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HM COURTS SERVICE
Administration of the Crown Court

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SUMMARY

The role of HM Courts Service in administering the Crown Court

1 In 2007, the Crown Court received 136,000 criminal cases, including the most serious cases such as murder and rape. The Crown Court sits in almost 100 locations in England and Wales. It is administered by HM Courts Service, which is an executive agency of the Ministry of Justice. HM Courts Service is organised into six regions, and Wales and has 24 areas which are responsible for the day-to-day management of Crown Court locations and other courts within their boundaries. HM Courts Service calculates that in 2007-08 the cost

of operating the Crown Court was around £382 million. Appendix 1 summarises the structure of HM Courts Service, and lists the Crown Court locations in each area.

2 In April 2008 the Lord Chief Justice (the Head of the Judiciary of England and Wales) and the Lord Chancellor (the government minister responsible to Parliament for the courts and justice) published¹ an agreement setting out arrangements for the governance, financing and operation of HM Courts Service. This partnership agreement (see Appendix 2) enhances the judiciary's role in setting the aims, priorities and funding of HM Courts Service, but the Service's Chief Executive remains responsible for its day-to-day running.

¹ HM Courts Service Framework Document. The document is available at www.hmcourts-service.gov.uk/cms/files/Framework_Document_Fina_Version_01-04-08.pdf

3 HM Courts Service is responsible for providing the staff, the estate and other support necessary to enable judges to exercise their judicial functions independently. Under the direction of the judiciary, the Service's staff allocate dates or slots when cases are to be heard in the Crown Court – known as listing – and manage the progress of cases to trial by working with the defence and the prosecution. The Service is facing an increasingly tight financial position, with its budget declining over the period from 2007-08 to 2010-11.

Scope of the NAO examination

4 HM Courts Service's performance indicators for the Crown Court focus on the time taken to commence cases once they are received from the magistrates' courts. There are many factors which influence the speed with which cases commence. Some of these factors, such as the availability of judges, preparedness of the prosecuting agency or defence counsel, and the availability of witnesses are largely outside HM Courts Service's control. In addition, the listing and management of cases are the responsibility of the judiciary.

5 It was not within the ambit of this examination to address issues which are the responsibility of the judiciary or other parties to the criminal justice process. Our examination was scoped to address matters which fall directly within the Chief Executive's responsibility for the efficient and cost-effective day to day management of HM Courts Service.

6 We therefore examined whether HM Courts Service could make better use of three key Crown Court resources, which we identified as the three most important factors under HM Courts Service's direct control that influence the performance of the Crown Court. These three resources are:

- The Crown Court estate (covered in Part Two of this Report). The number, location and standard of court rooms, and supporting facilities, can affect the capacity of the Crown Court to hear cases and impacts on the experience of those who attend court hearings.
- Staffing of the Crown Court (Part Three). HM Courts Service staff manage case files and case progression, list cases and facilitate the progress of hearings and trials.
- Information Technology in the Crown Court (Part Four). The quality of IT influences the ease and efficiency with which Crown Court staff can undertake their work and the range, quality and timeliness of information that is available to HM Courts Service, the judiciary and other users of the courts.

7 The methodology for this study is set out in Appendix 3. The focus of our review was HM Courts Service. However, for aspects of human resources, learning and development and information technology, HM Courts Service draws on corporate services provided by the Ministry of Justice. We reviewed these services where necessary to complete our examination.

Main findings

On the Crown Court estate

8 Between 2008-09 and 2010-11, HM Courts Service plans to spend around £100 million a year on new Crown Court and other court buildings and major refurbishments to existing court buildings. Of this spending, the Service has allocated, or earmarked, a total of £120 million to projects which will increase the number of Crown Court rooms by 30 (or around six per cent) by the end of 2012. The Service forecasts that over the period 2008-09 to 2010-11 it will also spend around £120 million a year on maintaining and improving its entire estate, of which it estimates around £35 million will be spent on the Crown Court.

9 HM Courts Service has developed forward looking estates strategies. The strategies would have been improved if the Service had clearly articulated its understanding of the level and distribution of future Crown Court workload and had developed a standard method for its areas and regions to assess the resources required to meet that workload. Estates and wider business planning would also be improved by better access to consistent service-wide information on existing provision. Most data on the number of court rooms and the facilities in court houses, such as secure docks and waiting rooms for defendants, are held regionally and consistent definitions have not always been used. Whilst regional data aids local planning, including bidding for any central funding, such data are not sufficient to enable those at the centre of HM Courts Service to assess the adequacy of national provision and develop strategies to tackle any problem areas. As at December 2008, the Service was undertaking an exercise to establish a central inventory of its existing estate. It was also reviewing its national estates strategy with the intention of basing it on a full assessment of future court workload.

10 In some parts of the country there is potential within the existing estate to increase the number of court days when Crown Court cases can be heard. In contrast, some Crown Court locations in the South East are running at or close to full capacity. At these locations capacity constraints can contribute to long waiting times to commence cases which adversely affect victims and other parties in a court case.

11 Within the South East and London, HM Courts Service is seeking to tackle local constraints on Crown Court capacity by transferring blocks of cases to other courts. Such transfers can reduce the long time taken to commence some cases thus benefiting victims and other parties. The Service recognises transfers must be handled carefully as they can often place burdens such as increased travel time on those attending courts. There has, however, been no full evaluation of the impact of transfers on victims, witnesses and defendants, and on HM Courts Service and its criminal justice partners.

12 Sixteen of the 30 new Crown Court rooms, which HM Courts Service is planning by 2012, are being added in London and the South East where capacity constraints are the greatest. Eleven of the new rooms are being created by converting space in existing court buildings, mainly magistrates' courts. Creating Crown Court rooms through conversions requires less time than that required to build new courts and much lower levels of capital funding.

13 Since 2005, the maintenance backlog across all parts of the HM Courts Service estate has been reduced by around £36 million to £182 million in 2008. The number of Crown Court locations at critical risk of operational failure or building failure has fallen by 60 per cent in the two years to March 2008. The tight financial position now faced by the Service has, however, seen one region reduce its non-capital maintenance budget in 2008-09, and levels of maintenance spending could be squeezed further in future years.

On the staffing of the Crown Court

14 Between 2005-06 and 2007-08, HM Courts Service's data show that the average number of full time equivalent staff working in the Crown Court fell by six per cent to 2,385. These staff, who account for 15 per cent of HM Courts Service's total workforce, cost the Service £58 million to employ in 2007-08. The Service's data show that staff turnover is low, with two per cent of Crown Court staff leaving HM Courts Service in 2007-08, and a further two per cent moving elsewhere in the organisation.

15 Between 2005-06 and 2008-09, there was no national model for informing staffing levels at Crown Court locations, increasing the risk that locations may not have been appropriately staffed. A benchmarking exercise undertaken by the South East region in 2007-08 found variations in the workload of some categories of Crown Court staff, including ushers and administrative staff. The region is working with its areas to determine whether the variations reflect local factors – such as

the size and layout of court buildings and differences in case mix – or the effectiveness with which staff are deployed. In summer 2008, the Service identified the need to re-introduce a staffing model for the Crown Court and as at December 2008 it was finalising a model to be used from 2009-10 onwards.

16 The Ministry of Justice's recruitment process is not meeting the needs of court-based staff, who are critical of the long time taken to recruit staff which they say has added to pressures on existing staff and reduced court performance. Court staff are concerned that a new screening approach, which enables quick sifting of applications, has reduced the quality of candidates identified as suitable for interview. The performance of the Ministry's recruitment service has not been helped by sharp variations in the number of staff HM Courts Service has wanted to recruit for all parts of its business. A separate NAO study,² examining recruitment at six central government organisations, has identified process improvements the Ministry could make to remove unnecessary labour-intensive steps in recruiting staff for HM Courts Service. These changes have the potential to cut recruitment times and could reduce the Ministry's costs of recruiting staff by £225,000 in a typical year.

17 Crown Court staff receive on-the-job training and should undertake learning and development activities. Staff at the six courts we visited in summer 2008 were critical of the quality and availability of the formal learning and development programmes provided for front line staff. In May 2007, the Ministry of Justice concluded that learning and development programmes available to HM Courts Service staff and other staff were uncoordinated and inadequately evaluated. To address these problems, responsibility for developing court-specific skills was transferred to HM Courts Service from the middle of 2008, and the Ministry has altered the way it delivers activities which develop the personal effectiveness skills which are required across its business. HM Courts Service also increased its learning and development budget for 2008-09 by £3 million to £4.4 million. The Service is using £1.5 million of its increased budget to improve the consistency and quality of business skills training by increasing the number of dedicated trainers it employs. The initial priority for these staff will be training magistrates' courts staff, although some training should be provided for Crown Court staff by April 2009. But the volume of training for Crown Court staff is not yet known and depends upon the size of the 2009-10 learning and development budget. The indicative budget for 2009-10 is £2.8 million.

² C&AG's report, *Recruiting civil servants efficiently*, HC 134 2008-09.

18 HM Courts Service had high levels of staff absence in 2006-07 and 2007-08. On average the Service's staff took 11.2 days of sick leave, some 1.7 days (or 18 per cent) higher than the average absence rate across the civil service for those two years, and 3.7 days higher than the 7.5 days target it is working towards. The Service has increased its focus on managing sick absence, including addressing recommendations made by its internal audit service. In the first six months of 2008-09, absence levels were cut by eight per cent compared to the same period in 2007-08, thus reducing average absence levels to 10.6 days in the year to September 2008. The Service's attendance policy is generally well-designed, but there is scope for the Service to build on recent reductions in absenteeism by improving the data provided to managers so that they are better placed to manage absence levels.

On Information Technology in the Crown Court

19 The Crown Court has two main information technology systems. CREST is a case management system that is used for tracking case progression, and facilitates the allocation of cases to court rooms. XHIBIT provides real-time information on the progress of hearings to interested parties outside the court room and records the outcome of court proceedings, including any sentence. Between 2008-09 and 2010-11 £16.7 million has been allocated to improve these two systems.

20 CREST is long overdue for upgrade or replacement. It was introduced 20 years ago and runs separately in all court locations. The lack of any facility for electronically transferring data into CREST leads to duplication and risks error, as staff have to re-key data when cases arrive from the magistrates' courts or are transferred between Crown Court locations. The fact that CREST, which is critical to case management, runs on ageing computers using an operating system no longer supported by the manufacturer represents a significant risk for HM Courts Service. By March 2011, the Service is looking to have addressed that risk by "replatforming" CREST on to modern and supported hardware and software. The "replatforming" should facilitate functional improvements to be made to CREST in the future.

21 Introduced in April 2006, the XHIBIT system is generally well-regarded by staff, but it could make a greater contribution towards Crown Court efficiency. Since XHIBIT was transferred over to one of HM Courts Service's new IT providers (Logica) in April 2008, its slow speed and its susceptibility to "crashing" at busy periods puts pressure on staff to maintain duplicate records. In response, HM Courts Service put in place a programme to improve XHIBIT performance, which

included upgrading the memory of some court-based computers. It is too early to assess how successful this programme has been, but Logica reported a reduction in incidents in autumn 2008.

22 XHIBIT can automatically update HM Courts Service's criminal justice partners on the outcome of cases through a portal developed by the Office for Criminal Justice Reform. Since XHIBIT was designed, changes in legislation have introduced new or revised forms for recording the results of some cases. HM Courts Service has not been able to update XHIBIT for these new forms, and thus for some cases staff are having to input data manually and either fax or post information to other service users. As at December 2008, HM Courts Service was considering options for providing more flexible arrangements for updating the forms within XHIBIT.

Conclusion on value for money

23 Although HM Courts Service has taken practical steps to improve the use of existing resources, a number of risks to value for money remain:

- On **estates**, the Service has adopted pragmatic solutions, such as converting magistrates' court rooms and transferring blocks of cases between locations, to help tackle shortages of Crown Court rooms. The achievement of value for money from investment in the Crown Court estate is impaired, however, by the absence of readily accessible and consistent service-wide information on existing Crown Court rooms and supporting facilities, and the lack of a standard approach for the Service's areas and regions to assess the resources required to meet their projected future workload.
- On **staffing**, the absence of a staffing model, and weaknesses in learning and development programmes, increases the risk that individual Crown Court locations do not have appropriate levels of well-trained staff.
- On **information technology**, the continuing use of the CREST system, which is 20 years old, brings operational risks as its operating system is no longer supported by the manufacturer. Cases need to be manually re-entered into CREST when they are passed from the magistrates' courts to the Crown Court increasing administrative costs. The introduction in 2006 of XHIBIT to record the progress of hearings has been welcomed by court staff, but its effectiveness has been hampered by speed and stability problems and because it has been insufficiently flexible in responding to changes in legislation.

Recommendations

1 Estates strategies have not been clearly and consistently underpinned by well evidenced assessments of future requirements for Crown Court rooms and facilities. HM Courts Service should:

- assist its regions and areas to make better use of national and locally available data on factors which will affect the future number of Crown Court cases, such as forecasts of population growth and changes in legislation and policy;
- provide guidance to regions and areas on how to use forecasts of case load and case mix to assess the number of court rooms they will require, including benchmarks for court room utilisation; and
- encourage regions and areas to set out in their strategies the views of their local criminal justice partners on future demands on the Crown Court, which can be affected by local criminal justice practices, and on options for meeting any expected growth in demand.

2 Transferring blocks of cases between different Crown Court locations can bring benefits by reducing the long time it takes for cases to get to trial. Such transfers can, however, impose costs on HM Courts Service, its criminal justice partners and victims, witnesses and defendants. By drawing on experience to date, HM Courts Service should undertake a full evaluation of the merits of transferring cases. The evaluation should assess the impact on: victims, witnesses and defendants, including their satisfaction levels and the levels of witness attendance; on criminal justice agencies, and on waiting times for cases.

3 A benchmarking exercise undertaken by HM Courts Service in the South East shows that there are variations in the workload of staff across the region's Crown Court locations. HM Courts Service's new model for assessing the staffing requirements of individual courts will need to be robust, and its areas will need to use the model when they review their staff allocations.

4 Recruitment of external staff is slow and costs could be reduced. To improve future recruitment performance:

- HM Courts Service should plan its recruitment needs across all parts of its business so that it avoids large fluctuations in the demands it places on the Ministry of Justice's recruitment team; and
- the Ministry of Justice should implement the process improvements identified by the NAO to remove unnecessary labour-intensive steps, for example, by asking prospective candidates to use on line application packs rather than sending out hard copy application forms and waiting for their return.

5 There have been weaknesses in the quality, range, and evaluation of the learning and development programmes provided to frontline staff which HM Courts Service and the Ministry of Justice are starting to address. The Service and the Ministry need to:

- define clearly their new respective responsibilities for training to reduce the risk of gaps or duplication in provision; and
- evaluate whether their new programmes, which for the Ministry include placing greater reliance on electronic delivery, are meeting the needs of both the Crown Court and its staff.

6 HM Courts Service has cut absence levels by eight per cent in the first six months of 2008-09, but its absence rate remains three days above the 7.5 days target it is working towards. To sustain and build on recent reductions in absence levels, HM Courts Service should:

- assess the impact of the changes it has recently made to the role of human resource staff, to ensure that its managers now have access to good specialist support in managing absence; and
- analyse national absence data regularly so that the main causes of absenteeism and underlying trends in absence are readily identified and understood.

7 Centrally HM Courts Service has insufficient access to good quality information to enable it to assess the overall adequacy of the Crown Court estate and to monitor key staffing issues, such as recruitment and learning and development. To ensure that it is well-placed to identify any weaknesses, and where necessary develop corrective plans, HM Courts Service should:

- for its estate, have ready access to up-to-date and consistently collected service-wide data on the courtrooms used to hear Crown Court cases, and the key facilities in court houses; and
- for its staff, work with the Ministry of Justice to agree a core set of information so that it can assess the performance of services that it receives from the Ministry, such as recruitment.

8 There are weaknesses in the two main Crown Court IT systems leading to operational risks and reduced efficiency. HM Courts Service has identified options for addressing these weaknesses and now needs to:

- minimise operational risks by ensuring that CREST runs on modern and supported software and hardware as soon as is practical; and
- exploit fully the capability of XHIBIT to facilitate the recording and electronic transmission of the results of cases, by ensuring that the system has the flexibility to respond to legislative change.

9 On receiving a case from a magistrates' court or another Crown Court location, HM Courts Service staff must manually enter the case details into CREST, which is time consuming and can lead to transcription errors. In developing its IT systems, HM Courts Service should give priority to enabling electronic transfer of data across systems, subject to appropriate data security controls.