

Stage 2 Cost Recovery Impact Statement

Increasing revenue from changes to the fees and costs in collection of fines

Agency Disclosure Statement

This Cost Recovery Impact Statement (CRIS) has been prepared by the Ministry of Justice (the Ministry). It provides an analysis of the Ministry's proposal to increase the fees and costs for the collection of infringement fines and an increase in the percentage of infringement fines that the Crown can retain when the Ministry collects fines on behalf of local authorities.¹ The purpose of the proposal is to address cost pressures faced by the Ministry in providing collection services to ensure this service remains a viable and effective method of collecting fines. These increases will ensure that the costs of recovery are fairly contributed to by those seeking to use the court's collection services and those who fail to pay their infringement fines.

Constraints - Time and Budget Sensitivity

To support the Government's Budget priority of finding \$1.5 billion per annum in savings and in order to deliver effective and fiscally sustainable public services, the Ministry of Justice has identified the opportunity to address cost pressures it faces in providing collection services. To address this cost pressure by the start of the next financial year, change is required to the Public Finance Act 1989 in Budget night legislation and to the Summary Proceedings Regulations 1958. All changes are to be implemented by 1 July 2024, which introduced time and confidentiality constraints. Whilst there is some financial information available, in particular on past collection rates, the modelling of the effect of changes has been based on some key assumptions. There has not been the opportunity to test these assumptions with stakeholders or to substantively investigate alternative options.

Consumer Price Index (CPI) data has been used as a proxy for the limited financial information which provides a reasonable basis for decision-making. The constraints could be mitigated by taking further time to understand the drivers for cost increases since collection fees were last raised, though this would not meet the Government's objectives of realising revenue from 1 July 2024.

Options not considered in this document

An alternative option of removing the initial filing fee that local authorities pay was initially considered as some local authorities are using private debt collection services that do not charge upfront fees. It was not proceeded with due to significant uncertainty around whether actual benefits would outweigh the loss of fees revenue. To progress this option extensive consultation and data collection would be required to determine whether it would be worth progressing and, if so, additional policy work would also be required. This was not possible in the time available. Other alternative options could not be explored due to time constraints.

¹ The references to 'local authorities' in this CRIS include 'other organisations' as set out in section 73 Public Finance Act 1989. Other organisations do not include government agencies and Crown entities.

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Executive summary

A review of the costs of collection of infringement fines has been carried out within a wider Government focus on identifying savings opportunities ahead of Budget 24. As there has not been a substantive review of the costs of collection for over 20 years this is an opportunity to ensure that the collection of the fines is sustainable and efficient, will deliver more efficient, effective and responsive public services to all who need and use them and will incentivise payment of fines by those who receive them.

The Ministry and the courts perform the functions of enforcing and collecting infringement fines. The costs of the courts collection and enforcement of fines are partially recovered by user fees and other settings. The amount of money the Ministry can charge for these services is set by legislation. Despite the costs associated with these services increasing over time, settings to recover the costs have not been updated for some time. The current filing fee and court costs have not changed since 1998. The current enforcement fee was increased by 2% in 2013 and the percentage of the fine that the Crown retains has been 10% since it was set in 1989.

The proposal is to amend regulations to make increases (in line with CPI increases since the fees were last set), to the filing fee (for local authorities), the court cost and any enforcement fee and an adjustment of 10% to one court cost. In the absence of a detailed breakdown of how the costs of collections services have increased since the fees were last updated, CPI has been used as a proxy for the cost increases in providing collection services over time. This includes:

- increasing the enforcement fee paid by the recipient of the infringement when the court needs to take enforcement action from \$102 to \$133 (30% increase),
- increasing the court cost fee paid by the recipient of the infringement from \$30 to \$55 (83% increase),
- A 10% increase (from \$30 to \$33) in the court costs payable where a person contests a fine in respect of an infringement offence increasing the fee local authorities and others pay to file infringements with the court from \$30 to \$55 (83% increase).

Once collected the percentage of the fine retained by the Crown, where the issuer of the infringement is a local authority, is to be increased from 10% to 14% by amending the Public Finance Act 1989. This reflects the increase in collection costs over time and has taken into consideration private sector fees.

The key objective of these changes is to address cost pressures faced by the Ministry in providing collection services to ensure this service remains a viable and effective method of collecting fines. These increases will ensure that the costs of recovery are fairly contributed to by those seeking to use the courts collection services and those who fail to pay their infringement fines.

Problem definition

The costs of collection by the Ministry have increased over time but the contribution towards costs from local authorities and defendants has not been reviewed or updated to reflect the effects of inflation.

- The filing fee of \$30 and the court cost of \$30 were last increased in 1998.
- The enforcement fee of \$102 was more recently updated in 2013, but the increase was marginal (2%).
- The 10% of fines retained by the Crown has remained unchanged since it was set in 1989.

Some of the fees and court costs have not been updated since 1998. Inflation over this time is 83%. Others have been updated more recently. The increases in the costs of collection are evident from the Ministry's expenditure in Vote Courts appropriation for collection and enforcement of fines and civil debts services. Expenditure in this appropriation has increased from \$43.079m in 1998/99 to \$58.335m in 2022/23.

Obtaining a more detailed breakdown of the costs of collection has not been possible due to time constraints as considerable work would be required to identify the different costs associated with delivering collections services.

Status quo

Infringement offences are a summary offence which is a subset of criminal offences that do not result in criminal convictions...

Infringement offences usually involve low-level infringement fees (less than \$1,000) and are often imposed by the issuing of an infringement notice (such as the local authority issuing a parking infringement or Police issuing a fine for an unwarranted motor vehicle). The purpose of infringement offences is to deter conduct that is of relatively low seriousness and that does not justify the full imposition of the criminal law. Infringement offences prevent the courts from being overburdened with a high volume of relatively straightforward and low-level offences. Without them, the law may otherwise not be enforced because it is unlikely a prosecution would be in the public interest. The criminal courts will generally become involved only if the infringement fee is not paid or if the recipient of the infringement notice challenges it.

The fees and costs charged for collecting infringements are different for a local authority to those that apply to government departments and Crown entities...

- For local authorities: on the payment of \$30 filing fee the unpaid infringement can be filed in the court for collection. Local authorities recover this fee if the fine is collected but lose this money if the fine is never collected (e.g., if the courts later substitute the fine with a community work sentence).
- Government departments and Crown Entities do not pay a filing fee;

- Once filed, the infringement becomes a court fine. Court costs of \$30 are added to court fines and are to be paid by the recipient of the fine²;
- For all infringements if the fine is not paid on time and enforcement action takes place an enforcement fee of \$102 will be added to the amount payable by the recipient;
- When a fine and the court costs are recovered the \$30 court cost and 90% of the fine are paid to the local authority. The other 10% of the fine is retained by the Crown to help cover the costs of collection;
- When a fine and the court costs are recovered for government agencies, for example, the Police, and Crown entities, the full amount is paid to the Crown to help cover the costs of collection.

The chart below (Fig 1.) shows the process and how the different fees and costs for uncontested infringement fines are related:

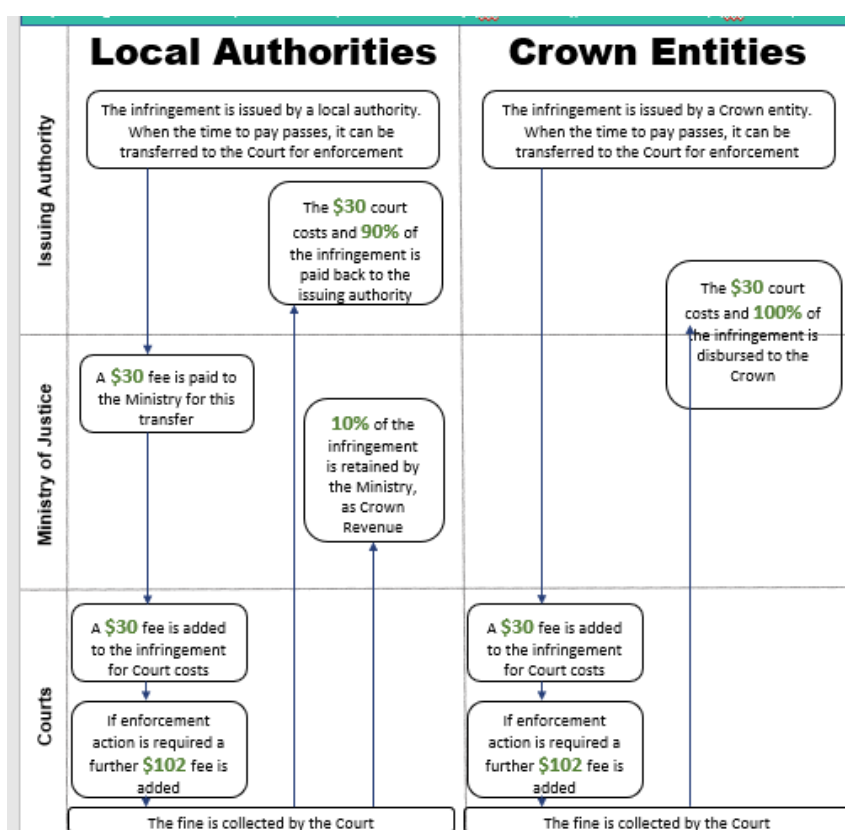


Fig.1

² A total court cost of \$30 applies in cases where the infringement is unchallenged, which is the majority of cases. If the infringement is contested in court the costs will be the \$30 plus an additional cost of \$100 for the hearing.

Review of cost recovery charges

This CRIS considers the proposal to increase the collection costs of infringement fines, some of which have not been reviewed in over 20 years, to address cost pressures as the cost of collection and enforcement of fines has increased over that time. The increase in costs is demonstrated by increases in expenditure in Vote Courts appropriation for collection and enforcement of fines and civil debts services. Expenditure in this appropriation has increased from \$43.079m in 1998/99 to \$58.335m in 2022/23.

The authority to charge and the proposed increases are...

		Current amount	New amount	% increase
Local authority filing fee (set in 1998)	S 212, Summary Proceedings Act 1957 Regs 4 and 15D and Schedule 2, Summary Proceedings Regulations 1958	\$30	\$55	83%
Court cost (set in 1998)	S 212, Summary Proceedings Act 1957 S 21 Summary Proceedings Act 1957 Regs 4 and 15C (1) Summary Proceedings Regulations 1958	\$30	\$55	83%
Court cost on contested infringements	S 212, Summary Proceedings Act 1957 S 21 Summary Proceedings Act 1957 Regs 4 and 15C (2) Summary Proceedings Regulations 1958	\$30	\$33	10%
The enforcement fee (set in 2013)	S 212, Summary Proceedings Act 1957 Regs 4 and 15K and Schedule 2, Summary Proceedings Regulations 1958	\$102	\$133	30%
The percentage of local authority/other organisations' fines collected that are retained by the Crown (set in 1989)	S 73 Public Finance Act 1989	10%	14%	40%

Assessment Against Cost Recovery Principles and Objectives

The principles for setting fees are based on guidance of the Controller and Auditor-General³ and The Treasury Guidelines for Setting Charges in the Public Sector.⁴

The key objective of these changes is to address cost pressures faced by the Ministry in providing collection services to ensure this service remains a viable and effective method of

³ [Setting and administering fees and levies for cost recovery: Good practice guide \(oag.parliament.nz\)](https://www.oag.parliament.nz/publications/setting-and-administering-fees-and-levies-for-cost-recovery-good-practice-guide)

⁴ [Guidelines for Setting Charges in the Public Sector - April 2017 \(treasury.govt.nz\)](https://www.treasury.govt.nz/publications/guidelines-for-setting-charges-in-the-public-sector)

collecting fines and ensuring the costs of collection fall on the appropriate parties rather than primarily the Crown. The effective collection of fines in turn helps ensure that they are a credible sanction.

The proposed inflation adjusted increase to fees and costs has been evaluated against the following criteria...

Principles/Criteria	Assessment
<p><i>Authority:</i> A public entity must have legal authority to charge a fee and must operate within the scope of the empowering provision.</p>	<p>There is statutory authority for the charges and the proposed increases are within the scope of the empowering provisions which are the Summary Proceedings Act 1957, Public Finance Act 1989 and the Summary Proceeding Regulations 1958.</p>
<p><i>Efficiency:</i> The user charge should be no higher than necessary to produce a good or service to the desired level of quality. The design of the charge should incentivise efficiency – keeping costs down and the quality of the service high</p>	<p>The Ministry’s collection services provide local authorities and others with an avenue for the enforcement of infringement notices that is efficient and effective and aims to deter low level offences. Local authorities file over 350,000 unpaid infringements with the court for collection each year, making up a third of the unpaid infringements lodged. Police and other government agencies file over 600,000 unpaid infringements. Infringements are high volume and the efficacy of the collections regime is assisted by the fact the filing fees, the court cost and enforcement fee is a standard amount in each case.</p>
<p><i>Equity:</i> The charges should be administratively fair: identify the impacts of cost recovery, do not seek to recover costs from one group that could benefit a previous or future group.</p>	<p>The structure and principles underlying the Ministry’s existing costs recovery regime have not changed and continue to apply in the same way to both the issuers of infringement notices and those who receive fines. The flat rate user charge for local authorities is administratively efficient and fair. The imposition of court costs and the enforcement fee payable by the fines recipients ensures equity in that the costs of the debt collection are appropriately split between the local authorities and the fines recipient who is expected to pay the larger proportion.</p>
<p><i>Justifiability:</i> the costs recovered through fees or levies should reasonably relate to the goods and services they are charged for (minimise risks of cross-subsidisation).</p>	<p>The costs of the courts collection and enforcement of fines are partially recovered by user fees. As the collection activities carried out in each case will be essentially the same, with some variation in the actual form of enforcement carried out, the risk of cross-subsidisation from a flat-rate fee is minimised.</p>
<p><i>Simplicity:</i> the fee regime is straightforward and understandable to stakeholders.</p>	<p>A flat rate fee will continue to be charged. Extensive information is available to local authorities and the public on the Ministry website, and forms and publications will be updated to reflect the change.</p>

Policy Rationale: Why a user charge? And what type is most appropriate?

What type of costs recovery charge is appropriate and why

Individuals who commit an infringement offence (e.g., illegal parking or speeding) have a fee imposed on them to deter the conduct. Where a person fails to pay an infringement fee, the courts provide collection and enforcement services. These services help to ensure the fee remains a credible sanction and deterrent. It is important that this service is adequately funded to ensure it continues to be effective. It is fair that costs of this service are recovered from the people who committed the infringement and from the local authorities who receive most of the money collected and so benefit from using the service.

This regime imposes flat fees on local authorities and standard costs for fines recipients which achieves fairness and efficiency and strikes an appropriate balance between the users and the taxpayer.

The recovery of costs is appropriately a contribution towards the total costs of debt recovery. As infringements are usually of low value the collection costs should be proportionate and of a level that could realistically be paid.

The level of the proposed fee and its cost components (cost recovery model)

The cost components that drive the activity are a combination of cost increases such as to remuneration, postage and digital costs for technology platforms. Obtaining a detailed breakdown of the costs would involve a complex cross Ministry and Judicial piece of work that has not been undertaken in light of the time and budget constraints.

The \$30 filing fee and the \$30 court cost were last increased in 1998. The enforcement charge was more recently updated in 2013, but the increase was marginal (2%). The 10% of fines retained by the Crown pursuant to section 73 Public Finance Act 1989 has remained unchanged.

Increases are shown in expenditure in Vote Courts appropriation for collection and enforcement of fines and civil debts services. Expenditure in this appropriation has increased from \$43.079m in 1998/99 to \$58.335m in 2022/23.

In the absence of a detailed breakdown of the how the costs of collections services have increased since the fees were last updated, CPI has been used as a proxy for the cost increases in providing collection services over time.

The proposed increase to the percentage retained by the Crown is informed by private sector charges for debt collection. The Ministry focus is on achieving a contribution to the costs of recovery which is justifiable and fairly split between the issuer of the infringement and the defendant.

Existing revenue from collection of court fines

Revenue generated from the collection of court fines varies significantly from year to year and many factors that have the largest impacts on revenue generated, such as the number of new fines imposed, are outside the Ministry's control.

Revenue through court fines is budgeted at \$111.17m a year by the Ministry of Justice. Revenue from the filing fees paid by local authorities to file infringements is budgeted at \$8.159m a year.

Estimated revenue from the proposed changes

Modelling of the proposed fee changes estimates the additional revenue set out below. The modelling estimates are based on several assumptions. Modelling assumes that local authorities may file 45% less infringements as it is anticipated they will have a set budget for filing infringements. It also assumes that volumes of all other infringements and fees would remain consistent with volumes from last year. The modelling accounts for it taking several years for fines and the associated fees and costs to be recovered. Trends in the payment rates over the past 10 years show that only 34% of court fees and enforcement fees imposed in a year are recovered with the first year.

Estimated additional revenue from proposed changes:

Additional revenue	24/25	25/26	26/27	27/28	28/29
Additional revenue from increasing the court cost and filing fee (currently \$30 – based on fees increasing to \$55 on 1 July 2024)	\$4,842,311	\$7,823,808	\$9,325,039	\$10,765,598	\$11,045,769
Total additional revenue collected through increase to enforcement fee (currently \$102 – based on fee increasing to \$133 on 1 July 2024)	\$1,658,658	\$2,536,772	\$2,731,908	\$3,024,612	\$3,219,749
Additional anticipated revenue from increasing the retain % (based on increase to 14% on 1 July 2024)	\$285,887	\$466,949	\$590,833	\$667,069	\$686,128
Estimated costs to implement	\$788,248	\$579,820	\$0	\$0	\$0
Total	\$5,998,608	\$10,247,709	\$12,647,780	\$14,457,279	\$14,951,646

Impact analysis

Impact on local authorities –

The Ministry's modelling has included the possibility that increasing the filing fee local authorities must pay upfront could result in their filing behaviour changing. It is possible that local authorities may rely more heavily on private debt collection agencies to collect infringements as they generally do not require any upfront fees. If local authorities undertake

less enforcement activity to collect infringements it would lessen the consequences of not paying infringement fees and may reduce the effectiveness of infringements as a deterrent.

The extent of the impact on local authorities and the Crown may not become apparent for a number of years as fines are often not fully paid in the year they are imposed but are paid off or collected in later years.

Impact on the public –

Low-income individuals are likely to be disproportionately impacted by increasing costs. These individuals are more likely to be unable to pay on time in the first place and may be more likely to default on their fines and have enforcement action taken against them. The increases could contribute to financial hardship, and compound financial risks for vulnerable people at a time where cost of living and inflationary pressures are already heightened.

There may be some disparity in impacts due to the demographics of people who are likely to have court fines or to have fines debt. Māori and Pacific peoples are disproportionately likely to owe court fines compared to the general population. People with fines debt are also more likely to be male (63%) and aged under 45 (73%) compared to the general resident population.

Decisions about the collection of fines are judicial decisions, and individuals facing difficulty paying their fines as a result of increased fees can contact the court in order to enter into a sustainable payment arrangement, or have their fines remitted or deferred where they are unable to pay.

Ministry of Justice –

Although it is expected that the number of infringements filed with the court by local authorities will decrease the Ministry will still recover more of its collection costs because of the increase in the filing fee and the percentage of collected fines that is retained by it.

Increasing enforcement fees may incentivise fines recipients to pay or contact the court about their fines to avoid enforcement action.

Consultation -

Due to time and Budget confidentiality constraints the Ministry has not been able to consult with key stakeholders who would be impacted by the increases. This includes local authorities, Local Government New Zealand and the Judiciary.

The impact of this is that analysis has been restricted to assessment against other information that is available such as the CPI comparison.

Conclusions and recommendations

The proposal is that the Ministry will increase (by an amount equivalent to the relevant increase in CPI), or by 10%, the fees and costs that are imposed when the recipient of an infringement fails to pay a fine. It is also intended that Crown will retain a greater percentage of fines repaid to local authorities. The intended increases are:

- the fee for filing an infringement notice with the court for prosecution (from \$30 to \$55);
- the court cost added when the infringement becomes a fine (from \$30 to \$55);

- the court cost added when a person contests a fine in respect of an infringement offence (from \$30 to \$33);
- the enforcement fee that is added if enforcement action is undertaken (from \$102 to \$133);
- the percentage of the fine that the Crown retains when the fine is collected (from 10% to 14%).

Implementation plan

The changes to the Public Finance Act 1989 will be made in Budget night legislation, and together with the changes to regulations, will be implemented by 1 July 2024.

The public will be informed by Budget communications and updating of the Ministry website. Communications with the judiciary and local authorities are planned.

The Ministry will provide advice and seek decisions from the Minister on transitional arrangements as part of the drafting process.

The Ministry will make changes to relevant Ministry of Justice ICT systems used in the collection of fines, alongside updates to forms, guidance and processing systems.

Monitoring and evaluation

It is intended to develop some baseline reporting that would monitor the impact of the changes to fees and costs once implemented to determine the impact on revenue and costs recovery.

The filing behaviour of local authorities will also be tracked to assess whether there is a decrease in filing of infringements and whether there is any impact on the types and/or value of fines being filed by local authorities.

Review

No reviews are planned but may occur if monitoring results or evaluation findings suggest a review is necessary.