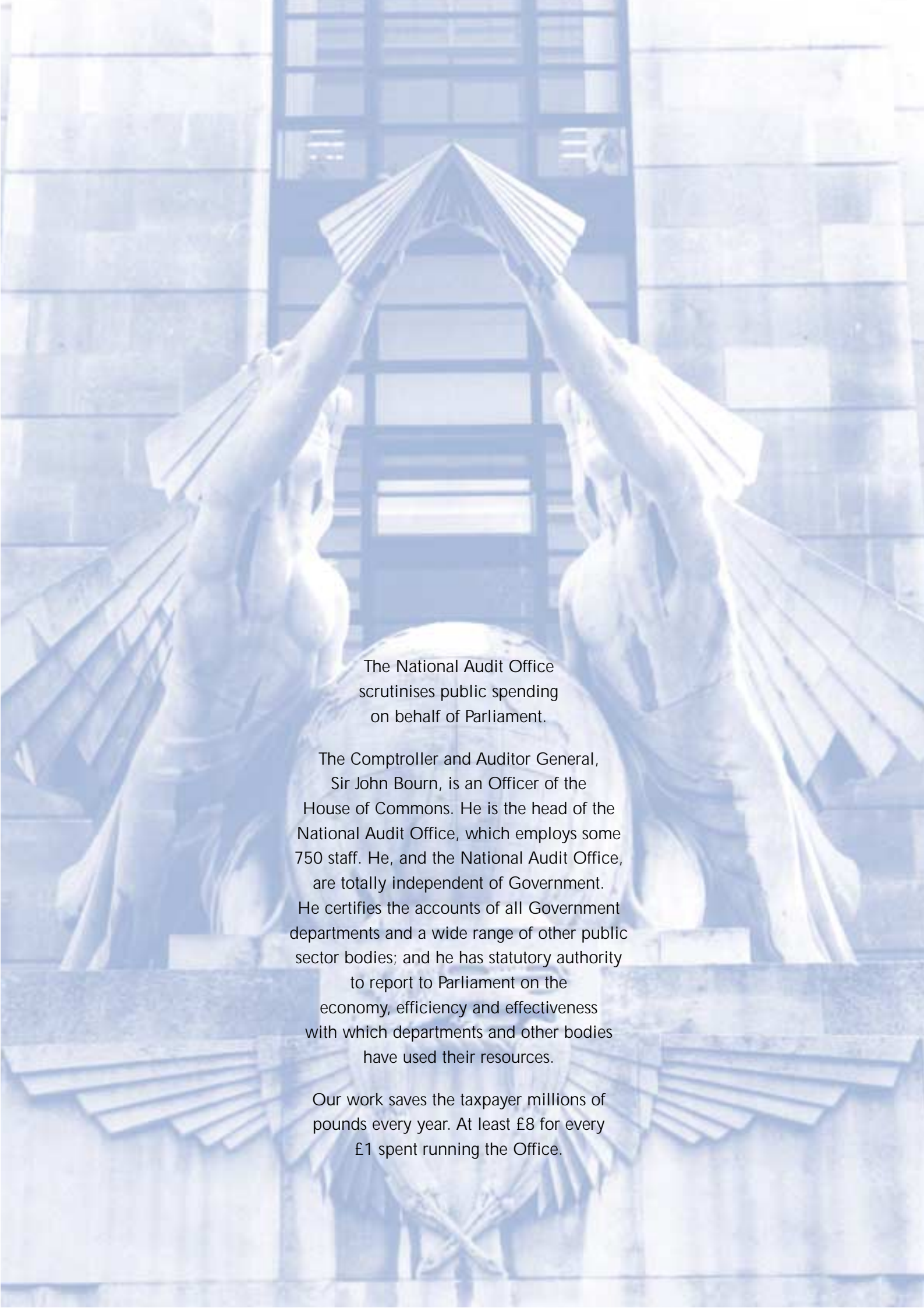


# New IT systems for Magistrates' Courts: the Libra project

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL  
HC 327 Session 2002-2003: 29 January 2003





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This report has been prepared under Section 6 of the National Audit Act 1983 for presentation to the House of Commons in accordance with Section 9 of the Act.

*John Bourn* National Audit Office  
Comptroller and Auditor General 17 January 2003

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# executive summary

- 1 Magistrates' courts are a key element of the criminal justice system. They dispose of 95 per cent of criminal cases prosecuted in England and Wales and have important links with other courts and enforcement agencies. The 42 local Magistrates' Courts Committees are responsible for the effective administration of the magistrates' courts in their areas. They employ around 11,000 staff in total.
- 2 Magistrates' Courts Committees are independent bodies answerable for their performance to the Lord Chancellor. The Lord Chancellor's Department (the Department) has a role in monitoring the performance of Committees but it remains for each Committee to decide on how best to provide an efficient and effective service within its area. The Department also has a role in issuing guidance and will encourage Committees to adopt it. Magistrates' Courts Committees receive 80 per cent of their funding from the Department and the remaining 20 per cent from local authorities.
- 3 Magistrates' courts have undergone a period of significant change since the Police and Magistrates' Courts Act 1994, with the number of Committees reducing from 105 to 42. Further changes are included in the Courts Reform Bill introduced in 2002 paving the way for a merger of the magistrates' courts with the other criminal, civil and family courts in England and Wales.
- 4 IT systems in magistrates' courts have been inadequate for many years. Magistrates' Courts Committees use different systems and have different working practices. Current systems do not allow information to be shared electronically with other courts and electronic information transfer to other enforcement agencies is piecemeal. The Government decided in the early 1990s to develop a national standard IT strategy for magistrates' courts.



- 5 In 1998 the Department signed a PFI contract with ICL<sup>1</sup> to develop a national standard IT system called Libra (**Figure 1**). The Court Service, an Executive Agency of the Department, took over responsibility for the project in July 2001 when it took over other responsibilities for magistrates' courts. This report examines the progress made in implementing the Libra project. The methodology we used is set out in Appendix 1.

<sup>1</sup> In April 2002 ICL became known as Fujitsu Services.

## 1 The main elements of the Libra project

Infrastructure	Core application
To provide a national IT infrastructure, including desktop PCs, printers, networks and full on-line support.	To develop a standard national application to support court work - case management, accounting and other administration - to replace the five existing systems in the Magistrates' Courts Committees.
To provide office automation facilities, including standard office software such as e-mail, word processing, spreadsheets and diaries.	To provide direct electronic links with other criminal justice agencies and their strategic systems (the police, the Crown Prosecution Service, the probation service, prisons, the Crown Court and the Driver and Vehicle Licensing Agency).

*Source: Lord Chancellor's Department*

## The Department developed IT to support existing processes rather than re-engineering processes with new IT (Part 1 of the Report)

- 6 The Department recognises that the design of a best business process model should normally come before seeking an IT solution. The Department decided, however, to support and improve the efficiency of existing processes rather than redesign business processes in parallel with the development of a new IT system (although the business processes that would be necessary to support and operate the new system were developed and documented in parallel with the system design and development). The Department advanced two main reasons for adopting this approach. First, it did not have the authority to impose business process change on the independent Magistrates' Courts Committees. Secondly, as a programme of amalgamations of Magistrates' Courts Committees was under way, the Department wanted to maintain service and not attempt further major change during this period.
- 7 Ideally business processes should have been redesigned and developed in parallel with a new IT system being developed. This would have helped to secure the most efficient and effective way of carrying out the operations of Magistrates' Courts Committees.

## A national standard IT system has been under development for over ten years (Part 2 of the Report)

- 8 Following two failed projects going back to 1992, the Department decided in 1996 to procure a PFI contract for the Libra project. By the end of the procurement there was effectively only one formal bidder (ICL) for the contract which meant that the Department was unable to maintain competitive tension throughout the procurement process. ICL was chosen as the preferred bidder although the Department was aware of the problems ICL was having with another government IT project. This made it even more important for the Department to satisfy itself thoroughly as to the technical competence of the bidder to deliver a project of such size and complexity. With hindsight the Department should also have verified that the financial model on which the tender was based was sound and reflected the Department's requirements, although at the time Treasury Task Force advice was that this was not a requirement.



- 9 The project hit problems and was renegotiated twice after contract signature. ICL came back to the Department twice for more money. On the first occasion this was on the grounds that it had overestimated the revenues and underestimated the costs of the contract and that without additional funding it would be unable to continue with the contract. On the second occasion it was because the delays to the development timescale, caused by a number of different factors, had increased ICL's costs. On each occasion the Department renegotiated contract terms that it considered provided value for money and at the same time delivered a financially acceptable outcome for ICL. By July 2001 ICL was in breach of the contract because it was unable to deliver the core application to the first site. But the Department did not terminate the contract and sue for damages because it considered that this would have triggered potentially costly litigation and counter-claims from ICL, and would have jeopardised the timely delivery of much needed improvements to IT systems in magistrates' courts. Negotiations were completed and both parties remained committed to the project.
- 10 In July 2002, after considering the options available, the Department signed a variation to the contract with ICL to deliver only the national IT infrastructure and office automation facilities. During January 2003 the Department expects to sign a separate contract with STL to provide the core software application to support court work. A systems integrator will then be appointed towards the end of 2003 to roll out and run the application. The main developments in the course of the project are set out in [Figure 2](#) and at Appendix 2.
- 11 The cost of the project has also increased significantly in the four years since the original contract was signed ([Figure 3](#)). The Department is paying a great deal more for a contract only 8.5 years in length that will last only until 2007, although the scope of the requirement has expanded. The new termination date was chosen to align it with the end of two other major contracts and will enable a replacement contract to provide a strategic way ahead. The Department estimates that the equivalent contract cost of the current proposal over 14.5 years would be £557 million. This figure cannot be compared directly with the contract cost of £319 million for the contract agreed in May 2000 as the new agreement includes the provision of 2,500 additional PCs and associated printers as well as a number of enhancements to the office automation service, such as Internet browsing.

## Unified administration in 2005 provides an opportunity to re-engineer business processes with new IT (Part 3 of the Report)

- 12 The Government intends to integrate the management of the criminal courts within a single courts organisation to replace existing Magistrates' Courts Committees and the Court Service. The target date for unified administration is April 2005. The Department considers that Libra is essential to the implementation of unified administration. The introduction of unified administration will not initially involve significant changes to magistrates' court processes. But the Department recognises as a long-term aim the standardisation and improvement of business processes across magistrates' courts.
- 13 The Department needs to plan ahead now for the IT systems to replace Libra and other court systems where the contracts are due to end in 2007. New IT systems need to be developed in parallel with changes in magistrates' court processes once unified administration is in place.

## 2 Chronology of the Libra project

Date	Event
Oct 1996	The Department started to procure a PFI contract.
Nov 1996	The Department received 19 expressions of interest in response to a notice in the Official Journal of the European Communities.
Sep 1997	Two bidders (ICL and EDS) submitted detailed proposals.
May 1998	EDS declined to submit a response to the Invitation to Tender.
May 1998	ICL submitted the only bid for £146 million.
Jul 1998	ICL was chosen as the preferred bidder.
Oct 1998	ICL increased its bid from £146 million to £184 million.
Dec 1998	The Department awarded the contract to ICL after assessing ICL's offer as affordable and value for money. The contract was for £184 million over 10.5 years.
Oct 1999	ICL sought a renegotiation of the contract as its cash flow forecasts showed a £39 million deficit over the life of the deal.
May 2000	The Department and ICL signed a revised contract for £319 million over 14.5 years. The increased cost was mainly for an extra four years of service and for earlier roll-out of the infrastructure.
Nov 2000	ICL informed the Department that it would only be able to deliver criminal cases software to the first site in Suffolk by the target date of July 2001, with software for family and licensing cases to be delivered 10 weeks later.
Feb-June 2001	ICL brought in a new management team who re-evaluated the plan and assessed that it was not deliverable.
Jun 2001	ICL told the Department that its forecast losses were now so high that it could not continue with the contract unless it was substantially renegotiated.
Jul 2001	ICL was in breach of the contract for failing to meet the delivery date for core software at the first site. The Department decided to negotiate with ICL rather than terminate the contract and sue for damages. The Department started to consider other options for continuing with Libra.
Sep 2001	ICL told the Department that its maximum potential loss on the project was £200 million and that it would repudiate the contract unless the Department negotiated to cover the loss.
Oct 2001	The Department and ICL signed a legally binding Memorandum of Understanding, which placed the Department in a less favourable position than simply continuing with the existing contractual arrangements and relying on its contractual rights.
Feb 2002	On grounds of value for money and affordability the Department could not reach agreement with ICL for ICL to continue with the whole contract.
Jul 2002	The Department signed a revised contract with ICL (now known as Fujitsu Services) for £232 million over 8.5 years to supply only the infrastructure element of Libra. The Department intends to sign separate contracts with STL for the core software application and for a systems integrator to roll out the programme.

Source: Lord Chancellor's Department

### 3 The rising cost of the Libra project

	May 1998 ICL's original bid	Dec 1998 original contract	May 2000 revised contract	July 2002 current proposal
<b>Contract costs</b>				
Infrastructure (£m)	not known	not known	not known	232
Application (£m)	not known	not known	not known	86
<b>Total contract costs (£m)</b>	<b>146</b>	<b>184</b>	<b>319</b>	<b>318</b>
Internal project costs (£m)	10	10	18	12
Additional enhancements and other costs	0	0	0	60
<b>Total project costs (£m)</b>	<b>156</b>	<b>194</b>	<b>337</b>	<b>390</b>
<b>Contract length (years)</b>	<b>11</b>	<b>10.5</b>	<b>14.5</b>	<b>8.5</b>

Source: Lord Chancellor's Department



# Recommendations

**14** There are wider lessons for all Departments from the problems that the Lord Chancellor's Department has experienced with the Libra project:

- 1 IT system changes should be planned to support redesigned business processes. Undertaking one without the other is unlikely to deliver value for money.
- 2 Standardising IT systems across a number of disparate bodies is only likely to be effective if the appropriate business processes of those bodies are also aligned.
- 3 To encourage suitable bids for a particular contract, departments should survey the market to establish the level of interest in the project and to assess whether their proposals are likely to be attractive to potential bidders.
- 4 Departments should take it as a warning sign that their proposed PFI projects may not be workable if few bidders show initial interest and others withdraw as the procurement process continues.
- 5 When a department unavoidably finds itself in a single tender situation, it should take special care to ensure that value for money is not at risk. Precautionary measures might, for example, include developing a "should cost" model to assess the reasonableness of a bid.
- 6 When seeking references on a potential contractor, departments should obtain an assessment of the contractor's performance elsewhere within government.
- 7 Where departments are renegotiating contracts, they should benchmark the price the contractor is offering.
- 8 Departments should have up-to-date contingency plans ready on all major contracts so that there is a fall-back position if and when a contract goes wrong.

The Lord Chancellor's Department has recognised these lessons over the life of the project and has taken action on them.

# Part 1

## The Department developed IT to support existing processes rather than re-engineering processes with new IT

1.1 This Part of the report examines how the Lord Chancellor's Department chose to develop a new national standard IT system for magistrates' courts. We found that the Department had not sought to redesign business processes in parallel with the development of a new IT system. This would normally be best practice but the Department advanced a number of reasons for not adopting such an approach. The Department proposed instead to use new IT to support and improve the efficiency of existing processes.

### The Government decided to develop a national standard IT strategy for magistrates' courts

#### Magistrates' courts form a major part of the criminal justice system

1.2 Magistrates' courts are a key element of the criminal justice system. In 2001-02 they disposed of 95 per cent of the 2.4 million criminal cases prosecuted in England and Wales. They also have important family and local licensing jurisdictions. Their work brings them into regular and close contact with many other parts of the criminal justice system, including other courts, the police and enforcement agencies, prisons, government departments, local authorities, bailiffs and solicitors. **Figure 4** shows the place of magistrates courts in the criminal justice system.

#### In 1992 the Lord Chancellor's Department took over responsibility for magistrates' courts from the Home Office

1.3 Since 1992 the Lord Chancellor has been accountable to Parliament for the operation of the magistrates' courts. Magistrates' courts are locally administered, however, and the service does not fall within the Lord Chancellor's direct jurisdiction. This position is very

different from that of the Crown and county courts in England and Wales, which are directly administered by the Lord Chancellor's Department through the Court Service Agency. The Agency provides their staff and also their buildings and equipment.

1.4 Magistrates' Courts Committees are responsible for the effective administration of the magistrates' courts in their areas. They employ around 11,000 staff in total. Magistrates' Courts Committees receive grants from the Lord Chancellor's Department for 80 per cent of their expenditure. Local authorities act as paying agents for these sums and also directly fund the remaining 20 per cent of Committees' expenditure. In 2001-02 the Department's contribution amounted to £344 million.

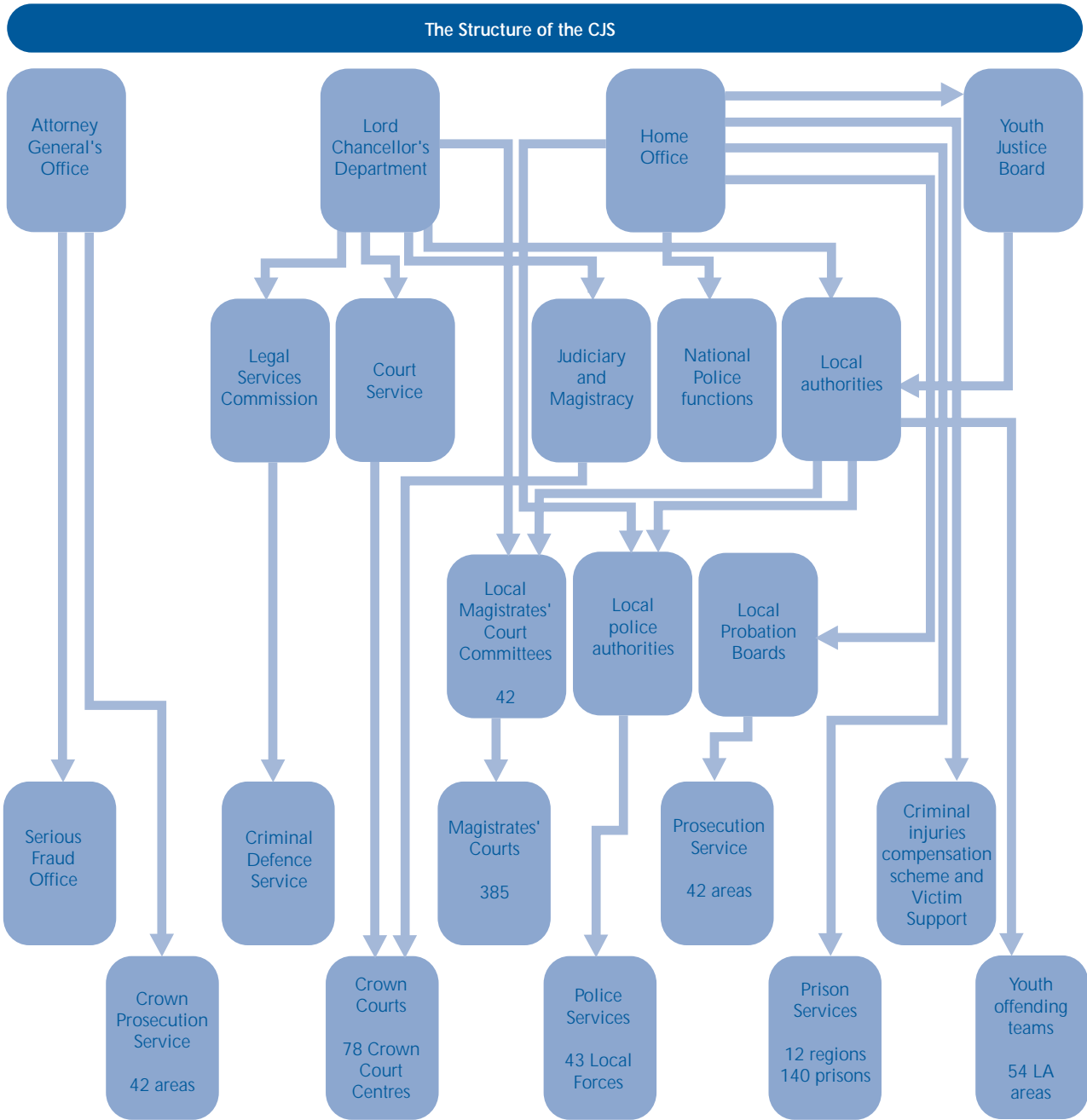
1.5 Magistrates' Courts Committees are independent bodies answerable for their performance to the Lord Chancellor. They do not have an Accounting Officer. They have little formal accountability to local authorities. Each Magistrates' Courts Committee is supported by a Justices' Chief Executive who is responsible for the administration of the courts in the local area, in accordance with any directions given by the Committee. The Department's role is to issue guidance and encourage Magistrates' Courts Committees to adopt it.

1.6 The magistrates' courts have undergone a period of significant change over the past eight years and further major changes are expected in the coming years. **Figure 5** below shows the main changes affecting magistrates' courts since 1994.

1.7 Since 1999 the Lord Chancellor has had reserve powers<sup>2</sup> to require Magistrates' Courts Committees to take specified goods and services if, in his opinion, it is in the interests of the magistrates' courts service as a whole for them to do so. The reserve powers have not been required. The Department does not have the power, however, to dictate how Magistrates' Courts Committees should use the services provided.

<sup>2</sup> The reserve powers are to issue regulations through statutory instruments under the Justices of the Peace Act 1999, as amended by the Access to Justice Act 1999.

4 The place of magistrates' courts in the criminal justice system



Source: Lord Chancellor's Department

A common IT strategy for magistrates' courts has been called for since the 1980s

1.8 In 1981 the Public Accounts Committee criticised the Home Office<sup>3</sup> for its lack of initiative in examining the scope for computerisation of magistrates' courts and encouraging computerisation where appropriate. The Committee recommended that the Home Office should look at the scope for improving efficiency and economy

through further computerisation and co-ordination and also monitor the performance of existing systems.<sup>4</sup> Following the Committee's report, the Home Office set up a study team to examine and evaluate the use of computers in magistrates' courts. The subsequent report,<sup>5</sup> published in 1987, criticised the existing arrangements on two main counts: the lack of objectives and priorities at national level; and the wide variations in local organisation and practice.

<sup>3</sup> The Home Office was responsible for magistrates' courts until 1992.

<sup>4</sup> Sixth Report from the Committee of Public Accounts, Session 1980-81.

<sup>5</sup> "Evaluation of the use of computers in magistrates' courts: the way forward".

## 5 The main changes affecting Magistrates' courts since 1994

<b>1994</b>	The Police and Magistrates' Courts Act reformed the organisation and management of the Magistrates' Courts Committees, providing clearer lines of accountability, both locally and with central government, and allowed the amalgamation of Committees.
<b>1994-1997</b>	A number of voluntary amalgamations took place, reducing the number of Magistrates' Courts Committees from 105 to 96.
<b>1999-2001</b>	A major programme of amalgamations took place reducing the number of Committees from 96 to 42, aligned with police authority boundaries.
<b>April 2001</b>	Magistrates' courts took over responsibility for enforcement of fines from the police.
<b>October 2001</b>	Lord Justice Auld's report "Review of the Criminal Courts in England and Wales" published, recommending major changes to the criminal courts.
<b>2002-2003</b>	Courts Reform Bill introduced paving the way for the unification of the criminal courts. This is expected to result in a single agency covering all courts in England and Wales by April 2005.

*Source: Lord Chancellor's Department*

- 1.9 In 1989 an internal Home Office scrutiny of magistrates' courts (the "Le Vay" report) recommended that a common IT strategy for magistrates' courts should be developed as quickly as possible. It called for a systems analysis of the work flows for each of the basic functions in the magistrates' courts. It suspected that there might be inefficiencies in existing applications of IT as a result of simply computerising each of the steps hitherto done manually.

### Magistrates' Courts Committees use different IT systems and have different working practices

- 1.10 The Department has no direct control over the internal processes within Magistrates' Courts Committees. There remain considerable differences between Committees in the way that they operate. They are responsible for their own procedures and forms in implementing legislation and central government policy. As a result, practices vary considerably from one Magistrates' Courts Committee to another, for example, on the format of case file sheets and legal aid application forms.
- 1.11 There are three main existing IT systems - developed by ICL, Unisys and STL - which support the case management business of Magistrates' Courts Committees. Two Committees also have their own bespoke systems. The applications are based on different design concepts and a measure of local configuration is practised. All these systems have been in existence for many years, although they have been enhanced to support changes to legislation and the needs of the user community. The systems do not, however, allow information to be shared electronically with each other. About one-third of Magistrates' Courts Committees currently use the system supplied by STL and two more are in the process of migrating to it. The STL system has been updated to run on a modern server and additional modern application modules are available. Unlike the STL system, the ICL and Unisys systems have not been updated to run on a

modern server and therefore are unable to meet the future business needs of Magistrates' Courts Committees and the wider criminal justice system.

### It was therefore decided to develop a national standard IT strategy for magistrates' courts

- 1.12 The multiplicity of different IT systems in use has led to many problems and difficulties. Because Magistrates' Courts Committees do not have the same IT systems, it has been difficult to establish common databases of their work for the setting and monitoring of targets of efficiency. It has also been difficult to facilitate research and for Committees to share information with each other. The level of IT support across magistrates' courts is uneven.
- 1.13 The Lord Chancellor's Department (and the Home Office before it) therefore decided to develop a national standard IT strategy for magistrates' courts.

### The Department decided to support current processes rather than re-engineer business processes first

#### The Department had a number of reasons for not redesigning business processes first

- 1.14 The Department recognises that the design of a best business process model should normally come before seeking an IT solution. The Department does not have the authority, however, to impose business process change on the independent Magistrates' Courts Committees. A major programme of voluntary amalgamations was agreed between the Department and the Magistrates' Courts Committees resulting in significant organisational change. Of the original 105 Committees, 79 were involved in the amalgamation process, with the bulk of

the amalgamations taking place between 1999 and 2001. The Department's objectives were then to maintain and improve service and not to attempt further major change until a national IT service had been implemented.

- 1.15 The Department told us that Magistrates' Courts Committees' priority was to have their ageing IT systems replaced. Whilst they recognised the need and advantages of a national standard IT system, they insisted that their local management independence should be retained. They consistently maintained their right to operate independently and indicated that they were the best arbiters of how their businesses ought to be run.

### The Department sought automation as a priority before questioning the existing business processes

- 1.16 The Department issued the Statement of Business Requirement to bidders in 1997, requiring the successful supplier to deliver a single national system which all Magistrates' Courts Committees would be expected to use. Although the IT system would require standardisation of some business processes, the Department did not attempt to dictate what working practices Committees should follow. The Department expected Committees to adapt their processes to the system as part of the migration process. The Department considered that a standard IT system would determine some business processes but would also leave scope for local variations in the way a unit organised or the IT systems would be used.

### Ideally business processes should have been redesigned in parallel with a new IT system being developed

- 1.17 **Figure 6** sets out the reasons why, ideally, business processes and new IT need to be developed in parallel. The Department considered, nevertheless, that it is also possible to specify or purchase a standard IT system and modify business processes to the extent required during implementation.

## 6 The need for business processes and new IT to be developed in parallel

*"IT applications support the operation of business processes. Standard IT systems need standardised business processes. If there are existing operations with differing processes, there must first be an agreement on a standard process, in order to specify the IT application. Whilst there can be some flexibility between business process and IT application design, there will be many situations where an IT application cannot support different business processes."*

*"It is unrealistic to design new business processes in advance of their enabling IT applications, as the process design will depend to a significant extent on the content of the IT application. But the nature of the new business process must be understood in detail in order to specify the IT application. There is, therefore, no sensible route to improving operational effectiveness other than a parallel, integrated, design of process and application."*

*Source: Professor Andrew Davies, Visiting Professor in Information Systems at Cranfield School of Management, October 2002*

- 1.18 Business processes vary across and within Magistrates' Courts Committees, in part because of the different legacy systems in use but mainly because each Committee has developed its own processes. Some of these differences are inevitable because of the different sizes of Committees and local circumstances but the main case-management processes could be standardised. The Department was responsible for providing a single view of requirements for the new system across Magistrates' Courts Committees. To help to achieve this a large number of staff from the Committees was involved, but a single view was, inevitably, difficult to achieve. This contributed to the difficulties in developing the new system.



# Part 2

## A national standard IT system has been under development for over ten years

2.1 This Part of the report examines the Department's progress in developing a new IT system for the magistrates' courts. Attempts in the early 1990s to secure a national standard IT system failed. In 1996 the Department decided to procure a PFI contract and signed a deal with ICL in December 1998. This contract has since been renegotiated twice and the cost of the project has more than doubled, although the range of services has increased.

### Previous attempts to secure a national standard IT system failed

Contractors appointed by the Home Office in 1992 failed to deliver an acceptable solution

2.2 In January 1992 the Home Office appointed Price Waterhouse to develop a national system. In August 1992, after responsibility for the magistrates' courts service had passed to the Lord Chancellor's Department, the contract with Price Waterhouse was terminated on the grounds that the firm's work was sub-standard and it had not delivered as expected under the contract. The Department initiated action for breach of contract claiming £5 million for payments made under the contract and compensation for other related losses. In May 1995, the Department accepted Price Waterhouse's offer of £1.375 million in full settlement.

In 1994 the Department let contracts for the development of a national Magistrates' Courts Standard System (MASS) but these were terminated in 1996

2.3 The Magistrates' Courts Standard System (MASS) was based upon the cornerstone that "best of breed" suppliers<sup>6</sup> would be selected to deliver the constituent parts and that this approach would result in a robust product which would fully meet user requirements. By September 1996, the basic MASS software had been

written, but not tested. At that time, after an independent review showed that the Department's strategy for delivery of the project was flawed, the Department terminated all existing contracts. The Department paid its MASS contractors some £6.8 million. The principal reasons for cancellation were the lack of experienced and strong project management, the problems inherent in managing a disparate set of suppliers, and the extending timescales.

In 1996 the Department decided to procure a PFI contract (the Libra project) and signed a deal with ICL in December 1998

2.4 Following the independent review of MASS, the Department procured a PFI deal with ICL to provide:

<b>Infrastructure</b>	<ul style="list-style-type: none"> <li>(1) A national IT infrastructure, including desktop PCs, printers, networks and full on-line support.</li> <li>(2) Office automation facilities, including standard office software such as e-mail, word processing, spreadsheets and diaries.</li> </ul>
<b>Core application</b>	<ul style="list-style-type: none"> <li>(3) A standard national application to support court work - case management, accounting and other administration - to replace the five existing ("legacy") systems in the Magistrates' Courts Committees.</li> <li>(4) Direct electronic links with other criminal justice agencies and their strategic systems (the police, the Crown Prosecution Service, the probation service, prisons, the Crown Court and the Driver and Vehicle Licensing Agency).</li> </ul>

<sup>6</sup> The suppliers were Admiral for development of the system and training, FI for software support, and ICL, Digital and Bull for hardware. The Department expected Magistrate's Courts Committees to contract with one of the hardware suppliers locally.

## The Department established objectives for the project

- 2.5 Libra<sup>7</sup> is intended to put in place a national standard IT system across the Magistrates' Courts Committees. The aim is to meet all the current requirements of the magistrates' courts service and to allow future development and enhancement within the wider criminal justice system. The objectives of the project are set out in **Figure 7**.
- 2.6 The Statement of Business Requirement was a high-level specification for infrastructure and bespoke software. The Department wanted Libra to have at least the functionality of the extant legacy systems and considerably more was included. Users drew up the functional requirements within the Statement of Business Requirement. In August 1996 the Department established a user board representing the many organisations involved in magistrates' courts functions. The Department supplemented the Statement of Business Requirement with supporting material.
- 2.7 The Department appointed legal, financial and contract advisers. During the procurement the Department spent £75,700 on legal advice from Bird & Bird against a budget of £75,000 and £51,400 on financial advice from Hambros against a budget of £50,000. These advisers were appointed after competition. The Department did not employ any information systems or IT advisers but employed external specialists from Kermon as part of the team. These specialists cost £450,000 against a budget of £205,000, reflecting the extended procurement timescales. The technical assessment of the bids was done in-house. During the renegotiations of the contract, the Department spent £132,900 on legal advice from Bird & Bird, and £193,700 on financial advice from Ernst and Young.
- 2.8 The procurement took over two years and not the 14 months originally envisaged. The Department initiated the procurement in October 1996 but the contract was not signed until December 1998 (**Figure 8**). The three main reasons for the procurement timetable being longer than expected were: the time needed to get full involvement and agreement of users to the Statement of Business Requirement from the then 96 Magistrates' Courts Committees; the time taken to get complete and satisfactory descriptions of each bidders' solution and plans; and the winning bidder (ICL) delaying contract signature through revising its bid.

## 7 The objectives of the Libra project

1. To achieve common standards of practice in relation to: the general management of magistrates' courts and their administration; case data; case management; accounting and enforcement procedures; management information and financial controls; and to ensure the effective and efficient operation of magistrates' courts.
2. To enable courts to process cases as rapidly and efficiently as possible with due regard to the overriding considerations of quality of justice, the statutory obligations of courts and good practice.
3. To enable Magistrates' Courts Committees to reduce, as far as practicable, delays to members of the public and to representatives of other organisations.
4. To enable courts to meet their statutory obligations for accurate record keeping in as efficient a manner as possible.
5. To enable courts to manage their statutory accounting functions more efficiently and effectively.
6. To standardise the facilities and increase the scope for electronic interchange of data between the magistrates' courts and other organisations, to avoid unnecessary repetition of data input procedures and reduce delays.
7. To provide functionality which exceeds that of present systems and includes the additional requirements stated in the statement of business requirement, without a reduction in efficiency.
8. To provide a basis for more flexible contingency planning.
9. To provide greater resilience in systems with an improved capability to deal with disaster recovery.
10. To provide economies of scale in training requirements and to increase the potential for mobility and interchange of staff by reducing the need for retraining at new sites.
11. To promote the smooth introduction of new functions and procedures resulting from changes in legislation, case law or policy.
12. To provide a migration path by automatic transfer of data from existing computer systems.
13. To provide for automated management and official statistical information.
14. To provide a standard terminology/glossary of terms in order to help support common practice.

*Source: Lord Chancellor's Department. Statement of Business Requirements, 1997*

<sup>7</sup> Libra means the project to deliver national standard information systems services to improve the efficiency and effectiveness of the administration and management of magistrates' courts.

## 8 Comparison of planned and actual procurement timetable

Stage	Planned (as at February 1997)	Planned (as at October 1997)	Actual timetable achieved
Business prospectus	November 1996 to January 1997	November 1996 to January 1997	November 1996 to January 1997
Due diligence	February 1997 to June 1997	February 1997 to October 1997	February 1997 to October 1997
Contract specification and negotiation	July 1997 to November 1997	November 1997 to February 1998	November 1997 to April 1998
Tender	November 1997 to December 1997	March 1998 to June 1998	May 1998 to October 1998
Further negotiations	-	-	October 1998 to December 1998
Contract signature	December 1997	June 1998	December 1998

*Source: Lord Chancellor's Department*

### The Department did not maintain competitive tension throughout the procurement

#### Three potential bidders were initially interested but only two submitted proposals

2.9 The Department did not formally carry out a full market survey to establish how many companies would be interested in the project and to assess whether its proposals for the project were likely to be attractive to potential bidders. The Department chose instead to approach a number of IT providers informally to assess potential interest. The Department received 19 expressions of interest in response to the notice in the Official Journal of the European Communities but only three responded to the Business Prospectus. These were (i) ICL and Unisys, with ICL eventually taking the prime contractor role; (ii) EDS, with STL Technologies as subcontractor; and (iii) TRW/Bull. The latter dropped out after being shortlisted as it felt it did not have sufficient resources in this country to undertake the project.

#### The bidders' proposals differed

2.10 The Department issued the final version of the Statement of Business Requirement to the two remaining bidders in September 1997. The bidders provided detailed proposals showing how they intended to meet each of the requirements, their plans, development approach, team organisation, numbers and technical solution. In parallel with this process, the Department negotiated a draft contract with the bidders.

2.11 EDS proposed a new development of the core application with a short design-and-build timescale and a two-year roll-out plan. ICL proposed a longer development timescale and three-year roll-out plan starting with an evaluation of the MASS software and documentation (paragraph 2.3 above) immediately after contract award. ICL's plan assumed a positive outcome

to the MASS evaluation. The Department regarded ICL's approach as low risk since it largely comprised enhancement, integration and testing of existing MASS software. There were also differences between the bidders' infrastructure proposals. The Department assessed both proposals as disappointing and required the bidders to clarify their proposals during the contract specification and negotiation stage. This process extended the procurement by four months.

#### EDS declined to submit a bid, withdrawing from the bidding process

2.12 On 1 May 1998 the Department invited suppliers to submit their final tenders. At that time the Department regarded EDS's timetable as being high risk. EDS proposed delivering 80 per cent of the functionality the system required, that is the most critical aspects of the system, within two years. The Department considered, however, that EDS's plans were based on a considerable amount of parallel development which did not recognise the likely need for a lot of reworking. This was a major factor that led to EDS re-evaluating its whole tender and concluding that it could not go ahead.

#### The Department chose ICL as the preferred bidder after assessing the problems ICL had encountered with another government IT project

2.13 ICL submitted a bid of £146 million on 27 May 1998 and as the only bidder was chosen as the preferred bidder in July 1998. At the time ICL was bidding for the Libra contract, the Department was aware that ICL was facing difficulties on another government IT project - the Benefits Payment Card (Figure 9). The Department was concerned that any financial problems from the termination of that project might have knock-on effects on the Libra project. Addressing these concerns to the Department's satisfaction was a caveat on ICL's preferred bidder status.

## 9 ICL's involvement in the Benefits Payment Card project

The Benefits Payment Card project was intended to replace the existing paper-based methods of paying social security benefits with a magnetic strip payment card. The contract was awarded to ICL in May 1996.

By October 1996 ICL had developed a limited version of the system but the two purchasers, the Benefits Agency and the Post Office, and ICL became increasingly aware of the difficulty they faced in developing the full payment card system. This resulted in a "no-fault" replan of the project.

Despite the replan, the project continued to make slow progress, as the full implications of the greater than expected complexity of the Payment Card service requirement continued to emerge. Though ICL had delivered intermediate releases of software by November 1997, it had not completed, as required by the replan, a live trial to demonstrate satisfactory, sustained operation of child benefit payments and a range of Post Office functions in 300 post offices. In December 1997, ICL suggested that if the project were to continue it would either have to increase its prices by 30 per cent or extend the contract by five years.

In May 1999 the project was cancelled. The Government chose not to claim damages as part of an agreement with ICL in which the company also agreed not to counter-claim.

Although all high-level specifications had been agreed ahead of the issue of the Invitation to Tender, a decision was made not to complete before contract award the documentation of detailed requirements. This was a major contributor to the later problems of the project.

A key conclusion was that there must be agreement between purchasers and suppliers at the outset of IT projects on the extent to which new systems will either replicate the purchasers' existing systems, or re-engineer and simplify them.

*Source: C&AG's Report, The Cancellation of the Benefits Payment Card project, HC 857, 18 August 2000*

- 2.14 The Department sought the views of the Post Office and the Benefits Agency to assess the potential financial exposure of ICL in respect of the Benefits Payment Card project. The Department's financial advisers considered that ICL would have sufficient financial strength to undertake the Libra contract as it was owned by Fujitsu. The proposed contract would also allow the Department to undertake financial security tests annually. If ICL were to fail one of those tests, the Department would have been able to terminate the contract.

## ICL increased its bid from £146 million to £184 million before contract signature

### ICL underestimated its costs and overestimated its revenues

- 2.15 After appointing ICL as preferred bidder, the Department planned to sign the contract in October 1998 once it had been assured that ICL would not have any financial problems following the completion of the renegotiations on the Benefits Payment Card project. However, ICL

## 10 Reconciliation between ICL's opening and final bids

	Cost £m	Cost £m
<b>Opening bid (preferred bidder stage)</b>		<b>146</b>
Earlier delivery	11	
Incentive payments	15	
Higher caseload charges	12	
<b>Total extra costs</b>		<b>38</b>
<b>Final bid</b>		<b>184</b>

*Source: Lord Chancellor's Department*

informed the Department in October 1998 that its board was no longer able to support the charging basis on which ICL had submitted its bid. ICL had not included all the costs needed to meet the Libra requirements and had made some inappropriate cost and revenue assumptions. Following intensive post-tender negotiations, a price of £184 million was agreed. A reconciliation between ICL's opening and final bids is given in **Figure 10**.

### ICL agreed a faster timetable

- 2.16 The contract required the delivery of the infrastructure and bespoke software at the same time. ICL's tender proposed a start date of January 1999 and a three-year development timescale, with Libra being trialled at the first Magistrates' Courts Committee in December 2001. During post-tender negotiations, ICL offered to reduce the development timescale from three years to two. The Department declined that offer but agreed that ICL's plans showed that a 2.5 year timescale was achievable. The target for the first trial was brought forward to July 2001, with roll-out to be completed by March 2004. In addition, ICL would receive a bonus payment of £1 million if the service was commissioned at the first Magistrates' Courts Committee by February 2001. The contract would run for eight years from acceptance at the first Magistrates' Courts Committee and would end in July 2009 giving a total contract length of 10.5 years, of which five years would be full operation. The contract could also be extended twice by two years each time giving a possible contract length of 14.5 years. The gross cost to the Department of earlier delivery would be £11 million in return for the delivery of an additional nine months' worth of services.

### Incentive payments were introduced

- 2.17 The Department accepted ICL's proposal that delivery payments should be made for rolling out Libra. The Department believed that these would act as an incentive for ICL to achieve the first implementations and to complete the last. The payments were set at £1.5 million for three pilot sites and £1 million for rolling out Libra at the last Magistrates' Courts Committee. Payments for other Committees would vary from £20,000 to £690,000 depending on the size of the

Committee as measured by weighted caseload. The total payments of £14.8 million would be limited to £7.7 million in the first year of roll-out, £4.6 million in the second and £2.5 million in the third.

### Caseload charges were increased

2.18 Maximum payment for the delivery of services was based on an annual maximum weighted caseload of 12.2 million cases. The caseload charge was increased from £1.96 to £2.12. The maximum charge per year therefore rose from £23.9 million to £25.9 million. The total cost to the Department of the increased caseload charges would be £12 million over the life of the contract.

### The Department's testing of ICL's price was limited

2.19 ICL's original bid was cheaper than a Public Sector Comparator prepared by the Department (Figure 11). Its raised bid was much closer to the Comparator, which the Department had adjusted for some underestimated costs. But the Public Sector Comparator was not really comparable at all since it did not seek to match the solution offered by ICL. In particular it did not provide the centralised fully managed service proposed by ICL (which would have been impractical for the Department to deliver) but was based on local management of the system in Magistrates' Courts Committees.

2.20 In the absence of competition it is difficult to demonstrate that any offer from a single bidder represents value for money. A "should cost" model is

therefore often used to measure the reasonableness of the cost of all the elements of the solution that a bidder is offering. Such a model permits direct comparisons with a single bidder's estimated costs and provides a basis for challenging them. But access to the bidder's financial model is essential to the development of a should cost model. When the Libra procurement was taking place, Treasury Task Force advice was that the procuring Department did not need to examine the bidder's financial model if the bidder was funding the project from internal sources. The Department was only given sight of ICL's financial model at a presentation and had no copy. It was therefore unaware of the detailed make-up of ICL's costs.

### The contract was signed in December 1998

2.21 The Department assessed ICL's offer to be affordable and value for money. Before awarding the contract to ICL, the Department considered the alternatives. It believed that starting the procurement process again was too high a risk as the response to the original procurement had been limited. The Department had no confidence that new bidders would be attracted by a second procurement. On balance, the Department decided that the lowest-risk approach was to award the contract to ICL, particularly as Unisys was taking a risk-sharing stake in the deal and would be heavily involved in the development of the application. ICL and Unisys both had experience of magistrates' courts as they supplied two of the legacy systems.

## 11 Comparison between ICL's bids and a public sector comparator

	ICL original bid	Public sector comparator	ICL revised bid	Revised public sector comparator
	£m	£m	£m	£m
Bid	146	174	184	178
Project/contract management	10	5	9	5
<b>Total costs</b>	<b>156</b>	<b>179</b>	<b>193</b>	<b>183</b>
Readily realisable benefit (note 1)	(131)	(142)	(138)	(133)
Risk and residual value (note 2)	1	(7)	1	(6)
<b>Net cost</b>	<b>24</b>	<b>30</b>	<b>56</b>	<b>44</b>
<b>Net Present Value (note 3)</b>	<b>15.7</b>	<b>30.1</b>	<b>37.7</b>	<b>39.2</b>

### NOTES

1. Readily realisable benefits include savings on existing IT software and hardware support and maintenance; on IT equipment and software; on IT staff; and on the time spent and cost of entering case information and collecting statistical information.
2. Risk is the Department's estimate of the risk of overrun on the project. Residual value is the value of the assets left with the Department after the project has been completed.
3. The net present value of the contract price represents the amount that would have to be invested at the start of the contract to fund the expected cash payments which would need to be made to the contractor.

Source: Lord Chancellor's Department

## The deal was renegotiated after contract signature leading to a new contract in May 2000

### ICL threatened to walk away from the deal

2.22 In October 1999, some ten months after contract signature, ICL formally requested the Department to renegotiate the Libra contract on the grounds that ICL's cash flow forecasts showed a £39 million deficit over the life of the deal. ICL said that it would be unable to continue with Libra if this gap could not be closed. It wanted the negotiations to be concluded by 21 March 2000 as it would otherwise have had to declare a loss in its 1999-2000 accounts. It needed therefore to make a decision on whether to walk away by that date.

2.23 The potential cost to ICL for walking away was lower than the loss it was forecasting. The agreed limits of liability within the contract grew by £5 million for every six months the contract was in existence. At this point ICL could have walked away with a maximum liability of only £10 million. ICL's withdrawal would have forced the Department to find another supplier and this would probably have resulted in substantial delay and associated costs to the Department which the contractual liability would not have covered.

### The Department decided to continue with the contract

2.24 ICL and the Department assessed the scale of the problem using ICL's financial model. The model included assumptions about additional business opportunities which were not contracted, and which proved to be unfounded. ICL also considered that its projection of costs was underestimated. The Department employed Ernst & Young to assess ICL's capability of delivering the contract. Ernst & Young concluded that the position was worse than ICL had declared: ICL's financial model contained major flaws, was too complex and could not be relied upon for making business decisions. The Department and ICL agreed that a new financial model should be produced and jointly paid for and owned by the two parties to establish a proper baseline for negotiations. The new financial model corrected some of the assumptions in the original model and showed a cumulative deficit for ICL of £47 million over the life of the deal. PACE, independent consultants employed by the Department, considered that the project should be saved on the grounds that the project was basically sound; that the potential benefits confirmed the strategic importance of Libra to the criminal justice system as a whole; and that the project was too important to allow ICL to default.

## 12 Reconciliation between the original and renegotiated contract prices

	Cost £m	Cost £m
<b>Original contract price</b>		<b>184</b>
Contract extension	112	
Earlier roll-out of infrastructure	19	
Other changes (net)	4	
<b>Total extra costs</b>		<b>135</b>
<b>Renegotiated contract price</b>		<b>319</b>

*Source: Lord Chancellor's Department*

### A revised contract for £319 million was signed in May 2000

2.25 In May 2000 the Department and ICL signed a revised contract for the delivery of Libra. The value of the contract increased from £184 million to £319 million. The increase in costs was mainly for an extra four years of service at the end of the contract and for earlier roll-out of the infrastructure. Because the timing of the payments was re-profiled the Treasury provided the Department with additional funds for the early years against deliverables reducing ICL's borrowing requirement and consequential interest charges. A reconciliation between the original contract price and the renegotiated contract price is given in [Figure 12](#).

### The contract was extended

2.26 On the assumption that the core application would be delivered to the first Magistrates' Courts Committee by the target date of July 2001, the contract was extended by four years to 2013. This would allow ICL greater time over which to recoup its costs. The extension increased the cost of the contract by £112 million.

### The infrastructure was to be delivered early

2.27 The Department and ICL agreed that the infrastructure and office automation service would be delivered nine months ahead of the scheduled implementation of the core application at each site. The Department gained two benefits from the earlier roll-out of the infrastructure. First, the core application, once developed and accepted, could be rolled out more quickly nationally as the infrastructure would already be in place. Secondly, Magistrates' Courts Committees would benefit earlier from support for basic office functions, for example, e-mail with other courts and agencies within the criminal justice system. The advantage to ICL was that it would receive income under the deal at an earlier date. The incentive delivery payments were also split between the delivery of the infrastructure and the core application. ICL would receive 80 per cent of the original delivery

charge when the infrastructure was delivered and the remaining 20 per cent when the core application was delivered. The earlier delivery of the infrastructure increased the cost of the contract by a further £19 million.

#### Payments for deliverables and on acceptance of the core application were introduced and ongoing service charges were reduced

2.28 A number of other changes were made to the contract. The Department agreed to pay a total of £4 million if certain deliverables were made before 30 June 2000, enabling the start of the introduction of the office automation service (infrastructure) by October 2000. In addition, the Department would pay £5 million on delivery of the final version of the functional specification following acceptance of the core application at the first site in Suffolk in July 2001; £10 million on acceptance of the core application at Suffolk in return for the title to the intellectual property rights; and £3 million on the release of software principally for the Welsh language. In exchange for these extra payments the Department negotiated a reduction in service charges. The payment rate of £2.12 per weighted caseload a year was reduced to £1.40 for the office automation service and to £1.97 for when the office automation and core application were both in service.

#### New value for money mechanisms were introduced

2.29 The new contract gave the Department access to ICL's financial model and introduced sharing of excess profits. The agreed financial model forecast a profit over the life of the contract of 4.55 per cent. If actual profit exceeded six per cent, the Department would claw back increasing percentages of that excess, depending on its size. The aggregate of all clawback sums would not exceed £20 million over the life of the contract.

## ICL and the Department entered into further renegotiations of the contract in October 2001 but could not reach agreement

### ICL could not deliver the core application to the pilot site on schedule

2.30 In October 2000, ICL informed the Department that it would not be able to deliver all the software to the first site in Suffolk by the target date of July 2001. A joint review of ICL's plans recommended that criminal cases software should be delivered in July 2001, followed by the remainder ten weeks later.

2.31 In February 2001, ICL terminated the contracts of some of the senior managers involved in the project and appointed a new senior management team. The new team insisted on changing the direction of the project by agreeing a new method for documenting the Libra requirements definition. The new approach required a definitive document against which the product could be developed and formally tested and would address a number of integration problems. The new ICL team quickly recognised that based on its new approach it would be unable to achieve the July 2001 target date for the first site in Suffolk. In June 2001 ICL indicated that it would not be able to implement the core software at Suffolk until May 2003. As part of a wider Gateway Review into IT projects in the Criminal Justice System, a Gateway Review<sup>8</sup> of Libra took place in June 2001 (Appendix 3). The review was conducted as if it were Stage 4 of the review process which is normally carried out to determine whether the system is fit for deployment. Clearly Libra was not at that time in a state to be judged as fit for deployment and not surprisingly did not pass the review using the criteria appropriate to that stage. The review did find the project to be in serious trouble.

### By failing to meet the contractual delivery date of July 2001 for the first site, ICL was in technical breach of the contract

2.32 There were a number of remedies in the contract in the event of failure, including liquidated damages and termination. Liquidated damages in respect of the core software application could have been applied from the date of failure to deliver at a rate of £2,000 per day up to a maximum of 100 working days, a total of £200,000. Failure to deliver the core application also gave the Department the right to terminate the contract. In that event the Department could have sued for damages covering its costs up to the limits of the liability of £40 million set in the contract. The Department's lawyers advised that ICL would be likely to look to counter-claim (with or without justification) on a number of possible grounds, such as the business requirement not being sufficiently clear and the time taken by the Department to consult with magistrates' courts' representatives. The Department decided to take no action on the breach, however, because of the continuing discussions on a solution.

<sup>8</sup> A Gateway Review is a review of a project carried out at a key decision point by a team of experienced people independent of the project team.

## ICL requested a renegotiation to address its shortfall in revenue and increase in costs

2.33 In the spring of 2001 ICL informed the Department that it was in financial difficulties with the contract even at the price renegotiated a year before. In September 2001, ICL produced a new financial model, which indicated a maximum potential loss on the project, if it continued to 2013, of £200 million. ICL said that its parent company, Fujitsu, would repudiate the contract unless the Department negotiated to cover the loss. It gave two deadlines: 30 September for a legally binding commitment to renegotiate and 31 January 2002 to complete the deal. These deadlines related to the company's accounting periods. As in the case of the first renegotiation, the maximum liability for ICL walking away was lower than the loss it was forecasting.

## The Department chose to negotiate

2.34 On 1 August 2001 responsibility for the Department's supervision of Magistrates' Courts was transferred from its Policy Group to its Court Service Agency. The move, designed to provide a more coherent administration of separate court jurisdictions prior to their potential merger, also transferred senior client management of the Libra project to a new team. This team faced a very difficult situation when it took stock in August 2001. The Department's perceived alternatives at this point were to accede to the proposed repudiation of the contract or to enter into the proposed phases of re-negotiation. The team took the following factors into account. The Libra application roll-out timetable had not been achieved, although there was some promise demonstrated in trials of the software. ICL was asking for an immediate commitment to £30 million and about £200 million extra in total over the lifetime of the contract (which was the projected scale of its loss). ICL was also threatening to repudiate the contract. Senior managers from ICL made it clear to the Department that deadlines were being dictated by their parent company, Fujitsu in Japan. On the one hand, the Department could have terminated the contract. But its legal advice was that ICL would counter claim. And termination would have involved severe disruption to service delivery with the probability of long and contentious litigation for little apparent gain even if successful. Moreover, the Department at that stage had no developed contingency plan. It had no intention of meeting ICL's demands as it believed that any additional payments would not be for future additional value.

2.35 The Department needed time to evaluate all the possibilities. It needed to assess ICL's proposition fully as the emerging view of the Libra application built to date showed some potential to meet the requirements. At this time ICL had reinforced its technical input to the

development of the core application, and user representatives had been impressed by the on-screen developments they saw. The Department thought that despite successive failures to meet cost and time objectives to date, the potential prize was worth accepting some further risk and cost over a strictly defined period. At the same time the Department judged that it needed time to prepare contingency plans; to develop relationships between the new teams on both its and ICL's side; to build confidence about any proposed way forward among the user community, which had naturally been disappointed by failure to deliver hitherto; and to prepare for litigation if necessary; thus allowing a final decision to be based on the complete facts.

## A legally binding Memorandum of Understanding set out the scope for negotiations but this placed extra risks on the Department

2.36 For these reasons, in August 2001, the Department began a series of pre-negotiation meetings with ICL which led to a Memorandum of Understanding which set out the scope and principles for the negotiations. New governance arrangements for the project were agreed, including the appointment by the Department of a new project director and the establishment of a business design authority in the Court Service.<sup>9</sup> Involvement of users from Magistrates' Courts Committees increased in order to complete the requirements definition work.

2.37 The Memorandum was legally binding in respect of those terms that related to the period of the Memorandum and its terms were much less favourable to the Department than the existing contractual arrangements. For example, the scope of the project and contract term were reduced and the liquidated damages and termination clauses were suspended. The Department's legal advisers, Bird & Bird, expressed concern that the Memorandum also exposed the Department to significant financial risks. The Department sought advice from counsel who advised that to proceed with the Memorandum of Understanding was a sensible decision for the Accounting Officer to take. The Memorandum of Understanding was signed on 5 October 2001 and required the negotiations to be completed by 31 January 2002. The key features of the Memorandum are shown in **Figure 13**.

<sup>9</sup> The Court Service, an Executive Agency of the Department, took over responsibility for the project in July 2001 when it took over other responsibilities for magistrates' courts. The Chief Executive of the Court Service took on the Senior Responsible Officer role for the project.



### 13 Key features of the Memorandum of Understanding signed by the Department and ICL in October 2001

The Memorandum of Understanding set out the principles to form the basis for negotiation. These principles included:

- The contract would run to March 2007. The Department chose this end date because its other PFI IT projects, ARAMIS (resource accounting and management information) and LOCCS (IT services for the Crown and county courts) were due to end at that time.
- The Department would consider the use of flexible finance to provide ICL with a cash injection.
- The governance arrangements would be amended.
- The functionality for family and licensing would be removed.
- A revised development plan would be agreed.
- A new financial model would be shared.
- The Memorandum also made clear that the price in the financial model was based on a number of listed assumptions.

*Source: Lord Chancellor's Department*

2.38 Under the Memorandum of Understanding the Department was required to pay half ICL's ongoing development costs up to a maximum of £2.25 million a month, less half the Department's costs up to a maximum of £0.25 million a month. These payments were agreed because ICL had intended to stop all further work on software development until an agreement had been reached. The Department wanted to keep its options open by allowing development to continue until it had made a decision on the way forward; these sums would be netted off against charges under any agreed revised contract. If for any reason (other than ICL seeking changes outside the assumptions on which ICL based its financial model at the start of the Memorandum period) Treasury approval was not obtained for a business case based on the final agreed financial model, the Department would have had to pay in full ICL's costs up to a maximum of £4 million a month. If for any reason approval of Fujitsu (ICL's parent company) was not obtained, the company would have to pay in full the Department's costs up to a maximum of £0.5 million a month. The Memorandum did allow the parties to recover these payments if the contract was terminated, but recovery would have become part of the litigation process.

2.39 The Memorandum of Understanding was due to run from 5 October 2001 until 31 January 2002. When agreement was not reached by that date, both parties agreed to extend the Memorandum period until 8 March 2002. The Department paid ICL £10.5 million under the Memorandum of Understanding, with the sum to be taken into account in any new agreement.

### The Department could not reach agreement with ICL for ICL to continue with the whole contract

2.40 The Department considered that ICL's objectives were to reach a deal that recovered its sunk costs and removed as much risk as possible, either by specifying the requirements to a level of detail that provided it with certainty or by transferring risks back to the Department. At the beginning of the Memorandum of Understanding period in October 2001, ICL's price was £283 million but there were known to be additional costs for items left out of that price. These included major items such as family and licensing, bulk printing and consumables, estimated by the Department to be in the order of £30 million, together with a large number of minor items. The £283 million figure was reached after ICL's financial model was updated to reflect costs, timescales, the revised term of the contract and ICL's assumptions about scope and functionality. At this stage both the Department and ICL believed, on the basis of these provisional assessments, that there were good prospects of a successful completion of the re-negotiations which would sustain the full Libra project within acceptable boundaries of affordability and value for money.

2.41 However, on 8 February 2002, ICL quoted a new price of £400 million for the enhanced infrastructure and full core application. The price assumed that the Department would pay significant sums throughout the period of development to minimise ICL's borrowing requirement. The Department considered that this price was not affordable and did not provide value for money. This conclusion was endorsed by a second Gateway Review carried out in February 2002 (Appendix 3). On 26 February 2002, after further negotiations, ICL reduced its price to £384 million although it was not a finalised price. ICL later offered an alternative solution with a different technical architecture and delivery plan and further reduced scope. But the Department considered the plan to be flawed. The reduction in scope was not considered acceptable and the projected timescales unachievable. Considering this outcome of its due diligence investigation, the Department decided not to proceed any longer with one contractor for the Libra project but to undertake fresh negotiations with a view to a disaggregated approach securing infrastructure, application and integration services from separate suppliers.

## ICL had performed poorly on the contract and tried to recover the situation.

2.42 The Department had lost confidence in ICL's capacity to deliver the full Libra project.

### ICL realised it could not develop MASS in the way it initially thought it could

2.43 During the procurement of the PFI deal in 1997, the Department had provided bidders with the MASS software that it had already developed, together with associated documentation. ICL based its bid on developing the MASS software, which included an initial three month evaluation of the MASS software, and a positive outcome from that evaluation. After evaluation of the MASS software ICL decided that it could not use the MASS software development and chose to proceed with its own development. The decision was made by ICL three months after contract signature.

### There was little continuity in ICL's management

2.44 Departmental staff involved in the procurement stayed to manage the contract. On the ICL side, the Business Director from the negotiating team remained on the contract until a new Business Director was appointed in May 1999. At a similar time, the ICL Project Director, who had also been involved in the procurement phase, was replaced following Departmental concerns about his attitude. In November 2000, the ICL Business Director retired early through ill health. He was replaced on an interim basis within a month and a permanent replacement arrived in February 2001. Further changes occurred in the early autumn of 2001 with the appointment of a new management team for the period of the contract renegotiation.

### ICL started writing computer programmes too early

2.45 Because of time pressures imposed by the contract - which ICL had agreed to - ICL started writing detailed computer programmes before it had developed a full functional specification. It had started with the "waterfall" approach to system development - a structured approach with a fixed sequence of activities - and developed a functional specification, which was found to be deficient for its purpose. It therefore switched to "joint application design", an iterative approach with developers working with users to develop the system in small components, steadily adding more and more functionality. Such a parallel approach to system development can increase productivity but may lead to greater difficulty in integration. ICL productivity improved significantly, but integration problems were also encountered.

### ICL did not meet the target dates for delivery of the core application

2.46 By October 2000 ICL's development of the core application had slipped and it could no longer deliver full functionality for a service trial to take place at Suffolk in July 2001. A joint review carried out in November 2000 recommended that the Suffolk trial should start as planned in July 2001, but be extended by two months with an incremental delivery starting with new criminal cases only. A subsequent increment would cover existing criminal cases, family cases, licensing, interfaces, management information systems and magistrates training. Further slippage ensued. In February 2001 ICL realised it could not achieve the new targets.

### ICL tried to recover the situation

2.47 ICL appointed a qualified technical architect to be the sole point of responsibility for all matters relating to design against requirements, for development, and for ensuring that testing would assure the Department and ICL management of a deliverable, usable and supportable system. ICL believes, with the benefit of hindsight, that it should not have continued development but should have suspended the development work much earlier and insisted on full business process definition and the logical requirements definition before recommencing design and coding. It told the Department in the first half of 2001 that the Statement of Business Requirement was insufficiently detailed to enable it to be sure of the Department's requirements. In the spring of 2001, ICL initiated a process to document the overall business environment within which Libra would operate. This involved the Department, Magistrates' Courts Committees and ICL in a series of workshops with the intention of preparing the logical requirements definition. This effectively rendered nugatory over a year's worth of Magistrates' Courts Committee and Departmental staff effort in providing information to and reviewing documents from ICL in its original approach to requirements definition.

## The Department considered other options for continuing with Libra

2.48 By September 2001, the Department had identified three main options:

- 1 to continue with ICL to deliver Libra based on the scope and contract term (to 31 March 2007) negotiated during the Memorandum of Understanding period.
- 2 to terminate the contract with ICL and procure all services from new suppliers.
- 3 to continue with ICL providing the infrastructure only and to seek another software supplier.

## Option 1: Continue with ICL for the whole project

2.49 As noted in paragraph 2.41, ICL's price for this option was £384 million. Costs transferred to the Department, together with Departmental and other project costs, would amount to £73 million, bringing the total cost to £457 million. The Department considered that this option did not provide value for money.

## Option 2: Terminate the contract with ICL and start again

2.50 The Department estimated that the likely costs of the termination, re-procurement and new contract would amount to £331 million, which, together with Departmental and other project costs of £74 million, would bring the total cost of this option to £405 million. The Department's lawyers considered that the Department had a good case for terminating the contract and recovering damages but that ICL would counter-claim leading to litigation, which could be a long, slow and expensive process. In practical terms, the roll-out of the infrastructure to Magistrates' Courts Committees would stop and could not be resumed until a new supplier had been procured, which might take up to 15 months. In the meantime, ICL would be required to support the infrastructure already rolled out. The Department expected such support to be minimal and no improvements to the infrastructure would have been possible.

## Option 3: Continue with ICL for the infrastructure only and seek another software supplier

2.51 The Department estimated that the contract and other project costs for this option would be £318 million and £72 million respectively, making a total cost of £390 million. The Department's aims for this option were:

- to protect the continuing provision of the infrastructure services to Magistrates' Courts Committees, to ensure that the planned roll-out continued to conclusion and to provide early delivery of the necessary infrastructure improvements;
- to protect the continuing provision of existing services, which support the business of the magistrates' courts. Given that two of the existing systems were frail and could experience serious support problems, the Department considered it essential to have a robust, alternative system available as soon as possible.

2.52 The Department considered that STL supplied the best of the existing systems but that it needed some enhancement. The STL system, unlike the ICL and Unisys systems, has been updated to run on a modern

server and has new software available which covers new areas of support. The Department therefore considered it capable of meeting the current business needs of Magistrates' Courts Committees and the wider criminal justice system. The Department told us that STL's system already represented most of the functionality expected from ICL's development of Libra. Any significant shortfalls, such as support for accounting in the larger amalgamated Magistrates' Courts Committees could be added by STL as part of a contract with the Department. Differences between what Libra would have delivered and what STL would then deliver would be minor and could be added progressively if necessary after roll-out.

2.53 Independent advisers assessed STL's capability and concluded that STL was capable of enhancing its EQUIS system to provide a support service to all Magistrates' Courts Committees. They considered, however, that STL would not have the capacity to roll out the software, including the migration processes, in a reasonable timescale. This function would therefore need to be handled by a separate systems integrator.

## The Department chose the third option (ICL infrastructure and STL software)

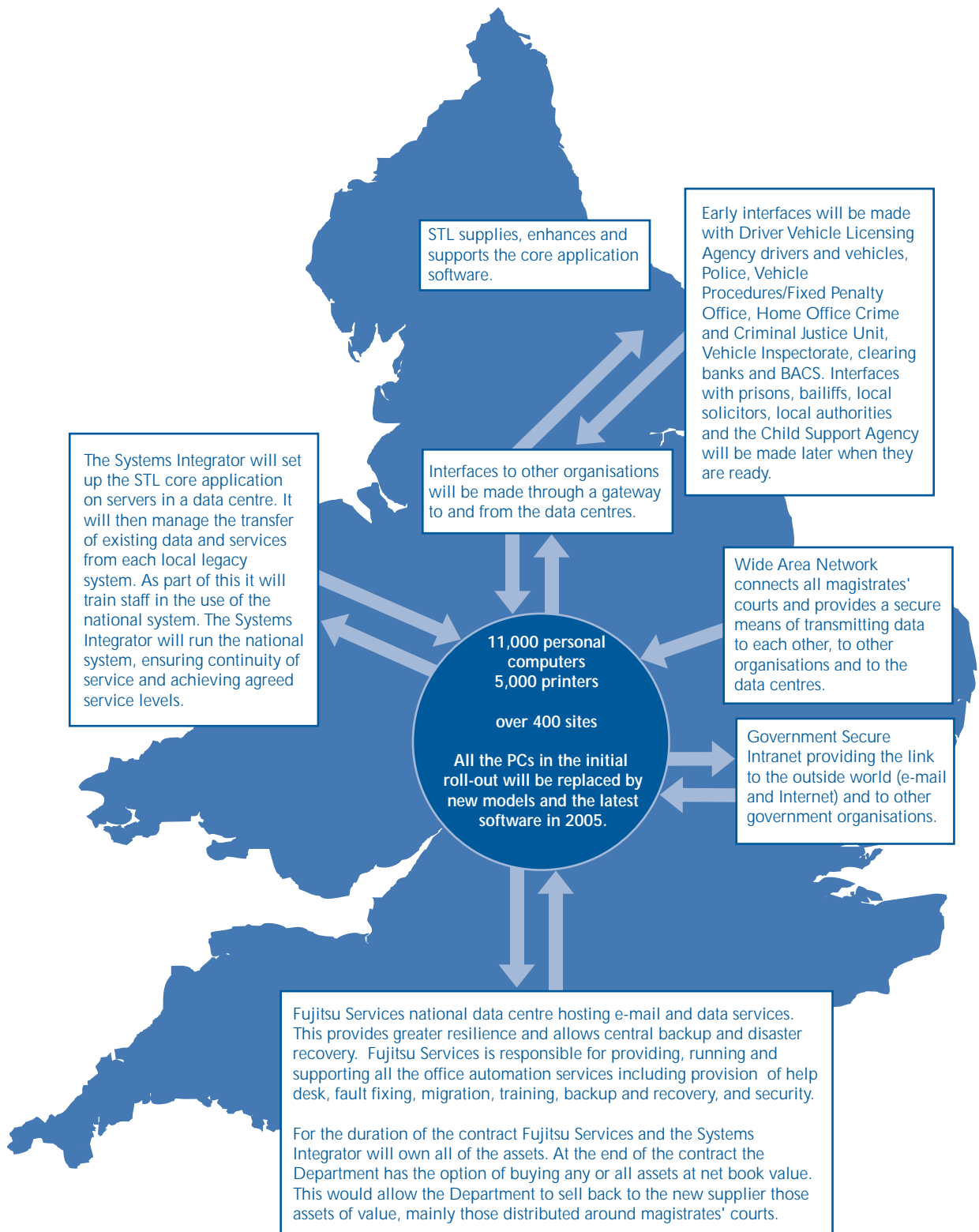
2.54 The third option was the cheapest (**Figure 14**), although the cost was based on a number of major assumptions. The Department recognises the possibility that the price for the STL option may turn out to be higher than estimated as a consequence of the Department choosing to negotiate a price with STL through a single tender and procure a systems integrator in competition. The Department's cost estimates for this option were based on data and estimates from many different sources. An independent review of these estimates considered that the assumptions applied were sensible and provided a reasonable appraisal of costs. As well as being better on price, the Department considered that STL's enhanced legacy system could be delivered at much lower risk as it was based on tried and tested software. It would provide a national, standard core application which the Department estimates could be achieved by early 2005 compared with ICL's estimate that it could complete the implementation of the core application by July 2005. The selection of this option was endorsed by a Gateway Review conducted in February 2002.

### 14 The cost of the three options for continuing with Libra

	Cost £m
Option 1: Continue with ICL for the whole project	457
Option 2: Terminate ICL contract and start again	405
Option 3: Continue with ICL for infrastructure and STL for software	390

Source: Lord Chancellor's Department

15 How the different elements of Libra will link together



Source: Lord Chancellor's Department

## A revised contract was agreed for ICL to supply only the infrastructure element of Libra

2.55 The contract for ICL to continue to provide and service the infrastructure element of Libra was signed on 23 July 2002.<sup>10</sup> ICL had written off £32.5 million as a result of cancellation of the software development element of the contract. The Department expects to sign contracts by January 2003 with STL for the software application and towards the end of 2003 with a systems integrator to roll out the application. **Figure 15** shows how the different elements of Libra will now link together.

### ICL's price for the infrastructure is within the benchmark range

2.56 ICL's initial price for the revised contract was £250 million but the Department succeeded in reducing it to £232 million. The estimated value of £232 million includes £31 million paid under the existing contract for the delivery and operation of the infrastructure services already received by Magistrates' Courts Committees. The Department employed independent consultants to conduct a "should cost" benchmarking exercise. ICL's base cost of £189 million was within the consultants' "should cost" range of £178 million to £194 million (excluding interest, risk and profit).

2.57 The contract includes milestone payments of £46.4 million (including the milestone payments made under the original agreement) for successful implementation of the enhanced infrastructure. The Department and ICL also agreed a financial model which contained a forecast profit of 7.2 per cent. The Department would share in profits in excess of nine per cent, the share increasing as the amount of the excess profit increased. Total clawback on profit would have a cap of £20 million over the life of the contract. The limit of liability in a termination scenario would be £60 million or (if higher) 125 per cent of charges in the previous year.

2.58 ICL based its initial costs on assumptions that it would provide 5,000 new workstations and take over up to 3,500 existing workstations in the Magistrates' Courts Committees. During the renegotiations in 2000 ICL sought to replace the commitment to transfer existing workstations with an approach where it would provide new standard workstations to all users. The Department agreed and the number of workstations was recalculated resulting in a revised requirement for 8,000 work-

stations plus 1,500 for in-court computing. The Department later had to revise that estimate further when it became aware that the information on which it was based (supplied by Magistrates' Courts Committees) was for full-time equivalents when part-time employees also required work stations, together with a further increase as a consequence of the transfer of enforcement from the police to the courts. The Department included a requirement for 11,000 workstations as part of the Memorandum of Understanding negotiations in 2001. Some £10 million of the increased contract price is also due to other enhancements of the infrastructure.

### ICL is delivering the infrastructure to schedule

2.59 Roll-out of the infrastructure started on schedule in October 2000 and by October 2002, 36 of the 42 Magistrates' Courts Committees had the new infrastructure. Roll-out is due to be completed by April 2003, with additional equipment to be provided for courtrooms between March and September 2003.

2.60 The infrastructure will be superior to what most Magistrates' Courts Committees had before. The new infrastructure provides for the first time a workstation for all staff and a national e-mail system allowing all Magistrates' Courts Committees to communicate with each other securely. On current plans, during 2003, secure e-mail to the rest of government will be provided through the Government Secure Intranet. The first three releases of enhancements which include provision of Internet access have gone live on target.

2.61 **Figure 16** shows that most Magistrates' Courts Committees, which have the Libra infrastructure, consider that it is better than what they had before. Those that consider Libra to be worse had previously had up-to-date equipment and access to the Internet though they were not connected to national e-mail. The principal reasons given for Libra being better were the ability to communicate with other Magistrates' Courts Committees nationally through e-mail and access to the Internet. Magistrates' Courts Committees did, however, identify two main problems. These were:

- Libra's current slow response times when loading or saving very large Microsoft Office files; and
- the need to retain old software applications and equipment on their old infrastructure, which requires some staff to use two processors with a T-switch between them to a single display.

<sup>10</sup> The Department had planned to sign the deal on 30 May 2002, but dealing with the concerns of the Office of Government Commerce and the Treasury delayed the signing until 23 July 2002.

## 16 Magistrates' Courts Committees rating of Libra compared to their pre-Libra infrastructure.

		Magistrates' Courts Committees ratings of their pre-Libra infrastructure			
		Poor	Reasonable	Good	Total
Magistrates' Courts Committees rating of Libra compared to their previous infrastructure	<b>Worse</b>	0	2	8	10
	<b>Same</b>	0	-	1	1
	<b>Better</b>	6	13	6	25
	<b>Total</b>	6	15	15	36

Source: National Audit Office telephone survey of Magistrates' Courts Committees

- 2.62 The slower response times on Microsoft Office products result from storing data at data centres (to provide resilience, back-up and disaster recovery). This means that data crosses the wide area network as opposed to just the local network, which Magistrates' Courts Committees used before Libra. To address this problem, ICL is installing local file servers. In addition Magistrates' Courts Committees are continuing to use their old infrastructure and software applications largely because the core application, which would have replaced most of those applications, has not yet been delivered. The Department with ICL has started a major programme of migrating the remaining software applications and equipment onto the Libra network. Any which cannot be migrated will remain on a stand alone basis. These actions will allow the old infrastructure to be removed.
- 2.63 The Department obtains feedback on the Libra service from each Magistrates' Courts Committee on a quarterly basis. This allows Magistrates' Courts Committees to state the level of importance and the performance delivered against a series of pre-defined categories. Availability and reliability are measured for the office automation service. Across the past four quarters those Magistrates' Courts Committees with Libra implemented have increased their level of satisfaction with Libra from 7.8 to 8.4. ICL follows the industry benchmark in regarding a score of below five as being "in need of urgent management action" and a score of eight and above as being "no action required". The maximum score is ten.

The delivery of the software application is expected to be completed by early 2005

2.64 The Department expects to sign a contract with STL for the software application by January 2003. This will be a licence arrangement together with enhancement and software support. A systems integrator will then be appointed to roll out and run the application, develop and run a data warehouse, run the interfaces with other criminal justice organisations and manage the interface with the infrastructure being supplied by ICL. The systems integrator will also provide the programme management service linking the contractors together. The Department expects to appoint the systems integrator by competition towards the end of 2003. The aim is to complete most of the roll-out of the new application by the end of 2004.

2.65 The Department recognises that this is not intended to be a long-term solution but to provide a robust low-cost, low-risk, standard national application, which will support Magistrates' Courts Committees at least through to 2007. This date has been chosen to coincide with the expiry of contracts for existing Crown and county court IT systems thus allowing a cross-court solution to be developed thereafter. The standard national application will, however, be capable of providing a solution beyond 2007 if necessary, and the contract for the application includes extension options to provide the Department with that flexibility.

## The cost of Libra is now considerably higher than in the original contract

2.66 Delivering Libra is now estimated to cost £390 million, comprising £318 million in contract costs and £72 million in other project costs. The contract costs include £232 million for the infrastructure contract with ICL, £7 million already paid to ICL for the core application, and an estimated £79 million for the core application services with STL and a systems integrator. In the business case for the procurement of the deal, the Department estimated its cost of managing the contract at £10 million. It now estimates that these costs will total £12 million as it will be managing three contracts instead of one. A further £60 million will be needed for staff, legal and procurement advisers, Magistrates Courts' Committee costs for migration and other activities, extended legacy system costs and other enhancements to the infrastructure service.

**17 Cost and contract length of the current Libra project compared with earlier contracts**

Date	December 1998 original contract	May 2000 revised contract	Current proposal
<b>Contract costs</b>	<b>£184m</b>	<b>£319m</b>	<b>£318m (note 1)</b>
Internal project costs	£10m	£18m	£12m (note 2)
Additional enhancements and other costs	See note 3	See note 3	£60m (note 3)
<b>Total costs</b>	<b>£194m</b>	<b>£337m</b>	<b>£390m</b>
<b>Contract length</b>	<b>10.5 years</b>	<b>14.5 years</b>	<b>8.5 years</b>

**NOTES**

1. Contract costs include £232 million for the infrastructure contract with ICL, £7 million already paid to ICL for the core application, and an estimated £79 million for the core application services with STL and a Systems Integrator. The number of PCs included in ICL's costs increased from 5,000 to 11,000 from the December 1998 contract to the current proposal, with corresponding increases in the number of printers and the associated support costs.
2. Contract and project management costs only.
3. A range of additional enhancements and costs have been identified as part of the current plans, including Government Secure Intranet implementation, integration of existing applications (in addition to the three main applications) as well as Magistrates Courts' Committee costs for migration and other activities, and extended legacy system costs. These were not included in the earlier costings, but would have been identified as the project developed.

Source: Lord Chancellor's Department

2.67 **Figure 17** compares the cost and contract term of the current proposal with earlier contracts. The figures show that the Department will be paying a great deal more for a shorter contract term although the scope of the requirement has expanded. The Department estimates that the contract cost of the current proposal (£318 million over 8.5 years) would be £557 million over a contract life of 14.5 years. This figure cannot be compared directly with the £319 million over 14.5 years for the first contract revision agreed in May 2000, as the new agreement includes the provision of 2,500 additional PCs and associated printers as well as a number of enhancements to the office automation service such as Internet browsing.

### The benefits from the project are expected to total £84 million

2.68 In the business case for the procurement of the deal, the Department estimated the readily realisable benefits of the project as being £131 million over a 10.5 year contract with eight years for them to be realised.<sup>11</sup> It now estimates the benefits to be £84 million in the new arrangements with only 3.25 years for them to be realised, although the benefits will continue to accrue beyond the life of the current contract. The Department will be reassessing these estimates over the coming year.

### By 30 September 2002 ICL had received payments totalling £63.1 million

2.69 The Department has paid ICL £50.8 million so far (£3.9 million for paper deliverables, £36.4 million for acceptance of the infrastructure by Magistrates' Courts Committees and £10.5 million for the Memorandum of Understanding negotiations). Magistrates' Courts Committees have paid ICL £12.3 million in weighted caseload payments. ICL has incurred performance deductions of £59,500.

2.70 If the project now proceeds according to plan, ICL is likely to receive a further £175.9 million, making £239 million in total. This comprises £232 million under the revised infrastructure contract and £7 million for work on the cancelled core application.

<sup>11</sup> Readily realisable benefits include savings on existing IT software and hardware support and maintenance; on IT equipment and software; on IT staff; and on the time spent and cost of entering case information and collecting statistical information.





# Part 3

## Unified administration in 2005 provides an opportunity to re-engineer business processes with new IT

- 3.1 The Auld Report, "Review of the Criminal Courts of England and Wales", published in October 2001, recommended the establishment of a unified criminal court. The Government responded to the report in the "Justice for All" white paper, published in July 2002. The Government's view was that the benefits from unification could be realised through a closer alignment of magistrates' courts and the Crown Court. The Government therefore intends to legislate to bring magistrates' courts and the Crown Court closer together - collectively these courts will be known as "the criminal courts". It also intends to integrate their management within a single courts organisation to replace existing Magistrates' Courts Committees and the Court Service. The Courts' Bill therefore provides for the abolition of Magistrates' Courts Committees and the transfer of magistrates courts to the Department, within which an executive agency will be set up to manage all courts. The target date for the launch of the new agency is April 2005.
- 3.2 This Part of the Report examines the consequences of unified administration for IT systems in the magistrates' courts. We conclude that the Department needs to plan ahead now for the IT systems to replace Libra and other court systems where the contracts are due to end in 2007. New IT systems need to be developed in parallel with changes in magistrates' court processes once unified administration is in place.
- 3.3 The Auld Report identified the lack of common IT as one of the main impediments to achieving better overall management of the criminal justice system. It made a number of recommendations for improving IT systems (Figure 18).

### The Auld Report called for better integrated IT systems across the criminal justice system

#### 18 The Auld Report's main recommendations on IT

Number	Recommendation	Government response
92	The Government should ensure, as a matter of urgency, routine provision, through an integrated system of IT or otherwise, of complete and accurate information of a defendant's criminal record at all allocation hearings.	Accepted. The Government is proposing to take this forward as it works towards improving IT systems across the criminal justice system.
137	The Criminal Justice Board should discontinue the IBIS project of linking up the six main information technology systems in the criminal justice system, and should instead, within a set timescale, produce an implementation plan for an integrated information technology system for the whole of the criminal justice system based upon a common language and common electronic case files.	Rejected. The Government's preferred approach is to join together existing and developing IT systems in a staged development, working towards improving IT systems across the criminal justice system.
138	The implementation of an integrated system of information technology should be organised in six projects, to run either in parallel or sequentially, namely: case tracking; management information; unification of data; extending the categories of user; case management; and unification of enabling technologies.	Accepted.

Source: Auld Report "Review of the Criminal Courts of England and Wales" and the Government White Paper "Justice for all"

## The Government has embarked on a major investment programme to improve IT across the criminal justice system

- 3.4 The Government has established a new organisation - Criminal Justice Information Technology (CJIT) - that replaces the Integrated Business and Information Systems (IBIS) unit. It has a remit to deliver a major programme of IT projects significantly to improve the integration of IT systems and access to information across the criminal justice system. Libra will be a major element in that programme, and the Department is fully committed to its aims and objectives. The Director-General of Criminal Justice Information Technology reports to Ministers in the Home Office, the Lord Chancellor's Department and to the Attorney-General.
- 3.5 The three key targets for CJIT to improve IT systems across the criminal justice system are:
- by 2003 to ensure that all criminal justice system professionals will be able to e-mail each other securely;
  - by 2005 to ensure that all criminal justice system organisations will be able to exchange case file information electronically; and
  - by 2005 to ensure that victims will begin to be able to track the progress of their cases on-line.

## The Department considers that Libra is essential to the implementation of unified administration

- 3.6 Key outcomes of the work programme to deliver unified administration include:
- effective implementation of streamlined procedures and administrative systems;
  - improved technology to support the business model and procedures and provide users with greater choice and access to services.
- 3.7 The decision to pursue the current IT strategy for magistrates' courts was taken in March 2002 before the "Justice for All" white paper was published. The Department considers nevertheless that Libra is essential to the implementation of unified administration. To operate effectively unified administration requires a national IT infrastructure, which allows magistrates' courts to communicate both internally and externally. It also needs in place a robust, standard, national IT system to support the business of the magistrates' courts, including process automation to promote efficient operations and comprehensive management information. One of the developments planned for an early stage is to ensure that software applications can handle much larger

business units, with complex organisational structures, thereby facilitating any organisational changes that unified administration might introduce.

- 3.8 The Department recognises that a key risk to the delivery of unified administration is that IT systems development may not progress at the required speed. This could create barriers to implementation of streamlined procedures and administrative systems and reduce or delay the potential benefits of closer alignment.

## The introduction of unified administration will not initially involve significant changes to magistrates' court processes

- 3.9 The far-reaching changes to criminal justice proposed in the "Justice for All" white paper do not require major changes to processes in magistrates' courts. The changes are either legal (such as evidence requirements) or affect the volume of cases (for example, in changing what type of cases will be heard in which courts). Although details will not be fully worked out until the middle of 2003, the Department's initial analysis of the main changes indicates that they will have no effect on the IT systems supporting the management of cases. None have been identified which look likely to require major IT system changes.
- 3.10 The creation of the new unified administration provided for by the Courts' Bill will be a major undertaking involving changes to the structure and organisation of court management. The Department considers that to attempt a re-engineering of the business processes inside the courts at the same time as the creation of the unified administration would potentially cause change overload and place the whole programme in jeopardy. The Department has therefore taken a conscious decision to concentrate early efforts on setting up the organisation. This will not take place before 2005 with subsequent structural changes evolving after that date.

## The Department sees scope for changes in magistrates' court processes once unified administration is in place

- 3.11 The Auld Report identified differences in practices, procedures, management and culture of the criminal courts to be confusing, divisive and inefficient. Different courts often have different forms and procedures for court users. Organisational boundaries between different court services form an institutional barrier to the effective management of the courts. Wide variations exist in the performance of different Magistrates' Courts Committees.

3.12 The Department recognises as a long-term aim the standardisation and improvement of business processes across magistrates' courts. It considers that such changes should be addressed once the unified agency is in place and operating successfully beyond April 2005.

### The Department needs to plan ahead now for the IT to replace Libra and other court systems where the contracts are due to end in 2007

3.13 The Department's IT approach is an interim one, intended to provide IT services to support business processes until unified administration has been established and longer-term plans developed. Major business change would be delivered through the subsequent systems being considered for 2007 onwards when contracts expire for Libra and existing Crown and county court IT systems. To that end, the Department has acted to make all contracts coterminous and, where possible, to provide the flexibility needed to phase migration to the new arrangements.

3.14 Initial scoping work for IT provision after 2007 began in 2002 and this work will be completed by the end of the 2002-03 financial year. Current plans involve major business change in the civil courts on an earlier timescale than 2007 subject to financial provision. It is equally important that the Department does not wait until 2007 before considering what changes are necessary to current procedures to improve the efficiency and effective delivery of criminal court services and to rationalise administration across the different elements of the new unified structure.

3.15 IT development offers the prospect of looking at procedures afresh and to come up with different ways of doing things that are easier, quicker and more effective. It is important that these opportunities are not lost by delaying consideration of these matters until the contracts for the next generation IT systems are due to be let. The identification of system improvements always requires careful thought and the active engagement of all interested parties to ensure that their needs and requirements are met. This process needs to be started early and the work being undertaken on the scope is a necessary starting point. The lead times are long and matters need to be resolved well before the next IT contracts are to be let if the new technology is to deliver the benefits expected. Changing procedures during negotiations or after contracts are let would be inefficient, costly and unlikely to be fully effective.

# Appendix 1

## National Audit Office Methodology

- 1 The National Audit Office examined the progress made by the Lord Chancellor's Department in implementing Libra, the PFI project to provide new IT systems for magistrates' courts.
- 2 We used an issue analysis approach to design the scope and nature of the evidence required to complete this examination. We set a series of high-level audit questions that we considered it would be necessary to answer to assess the success or otherwise of the procurement, and collected evidence accordingly. For each of the top-level questions, we identified a subsidiary group of questions, linked logically to the main questions, to direct our detailed work and analysis. Our general report, *Examining the value for money of deals under the Private Finance Initiative (HC 739, 1998-99)*, provides an outline of this general methodology which acts as a starting point for all our PFI examinations.
- 3 The top-level questions we set were:
  - Has Libra been delivered to time and budget?
  - Does Libra meet the needs of Magistrates' Courts Committees?
- 4 Our main evidence has been derived from examining documents held by the Lord Chancellor's Department and interviews with relevant staff within the Department and ICL (now Fujitsu Services).
- 5 We conducted a telephone survey of the 36 Magistrates' Courts Committees which have the Libra infrastructure and office automation installed. We asked them to rate:
  - the standard of their IT infrastructure pre-Libra on a scale of poor, reasonable or good and to explain the reasons for their rating; and
  - Libra compared with their previous infrastructure on a scale of worse, same or better and to explain the reasons for their rating.
- 6 We also commissioned an expert consultant, Professor Andrew Davies of the Cranfield University School of Management, to undertake detailed work on our behalf. He examined how the Department had developed its proposals and how ICL had performed.

# Appendix 2

## Chronology of the Libra project

Date	Event (including announcements or evidence given in Parliament)
Oct 1996	The Department started to procure a PFI contract to deliver the Libra project.
Nov 1996	The Department received 19 expressions of interest in response to a notice in the Official Journal of the European Communities.
Sep 1997	Two bidders (ICL and EDS) submitted detailed proposals.
1 May 1998	The Department invited bidders to submit their final tenders.
May 1998	EDS declined to submit a response to the Invitation to Tender thus withdrawing from the bidding process.
27 May 1998	ICL submitted the only bid for £146 million.
Jul 1998	ICL was chosen as the preferred bidder.
Oct 1998	ICL increased its bid from £146 million to £184 million.
21 Dec 1998	The Department awarded the contract to ICL after assessing ICL's offer as affordable and value for money. The contract was for £184 million over 10.5 years for ICL to provide a national IT infrastructure for magistrates' courts and to develop a standard national application to support court work.
27 Jan 1999	<i>The Minister of State said in a written answer that the Libra contract had been awarded to ICL.</i>
Oct 1999	ICL sought a renegotiation of the contract as its cash flow forecasts showed a £39 million deficit over the life of the deal.
May 2000	The Department and ICL signed a revised contract for £319 million over 14.5 years. The increased cost was mainly for an extra four years of service and for earlier roll-out of the infrastructure.
Oct 2000	Roll-out of the infrastructure started on schedule.
Nov 2000	ICL informed the Department that it would only be able to deliver criminal cases software to the first site in Suffolk by the target date of July 2001, with software for family and licensing cases to be delivered 10 weeks later.
Feb 2001	ICL informed the Department that it would be unable to deliver family and licensing software in the revised timescale, placing the July 2001 date in jeopardy.
Feb 2001	ICL terminated the contracts of some of the senior managers involved in the project and appointed a new senior management team.
Jun 2001	ICL told the Department that its forecast losses were now so high that it could not continue with the contract unless it was substantially renegotiated.
Jun 2001	A Gateway Review found the project to be in serious trouble and concluded that it was not in a fit state to pass the review.
Jul 2001	The Court Service, an Executive Agency of the Department, took over responsibility for the project.
5 July 2001	<i>The Parliamentary Secretary said in a written answer that the software part of the project had been delayed by 15 to 18 months.</i>
31 Jul 2001	ICL was in breach of the contract for failing to meet the delivery date for core software at the first site. The Department decided to negotiate with ICL rather than terminate the contract and sue for damages. The Department started to consider other options for continuing with Libra.
Sep 2001	ICL told the Department that its maximum potential loss on the project was £200 million and that it would repudiate the contract unless the Department negotiated to cover the loss.
5 Oct 2001	The Department and ICL signed a legally binding Memorandum of Understanding, which placed the Department in a less favourable position than simply continuing with the existing contractual arrangements and relying on its contractual rights.
8 Feb 2002	ICL proposed a new price of £400 million for the enhanced infrastructure and full core application. The Department considered that this price was not affordable and did not provide value for money. This conclusion was endorsed by a second Gateway Review.
Feb 2002	After further negotiations, ICL reduced its price to £384 million. The Department could not reach agreement, on grounds of value for money and affordability, for ICL to continue with the whole contract.
April 2002	ICL changed its name to Fujitsu Services.
21 May 2002	<i>The Parliamentary Secretary said in a written answer that the contract was currently under renegotiation and it was not yet possible to indicate the outcome.</i>

Date	Event (including announcements or evidence given in Parliament)
27 May 2002	<i>The Lord Chancellor said in a written answer that the Government had no intention of allowing Libra to fail. The software application had been delayed and discussions were under way with Fujitsu Services (formerly ICL).</i>
24 Jun 2002	<i>The Accounting Officer told the Committee of Public Accounts that the Department was negotiating with Fujitsu Services (formerly ICL) about the software package but that the negotiations had not finished.</i>
8 Jul 2002	<i>The Parliamentary Secretary said in a written answer that a decision on the best way forward for the Libra project was expected shortly.</i>
9 July 2002	<i>The Accounting Officer supplied the Committee of Public Accounts with a note in confidence on the Libra project, and said that an announcement on the outcome of the negotiations was expected before the Summer Recess.</i>
23 Jul 2002	The Department signed a revised contract with Fujitsu Services (formerly ICL) for £232 million over 8.5 years to supply only the infrastructure element of Libra.
23 Jul 2002	<i>The Accounting Officer provided the Committee of Public Accounts with an updated note on the Libra project and said that the revised contract had been signed and that an announcement would be made the next day in the House.</i>
24 Jul 2002	<i>The Lord Chancellor and the Parliamentary Secretary announced in written answers the variation to the contract with Fujitsu Services (formerly ICL) and the intention to procure application services separately.</i>
Jan 2003	The Department intends to sign a separate contract with STL to develop the core software application.
Apr 2003	Roll-out of the infrastructure is due to be completed.
End of 2003	The Department intends to appoint a systems integrator to roll out the application.
End of 2004	Roll-out of the new application should be mostly complete.
31 Mar 2007	End of Fujitsu Services contract term.

# Appendix 3

## Gateway Reviews of the Libra project

### The purpose of Gateway Reviews

1. The Gateway process reviews a project at critical stages in its life cycle to provide assurance that it can progress successfully to the next stage. A Gateway Review is carried out by a team of experienced people, independent of the project team. Review reports are for the Senior Responsible Owner of the project and it will be his or her decision to authorise project progression or implementation of recommended remedial actions.

### Points at which Gateway Reviews are undertaken

2. The Gateway process considers the project at six critical points in its development, four before contract award and two looking at service implementation and confirmation of the operational benefits. The Office of Government Commerce emphasises that the full benefits of the process are realised on projects which go through all of the Gateway Reviews. The reviews are:

Gateway Review 0: strategic assessment	Should take place after a department has established the business need for a project.
Gateway Review 1: business justification	Should take place after a department has developed the business case for the project.
Gateway Review 2: procurement strategy	Should take place after a department has developed its procurement strategy.
Gateway Review 3: investment decision	Should take place after a competitive procurement.
Gateway Review 4: readiness for service	Should take place after award and implementation of a contract.
Gateway Review 5: benefits evaluation	Should take place as services are being delivered and benefits are being achieved.

### Libra went through two Gateway Reviews

3. The Libra project had already been procured before the Gateway process was introduced in January 2001. The first Gateway Review that the project went through

was not requested by the Libra project but was initiated as part of a wider review of the IBIS programme in the Home Office. It was classed as a Gateway Review 4, readiness for service, in June 2001 but the Libra team had not claimed that it was at this stage. The second review, a Gateway Review 3 investment decision, was conducted in February 2002 when the Department was considering alternatives to ICL completing the whole contract.

### The first Gateway Review (June 2001)

4. This Gateway Review was conducted after ICL had told the Department that it was no longer possible to deliver full functionality for a service trial to take place as planned in Suffolk in July 2001. The review confirmed the Department's view that Libra was not in a fit state to pass a Gateway 4 Review as the implementation of the service trial at Suffolk was unlikely to take place until 12 to 18 months after the previous target date.
5. The review team identified the major risks to successful delivery as being:

- **Major weaknesses in the development process.** This problem was perceived by the Department as a failure by ICL to provide the quality of business analysis expected under the contract; and by ICL as a consequence of the awkward relationship between the Department and Magistrates' Courts Committees, which resulted in the Department being unable to act as a traditional user/customer, and the Committees being too fragmented to carry out such a role effectively. The review team thought that both perceptions had validity and needed to be addressed to ensure that the development process was being effectively managed. It noted that the absence of a formal life cycle had contributed to the absence of an end-to-end project plan, which on its own would have raised serious doubts about the ability of the project to deliver.

- **Business processes.** The review team found it surprising that, after several years of effort, there was still no comprehensive map of business processes. It was dismayed to find that, on the technical side, code had been cut before the system design work had been completed and indeed before requirements had been documented and validated.

- **The contract.** The review team found that the contract was widely (though not unanimously) regarded by the Department as unworkable, and was seen by the current ICL team as something it should never have signed up to.<sup>12</sup> The contractual position had exposed, and continued to expose, ICL to considerable financial risk, without giving ICL sufficient control to manage that risk.
- 6 The review team recommended that ICL and the Department should continue to work urgently on a recovery plan which addressed issues of management, process and contract structure. The contract would need to be revisited to support these changes. At the extreme, it might be necessary to consider a fundamental unbundling of the contract. Failing to take the opportunity to put the contract onto a more practical and manageable footing would be highly prejudicial to the chances of success.
- 10 The review team concluded that ICL should continue to supply the infrastructure but that continuation with ICL for the core application was untenable on grounds of affordability, value for money, and lack of confidence in the supplier. One of the current legacy systems, EQUIS, provided by STL, provided a credible and robust medium-term solution to the requirements for a common core application. This solution offered, on the surface, reasonable value for money compared with the ICL proposals and industry benchmarks. However, the cost of integrating the STL system across the STL infrastructure was not known. The review team also felt that the capability and resources of STL single-handedly to manage the development and roll-out of its applications across the whole Magistrates' Courts Committee community was likely to be inadequate.
- 11 The review team made the following recommendations:

- The Department should determine whether the medium-term needs of all the Magistrates' Courts Committees would be fully satisfied by a combination of the systems provided by ICL for the infrastructure and the EQUIS application to be supplied by STL for the core application.
- The procurement of the STL application should be sought in conjunction with a major systems integration company.
- The Department should proceed with the roll-out of the ICL infrastructure. However, the risks needed to be recognised and firmly managed. In particular, it was the review team's view that the current offer from ICL of £250 million for the infrastructure represented poor value for money. The review team recommended that this poor position should be used to justify vigorous negotiation with ICL in an attempt to reduce the cost of the infrastructure, which it believed to be too high. Furthermore, in view of the review team's finding regarding the rigid approach of ICL to change, and the likelihood that it would seek additional money at every stage of the integration of the core application with the infrastructure, the infrastructure contract would require careful contract management. It recommended that the size and skill of the current intelligent customer function in the Department be maintained at a high level or even enhanced.

## The second Gateway Review (February 2002)

- 7 This Gateway Review was conducted towards the end of the negotiations with ICL during the period when the Memorandum of Understanding was in force. At the time the Department was considering various options for continuing with Libra.
- 8 The review confirmed that the proposals that had emerged from ICL appeared to be substantially more costly than the initial proposals, such that it was not possible to demonstrate value for money and affordability for ICL's main option. It identified that ICL's proposed contract cost for an agreement up to 2007 was £384 million, and would have been higher but for the transfer of certain risks and costs back to the Department, some minor reductions in functionality and a reduction of the term of the contract. The review also noted that the substantial delays in the development of the core application had damaged the Department's view of the credibility of the supplier.
- 9 The review team considered that ICL had made too many mistakes early in the life of the project, including poor requirements analysis, early nugatory product development, unrealistic initial costing, frequent changes of personnel and inadequate business and technical line management. However, the review team visited ICL and was impressed by the progress made on the core application, but considered more needed to be done, as navigation through the product was uncertain.

<sup>12</sup> ICL disagrees with this statement, and the current ICL team regards the contract as having been undeliverable.



# Appendix 4

## Key Lessons identified by the Committee of Public Accounts

In its report, *Improving the Delivery of Government IT projects* (First Report, Session 1999-2000, HC 65), the Committee of Public Accounts identified a number of key lessons for the better management of IT projects in the public sector. We asked the Department to assess its own performance on the Libra project against the relevant key lessons identified by the Committee.

Key lesson	Department's response	NAO comments
Departments should ensure that they analyse and understand fully the implications of the introduction of new IT systems for their businesses and customers.	<p>The need for new IT systems for magistrates' courts was identified in a number of official reports, including one from the Committee of Public Accounts. The frailty of legacy systems has increased this need over time.</p> <p>The Department has been working with staff from the Magistrates' Courts Committees on the required content of the IT system for several years. Committees signed up to a single national IT system with which they would have to conform. The impact of the major programme of Committee amalgamations during the late 1990s was one of the factors which determined the "minimum change" approach.</p> <p>The business case took into account savings from closing down old IT systems but anticipated only modest savings from the introduction of the new system because they could not be estimated with certainty.</p> <p>A Magistrates' Courts Committee-led group was responsible for drawing up the Statement of Business Requirements, and lead users approved documents detailing the analysis of those requirements.</p> <p>The contract requires ICL to carry out a post-implementation review of each local Committee's migration to the new office automation infrastructure. Joint reviews have been carried out at each Committee after live running commenced. Findings have been fed back to the migration process and there has been measurable improvement in ICL delivery processes and Committee satisfaction over the period since national roll-out commenced.</p>	Ideally business processes should have been redesigned in parallel with a new IT system being developed. This would have helped to secure the most efficient and effective way of carrying out the operations of Magistrates' Courts Committees.
Departments must consider carefully the scale and complexity of projects to assess whether they are achievable.	The Department understood the scale and complexity of the project at the time the contract was awarded to ICL, given that it had been working on delivering its predecessor for a number of years. The detailed functional specification from the old system was used as the basis for the PFI contract. The bidders' proposals were carefully checked to make sure they had fully understood the complexity of the requirement and that delivery timescales reflected this. The project reviews in 1999 confirmed that the project was deliverable within the contractual timescales.	The Department should have considered, before letting the contract, the advantages of having the infrastructure and office automation part of the project delivered early before the roll-out of the core application.
Delays in implementing projects place them at risk of being overtaken by technological change.	<p>The infrastructure being rolled out is based on the latest professional operating system, Windows 2000. The Department's contract with ICL requires ICL to "refresh" the workstations and software after four years. Other components such as servers have a longer life. The original ICL software application was based on the latest version of Oracle software. The revised approach is based on a modern database and will conform to the Criminal Justice Information Technology standard for a web-based service.</p> <p>There has been significant increase in the use of PCs, and office IT services since the original requirement was written and the contract renegotiation has provided the opportunity to bring the requirement up to date.</p>	Since the contract was let technological advances have been made, for example, wide use of the Internet and the Government Secure Intranet. These developments have been incorporated into the revised contract.

Key lesson	Department's response	NAO comments
<p>The project specification must take into account the business needs of the organisation and the requirements of users.</p>	<p>The users within the Magistrates' Courts Committees drew up the Statement of Business Requirement. The main priority, agreed by the Department and users, was to implement a standard system to replace the ageing existing systems. This would protect the business and provide a common platform to exploit opportunities for any future changes to the business processes both within the magistrates' courts and in the wider criminal justice system. More than 100 users have worked alongside developers to define detailed requirements and the migration process. Several senior customers are members of the Programme Board and Strategic Board.</p> <p>Getting input and approval from 42 independent Magistrates' Courts Committees has always been difficult. The creation this year of a Senior User Group representing all 42 Committees has been a significant improvement.</p> <p>For infrastructure, users from many Committees were involved in the specification and review of migration processes. Whilst implementation of office automation follows a set of standard processes, there is flexibility within these to accommodate business needs of the local organisation.</p>	<p>Magistrates' Courts Committees had a difficult relationship with the Department. The Department was responsible for providing a single view of requirements for the new system across 42 Magistrates' Courts Committees but this was difficult to achieve.</p>
<p>Senior management has a crucial role to play in championing the successful development of IT systems.</p>	<p>Throughout the Libra development there has been strong senior management support and involvement. During the early years this came from the Director-General, Policy in the Department. Subsequently the Chief Executive of the Court Service took over this role. The Permanent Secretary of the Department has been involved from the outset. The project has had a Senior Responsible Owner since the role was recommended in 2000.</p>	
<p>It is vital that departments pay attention to the management of risks and have contingency plans in case projects are not implemented as planned.</p>	<p>Risk management has been a feature of the project throughout and risks were jointly managed with the supplier. The risk management procedures have, however, been progressively improved in the last 12 months and now conform to the procedures set down in the Court Service risk management guidelines.</p> <p>The Department had, however, only a high-level contingency plan in place at the start of the project in case ICL did not deliver against the contract. It is recognised that this was inadequate and detailed contingency plans were drawn up only when it became clear that the contract might have been in jeopardy due to timescale and cost overruns.</p> <p>For each infrastructure roll-out a local risk management plan is agreed and monitored.</p>	<p>The Department should have had detailed contingency arrangements in place from the start of the project. It was, however, hampered in this respect because of the original low number of bidders for the project.</p>
<p>Relations between the department and the supplier will have a crucial effect on the success of the project.</p>	<p>The first Senior Responsible Officer for the Department was its Director-General, Policy. In the first two years of the project, there were a number of changes of ICL manager. This made it difficult for the Department to build and maintain long-term and meaningful relationships with ICL.</p> <p>ICL has attended senior project management boards since the contract was awarded and was given full membership status in 2001. Libra staff were collocated with ICL development staff at Winnersh, to provide input on detailed requirements and plan testing etc.</p> <p>The Department and ICL have undertaken relationship workshops during the contract, including one with the company since the signing of the new contract.</p> <p>During infrastructure roll-out, senior managers on both sides have met regularly to plan, monitor and manage implementation and service management. The Department has provided account managers to work in a tripartite arrangement with ICL and Magistrates' Courts Committee staff at each Committee, to deliver jointly each Committee implementation. Feedback from post-implementation reviews has been that this organisational approach forged close relationships at local level and that this team effort was critical to the successful local implementation of Libra office automation.</p>	<p>The lack of continuity hampered the Department's understanding of progress on the project. It should have taken a more proactive role in understanding how ICL was developing the core application and whether it was an approach that would lead to delivery of the project to price and schedule. This was, however, an early PFI project and there was a feeling held by both parties that the risks of development had been passed to ICL. The use of relationship workshops is an improvement.</p>

Key lesson	Department's response	NAO comments
<p>Contracts between departments and suppliers must be clearly set out.</p>	<p>The PFI contract with ICL was very detailed and comprehensive and drawn up with the help of commercial lawyers. There are also local agreements with each Magistrates' Courts Committee, which provide them with details of what to expect from the services and allow them to specify local details. The contract renegotiation has indicated areas where the contract could have been clearer and improvements have been built into the revised contract.</p>	
<p>Sufficient time and resources should be spent on ensuring that staff know how to use the IT system.</p>	<p>Full training was given to all staff when the infrastructure was rolled out. A catalogue of further training is available for subsequent use. The new software application has not yet been delivered but full training and customer support is being built into contracts. Planning for migration, both of the infrastructure and the software application, begins a year before migration starts to ensure that preparation is comprehensive and effective.</p> <p>ICL carries out evaluation of all training and the consequent training evaluation reports are agreed as part of the post-implementation review at each Magistrates' Courts Committee. Lessons learned are fed back into the process and have resulted in corrective action.</p>	