



National Audit Office

REPORT BY THE
COMPTROLLER AND
AUDITOR GENERAL

HC 593
SESSION 2012-13

18 SEPTEMBER 2012

Ministry of Justice

Restructuring of the National Offender Management Service

Key facts

86,000

the number of prisoners in England and Wales as at June 2012

> £2bn

the real terms savings the Department will need to make annually by 2014-15

£246m

the Agency's real terms savings target for 2012-13

165,000 offenders being supervised by probation trusts in the community

117 public sector prisons in England and Wales

35 probation trusts in England and Wales

37 per cent the Agency's cash savings target from its headquarters for the spending review period

£122 million the amount of voluntary early departure funding which the Agency requires over the next two years to support its long-term cost reduction plans

Summary

1 The National Offender Management Service (the Agency) is an executive agency of the Ministry of Justice (the Department). The Agency unites the headquarters of the prison and probation trusts of England and Wales with the aim of enabling a single organisation to manage offenders in custody and in the community. It became an executive agency of the Department in 2008, and its priorities include protecting the public and reducing reoffending by delivering the sentences and orders of the courts.

2 The Agency directly manages 117 public sector prisons, with a workforce of 43,000, and is responsible for a prisoner population of around 86,000, as at June 2012. The Agency manages the contracts of 14 private sector prisons, as well as other private providers supplying services, including prisoner escorts and electronic monitoring. The Agency commissions and funds services from 35 probation trusts, which oversee approximately 165,000 offenders serving community sentences.

3 Under the terms of the 2010 comprehensive spending review and following the 2011 Autumn Statement, the Department needs to achieve savings of over £2 billion a year by 2014-15, representing an overall resource saving of 24 per cent in real terms. For 2012-13, the Agency's budget, net of allocations to other departments, is £3,401 million. The Agency has spending targets for all years of the spending review and is currently planning additional savings of £262 million in 2013-14 and £145 million in 2014-15, giving a cumulative planned annual saving of £884 million in 2014-15 from the 2010-11 baseline.

4 Over the spending review period, the Department requires the Agency to reduce the cost of its headquarters' functions by 37 per cent in cash terms. To deliver this saving, the Agency has abolished its regional structure and introduced directorates for each function. In parallel, the Agency is seeking to transform offender management through new models for commissioning and delivering services, increasing the involvement of the private and voluntary sectors in both prisons and probation trusts.

The scope of this report

5 This report examines the Agency's progress in making savings from the restructure of its headquarters and across its operations as a whole. It examines whether the drive to secure savings has affected its performance against its key business priorities. Additionally, it examines whether the restructured Agency board and headquarters have the information and decision-making processes necessary to oversee offender management by prisons and probation trusts. The report also examines the effectiveness of the tools the Agency supplies to prisons and probation trusts as they deliver their own programmes of service transformation.

6 This report does not examine the implementation of the Agency's current key initiatives, such as modernising the prison workforce, introducing payment by results for the rehabilitation of offenders, or other commercial initiatives such as transferring public prisons to the private sector. This report also does not examine individual prisons and probation trusts, or their performance in key areas such as managing risk and individual offenders.

Key findings

On the Agency meeting its savings and performance targets and planning for the future

The Agency does not control demand for its services, and sentencing reforms to reduce the prison population did not go ahead as originally planned

7 The demand for prison places and the services of probation trusts is determined by the sentencing decisions of individual judges and magistrates. In 2010, the Department proposed a range of sentencing reforms, designed to give it greater influence over what it described as "the unsustainable rise in the prison population". The Department initially estimated that the implementation of these reforms would result in over 6,000 fewer prisoners in custody than it projected for 2015, allowing it to achieve savings by closing less efficient prisons. However, in June 2011 the government decided not to move ahead with some of the proposed sentencing reforms. The Department now estimates that the number of prison places which are likely to reduce through sentencing reforms has fallen to around 2,000 (paragraph 1.3).

The inherent difficulty of predicting the prison population impacts on the Agency's ability to meet its savings targets over the remainder of the spending review period

8 The Department's savings targets under the comprehensive spending review were set on the understanding that sentencing reforms would reduce the size of the prison population by the end of the review period. When some elements of sentencing reforms did not move ahead, the Department's savings targets were not reduced. The Agency's savings targets at the end of the review period are now more challenging: the Department estimates it will lose around £130 million of savings from sentencing reforms not proceeding as planned. Nevertheless, the Agency achieved its savings target of £230 million in 2011-12 in the face of substantial financial and operational challenges, while maintaining performance in a number of areas of key public interest, such as reducing reoffending. Given the delays in making savings by closing prisons, the Agency's 2012-13 savings target of £246 million is more challenging. In July 2012, the Agency projected that it would spend £32 million more than its budget in 2012-13. The Agency's financial position is vulnerable to unexpected changes in the prison population (paragraphs 1.3, 1.12–1.13).

The Agency and the Department do not yet have fully funded plans for delivering long-term savings in the remainder of the spending review period

9 The Agency has identified it needs to make savings in the remainder of the spending review period primarily by improving efficiency in the prison estate and from front-line efficiencies resulting from increasing competition in prisons and probation. The Agency currently estimates it will require a further £122 million of funding for early staff departures across all of its operations over the next two years. The Department has provided the Agency with £16 million of its estimated remaining requirement for 2012-13. The Department has further agreed that its £40 million ring-fenced budget for voluntary early departures in 2013-14 will be allocated to the Agency. This leaves a total funding deficit for staff departures within the Agency of some £66 million over the next two years. The Agency and the Department agree the Agency can deliver further savings through initiatives increasing the efficiency of the prison estate, and the Department has identified staff exit funding as a priority. Discussions regarding further funding for staff departures are ongoing (paragraphs 1.19 and 1.26).

On the Agency's restructured headquarters

The restructure of the Agency's headquarters has been well received by prisons and probation trusts

10 As the Agency restructured, it reduced the number of staff at its headquarters by 650 from around 2,400. Despite having fewer staff at its headquarters, the prison governors, probation trust chief executives, and other stakeholders whom we consulted generally regarded the restructure positively, considering it to have produced a more efficient organisation with greater clarity on accountability. In May 2012, the Major Projects Authority conducted a review of the Agency headquarters' organisational restructure programme, which resulted in a positive delivery confidence assessment (paragraph 1.10).

The Agency's restructured board has clear lines of accountability but needs to become more strategic

11 As part of the reorganisation of its headquarters the Agency has restructured its board, and its governance arrangements continue to develop. Under the restructure, it reduced the number of its executive members by seven to nine directors from April 2011, with each member now responsible for a function instead of regions. The board is responsible for both setting the Agency's strategic direction and holding it to account. The board is supported by an executive management committee for managing the Agency's operations. In parallel to the new governance arrangements, the Agency worked extensively with board members to develop the management information necessary for decision-making around performance, risk, and finance. The board members we interviewed were broadly positive about the management information they received. As the Agency's governance arrangements embed, it acknowledges there is a need to address the lack of clarity between the role of the board and its supporting committees. This is demonstrated by the board tending to examine operational as well as strategic issues (paragraph 2.6).

Overall, the Agency has strong risk management in place at its headquarters and in prisons

12 The Agency's responsibility for offenders means its core business is managing risk. It has strong risk management mechanisms at its headquarters and in the oversight of prisons. The Agency's headquarters has clear accountability and ownership of risks, with information flowing directly and swiftly from prisons. However, there are gaps in how the Agency records risks below national level emanating from prisons (paragraph 2.15).

On delivering through prisons and probation trusts

The Agency has improved its understanding of the cost drivers of offender management activity

13 Since 2008, the Agency has improved its knowledge of the cost drivers of specific offender management activities and of the variation in costs across prisons and probation trusts. The Agency's 'Specification, Benchmarking and Costing' programme is comprehensive, covering £2.5 billion of the Agency's spending, and gives prisons and probation trusts tools to cost their activities. The use of benchmarks is not yet mandatory in objective setting, and this should be a next step. The Agency is complementing its benchmarking costing tool with others designed to enable public prisons and probation trusts to report back on their spending and to enable a greater understanding of their cost drivers. The Agency acknowledges that these tools do not yet contain data of sufficient quality to give its headquarters a full understanding of the drivers of variation in costs across prisons and probation trusts (paragraphs 3.3-3.4).

The Agency needs to develop increasing levels of skills to support prisons and probation trusts in line with increasing calls for support over time

14 There are some areas in the Agency's headquarters with unfilled positions. In the spring of 2012, for example, the Agency had filled around half the positions in its unit responsible for supporting commissioners. The Agency reported it filled positions as its need for commissioning support skills grew over time. It did not consider the vacant posts affected its current support capability. The Agency is also using contractors to develop and train people in using its costing tools, with a view to transferring skills and knowledge (paragraph 2.19).

Although probation trusts are central to many of the Department's and Agency's ambitions, there are tensions in relations between the Agency and the probation profession

15 The Agency plans to increase the role of commissioning in offender management, with probation trusts at the forefront of its plans. In February 2012, the Department opened consultation on proposals to reform community sentences. These include encouraging trusts to work in partnership with other public sector organisations, as well as the private and voluntary sectors, and granting providers new commercial freedoms. The Agency has a fundamentally different relationship with trusts than with prisons, as these are independent non-departmental public bodies. Many trusts we consulted welcomed the Agency's plans to increase commissioning. The Agency has taken extensive action to ensure knowledge of probation is captured at its headquarters. However, a perception remains among the trusts we consulted that the Agency does not fully understand how they work with offenders (paragraphs 3.8 and 3.13).

Conclusion on value for money

16 In 2011-12, the Agency delivered its savings target while restructuring its headquarters and broadly maintained its performance in the face of significant challenges, including a prison population greater than projected. The Agency therefore achieved value for money in this period. However, the Agency's spending is vulnerable to even slight fluctuations in demand, over which it has no control, and it has very little flexibility to absorb unforeseen costs. The Agency and the Department do not yet have shared, fully-funded plans for delivering savings over the longer term. There are risks to the Agency's ability to deliver long-term sustainable spending reductions during the remainder of the spending review period and beyond, during which the prison population is unlikely to fall substantially and the Agency's funding will continue to reduce.

Recommendations

To the Department and Agency in partnership

- a** **The Agency and the Department need to agree how to fund plans for delivering savings from the prison estate in the remainder of the spending review period and beyond. They need clarity on the costs of staff exits and agreed plans for how these will be funded.** Reducing the number of prison places and voluntary early staff departures are integral to the Agency's ability to meet sustainable savings targets further into the spending review period. Funding for staff departures is the key enabler for payroll savings. The Department and Agency have not yet fully developed shared plans for funding early departures, which is an ongoing iterative process.

To the Agency

- b** **As the Agency's new governance structure embeds, it needs to review whether its board provides sufficiently strategic oversight, alongside its operational role.** Following the restructure of its headquarters, the Agency's board is tasked with the strategic leadership of the organisation, but there is unclear distinction between its role and that of more operational supporting committees.
- c** **The Agency should ensure its risk management below national level is as strong as that in headquarters and in prisons.** We found the Agency's headquarters has strong accountability and ownership of risks, with information flowing directly from prisons. There is scope for more formality in how the risks of prisons in different areas are managed.
- d** **Although the Agency considers it has sufficient capability and resources to support commissioning and resourcing at present, it needs to ensure it increases its support as the need for commissioning skills grows in the future.** In the spring of 2012, the Agency had filled around half the positions in its unit responsible for supporting commissioners. The Agency also needs the resources to develop some costing methods further.
- e** **The Agency should take action to improve the quality of data in its costing tools and consolidate their use among prisons and probation trusts.** The Agency has developed comprehensive tools to help prisons and probation trusts understand and benchmark their costs. It acknowledges that some of these require better quality data and need to be used more widely by prisons and probation trusts.
- f** **The Agency needs to continue to engage with trusts while it seeks to transform how offenders are managed in the community.** The Agency is reliant upon probation trusts to help deliver its proposed reforms and to introduce greater commissioning to offender management. The trusts we consulted expressed concerns at what they perceive to be a lack of understanding of probation issues at the Agency's headquarters and there are tensions in relations between the Agency's headquarters and probation trusts.