I am an Adult Bench Chairman and have been a Magistrate for 10 years. I hold no formal positions on my bench. The views submitted are mine alone and do not necessarily represent the views of Sussex Central Bench.

Like most Magistrates' I find the Criminal Courts Charge (CCC) has been implemented with obscene haste and without appropriate consultation. The fact that it was brought into force through Statutory Instrument and unveiled in the last days of the Governments term of office causes real concern that this tactic avoided appropriate consultation and resulted in an unfair burden on court users and defendants.

This charge and its implementation have raised the following matters that would have been addressed if appropriate consultation had taken place:-

- The reduction in Legal Aid has resulted in more and more defendants making decisions without professional advice. This includes the impact of CCC, some defendants are pleading guilty as the easy option, we as Magistrates' would not accept a guilty plea where the defendant feels they are not guilty thus putting them at risk of a higher CCC.

- A defendant may decide to plead guilty to avoid escalating the charges set out in CCC. Magistrates guidance where a defendant pleads guilty but states s/he is not guilty is that the plea cannot be accepted, the defendant is asked to review his/her plea or seek legal guidance, this can force the CCC of £520 on the defendant if s/he loses the case

- The underlying principal in Magistrates Courts sentencing is proportionality and the ability to pay. CCC removes judicial discretion setting offenders up to fail. Fines should normally be capable of being paid within 12 months.

- The courts are owed £571 million as of December 2014 in unpaid fines, costs and compensation, A large proportion of which go uncollected and eventually written off. CCC will just add to this mountain of uncollected amounts owed.

- As CCC will be collected after compensation, fines, surcharge and costs a high proportion of CCC will never be paid by those on a low income or benefits.

- A large proportion of defendants are in receipt of benefits, virtually unemployable, many are ill-educated; some have mental health or addiction problems. A high proportion will not be in a position to pay CCC on top of fines, costs, surcharge and compensation.

- Despite guidance there is evidence of courts reducing compensation to victims because the defendant does not have the means to pay compensation and the mandatory CCC. See extract from BBC NEWS below

- If an offender does not reoffend and pays the court fine, surcharge, costs and CCC in two years there is no refund of CCC. This provides no initiative to comply with court orders and not to reoffend.
Without legal advice, taking into account the chaotic lifestyles, lack of education, mental health problems alcohol and drug addiction it is very unlikely that many offenders will ask the courts to remit monies owed to the courts. The only time these people have contact with the courts is as a defendant.

Where a Fixed Penalty Notice (FPN) was not offered or taken up for reasons unconnected with the offence the fine in court should be equivalent to the FPN. This is not possible when taking CCC into account.

I have always worked on the principle that when an offender is released from custody he/she will have a “clean sheet” regarding monies owed to the courts. I have welcomed the new initiative where all prisoners are taken under the probation umbrella upon release. Recidivation will not be reduced where offenders are released owing the courts CCC.

Extract from BBC NEWS 28th August 2015

The charge (Criminal Court Charge) had also had an impact during the prosecution of Andrew Shires, 37, of Holmfirth, who pleaded guilty at Leeds Crown Court to unlawfully wounding Chloe Knapton when he threw a vodka bottle through her car window.

The 21-year-old dancer suffered facial scars.

Ms Dudgeon said: "The Recorder Peter Babb made the £900 Criminal Courts Charge and knowing the defendant didn't have much money available said it's not possible to consider compensation - so again because £900 went on the Criminal Courts Charge she didn't get a penny in compensation."

Personal Experience

I sat as chairman in the adult court on a case of low level shop theft. The defendant was a young lady aged 23, of good character and employed as a fraud investigator in a large credit card company. She presented well in court was clearly embarrassed and remorseful for her actions.

She stole low value tanning makeup, could give no reasonable excuse other than she thought she was short of funds in her bank. She co-operated with the store, police and pleaded guilty at the first opportunity. There were no drugs or alcohol involved in this theft.

The defendant was clearly going to lose her job and it is unlikely she will get future employment in the same field as she is convicted of theft. In the current employment climate it is probably unlikely this young lady will find responsible employment with a criminal record.

We decided that a Conditional Discharge was the appropriate punishment. This left court charges to be paid:

Surcharge £ 15
We felt the Conditional Discharge would serve to prevent re-offending.

The total of £250 owed to the court would be repaid in 12 months even if the defendant was on benefits and with an attachment to benefits paid £5 p/w.

In view of the above there would be nothing to remit as the CCC would have been paid in full before the two year period set out in the new act.

We did not feel there was any requirement to incentivise rehabilitation as the risk of re-offending was considered very low.

The additional £150 CCC did nothing to promote a reduction in re-offending, without any discretion by the court this additional burden placed a woman of previous good character in an even more difficult financial position until she finds employment.

She lived alone in rented accommodation and will probably find it difficult to get employment with responsibility and a reasonable salary now she has a criminal record.

I like most of my colleagues feel this charge is totally unfair to the unemployed and those on a low income. It is essential that judges, including Lay Magistrates, have discretion and can apply proportionality when sentencing offenders.

It leaves one feeling that Mr Grayling during his term as Lord Chancellor had no idea of the people and cases that are being dealt with in our courts.

It is essential that the Lord Chancellor has knowledge and empathy with the work of the courts rather than being driven by a blind desire to find an income from the court services.

Other than Government statements I have not come across a single person or organisation that supports this unfair and draconian Charge

1 September 2015