

# Chapter 3

## Justice: Maintenance Enforcement Program

### Overall Conclusions:

- The Maintenance Enforcement Program is not adequately monitoring and enforcing court orders
- There is currently \$60 million owed to recipients: both individuals and families rely on these payments

### Monitoring and Enforcement

#### Conclusions:

- Court orders not properly monitored and enforced
- Improvements to complaints process needed
- Development and monitoring of key performance indicators has improved
- Move to New Waterford impacted service to recipients



#### Examples:

- 21 of 25 cases with outstanding payments did not have timely or appropriate enforcement
- 8 of 10 inactive cases not adequately monitored
- Quality assurance reviews not done
- 6 of 30 complaints not resolved promptly; 1 other not addressed
- Improvements in setting goals and performance indicators
- Move to New Waterford resulted in loss of staff
- Less enforcement taken following move to New Waterford



#### Recommendations:

- Implement policy to guide monitoring of inactive cases
- Update and implement quality assurance policy
- Develop and implement process for management to monitor caseloads
- Improve complaints process

### Staff Training and Development

#### Conclusion:

- No formal processes in place to train and develop staff



#### Examples:

- No orientation process for new staff
- Program currently developing an orientation program
- Training provided on an ad hoc basis
- No formal training schedule for staff
- No performance plans or evaluations



#### Recommendations:

- Implement orientation and training programs for staff
- Complete performance management process for all staff



## Recommendations at a Glance

### **Recommendation 3.1**

The Maintenance Enforcement Program should develop and implement a policy to guide staff on how to monitor inactive cases.

### **Recommendation 3.2**

The Maintenance Enforcement Program should conduct quality assurance reviews and update the quality assurance policy to include a requirement for the number and frequency of reviews.

### **Recommendation 3.3**

The Maintenance Enforcement Program should develop and implement a process for management to regularly monitor caseloads to ensure required work is done.

### **Recommendation 3.4**

The Maintenance Enforcement Program should set standard response times for complaints. All complaints should be documented, and a regular analysis completed to identify and address common themes and underlying issues.

### **Recommendation 3.5**

The Maintenance Enforcement Program should develop and implement an orientation process for new staff and a training program for all staff.

### **Recommendation 3.6**

The Maintenance Enforcement Program should implement an annual performance management process for all staff.

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## 3 Justice: Maintenance Enforcement Program

### Background

- 3.1 The Department of Justice is responsible for the Maintenance Enforcement Program, a free service that helps Nova Scotians make or receive court-ordered spousal and child support payments. Payors named in the court orders make the required payments to the Maintenance Enforcement Program which then passes those payments to the recipients. Enrollment in the Program is not mandatory, but benefits include an accurate record of payments, a buffer between payors and recipients, and enforcement action if payments are not made.
- 3.2 Court-ordered spousal and child support payments can be essential for some families' financial stability. There are 15,065 cases, involving 13,824 children, enrolled in the Program. In fiscal 2017-18, \$54.7 million in payments was sent to recipients. However, over the lifetime of the Program, \$63.4 million in outstanding payments has accumulated. Of this, \$15.3 million is associated with inactive accounts which the Maintenance Enforcement Program is not currently enforcing due to payors' situations. Inactive accounts are discussed in more detail later in this chapter.
- 3.3 Under the Maintenance Enforcement Act, Program staff can take a variety of enforcement actions if payments are not made, including:
  - placing a lien against the payor's property so it cannot be sold;
  - deducting money from a payor's wages, bank accounts, income tax refunds, lottery winnings, etc.;
  - suspending a payor's motor vehicle license, Canadian passport, or pilot license; or
  - applying to the court for an arrest warrant.
- 3.4 The Program has an enforcement policy that outlines the various enforcement actions available to staff, along with a progression to be followed if initial actions do not result in payment. However, each case is different, requiring staff to use their professional judgement considering the circumstances of each case. Enforcement staff determine specific enforcement actions needed to collect outstanding payments, considering factors such as the payor's payment history, the amount of money owed, and other relevant information.
- 3.5 The Program is unique from other collection programs in that it has contact with both the recipient and the payor. Payors contact the Program to discuss

enforcement actions taken, while recipients make contact to discuss why a payment was missed or if additional enforcement actions could be taken. The table below shows the total number of client contacts to New Waterford for the past three fiscal years. Management indicated that responding to client inquiries takes up a considerable amount of enforcement staff time.

Total Client Communications		
2015-16	2016-17	2017-18
24,424	44,087	47,239

Source: Maintenance Enforcement Program (unaudited)

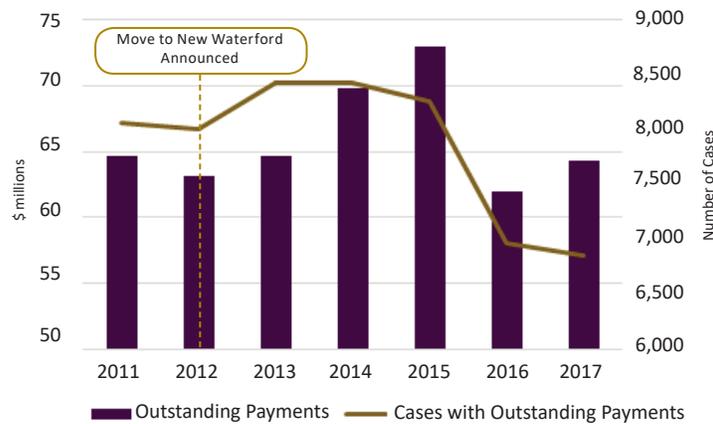
### Monitoring and Enforcement



#### Move to New Waterford created challenges for the Program

- 3.6 In April 2012, the Government decided to move all Program enforcement staff to New Waterford. Prior to this, enforcement staff were located at five regional offices across the province. Current management was able to provide some documentation about the move, including timelines and steps to be taken to limit service disruption. Senior management provided regular updates on the status of the move, including challenges experienced. However, there was no comprehensive assessment of the risks associated with the relocation to New Waterford and how these would be mitigated.
- 3.7 The move to New Waterford was completed by June 2013 and resulted in significant staff turnover for the Program. The Program had to hire 24 new staff as only Sydney regional office employees remained with the Program. Management indicated most of the approximately 35 supervisors and staff either retired or left the Program for other employment following the announcement of the move.
- 3.8 Management told us the high turnover resulted in a major loss of knowledge and experience amongst enforcement staff. Resources had to be focused on staffing the new office and training new hires which reduced time available to enforce court orders and collect payments. As noted in the table below, outstanding balances were around \$63 million at the time of the decision to move enforcement staff to New Waterford. The outstanding balance peaked at around \$73 million in 2015, and was around \$64 million in 2017.

### Changes in Outstanding Payments and Number of Cases with Outstanding Payments



Source: Maintenance Enforcement Program (unaudited)

- 3.9 Management indicated the Program has continued to face significant staff turnover and absenteeism which has impacted its ability to collect payments. When staff are on leave for an extended period, their cases are given to other staff members, increasing all staff members' caseloads. An additional five full-time positions were added to the New Waterford office to address these challenges. The positions include a new supervisor position and an organizational development manager. Management told us these positions have been filled.
- 3.10 We noted similar concerns with the lack of planning for a relocation in our June 2015 Department of Fisheries and Aquaculture audit. Disruption of services can have significant impacts for Nova Scotians. Government should ensure adequate planning is done to ensure service levels are maintained when consolidating offices or relocating services.

### ➡ Court orders not effectively enforced

- 3.11 The Program was not effectively enforcing court orders on cases with outstanding payments. When a payment is missed, it is essential for enforcement to be taken as soon as possible to encourage payors to meet their obligations and avoid large outstanding balances.
- 3.12 We reviewed 25 cases that we expected the Maintenance Enforcement Program to have taken enforcement action on to collect outstanding payments. They had not taken appropriate action or took action later than it should have been in 21 cases. Specific examples include:
- Enforcement actions were not taken for 20 months between January 2016 and September 2017 on a case with an outstanding balance of \$19,500.

- A default letter was sent to a payor with an outstanding balance of approximately \$48,000 in May 2016. No additional enforcement actions were taken until the recipient called five months later indicating payments had still not been received.
- A payor stopped making payments in January 2017 and no enforcement actions were taken for 11 months. This case had an outstanding balance of approximately \$11,000.

3.13 One of the key benefits for recipients enrolled in the Maintenance Enforcement Program is that the Program can take enforcement action when payments are not made. When enforcement action is not taken, there is less incentive for payors to comply with court orders, leading to larger outstanding balances and financial stress on recipients and their children.

3.14 We reviewed enforcement policies and found they complied with the Maintenance Enforcement Act and related regulations. However, during the audit we noted some policies need improvement. The quality assurance and complaints policies need improvement and are discussed later in this chapter.



#### **Inactive cases not properly monitored**

3.15 The Program does not have a policy to guide enforcement staff on the approach or timing of monitoring inactive cases. Inactive cases are those cases for which the Maintenance Enforcement Program is not currently enforcing court-ordered payments. This would occur when a payor is in prison or on income assistance. We found a lack of monitoring in 8 of the 10 inactive cases we reviewed. While the Program will not enforce court orders to collect outstanding payments, there still needs to be regular monitoring to determine when a case should no longer be classified as inactive and enforcement should resume.

3.16 The Program's case management system allows enforcement staff to set reminders to complete tasks in the future. However, in the cases reviewed, we found this feature of the system was not used. In two cases, payors with outstanding balances were on income assistance, but staff had not set reminders to review the cases, which resulted in one case not reviewed for 15 months and the other not reviewed for 7 months.

3.17 The number of cases each enforcement staff is responsible for, and the transfer of cases between staff, makes the use of these reminders essential for ensuring cases are properly monitored. If cases remain inactive for longer than necessary, the outstanding balance may continue to grow when action to collect outstanding money is not taken.

**Recommendation 3.1**

The Maintenance Enforcement Program should develop and implement a policy to guide staff on how to monitor inactive cases.

*Department of Justice Response: The Department of Justice agrees with this recommendation. Management will review existing Program policies for cases and determine what changes are required to improve monitoring and management of inactive cases, including revised staff training and ensuring enforcement activities are compliant with the policy.*

**The Program does not have an effective quality assurance process**

- 3.18 The Maintenance Enforcement Program's quality assurance policy, intended to assess whether cases are properly monitored and enforced, was not followed. We also identified some weaknesses in the policy, specifically, there are no requirements defining the number or frequency of quality assurance reviews.
- 3.19 Currently, quality assurance reviews are not completed. There was evidence that reviews had been completed in the past and management indicated they used to conduct reviews of each staff member's cases for compliance with policy.
- 3.20 Staff and management meet frequently to review and discuss cases. Staff indicated they find these meetings very useful for training and helpful in making decisions on specific cases. This is a good process for day-to-day supervision and supporting staff, however, it is not a quality assurance process that would identify ongoing performance or compliance issues. A quality assurance process needs to involve a regular review of randomly selected cases to ensure compliance with policy and ensure staff are following the proper steps to enforce court orders and collect payments.

**Recommendation 3.2**

The Maintenance Enforcement Program should conduct quality assurance reviews and update the quality assurance policy to include a requirement for the number and frequency of reviews.

*Department of Justice Response: The Department of Justice agrees with this recommendation. While there is an informal process of quality reviews performed on cases, management will review current quality assurance policy directives and assess improvements that need to be implemented to ensure that there is a regular and more formalized approach and methodology applied to quality assurance.*

 **Improvements needed for monitoring how staff are managing their caseloads**

- 3.21 Management does not have an efficient approach to monitor how staff are managing their caseloads. The Program's case management system can provide information on staff caseloads and staff are currently required to submit multiple daily reports to management. These reports identify when the last enforcement action was taken on a case, a summary of enforcement actions taken on that day, and any reminders that have not been addressed.
- 3.22 This reporting provides important information to both staff and management to assess the volume of work completed, as well as whether cases are properly enforced. However, management indicated that due to the number of reports received, they do not consistently review them daily. Staff told us they do not receive any feedback as a result of this reporting. If reports were more frequently used, some of the enforcement issues we found in testing may have been identified sooner. If the reports are not used, then management needs to determine what information is required and how frequently it should be reported.
- 3.23 Staff indicated that caseloads are high and case management is difficult. Caseloads range between 330 and 450 cases per enforcement staff. Staff indicated that the cases receiving the most attention are those for which the recipient or payor contact the Program. Under this approach, there is a risk other cases may not receive the attention they require.

**Recommendation 3.3**

The Maintenance Enforcement Program should develop and implement a process for management to regularly monitor caseloads to ensure required work is done.

*Department of Justice Response: The Department of Justice agrees with this recommendation. Recent changes have been made to the caseload management process to increase management oversight and communicate actions to enforcement staff. Management will review current caseload management practices to assess further improvements. Further work is planned to more effectively utilize the system to provide better information to staff, find areas to reduce caseload volumes and more efficiently monitor case activities.*

**Complaints** **Program's complaint policy lacks important details**

- 3.24 The Maintenance Enforcement Program has a complaints policy. However, it does not include time frames for responding to complaints. We reviewed 30 complaints and found 6 for which we concluded that the Program did not address the complaint in a timely manner. In these cases, it took the Program



between 23 and 55 days to address the issue. We also found one complaint where the response did not address the issue.

- 3.25 The Program's case management system allows staff to identify complaints received from payors or recipients. However, this feature is not consistently used by staff to identify complaints. As a result, management may not have an accurate count of the number of complaints received or reasons for the complaints.
- 3.26 Management does not assess complaints to identify any ongoing issues or trends. This would allow management to identify performance issues and risks to the Program and could be used to improve services. A common theme identified in the complaints we reviewed was recipients expressing concerns with the lack of enforcement action taken to collect outstanding balances. This is consistent with the issues identified earlier in the chapter around the lack of enforcement taken by the Program.

#### **Recommendation 3.4**

The Maintenance Enforcement Program should set standard response times for complaints. All complaints should be documented, and a regular analysis completed to identify and address common themes and underlying issues.

*Department of Justice Response: The Department of Justice agrees with this recommendation. Management will review the existing policy in place for complaints handling and assess timelines for complaint responses. Recent improvements have been made to the complaints process to increase management oversight, with a view to improved tracking methods and root cause analysis activities that could result in prevention and service quality improvements.*

### **Staff Training and Development**



#### **There is no orientation process or training plan for staff**

- 3.27 The Maintenance Enforcement Program does not have a standardized orientation for new staff or a scheduled training process for existing staff. Giving guidance and training to new staff is an important factor in the success of the Program, given the high staff turnover the Program has experienced.
- 3.28 Currently, more senior staff members guide new hires. While there are benefits to this approach, it does not ensure all new hires receive the same information. While an orientation program for new hires is in development, it was not implemented at the conclusion of our audit.
- 3.29 Established orientation and training programs for enforcement staff are needed to ensure expectations are clear and staff are provided with the

information and tools to perform their jobs. This can include training in understanding the Program's powers under the legislation, using the case management system, managing cases, communicating with payors and recipients.

- 3.30 Ongoing professional development for enforcement staff is also needed to keep skills current. The demands of the job can change over time and new training may be needed. While staff has training on a variety of topics, management has not developed a training schedule including the frequency with which training should be updated. Information gathered from management's oversight of staff, performance management, and quality assurance can also identify where more training is needed.
- 3.31 In July 2017, the Government introduced a fraud policy, including mandatory online training to be completed by all government employees. Maintenance Enforcement Program management indicated all staff have taken this training.

### **Recommendation 3.5**

The Maintenance Enforcement Program should develop and implement an orientation process for new staff and a training program for all staff.

*Department of Justice Response: The Department of Justice agrees with this recommendation. The orientation process already under development will be completed and implemented for new staff. An organizational development resource has been hired to develop and implement a training program for staff.*

## **Staff Performance Management**



### **Staff performance plans and evaluations are not completed**

- 3.32 Annual performance plans and evaluations are not completed for staff. Under the Government of Nova Scotia's human resources policies, all government employees are to have an annual performance review. Management recognized the need for a formal performance management process and stated that this process will be implemented. Regular performance evaluations help the development of staff by identifying both strengths, and areas for improvement. If performance issues such as staff not enforcing court-ordered payments are not identified and addressed, it will negatively impact recipients who rely on these payments.
- 3.33 Until early 2016, managers completed monthly reviews of cases. They used a standard checklist and concluded if the staff member met expectations. While this does not replace an annual performance evaluation, it at least helps to oversee the work of staff. However, management indicated these reviews stopped due to a lack of supervisors.

**Recommendation 3.6**

The Maintenance Enforcement Program should implement an annual performance management process for all staff.

*Department of Justice Response: The Department of Justice agrees with this recommendation. Enforcement and related performance metrics have been defined as part of the Department's business planning and were communicated to staff. Management will continue to build on this progress and further implement a performance management process for all staff.*

**Performance Indicators****Setting performance indicators for the Program has improved**

- 3.34 Management sets goals for the Program as part of the Department of Justice's annual business planning process. They improved the goals by including measurable performance indicators. Examples are provided below.
- Increasing the percentage of cases in which regular monthly payments are made and outstanding balances are reduced.
  - Decreasing the number of active cases with outstanding balances by 3 percent.
  - Increasing the number of enforcement actions by 15 percent, including specific targets for different types of actions.
- 3.35 Management meets to discuss monthly and quarterly reports, and determines and follows up on action items that address risks identified during the meetings.
- 3.36 Senior management uses data to inform and support decisions. In 2016, management determined cases needed to be assigned in a way that allowed staff to become experts on a particular type of case, such as those with high outstanding balances and no ongoing payments. This would allow for a more focused approach to case management and enforcement.
- 3.37 Even though there are issues with monitoring and enforcing court orders, we found that management is making informed decisions to try and improve the Program's performance. As many of these initiatives are recent, we did not see changes in our testing results. We encourage management to continue to monitor performance and make changes as necessary.



### Additional Comments from the Department of Justice

*The Department of Justice has been providing an increased focus on the Maintenance Enforcement Program through continued improvements and supports, as well as specific objectives in the Department's Business Plan. While further improvements are required, many enhancements to process and enforcement activities have already been completed.*

*The Maintenance Enforcement Program results in over \$59 million in payments to spouses and children each year; with a collection success rate of 87%. Arrears on active cases have been declining and are now at the lowest level in four years. Recent changes to the Maintenance Enforcement Act have enabled improvements to enforcement activities, resulting in an increase of 19% over March 2017.*

*We have anticipated some of the recommendations made in the Auditor General's Report and have already begun to take actions to address them and additional activities will continue through the 2018/19 fiscal year.*



## Appendix I

### Reasonable Assurance Engagement Description and Conclusions

In May 2018, we completed an independent assurance report of the Maintenance Enforcement Program at the Department of Justice. The purpose of this performance audit was to determine whether the Maintenance Enforcement Program was adequately monitoring and enforcing court orders.

It is our role to independently express a conclusion about whether the Maintenance Enforcement Program complies in all significant respects with the applicable criteria. Management at the Department of Justice have acknowledged their responsibility for the management of the Maintenance Enforcement Program.

This audit was performed to a reasonable level of assurance in accordance with the Canadian Standard for Assurance Engagements (CSAE) 3001—Direct Engagements set out by the Chartered Professional Accountants of Canada, and Sections 18 and 21 of the Auditor General Act.

We apply the Canadian Standard on Quality Control 1 and, accordingly, maintain a comprehensive system of quality control, including documented policies and procedures regarding compliance with ethical requirements, professional standards, and applicable legal and regulatory requirements.

In conducting the audit work, we have complied with the independence and other ethical requirements of the Code of Professional Conduct of Chartered Professional Accountants of Nova Scotia, as well as those outlined in Nova Scotia's Code of Conduct for public servants.

The objectives and criteria used in the audit are below:

**Objective:**

To determine if the Maintenance Enforcement Program is adequately monitoring and enforcing court orders in compliance with legislation, guidelines, and policies.

**Criteria:**

1. The Maintenance Enforcement Program should have policies and procedures for the enforcement of court orders in compliance with legislation.
2. The Maintenance Enforcement Program should follow policies and procedures for the enforcement of court orders.
3. The Maintenance Enforcement Program should ensure enforcement activities are appropriately carried out in a consistent and timely manner.

**Objective:**

To determine if the Maintenance Enforcement Program has an adequate process to record, track, and respond to complaints.

**Criteria:**

1. The Maintenance Enforcement Program should have a process to record and track complaints.
2. The Maintenance Enforcement Program should assess and investigate complaints in an appropriate and timely manner.
3. The Maintenance Enforcement Program should monitor complaint trends to identify and address causes of complaints.

**Objective:**

To determine if the Maintenance Enforcement Program has an adequate process to support staff development.

**Criteria:**

1. The Maintenance Enforcement Program should follow a training schedule with ongoing professional development for staff.
2. The Maintenance Enforcement Program should have a staff performance management process.

**Objective:**

To determine if the Maintenance Enforcement Program has an adequate process to monitor program performance.

**Criteria:**

1. The Maintenance Enforcement Program should have a process to identify key performance indicators and goals.
2. The Maintenance Enforcement Program should regularly report against performance indicators and goals.
3. The Maintenance Enforcement Program should take steps to improve performance if issues are identified.

Generally accepted criteria consistent with the objectives of the audit did not exist. Audit criteria were developed specifically for this engagement. Criteria were accepted as appropriate by senior management at the Department of Justice.

Our audit approach consisted of interviewing management and staff of the Maintenance Enforcement Program, reviewing policy, examining processes for enforcement of court orders, and detail reviewing files. We examined relevant processes, plans, reports, and other supporting documentation. Our audit period covered April 1, 2015 to September 30, 2017. We examined documentation outside of that period as necessary.



We obtained sufficient and appropriate audit evidence on which to base our conclusions on May 10, 2018, in Halifax, Nova Scotia.

Based on the reasonable assurance procedures performed and evidence obtained, we have formed the following conclusions:

The Maintenance Enforcement Program is not adequately monitoring and enforcing court orders in compliance with legislation, guidelines, and policies.

The Program has a process to record, track, and respond to complaints. Improvements are needed to the complaints process to include a requirement for response times and identification of ongoing issues.

The Program does not have an adequate process to support staff development. Management has not implemented a process for evaluating staff performance or supporting staff development.

Management has a process for monitoring the Program's performance. Improvements have been made by including measurable performance indicators.