



National Audit Office

Departmental Overview

The performance of the
Ministry of Justice 2013-14

OCTOBER 2014

Our vision is to help the nation spend wisely.

Our public audit perspective helps Parliament hold government to account and improve public services.

The National Audit Office scrutinises public spending for Parliament and is independent of government. The Comptroller and Auditor General (C&AG), Sir Amyas Morse KCB, is an Officer of the House of Commons and leads the NAO, which employs some 820 employees. The C&AG certifies the accounts of all government departments and many other public sector bodies. He has statutory authority to examine and report to Parliament on whether departments and the bodies they fund have used their resources efficiently, effectively, and with economy. Our studies evaluate the value for money of public spending, nationally and locally. Our recommendations and reports on good practice help government improve public services, and our work led to audited savings of £1.1 billion in 2013.

Contents

Introduction

Aim and scope of this briefing 4

Part One

About the Department 5

Part Two

Developments in this Parliament 12

Part Three

Recent NAO findings on
the Department 24

Part Four

Case study: Transforming
Rehabilitation 36

Appendix One

The Department's sponsored bodies
at 1 April 2014 43

Appendix Two

Results of the Civil Service People
Survey 2013 44

Appendix Three

Publications by the NAO on the
Department since April 2013 46

Appendix Four

Cross-government reports of relevance
to the Department 47

Introduction

Aim and scope of this briefing

- 1** The primary purpose of this report is to provide the Justice Select Committee with a summary of the Ministry of Justice's (the Department) activity and performance since September 2013, based primarily on published sources, including the Department's own accounts and the work of the National Audit Office (NAO).
- 2** Part One focuses on the Department's activity over the past year. Part Two examines developments in this Parliament. Part Three concentrates on NAO analyses of activity over the past year. Part Four takes the form of a case study, looking in greater detail at the Department's Transforming Rehabilitation programme, a key issue for the Department at the current time.
- 3** The content of the report has been shared with the Department to ensure that the evidence presented is factually accurate.

Part One

About the Department

The Department's responsibilities

1.1 The Ministry of Justice (the Department) is responsible for setting and delivering government policy on the criminal, civil and family justice systems for England and Wales.

1.2 The major delivery areas of the Department are the administration of justice through courts and tribunals; the provision of legal aid; and the detention and rehabilitation of offenders via the prison and probation systems.

How the Department is organised

1.3 The Secretary of State for Justice (who is also the Lord Chancellor) is in overall charge and chairs the Department's board, which sets strategic direction. Membership of the Department's board consists of the ministerial team, the Permanent Secretary, directors general, non-executive board members and the chief executives of the Department's three largest executive agencies, which cover the Department's major activities. As summarised in **Figure 1** overleaf, these are:

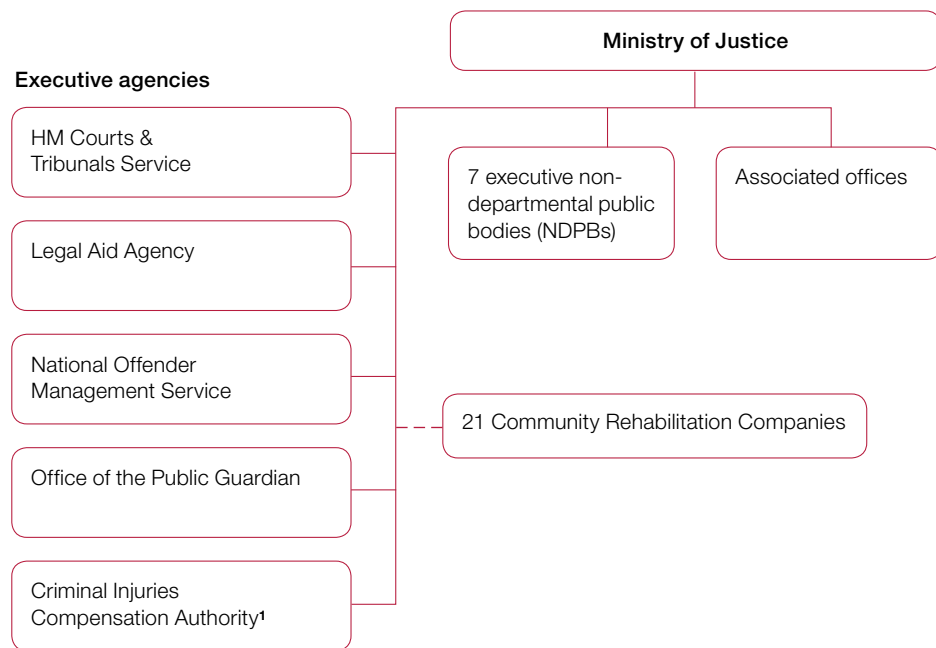
- HM Courts & Tribunals Service (HMCTS), which operates the facilities and services required for the administration of criminal, civil and family justice;
- the Legal Aid Agency (LAA), which procures and provides legal aid to eligible participants in criminal and some civil cases; and
- the National Offender Management Service (NOMS), which runs the prison system and probation.

1.4 The Department's fourth executive agency, the Office of the Public Guardian, registers powers of attorney and supervises deputies appointed by the Court of Protection for individuals who have lost the mental capacity to handle their affairs.

Figure 1

How the Departmental group is organised

The Department has 5 main delivery arms (the executive agencies) supported by 7 executive non-departmental public bodies, 21 Community Rehabilitation Companies and several other statutory bodies



Executive NDPBs comprise

- Children and Family Court Advisory and Support Service
- Criminal Cases Review Commission
- Judicial Appointments Commission
- Legal Services Board
- Office of the Information Commissioner
- The Parole Board for England and Wales
- Youth Justice Board

Associated offices include

- Advisory committees, councils and panels
- HM Inspectorate of Prisons
- HM Inspectorate of Probation
- Independent monitoring boards
- Procedure rule committees
- Office for Legal Complaints

Note

¹ Agency as of April 2014. Previously the Criminal Injuries Compensation Authority was a non-departmental public body.

1.5 From April 2014, the Criminal Injuries Compensation Authority (CICA) changed in status from a non-departmental public body (NDPB) to an executive agency. CICA deals with compensation claims from blameless victims of violent crimes in England, Scotland or Wales who have been physically or mentally injured.

1.6 Further functions are carried out by 7 other executive NDPBs including: the Youth Justice Board (monitoring and advising on the operation of the youth justice system); and the Parole Board (hearings following applications from prisoners for early release). Appendix One lists all of the Department's sponsored bodies.

1.7 One of these NDPBs is new to the Department this year. The Children and Family Court Advisory and Support Service (CAFCASS) transferred into the Ministry of Justice from the Department for Education in April 2014. Each year, CAFCASS is involved with some 140,000 children and young people who are going through care or adoption proceedings, or whose parents have separated and are unable to agree about future arrangements for their children.

1.8 CAFCASS incurred £126 million gross expenditure in 2013-14.

Where the Department spends its money

1.9 In 2013-14, the Department spent (excluding capital) £9.4 billion¹ and received £1.6 billion in income, resulting in net expenditure of £7.8 billion. The Department's expenditure and income is shown by entity in **Figure 2** overleaf.

1.10 The Department's gross expenditure of £9.4 billion in 2013-14 included:

- £3.1 billion of staff costs for some 82,200 staff and a further £0.5 billion of judicial costs relating to around 3,300 judges;²
- £1.9 billion relating to the Department's estate and its managed prison contracts;³ and
- £2.0 billion of representation costs where the Department provided legal aid in civil or criminal cases.

1.11 The Department contracts for a wide range of services and its contracts vary in size and purpose. It contracts with providers to operate large facilities such as prisons, to maintain and operate court buildings, and to electronically tag offenders. Key contractors include G4S, Serco and ICT companies such as Hewlett Packard.

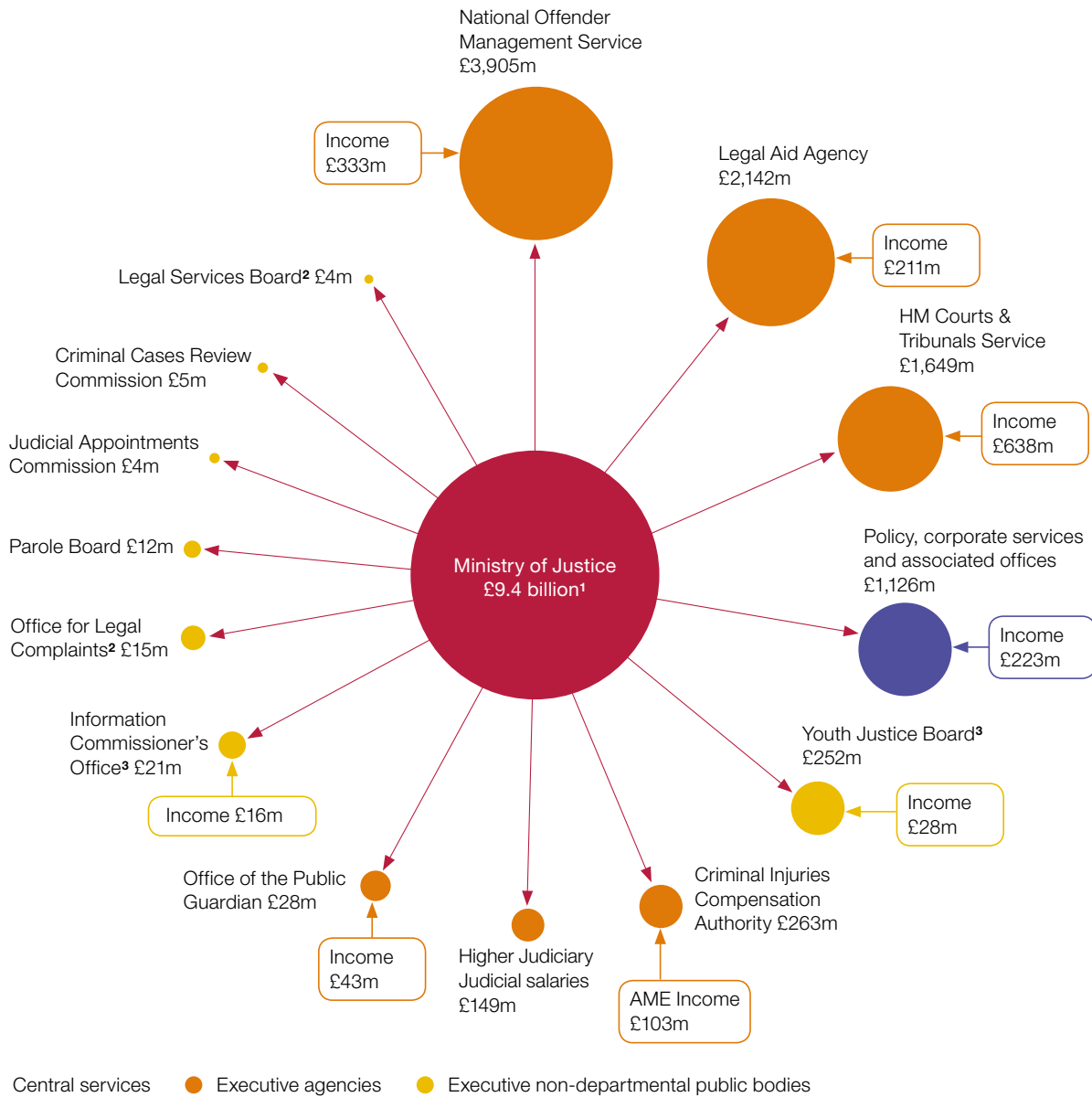
1.12 In 2013-14, the Department spent £2.6 billion in total with commercial suppliers including £1.3 billion with its 15 largest suppliers. This represents a significant proportion of the Department's spend.

¹ Ministry of Justice, *Ministry of Justice Annual Report and Accounts 2013-14*, Session 2014-15, HC 23, June 2014.

² Staff and judiciary numbers are on an average full-time equivalent basis and include all bodies in the Departmental group, including Probation Trust staff.

³ Includes expenditure for PFI service charges, operating lease rentals, depreciation, finance charges, youth custody costs, accommodation, maintenance and utilities.

Figure 2
Where the Department spent its money in 2013-14



Notes

- Gross spend was £9.4 billion, with income of £1.6 billion, reducing the net public expenditure requirement to £7.8 billion.
- Legal Services Board and Office for Legal Complaints collect income equal to their expenditure but do not retain this so have a net expenditure position on the Statement of Parliamentary Supply (SoPS).
- NDPB income and expenditure is shown net on the SoPS therefore Youth Justice Board and Information Commissioner's Office income has been taken from the income note in their respective accounts, with expenditure in the SoPS grossed up accordingly. No other NDPBs had significant income.
- The individual accounts of each organisation will not reconcile directly to the figures shown due to adjustments made for the SoPS.

Source: Ministry of Justice, *Ministry of Justice Annual Report and Accounts 2013-14*, Session 2014-15, HC 23, June 2014, Note 2, p.59

Staff attitudes

1.13 The government conducted its fifth annual Civil Service People Survey during October 2013. Here we summarise the views of the Department's staff on a number of key issues, and compare them to benchmarks for the civil service as a whole. Detailed results for all departments are reproduced at Appendix Two.

1.14 The key measure of the survey is staff engagement. The 3 key themes that have the strongest association with engagement are 'Leadership and Managing Change', 'My Work' and 'My Manager'. The Department has shown an improvement in 15 of the 25 questions included in these themes, compared with the 2012 survey. Despite these improvements, the Department still scored 7 percentage points less than the civil service average over these 3 themes.

1.15 **Figure 3** overleaf shows the average scores achieved by the Department in each of the 9 themes assessed and compares this with the scores achieved by the Department in 2012 and the 2013 civil service benchmark figures. In all 9 themes the Department scored less than the civil service average. However, it did improve on the scores from the previous year in 6 of the themes with only the scores from 'Resources and Workload' falling.

Staff attitudes in the Department's headquarters and largest agencies

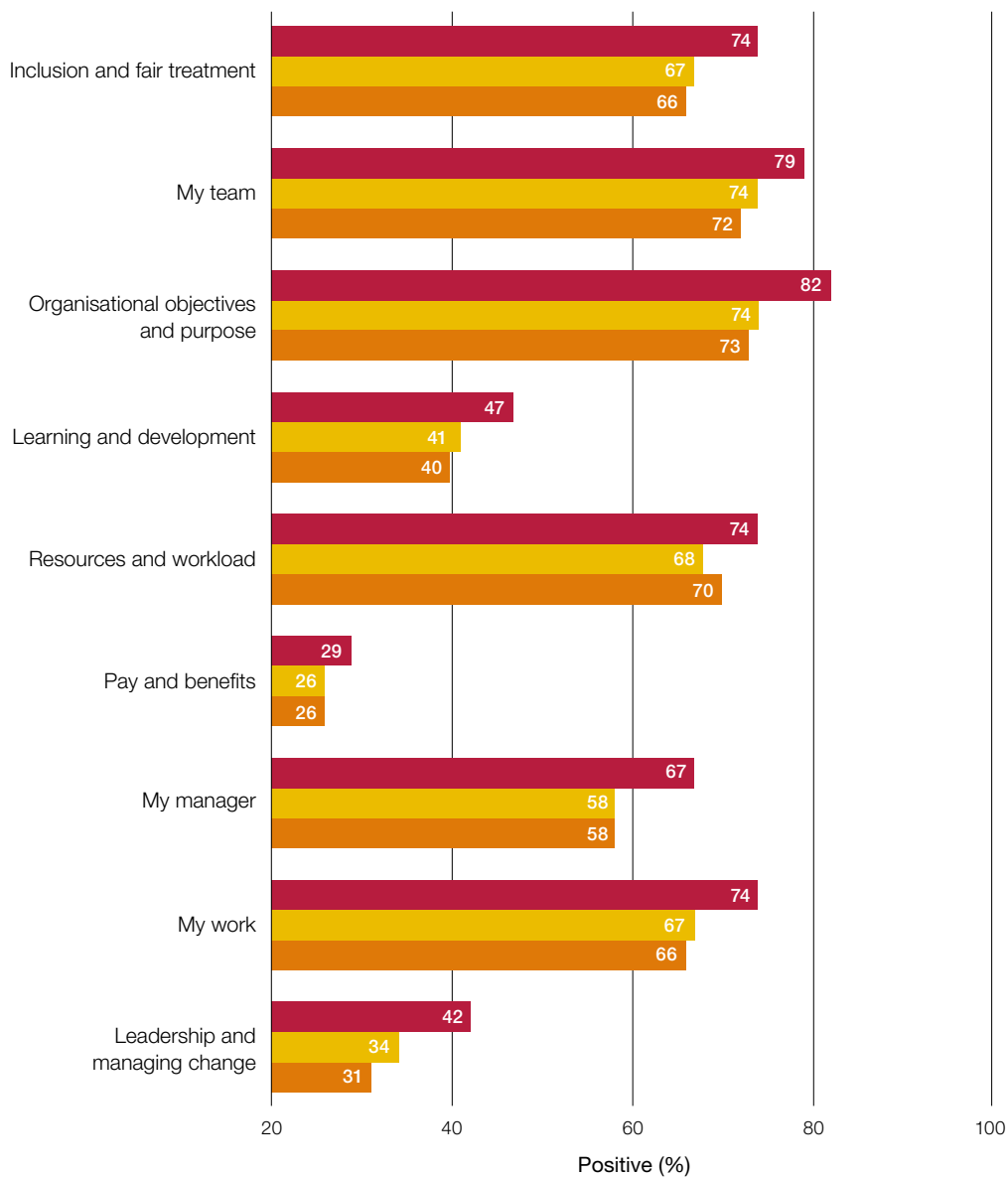
1.16 The analysis in **Figure 4** on page 11 shows the survey results for the Department's headquarters, and the two biggest agencies, HMCTS and NOMS (excluding Probation Trusts).

1.17 There has been a significant improvement in staff views at HMCTS. However, despite these improvements, HMCTS remains below the civil service average for all but 2 themes.

1.18 Scores at NOMS were the lowest across the Department, averaging 15 percentage points lower than the civil service benchmark for these questions. The results show a decline in scores for NOMS, with a decrease in the proportion of positive responses for 7 out of 9 key areas covered, with the remaining 2 showing no change. This is the second consecutive year of declining People's Survey scores at NOMS. These results should be viewed in the context of the significant reform programmes under way in both custody and the community – the Prison Unit Cost and Transforming Rehabilitation programmes – and staff reductions.

1.19 The results for the Department's headquarters compares more favourably against the civil service, achieving an average score of 51% on the questions (as detailed in Appendix Two) compared with the civil service average of 50%.

Figure 3
Attitudes of Departmental staff by theme



■ Civil service 2013 average³

■ MoJ 2013²

■ MoJ 2012¹

Notes

1 *Ministry of Justice (Corporate Report)*, Autumn 2012.

2 *Ministry of Justice (Corporate Report)*, Autumn 2013.

3 Cabinet Office, *Civil Service People Survey 2013*, November 2013.

Source: National Audit Office analysis

Figure 4

Attitudes of staff at the Department's headquarters and the two largest agencies, National Offender Management Service (NOMS) and HM Courts & Tribunals Service (HMCTS)¹

Theme	Theme score 2013 (% positive) ²			Difference from 2012 Survey			Difference from civil service average 2013		
	MoJ HQ (%)	HMCTS (%)	NOMS (%)	MoJ HQ	HMCTS	NOMS	MoJ HQ	HMCTS	NOMS
Leadership and managing change	43	37	25	0	+5	0	+1	-4	-17
My work	74	70	63	+1	+4	-1	+1	-4	-11
My manager	67	64	49	0	+2	-4	0	-3	-18
Pay and benefits	37	22	26	-2	+2	0	+7	-7	-3
Learning and development	47	45	35	-1	+5	-4	0	-2	-12
Resources and workload	74	76	60	-1	+1	-6	0	+2	-14
Organisational objectives and purpose	80	78	66	+3	+5	-5	-3	-4	-16
My team	80	81	65	0	+2	-1	+1	+2	-14
Inclusion and fair treatment	76	72	58	-1	+2	-2	+2	-2	-16

Notes

- 1 Attitudes of staff in the Core Department and the Department's two largest agencies by employee numbers. Raw survey data contains 50 questions, table shows these results summarised by 9 key areas (as summarised in the People Survey).
- 2 A positive response is deemed to be where the respondent answers 'agree' or 'strongly agree'.

Source: Cabinet Office, *Civil Service People Survey 2013*, November 2013

Part Two

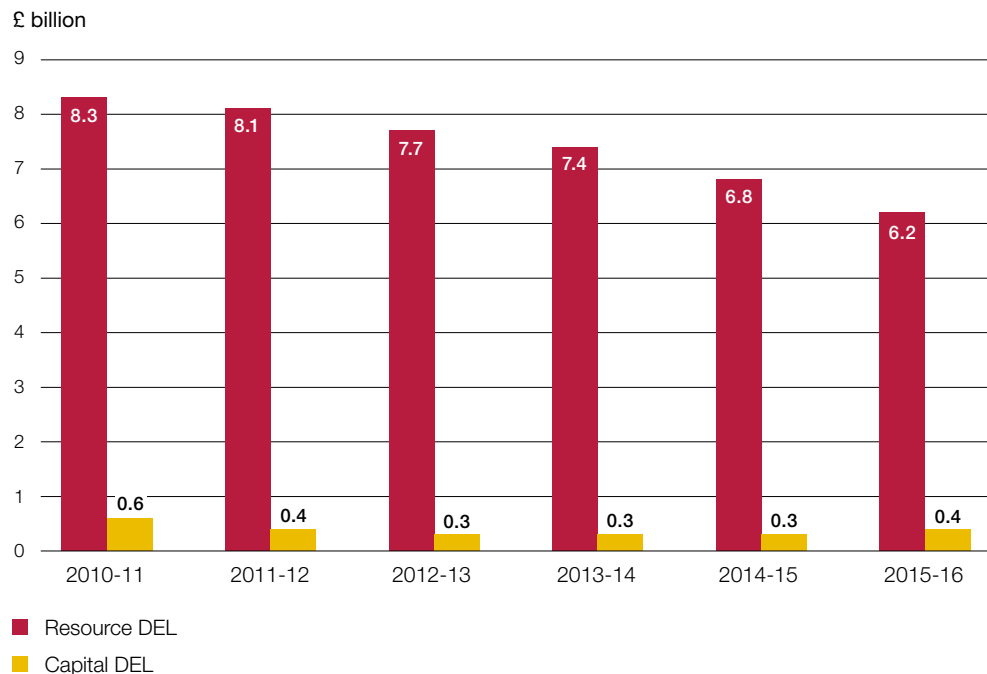
Developments in this Parliament

Changes to the Department's spending since 2010

Spending Review 2010

2.1 As part of the 2010 Spending Review (SR10) the Ministry of Justice (the Department) was required to make resource savings of 23% in real terms by 2014-15, based on 2010-11 outturn. These limits are shown in **Figure 5**.

Figure 5
Changes to the Department's budgets



Note

1 Figures for 2014-15 include adjustments made to original SR10 settlement through Autumn Statements and SR13.

Source: HM Treasury, *Spending Review 2010*, October 2010 and HM Treasury, *Spending Round 2013*, June 2013

2.2 The Department planned to achieve this cost reduction by:⁴

- reforming the scope of legal aid;
- reducing reoffending and managing down the prison population through a ‘rehabilitation revolution’ and reforms to sentences and penalties;
- streamlining the criminal justice system through further integration, the closure of 162 under-utilised courts and an increased focus on alternative dispute resolution mechanisms;
- lowering administrative costs by 33%; and
- using capital funding to focus on maintaining prison capacity, essential new capacity and key ‘invest to save’ projects.

Spending Round 2013

2.3 As part of the 2013 Spending Round the Department has committed to further cuts of 10% in real terms between 2014-15 and 2015-16.⁵ In the years up to 2015-16 the Department plans to meet this target principally by:

- reducing the net cost of the courts by £200 million through increased efficiency across the criminal justice system, additional income from court fees and the recoupment of case costs from offenders;
- reducing the cost of publicly run prisons by £180 million;
- further reforming the legal aid system with the aim of delivering new savings of £220 million a year; and
- eliminating £130 million in back-office and administrative costs across the Department and its arm’s-length bodies.

Additional funding – Courts reform

2.4 Further to the 2013 Spending Round, in March 2014 HM Treasury agreed a one-off package of investment in HMCTS systems averaging up to £75 million per annum over the 5 years from 2015-16. Further details can be found at paragraph 2.37.

⁴ Ministry of Justice, *Business Plan 2011–2015*, May 2011.

⁵ HM Treasury, *Spending Round 2013*, Cm 8639, June 2013.

Spending review savings update 2013-14

2.5 The financial year 2013-14 was the third year of the current spending review (SR) period and the Department remained within the budgetary limits set by the Treasury.⁶

2.6 NOMS delivered £274 million of savings in 2013-14 alone, a total of around £750 million since 2011-12.⁷ By the end of 2013-14, NOMS had reduced its budget by around 20% and by the end of 2014-15 NOMS are forecasting that they will have saved nearly £900 million, equating to a 24% reduction.⁸ This was achieved through:

- Organisational restructure of NOMS headquarters, delivering £86 million in savings between 2011-12 and 2013-14.
- Savings from public sector prisons of £263 million between 2011-12 and 2013-14, at the same time saving £116 million from Probation during the same period.
- A capacity management programme to ensure the most effective use of the prison estate. This has generated £133 million of savings in the first 3 years of the SR10 period.
- Other savings, including contract spend and wider efficiencies totalling £150 million between 2011-12 and 2013-14.

2.7 HMCTS has achieved a number of savings since the start of the spending review and plans to make further savings in coming years:⁹

- Total staff and judicial costs fell by £18 million to £995 million in 2013-14. A total spending review reduction of 3,754 staff posts has been achieved and the yearly pay bill reduced by some £122 million.
- Income has increased by £42 million in 2013-14 compared with 2012-13 because of increases in fee income of £30 million and recoveries from other government departments of £12 million. This is partly due to the introduction of fees for Employment Tribunal hearings.
- The Courts Estate Reform Programme continues to deliver benefits. As at April 2014, 59 properties had been sold, realising capital receipts of £41 million. Over the spending review period, HMCTS is expecting total cumulative benefits of £145 million, consisting of resource savings from court closures of £97 million and gross capital proceeds of £48 million from the sale of buildings.

6 Ministry of Justice, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 23, June 2014.

7 National Offender Management Service, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 153, June 2014, p. 10.

8 National Offender Management Service, *Business Plan 2014-15*, April 2014.

9 HM Courts & Tribunals Service, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 154, June 2014.

2.8 A number of legal aid reforms have now been introduced by the Legal Aid Agency (LAA) and legal aid costs have fallen:¹⁰

- The LAA's other programme costs, which largely consist of legal aid costs, fell by £125 million to £2,065 million in 2013-14.
- LAA identified the procurement of the new criminal legal aid contracts and reform of advocacy services as the most significant challenges in terms of savings for 2014-15. In total, LAA expects the reforms to help reduce the legal aid bill by approximately £215 million by 2018-19.

Policy and delivery: major developments since 2010

Changes to Legal Aid

2.9 The Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) brought in a number of changes to legal aid. These included restrictions to the scope and eligibility of legal aid as well as changes to sentencing. Further provisions came into force in April 2013. Key provisions in this legislation include:

- changes to the legal aid system, including to both **scope and eligibility** (see paragraphs 2.11 and 2.12);
- **sentencing changes** such as the 'two strikes' mandatory life sentence for people convicted of a second very serious sexual or violent offence; and
- the introduction (from October 2012) of **further restrictions on repayments from central funds for costs**, especially for Crown Court cases. These payments are made to defendants who have funded their defence privately and been acquitted, or where the prosecution has offered no evidence.

2.10 From 27 January 2014 a **financial eligibility threshold was introduced for Crown Court trials**. This means that clients with an annual household disposable income of £37,500 or more will not be eligible for legal aid. However, where Crown Court defendants are acquitted they will be entitled to reclaim private solicitor costs at legal aid rates.¹¹

Scope changes

2.11 A number of areas are no longer eligible for legal aid, the most significant of which are private family law disputes involving children and finance and most non-asylum immigration matters. Some areas of law have been only partially de-scoped and it is still possible to claim legal aid in particular circumstances.

¹⁰ Legal Aid Agency, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 141, June 2014.

¹¹ Ministry of Justice, *Transforming Legal Aid: Next Steps*, February 2014.

Eligibility changes

2.12 The main changes to eligibility in civil cases under LASPO are that the LAA now:

- means-tests all applicants for legal aid regarding their capital wealth, including those in receipt of income-based benefits;
- caps the value of contested property that is disregarded at £100,000 when assessing individuals' capital wealth for eligibility purposes;
- requires income-based contributions, payable by middle-earners, at a level 40% above pre-LASPO amounts; and
- applies the 'merits' test so that legal aid may be refused in any individual case suitable for alternative funding.

2.13 The Department anticipates that these changes will lead to savings of around £200 million a year, against a baseline spend of £2 billion in 2011-12.

2.14 The National Audit Office (NAO) will report on changes to civil legal aid at the end of 2014 (paragraph 3.27).

Rehabilitation

2.15 In January 2013, the Department consulted on transforming rehabilitation. After reviewing responses to this consultation, the Department published its *Strategy for Reform* in May 2013.¹² This outlined significant changes to the commissioning and delivery of probation services, including replacing Probation Trusts with Community Rehabilitation Companies and a National Probation Service. The Department is in the process of implementing these changes, which are described in more detail in Part Four.

Contract management

2.16 During re-tendering of its electronic monitoring contracts, the Department identified that it had been overbilled for electronic monitoring services by G4S and Serco. In May 2013 the Department commissioned PricewaterhouseCoopers to carry out an independent audit of the billing arrangements associated with these contracts. It expanded the audit to other contracts with those companies in July 2013. Separately, in March 2013, the Department found performance reporting disparities on its prisoner escort services contracts. As a result, the electronic monitoring contracts, facilities management and Manchester courts contracts are currently the subject of an investigation by the Serious Fraud Office.

¹² Ministry of Justice, *Transforming Rehabilitation – a Strategy for Reform: Response to Consultation CP(R) 16/2013*, Session 2013-14, May 2013.

2.17 In December 2013, Serco agreed to pay **£70.5 million** to reimburse the government for money owed on electronic monitoring and prisoner escort contracts.¹³ In March 2014, G4S agreed to pay **£108.9 million** owed on its contracts for electronic monitoring and on the 2 facilities management contracts. These sums, which relate to payments made by the Department since 2005, also covered the direct costs to government arising from investigation of these matters.

2.18 As a result of these issues, the Department undertook a review of contract management across the organisation. This review sampled 15 contracts based on impact of failure, contract value, service type and known weaknesses. The recommendations from this review formed the basis of a contract management improvement plan. The Department has already made a significant number of changes to address the issues identified. Over the coming months its plans for improvement include:

- rolling out a complete supplier relationship management programme;
- introducing its multidisciplinary team model across the Department;
- expanding Internal Audit's role to reviewing contract payment processes and testing data relating to major contracts; and
- improving key performance indicators against which contractors report.

2.19 We have reported in detail on the Department's progress in our report *'Home Office and Ministry of Justice: Transforming contract management'*¹⁴ and our conclusions are summarised in paragraphs 3.20 to 3.23.

Fee-paid judges

2.20 The Supreme Court ruled (in *O'Brien versus Ministry of Justice* in February 2013) that a retired fee-paid recorder (similar to a circuit judge) is entitled to a pension on terms equivalent to those of a salaried circuit judge. The Department estimated that additional pension costs of more than £500 million would arise because of this decision.¹⁵

2.21 In January 2014, the Employment Tribunal ruled that fee-paid judges had not been remunerated on a comparable basis to salaried judges in a number of other areas, such as for training and writing-up. This has informed the provision made in the 2013-14 accounts, with the Department considering it probable that it will be liable for compensating fee-paid judges for this historic variation. The Department is appealing this ruling to the Employment Appeal Tribunal. The Department has estimated the liability in relation to these pay claims as £133 million.¹⁶

¹³ Ministry of Justice, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 23, June 2014.

¹⁴ Comptroller and Auditor General, *Home Office and Ministry of Justice: Transforming contract management*, Session 2014-15, HC 268, National Audit Office, September 2014.

¹⁵ Judicial Pension Scheme, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 46, July 2014, page 40.

¹⁶ Ministry of Justice, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 23, June 2014, page 105.

Parole Board oral hearings

2.22 The number of oral hearings the Parole Board must hold will increase significantly in the coming year because of the outcome of the Osborn, Booth and Reilly case (Osborn) in October 2013. The Supreme Court ruled prisoners are entitled to an oral hearing more frequently than before. The Parole Board estimates that the number of oral hearings each year could increase from 4,500 to more than 14,000.¹⁷ The Board has received additional funding to meet this challenge and is undergoing significant change as it develops a new operating model. The backlog of cases due to receive an oral hearing increased from 1,245 in September 2013 to 2,087 in March 2014.

2.23 The growing backlog of cases at the Parole Board will lead to further delays in releasing prisoners, making the Parole Board liable to more compensation claims and increasing the costs incurred by the prison system by extending the time prisoners are held. It may also increase the number of prisoners held in crowded prisons. The 2013-14 NOMS annual report and accounts noted that 22.9% of prisoners were held in crowded prisons, where the occupancy exceeded the Certified Normal Accommodation in that unit. The average annual direct cost per prisoner was £26,000 in 2012-13.¹⁸

Other legislative changes

2.24 The Crime and Courts Act came into force in April 2013. This Act:

- created the National Crime Agency, which will report to the Home Office;
- enacted changes to the structure, administration, proceedings and powers of courts and tribunals; and
- introduced the possibility of broadcasting from courts.

2.25 The Department also implemented the new Criminal Injuries Compensation Scheme in November 2012 following parliamentary approval. This reduced the categories of injuries from violent crimes that victims are able to claim compensation for and reduced the amount that can be claimed for eligible injuries.

Independent assessments of the Department's performance

2.26 In Part Three of this report, we look at the NAO's assessment of the Department's performance in 2013-14. Alongside our work and that of the Justice Select Committee, a number of other bodies regularly produce independent analyses of how the Department is doing and of the challenges it faces. In this section, we look at some of the most notable of these reports published in the last year.

2.27 HM Inspectorate of Probation and HM Inspectorate of Prisons (two independent bodies) examine the work of the Department. Both regularly carry out inspections and publish reports on the standard of services delivered by the Department.

¹⁷ Parole Board, *Annual Report and Accounts 2013-14*, Session 2014-15, HC 299, July 2014.

¹⁸ National Offender Management Service, *Annual Report 2012-13: Management Information Addendum*, July 2013.

HM Inspectorate of Probation

2.28 In July 2014 HM Inspectorate of Probation published its annual report, which provides a summary of its work in 2013-14. During the year the Inspectorate carried out 12 inspections of adult offending work, 25 inspections of offender management in prisons (jointly with HM Inspectorate of Prisons), 6 full joint inspections and 30 short quality screenings of youth offending work and 4 thematic reports. **Figure 6** shows some of the findings from the annual report.

2.29 In 2013-14 HM Inspectorate of Probation produced a joint report with HM Inspectorate of Prisons on prison offender management. The report found that many prisons did not pay sufficient attention to ‘offender management’ functions, namely the rehabilitation of the prisoner and protection of the public, and little progress had been made to implement recommendations from their previous joint report. The annual report notes that this is of particular concern because “the lack of progress casts doubt about HM Prison Service’s capacity to implement the changes required under Transforming Rehabilitation designed to reduce reoffending rates, especially for short-term prisoners”.¹⁹

HM Inspectorate of Prisons

2.30 In 2013-14 HM Inspectorate of Prisons (HMIP) carried out 98 inspections at prisons, police custody suites, court custody facilities, youth offender institutions and immigration detention centres. Its assessments are against 4 main criteria: resettlement, respect, safety and purposeful activity. HMIP has not yet published its annual report for 2013; however, we have reviewed the inspection reports published throughout the year and documented the trend in performance across the estate in **Figure 7** overleaf.

Figure 6

Percentage of adult offending work of sufficient quality

	Inspections ¹ focused on work with violent offenders (%)	Inspections ¹ focused on work to protect children (%)
Work to reduce the likelihood of reoffending	73	66
Work to protect the public	71	64
Work to deliver an effective service for victims	77	67

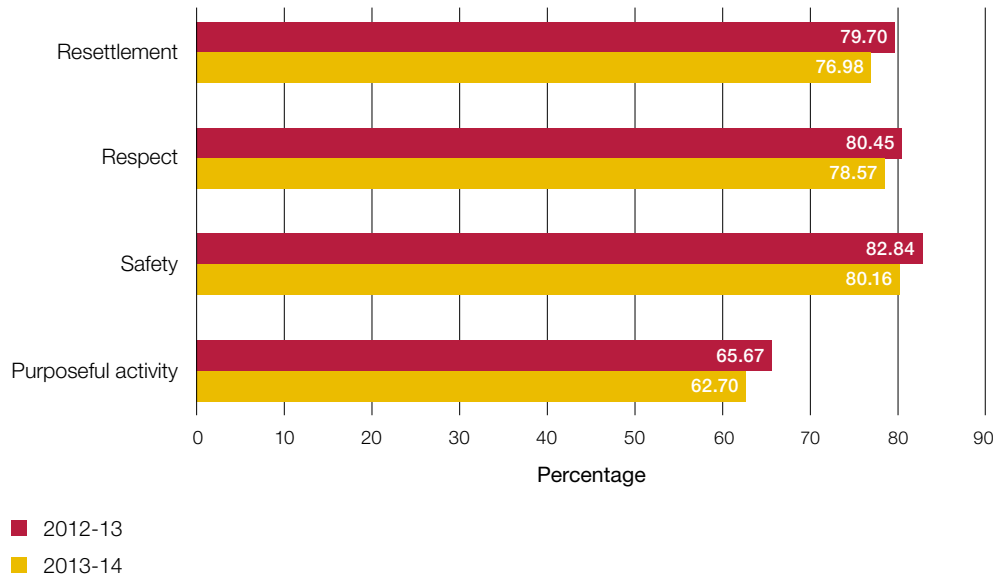
Note

¹ Six inspections focused on violent offenders and 5 inspections focused on work to protect children.

Source: HM Inspectorate of Probation, *Annual Report 2013-14*, July 2014

Figure 7

Proportion of positive outcomes in HMIP survey areas



Source: National Audit Office analysis of 2013-14 Prison Rating System data

2.31 Overall, the proportion of positive outcomes reported by HMIP has declined and recently there have been a number of critical prison inspection reports. HMIP described the following 3 prisons as unsafe and reported that:

- at **HMP Ranby** outcomes for prisoners had deteriorated significantly since the last inspection, with concerning levels of victimisation, intimidation and violence;
- **Wormwood Scrubs** had significantly declined, with recommendations from the Prisons and Probation Ombudsman on suicide and self-harm prevention measures yet to be implemented;
- at **Glen Parva**, a Young Offenders Institution, inmates were at serious risk of harm and death.

2.32 However, HMIP also provided positive feedback to some institutions during the year. For example, inspectors found:

- **HMP Grendon** to be a very safe prison that provided a good amount of time out of cells;
- **HMP Birmingham**, previously a failing prison, had made good progress and had a much improved staff culture; and
- **HMP/YOI Parc**, despite being a large, overcrowded prison holding some serious offenders, delivered good or reasonably good outcomes in every area.

Comparison with prison statistics published by the Department

2.33 The trend seen in HMIP's reports is supported by figures published by NOMS²⁰ and the Department²¹ (**Figure 8**) which show:

- 1 in 5 prisons were rated 'of concern';
- self-inflicted deaths increased from 0.6 per 1,000 prisoners in 2012-13 to 1 per 1,000 prisoners in 2013-14;
- the rate of assaults increased from 164 incidents per 1,000 prisoners in 2012-13 to 178 incidents per 1,000 prisoners in 2013-14;
- serious assaults increased from 15 assaults per 1,000 prisoners in 2012-13 to 20 assaults per 1,000 prisoners in 2013-14; and
- people absconding increased to 225 in 2013-14 compared with 204 in 2012-13.

Figure 8

Recorded incidents 2009-10 to 2013-14

		2009-10	2010-11	2011-12	2012-13	2013-14
Self-inflicted deaths ¹	Rate per 1,000 prisoners	0.7	0.6	0.8	0.6	1.0
Assaults ¹	Rate per 1,000 prisoners	178	170	180	164	178
Serious assaults ¹	Rate per 1,000 prisoners	16	16	15	15	20
Self-harm (male) ¹	Rate per 1,000 male prisoners	173	183	196	201	217
Self-harm (female) ¹	Rate per 1,000 female prisoners	2,624	2,723	1,924	1,549	1,543
Total hours worked ²	Million	– ³	10.6	11.4	13.1	14.2
Crowded accommodation ⁴		24.1%	23.8%	24.1%	23.3%	22.9%
Escapes from prisons and prisoner escorts ⁴		5	2	4	1	4
Absconds ⁴		269	235	175	204	225

Notes

- 1 Ministry of Justice, *Safety in Custody Statistics England and Wales Update to March 2014*, 31 July 2014.
- 2 National Offender Management Service, *Annual Report 2013-14: Management Information Addendum*, 31 July 2014.
National Offender Management Service, *Annual Report 2012-13: Management Information Addendum*, 25 July 2013.
National Offender Management Service, *Annual Report 2011-12: Management Information Addendum*, 24 July 2012.
National Offender Management Service, *Annual Report 2010-11: Management Information Addendum*, 28 July 2011.
- 3 Data has not been published for 2009-10.
- 4 Ministry of Justice, *Prison Performance Digest 2013-14*, 31 July 2014.

Source: National Audit Office analysis

20 National Offender Management Service, *Prison Annual Performance Ratings 2013-14*, July 2014.

21 Ministry of Justice, *Safety in Custody Statistics England and Wales, Update to March 2014*, July 2014.

2.34 However, there are also some positive trends emerging, including:

- Escapes from prisons and from prison escorts remain low (4 in 2013-14) and there have been no Category 'A' escapes.
- The percentage of prisoners in crowded accommodation fell from 23.3% in 2012-13 to 22.9% in 2013-14.
- The total hours worked by prisoners in industrial activity in public sector prisons has risen from 13.1 million hours in 2012-13 to 14.2 million hours in 2013-14.

Major developments for the year ahead

Transforming Rehabilitation

2.35 The Department's 35 Probation Trusts ceased trading during 2014-15. On 1 June 2014 they transferred their functions to 21 Community Rehabilitation Companies (CRCs) and the National Probation Service. The Department intends to sign sale and purchase agreements and CRC contracts by the end of December 2014, with ownership transferring in 2015. This is covered in further detail in Part Four.

HMCTS reform

2.36 HM Courts & Tribunals Service estate consists of around 500 court and tribunal buildings, with approximately 3,000 courtrooms and hearing rooms.

2.37 The Secretary of State for Justice announced a programme of courts reform in March 2014. HM Treasury agreed a one-off package of investment averaging up to £75 million per annum over the 5 years from 2015-16. The Department plans to use this funding to update and replace technology in courts and tribunals across the country, speed up and modernise working practices and significantly refurbish the court and tribunal estate. The Department expects the reform programme to deliver savings in excess of £100 million per year by 2019-20.

Common Platform

2.38 The Department continues to develop the 'Common Platform'. This will be an integrated data store and suite of services that allows all stakeholders to access and use the same data. The shared data will be the basis for all working across the criminal justice system (and in time across other justice jurisdictions), from initial capture of information through charge, in-court presentation of evidence, verdict and sentence and subsequent enforcement action. Planned benefits include improving the effectiveness of HMCTS and Crown Prosecution Service (CPS), the quality of justice outcomes and cutting the total cost of HMCTS and CPS services, as well as eventual switching off of legacy systems.

Criminal legal aid crime tender

2.39 Following the outcome of the *Transforming Legal Aid: Next Steps* consultation in February 2014, the Department announced that it would introduce a revised model of tendering for criminal legal aid services. As a result of the changes individuals seeking legal aid will not have to be represented by an allocated solicitor. They will now be able to choose their own solicitor provided the solicitor has a contract with the Department.

2.40 The LAA opened the process for allotting criminal legal aid services contracts to solicitors in April 2014. The contracts will be awarded in 2014-15 and new services will commence on 1 July 2015.

Transforming youth custody

2.41 In January 2014 the Department set out its response to the Transforming Youth Custody consultation. Within this, plans were set out for the introduction of secure colleges, described by the Department as a “new generation of secure educational establishments where learning, vocational training and life skills will be the central pillar of a regime focused on educating and rehabilitating young offenders”. The Department plans to launch the first purpose-built secure college in the East Midlands in 2017.

New prison

2.42 In September 2013 the government confirmed a new 2,100-place prison will be built in Wrexham, and that feasibility work had started on a second large prison in the South-East of England. The Department plans to start building work during 2014-15. In the same announcement, the Department laid out plans to close 4 smaller prisons to achieve required savings across the prison system: the savings target for all prison closures across the spending review period is £170 million. The 4 closures were completed in December 2013, closing 1,400 prison places that the Department assessed as “uneconomic”.²²

Part Three

Recent NAO findings on the Department

Our audit of the Department's accounts

3.1 The National Audit Office's (NAO) financial audits of government departments and associated bodies are primarily conducted to allow the Comptroller and Auditor General (C&AG) to form an opinion of the truth and fairness of the public accounts. In the course of these audits, the NAO learns a great deal about government bodies' financial management and sometimes this leads to further targeted pieces of work that examine particular issues. In this section, we look at the outcome of our most recent financial audit on the Ministry of Justice (the Department) and its bodies.

Audit opinions

3.2 In 2013-14 the C&AG gave the Department's accounts an unqualified audit opinion. For the second year running the Department laid its accounts by the HM Treasury deadline of 30 June 2014. The Office of Legal Complaints audit is ongoing and due to be completed by the statutory deadline of 31 January 2015. All of the other bodies within the Departmental boundary received unqualified audit opinions.

3.3 The Department is also required to lay before Parliament the HM Courts & Tribunals Service (HMCTS) Trust Statement. The Trust Statement is an account of financial activity in respect of fines and penalties that HMCTS collects on behalf of government as a whole.

3.4 HMCTS first produced a Trust Statement for the 2010-11 financial year. However, because the systems which HMCTS uses to manage fines and penalties were not designed for financial reporting and lacked transactional detail, the C&AG was not able to offer an opinion on the truth and fairness of either this original statement, or the 2011-12 Trust Statement.

3.5 In January 2014 the Department published the 2012-13 Trust Statement, which demonstrated the significant improvements that HMCTS has made.²³ Our opinion was still qualified on two counts – a non-recurring issue affecting the comparability of cash collection figures between 2012-13 and 2011-12, and the reliability of financial data on fixed penalties. However, the fact that we were able to limit our qualifications to these discrete areas was a positive development and reflects ongoing efforts by HMCTS to improve its systems and process around financial reporting of fines and penalties. Work on the 2013-14 Trust Statement is ongoing, with audit completion and accounts publication planned in the coming months.

Significant findings or developments

3.6 We identified the following significant issues during the course of our audits:

- **Shared Service Centre programme:** The programme to replace the back-office systems and commercial contracts for HR, finance, procurement and payroll services was paused in 2012-13. This was because the Department identified the programme was providing poor value for money.

In June 2014 the Department announced that it had entered negotiations with Shared Services Connected Limited (SSCL), the Cabinet Office/Steria joint venture. The decision to move from an in-house shared service centre to an outsourced one meant that some elements of expenditure that had already been incurred no longer provided any benefit. This related largely to application development and project management provided by contractors. As a result, the Department incurred a constructive loss of £56.3 million, as disclosed in the 2013-14 Departmental accounts. The Department is currently planning to outsource services in the autumn of 2014.

- **HMCTS' review of long-term leasing contracts:** During the year management reviewed sites acquired to accommodate future court construction projects. HMCTS obtained the sites, which related to projects started before the 2010 Spending Review over a number of years. HMCTS found that a small number of sites no longer represented value for money and cancelled those projects. As a result, HMCTS incurred costs of no benefit to the agency. Constructive losses relating to these projects were recognised in the 2013-14 accounts of £23.5 million for preliminary works on new courts and £22.3 million for 2 land site leases no longer required.

Management reviewed the current governance framework and control processes used to evaluate investment decisions. They consider the arrangements currently in place are sufficient to prevent similar issues in future. A formal lessons-learned exercise is also under way.

²³ HM Courts & Tribunals Service, *Trust Statement 2012-13*, HC 923, 17 December 2013.

Our audits of the Department's effectiveness and value for money

3.7 The NAO's work to test the effectiveness and value for money of government spending in 2013-14 included a number of reports that focused on the Department. A complete list of reports is detailed in Appendix Three. We have summarised the most significant reports produced, their findings and in some cases the actions that have been taken since.

Managing the prison estate

3.8 A significant proportion of the Department's land and buildings, valued at **£7.6 billion**, relates to the prison estate, which includes **119 establishments** with capacity for around **87,000 prisoners**. This NAO report, published in December 2013, looked at the value for money of changes made to the prison estate and the related savings made (**Figure 9**). It also examined how estate changes may be affecting the prison system overall and how the National Offender Management Service (NOMS) might reduce the prison population by managing key offender groups better.

Figure 9
Savings from prison closures

Resource expenditure	2010-11 (actual)	2011-12 (actual)	2012-13 (actual)	2013-14 (budget)	2014-15	2015-16	Cumulative position by 2015-16 ¹
Budgets released by closures (£m)							
2011-12 closures		-28.5	-32.8	-32.8	-32.8	-32.8	-159.7
2012-13 closures			-4.0	-15.4	-15.4	-15.4	-50.0
March 2013 closures				-55.9	-55.9	-55.9	-167.8
Total budget released by closures¹		-28.5	-36.7	-104.1	-104.1	-104.1	-377.5
Income from Home Office ²		-8.7	-8.7	-20.6	-20.6	-20.6	-79.3
Total¹		-37.3	-45.5	-124.7	-124.7	-124.7	-456.8
Income from land sales			-24.0				-24.0
Cost of closures	0.5	8.9	18.6	23.9	3.0	2.1	57.2
Savings net of cost of closures ¹	0.5	-28.3	-50.8	-100.8	-121.7	-122.6	-423.7

Notes

- Numbers may not add up due to rounding.
- Income from the Home Office is for former prisons, which the Agency runs as immigration removal centres.
- Gross savings for 2014-15 should be compared with the Agency's target of making £170 million of gross savings annually by 2014-15. It expects to make a further £31 million savings from the recently announced closures and £2 million savings by reassigning another prison as an immigration removal centre.

Source: Comptroller and Auditor General, *Ministry of Justice and National Offender Management Service: Managing the Prison Estate*, Session 2013-14, HC 735, National Audit Office, December 2013, Figure 8

3.9 We concluded that the current prison estate strategy was the most coherent and comprehensive for many years and it was a significant improvement in value for money. NOMS had taken a longer-term approach to estate development and used good forecasts for prisoner numbers. It had managed closures and new construction efficiently with new builds now of higher quality. However, in some new accommodation, prisoners routinely shared cells, some in overcrowded conditions. In addition, the closure of high-performing prisons during the implementation of the estate strategy was regrettable in value-for-money terms. Consequently, of our 8 recommendations, half focused on prison performance. We also made recommendations around the management of foreign national offenders and prisoners on indeterminate sentences.

3.10 The Department committed to:

- share best practice material on managing the prison estate more widely across government;
- consider the prison's performance in the evaluation process for future prison closures;
- improve the provision and quality of programmes provided to offenders by March 2016; and
- continue to work together with the Home Office to reduce the foreign national offender population.

3.11 The Committee of Public Accounts also made detailed recommendations on the poor performance of HMP Oakwood and HMP Thameside. In response, the Department committed to:

- continue to work with providers to implement the performance improvement plans already in place;
- improve the quality of purposeful activity by March 2015;
- take lessons learned at these prisons and apply them to the new prison in North Wales, expected to be built by February 2017; and
- work with the prisons to achieve level 3 (good performance) by 2014-15 with level 4 (exceptional performance) as a longer-term aim.

3.12 The poor performance ratings at HMP Oakwood and HMP Thameside contribute to an increasing number of prisons rated level 2 (of concern), though it should be noted that Oakwood and Thameside are no longer level 1 (of serious concern). The Department released annual performance data for 2013-14 in July 2014, which showed that nearly four-fifths of prisons are still meeting or exceeding the overall standard of performance required, although there has been an increase in the number of prisons rated of concern. More information on performance is included in paragraphs 2.26 to 2.34.

Confiscation orders

3.13 Confiscation orders are the main way through which the government carries out its policy to deprive criminals of the proceeds of their crimes. A number of bodies are involved in its administration as well as HMCTS, for example, the police and Crown Prosecution Service (CPS). In 2012-13 these bodies collected **£133 million** at an estimated cost of **£102 million (Figure 10)**. Using the National Fraud Authority estimate of total fraud (**£52 billion**) as a proxy for total criminal proceeds, we estimated that in 2012-13 only 35p of every £100 of criminal proceeds was confiscated.

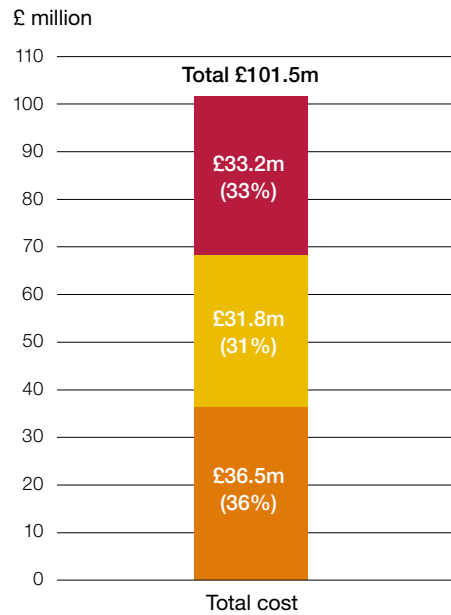
3.14 The report considered why the amounts actually confiscated are small, specifically examining governance, accountability, identification, investigation, imposition and enforcement of confiscation orders. The key findings were:

- **There is no coherent overall strategy for confiscation orders.** The government published an organised crime strategy in October 2013 that recognised the need for more collaboration and a more targeted approach. This is encouraging.
- **A flawed incentive scheme and weak accountability compounds the problem.** All confiscation order impositions, receipts and assets are reported solely in HMCTS' Trust Statement even though the agency has no direct influence on what other bodies do.
- **Absence of good performance data or benchmarks across the system weakens decision-making.**
- **Enforcement efficiency and effectiveness are hampered by outdated, slow ICT systems, data errors and poor joint working.** For example, at HMCTS regional confiscation units manual keying takes 45 hours a week for their tracker system alone.
- **The main sanctions for not paying orders, default prison sentences and interest charges, do not work.**

Figure 10

Estimated annual cost of administering confiscation orders in England and Wales

We estimate the annual cost is £102 million



- Enforcement¹
- Hearing and appeals²
- Investigation³

Notes

- 1 The cost of enforcement includes £18.5 million for keeping offenders in prison for non-payment; with the remainder covering the cost of administration and collection by the enforcement agencies (see Part Four).
- 2 The cost of hearings and appeals includes an estimated £20.8 million of legal aid costs, with the remainder covering judicial time and costs of the courts.
- 3 The investigation stage relates predominantly to the costs of financial investigators working on confiscation orders in the main law enforcement agencies (see Part Three). We do not include the cost of the criminal investigation in this estimate.

Source: National Audit Office analysis, *Confiscation Orders*, Session 2013-14, HC 738, December 2013, Figure 2

3.15 Following a Committee of Public Accounts report on this subject the government response noted that:

- The Home Office has **developed an improvement plan** with objectives and milestones for all agencies involved. This plan includes consideration of how best to incentivise operational agencies to confiscate proceeds of crime. This should be implemented by March 2015.
- The CPS is working on a set of **performance measures** for all criminal justice partners. The CPS is also considering cost analysis for some of their cases.
- The government will provide **funding for the Joint Asset Recovery Database**, which is the primary source of performance data on asset recovery and organisations will run a **data-cleansing** exercise.
- The Home Office will legislate to increase the maximum prison term for non-payment of a confiscation order as soon as parliamentary time allows.

The Department's language services contract: Progress update

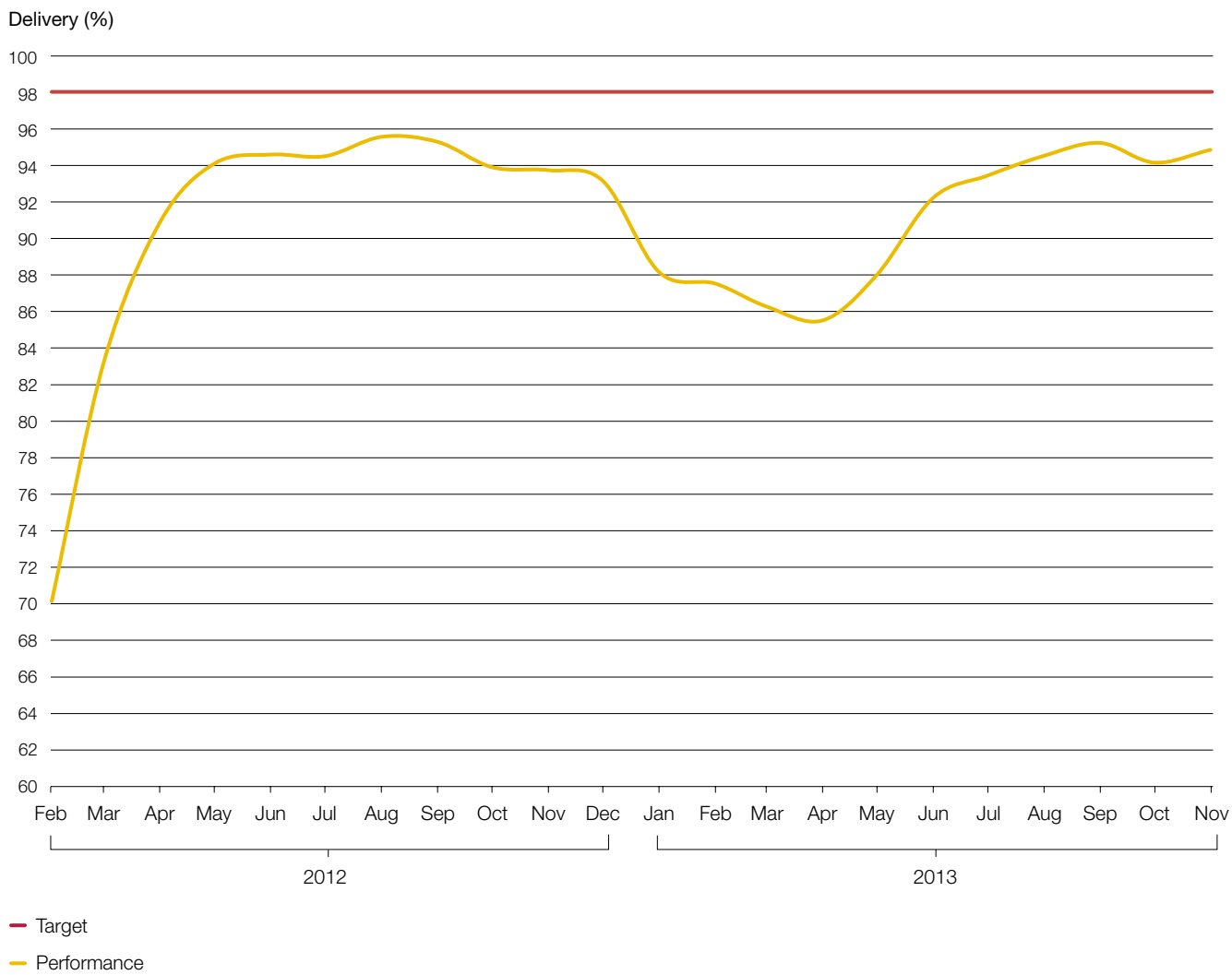
3.16 In September 2012 we reported on the Department's new language services contract. This contract provides interpreting and translation services to a range of justice sector bodies. The largest service provision area (courts and tribunals) faced operational difficulties when these new arrangements were implemented, which led to our investigation of various aspects of the contract. The contract was originally awarded to Applied Languages Solutions but this company was subsequently purchased by Capita.

3.17 In January 2014 we published a progress update for the Committee of Public Accounts on the contract, which found that:

- **progress had been made in implementing many of the recommendations made by the Committee of Public Accounts in December 2012.** The Department performs audit checks of the security status of interpreters, more interpreters are available and the Department now routinely collects and monitors management information;
- **there are a number of areas where the Department and Capita still need to improve.** For example, at the time of reporting Capita was still not meeting the target to fulfil 98% of bookings (see **Figure 11**) and the Department was not auditing most of the data supplied by Capita; and
- **the Department had been slow to implement some recommendations.** A new assessment system had not been implemented and an independent review of quality standards had not yet been performed.

Figure 11

Capita's performance against its KPI



Source: Comptroller and Auditor General, *The Ministry of Justice's language services contract: Progress update*, Session 2013-14, HC 995, National Audit Office, January 2014, Figure 2

Criminal justice system: landscape review

3.18 In March 2014 we produced a landscape review of the criminal justice system. The system encompasses the functions of the police, prosecution, courts, prisons, youth justice services and probation. This report provided an overview of the operation of the system in England and Wales, considering the main challenges to an efficient and effective system and whether current reforms address the issues identified. Our review concluded that:

- the system had evolved over time, had no single ‘owner’ and had been subject to regular change and reform;
- the government’s reform programme was ambitious and would take time;
- delivery partners needed to work well together at national and local level; and
- interrupted information flows within the system could prevent cases from proceeding efficiently.

The Department in a cross-government context

3.19 In addition to our work on individual departments, the NAO looks at performance across government, in order to understand how different departments measure up on important issues. Of the cross-government reports we have published in the last year, 5 have included substantial coverage of the Department.

Transforming contract management

3.20 We published 2 reports together in November 2013 on contractors in government: *Government Contracting: The role of major contractors in the delivery of public services*²⁴ and *Cabinet Office: Managing government suppliers*.²⁵ The former focused on the role of 4 individual contractors (ATOS, Capita, G4S and Serco) in the delivery of public services and the latter on the Cabinet Office’s progress in managing the government’s key suppliers.

3.21 Building on this initial work on contract management, we published 2 further reports in September 2014: *Cabinet Office: Transforming government’s contract management*²⁶ and *Home Office and Ministry of Justice: Transforming contract management*.²⁷ These reports looked at the government response to the problems around managing contracts with the private sector and the changes that still needed to occur. The latter report compares the responses of these two departments to the problems each have identified with their contract management and the progress they have made since last year with their improvement plans.

²⁴ Comptroller and Auditor General, *Government Contracting: The role of major contractors in the delivery of public services*, Session 2013-14, HC 810, National Audit Office, November 2013.

²⁵ Comptroller and Auditor General, *Cabinet Office: Managing government suppliers*, Session 2013-14, HC 811, National Audit Office, November 2013.

²⁶ Comptroller and Auditor General, *Cabinet Office: Transforming government’s contract management*, Session 2014-15, HC 269, National Audit Office, September 2014.

²⁷ Comptroller and Auditor General, *Home Office and Ministry of Justice: Transforming contract management*, Session 2014-15, HC 268, National Audit Office, September 2015.

3.22 We concluded that the root cause of the weaknesses in contract management is failure over many years to establish contract management as a distinct and respected specialism with a strong ethos and well-defined responsibilities. Both departments identified weaknesses but the Department started from a weaker position than the Home Office. Owing to the greater scale of identified weaknesses, the Department quickly responded (see **Figure 12** on pages 34 and 35) with a more comprehensive improvement plan. It has designed a multidisciplinary team structure incorporating both commercial and operations managers. This improvement plan has the potential to achieve fundamental change if the Department sustains its current commitment.

3.23 Both departments have more to do to achieve good value for money from their contracted services. The recommendations to both departments were that they:

- must **maintain their current impetus to improve** contract management so that good practice becomes business as usual;
- should **specify in contracts** the need for **accurate reporting**, and include **stringent penalty clauses** for misreporting that are routinely enforced;
- need **a balanced scorecard for each major contract**, containing performance, cost and risk information;
- need to ensure a **joined-up approach** to contract management between commercial, legal and finance specialists, and operations managers; and
- should **carry out periodic skills audits** to identify levels of commercial and contract management skills across their organisations.

Managing debt owed to central government

3.24 Individuals and businesses owe debt to government for various reasons including outstanding fines and court confiscation orders. Although there is no official figure for the total owed, data suggests that at least £22 billion was still owed and this was almost all split between HM Revenue & Customs (£15.1 billion), the Department for Work & Pensions (£4.5 billion) and Ministry of Justice (**£2.3 billion**).

3.25 The report concluded that the centre of government has not yet fully gripped debt management and that poor quality data on debtors and lack of analytical ability is a significant problem. There needs to be a more coordinated approach and an assessment of the cost and efficiency of collecting debt.

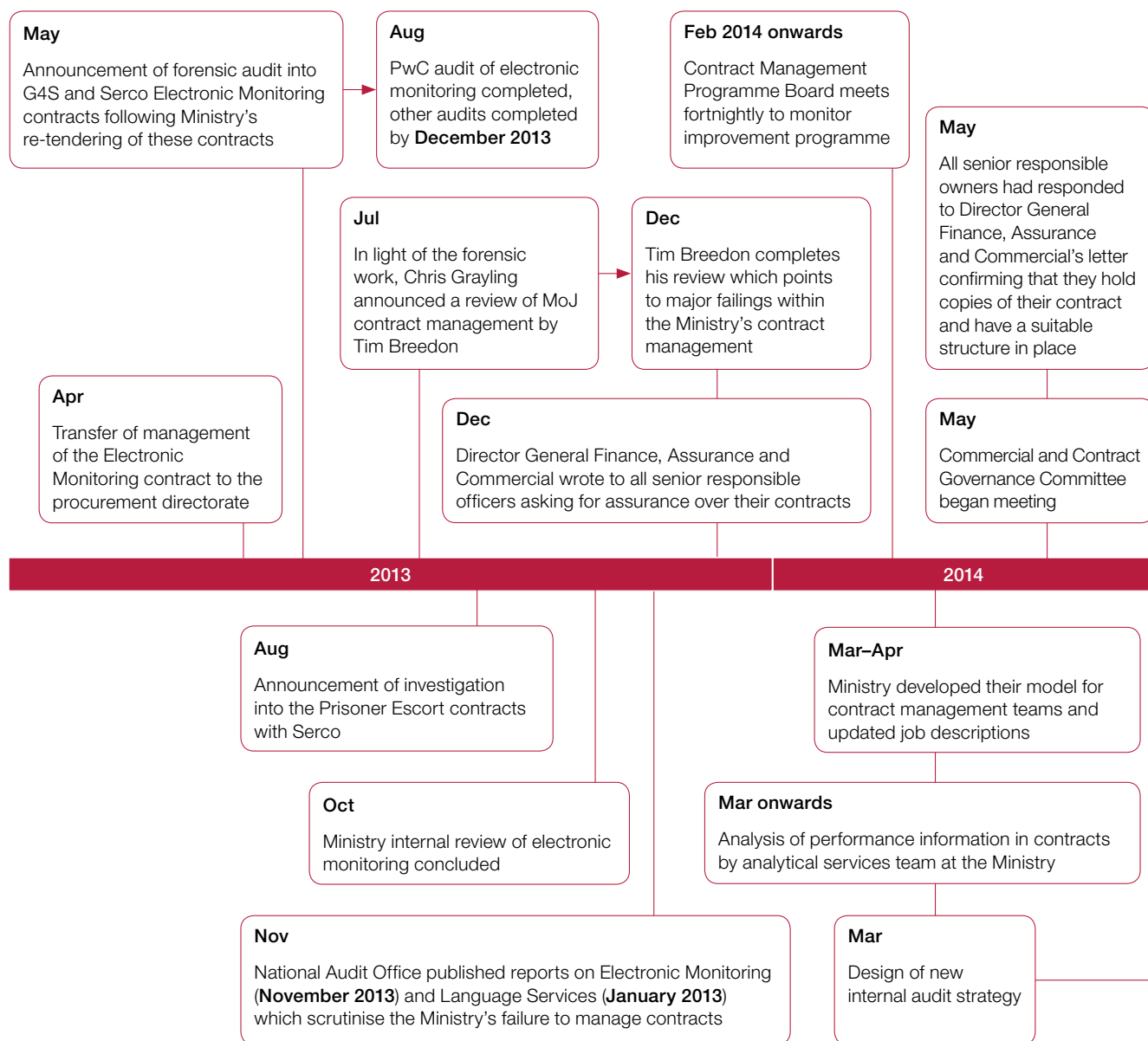
NAO work in progress

3.26 The NAO has one report in progress relating to the Department.

3.27 Changes to civil legal aid – scheduled for late 2014: There have been substantial changes to the arrangements for civil legal aid since 2010, most significantly with the introduction of the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (paragraphs 2.9 to 2.14). This report will examine whether the government's approach to implementing its policy of reducing spending on civil legal aid represents value for money.

Figure 12

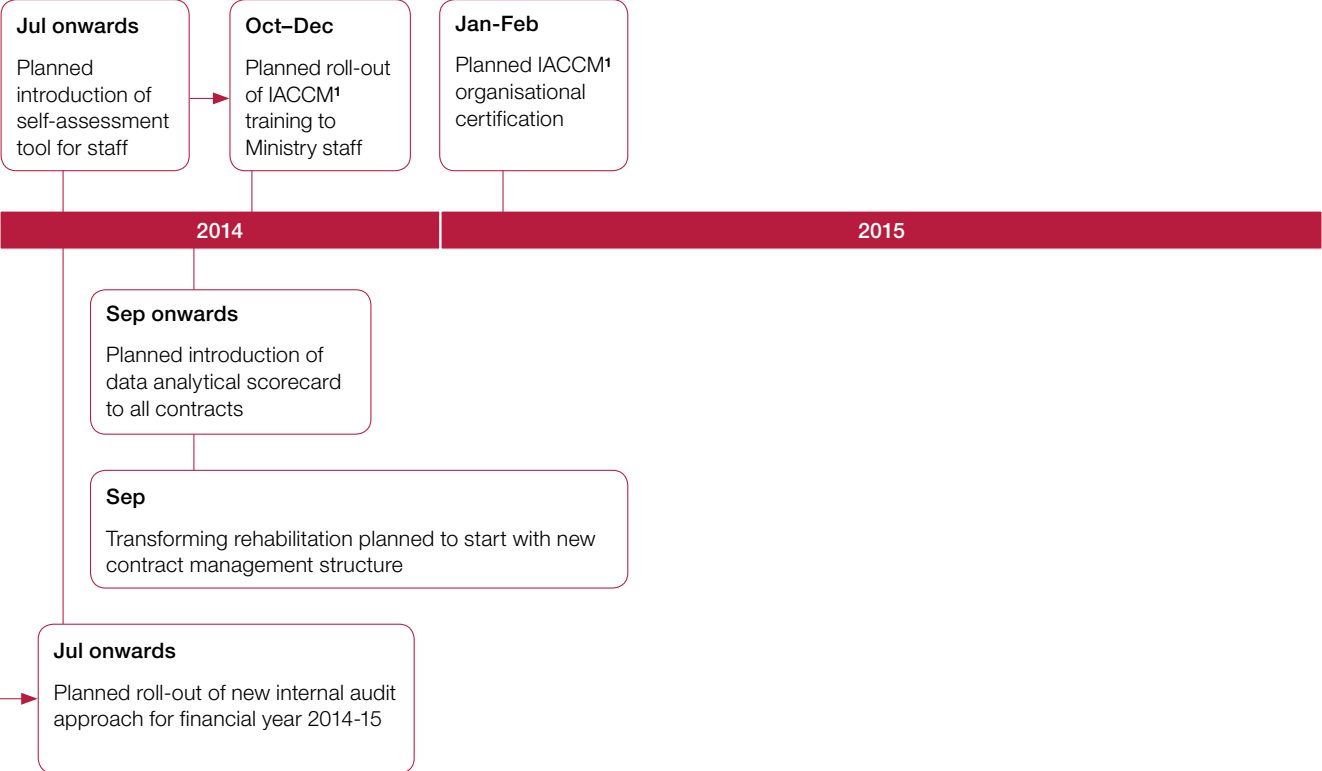
Ministry of Justice timeline for improving contract management



Note

1 International Association for Contract & Commercial Management (IACCM).

Source: National Audit Office analysis



Part Four

Case study: Transforming Rehabilitation

Background

4.1 A significant proportion of all crime is committed by people who have already been through the criminal justice system. Around half of adults released from prison have served sentences of less than 12 months and almost 60% of those individuals go on to commit further offences within a year of their release.²⁸ For many years the rate of reoffending has remained at a high level, as shown in **Figure 13**. Transforming Rehabilitation is a reform programme aimed at addressing the coalition priority of introducing ‘a rehabilitation revolution’ in order to bring the rate of reoffending down.²⁹

4.2 During 2013-14 probation services were provided by 34 probation trusts across England and 1 in Wales. They managed an average caseload of **219,500**³⁰ offenders, spent more than **£860 million** and employed **17,182 staff**.

Transforming rehabilitation agenda

4.3 In May 2010, the government stated its aim to overhaul the system of rehabilitation. In 2013, following consultation, the Ministry of Justice (the Department) published its proposals for reform.³¹ The main changes proposed were:

- opening up the market to a diverse range of new rehabilitation providers;
- introducing new payment incentives for market providers to focus on reforming offenders;
- extending statutory supervision and rehabilitation to those sentenced to under 12 months in custody;
- a nationwide ‘through the prison gate’ resettlement service, meaning most offenders are given continuous support by 1 provider from custody into the community; and
- a new public sector National Probation Service (NPS).

²⁸ Ministry of Justice, *Proven Re-offending Statistics Quarterly Bulletin, October 2011 to September 2012, England and Wales*, July 2014.

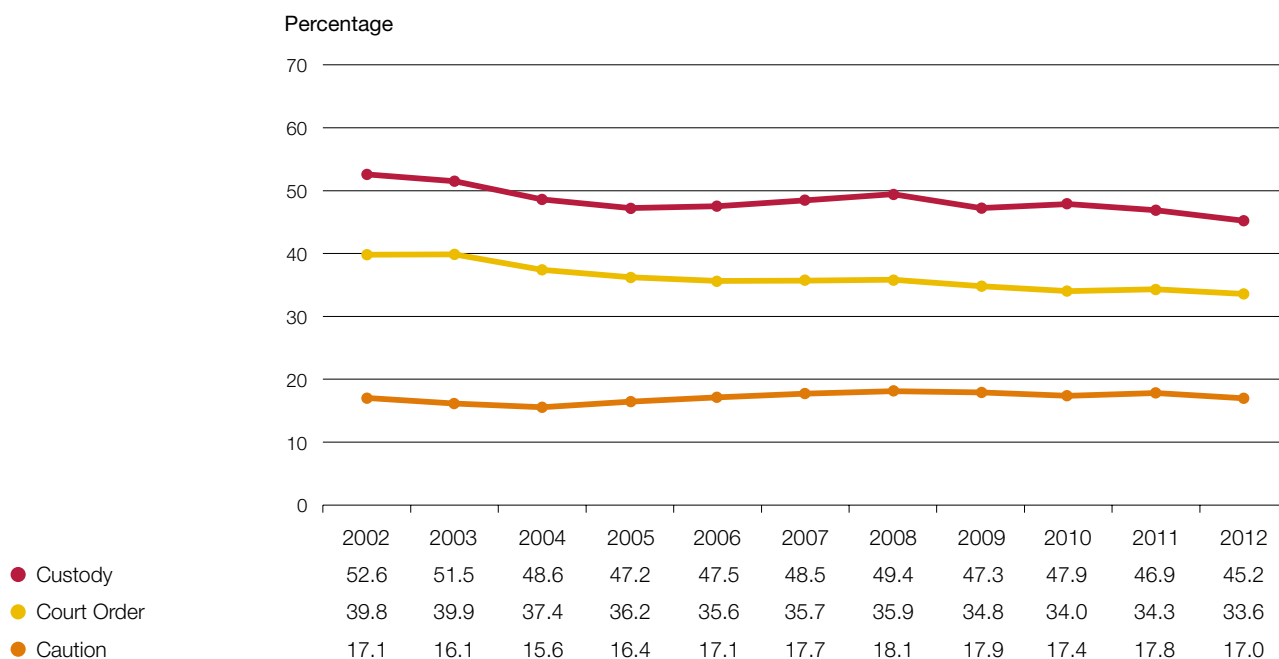
²⁹ Ministry of Justice, *Ministry of Justice Business Plan 2011–2015*, 31 May 2012.

³⁰ Ministry of Justice, *Offender Management Statistics Bulletin: January to March 2014*, July 2014.

³¹ Ministry of Justice, *Transforming Rehabilitation – A Strategy for Reform: Response to Consultation CP(R) 16/2013, Session 2013-14*, May 2013.

Figure 13

Percentage of adult offenders who reoffend by previous penalty type

**Note**

1 For years 2006–2012 percentages are for the 12 months to September.

Source: Ministry of Justice, *Proven Reoffending Statistics Quarterly Bulletin, October 2011 to September 2012, England and Wales*, July 2014

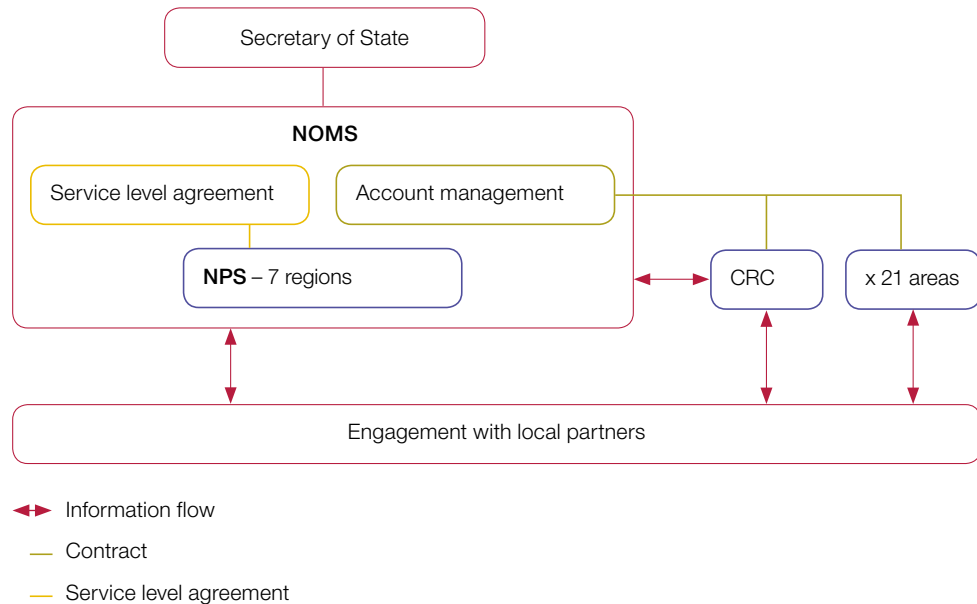
4.4 The Department published a document in September 2013 (updated in May 2014) outlining the new structure of probation services and how it would operate. A simplified version of this is shown in **Figure 14** overleaf. The key elements of the operating model are:

- a National Probation Service**, a directorate of National Offender Management Service (NOMS), has direct responsibility for high-risk offenders and those who have committed the most serious offences. It also has responsibility for allocating offenders to the NPS or CRCs, and for providing advice to courts; and
- b Twenty-one Community Rehabilitation Companies (CRCs)** supervising low- and medium-risk offenders. These companies are limited by shares, initially in public ownership for subsequent sale.

4.5 On 1 June 2014 probation services transferred from probation trusts to NPS and CRCs.

Figure 14

Probation system governance under Transforming Rehabilitation

Source: Ministry of Justice, *Target Operating Model: Rehabilitation Programme*, September 2013

Timeline for reform

4.6 In May 2013 the Department set out its high-level timeline for implementation of the changes; a timetable which has always been challenging. The Department has committed to completing changes by 2015. Originally the Department planned to establish NPS and CRCs from 1 April 2014 but deferred this to 1 June 2014, to allow time to satisfy itself that the most effective transition arrangements were in place. In **Figure 15** we set out the original plans detailed in the Department's May 2013 strategy document, *'Transforming Rehabilitation: A Strategy for Reform'*,³² along with actual completion dates.

Current status of the programme

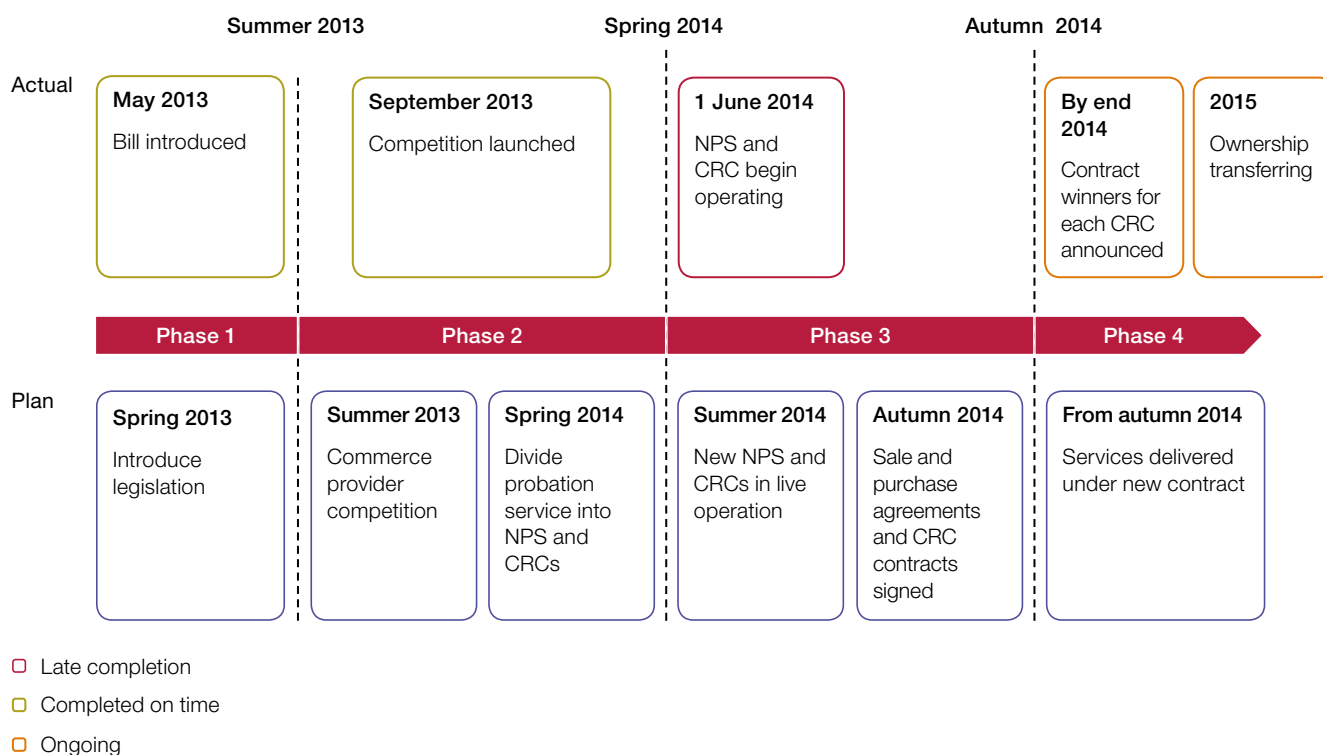
4.7 The probation trusts ceased operational activity on 31 May 2014, with the majority of their assets, liabilities and functions transferring to the NPS and CRCs from that date. The management of high-risk offenders was transferred to the NPS and the management of medium- and low-risk offenders was transferred to the CRCs.

4.8 The trusts will be formally abolished on 31 October 2014. This was effected by a Statutory Instrument, which has been laid in Parliament.

³² Ministry of Justice, *Transforming Rehabilitation – A Strategy for Reform: Response to Consultation*, CP(R) 16/2013, Session 2013-14, May 2013.

Figure 15

Timeline for outsourcing probation services



Source: National Audit Office analysis of Ministry of Justice, *Transforming Rehabilitation: A Strategy for Reform*, May 2013 and subsequent performance

4.9 Probation staff pension funds transferred to the Greater Manchester Pension Fund on 1 June 2014. The pension assets and liabilities will be transferred using a staged process, due to be concluded by August 2015. The consolidated position at 31 March 2014 was a net deficit of £1.2 billion. Responsibility for past service liabilities will remain with the Department.

4.10 On 30 June 2014 organisations submitted their bids to provide probation services to the Department. Bidders ranged from multinational corporations, to the voluntary, community and social enterprise sector, to mutuals set up by staff from probation trusts. No organisation is allowed to win more than 25% of the total value of the competition. The Department met with bidders during August 2014 to provide feedback on their initial bids and allow organisations to make any changes they consider necessary.

4.11 In addition to those bidding to win the 21 regional rehabilitation contracts the Secretary of State for Justice has stated that almost 1,000 organisations have registered their interest in working with the successful bidders to provide rehabilitation services.

4.12 In May 2013 the Department set out initial plans for services to be delivered by successful bidders under new contracts from autumn 2014. However, since then the Department has delayed the timetable for delivery of the new services. The Department now aims to sign sale and purchase agreements and CRC contracts by the end of 2014, with ownership transferring in 2015.

4.13 The Office for National Statistics has confirmed that they will classify the CRCs as 'private sector entities' once they have been sold so long as there are no material changes to the sale agreements. This means that the CRCs will not be consolidated into the Department's or NOMS' financial statements once they have been sold. We have been appointed as the auditors of the CRCs while they are under public sector ownership and we will resign our position once the CRCs have been sold.

Payment by results

4.14 One of the reforms the Department is introducing is to partially base payment to CRCs on performance: payment by results. The core of the payment mechanism will be split between:

- a Fee for service**, which covers delivering the sentence of the court and licence conditions (including the new 'through the gate' resettlement service); and
- b Payment by results**, which will be paid for achieving statistically significant reductions in reoffending rates and frequencies against a baseline (2011).

4.15 The Department has been testing this approach by running payment by results pilots in HMP Doncaster and HMP Peterborough. The results for both pilots are based on a 12-month re-conviction measure that tracks offences committed in the 12 months following release from prison that result in conviction at court either in those 12 months or in a further 6-month period (allowing time for cases to progress through the courts). In August 2014 the Department announced that results from pilots were "promising".

- The **Peterborough** scheme commenced in 2010 and is on track to achieve a 7.5% reduction in re-conviction rate across all offenders in cohorts 1 and 2. However, it did not achieve its target of a 10% reduction in reoffending for cohort 1. Cohort 2 is still in progress.
- The **Doncaster** pilot started in 2011. The cohort 1 re-conviction rate for offenders released was 5.7 percentage points lower than the 2009 baseline year. Consequently, the providers will retain the full core contract value. They are not on course for any additional payment, which would have been due if they had achieved a 6–10% reduction in re-conviction rate.

4.16 These pilots are not directly comparable to the contracts that organisations are currently bidding for as the Department has refined its approach:

- a** Funding for the **Peterborough** scheme was different as it was funded through social impact bonds – where the Big Lottery Fund and other charitable trusts provide funding and received money back if certain targets are achieved.
- b** The Department used different measurements for reoffending in both schemes.

Risks to the programme

4.17 The reforms are wide-ranging and fundamental to the system. Change of this type brings with it risks, which we outlined in our report in March 2014.³³ Risks include:

- a** **market and supplier failure** and how this is managed;
- b** having **appropriate skills** to manage suppliers;
- c** **offender management** and allocation; and
- d** managing and retaining staff.

4.18 The Department has made efforts to address risks, for example undertaking significant work on improving its contract management approach and capability. The outsourcing of CRCs to providers is an early opportunity for the Department to put into practice its new contract management arrangements. The Department is putting a significant amount of resource into successfully implementing its new approach. However, work to improve contract management is ongoing.

Offender management

4.19 NPS allocates offenders between NPS and CRCs based on their Multi-Agency Public Protection Arrangements (MAPPA) status and the risk of serious harm those individuals pose. This risk assessment needs to be robust so that offenders are allocated appropriately.

³³ Comptroller and Auditor General, *Probation: landscape review*, Session 2013-14, HC 1100, National Audit Office, March 2014.

4.20 Having separate organisations raises an inherent risk around effective sharing of information when offenders move between organisations, either due to geographical reasons or because of a change in their risk profile. In evidence to the Justice Select Committee (JSC) ministers recognised the importance of engagement between the CRCs and NPS, especially where there is a change in the risk profile of an offender. The Department has taken some steps to address this, for example by locating regional CRC and NPS staff together so that they can communicate easily, and by issuing operational advice and guidance to staff on data-sharing.

4.21 To date, the probation unions and some individual probation officers have reported increasing workloads for some staff, inappropriate allocation of cases to staff and cases left unallocated. While recognising that there may be some local issues, NOMS is confident that “the vast majority of offenders have been assigned correctly”³⁴ and that caseload has been allocated proportionately.

Staffing

4.22 It is not unusual for significant change at an organisation to have a negative impact on staff morale. The National Association of Probation Officers (NAPO) issued a briefing to MPs in July 2014 describing morale as at an “all-time low”.

4.23 NOMS acknowledges staff morale is very important and has tried to engage with employees in various ways. During the transition from probation trusts to CRCs or NPS a national operations centre was open to support staff. NOMS continues to provide weekly communications to staff across the probation service and holds weekly conference calls with NPS and CRC senior leaders. NOMS has held leadership events for NPS and CRC senior leaders and provided training for front-line staff.

4.24 The NOMS annual report 2013-14 shows a drop in permanent probation staff of 452 and an increase in agency and contract staff of 242. During August 2014 some CRCs placed adverts to recruit probation officers on both permanent and contract bases. High levels of staff turnover create significant challenges for management in maintaining services within available budgets.

Cabinet Office involvement

4.25 The Major Projects Authority (MPA) is part of the Cabinet Office and oversees major projects and programmes across government. As part of the standard process, the MPA performs reviews at various stages in the project/programme lifecycle. As is routine for programmes such as this, the MPA will review and sign off on the outsourcing of probation once the bid assessment process is complete.

³⁴ Letter from Michael Spurr, Chief Executive, NOMS to the 3 probation unions, 9 July 2014. Available at: www.napo.org.uk/joint-union-correspondence-michael-spurr

Appendix One

The Department's sponsored bodies at 1 April 2014

Executive agencies

National Offender Management Service
 HM Courts & Tribunals Service
 Legal Aid Agency
 Criminal Injuries Compensation Authority
 Office of the Public Guardian

Non-ministerial departments

The National Archives
 The UK Supreme Court¹

Inspectorates, ombudsmen and statutory office holders

Chief Coroner's Office
 Commissioner for Victims and Witnesses
 HM Inspectorate of Prisons
 HM Inspectorate of Probation
 Independent Monitoring Boards of Prisons, Immigration
 Removal Centres and Short-Term Holding Rooms
 Judicial Appointments and Conduct Ombudsman
 Judicial Communications Office
 Judicial Office for England and Wales
 Office of the Accountant General
 Office for Judicial Complaints
 Official Solicitor and Public Trustee
 Prisons and Probation Ombudsman

Executive non-departmental public bodies

Children and Family Court Advisory and Support Service
 Criminal Cases Review Commission
 Information Commissioner's Office
 Judicial Appointments Commission
 Legal Services Board
 Parole Board for England and Wales
 Probation Trusts (35)
 Youth Justice Board for England and Wales

Advisory and review bodies

Advisory Committees on Justices of the Peace
 Advisory Council on National Records and Archives
 Advisory Panel on Public Sector Information
 Assessor for Compensation of Miscarriages of Justice
 Civil Justice Council
 Civil Procedure Rule Committee
 Criminal Procedure Rule Committee
 Family Justice Council
 Family Procedure Rule Committee
 Independent Advisory Panel on Deaths in Custody
 Judicial College
 Law Commission
 Prison Service Pay Review Body
 Reducing Reoffending Third Sector Advisory Group
 Restraint Advisory Board
 Sentencing Council
 Tribunal Procedure Committee
 Victims Advisory Panel

Other bodies

Court Funds Office
 Legal Services Consumer Panel
 Office of the Judge Advocate General

Statutory body

Office for Legal Complaints

Note

¹ The UK Supreme Court is independent, of and is not sponsored by, the Department. The relationship between the independent Supreme Court and the Department is set out in a Concordat.

Appendix Two

Results of the Civil Service People Survey 2013

Survey question (% 'strongly agree' or 'agree')	Ministry of Justice (excluding agencies)	Civil service benchmark
Leadership and managing change		
I feel that my department as a whole is managed well	48	43
Senior managers in my department are sufficiently visible	55	51
I believe the actions of senior managers are consistent with my department's values	49	43
I believe that the board has a clear vision for the future of my department	39	42
Overall, I have confidence in the decisions made by my department's senior managers	43	41
I feel that change is managed well in my department	32	29
When changes are made in my department they are usually for the better	27	27
My department keeps me informed about matters that affect me	59	58
I have the opportunity to contribute my views before decisions are made that affect me	37	36
I think it is safe to challenge the way things are done in my department	39	38
Organisational objectives and purpose		
I have a clear understanding of my department's purpose	82	85
I have a clear understanding of my department's objectives	77	80
I understand how my work contributes to my department's objectives	80	83

Notes

1 These are summary results of the Civil Service People Survey 2013. Not all question scores have been included.

2 The score for a question is the percentage of respondents who strongly agree or agree to that question.

Source: *Civil Service People Survey 2013*, available at: www.civilservice.gov.uk/about/improving/employee-engagement-in-the-civil-service/people-survey-2013, accessed 28 August 2014

Appendix Three

Publications by the NAO on the Department since April 2013

Publication date	Report title	Weblinks
September 2014	Home Office and Ministry of Justice: Transforming contract management	www.nao.org.uk/report/transforming-governments-contract-management-2/
March 2014	The Criminal Justice System: landscape review	www.nao.org.uk/report/the-criminal-justice-system-landscape-review/
March 2014	Probation: landscape review	www.nao.org.uk/report/probation-landscape-review/
January 2014	The Ministry of Justice's language services contract: progress update	www.nao.org.uk/report/the-ministry-of-justices-contract-for-language-services-progress-update/
December 2013	Confiscation Orders	www.nao.org.uk/report/confiscation-orders/
December 2013	Managing the Prison Estate	www.nao.org.uk/report/managing-the-prison-estate/
November 2013	The Ministry of Justice's electronic monitoring contracts	www.nao.org.uk/report/the-ministry-of-justices-electronic-monitoring-contracts/

Appendix Four

Cross-government reports of relevance to the Department

Publication date	Report title	Weblinks
February 2014	Managing debt owed to central government	www.nao.org.uk/report/managing-debt-owed-to-central-government/
November 2013	Savings from operational PFI contracts	www.nao.org.uk/report/savings-from-operational-pfi-contracts/
November 2013	Managing government suppliers	www.nao.org.uk/report/memorandum-managing-governments-suppliers/
November 2013	The role of major contractors in the delivery of public services	www.nao.org.uk/report/memorandum-role-major-contractors-delivery-public-services/
July 2013	Charges for customer telephone lines	www.nao.org.uk/report/charges-for-customer-telephone-lines/

Where to find out more

The National Audit Office website is
www.nao.org.uk

If you would like to know more about the NAO's work on
the Ministry of Justice, please contact:

Oliver Lodge

Director

020 7798 7827

Oliver.lodge@nao.gsi.gov.uk

If you are interested in the NAO's work and
support for Parliament more widely, please contact:

Adrian Jenner

Director of Parliamentary Relations

020 7798 7461

adrian.jenner@nao.gsi.gov.uk

Twitter: @NAOorguk

© National Audit Office 2014

The material featured in this document is subject to National Audit Office (NAO) copyright. The material may be copied or reproduced for non-commercial purposes only, namely reproduction for research, private study or for limited internal circulation within an organisation for the purpose of review.

Copying for non-commercial purposes is subject to the material being accompanied by a sufficient acknowledgement, reproduced accurately, and not being used in a misleading context. To reproduce NAO copyright material for any other use, you must contact copyright@nao.gsi.gov.uk. Please tell us who you are, the organisation you represent (if any) and how and why you wish to use our material. Please include your full contact details: name, address, telephone number and email.

Please note that the material featured in this document may not be reproduced for commercial gain without the NAO's express and direct permission and that the NAO reserves its right to pursue copyright infringement proceedings against individuals or companies who reproduce material for commercial gain without our permission.



National Audit Office