Some will inevitably still prefer to just have a regular deduction from their Centrelink payments.

c) A new ground of drug and alcohol dependency

During the pilot, the SDRO reported that it is frequently asked about the grounds on which a client seeking drug and alcohol treatment should apply, in the absence of medical evidence that confirms mental illness. The Homeless Persons’ Legal Centre commented that serious drug and alcohol addictions can often place a person at risk of developing a mental illness, or becoming homeless, and a WDO would provide the early intervention that they need to prevent that from occurring. However, at present the WDO

¹¹⁴ Rintoul above n74 at 29.

¹¹⁵ See for instance, Brotherhood of St Laurence, *Poverty Line Update* (2007) available at http://www.bsl.org.au/pdfs/poverty_line_update_Aug07.pdf (accessed 5 May 2011)

scheme only allows people with serious drug and alcohol problems to apply if they have already reached a crisis point and can establish eligibility on other grounds (such as mental illness or acute economic hardship). The WDO Monitoring Committee therefore proposed that serious drug and alcohol addiction be included as criteria for eligibility.

There are sound policy reasons as to why it may be more meaningful and effective for a person with a serious addiction to drugs or alcohol to undertake a WDO rather than pay a monetary penalty, particularly given that drug and alcohol treatment is an activity that may be undertaken for a WDO. Research shows the strong links between alcohol and drug abuse and crime. For instance, an Australian Institute of Criminology study found that over half of all male prisoners surveyed said that all or most of their offending could be explained by their illicit drug use.¹¹⁶ Another study found that 71 per cent of detained young offenders were intoxicated at the time of their last offence, 44 per cent of burglars attributed their crimes to the need to obtain money to buy drugs, and almost one third of youths who had been charged with assaulting others attributed the offences to being drunk or high at the time of the offence.¹¹⁷ International research also demonstrates the nature and extent of alcohol-related crime more generally, including alcohol-related violence.¹¹⁸ A WDO has the potential to act as an early intervention tool to address these problems and associated offending behaviour.

While there may be concerns that this may inappropriately broaden the eligibility pool for WDOs, the requirement of support from an approved organisation is again an important safeguard: non-profit organisations or government agencies are unlikely to expend time and resources to support a person to undertake a WDO if they do not believe that it is appropriate and the person would benefit from the program. To further guard against inappropriate WDO applications on this ground, an additional safeguard is also proposed: a person applying for a WDO on these grounds would have to undertake either counselling or drug and alcohol treatment, so that their dependency is addressed through the WDO. This change would require legislative amendment.

Recommendations

In light of the above, it is recommended that:

- (26) The definition of acute economic hardship be drawn from or be based on an existing, arms-length means test(s).
- (27) The definition of acute economic hardship be taken to be satisfied if the person is in receipt of an eligible Centrelink benefit (as defined by the Director of the SDRO).
- (28) People with a serious addiction to drugs, alcohol or volatile substances, who are otherwise ineligible to participate in the WDO scheme, be allowed to participate on the condition that they undertake either drug and alcohol treatment or counselling.

¹¹⁶ Toni Makkai and Jason Payne, "Drugs and Crime: A Study of Incarcerated Male Offenders", *Australian Institute of Criminology Research and Public Policy Series No. 52* (2003). See also Richard J. Stevenson and Lubica M. V. Forsythe, "The Stolen Goods Market in New South Wales: An Interview Study with Imprisoned Burglars", NSW Bureau of Crime Statistics and Research (1998).

¹¹⁷ Jeremy Pritchard and Jason Payne, Alcohol, Drugs and Crime: A study of juveniles in detention, *Australian Institute of Criminology Research and Public Policy Series No. 67* (2005)

¹¹⁸ Some of this research is discussed in Tim Stockwell, *Operator and Regulatory Best Practices in the Reduction of Violence in and Around Licensed Premises: A Review of Australian and Canadian Research*, Centre for Addictions Research of British Columbia (2010)

8.2.6. Activities that may be undertaken for a WDO

Current law and practice

The *Fines Act 1996* currently provides a person may undertake any one or more of the following to satisfy a fine debt under a WDO:

- a) unpaid work for, or on behalf of, an approved organisation
- b) medical or mental health treatment in accordance with a health practitioner's treatment plan,
- c) an educational, vocational or life skills course,
- d) financial or other counselling,
- e) drug or alcohol treatment,
- f) if the person is under 25 years of age, mentoring program.¹¹⁹

The WDO Guidelines also refer to disability case management,¹²⁰ although this activity is not expressly mentioned in the legislation.

As a matter of policy, during the pilot, the following activities could not be undertaken as part of a WDO:

- any activities specifically ordered by a court (such as a Community Service Order). This is expressly set out in the WDO Guidelines.
- activities undertaken while in gaol (however an exception has been made for juvenile justice clients on remand). This is not in the WDO Guidelines but has been the approach taken as a matter of practice.
- activities undertaken for an apprenticeship. This is not in the WDO Guidelines but has been the approach taken as a matter of practice.
- mutual obligation activities (undertaken in order to receive a Centrelink youth or unemployment benefit). This is not in the WDO Guidelines but has been the approach taken as a matter of practice.

Issues arising

- a) Better explanation of activities

During the pilot, it became apparent that it would be beneficial to have a better explanation of the types of activities that can be undertaken as part of a WDO in the WDO Guidelines. For instance, the SDRO commented that sometimes "mental health treatment" is not fully outlined in an application, as it is not always understood that a "treatment plan" would include not only counselling but adherence to prescribed pharmacotherapy. The SDRO would also, specifically, like a definition of a mentoring program. More generally, it is considered that a list of specific examples of programs,

¹¹⁹ Section 99A, *Fines Act 1996* (NSW).

¹²⁰ Clause 6.2, WDO Guidelines (2009).

treatment or courses that could be considered under each activity would better alert organisations and health practitioners to the kinds of activities they could undertake, and make it easier for the SDRO staff to work out what cut-out rates apply.

b) Case management

In the evaluation, the SDRO and approved organisations asked for clarification on the status of case management in the WDO scheme. This issue was also raised in the research carried out by the University of Wollongong.¹²¹ As noted above, case management is not expressly mentioned in the *Fines Act 1996* or the WDO Guidelines (only disability case management is mentioned), but it is often put forward in WDO client applications. Due to the failure of the legislation and the WDO Guidelines to expressly deal with the activity, it is often dealt with in an inconsistent manner.

On the basis of the WDO Monitoring Committee's proposal, it is recommended that the WDO Guidelines be amended to expressly state that a client's attendance at case management meetings with their social worker or other case worker may be counted as "counselling" for the purposes of the WDO scheme. A uniform cut-out rate for all counselling, including case management, will also be proposed (see section 8.2.8 below).

c) Court-ordered activities

There have also been calls for court-ordered activities to be included as activities that can be undertaken for a WDO. For instance, Legal Aid NSW submitted to the LRC:

While we understand the policy rationale for excluding such activities on the basis of 'double counting', their exclusion is arguably contrary to the rehabilitative aims of such programs, which seek to address the welfare issues contributing to an individual's capacity to reintegrate into the community.

Their exclusion seems particularly inequitable when one considers that activities that would normally be eligible for inclusion in the WDO scheme, such as drug and alcohol counseling or participation in educational courses, are excluded by the guidelines if attached to a court order.

The report on the interviews carried out by the University of Wollongong also queried whether court-mandated programs such as post-release anger management programs could be included within the WDO scheme, to increase compliance.¹²²

At this stage, the evaluation does not recommend that court-ordered programs be able to be included in a WDO. In general, the WDO scheme aims to encourage disadvantaged groups to engage in programs and activities that they would not otherwise have undertaken. Although some additional compliance with court-ordered activities may be achieved if these activities were included in a WDO, at present the evaluation does not consider it sufficient justification for extending the scheme in this way.

However, the evaluation does recommend that voluntary court-diversion programs, such as participation in the Magistrates Early Referral into Treatment (MERIT) or CREDIT (Court Referral of Eligible Defendants Into Treatment) programs, be eligible activities for the WDO scheme. This may provide further encouragement for defendants to access the services and treatment associated with these programs, to further their rehabilitation.

¹²¹ Rintoul above n74 at 31.

¹²² Rintoul above n74 at 31.

d) Clients in gaol

Both government and non-government stakeholders submitted to the LRC Inquiry into Penalty Notices that activities undertaken while in gaol should be able to be included in a WDO.¹²³ For instance, Legal Aid NSW submitted:

Solicitors from Legal Aid NSW regularly see clients in prison who owe many thousands of dollars in unpaid fines. Previously it was possible for inmates to get credit towards the payment of fines for time served in prison; however this option was discontinued with the introduction of the Fines Act. As a consequence, it is not uncommon for prisoners to leave prison owing thousands of dollars but with no capacity to clear their debt.

While it is possible for prisoners to have SDRO sanctions suspended until three months after release, this may in reality only give brief respite. In our experience many ex-prisoners with unpaid fines lose their driver's licenses [sic] as a result. This makes finding employment more difficult for them, particularly in rural and remote locations, and it is not uncommon for people to reoffend by driving unlicensed in such circumstances.

Given the evidence that suggests a link between debt and reoffending, there is a substantial public policy benefit in providing prisoners with the opportunity to participate in the WDO scheme. This would enable prisoners to undertake voluntary activities that contribute to their rehabilitation while also cancelling out some of their accumulated debt. In our view it is also likely to lead to a reduced risk of reoffending and return to prison.

The WDO Monitoring Committee agreed with these sentiments. The Committee noted that many prisoners have fine debt, which is impossible for them to pay and can increase the chances of their reoffending on release. The Youth Justice Coalition also noted there is a culture of not undertaking any activities in gaol, which a WDO may counter to some extent. All agreed that a WDO might be a good opportunity to engage an offender in constructive activities that may promote positive behavioural change. It was also noted that prisoners who come from rural and remote areas might actually have access to more services in gaol than they would have at home. There were some concerns that this proposal might mean all prisoners would undertake a WDO, given the demographic. However, it was agreed this would be unlikely, given the culture of prisoners not engaging in voluntary activities, and the lack of Corrective Services NSW and NSW Juvenile Justice officer capacity to supervise and report on numerous WDOs.

It is therefore recommended that provided a prisoner or detainee (whether on remand or otherwise) meets the eligibility criteria for a WDO under the *Fines Act 1996*, that person can undertake a WDO and count voluntary activities undertaken while in gaol (or on community supervision) for the WDO. Juvenile Justice or Corrective Services would have to be the supporting organisation.

¹²³ Women's Advisory Council, *Submission to the LRC Consultation Paper 10: Penalty Notices*, Corrective Services NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

e) Apprenticeships

Some stakeholders also submitted that activities undertaken as part of traineeships and apprenticeships should be able to be included in a WDO. One response to the on-line WDO survey stated:

I think that the criteria should be extended to include traineeships and apprenticeships. It seems that the scheme has nothing to offer young people who have made mistakes but have now got themselves on track and found employment at minimum wages. It seems that the more one does for oneself, the less support the system gives.¹²⁴

Members of the WDO Monitoring Committee also acknowledged the difficult position of apprentices and trainees with fine debt. Committee members highlighted the very low wages that apprentices and trainees receive (many would meet the definition of acute economic hardship and some are paid less than Centrelink benefits). They noted that many apprentices and trainees have to engage in extensive training, and a WDO could provide the incentive for them to continue. A Committee member who works with young people also noted that some WDO participants gain an apprenticeship or a traineeship halfway through their WDO, and it does not seem fair that they should have to stop the WDO because of this progress. To the contrary, the scheme should encourage and support the path they are on towards full employment. This evaluation therefore recommends that the educational aspect of an apprenticeship/traineeship be included in a WDO (though not hours spent on the actual job).

f) Centrelink mutual obligation activities

This evaluation also endorses the WDO Monitoring Committee's recommendation that mutual obligation activities should be able to be counted under a WDO. Committee members noted that eligibility for Centrelink benefits is very limited; people who are successful in obtaining Centrelink benefits are likely to be the most disadvantaged and marginalised in the community. These include young people, people with mental health issues and/or a history of other long-term issues. Maintaining the mutual obligation activities exclusion, and requiring eligible people to satisfy WDO obligations in addition to their mutual obligation activities, is likely to be counter-productive because it sets unrealistic targets for this group. Although there remains the issue of 'double-dipping', on balance this is outweighed by the benefit to the eligible person, particularly young people, because they have a further incentive to fulfil their mutual obligation requirements. This can be significant where the person is undertaking activities to address their mental health issues or other factors, which are barriers not just to their ability to gain employment, but to participate positively in the wider community. This position is supported by anecdotal feedback from approved organisations and other community stakeholders. Feedback suggests that approved organisations are generally careful and deliberate in choosing whom they support to apply for a WDO and WDOs are offered to encourage and reward positive engagement by the client.

¹²⁴ Anonymous response to the WDO survey, February 2011

g) The appropriateness of activities to be undertaken in a WDO

During the evaluation, the SDRO queried whether it had to verify that the activities proposed to be undertaken as part of a WDO were related to the client's ground of eligibility, or were otherwise suitable for the client. The WDO Monitoring Committee agreed that it neither feasible nor appropriate for the SDRO to make this judgment. Rather, the onus is on the supporting organisation or health practitioner to ensure this is the case. This needs to be clearly stated in any revised version of the WDO Guidelines.

Recommendations

In light of the above, it is recommended that

- (29) The WDO Guidelines provide a more detailed explanation of the types of WDO activities, with examples.
- (30) The WDO Guidelines be amended to expressly state that a client's attendance at case management meetings with their social worker or other case worker can be counted as counselling for the purposes of the WDO scheme;
- (31) Voluntary court-diversion programs, such as participation in the Magistrates Early Referral into Treatment (MERIT) or CREDIT (Court Referral of Eligible Defendants Into Treatment) programs, be eligible activities for a WDO. However, compulsory court-ordered programs should remain excluded from eligible WDO activities.
- (32) Educational activities undertaken as part of an apprenticeship or a traineeship be eligible activities for a WDO.
- (33) Mutual obligation activities undertaken for the purposes of Centrelink benefits be eligible activities for a WDO.
- (34) The WDO Guidelines clearly state that the SDRO does not verify that the activities proposed to be undertaken as part of a WDO are suitable and appropriate for the client. Rather, the onus is on the supporting organisation or health practitioner to ensure that this is the case.

8.2.7. Applying for a Work and Development Order

Current law and practice

Applications for WDOs are made to the SDRO. A WDO application must be made with the supported of the approved person who proposes to supervise the WDO, and must set out the grounds for making the WDO (including supporting evidence), the activities that are proposed to be carried out, and a proposed time for the completion of those activities.¹²⁵ The WDO Guidelines set out what supporting documentation is required in order to prove a person's eligibility for a WDO. SDRO officers, upon receipt a WDO application, currently verify a person's eligibility, verify that the proposed activities come within the scope of the scheme, and also verify that the supporting organisation has approval to provide or supervise the proposed activities.

¹²⁵ Section 99B(2), *Fines Act 1996*

Issues arising

a) Streamlining and expediting the application process

The main concern that emerged from the evaluation is the time taken to process WDO applications. The evaluation does not have any data on the time taken by the SDRO to process a WDO application. However, the perception amongst approved organisations and health practitioners is that the process is too slow. In the survey of all approved organisations and health practitioners, almost 70% of respondents rated the timeliness of the SDRO in processing applications as “slow” or “very slow”. In the open-ended comments, over 20 responses focused on the need to process applications more quickly. For instance:

*Application process is fine. Time it takes to process and lack of confirmation that application has been received, accepted etc has in our experience been very, very slow.*¹²⁶

*The long wait caused stress for client. Improving speed of processing of applications would help.*¹²⁷

*My only suggestion to improve this scheme would be to resource the staff so they can process applications more rapidly.*¹²⁸

In the interviews carried out by the University of Wollongong, participants expressed similar concerns. Several submissions to the LRC Inquiry into Penalty Notices also expressed concern about delays in processing.¹²⁹

As was commented in the report on the research by the University of Wollongong, the processing delays are not extraordinary (most reported about a processing time of 8 weeks). However, many organisations have stressed that they have a limited opportunity for engagement with their clients, and a quicker processing time would be of huge benefit in terms of encouraging their clients to undertake and stick with a WDO. In this regard, it is the nature of the client group that makes fast processing of applications essential. As the report by the University of Wollongong commented:

*... two months is a long time for a homeless man with social phobia to wait to find out whether his computer course will set him debt free.*¹³⁰

It is important to note that the SDRO backdates WDO applications, so that activities undertaken from the time an application is submitted to the time it is approved can be counted towards the WDO. The University of Wollongong report highlighted this practice “as a good example of the flexibility and adaptability of the scheme’s administrators during the pilot”.¹³¹ However, this is more of an ameliorating measure than a solution, and does impose an extra burden of trust on the case-worker client relationship.¹³² It is

¹²⁶ Anonymous response to WDO survey, February 2011.

¹²⁷ Anonymous response to WDO survey, February 2011.

¹²⁸ Anonymous response to WDO survey, February 2011.

¹²⁹ Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices*; Homeless Persons’ Legal Service, *Submission to the LRC Consultation Paper 10: Penalty Notices*; and Legal Aid NSW, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

¹³⁰ Rintoul above n74 at 31

¹³¹ Rintoul above n74 at 24.

¹³² Rintoul above n74 at 31.

also incompatible with the time limits for some programs, in that a client may have exited a program and no longer be in contact with the supporting organisation by the time the WDO is approved.¹³³

While the evaluation acknowledges the concerns around processing times, it also wishes to emphasise the positive feedback it received on the SDRO staff. The University of Wollongong report, for instance, stated:

... with few exceptions, services speak highly of the SDRO staff answering their phone calls and emails, fielding WDO-related enquiries and applications. However their impression is that the team at the SDRO is simply 'swamped', and therefore unable to service the demand within the anticipated timeframe.¹³⁴

The SDRO has also explained that delays are often a result of the to-ing and fro-ing that occurs between clients, approved organisations and the SDRO when gathering and reviewing the necessary paperwork. In practice, an organisation will see a client, the organisation will inform the client what documentation they require for proof of eligibility, the client will do their best to provide the required documentation, the organisation will then send that on to the SDRO, and the SDRO will then review the documentation and, if necessary, go back to the organisation requesting further information. The organisation and the client must then attempt to gather any further documentation and resubmit it to the SDRO for review and the making of a WDO, if appropriate. Months can therefore elapse between the date of the WDO application and the making of the WDO. As explained above, for organisations that have very limited windows of opportunity with their clients, this delay can be difficult, if not fatal, when trying to get engagement.

Two key recommendations are proposed to address the length of processing times and to streamline the WDO application process.

The first is that approved organisations and enrolled health practitioners would be responsible for determining and verifying clients' eligibility for the WDO scheme, rather than the SDRO. The organisation or health practitioner would still have to collect and keep records to prove their clients' eligibility, but this documentation would not have to be reviewed by the SDRO as well. Once eligibility had been verified, the organisation or health practitioner would simply send in the WDO application, outlining the client's details, verifying the client's eligibility, and outlining the activities that the client proposes to undertake for the WDO. The SDRO would then remain responsible for: (a) ensuring that the proposed WDO activities come within the scope of the scheme; (b) verifying that the supporting organisation or health practitioner has approval to supervise those activities; and (c) ultimately making the WDO.

This new process would significantly reduce processing times and ensure that judgments about eligibility for the WDO scheme are left to those with the most expertise in this area. Approved organisations and health practitioners have experience working with WDO client groups and know their individual clients. For instance, they are in a good position to make a decision around whether an individual has a mental illness and review associated paperwork, whereas this may be more difficult or time-consuming for SDRO officers, who have limited experience in these areas. In consultation, several organisations stressed these points and noted that they already have rigorous intake and

¹³³ Rintoul above n74 at 31

¹³⁴ Rintoul above n74 at 25.

assessment procedures. It is also important to note that these organisations (non-government and government alike) have limited resources and are not given any additional funding for the supervision of people on WDOs. They are therefore careful and judicious in choosing which clients they support on a WDO, and incorrect or inappropriate determinations of eligibility are unlikely.

However, in order for this change to work, and for the scheme to maintain its integrity, safeguards are critical. The first proposed safeguard is that there must be a clear and specific list of evidence which the supporting organisation or health practitioner would have to keep on file to establish eligibility. There could be different paperwork options to prove eligibility, but the parameters would be clear. If the requisite documentation were not available, there would be a fall-back provision enabling the organisation or health practitioner to make an application to the SDRO in order to confirm eligibility. The second safeguard is that there would need to be resources allocated for independent audits of approved organisations and health practitioners, to ensure compliance with the eligibility requirements of the scheme, including record-keeping. The evaluation considers that it would be appropriate to audit 5% of all WDOs issued in a two-year period. The primary purpose of the audit in the first two years would be educative. Agencies that are not keeping adequate records would be told what is expected, and all approved agencies would be told of audit outcomes. Ultimately, though, organisations or health practitioners could be prohibited from participating in the scheme if they refuse to comply, or if wilful or reckless breaches of the requirements are apparent.

This new process should not result in any additional burden for approved organisations and health practitioners, as they already collect documentation to establish eligibility. Hopefully though, through a refinement and clarification of documentation requirements, their administrative burden could also be alleviated. This is discussed below.

The second recommendation proposed to address concerns around processing times is the enhancement of the SDRO's computer system for the WDO scheme. During the pilot, the SDRO has been administering the WDO scheme on the basis of very limited IT infrastructure. The SDRO has managed to establish an on-line system, but this system has limitations and was the subject of some negative feedback in the evaluation. For instance, in the survey issued to all approved organisations and health practitioners, 22 respondents indicated that they use the paper-based rather than the on-line system. Seven respondents said that they found the paper-based system easier, one said that the on-line system took longer and one said that the on-line system is more difficult. The University of Wollongong Report also stated:

Feedback about the online application form (as distinct from the paper form) was more negative than positive. A number of workers reported preferring hard copy documentation in principle ("I'd just have to print it out anyway, so it's not like it would save any paper"); others reported frustration with the online interface, eg being unable to save a form part way through and having one 'box' per letter of the applicant's name, rather than a free text field.¹³⁵

Complaints were also made about the system's failure to provide acknowledgment when an application was received, or updates on the amount of fine debt that remained outstanding (these matters are discussed further below). Therefore when asked about

¹³⁵ Rintoul above n74 at 30.

the issue of funding for approved organisations to participate in the scheme, one worker commented:

*I'd rather you put the money into making a better system that took me less time than compensating me for using a slow system.*¹³⁶

This evaluation therefore recommends that resources be allocated to the SDRO for the development of a self-service portal or similar which provides approved organisations and health practitioners, with a user-friendly, informative and prompt mechanism for client applications and their approval, and interacts directly with SDRO's existing operating system. This computer system should also have reporting capabilities, to enable ongoing monitoring of the WDO scheme.

Simplifying and clarifying the requirements for proof of eligibility is also likely to streamline and expedite the application process. This includes, for instance, the proposal to deem all people on eligible Centrelink benefits as meeting the definition of acute economic hardship (see 8.2.5 b), as well as other considerations discussed below.

b) Proof of eligibility

In terms of putting together the WDO application, the majority of approved organisations and health practitioners do not appear to have any major difficulties with the process. However, there does remain scope for improvement. In the survey sent to all approved organisations and health practitioners, responses were as follows:

Table 3: Ease of putting together a WDO application

Ground	Ease of putting application together
Cognitive Impairment	57% of respondents who had completed an application on this ground found it very easy or fairly easy (12/21)
Mental illness	65% of respondents who had completed an application on this ground found it very easy or fairly easy (32/49)
Homelessness	76% of respondents who had completed an application on this ground found it very easy or fairly easy (28/37)
Acute economic hardship	64% of respondents who had completed an application on this ground found it very easy or fairly easy (36/56)

For those respondents that answered fairly difficult or very difficult, the main reason supplied that it was difficult for the client to find the documentation or information required. Respondents commented that their clients lead chaotic lives and that paperwork is a real issue for the homeless and the mentally ill.¹³⁷

Some referred specifically to the difficulty of obtaining necessary information or documentation from mental health and other medical practitioners. In this regard, it is noted that the WDO Guidelines (clause 7.2) currently require a letter from the applicant's treating doctor, psychiatrist or registered psychologist that is no older than 3 months from the date of the application and must explain:

¹³⁶ Cited in Rintoul above n74 at 39.

¹³⁷ Anonymous response to WDO survey, February 2011.

- the nature, severity and effects of the illness/condition
- how long the applicant has had the illness/condition, and
- how the applicant meets the eligibility criteria for a WDO, namely:
 - i. how the applicant's mental illness has contributed or is contributing to the inability to pay the fine
 - ii. why it is more appropriate for the applicant to undertake the proposed work or activities rather than pay the fine.

The WDO Guidelines also state that a letter to this effect from Juvenile Justice, Corrective Services, youth service or from the applicant's mental health caseworker will be sufficient. However, this does not necessarily help all caseworkers from community organisations, who may not fall into these categories. One respondent to the survey commented that

We have to write to doctors and pretty much write out for them what they should say in relation to why the client needs a WDO and often doctors don't have time to write such a detailed report. As a consultant I should be able to provide the justification and just get a report from the doctor verifying the condition.

This seems a sensible suggestion.

The University of Wollongong report also highlighted a paperwork shortcut for eligibility on the ground of mental illness. It stated that the SDRO has advised some services that it will accept a Job Capacity Assessment (undertaken when a person seeks employment) as evidence of mental illness for the purposes of WDO applications.¹³⁸ The SDRO has clarified that this only applies in cases where the Job Capacity Assessment is supported by medical evidence. This needs to be more widely publicised. Consideration also needs to be given to whether similar shortcuts could be found for the other grounds, as they make the application process quicker and easier for clients, organisations and the SDRO.

Finally, as noted earlier, the report by the University of Wollongong stated that “[o]n balance, acute economic hardship was seen as the ‘hardest’ eligibility criteria to document, as it required multiple evidences relating to income and expenditure”.¹³⁹ The proposed change to enable all people on eligible Centrelink benefits to meet the definition of acute economic hardship would address this issue, as it would make many applications on this ground much easier to establish and document.

c) Acknowledging receipt

Representatives of approved organisations and health practitioners complained about the lack of any acknowledgement of receipt of WDO applications from the SDRO.¹⁴⁰ A courtesy email acknowledging receipt of a WDO application would be a relatively easy and important measure to improve the communication between the SDRO and approved organisations and health practitioners. A further suggestion made by the University of Wollongong report was for the application receipt to show the rate at which the applicant's fine debt will be reduced if all of the activities applied for are approved and

¹³⁸ Rintoul at 21.

¹³⁹ Rintoul above n74 at 29.

¹⁴⁰ Anonymous responses to the on-line WDO survey, February 2011.

carried out each month.¹⁴¹ This would be an important motivational tool. A similar suggestion was made in relation to reporting on WDOs (discussed below under 8.2.9 c). This evaluation recommends that such a facility be built into the enhanced SDRO computer system for the WDO scheme, recommended above.

d) The client application form

In the evaluation, various suggestions were made to simplify and improve the WDO client application form, including the on-line form. For instance,

- Staff from approved organisations queried the inclusion of question 7 on the client application form, which asks how the client's fine debt will be satisfied if the WDO does not satisfy all outstanding fines. Staff saw this question as difficult to answer, and were unsure of how their answer would affect the WDO application.
- Staff also had difficulties with the on-line client application form, expressing frustration at having one box per letter of the applicant's name, rather than a free text field.
- The University of Wollongong report points out that the language and voice on the application form is inconsistent, using a mixture of 'applicant', 'client', and 'you'.

In light of the proposal to change the application process by placing the responsibility for eligibility determination with approved organisations and health practitioners, this form will have to be revised substantially. However, these factors can be taken into account in the revision process.

e) Simplifying the WDO Guidelines

The WDO Guidelines deal comprehensively with the general information to be included on an application for a WDO (such as name, date of birth, etc (clause 7.1). This seems unnecessary given that the application form can clearly set out the information required.

f) Consequences of fraudulent applications

There was one known instance of fraud in the WDO application process, where an individual attempted to forge the enrolment and subsequent support of a health practitioner. This fraud was detected by the SDRO and the application was rejected. However, this incident highlighted the need for the WDO Guidelines to specify the consequences of a fraudulent WDO application. Namely, a decision to make a WDO based on fraud will be invalid and will be ignored (the person's fines will therefore remain due and payable). The person may also be liable for prosecution under section 307A of the *Crimes Act 1900* (NSW).

Recommendations

In light of the above, it is recommended that:

- (35) The SDRO be provided with the resources to enhance its computer system to administer the WDO scheme, with a self-service portal and reporting capabilities.

¹⁴¹ Rintoul above n74 at 30 and 37.

- (36) Responsibility for determining client eligibility for the WDO scheme rest with the supporting approved organisation or health practitioner.
- (37) The requirements for proof of eligibility should be revised, with a view to providing a clear and specific list of evidence which the supporting org/health practitioner would need to keep on file to establish eligibility (applications for special consideration could be made to the SDRO where the requisite documentation was unavailable).
- (38) Resources be allocated for random audits of 5% of all WDOs issued in a two year period, to verify approved organisations and health practitioners' compliance with record keeping requirements, including in particular proof of eligibility.
- (39) The new WDO computer system provide applicants with an acknowledgment that their WDO application has been received, which shows the rate at which the applicant's fine debt will be reduced if all of the activities applied for are approved and carried out each month.
- (40) The WDO client application forms be revised to reflect the new application process, and taking into account issues raised in the evaluation, such as the need for question 7 (dealing with outstanding fines), the user-friendly nature of the on-line client application form, and the consistency of language used.
- (41) The WDO Guidelines be amended and simplified to reflect the new application process.
- (42) The WDO Guidelines be amended to expressly set out the consequences of making a fraudulent WDO application.

8.2.8. Cut out rates for a Work and Development Order

Current law and practice

Once a person's application for a WDO is approved, the supporting organisation or health professional oversees the person's participation in the relevant course, treatment or unpaid work. A person's debt is reduced according to cut-out rates in the WDO Guidelines. At present these cut-out rates are as follows:

Table 4: Current cut-out rates for WDOs

Activity	Cut-out rate
Unpaid work	\$30 per hour
Medical or mental health treatment Drug or alcohol treatment Disability case management Counselling	\$1000 per month
Educational, vocational and life skills courses (this may include financial counselling and anger management counselling or programs)	\$50 per hour or \$350 per full day, with a maximum of 3 full days (\$1050 of fine debt) per month
Mentoring program	\$1000 per month

The WDO Guidelines provide that the maximum number of hours of work or activities that may be performed under a WDO is 300 hours for an adult or 100 hours for a child. This is consistent with the current limits for Community Service Orders. The WDO Guidelines further provide that if satisfying the fine debt would require hours of work or activities in excess of these caps, an alternative arrangement may be approved. For instance, a partial write-off or a time to pay may be applied for in conjunction with, or at the conclusion of, the WDO.

Issues arising

a) Maximum amount of fine debt that can be cleared each month

During the evaluation, the SDRO raised the concern that the WDO Guidelines do not specify an overall maximum amount of fine debt that can be cleared through a WDO each month. The WDO Committee agreed that the overall amount that a person can be credited after a month of WDO activities should be \$1000, even when the person is undertaking more than one activity that together would exceed this amount. Although a maximum overall amount is not clearly specified in the WDO Guidelines, this interpretation is supported on a number of grounds, including: the desire to engage WDO clients for longer periods; the aim of ensuring that each WDO is tailored to the client's needs and capacity; the related aim of ensuring some fairness for all clients, regardless of their capacity; and the SDRO's need for some degree of certainty. This position needs to be clearly stated in the WDO Guidelines.

The SDRO has also requested that it would be desirable to have a consistent maximum amount for each activity (i.e., \$1000 rather than some with \$1000 and some with \$1050).

b) Definition of "full day"

The SDRO also requested clarification of the term "full day". To respond to this concern it is recommended that the WDO Guidelines stipulate that a "full day" is a 7 hour day.

c) Scope of "counselling" that earns \$1000 monthly cut out rate

The SDRO also indicated that there is some uncertainty over the term "counselling" in section 6.2 of the WDO Guidelines, which earns a monthly cut-out rate of \$1000. Counselling is very broad, and some forms of counselling which are not necessarily mental health-related are captured in clause 6.3, which deals with financial counselling. To deal with this issue, it is recommended that there be one stand-alone activity of "financial and other counselling" (this activity mirrors the *Fines Act 1996*).¹⁴² As discussed above, this category of activity would include attendance at case management meetings. The cut-out rate would be \$50 per hour or \$350 per full day, to a maximum of \$1000 per month.

d) Minimum number of hours for unpaid work

Currently the WDO Guidelines (clause 6.1) state that generally, a person must work a minimum of 10 hours per month. The SDRO has queried whether a minimum is necessary. It seems unlikely that a person would be proposed to work less than 10 hours a month, but in the interests of flexibility and ensuring that WDOs are tailored to client

¹⁴² Section 99A, *Fines Act 1996*

capacity, it is proposed to remove the requirement for a client to work a minimum number of hours each month.

e) Cap on WDO hours

Currently, the WDO Guidelines (clause 6.5) also provide for a cap on the number of hours of work or activities that can be performed under a WDO (300 hours for an adult and 100 hours for a child). It became apparent during the pilot that some clients were undertaking or proposing to undertake WDOs that would place them in excess of these caps. The SDRO was therefore required to contact the approved persons supporting these clients to see what “alternative arrangement” could be put in place. It queried the policy rationale behind the cap.

The cap was put in place in the interests of ensuring that WDOs were not too onerous, mirroring the scheme for Community Service Orders. It was thought that if a WDO could not clear a person’s fine debt without exceeding these caps, it could be combined with a time to pay or write-off arrangement. However, given that a WDO is voluntary (clients and organisations only put forward activities which they believe the client is ready and willing to undertake), and some clients have indicated they wish to undertake WDOs in excess of the cap, the cap seems unnecessary. Rather, the cap will be removed to allow clients maximum flexibility.

Recommendations

In light of the above, it is recommended that:

- (43) The WDO Guidelines stipulate that the maximum overall amount of fine debt that can be satisfied through a WDO each month is \$1000.
- (44) There be a consistent maximum amount of \$1000 per month for each category of WDO activity.
- (45) The WDO Guidelines define a full day as a 7 hour day.
- (46) There be a stand-alone category of “financial and other counselling” in the WDO Guidelines, with a cut out rate of \$50 per hour or \$350 per full day, to a maximum of \$1000 per month.
- (47) The minimum number of hours that a person must work per month be removed from the WDO Guidelines.
- (48) The cap on the number of hours that a person may undertake in a WDO be removed from the WDO Guidelines.

8.2.9. Reporting on a Work and Development Order

Current law and practice

Approved organisations and health professionals must report to the SDRO on the progress of each WDO they are supervising, once a month and when a WDO is completed. There is currently provision for organisations and health professionals to report on-line or to report using a paper-based system.

Issues arising

There does not appear to be any major issues with the reporting system in the WDO scheme. In the survey issued to all organisations and health professionals, 38.4% stated that they found it “very easy”, and a further 43.8% found it “fairly easy”. Participants in the University of Wollongong interviews reported that on average reporting on WDOs takes them no more than half an hour per month.¹⁴³

a) The on-line system

It appears that not all organisations and health professionals are aware of the option to report on-line: 10 respondents to the WDO survey who use the paper-based reporting system indicated that they did not know about the on-line reporting system. Furthermore, as discussed earlier in relation to the application process, seven of those respondents who are aware of the on-line system reported that they found the paper based system easier, one reported that the on-line system took longer and one reported that the on-line system was more difficult. In the interviews carried out by the University of Wollongong, respondents also indicated that they did not consider the on-line form user-friendly (for instance, it does not allow workers to make comments in the margin).¹⁴⁴ These comments reinforce the need for enhancements to the SDRO computer system for the WDO scheme, and for awareness-raising to be carried out on the on-line system once it has been improved.

b) Variations to WDO activities

During the pilot, it became apparent that there was no easy way to add or vary the activities that the client was undertaking as part of the WDO. This caused difficulties, particularly when there was a lapse between the submission of the application and the approval. For instance, the activities nominated on the WDO application may have been completed by the time the application was approved, or new courses may have arisen that the client would like to take advantage of, but these activities were not included in the original WDO application. The report by the University of Wollongong stated that the need to streamline and standardise the process for varying WDOs was the “most common suggestion from services about the reporting process”.¹⁴⁵ It provided the following quotes to illustrate:

The reality is that course suitability and accessibility changes. And the kids we work with, we have to move really hard and fast. Twelve weeks is all you get, so if you get a vacancy in a first aid course: ‘let’s go!’.

I need the flexibility to just put in the hours they did, even if this is less than hoped for. Like if they lose faith in their GP, or find that ‘this group isn’t for me’, there’s no way I’m going to push push push treatment that isn’t working just for the sake of the WDO.¹⁴⁶

Some interim arrangements were made to respond to this issue during the pilot, but this evaluation proposes that the following process be agreed to and formalised. A change or addition in WDO activities may be effected by the approved person emailing the SDRO,

¹⁴³ Rintoul above n74 at 25.

¹⁴⁴ Rintoul above n74 at 25.

¹⁴⁵ Rintoul above n74 at 34.

¹⁴⁶ Cited in Rintoul above n74 at 34.

provided that the approved person is approved to provide the type of new or additional activity proposed. This way the SDRO will know what to expect in the monthly report. The onus is on the approved person to ensure that the activities are appropriate for the client. This all needs to be spelt out in any revised version of the WDO Guidelines.

c) A balance statement for WDO clients

During the evaluation, a number of organisations and health professionals suggested that it would be useful to have a balance statement indicating how much debt the client had paid off, and how much they had remaining to pay off. For instance, a survey respondent made a suggestion for:

*A tool to display hours worked with fine amounts outstanding, to show how much the client has achieved. This would be a great ongoing engagement tool, or incentive to continue in the program.*¹⁴⁷

A similar suggestion was made in the interviews carried out by the University of Wollongong.¹⁴⁸ The report on the interviews stated that a monthly statement of this nature:

*... was seen as a useful strategy to reinforce the motivational impact of the scheme. It would also be an improvement on the current practice, common to many workers, of keeping a spreadsheet and providing participants with estimates of 'hours remaining'. (One worker mentioned that a client had almost lost their licence again because his calculations were two hours out of sync with the SDRO's, and the client still owed \$100.)*¹⁴⁹

The University of Wollongong report also noted that the provision of such statements by the SDRO (either emailed to the client's case worker or posted directly to the client) would be a means of improving the relationship between the SDRO and the client).¹⁵⁰

This evaluation agrees that a tool of this nature would have considerable motivational value for clients, and may also help strengthen the client-SDRO relationship. Such a facility or tool could be built into the enhanced computer system for the SDRO.

d) Failure of approved persons to comply with their obligations

There is some ambiguity around the provision in the WDO Guidelines dealing with the failure of an approved organisation or health practitioner to comply with their obligations. Clause 5.4 states that if a health practitioner or approved organisation fails seriously or repeatedly to comply with the conditions of enrolment or approval, the SDRO may refuse to approve any applications for a WDO that are supported by that practitioner or organisation. The heading of this clause reads "Revocation of enrolment or approval of an organisation", but the clause does not actually allow the Director General to revoke the approval or enrolment of a health practitioner. It is recommended that provision for revocation be expressly made out.

¹⁴⁷ Anonymous response to WDO survey, February 2011.

¹⁴⁸ Rintoul above n74 at 34 and 37.

¹⁴⁹ Rintoul above n74 at 37.

¹⁵⁰ Rintoul above n74 at 37.

Furthermore, and particularly in light of the increased responsibilities proposed to be placed upon approved organisations and health practitioners (i.e., determining eligibility), it is crucial that resources are allocated for audits to ensure their compliance with all relevant responsibilities.

Recommendations

In light of the above it is recommended that:

- (49) The on-line reporting form be reviewed and revised to ensure it is as user-friendly as possible.
- (50) Awareness-raising be carried out so that approved organisations and health practitioners are made aware of the on-line reporting option.
- (51) The WDO Guidelines state that a variation or addition to the specific activities to be undertaken as part of a WDO will be permitted, provided that the organisation or health practitioner has approval to provide or supervise that kind of activity, and the supporting organisation or health practitioner sends an email to notify the SDRO.
- (52) WDO clients and their supporting organisation/health practitioner be able to access an on-line balance, or be provided with a monthly statement, that shows how much fine debt the client has satisfied and how much is outstanding (translated into hours or months of activities that need to be completed, as well as dollar amount outstanding).
- (53) The WDO Guidelines make provision for revocation of an organisation's approval, or a health practitioner's enrolment, if they fail seriously or repeatedly to comply with the conditions of their approval or enrolment. As recommended in recommendation (38), there must also be provision for the audit of approved organisations and health practitioners to ensure compliance with their obligations under the scheme.

8.2.10. Engaging and supporting approved organisations and health practitioners

As at 14 April 2011, there were 143 organisations approved for participation in the WDO scheme. Although there were some initial delays in processing applications for approval, this issue has largely been remedied. Organisation applications are reviewed by officers in both the SDRO and AGJ before submission to the Director General of AGJ and the whole process usually takes no longer than 3 – 4 weeks. As at 14 April 2011, there were also 77 enrolled health practitioners. The SDRO takes a similar period to enrol a health practitioner. This does not reflect the actual time that the SDRO spends reviewing individual health practitioner applications, but rather the fact that they must be processed in order of receipt, along with applications from organisations and client WDO applications.

There is great diversity in the type of organisations approved to participate in the WDO scheme, and the services they provide. They include:

- large not-for-profit charities, such as the Salvation Army, the St Vincent de Paul Society, and Mission Australia

- local community-based service providers, such as the Bathurst Information and Neighbourhood Centre
- specialist services, such as Guthrie House
- government agencies from both NSW (for example, Juvenile Justice NSW and Mental Health Units from NSW Health) and the Commonwealth (CRS Australia, Maroubra).

At least 10 Aboriginal and Torres Strait Islander organisations have been approved.

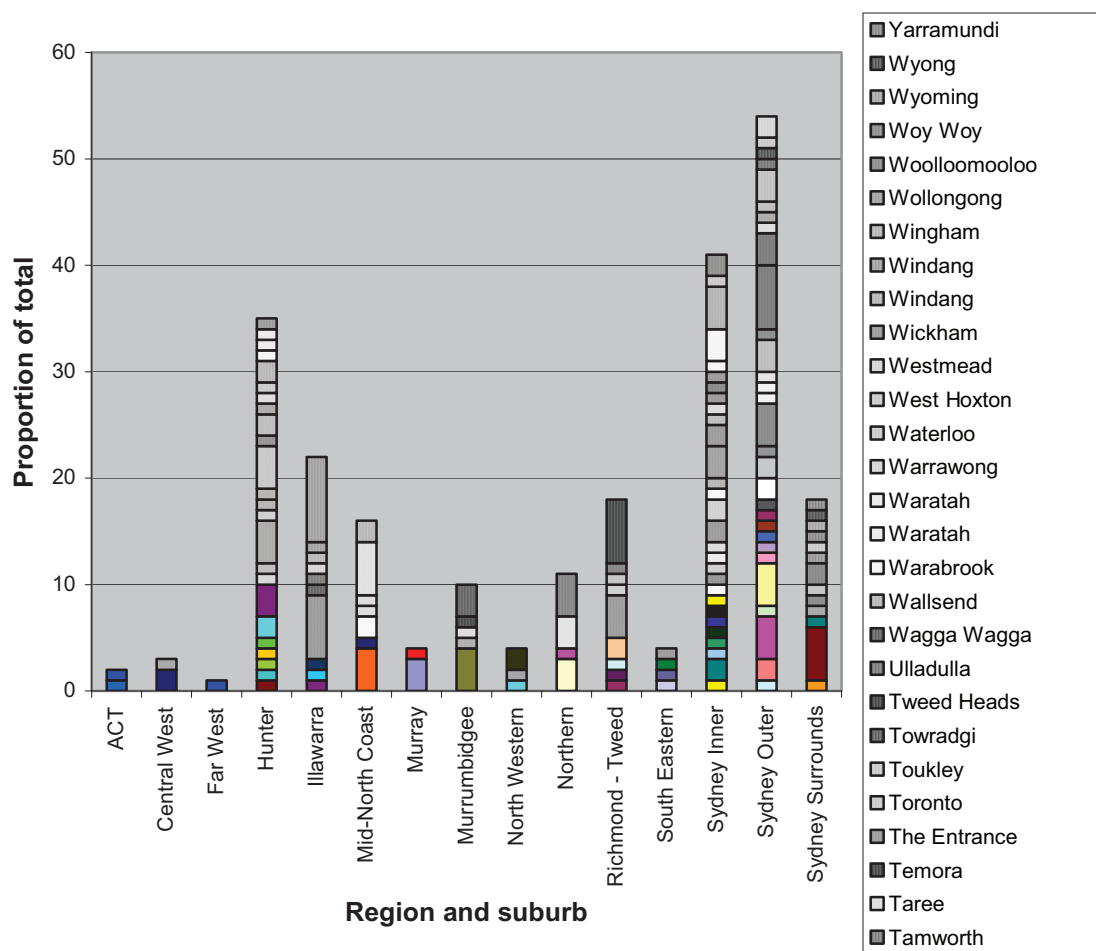
Approximately half of all approved organisations are (or have their main office) in the Sydney metropolitan area, and half are outside the Sydney metropolitan area.

The number of approved organisations does not reflect the number of *locations* where WDOs may be available. Following approval, the SDRO only records the address provided in the original application and counts that application as ‘one’ approved organisation. However, an organisation may have more than one location where they can support WDOs. The table and chart below takes multiple locations into account where organisations have provided this information, to give a more holistic picture of where WDOs may be supported.

Table 5: Location of Approved Organisations, by region

Region	AO location	% of Total
ACT	2	0.82%
Central West	3	1.23%
Far West	1	0.41%
Hunter	35	14.40%
Illawarra	22	9.05%
Mid-North Coast	16	6.58%
Murray	4	1.65%
Murrumbidgee	10	4.12%
North Western	4	1.65%
Northern	11	4.53%
Richmond - Tweed	18	7.41%
South Eastern	4	1.65%
Sydney Inner	41	16.87%
Sydney Outer	54	22.22%
Sydney Surrounds	18	7.41%
Total	243	100.00%

Table 6: Location of Approved Organisations, by region and suburb



Issues arising

a) Increasing the number and spread of approved organisations

While the take-up of the scheme has been respectable among organisations and health practitioners, submissions to the LRC Consultation Paper on Penalty Notices still raised concerns around the inadequate numbers of approved organisations.¹⁵¹ As is evident from the table above, there are also gaps in terms of state-wide coverage. Some regions with very high fine debt do not have any or many approved organisations to support people undertake a WDO. For instance, the residents of Mount Druitt have over \$20 million outstanding in enforcement orders and the area suffers from entrenched socio-economic disadvantage, but there are only three approved organisations in the Mount Druitt. The residents of Broken Hill have almost \$3 million outstanding in enforcement orders and Broken Hill also suffers from entrenched socio-economic disadvantage, but there is only one approved organisation (NSW Juvenile Justice) operating in the suburb.

¹⁵¹ See for instance Legal Aid NSW *Submission to the LRC Consultation Paper 10: Penalty Notices*; Uniting Care Burnside, *Submission to the LRC Consultation Paper 10: Penalty Notices*; Redfern Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices*; and Illawarra Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

Furthermore, as indicated in the preceding table and chart, there appears to be only three organisations with a presence in the Central West and only one in the Far West.

These gaps in coverage are largely a reflection of the fact that the WDO pilot was given no funding for promotion and education. Submissions to the LRC expressed concern around this issue. For instance, the Homeless Person's Legal Service was expressed concern that "the WDO scheme lacks a "champion" for the reforms, that is, a person who, or organisation that, actively promotes the scheme to suitable organisations and health professionals".¹⁵² The Youth Justice Coalition also submitted:

Since the WDO scheme commenced in mid-2009, there has been no additional allocation of funding from Department of Justice and Attorney General ... to implement, promote and educate community organisations about the changes to the fines legislation and the WDO scheme in particular.

There also has been no targeted community legal education by DJAG to the community in highlighting the WDO scheme, relying on community organisations to conduct their own community education sessions to promote the scheme. The Convenor of the YJC has personally spent significant amounts of time travelling around the Sydney Metropolitan area delivering Community Legal Education ('CLE') seminars, talks and informal roundtable discussions on WDOs. Notwithstanding these efforts, at one interagency meeting recently attended by the Convenor of the YJC, all members of the interagency meeting had not heard of the WDO scheme.

This evaluation also acknowledges the considerable work of the Illawarra Legal Centre in raising awareness around the scheme and developing and distributing communication materials about WDOs.¹⁵³

The issues of promotion and education were also explored by the University of Wollongong in the interviews it carried out with approved organisations. The report stated that "once administrative resourcing of the program has been adequately addressed", it would be worthwhile to develop a set of communication materials targeting services.¹⁵⁴ The report specifically recommended a brochure that could be circulated "among their networks, via existing interagency meetings or otherwise, and also within their organisation (for the larger organisations)".¹⁵⁵

This evaluation endorses the recommendation for a set of communication materials to raise awareness amongst service providers about the WDO scheme. It is proposed that these materials include (but not necessarily be limited to) the following:

- A DVD, which would be available not only in hard copy but also able to be viewed electronically from various websites
- A brochure
- A Powerpoint presentation.

¹⁵² Homeless Persons' Legal Service, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

¹⁵³ Examples of the Illawarra Legal Centre's materials are attached to Rintoul, above n74, which is Appendix 3 to this report.

¹⁵⁴ Rintoul above n74 at 36

¹⁵⁵ Rintoul above n74 at 36.

However, these communication materials must be complemented by staff on the ground who are able to promote the scheme in person. The need for people on the ground to carry out awareness-raising and education on the WDO scheme is particularly acute in rural and remote areas of NSW. These areas have high levels of fine debt, and often face particular difficulties accessing information about government services and programs. The evaluation is therefore recommending the establishment of a network of regional WDO support teams across NSW, to carry out awareness-raising on the scheme, and also to provide advice and assistance to organisations and eligible individuals about participating in the scheme. This recommendation is discussed in more detail below, under (b) “Support for organisations that are participating in the scheme”.

b) Support for approved organisations and health practitioners

Current approved organisations and health practitioners have also called for better support and resources to help them continue to participate in the WDO scheme. In the survey issued to all approved organisations and health professionals, some respondents made submissions for funding to be attached to WDO participants. Several submissions to the LRC also raised concerns that no funding was attached to the scheme or suggested that small funding grants could be attached to assist organisations in the administration of the program.¹⁵⁶ The University of Wollongong report also raised the possibility of funding organisations to employ a “WDO Worker” or single point of contact within the organisation.¹⁵⁷ However, the report acknowledged the complexities and risks of such a funding model, and emphasised that funding of positions was “far from the highest priority” of organisations currently involved in the scheme.¹⁵⁸ Most participants interviewed were in favour of the administration of the scheme to be better resourced, rather than for organisations to receive funding for participating.

As set out in the table below, approved organisations and health practitioners who responded to the on-line survey were also in favour of other support measures to help them continue to participate in the scheme.¹⁵⁹

Table 7: Support services that would help organisations and health practitioners to continue to participate in the WDO scheme

What support would help you to continue to participate in the WDO scheme?	
Answer Options	Response Count
Training of staff about how the scheme operates	48
Educational and promotional materials for clients	71
Networking forums with other approved organisations	39
A regional support service that can provide information, advice and assistance with the WDO scheme	49
Other (please specify)	13
Total responses	91

¹⁵⁶ For instance, Shopfront Youth Legal Centre, *Submission to the LRC Consultation Paper 10: Penalty Notices* and Youth Justice Coalition, *Submission to the LRC Consultation Paper 10: Penalty Notices*.

¹⁵⁷ Rintoul above n74 at 38.

¹⁵⁸ Rintoul above n74 at 38.

¹⁵⁹ The recommendation for educational and promotional materials for clients is discussed in 8.2.11.

As noted above, the evaluation proposes the establishment of a network of regional WDO support teams across NSW. These WDO support teams would not only carry out awareness-raising amongst potential service-providers and eligible individuals, but would also be able to provide information, advice and support to organisations and health practitioners participating in the scheme, thus addressing some of the concerns and suggestions made in the evaluation. The WDO support teams would:

- develop regional promotion and referral arrangements
- identify agencies with potential to become approved organisations
- assist organisations to apply to become approved, and to establish systems to manage people on WDOs
- work with existing legal outreach clinics and establish new outreach arrangements in order to make contact with people who are eligible for WDOs and assist them to apply
- carry out related community legal education on fine debt issues for disadvantaged groups, including cautioning, internal review, annulment, write-off and Time to Pay arrangements (including specifically Centrepay).

The evaluation canvassed various options for the staffing of these WDO support teams. One option was to contract certain approved organisations to carry out this role. However, concerns were raised over equity issues that may arise in determining which organisations were selected, and over possible inconsistencies in approach and advice that may be given by different organisations. Another option (put forward by the University of Wollongong report) was that the SDRO could employ staff to carry out this role. However, the SDRO does not have a state-wide presence. There are also concerns that the SDRO is perceived to be intimidating by some in the non-government sector. The option of AGJ employing these positions through the Local Court was also considered, but courts are also considered by many to be an intimidating place.

In light of these factors, it is recommended that the regional WDO support teams be employed by Legal Aid NSW and the Aboriginal Legal Service. These organisations have state-wide presence and experience working with the non-government sector and disadvantaged people. The service would be centrally coordinated through the Central Sydney office of Legal Aid NSW, with small teams based in:

- Coffs Harbour (to cover the North East)
- Dubbo (to cover Western and North Western NSW)
- Nowra (to cover the South East)
- Campbelltown (to cover South and Western Sydney)

To ensure Aboriginal engagement, the WDO teams in Campbelltown, Coffs Harbour and North Western NSW would work with Aboriginal Field Officers that are currently being established in partnership with the Aboriginal Legal Service.

8.2.11. Promoting the scheme to eligible individuals

As at 14 April 2011, WDOs had been issued to 657 people and a further 110 applications were pending. Although take-up was initially slow (due to early delays processing approved organisation applications and WDO applications), the number of WDOs issued has increased considerably since these teething issues have been addressed. Although the numbers of WDOs granted were lower than what was predicted (the *Fine Regulation 2010* places a cap of 2000 WDOs that could be approved in the trial period¹⁶⁰), it appears that the numbers compare favourably with similar programs overseas. For instance, a United Kingdom pilot program that allowed people to work off outstanding financial penalties issued only 217 Fine Payment Work orders in its first four years.¹⁶¹

Below are some observations regarding WDOs and the demographics of WDO recipients:

- There have been almost three times more male WDO recipients (480 approvals) than female WDO recipients (177).
- WDO clients range from under 18 to over 55. The largest group are aged 26-40 (261 WDOs granted).
- WDOs have been issued to 60 Indigenous clients (9% of all WDO recipients), and as at 14 April 2011 there are a further 28 applications from Indigenous clients pending. (Note, applicants retain the option not to reveal this information so the numbers of Indigenous WDO applicants and recipients could be higher). To date, no applications from Indigenous clients have been cancelled or not approved.
- 31 WDOs been issued to people from Culturally and Linguistically Diverse Communities (4.7% of all WDOs). (Again, applicants retain the option not to reveal this information so the numbers could be higher).
- Nearly all applications cite economic hardship, mental illness or homelessness (or a combination of the three) as grounds for the WDO. As at 14 April 2011, only 32 WDOs had been given to people with an intellectual disability or cognitive impairment.

There is clearly scope to increase the numbers of individuals on WDOs, particularly in rural and remote areas, and in areas with large Aboriginal populations, given the high levels of fine debt in these communities. To some extent, increased WDO numbers will be brought about by increasing the numbers of approved organisations and health practitioners participating in the scheme. However, communication materials targeting clients are also warranted. Indeed, in the on-line survey issued to approved organisations and health practitioners, “educational and promotional materials for clients” was the most popular form of support requested by respondents (71 responses). Communication materials targeting eligible individuals were also recommended in the report by the University of Wollongong.¹⁶²

This evaluation therefore recommends that once administrative issues associated with the scheme are resolved, and a larger number of approved organisations come on board, communication materials should be developed for potential WDO applicants. This might

¹⁶⁰ Clause 7(2), *Fines Regulation 2010*

¹⁶¹ Rix, Andrew, Skidmore, K, Maguire, M and Pierpoint, H, *Fine Payment Work Process Study*, Ministry of Justice, Research Summary 8/10 (September 2010), at 4.

¹⁶² Rintoul above n74 at 36.

involve the production of a poster(s), and a plain English pamphlet explaining the WDO scheme. The DVD recommended above might also be suitable for viewing by eligible individuals. Given the high levels of fine debt amongst the Aboriginal population, a set of communication materials specifically targeting Aboriginal people is also worthy of consideration.

Recommendations

In light of the above, it is recommended that:

- (54) A network of regional WDO support teams be established across NSW to promote the WDO scheme and provide information, advice and other support to organisations, health practitioners and eligible individuals. The service should be centrally coordinated through the Central Sydney office of Legal Aid NSW, with small WDO teams based in Coffs Harbour, Dubbo, Nowra, and Campbelltown. To ensure Aboriginal engagement, the WDO support teams in Campbelltown, Coffs Harbour and North Western NSW should work with Aboriginal Field Officers that are currently being established in partnership with the Aboriginal Legal Service.
- (55) A set of promotional and educational materials about the WDO scheme be developed for organisations and health practitioners who may wish to participate in the scheme.
- (56) A set of promotional and educational material about the WDO scheme be developed for eligible individuals who may wish to participate in the scheme.

9. Appendices



Cautions and internal review



1. What is the name of your agency / body?

		Response Count
		86
answered question		86
skipped question		0

2. Are you a local council?

		Response Percent	Response Count
Yes		75.6%	65
No		24.4%	21
answered question			86
skipped question			0



3. What guidelines do your officers use when deciding whether to issue a caution instead of a penalty notice?

		Response Percent	Response Count
Our own agency-specific guidelines		16.9%	13
The Attorney General's Caution Guidelines		24.7%	19
Both our own agency-specific guidelines and the Attorney General's Caution Guidelines		42.9%	33
N/A Our officers do not have regard to guidelines		5.2%	4
N/A Our officers do not issue cautions		10.4%	8
answered question			77
skipped question			9

4. Are your agency-specific guidelines consistent with the Attorney General's Caution Guidelines?

		Response Percent	Response Count
Yes		100.0%	42
No		0.0%	0
answered question			42
skipped question			44



5. Do you think the Attorney General's Caution Guidelines are helpful?

		Response Percent	Response Count
Yes		96.9%	62
No		3.1%	2
Comment			15
answered question			64
skipped question			22






6. What amendments, if any, do you think need to be made to the Attorney General's Caution Guidelines?

		Response Count
		23
answered question		23
skipped question		63



7. Have your officers been trained on the appropriate use of cautions, including training on applicable guidelines?

		Response Percent	Response Count
Yes		70.3%	45
No		29.7%	19
answered question			64
skipped question			22

8. How many cautions have been given since 31 March 2010?

		Response Percent	Response Count
Between 0-100		53.1%	34
Between 100-1000		18.8%	12
Between 1000-10,000		7.8%	5
More than 10,000		1.6%	1
Unknown (no records of cautions are kept).		18.8%	12
answered question			64
skipped question			22

9. Did your officers issue cautions before 31 March 2010?

		Response Percent	Response Count
Yes		87.5%	56
No. Cautioning is a new practice that was introduced following the legislative amendments to the Fines Act 1996.		12.5%	8
answered question			64
skipped question			22

10. Do you have any other comments or feedback on the use of cautions instead of penalty notices?

	Response Count
	35
answered question	35
skipped question	51



11. Does your agency conduct its own internal reviews of penalty notices?

		Response Percent	Response Count
Yes		40.8%	29
No. The reviews are done by the SDRO.		52.1%	37
No. Our agency does not review penalty notices at all.		7.0%	5
answered question			71
skipped question			15

12. Which guidelines does your agency use when conducting reviews of penalty notices?

		Response Percent	Response Count
Agency's own internal review guidelines		69.0%	20
Attorney General's Internal Review Guidelines		41.4%	12
The SDRO Review Guidelines		69.0%	20
answered question			29
skipped question			57





13. Do you find the Attorney General's Internal Review Guidelines helpful?

		Response Percent	Response Count
Yes		89.7%	26
No		10.3%	3
	Comment		6
answered question			29
skipped question			57


14. What amendments, if any, do you think need to be made to the Attorney General's Internal Review Guidelines?

	Response Count
	10
answered question	10
skipped question	76




15. How many internal reviews of penalty notices have you conducted since 31 March 2010?

		Response Percent	Response Count
Between 0-100		48.3%	14
Between 100-1000		44.8%	13
Between 1000-10,000		3.4%	1
Over 10,000		3.4%	1
Unknown		0.0%	0
answered question			29
skipped question			57

16. Did you conduct internal reviews of penalty notices before 31 March 2010?

		Response Percent	Response Count
Yes		100.0%	29
No. The internal review of penalty notices is a new practice that was introduced following the amendments to the Fines Act 1996.		0.0%	0
answered question			29
skipped question			57

17. If you conducted internal reviews previously, has the number of internal review applications increased since 31 March 2010?

		Response Percent	Response Count
Yes		13.8%	4
No		65.5%	19
Unknown.		20.7%	6
answered question			29
skipped question			57

18. Do you have any other comments or feedback on the system for the internal review of penalty notices?

	Response Count
	30
answered question	30
skipped question	56

Page 1, Q1. What is the name of your agency / body?

1	Newcastle Port Corporation	Feb 10, 2011 4:13 PM
2	State transit Authority of New South wales	Feb 10, 2011 5:25 PM
3	NSW State Debt Recovery Office	Feb 10, 2011 6:35 PM
4	Willoughby City Council	Feb 10, 2011 7:47 PM
5	Local council	Feb 10, 2011 8:40 PM
6	port stephens Council	Feb 10, 2011 9:15 PM
7	Warrumbungle Shie Council	Feb 10, 2011 9:43 PM
8	Woollahra Municipal Council	Feb 13, 2011 2:45 PM
9	Coffs Harbour City Council	Feb 13, 2011 3:45 PM
10	Tweed Shire Council	Feb 13, 2011 4:05 PM
11	Lake Macquarie City Council	Feb 13, 2011 4:08 PM
12	Blacktown City Council	Feb 13, 2011 4:20 PM
13	Hornsby Council - Traffic Rangers	Feb 13, 2011 4:42 PM
14	Manly Council	Feb 13, 2011 4:46 PM
15	Bathurst Regional Council	Feb 13, 2011 5:07 PM
16	Griffith City Council	Feb 13, 2011 8:23 PM
17	Redfern Waterloo Authority	Feb 13, 2011 8:49 PM
18	Randwick City Council	Feb 13, 2011 9:18 PM
19	Camden Council	Feb 13, 2011 9:25 PM
20	Lane Cove Council	Feb 13, 2011 9:43 PM
21	f	Feb 13, 2011 10:19 PM
22	rfs	Feb 13, 2011 10:44 PM
23	Hawkesbury City Council	Feb 13, 2011 10:47 PM
24	Ashfield Council	Feb 13, 2011 11:12 PM
25	Parramatta City Council	Feb 14, 2011 1:57 PM
26	Liverpool Plains Shire Council	Feb 14, 2011 2:46 PM
27	Mosman Council	Feb 14, 2011 3:03 PM
28	Cobar Shire Council	Feb 14, 2011 3:18 PM
29	RailCorp	Feb 14, 2011 5:42 PM

Page 1, Q1. What is the name of your agency / body?

30	Wyong Shire Council	Feb 14, 2011 5:54 PM
31	Parramatta City Council	Feb 14, 2011 6:34 PM
32	Bega Valley Shire Council	Feb 14, 2011 8:01 PM
33	Albury City Council	Feb 15, 2011 2:25 PM
34	WorkCover Authority NSW	Feb 15, 2011 3:35 PM
35	gwydir shire council	Feb 15, 2011 4:30 PM
36	Sydney Olympic Park Authority	Feb 15, 2011 7:39 PM
37	PENRITH CITY COUNCIL	Feb 15, 2011 9:28 PM
38	NSW Fair Trading (DSTA)	Feb 16, 2011 3:32 PM
39	City of Sydney	Feb 16, 2011 7:07 PM
40	LISMORE CITY COUNCIL	Feb 16, 2011 8:53 PM
41	Singleton Council	Feb 17, 2011 3:25 PM
42	City of Canada Bay Council	Feb 17, 2011 4:49 PM
43	Ballina Shire Council	Feb 17, 2011 10:07 PM
44	Bellingen Shire Council	Feb 20, 2011 4:58 PM
45	The City of Newcastle	Feb 20, 2011 7:00 PM
46	Goulburn Mulwaree Council	Feb 20, 2011 7:55 PM
47	North Sydney Council	Feb 20, 2011 8:03 PM
48	THE HILLS SHIRE COUNCIL	Feb 22, 2011 7:35 PM
49	Wagga Wagga City Council	Feb 22, 2011 7:50 PM
50	itsr	Feb 24, 2011 10:32 PM
51	Lithgow City Council	Feb 27, 2011 2:08 PM
52	Penrith City Council	Feb 27, 2011 2:35 PM
53	Sutherland Shire Council	Mar 1, 2011 6:38 PM
54	Centennial Park and Moore Park Trust	Mar 1, 2011 8:20 PM
55	x	Mar 1, 2011 9:07 PM
56	RTA - Tow Truck Licensing & Compliance	Mar 2, 2011 2:32 PM
57	RTA - Enforcement Litigation & Inspection Programs	Mar 2, 2011 2:48 PM
58	Independent Transport Safety Regulator	Mar 2, 2011 10:18 PM

Page 1, Q1. What is the name of your agency / body?

59	Game Council of NSW	Mar 3, 2011 5:24 PM
60	Department of Environment, Climate Change and Water	Mar 3, 2011 5:46 PM
61	Tamworth Regional Council	Mar 3, 2011 6:42 PM
62	NSW Maritime	Mar 3, 2011 8:56 PM
63	Gosford City Council	Mar 3, 2011 10:43 PM
64	NSW Rural Fire Service	Mar 6, 2011 3:11 PM
65	Pittwater	Mar 6, 2011 3:13 PM
66	Blue Mtns City	Mar 6, 2011 3:50 PM
67	Burwood	Mar 6, 2011 4:06 PM
68	Marrickville Council	Mar 6, 2011 5:47 PM
69	Regulatory Compliance	Mar 6, 2011 7:37 PM
70	Regulatory Compliance	Mar 6, 2011 7:37 PM
71	Regulatory Compliance	Mar 6, 2011 7:37 PM
72	Wollongong City Council	Mar 6, 2011 7:40 PM
73	Albury City Council	Mar 6, 2011 7:57 PM
74	Nambucca Shire Council	Mar 6, 2011 8:23 PM
75	Woollahra Council	Mar 6, 2011 10:07 PM
76	Tumut Shire Council	Mar 6, 2011 10:16 PM
77	Muswellbrook Shire Council	Mar 7, 2011 8:30 PM
78	NSW Industrial Relations (a division of DSTA)	Mar 7, 2011 11:44 PM
79	THE HILLS SHIRE COUNCIL	Mar 8, 2011 2:52 PM
80	land and property management authority	Mar 8, 2011 9:48 PM
81	Holroyd City Council	Mar 8, 2011 10:09 PM
82	Narromine Shire Council	Mar 10, 2011 2:40 PM
83	Warren Shire Council	Mar 10, 2011 2:59 PM
84	ORANGE CITY COUNCIL	Mar 14, 2011 2:26 PM
85	kiama municipal council	Mar 17, 2011 9:58 PM
86	NSW Police	Apr 11, 2011 2:56 PM

Page 3, Q5. Do you think the Attorney General's Caution Guidelines are helpful?

1	Reinforces issuing officer discretion	Feb 10, 2011 6:45 PM
2	Helpful if an organisation did not have their own	Feb 10, 2011 7:51 PM
3	Helpful in the fact that they are independant guidelines	Feb 13, 2011 3:52 PM
4	Allows some degree of flexibility at level of determining caution	Feb 13, 2011 8:26 PM
5	NIL	Feb 13, 2011 11:21 PM
6	They provide a solid base for adjudication policy	Feb 14, 2011 5:43 PM
7	They provide a framework in which cautions can be legitimately used	Feb 14, 2011 8:16 PM
8	They set understandable criteria for the issuing of cautions over fines	Feb 16, 2011 3:39 PM
9	Never used them	Feb 17, 2011 3:27 PM
10	More detail-confirmation of use of caution rather than penalty	Feb 22, 2011 7:53 PM
11	AlburyCity has also developed and Enforcement Policy	Mar 6, 2011 8:05 PM
12	These are reviewed and when applicable our enforcement policy guidelines are ammended accordingly	Mar 6, 2011 10:22 PM
13	We were unaware the AG's Caution Guidelines existed, but in any case there is no further jurisdiction to issue Penalty notices under the NSW IR Act	Mar 7, 2011 11:47 PM
14	Removes any indecision	Mar 8, 2011 2:55 PM
15	council enforcement policy under reveiw	Mar 17, 2011 10:07 PM

Page 3, Q6. What amendments, if any, do you think need to be made to the Attorney General's Caution Guidelines?

1	There could be a risk that an agency may have political influence that causes a ticket to be withdrawn contrary to the issuing Officers wishes	Feb 10, 2011 7:51 PM
2	nil	Feb 10, 2011 8:41 PM
3	Nil	Feb 13, 2011 10:48 PM
4	Nil	Feb 13, 2011 11:21 PM
5	Nil	Feb 14, 2011 5:43 PM
6	none observed	Feb 14, 2011 8:16 PM
7	Confusion with role of Issuing Officer v Issuing Authority	Feb 15, 2011 7:44 PM
8	NIL	Feb 16, 2011 8:55 PM
9	None	Feb 18, 2011 8:30 PM
10	None at this time	Feb 20, 2011 8:12 PM
11	CONSIDER PREVIOUS HISTORY OF OFFENCES	Feb 22, 2011 7:44 PM
12	N/A	Feb 22, 2011 7:53 PM
13	everything	Mar 1, 2011 9:10 PM
14	None	Mar 3, 2011 5:28 PM
15	N/A	Mar 3, 2011 5:51 PM
16	The AG Caution Guidelines recommend that a caution only be issued in cases where it would also be possible to issue a Penalty Notice. However, in cases of clear wrongdoing, where some sanction is appropriate, bearing in mind that any Penalty Notice may be Court Elected, it may be the case that due to a technicality, a PN could not be issued as it could not realistically proceed to Court if Court Elected - notwithstanding clear guilt on the part of the offender. NSW Maritime will occasionally issue a caution where it would appear that an offence has been committed, but due to technicalities, it cannot be proved to the required criminal standard of 'beyond reasonable doubt' (e.g. a full admission and apology made by the offender, but which is not strictly admissible as it was not under caution etc.)	Mar 3, 2011 9:15 PM
17	We have not as yet identified any circumstance that is not addressed in the guidelines so at this point no amendments are required.	Mar 6, 2011 3:16 PM
18	How previous cautions influence the decision to issue caution or fine	Mar 6, 2011 3:18 PM
19	Not needed	Mar 6, 2011 8:05 PM
20	Magistrate enforcement - caution caution fine fine fine = section 10 (essentially they feel the get away with it) maybe not the question but definately relevant.	Mar 6, 2011 10:22 PM
21	nil	Mar 7, 2011 11:47 PM

Page 3, Q6. What amendments, if any, do you think need to be made to the Attorney General's Caution Guidelines?

22	Nil	Mar 8, 2011 2:55 PM
23	NONE REALLY	Mar 14, 2011 2:27 PM

Page 3, Q10. Do you have any other comments or feedback on the use of cautions instead of penalty notices?

1	We have been using caution notices with great success since 1996 all records are kept on our offender data base . Data base is checked for reoffenders prior the issue of caution and penalty notices	Feb 10, 2011 5:30 PM
2	Discretionary use of "cautions" as opposed to the issue of a penalty notice is a positive thing and anecdotal feedback suggests that this has an immediate impact on changing behaviour.	Feb 10, 2011 6:45 PM
3	It can be of value as some offences may have mitigating circumstances that are unknown to the issuing officer at the time	Feb 10, 2011 7:51 PM
4	no	Feb 10, 2011 8:41 PM
5	I agree with the principles of cautions. I believe most officers would find the system of cautioning helpful.	Feb 13, 2011 3:52 PM
6	It depends on the individual circumstances the officers find at the time. Cautions can be a very appropriate way to deal with a matter.	Feb 13, 2011 4:22 PM
7	Is necessary to determine merits of individual cases	Feb 13, 2011 8:26 PM
8	The difficulty in my view is being able to keep consistency between officers	Feb 13, 2011 9:26 PM
9	NO	Feb 13, 2011 11:21 PM
10	Many of our cautions are issued verbally. Our Ranger numbers fluctuate between 1 and 2 (one permanent Ranger one part- time Ranger). Information is passed between us on who is cautioned and discretion is always used to judge if a caution or infringement is to be issued for each instance of a breach.	Feb 14, 2011 2:57 PM
11	The Attorney General guidelines have formalised what we have done previously	Feb 14, 2011 8:16 PM
12	There is certainly a place for the use of cautions.	Feb 15, 2011 7:44 PM
13	The issuing of cautions are incorporated into a graduated penalty framework.	Feb 16, 2011 3:39 PM
14	NO	Feb 16, 2011 8:55 PM
15	As outlined in agency specific guidelines, cautions (official warnings) are issued when PIN is not considered appropriate, but an offence has been detected and action is required under agency specific guidelines.	Feb 17, 2011 10:09 PM
16	No	Feb 18, 2011 8:30 PM
17	Cautions were traditionally not recorded	Feb 20, 2011 7:01 PM
18	When issuing cautions, Councils are not privy to information from other council areas so a person may have only committed an offence once in North Sydney and receive a caution but committed the same offence 20 other times across the state.	Feb 20, 2011 8:12 PM
19	CAUTIONS IN SOME CIRCUMSTANCES MAY LEAD TO INCONSISTENCY IN ENFORCEMENT ACTIONS BY DIFFERENT OFFICERS	Feb 22, 2011 7:44 PM
20	Rangers are empowered to offer a caution provided the situation meets the merit contained within the guidelines.	Feb 22, 2011 7:53 PM

Page 3, Q10. Do you have any other comments or feedback on the use of cautions instead of penalty notices?

21	none	Mar 1, 2011 9:10 PM
22	ITSR is revising its guidelines to incorporate the option of issuing cautions.	Mar 2, 2011 10:46 PM
23	None	Mar 3, 2011 5:28 PM
24	Formal cautions are a good extra regulatory tool and it is good to have formal guidance on when it is appropriate to use formal cautions	Mar 3, 2011 5:51 PM
25	The SDRO may ask council for a recommendation which has caution as an option. This is currently done via an email process	Mar 3, 2011 6:44 PM
26	NSW Maritime uses officially printed caution books in addition to Penalty Notice books. For historical reasons, NSW Maritime refers to them as "Formal Warnings" but they serve an identical purpose as a Fines Act 1996 official caution and are taken as such despite the alternative name. NSW Maritime has adopted the substance of the AG Caution Guidelines into its own Boating Compliance Policy, but for reasons of jurisdictional peculiarity, has been required to tailor them to suit the marine environment. Apart from the instances cited at question 6 above, NSW Maritime essentially adheres to the AG's guidelines.	Mar 3, 2011 9:15 PM
27	Nil	Mar 6, 2011 3:16 PM
28	The ability to issue cautions defuses tension when dealing with minor matters, has the benefit of an education component & has a high acceptance level within our community. In addition to this, it appears to have reduced the aggressive behaviour towards officers when dealing with enforcement matters, the option to use a caution has added balance to our enforcement roll.	Mar 6, 2011 4:09 PM
29	Recorded cautions are an effective tool to use. Cautions 'on the run' though without records are pointless and unfair. they are a tool I have been using since taking up my position. The increase in cautions	Mar 6, 2011 7:46 PM
30	All AlburyCity Compliance Team members have the responsibility and authority to use discretion and issue a warning/caution where deemed necessary depending on the evidence/circumstance they encounter.	Mar 6, 2011 8:05 PM
31	Keeping record of who has been cautioned and for what offences can be inconsistent when there are a number of staff dealing with different aspects of Local Government Regulations. Council does not have a electronic mechanism for recording such warnings.	Mar 6, 2011 8:26 PM
32	Cautions are generally applicable to minor breaches of legislation such as a parking quick stop or a dog off lead....most guidelines are followed (attorney general guidelines) however in some cases there is a contradiction between the caution guideline and the Council enforcement policy. in those cases the policy is reviewed and a decision is made to either change to bring in line with attorney general guidelines or to adhere to the Council policy. it is not always consistent and the biggest critique is that not all councils follow guidelines or even the legislation when it comes to enforcement. This creates inconsistencies particularly on those matters that go to court.	Mar 6, 2011 10:22 PM
33	Inspectors review need for penalty notices/cautions with Team Leaders/Case Managers & Divisional Management where required	Mar 7, 2011 11:47 PM
34	NO	Mar 14, 2011 2:27 PM

Page 3, Q10. Do you have any other comments or feedback on the use of cautions instead of penalty notices?

35	Cautions assist in the day to day ranger service where appropriate after on the job training	Mar 17, 2011 10:07 PM
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Page 5, Q13. Do you find the Attorney General's Internal Review Guidelines helpful?

1	The AG's Guidelines support the SDRO Review Guidelines and vice versa.	Feb 10, 2011 6:49 PM
2	They confirm the procedures that we have developed for reviews	Feb 10, 2011 8:12 PM
3	At times	Feb 13, 2011 8:29 PM
4	NSW Maritime reviews internally all Penalty Notice representations and applies the AG Review Guidelines in conjunction with Div 2A of the Fines Act 1996	Mar 3, 2011 9:27 PM
5	This is an unfair assessment as the AF internal review guidelines were not used in the review.	Mar 6, 2011 10:24 PM
6	We were unaware they existed	Mar 7, 2011 11:51 PM

Page 5, Q14. What amendments, if any, do you think need to be made to the Attorney General's Internal Review Guidelines?




1	The number of internal re-views the Agency has to conduct, should be limited.	Feb 16, 2011 8:16 PM
2	None	Feb 18, 2011 8:31 PM
3	None	Feb 20, 2011 8:14 PM
4	Suggest that the Guidelines include the evidence that would be required when an applicant cites medical condition as the reason for requesting the review (e.g. statement from a registered medical practitioner)	Mar 3, 2011 5:59 PM
5	The guidelines are appropriate	Mar 3, 2011 6:55 PM
6	No amendments suggested	Mar 3, 2011 9:27 PM
7	None at this time	Mar 6, 2011 3:18 PM
8	they were not used for reviewing penalty notices. It would impractical to comment on this.	Mar 6, 2011 10:24 PM
9	Not applicable, we didn't know they existed.	Mar 7, 2011 11:51 PM
10	NONE	Mar 14, 2011 2:29 PM




Page 5, Q18. Do you have any other comments or feedback on the system for the internal review of penalty notices?

1	It is a viable administrative alternative to having the matter heard in Court. It also allows the client the opportunity to present extenuating circumstances that existed but were not apparent at the time of the detected offence.	Feb 10, 2011 6:49 PM
2	no	Feb 10, 2011 8:41 PM
3	No	Feb 13, 2011 3:52 PM
4	Although the SDRO conducts internal reviews on penalty notices there are occasions where they expect Council to make a decision for them.	Feb 13, 2011 4:55 PM
5	No	Feb 13, 2011 8:29 PM
6	Organisations should only conduct reviews where and when SDRO consider exceptional circumstances that they cannot determine with confidence that the offence is/not worthy of standing	Feb 13, 2011 9:27 PM
7	NIL	Feb 13, 2011 11:22 PM
8	Having the SDRO adjudicate on contested infringements is preferable for our Council as the SDRO is impartial due to not knowing the people involved. Therefore the people receiving the infringements may feel they are getting a fair hearing and the issuing officer also gets to present information on why the infringement should stand, and the impartial SDRO decides if the infringement was issued fairly.	Feb 14, 2011 3:04 PM
9	The SDRO review system works well for our Council	Feb 14, 2011 8:17 PM
10	Any review of penalty notices are in line with the SDRO guidelines	Feb 15, 2011 9:31 PM
11	no	Feb 16, 2011 8:16 PM
12	It is appropriate and ensures transparency.	Feb 16, 2011 8:56 PM
13	Happy with SDRO Guidelines for Penalty Reviews.	Feb 17, 2011 10:10 PM
14	No	Feb 18, 2011 8:31 PM
15	the increase is not necessarily due to change in internal review.	Feb 20, 2011 7:06 PM
16	No	Feb 20, 2011 8:14 PM
17	THE MATTERS OTHER THAN TRAFFIC AND PARKING ARE BEST REVIEWED BY THE COUNCIL AS THEY HOLD SUPPORTING INFORMATION TO REVIEW THE CIRCUMSTANCES LEADING TO ISSUE OF PENALTY NOTICES	Feb 22, 2011 7:50 PM
18	ITSR will conduct its own internal reviews of penalty notices when it has revised its penalty notices policy to incorporate cautions and internal reviews.	Mar 2, 2011 10:53 PM
19	None	Mar 3, 2011 5:28 PM














Page 5, Q18. Do you have any other comments or feedback on the system for the internal review of penalty notices?





20	The internal Review process encourages Legal advisers to recommend to clients a review as a means of delaying/extending the process with the view to causing the alleged offence to be statute bar. The fact that there are no fees attached to a request for a PN review can encourage ambit claims for a review.	Mar 3, 2011 5:59 PM
21	Council has a policy which includes the procedures that need to be followed when reviewing infringements. Whilst I answered above that council reviews requests I could not tick 2 boxes. The SDRO would handle most of requests in line with our premium contract with them	Mar 3, 2011 6:55 PM
22	No comment	Mar 3, 2011 9:27 PM
23	Internal reviews have reduced since Council introduced on line access to photographs related to the infringements issued.	Mar 6, 2011 3:18 PM
24	Works fine	Mar 6, 2011 7:47 PM
25	Council was conducting it's own review of penalty notices issued and this has ceased due to time and inconsistent approach to handling such requests.	Mar 6, 2011 8:27 PM
26	No	Mar 6, 2011 10:24 PM
27	The number of penalty notices issued is relatively small. The issue of such notices is reviewed by supervisors and considered by Prosecutions Unit upon receipt of a Court Election from SDRO	Mar 7, 2011 11:51 PM
28	Nil	Mar 8, 2011 2:56 PM
29	NO	Mar 14, 2011 2:29 PM
30	the guidelines are a tool seeking compliance	Mar 17, 2011 10:09 PM

1. Are you:			
		Response Percent	Response Count
A NSW government agency?		25.6%	31
A statutory agency representing the Crown?		0.0%	0
A non-profit agency?		57.9%	70
A registered health professional?		16.5%	20
answered question			121
skipped question			0



2. Which of the following best describes the role you are employed in?			
		Response Percent	Response Count
Program coordinator/manager		57.7%	56
Case manager		24.7%	24
Other (please specify)		17.5%	17
answered question			97
skipped question			24

3. In which region are you located?

		Response Percent	Response Count
Sydney		47.9%	56
Illawarra		13.7%	16
South Eastern		2.6%	3
Central West		2.6%	3
Far West		2.6%	3
Northern		8.5%	10
Mid-North Coast		4.3%	5
North Western		1.7%	2
Murray		1.7%	2
Murrumbidgee		6.0%	7
Hunter		7.7%	9
Richmond Tweed		6.0%	7
State-wide		6.8%	8
		answered question	117
		skipped question	4

4. How easy or difficult was it for you to become approved or enrolled to participate in the WDO scheme?			
		Response Percent	Response Count
Very easy		19.1%	21
Fairly easy		61.8%	68
Quite difficult		14.5%	16
Very difficult		4.5%	5
answered question			110
skipped question			11





5. Do you have any suggestions for how the application process could be improved?		Response Count
		35
answered question		35
skipped question		86

6. Have you or your organisation submitted any WDO applications on behalf of clients?			
		Response Percent	Response Count
Yes		78.5%	84
No		21.5%	23
answered question			107
skipped question			14

7. Why haven't you submitted any WDO applications?			
		Response Percent	Response Count
No suitable clients		59.1%	13
No suitable activities available for clients		4.5%	1
The application process is too difficult		4.5%	1
Do not have time to supervise a WDO		13.6%	3
Other (please explain)		31.8%	7
answered question			22
skipped question			99

8. How easy or difficult is the process of putting together a WDO application on each of the following grounds?						
	Very easy	Fairly easy	Fairly difficult	Very difficult	N/A - have not done one	Response Count
Cognitive impairment/intellectual disability	3.8% (2)	18.9% (10)	9.4% (5)	7.5% (4)	60.4% (32)	53
Mental illness	10.8% (7)	38.5% (25)	23.1% (15)	3.1% (2)	24.6% (16)	65
Homeless	10.9% (6)	40.0% (22)	10.9% (6)	5.5% (3)	32.7% (18)	55
Acute economic hardship	15.6% (10)	40.6% (26)	23.4% (15)	7.8% (5)	12.5% (8)	64
answered question						77
skipped question						44




9. If you answered fairly difficult or very difficult to any option, what is the reason?				
	Difficult for client to find documentation or information required	Supporting documentation was unnecessary	Other	Response Count
Cognitive impairment/intellectual disability	50.0% (5)	40.0% (4)	10.0% (1)	10
Mental illness	58.8% (10)	29.4% (5)	11.8% (2)	17
Homeless	58.3% (7)	33.3% (4)	8.3% (1)	12
Acute economic hardship	77.3% (17)	22.7% (5)	13.6% (3)	22
			Other (please specify)	12
			answered question	32
			skipped question	89

10. Overall, how would you describe the timeliness of the SDRO in processing WDO applications?				
			Response Percent	Response Count
Prompt			3.9%	3
Fairly prompt			26.0%	20
Quite slow			40.3%	31
Slow			29.9%	23
			answered question	77
			skipped question	44






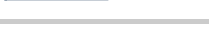

11. Do you have any suggestions about how the WDO application process (forms, submission etc) could be improved?





	Response Count
	38
answered question	38
skipped question	83




12. Where have your WDO clients come from?






		Response Percent	Response Count
Pre-existing client base		69.3%	52
Outside referrals		6.7%	5
Both		24.0%	18
If you clicked outside referrals, from where have your outside referrals been sourced? (please specify)			14
answered question			75
skipped question			46



13. Have you provided activities to your WDO clients directly, or have you referred them to other service providers?				
	Provided directly	Referred clients to other providers	N/A	Response Count
Unpaid work	41.8% (23)	27.3% (15)	30.9% (17)	55
Medical or mental health treatment	50.0% (30)	30.0% (18)	20.0% (12)	60
Educational, vocational or life skills courses	40.7% (24)	37.3% (22)	22.0% (13)	59
Drug and alcohol treatment	41.7% (25)	31.7% (19)	26.7% (16)	60
Mentoring program	28.3% (13)	19.6% (9)	52.2% (24)	46
answered question				75
skipped question				46

14. If you refer your WDO clients to undertake activities with other service-providers, have you had any difficulties finding suitable services or activities for your clients in your area? (Please select any of the following activities where availability has been an issue)				
		Response Percent	Response Count	
Unpaid work		24.2%	8	
Medical treatment		12.1%	4	
Mental health treatment		27.3%	9	
Educational, vocational or life skills courses		18.2%	6	
Drug and alcohol treatment		15.2%	5	
Mentoring programs		30.3%	10	
All available		48.5%	16	
answered question				33
skipped question				88




15. How easy or difficult is the process of reporting on WDOs each month?			
		Response Percent	Response Count
Very easy		38.4%	28
Fairly easy		43.8%	32
Quite difficult		11.0%	8
Very difficult		6.8%	5
If you answered difficult, what difficulties have you encountered?			19
answered question			73
skipped question			48

16. Do you report online using the online form or the paper based system?			
		Response Percent	Response Count
Online		39.7%	27
Paper based		32.4%	22
Both		27.9%	19
answered question			68
skipped question			53





17. If your organisation uses the paper based system, why is this the case?			
		Response Percent	Response Count
Did not know about the option of reporting on-line		55.6%	10
The paper-based system is easier		38.9%	7
Case managers do not have easy access to a computer/the internet		5.6%	1
The online system takes longer		5.6%	1
The online system is more difficult		5.6%	1
The online system crashes		0.0%	0
	Other (please specify)		8
answered question			18
skipped question			103

18. Do you think that the WDO scheme should be continued?			
		Response Percent	Response Count
Yes		95.8%	91
No		4.2%	4
answered question			95
skipped question			26




19. How beneficial is the WDO scheme for your clients?

		Response Percent	Response Count
A great benefit		76.8%	73
Some benefit		12.6%	12
No benefit		10.5%	10
It is detrimental		0.0%	0
	Please explain		55
answered question			95
skipped question			26





20. How beneficial is the WDO scheme for your organisation?

		Response Percent	Response Count
A great benefit		40.2%	37
Some benefit		33.7%	31
No benefit		22.8%	21
It is detrimental		3.3%	3
	Please explain		51
answered question			92
skipped question			29

21. If the WDO scheme continues beyond June 2011, will your organisation continue to participate?			
		Response Percent	Response Count
Yes		87.4%	83
No		4.2%	4
Not sure		8.4%	8
answered question			95
skipped question			26

22. Why are you not intending to continue your participation in the scheme?			
		Response Percent	Response Count
Too time-consuming for staff		25.0%	1
Too costly to my organisation		0.0%	0
Lack of services available to clients		0.0%	0
Unsuitable/insufficient benefit to our clients		50.0%	2
Other (please specify)		25.0%	1
answered question			4
skipped question			117

23. Why are you unsure?		Response Count
		8
	answered question	8
	skipped question	113

24. What support would help you to continue to participate in the WDO scheme?			
		Response Percent	Response Count
Training of staff about how the scheme operates		52.7%	48
Educational and promotional materials for clients		78.0%	71
Networking forums with other approved organisations		42.9%	39
A regional support service that can provide information, advice and assistance with the WDO scheme		53.8%	49
	Other (please specify)		13
	answered question		91
	skipped question		30

25. Do you have any other comments or suggestions about the WDO scheme?		Response Count
		47
	answered question	47
	skipped question	74

1. Which of the following best describes the role you are employed in?

Other (please specify)		
1	Non govt registered charity	Feb 7, 2011 5:47 AM
2	CEO	Feb 7, 2011 6:23 AM
3	Juvenile Justice Counsellor	Feb 8, 2011 2:24 AM
4	Assistant Manager, Youth Justice Conferencing	Feb 8, 2011 2:46 AM
5	social worker	Feb 8, 2011 4:50 AM
6	Assistant Manager	Feb 10, 2011 1:23 AM
7	Teacher	Feb 13, 2011 9:59 PM
8	Juvenile Justice Counsellor	Feb 13, 2011 10:09 PM
9	Social Worker	Feb 17, 2011 3:44 AM
10	senior case worker	Feb 20, 2011 10:37 PM
11	Administration	Feb 21, 2011 5:39 AM
12	Counsellor	Feb 21, 2011 5:41 AM
13	Manager of Site	Feb 21, 2011 11:48 PM
14	Counsellor	Feb 23, 2011 2:05 AM
15	Support Services	Feb 24, 2011 1:24 AM
16	CEO	Feb 24, 2011 1:51 AM
17	Research Officer	Feb 28, 2011 2:26 AM

2. Do you have any suggestions for how the application process could be

Response Text		
1	better administration, staff and support for enrolling organisations - we don't want more administrative burden	Feb 7, 2011 5:47 AM
2	All very straight forward	Feb 7, 2011 5:48 AM
3	No	Feb 7, 2011 6:24 AM
4	No	Feb 7, 2011 6:33 AM
5	no	Feb 7, 2011 10:31 PM
6	Streamline applications to make it easy. The staff completing a WDO are very busy with client services. They will not take extensive time out from front line work.	Feb 8, 2011 1:14 AM
7	More publicity and information for health professionals	Feb 8, 2011 10:02 PM
8	Faster response time from WDO website	Feb 8, 2011 11:21 PM
9	Easier access to establish outstanding fines	Feb 8, 2011 11:29 PM
10	Printable application forms, responses to emails, timely responses	Feb 9, 2011 4:56 AM
11	It took weeks to become authorised. It was time consuming to have each individual from our organisation listed as part of the authorisation (and also because we needed to update this when new staff commenced).	Feb 9, 2011 5:39 AM
12	Update of information would be good	Feb 10, 2011 1:24 AM
13	A one off on line registration would be better, with a provision to update one's profile. The forms were confusing as it was not clear whether you were registering yourself or the patient.	Feb 10, 2011 1:31 AM
14	I was only assigned to the WDO program once we became approved.	Feb 10, 2011 2:13 AM
15	no	Feb 13, 2011 7:05 AM

2. Do you have any suggestions for how the application process could be

Response Text		
16	The process must be thorough to ensure that agencies are regulated effectively to comply with the requirements of the scheme.	Feb 14, 2011 12:37 AM
17	It was time consuming, but much easier than other programs. Most difficult was looking at guidelines and trying to figure out how to be compliant with the guidelines.	Feb 20, 2011 10:39 PM
18	When an org is already an approved and registered charity etc it is difficult to see what was achieved by vetting the organisation in the way you did. The process was slow and intrusive and acted as a barrier to more organistaions coming on board. By the time we finally got approved the scheme is almost over! We spent more time seeking approval than we have actually supervising WDOs.	Feb 21, 2011 5:32 AM
19	My application was lost initially due to incorrect Fax Numbers being listed on forms etc.	Feb 21, 2011 5:38 AM
20	System runs very smoothly.	Feb 21, 2011 5:41 AM
21	I was not actually involved in the approval process so can not really make suggestions or rate the above question accurately.	Feb 21, 2011 6:21 AM
22	No problem	Feb 21, 2011 11:43 AM
23	requesting ample documents which young people don't have	Feb 21, 2011 8:31 PM
24	Inservices / education provided to team or a user friendly website.	Feb 21, 2011 9:25 PM
25	less paper work required	Feb 21, 2011 11:07 PM
26	n/a	Feb 22, 2011 1:04 AM
27	MORE detail in requirements up front with specifics	Feb 22, 2011 2:37 AM
28	The application was quite extensive and took quite a bit of time to complete. Perhaps the information required could be streamlined.	Feb 22, 2011 3:10 AM
29	no	Feb 23, 2011 3:05 AM
30	As a pilot program we are trying different ways to attract & monitor clients participation.	Feb 23, 2011 11:32 PM
31	Clearly state all details needed within the initial application forms instead of going back and forth for extra details. Application form needs to be more comprehensive.	Feb 24, 2011 1:39 AM
32	No it is quite easy to become an approved WDO provider	Feb 25, 2011 5:27 AM
33	No	Feb 27, 2011 9:51 PM
34	Staff were very patient & helpful. However there needs to be better record keeping/communication process to cover issues arising from staff turnover. We are currently experiencing some delays because our decision to change our applicaiton from one specific site to all our offices was not communicated to relevant SDRO/JAG staff	Feb 28, 2011 2:29 AM
35	I would have thought NSW Health Agencies could be included under one umbrella	Feb 28, 2011 4:51 AM

1. Why haven't you submitted any WDO applications?

Other (please explain)		
1	clients are posted the application from SDRO and often the client forget to bring the form to be completed	Feb 8, 2011 2:29 AM
2	Have one client in the process of applying	Feb 21, 2011 9:24 PM
3	pending client at present	Feb 21, 2011 9:29 PM

1. Why haven't you submitted any WDO applications?

Other (please explain)		
4	Only recently approved need to market further to clientele	Feb 22, 2011 3:27 AM
5	they are sent to us from other agencies	Feb 25, 2011 1:58 AM
6	currently setting up program	Feb 25, 2011 3:57 AM
7	Our application has recently been approved & we have only just had confirmation that we can submit WDO applications (i.e. in the last 2 days)	Feb 28, 2011 2:30 AM

2. If you answered fairly difficult or very difficult to any option, what is the

Other (please specify)		
1	we don't have the time to do this and have to refer the clients to community legal centres - we think you should manage the situation more like the CSO program which is very successful for us	Feb 7, 2011 5:49 AM
2	Hard to know how much or how little information was required by SDRO. Also I put in applications in November and still have not received anything at all to say it was received, accepted, approved. I rang and was told 6 weeks but in some cases it has been over 2 months and still nothing from SDRO on the progress of my applications. I would expect to have at least received an email. To their credit in some cases they have answered telephone queries. All in all though it is taking far too long for an approval of my applications, particularly as my clients are already doing the work (voluntary, etc) and SDRO apparently want monthly progress reports.	Feb 8, 2011 4:42 AM
3	Participation in the the WDO was complicated by further life events and the persons homeless status	Feb 10, 2011 1:33 AM
4	So far, the documentation has been fairly readily available in the cases handled.	Feb 14, 2011 12:42 AM
5	paperwork is a real issue for homeless or mentally ill people...	Feb 21, 2011 5:34 AM
6	It took considerable time to hear back regarding whether the application was approved or not which put things at a bit of a stand still.	Feb 21, 2011 6:24 AM
7	Difficulty of engaging Mental Health services to provide information about services being provided. Difficulty of having client get appointments signed off on - for accountability requirements	Feb 21, 2011 10:29 PM
8	Difficult to get medical practitioners to write a report covering all the information required as proof of the condition and why the person needs a WDO. We have to write to doctors and pretty much write out for them what they should say in relation to why the client needs a WDO and often doctors don't have time to write such a detailed report. As a consultant I should be able to provide the justification and just get a report from the doctor verifying the condition.	Feb 22, 2011 3:37 AM
9	Clients needed to come back after the initial interview to bring us their household budget document. in 2 cases the clients felt this was very difficult. 3 cases they came back with the information & we sent in their documentation.	Feb 23, 2011 11:36 PM
10	We work with clients who lead chaotic lives and many do not file documentation.	Feb 24, 2011 1:52 AM
11	Just time consuming.	Feb 25, 2011 4:05 AM
12	Participants are to provide you with so much documentation that often would rather not apply	Feb 25, 2011 5:33 AM

4. Do you have any suggestions about how the WDO application process

	Response Text	
1	was slow with our first application. but 2nd was fairly prompt	Feb 7, 2011 6:05 AM
2	Important to get the process started quickly so as not to lose the window of opportunity in engaging disorganised clients.	Feb 7, 2011 10:06 PM
3	I understand that staff at SDRO were under-resourced and so application processing times were incredibly slow. More staff on the task would improve this.	Feb 7, 2011 10:24 PM
4	Application process is fine. Time it takes to process and lack of confirmation that application has been received, accepted etc has in our experience been very, very slow.	Feb 7, 2011 10:35 PM
5	the assessing stage is far too slow i made several phone calls regarding applications and was told that they were in the final stage of assessment but it was weeks before any approval was forthcoming.	Feb 7, 2011 11:32 PM
6	No	Feb 8, 2011 12:52 AM
7	once all information has been forwarded it should be an easy task? possibly case loads should be less?	Feb 8, 2011 2:14 AM
8	usually by the time the application is approved the applicant is in exit phase of 3 month program	Feb 8, 2011 2:16 AM
9	I completed an application in early December and have not heard back yet (it is now February). I am not sure what the delay has been, therefore am unable to offer suggestions about how to improve the service.	Feb 8, 2011 2:53 AM
10	4 - 6 week approval process. Or at least a courtesy email to say why it is taking so long. I sent applications in November and have no response as yet.	Feb 8, 2011 4:42 AM
11	Regular updates on the process of the applications so that we can inform clients of what is happening.	Feb 8, 2011 4:53 AM
12	Quicker processing time. More communication such as a receipt that application has arrived in the SDRO office and an estimated time period for processing.	Feb 8, 2011 5:46 AM
13	Applications to be done online	Feb 8, 2011 11:34 PM
14	Printable versions of forms once written on - those that can be saved and worked on later with the young person present. Responses to emails. Updating the website to reflect approval and next step. Still not received word or paperwork 4 months after submitting application. More communication and updating referrer or young person of process. Better timely management of applications.	Feb 9, 2011 4:59 AM
15	To have a standard "support letter" template or form for which organisations can use to support clients with their application.	Feb 9, 2011 5:40 AM
16	Again, an on-line version with email prompts for updates would be more efficient.	Feb 10, 2011 1:33 AM
17	One issue which I found with the process was that technically, the application was filled in 3 times. I would fill in a hard copy with the client (as I found it a better way to engage with them than to simply fill it out online). Then I would fill in the application online, print and click submit. Then the third stage involved getting the client to sign the printed version and collecting and handing in all their documentation. I would then scan and email the entire application. It would be beneficial if there was a way to scan and attach documents in the online process. I also found that the team worked VERY efficiently, but I felt if the WDO program is to continue (which I hope it does) - the team would need to be bigger (e.g. more staff). The new application form is also MUCH better than the old one.	Feb 10, 2011 2:38 AM
18	no	Feb 13, 2011 7:07 AM
19	E-mail confirmation that the WDO application has been received.	Feb 13, 2011 10:10 PM
20	I don't know what the actual process is, or how involved it is, but by the time we have notification that the approval has been granted, some clients have already worked off their debts. Perhaps for debts under a certain amount (say \$1,000) an automatic approval could be given in a couple of days.	Feb 14, 2011 12:42 AM

4. Do you have any suggestions about how the WDO application process

	Response Text	
21	The long wait caused stress for client. Improving speed of processing of applications would help.	Feb 17, 2011 3:47 AM
22	I understand that this is a govt process, however, NGO get a limited window of time to work with clients. We have to work hard and fast with clients to achieve goals before programs are exited. Unfortunately goals are sometimes achieved too fast to enable them to count towards the program due to approval time frame.	Feb 20, 2011 10:46 PM
23	No - seems to be working well	Feb 21, 2011 5:37 AM
24	Make it faster and utilise the online component more.	Feb 21, 2011 5:39 AM
25	No problems so far.	Feb 21, 2011 5:42 AM
26	The first one was quite slow but the ones made following this initial one have been approved faster, however this is not communicated well. Recently we had one approved but no one knew it was approved for a few weeks (i.e. until we contacted to chase it up).	Feb 21, 2011 6:24 AM
27	I found a variation in forms that clients brought in - differing questions. Also there needs to be notification on the forms that clients do not submit their own forms which happened on two occasions and they left out information.	Feb 21, 2011 11:47 AM
28	The on line report submissions were quite complex and difficult.	Feb 21, 2011 10:29 PM
29	Since it has started it has been made alot easier with the reporting procedures and the processing of these	Feb 21, 2011 10:30 PM
30	They need to be back dated to the start of the application and allow for those who have no information some latitude in getting it	Feb 22, 2011 2:39 AM
31	Allow case managers to provide justification for the client in the application and just have the doctor verify the condition impacting the applicant. I don't know what happens after an application has been submitted to know why it takes so much time. This process needs to be fast-tracked somehow or there should be a turnaround time limit from receipt of applications to decision. We submitted an application in October and it was only approved in early February.	Feb 22, 2011 3:37 AM
32	I think the congestion has eased and therefore they are not as slow as initial application. In terms of forms - i didn't realise that they had merged the documents ie financial details plus application and when i did my second application i spent considerable time looking for the initial original template. It was quite some time later that a hard copy explanation was received with the new template	Feb 22, 2011 5:15 AM
33	no	Feb 23, 2011 3:06 AM
34	It seems to be working reasonably well at your end. We have made our service known to local JSA & Aboriginal organisations that have clients who need help with WDO. We are slowly gaining clients who are eligible and want to participate in this great program.	Feb 23, 2011 11:36 PM
35	Acknowledgement of applications; faster processing of applications ie we are waiting on contact in relation to an application lodged 8 months ago; contact from the Dept in relation to further information that might be required to progress the application successfully	Feb 24, 2011 1:52 AM
36	simplify the process ensure communication is fed back regarding further required info. WDO staff need to understand that our staff are stretched as well. Be polite and not rude when communicating	Feb 24, 2011 6:39 AM
37	Applications to be processed quickly.	Feb 25, 2011 3:12 AM
38	I believe that a manager of an approved WDO organisation could approve the application and send off electronically. The next step would be an SDRO officer to click "Approved" . The approved organisation would be subject to monitoring or should send the completed file in to SDRO on completion	Feb 25, 2011 5:33 AM

1. Where have your WDO clients come from?

If you clicked outside referrals, from where have your outside referrals been sourced? (please specify)		
1	internet	Feb 7, 2011 1:21 PM
2	Job networks, centrelink, other community services	Feb 8, 2011 12:53 AM
3	Youth Networks and Interagency meetings / agencies	Feb 9, 2011 5:01 AM
4	Other government and non-government agencies (ie: Anglicare, Barnados, Juvenile Justice)	Feb 9, 2011 5:41 AM
5	Mental disability agencies, Probation & Parole	Feb 14, 2011 12:44 AM
6	Job Services and jails	Feb 14, 2011 1:03 AM
7	no idea..we get people calling us from Qld as well...some come from the website	Feb 21, 2011 5:35 AM
8	Partner agencies, NGO, Youth Services	Feb 21, 2011 5:40 AM
9	Patient enquiry	Feb 21, 2011 5:43 AM
10	self-referral, GP, ED, many sources	Feb 21, 2011 9:11 PM
11	Other agency	Feb 22, 2011 1:10 AM
12	other local agencies and welfare workers	Feb 22, 2011 5:16 AM
13	We have used job network clients and an Aboriginal counselling service that has clients in deep economic hardship and mental illness which stops them from functioning well.	Feb 23, 2011 11:38 PM
14	Job capacity Assessors and Case managers from Job Services Australia	Feb 25, 2011 5:35 AM

1. How easy or difficult is the process of reporting on WDOs each month?

If you answered difficult, what difficulties have you encountered?		
1	unknown	Feb 7, 2011 5:50 AM
2	have not had to report as yet	Feb 7, 2011 1:22 PM
3	Our staff are having difficulty with reporting as the application comes back towards the end of there stay and we are not sure of reporting for past participation	Feb 8, 2011 2:18 AM
4	My client has not yet been approved - I am still waiting for documentation after two months. I have not received any information about how to report on WDO's as yet.	Feb 8, 2011 2:54 AM
5	As I said none of my applications have been approved yet even though I applied in November, so I have not been directed to report yet	Feb 8, 2011 4:44 AM
6	I haven't yet reported as still waiting on approval for application of WDO	Feb 8, 2011 6:21 AM
7	Have not even heard back on application. No idea what the next step is or if it has even been approved or rejected.	Feb 9, 2011 5:02 AM
8	May be more appropriate to have bi-monthly reports in some cases.	Feb 9, 2011 5:42 AM
9	A reminder email a week ahead of the due date would be useful	Feb 9, 2011 9:12 PM
10	The whole process was confusing. The obligations were unclear and the client was chaotic due to psychiatric disability and ongoing substance abuse contrary to the WDO	Feb 10, 2011 1:35 AM
11	A matter of remembering to do the monthly reports for each individual client when update reports are due on different dates for each.	Feb 11, 2011 12:54 AM
12	However I have not consistently been receiving the requests for monthly calculations.	Feb 13, 2011 10:14 PM

1. How easy or difficult is the process of reporting on WDOs each month?

If you answered difficult, what difficulties have you encountered?

13	The additional administrative burden in some of our centres who have limited staff members.	Feb 14, 2011 12:46 AM
14	Monthly reporting is very easy, the difficulty occurs regarding education and requirements. Living skills and medical/counselling appointments are very easy. Education is not.	Feb 20, 2011 10:51 PM
15	Months following applications submitted, we still had no feedback as to the status of WDOs.	Feb 21, 2011 5:57 AM
16	We have only just received approval for one client to date who is to start next week.	Feb 21, 2011 11:49 AM
17	Difficulty of having to report on each client at different times - hard to keep track	Feb 21, 2011 10:31 PM
18	Lodgement on line is fairly easy, processing is very slow	Feb 22, 2011 9:06 PM
19	It is not clear what you want in the report or if you want it on your stationary	Feb 27, 2011 9:54 PM

1. If your organisation uses the paper based system, why is this the case?

Other (please specify)

1	New to the system	Feb 7, 2011 9:54 PM
2	i like to keep a hard copy	Feb 8, 2011 12:54 AM
3	staff not confident with the online mechanism as reporting for past participation	Feb 8, 2011 2:19 AM
4	Unable to use any system as yet - awaiting confirmation of application.	Feb 8, 2011 2:55 AM
5	N/A	Feb 8, 2011 6:21 AM
6	Online system not updated to reflect progress	Feb 9, 2011 5:03 AM
7	the paper based system provides staff with hard evidence for record keeping	Feb 10, 2011 5:50 AM
8	We get the applicants to fill in the paper work as part of a personal interview and helps us to build a rapport.	Feb 23, 2011 11:41 PM

2. How beneficial is the WDO scheme for your clients?

Please explain

1	Providing they know of its existence and/or are referred it could be of benefit	Feb 7, 2011 5:43 AM
2	clearly people suffering economic hardship benefit from the opportunity, the seriousness of their motivations seems to be lower than CSO's - perhaps their induction at your end could be more weighted to the opportunity being more than an appearance fee	Feb 7, 2011 5:52 AM
3	participants appreciate the opportunity to reduce their debt while making a contribution to the community	Feb 7, 2011 6:00 AM
4	I think it is a great idea but have not had any clients through this scheme	Feb 7, 2011 6:35 AM
5	Motivation for access to treatment not otherwise considered.	Feb 7, 2011 7:04 AM
6	It can be a great incentive for clients to stay in treatment and we can then hope to make some real difference through our programs.	Feb 7, 2011 10:12 PM

2. How beneficial is the WDO scheme for your clients?

Please explain		
7	Our clients have huge state debt which is crippling. Being able to work off their debts through program participation has been a huge plus for clients and many have reported feeling very positive about seeing fines reduce and being able to reapply for driver's licences.	Feb 7, 2011 10:26 PM
8	Some clients feel overwhelmed with their SDRO debts. Attending rehab AND paying off their debt simultaneously gives them incentive to work their program and be rewarded for positive behaviours/change.	Feb 7, 2011 10:46 PM
9	We haven't done any yet.	Feb 8, 2011 1:48 AM
10	Potentially a huge benefit for existing clients of the service, especially clients from refugee backgrounds and those others with mental health concerns	Feb 8, 2011 2:02 AM
11	It will be of benefit if we can get approvals quicker and have WDO accept past reporting	Feb 8, 2011 2:21 AM
12	allows them to get ahead financially	Feb 8, 2011 2:22 AM
13	I have several clients who have SDRO debts but they are unable to pay them off due to mental illness and limited income. This is a much more achievable and appropriate way for the clients to pay off their debts.	Feb 8, 2011 2:56 AM
14	My clients are juveniles mostly with helmet fines or court costs. And they have either no income or very little. Sometimes their parents end up paying fines which defeats the purpose. It can then help them have a clean slate (get a licence) when they finally mature.	Feb 8, 2011 4:45 AM
15	The WDO has contributed to tangible mental health improvements for my client, as it has reduced a significant stressor in his life which had led to more active symptoms.	Feb 8, 2011 5:29 AM
16	For those that are willing to participate in the program, it is a huge benefit for them	Feb 8, 2011 6:22 AM
17	I am sure that with funding for a wdo officer it would be of benefit for clients	Feb 8, 2011 11:22 PM
18	Homeless and at risk young people would be further disadvantaged and have not other way or repaying back debts or fines.	Feb 9, 2011 5:05 AM
19	It enables young people who are at risk to decrease their anxiety about ever-increasing fines and who have no way of paying the fines off to have an option that is achievable. It also decreases the financial pressure of clients who often are already on very limited incomes.	Feb 9, 2011 5:45 AM
20	Four of our clients have been able to clear their debt, making it easier for them to obtain a driver's licence and employment	Feb 9, 2011 9:14 PM
21	helps them get fines out of the way	Feb 10, 2011 1:25 AM
22	The WDO was put forward for the wrong client. Several other clients would be ideal, as a large number are marginalised by fines they have no hope of paying off.	Feb 10, 2011 1:38 AM
23	Our clients are marginalized young people. Many of them have received fines as they are unable to avoid them (e.g. train fines, as they do not have money for a ticket). Clients often just let the fines "sit there." The WDO program enabled them to take control, and do something positive - without having to pay. I often found that the WDO program was a more beneficial way for the client to "pay off" the fine than simply putting money towards it, as the activities they engaged in were recommended because they suited their current needs. The clients saw it as a way of "killing two birds with one stone."	Feb 10, 2011 2:43 AM
24	reducing the burden of debt has a positive impact on mental health	Feb 11, 2011 1:10 AM
25	allows empowerment	Feb 13, 2011 7:08 AM
26	Our WDO clients have been able to apply for learner driver licences to further their work prospects and have been encouraged to refrain from further activities that may result in them accumulating fines by being fine free. A fantastic NSW Gov incentive. The best ever for our clients.	Feb 13, 2011 10:11 PM

2. How beneficial is the WDO scheme for your clients?

Please explain		
27	Clients would not be able to pay off their fines this fast, or if all all without this scheme. It is fantastic, and certainly impacts on the young person's self esteem.	Feb 13, 2011 10:16 PM
28	Without this scheme, some clients would not be able to apply for work, forcing them into a welfare cycle and increased despondency.	Feb 14, 2011 12:49 AM
29	many of our clients are in no position ecer to repay these fines and this provides an opportunity to gain some employment skills, qualifications, medical intervention and support..gets them moving forward in a positive direction	Feb 14, 2011 1:05 AM
30	Increased motivation to undertake volunteer work. Client is now confident enough to seek paid work in this field. This client was previously difficult to motivate to take constructive risks.	Feb 17, 2011 3:49 AM
31	The impact of having monetary fines lifted and licence restrictions lifted makes a huge impact on clients mentally. Allowing licence increases job prospects and self esteem, working off fines, clients can see results of debt going and are very keen, on most occasions not to gain any more. They have also seen a debt go, that ordinarily they might never have been able to pay off. Gives hope for other issues.	Feb 20, 2011 10:57 PM
32	Almost all of our clients have outstanding fines, so the WDO is appropriate in that sense, however the clients appear to have such wide ranging issues that make a targeted approach difficult, often a chicken & egg situation.	Feb 21, 2011 5:34 AM
33	But we need more time to promote the program so that people even know it is available...by the time we got approved --only a few months later we are told the scheme is to be scrapped so we dont know whether to keep promoting it or not....trial way too short...otherwise the WDO scheme is a very very good idea and can help our clients enormously	Feb 21, 2011 5:40 AM
34	Providing the process and access to the program is improved.	Feb 21, 2011 5:58 AM
35	It gave great motivation to clients who would normally be difficult to engage into a program to successfully complete something. It also gave my clients an achievable means of paying off their fines within a realistic time frame.	Feb 21, 2011 6:28 AM
36	We have clients who are suffer great stress from fines that they have no possible way of paying. The time commitment of volunteering with the added benefit of learning new skills is an effective solution.	Feb 21, 2011 11:52 AM
37	It provides an extra incentive to undertake additional treatment for mental health and Drug and alcohol issues.	Feb 21, 2011 9:59 PM
38	Fantastic for clients to be able to decrease their fines at such a great rate in comparrison to a \$20 or \$40 per month arrangement.	Feb 21, 2011 10:32 PM
39	It allowed clients to leave our service with a fresh start allowing the process of case work easier with out the accumulated debts that so many clients of ours who are on limited income and homeless have.	Feb 21, 2011 10:34 PM
40	i was unable to register any clients and or did not hear back regarding clients	Feb 21, 2011 11:24 PM
41	There is a great need in the Illawarra for Clients to get there liecence back, so they can find work.	Feb 22, 2011 1:18 AM
42	Although we have not yet submitted any applications I believe this scheme is of great benefit to suitable clients that have debt restricted their ability to get their licence and therefore impeding their employment opportunities	Feb 22, 2011 3:29 AM

2. How beneficial is the WDO scheme for your clients?

Please explain

43	Many of our clients have very high debts with SDRO and have very limited capacity due to their mental health conditions to gain and maintain employment and hence pay these debts. They have significant barriers to employment and often variable motivation to address these due to the impacts of the condition and the difficulty in seeing a way clear to move forward. The ability to undertake activities to work towards satisfying their debts is motivating for the clients and hence they agree to interventions that aid them in their rehabilitation process. It is a double win for the client - they get to work off their debt without being further financially compromised and they are more receptive to valuable interventions to address their significant barriers.	Feb 22, 2011 3:38 AM
44	For one particular client it has been an incredible opportunity for her to learn more skills but to also interact in a supportive environment. Her confidence and self esteem have increased accordingly. she would never get such an opportunity otherwise. It is no longer about paying off the fine for her but about contributing time to our organisation.	Feb 22, 2011 5:19 AM
45	Benefit is Marginal, People with Personality Disorders abuse the system, manipulation of compliance then becomes an issues.	Feb 22, 2011 9:15 PM
46	would be easier and less time consuming to waive their fines. The few mental health clients who have used this would never have paid their fines anyway and except no responsibility for their actions.	Feb 22, 2011 10:10 PM
47	many of the people who have come forward are in extreme economic hardship and need the help. They always express their gratitude at being able to pay their debts in this way.	Feb 23, 2011 11:43 PM
48	Without a doubt this should continue. Clients looking for work in rural areas are disadvantaged by not having their drivers licence because there is no public transport. Mostly people rely on someone to give them a lift	Feb 24, 2011 1:58 AM
49	they have made an effort to take responsibility of thier lifes and situations	Feb 24, 2011 2:27 AM
50	Most if not all barely have enough money to cover basic needs and any source of financial relief greatly aids them not only financially but with maintaining their mental health.	Feb 24, 2011 3:52 AM
51	It allows our clients to clear the slate, and when treatment is completed begin a new life.	Feb 24, 2011 6:41 AM
52	has not started yet	Feb 25, 2011 3:58 AM
53	Client was very happy to both work off her fines and get experience in the work at the same time.	Feb 25, 2011 4:08 AM
54	Clients can contact SDRO directly and then on an undertaking by client to repay fortnightly, SDRO will contact Centrekink and make the necessary arrangements to repay the debt. This is detrimental to the WDO programme	Feb 25, 2011 5:40 AM
55	Can not respond as have not submitted WDO applications at this stage.	Feb 28, 2011 2:31 AM

3. How beneficial is the WDO scheme for your organisation?

Please explain

1	I believe that the scheme can be helpful but given that I have just joined it in the December-January period and have not seen any clients for whom it could be helpful, I can make no further comment.	Feb 7, 2011 5:43 AM
2	very minor, but if it was managed better could be more helpful	Feb 7, 2011 5:52 AM
3	Anything to help these people to have some hope in reducing their debt	Feb 7, 2011 6:00 AM

3. How beneficial is the WDO scheme for your organisation?

Please explain		
4	we are able to more easily engage and sustain engagement with "hard to reach" families with children who struggle with serious issues. this in turn supports childrens safety and wellbeing - children who are often invisible to systems.	Feb 7, 2011 6:08 AM
5	N/A	Feb 7, 2011 6:35 AM
6	Does not benefit my business in anyway.	Feb 7, 2011 7:04 AM
7	There is of course extra work which needs to be weighed up against the benefits for the organisation and overall against the benefits to clients.	Feb 7, 2011 1:23 PM
8	It is sometimes the only thing which can entice a difficult client to treatment and the quick results show a client that their efforts are rewarded. It can go a long way to reduce helplessness/hopelessness and give clients a fresh start.	Feb 7, 2011 10:12 PM
9	It is a huge value add-on to the work we do with clients and is a great motivator for clients to continue to engage with their worker.	Feb 7, 2011 10:26 PM
10	it enables us to support those experiencing high disadvantage by providing an opportunity for social inclusion	Feb 8, 2011 12:56 AM
11	No benefit as yet, as we haven't used the system yet.	Feb 8, 2011 1:48 AM
12	For external referrals there is no funding to support the interview time, development of WDO and associated case management of the client.	Feb 8, 2011 2:02 AM
13	It offers some incentive for staying in treatment longer which will benefit the clients longer term success in behavioural change	Feb 8, 2011 2:21 AM
14	as above - as juveniles they feel they can accrue debt without consequences	Feb 8, 2011 2:22 AM
15	As above.	Feb 8, 2011 2:56 AM
16	A potentially great benefit for assisting more of our clients with large SDRO debts.	Feb 8, 2011 5:29 AM
17	There is no money to justify time spent	Feb 8, 2011 11:22 PM
18	Allows clients to finish rehabilitation and start again free of state debt.	Feb 8, 2011 11:36 PM
19	Is another way of assisting young people to transform their lives and refocus their efforts. assists young people to get the help they need and work off their debt they would otherwise not be able to do.	Feb 9, 2011 5:05 AM
20	Partnerships have been made with other government and non-government organisations to assist young people in completing their WDO.	Feb 9, 2011 5:45 AM
21	Our clients need to gain employment to become self sufficient. WDO's provide motivation and opportunity for them to pay off their debts in a realistic way	Feb 9, 2011 9:14 PM
22	The homeless hostel where I perform a clinic has a number of suitable clients who might adhere to a better lifestyle for the outcome offered by a WDO.	Feb 10, 2011 1:38 AM
23	I think that it is a benefit, as it is another service we are able to offer our clients.	Feb 10, 2011 2:43 AM
24	Provides another option to assist the young people we work with.	Feb 11, 2011 12:55 AM
25	clients have engaged longer with D&A services than usual	Feb 11, 2011 1:10 AM
26	Our students have had a greatly improved attitude and attendance through WDO participation	Feb 13, 2011 10:11 PM
27	Clients are rewarded and encouraged to participate in activities that benefit both them and the wider community.	Feb 13, 2011 10:16 PM
28	It enables us to add another resource in list of available assistance to our clients and those of allied agencies.	Feb 14, 2011 12:49 AM
29	Developed good links within the community	Feb 14, 2011 1:05 AM
30	enables clients to engage with service and achieve outcomes, gives them a goal. Increases self esteem.	Feb 20, 2011 10:57 PM

3. How beneficial is the WDO scheme for your organisation?

Please explain

31	It is only of benefit to the extent that the client's fines can be paid off so that financial pressure is relieved and we are more likely to be able to close their case etc. There is no benefit to us at all in terms of the work performed under the WDO...WDO participants are short term volunteers and therefore are very expensive and difficult for us to manage - we benefit where it is part of the client's solution in a case management context.	Feb 21, 2011 5:40 AM
32	There is the potential for this program to be of great benefit for our clients. In its present state this is not the case.	Feb 21, 2011 5:58 AM
33	As above. It also rewards the clients for good work and progress and is a really useful tool in case managing challenging clients.	Feb 21, 2011 6:28 AM
34	Getting volunteers to committ to regular times is a challenge where WDO clients are committed to fulfilling their requirements.	Feb 21, 2011 11:52 AM
35	As indicated it provides a concrete incentive to attend treatment sessions with myself and other treatment providers.	Feb 21, 2011 9:59 PM
36	Time consuming, however is part of case plan - other aspects of plans are also time consuming.	Feb 21, 2011 10:32 PM
37	as above, it is a great program in theory and i know other sections of the organisation found it useful	Feb 21, 2011 11:24 PM
38	Keeping us connected with our local community, and awareness of the local issues they are faceing	Feb 22, 2011 1:18 AM
39	It gives us another tool to engage the client and address their barriers in a very positive way.	Feb 22, 2011 3:38 AM
40	While it is of benefit to hve people doing unpaid work, there is also supervision and monitoring processes which can be time consuming. It can also take some time to structure their activities appropriately for the best intersts of themselvs and our service.	Feb 22, 2011 5:19 AM
41	NIL, I have more than enough work, with people with a mental illness. WDO are done for good will to the General Practitioner and the client. As they are not willing to do it. It is simply time consuming and without any great reward to the business. Rural Mental Health Services	Feb 22, 2011 9:15 PM
42	no benefit to our organisation at all. However our clients obviously do benefit from it.	Feb 22, 2011 10:10 PM
43	No clients have been eligible	Feb 23, 2011 2:07 AM
44	We work in the Aboriginal sector and our clients find it very hard to navigate the system. having someone help them to do this is a greata help.	Feb 23, 2011 11:43 PM
45	We provide it as a value add service for our clients	Feb 24, 2011 1:58 AM
46	It will be beneficial for us because we have just recently become an RTO and this will assist us to assist clients to receive training which in turn allow them to get their licence back and... help them become job ready.	Feb 24, 2011 1:58 AM
47	The benefit was for the client. However, WDO provided us with another avanue to assist people.	Feb 25, 2011 3:16 AM
48	has not started yet	Feb 25, 2011 3:58 AM
49	If the person is good at the work it helps us.	Feb 25, 2011 4:08 AM
50	It is beneficial so participants gain their licences back but as explained in previous question they can make own arrangements with less stress and obligations	Feb 25, 2011 5:40 AM
51	Can not respond as have not submitted WDO applications at this stage.	Feb 28, 2011 2:31 AM

1. Why are you not intending to continue your participation in the scheme?

Other (please specify)

1	We will seek external referral sources and not maintain our own certification.	Feb 21, 2011 5:35 AM
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1. Why are you unsure?

Response Text

1	Is not as easy to implement and to keep activities at our centre	Feb 7, 2011 5:50 AM
2	I have not had the chance to find candidates suitable for the program	Feb 8, 2011 10:03 PM
3	Need to know that we can justify costs	Feb 8, 2011 11:23 PM
4	It will be determined by management	Feb 21, 2011 5:46 AM
5	not sure	Feb 21, 2011 10:23 PM
6	One man Private Business, (RMHS), there are enough people seeking help, without selecting a few for special prompting, People on WDO.'s manipulate compliance boundaries. People who need genuine help always front for appointmentsts.	Feb 22, 2011 9:20 PM
7	I believe fines /dent should be looked at on a case by case basis and the persons ability to take responsibility for their actions. Where the person is so mentally unwell they dont care about fines etc it holds little purpose and creates more work for health professionals in reporting.	Feb 22, 2011 10:12 PM
8	Will need to consult with senior/executive management team who will make this decision.	Feb 28, 2011 2:31 AM

1. What support would help you to continue to participate in the WDO scheme?

Other (please specify)

1	Individual case workers for clients (include this cost in what they are working off so it is understood if they don't meet their obligations they will have a greater financial burden = carrot + stick)	Feb 7, 2011 5:53 AM
2	None of the above as I am a sole practitioner.	Feb 7, 2011 7:07 AM
3	Would continue regardless, extra support not required	Feb 7, 2011 10:14 PM
4	Brokerage to support those clients who fall outside existing funded services oor a referred by other agencies for the sole purpose of a WDO.	Feb 8, 2011 2:05 AM
5	A quicker turn around for approvals.	Feb 8, 2011 4:47 AM
6	update the elctronic system to reflect progress of application and better more consistent communication with authorised agencies.	Feb 9, 2011 5:07 AM
7	Some involvement in determining the conditions of any WDO	Feb 10, 2011 1:40 AM
8	Position in service to assist, very time consuming without funding, although benefit to client out weighs financial.	Feb 20, 2011 10:58 PM
9	It would not let me proceed without ticking one of the above boxes. In fact none of the above would be of any real assistance to us. Instead, some funds attached to the WDO participants to help us cover our costs of managing and supporting them would be of great assistance.	Feb 21, 2011 5:49 AM
10	see previous comment	Feb 22, 2011 10:14 PM
11	An advertising program to make the community aware this option is available.	Feb 23, 2011 11:45 PM

1. What support would help you to continue to participate in the WDO scheme?

Other (please specify)		
12	Funding for extra staff hours	Feb 25, 2011 3:19 AM
13	To streamline the process for an easier process	Feb 25, 2011 5:42 AM

2. Do you have any other comments or suggestions about the WDO scheme?

Response Text		
1	I have not had any experience yet of its operation - I have just found out that it exists!	Feb 7, 2011 5:45 AM
2	I believe it is a good scheme and should continue but maybe with a variety of suggestions of ways for clients to participate	Feb 7, 2011 5:52 AM
3	This is a great scheme and gives hope and blessing to the participants as well as assisting others through our charity	Feb 7, 2011 6:03 AM
4	I think this scheme is extremely valuable to our client base- families with children who struggle with serious issues.	Feb 7, 2011 6:10 AM
5	I have registered for involvement in this scheme but have not had any clients.	Feb 7, 2011 6:36 AM
6	I would be unlikely to continue as clients attend under medicare and require bulk-billing despite additional workload.	Feb 7, 2011 7:07 AM
7	Thank you for your help.	Feb 7, 2011 10:14 PM
8	Just well done, this is a great initiative and should continue beyond the trial date. My only suggestion to improve this scheme would be to resource the staff so they can process applications more rapidly.	Feb 7, 2011 10:27 PM
9	Just speed up the approval process and you will get more applications. The fact that there have not been a great number of applications i believe is a direct result of the system of assessment being far too slow. Also it hard to get people to start their unpaid work prior to approval (as the dates can be back dated) if we are not sure that they will in fact be approved.	Feb 7, 2011 11:36 PM
10	1. Quicker response time for receival/acceptance of WDO's. (Currently awaiting notification of application sent in October - refaxed Dec 10... still nothing) 2. This rehab has clients who may leave our program and decide to return within a day/week/mth. Presently, we notify the WDO team of their discharge and the application is cancelled. As we report each month on client's hours/participation/non-participation, we would like the WDO applications to remain active for a period of time eg. 3 mths, so that the application process doesn't have to re-commence again when clients return. 3. Our rehab has 3 phases to program. In Phase 1 clients can complete 6 wk program and exit. We request backdating WDO to date of online application. Are these clients still receiving \$\$ off fines for their 6 weeks participation even though our organisation has not received any communication from WDO Team?	Feb 7, 2011 11:42 PM
11	no	Feb 8, 2011 12:56 AM
12	Great initiative that is inhibited by the lack of support funding for agencies to assist with deveklopemnt of WDO's and ongoing case management. Case Management brokerage, similar to HAP funded accommodation services, would overcome this barrier.	Feb 8, 2011 2:05 AM
13	The concept is great. A mechanism for quicker acceptance into the scheme would be necessary to really benifit our clients or the ability to back credit reporting	Feb 8, 2011 2:23 AM
14	this program is necessary for juvenile justice clients as most do not have the stability or parental guidance to avoid getting fines	Feb 8, 2011 2:26 AM
15	All in all a very necessary and compassionate scheme.	Feb 8, 2011 5:30 AM

2. Do you have any other comments or suggestions about the WDO scheme?

Response Text		
16	NO	Feb 8, 2011 10:04 PM
17	No	Feb 8, 2011 11:36 PM
18	Needs to continue to further assist marginalised and already disadvantaged young people	Feb 9, 2011 5:07 AM
19	It would be beneficial if once a young person chooses to complete a WDO that activities they undertake could be backdated while the application is being processed.	Feb 9, 2011 5:47 AM
20	I think that the criteria should be extended to include traineeships and apprenticeships. It seems that the scheme has nothing to offer young people who have made mistakes but have now got themselves on track and found employment at minimum wages. It seems that the more one does for oneself, the less support the system gives.	Feb 9, 2011 9:16 PM
21	A tool to display hours worked with fine amounts outstanding, to show how much the client has achieved. This would be a great ongoing engagement tool, or incentive to continue in the program.	Feb 9, 2011 11:36 PM
22	A great idea, application and monitoring program needs refinement. Perhaps some exclusion criteria, or pre-enrollment program to assess suitability	Feb 10, 2011 1:40 AM
23	One difficulty I did face was getting precise information about the program, and the "rules." I would often tight the hotline and get a vague answer, or I would phone more than once to ask the same question, and get a different answer. This could, however, be more so related to the nature of our clients and the program its self. One final, and VERY important note I would like to make, is that Ann Hazelton was the most helpful, knowledgable and also well-informed staff memeber on the team. She ought to be commended for her efforts.	Feb 10, 2011 3:10 AM
24	1. To give services the capacity to report on the hours of the clients at completion of WDO hours. 2. Services to have tha capacity to approve WDO's 3. An email reminder system in place which tells you when client reports are due 4. More staff trained at SDRO to assist with WDO's question and applications 5. Faster turn arounds with applications	Feb 11, 2011 1:12 AM
25	The scheme has proven to be a worthwhile effort at assisting people who may otherwise not have this option available to them.	Feb 14, 2011 12:50 AM
26	Please continue and help those disadvantaged people	Feb 14, 2011 1:05 AM
27	It would be beneficial to include the balance of debt online as the client works it off. My client was constantly asking me for the balance which I had to laboriously work out and which was probably inaccurate. He wanted to see his debt go down in real figures.	Feb 17, 2011 3:52 AM
28	It has been a privelege to be part of this scheme and to work with clients that have achieved such great outcomes.	Feb 20, 2011 10:58 PM
29	no	Feb 21, 2011 5:36 AM
30	Client has been very happy with the WDO scheme, and it has been very easy to do the reports online.	Feb 21, 2011 5:44 AM

2. Do you have any other comments or suggestions about the WDO scheme?

	Response Text	
31	Funds should be attached to the participants. There is little benefit to organisations in having these people as volunteers - by the time they are trained etc they have finished their placements...training is time consuming and of no benefit to us since the participants leave once finished. They generally come with very few skills and can be high risk and in need of a fair amount of management and supervision. At least there should be a sound understanding that we do this for our client's benefit and not for our own benefit and the program should at least recognise that there are significant costs to us in providing WDO placements and little direct benefit from the scheme for our organisation. Our organisation would keep providing WDO placements even without funds, because we feel strongly this is a benefit to our most disadvantaged clients, but this will limit how many we can place at any one time and thus the scope of the scheme.	Feb 21, 2011 5:49 AM
32	We know of at least two organisations who did not apply to become an approved WDO organisation due to the overwhelming process involved. Processing of applications need to be done quickly with progress of applications available for all staff involved.	Feb 21, 2011 6:00 AM
33	I believe this is a valuable solution for both clients and our organisation. The process of approvals needs to be refined dramatically though - far too slow.	Feb 21, 2011 11:55 AM
34	recommended support for young people to help them reduce their debts	Feb 21, 2011 8:34 PM
35	Please continue this scheme - it has given hope to our clients recovering from a mental illness.	Feb 21, 2011 9:25 PM
36	Your staff are lovely and very helpful	Feb 21, 2011 9:30 PM
37	I simply encourage you to continue the scheme. Promotional material would help because many people do not seem to know about the scheme. I only found out through a patient seeking my involvement.	Feb 21, 2011 10:02 PM
38	Great thing to be able to offer our clients, and it must continue. It would be hugely beneficial and appropriate if job-network provider appointments could be included in the scheme	Feb 21, 2011 10:34 PM
39	Keep it going and just streamline the process so those most needing it can get into it so they can get on with their lives	Feb 22, 2011 2:41 AM
40	I believe this is an essential scheme for those identified through this project as eligible. As an emergency relief service we are inundated with people with financial crises well and truly out of their control. This is one way that we can help them while also enforcing the importance of accountability to their community	Feb 22, 2011 5:21 AM
41	question 20 is faulty and demands an answer even though I've added comment in other. Thus the tick in q20 is not relevant.	Feb 22, 2011 10:14 PM
42	I think it has started slowly for our college as we do not advertise this service but if the scheme continues we would think about putting it in our college brochure. So far our clients have come from word of mouth and JSA have referred them to us. We have wanted to get an understanding of the system and the possible outcomes before we advertised it to the greater community.	Feb 23, 2011 11:45 PM
43	I think this is a great scheme because it will help the disadvantaged by giving them the opportunity to clear their fines and at the same time they will either be receiving valuable training or work experience. In any case, it is removing a barrier that is preventing clients from moving forward. It also removes an excuse as well....	Feb 24, 2011 2:02 AM
44	Of the 3 applications we submitted only 1 got a response that we are aware of. The 1 approved was processed 4 months after lodgement. We work with clients who often lead transient and chaotic lives. The processing delay has not encouraged further uptake by the case managers offering this option to their clients	Feb 24, 2011 2:23 AM

2. Do you have any other comments or suggestions about the WDO scheme?

Response Text

45	If the clients have the right attitude they are great but if they don't want to work they make more work for us.	Feb 25, 2011 2:01 AM
46	it is hoped that the WDO scheme will continue.	Feb 25, 2011 3:19 AM
47	I believe if the Site Manager would have the authority to approve the WDO it would work much easier	Feb 25, 2011 5:42 AM

Now I can move on

The impact of accumulated fine debt and the
Work and Development Order scheme
on disadvantaged people in NSW

FINAL REPORT

Prepared by: the Institute for Innovation in Business and Social Research (IIBSoR)
University of Wollongong

Prepared for: The NSW Department of Justice and Attorney General

April 2011

Acknowledgements

The University of Wollongong and the NSW Department of Justice and Attorney General are indebted to the services, staff and participants who agreed to be interviewed for this project.

Within NSW Department of Justice and Attorney General, thanks go to the project manager, Dr Tania Matruglio, Principal Policy and Projects Officer, Crime Prevention Division, and also Louise Pounder, Senior Policy Officer, Legislation, Policy and Criminal Law Review.

This document

This is a confidential report prepared for the NSW Department of Justice and Attorney General. For all inquiries, see Dr Tania Matruglio, Principal Policy and Projects Officer, Crime Prevention Division.

Authorship and referencing

This research was conducted by Duncan Rintoul, Manager of Applied Social Research at the Institute for Innovation in Business and Social Research, University of Wollongong.

Suggested citation:

Rintoul D (2011) Now I can move on: The impact of accumulated fine debt and the Work and Development Order scheme on disadvantaged people in NSW. Unpublished report by the University of Wollongong for the NSW Department of Justice and Attorney General, April 2011.

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APPENDIX A: Interview protocols and discussion guides

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Executive summary

INTRODUCTION

The Work and Development Order (WDO) scheme was introduced on a two-year trial basis in July 2009 as a way for highly disadvantaged people in NSW to address their outstanding debt from fines and penalty notices (referred to in this report as 'fine debt' for the sake of brevity)

Under the scheme, people who are homeless, mentally ill, in acute financial hardship or cognitively impaired can apply to the State Debt Recovery Office (SDRO) to have their outstanding fine debt 'paid for' by participation in voluntary unpaid work and/or agreed programs or treatment courses.

This report presents the findings from qualitative interviews with 26 WDO participants and 21 staff from nine organisations that are approved to run the scheme ('Approved Organisations').

The report explores three core issues:

- the effect that outstanding fines have on disadvantaged community groups
- the impact of the WDO scheme on this situation
- the administration of the WDO scheme during its pilot period.

THE IMPACT OF ACCUMULATED FINE DEBT ON DISADVANTAGED GROUPS

For people with a mental illness, unstable housing, acute financial stress or limited cognitive function, accumulating outstanding debt from fines and penalty notices is often a result of multiple contributing factors. These include:

- having a range of other competing debts, bills and expenses, and needing to make difficult choices about which get paid
- new fines having little meaning, as repaying *any* amount feels out of reach
- engaging in confused, anti-social, risky or self-destructive behaviour due to mental illnesses, behavioural disorders or substance abuse
- denial, ignorance or misinformation about one's personal debts and the State debt recovery process.

Inability to repay fine debt has a range of consequences, not the least of which is suspension of one's driver's licence.

The psychological impact of un-payable fine debt tends to be described by WDO participants in terms of burden, stagnation, anxiety, captivity, death and despair. Participants speak of hopelessness, shame and negativity that pervades other areas of their life, and leads to a heightened sense of anxiety.

The trigger for these negative psychological impacts is not necessarily the amount of debt owed; rather, it is the perceived impossibility of ever being able to be free of it.

THE IMPACT OF THE WDO SCHEME FOR PARTICIPANTS AND SERVICES

By providing disadvantaged people with a way out of their fine debt, the scheme allows participants to take more control of their personal finances and possibly re-apply for their driver's licence.

The scheme can also bring about a range of psychological benefits relating to life outlook (eg relief, movement, peace, freedom, life and hope), as well as greater self-efficacy, a greater incentive to work and more pro-social attitudes towards authority and offending.

On another level, the scheme also engages participants in constructive activities that they

may not otherwise have commenced or continued. Approved Organisations consistently speak of the WDO as a very effective tool for engaging eligible clients in activities that have therapeutic, educational or restorative value, but may otherwise be seen by the client as unappealing or requiring 'too much effort'.

Overall, the scheme is considered by participants and Approved Organisations alike to be a constructive and compassionate response by the SDRO, which is having its intended effects without causing any significant unintended negative consequences.

PROGRAM ADMINISTRATION

The WDO scheme is reasonably straightforward for Approved Organisations to run, once they become familiar with the documentation requirements for client application forms.

The only major administrative issue at present is the time taken by the SDRO to process applications. Backdating of 'credit' to the application date is a saving grace in this regard, but speeding up the application processing timeframe should be a priority.

More regular reporting by the SDRO (to workers and participants) about the remaining balance would also strengthen the program.

Should the scheme be continued, there is a strong case for the SDRO developing a small suite of promotional materials, one set targeting services and another applicants.

Further promotion of the scheme should be undertaken, but only once the administrative 'back end' has been appropriately resourced.

Glossary

DJAG	NSW Department of Justice and Attorney General
WDO	Work and Development Order
SDRO	State Debt Recovery Office
Fine debt	Overdue fines and penalty notices that have escalated to the State Debt Recovery Office
Approved Organisation	An organisation that has been approved by the Director General of DJAG to administer the WDO Scheme

1 INTRODUCTION

1.1 BACKGROUND TO THIS REPORT

This report presents the combined findings from qualitative research commissioned by the NSW Department of Justice and Attorney General (DJAG, or the Department).

The core objectives of the research were:

- to better understand the cumulative effect of fines and penalty notices on disadvantaged community groups
- to inform an evaluation of the Work and Development Order (WDO) scheme being conducted by DJAG's Legislation, Policy and Criminal Law Review team.

The sample for this study comprised 26 people who had participated in the WDO scheme (described below) and 21 workers from nine organisations that had been administering the WDO scheme ('Approved Organisations').

1.2 THE WORK AND DEVELOPMENT ORDER (WDO) SCHEME

The WDO scheme was introduced on a two-year trial basis in July 2009 as a way for highly disadvantaged people in NSW to address their outstanding debt from fines and penalty notices in a constructive manner. For the purposes of this report, overdue fines and penalty notices that have escalated to the State Debt Recovery Office (SDRO) are referred to simply as 'fine debt'.

Under the scheme, people who are homeless, mentally ill, in acute financial hardship or cognitively impaired can apply to the SDRO to have their fine debt 'paid for' by participation in voluntary unpaid work (min 10 hours, max 35 hours per month) and/or agreed programs or treatment courses, including:

- drug or alcohol treatment
- medical or mental health treatment (including disability case management)
- financial or other counseling
- educational/vocational or life skills courses
- mentoring programs (<25 year olds only).

WDO activities can reduce a participant's debt by up to \$1,050 per month for volunteer work, at a rate of \$30 an hour. The deduction associated with participating in other activities and programs caps at a maximum of \$1,000 per month; the hourly rate is assessed on a case by case basis, but is usually \$50 an hour.

In order for a WDO to come into effect, an Approved Organisation must submit an application to the SDRO that establishes the applicant's eligibility, details proposed activities to be included in the WDO and lists the fines and penalty notices to be included in the Order.

If the WDO is not completed or outstanding fine debt remains at the completion of the WDO, the participant can choose from the normal range of options for dealing with the remainder of their fines, ie paying the fines in one lump sum or via a payment plan (the ‘Time to Pay’ system), or applying for a write-off.

The WDO scheme was introduced at the same time as a number of other amendments were made to the fine enforcement system in NSW through the Fines Further Amendment Act 2008 (NSW). Other changes included the option for law enforcement officers to issue an official caution in lieu of a penalty notice under certain circumstances; more flexible payment options for fines; a statutory system for the administrative review of penalty notices; and the option for fines to be partially written off. Together, the purpose of the changes was to ameliorate the systemic difficulties that fines present to very disadvantaged people in the community.

1.3 METHODOLOGY

1.3.1 SAMPLING

Out of the 80-odd Approved Organisations participating in the trial, nine were approached by DJAG and invited to participate in the research, including a mix of big and small agencies, government and non-government, urban and regional, multi-site and single site organisations and different client bases. All of the selected organisations had practical experience with the scheme, ie they had submitted multiple applications and monthly reports and supervised placements during the trial.

Seven of these organisations were asked to facilitate face-to-face interviews with clients and staff; a further two were asked to make staff available for telephone interviews. All nine organisations participated as requested, yielding structured interviews with 26 WDO participants and 21 community service and health professionals. Details are set out in Table 1 over the page.

Among the 26 WDO participants:

- Most had been eligible on the grounds of acute financial hardship (15) or homelessness (10); one was eligible due to mental illness and none through cognitive impairment.
- Roughly half had finished their WDO (9 debt free, 3 with more to pay); the other half were currently completing their WDO activities (11 approved, 2 with their applications pending).
- Over \$160,000 in fine debt was shared between them at the time their WDO applications were submitted; this ranged from one applicant with a \$400 accidental property damage fine to another with over \$26,000 in accumulated traffic fines. Six participants started their WDO with \$10,000 in fines or more.
- The most common source of fines was driving offences (17), followed by travelling on the train without a valid ticket (8); half of the participants also had court fines or on-the-spot fines for offences such as coarse language, drinking in public and exceeding the fish catch limit.

TABLE 1: Participating organisations and number of interviews per organisation

Organisation	Notes	No. interviewed
--------------	-------	-----------------

		Staff/ workers	WDO participants
Catholic Care Hunter-Manning	Focused on their youth programs in Newcastle, eg supported living	3	2
Mission Australia Centre, Surry Hills	A residential centre for homeless men	3	5
Mission Australia, Central Far West	Phone consultation with staff only, focusing on their juvenile post-release program	3	-
Schizophrenia Fellowship NSW	Focused on the Harmony House recovery centre in Campbelltown	3	2
Southern Youth and Family Services, Wollongong	Focused on their Community Health for Adolescents in Need program	3	5
St Vincent de Paul Society NSW	Focused on Ozanam Learning Centre, Woolloomooloo	2	5
NSW Juvenile Justice	Lismore office	1	-
The Glen Centre	A residential drug and alcohol rehabilitation centre on the Central Coast	1	3
Warrigal Employment	An Aboriginal organisation in Wollongong	2	4

1.3.2 INTERVIEWING

All participant interviews were conducted one-on-one, with the exception of two interviews with young people in Wollongong, where the participants requested their case worker to sit in on the interview. Interview protocols and discussion guides can be found at Appendix A. WDO participants were offered a grocery store voucher at the start of the interview, to thank them for their time; none declined this offer.

Consultation with workers included a mix of small group interviews (eg at the Mission Australia Centre and Harmony House) and one-to-one interviews (eg at Ozanam house).

1.3.3 LIMITATIONS

As this was a qualitative exercise, findings cannot be numerically extrapolated to represent the entire population of WDO participants or Approved Organisations. That said, consistent themes quickly emerged during the consultations and 'saturation point' was reached on the key issues.

Interviews were not conducted with organisations that would be eligible to participate in the WDO scheme but have chosen not to apply. Accordingly, the services interviewed are, by definition, supportive of the intent of the program and have overcome some of the barriers to participation; commentary about factors that may be preventing organisations from participating is also limited.

2 THE EXPERIENCE OF ACCUMULATED FINE DEBT IN DISADVANTAGED GROUPS

2.1 INTRODUCTION AND OVERVIEW

For people with a mental illness, unstable housing, acute financial stress or limited cognitive function, accumulating outstanding debt from fines and penalty notices is often a result of multiple contributing factors. These include:

- having a range of other competing debts, bills and expenses, and needing to make difficult choices about which ones get paid
- new fines having little meaning, as repaying *any* amount feels out of reach
- engaging in confused, anti-social, risky or self-destructive behaviour due to mental illnesses, behavioural disorders or substance abuse
- denial, ignorance or misinformation about one's personal debts and the State debt recovery process.

Inability to repay fine debt has a range of consequences, not the least of which is suspension of one's driver's licence. The psychological impacts of un-payable fine debt tend to be described by WDO participants in terms of burden, stagnation, anxiety, captivity, death and despair. Participants speak of hopelessness, shame and negativity that pervades other areas of their life, and leads to a heightened sense of anxiety. The trigger for these negative psychological impacts is not necessarily the amount of debt owed; rather, it is the perceived impossibility of ever being able to be free of it.

2.2 THE PROCESS OF ACCUMULATING STATE DEBT

BACKGROUND

In NSW, fines and penalty notices can be issued for some 7,000 separate offences.¹ When a penalty notice or fine is not paid within the required timeframe, it escalates to the SDRO for further action. This usually results in an additional 'administration fee' (eg of \$50) being added to the outstanding amount. All of the WDO participants interviewed for this project had received such a fine or penalty notice, not paid it, and then seen it escalate to the SDRO.

COMPLICATED LIVES AND COMPETING PRIORITIES

Many explained in an understated way that their fines had become overdue and stayed unpaid simply because "other things took priority". However, for people with mental illness, unstable housing or acute financial stress, there is always more to such a story.

¹ New South Wales Law Reform Commission, Penalty Notices: Consultation Paper 10 (September 2010).

“I would worry about how to pay it off every day. I had lots of other costs too: I was going without food, so the fines were the least of my worries really. But it still really stressed me out – I couldn’t borrow or earn to pay it off, so what the hell was I going to do?”

Almost all of the interviewed WDO participants had other debts to juggle at the time their fines progressed to the SDRO, or at the very least they had pressing expenses (eg basic groceries or rent) that could not be deferred or would soon become debts if they were not paid. Other debts included personal loans from banks, mobile phone bills, credit card debts, overdue tax repayments and child support payments, not to mention informal personal debts owed to family members and associates. When faced with such a list of repayments and expenses, people weigh up the consequences of non-payment debt by debt – which ones can I put off? Which ones do I *really* have to pay? Rarely does fine debt rise to the top of the list:

“I thought: ‘What are they going to do – put me in jail? OK, fine. At least I’m safe in jail; somewhere to sleep; something to eat’.”

A handful of interviewed participants had sought to deal with their accumulated debt through bankruptcy proceedings. As they discovered, however, bankruptcy in NSW may cover bank loans and utility bills, but it does not clear fine debt.

Almost without exception, the WDO participants interviewed in this project saw repayment of their fine debt as simply unattainable.

“You might think: ‘Oh how do these guys get themselves in this mess?’, but it happens. You lose your job and your house and you’re being penalised by this great big unseen authority with their stupid rules. You just think: ‘What a tangled mess, and how can I get out?’.”

IRRELEVANCE

A common theme here is that, when one has little or no disposable income, the fine itself is next to meaningless:

“I thought: ‘Just put it on my tab – add it to the collection’. I can’t afford \$1.50 for the train ticket, what makes them think I can afford \$200 for a train fine?”

“The fines just didn’t matter. All my mates had them, and when I first started getting them it was like: ‘OK, whatever, fine me, but you’re not getting any money off me, because I got none’. When you’re on the streets, you’re not responsible for anything but your own survival. You think: ‘I do what I want, not what you say’. You don’t think [the fines] are real – that you’re ever going to have to actually pay them.”

This is a similar sentiment to that expressed by a few WDO participants about the non-impact of having their licence suspended as they had never driven and had no access to a car.

“What was the plan with the fines? The plan was just to let it sit there. That all changed though, ‘cause now I’m old enough to get my licence but I can’t.”

“I’ve never gone for my license, so the suspension never affected me”

Recklessness and bravado also plays an important role in denying the importance of accumulated fines, as this extended quote from one participant demonstrates:

“We’d go out drinking and run amok, anywhere between Nowra and Sydney. We were young and carefree. Stupid. Maybe ten of us, doing whatever we felt like. I was 16, 17.

*Then when I was 18 my house got broken into, and I lost \$2,500 worth of my stuff. I thought: ‘F*** this, I’m getting onto my own path. I’ve got to get out of this rhythm that’s getting me nowhere, and stop hanging around those friends.*

So I’ve been technically homeless for the last year. But it’s better than running with the old lads – although half of them are in jail now.

My mates have got tens of thousands of dollars in fines, and they’re jealous [the WDO] was offered to me. But their fines aren’t a priority for them – they still don’t give a shit.

Me, I’m trying to settle down and think about my future. Let my brain get involved in my choices.”

For those with drug additions, in particular, fines are almost nowhere on the radar. A number of WDO participants spoke very candidly in their interviews about their past lives as ‘addicts’, and just how little their fines meant to them at this stage:

*“You wake up and your first priority, your only priority, is to score. After that, your priority is to line up the next score. When that’s your life, who gives a f*** about a fine? Money on a fine is just a shot you won’t be getting. It’s nothing. It doesn’t exist. Only the drugs exist.”*

CASCADING FINE ACCUMULATION

For some people, the unreality of the dollar amounts was simply a contributing factor for not making an attempt to pay the fine. For others, however, it led to *escalation* of fine-incurring behaviour:

“When you’ve got \$19,000 [debt], you don’t give a shit. What’s the difference between 19, 20, 50, 100? I can’t pay any of it back. I’ll take it to my grave.”

From the way that some participants spoke about their fines, there is also a sense that the fines are simply the ‘cost’ of their criminal activities:

“The bill for that one was around \$1000”

“They both cost me \$400, which seems a bit strange.”

This ‘cascading effect’ of one fine leading to another due to a perceived inability to pay any of them was most often reported with regard to train fines. However, fines relating to driving offences can also compound. Regardless of how fine debt is accumulated, one of the consequences of continued non-payment is suspension of one’s driver’s licence. However, for a number of the WDO participants interviewed in this study, not driving was simply not an option, and a number received additional fines for driving while suspended due to their earlier fines:

“I’m a single mum with [n] kids. When my husband and I separated I was in private rental. I got a few loans (I was working back then) and credit cards too. Then I lost that job, but I still had to maintain everything – my lifestyle and my kids. I had to move house, and the only car I could use was my son’s old van which was out of rego.

I got picked up getting my stuff out of storage - \$1000 for driving an unregistered car and having an old sticker. I couldn’t pay, so I didn’t, and my licence got suspended.

I had to take the risk though – to keep driving – be prepared to cop fines to get the kids to school. My kids were spread out in [location], [location] and [location] by that point – everyone was farmed out. And I had to do the rounds every day.

What else was I going to do? You put off as much as you can because you don’t want to drive, so for days there’s no bread, no milk – and then you do a run and hope for the best. I did that for 12 months.”

RESENTMENT AND PERCEIVED INJUSTICE

Occasionally in these interviews, non-payment of the fine was justified by a perceived sense of injustice about the original offence or a resentment of authority figures. One example was a fine for breaching an Apprehended Violence Order (AVO) when the offender resented the AVO itself and felt that the system was biased towards their ex-partner; another was receipt of a parking ticket when parked near homeless accommodation:

“I was in a bad frame of mind, mate. I thought: ‘You [people] took my life away and [my ex-partner] is living in my house.... You’re the government: you’ve got millions of dollars, you don’t need my money, and you’re not getting any of it’. So yeah, I was in a bad state – pretty angry.”

*“The only thing I’ve got left is my car and a bag of clothes. The only place I can stay is in the inner city – that’s where there are places to help people in my situation. But do you think I can find a park anywhere? Forget about it. Like I haven’t got enough to worry about, I’m lying awake at night worrying about whether I’m going to get another f***ing parking ticket that I can’t pay. I’m sorry about the language, but... talk about kicking a guy while he’s down.”*

MENTAL ILLNESS, COGNITIVE FUNCTION AND THE VICIOUS CYCLE

Although only one of the interviewed WDO participants applied for the scheme on the grounds of mental illness, a number of case workers noted having seen a relationship between mental state, fine accumulation and capacity to repay.

That is, untreated or poorly managed mental illness, behavioural disorders and drug and alcohol abuse are not uncommon among people who are homeless or in acute financial hardship. This is sometimes referred to as 'co-morbidity' or 'dual diagnosis'.

These mental states can easily lead to a person being confused, acting anti-socially and taking risks due to feeling invincible or self-destructive. Poor choices under these conditions can lead to fines (eg swearing, not buying a train ticket, driving dangerously or unlicensed).

“I got stuck in a rut. I didn’t want to know about it. I was on a self destruction mission. I didn’t see a way out.”

As one mental health professional commented:

“Mental illness stops people in their tracks in their development as a person – it breaks their dreams, turns normal naughtiness in the car or on the train into something much bigger... with their diminished thinking, it makes them feel like an outlaw, and [people with a mental illness] don’t respond well to authority at the best of times.”

The same pre-conditions can then limit a person’s understanding of the consequences of their actions, as well as their ability to address their fines.

DENIAL AND IGNORANCE

It was not uncommon for WDO participants to have previously been in denial about their fines – knowing they had some amount to pay, but not wanting to find out the details, hiding from the SDRO or preferring to “leave my head in the sand”.

“I never ever knew what I owed. I’d get done and fined by the judge, and have no idea about the total debt or disqualification time.”

“It used to do my head in. I didn’t know what to do, how to deal with it. I was scared. People told me if you don’t pay your fines you go to jail, so I tried to block it all out of my head.”

A compounding factor for people in unstable accommodation is that their mail may be arriving at an old address (eg an old rental property or their estranged parents’ house). As a consequence, some WDO participants reported being shocked by the amount they owed – some by how large the amount was, some by how small it was.

However, this lack of clarity about how much debt was owed was not ubiquitous: others knew the exact amount they owed before they learned about the WDO scheme, and already had all of the fine paperwork in a folder.

MISINFORMATION

One final issue to mention here is the consequences of misinformation about how the fines system works.

One young man of 22 interviewed for this project had been taken in by a group of older boys when he left home at 14. Between the ages of 15 and 17, he was their ‘driver’, during which period he received numerous tickets for driving unlicensed and driving an unregistered and uninsured vehicle (\$1,500 to \$2,000 each time), as well as ‘countless’ train fines and other fines for minor offences such as riding a bicycle without a helmet.

When he turned 18 he phoned SDRO to advise them that, as he had now become an adult, they could clear his juvenile fines. They informed him that this was not the way fines worked, and that he owed them \$26,000, including interest.

2.3 THE IMPACT OF BEING UNABLE TO REPAY FINE DEBT

2.3.1 DESCRIBING THE IMPACT OF FINE DEBT

WDO participants used a range of metaphors when asked to describe what it felt like to have outstanding fine debt with the SDRO, and also what it felt like to find out that their WDO had been approved and that their debt would be cleared (or at least reduced).

Although these two ‘mirror’ questions are addressed separately in this report (the impact of debt here, the impact of release from debt in Section 3.1), the metaphorical language is similar between both and is instructive about just how personal and significant a seemingly immovable fine debt can be. These metaphors are summarised in Table 2 over the page.

Key themes relating to the impact of debt are then explored further.

TABLE 2: Metaphorical language used by WDO participants

Category	What WDO participants said about...	
	having the debt	the prospect being debt-free
Burden and relief	“a weight on my shoulders”	“What a relief!”
Stagnation and movement	“in a rut”; “in a hole”	“Now I can move on with my life”
Anxiety/distress and peace	“stressed out, all the time” “scared of what would happen”	“That’s one massive thing I don’t have to worry about any more”
Captivity and freedom	“stuck” “no way out”	“released from the sins of my past” “free to get on with life ”

Death and life	“a noose around my neck”	“I can breathe again”
Despair and hope	“helpless”; “hopeless”	“a new lease on life”

2.3.2 FINANCIAL IMPACT OF GRADUAL REPAYMENT

The Time to Pay scheme, which allows debtors to negotiate a payment plan with SDRO, is well regarded by community workers interviewed for this project, particularly as regular repayments results in the withdrawal of driver’s licence suspensions. The ‘Centrepay’ arrangements are particularly praised – these see the installments (eg \$10 a fortnight) paid directly to SDRO from Centrelink payments, and vastly reduce the opportunity for defaulting on payments (an action that has various negative outcomes).

However, for clients in acute financial hardship, the disadvantage of the payment plan is simply a financial one:

“It was \$20 off the shopping list each time. So I ate like shit, because I had to have proper food for the kids. But I’d prefer to do that than have the Sheriff at my door and the kids asking ‘mum, who’s that man, why is he taking our stuff?’.”

“We sit down and do budgets with the young people [in independent housing after leaving foster care or supported housing], and believe me they need every cent they can get. You just put in the basics – food, rent, nappies, transport costs – they’re already in the red. Their Centrelink income just doesn’t cut it.”

2.3.3 DRIVING AND THE ABILITY TO WORK AND FUNCTION IN SOCIETY

As noted earlier, extended non-payment of fines leads to suspension of the debtor’s driver’s licence.

This sanction may well provide a powerful incentive for most people to pay their outstanding fine or at least sign up for a payment plan. However, for those who are unable to do this, the resulting loss of their licence invariably has a negative impact on their ability to get or keep work and/or perform important social functions (eg as a parent, driving their children to school or the beach).

“I’ve missed out on jobs in demolition, pool building, kitchen installation. I could only go for jobs that were accessible by public transport. It really limits you.”

The positive impact of revoking a licence suspension can be significant; see Section 3.2.2.

2.3.4 ATTITUDINAL AND BEHAVIOURAL IMPACTS RELATING TO THE LAW

The intention of fines is that they serve as a disincentive for offending behaviour. As introduced in Section 2.1 earlier, however, a seemingly immovable fine debt can create a feeling of being ‘stuck on the wrong side of the law’ and consequently neutralise the disincentive of additional fines:

*“I thought: ‘F*** you, transit pig, I already owe you however much – you can have all my money in the world. Here it is: empty pockets, air, fluff... and a lighter. Here, have my lighter’. Yeah, well obviously, he didn’t take kindly to that so I got another fine for swearing. They knew me by name. They pick on you, shame you, put you on show for the [train] carriage.”*

“I was stuck in a mindset that justified keeping going with crime to survive.”

“In the old days, before the WDO, having a big fine just reinforced [our clients’] general disregard for law and order. The debt leads them to resentment, and they stew on it, and that anger leads to relapse because they’re frustrated. This leads to reoffending, and you’ve just undone all the good that’s been done through treatment. We’d see it all the time.”

Also noted in Section 2.1 is the possibility of unpaid fines converting behaviours that would otherwise be legal (eg driving) into illegal acts (due to licence suspension resulting from non-repayment of the fine). This can then lead to intentional offending due to a perceived (or real) lack of any other option. In addition to reinforcement of law-breaking behaviour, a diminished sense of personal responsibility for this offending may also emerge:

“It was very stressful the whole time. It only takes one copper to ask to see your licence, and you’re done for driving while suspended. Every morning and afternoon I’d be looking over my shoulder. But what else could I do?”

A small number of WDO participants spoke of their fines leading to a heightened fear of the police, either because of the risks they now had to take in driving (as in the quote above) or because they felt that the police were ‘looking for them’ due to outstanding fines:

“One more fine and I reckon they would have put me in jail, man. I would’ve if I was them too. Straighten me out. I was shit-scared.”

2.3.5 PSYCHOLOGICAL IMPACTS

HOPELESSNESS AND NEGATIVITY

One of the main impacts of living with seemingly un-repayable debt is the sense of hopelessness, helplessness and negativity about what the future is likely to hold.

One man, with a \$20,000 debt, spoke in these terms:

“I used to be on a downer, thinking it was the end of my life. Thinking it was easier to dig yourself a bigger hole than it is to face it and do something about it.”

Another man, with \$15,000 debt, said:

“The \$15,000 was like my emphysema – I’ve got it for life, and it means I can’t breathe properly.”

For all its benefits, the 'Time to Pay' arrangement does not necessarily help here. One young man, for example, spoke of the "black cloud [that] rolled in" when he received notice from the SDRO that, at his current rate of repayment, his debt would be cleared in 2027:

"I don't know what I'm going to be doing when I'm 20, let alone in 2027. Looking at that bit of paper I thought: 'The only thing I really know about my future is that I'm still going to be paying back the government \$10 a fortnight when I'm 100.' 2027 looks like forever."

"The idea of paying off my fines until 2030 – hanging over my shoulders... I want to move forward, not be strangled."

SHAME AND LOSS OF SELF RESPECT

A related issue is the impact of such a debt on self-image, including being a burden on others:

*"I felt f***ing ashamed of myself. I thought: 'I'll be catching public transport and riding a bike until I'm f***en 60.' I've got 4 kids and I'll never have a licence. What kind of dad is that?"*

"Until [worker] told me about the WDO, I never thought I'd get my licence back without borrowing the money off my parents, which I refuse to do and they can't afford anyway. I felt strangled. I don't like bludging lifts of someone else. I want to be free in my own right – independent."

STRESS, ANXIETY AND MENTAL ILL-HEALTH

WDO participants and consulted workers at Approved Organisations identified outstanding fine debt as a significant source of stress, easily capable of leading to loss of sleep and general worry, and also with the potential to exacerbate clinical anxiety disorders, depression, mood disorders and so on.

"I was on pretty heavy anti-depressants and anti-psychotics, but I knew if I could sort out all the practical shit – money, housing and that – I wouldn't need the meds. And I was right... [pause] well, pretty much – I'm heaps better now anyway."

GOING INTO HIDING

Remembering that when fine debt is outstanding it is rarely the *only* debt outstanding, some workers at Approved Organisations spoke of clients who stopped opening mail in unmarked envelopes (or at all), or becoming highly anxious whenever they received unexpected phone calls or knocks at the door.

"I didn't want to ring up and find out [how much I owed] – I'd been hiding from [the SDRO] for so long, and now here I was phoning them up. When they said \$13,000 I had a heart attack. It was all too overwhelming."

2.3.6 HOW MUCH IS TOO MUCH?

Importantly, there is no ‘magic number’ below which the above effects are necessarily diminished, or above which they can be expected to escalate. That is to say, in the same way as an unpaid \$700 debt can lead to licence suspension just as much as a \$7,000 debt will, so too a seemingly small debt can place just as significant a psychological burden on one person as a larger one does on another.

3 THE IMPACT OF THE WORK AND DEVELOPMENT ORDER SCHEME

3.1 INTRODUCTION AND OVERVIEW

The impact of the WDO scheme falls into two categories:

- By providing disadvantaged people with a way out of their fine debt, the scheme allows participants to take more control of their personal finances and possibly re-apply for their driver's licence; it can also bring about a range of psychological benefits relating to life outlook (eg relief, movement, peace, freedom, life and hope), as well as greater self-efficacy, a greater incentive to work and more pro-social attitudes towards authority and offending. This is discussed in Section 3.2.
- The scheme also engages participants in constructive activities that they may not otherwise have commenced or continued. Approved Organisations consistently speak of the WDO as a very effective tool for engaging eligible clients in activities that have therapeutic, educational or restorative value, but may otherwise be seen by the client as unappealing or requiring 'too much effort'. This is discussed in Section 3.3.

Overall, the scheme is considered by participants and Approved Organisations alike to be a constructive and compassionate response by the SDRO which is having its intended effects without causing any significant unintended negative consequences.

The only notable negative impacts stem from the uncertainty caused by the 6-8 week 'limbo' period while applications are being processed; this is discussed in Section 4 (regarding administration of the scheme) rather than here in Section 3.

It should be noted that this positive conclusion was in no way pre-judged or sought out by the researcher. The discussion guides attached at Appendix A show that the questioning was balanced, seeking evidence of positive *and* negative impacts, benefits *and* disadvantages. The dominance of 'benefits' and 'positives' here in Section 3 simply reflects the feedback received.

3.2 THE IMPACT OF BEING ABLE TO ADDRESS THE DEBT

3.2.1 JUSTICE, MERCY AND A SECOND CHANCE

For many, their first reaction to the WDO scheme was one of disbelief or suspicion: "Where is the catch?"; "Is this for real?". As their familiarity with the scheme has grown, the workers interviewed for this project reported that they have become convinced that the WDO "has to be here to stay":

"There's nothing else like it out there for our clients. Without the ability to work off the debt, there would be no paying it off, or it would continue to be a burden for however long it takes to clear at a dollar a day. The WDO is awesome – you've got to tell them that."

"Seriously, hats off to the government for trying to help these guys."

“Why I love the program is that most if not all of these guys’ fine debt is a product of their alcohol and drug addictions, and they’re eating into that debt through treatment. There’s a symmetry to it – a justice.”

“It’s very exciting to see that, with the work they’re doing here, they can address the problem itself, as well as the symptoms, instead of just being continually penalised for things long in their past that weigh them down.”

As the following extended quote illustrates, an important aspect to some clients’ reactions is the sense of the WDO opening the door to freedom, ‘normality’, and the ability to ‘start again’:

“The fines and the debt and my criminal record made me feel like a failure. My sister’s an immigration officer; my brother is a sergeant in the police; I used to work two jobs – and look at me now. I never smiled for years, mate.

Now I can move on. I want to be in love – have a beautiful life. The WDO gives me a clean slate – the ability to be normal again.

So can you tell them ‘Thank you very much’ for me? I can start again, no strings attached. This is the best opportunity I’ve got to be somebody without problems.”

Because the WDO is not a write-off, but requires a time commitment, participants often described the experience in terms of ‘justice’ being done, and an ‘exchange’ being made; others spoke of it as being ‘given a break’ that they did not necessarily ‘deserve’, but that they would grasp with both hands nonetheless:

“I’m paying it off, just with time (which I’ve got at the moment) not with money (which I don’t have anyway).”

“One of my WDO clients didn’t want to apply for a write-off, even though he was classic write-off material. He wanted to work it off instead: to make amends. To him, the WDO had a sense of justice.”

“I’m not getting away with it – I’m getting something out of it.”

This notion of ‘getting something out of the WDO’ can mean a number of different things, and is discussed further below.

3.2.2 PRACTICAL BENEFITS

EASE OF FINANCIAL PRESSURE AND FOCUS ON OTHER AREAS

Although it sometimes goes without saying, it is important to remember the basic benefits of having a healthier personal balance sheet due to the fine debt being no longer due (or at least diminished). As an alternative to the Time to Pay arrangement, this means that WDO participants have just that much more in their bank accounts for their daily needs.

“We stop their Time to Pay if their WDO gets approved. \$10-\$20 a week is a big deal: if they kept up their Time to Pay, they’d just be getting vouchers from us for utilities and food.”

Also, not all WDO participants might be eligible for Time to Pay arrangements:

“This WDO changed my life. [Laughs] No seriously, mate, it did.

I had already breached Time to Pay once, so my fines were a tunnel with no light – they collapsed me. I didn’t realise what a good thing I was on with Time to Pay. Having blown it, that shattered me – I had no options left.

The WDO opened a door, and it had a ripple effect. I owe so much to it. If I can get the dollars down to a manageable amount, and assuming I get a job which I really hope to, I’ll just pay the lot off.”

One practical benefit of the debt relief is that participants are then able to focus on other money problems, eg credit card debt and outstanding child support payments. Resolving these debts as well as their fine debt can feel like “winning the lottery, in a weird sort of way”.

“If there was no WDO, there would have been no Christmas or birthdays last year. It would have been another year like the year before – a debt year.”

RESTORED CAPACITY TO HOLD A DRIVERS LICENCE

As noted earlier, signing up for a WDO removes the drivers’ licence suspension imposed by the SDRO. Many participants spoke of how excited they were about being able to ‘go for their licence’ again, in some cases after many years of not driving (or driving illegally).

Driving opens a number of doors, both in terms of general independence and work opportunities. Take, for example, one WDO applicant whose application was still being processed at the time of the interview:

“Because of my time in [previous job], I have a licence to drive an excavator. There’s good money in that. It’s usually a one-man operation though: to get work on the excavator you need to have a medium rigid road licence to get the excavator to the site. No-one’s going to pay for two people – one person to get the excavator to site, another one to dig for the day. So as soon as I get my WDO I’m going to go straight out and get my licence and get digging.”

Even the ability to take their Learner’s test was an exciting prospect for some – a new challenge to work towards.

Although this benefit of ‘getting back on the road’ is an important element of the WDO scheme, it is not exclusive to WDOs. Compliance with a Time to Pay plan has the same impact.

If a person drives while their licence is suspended,² a court can further disqualify them from driving for a period. If a person has been disqualified from driving by the court, their WDO or Time to Pay arrangements do not reverse this disqualification. However, at least one WDO participant in this situation felt emboldened by the progress they had made on the WDO to lodge an appeal for a shortening of their disqualification period:

“If I can get my licence, I’ve got an offer of full time work here. I’d need to have my licence though, so I can do the shopping, pick people up from the station and that. So I’ve made a date to see the magistrate and explain all that – he knows me well – show him what a changed man I am, and how much of my fines I’ve already paid off and what I’ve been doing to pay them off. Fingers crossed he’ll see the good he can do by pulling the suspension and letting me drive again.”

3.2.3 PSYCHOLOGICAL BENEFITS

RELIEF, PEACE AND FREEDOM

As introduced in Section 2.2, WDO participants tend to speak of their un-payable fine debt in terms of burden, stagnation, anxiety, captivity, death and despair. The reverse is seen when talking of how they felt when they discovered that their WDO application had been successful – that in time they would be debt-free, or at least with a smaller debt than before³: relief, movement, peace, freedom, life and hope.

“This [WDO] gives me hope for the future.”

“The WDO is a gift of recovery for me. Without it I’d still be in the hole. I’d never be released from my sentence – my past life.”

“Now I can sleep at nights. Now I’m dealing with it I feel heaps better.”

“You can see it on their faces: they start to think: ‘Hey, maybe I’m not so screwed after all’.”

“I feel relief that I can be a normal law abiding citizen and kinda start life new. I’m still pissed at myself for letting myself get into that situation in the first place, but so relieve to have found a way out.”

“It’s like a miracle. It’s made me become more peaceful, proud of myself, privileged that I’ve been able to learn things without being in prison – and all as

² Close to two-thirds of licence suspensions in NSW are for medical or fine defaults (63% during the period January 2008 to June 2010); most others (28%) are due to loss of demerit points. (For raw figures, see http://www.rta.nsw.gov.au/publicationsstatisticsforms/statistics/licence_stats.html)

³ Due to backdating, some participants with smaller debts (eg <\$2,000) were effectively debt-free on the day their WDO was approved; see Section 4 for discussion of approval timeframes and backdating.

an offshoot of paying my fines off! It's taken a lot of anger at myself and frustration away."

SELF-EFFICACY AND AGENCY

For clients and workers alike, the WDO scheme is seen as both a compassionate and constructive response from the SDRO, offering disadvantaged debtors a "hand up, not a hand out", and giving them "the ability to help themselves".

Across the 26 interviews with participants, almost all gave a very clear message of wanting to make the most of the opportunity that the WDO provided them to be debt-free.

"The reason why the WDO worked for me is that I was no longer on my path of destruction and I could really start to change."

Indeed, the clear picture painted in this research is that the people who derive greatest benefit from a WDO are those who are wanting to "get their life back together", and can use the scheme as a springboard for other positive change.

"I can gain parts of my life back – independence. No-one's going to come knocking at my door saying they're taking items of value."

"If I can make progress on this, and I thought that was impossible, maybe I can also achieve other goals I thought were out of my reach."

One of the key impacts of the scheme, therefore, is its contribution to participants' self efficacy and internal locus of control – ie the extent to which participants feel able to influence their own future, rather than being at the mercy of external forces. Self-efficacy is known to be a key contributor to voluntary behaviour change.⁴

Only a handful of participants interviewed for this project (three of 26) gave the impression that they had not benefited from the WDO in this way.

INCENTIVE TO WORK

A number of participants with larger debts spoke about the WDO giving them more of an incentive to work, in the knowledge that their income would not all just "go on the debt".

"It's awesome that I don't lose the money. I'm heaps keen now to get everything else sorted out. I'm in a hurry to get employed – I know I'll need to strike while the iron's hot. I'll be free to go to work without any inhibition within the next few weeks, and I can afford the things I need for work, like boots and that."

⁴ Social Cognitive Theory, eg see Bandura A (1992) Exercise of personal agency through the self-efficacy mechanism. In R Schwarzer (ed) 'Self-efficacy: thought control of action', Hemisphere; Washington DC.

The following extended quote from one participant with \$7,500 in outstanding fine debt (a court fine) also illustrates this point well:

“When I found out that my bankruptcy didn’t cover the fines, I threw up my arms in the air. ‘You win. OK, you take care of me now.’ I joined the house queue, and sat on my arse in my friend’s caravan feeling sorry for myself.

I’ve worked self employed since 1980 – you think an employer will take me on? [laughs] Eight of my 24 vertebrae are already bugged – I was going to just chuck it all in. I was going to just sit where they gave me a seat, or go to jail if they put me there.

The WDO was an opportunity not to sit and wait for someone to wipe my arse. It breathed life back into me – I think now I can work for another 5-10 years – whatever my body will take.”

ATTITUDES TOWARDS AUTHORITY AND OFFENDING

As noted earlier, living with seemingly un-payable fine debt can lead to negative sentiment towards authority and a fatalistic attitude towards accumulating further fines.

Not surprisingly, the opposite is also evident when debtors are given a way out of that debt through a WDO. Many participants spoke of making a renewed commitment to ‘clean living’, buying train tickets, parking legally and generally trying to stay clear of trouble; for some this was the first time they had ever made that explicit commitment.

“I cleared my fine debt in July, apart from \$310 that came through the court system after the WDO got approved. But I’m paying that off myself – I want to, because I can.”

“Right here today, for the first time in 20 years, I’m not on bail, or bond or on charge. This is my chance to be a cleanskin – it all balances on the WDO. It means my life.”

This is not to say that the WDO is necessarily the only trigger for such a commitment – usually it is one of a number of contributing factors – however the fact that it gives participants a ‘clean slate’ is certainly significant for those who have lived with overdue fines since they were teenagers.

“We have guys asking us for money for transport instead of just jumping the train like they’ve always done.”

“I always buy a ticket now, because I’m trying to sort out my fines. But getting my fines under control is part of the bigger picture. I wanted to be more employable (in landscaping, construction labour and that), so I need a licence and to be able to register a car.”

Reduced fear of police or resentment of authority figures was less commonly reported, but was nonetheless a significant outcome for those particular individuals:

“As soon as my suspension was lifted I got my licence. I was literally jumping up and down on the spot. Four days later the missus and I bought a second hand car. Now when I drive past the police, my heart doesn’t beat a million miles an hour. I almost want to get pulled over for a Breath Test over so I can show them my licence.”

3.3 THE IMPACT OF WDO-RELATED ACTIVITIES

In order to ‘pay off’ or ‘pay down’ their fines, WDO participants must sign up for and continue with an agreed mix of courses, treatment or volunteer work. If approved by the SDRO, participants can include activities that they would already otherwise be engaged in. Court-mandated activities are not currently eligible for inclusion towards a WDO.

3.3.1 THE BENEFITS FROM UNDERTAKING WDO-RELATED ACTIVITIES

Across the participants interviewed, a number of very positive outcomes were reported. Three examples are given below:

At The Glen Centre (a drug and alcohol rehabilitation facility), a small number of former residents live in transition housing, but as their WDO activity visit one day a week to spend time with the current residents – attending classes and group counseling, having lunch and working in the garden alongside the residents and so on. This is reported to have benefits for:

- the current clients, as they see lived examples of men “living clean and sober” who were only recently in rehabilitation, just like them
- the former residents (WDO participants), who enjoy being invited to ‘give back’ to the service, can see their former counsellors and are kept ‘on-track’ by their role model status
- the staff at the service, who are encouraged by seeing their former clients going well.

“I had to show dedication and sincerity to get the WDO. I do more than I have to. This is changing my life – I want to get a job, stay clean and sober, be reliable.”

Both at The Glen and elsewhere, some WDO participants have gone on to be offered casual, part-time or full-time work as a consequence of having proven themselves skilled and reliable. Others engaged in volunteer work through their WDO have also reported that having current work (even if the work is voluntary) looks better on a job application than being currently unemployed.

“The WDO meant I could work it off quicker [than Time to Pay], but it was also good to just be doing something. If there was no WDO, I’d be doing the Time to Pay out of my Centrelink, at home on my couch. So it was good for my self esteem. It was volunteer work, but I felt like I was still being paid. Plus it was a rewarding exercise to be able to support underprivileged kids. And to now get casual work out of it – so many more opportunities now. When you’re working you get other job offers.”

“It’s important to get clients back into the swing of work. If all you do is sit at home, you attract other people who just sit at home – that becomes the norm.”

“For a lot of our clients, the volunteer work is the first ‘job’ they’ve ever had. It’s a great experience for them – they learn to interact in the work environment, gain greater self esteem, and build a sense of self-efficacy about work in general. It opens their eyes to what’s possible.”

A number of young people have also enrolled or re-enrolled in a TAFE course as a part of their WDO, and have since been inspired to study further and lift their expectations of the kind of work they might do in the future. One example here is a girl who left home and school in Year 11, carrying many thousands of dollars in debt (including unpaid fines) from a car accident where she was an unlicensed driver of a vehicle that was not comprehensively uninsured. She had been working what she described as “meaningless jobs” (as a cleaner and dishwasher) to cover rent and to make an attempt at addressing her significant debt, and had essentially resigned herself to such a life for the foreseeable future.

After connecting with a local youth service that helped with her housing, she arranged a WDO for the outstanding fine debt that saw her go to TAFE to undertake her Higher School Certificate. Having been engaged in the TAFE system for the WDO, she also completed an interpreter’s course (she was already bilingual) and had begun volunteering in an after-school homework class; neither of these activities counted towards her WDO as the original TAFE enrolment was adequate for clearing that debt. She now works on the supermarket checkout, but soon hopes to start either an education or community service course at TAFE.

3.3.2 THE WDO AS A TOOL FOR ENGAGEMENT

Around half of the participants interviewed in this project reported that, had it not been for the WDO, they would not have undertaken some or all of their activities – eg attended a ‘Tenancy Survival’ course or parenting classes, done unpaid maintenance work and gardening once a week, or stayed at TAFE.

“If the WDO wasn’t there, there’s no way I would have done the TAFE courses. I would have lost my licence and be trying to find whatever work to pay the fines off so I could drive without getting more fines.”

“We’re a wrap-around service, addressing medical, financial social needs etc. The financial side plays a huge part: financial freedom is a major goal, so the WDO offers a significant motivator to do courses and follow through on case plans. When they achieve it, or even as they’re doing it, it also really boosts their self-esteem.”

No participants felt they had been ‘talked into’ any activities they were unwilling to do, and most felt they had at least some say in choosing what activities would be listed on their application (within the parameters of the scheme and the nature of the Approved Organisation).

*“I didn’t want to walk out of rehab and walk into a dirty big debt and think: ‘F***, now what?’. The only way I know to make money is crime and drugs. And truck driving, but that means drugs. So I gotta go to TAFE, learn a new way.”*

Almost all felt that, in retrospect, they were glad to have done the activities that were part of the WDO:

“I might have done [the course] anyway, but I wouldn’t have committed to it every week. I’m glad to have done it [all the way] through. It’s shown a bit of effort, so I’ve got the respect of a few case workers and they’re more willing to accept me and offer me other opportunities. It shows employers that I can take direction, too. Plus it’s shown my mum that I’m serious about straightening out, and she’s said I can come live with her if I want – she never would have said that before, after what I done to the place when I was ‘on it’.”

A very consistent theme from workers at Approved Organisations was that the WDO offers a unique and powerful tool for engaging clients in activities that have therapeutic, educational or restorative value, but which are seen by the client as unappealing or requiring ‘too much effort’.

“Often, we use the WDO to get them past the hurdle of starting [Alcohol and Other Drugs] counseling. That counseling is a massive gateway – it links them in with stacks of services.”

This extended quote from a mental health nurse at a major Sydney hospital also illustrates the ‘engagement’ point well:

“Engaging around half of our clients in treatment is really hard: usually there’s denial and embarrassment about the illness, and the illness itself brings about a lack of ‘reality’ about their situation; plus then we offer them treatment that they don’t like – medications that improve their thinking ability but have side effects that leave them feeling uncomfortable or worse.

“When I say ‘I could help you get your licence back’, all of a sudden we’ve got engagement. Everything else we offer seems like a compromise with side effects – the WDO is the most concrete and effective way of getting compliance with treatment I’ve seen. There’s nothing else like it. [Clients] get quite excited about it.”

There is also evidence that having a WDO (and maintaining the commitment) makes clients’ applications for other courses and programs more favourably viewed.

3.4 PERCEIVED BROADER IMPACT FOR THE NSW GOVERNMENT AND THE SDRO

Knowing that these interviews were being conducted in the context of a review of the WDO scheme, a number of workers and clients commented that they felt the ‘cost to government’ was very much worthwhile and the case for retaining the scheme was strong.

“We know it’s good. It’s not rocket science.”

The main cost was seen in terms of forfeited debt recovery; few considered the costs of administering the scheme. The main savings were seen in terms of reduced welfare dependency and increased self-reliance, reduced offending behaviours, increased efficiency and effectiveness of existing programs (ie with better attendance and compliance), and reduced investigation and enforcement costs. As one mental health worker explained:

“If you’re lucky enough to only have economic hardship and not be homeless or mentally ill, then [a WDO] can easily be thought of as early intervention for mental illness. If you can prevent and reduce symptoms of mental illness with a WDO and the treatment that it engages clients in, this will reduce the cost to government down the track in a big way. Alcohol, smoking, violence, anti-social behaviour – you name it.”

The *actual* costs and savings to government would need to be calculated in a more reliable manner than simply these ‘gut feel’ calculations. However, it is still worth noting that all of the services consulted felt that the scheme was a ‘high-yield investment’ and should be maintained.

With regard to reduction of enforcement costs, some workers felt that they were “doing SDRO a favour” by reconnecting debtors with the agency:

“These guys are the SDRO’s write-offs in the making. They’re off the map – they don’t live anywhere for the SDRO to find them. They come here, we reintroduce them. We’re doing the SDRO’s work for them. Not that I mind of course, but I reckon they should be grateful. They should think about me as a partner, helping them with their clients.”

“[Client] has fines under multiple aliases – 6 or 7 different names. Arranging the WDO meant consolidating all these debts onto ‘one account’. [The SDRO] would never have been able to do that otherwise. They must be stoked about that one.”

A few of the workers also commented that the scheme had given them a new and favourable impression of the SDRO itself:

“I guess I was a bit like our clients in many ways – a bit reluctant to call the SDRO ‘cause they’re a bit, you know, scary. But I was totally wrong – they’re good people, you know. And actually they’re much more responsive and pleasant

to deal with than most of the other state government organisations I have to deal with.”

4 ADMINISTRATION OF THE WORK AND DEVELOPMENT ORDER SCHEME

4.1 INTRODUCTION AND OVERVIEW

The WDO scheme is reasonably straightforward for Approved Organisations to run, once they become familiar with the documentation requirements for client application forms.

The only major administrative issue at present is the time taken by the SDRO to process applications. Backdating of 'credit' to the application date is a saving grace in this regard, but speeding up the application processing timeframe should be a priority.

Regular reporting by the SDRO (to workers and participants) about the remaining balance would also strengthen the program.

Should the scheme be continued, there is a strong case for the SDRO developing a small suite of promotional materials, one set targeting services and another targeting applicants. Further promotion of the scheme is warranted, but only once the administrative 'back end' has been appropriately resourced.

4.2 BECOMING REGISTERED AS AN APPROVED ORGANISATION

Limited feedback was available from these consultations about the process of becoming registered as an Approved Organisation for the WDO scheme. For larger organisations (eg Wesley Mission and St Vincent de Paul Society) the registration process had taken place at 'head office' rather than at the site visited; in some smaller organisations the person responsible for applying was not available to be interviewed.

Nonetheless, those who could comment had no complaints about the eligibility criteria or documentation requirements, describing them as reasonable and in proportion with the scale of the program:

"Pretty basic stuff... and much less onerous than your standard tender for program funding."

"Yeah, the rego process is thorough, but why wouldn't it be? I'm reducing debts from \$10,000 to zero!"

Admittedly, our sample here does not include any organisations that did *not* apply for the scheme (due to the application requirements or otherwise).

One comment with regard to the application form is that, in a future revision, it may be clearer to split the current Q6 (see over) into two lists: one for WDO activities the organisation intends to directly provide, and another for services they would refer clients to.

6. What services can you directly provide for eligible clients or what local services would you refer clients to (per section 3.0 of the WDO guidelines)?

- | | |
|--|---|
| <input type="checkbox"/> medical/mental health treatment | <input type="checkbox"/> drug and alcohol treatment |
| <input type="checkbox"/> educational/vocational or life skills courses | <input type="checkbox"/> voluntary unpaid work |
| <input type="checkbox"/> financial or other counselling | <input type="checkbox"/> mentoring programs for persons under 25 years of age |

4.3 FINANCIAL CUT-OFF POINTS

As set out in the guidelines, the scheme has the following financial cut-off points:

- the rate for voluntary work is \$30 per hour; the rate for other activities is \$50 per hour
- no more than \$1050 of debt can be addressed per month through volunteering; up to \$1000 per month can be cleared through other activities
- in total, voluntary work under a WDO cannot comprise any more than 300 hours for an adult or 100 hours for a child (consistent with the limits of a Community Service Order); at the rate of \$30 per hour, this translates to a cap of \$9,000 for adults and \$3,000 for children.

The rate offered for volunteer work and program participation was generally considered to be generous, and well ‘priced’ as a strong incentive, with no need to increase.

“You don’t want to make it too easy: \$200 a day is better than what half the staff here are on.”

The only figure that was questioned here by workers was the cap of the amount that could be addressed by a WDO. Although the guidelines suggest applying for a write off, partial write off or Time to Pay arrangement at this point, some workers felt that an extension of the WDO may be a better approach. One suggestion was that, on approaching this figure, the default position might be for the applicant to re-establish their eligibility and the suitability of the activities proposed.

4.4 THE CLIENT APPLICATION PROCESS

4.4.1 WHICH CLIENTS GET OFFERED A WDO?

All but one of the WDO participants interviewed here were existing clients of an Approved Organisation before they were offered a WDO.

The incentive of clearing or reducing the debt at no financial cost is certainly a significant one for participants, and usually (although not always) a WDO will ‘trump’ the Time to Pay option, if clients are given the choice:

“If I didn’t have the WDO, the debt would just have sat there. I had heard about Time to Pay in rehab, and had thought ‘yeah, I’ll do that tomorrow’, but tomorrow never comes, you know?”

However, most of the consulted services reported not offering WDOs to all of their clients. In their professional judgment, they felt a need to be convinced that the client was “stable enough” to attend the kinds of programs and activities they would benefit from, and “ready to get something out of it”.

“If someone’s not ready for it, you won’t see them enough to get the paperwork done to get it in.”

“The people who don’t care about their fines – they wouldn’t start the WDO, even if you did take the time to arrange it for them.”

This ‘stability’ could relate to a number of things – housing, offending, substance use and mental health were the main factors that workers mentioned. The notion of ‘readiness to benefit’ was harder for workers to articulate, but (as noted earlier) it generally tied in with the client’s desire to “get their life together” more broadly; this being the case, the client could then use the debt reduction *and* activity elements of the WDO as a joint platform for change.

“The reason why it worked for me is that I was no longer on my path of destruction, and I could really start to change.”

Readiness to benefit was reported by workers as sometimes being difficult to judge. However, the consequences of a ‘sub-optimal result’ were not considered to be negative:

“It’s fair to say that some clients will do programs just to reduce their debt. Some of these people will come round after a while and derive benefit, but others won’t. On balance, though, this is a risk worth taking – you can’t really know whether a reluctant participant will become a reluctant convert or remain there just to clear their debt and then clear out. Even for the latter cases, and they’re rare mind you, it’s not like any harm has been done – it’s just that they’ve only got half or two-thirds of the benefits of the program.”

4.4.2 THE CLIENT APPLICATION FORM

GENERAL EASE OF COMPLETING THE FORM

Most services reported little trouble with the client application form, once they had “got used to it”. This familiarisation process generally involved a combination of question and answer (on the phone and by email with the SDRO information line) and trial and error, ie by receiving requests for more information from the SDRO in relation to applications they had assumed to be adequate.

“It’s still fingers crossed I’m doing it right, to be honest. The applications are getting approved, so I mustn’t be doing too much wrong.”

The main challenge reported was one of knowing how much and what kind of supporting documentation would be enough, too much or inadequate for SDRO to make a decision. This supporting documentation relates to two aspects of the application: the eligibility of the candidate and the legitimacy of the proposed activities.

Minor changes have also been made to the application form during the pilot process, providing more pre-coded response options (rather than free-text fields) and a 'budget' template for documenting acute economic hardship (if relevant). Although any change of forms can cause some confusion, the changes were reported by workers to have been "improvements worth making".

ESTABLISHING ELIGIBILITY CRITERIA

Participating organisations soon learned to only choose the one eligibility criteria that was *easiest to establish* – ie not necessarily the most pressing or debilitating criteria, or the one most salient to how the fines or penalty notices were incurred. For homelessness services, for example, the easiest eligibility criteria to document has (not surprisingly) been homelessness, even though their clients would all have qualified as being in acute economic hardship, and many would also have a mental illness or cognitive impairment of some kind.

For The Glen Centre, acute financial hardship was easiest to document, as the service quarantines Centrelink payment for the rent on the transitional housing and helps the members budget the rest of their income carefully.

For Warrigal Employment, the process of gathering the paperwork to demonstrate economic hardship is largely already part of their early appointment process as an employment service: they have computers on site, sit with their clients to download their Centrelink income statement and go through their current (and proposed) weekly budget. They also ask the client to prepare a CV to inform job search criteria and be used in job applications; this CV is then used to inform volunteering options for the purposes of the WDO.

Some "paperwork shortcuts" have been found, and need to be made known more broadly. For example, when a person with a mental illness seeks employment, they are likely to first have a Job Capacity Assessment (JCA) undertaken by a qualified allied health professional. The JCA informs both referral to employment and related support services as well as income support eligibility (eg the Disability Support Pension).⁵ The SDRO has advised some services that it will accept a JCA as evidence of mental illness for the purposes of WDO applications.

Another other example of a 'discovery' that should be made more broadly known is the SDRO's response to bankruptcy: one worker interviewed in this project used a client's bankruptcy documentation as evidence of their financial hardship; the SDRO not only approved the WDO on this basis, but also reduced the amount of fine debt owing upfront. Had the bankruptcy paperwork not been used in the application form, this unexpected 'windfall' would not have arisen.

On balance, acute economic hardship was seen as the 'hardest' eligibility criteria to document, as it required multiple evidences relating to income and expenditure.

⁵ <http://www.deewr.gov.au/Employment/Programs/JCA/Pages/default.aspx>

There was also some evidence of under-utilisation of the guidelines in this regard. For example, one worker in a group interview recommended providing a checklist of relevant documentation for substantiating acute financial hardship; their colleague pointed out that this checklist is already in the guidelines (right).

One worker suggested that, should the scheme continue or be expanded, an ‘orientation pack’ for new organisations would benefit from including worked examples of completed application forms, demonstrating the variety of evidence accepted for different eligibility criteria. One final comment to make

7.5 Proof of acute economic hardship

Where eligibility is claimed on the grounds of acute economic hardship, the application must include a Statement of Financial Circumstances dated within 3 months from the date of the application. A Statement of Financial Circumstances form is available from the SDRO.

Supporting documentation must be included (where appropriate). Sufficient documentation includes, but is not limited to the following:

- (a) statement of income from Centrelink
- (b) copies of last three payslips
- (c) copies of last three rent receipts or mortgage payments
- (d) copies of last three months bank statements
- (e) copies of last utility account(s) including electricity / gas and telephone
- (f) any other documents identified on a case by case basis ie. proof of rural / remoteness

here is that some services supported the idea of an ‘other’ box, in addition to the four eligibility categories offered, to use in the case of applicants who do not meet any of these specific criteria but whose circumstances (in their judgment) are consistent with the *intent* of the WDO scheme. One example given was that of women fleeing domestic violence. Admittedly, even though some workers struggled to give multiple examples of what such circumstances might be, they argued the point nonetheless for the purpose of “not missing out on people who just don’t quite fit the mould”.

OTHER MATTERS RELATING TO THE CLIENT APPLICATION FORM

One question in particular sparked some discussion in the interviews with workers: Q7, which asks how any remaining debt would be satisfied.

7. If completion of the proposed Work or Development Order does not satisfy all outstanding fines, how will the remaining fines be satisfied?

Pay by instalment arrangement Apply for write-off

The answer to this question is reportedly difficult for workers to know with any certainty: “Surely it depends on how much is left? Why they pulled out of the WDO? Are we still in contact with them?”. Moreover, case workers were unsure about how the answer is interpreted by the SDRO, ie whether selecting ‘apply for write off’ would lead to the application being scrutinised more carefully.

Feedback about the *online* application form (as distinct from the paper form) was more negative than positive. A number of workers reported preferring hard copy documentation in principle (“I’d just have to print it out anyway, so it’s not like it would save any paper”); others reported frustration with

the online interface, eg being unable to save a form part way through and having one ‘box’ per letter of the applicant’s name, rather than a free text field. This latter point should be rectifiable through a small amount of extra coding effort on the online form.

In order to motivate more workers to use the online form, some sort of enhanced feature could be offered, eg using the entered data to automatically populate an ‘application receipt’ that shows the rate at which the debt will be reduced *if* all of the activities applied for are approved and carried out each month. Such a receipt or ‘interim report’ was widely regarded by workers as an potential boost for participants’ motivation and continued participation.

A final (and minor) point to make about the application form is that the language and voice is inconsistent, using a combination of ‘applicant’, ‘client’ and the personal pronoun ‘you’. Although this has not led to any substantive misunderstanding of the intent of the form, it would still be worth rectifying in any future revisions

The image shows a screenshot of a web form with several fields circled in red. The visible text includes:

- Question 1: "Has your applicant been notified by the approved Organisation/medical Health Practitioner?" with radio buttons for "Yes (required)", "No (not)", and "Notified by another agency".
- Question 2: "Do you have a current Term to Pay arrangement?" with radio buttons for "Yes (to be in QM)" and "No (to be in QM)".
- Section 14: "Debt/Ag/HP Administration" with a text input field.
- A note: "copy to 2 Mark and Completed Under to comply with part of my loan of 2000".
- Question 3: "What is your contact number?" with a text input field.

CHOOSING THE MIX OF WDO ACTIVITIES

Almost without fail, WDO activities undertaken by participants interviewed in this study were either:

- voluntary manual labour or office work with the Approved Organisation
- internal referrals to programs (eg life skills programs, therapeutic programs)
- external referrals to TAFE.

Only one of the Approved Organisations interviewed for this project – Juvenile Justice NSW – arranges *nothing but* external referrals for volunteer working and courses. For this agency, WDO volunteering placements are similar to those organised as part of Community Service Orders (CSOs), eg sorting, pricing and cleaning at a charity-run second hand shop, cleaning and yard work at the Westpac Rescue Helicopter base, working in a local soup kitchen or on a bush regeneration project and so on. One of the difficulties for this agency is that, if volunteering places are in short supply, CSO placements (which are court mandated) will always take priority over WDO placements.

One important question asked by services was where, if anywhere, structured case management fits in to the list of options (see below). Practice appears to be inconsistent here: some services do not count case management as part of the WDO, while others define it into ‘other counseling’ or ‘life

skills programs’, even though technically it is neither of these things. This is an important matter to resolve, for the benefit of standardising practice across the scheme.

5. Proposed work or development activity (Tick more than one if applicable.)

Note:

a) An enrolled Health Practitioner can **only** support medical/mental health treatment. To become enrolled, health practitioners must complete the Health Practitioner Enrolment form.

b) An approved Organisation can only support activities for which it has been approved:

<input type="checkbox"/> Medical/mental health treatment (including disability case management)	<input type="checkbox"/> Drug or alcohol treatment	<input type="checkbox"/> Voluntary unpaid work
<input type="checkbox"/> Financial or other counselling	<input type="checkbox"/> Educational/vocational or life skills course	<input type="checkbox"/> Mentoring program (persons under 25 years)

Another two questions asked by only one worker each were:

- why mentoring programs are only allowed for under 25 year olds
- whether court-mandated programs (eg post-release anger management programs) could be allowed, to increase compliance with these
- whether engaging in paid work could count (at a reduced rate, eg \$10 an hour up to 5 hours a week).

One possible way forward here may be, as with the eligibility criteria, to provide an ‘other’ box for services to proposed alternative activities that they believe would be consistent with the intent of the WDO scheme but do not appear to be listed.

PROCESSING OF CLIENT APPLICATIONS

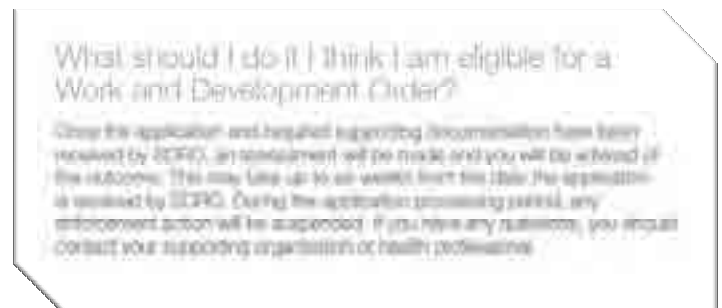
It is no overstatement to say that the time taken by the SDRO to process client applications is the most significant limitation of the scheme at present, and the most important to overcome.

This is not to say that the elapsed time reported by services is extraordinary: two months is what services report on average, and this is not grossly out of scale with the ‘up to six weeks’ advised by the guidelines.

However, two months is a long time for a homeless man with social phobia to wait to find out whether his computer course will set him debt free.

Backdating is the saving grace here – if the SDRO approves a WDO application, it will count time spent from the date of

receiving the application towards the total time owing. This practice of backdating was reportedly added to the process after its launch; this is a good example of the flexibility and adaptability of the scheme’s administrators during the pilot phase.



Ironically, this processing timeframe and the effect of backdating can result in applicants with relatively small fines (eg of less than \$1,000) having effectively cleared their debt before they receive confirmation of their WDO approval.

Regardless of the size of the debt, however, two months is also a long time for a case worker to keep asking their client to take their word for it that the application “will probably be accepted, just like the other ones”. Although no workers reported relationships having soured due to applications being rejected:

- a few clients at one service have phoned the SDRO to ask whether the WDO has been approved, and subsequently pulled out of a course because they have been told no decision has been made yet (they were not told about the process of backdating)
- the perceived ‘dragging out’ of the process can generate a low level resentment of the scheme, with a sense of entitlement gradually eroding the initial response of gratitude
- the extra burden of trust it places on the case management relationship is far from ideal:

“If they get rejected, we’ve sold it in good faith and [the rejection] could easily contaminate the relationship.”

Two months also makes the scheme close to incompatible with particular programs that also have their own time limits. For example, one service interviewed for this exercise runs a 12 week post-release program for juvenile offenders leaving detention. If it takes them two weeks to determine whether a client is ‘genuine’ and therefore suitable for a WDO, and then another two weeks to assemble the required paperwork to submit the form, two months is all that is left on the program before that client exits the service.

Another service (with a similar program timeframe) explained one recent experience as follows:

“I submitted an application at the end of October last year, and got the approval in early February this year – so just over three months later. My client had done plenty of courses during that time, but he checked out in late January, and didn’t leave a forwarding address. We could have backdated most of his fines, if not all of them, but now the opportunity’s gone. What a waste!”

It is important to stress that, with few exceptions, services speak highly of the SDRO staff answering their phone calls and emails, fielding WDO-related enquiries and applications. However, their impression is that the team at the SDRO is simply “swamped”, and therefore unable to service the demand within the anticipated timeframe.

“We have stacks of info here. We did research, talking about scenarios on the phone with the SDRO helpline. They’ve been brilliant. They were very open to hearing what was happening here, and responsive. Although they seem to have had trouble getting back to us in the last 4-5 months.”

In addition to suggestions for more staffing of the scheme within the SDRO, some services would also prefer to be able to establish pre-eligibility criteria for certain clients undertaking particular programs, to allow fast track approval.

“If they’re in one of our houses, they’re homeless: tick. If they’re in one of our education or life skills programs, that counts: tick. These kind of applications never get rejected – so why do they take six to eight weeks to get approved? What is there to consider? If they’ve approved us as an organisation, they should trust us, let us get on with the job, and free themselves up for the tricky applications that need more thinking time.”

4.5 PROGRESS REPORTING AND VARIATIONS

The reporting requirements for the scheme are not considered to be onerous, as long as the responsible worker has the details of the participant’s activities to hand on a monthly basis. On average, reporting for participants undertaking *internal* activities takes workers no more than half-an-hour per month, however for *external* activities this can extend up to three to four hours per month, as the responsible worker needs to verify attendance and visit other sites as a part of this.

Some external activities are harder to report on than others. TAFE, in particular, can be a difficult organisation to penetrate, and some workers feel uncomfortable having to “hound the head teacher... for advice about whether [their] client has been telling the truth about his attendance”. Also, one service reported that Alcoholics Anonymous has refused to report attendance of its members, or even sign a confirmation slip brought by a member.

Two pieces of feedback about the reporting process were consistent with the application process:

- the online form is rarely used, and not considered to be user friendly when compared with the paper form (which allows workers to make comments in the margin, eg if a new course potentially falls into two activity categories)
- some services are not following the guidelines, to their own detriment. For example, one worker complained about having to document client outcomes and the suitability of the WDO activities on a monthly basis, and instead recommended that this be done once at the end. As seen in the excerpt here, however, this is already the case.

6.0 **Completion** (to be filled out when all the activities required under the Work and Development Order are completed)
The Department of Justice and Attorney Generals and the NSW Treasury have undertaken to conduct a review at the end of the Work and Development Order trial period. In order to assist this review, we request your feedback on the following (continue on separate page if required).

6.1 Did the Work and Development Order address the client's needs?

[Empty text box]

As with the online application form, the online reporting tool

could be made more attractive if it were to give an automatic ‘balance receipt’.

The most common suggestion from services about the reporting process, however, was that the process for effecting variations and changes to Orders should be streamlined and made more consistent and predictable. This is of particular relevance to services whose internal courses regularly change in order to keep the program fresh for participants. It is also important to accommodate the evolving needs of clients who ‘grow out of’ some programs and activities and into others.

“The reality is that course suitability and accessibility changes. And the kids we work with, we have to move really hard and fast. Twelve weeks is all you get, so if you get a vacancy in a first aid course: ‘let’s go!’.”

“I need the flexibility to just put in the hours they did, even if this is less than hoped for. Like if they lose faith in their GP, or find that ‘this group isn’t for me’, there’s no way I’m going to push push push treatment that isn’t working just for the sake of the WDO.”

Feedback from workers about the SDRO’s response when participants have been partially non-compliant was positive:

“[The SDRO] are really good about it – if there’s genuine reasons why the client hasn’t done what you had planned, it’s not like [the SDRO] are jumping on them or anything. However, if the partial non-compliance goes on for a few months or turns into full non-compliance, I’ve got no hesitations in pulling the plug on the WDO, and [my clients] know that upfront.”

Other suggestions for the reporting process were:

- sending workers automated email reminders the day before a report is due (and further reminders if they become overdue)
- sending workers email confirmation that a report has been accepted and approved instituting a “fast-tracked approval timeframe”, where if a report is not queried or rejected by the SDRO within two weeks, the worker can take it that the report has been accepted as submitted
- providing a ‘pause’ box on the form (with a justification box), as this is not an uncommon scenario
- encouraging larger organisations to have multiple ‘approved workers’ who can submit reports, rather than requiring all reporting to go through one key contact.

4.6 PROMOTION AND COMMUNICATION

WHAT’S IN A NAME?

The general consensus among participants and workers familiar with the scheme is that its name is not particularly client-friendly or helpful:

- *Work* – as one client said: “It sounds like you have to have a job, or it’s like a chain gang”.
- *Development* – the notion of ‘personal development’ is very service/sector oriented; to a client, the term can be confusing: “Now you mention it, I don’t really know. Work on a development, like a building site?”.
- *Order* – Use of this term puts the WDO in the category of Apprehended Violence Orders, Community Service Orders and the like, where “If you get breached, you’re in big trouble”; this is not the case for ceasing a WDO.

A number of clients stumbled over the name in interviews, eg calling it a “Working Development Order” or in one instance a “Working Order Development”.

Some workers felt that the name was unimportant:

“It doesn’t matter what you call the bloody thing. When I explain to my guys what it is and what it’ll do for them, they want in.”

However, most said that – given the choice – they would prefer a name that explains the outcome more clearly. The most popular option among workers and clients alike used the term ‘Debt Reduction’ or more specifically ‘State Debt Reduction’ or ‘Fine Debt Reduction’ rather than ‘Work and Development’. (This concept originally came from a worker in an early interview, and was subsequently tested in later interviews.)

There were mixed views about whether the final word ‘Order’ was preferable because it was legal and formal, or to be avoided for the reasons outlined above. A softer alternative might be ‘Agreement’; this would also have the benefit of differentiating the resulting acronym (DRA) from that of the SDRO. Another positively-viewed option was ‘Plan’, akin to a mobile phone plan.

Renaming the scheme would provide the SDRO with the opportunity to ‘re-launch’, and at the same time promote the ‘new news’ about any changes to how the scheme works (if there is in fact any such news).

PROGRAM PROMOTION

Once administrative resourcing of the program has been adequately addressed, there is a case for developing and distributing twin sets of communication materials:

- one targeting potential applicants – perhaps a poster with an accompanying plain English flier
- another targeting services – this would most likely be a brochure suitable for Approved Organisations to circulate among their networks, via existing inter-agency meetings or otherwise, and also within their organisation (for the larger organisations).

The important messages for this promotional material would be around client outcomes, using testimonials from clients (about the benefits received and changes triggered) as well as services (about the power of the WDO as an engagement tool).

Examples of such communication materials can be found at Appendix B, which contains scanned copies of resources that were developed and published by Illawarra Legal Centre Inc and NSW Juvenile Justice to promote the WDO scheme in the local region.

Importantly, services still need to be able to use their own judgment about how best to promote the scheme to their clients:

“For us, we’d prefer that the SDRO does the info session for staff, and we communicate it to clients. We need to explain to them how it fits in with all the other things we do.”

“You wouldn’t want to raise too much awareness, otherwise you might end up with non-serious attendance at programs, diluting the benefit they have for the people they’re intended for.”

Assuming greater administrative ease can be guaranteed by this stage, reassurance about this would be important to win over any services that may have been turned off participating by negative word of mouth about delays and difficulties during the pilot period.

REPORTING AND COMMUNICATION WITH CLIENTS AND WORKERS

One good suggestion made by a worker (and later tested positively with other workers and clients) was for clients to be provided with monthly statements to put on file with their fines. This was seen as a useful strategy to reinforce the motivational impact of the scheme. It would also be an improvement on the current practice, common to many workers, of keeping a spreadsheet and providing participants with estimates of ‘hours remaining’. (One worker mentioned that a client had almost lost their licence again because his calculations were two hours out of sync with the SDRO’s, and the client still owed \$100.)

As noted earlier, this ‘balance report’ could potentially be printed by the worker after submitting their report, showing two figures: total time or dollar amount remaining based on the *accepted* reports, and total time or amount remaining *if all of the submitted reports are accepted* without variation.

As a starting measure, this balance statement could be emailed to workers so they can report back to their clients. However, personal communication about the WDO directly from the SDRO to the participant (rather than via the Approved Organisation) is arguably the ideal: as the WDO is a formal agreement between SDRO and debtor, and paperwork with the SDRO logo on it can be symbolically important.

“If they sent me a certificate or something, I’d frame that. To remind me.”

One applicant, for example, brought their “fines file” to their interview: their fines stacked up to literally half an inch high. On top of these fines were printouts of the WDO documentation from the internet. When talking about the stress and shame of the fines, this man would put the WDO paperwork to one side and fidget with the fines – flick the pages, pick the pile up and straighten it etc. However, when talking about the relief he felt with the prospect of a WDO, he put the WDO paperwork on top of the fines and closed the folder.

4.7 PRACTICAL SUPPORT FOR PARTICIPATING SERVICES

A number of different options were discussed with services about how the SDRO could better support them or other less established services in administrating the program.

ADVICE AND INFORMATION

Although established services are often in a position to advise others, the preferred option (for consistency and legitimacy) was for the SDRO itself to be properly resourced to field questions and provide advice.

One possible way forward here might be for the SDRO to have one 'WDO contact person' per region (eg Sydney vs North Coast NSW vs Rest of NSW), so that the person that runs the training and promotion in the area is the same person who answers questions on the phone and processes applications from that region. This would allow the relevant SDRO staff to develop a useful working knowledge of the service profiles in the area and their 'typical' WDO cases.

“For small [non-government] organisations, dealing with the SDRO is seen as a daunting task – they have no connection or history”

The suggestion was made that this 'WDO contact' could also be the contact for Time to Pay:

“That way they'd get to know us, know our business.”

SUPPORT FOR 'WDO WORKER' POSITIONS

Most of the organisations interviewed for this exercise had a 'primary WDO contact' who had the main relationship with the SDRO, advised other staff about how the scheme worked and (in some instances) managed WDO applications and reporting. Particularly for larger organisations, this was seen as a necessary part of administering the paperwork efficiently and “capturing the practice wisdom about how the scheme works”.

However, such workers already have their existing jobs, and there are limits to how many WDOs they can manage at any given time. This number is estimated at between 5 and 15, bearing in mind that some service models and client profiles make it harder to establish eligibility for applications and substantiate hours for monthly reporting (see earlier in Section 4).

In the absence of any direct funding of these positions from the WDO scheme, their existence relies on the desire of the organisation to offer WDOs to its clients and integrate it as part of the service model. While there is clearly a willingness to do this, there are also natural limits.

Should there be a desire to 'scale up' the WDO scheme considerably, attention may need to be given to a funding model that enables government agencies and larger non-government organisations to sustain this 'single point of contact' within their organisation.

Such a funding model would certainly add complexity to the program. It would also be difficult to design in a way that did not privilege some organisations over others, distort the behaviour of workers (eg if a payment was received for every application submitted) or create “more administrative hassle than it's worth” (eg if a small payment was received for every monthly report).

As seen below, however, organisations currently involved in the scheme feel that funding of positions is far from the highest priority.

INVESTMENT IN PROGRAM INFRASTRUCTURE

Rather than receiving funding or compensation for running the program, the services consulted in this exercise generally agreed that they would prefer any additional resources to go into speeding up the application approval process first and foremost, and then the other administrative augmentations mentioned above (eg balance reporting). As one worker said:

“I’d rather you put the money into making a better system that took me less time than compensating me for using a slow system.”

There is no way of knowing whether this approach will motivate greater involvement from agencies that would otherwise be eligible to participate but have not yet applied, or from sub-groups within larger Approved Organisations that are yet to express much interest or submit any applications.

However, investment in suitable and scaleable program infrastructure and subsequent promotion would arguably be the best course of action in the first instance; analysis of the resulting network of participating services across the state (and identification of any problematic gaps) would then reveal whether further incentive is required.

“Financial counsellors should all be onto it – if they’re not, then that’s a problem. Their clients have got guaranteed economic hardship, right there.”

4.8 OTHER

Two other ideas were given by workers about ways in which they felt the scheme could be strengthened or improved. One suggestion was to allow fines from other jurisdictions to be included in the scheme; the other was to clear the “black mark from the default” from WDO participants’ credit records sooner than normal (as another benefit of compliance). Both of these changes would require further consultation with other agencies, rendering them more complex than many of the more incremental administrative improvements noted above.

5 CONCLUSIONS

Based on the feedback provided by the 26 participants and 21 staff interviewed in this project, the following conclusions can be drawn about the WDO scheme:

- The scheme operates in an important niche area of disadvantage where other mechanisms are ineffective (eg bankruptcy).
- It provides an attractive alternative to the Time to Pay scheme for people who are severely disadvantaged.
- It is an effective and unique tool for engaging clients in constructive activities, programs and courses of treatment.
- The overall design of the program in terms of eligibility criteria for organisations and participants is sound.
- The scheme has a demonstrably positive impact on the lives of most participants.
- Some participants may not derive as much benefit as others, but there is no evidence of any tangible negative consequences.
- The SDRO's approach to the scheme has been appreciated by the participating organisations, in terms of flexibility, adaptability and approachability during the trial period.
- Most administrative hurdles have been overcome during the pilot; others have reasonably straightforward 'fixes' if resources are made available.
- As far as participants and staff are concerned, the most important improvement to make would be to dramatically reduce application processing times, particularly for 'orthodox' applications from services that have a similar client profile and proposed set of WDO activities in each application.
- Once administrative processes have been appropriately streamlined and resourced, wider promotion of the program would be warranted.

APPENDIX A: Interview protocols and discussion guides

WDO PARTICIPANTS

PREAMBLE TO INTERVIEW

Explain verbally to interview participant that:

- The interview will last for 30-45 minutes. We can take a break part way through if they want to, eg to have a smoke.
- The interview will be about:
 - their experience of having lots of fines – how this has impacted their life
 - their experience with the Work and Development Orders (WDO) scheme – ways in which the Order has been helpful and how the scheme could be improved.
- The purpose of the research is to help the NSW government design programs that help people with their fines.
- The interviewer will take notes but is not taping the conversation. The participant can read the notes at the end if they want to.
- A (\$30) 'thankyou' voucher will be given at the end of the interview, and the participant will be asked to sign that they have received that.
- The research is anonymous, ie:
 - Nothing said in the interview will be passed back to the organisation running the WDO program, or anyone else.
 - The only people who will see the notes will be the people doing the interviews, for the purposes of analysis.
 - All 30 interviews will be analysed and written up as a group. The report will include quotes and examples, but these will be de-identified.
- If there are any questions the participant would rather not answer, or if they want to stop the interview, they just need to let the interviewer know.

Confirm verbally that the participant understands the above and agrees to the interview.

LETTER WITH INCENTIVE

Dear _____,

The enclosed voucher is to thank you for taking part in this interview, conducted by Duncan Rintoul from the University of Wollongong on __ (date) ____. The purpose of the interview was to help the NSW Government design better fine repayment programs. The interview was anonymous, so nothing you said will get back to the people involved with your Work and Development Order, and the only people who will see the notes will be the people doing analysis and writing up the report.

If you have any questions about the interview, please call Duncan on 02 4221 4559 or email drintoul@uow.edu.au.

Thanks again,

Duncan Rintoul
Manager, Applied Social Research
Institute for Innovation in Business and Social Research
University of Wollongong

BACKGROUND CLIENT INFORMATION PROVIDED BY WDO SCHEME PARTICIPANTS

- Grounds for applying, ie
 - financial hardship
 - homeless
 - mental illness
 - cognitive impairment
- Nature of WDO activity, ie
 - unpaid work with or on behalf of approved organisation
 - mental health treatment and/or other medical treatment
 - educational, vocational or life skills course
 - financial or other counseling
 - drug/alcohol treatment
 - mentoring program (<25s only)
- General nature and amount of fines
- Status of WDO, ie currently completing vs successfully completed

INTERVIEW TOPICS

Part 1 – Warm up and experience with fines

- Personal background – where grew up, main activities during week and on weekends, work (and income support), family etc
- Fine snapshot – how many, what for, how much (range and total), amassed over what period of time etc
- Process of accumulating these fines –probe for knock on fines (one fine leading to another), at what point they first thought ‘this is getting out of hand’
- **Personal and other consequences of the accumulated fines** (and associated measures, eg licensing restrictions), eg probe re impacts (biggest impact) on:
 - mental health – incl stress, feeling overwhelmed, feeling powerless/hopeless
 - ability to work, drive, participate in community/family activities etc
 - ability to cover essential household costs (food, bills etc)
 - physical health
 - other (*probe for fines as gateway to negative/destructive/offending behaviour*)

Part 2 – Experience with WDO

- Awareness of options re what to do about the fines (eg Time to Pay, WDO)
- How became aware of the WDO scheme; prior relationship with participating organisation
- Perceptions of the application process – clarity of requirements on the form, ease of providing supporting information, fairness of eligibility and assessment criteria etc
- Nature of WDO activity – probe re
 - existing activities count towards WDO, or new activities
 - perceived suitability of WDO activity to own circumstances
 - perceived benefit from WDO activity, whether glad to have done these things
 - capacity to influence the activities included on WDO
 - any unintended negatives from WDO activities
- Complete the agreed WDO? If not, why?
- If completed, **impact of not having a fines debt now**, eg probe re impacts (biggest impact) on:
 - physical/mental health
 - ability to work, drive, participate in community/family activities etc
 - ability to cover essential household costs (food, bills etc)
 - other (*probe for cleared fines as gateway to positive/constructive behaviour*)
- Overall satisfaction with WDO scheme – whether recommend to others
- Ways to improve the program

WDO PROVIDERS

PREAMBLE TO INTERVIEW

Explain verbally to interview participants that:

- The interview will last for 45-60 minutes.
- The interview will be about their experience with the Work and Development Orders (WDO) scheme:
 - how the scheme has operated, and what it's been like to administer
 - the impact of the scheme for their clients
 - how the scheme could be improved.
- The purpose of the interview is to help the DJAG evaluate the WDO, as well as a suite of other changes that were introduced at the same time to improve the system for the administration and enforcement of court fines and penalty notices⁶
- The interviewer will take notes but is not taping the conversation. Participants can read the notes at the end if they want to.
- The research is anonymous, ie:
 - Nothing said in the interview will be passed directly back to DJAG, or anyone else.
 - The only people who will see the notes will be the people doing the interviews, for the purposes of analysis.
 - All interviews with participating organisations will be analysed and written up as a group. The report will include quotes and examples, but these will be de-identified.
- If there are any questions the interview participants would rather not answer, or if they want to stop the interview, they just need to let the interviewer know.

Confirm verbally that the interview participants understand the above and agree to the interview.

INTERVIEW TOPICS

Part 1 – Warm up

- Snapshot of organisation – government/NGO, size, client base, other programs/activities
- Overview of WDO activity – when registered, number of applications (successful/unsuccessful), number of current and completed orders etc, what kind of WDO activities provided/referred
- How found out about the scheme, initial reaction to the idea, reasons for signing up, expectations

Part 2 – Client outcomes

- Overall impressions of the value of the program for clients:
 - positive impacts observed (expected and unexpected); anticipated but not observed
probe re knock-on effects re mental health, anti/pro-social behaviour, offending etc
 - negative impacts observed (expected and unexpected; anticipated but not observed)
- Lessons learned during the trial about how to focus the program on greatest benefit, eg
 - client groups that benefit most / least
 - client groups that are more / less likely to be successful in their application
 - client groups that are more / less likely to successfully complete the WDO
 - WDO activities of greatest / least benefit to clients
- Lessons learned during the trial about how to advertise/promote the scheme most effectively (so it is accessed by those who need it)

Part 3 – Program administration (hand out blank copies of the forms as a reference point)

⁶ Other measures included: Centrepay arrangements for repayment of fines; officers giving penalty notices rather than fines; internal reviews of penalty notices by SDRO and issuing agencies.

- Overall impressions of the administration of the scheme, suitability of process etc
- The registration form and process
 - suitability of eligibility criteria (any missing? any unreasonable?)
 - suitability of documentation requirements (any unnecessary or difficult to provide?)
- The application process for clients
 - suitability of eligibility criteria for the different 'grounds' (any unreasonable?)
 - suitability of documentation requirements for the different 'grounds' (any unnecessary or particularly difficult for clients to provide?)
- The monthly reporting process
 - appropriateness of the reporting requirements, frequency (monthly)
 - use of online reporting tool, perceived usefulness (cf paper-based)
- Other suggestions for how scheme administration could be improved, streamlined etc

Part 4 – The future

- Where to with the scheme from here – what the evidence from your trial would support:
 - Make it permanent? (As is? Or with changes?)
 - Extend the trial? (Where does the evidence base need strengthening?)
 - Abandon the scheme? (Anticipated outcomes for clients if WDO discontinued?)
- If scheme extended (trial or permanent), would your organisation stay involved? Explore:
 - reasons for staying involved
 - hesitations / reasons to pull out (eg admin burden for staff, cost to org, capacity to refer to suitable WDO activities in the area, suitability for existing client base)
- What could be done to better support / encourage orgs to participate, eg
 - training/info/advice/assistance – explore topics, delivered by whom, formats etc (eg regional support centre / support person?)
 - networking with other participating organisations
 - promotional material targeting clients (existing clients, non-clients)
 - financial incentive for orgs to participate / defray costs
- Final suggestions for how the scheme could be improved – more sustainable for orgs or more beneficial for clients

APPENDIX B: Example promotional materials

The following WDO promotional materials were prepared by Illawarra Legal Centre and NSW Juvenile Justice. This page shows an Illawarra Legal Centre fold-out info card for clients, following by scans of two brochures from Illawarra Legal Centre, one targeting workers and the other clients. The final image is a poster prepared by NSW Juvenile Justice, promoting both Time to Pay and the WDO scheme (although neither are mentioned by name).



If you have a court fine	What fine is not a WDO?	What if I can't pay the fine because I am	What is a WDO?	How do I get a WDO?	To arrange your WDO contact the WDO on 1300 470 875
<p>Yes:</p> <ul style="list-style-type: none"> • Fines • Fines for non-payment of tax (including Code of Practice) • Fines for non-payment of tax (including Code of Practice) • Fines for non-payment of tax (including Code of Practice) 	<p>No:</p> <ul style="list-style-type: none"> • Fines for non-payment of tax (including Code of Practice) • Fines for non-payment of tax (including Code of Practice) • Fines for non-payment of tax (including Code of Practice) 	<p>1. If you are</p> <ul style="list-style-type: none"> • unemployed • experiencing severe financial hardship • have income reported as below the poverty line <p>If you are in any of these groups you can apply for a Work and Development Order (WDO)</p>	<p>It is a way to work off your fine.</p> <p>It is approved by a Community Service Order (CSO).</p> <p>On a WDO you can:</p> <ul style="list-style-type: none"> • Work for an "approved" organisation • Do a training course • Volunteer 	<p>A WDO is approved by a community service order (CSO).</p> <ul style="list-style-type: none"> • You can work for an "approved" organisation • You can do a training course • You can do a community service order (CSO) 	<p>To arrange your WDO contact the WDO on 1300 470 875</p> <p>Or go to the WDO website www.wdo.gov.au</p> <p>Other organisations go to the State Debt Recovery Office: 102 Macquarie Street, Sydney, NSW 2000</p>

What if I don't pay the fine and don't do a WDO?	What if I still can't pay the fine?	Contact the WDO	If you have a fine even after a WDO
<p>1. The WDO is not a payment plan.</p> <p>2. If you do not pay the fine and do not do a WDO, you will have to pay the fine (plus a 25% fee for interest).</p>	<p>1. The WDO is not a payment plan.</p> <p>2. If you do not pay the fine and do not do a WDO, you will have to pay the fine (plus a 25% fee for interest).</p>	<p>For general enquiries:</p> <p>State Debt Recovery Office Phone 1300 130 118</p> <p>For more information: www.wdo.gov.au</p>	<p>1. You need to do a WDO to work off the fine.</p> <p>2. If you do not do a WDO, you will have to pay the fine (plus a 25% fee for interest).</p> <p>3. If you do not do a WDO, you will have to pay the fine (plus a 25% fee for interest).</p>

Do you have fines?

Talk to your Juvenile Justice worker,

**we can help sort
it out.**

To get information on how you can

get rid of your fines

talk to your worker

now.



SGRO WDO DEMOGRAPHIC STATISTICS as at 14 April 2011

CLIENTS				
	Received	Approved	Pending	Rejected
Gender				
Female	290	177	36	70
Male	785	480	75	230
Total	1067	657	110	300
Age				
<18	141	102	11	28
19-25	246	140	24	74
26-40	444	261	47	136
41-55	210	138	25	56
>55	11	5	1	5
Total	1067	657	110	300
Indigenous	110	60	28	22
CALD	51	31	8	12
Total	161	91	36	34
Grounds (more than one can be selected)				
Homeless	352	247	26	79
Mental illness	322	199	29	94
Cognitive	65	32	9	24
Hardship	590	340	61	189
Total	1329	818	125	386
Relationship between the client and the supporting organisation				
Existing	719	443	74	202
New	208	128	22	56
Referral	116	71	12	32
Not Answered	25	15	2	8
Total	1067	657	110	300
Activity (more than one can be selected)				
Unpaid work	421	248	30	143
Medical / Mental	215	148	21	46
Education	361	238	34	91
Counselling	248	150	25	73
Drug / Alcohol	348	177	41	129
Mentoring	54	35	4	14
Total	1675	1023	155	497
ORGANISATIONS				
	Received	Approved	Pending	Cancelled/Not approved
Location				
Sydney	93	76	0	11
Regional	88	64	14	20
ACT	1	1	0	0
Total	194	143	20	31
Activity (more than one can be selected)				
Unpaid work	80	80	0	0
Medical / Mental	38	38	0	0
Education	88	88	0	0
Counselling	77	77	0	0
Drug / Alcohol	50	50	0	0
Mentoring	62	62	0	0
Total	385	385	0	0
Accept Referrals	Yes	No	Unknown	
	106	83	5	
HEALTH PRACTITIONERS				
Applications	Received	Enrolled	Rejected	
	104	77	1	

SDRO statistics on Work & Development Order (WDO) client offending

Based on Offence Date

Pre & Post (WDO)

Has the client re-offended?

Category	Clients	% Of Total	Total EO Count	Total Fine Count	Total Amount Owed
1. Has Not Re-Offended Since WDO Approval	348	82.50%	5,339	7,259	\$1,467,311.66
2. Re-Offended During WDO, But Not Since WDO Completion	11	2.75%	144	171	\$23,942.29
3. Re-Offending During WDO (WDO Not Completed Yet)	51	11.99%	1,460	1,881	\$359,133.51
4. Did Not Re-Offend During WDO, But Has Since Re-Offended After WDO Completion	6	1.50%	39	40	\$6,160.00
5. Re-Offending During And After Completion Of WDO	1	0.25%	6	10	\$1,160.00
6. Client File No Longer In IFEMS	3	0.76%	0	0	
6. No Fines Recorded Pre WDO	1	0.26%	2	2	\$380.00
Grand Total	421	100.00%	6,990	9,363	\$1,858,087.46

If the client has re-offended, are the re-offending quicker or slower than before the WDO?

Sub Category	Clients	% Of Total	Fines Created Pre WDO	Fines Created During WDO	Fines Created After WDO
1. Slower	42	60.87%	1,426	80	3
2. Faster	27	39.13%	520	68	5
Grand Total	69	100.00%	1,946	148	8

Notes

1. Data as of 19/02/2011
2. "re-offended" classified as having a subsequent fine being enforced that has an offence date falling within the specific period
3. "rate of offending" determined by the average number of days it takes the client to offend based on the offence date and that fine being enforced.

Key Findings

1. Out of the 417 clients that have participated in a WDO program, 69 (16.48%) have since re-offended either during the WDO, after its completion or both
2. Of the 69 clients that have re-offended, 42 (60.87%) have re-offended at a slower rate than before participation in the WDO
3. 57 clients (13.66%) of the 413 are currently under a Time To Pay arrangement.

Combination of the first two tables

Category	Sub Category	Clients	% Of Total	Fines Created Pre WDO	Fines Created During WDO	Fines Created After WDO
2. Re-Offended During WDO, But Not Since WDO Completion	1. Slower 2. Faster	3 8	4.35% 11.59%	26 125	0 0	3 17
2. Re-Offended During WDO, But Not Since WDO Completion Total		11	15.94%	151	0	20
3. Re-Offending During WDO (WDO Not Completed Yet)	1. Slower 2. Faster	36 15	52.17% 21.74%	1381 373	0 0	76 51
3. Re-Offending During WDO (WDO Not Completed Yet) Total		51	73.91%	1754	0	127
4. Did Not Re-Offend During WDO, But Has Since Re-Offended After WDO Completion	1. Slower 2. Faster	2 4	2.90% 5.80%	11 22	2 5	0 0
4. Did Not Re-Offend During WDO, But Has Since Re-Offended After WDO Completion Total		6	8.70%	33	7	0
5. Re-Offending During And After Completion Of WDO	1. Slower	1	1.45%	8	1	1
WDO Total		1	1.45%	8	1	1
Grand Total		69	100.00%	1946	8	148

Clients that have not re-offended in the since the WDO approval - How many of these clients offended in the previous two years from the WDO approval?

Category	Clients In Two Years	% of Clients	Average All Offences*
No offence in the prior two years	84	24.4%	20.8
1 offence	51	14.8%	17.3
2 to 3 offences	70	20.3%	14.5
4 to 6 offences	59	17.2%	21.1
7 to 10 offences	40	11.6%	26.8
11 to 15 offences	15	4.4%	36.1
16 to 20 offences	11	3.2%	29.7
21 to 30 offences	6	1.7%	34.3
Over 31 offences	8	2.3%	48.0
Total	344		

*refers to the average number of offences per client incurred before the approval of the WDO regardless of when the offence occurred.

Notes

1. Data as of 17/05/2011
2. The following table has been extracted using the list of clients identified in the original report above
3. 4 clients have been merged in IFEMS since the 19/02/11 and therefore cannot be included in the data below