



National Audit Office

Report

by the Comptroller
and Auditor General

**Home Office, Ministry of Justice, Attorney General's Office, covering:
HM Inspectorate of Constabulary, The Independent Chief Inspector of Borders
and Immigration, HM Inspectorate of Prisons, HM Inspectorate of Probation and
HM Crown Prosecution Service Inspectorate**

Inspection: A comparative study

Key facts

£20bn

estimated scale of spend inspected across home affairs and justice sectors

371

staff working in the five inspectorates (full time equivalent) across home affairs and justice, at December 2014

13,300

recommendations made by the five inspectorates in the past two years (92% by HMI Prisons in individual establishment inspections)

£35 million

spend on the five inspectorates, 2014-15

10 to 98

range across the inspectorates of the average annual number of reports published

5 to 65

range across the inspectorates of the average number of recommendations made in published individual establishment inspection reports in the past two years

2 days to 4 weeks

range in the time inspectorates typically spend on site during inspections

2 to 8 months

range in the time (including joint inspections) between the end of fieldwork and publishing inspectorate reports, 2013-14

9%

average reduction in inspectorates' spend, 2010-11 to 2014-15 (excluding HMI Constabulary)

66%

budget increase for HMI Constabulary for 2014-15 (reflecting new extra responsibilities for annual police force inspections)

In this report

2013-14 is the financial year (April to March).

Summary

1 Around £20 billion of public money is spent on the home affairs and justice sectors each year. Parliament, government and the public have an appetite for independent, robust information about how well this money is used, the performance of organisations delivering services, and the experience of people using these services, sharpened by the context of resource constraints and rising expectations.

2 Through public reporting and scrutiny, effective inspection can provide benefits of:

- independent assurance, by periodic, objective, targeted checks on public functions;
- valuable and often unique insights into how public services are run;
- identifying where service performance is at risk or failing;
- transparency;
- promoting public confidence in safety and quality of services provided;
- identifying opportunities for efficiencies and service improvements; and
- preventing ill-treatment of vulnerable people.

Findings from independent inspections are therefore a significant knowledge asset with substantial potential benefits for citizens and taxpayers.

3 Inspectorate focus varies, with legislation setting out each inspectorate's different and distinctive remit. Broadly, inspectorates focus on performance improvement and transparency. For example, Her Majesty's Inspectorate of Prisons' human rights focus provides a window into the treatment and conditions in which people are detained and, in doing so, aims to prevent their ill-treatment. There are similarities between inspectorates' roles and performance auditors (such as the National Audit Office) and regulators (such as the Care Quality Commission). However, these activities are distinct and complementary. Importantly, inspectorates only have the power of their voice to draw attention to what they find, informing accountability through objective information, insight and independent judgement, whereas regulators, for instance, may also apply powers of intervention, prescription and direction in the sectors they regulate.

4 The five home affairs and justice inspectorates that are the focus of this report inspect functions which place restriction on the freedom of individuals. Therefore, inspection is important and prominent, given the need for transparency and accountability. The inspectorates have a combined annual spend of around £35 million, with £142 million spent over the past five years. In order of 2014-15 budgets, these are:

- Her Majesty's Inspectorate of Constabulary (HMIC, £21.4 million);
- Her Majesty's Inspectorate of Prisons (HMI Prisons, £4.5 million);
- Her Majesty's Inspectorate of Probation (HMI Probation, £3.4 million);
- Her Majesty's Crown Prosecution Service Inspectorate (HMCPSP, £3 million); and,
- The Independent Chief Inspector of Borders and Immigration (ICI Borders and Immigration, £2.4 million).

5 Inspectorates have existed for a long time, with the first Inspector of Constabulary appointed in 1856. Most recently, the Home Secretary appointed the first Chief Inspector of Borders and Immigration in 2007. Ministers appoint Chief Inspectors, usually after a consultation process. Inspectorate staff have various backgrounds, with inspectorates aiming to balance their needs for technical insight, sector knowledge, and inspection skills.

6 The agencies and organisations within the criminal justice system have evolved differently in their history, approach and governance structures. This complex system has shaped how inspectorates approach inspection, individually and collectively. Patterns and trends in inspection approach have evolved. For example there has been a convergence towards four-grade ratings scales when inspecting single bodies. Single establishment inspections (83% of reports) have been complemented by thematic inspections (17% of reports) looking at services end-to-end and across institutions. There has been longstanding cooperation between the inspectorates. Under the Criminal Justice Joint Inspection (CJJI) regime, four inspectorates (excluding ICI Borders and Immigration) work to a rolling two-year programme. Considerable joint inspection takes place outside this framework, including, for example input from Ofsted and the Care Quality Commission to both prison and probation inspections.

7 In 2003, the Cabinet Office set out ten inspection principles, but inspection has received little central attention in recent years. We used the principles as a starting point for our examination. We considered developments for inspection regimes arising from, for instance, the Optional Protocol to the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), Ofsted's work, and the Francis reports on failings at the mid-Staffordshire NHS Trust. These called for more emphasis on inspection rather than self-assessment, and drew attention to the importance of not ignoring bodies that have failed to appear on the radar of concern.

Scope of the report

8 The extent to which inspection is effective and provides public value and impact is affected by factors such as how the inspectorates' role is set up and determined, the nature and practice of inspection regimes, and constraints in the environment within which inspectorates operate. We consider it is relevant and timely to report on inspection, given substantial changes in public service configuration and delivery (including contracting out), pressures on resources, and developments in accountability in this sector.

9 Across the five criminal justice inspectorates, we focus on three areas of comparison that are key to the optimal use of the knowledge asset which inspection findings generate. First we consider the most important aspect which is:

- whether the impact of inspection is maximised (Part Two);

which is in turn influenced by:

- whether the strategic framework for inspection supports the work of inspectorates (Part Three); and
- whether inspectorates carry out their work effectively (Part Four).

Key findings

Maximising the impact of inspection

10 The act of inspection has a direct cultural impact on sector performance. Inspected bodies pointed to the burden of inspection. However, they recognised the profound cultural effect on behaviour of the act of inspection and knowing the inspector would, or could, visit. Having inspection standards, such as HMI Prisons has, that the sector knows, has an impact, as often managers will aim to meet these standards before they are inspected. As well as their reports, inspectorates also use several routes to influence sector improvement, such as dialogue with ministers, promoting their work at conferences and to Parliament. They may also be active in oversight groups assessing compliance with inspection reports and policy more generally (paragraphs 2.2 and 2.3).

11 Making improvements arising from recommendations is the responsibility of bodies delivering services, but visibility about whether recommendations have been implemented can be poor for all parties involved. The main way inspectorates intend to have impact is through their published reports and recommendations, usually directed at inspected bodies. For maximum impact and value from inspection findings, there at least needs to be risk-based monitoring and follow-up. Responsibility for monitoring and following up recommendations rests, however, with different bodies and at different levels, reflecting a variety of accountability mechanisms. Assurance about implementation can be weak without follow-up work or an inspector re-visiting. For example, HMCPSI emphasises follow-up in its work programme. It sees action plans addressing its recommendations, and regularly follows up inspections to monitor implementation. In contrast, ICI Borders and Immigration's follow-up is limited. It relies on information from the Home Office about recommendation implementation. Some inspected bodies and departments said it can be difficult to implement a large number of recommendations. Audit and risk committees were unclear how departments were prioritising recommendations (paragraphs 2.4 to 2.8 and 2.11 to 2.15).

12 Poor inspection results can trigger intervention action by oversight bodies, but these bodies have flexibility in deciding whether to intervene. Although a snapshot of performance, inspection findings are an independent source of information. They give indicators that, when considered with other factors, can trigger an oversight body to intervene. For example, the Ministry of Justice uses inspection ratings when assessing prison governor performance, and its judgement of performance may result in the replacement of a prison governor. Frameworks for intervention need to allow for discretion about what action to take in the light of inspection reports. However, not all oversight bodies have clear mechanisms linking inspection findings to priorities for action (paragraphs 2.9 and 2.10).

13 The benefits of the knowledge and good practice identified by inspection findings and recommendations are not always maximised. Independent inspection findings generate a substantial knowledge asset. Individual inspection reports identify examples of good practice, and some inspectorates have published compendium reports pointing to or informing good practice, for example HMIC on policing in austerity. HMI Prisons has mined knowledge from prison inspections by linking findings on treatment of ex-service personnel. We found, however, that the benefits of inspection are not always maximised. Inspectorates, limited by resource constraints, do not generally link findings and recommendations across their reports to create extra value from the significant knowledge base they have generated (paragraphs 2.16 and 2.17).

14 Some inspectorates include indicators of sector performance improvement in annual reports, but do not collate systematic evidence of impact. Most inspectorates' annual reports summarise findings from their inspection reports published that year, but none included detailed examples of how their work had led to better performance. HMI Prisons includes trends in inspection ratings to indicate the sector's health, which mirrors Ofsted in its annual reports. It also analyses the number of recommendations accepted and achieved. There is, however, no systematic measurement or evaluation of inspection impact, which means the benefits of inspection are not always visible to the sector (paragraphs 2.18 to 2.20).

The strategic framework for inspectorates

15 Inspectorates' independence can be perceived as limited. Chief Inspectors' remits are statutory, and their appointment processes typically include pre-appointment hearings by parliamentary committees. However, effectively, Secretaries of State decide the appointments. They also determine tenure length which, if short, can be a constraint on establishing independence. Departments also control the size of inspectorates' budgets. They can therefore exert considerable influence on the strategic direction of inspectorates. Once appointed, however, Chief Inspectors act independently in carrying out inspections. The historical context, personal style and authority of the Chief Inspector can be crucial in setting the tone for the inspectorate. In doing so, Chief Inspectors may tread a delicate line in demonstrating independence and shining a light on the impact of reforms. For example, HM Chief Inspector of Prisons has publicly used inspection findings to make observations and recommendations about proposed legislative and policy changes (paragraphs 3.2 to 3.7).

16 Inspectorates mainly determine their own work programmes, but the Department's influence varies, according to legislation and historical context. Inspectorates determine their work programmes using their own sector risk profiles (from inspections) and sector intelligence (such as performance data and stakeholder feedback). Ministers approve HMIC's inspection programme, but are only consulted on the work programmes of other inspectorates. Secretaries of State can also direct inspectorates to take on extra work. In practice, the Secretaries of State have rarely used this power of direction, but have reached agreement with inspectorates on commissioning extra work. The Home Office has made more requests of the inspectorates it sponsors than the Ministry of Justice and the Attorney General's Office. We found, nonetheless, inspections are carried out independently of departments regardless of how programme content is established (paragraph 3.6).

17 Departments' sponsorship arrangements for inspectorates risk perceived or actual conflicts of interest. We found no agreed approach for departmental sponsorship arrangements for inspectorates, for example from departments working together or from the Cabinet Office. No government department currently considers itself responsible for overall policy in relation to inspection. The Home Office and Ministry of Justice sponsors are in the policy directorates responsible for the inspected sectors. ICI Borders and Immigration is unique in that, since the Home Office brought the activities of the UK Border Agency back into the Department in 2012 and 2013, ICI Borders and Immigration now inspects part of the Home Office. There is also limited independent challenge about how Chief Inspectors run their inspectorates internally; only HMCPSI has a non-executive member on its management board (paragraphs 3.9 to 3.11).

How inspectorates carry out their work

18 Inspectorates have flexed their inspection regimes to adapt to evolving demands, resource pressures and policy developments. Inspectorates' spending (excluding HMIC) has on average reduced by 9% from 2010-11 to 2014-15. Inspectorates have responded flexibly to funding reductions. With fewer resources, they have mostly developed programmes aiming inspection resource where risks to services are greater. They also reduced thematic work, used electronic media more, and reduced costs. From 2014, however, HMIC is carrying out annual inspections of the effectiveness, efficiency and legitimacy of all police forces, requiring a 66% increase in funding. This is to inform the government's model for public and democratic accountability of the police. HMI Probation is developing a new outcome-focused inspection approach as the government reforms offender rehabilitation, creating 21 Community Rehabilitation Companies and a new National Probation Service (paragraphs 3.4, 3.7, 4.2 to 4.4, and 4.8).

19 Despite developing their approaches to inspection, inspectorates' identification and sharing of how they could learn from each other has been limited. We found some differences in inspection practice. For example most inspectorates now use a four-grade rating system for their inspection judgements. However, each inspectorate uses different grades, which can be confusing for those unfamiliar with the sector. We found, however, many similarities in inspection practice. Many of the methodologies and types of skills applied to inspection work are common. Greater sharing and learning could help establish good practice and efficiencies, given the limited resources for inspection. Each inspectorate develops training for its staff, and for joint inspections, and, in the case of HMI Prisons, with other partners, but inspectorates have not collaborated to develop training programmes for common skills. There is methodological guidance for joint work, but good inspection practice is not captured, shared or amplified in a systematic way. Benchmarking of the efficiency of inspectorates' activity is also limited (paragraphs 3.8, 4.6 to 4.10, and 4.18).

20 Inspectorates publish their inspection reports themselves, with the exception of the Chief Inspector of Borders and Immigration. Before publishing their reports (which can be from two to eight months after the end of fieldwork), all inspectorates feed back to senior management and staff of inspected bodies. This is either at the end of the inspection visit or, for ICI Borders and Immigration and HMCPSI, two weeks later. Most inspectorates then publish their own inspection reports. However, since January 2014, the reports of the Chief Inspector of Borders and Immigration have been published by the Home Secretary, reflecting legal advice to the Home Office that this was the process required under the UK Borders Act 2007 which set up the inspectorate. During 2014, the Home Secretary has published the reports between 43 and 163 days after the Chief Inspector provided the factually agreed report. The Chief Inspector of Borders and Immigration considered that delays in publishing reports risked reducing the effectiveness of independent inspection, and contributed to a sense that his independence was being compromised. The Home Secretary also has powers to redact his reports on national security grounds, and has done so on four occasions (paragraphs 3.5 and 4.11 to 4.15).

21 **Inspectorates and departments agree on the importance and potential of joint inspection work, but the Criminal Justice Joint Inspection (CJJI) regime has struggled to make this work effectively and maximise its impact.** Joint inspection activity can inspect themes that cut across remits in home affairs and justice, for example bureaucracy in the criminal justice system. It can therefore play a vital role in identifying where systemic change is needed. The Chief Inspectors are committed to this regime, providing resources from their annual inspection budgets to deliver a joint programme. However, there is no dedicated budget for this work. It has been challenging for the different inspectorates to work together, with tone and approach to joint inspections determined by a lead inspecting body and no agreed style for reporting. The Chief Inspectors are accountable to ministers for the direction and delivery of the CJJI programme. We found, however, no overall accountability for the programme's impact, and a lack of clarity among inspectorates and departments about how to track and follow-up recommendations from the CJJI programme, particularly where these had been directed at bodies where the inspectorates had no remit (paragraphs 4.16 to 4.20).

Conclusion

22 The government has spent around £142 million in the past five years to develop the knowledge asset that inspection findings create. Inspection brings benefits of public scrutiny and assurance. It gives departments, Parliament and the public valuable signs of where performance can be improved. However, there is inconsistency in the governance, extent of independence, and reporting arrangements of inspectorates which can limit their impact. Different routes for communicating findings and, sometimes, unclear systems for following up recommendations can further weaken the effectiveness of external scrutiny. To optimise the £35 million annual investment in inspection activity, inspectorates and their sponsors should consider whether current inspection arrangements are consistent and adequate. This includes whether they best meet the purposes they are publicly intended to serve, and how they can generate more value from the significant knowledge asset created from inspection findings, particularly in the context of constrained and reduced resources.

Recommendations

23 Overall, we recommend that government should identify which department leads overall policy in relation to inspection. That Department should then re-engage with the inspection agenda. It should revisit how the inspection principles set down in 2003 have developed to test if they still hold given the considerable developments in the configuration and delivery of public services in the past ten years.

24 In addition, from our analysis of the five inspectorates across the home affairs and justice sectors, we recommend that inspectorates and departments should do the following:

Maximising impact

- a** Inspectorates should do more to exploit the knowledge created from their inspections by identifying and disseminating those findings, recommendations and good practice examples which have had most impact, using existing joint working arrangements and liaison with other bodies where appropriate.
- b** Establish a coherent mechanism and accountability for tracking the impact of joint inspection work carried out under the Criminal Justice Joint Inspection regime.

In sponsorship

- c** Clarify what the sponsor role should be in relation to inspectorates, explaining any differences between inspectorates in sponsorship arrangements.
- d** Separate the sponsor roles for inspectorates in departments from areas with policy or operational responsibility for the inspected sector, to avoid perceived or actual conflicts of interest.
- e** Satisfy themselves that those charged with governance and overseeing inspectorates' recommendations, for example audit committees and non-executives, have sufficient direct contact with inspectorates to discuss their findings and progress with implementing their recommendations.
- f** The Home Office should satisfy itself that the reporting arrangements for the Independent Chief Inspector of Borders and Immigration are appropriate to underpin the independence of the Chief Inspector. It should consider whether legislation needs to be changed to make these arrangements consistent with other inspectorates.

Carrying out inspection activity

- g** Examine the impact of different rating scales on inspected bodies, the executive and the public.
- h** Share experience of common inspection practice to learn from each other and hone practices, especially where inspectorates have common elements in their missions and objectives.
- i** Devise an accredited inspection training programme to develop common inspection skills.