



National Audit Office

Briefing

by the House of Commons

Environmental Audit Committee

Ministry of Justice: Environmental sustainability overview

NOVEMBER 2017

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Contents

Summary

Aim and scope of this briefing 4

Part One

Governance and leadership 10

Part Two

Estates and operations 17

Part Three

Managing the heritage and streetscape
implications of court closures 32

Part Four

Procurement and
contract management 37

Part Five

Policy and policy-making 45

Appendix One

Good practice criteria 50

Appendix Two

Our approach 51

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Summary

Aim and scope of this briefing

- 1** This briefing gives an overview of the approach taken by the Ministry of Justice (the Ministry) to environmental sustainability. Environmental sustainability is the protection of the natural environment and the use of natural resources in a way that secures continued benefit for future generations. The government has committed to embedding sustainability across all its activities and has set targets for reducing the environment impact of the central government estate, known as the “Greening Government Commitments”.
- 2** The Ministry is responsible for establishing and implementing government policy for the criminal, civil and family justice systems for England and Wales. It is responsible for provision of legal aid, administration of justice through courts and tribunals, and for the detention and rehabilitation of offenders.
- 3** The Ministry has made a public commitment in its annual report to make “sustainable development standard in everything we do”. With the second largest estate in central government, the Ministry has a critical role to play in meeting government’s ambitions to reduce the environmental impacts of its buildings and travel. It is responsible for 1,650 sites with a collective floor area of more than 5 million m². The Ministry’s estate accounts for around 20% of the greenhouse gas emissions, waste and water use from the central government estate.
- 4** The Ministry is implementing major reforms of its estate. It plans to close some old Victorian prisons, build five new prisons by 2020, carry out major extensions and refits of some existing prisons, close some courts and tribunals and introduce more digital ways of working in the courts and tribunals system. Building sustainability considerations into these changes could have a significant impact on the long-term carbon emissions, waste and water use of its estate. Improving sustainability can also play a part in reducing costs. The 2015 Spending Review requires the Ministry to reduce expenditure by £600 million between 2015-16 and 2019-20, from £6.2 billion to £5.6 billion. Energy, waste disposal and water supply for its buildings cost the Ministry £128 million in 2015-16.

5 This is the fifth of our sustainability overviews of different parts of government and we use a good practice framework (Appendix One) developed over the course of these overviews to review whether environmental considerations are embedded in all aspects of the Ministry's work, covering:

- governance and leadership (Part One);
- management of estates and operations (Part Two);
- procurement and contract management (Part Four); and
- policy-making (Part Five).¹

6 This report focuses on the environmental sustainability of prisons, courts and tribunals as these constitute most of the estate's environmental impacts, and are also where the biggest changes are taking place. At the request of the Environmental Audit Committee chair, we also take a broader perspective on sustainability of its estate by looking at how the Ministry considers the heritage and streetscape implications in its court closure programme (Part Three).

Findings

Governance

7 **The Ministry has good arrangements in place to promote and monitor some aspects of environmental sustainability.** Our previous work indicates that a key risk for environmental sustainability is that it is sidelined in favour of more immediate priorities. To mitigate this, the Ministry has established a sustainable operations team responsible for collating data on environmental performance and for initiating environmental projects, and a Board-level sustainability champion. Its estates property board monitors progress against environmental targets. The arrangements are good for carbon emissions, with a carbon target clearly referenced in the Ministry's main performance management framework (its internal Single Departmental Plan), and with regular reports on progress to the Ministry's sustainability champion (paragraphs 1.6, 1.8, 1.9 and Figure 2).

¹ The Department for Transport (April 2016), the National Health Service (March 2015), the Home Office (March 2014) and the Department for Business, Innovation & Skills (July 2013).

8 However, there are also important gaps and weaknesses in the Ministry's governance arrangements that could undermine progress. It is not clear that the Ministry's senior leadership 'own' all its ambitions for environmental sustainability. Governance arrangements focus on carbon: the internal Single Departmental Plan only covers the Ministry's carbon target, as do progress reports to its sustainability champion. The latter has not signed off the Ministry's biodiversity strategy or sustainable operations policy. The Ministry told us that this is because carbon is its priority. But it is important to explain to stakeholders the rationale for chosen priorities, and to review priorities in light of emerging risks or opportunities. The Ministry's sustainability policy does not explain whether or why carbon is its priority, and deterioration of a nationally important site for wildlife did not prompt a review of priorities by its sustainability champion (paragraphs 1.6 to 1.9, 2.11 and Figure 2).

Estates

9 The Ministry has already met its 2020 Greening Government Commitment target for reducing carbon emissions, and while this target was not challenging, it expects to reduce emissions further over the next three years. Since 2009-2010 the Ministry has reduced carbon emissions from its estate by 28%, against a targeted 22% reduction by 2020. Part of the reason the Ministry has achieved its target is estate rationalisation, although it is likely that this is not the only factor as the size of the estate has reduced by a lower proportion (9%) over the same period. We do not consider that the Ministry's 2020 carbon target was sufficiently challenging. By the time the Greening Government Commitment targets were announced, in December 2016, they required the Ministry to do no more than maintain total carbon emissions performance at a time when it planned further reductions to the size of its estate. However, the Ministry plans to continue to improve carbon performance and forecasts to achieve a 34% reduction in carbon emissions by April 2020 compared with 2009-10 levels (paragraphs 2.7 to 2.9, 2.24 and Figure 4).

10 The Ministry is developing a structured approach to reducing carbon emissions on its existing estate, but has further to go. Since the 2015 Spending Review the Ministry has been developing plans for a coordinated programme of carbon reduction projects across its prison estate. It began a £2 million suite of projects in 2016-17, and in March 2017 approved plans for a further £14 million spend to April 2020, which it expects to pay back costs within five years. The Ministry now has a medium-term resourcing plan for carbon reduction, with plans for post-project evaluation, and it has explored alternative funding sources. However, we would expect some aspects of its approach to be more advanced. The Ministry had not applied for grants through the Renewable Heat Incentive until March 2017 although the scheme was established in 2011. Nor does it have a formal carbon reduction strategy to bring together the different components of its approach and set these in the context of long-term ambitions (paragraphs 2.20 to 2.28 and Figure 8).

11 The Ministry has not assessed the environmental performance of most of its construction and refurbishment projects, nor has it consistently met required standards. Government has committed that all new builds and refurbishments by central government departments should achieve excellent and very good environmental ratings respectively, as measured by the Building Research Establishments Environmental Assessment Method (BREEAM). However, the Ministry's data show that 64% of the 151 new build and refurbishment projects in courts, tribunals and prisons since 2010 did not receive a final BREEAM certification. Of the 54 that did receive final environmental certification, 14 did not meet the required standard (paragraph 2.10).

12 Progress in developing a sustainability strategy for new prisons was slow given the narrow window of opportunity but has now gathered pace. Incorporating environmental measures into the design of new buildings minimises upfront financial costs and maximises potential benefits. There is a narrow window of opportunity to factor environmental measures into plans given that the Ministry wants to build five new prisons by 2020. During this review we raised concerns with the Ministry about whether it had the right processes to embed sustainability considerations into decisions from an early stage. The Ministry appointed a BREEAM assessor for the new prisons part way through our review, in March 2017. In July 2017 it developed a draft sustainability strategy for the new prisons, which it expects to finalise imminently. This strategy includes proposals for measurable targets and a sustainability steering group to oversee progress (paragraphs 2.15 to 2.19 and Figure 7).

13 The Ministry has improved the condition of three of its ten nationally important sites for wildlife since 2007, but only two are in a favourable condition. The Ministry's estates are some of the most ecologically diverse in government. Ten of its prison and court sites include, fall within, or border, nationally important sites for wildlife that are protected under law (Sites of Special Scientific Interest: SSSI). Two of these sites are in a favourable condition, seven are unfavourable but recovering, and one is unfavourable and declining. This is an improvement in at least three sites compared to 2007, but below the national average of favourable SSSI sites. By 2020 the Ministry wants at least 50% of its SSSI sites to be favourable. Achieving this will depend on the Ministry clarifying the role of facilities management contractors and securing their engagement. The Ministry has a wide range of initiatives to engage staff and offenders in protecting and enhancing the wildlife on its estate more widely, including an active volunteer network, partnership arrangements with wildlife charities, and training courses (paragraphs 2.3, 2.11 to 2.13, and 4.15).

Heritage and streetscape

14 HM Courts & Tribunal Service (HMCTS) does not have adequate arrangements to protect heritage when it sells old court buildings. HMCTS is responsible for selling five listed buildings by April 2018 as part of a wider programme of 86 court closures. To date, it has sold two. However, HMCTS has not put in place a process to minimise the risk of future owners failing to protect these buildings, as guidance from Historic England requires. Strong arrangements to consider heritage would mitigate the risk that sale decisions are driven solely by the Ministry's targets to maximise capital receipts and release sites for housing (paragraphs 3.1 to 3.11).

Procurement

15 The Ministry cannot demonstrate that it is meeting its ambition that procurement always takes a sustainable approach. The Ministry could achieve large impacts in sustainable procurement as it is the second largest buyer across central government. However, it relies on individual contract managers to incorporate sustainability considerations into contracts and only collects summary information on sustainable procurement if the Department for Environment, Food & Rural Affairs (Defra) specifically requests it. It achieved 98% compliance against five of the 11 government buying standards for sustainable procurement in 2015-16, but did not collect equivalent data for 2016-17 as it was not required to do so by Defra (paragraphs 4.2, 4.6 to 4.10 and Figures 11, 12 and 13).

Policy and policy-making

16 The Ministry does not fully evaluate potential environmental and sustainability impacts as part of its policy making. The Ministry published seven policy impact assessments in 2016-17 on issues with potential environmental impacts. However, only two identified the potential environmental impacts and none went on to quantify or monetise these effects. If officials do not identify and assess environmental impacts early, it may restrict the scope to implement measures to mitigate any negative effects and maximise any benefits (Part Five and Figure 14).

Conclusion

17 The Ministry meets or is making progress against many of its environmental targets, and it is developing its approach to a number of key risks and opportunities for the environmental sustainability of its estate. However, there are still significant gaps and weaknesses in its accountability arrangements, and it is not yet meeting its ambition to embed sustainability in everything it does.

Issues the Committee may wish to put to the Ministry

- How should the Ministry improve accountability and governance for environmental sustainability?
- Are the Ministry's environmental targets ambitious enough?
- What steps should the Ministry take to realise greater cost and emissions savings from energy efficiency measures on its estate?
- Why have most prison and court construction projects to date not had BREEAM environmental assessments?
- How can the Ministry make the most of the current window of opportunity to improve protection of the environment afforded by its prison building programme?
- What more should the Ministry do to safeguard the future of historic buildings when they are sold and to consider the local impact of the sale of other properties? How should it balance these concerns with the drive to maximise capital receipts and release sites for new homes?
- How can the Ministry engage better with facilities management contractors?
- What information should the Ministry collect and report on sustainable procurement?
- How can the Ministry ensure that its policy-makers consider environmental impacts from the start?

Part One

Governance and leadership

1.1 This Part covers:

- the Ministry of Justice's (the Ministry) role in contributing to environmental sustainability;
- why the Ministry's governance and leadership arrangements for sustainability matter;
- whether the Ministry's leadership has identified clear priorities for sustainability and communicated these priorities to staff and stakeholders; and
- the extent to which there are clear roles and responsibilities for environmental sustainability and arrangements for senior leaders to hold people to account for performance.

The Ministry of Justice's role in contributing to environmental sustainability

1.2 Environmental sustainability is the protection of the natural environment and the use of natural resources in a way that secures continued benefit for future generations. Since 2011 government has sought to embed sustainability across all its activities.² For example, in giving evidence to the Environmental Audit Committee in 2015, Sir Oliver Letwin MP explained that, "this is now simply a mainstream part of our agenda. We do not see sustainable development as a separate bit sitting around; it is how we do business."³

1.3 The Ministry is responsible for upholding the law and keeping people safe. Its role is to protect the public, reduce reoffending and provide an effective, transparent and responsive criminal justice system. Its policies are not, therefore, in the main directed towards environmental protection. However, its work does have environmental impacts, from its buildings and travel, from the goods and services it buys, and from its influence on wider society (**Figure 1**). In particular, it is responsible for 1,650 sites, including nearly 700 prison buildings and more than 500 court buildings, and thereby around 20% of the greenhouse gas emissions, waste and water use from the central government estate.

² National Audit Office, *A short guide to environmental protection and sustainable development*, July 2015.

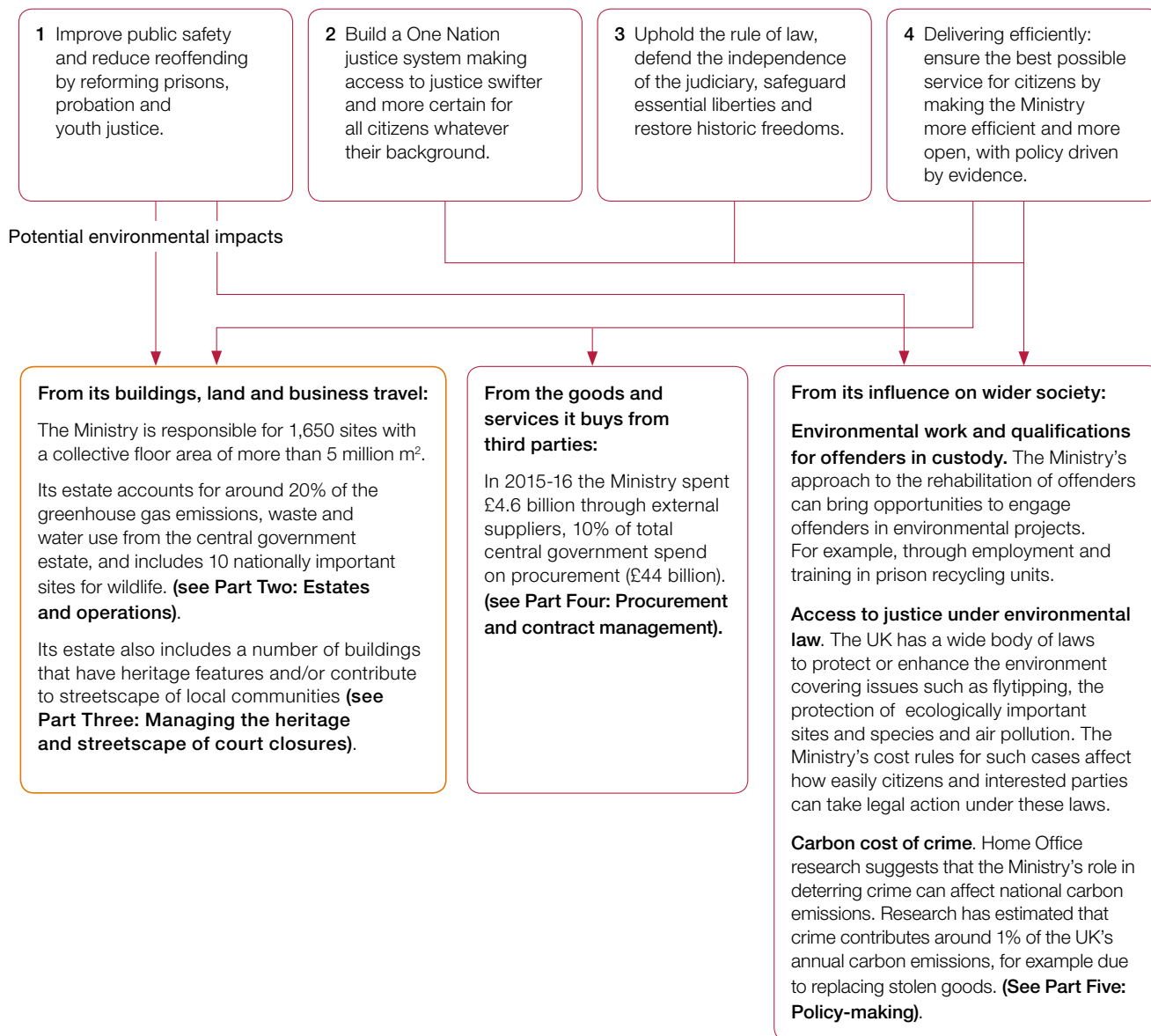
³ Sir Oliver Letwin MP was then Chancellor of the Duchy of Lancaster, and one of the ministers responsible for sustainable development.

Figure 1

The Ministry of Justice responsibilities and their potential environmental impacts

The Ministry’s main objectives are not directed towards environmental protection but can have environmental impacts

The Ministry’s objectives



Note

1 The Ministry’s policy responsibilities shown are the objectives in its Single Departmental Plan.

Source: National Audit Office analysis

1.4 In common with previous sustainability overviews, we focus on four aspects of the Ministry's work:

- whether senior leaders set a central framework for prioritising environmental issues and for holding people to account for performance (in this part);
- management of estates and operation (Part Two);
- procurement and contract management (Part Four); and
- consideration of environmental issues when developing policy proposals (Part Five).⁴

At the request of the Environmental Audit Committee chair, we also take a broader perspective on sustainability of the estate by looking at how the Ministry considers the heritage and streetscape implications in its court closure programme (Part Three).

1.5 The areas we cover are aspects of the Ministry's work rather than discrete topics, so there is overlap between the issues each Part could cover. But we seek to explain an issue in full in one place as far as possible. So while the Ministry's approach to engaging with facilities management contractors is a key factor in the management of its estates we report on it as part of procurement and contract management (Part Four). Similarly, while the Ministry's approach to setting a carbon reduction strategy is a factor in its governance arrangements, we report on it as part of our analysis of its approach to managing its estates (Part Two).

Why the Ministry's governance and leadership matter for sustainability

1.6 Our previous work for the Environmental Audit Committee has highlighted that a key risk for environmental sustainability is that the issues are sidelined by more immediate concerns.⁵ Senior leaders can play an important part in mitigating this risk, in particular by:

- **Setting clear priorities.** Understanding which environmental issues are most important for an organisation, given its remit and resources, is a fundamental starting point for focusing effort most effectively.⁶ Establishing clear priorities also helps staff and stakeholders understand the part they can play in achieving this change.⁷ We would expect a department's Single Departmental Plan to cover the key priorities for its work on environmental sustainability, as this is the main document that sets out its objectives for Parliament, the public and staff.⁸

⁴ We have carried out sustainability overviews of: The Department for Transport (April 2016), the National Health Service (March 2015), the Home Office (March 2014) and the Department for Business, Innovation & Skills (July 2013).

⁵ Comptroller and Auditor General speech to the Environmental Audit Committee's conference on the government's approach to sustainable development, November 2015.

⁶ This concept of 'materiality' is also fundamental to good sustainability reporting: see National Audit Office, *Sustainability reporting in central government: An update*, February 2015.

⁷ See, for example, National Audit Office, *Departmental Sustainability Overview: the Department for Transport*, April 2016.

⁸ See our reports on: *Environmental and sustainability metrics*, Briefing for the Environmental Audit Committee, National Audit Office, October 2015.

- **Establishing clear roles and responsibilities and holding people to account for performance.** In particular, a Board-level ‘champion’ for sustainability can help ensure environmental considerations feature in significant decisions taken at a senior level.⁹ A dedicated sustainable operations team can help develop and monitor metrics of success, coordinate initiatives and share good practice.¹⁰

Priorities

1.7 During 2016-17 the Ministry has taken positive steps to set out its aspirations for environmental sustainability:

- Its 2016 strategic plan for the management of its estate includes reference to the environmental targets the Ministry has as part of the ‘Greening Government Commitments’.
- In January 2017, the Ministry finalised a strategy for its approach to biodiversity. This commits the organisation to play its part in meeting government’s overall ambitions for biodiversity by 2020.
- In December 2016, the Ministry finalised its sustainable operations policy, which sets broad aspirations for its approach to sustainability of its estate, such as “to extend the scope of all aspects of sustainable development into its business areas”.
- Its main performance framework (its internal Single Departmental Plan) includes its carbon emissions reduction target.

1.8 However, none of these documents are published and therefore do not support public accountability. The Ministry’s published Single Departmental Plan does not refer to its environmental objectives. The Ministry told us that this is because it is a high-level document; we have previously raised a wider concern about the lack of detail in departments’ published Single Departmental Plans.¹¹ Furthermore, neither its biodiversity strategy nor its sustainable operations policy are signed off by its Board-level sustainability champion. As a result, there is a significant risk that its sustainability aspirations and the Greening Government targets are not fully ‘owned’ by the Ministry’s leadership.

⁹ See for example: National Audit Office, *Departmental Sustainability Overview: Business, Innovation & Skills*, July 2013; and National Audit Office, *A briefing on delivery of the target to reduce central government’s office carbon emissions by 10 per cent in the 12 months since the 2010 general election*, July 2011.

¹⁰ See for example, National Audit Office, *NHS and sustainability*, March 2015.

¹¹ Comptroller and Auditor General, Cabinet Office and HM Treasury, *Government’s management of its performance: progress with single departmental plans*, Session 2016-17, HC 872, National Audit Office, July 2016.

Roles, responsibilities and holding to account

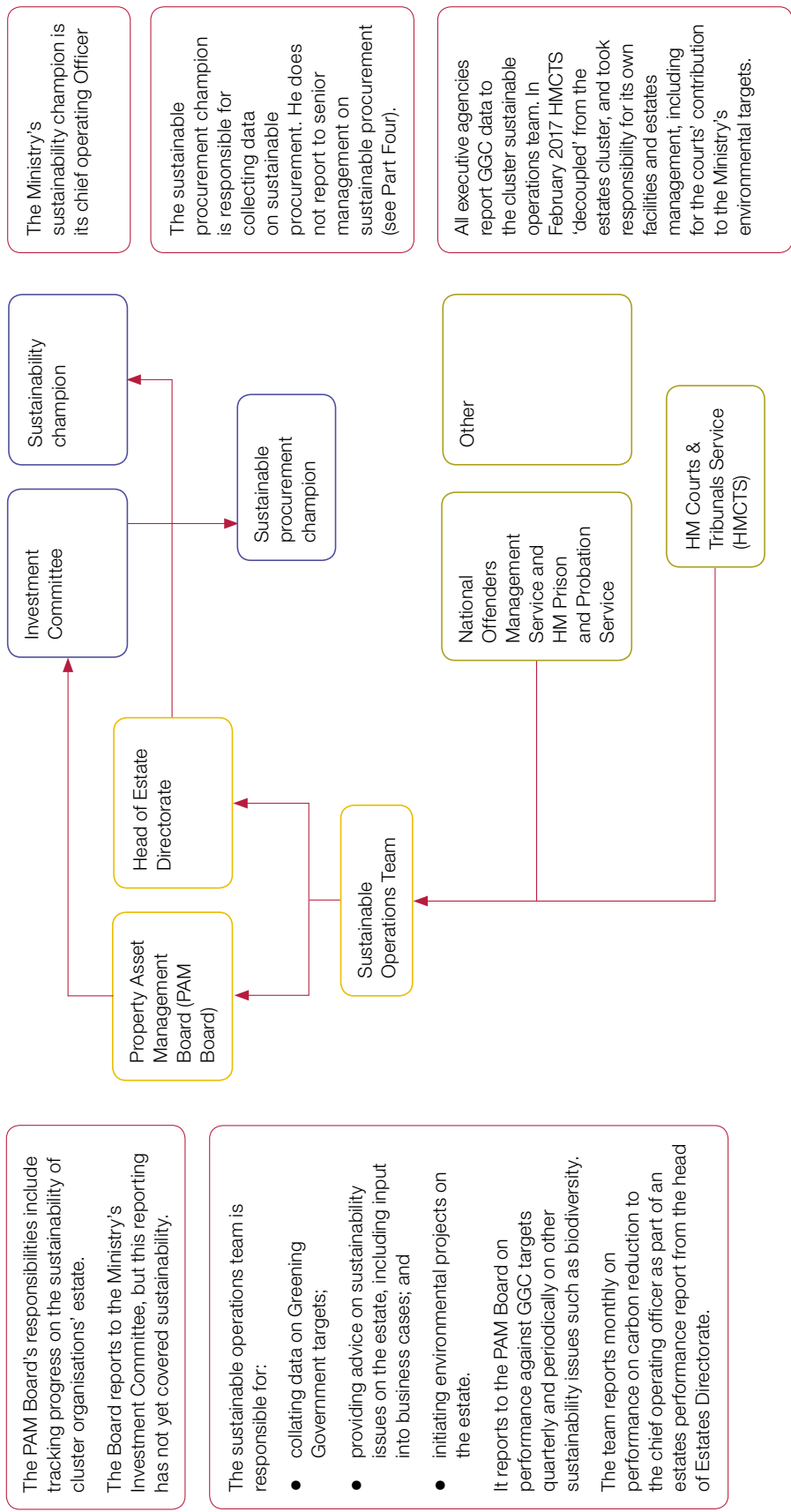
1.9 The Ministry's high-level governance arrangements for environmental sustainability have three features that should in principle help ensure strong ownership and accountability:

- In January 2014, it nominated a 'champion' for sustainability at Board level, its chief operating officer.
- Since 2011 it has had a sustainable operations team responsible for collating data on environmental performance, providing advice on sustainability issues, and for initiating environmental projects.
- It has a forum for regular monitoring of performance against environmental targets: from August 2016 this responsibility has fallen to its Property Asset Management (PAM) Board, which has sustainability as a standing agenda item (**Figure 2**).

1.10 In practice, the arrangements are good for carbon, but there are gaps and weaknesses in the coverage of other sustainability issues:

- The personal objectives of the Ministry's sustainability champion (its chief operating officer) include driving performance on the Ministry's carbon targets, although no wider sustainability role. He receives monthly reports on performance on carbon reduction as part of an estates performance report, but not other information on sustainability performance.
- The Ministry told us that the sustainability champion reviews sustainability performance as part of quarterly performance meetings with the head of estates, and that the permanent secretary also reviews sustainability performance as part of six monthly accountability meetings with the head of estates. However, there are no minutes of these discussions and the Ministry could not provide examples from the 2015–2017 Parliament of the meetings having prompted specific outcomes for sustainability.
- The sustainable operations team only covers the sustainability of the Ministry's estate. There is no reporting to the sustainability champion on sustainable procurement (see Part Four) nor is there any guidance for policy-makers on consideration of environmental impacts (see Part Five).

Figure 2 The Ministry of Justice’s governance arrangements for sustainability: roles, responsibilities and reporting to senior management



Note

1 The estates cluster was formed in April 2016 and manages the estates of seven organisations: the Ministry of Justice, the Home Office, the Crown Prosecution Service, the Department for Education, and the Department for Communities and Local Government, the Department for International Trade and the Department for Exiting the European Union. The latter two departments joined the cluster in May 2017.

2 GGC = Greening Government Commitment.

1.11 The Ministry told us that this is because carbon has been its priority. We agree that setting priorities is sensible and valuable, but we also consider it is important that the rationale for priorities is clear and reviewed regularly, to make sure that emerging risks or opportunities receive due attention. The Ministry's sustainable operations policy does not explain whether or why carbon is its priority. A significant sustainability risk that emerged in July 2016 (deterioration of a nationally important site for wildlife, see paragraph 2.11) did not prompt a serious review of priorities; the issue was not escalated to the Ministry's sustainability champion.

1.12 Despite being a shared service across seven departments, the sustainable operations team has no terms of reference to set out what the Ministry can expect from its work. The team was established in its current form in 2016 with six full-time members of staff who as at July 2017 cover seven departments (not including the head of the sustainable operations team, who also covers safety and security issues for the estates cluster).

Part Two

Estates and operations

2.1 This Part covers:

- why the environmental sustainability of the Ministry of Justice's (Ministry) estates and operations matters;
- the Ministry's overall performance against environmental targets for its estate; and
- how the Ministry is embedding sustainability in current reforms to the prison and court estate.

Why the environmental sustainability of the Ministry's estates and operations matters

2.2 The Ministry has the second largest central estate in government, and its holdings span more than 5 million m² and 1,650 buildings.^{12,13} This estate accounted for around 20% of the environmental impact of the central government estate, in terms of greenhouse gas emissions, waste and water use (**Figure 3** overleaf).¹⁴

2.3 The Ministry's estates are some of the most ecologically diverse in government. It has at least 10 sites that fall within, include, or border, nationally important sites for wildlife that are protected under law (Sites of Special Scientific Interest: SSSI). For example:

- the grounds of HMP Hewell include a lake and an ornamental woodland, which provide habitats for local populations of reed warblers and sparrowhawks among other species;¹⁵
- part of the grounds of Snaresbrook Crown Court fall within Epping Forest, an area of ancient woodland; and
- HMP Dartmoor is situated within a National Park and the prison's land includes 30 hectares of the surrounding upland heathland.

Natural England requires all public bodies to take reasonable steps to protect and enhance the special features of SSSIs that they own or manage. It can prosecute and fine public bodies that cause or allow damage to an SSSI under the Countryside and Wildlife Act.

¹² The Ministry's central estate is the second largest after the Department for Work & Pensions. Government's definition of its central estate includes the Ministry's office and court buildings but not prisons. Government does not report comparable data on the relative size of departments' total estates.

¹³ As at December 2016.

¹⁴ The latest cross-government report on the environmental impact of the government estate was published in 2014-15 when the Ministry accounted for 20% of greenhouse gas emissions, 20% of waste generated and 25% of water use.

¹⁵ HMP Hewell is an open prison on the site of an old country house.

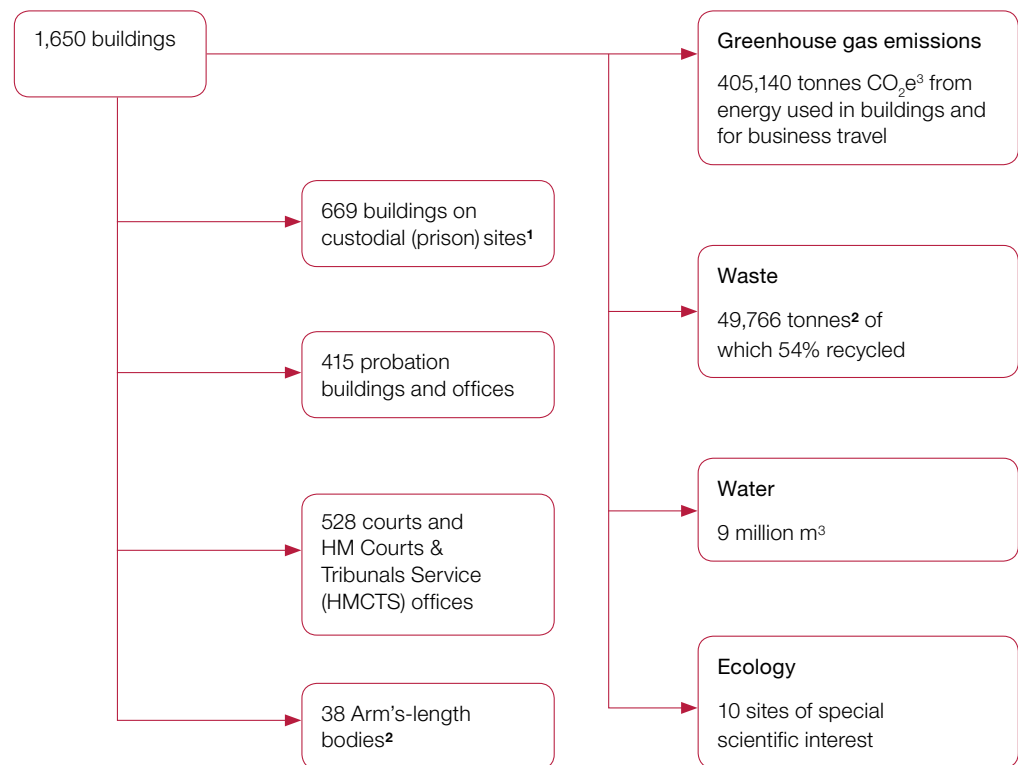
Figure 3

The Ministry of Justice’s estate and its environmental impacts

As at December 2016 the Ministry was responsible for 1,650 buildings and the associated environmental impacts

Ministry of Justice estate

Environmental impact in 2016-17



Notes

- 1 Each custodial site may host more than one prison (for example, a men’s and women’s prison), and a number of prison buildings. There are 118 prisons across England and Wales, of which 14 are managed by private companies (National Offender Management Service, *Annual Report & Accounts 2016-17*).
- 2 The Ministry provided us with the performance data for 2016-17. These indicators are measured annually and comprise carbon dioxide equivalent greenhouse gas emissions, volume waste produced and recycled (in tonnes), amount of water used (in m³) and number of sites of special scientific interest the Ministry holds at year-end.
- 3 The great majority of the Ministry’s buildings are in England and Wales. HMCTS currently has responsibility for reserved tribunals in Scotland. Responsibility for managing these tribunals will be transferred to the Scottish Courts and Tribunals Service as part of the implementation of the Scotland Act 2016.
- 4 The Ministry reports its environmental impact figures for the Greening Government Commitment (GGC) where data are available. The figures shown for environmental impact relate to approximately 90% of prisons and 80% of the other buildings for which the Ministry is responsible.

Source: National Audit Office analysis of Ministry of Justice data

2.4 The environmental sustainability of its estate also matters because of its role in reducing the Ministry's costs. The 2015 Spending Review requires the Ministry to reduce resource expenditure by £600 million between 2015-16 and 2019-20, from £6.2 billion to £5.6 billion. Energy, waste disposal and water supply for its buildings cost the Ministry £128 million in 2015-16. Energy was the largest component of these costs (£97 million), followed by water (£24 million), and waste (£7 million).

2.5 This Part focuses on custodial (prison) and court estate because:

- together, these represent most (72%) of the Ministry's buildings;
- prison buildings have particularly significant environmental impacts because of the number of occupants they house and because they operate 24 hours a day. The custodial estate accounted for 70% of the Ministry's greenhouse gas emissions in 2016-17; and
- the Ministry is undertaking major reforms of prisons, courts and tribunals, which bring opportunities to improve environmental performance.¹⁶

The Ministry's overall performance against environmental targets for its estate

Greening Government Commitments

2.6 The Ministry, like all central government departments, has targets to reduce the environmental impact of its estate and operations, known as the Greening Government Commitments (GGC). There have been two main phases to these commitments. The first set targets for reductions by 2014-15 against a 2009-10 baseline. The second, announced in January 2017, set targets for reductions by 2019-20, again measured against a 2009-10 baseline.

2.7 The Ministry met the 2014-15 GGC targets for waste and paper, but not for carbon emissions and domestic flights. It is currently exceeding the 2019-20 targets for carbon emissions, having reduced emissions by 28% by April 2017, against a target 22% reduction. It has further to go, however, to meet its 2019-20 targets for paper use, domestic flights and for the proportion of waste to landfill (**Figure 4** overleaf). The number of domestic flights had been reducing since 2013-14; however, increased from 3,319 in 2015-16 to 4,034 in 2016-17. There was also a slight increase in water consumption and the total amount of waste produced in 2016-17 compared with 2015-16.

¹⁶ We referred to some of the challenges the Ministry faces, including the effects on the welfare of prisoners. See Comptroller and Auditor General, *Mental Health in Prisons*, Session 2017-2019, HC 42, National Audit Office, June 2017.

Figure 4

The Ministry of Justice's performance against Greening Government Commitments

	2014-15 Targets ¹			2019-20 Targets ¹		Actual 2016-17 amount
	Target reductions by 2014-15 ¹	Actual reductions achieved by 2014-15	Central government average	Target reductions by 2019-20 ³	Actual reductions achieved by 2016-17	
	(%)	(%)	(%)	(%)	(%)	
Carbon emissions						Tonnes CO₂e
Overall	25	14	22	22 ²	28	405,140
Custodial	25	7		14	14	295,620
Non-custodial	25	26		38	38	109,520
Waste						Tonnes
Reduction percentage to landfill	25	26	22	n/a ³ <10	30 14.5	49,766
Paper use						Reams A4 equivalent
	10	31	38	50	33	1,045,229
Water use						Total m³
Reduction		3	11	4	3	8,980,905
Domestic flights						Number of flights
	20	14	18	30	12	4,034

Notes

- 1 Target reductions are relative to 2009-10 baseline levels.
- 2 Departments agreed individual carbon emissions targets, which contribute to an overall cross-government reduction target of 32%.
- 3 Waste target changed in 2016-17 to a reduction in the amount of waste going to landfill and to continue to reduce waste overall.

Source: Ministry of Justice, Department for Environment, Food & Rural Affairs

2.8 It is likely that the Ministry's performance against the GGC represents progress beyond that due to estate rationalisation. This is because the Ministry has reduced a number of aspects of its environmental impact at a greater rate than it has reduced the size of its estate: the estate is 9% smaller in 2017 than in 2009, compared with around 30% reduction for waste, carbon and paper use over a similar period.¹⁷ However, the Ministry has no analysis of the different factors that have contributed to this performance, nor can it identify any discrete environmental initiatives that have yet made a significant contribution. Its records of the extent of low-carbon technology on its sites show that it has 14 sites with operational combined heat and power (CHP) or biomass boilers, and four sites with domestic-scale solar panels. It also helped develop a two-turbine wind energy development on the Isle of Sheppey, although this was subsequently sold.

2.9 We do not consider that the Ministry's target for carbon emissions reduction was challenging. By 2019-20, the Ministry will have to achieve what central government achieved on average in 2014-15 (22%), while central government as a whole has to achieve a 32% reduction by 2019-20. It is sensible for the Ministry's targets to reflect the unique challenges of making changes to the custodial estate, but at the time the Ministry agreed its 2020 carbon target with the then Department of Energy & Climate Change (in April 2016) it had already nearly met the required reductions (having achieved a 20% reduction in carbon emissions compared with 2009-10 levels). And by the time government announced the 2020 Greening Government targets publicly, in December 2016, the Ministry was on track to exceed the required levels of carbon reduction within that financial year, and had plans to rationalise its estate further. However, the Ministry has committed to go beyond the Greening Government target and forecasts a 34% reduction by April 2020 compared with 2009-10 levels as a result of the carbon reduction projects it has planned (see paragraph 2.24).

Environmental rating of new buildings

2.10 Government has committed that all new buildings, including prisons, courts and tribunals, should achieve an 'excellent' environmental rating, and that refurbishment of existing buildings achieve a 'very good' rating.¹⁸ However, the Ministry's data show that 64% (97) of the 151 construction and refurbishment projects in courts, tribunals and prisons in England and Wales between 2010 and 2016 did not receive final environmental ratings. This includes two of the three most recently built new prisons (**Figure 5** overleaf). Of the 54 projects that did receive final certification, 14 new-build projects did not meet the required standard of 'excellent' (**Figure 6** on page 23). Of the 97 projects that did not receive a final rating, only 20 had received an interim rating; 77 projects had no environmental rating at all.

¹⁷ By m², after making adjustments for machinery of government changes that are also reflected in the Ministry's Greening Government data.

¹⁸ As measured by the Building Research Establishment's Environmental Assessment Method (BREEAM). This assesses the environmental performance of a building against a wide range of criteria, including the sustainability of construction materials, its energy efficiency and the accessibility of public transport. An 'excellent' rating represents a building with environmental performance in the top 10% of UK new non-domestic buildings, while 'very good' equates to a building in the top 25%. The Building Research Establishment has developed a bespoke methodology for prisons to reflect the restrictions such buildings operate under.

Figure 5

The Ministry of Justice has not yet received final environmental ratings for two of the three most recently built new prisons

HMP Berwyn is the first new prison to be built and operated by the public sector for 30 years. It opened to the first tranche of prisoners in March 2017. The Ministry expects it to accommodate 2,106 men when fully operational, making it the largest prison in the United Kingdom and one of the largest in Europe.

The Ministry did not carry out a discrete environmental assessment of the prison's design. The Buildings Research Establishment recommends design stage assessments so that any weaknesses can be rectified before construction. The Ministry has engaged a company to carry out a post-construction 'BREEAM' environmental assessment, which it expects to complete in August 2017 once the prison is fully operational. As at March 2017, the assessment scores for HMP Berwyn imply a 'very good' rating. The Ministry told us that it is waiting for additional evidence, which it is confident will improve the scores to an 'excellent' rating. We are not in a position to assess whether this confidence is warranted.

The Ministry told us that HMP Berwyn has met most of the core sustainability requirements outlined in its business plan, including a combined heat and power plant and the use of Building Information Modelling, intended to reduce site wastage and rework. One of the sustainability requirements that was not met was rainwater harvesting and re-use of grey water, over concerns about the cost of cleaning to avoid legionella.

The Ministry also did not achieve final environmental certification for HMP Oakwood, a new prison constructed in 2012, although it did secure interim environmental certification for its design. At design stage, most of HMP Oakwood's buildings were on track to meet the required standard, with the design of 15 buildings rated as excellent, and one as very good. Due to a commercial disagreement, the Ministry did not secure final certification for the buildings after construction. Interim assessments are, however, a good predictor of final performance: all of the 25 prison projects between 2004 and 2016 that received both an interim and a final BREEAM certificate received the same rating for both. So it is likely, but not certain, that most (15) of the 16 buildings at HMP Oakwood met the required standard.

The other new prison constructed in 2012, HMP Thameside achieved an outstanding environmental rating for one of its buildings, and excellent for nine other buildings.

Source: National Audit Office analysis of Ministry of Justice data

Biodiversity

2.11 Since 2007 the Ministry has improved the condition of at least three of its nationally important sites for wildlife. Its latest site assessments indicate that two of the ten SSSI sites are in a favourable condition, seven are recovering and one is declining. On average, though, 39% of SSSI's in England are favourable, compared with 20% of the Ministry's sites.¹⁹ The Ministry also does not have a record of how the condition of each individual site has changed over time (its 2007 records only show the proportion of sites that are in a favourable or recovering condition), so the precise rate and nature of change is not clear. The fact that one of its SSSI sites was in an 'unfavourable and declining' condition emerged in July 2016 when the Ministry found through a site wildlife survey that it had not formally managed habitats for priority species at HMP Haverigg for a period of 18 months to 2 years.

¹⁹ The Ministry's ecology lead assesses the status of SSSI sites through ecological surveys, site visits, and through assessments carried out by Natural Resources Wales or Natural England. The date of the latest assessment at each site varies: for seven sites the latest assessment was in 2016; for three sites the latest assessment was in 2014.

Figure 6

The environmental performance of projects which received final BREEAM ratings between 2010 and 2016

Of the 54 projects received final certification, 14 new-build projects did not meet the required standard of excellent

	Very good	Excellent	Outstanding
New builds (prisons)	13	30	1
New builds (courts and tribunals)	1	3	
Refurbishments (prisons)	4		
Refurbishments (courts and tribunals)	1	1	

Note

¹ Government's ambition is for all new builds to receive 'excellent' ratings, and 'very good' ratings for refurbishments.

Source: National Audit analysis of Ministry of Justice data

2.12 By 2020, the Ministry aims to have at least 50% of its priority SSSI sites in a favourable condition, with 95% favourable or recovering. This is in line with the objectives of government's national Biodiversity 2020 Strategy. The Ministry will need to improve the condition of at least four of its SSSI sites to meet this 2020 ambition, but it is not clear if it is on track to do so. While the Ministry has action plans for each of its SSSIs, a national biodiversity action plan for the prison estate and over 50 individual habitat and species action plans, it is not clear that these are ambitious enough to meet its 2020 objectives: the SSSI action plans do not mention a target condition for each site by 2020, nor do they outline many specific and measurable actions to be completed by 2020. Successful delivery of its objectives is likely to depend on clarifying the responsibilities of facilities management contractors for biodiversity action plans and ensuring their engagement (see paragraphs 4.12, 4.14 and 4.15).

2.13 The Ministry's biodiversity strategy also commits it to engage staff and offenders in helping to improve the wildlife on its wider estate. To this end, the Ministry has established an active volunteer network, developed partnership relationships with wildlife charities and carried out a range of awareness-raising activities. In the past 18 months, for example, staff and offenders have helped created 100 new ponds, erected more than 2,000 barn owl nesting boxes across the prison estate and taken part in nationwide wildlife surveys. It has also run a number of ecology training courses on issues such as wildlife and countryside law and biodiversity action planning. These are open to all Ministry staff, to its facilities management providers and on occasions to offenders.

How the Ministry is embedding sustainability in current reforms

2.14 The following sections explore how the Ministry is embedding sustainability in some of its most significant reforms to the prison and court estate, namely:

- new prisons;
- refurbishment of the estate – dedicated carbon reduction projects;
- the integration of sustainability into other refurbishment projects; and
- digital ways of working in courts and tribunals.

New prisons

2.15 The Ministry has ring-fenced £1.3 billion to design and build new accommodation for 10,000 new prison places through its Prison Estate Transformation Programme.²⁰ It expects this will include construction or redevelopment of six prisons for men and five new community prisons for women. The business case for these new prisons included the following environmental ambitions:

- to achieve at least excellent, and ideally outstanding, environmental BREEAM ratings;²¹ and
- to consider the scope to connect to district heating systems, flood risk, waste reduction and the carbon emissions embodied in building materials, as part of the prisons' design.

2.16 There is a narrow window of opportunity to influence the design of the new prisons. In order to meet the Spending Review commitment of five new prisons built by 2020, the Ministry expects to finalise the standard design of all the new prisons by the end of July 2017. Research shows that incorporating environmental measures into the design of new buildings minimises upfront costs and maximises potential benefits.²² A March 2017 lessons learned workshop on the most recent prison build, HMP Berwyn, similarly concluded that there are considerable cost and time implications if sustainability issues are not considered properly at the outset of a project. This is particularly true of the custodial estate, due to the expense of retro-fit once a prison is operational.

²⁰ Made up of gross capital funding netted against receipts from the disposal of closed assets.

²¹ The Building Research Establishment designs its rating such that it expects outstanding to represent the top 1% of buildings.

²² *Delivering Sustainable Buildings, savings and payback*, Building Research Establishment and Sweett Group, 2014.

2.17 During this review we raised concerns with the Ministry about whether it had the right processes to ensure that its sustainability ambitions for the new prisons were factored into decisions from an early stage. The Ministry appointed a BREEAM assessor for the new prisons part-way through our review, in March 2017. By July 2017 the Ministry had developed a draft sustainability strategy for the new prisons, which it expected to finalise imminently. This gives more detail on the Ministry's ambitions for the environmental performance of the new prisons and proposes potential measurable targets on issues such as energy performance, green space and climate resilience. It also proposes establishing a sustainability steering group that will report to the Board responsible for the transformation programme, and that will include the Ministry's delivery partner for the new prisons as well as representatives from "relevant external bodies".

2.18 The Ministry considers that the use of Building Information Modelling will play a critical part in its ambitions to reduce construction waste. Building Information Modelling involves developing virtual models of a building and using this to integrate different aspects of its design. It can improve communication between contractors and minimise the need for rework to correct mistakes. The Ministry will use this technique to develop a standardised design for all the prisons for manufacture off-site. The Ministry considers that these approaches have the potential to reduce construction waste by between 70% and 90%.

2.19 The Ministry also told us that the environmental requirements in its technical standards will help ensure it meets its environmental ambitions for new prisons. In January 2016 the Ministry updated its technical standards to include a wide range of sustainability requirements (**Figure 7** overleaf). However:

- the Ministry relies on consultants to assess adherence to its technical standards and request exemption if a project is not able to comply. It has not carried out an audit to test actual compliance with the environmental requirements; and
- HMP Berwyn does not comply with all the environmental requirements, as it had no interim BREEAM assessment (Figure 5) and did not employ whole-life costing techniques. Yet there is no evidence that contractors requested a derogation.

Figure 7

Some of the Ministry of Justice's environmental technical standards for construction projects

Embodied carbon

Specify new building materials and composite materials with the lowest possible embodied energy.

Whole-life cycle cost

To improve the design and procurement decision-making process, the development should be modelled by a Whole-Life Cycle Cost Analysis.

Building Research Establishment Environmental Assessment Method

A BREEAM assessor or a BREEAM-Accredited professional shall be appointed as soon as it is known that BREEAM will apply to a project.

Where BREEAM rating is to be achieved assessments are required at both interim and final stages of a project.

Low-carbon heating

Projects shall provide designs that achieve EU targets for near or zero carbon buildings. (The EU Energy Efficiency Directive requires that from 2018 all new public buildings must be highly energy efficient and use mostly renewable heat.)

Climate change adaptation and flooding

"Where a local, regional or national initiative exists for buildings to be assessed and designed for climate change adaption, or where indicated within estate directorate Technical Standards documents or within the project brief, then required modelling design work must be conducted for climate change adaptation and the results implemented."

"A flood risk assessment must be carried out, to confirm the land-use has a low annual probability of flooding and that the development will not contribute to local flooding or worsen the risk flooding to neighbouring areas."

Source: Ministry of Justice technical standards

Refurbishment of the estate – dedicated carbon reduction projects

2.20 The Ministry has two ways in which it seeks to embed sustainability considerations into the refurbishment of its estate: by funding dedicated projects to improve energy efficiency; and by incorporating sustainability considerations into projects initiated for other reasons. We consider the first here and the second in the section that follows.

2.21 At the time of the 2015 Spending Review, the Ministry anticipated carrying out a major investment programme to reduce carbon emissions from its estate between April 2016 and April 2020. Many prisons in particular are poorly insulated and have old heating systems that are costly to run. This is partly because of the age of the estate: more than 25% of prisons were built before 1900.

2.22 The Ministry expected to spend £28 million on 565 separate projects in courts, tribunals and prisons, with most (£24 million) of the investment in prisons and most (£15 million) in the first year (2016-17) of the Spending Review period. It expected this investment would cut energy costs by £21 million over the spending review period. From 2020-21 onwards, this investment would deliver an annual reduction in energy costs of £6 million, and an annual reduction in carbon emissions of 26,000 tonnes CO₂e.

2.23 This carbon reduction programme has begun, although it has been delayed:

- The Ministry's sustainable operations team commissioned a review of the projects in the original Spending Review proposal, over concerns about whether project information, including on costs, was up to date and complete.
- In June 2016 the Ministry approved £1.9 million of spend for 59 projects for 2016-2017. As at July 2017, 46 of these projects were complete.
- In March 2017 the Ministry approved further spend of £14.2 million on carbon reduction projects in prisons over the remainder of the Spending Review period. It allocated most (£7.9 million) of the spend for projects in 2017-18, and is taking a 'gated release' approach, with 50% of the 2017-18 spend available immediately and 50% to be released later in the year following a further approvals process.²³

2.24 The Ministry expects that these projects will pay back costs within five years and together deliver a reduction in carbon emissions of 19,200 tonnes CO₂e in 2019-20. This is close to (74% of) the level of annual carbon reductions anticipated in the original Spending Review proposal (26,000 tonnes CO₂e). Together with the effects of other initiatives, which are to be funded separately, the Ministry expects this will mean it will over-deliver against its 2020 Greening Government target, and, based on current information, lead to a 34% reduction in carbon emissions by April 2020 compared with 2009-10 levels, against a targeted 22% reduction.²⁴

2.25 The projects to be funded are part of a longer list of 138 potential carbon reduction projects in prisons, which in total would cost £22 million, and the Ministry plans to maintain this long list so that further projects can be commissioned if additional money becomes available. Most (104) of the projects are for LED lighting.

²³ The breakdown of planned spend in future years is: £3.8 million in 2018-19 and £2.4 million in 2019-20.

²⁴ The Ministry also expects to achieve carbon emission reductions as a result of its programme of court closures, replacement of coal-fired boilers at one site, connection of wind turbines and relocation of the Crown Prosecution Service.

2.26 In a 2011 briefing to the Environmental Audit Committee we highlighted the benefits of taking a structured approach to carbon reduction (**Figure 8**).²⁵ The Ministry's carbon reduction programme is a major step forward in developing such a structured approach and constitutes many of the components of a good carbon reduction strategy:

- The programme comprises a medium-term resourcing plan for carbon reduction projects over the Spending Review period.
- Projects have been independently evaluated and prioritised, and incorporate plans for post-project evaluation.
- The long list of potential projects was developed in collaboration with its prison facilities management contractors (and projects will be implemented by them).
- Alongside development of the programme the Ministry has been exploring alternative sources of financing, through the Green Investment Bank and through the Renewable Heat Incentive (RHI).

2.27 However, we would have expected some aspects of the Ministry's approach to be more advanced, given that the Ministry has had a Greening Government target to reduce carbon emissions since 2011, and a carbon reduction target before that through the Sustainable Operations on the Government Estate Framework. The Ministry only applied for funding through the RHI in March 2017, despite the scheme being established in 2011.²⁶ We are also not convinced that it has a strong evidence base of lessons learned from historic carbon reduction initiatives. It only has two evaluations of substantive carbon reduction initiatives: a £4.5 million programme in 2014-15 to reduce emissions on the court estate; and a 2012- 2013 initiative to install 'voltage optimisers' in 19 prisons. The Ministry told us that it has had a wider programme of energy audits and post-occupancy evaluations at individual sites, but shared 16 examples of court energy audits (out of a total of 460 courts) and could not say how many in total had been carried out.

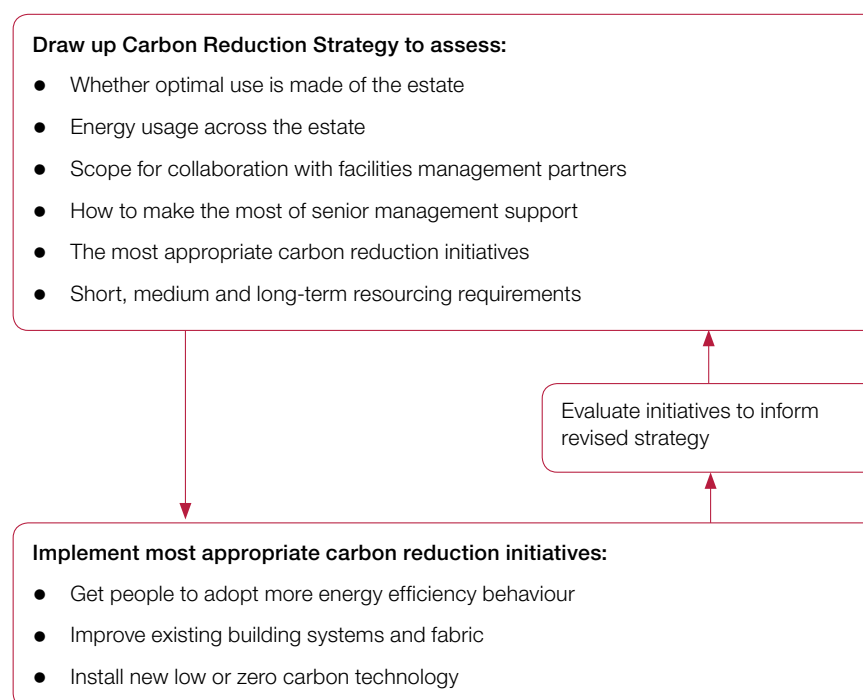
2.28 The Ministry also does not have a formal carbon reduction strategy to summarise the different aspects of its approach, and put its plans in the context of the long-term scope for carbon reduction on the whole (custodial and non-custodial) estate. We consider that developing such a strategy could help strengthen its engagement with facilities management partners on its plans. Furthermore, given that the Ministry is rationalising its estate, it could support the sustainable operations team's engagement with other parts of the organisation and reduce the risk of investing in properties that later close.

²⁵ National Audit Office, *Briefing for the Environmental Audit Committee on delivery of the target to reduce central government's office carbon emissions*, July 2011, available at: www.nao.org.uk/report/briefing-for-the-environmental-audit-committee-on-delivery-of-the-target-to-reduce-central-governments-office-carbon-emissions/

²⁶ The Department for Business, Energy & Industrial Strategy's RHI scheme has been running for non-domestic applicants since 2011. It pays participating organisations, including government estates, to produce heat using renewable heat technology. There is no upfront grant to install the equipment required, but payments, based on heat production, are made for 20 years. The Ministry had discussions with Ofgem early in the scheme, but has only recently (March 2017) made two applications for payment through RHI. As at July 2017 the outcome of these applications was not known.

Figure 8

Key steps in a structured approach to reducing energy use



Source: National Audit Office

Integrating environmental considerations into other refurbishment projects

2.29 The sustainable operations team's participation in the Property Asset Management (PAM) Board has helped it identify projects with a potential sustainability angle and provide advice or guidance. Since October 2016 the team has provided some form of input into 21 of the Ministry's projects and programmes. The level of input has varied, from simply sharing some of the Ministry's environmental policies, to making explicit recommendations as part of the approvals documentation for a project, or engaging in ongoing discussions with the project sponsor about how to maximise environmental benefits.

2.30 The team has developed a tracker to coordinate its input into projects, and considers that it has fed into all the Ministry's projects with a significant sustainability angle since October 2016. It could not tell us, however, what proportion of all of the Ministry's projects it has informed. The tracker encourages team members to provide an update on progress with each project, and could therefore over time act as a check on whether recommendations are actually implemented.

Changes to the role of prison governors

2.31 From April 2017 the Ministry has introduced greater freedom for prison governors over key aspects of prison management, including over budgets. The Ministry does not set environmental targets for waste, water or carbon emissions at individual prisons. Three of its four prison service instructions, which set out the rules, regulations and guidelines for running prisons, are marked as having expired more than six years ago (although they are still available to staff on the HMPPS intranet):

- Sustainable development policy, introduced September 2003 and marked as expired September 2004.
- Reporting on packaging waste, introduced February 2010 and marked as expired December 2010.
- Disposal of hazardous waste, introduced February 2007, marked as expired August 2008.
- Waste management data reporting, introduced May 2013 marked as expired May 2017.

2.32 In June 2017 the Ministry began a trial of new energy and carbon dashboards, intended to help governors understand energy usage at their prisons, and encourage them to make changes to cut usage. It also began trade union consultation on a new sustainable operations framework, to update governors on their legal and mandatory responsibilities for the environment.

Digital ways of working in courts and tribunals

2.33 The Court Transformation programme is introducing new digital ways of working into courts and tribunals, such as online access to processes and documents, and video links, with investment in the underlying systems due to be completed by 2019. Environmental concerns are not driving these reforms but HMCTS expects that there will be associated environmental benefits through lower paper consumption and reduced travel.

2.34 There are indications that the environmental benefits could be substantive, but HMCTS has not quantified them:²⁷

- **Lower paper consumption** – HMCTS estimates that printing all of the files currently held in its digital case system would require 28 million pages. It has not estimated how much paper is used on an ongoing basis in the court system, nor how much this could reduce by with a new digital process.
- **Reduced travel** – HMCTS estimates that by 2022 participants in more than 600,000 criminal cases a year will be saved unnecessary travel to court for pre-trial proceedings. Instead, these hearings will take place online or through virtual channels. It also estimates that online case progression and greater use of video-link technology will save a further 112,000 unnecessary journeys from prisons to courts and tribunals each year. It has not assessed the carbon emission savings that would result from these changes.

2.35 HMCTS has also not established any dedicated arrangements to monitor whether these environmental impacts are realised in practice. Any impact on paper use will be captured as part of Ministry-wide reporting against the GGC, but HMCTS has no plans to track the specific contribution of the Court Transformation programme. It also has not considered how it might maximise potential environmental benefits. Online processes will only reduce paper use in practice if users avoid printing digital material. HMCTS has not considered whether there are measures it could implement to encourage this behavioural shift.

²⁷ For example, it did not quantify these impacts in relevant impact assessments, see Part Five.

Part Three

Managing the heritage and streetscape implications of court closures

3.1 At the request of the chair of the Environmental Audit Committee, we have expanded the usual scope of our sustainability overviews to look at the Ministry of Justice's (the Ministry) responsibilities for heritage and streetscape when selling court and tribunal buildings. This part covers:

- the scale and timing of planned court closures;
- the extent to which HM Courts and Tribunals Service (HMCTS) has taken steps to protect heritage; and
- the extent to which HMCTS has considered potential impacts on streetscape.

The scale and timing of planned court closures

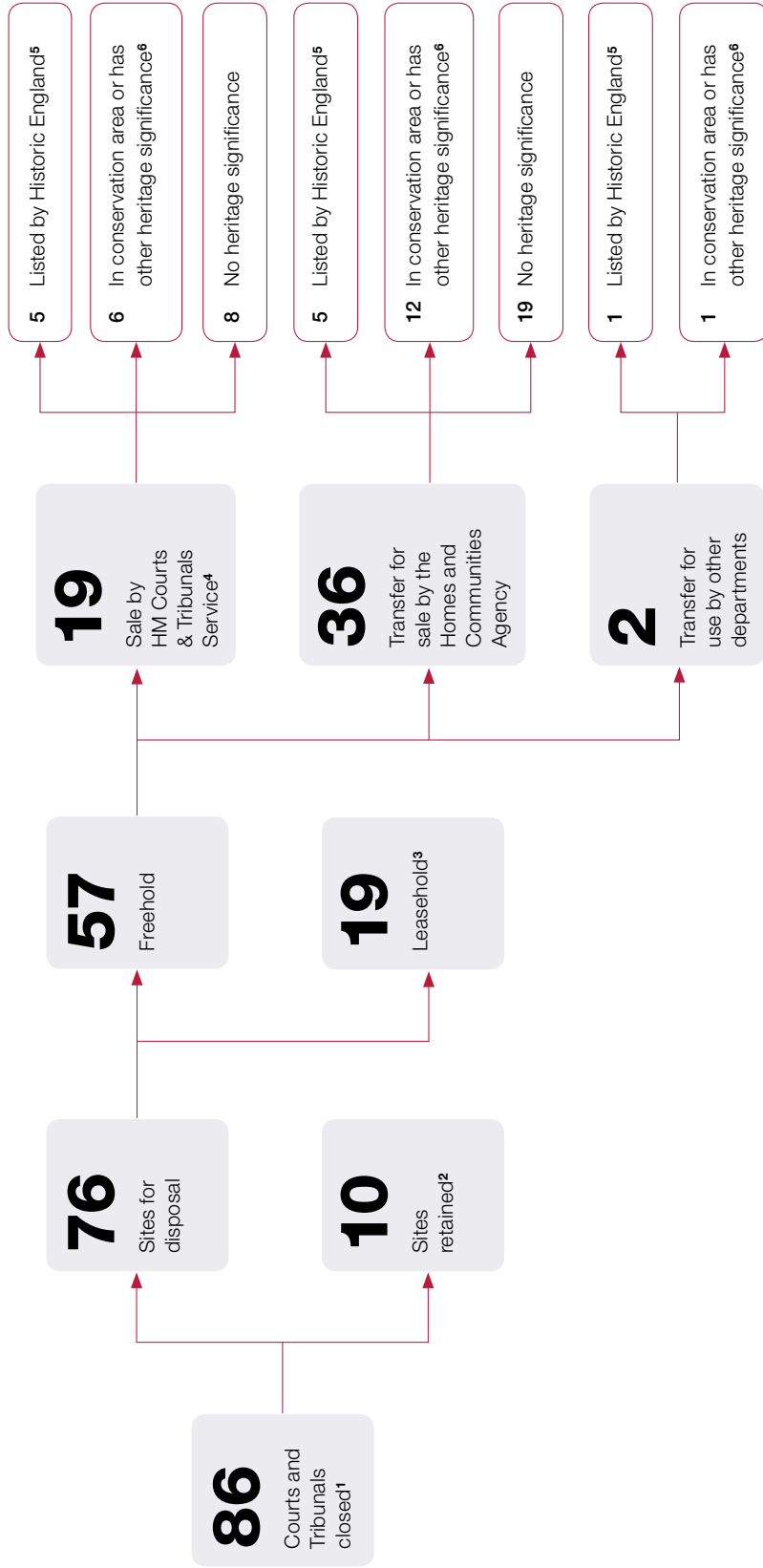
3.2 The Ministry announced in February 2016 that it would close 86 of its 460 courts and tribunals with the aim of improving operational efficiency. As a result 57 freehold buildings were to be disposed of, of which:

- HM Courts and Tribunals Service (HMCTS) will sell 19 including five listed buildings and six buildings with other heritage significance. As at August 2017, HMCTS had sold two of the listed buildings. It expects to sell all 19 buildings by April 2018;
- The Homes and Communities Agency will sell 36 buildings, including five listed buildings and a further 12 buildings with other heritage significance; and
- Two buildings will transfer to another government department. One site is listed and the other of heritage significance (**Figure 9**).

HM Courts and Tribunal Service is also managing the disposal of other court and tribunal buildings, including outstanding sales from previous court closure programmes. In total, as at 10 August 2017 it is in the process of selling or transferring ownership of 18 courts and tribunal buildings which are statutorily listed or classed as having heritage significance.

Figure 9 Heritage status of freehold courts and tribunal buildings identified for sale or transfer in 2016

HM Courts and Tribunals Service will sell 19 properties, five of which are listed by Historic England and six are in conservation areas or have other heritage significance



Notes

- 1 The closure of 86 courts and tribunals was announced in 2016 following consultation. All will cease operation by March 2018.
- 2 Retained sites are in shared buildings or retained for other purposes.
- 3 Leasehold properties for disposal will be exited on lease expiry, surrender or break.
- 4 Courts and tribunals earmarked for sale by HMCTS and will be sold by April 2018.
- 5 Listed buildings may also be in a conservation area.
- 6 Other heritage significance includes local listing and proximity to listed buildings. (Listed buildings in conservation areas are included in 'listed buildings')

3.3 The sales of court and tribunal buildings will contribute to two targets set for the Ministry by HM Treasury in the 2015 Spending Review:

- to generate £640 million from the sale of land and property by 2020-21; and
- to release enough land and property to deliver 5,000 new homes by 2020.

Protecting heritage

3.4 We found that HMCTS did not yet have adequate arrangements to protect heritage in its disposal programme. In May 2016 HMCTS established a property function, part of whose role is to ensure the proper governance and management of its specialist estate. However, when we spoke to key staff members during this review they were not aware of Historic England guidance, which all departments must follow when selling historic property.²⁸ This guidance requires departments to:

- identify buildings with historic significance prior to sale;
- consider alternative methods of disposal to ensure appropriate ownership;
- ensure potential purchasers have the resources to maintain the buildings going forward; and to
- establish arrangements to recognise that accepting lower than the highest bid may be appropriate.

3.5 The property function used Ministry records to identify sites of historic significance within its disposal portfolio. However, during our review, HMCTS gave us inconsistent information on which buildings due for disposal were statutorily listed, suggesting that it did not at the time have clear information agreed across relevant parts of the organisation on this issue. Heritage statements had been prepared for prospective purchases at some sites, but HMCTS had not established any arrangements to ensure potential purchasers would have sufficient resources to maintain heritage buildings. It also did not allow HMCTS to accept a lower than the highest bid if appropriate.

3.6 The HMCTS property service told us they met with Historic England in 2015 as a result of the consultation on court closures and that in 2017 they have been working to develop a closer working relationship with them. At one listed site due for sale HMCTS had requested an inspection by Historic England to clarify aspects raised by a prospective purchaser. This identified substantial damage, which HMCTS has repaired by May 2017.

²⁸ Historic England's guidance *The disposal of heritage assets* is mandatory for all central government departments, their executive agencies and all non-departmental government bodies for which they are responsible.

Figure 10**Wakefield Crown Court**

Wakefield Crown Court is a Grade II listed building, built in 1810, which stands in the centre of the city. The Ministry sold Wakefield Crown Court in 1994 by auction to a private contractor for development as a restaurant. These plans failed to materialise. Ownership subsequently passed through a series of private developers, whose plans for the site were never completed.

Over this time the Crown Court fell deeper into disrepair. Unauthorised structural alterations were made, many of the historic features were stripped out, and after extensive lead theft in 2011 its condition deteriorated rapidly. In 2012 concern about the state of the building led the local council to threaten the owners with statutory action and the building was placed on the Historic England Building at Risk Register in 2013. In 2014, supported by Historic England, Wakefield Council served an enforcement notice requiring urgent work. The owner immediately agreed to sell the building to the Council. When we visited scaffolding had been installed by the council to prevent collapse.

The Council voted £0.5 million to acquire, stabilise and protect the building, supported by a further £0.2 million contribution from Historic England. The Council engaged a conservation architect to survey and develop a plan to restore the building and has approved a further £1.5 million to undertake initial restorative work, due for completion in 2017.

Wakefield Crown Court is near two other empty listed civic buildings. It stands opposite the old police station and next to Wakefield's Magistrates Court. The Magistrates Court is awaiting sale by the Homes and Communities Agency (HCA) as part of the latest court closure programme. Wakefield Council is now working closely with the HCA and Historic England to secure the future of these three historic buildings. They intend to market them as a package and the Council is confident this will allow it to focus on the long-term regeneration of the area as a whole. The package is likely to be leased to ensure ownership is retained unless a purchaser can be found who will take appropriate care of the buildings. In this case the cost of renovation will fall to the taxpayer. This is likely to cost the Council in excess of £5 million and they are looking for support from the Heritage Lottery Fund and from Historic England.

Source: National Audit Office

3.7 HMCTS told us it plans to improve its maintenance and disposal of historic assets by:

- nominating someone to act as a conservation lead. They will be supported by professional heritage specialists to be commissioned to develop a strategy on HMCTS's historic estate;
- ensuring that maintenance work on listed properties is undertaken expeditiously; and
- proactively engaging with the Government Historic Estates Unit, the part of Historic England that advises government departments on how to look after their historic buildings.

3.8 HMCTS could also benefit from the experience of the Ministry's central estates team, who are responsible for selling surplus prison sites. They recently commissioned consultants to advise on the heritage issues and disposal potential of all prison sites of historic interest in England and Wales. A January 2017 report from the consultants clearly tells the Ministry how to meet its obligations. The central estates team also has experience of disposing of historic sites. Since 2013 they have sold seven historic prisons, five to specialist developers.

Managing the impact on local communities and 'streetscape'

3.9 There are no requirements for departments to consider impacts on local communities when selling property other than under planning regulations.²⁹ However, departments are expected to consider wider social and economic impacts before committing funds to a new policy or programme.³⁰ In its policy impact assessment for the court closures, HMCTS concluded that it would have a minimal impact on local communities and streetscape because no buildings were scheduled for demolition, and because services would be transferred to areas nearby. It made no assessment of the impact of reduced 'footfall' in towns on other small businesses in the vicinity. Nor did it consider the possible impact of demolition or deterioration of buildings once sold.

3.10 HMCTS told us that local communities were given the opportunity to participate in the closure process in the sense that it invited all local authorities to partake in the consultation on the proposed closure programme and contacted local authorities individually regarding the outcome. It also told us that it has contacted local MPs and local authorities during the disposal process to tell them of the intended disposal of a building in their area and that it is holding ad-hoc discussions in some instances.

29 The Government Property Unit updated guidance in 2017 on the disposal of surplus property. Departments are not asked to consider the impact of the sale on the local community; however, they are encouraged to contribute to the Government's commitment to release 160,000 homes on public sector land through disposing of their surplus land. Consideration of the impact of the sale on the local community is not referenced in the guidance *Public Money* issued by HM Treasury.

30 See HM Treasury's guidance for evaluation and appraisal: the *Green Book*.

Part Four

Procurement and contract management

4.1 This Part covers:

- why the environmental sustainability of the Ministry of Justice's (the Ministry) procurement and contract management matters;
- the Ministry's overall approach to embedding sustainability in contracts, including the framework it uses to monitor contracts and roles and responsibilities; and
- performance on its contracts, including sustainability in facilities management contracts.

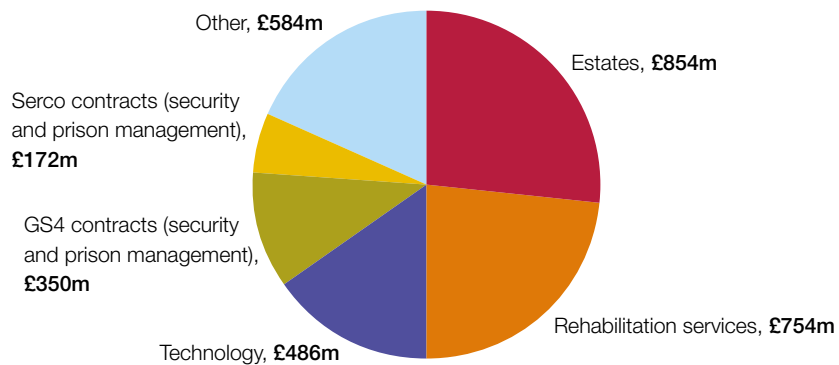
Why procurement and contract management matter for environmental sustainability

4.2 The Ministry is the second largest buyer of goods and services across government. In 2015-16, the Ministry, including its arm's-length bodies and the Legal Aid Agency, spent £4.6 billion through external suppliers, 10% of the total central government spend on procurement (£44 billion). From the £3.2 billion that the Ministry spends directly, £854 million is spent on estates (courts, tribunals, prisons and offices); £754 million on rehabilitation services and £486 million on information technology (**Figure 11** overleaf).³¹

³¹ Comptroller and Auditor General, Ministry of Justice, *Transforming rehabilitation*, Session 2015-16, HC 951, National Audit Office, April 2016. Available at: www.nao.org.uk/report/transforming-rehabilitation/

Figure 11

The Ministry of Justice spends £3.2 billion with private providers per year

Annual spend by the Ministry of Justice on procurement (£m)**Note**

- 1 The Ministry of Justice includes the central office, HM Courts and Tribunals Services (HMCTS) and National Offender Management Service (NOMS), which was recently changed to HM Probation and Prison Services (HMPPS).

Source: Ministry of Justice

4.3 The Ministry and central government more widely have made commitments about their approach to procurement being sustainable. The purpose of sustainable procurement is to reduce harmful impacts on the environment, deliver savings and stimulate industry to innovate and produce more sustainable yet cost-effective products for the wider market:³²

- In its sustainable procurement policy, issued in 2013, the Ministry states that “procurement should always conducted using a sustainable approach” and should “embrace best ethical, environmental, and health and safety practice”.
- Early in 2017, government reiterated its commitment to reducing environmental impacts, by among others buying “greener” products and services.³³ To that end, government has issued a series of standards and sustainability criteria on, among others, water consumption, energy and resource efficiency, called the “Government Buying Standards”, that provide guidance when purchasing goods and services for 11 product categories. These buying standards are mandatory for central government departments, and apply to a range of goods and services.³⁴

32 National Audit Office, Briefing for the Environmental Audit Committee, *Sustainable procurement in Government*, February 2013.

33 We previously reported on sustainable procurement in government and the greening standards in National Audit Office, *Sustainable procurement in government 2013*, and Comptroller and Auditor General, *Addressing the environmental impacts of Government procurement*, Session 2008-09, HC 420, National Audit Office, April 2009. Available at: www.nao.org.uk/publications/0809/addressing_the_environmental.aspx

34 There are, for example, buying standards for textiles, food and catering, paper, ICT and vehicles, but not for radios, televisions and tyres (source: www.gov.uk/government/collections/sustainable-procurement-the-government-buying-standards-gbs).

- The 2012 Social Value Act requires that government must: consider economic, social and environmental well-being when it procures public services, for example by considering the scope to work with small and medium-sized enterprises; promote diversity and inclusion; and support the local economy.³⁵

The Ministry's approach to embedding sustainability in contracts

4.4 Whether the Ministry uses the Crown Commercial Service's frameworks to buy common goods and services or runs its own procurement process, it holds the responsibility to set out the sustainability criteria that a good or a service should meet.³⁶

4.5 Within the Ministry, the accountability and reporting responsibilities for sustainable procurement are shared between various levels (**Figure 12** overleaf):

- Contract managers are responsible for including sustainability criteria in procurement strategies and contracts.
- Suppliers report to contract managers on any sustainability criteria included in the contract.
- Contract managers then report annually to a sustainability procurement champion on compliance with the Government Buying Standards, who then provides this information to the Department for Environment, Food & Rural Affairs (Defra) for the annual report on Greening Government Commitments (GGC).

4.6 We consider that the Ministry can do more to meet its commitment to always take a sustainable approach to procurement:

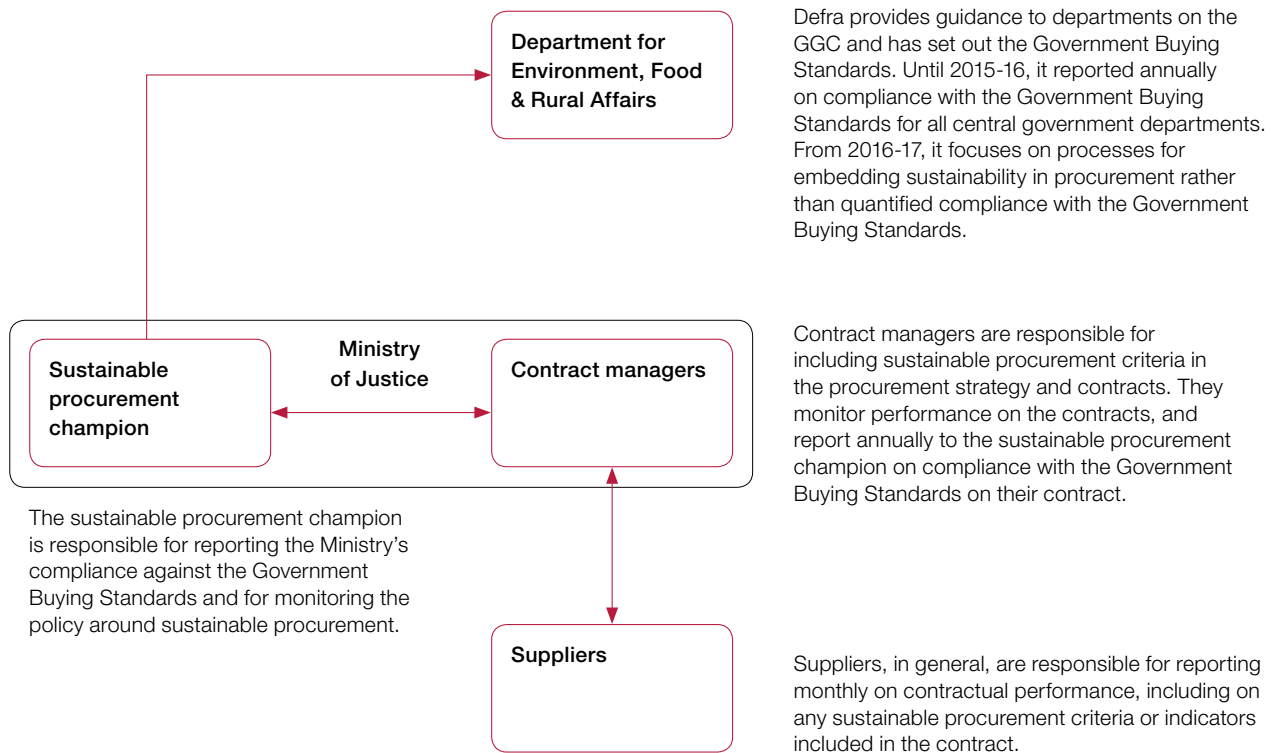
- The Ministry's intranet guidance for contract managers on sustainable procurement focuses on the application of the Government Buying Standards. It does not provide information on sustainability considerations for products that are not covered by the Buying Standards, such as armoured vehicles and non-office furniture, and service contracts such as translation and rehabilitation. The Ministry does not know whether contract managers use this guidance or find it helpful.
- The role of sustainable procurement champion was only formally created in May 2016, takes up a maximum of 25% of an employee's time for 912 contracts, and has no formal role description. So far, the champion's role has only involved collecting and reporting data on compliance with the Government Buying Standards and has not played a part in encouraging contract managers to consider sustainable procurement.
- The Ministry's policy and compliance group for procurement has not discussed performance on sustainable procurement nor has it met regularly since February 2017, despite its terms of reference stating that it should meet monthly. There is no reporting to senior management on sustainable procurement.

³⁵ The Social Value Act does not set standards that departments need to follow. The Social Value Act review (February 2015), however, provided examples of how it is interpreted across the UK (source: www.gov.uk/government/uploads/system/uploads/attachment_data/file/403748/Social_Value_Act_review_report_150212.pdf)

³⁶ Comptroller and Auditor General, Cabinet Office, *Crown Commercial Service*, Session 2016-17, HC 786, National Audit Office, January 2017. Available at: www.nao.org.uk/report/crown-commercial-service/

Figure 12

The Ministry of Justice’s approach to embedding sustainable procurement in its contracts



Source: Ministry of Justice

Performance

4.7 According to the GGC annual report, the Ministry has achieved compliance with the Government Buying Standards on a number of products (**Figure 13**). Between 2013-14 and 2015-16, the Ministry has achieved high compliance on office ICT, food and catering, vehicles, furniture, sustainable construction and timber. In 2013-14, the Ministry used a prison company to deliver its furniture, which provided not only environmental impacts but also fit within the Ministry’s programme to reform offenders. The results for paper (both print and other) on environmental sustainability criteria are less positive, with the Ministry achieving 15% and 13% compliance in 2015-16 respectively. The Ministry told us that this was because it purchased paper that was not recycled.

Figure 13

The Ministry of Justice's performance against the six Government Buying Standards for which it has performance data

Percentage of performance on total purchase meeting or exceeding the standard	2013-14 (%)	2014-15 (%)	2015-16 (%)	2016-17 (%)
Office ICT	100	100	98	Not known
Print paper	100 ¹	50	15	Not known
Other paper		71	13	Not known
Food and catering	100	95	99	Not known
Vehicles	N/A ²	100	100	Not known
Furniture	N/A ²	100	100	Not known
Sustainable construction and timber (new build and refurbished buildings)	100	100	100	Not known

Notes

1 In 2013-14, the Greening Commitments reported on the category 'paper', not on print or other paper.

2 The Ministry did not report against the Government Buying Standards for vehicles and furniture in 2013-14.

Source: Ministry of Justice

4.8 The Ministry does not know how it performed against Government Buying Standards for 2016-17, nor does it know how it performed against five of the 11 Government Buying Standard categories for previous years. It also has no wider analysis of whether and how all contracts have incorporated sustainability considerations: Government Buying Standards are relevant to only 127 of its 912 contracts.

4.9 This is because the Ministry only collects summary information on sustainable procurement if Defra specifically requests it. In 2016-17, Defra changed its reporting format to request qualitative information on departments' approach to sustainable procurement rather than actual purchasing data and compliance figures. In previous years Defra only asked for compliance information on six of the 11 Government Buying Standard categories.

4.10 The Ministry's performance against the Government Buying Standards is similar to that of other government departments, with the exception of food and catering, where its compliance is better than many. Where data are available, eight departments did not reach 80% compliance with the food standard in 2013-14 and five departments did not reach 80% compliance with this standard in 2015-16. All departments have met the targets on furniture since 2014-15, and on construction and the use of timber since 2013-14. The Ministry told us that it has not had discussions with Defra over whether the Government Buying Standards are challenging enough.

Examples of sustainability considerations in contracts

4.11 We reviewed the Ministry's approach to incorporating sustainability in contracts in three areas: low-emission vehicles, prison food and facilities management. We found that while all of these contracts incorporate some form of sustainability consideration, there was scope for the Ministry to improve its approach:

- **Low-emission vehicles** – The Ministry has included sustainability clauses in its vehicle hire contracts since 2015, including a requirement to promote the uptake of Ultra Low-Emission vehicles and their supporting infrastructure. However, as at March 2017 only two of its 1,483 vehicles were Ultra-Low Emission (hybrid) vehicles.
- **New prison food supply contract** – The Ministry requires the contractor to report on compliance with the Government Buying Standards. But there are no specific key performance indicators (KPIs) or associated penalties relating to sustainability elements.
- **Facilities management contracts** – Some of the Ministry's largest contracts are with private sector companies to provide facilities management services, and the part they play in the day-to-day management of the estate means that they have a significant influence over its environmental impact. The Ministry's facilities management contracts include environmental KPIs, but there is evidence that it needs to do more to secure engagement from suppliers to protect biodiversity on its sites and clarify their responsibility for biodiversity action plans.

The following section provides more detail on the sustainability considerations in the Ministry's facilities management contracts.

Sustainability considerations in facilities management contracts

4.12 The Ministry contracts with private sector companies for facilities management services for all of its buildings, including offices, courts, tribunals and prisons. This means that its facilities contractors have a significant influence over the environmental impact of its estate. The nature and quality of maintenance and repair work, for example, can affect the energy efficiency of buildings or the wildlife on prison grounds. It also means that facilities contractors may be best-placed to collect environmental data such as energy use and waste at individual sites, and to identify and deliver improvement projects.

4.13 All of the Ministry's facilities management contracts include environmental KPIs, which form part of the metrics by which the Ministry monitors the performance of these contracts. These indicators mainly cover reporting requirements, and do not include emission or consumption targets that contractors need to achieve. Performance against the environmental KPIs does not have direct financial implications for contractors, but it does form part of a weighted assessment of performance, and contractors' overall score on this assessment is linked to performance payments. The nature of the environmental KPIs and their weighted contribution to the overall performance score varies across the different contracts:

- The courts and probation contracts have one 'energy and environment' KPI, divided into five sub-criteria, which contributes 4.6% to the contractors' total performance score. The contractors' total performance score must exceed 90% to avoid deductions in performance payments. Environmental sub-criteria include a requirement for contractors to put forward 'innovative proposals' for energy and environment with a reasonable payback period.
- The prisons contract includes one environmental KPI, divided into seven sub-tasks and one waste management KPI divided into five sub-criteria. Each of the two KPIs contributes 5% to the contractors' total score. The prison contractors' total score must exceed 90% to avoid deductions in performance payments. The environmental sub-criteria do not include a requirement for contractors to put forward 'innovative proposals' for energy and environment. The sub-criteria in the prisons' contracts do include a requirement for contractors to 'protect and enhance the natural environment', a requirement that does not feature in the courts contracts. However, the Ministry has not yet clarified what requirements this places on contractors in practice (see paragraph 4.15).

4.14 Contractors report 100% compliance with environmental KPIs on the court and tribunal estate over March 2016 to February 2017. For the prison facilities management contracts, the Ministry does not collect summary national data on KPI performance. Our analysis of its regional data shows an average score of more than 80% against the environmental KPIs over March 2016 to February 2017. However, 65% of the prison sites scored 0% against the environmental KPIs in one or more month. The Ministry has not carried out an overall analysis of the reasons for these problems, but issues include missing waste management paperwork. The Ministry's information on the environmental performance of its prison facilities management contracts is incomplete, because contractors have not yet been scored against the sub-criteria to 'protect and enhance the natural environment'. The Ministry has suspended scoring on this issue until it can provide clarification about how it should be measured.

4.15 Contractors also do not yet have full information about the Ministry's expectations for improving biodiversity at each of the sites they manage: one contractor told us that while the Ministry had shared its overarching biodiversity strategy, it had not shared all the biodiversity action plans for individual sites. The Ministry told us about an example where it has been particularly pleased with a facilities management contractors' approach to biodiversity, and the steps it has taken to improve the wildlife value of a site by, for example, establishing wildflower meadow areas, and erecting bug hotels and bat boxes. There has been one instance where the Ministry's ecology lead has raised a concern about the effect of facilities management contractors' actions on Sites of Special Scientific Interest. In July 2015 a subcontractor damaged an orchid meadow at the Verne immigration removal centre.

4.16 In November 2016 the Ministry established a Sustainable Development Forum with the aim of improving its engagement with the prison facilities management contractors on sustainability. The Ministry has engaged the prison contractors in developing and implementing its carbon reduction programme (see paragraph 2.28).

Part Five

Policy and policy-making

5.1 This Part covers;

- why the environmental sustainability of the Ministry of Justice's (the Ministry) policy and policy-making matters; and
- how the Ministry considers environmental impacts in policy impact assessments.

Why the environmental sustainability of the Ministry's policy and policy-making matters

5.2 The Ministry does not have lead policy responsibility for any aspects of environmental sustainability. Its role is to protect the public, reduce reoffending and provide an effective, transparent and responsive criminal justice system. Nevertheless, as we set out in the previous parts of this report, its overarching objectives do have potential environmental impacts, as a result of the changes they incur to its buildings land and travel, and to its relationships with third-party suppliers. Its objectives can also have a broader environmental impact via the Ministry's influence on wider society, for example via its role in deterring crime and the associated carbon emissions (see Figure 1 in Part One).

5.3 HM Treasury expects all government departments to consider environmental impacts when developing policy proposals. This helps give decision-makers a full picture of the relative merits of different options to meet the policy objectives. It also means that officials identify potential environmental impacts of their proposals early, which may increase the scope for measures to mitigate any negative effects and maximise any benefits. Finally, having a clear description of the anticipated environmental impacts of a policy from the outset also helps ensure that subsequent evaluations of that policy also consider environmental impacts, and therefore that environmental issues form part of lessons learned.

5.4 Government’s main process for assessing the impacts of policy proposals is through impact assessments. Central government requires departments to prepare impact assessments for all policy proposals that impose or reduce costs on businesses, the third sector or the public sector.³⁷ These should explain the rationale for government intervention, the policy objectives and the estimated costs and benefits of different options to meet those objectives. In most cases, departments are expected to publish draft impact assessments as part of consultation exercises.

How the Ministry considers environmental impacts in policy impact assessments

5.5 The Ministry’s guidance for policy-makers does not include any advice on considering environmental impacts. It does not highlight that the Ministry’s role and overarching objectives can have environmental impacts (as we set out in Figure 1), nor does it give a summary of the Ministry’s environmental targets and policies. Its guidance also does not refer to any of the toolkits produced by the Department for Environment, Food & Rural Affairs (Defra) to help policy-makers across government consider environmental and sustainable development impacts.

5.6 The Ministry’s policy-making guidance does, however, link to HM Treasury guidance on economic appraisal, the so-called “Treasury Green Book”, which advises that appraisals should assign a monetary value to potential environmental impacts where possible. This supports a structured approach to comparing the relative costs and benefits of different options. Where monetisation of environmental impacts is not feasible or appropriate, assessments should clearly describe and quantify the impacts.

5.7 We reviewed the consideration of environmental impacts in impact assessments published by the Ministry during 2016-17. We found that of 23 impact assessments, seven covered issues with potential environmental impacts:

- Changes to cost protection rules, which could affect the willingness of stakeholders to bring claims under environmental law, and thereby the effectiveness of environmental legislation.
- One impact assessment related to court closures, which could affect energy use on the estate and travel times, and the associated carbon emissions and air pollution.
- Five impact assessments relating to the increased use of video technology and/or online processes in courts and tribunals, which could affect travel times and paper use (**Figure 14** on pages 48 and 49).

³⁷ Proposals that affect costs in the public sector by less than a pre-agreed threshold (usually £5 million) do not need an impact assessment.

5.8 Only two of these impact assessments (on cost protection rules and court closures) identified potential environmental impacts. Neither of these two assessments went on to quantify or monetise the effects: the assessments concluded that the impact would be small without giving a full explanation of the basis for this judgement. This is despite:

- environmental issues being central to the decisions considered in the impact assessment on cost protection rules;
- established methods existing for monetising changes in carbon emissions and air pollution; and
- the Ministry having targets for reducing carbon emissions and paper use on its estate as part of the Greening Government Commitments (GGC).

5.9 The Ministry's impact assessment on court closures also did not give a full, quantified analysis of the potential impact on heritage and streetscape (see paragraph 3.4). Furthermore, it referred to an out-of-date plan (the Ministry's 2011 National Adaptation Plan) as evidence that resilience to climate change was not a significant issue for the proposals.

Figure 14

Consideration of environmental impacts in the Ministry of Justice's published impact assessments 2016-17

Impact assessment	Issue under consideration
Cost protection in environmental claims (Sep 2016)	Cost protection rules for challenges under environmental law. The impact assessment includes a proposal to allow the courts to vary the level of costs cap according to the claimants' financial resources and the circumstances of the case. It also includes a proposal to expand the types of cases for which costs protection rules apply.
The provision of criminal court estate in London (Sep 2016)	The reconfiguration of the criminal court estate in London, including consolidation into a smaller number of sites.
Prison and Courts Bill: Virtual hearings and open justice (Feb 2017)	Expansion of the use of video technology and telephony in courts.
Prison and Courts Bill: streamlining case management and allocation processes (Feb 2017)	Removing statutory requirements for hearings at which the defendant must be present and establishing alternative online procedures.
Prison and Courts Bill: Automatic online convictions/standard statutory penalty (Feb 2017)	Allowing for certain low-level cases (such as failure to produce a ticket for a train journey) to be resolved through an online automated process.
Prison and Courts Bill: Reform of the employment tribunal system (Feb 2017)	Reforms that aim to support citizens to present their own cases simply and obtain justice more swiftly.
Prison and Courts Bill: Reform to statutory declarations in the County Court (Feb 2017)	Replacing 'outdated and inconstant procedures' with a new approach capable of digitisation.

Note

1 The Ministry published 16 further impact assessments during 2016-17, however these are on issues without clear potential environmental impacts.

Source: National Audit Office analysis of published impact assessments

Potential environmental impacts	Described?	Quantified?	Monetised?
Changes to the cost protection rules could affect the willingness of stakeholders to bring rightful challenges and thereby the effectiveness of environmental legislation. Under the Aarhus Convention the UK must ensure that the costs of certain environmental challenges are not 'prohibitively expensive'.	Yes	No	No
A smaller estate could reduce energy used for heating, lighting and electricity and thereby reduce the associated carbon emissions. It will also affect travel times for employees and those attending court hearings, and thereby the carbon emissions and air pollution from transport fuel.	Yes	No	No
There could be a one-off increase in waste when buildings are closed.	No	No	No
Increased use of 'virtual' hearings is likely to reduce travel and associated pollution	No	No	No
Proposals for online processes could reduce paper use and associated waste	No	No	No
	No	No	No
	No	No	No

Appendix One

Good practice criteria

This briefing examines how far the Ministry of Justice has embedded environmental sustainability in its governance, estates management, procurement and policy-making.

Governance

Priorities:
Senior officials have identified how the organisation can best contribute to government's wider sustainability objectives. The organisation's environmental priorities are clear to staff and stakeholders. For example, via its Single Departmental Plan, and/or dedicated sustainability strategies.

Championing and holding to account:
Senior officials champion environmental issues, and hold people to account for environmental performance, for example by appointing a Board-level sustainability champion, and by regularly considering environmental performance at senior-level committees.

Estates and operations

Approach:
There are strong arrangements to encourage people to consider environmental factors in managing the estate.

Performance:
For significant environmental impacts of the estate there is good performance against ambitious targets, benchmarks and requirements.

Procurement

Approach:
There are strong arrangements to encourage people to consider environmental factors in procurement.

Performance:
For contracts with significant environmental impacts there is good performance against ambitious environmental targets, benchmarks and requirements.

Policy and policy-making

Approach:
There are strong arrangements to encourage policy-makers to consider environmental impacts when initiating and designing policy.

Performance:
Relevant impact assessments identify potential environmental impacts, and quantify and monetise the effects where appropriate.

Appendix Two

Our approach

1 We prepared this briefing using evidence collected between December 2016 and July 2017.

2 We **interviewed** officials within the Ministry of Justice (the Ministry) to discuss the department's approach to sustainability and recent achievements and challenges, including: the sustainability champion; head of the Estates Directorate; a regional estates manager and the head of Programme Management for Estates.

3 We examined the following **data** to understand performance against targets and the Ministry's governance arrangements for sustainability:

- Greening Government Commitment (GGC) performance data.
- Performance data for facilities management providers.
- BREEAM data for prison and court refurbishments and major constructions.
- Monthly Estates Directorate Senior Management Team performance packs.
- Business cases for energy efficiency programmes.
- Impact assessments published by the Ministry in 2016-17.

4 We conducted two **site visits** to:

- HMP North Sea Camp to look at the number of ways that it approaches sustainability, including its recycling unit staffed by prisoners, the farm and its biodiversity work.
- Wakefield Crown Court to look at an example of a building that has become derelict since it was sold. We also interviewed the senior development manager from Wakefield Council's Economic Growth & Housing Unit to understand more about the current status of the building since the Council carried out a compulsory purchase.

5 We contacted governmental and non-governmental **stakeholders** to seek their views on the Ministry's approach to embedding environmental sustainability including a number of the Ministry's arm's-length bodies, Amey (a facilities management provider to the Ministry), the Building Research Establishment and the Bumblebee Conservation Trust.

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