



National Audit Office

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## **Report**

by the Comptroller  
and Auditor General

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## **HM Courts & Tribunals Service**

# Early progress in transforming courts and tribunals

## Key facts

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**£265m**

annual expected savings from the HMCTS change portfolio from 2023-24 onwards

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**5,000**

planned reduction in the number of HMCTS full-time equivalent staff by March 2023

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**2.4m**

planned reduction in number of cases held in physical courtrooms each year

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<b>£1.9 billion</b>	HM Courts & Tribunal Service's (HMCTS) total spending in 2016-17
<b>1,500</b>	reduction in HMCTS full-time equivalent staff between March 2015 and July 2017
<b>15,000</b>	HMCTS full-time equivalent staff in September 2017
<b>4.1 million</b>	court cases processed by HMCTS in 2016-17
<b>£1.2 billion</b>	total planned cost of implementing the changes
<b>March 2022</b>	date when the reforms are due to complete (with changes fully embedded by March 2023)
<b>£61 million</b>	gap between allocated funding and implementation cost (assuming past underspends can be carried forward to future years)

# Summary

**1** HM Courts & Tribunals Service (HMCTS) is an executive agency of the Ministry of Justice. It is responsible for supporting the independent judiciary in the administration of criminal, civil and family courts, and tribunals in England and Wales, and for non-devolved tribunals in Scotland and Northern Ireland.<sup>1</sup> In 2016-17, HMCTS employed around 16,000 staff, processed over 4.1 million cases, and spent £1.9 billion.

**2** There are significant financial and operational pressures to improve the effective administration of the justice system. Many activities rely on outdated systems and paper-based processes. This creates inefficiency and contributes to delays, unnecessary costs and a poor experience for court users. At the same time, the Ministry of Justice needs to reduce its annual spending by £500 million from 2015-16 levels by 2019-20 to meet the commitments in the 2015 Spending Review.

**3** In 2016, HMCTS set up a portfolio of change programmes that will introduce new technology and working practices to modernise and upgrade the justice system. By March 2023, HMCTS expects to employ 5,000 fewer staff, reduce the number of cases held in physical courtrooms by 2.4 million cases per year and reduce annual spending by £265 million. Savings will come from lower administrative and judicial staff costs, fewer physical hearings and running a smaller estate. As well as making savings, HMCTS expects the reformed system to work better for all those involved, use court time more proportionately, and make processes more accessible to users.

**4** The HMCTS change portfolio consists of several related programmes, which in turn are made up of many individual projects. The major programmes are:

- **The HMCTS Reform Programme** which is modernising processes and systems to reduce demand on courts by moving activity out of courtrooms. For example, it will introduce online services and digital case files and expand the use of video technology in hearings.
- **The Common Platform Programme** which is developing shared processes and a digital criminal justice case management system to share information between HMCTS, the Crown Prosecution Service and the police. It is jointly managed by these organisations.
- **The Transforming Compliance and Enforcement Programme (TCEP)** which is upgrading systems in HMCTS's National Compliance and Enforcement Service, used to enforce court orders such as penalties and compensation.

<sup>1</sup> Scotland and Northern Ireland administer a number of their own tribunals covering topics such as council tax, mental health, pensions and lands.

**5** As part of these programmes, HMCTS is also reducing and modernising the court and tribunal estate and creating cross-jurisdictional hearing centres and national 'customer service centres'. These will centralise case management and administration and provide support to the public, judges and lawyers on civil and criminal matters.

**6** In this report we outline what the change portfolio will deliver, consider early progress against plans and explore how HMCTS and its partners have managed the change portfolio and the risks it faces in the future.

## **Key findings**

### Early progress against plans

**7 HMCTS's change portfolio presents a very significant challenge.** In 2016, HMCTS commissioned a review which found that the changes it is proposing are far broader than those in comparable programmes in other countries. The transformation programme includes introducing new technology, rationalising estates, restructuring the workforce and operations, and managing critical dependencies. It also involves multiple stakeholders, some of which are constitutionally independent of government. The planned changes affect every aspect of HMCTS's activities (paragraphs 1.19 to 1.22).

**8 HMCTS has changed the timescale and scope of the portfolio significantly since 2016.** Recognising the breadth and ambition of its original plans, HMCTS extended the timetable from four to six years in 2016, though it did not change the budget. It has since reduced the scope of the Common Platform Programme and brought others such as the Transforming Compliance and Enforcement Programme and other smaller change programmes into a single portfolio. The large number of individual projects within the change portfolio means HMCTS has flexibility to prioritise aspects of planned transformation (paragraph 2.12).

**9 Delivering the reforms successfully remains extremely challenging, despite HMCTS's work to reduce risk.** The revised six-year timescale for the reforms is still shorter than the time taken to complete smaller programmes in other countries. The Infrastructure and Projects Authority's most recent assurance review concluded that successful delivery of the programme was in doubt, and that there were major risks or issues in a number of key areas. It noted, however, that those leading the programme were aware of these issues and were taking action to resolve them (paragraphs 1.19 and 3.2).

**10 HMCTS has made less progress overall than it had expected to at this stage.** HMCTS completed the first of four 'interim states' at the end of September 2017, including rolling out early versions of several technical components such as online applications for divorce. At this point, it reported that it had fully completed 62% of planned outcomes and partially completed 25%, with 11% significantly incomplete and the remaining 2% adversely affecting the delivery of the next state. The estates reform project has generated more income than expected. The programme at greatest risk of not achieving its outcome is the Common Platform Programme. It has suffered significant delays in development and delivery (paragraphs 2.6 to 2.8 and Figure 7).

**11 Expected costs have increased and planned benefits have decreased.**

Since 2015, HMCTS has revised its business cases for the Reform Programme and the Common Platform Programme twice. The 10-year economic case has weakened in each successive iteration. This is in part due to the longer timescale for rolling out the programmes. Annual 'steady-state' benefits have also fallen as HMCTS has reduced the scope of the portfolio. The business cases only quantify benefits in terms of savings to HMCTS and the Crown Prosecution Service. It currently excludes estimates of wider benefits to other organisations and court users (paragraphs 1.15, 1.16, 2.13 and Figure 9).

**12 There are gaps in the funding for reforms in later years.** HMCTS plans to pay for changes using funding from HM Treasury (£810 million) and retained savings and receipts from property sales (£282 million). The business case projects a funding shortfall of £61 million, assuming that HM Treasury will agree that all previous years' underspends can be carried forward. Without this agreement, the funding gap could be £177 million. Underspends have arisen because of delays to projects or the two-year extension in the timetable (paragraphs 1.14, 2.10, 2.14 and Figure 10).

### Programme management and risks

**13 HMCTS has taken steps to improve governance and the way it manages the portfolio.** HMCTS has simplified programme structures and governance in response to recommendations from assurance reviews. This includes integrating the Common Platform Programme more closely with the Reform Programme and redesigning its governance structure to improve decision-making. It also brought in a new delivery partner, PwC, in autumn 2017 to provide support across the portfolio (Figure 12).

**14 HMCTS still needs to develop how the new services will work in practice.** HMCTS has developed high-level 'target operating models'. But assurance reviews and our own interviews highlighted that stakeholders do not fully understand how the reformed services will work in detail. The large number of interconnected projects in the portfolio makes it difficult to establish and communicate how all the areas of activity fit together. In other programmes such a lack of clarity has contributed to delays and programme failings (paragraph 3.5).

**15 Delays in introducing primary legislation create a significant degree of uncertainty.** The 2017 general election changed the planned legislative timetable, and the timing of the Courts Bill is currently unclear. Some elements of reform, such as the planned extension of virtual hearings, will depend on primary legislation. Without this, HMCTS may have to re-scope elements of the portfolio which is likely to cause delays, increase costs and reduce benefits. It could potentially signal a lack of commitment to the changes which could weaken support and also increase the dependence on the judiciary as certain changes will need to be enacted through Procedure Rules Committees. HMCTS may need to re-prioritise its ambition should this risk or others materialise. In doing this it will need to be clear about which elements of reform it considers essential to achieving its vision (paragraphs 1.25 and 1.26).

**16 Failure to sustain commitment from all delivery organisations will significantly reduce the likelihood of success and the benefits achieved.** HMCTS relies heavily on other organisations to invest in new technology and change their working practices, but has limited influence over these groups. It has established relationships with the senior judiciary, the police, the Crown Prosecution Service and representatives of legal professionals, but the tight timetable creates challenges in maintaining meaningful engagement with these organisations and ensuring alignment across all parties. Engagement is also affected by limited transparency. HMCTS does not yet have effective arrangements to measure and report on progress and communicate this clearly to its stakeholders (paragraphs 1.21, 1.22, 2.5, 2.9, 3.4 to 3.6 and Figure 5).

**17 Delivering change on this scale at pace means that HMCTS risks making decisions before it understands the system-wide consequences.** There are ongoing challenges in understanding and managing dependencies across the portfolio and the possible consequences of changes for other parts of the justice system. Planned changes are far-reaching and could increase costs for other organisations. Any resulting unintended consequences could displace costs, create new inefficiencies and undermine confidence in the justice system (paragraphs 3.7 to 3.9).

**18 The benefits claimed so far by HMCTS exceed expectations but risk putting pressure on its ability to maintain services.** In other major programmes we have found that financial pressures can lead departments to seek savings before programmes are completed or users adopt new services. Around 65% of the benefits from the Reform Programme so far have come from not replacing staff who have left, rather than from fully implementing new ways of working or moving services online. Our experience reviewing other transformation programmes suggests expected savings tend to be overly ambitious. They are often uncertain and highly dependent on how change is implemented. For example, some future benefits rely on assumptions that at least 70% of users will move to online services within five years. Recognising such uncertainty, HMCTS, applied an optimism bias of 15% to its savings estimates, although one project has already reduced its original benefits estimates by 30% following live testing (paragraphs 1.17, 2.10 and 3.10 to 3.12).

## **Conclusion**

**19** HMCTS faces a daunting challenge in delivering the scale of technological and cultural change necessary to modernise the administration of justice, and achieve the savings required. It has responded to early concerns by extending the timetable and improving its governance and programme management. But there is a long way to go to achieve the planned transformation and overall HMCTS is behind where it expected to be at this stage.

**20** The scale of the challenge is increasing and the programme is under significant pressure to meet what is still a demanding timetable. There are unresolved funding gaps, and trying to fit savings around spending commitments and demand pressures could undermine services. Government's record of transforming public services suggests the overall benefits of the changes are likely to be smaller than expected and will take longer to achieve. HMCTS has already reduced the scope of the portfolio and scaled back planned benefits. Given the extent of changes planned, there is a very significant risk that, despite the best efforts of HMCTS and other parties, the full ambition of the change portfolio will prove to be undeliverable in the time available. HMCTS will need to be flexible and to adapt its approach if things do not go to plan.

## Recommendations

**21** The reforms are wide-ranging, depend on the support of many influential stakeholders, and will require significant cultural changes across the whole justice system. Delivering them successfully is complicated by the ambitious timescale and dependence on factors outside HMCTS's control. Our recommendations aim to create a shared understanding of these challenges and improve cross-system working:

- a** **HMCTS should allow enough time to engage with affected parties within the justice system.** As the reforms pick up speed, there is pressure to make changes quickly and to expect partners to work at the same pace. HMCTS should build in sufficient time to consult widely in a meaningful way and act on the results of that consultation. HMCTS must provide more detail on how the modernised services will work in practice, what has already happened and what else needs to be done. HMCTS should ensure it builds and maintains relationships as key staff in organisations change.
- b** **HMCTS should resist pressure to claim savings until planned changes are fully embedded.** Banking savings before new processes and systems have fully embedded can compromise the quality of front-line services, which are then less able to respond to changes in demand. HMCTS should test whether the new processes can cope with fluctuations in demand without reducing the quality of service or effective operation of the justice system.
- c** **HMCTS should provide greater transparency of its objectives and progress and be clear how it is adapting plans in response to risks.** It needs to be clear what it considers essential to achieving its vision and those areas where it has a degree of flexibility to manage around defined tolerances. Being open in this way will help ensure taxpayers and stakeholders have a clearer picture of what is happening, and can hold HMCTS to account for its performance.
- d** **HMCTS should work with the Ministry of Justice and HM Treasury to address the system-wide consequences of planned changes.** It needs to actively anticipate and mitigate possible adverse consequences resulting from the operational and financial impact of changes on organisations in the justice system. HMCTS has established forums to improve its understanding of the distribution of costs and benefits across organisations. It should use these to agree how costs will be shared across the reformed system.