



National Audit Office

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## **Report**

by the Comptroller  
and Auditor General

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## **Ministry of Justice**

# Efficiency in the criminal justice system

## Key facts

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**33%**

percentage of **effective** trials in the Crown Court in 2014-15 (those that go ahead as planned on the day they were due to start)

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**£21.5m**

estimated cost to the Crown Prosecution Service for cases that do not go on to trial, for example due to late guilty pleas. It is not possible to calculate the cost of these trials to other parts of the system

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**34%**

increase in the backlog of cases in the Crown Court since March 2013

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**£2 billion**

total amount spent per year by central government on the criminal justice system (excluding police, prisons and other bodies who prosecute cases)

**24,481**

reduction in the number of trials heard in the England and Wales criminal justice system in 2014-15 compared with 2010-11 (11% fewer trials)

**£44 million**

additional costs due to the increasing length of Crown Court trials (year ending September 2015 over 2010-11)

**£36.1 million**

minimum additional cost of cases that could be heard in either court going to the Crown Court rather than the magistrates' court in 2014-15

**£4 million**

amount the Crown Prosecution Service could save if the level of 'cracked' trials (those that collapse on the first day) in the bottom two quartiles of Local Criminal Justice Board areas reduced to the level of the top quartile

**9,489**

more cases heard on time in magistrates' courts in the year to September 2015, compared with 4 years earlier

# Summary

**1** The criminal justice system (the system) in England and Wales investigates, tries, punishes and rehabilitates people who are convicted or suspected of committing a crime. In the year to September 2015, 1.7 million offences were dealt with through the courts. The system is made up of police forces, the Crown Prosecution Service (CPS) and other bodies who can bring prosecutions, HM Courts & Tribunals Service (HMCTS), alleged victims, witnesses, victims and witness services, prisons, probation services, the judiciary and lawyers. Defendants and convicted offenders are key participants.

**2** The system has evolved over time, has no single 'owner' and has been subject to regular change and reform. It incorporates a wide range of bodies with different functions and accountabilities. For it to work as efficiently as possible, each part must complete its work on time and get it right first time. There are many factors that make it difficult for the system to work efficiently. These include:

- **independence:** organisations need a degree of independence from each other to ensure that the system is just, but each part depends on the others to allow it to function. There is a national Criminal Justice Board, which oversees the system as a whole;
- **discretion:** the defendant and the witnesses can make choices about pleas or giving evidence, and can change their mind at short notice;
- **demand:** although overall levels of crime are falling, the number of more complex court cases (for example, sex offences, complex fraud and terrorism) has increased; and
- **working practices:** some parts of the system are still heavily paper-based, and all parts are operating under reduced budgets.

**3** Measuring whether the criminal justice system is achieving its many objectives is not always straightforward. Some objectives may conflict (for example, possible tension between punishing and rehabilitating offenders). Even when an objective is clear, for example ensuring that people who are guilty of an offence are convicted and innocent people are not, there is no simple way to know whether the system is achieving it. There are some elements of performance that can be measured more easily, including whether the different parts of the system are getting it right first time, whether cases are starting when they are supposed to and whether cases are being progressed reasonably quickly.

## Scope

**4** This report looks at efficiency throughout the criminal justice system in England and Wales, from the point at which a defendant is charged, to the point at which a court case concludes. The systems in Scotland and Northern Ireland are devolved and fall under the remit of the Scottish Parliament and Audit Scotland, and the Northern Ireland Assembly and the Northern Ireland Audit Office.

**5** The report considers the extent and impact of inefficiencies in the system, including cost, time and the quality of the justice system, and victims and witnesses' experience. The Committee of Public Accounts reported on the criminal justice system in May 2014. Our report returns to some of the issues it raised, in particular the extent to which interdependencies between organisations are understood and good practice is identified and disseminated.

**6** There are a number of initiatives, led by the judiciary, HMCTS and the CPS, to make the system more efficient. These include changes to working practices, digital infrastructure and the courts estate. We do not comment on the likely success or otherwise of these programmes as many of them are still at an early stage.

**7** The report is structured as follows:

- **Part One** covers the overall performance of the system from charge to disposal, and why it is important for the Ministry of Justice (the Ministry) to lead efforts to reduce the inefficiencies in the system.
- **Part Two** examines the main causes of inefficiency.
- **Part Three** looks in more detail at the differences in reported performance across the country.
- **Part Four** outlines the programme of reforms the government has put in place to tackle inefficiency in the system, and highlights some general risks that will need to be managed.

## Key findings

### Performance

**8** **Delays are getting worse against a backdrop of continuing financial pressure.** Spending on the system has fallen by 26% in real terms since 2010-11 and this is set to continue. There are slightly fewer cases entering the system, but the complexity of cases has increased. Backlogs in the Crown Court increased by 34% between March 2013 and September 2015, and waiting time for a Crown Court hearing has increased by 35% (from 99 days to 134) since September 2013 (paragraphs 1.5 to 1.10).

**9 There have been some improvements in the management of cases since 2010-11.** The proportion of effective trials (those that go ahead as planned) in the magistrates' court has increased from 34% in the year ending September 2011 to 39% in the year ending September 2015. In the Crown Court, although the proportion of effective trials is relatively stable, the proportion of cases that collapse on the day of trial (termed 'cracked') has fallen from 30% in the year ending September 2011 to 24% in the year to September 2015 (paragraphs 1.12 to 1.16).

**10 Two-thirds of cases still do not progress as planned, creating unnecessary costs.** Trials that collapse or are delayed create costs for all the participants, including the CPS, witnesses and HMCTS. In 2014-15, the CPS spent £21.5 million on preparing cases that were not heard in court. Of this, £5.5 million related to cases that collapsed due to 'prosecution reasons', including non-attendance of prosecution witnesses and incomplete case files. The Legal Aid Agency (LAA) funded defence counsel to the tune of £93.3 million for cases that were not heard in court (paragraphs 1.12, 1.17 to 1.19).

**11 Delays and collapsed trials also damage the public's confidence in the system.** Giving evidence in court as a witness or victim can be a difficult and stressful process. The uncertainty caused by delays and collapsed trials exacerbates this. Only 55% of people who have been a witness or victim in court would be prepared to do so again. Those who have experienced the system as a victim are less likely to believe it is effective than those who have not (paragraphs 1.20 and 1.21).

#### Addressing the causes of inefficiency

**12 The Ministry and CPS are leading an ambitious reform programme but this will not address all the causes of inefficiency.** The court reform programme's scope is far-reaching. It includes rationalising and modernising the estate to enable more efficient digital working and the roll-out of a single digital case management system accessible by all parties. Better IT infrastructure and a modernised estate would provide the tools for a more efficient, less paper-based system, but are not sufficient to address all the causes of inefficiency in the system (paragraphs 4.2 to 4.10)

**13 Inefficiencies are created where individuals and organisations do not get things right first time, and problems are compounded because mistakes often occur early in the life of a case and are not corrected.** There can be multiple points of failure as cases progress through the system but these are often not identified until it is too late. A 2015 inspection found that 18.2% of police charging decisions were incorrect. Incorrect charging decisions should be picked up by the CPS before court, but 38.4% of cases were not reviewed before reaching court. The system's reliance on paper also builds in inefficiency (paragraphs 2.2 to 2.6, Figures 8 and 9).

**14 The system as a whole is inefficient because its individual parts have strong incentives to work in ways that create cost elsewhere.** As there is no common view of what success looks like, organisations may not act in the best interests of the whole system. For example, courts staff seek, under judicial direction, to ensure they are in use as much as possible by scheduling more trials than can be heard so that there are back-ups when one trial cannot proceed. This is both a cause and a result of the inefficiencies in the system, and leads to costs for other parts of the system, for example witnesses who spend a day waiting to give evidence for a trial that is not then heard, and who may then be more likely to disengage from the process (paragraphs 2.7 to 2.13).

**15 There is significant regional variation in the performance of the system, suggesting that there is scope for efficiency gains.** A victim of crime in North Wales has a 7 in 10 chance that the trial will go ahead at Crown Court on the day it is scheduled, whereas in Greater Manchester the figure is only 2 in 10. The large variation in performance across the country means that victims and witnesses will experience very different levels of service. If the performance in those Local Criminal Justice Board areas with the highest rate of cracked trials was equivalent to the best-performing quartile, 15% more cases would proceed as planned, saving a minimum of £4 million in CPS costs, as well as those costs incurred by other organisations (paragraphs 3.2 to 3.5).

**16 There are some mechanisms to identify and share good practice, but awareness and use of these varies.** Our case study visits identified a range of innovative approaches that made a positive impact on the system. These included implementing an appointment system for the approval of search warrants, which saved a significant amount of police time, and creating a dedicated videoconferencing court. But there is varied awareness and use of mechanisms to identify and disseminate learning from these initiatives (paragraphs 3.6 to 3.18).

## **Conclusion on value for money**

**17** Reducing inefficiency in the justice system is essential if the increasing demand and reducing funding are not to lead to slower, less accessible justice. Although the bodies involved have improved the management of cases, around two-thirds of criminal trials still do not proceed as planned on the day they are originally scheduled. Delays and aborted hearings create extra work, waste scarce resources and undermine confidence in the system. Notwithstanding the challenges of improving the efficiency of a system designed to maintain independence of the constituent parts, there are many areas where improvements must be made. Large parts of the system are paper-based and parties are not always doing what they are supposed to do in a timely manner. The system is not currently delivering value for money.

**18** The ambitious reforms led by the Ministry, HMCTS, CPS and judiciary are designed to tackle many of these issues by reducing reliance on paper records and enabling more flexible digital working. They have the potential to improve value for money but will not address all of the causes of inefficiency. More also needs to be done to explore and address the wide regional variations in performance, and to create incentives that encourage all parties to operate in the best interests of the system as a whole.

## **Recommendations**

**19** Improving the efficiency of the criminal justice system is challenging. While the current reform programme will tackle many areas of inefficiency, it will not remove the underlying reasons for inefficiency that we explore in this report. Our recommendations aim to create a shared understanding of effectiveness and improve cross-system working.

- a** **The Criminal Justice Board should agree what ‘good’ looks like for the system as a whole, and the levels of performance that each part of the system can commit to deliver to achieve this.** It should report publicly on whether these levels of performance are being met. While it is important that the different parts of the system are not able to unduly influence individual cases, this cannot preclude agreement over the level of service that each element of the system should provide. Whenever possible, these measures should focus on quality and align with the system’s overarching aims.
- b** **The Criminal Justice Board should regularly review performance at a level sufficient to identify good practice.** Unlike many other areas of government, there is granular performance data available for many aspects of the system. Identifying and exploring regional variations in performance will highlight innovative practice, as well as giving organisations across the system incentives to improve.
- c** **The Criminal Justice Board should establish mechanisms to increase transparency and encourage feedback through the system.** This is particularly important where one element of the system has a direct but discretionary impact on another. For example, when magistrates’ courts refer ‘either way’ cases to Crown Court they should be able to find out how many of these cases were ultimately sentenced within magistrates’ court powers. This would allow them to judge whether they are sending the right cases.