



National Audit Office

Report

by the Comptroller
and Auditor General

Ministry of Justice

Transforming Rehabilitation

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Ministry of Justice

Transforming Rehabilitation

Report by the Comptroller and Auditor General

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Commons in accordance with Section 9 of the Act

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Comptroller and Auditor General
National Audit Office

22 April 2016

This study examines whether the Ministry of Justice and the National Offender Management Service are managing Transforming Rehabilitation, and other ongoing reforms to the probation landscape, in a way that will improve the value for money of probation services.

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Key facts

21

Community rehabilitation companies (CRCs) in England and Wales

8

number of different providers across the 21 CRCs

£3.7bn

total lifetime contract value for all 21 CRCs

26.2%

overall adult and junior reoffending rate in 2013-14

£889 million

forecast total probation costs for 2015-16, including costs of CRC contracts, the National Probation Service, and operational and contract assurance activity

£259 million

estimated payments to CRCs for payment by results over contract life, based on a 3.7 percentage point reduction in reoffending rates

**£7.4 billion –
£10.7 billion**

conservative estimate of the annual cost of reoffending to society in England and Wales

19

bidders for the 21 CRC contracts

80%

percentage of community orders and suspended sentence orders successfully completed by CRCs, in December 2015, against a target of 75%

70%

percentage of community orders and suspended sentence orders successfully completed by the National Probation Service, in December 2015, against a target of 75%

Summary

1 The Ministry of Justice (the Ministry) is responsible for protecting the public, reducing reoffending and providing a more effective criminal justice system. It is supported by 37 agencies and public bodies, including the National Offender Management Service (NOMS). NOMS is an executive agency of the Ministry, responsible for making sure that people serve the sentences and orders handed out by courts, both in prisons and through probation in the community.

2 Probation is the means through which offenders are supervised and their rehabilitation is pursued. Probation services exist to: protect the public; reduce reoffending and rehabilitate offenders; carry out the proper punishment of offenders; and ensure offenders are aware of the impact of crime on victims and the public.

3 Previously, probation services were delivered by 35 self-governing probation trusts working under the direction of NOMS. From late 2013, arrangements for delivering probation and rehabilitation services to offenders underwent concurrent changes, including:

- in June 2014 probation services were divided into a National Probation Service (NPS) across seven regions and 21 new community rehabilitation companies (CRCs):
 - The public sector NPS advises courts on sentencing all offenders and manages those offenders presenting higher risks of serious harm or with prior history of domestic violence and sexual offences. Around 20% of all cases are allocated to the NPS.
 - CRCs supervise offenders presenting low- and medium-risk of harm. CRCs operated as companies in public ownership until 1 February 2015 when they transferred to eight, mainly private sector, providers. Around 80% of cases are allocated to the CRCs.
 - As at July 2015, some 243,000 offenders were supervised by the NPS and CRCs;
- supervision was extended to offenders released from prison sentences of under 12 months, as part of the Offender Rehabilitation Act 2014; and
- reorganisation of the prison system to provide 'Through the Gate' services. Since May 2015 CRCs have provided offenders with resettlement services while imprisoned.

Our report

4 This report builds on our 2014 *Probation: landscape review* and our reports on commercial and contracting issues, particularly *Transforming contract management* in the Home Office and Ministry of Justice. It explores ongoing probation reforms and the extent to which changes are being managed in a way likely to promote value for money. We recognise that these changes have barely started and that it will take two years before prospects for success are clearer. In particular, success depends on achieving economic benefits to society estimated at more than £12 billion of economic benefits from reduced reoffending over the next seven years.

5 This report has four parts:

- Part One provides an overview of probation reforms and assesses the procurement for the CRC contracts.
- Part Two focuses on the performance management of the 21 CRCs and the NPS.
- Part Three identifies important operational issues in CRCs and the NPS.
- Part Four examines progress by CRCs and the NPS in transforming probation services, and the main challenges they face in achieving the necessary transformation.

Key findings

The performance of the reformed system

6 Services have been sustained throughout a period of major change, with users reporting that services had stayed the same or improved since the reforms. Based on survey data from service users across four CRCs, overall 77% of service users considered they had not noticed any change in the overall service they personally received. However, users also provided views on specific services they received. User dissatisfaction was highest in obtaining help with housing; having to repeat information to different people; the level of support that supervisors provided to offenders; and help with finding employment. Such aspects are in part influenced by wider factors outside the control of probation bodies (paragraphs 3.14 to 3.18).

7 The performance of CRCs and the NPS remains unclear given limitations around data quality and availability. Until data on reoffending are compiled in late 2017, data on performance are limited to information on service levels for the completion of probation activities. The Ministry allowed eight months until September 2015 before performance of CRCs would be open to contractual penalties.

- As at December 2015, NOMS has no data for three of 24 CRC service levels and assurance metrics, and insufficiently robust data in another two. Nationally, CRC performance is at or above target levels in seven of the remaining 19 measures, including positive completion of court orders, seen by the Ministry as a leading indicator for future reoffending. However, performance varies significantly across CRCs and the contracts require that CRCs achieve all targets by February 2017. NOMS is currently only applying service credits for poor performance against one level, due to data availability and quality for others. To date some £78,000 in service credits have been applied, at two CRCs.
- The NPS has similar issues including currently no data for five of 25 NPS service levels and insufficiently robust data in another two. Performance is at or above targets in seven of the remaining 18 measures. However service level agreements require that NPS achieves all targets by April 2017. In the important measure of positive completion of court orders, NPS performance is lower than the equivalent performance by CRCs (70% versus 80% in December 2015) (paragraphs 2.2 to 2.8).

8 NOMS has established robust and thorough contract management and assurance arrangements but has no plan for moving to a more risk-based approach as delivery under the contracts matures. NOMS has applied lessons from previous failures and has invested heavily in robust CRC contract management, which accounts for 2.1% of contract spend. However, many staff in CRCs were concerned about the extent and trajectory of contract management and operational assurance activity. NPS has much more limited contract management capability, albeit for much lower-value contracts. It is currently trying to identify all the contracts it holds, establish precisely what goods and services it is paying for and revise its approach to commercial activity (paragraphs 2.9 to 2.19).

Meeting current operational challenges

9 The reforms have established new organisations with different incentives, creating unsurprising frictions between CRC and NPS staff at working level, which will take time to work through. Close cooperation is essential to handle the transfer of offenders between CRCs and the NPS when their risks change or when they breach the terms of their probation. Many junior staff we spoke to in CRCs considered their NPS contacts were often unduly critical and dismissive, while many junior staff in the NPS thought that their CRC contacts were often not providing them with necessary information and had become too focused on their commercial interests as opposed to the best interests of offenders. We saw efforts by local CRC and NPS managers to address such differences and build trust, but at this early stage the organisations have more to do to ensure that they work together more effectively to improve case management (paragraphs 3.1 to 3.4).

10 Concerns over probation workloads are not new, although staff in both the CRCs and the NPS considered that high workloads have reduced the supervision and training that they receive and the service they provide. CRCs are reducing their workforce in advance of transformation while the NPS is increasing staff. There is no single 'right' number for workload, which depends on case risk and complexity. In the four CRCs we visited, only three provided individual caseload data and these were presented as an average, which masks any variation within and across CRCs. While the average caseload was between 34 and 42 cases, we met staff handling significantly higher caseloads, which they considered prevented them providing an adequate service. The NPS has been operating above recommended capacity in two of its seven regions, although ongoing recruitment of some 650 trainee probation officers should help address shortfalls in the medium term (paragraphs 3.8 and 3.9).

11 The various ICT systems used in probation casework create severe inefficiencies. New tools used by the NPS for assessing and allocating offenders are cumbersome and require repeated data re-entry. Staff also attributed several hours per person per week of lost working time to nDelius, the main probation case management system adopted before the Transforming Rehabilitation reforms. The NPS expects to continue using these systems for the foreseeable future. All CRCs planned to replace existing ICT systems once they could develop new case management and assessment systems, but NOMS was delayed in developing and implementing the interface (the Gateway) required for CRCs to share data on offenders. The interface was originally planned for delivery in June 2015, but was delayed due to other priorities and increased scope. At the time of finalising this report the Ministry advised us that the Gateway had been developed and was awaiting joint testing with CRCs' systems. As CRCs consider such links as essential to their transformation plans they have estimated consequent costs, which are subject to ongoing negotiations (paragraphs 3.10 to 3.13).

Ensuring that transformation is achieved

12 The Ministry did well to sustain competition and conclude deals for all 21 CRCs within the cost limits and timescales set by ministers, but the procurement has left some difficult issues to manage. The Ministry attracted interest from many providers new to probation and as a result secured affordable bids for an expanded range of services at all 21 CRCs by February 2015. Selected bidders offered cost savings sufficient to fund the expansion of supervision to short sentence offenders, and to fund an estimated £259 million of success payments over ten years for reducing offending. Offers were received from a total of 19 bidders, down from 30 originally invited to negotiate, as the Ministry maintained its position on key contract terms. This reduction in bidders resulted in only one compliant bid for five of the 21 CRCs, although these all met the qualitative and financial thresholds required by the department. Completing the procurement in a challenging timetable, combined with uncertainties arising from the concurrent changes in the probation system, limited bidders' understanding of their exposure to business risk (paragraphs 1.5 to 1.10).

13 CRC business volumes are much lower than the Ministry modelled during the procurement, which, if translated into reduced income, would affect the ability of CRCs to transform their businesses. The volume reductions vary greatly, from 6% to 36%. The Ministry attributes the volume reductions to fewer cases going through the justice system, including fewer than expected low- and medium-risk cases for CRCs, and the declining use of certain sentences, which was accentuated by new deadlines for allocating cases. Income shortfalls, which are under commercial negotiation, would affect CRCs' capacity to bring in new ways of rehabilitating offenders, introduce new ICT systems, implement estates strategies and reform corporate support services. They also increase the risk of underperformance or default. The Ministry has contractual powers to help it mitigate some of these risks, although having to replace a failing provider would be challenging and disruptive. Its insights into CRC finances and funding challenges are still developing (paragraphs 4.1 to 4.10).

14 CRCs are paid primarily for completing specified activities with offenders rather than for reducing reoffending, which also risks hindering innovative practice. This was a realistic choice, reflecting the limited appetite of providers to accept a higher element of payment by results. But given the limited weight of payment by results, it is critical that these fees for activities ('fees for service') better incentivise CRCs to adopt innovative approaches to reduce reoffending, and not just established practice (paragraphs 1.14 to 1.19).

15 The NPS has higher than predicted caseloads and faces a difficult further period of change if it is to play a fully effective role in the transformed and national probation service. Its front-line managers face increasing pressure, including dealing with higher than expected workloads, now of high-risk offenders, while assimilating a heavy influx of trainees, who will take time to become fully effective professionals. At the same time, probation managers are acquiring new responsibilities for managing support services, such as human resources and office management; a key source of dissatisfaction among staff we interviewed. The NPS's new change programme, announced in November 2015, is attempting to tackle regional variations in probation practices but has not focused specifically on support services (paragraphs 3.6 and 3.7).

16 Arrangements to resettle offenders 'Through the Gate' are still in their early stages. CRCs delivering resettlement services in prisons have been focused on commencing services and meeting contractual measures based on completing processes, rather than on service quality, which we understand varies significantly across prisons. To date, it is unclear what new processes CRCs will introduce into resettlement services and the impact these will have on providers' overall payment by results (paragraphs 4.15 and 4.16).

17 The Ministry has more work to do to sustain the supply chain of mainly voluntary sector bodies now working to CRCs and the NPS. Although the Ministry put extensive effort into attracting voluntary sector bidders, these largely lost out to private sector contractors when bidding to lead CRCs, due to their more limited resources and appetite for risk. The voluntary bodies still have a major role as suppliers to CRCs, although recent surveys of the sector indicate increased uncertainty and instability in funding of their work with offenders. Similarly, the Ministry has identified gaps in provision, which it and CRCs will need to address (paragraph 4.11).

Conclusion on value for money

18 The Ministry has successfully restructured the probation landscape, avoiding major disruptions in service during a difficult transition period. But this is only the beginning. If the Ministry is to stabilise, and improve, the performance of CRCs and the NPS it needs to continue to address operational problems, such as underlying capacity issues, weaknesses in ICT systems and performance data, and improve working relationships between NPS and CRC staff – some of which are unsurprising given the scale of reforms.

19 Ultimately, the success of the Transforming Rehabilitation reforms will depend on the extent to which they create the conditions and incentives to reduce reoffending. While NOMS' oversight of CRCs is robust, significantly lower levels of business than the Ministry projected will affect some CRCs' ability to deliver the level of innovation they proposed in their bids. Furthermore, the NPS is not yet operating as a truly national, sustainable service. Achieving value for money from the new probation system will require resolving these fundamental issues, and ensuring the right incentives for all participants in the system.

Recommendation to the Infrastructure and Projects Authority

- a The Authority should ensure that its guidance to departments outsourcing complex transformed services considers how to mitigate or reduce risk and uncertainty from concurrent changes, including through different phasing.** High uncertainty over future business can reduce competition during procurement and cause later problems. Key issues affecting Transforming Rehabilitation during and since procurement are due to outsourcing immature CRC businesses within a changing new probation system.

Recommendations to the Ministry of Justice

Sustaining the new market

- b NOMS should combine its ongoing analysis of the CRC supply chain with feedback from voluntary organisations to identify and address gaps in provision in consultation with CRCs.**

Achieving business transformation

- c NOMS needs deeper understanding of the financial and service viability of CRCs.** It should focus its analysis on CRCs' financial capacity to sustain their full transformation and service delivery plans.
- d The NPS should expand its change programme.** The programme should be expanded to include corporate support services and establish an operational assurance function to assess the quality of work and regional compliance with the new ways of working.
 - NPS risks being left behind by CRCs' investment in new offender management systems; it needs to replace its own unfit and inefficient systems, learning from CRCs' progress in making replacements.

Contract management

- e NOMS should map out the trajectory of its investment in contract management and how that will impact its CRC contract assurance functions.** NOMS should also give CRCs a stronger incentive to improve the rigour of their own performance and reporting systems by offering reduced contract management oversight to proven robust systems.
 - The management of NPS's CRC contracts should be delivered by the existing teams in NOMS who already manage CRCs.

Managing and incentivising performance

- f The Ministry should, as a matter of urgency, ensure data are available to support the contract and performance management of CRCs and the NPS.** Performance against all service levels should be based on at least monthly data.
- g The Ministry should regularly review the composition of the fee for services to ensure that it incorporates and incentivises innovative approaches to reducing reoffending.**

Part One

Establishing the new arrangements for probation

Overview of the new arrangements

1.1 The 2010 to 2015 coalition government set an early priority to reduce persistently high reoffending rates¹ (**Figure 1**) as the estimated annual cost of reoffending to society in England and Wales is between £7.4 billion and £10.7 billion. By early 2013, the Ministry of Justice (the Ministry) had designed a Transforming Rehabilitation programme to achieve this outcome, with specific objectives to:

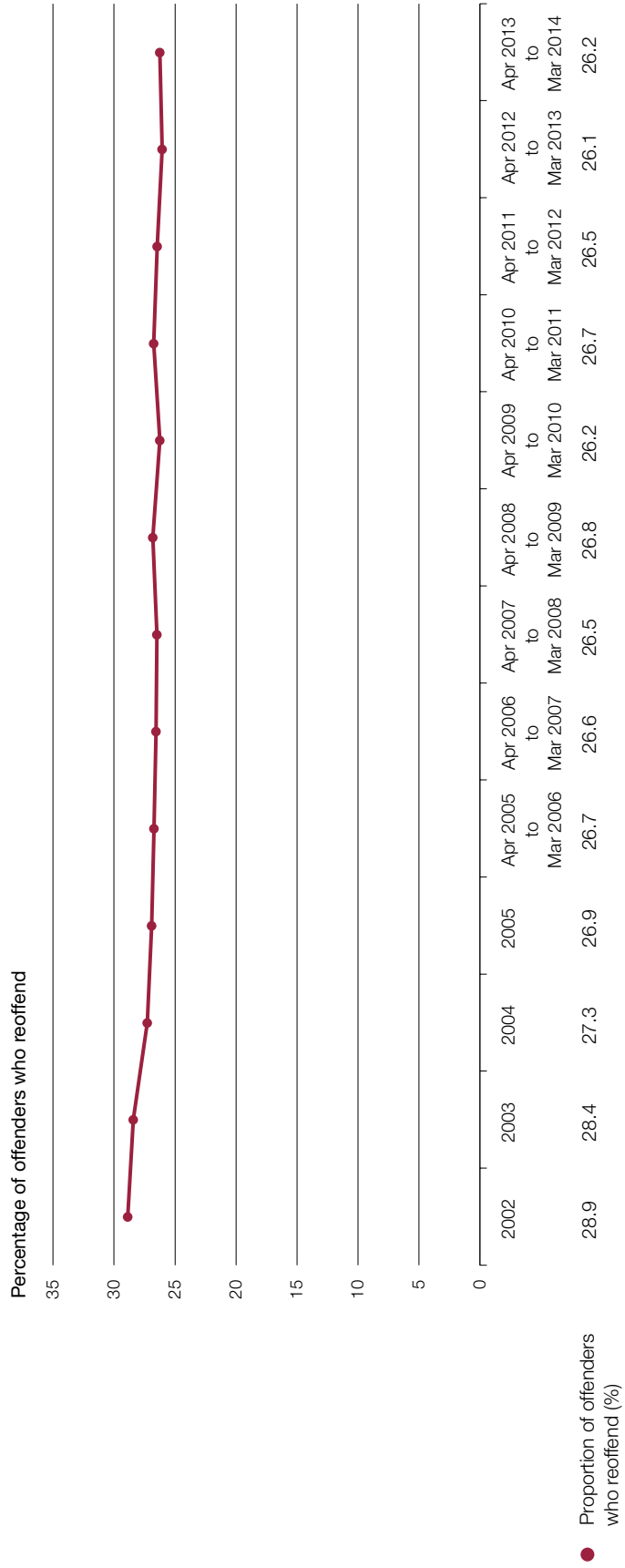
- open up the market to a diverse range of rehabilitation providers including mutuals;
- incentivise providers to innovate through payment by results;
- extend statutory rehabilitation in the community to an estimated extra 45,000 short-sentenced offenders;
- reorganise the prison estate to resettle offenders 'Through the Gate' to give continuous support from custody into the community; and
- create a new public sector National Probation Service (NPS) to manage high-risk offenders.²

¹ HM Government, *The Coalition: Our Programme for Government*, 12 May 2010, and Ministry of Justice, *Breaking the Cycle*, December 2010.

² Ministry of Justice, *Transforming Rehabilitation – a strategy for reform*, May 2013.

Figure 1
Overall adult and junior reoffending rates 2002 to 2013-14

Reoffending rates have remained persistently high



Source: Ministry of Justice statistics, available at: www.gov.uk/government/statistics/proven-reoffending-statistics-april-2013-to-march-2014

1.2 The estimated cost of operating the revised probation system in 2015-16 is £889 million.³ The Ministry intended the reforms to be broadly cost-neutral, with the extension of services financed largely through using new providers. Economic benefits would be much greater; the Ministry estimated reductions in the cost to society of reoffending at more than £12 billion over the seven-year period of the contract with Community Rehabilitation Companies (CRCs).⁴ Appendix Three provides a summary of progress against these objectives.

1.3 Until June 2014, probation services in England and Wales were delivered by 35 self-governing probation trusts working to the National Offender Management Service (NOMS). On 1 June 2014, the Ministry restructured the trusts into:

- a new NPS, which advises courts on sentencing offenders and manages those who present higher risk of serious harm, plus those with a history of sex and domestic violence offences; and
- 21 new CRCs, working with the majority of offenders who pose low and medium risks.⁵ CRCs were in public ownership until 1 February 2015, when they transferred to eight, mainly private sector, providers.^{6,7}

Figure 2 summarises the reformed probation landscape. A timeline of key events is at **Figure 3** on pages 16 and 17.

1.4 Alongside these organisational changes, the Ministry:

- sponsored the Offender Rehabilitation Act 2014, which from March 2014 extended supervision to offenders released from prison sentences of under 12 months;⁸ and
- reorganised the prison system for ‘Through the Gate’ services, in which from May 2015 CRCs would assess the initial needs of all offenders in custody, provide them with resettlement services in preparation for release, and for medium- and lower-risk offenders, where appropriate, meet them on release and work with them in the community. Most offenders would be released from designated resettlement prisons near their home.

3 Comprising payments to CRCs, the costs of the NPS and contract assurance costs.

4 The business case used estimated reoffending costs to society in excess of £100,000 per reoffender. These are consistent with the costs cited in National Audit Office, *Managing offenders on short custodial sentences*, March 2010, itself citing earlier Home Office figures.

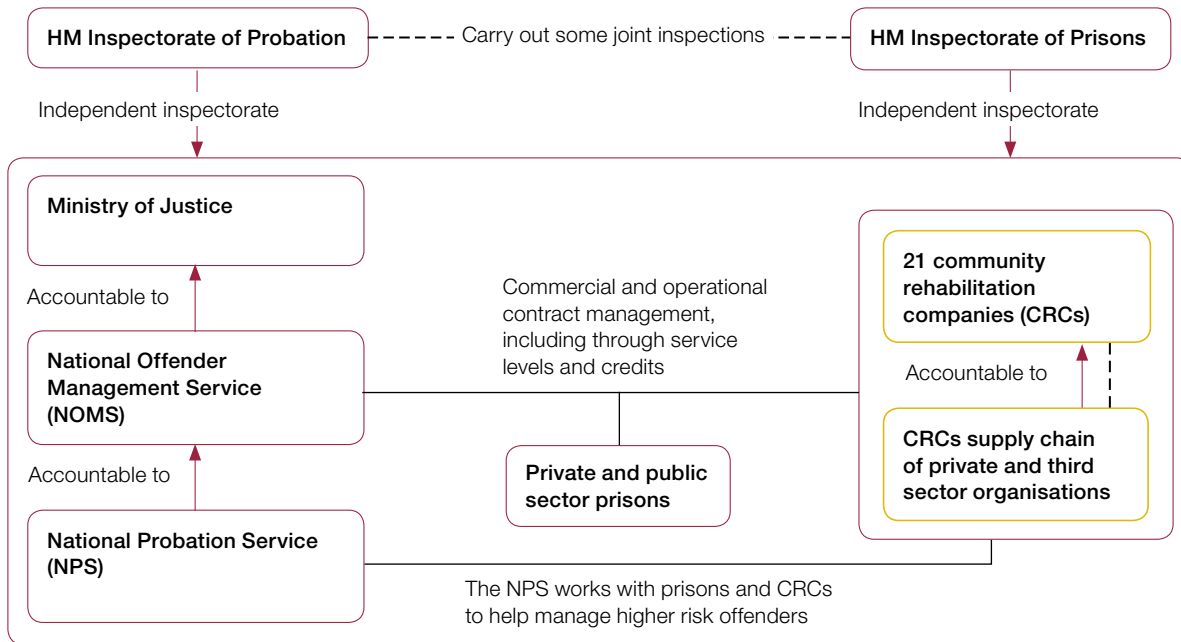
5 As at July 2015, CRCs managed some 61% of the 243,000 supervised offenders.

6 HM Inspectorate of Probation, *Transforming Rehabilitation – early implementation 1*, December 2014.

7 HM Inspectorate of Probation, *Transforming Rehabilitation – early implementation 2*, May 2015.

8 Offender Rehabilitation Act 2014.

Figure 2
Roles and responsibilities within the probation system

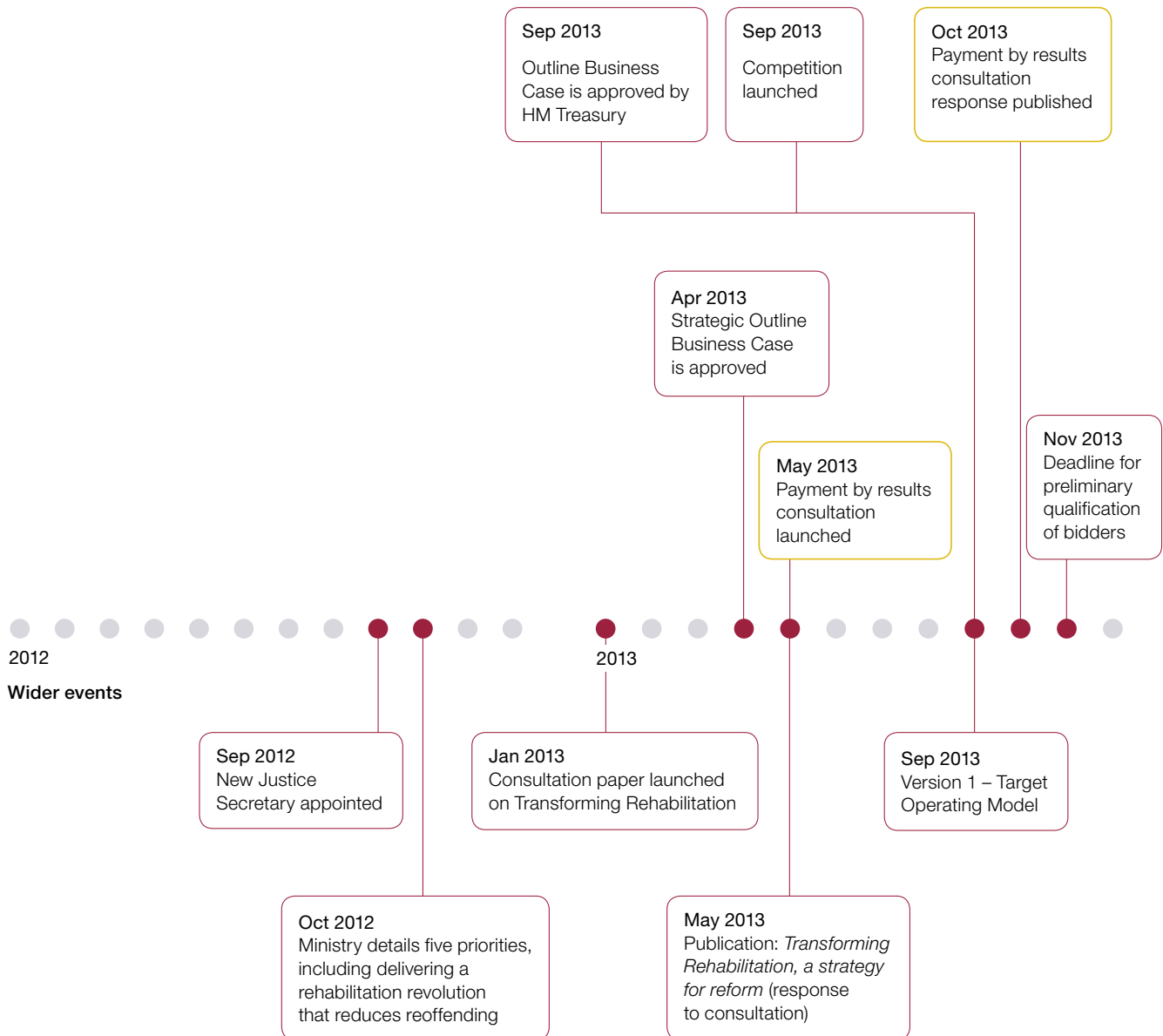


Organisation	Responsibility
Ministry of Justice	The Ministry includes 37 agencies and public bodies – including NOMS. Its objectives are to protect the public and reducing reoffending, and to provide a more effective, transparent and responsive criminal justice system.
National Offender Management Service (NOMS)	NOMS is an executive agency of the Ministry responsible for prisons and probation in England and Wales. Its directorate for Rehabilitation Services is responsible for the operational and commercial contract management of CRCs.
National Probation Service (NPS)	NPS is part of NOMS which is responsible for managing (primarily) high-risk offenders. It is split into seven regions in England and Wales and also commissions CRCs to deliver some services.
Community rehabilitation companies (CRCs)	The 21 CRCs in England and Wales are owned by eight different providers. They supervise medium- and low-risk offenders and deliver services to other organisations including NPS. CRCs sub-contract some service delivery to other providers within their supply chains.
Private and public sector prisons	There are 123 prisons in England and Wales – 14 of which are managed by private companies. Prisons work with the NPS and CRCs to deliver resettlement services for prisoners prior to their release. Much of the resettlement work in prisons is delivered by CRCs and their supply chain under the terms of the CRC contracts with NOMS.
HM Inspectorate of Probation	An independent Inspectorate, funded by the Ministry of Justice and reporting directly to the Secretary of State. Its purpose is to report on the effectiveness of NPS and CRC probation work with adults and children who have offended.
HM Inspectorate of Prisons	An independent inspectorate which reports on the conditions for, and treatment of, those in prison, young offender institutions, secure training centres, immigration detention facilities, police and court custody suites, customs custody facilities and military detention. This includes some focus on work in these facilities to reduce reoffending.

Source: National Audit Office analysis

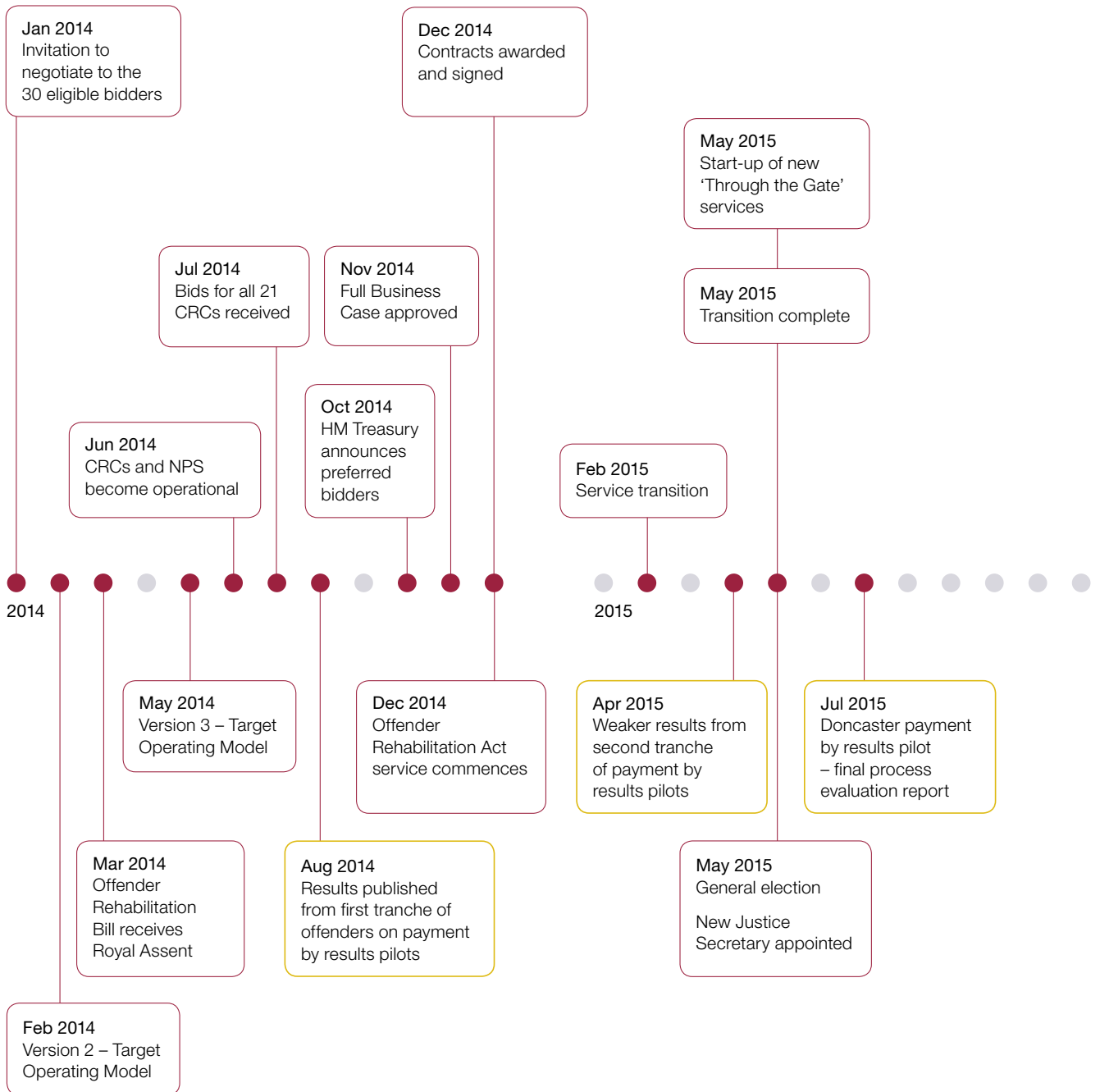
Figure 3
Transforming Rehabilitation timetable, 2012 to 2015

Procurement events



□ Relates to payments by results

Source: National Audit Office analysis



The procurement of CRC providers

1.5 The Ministry's procurement of new CRC providers began formally in May 2013. The contracts were signed by February 2015. The procurement was highly challenging due to multiple factors:

Contextual factors

- Changes were taking place in legislation, sentencing practice and crime, which made future business volumes and values hard to predict.
- The CRCs had only existed as separate entities for several months so had short track records and limited data.
- Some shortlisted providers were new to probation and required orientation or education in the sector.

Logistical factors

- The sheer scale of the exercise clearly strained the capacity of the Ministry and bidders (paragraph 1.9):
 - The timescale set by ministers to complete the agreements with new providers was initially autumn 2014, later deferred to February 2015.

Developing a diverse market

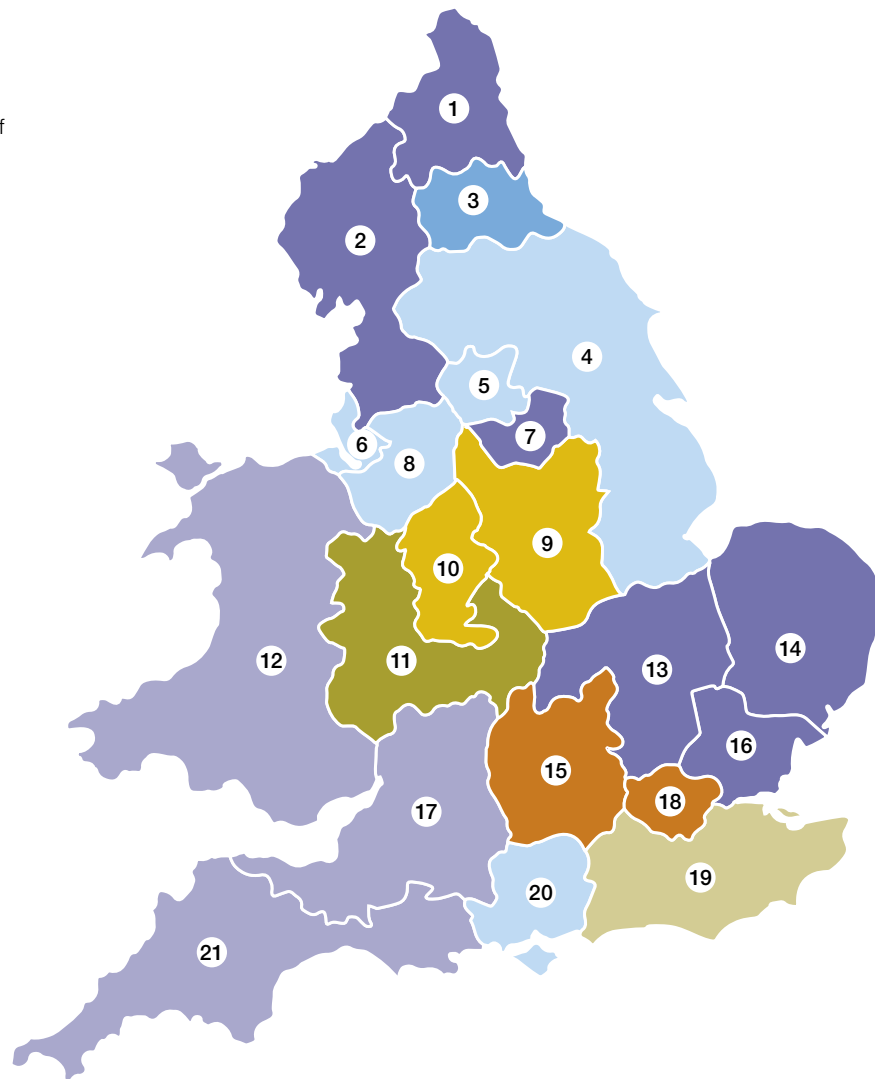
1.6 Reflecting ministers' objectives to open the market, the Ministry put extensive effort into attracting a diverse range of potential bidders, whether as prime contractors to lead consortia, or within supply chains. More than 700 private, public and third sector organisations registered an interest following initial advertising. In the event only one of the 21 CRCs, for Durham Tees Valley, was won by a contractor from outside the private sector (**Figure 4**).⁹ Voluntary sector bodies considered that government had 'oversold' the prospects for them to win as prime contractors, and that the time and resources they had used to participate in the competition were not well spent. They recognised that Transforming Rehabilitation represented a step up in size even for large voluntary organisations, but considered that their track record and ideas made them credible bidders. Crucial factors that they thought worked against voluntary sector bidders included:

- voluntary bidders' difficulty in bidding for more than two CRCs, compared with private companies that had the resources to achieve greater economies of scale;
- the fixed timetable, combined with the need to deal consistently with bidders, meant that in their view the Ministry sought to transfer more risk than charities, or their trustees, could accept; and
- initial lack of detail about the Ministry's requirements for financial guarantees from bidders, which led to protracted but largely unsuccessful efforts to find solutions right up until bidding.

⁹ Achieving Real Change in Communities (ARCC), a joint-venture with third sector, public and private participants. See: <http://dtvcrc.co.uk/about-us/arcc>

Figure 4
Winning bidders for the 21 CRCs

- Sodexo with Nacro
- Working Links (company) with probation staff mutual
- ARCC consortia with probation staff
- Purple Futures, an Interserve-led partnership
- MTCnovo – MTC, Amey and others
- Reducing Reoffending Partnership – Ingeus UK and St. Giles Trust
- EOS Works Ltd (now PeoplePlus)
- Seetec



- | | | |
|---|---|---|
| 1 Northumbria | | |
| 2 Cumbria and Lancashire | | |
| 3 Durham Tees Valley | | |
| 4 Humberside, Lincolnshire and North Yorkshire | | |
| 5 West Yorkshire | | |
| 6 Merseyside | | |
| 7 South Yorkshire | 12 Wales | 17 Bristol, Gloucestershire, Somerset and Wiltshire |
| 8 Cheshire and Greater Manchester | 13 Bedfordshire, Northamptonshire, Cambridgeshire and Hertfordshire | 18 London |
| 9 Derbyshire, Leicestershire, Nottinghamshire and Rutland | 14 Norfolk and Suffolk | 19 Kent, Surrey and Sussex |
| 10 Staffordshire and West Midlands | 15 Thames Valley | 20 Hampshire and Isle of Wight |
| 11 Warwickshire and West Mercia | 16 Essex | 21 Dorset, Devon and Cornwall |

Note

1 Working Links is jointly-owned by public, private and voluntary sector shareholders.

Source: Ministry of Justice announcement of successful bidders, December 2014. Available at: www.gov.uk/government/uploads/system/uploads/attachment_data/file/389727/table-of-new-owners-of-crcs.pdf

1.7 The Ministry emphasised to us that the government had provided particular support for voluntary sector bidders, and had shown flexibility, for example by halving the normal level of parent company guarantees it required of CRC providers. However, given the particular challenges, investment and risk involved in taking over and restructuring CRCs, it is not surprising that the Ministry needed a high level of assurance that winners had sufficient financial and commercial standing to sustain such a demanding proposition. We note that later developments have placed more pressure on CRCs' finances than originally expected (paragraphs 4.3 to 4.10). Clearly, some bidders may have avoided the time and expense of participating in the process had they understood much earlier the Ministry's minimum requirements in this area. Although the voluntary sector leads only one CRC, voluntary and mutual bodies are represented within consortia and partnerships for others.

Obtaining competitive bids

1.8 Serco and G4S withdrew from the competition in late 2013, given serious irregularities in their contracts with the Ministry for electronic monitoring of offenders, leaving some 30 potential prime contractors to make detailed proposals. Of these, 11 subsequently withdrew or became ineligible during negotiations around contractual terms and exposure to risk, leaving 19 actual bidders, not all of which then submitted eligible bids. After exclusion of some bidders, such as those bidding above acceptable prices or not meeting the Ministry's required contract terms, five of 21 CRCs were each left with only one compliant bid, although each met the qualitative and financial thresholds required by the department.

1.9 Competitive procurements of complex services depend on providing extensive and accurate information to bidders, which can be challenging. The particular scale of the Transforming Rehabilitation procurement accentuated these factors; 19 bidders submitted some 256 bids in various permutations for 21 distinct businesses. The Ministry estimated that it had facilitated some 4,300 meetings involving bidders. Bidders found their due diligence to have been especially constrained.

- Bidders questioned the timeliness and accuracy of data they were provided with in critical areas such as the number of staff employed by CRCs. Earlier attention to the quality of data could have mitigated such problems.
- The Ministry restricted incumbent CRC managers' access to the data being provided to bidders, increasing the risk of errors going undetected.
- CRC managers we interviewed asserted that they had been allowed minimal contact with bidders to understand their plans and to explain the characteristics of their businesses. This partly reflected timetable pressures, but also the Ministry's understandable need to attend meetings and ensure that all bidders had equal knowledge. Providers we interviewed also felt strongly that more should have been done to give them more contact with incumbent CRC managers.
- Although most bidders noted dialogue with the Ministry had been good, Ministry teams had appeared stretched in dealing with so many bidders, with relatively junior staff sometimes fielding complex commercial, operational or legal questions.

1.10 In this context the successful bidders, many of which were new to probation, have come to appreciate their full exposure to risk and uncertainty after taking over the new CRC businesses (paragraphs 4.3 to 4.10). In general, there was significant variation between financial bids across most of the 21 companies, indicating that different bidders took divergent views on the scope for efficiencies. The spread in prices was particularly wide in predominantly rural areas, such as Northumbria and North Yorkshire. In some cases bidders' rationalisation plans were later modified following representations from incumbent CRC managers about operational consequences of 'leaner' services.

1.11 The Ministry's evaluation of bids took into account both financial and qualitative criteria, and deliberately did not just pursue the lowest prices. For example, to ensure that no provider captured more than 25% of the total CRC market, the Ministry reverted to the next-best bidder in four CRCs. Although such adjustments added some £38 million to expected lifetime costs, the Ministry largely recovered these additional costs by negotiating with preferred bidders to reduce prices further by combining multiple CRCs under single providers.

Incentivising performance

1.12 The objectives for Transforming Rehabilitation included encouraging providers to innovate by offering incentives through payment by results. The Ministry estimated that such incentives should generate reductions in reoffending of 3.7 percentage points compared with existing levels (Figure 1), compared with 1.1 percentage point reductions if CRCs stayed in public ownership.

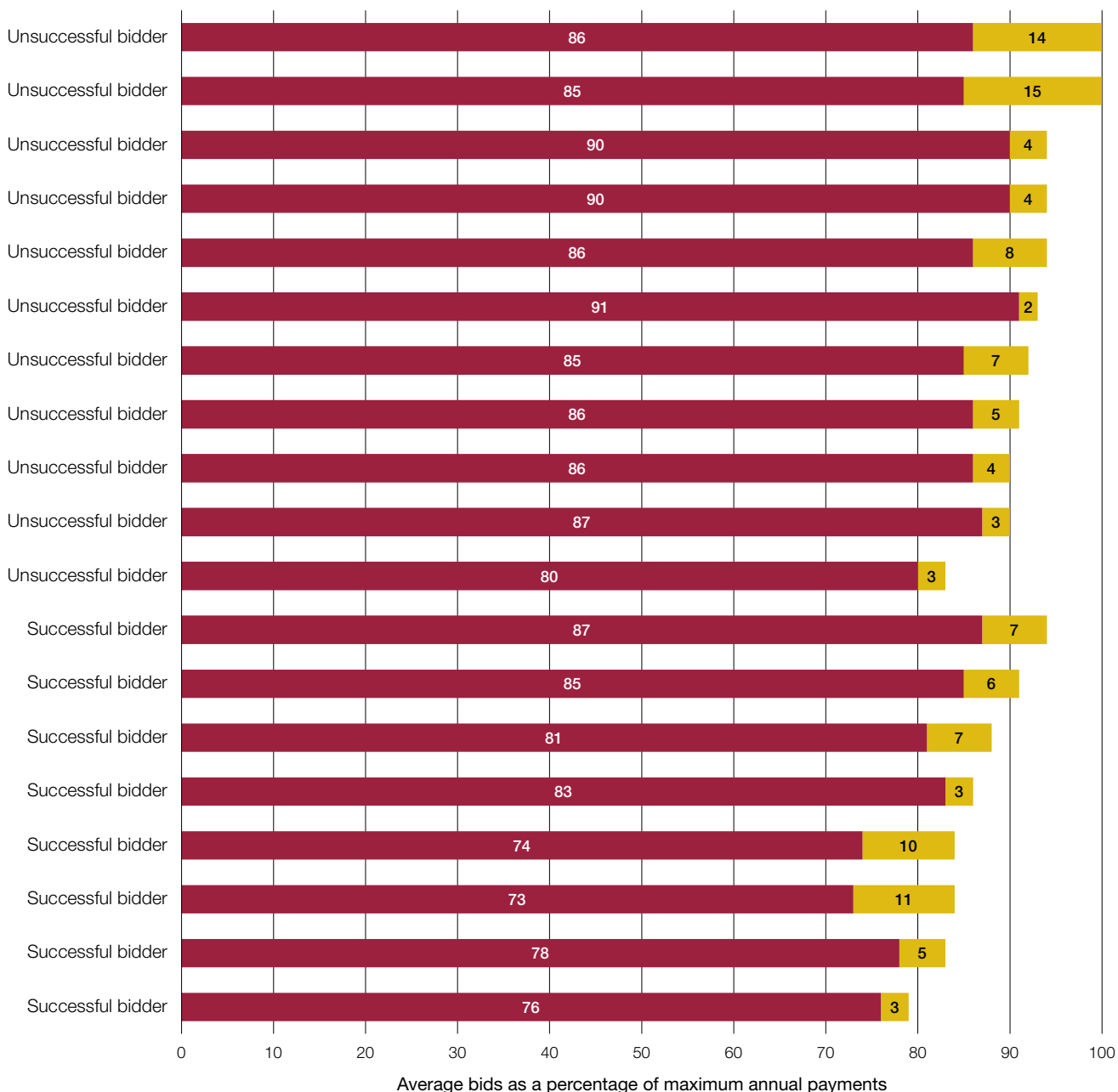
1.13 The CRCs receive three main payments under their contracts:

- a **fee for service**, for the satisfactory completion of activities with offenders;
- a **fee for use** to cover work done for other parties, particularly where the NPS commissions CRC to provide services for its own higher-risk offenders. It is forecast that fee for use payments to CRCs in 2015-16 will be some £20.6 million in England and £1.8 million in Wales; and
- **payment by results**, triggered by reductions in reoffending after two years, based on scaled payments of up to £4,000 per offender who desists and £1,000 per offence avoided.

1.14 Payment by results represents around 10% of total predicted payments to all CRCs. In principle, this limits the incentive on providers to innovate and focus on 'what works' to reduce offending, although higher payments up to the Ministry's maximum price are available if CRCs exceed expectations (**Figure 5** overleaf).

Figure 5
Composition of the bids submitted by the 19 bidders

The expected fee for service and payments by results shown as a percentage of the Ministry's maximum annual payments



■ Fee for service
■ Payment by results (assumed)

Note
1 Payments by results were those assumed in bids and could be exceeded, up to the Ministry's maximum price 'cap', if the reoffending reduction exceeds bidders' projections.

Source: National Audit Office analysis of Ministry data

1.15 In contrast, payments for the Ministry's 2010 to 2014 pilot at Peterborough Prison were 100% for outcomes. However, we have previously reported issues in implementing similar payment by results schemes successfully.¹⁰ In May 2012, the Ministry tendered contracts for a pilot offender rehabilitation programme at Leeds prison, but closed the competition after bidders decided not to compete. Bidders claimed that they could not manage such a level of financial risk.¹¹

1.16 On Transforming Rehabilitation, the Ministry tested bidders' appetite for the risks associated with payment by results. It consulted bidders on the design of the payment mechanism and allowed them to offer varying levels of payment by results. Bidders predicted between 2% and 15% of maximum prices (Figure 5), with most expecting to get about half of the payment by results available. Private sector bidders tended to show more appetite for risk than voluntary or mutual bidders.

1.17 The Ministry had established pilot schemes in Doncaster and Peterborough prisons in 2012 to test the effect of financial incentives combined with the services to be provided under the new Rehabilitation Act. However, it proceeded with the full Transforming Rehabilitation changes before the pilots were complete. Recent evaluations of the pilots reported that payment by results had encouraged innovation in services and tailored support for users. By the time the Ministry ended the pilots in 2014, both pilots had reduced reconviction levels by less than targeted levels. The levels of reductions the pilots reported appear broadly similar to those predicted in the Ministry's business case for Transforming Rehabilitation, but whether they will be replicated by the CRCs on a national scale and sustained over seven years remains to be seen.

1.18 Given the limited weight of payment by results, the design of the **fee for service** is more significant in incentivising the right behaviours. The Ministry tested and modified the payment mechanism to reduce the risk of suppliers game-playing the system. For example, a CRC deliberately not investing to reduce offending could risk deductions to their fee for service or possible contract termination if reoffending shows a clear and sustained increase.

1.19 The **fee for service** is also only paid in full if CRCs achieve the required service levels. Service credits can be deducted quarterly, to a maximum of 15% of invoice payments, where there are shortfalls in performance. The most heavily weighted service levels measure the proportion of offenders who actually complete the various orders or other courses of supervision ordered by courts. These service levels make up some 90% of potential deductions by value. Our interviews and case study visits identified various points of view as to whether not completing such orders is the best predictor of future offending. Research in other countries shows some association between reduced offender risk during supervision and subsequent levels of reoffending, particularly when combined with education or vocational training. However, results vary according to context and the interventions used and it remains to be seen how far the new approaches adopted by CRCs in the UK will also reduce risk.¹²

¹⁰ Comptroller and Auditor General, *Outcome-based payment schemes: government's use of payment by results*, Session 2015-16, HC 86, National Audit Office, June 2015.

¹¹ Policy Exchange, *Expanding Payment by Results*, 2013, page 14.

¹² For example, Latessa, E.J., "Does Change in Risk Matter?" *American Society of Criminology & Public Policy*, 15 (2), February 2016; MacKenzie, D. L. and Farrington, D. P. Preventing future offending of delinquents and offenders: What have we learned from experiments and meta-analyses? *Journal of Experimental Criminology*, 11, 565-595, 2015.

1.20 CRCs' fees for service also depend on the extent to which they undertake activities that attract payment. This influences CRCs' choices between established and alternative probation practices. In Warwickshire and West Mercia, the former probation trust and the CRC had, since 2013, shifted their activities away from established 'accredited programmes' towards more vocational services, as courts took up new sentencing options available under the 2014 Act (**Figure 6**). They had agreed with NOMS that vocational services should be more effective for most types of offender. However, under the fee for service the CRC will lose £1.4 million of the payment it would have received for delivering accredited programmes, and will not recover the £1.1 million it had planned to spend on vocational rehabilitation.

Figure 6

Established versus innovative approaches to offender rehabilitation



Established approach –
accredited programmes:

- usually classroom sessions in which small groups of offenders interact with each other and a facilitator;
- require a basic level of literacy and numeracy; and
- use standardised course material accredited for use by a NOMS expert panel.



Alternative approach –
The 'vocational' Care Farm model:

- workplace-based;
- does not require basic levels of numeracy and literacy;
- rehabilitation is delivered alongside vocational training; and
- can be nationally accredited by a NOMS expert panel (in time and at cost).

Source: National Audit Office findings in Warwickshire and West Mercia community rehabilitation company

Part Two

Current performance

2.1 Data on reoffending will not emerge until late 2017, allowing a year after supervision for offenders to reoffend, and a further six months for offences to be proven in court. Service levels, focusing on the timeliness, completion and quality of delivery of services to offender, currently comprise the main basis to assess performance.

Overview of performance by the National Probation Service (NPS)

2.2 Performance of the seven NPS' regions should be monitored monthly through 25 service levels that track offender management from the start of the sentence. NOMS consider robust data are available for only 18 of the 25 service levels (**Figure 7** overleaf), regionally or nationally. The NPS is performing at or above target levels in seven of these – although performance varies significantly across the seven NPS regions and service level agreements require that NPS achieves all targets by April 2017. Performance remains consistently lower than target levels in the allocation of unpaid work requirements (for both the NPS and community rehabilitation companies (CRCs)).

2.3 NPS managers expressed limited confidence in some of the data due to quality issues caused by laborious and dated case and offender management systems. Each region has put data quality managers in place, although all four we visited referred to reduced analytical support teams (as with other areas of business support) since the separation into CRCs and the NPS.

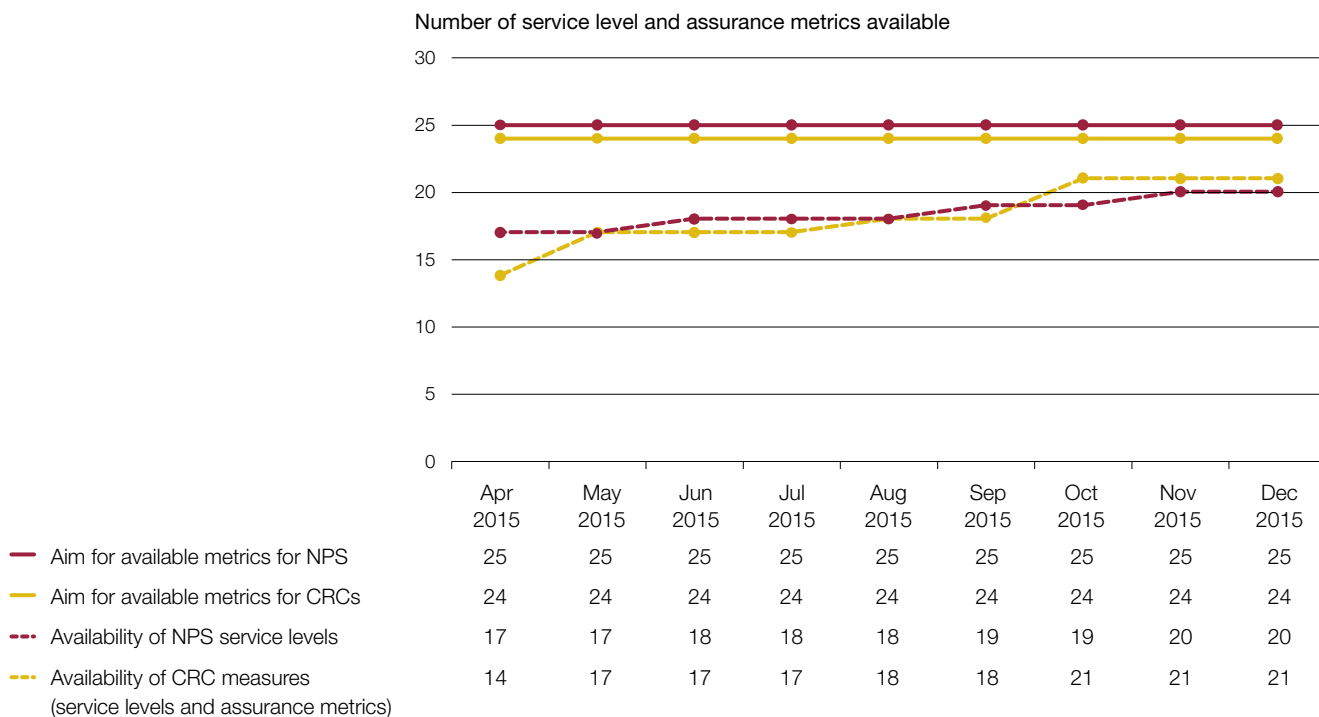
Overview of initial performance by CRCs

2.4 For the Ministry of Justice (the Ministry) and the National Offender Management Service (NOMS) to manage CRC contracts, they need reliable information on the costs, performance and risks of contracts and must use this effectively. The Ministry allowed eight months until September 2015 before performance of CRCs would be open to contractual penalties.

2.5 The CRC contracts specify 17 service levels and seven assurance metrics for monthly reporting of performance, to track offender management from the start of the sentence, through resettlement into the community, to completion of the sentence. Activities that are highly weighted include completion of offenders' unpaid work, accredited programmes and rehabilitation activity requirements. Overall, by December 2015, CRCs were meeting targets for seven of the 19 measures where NOMs considers robust data were available – however, performance varies significantly across CRCs and the contracts require that CRCs achieve all targets by February 2017.

Figure 7
CRC and NPS performance data availability

Performance measures are not yet complete but coverage is moving in the right direction



Notes

- 1 There are 17 service levels and seven assurance metrics for CRCs and 25 service levels for NPS. Some service levels have not been implemented yet.
- 2 These figures include two different measures for both the NPS and CRCs where the department considers data are not robust.

Source: National Audit Office analysis of National Offender Management Service performance data

2.6 Figure 7 compares the completeness of performance information for the NPS and CRCs, with data availability increasing overall since April 2015. Nationally, NPS and CRC performance against targets has improved since April 2015, although with significant variation between CRCs and between NPS regions. The Ministry has data available up to February 2016 for internal management purposes. However, it is subject to further analyses and quality assurance prior to its incorporation in the department’s annual community performance release – planned for July 2016.

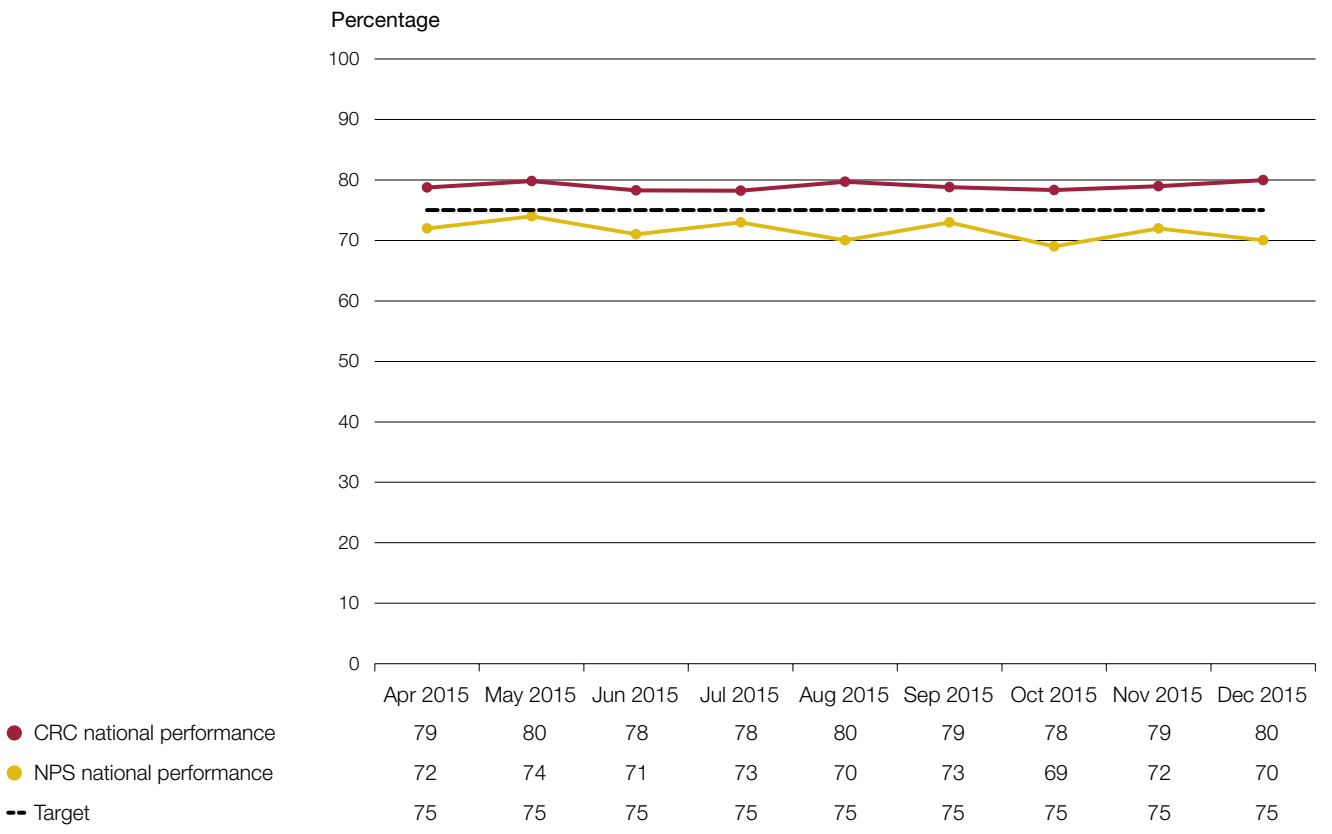
2.7 If a CRC fails to meet service levels, NOMS may deduct ‘service credits’ from payments. The Ministry considers service level 8 on the positive completion of community and suspended sentence orders to be a leading indicator for reduced reoffending and it is highly weighted, representing 47% of all possible service credits (paragraph 1.18). NOMS applied service credits only on this service level between August and September 2015, recognising problems with the quality and availability of data on other service levels. Two of the 21 providers received deductions, totalling some £78,000.

2.8 The NPS also uses completion of orders as an indicator likely to be associated with reoffending. **Figure 8** (and overleaf) compares NPS and CRC performance against the target for 75% of people completing their orders. National performance is 70% for NPS and 80% for CRCs, with NPS and CRC performance relatively stable. However, there is wide variation across NPS regions (12% range) and different CRCs (15% range).¹³

Figure 8

NPS and CRC completion of offenders’ community orders and suspended sentence orders against a 75% target

National CRC performance is above, whereas NPS performance is below, this key target level

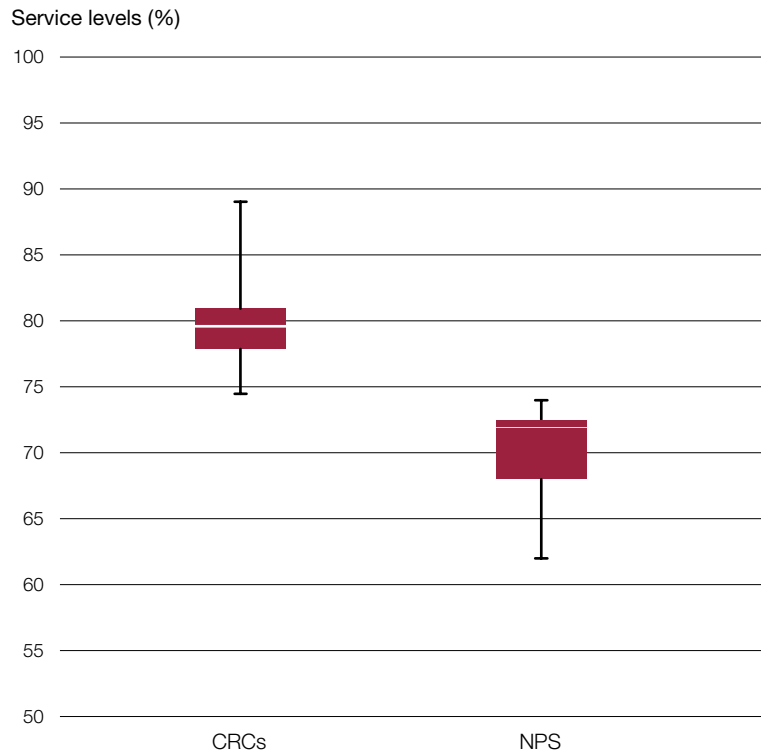


¹³ Further data and analyses are available in the department’s *Community performance quarterly management information release*, October to December 2015. Their published data is quarterly and therefore differs to the information we present which relates just to the month of December 2015.

Figure 8 *continued*

CRC and NPS variation of positive completion of community and suspended sentence orders, December 2015 (target = 75%)

There is significant variation across CRCs and NPS regions



Notes

- 1 Across the 21 CRCs performance in December 2015 varied between 89% and 74%.
- 2 Across the seven NPS regions performance in December 2015 varied between 74% and 62%.
- 3 This measure has the highest service credit weighting (47%) for CRCs (see Part One).
- 4 The boxplot presents the distribution of performance, for the NPS and CRC, in positive completion of community and suspended sentence orders.

Source: National Audit Office analysis of National Offender Management Service performance data

The contract management of CRCs

2.9 The total value of the 21 CRC rehabilitation service contracts is around £3.7 billion over seven years, making reliable contract information and robust contract management particularly critical for the Ministry and NOMS.

Accountability for contracted services' performance and systems

2.10 Governance structures in place around CRC contracts are extensive to address previous shortcomings identified in the management of other Ministry contracts. CRC managers we met perceived these as demanding, and sometimes excessive, but acknowledged the need to demonstrate effective and efficient delivery of services in the early stages of the contract.

2.11 NOMS manages the 21 CRC contracts through four regional teams for London and South East, the Midlands and South West, the North, and Wales. Contract governance arrangements include:

- regular contract management meetings to discuss performance and other issues;
- supplier relationship management to engage with CRC providers at a strategic level;
- service integration groups bringing together CRCs and other rehabilitation agencies to discuss and resolve systemic issues, such as the quality of 'Through the Gate' resettlement services in prisons; and
- a rehabilitation industry forum intended to share learning and good practice between providers. This forum is planning research and development to identify what works in reducing reoffending, but it is too early to judge its success.

2.12 NOMS also created a central contract management support unit in early 2015 and much of its focus has been on the rehabilitation service contracts. The unit has reviewed all 21 of NOMS' CRC contract management plans to increase assurance that the contracts are managed appropriately.

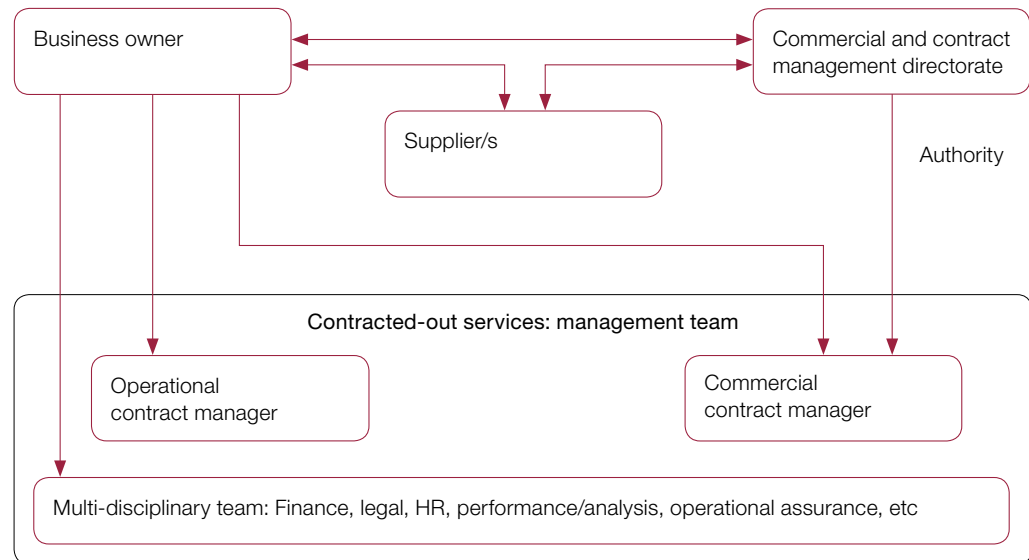
Integrated contract management

2.13 In 2014, we reported on the potential strength of the Ministry's multi-disciplinary team model designed to integrate expertise from relevant specialisms.¹⁴ This good practice model (**Figure 9** overleaf) is now used for many of the Ministry's contracts. It has been applied well to the CRC contracts, where performance is monitored by operational contract managers supported by analytical, finance and data assurance specialists. Importantly, a NOMS 'operational assurance' team also visits CRCs to assess contract compliance, data quality and the probation service quality, including their interfaces with the NPS, prisons and other agencies.

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

Figure 9

The Ministry's model for managing rehabilitation services contracts



Source: National Audit Office analysis

Contract management capability

2.14 NOMS has invested significantly (equivalent to 2.1% of annual contract spend) in the contract management of CRCs. Currently, 151 full-time equivalent staff, mainly from operational assurance and commercial contract management teams, are scrutinising CRCs.¹⁵ These staff also need appropriate skills. The Ministry is sourcing training from the International Association for Contract and Commercial Management (IACCM). The first cohort was due for completion at the end of February 2016 but only 52% of 31 starters have graduated – with a further three leaving the organisation and six withdrawing. The Ministry is aiming for the remaining students to graduate in August 2016.¹⁶

2.15 Following our 2014 recommendation to the Ministry that it should learn from the Home Office's approach to assessing skills, NOMS recently completed a skills audit where commercial staff self-assessed their strengths and training needs.¹⁷ NOMS expects these skills data will be used to develop a better-informed range of options for increasing expertise.

¹⁵ This does not include analytical, legal, HR or finance staff supporting operational and commercial contract managers within the multi-disciplinary team model nor does it include contract management overheads, such as estates and ICT costs, which are not readily available. It also excludes some £2.2 million of rehabilitation services director and central Contract Management Support Unit costs that, despite being involved heavily in CRC assurance, cannot be accurately apportioned directly to such activity.

¹⁶ A total of six cohorts (234 staff, of which 15 are from NPS) have committed to this training, with 6% graduating to date. The remaining five cohorts should complete at different stages up to December 2016.

¹⁷ See footnote 14.

2.16 Following the 2015 Comprehensive Spending Review, the Ministry needs to achieve savings in its administrative budget of 50% by 2019-20 and overall resource savings of 15% by 2019-20.¹⁸ The extent and impact of any reductions on the operational and contract management capability of the NPS and NOMS respectively are not yet clear. However, NOMS is currently planning changes in its contract management approach.

Contract management and commissioning in the NPS

2.17 While many existing Probation Trust contracts transferred to CRCs when the probation service split in June 2014, the NPS retains some, including for agency staff, secure accommodation and drugs support workers. It now also procures rehabilitation services from CRCs, although procurement during 2015 was delayed by needing to agree with CRCs the 'rate cards' specifying and pricing these services. Until April 2016 NPS regions are tied to buying rehabilitation services only from their local CRC, which restricts competition.

2.18 Contract management for the NPS is weak:

- The NPS has limited visibility of its contract commitments. It only has copies of around 30% of its contracts and does not know exactly what it spends on goods and services – its best estimate being £60 million between June 2014 and February 2015, with its contracts being much lower in value compared with CRC contracts. The NPS is working to establish a more accurate estimate of its spend and risk profile.
- There is currently limited governance of contracts within the NPS. An internal working group is exploring the future contract management and commissioning model for the organisation.
- The NPS has no core contract management capability and relies on the Ministry's commercial specialists and its local staff with knowledge of older contracts.

2.19 NPS, from July 2015, has begun work with the Ministry's commercial and central contract management support teams to better establish commercial roles, accountability structures and to prioritise contracts. The NPS has also recently begun some work to better understand commissioning and pre-contract award processes.

¹⁸ HM Treasury, *Spending Review and Autumn Statement 2015*, November 2015, p. 103.

Wider assurance activity from criminal justice inspectorates

2.20 Wider assurance activity is carried out by the independent HM Inspectorate of Probation and, for offenders moving from custody into the community, HM Inspectorate of Prisons.

2.21 HM Inspectorate of Probation has published four reports on the early implementation of Transforming Rehabilitation, producing findings reflected in Part Three.¹⁹ The inspectorate has also reported critically on how six CRCs manage offenders' unpaid work and integrate it within wider offender supervision – an area where performance is relatively low (paragraph 2.2).²⁰ The inspectorate's current methodology does not address how contractual aspects affect probation practice and behaviours, but it is currently revising its approach for future inspections.

¹⁹ HM Inspectorate of Probation, *Transforming Rehabilitation – Early Implementation*, December 2014; *Transforming Rehabilitation – Early Implementation 2*, May 2015; and *Transforming Rehabilitation – Early Implementation 3*, November 2015; *Transforming Rehabilitation – Early Implementation 4*, January 2016.

²⁰ HM Inspectorate of Probation, *A Thematic Inspection of the Delivery of Unpaid Work*, January 2016.

Part Three

Overcoming operational challenges

Operational probation processes

3.1 The separation of the former probation trusts into community rehabilitation companies (CRCs) and the National Probation Service (NPS) necessitated new processes and interfaces between the new organisations. These new processes require the organisations to collaborate efficiently, particularly when low- and medium-risk offenders are initially allocated, or reported for breaching the terms of their probation, or when their risk of harm to the public or themselves has escalated (**Figure 10** overleaf).

3.2 Although it is still early days, the interfaces between the NPS and CRCs pose significant challenges:

- **Case allocation**

Owing to higher than predicted NPS case volumes (see also Part Four), the National Offender Management Service (NOMS) commissioned an internal review to ensure that the NPS was not systematically retaining cases that it should have allocated to CRCs. Although this review did not find that the NPS was deliberately retaining cases, it found extensive miscalculation and mis-recording of allocation decisions.

- **Breaching**

HM Inspectorate of Probation has found variability in enforcement processes. Some CRCs experience high rates of rejection for their breach recommendations to the NPS. The NPS returned many because of minor spelling and grammatical errors.²¹ Our fieldwork visits to CRCs and the NPS, and our review of service levels, also identified an inherent risk that offender managers may avoid 'breaching' offenders where this would affect CRC performance against targets for successful completion of orders if the court order is subsequently revoked.

- **Risk escalation**

HM Inspectorate of Probation reported improvements in risk escalation standards between their second and third Early Implementation reports.²² However, many CRC case managers advised us that risk escalation was still laborious.

²¹ HM Inspectorate of Probation, *Transforming Rehabilitation – Early Implementation 3*, November 2015.

²² HM Inspectorate of Probation, *Transforming Rehabilitation – Early Implementation 2*, May 2015; and HM Inspectorate of Probation, *Transforming Rehabilitation – Early Implementation 3*, November 2015

Figure 10 Probation processes created by the Transforming Rehabilitation reforms, and the NPS to CRC interfaces



Source: National Audit Office analysis

3.3 Working relationships are crucial to overcoming interface issues. However, unsurprisingly given the extent of reform, our focus groups with staff, and our observation of fieldwork by NOMS assurance teams and HM Inspectorate of Probation identified some understandable friction at working level that CRCs and the NPS will need to overcome:

- Many junior staff in the CRCs perceived NPS staff as often unduly critical and dismissive when engaging with them on breach and escalation cases.
- Conversely, some junior staff in the NPS thought that CRC staff were often not providing them with necessary information, and that they had become too focused on managing their commercial and contractual targets.
- Senior managers in both organisations tended to be more positive about developing relationships between NPS, CRCs and prisons than were case managers, who observed unresolved working-level issues.

3.4 Despite these issues, we also observed examples of good joint working between CRCs and the NPS, particularly in Wales where probation and custodial services are managed through a more integrated structure reporting to a single director of NOMS Wales. The NPS and NOMS in Wales also conduct joint service integration and improvement activity through the user-focused Offender Journey Integration Programme (OJIP) and Dysgu Cymru, a joint CRC–NPS approach to peer-reviewing operational practice.

Staffing, workload, training and learning and development

Staffing in the probation sector

3.5 A capable and motivated workforce is vital to improving operational activity. During our fieldwork visits and focus groups with staff we found generally low morale in CRCs and the NPS, as is often the case during periods of change.²³ The NPS performed below NOMS and civil service benchmarks in all ten thematic areas of the 2015 Civil Service People Survey (**Figure 11** overleaf). For example, only 9% of staff stated that when changes are made in the NPS they are usually for the better. NPS survey results had, however, improved in nine of the ten areas since 2014.

²³ These findings were echoed by a 2015 academic research report, which found staff feeling undervalued, uncertainty, lack of consultation and low morale: G. Kirton and C. Guillaume, *Employment Relations and Working Conditions in Probation after Transforming Rehabilitation*, Queen Mary University of London, September 2015.

Figure 11
NPS Civil Service People Survey results by theme, 2014 and 2015

2015 NPS survey results are below the NOMS and civil service benchmark scores but performance has improved from 2014



Source: National Audit Office analysis of Civil Service People Survey results

3.6 The 2014 separation of probation trusts led to significant changes in probation staffing levels:

- Prior to being transferred to new owners, CRCs employed around 8,400 full-time equivalent staff.²⁴ The four CRCs we visited had subsequently reduced their workforce by around 4%.²⁵
- Conversely, the NPS increased staffing levels from 8,200 to 8,760 (a 7% increase) in the year to September 2015 to cope with higher than expected case volumes. It is recruiting, training and distributing three cohorts totalling around 650 trainee probation officers to increase front-line capacity.
- Despite additional recruitment into the NPS, the organisation still relies extensively on temporary and agency staff, varying between 2% and 11% of total workforce across the seven regions.

3.7 Support staff are critical to effective business transformation.²⁶ NPS staff report insufficient support services, which reduces their focus on offender management. Support services that have been reduced following the split of the probation service include HR, finance, ICT and analytical support. CRC staff we met were less critical of their support services, despite ongoing back-office rationalisation, and were more concerned about reductions in front-line staff.

Workload, training and development in probation

3.8 Concern over probation officer workloads is a longstanding issue which predates the Transforming Rehabilitation reforms.²⁷ Currently, both the NPS and CRCs are managing high workloads, despite lower than expected volumes in CRCs. In the four CRCs we visited, only three provided individual staff caseload data and this was presented as an average, which masks variation within and across CRCs. The average caseload was between 34 and 42 cases; however, we met staff handling significantly higher caseloads – some with more than 70 cases. Most staff were frustrated by high caseloads. In the NPS, two of the seven regions were operating between 100% and 111% of capacity, although some staff believe the tool does not accurately reflect all the work they do. Within regional averages, some staff and areas work at more than 125% capacity. Recruitment (paragraph 3.6) should help address such hotspots.

3.9 CRC and NPS staff we spoke to also noted that work pressures had wider consequences. For example, staff noted that training opportunities were often limited as they were rarely delivered in-house and it was not always possible to take the time to travel for training. Furthermore, NPS and CRC staff were supposed to receive six-weekly supervision from their managers; however, in many cases they considered this was not happening.

²⁴ National Offender Management Service. *Community Rehabilitation Company workforce report: quarter 2, 2014 to 2015*.

²⁵ Based on CRC case study data as NOMS no longer collates and publishes CRC staffing data now that they are under private ownership.

²⁶ Comptroller and Auditor General, *Financial sustainability of police forces in England and Wales*, Session 2015-16, HC 78, National Audit Office, June 2015, paragraph 16.

²⁷ National Association of Probation Officers, *Annual Report 2009-10*.

ICT in the probation sector

3.10 The Transforming Rehabilitation reforms have exacerbated long-standing issues with ICT provision in the probation service. HM Inspectorate of Probation found that while some initial difficulties have been resolved, many of the new tasks required by the reforms are more complex and take longer than previous arrangements.²⁸

3.11 We observed severe inefficiency arising from the various ICT systems used. For example:

- staff attributed several hours per week of lost working time to nDelius, the main probation case management system. Some considered nDelius had been unfit for purpose as a case management tool even before it was laden with additional performance management and contract management functions during the reforms. NPS is making minor changes to the system on an ongoing basis;
- nDelius is not intuitive to use and requires multiple steps for even simple actions. Most staff also complained of losing work they had entered and periods of system unavailability. Staff reported receiving limited training on the system;
- the 'risk of serious recidivism' tool (RSR) used to assess offender risk is unable to pull information from other systems, requiring manual re-entry. Staff complained about the time required to complete the tool and considered that it should not be compulsory for evidently high-risk cases; however, changes in national guidance have removed the requirement to complete the RSR at the pre-sentence stage in all cases. NOMS also found extensive miscalculation and misreporting of results (paragraph 3.2);
- the Offender Assessment System (OASys), for assessing the risks and needs of an offender, requires manual re-entry of information already entered in nDelius and RSR, increasing error rates and diverting staff from productive work; and
- the case allocation system (CAS), which is completed by the NPS on all cases to document allocation decisions, is in part paper-based and also requires staff to re-enter data that are already in other systems. Work to improve its functionality is due to be implemented later in 2016.

3.12 To increase efficiency and productivity, most CRCs are installing their own case management systems and ICT infrastructure. The NPS expects to continue with the existing systems for the foreseeable future.

3.13 NOMS agreed to provide an interface with nDelius by June 2015 to enable CRCs to exchange case management information; however, its implementation has been delayed initially by other priorities and subsequently by increased scope. At the time of finalising this report, the Ministry of Justice (the Ministry) advised us that the Gateway had been developed and was awaiting joint testing with CRCs' systems. As CRCs regard the interface as essential to their transformation plans they have estimated consequent costs, which are subject to ongoing negotiations. The delivery of an interim bridging solution was completed in December 2015 and has helped CRCs who are changing their estates to move away from a dependence on Ministry ICT.

Users' perspectives

3.14 The success of Transforming Rehabilitation will ultimately depend on how far the reformed system changes offenders' behaviour. Users' perspectives are therefore vital, particularly during periods of change.

3.15 Under the terms of their contracts, CRCs conduct out standardised offender surveys every six months. Nationally, in November 2015, 80% of offenders were positive about the probation services they receive, against a target of 75%. There was, however, wide variation across individual CRCs, from 70% to 88%.

3.16 Some CRCs also engage with service users in other ways. Many employ User Voice, a charity focused on improving dialogue between users and providers of services within the criminal justice system, to capture offenders' views. We commissioned User Voice to explore users' experience of probation as a whole (both CRCs and the NPS) and their perceptions of change in the last 12 months.²⁹

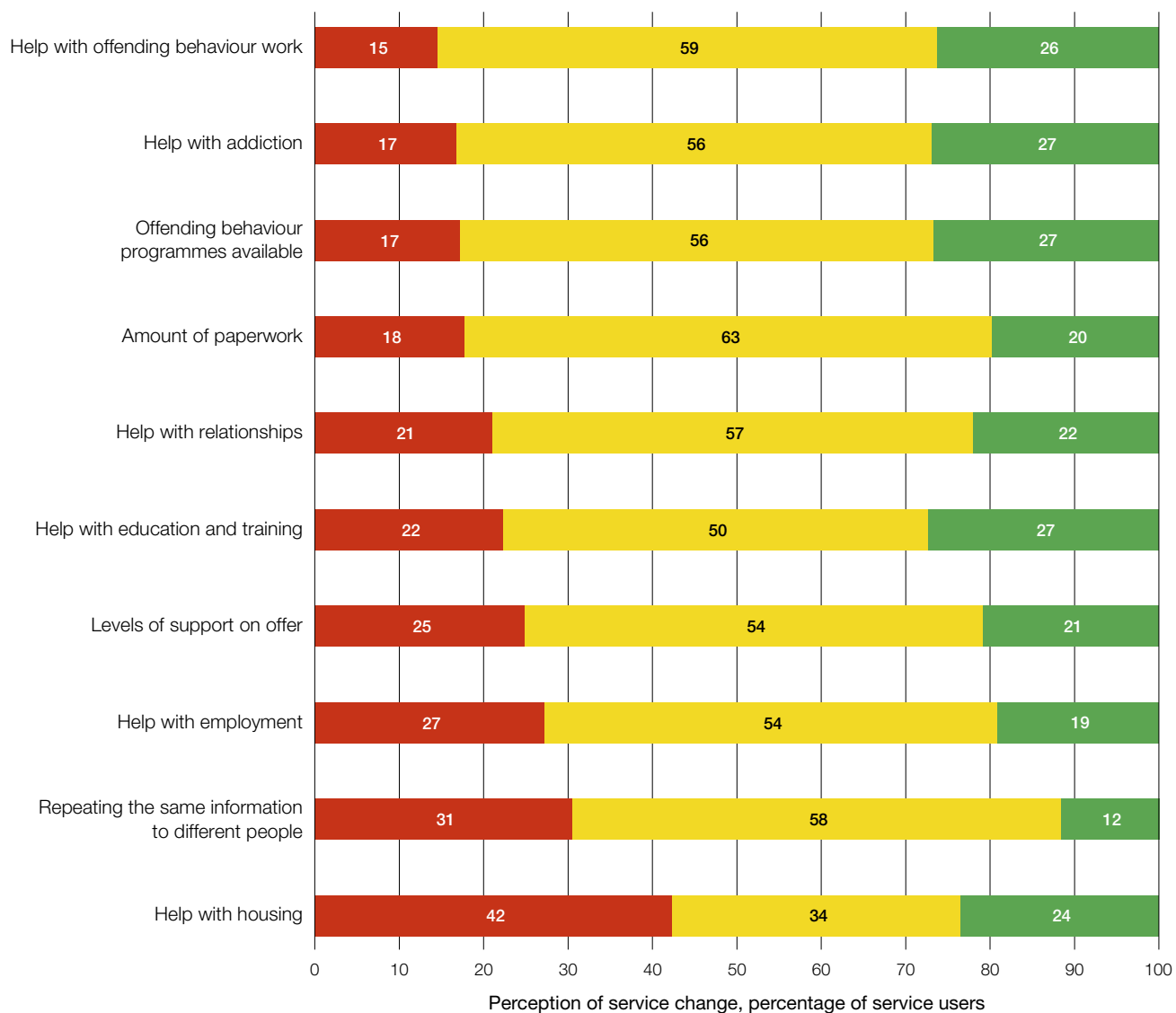
3.17 User Voice's findings, based on survey data from 251 service users, suggest that services have been sustained overall during the period of change (**Figure 12** overleaf). More than three-quarters (77%) of service users said they had not noticed any change in the overall service they personally received, and this was also the case in the focus groups.³⁰ However, users also provided views on specific services they received. Dissatisfaction was highest in obtaining help with housing and repeating information to different people, where more than 30% of users reported services had deteriorated. Aspects such as the availability of housing are heavily affected by factors outside the control of probation services, although repetition of information is exacerbated by unconnected case management systems (paragraphs 3.10 and 3.11).

²⁹ Available at: www.nao.org.uk/report/transforming-rehabilitation/. User Voice carried out five focus groups and 251 surveys of service users across four CRCs, of which 44.6% were supervised by CRCs and 13.6% by NPS. The remaining 41.8% were unsure or did not provide data on who they were supervised by. As a result we have not segregated the CRC and NPS data – instead providing an overall user perspective.

³⁰ This excludes users who stated that the question on specific service change did not apply to them.

Figure 12
Service users' perceptions of change since Transforming Rehabilitation reforms

Most users felt services had remained the same or had become better



- Worse
- Same
- Better

Notes

- 1 User Voice carried out its research between October and November 2015.
- 2 Totals do not all sum to 100, due to roundings.

Source: User Voice research for the National Audit Office

3.18 User Voice also found issues which, although also present before the reforms, appeared accentuated by them:

- More than half of questionnaire respondents had worked with one probation officer on their order, but more than 40% had experienced more than two, and approximately 5% had experienced five or more probation officers on one order. Many respondents referred to the negative impact of changing probation officer.
- Respondents also observed the negative impact on staff morale.
- There had been limited support for service users in preparation for their release into the community. Some 74% of service users observed a lack of contact by offender managers when they were inside prison and poor communication around the availability of resettlement services during that critical period before release. 'Through the Gate', starting from May 2015, aims to improve users' transition from custody into the community.

Part Four

Transforming probation and managing the risks of reform

Commercial pressure on CRC transformation

4.1 The contracts signed with the new owners of community rehabilitation companies (CRCs) commit them to achieving economies and efficiencies sufficient to fund the costs of expanded services, including 'Through the Gate' and supervision of offenders with short sentences. Bidders offered cost savings ranging from nil to more than 20% relative to the Ministry of Justice's (the Ministry's) maximum annual payments (Figure 5). Each transformation programme depends on significant privately financed investment, mainly in the first two years of the seven-year contracts in areas such as:

- wholesale replacement of inefficient technology developed and used by probation trusts, particularly systems for offender case management;
- implementing mobile working, and reducing CRCs' office space;
- reducing the number of professionally qualified probation staff and redirecting their time towards working on probation, using technology to automate more administrative tasks; and
- consolidating the separate back-offices run by probation trusts.

4.2 Successful bidders also proposed new ways of managing offenders, such as:

- in Warwickshire and West Mercia, establishing STEPS centres – one-stop shops built around vocational training but equipped to deal with offenders' wider issues as they build their motivation to change;
- in Wales, remote self-service for some interactions with offenders, as well as a focus on offender employability – aligned with the principles of the Work Programme, for which Working Links is also a provider;
- in London, adopting a 'cohort model' that tailors support to groups of offenders according to their specific needs, such as health, employment or housing; and
- in Northumbria, applying a 'closeness to change' approach to identify and prioritise those offenders most ready to change, where more help is likely to have the most impact.

4.3 CRCs now face commercial and contractual pressures to deliver these changes. The extent and pace of CRCs' transformation plans have become more uncertain because their case volumes are much lower than planned during bidding. Volumes are down between 6% and 36% against the mid-point agreed in the contracts (**Figure 13** overleaf).

4.4 The main reasons for reduced volumes appear to be:

- a general decline in the number of cases going through the justice system, particularly owing to the reduction in crime;
- a changed mix of offenders, leading to fewer than expected new cases being allocated to CRCs, and a greater share being retained by the National Probation Service (NPS) – around 21% of cases against initial assumptions of a 13% case share. This appears to be due to the shift in the types of cases being brought to court; and
- a one-third reduction in the volume of accredited programmes, requiring CRCs to provide alternative activities for offenders not reflected in measured volumes (paragraph 1.19). Besides changing views in the profession over the effectiveness of accredited programmes for many offenders, the effects of the new arrangements for sentencing and allocating offenders need to be better understood. For example, the Ministry intends to look further into whether new targets requiring the NPS to allocate cases within two days reduced its ability to assess eligibility for accredited programmes.

4.5 The Ministry made no guarantees for volume as part of the contracts and considers that it had transferred volume risk. Although suppliers had agreed to bear the risk of drops in volume, neither they nor the Ministry expected the reduction in the volume and rate of new cases allocated. Neither did they anticipate the magnitude of the impact of operating at lower volumes during the first two years of peak business transformation. The Ministry had left bidders responsible for modelling how they might respond to lower volumes. In its own business case, the Ministry modelled the effect of a 2% annual reduction in volumes.

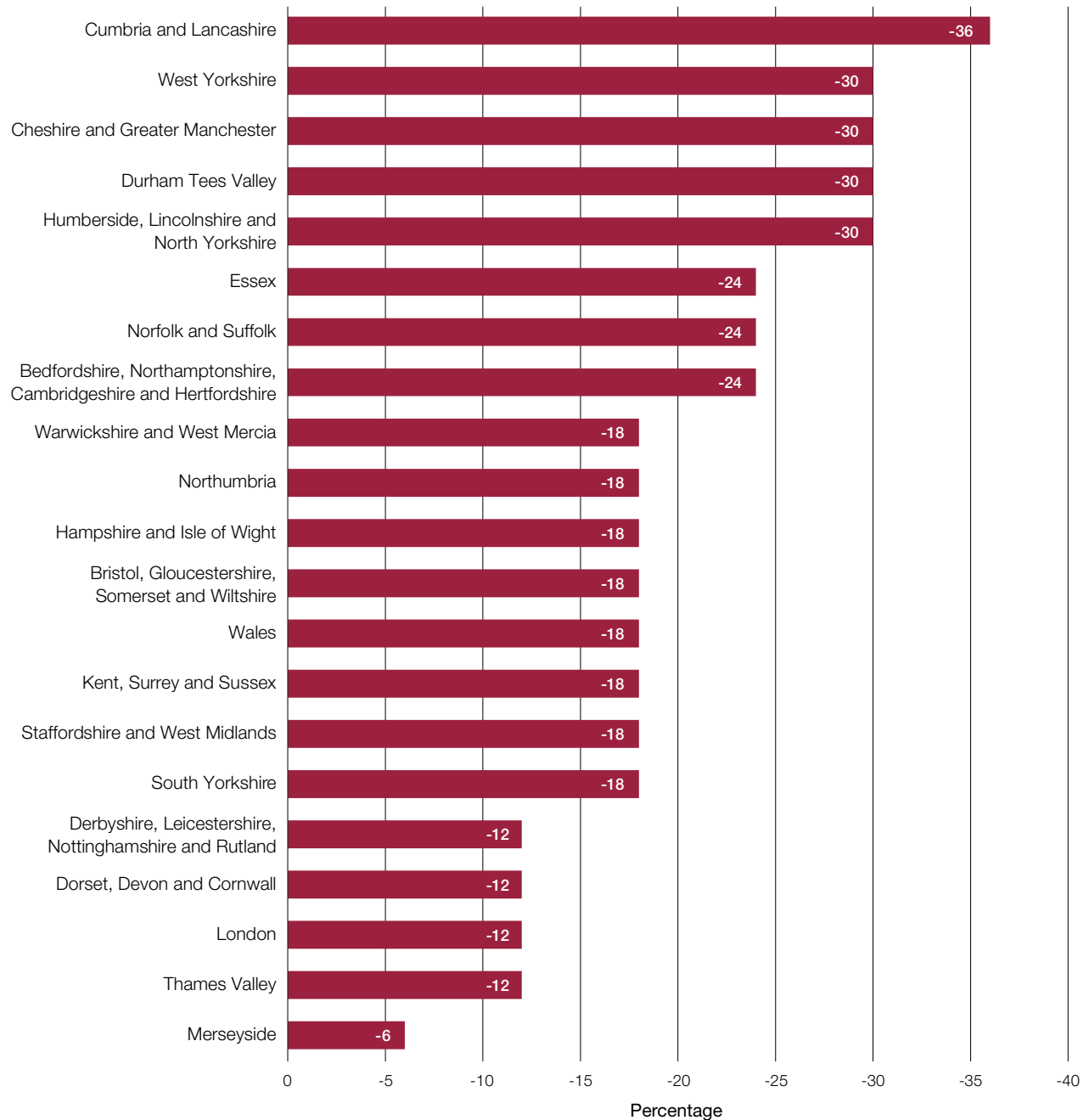
4.6 We examined the winning bids for our four case study CRCs, which face volume reductions of between 12% and 18%. We found that:

- the penalty of losing parent guarantees is a significant deterrent to providers walking away from CRC contracts in response to lower than expected revenue; and
- CRCs had proposed to raise significant levels of external debt to fund transformation activity and bridge their financial position during the first two years of their contracts. Lower than expected revenues increase the risk that CRCs may breach the terms of their debt facilities.

4.7 The extent to which volume reductions will lead to reduced income is yet to be finalised following ongoing commercial negotiations. The Ministry has a contractual obligation to act “reasonably and proportionately” when considering representations from CRCs about factors that they could not have foreseen or mitigated.

Figure 13
Annualised volume reductions compared to initial assumptions, by CRC

CRCs business volumes will vary over time, but currently have been significantly lower than expected



Notes

- 1 NOMS pay CRCs' fee for service in various case volume bands, which is why percentage reductions are identical across a number of CRCs.
- 2 Figure 13 uses actual data from April to December 2015 and an estimate for January to March 2016 to provide an indicative position for 2015-16.

Source: National Audit Office summary of National Offender Management Service data

4.8 Our fieldwork at four CRCs identified various effects of uncertainty over future costs and income:

- overall difficulty in planning and budgeting;
- increased caution in entering into commitments with suppliers, typically deferring or shortening commitments with them, or providing less certainty as to volumes;
- reduced clarity over the timing or level of investment, particularly on ICT and estates transformation; and
- reduced clarity over future staffing levels, and reconsidering whether to further outsource support services.

Further options for providers include taking reduced profit and making further changes to offender supervision.

4.9 Such responses bring additional risks for the Ministry to manage. Cost reductions may stabilise the financial positions of CRCs, but could limit innovation and compromise service delivery. They could also trigger financial penalties or, potentially, termination of contracts. Such scenarios would test the Ministry's contract management capability, particularly its operational assurance of the quality of rehabilitation services for offenders.

4.10 The Ministry put prudent protections in place to help mitigate the risks to the taxpayer and to critical services where providers seriously underperform or fail outright. Given that the CRC contracts are still in the early stages, none of these protections have yet been used but they include:

- broad step-in and termination rights involving access to the contractor's staff, facilities and operations under a wide range of scenarios, escalating from observation to more active intervention such as bringing in new managers;
- ability to call on a parent company guarantee of up to half of one year's turnover, towards the costs of stepping in; and
- termination rights to acquire any assets at 'fair value' and to require an exit plan for phased handover to the Ministry or another contractor. Although the Ministry can request an adjacent CRC provider to become interim manager of a failed CRC, this would be subject to mutual agreement, and would require a new provider to step in from outside the CRC area. This differs from arrangements on the Department for Work & Pensions' Work Programme, where there are 2–3 providers per area.³¹

³¹ Comptroller and Auditor General, *The Work Programme*, Session 2014-15, HC 266, National Audit Office, July 2014, pp.16–17.

Sustaining a diverse supply chain

4.11 Voluntary bodies were largely unsuccessful in bidding to lead CRCs apart from one non-for-profit entity, but the procurement also envisaged a continued long-term role for them as suppliers of services (paragraphs 1.6 and 1.7). The Ministry needs to be well informed about the capability of this supply chain. The National Offender Management Service (NOMS) has mapped the extent to which CRCs have put contracts in place across the required services, and has identified gaps in specialisms such as domestic violence and abuse, restorative justice and support for armed forces veterans in some geographic areas. A national survey of voluntary bodies active in rehabilitation has identified a demand for such information from such suppliers, to enable them to identify unmet needs, to develop their services and bid for work.³²

Embedding the NPS

4.12 When the NPS was created in June 2014, the new organisation focused initially on stabilising operations. Its priorities included creating management structures for a national service, and establishing new functions such as allocation of offenders (Figure 10). It has recruited extensively to fill gaps left by the transfer of staff to CRCs and to cope with higher than expected workload (see paragraph 3.8).

4.13 In November 2015 the NPS launched internally a blueprint for how it plans to become a more standardised, “effective, efficient and excellent” service. This covers six areas of core service, including court delivery and community supervision. NPS has surveyed staff views on the blueprint and each NPS region also has its own ‘champion’ to communicate ongoing transformation to staff.

- Some 17% of 4,626 staff survey responses to the blueprint were positive, while 65% were neutral or offered suggestions for improvement. Transformation activity is likely to be ongoing over the next two years. The risk is that the staff ‘change fatigue’ we observed during our fieldwork may continue.
- We noted limited focus on corporate support services that are crucial enablers for transformation.
- It is unclear how the NPS will ensure regions (and constituent local units) comply with the blueprint’s ways of working.

³² Clinks, National Council for Voluntary Organisations (NCVO) and Third Sector Research Centre (TSRC), *Early Doors: The voluntary sector’s role in Transforming Rehabilitation*, August 2015. Surveys, available at: www.clinks.org/trackTR

Supervision of short-sentenced offenders

4.14 Following the introduction of the Offender Rehabilitation Act 2014, offender supervision, for the first time, has been extended to offenders with prison sentences under 12 months. While this had led to an additional 10,000 'starters' as of August 2015, this cohort of offenders is still expanding and there is to date little management information or analysis of service level performance or outcomes for this new cohort of offenders. The risk is that the Ministry does not sufficiently understand and manage the performance of services to this new cohort of offenders.

Reorganising the prison estate to resettle offenders

4.15 NOMS has reorganised the prison estate to resettle offenders 'Through the Gate' by giving continuous support from custody into the community. This includes accommodation advice, employment retention and brokering, financial advice and specialist services for sex workers and victims of domestic and sexual violence.

4.16 'Through the Gate' resettlement services began on 1 May 2015; there have, however, been some initial problems associated with the ambitious delivery timescales. For example, some providers encountered challenges in accessing prisons and mobilising their resettlement suppliers. NOMS' assurance checks found that providers initially focused too much on whether offenders complete the process, which is one of the CRC service levels, rather than the quality of their resettlement plans. NOMS has worked with CRCs to clarify what more they must do for offenders beyond simply completing an offender's resettlement plans within a five-day period (20 of the 21 CRCs were meeting this target in December 2015) and signposting them to services.

Appendix One

Our audit approach

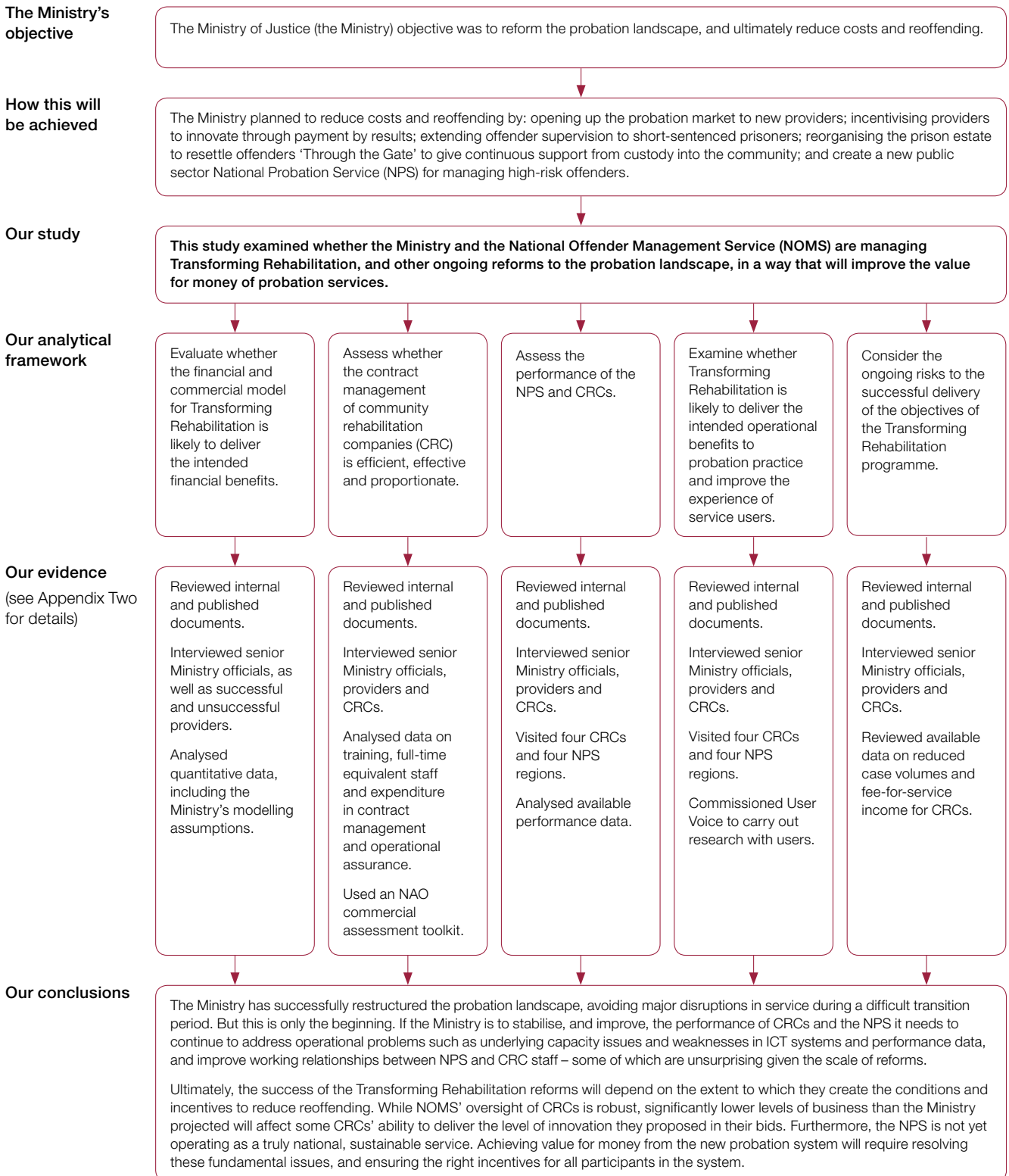
1 This study examined whether the Transforming Rehabilitation programme, and other ongoing reforms to the probation landscape, are being managed in a way that will improve the value for money of probation services.

2 Our analytical framework was based on assessing the implementation of probation reforms, some of which are ongoing. We reviewed:

- whether the financial and commercial model for Transforming Rehabilitation is likely to deliver the intended financial benefits;
- whether the contract management of community rehabilitation companies (CRCs) is efficient, effective and proportionate;
- the performance of the National Probation Service (NPS) and CRCs;
- whether Transforming Rehabilitation is likely to deliver the intended operational benefits to probation practice and improve the experience of service users (offenders); and
- the ongoing risks to successfully achieving the objectives of the Transforming Rehabilitation programme.

3 Our audit approach is summarised in **Figure 14**. Our evidence base is described in Appendix Two.

Figure 14
Our audit approach



Appendix Two

Our evidence base

1 Our conclusions on whether the Ministry of Justice (the Ministry) and the National Offender Management Service (NOMS) are managing the Transforming Rehabilitation programme, and other ongoing reforms to the probation landscape, in a way that will improve the value for money of probation services were reached following our analysis of evidence collected between September and November 2015. Our audit approach is outlined in Appendix One.

2 We evaluated whether the financial and commercial model for Transforming Rehabilitation is likely to deliver the intended financial benefits in the following ways:

- We reviewed around 150 internal and published documents, including board minutes, and strategy and research documents. These included the Ministry's business case for Transforming Rehabilitation, documents discussing the payment mechanism for community rehabilitation companies (CRCs) and papers to the National Offender Management Service's (NOMS) executive board.
- We interviewed senior officials and other staff from the Ministry, as well as successful and unsuccessful bidders involved in the Ministry's procurement process for CRCs. All the interview data we collected were analysed systematically using a computer-aided qualitative data analysis software package.
- We evaluated the robustness of the Ministry's financial and economic modelling.
- We analysed data that the Ministry has collated on the size and nature of the supply chain of organisations that support the work of the prime CRC providers.

3 We assessed whether the contract management of CRCs is efficient, effective and proportionate in the following ways:

- We reviewed internal and published documents, in particular the Ministry's *Handbook for the community rehabilitation service agreements*.
- We interviewed senior Ministry officials, providers and various junior and senior CRC staff.
- We analysed data on the completion of training, full-time equivalent staff and expenditure in contract management and operational assurance.
- We used an internal National Audit Office commercial assessment toolkit to collate evidence.

4 We assessed the performance of the National Probation Service (NPS) and CRCs in the following ways:

- We reviewed documents from the NPS, CRCs and NOMS.
- We interviewed senior Ministry officials, staff across the NPS, providers and CRCs.
- We visited four CRCs and their corresponding four NPS regions.^{33,34} Before these visits, we reviewed various documents and data. We then used this information to support semi-structured interviews with senior and junior staff that covered a wide range of topics with CRCs and the NPS, including their performance and working relationships.
- We analysed available contract performance data and associated reports, which are collected by NOMS from CRCs. We also analysed NPS performance data.

5 We examined whether transforming rehabilitation is likely to deliver the intended operational benefits to probation practice and improve the experience of service users. We did this in the following ways:

- We reviewed documents from the NPS, CRCs and NOMS; and interviewed senior Ministry officials, staff across the NPS, providers and CRCs.
- We visited four CRCs and their corresponding four NPS regions.
- We reviewed and analysed data, including on: staff numbers, workload, sickness, and staff satisfaction.
- We commissioned User Voice to carry out research with service users. This research involved focus groups and subsequent questionnaire data collection from 251 users between September and October 2015. User Voice's full report for us is available on our website at: www.nao.org.uk/report/transforming-rehabilitation/
- We also reviewed reports by other bodies, such as HM Inspectorate of Probation.

6 We considered the ongoing risks to successfully achieving the objectives of the Transforming Rehabilitation programme by:

- reviewing internal and published documents;
- interviewing senior Ministry officials, providers and CRCs; and
- reviewing available data on reduced case volumes for CRCs.

7 All of our evidence against the progress of the programme's objectives is outlined in Appendix Three.

33 London, Northumbria, Wales, and Warwickshire and West Mercia.

34 London, North East, Wales and the Midlands.

Appendix Three

Progress against objectives of Transforming Rehabilitation

Figure 15

Progress against the objectives of the Transforming Rehabilitation programme

Objective	Relevant paragraph references in this report
Open up the market to a diverse range of rehabilitation providers including potential mutuals	Paragraphs 1.6, 1.7 and 4.11
Incentivise providers to innovate through payment by results	Paragraphs 1.12 to 1.19, 4.1 and 4.2
Extend statutory rehabilitation in the community to offenders with short sentences	Paragraph 4.14
Reorganise the prison estate to resettle offenders 'Through the Gate' to give continuous support from custody into the community	Paragraphs 1.4, 4.15 and 4.16
Create a new public sector National Probation Service responsible for managing high-risk offenders	Paragraphs 2.2, 2.3, 2.17, 2.18, 4.12 and 4.13

Source: Ministry of Justice statement of objectives

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