

Question 2: What mechanisms are currently in place to deal with the issue of licence suspension and cancellation for unpaid fine debt in Aboriginal communities.

The two most significant measures are:

- 1) Centrepay arrangements for the payment of fine debt; and
- 2) the Work and Development Order scheme and service.

1. Centrepay

An important option for the payment of fines is a time to pay arrangement through Centrepay. Centrepay is a free, voluntary service that deducts regular payments directly from an individual's Centrelink benefits payments. Centrepay has been an option for the payment of fines since 2008.

Approximately 85,000 people are currently using Centrepay to pay fine debt. This represents 48 per cent of the total number of clients with time to pay arrangements. Clients using Centrepay are up to 70 per cent less likely to be in arrears or default on their payment plans than other clients on time to pay arrangements, although their payment plans generally extend for a longer period of time due to their limited capacity to pay.

The State Debt Recovery Office (SDRO) participates in outreach activities within Aboriginal communities to promote awareness of this payment option. More information about outreach activities is provided below.

2. Work and Development Order scheme and service

Background

Work and Development Orders (WDOs) allow certain people to clear their fines through unpaid work, courses or treatment. WDOs are made by the SDRO. A person can only get a WDO if their application is supported by an "approved organisation" or an "approved registered health practitioner".

The scheme is open to people who:

- have a mental illness, intellectual disability or cognitive impairment
- are homeless
- have a serious addiction to drugs, alcohol or volatile substances, or
- are experiencing acute financial hardship.

Individuals can satisfy their fine debt by undertaking one or more of the following activities:

- unpaid work
- medical and mental health treatment
- educational, vocational and lifeskills courses
- counselling including financial counselling
- drug and alcohol treatment, and
- mentoring programs (if under 25 years of age).

Piloted First

The WDO scheme commenced as a pilot in 2008 when various amendments were made to the *Fines Act 1996*, with bipartisan support, to improve the operation of the fine enforcement system, and to ameliorate its impact on disadvantaged people.

In May 2011 as a result of a positive evaluation (see response to Question 4 below), the scheme was made permanent. Amendments were also made to the Fines Act to allow people with a serious addiction to drug, alcohol or volatile substances to become eligible to participate in the WDO scheme. The Fines Act provides that, if a person is eligible for a WDO solely on ground that they have a serious addiction to drug, alcohol or volatile substances, he or she may only undertake drug or alcohol treatment and/or counselling as their WDO activity.

About the WDO service

The WDO service is a service provided by Legal Aid NSW, in partnership with the Aboriginal Legal Service (NSW/ACT). The service was established in early 2012 following an evaluation of the WDO scheme pilot¹. The evaluation identified the need for a network of support teams across NSW to promote and improve access to the WDO scheme by disadvantaged people with unpaid fines.

The WDO service is undertaking a targeted expansion campaign in regional areas where licence sanctions for fine default have a disproportionate impact on access to employment, education, health services and participation in everyday life activities.

The service 'signs up' new providers (WDO sponsors) and links eligible clients with the program. It gives advice, training and support to organisations and health practitioners willing to participate in the scheme. It delivers community legal education and produces information resources for sponsors and eligible individuals (including Aboriginal resources, such as *Work and Development Orders: a deadly way to clear your fines debt* DVD). It also provides legal advice and minor assistance and a WDO referral service to clients with fines debt.

Outreach in Aboriginal communities

Fines days, fines clinics and other innovative outreach strategies are used to assist people in rural, regional and remote communities, and where appropriate, link them with the WDO scheme. Most outreach days to date have been delivered in Aboriginal communities or in areas with high Aboriginal populations.

To date, the WDO service has taken part in nearly 60 fines outreach days in locations such as Wilcannia, Broken Hill, Bourke, Brewarrina, Walgett, Taree, Kempsey, Purfleet, Moree, Toomelah, Boggabilla, Kyogle, Murrin Bridge, Lightning Ridge, Condobolin, Orange, Lithgow and Nowra. Over 700 Aboriginal clients have been assisted to get their fines under control with WDOs, time to pay arrangements or write-off applications (for extreme hardship). Licence suspensions are lifted and property seizure orders closed on the spot.

When working in remote communities, the service implements a 'no wrong door' policy, partnering with other agencies such as the State Debt Recovery Office, Roads and Maritime Services, Births, Deaths and Marriages, Energy and Water Ombudsman of NSW, Centrelink, financial counsellors, local community organisations, and well as other Legal Aid NSW programs (such as Cooperative Legal Services Delivery Program), to ensure clients get holistic service. Local Aboriginal artists are often engaged to design promotional materials and there is always a free BBQ – drawcards that encourage community interest and participation.

The WDO service partnership with the Aboriginal Legal Service (NSW/ACT) is critical to the success of fines outreach days in these communities.

Fines Clinics

The WDO service also runs fortnightly fines clinics at Legal Aid offices in Liverpool, Bankstown and Wollongong. Demand is high and clinics are booked out several weeks in advance. Capacity to provide additional clinics will be reviewed in 2014.

Aboriginal clients with fines debt

In 2012/13 Legal Aid NSW provided 3327 legal advice and minor assistance services on fines and WDOs (2167 to individual clients and 1160 to eligible organisations). Of these services provided to individual clients, 21.2 % of advice and 27.6% of minor assistance was given to Aboriginal clients. In summary, just under 25% of all fines and WDO advice and minor assistance services to individuals were provided to Aboriginal clients.

¹ Department of Attorney General and Justice, *A fairer fine system for disadvantaged people. An evaluation of the time to pay, cautions, internal review and the work and development order scheme*, May 2011, Recommendation 56 at 12.

SDRO data from April 2012 (when the WDO self-service online portal went live) shows that 2393 approved WDO applications were for Aboriginal clients (out of a total of 10 495 approvals). Just under 23 % of approved WDOs are being undertaken by Aboriginal people.

Not only does this provide Aboriginal clients with an opportunity to clear fines debt and get their licence reinstated (provided they have not been disqualified from driving by the court), it also means they are engaging with support services and accessing work experience, training, living skills, counselling and treatment programs for mental illness, addiction and other health problems.

Whilst still early days, this data suggests that the WDO service partnership between Legal Aid NSW and the Aboriginal Legal Service (NSW/ACT), along with targeted expansion work in Aboriginal communities, is resulting in promising rates of participation in the WDO scheme by Aboriginal people.

Whilst many Aboriginal clients are accessing WDOs in mainstream services, the number of Aboriginal not for profit organisations and health services offering WDOs is increasing. Approximately 5% of approved sponsors are Aboriginal organisations and include land councils, Aboriginal medical services, Aboriginal corporations, youth and women's services.

WDO service locations

The WDO service is centrally coordinated through the Sydney office of Legal Aid NSW, with small regional teams located in Liverpool, Wollongong, Orange and Coffs Harbour. The service employs a project coordinator, four specialist fines solicitors with part-time paralegal support.

There are also two WDO Aboriginal Field Officer positions at the Nowra and Bathurst offices of the Aboriginal Legal Service (NSW/ACT). Funding for these positions will expire in June 2014. Additional support is provided by the Civil and Family Field Officers in Walgett, Grafton and Campbelltown.

Expansion priorities for the WDO service are determined by mapping undertaken by the Department of Attorney General and Justice, taking into account fines debt data, current numbers of approved WDO sponsors, socio-economic disadvantage, and more recently, remoteness.

In its first year of operation, the WDO Service concentrated activities on the South Coast, Central West, Mid North Coast and South West Sydney. Further expansion and support work has now commenced in the Far West, North West, North East, South West, Western Sydney and the inner city.

Question 4: Could you please provide additional details on the success of the Work and Development Order scheme?

Evaluation of the Pilot

A 2011 evaluation of the WDO scheme pilot concluded that it was a significant success (report available online at: http://www.lpcird.lawlink.nsw.gov.au/agdbasev7wr/lpcird/documents/pdf/a_fairer_fine_system.pdf).

The evaluation was coordinated by the Department of Attorney General and Justice with the assistance of the State Debt Recovery Office (SDRO), the Bureau of Crime Statistics and Research (BOCSAR), and the University of Wollongong, who carried out independent research on the WDO scheme.

The evaluation found that the pilot WDO scheme had:

- 1) Reduced re-offending and secondary offending
- 2) Increased engagement in services and/or treatment
- 3) Improved mental health outcomes
- 4) Built job skills and opened up employment opportunities, and
- 5) Reduced costs to government and non-government agencies.

Key Benefits of the Pilot WDO scheme – Findings of the Evaluation of the Pilot

1) Reduced re-offending and secondary offending

As at 19 February 2011, 82.5% of participants had not had any further court fines or penalty notices referred for enforcement to the SDRO since commencing their WDO. A considerable proportion of this cohort were repeat offenders previously: approximately 40% had had four or more enforcement orders in the two years before their WDO approval, and 8 had over 31 enforcement orders.

The independent research by the University of Wollongong also reported that the WDO was significant in bringing about positive behavioural changes and pro-social attitudes to authority and offending. It suggested that people who had no capacity to pay existing fine debt felt little incentive to avoid further fines. This was particularly true of young people who felt defeated by their situation. As one participant put it:

If I can't afford a train ticket, what makes them think I can afford a \$150 fine?

For many people with little or no disposable income, fines can become meaningless.

However, once given a way out of unpayable debt, most WDO recipients responded with a renewed commitment to clean living: buying train tickets, parking legally and generally trying to stay clear of trouble. This new attitude was true of both minor and seasoned offenders. For example, a participant in the University of Wollongong study had this to say:

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

The WDO may not be the only factor behind a person's commitment to law-abiding behaviour, but feedback and statistics from the SDRO suggested that it can be an important trigger and an ongoing incentive.

In addition, as licence and vehicle sanctions imposed by the SDRO are lifted once a person enters into a WDO, the WDO scheme reduces the risk that participants in fine debt will be charged with driving while licence suspended or cancelled due to fine default.

2) Increased engagement in services and/or treatment

The evaluation found 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'.

Respondents to the online survey on WDOs also made the following comments:

Our students have had a greatly improved attitude and attendance through WDO participation.

The ability to undertake activities to work towards satisfying their debts is motivating for 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.

3) Improved mental health outcomes

Some of the earliest positive feedback about the WDO scheme came from the mental health sector. In 2010, the Schizophrenia Fellowship reported that the scheme was making a big difference for people with serious mental health issues by reducing stress, and providing an environment for engagement between mental health consumers and service providers. It was of the view that the WDO scheme was likely to reduce the likelihood of acute admissions for these people.

This early feedback was confirmed by both the online survey of all participating organisations and health practitioners, and the University of Wollongong study. Approved organisations and health practitioners reported tangible mental health benefits for their clients. This was partly because the WDO relieved them of the stress, anxiety, hopelessness and shame associated with unpayable fine debt. It was also because the WDO gave their clients a positive incentive to undertake treatment and to stay in treatment longer. The following quotes from mental health practitioners interviewed by the University of Wollongong illustrate the value of a WDO for people with mental health issues:

Engaging around half of our clients in treatment is really hard; usually there's denial and embarrassment about their 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 is nothing else like it.

A WDO can easily be thought of as an early intervention for mental illness. If you can prevent and reduce symptoms of mental illness with a WDO and the treatment that it engages the 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.

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.

These findings suggest that the WDO scheme can play an important role in diverting people with mental health problems out of the criminal justice system at a very early stage, as well as bringing about mental health benefits in the community more generally.

4) Built job skills and opened up employment opportunities

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. 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 over their lives again. This builds self-esteem, self-efficacy and counters feelings of hopelessness. For instance, as these WDO participants 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 reach.

Once, things seemed hopeless 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.

In this respect, the WDO has proved to be an effective springboard for positive change in participants' lives.

The evaluation also found that undertaking a WDO can build participants' skills, provide them with an incentive to work, and lead to more employment opportunities. Firstly, any 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 options, as a lack of a licence is a very significant impediment to employment, especially in regional and rural NSW.

Secondly, undertaking WDO-related activities itself can make participants more employable. Some WDO participants have gone on to be offered casual, part time or full time work as a result of having proved themselves to be skilled and reliable. Others have reported that having voluntary work looks much better on a job application than being unemployed. Some case workers specifically commented on the potential of the scheme to reduce welfare dependency:

without this scheme, some clients would not be able to apply for work, forcing them into a welfare cycle and increased despondency.

Further, the University of Wollongong found that a number of young people enrolled or re-enrolled in a TAFE course as part of their WDO and had since been inspired to study further and lift their expectations of the kind of work they might do in the future.

5) Reduced costs to government and non-government agencies.

The evaluation found the WDO scheme pilot was reducing the costs associated fine enforcement, offending behaviour, welfare dependency and mental health problems.

Significant government and non-government resources are invested in the fine enforcement process. As at April 2011 the SDRO estimated that it cost an average of \$12.49 to recover \$100 of revenue. However, the longer the enforcement process takes, and the more impecunious the offender, the higher the cost and the less likely that the debt will be recovered. Government and non-government legal advice services and case workers are also engaged in making representations about individuals to the courts, agencies that issue penalty notices, and the SDRO in efforts to have fines waived or licences reinstated.

The WDO scheme also produces savings for government arising from reduced re-offending rates and a lower risk of secondary offending. The evaluation noted BOCSAR statistics that indicated over the previous 10 years, 9074 people had been imprisoned where their principal offence was driving while disqualified or suspended. While it is not possible to tell what proportion of these people had their licence disqualified or suspended for fine default, as opposed to poor driving behaviour, the proportion is likely to be significant. Fine default is the primary reason for licence cancellation, and far exceeds licence cancellation for loss of demerit points.

Savings also arise as a result of WDO participants undertaking, and complying with mental health treatment. Finally, there are cost savings to government arising from WDO participants volunteering to undertake unpaid work and educational, vocational and lifeskills courses, as well as in their increased ability and willingness to gain employment.