



National Audit Office

Report

by the Comptroller
and Auditor General

HM Courts & Tribunals Service

Early progress in transforming courts and tribunals

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National Audit Office

HM Courts & Tribunals Service

Early progress in transforming courts and tribunals

Report by the Comptroller and Auditor General

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Sir Amyas Morse KCB
Comptroller and Auditor General
National Audit Office

30 April 2018

This report explains how HM Courts & Tribunals Service (HMCTS) is introducing new technology and working practices to modernise the justice system. We outline what these reforms expect to achieve, the progress HMCTS has made to date and the risks it faces in the future.

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Contents

Key facts 4

Summary 5

Part One

The transformation programme 10

Part Two

Overview of progress 24

Part Three

Forward plan and risks 35

Appendix One

Our audit approach 42

Appendix Two

Our evidence base 44

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Key facts

£265m

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

5,000

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

2.4m

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

£1.9 billion	HM Courts & Tribunal Service's (HMCTS) total spending in 2016-17
1,500	reduction in HMCTS full-time equivalent staff between March 2015 and July 2017
15,000	HMCTS full-time equivalent staff in September 2017
4.1 million	court cases processed by HMCTS in 2016-17
£1.2 billion	total planned cost of implementing the changes
March 2022	date when the reforms are due to complete (with changes fully embedded by March 2023)
£61 million	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.¹ 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.

¹ 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.

Part One

The transformation programme

The justice system

1.1 The justice system determines guilt in criminal cases, adjudicates on disputes between individuals, families and businesses, protects vulnerable children and allows the public to hold the government to account. Over 4 million cases pass through the system each year, with around 1.7 million offences dealt with through the criminal courts, 1.9 million in the civil courts, just under half a million in tribunals and around 250,000 in the family courts.

1.2 HM Courts & Tribunals Service (HMCTS) is an executive agency of the Ministry of Justice. It is responsible for the administration of criminal, civil and family courts and tribunals in England and Wales, and for non-devolved tribunals in Scotland and Northern Ireland. In 2016-17, HMCTS employed around 16,000 staff at locations throughout the UK. It supports the judiciary in the administration of justice, with the aim of providing a fair, efficient and effective justice system. The judiciary remains constitutionally independent of government and its executive branches.

1.3 The justice system is made up of a wide range of bodies, all of which have different functions and accountabilities. The system has no 'single owner'. The system, and processes within it, have developed over many years. HMCTS itself was formed 25 years ago, by merging 150 different organisations. It operates with locally developed and outdated processes, many of which are hard to administer, slow and resource intensive.

1.4 Large parts of the system are still paper-based, or rely on manual data entry, which can be slow and ties up resources in infrastructure, estates and manual processing. Where IT is used, there are multiple systems, many of which are old, and do not integrate with each other. Over 70 legacy systems are used to process cases across criminal and civil courts and tribunals.

1.5 As a result of these and other factors, the system does not function as effectively and efficiently as it could. This leads to delays and additional costs, and undermines public confidence. For example around one in two criminal trials went ahead as planned in 2016. We estimate that the Crown Prosecution Service (CPS) spent around £20.2 million in 2016-17 preparing for criminal cases that never went to court. A joint review in July 2017 by HM Crown Prosecution Service Inspectorate and HM Inspectorate of Constabulary found widespread failures in the disclosure of evidence by the police and CPS.²

² HM Crown Prosecution Service Inspectorate, *Making it fair: the disclosure of unused material in volume Crown Court Cases*, 18 July 2017.

1.6 At the same time, the Ministry of Justice needs to reduce spending by around £500 million per year from 2015-16 levels by 2019-20 to meet commitments in the 2015 Spending Review. Around half of these savings are expected to come from changing the way the court system operates. Our 2016 report *Efficiency in the criminal justice system* concluded that “reducing inefficiency is essential if increasing demand and reducing funding are not to lead to slower, less accessible justice”.³

Objectives of reform

1.7 In 2016, HMCTS launched an ambitious change portfolio, bringing together a number of interdependent reform projects. Its vision is to “modernise and upgrade the justice system so that it works even better for everyone, from judges and legal professionals, to witnesses, litigants, and the vulnerable victims of crime”.⁴

1.8 HMCTS has stated that the reformed system will be designed around the needs of those who use it. It is based around three principles:

- **Proportionate.** The reforms aim to free up court time, so that courts are used only for those cases and issues that cannot be dealt with elsewhere.
- **Accessible.** The reforms aim to simplify processes by removing duplication and unnecessary steps so that the system works more efficiently, and is more user-friendly, particularly for non-lawyers.
- **Just.** The system should be accessible to everyone, including those who are unable to access online services. The public must be able to see and hear justice in action.

³ Comptroller and Auditor General, *Efficiency in the criminal justice system*, Session 2015-16, HC 852, National Audit Office, March 2016.

⁴ Ministry of Justice, Lord Chancellor, Lord Chief Justice, Senior President of Tribunals, *Transforming our Justice System*, September 2016.

1.9 To achieve this vision, the reforms aim to make changes across all four legal jurisdictions. In the **criminal courts**, the reforms focus on simplifying the system, and on improving efficiency so that cases are dealt with in proportion to the scale and seriousness of the offence. The aim is to reduce the number of criminal cases requiring a physical court hearing each year by around half (from 1.7 million to 0.9 million). The main areas are:

- a** Changes to the way cases progress through the court system: to make best use of court time, HMCTS plans to increase the use of 'virtual hearings', with judges and magistrates dealing with defendants from a police station or prison using a video link. Defendants will be allowed to enter guilty pleas online, removing the need for pre-trial hearings. HMCTS also plans to allow vulnerable witnesses to give pre-recorded evidence rather than appear in court. Finally, HMCTS intends that crown and magistrates' courts will work more closely together, so that cases which can be dealt with in either court can be allocated more efficiently.
- b** Greater use of technology, with many services moving online: HMCTS plans to equip courtrooms with the technology to handle digital evidence, such as CCTV, and to digitise many of the current paper and court-based processes. For more minor non-custodial offences (such as TV licence evasion), the reforms aim to allow the whole process to be completed online.
- c** A digital case management system from charge to conviction: the reforms aim to introduce a Common Platform, a digital case management system which all organisations involved in the criminal justice system will use to share information so that cases can progress more easily. Victims and witnesses will be able to access the system for information on their case.

1.10 In the **civil and family courts and tribunals**, the reforms focus on simplifying procedures, speeding up decision-making and making greater use of technology. In the family courts, several reforms have already taken place. A single family court has been created, and HMCTS is looking at what further changes might be needed. The aim is to reduce the number of cases requiring a physical hearing from 2.6 million to 1 million a year by introducing the following reforms:

- a** Most cases will be dealt with online, from application through to resolution ('digital by default'). For some services (such as probate or divorce), this can be done by the individual applicant themselves, with no need to attend court. Participants will be able to follow the progress of their case online.
- b** There will be new online systems for mediation and resolution so that citizens can resolve more disputes themselves outside the courtroom. For cases where a trial or hearing is still needed, this could be a virtual hearing, which is not restricted to a particular courtroom location.
- c** Specialist case officers will progress cases and undertake some routine judicial tasks. This will free up time for judges to concentrate on the most contentious issues.

1.11 The reforms also aim to provide the **infrastructure and workforce** to support the improved system. Specifically, HMCTS plans to:

- a** Rationalise and modernise its estate, so that it is made up of fewer, more flexible court buildings or ‘hearing centres’, with better facilities and technology to facilitate digital working. The idea is that they can be used for both civil and criminal matters, and could operate with more flexible sitting hours. Following the 2016 announcement of 86 court closures, HMCTS is consulting on plans to further reduce the size of its estate. It plans to sell those buildings it no longer needs, and use the proceeds to fund the reforms.
- b** Introduce national Courts & Tribunals Service Centres (CTSCs) to handle all centralised case management and administration, and provide support for both civil and low-level criminal issues. The centres are designed to be the first point of contact for the public. Staff will answer queries from court users by telephone, email or webchat. Alternative provision will be made for face-to-face support to those who require it.
- c** Release around 5,000 full-time equivalent staff, leaving a workforce of around 10,000. HMCTS expects it will require fewer staff because of the changes to the estate and to working practices. It also plans to centralise and digitise its back-office functions.

1.12 The main aim of the reforms is to transform the experiences of those who need to use the justice system. HMCTS intends that the user experience will be very different by the time the reforms are complete in 2022, as the way many services are delivered is set to change completely. The key differences for users will include the following:

- There will be less need to attend court buildings. All cases will start online, and many will be resolved in this way too. This should mean that cases are dealt with more quickly. For example, for low-level offences such as vehicle offences, those who plead guilty online can receive their sentence immediately rather than wait for an available hearing date (**Figure 1** overleaf).
- If attendance at court is necessary, users may have to travel further, but the buildings should be more suited to their needs.
- For some services, users will be able to do more themselves such as in probate or divorce.
- Communication will be carried out mainly online or electronically, rather than being paper-based, with easier access to information on the progress of the case (Figure 1). Those without internet access will be able to access phone or face-to-face support.⁵

5 Via Good Things Foundation network.

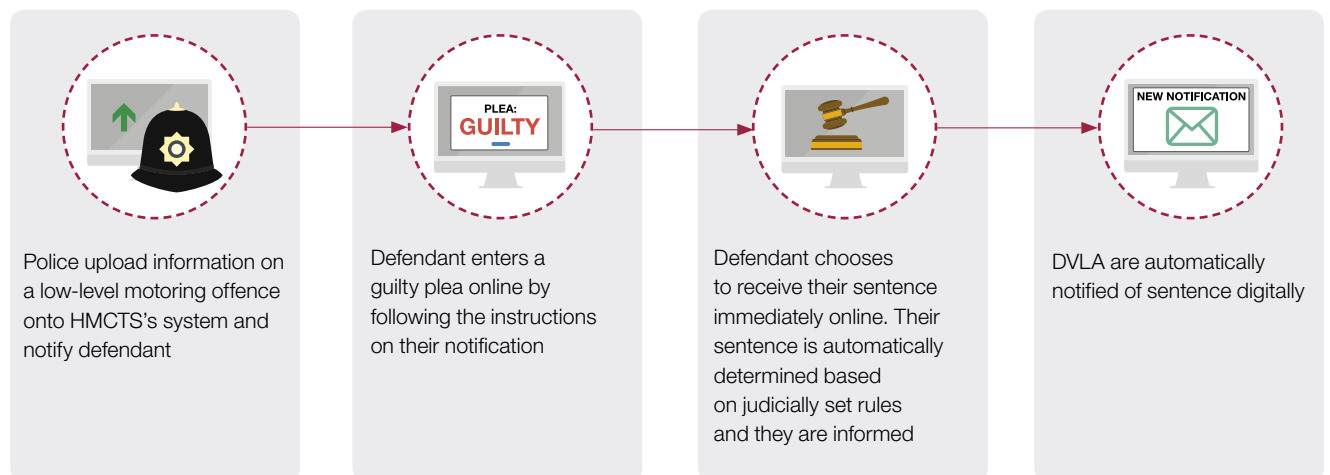
Figure 1

Two examples of how reforms to the justice system will use technology to change the user experience

These examples illustrate how the current processes for dealing with vehicle offences and serious criminal offences will change once the reforms are implemented

Vehicle offences		
	Existing process	After the reforms
Process	Pleading guilty by post.	Police upload information in the system. The defendant enters their plea online and if they plead guilty, can receive their sentence immediately. It will be automatically generated and Driver & Vehicle Licensing Agency (DVLA) notified.
Waiting time	Police have up to six months from when the incident took place to begin the process.	Process is quick and progress can be checked online.
Court requirements	Attend court.	For guilty pleas no courtroom will be needed and the case dealt with online.
Legal help expectations	Defendants often sought legal representation.	Less demand as process is intended to be straightforward and simple.
Communication method	All communication through paper. Court administration staff routinely involved in the cases. Defendants would call court staff or legal representative for assistance.	Everything will be communicated digitally. Those who cannot access digital services will be provided with assistance. There will be a helpdesk for assistance and contact centres for handling queries.

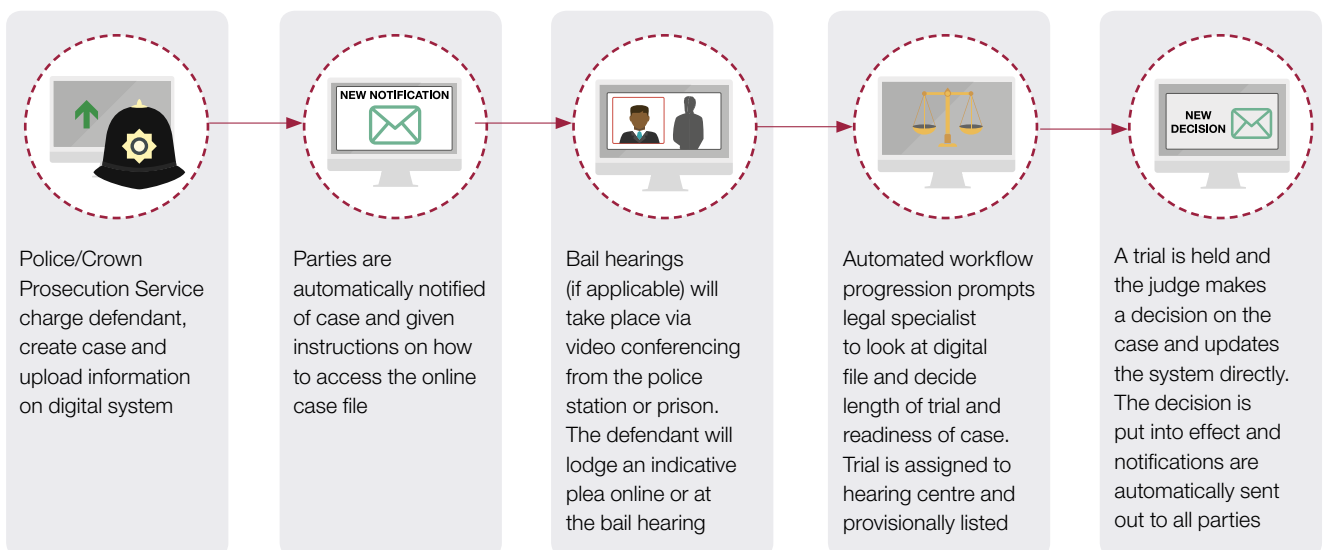
What the reformed process could look like



Serious criminal offences

	Existing process	After the reforms
Process	Paper files are used.	Once the defendant is charged, the police create a case on the digital system. This case file is updated throughout the process and automated workflow progression will prompt decisions to be made by the relevant people at the appropriate times.
Plea	Pleas are made in court.	The defendant can enter their plea online and is able to view case details and evidence online on the case file.
Court requirements	Bail hearings take place in court.	Bail hearings are able to take place via video conferencing from the police station or prison – the defendant does not need to be transported to court.
Communication method	Paper notifications are manually sent.	All relevant parties are notified digitally of the progressions in the case automatically, for example when the charge is made and the verdict delivered.
Support	Court staff answer queries.	HMCTS contact centre can access the case file digitally and answer any users' queries about the process.

What the reformed process could look like



The costs and benefits

1.13 The reforms are being managed by HMCTS as a change portfolio. HMCTS expects the portfolio to cost £1.15 billion over the course of 10 years (**Figure 2**). The portfolio brings together three major programmes, which were launched at different times and have independent business cases:

- HMCTS Reform Programme (£816 million);
- Common Platform Programme (£280 million); and
- Transforming Compliance and Enforcement Programme (TCEP), which aims to collect unpaid criminal fines and financial orders more efficiently (£58 million).

1.14 Funding is expected to come from the £617 million allocated by HM Treasury in the 2015 Spending Review, £182 million committed by the Ministry of Justice as part of its annual funding reviews, £12 million from HMCTS and CPS, and £282 million from property sales. HMCTS currently predicts a shortfall of around £61 million, which it considers it can manage by reallocating existing budgets.

1.15 HMCTS expects the reforms to deliver total benefits of £1.22 billion over the 10 years to 2024-25.⁶ These will come from reducing staff and judiciary costs, holding fewer physical hearings and running a smaller estate (paragraphs 1.9 to 1.11). The benefits will be delivered incrementally, and later benefits will depend on the earlier stages being delivered to time and budget. For example, the judiciary will not see the demands on its time fall until more cases are dealt with online (**Figure 3** on page 18). After 2023, HMCTS expects to save around £265 million each year as a result of the changes, and expects net benefits to overtake costs (**Figure 4** on page 19). Most of these steady state savings will be made in the civil, family and tribunals' jurisdiction. A proportion of the savings from the Common Platform Programme will be realised in the CPS. In addition to the £20 million steady savings to HMCTS, TCEP is expected to increase income collection by around £50 million a year from 2020-21 for the Ministry of Justice and third parties such as victims' services.

6 HM Treasury first approved funding in 2014.

Figure 2
Overview of HM Courts & Tribunals Service (HMCTS) change portfolio implementation costs and net benefits

The change portfolio consists of three programmes of which HMCTS reform is the largest

Programme	Description	Example projects	Investment ¹	10-year Net Present Value ²	Total benefits 10-year period (2015-16 to 2024-25) ³	Annual savings ⁴ (2023-24 onwards)
HMCTS Reform	Modernising processes and systems to reduce demand on hearings and improving utilisation of courts	Online self-service for civil and family court services Releasing estates through use of virtual courts	816	354	941	200
Common Platform	The technology platform to support shared processes and systems for HMCTS, the Crown Prosecution Service and the police in managing criminal cases	End-to-end digital case management system, single justice procedure and automated case management	280	-116	176	45
Transforming Compliance and Enforcement (TCEP)	Upgrading systems in the National Compliance and Enforcement Service	Debt collection system. New contracts for enforcement agencies	58	381 ⁵	107	20
Total			1,154	n/a	1,224	265

Notes

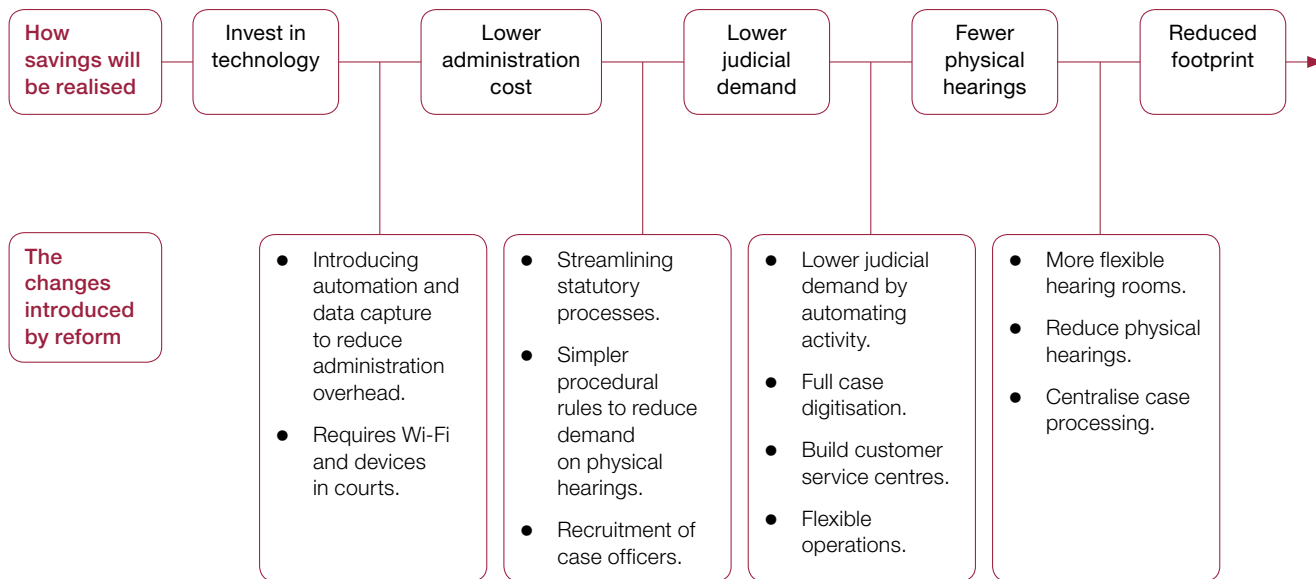
- Investment is implementation costs over the programme lifetime.
- 10-year Net Present Value (NPV) represents the benefits and costs of these programmes, calculated in nominal prices over a ten year future time interval, then discounted to the present day. The three programmes each have a different ten year interval. HMCTS Reform is over the period from 2015-16 to 2024-25, Common Platform 2014-15 to 2023-24 and TCEP 2016-17 to 2025-26. Therefore there is no total available for this column.
- Cumulative benefits over the 10-year period 2015-16 to 2024-25.
- Steady state annual savings.
- This NPV includes non-HMCTS income generated from collection of fines due to the Ministry of Justice and other third parties.
- This table does not include any previous criminal justice efficiency programmes or other HMCTS change projects.

Source: National Audit Office analysis of HM Courts & Tribunals Service 2017 business cases for the programmes

Figure 3

The sequence of expected benefits as the reforms to the justice system are introduced

The savings will be delivered incrementally as the elements of reform are implemented



Source: HM Courts & Tribunals Service six-year delivery plan

Figure 4
 Profile of cumulative costs and benefits for the three main programmes within the change portfolio

Net benefits are forecast to overtake the costs of implementation in 2024-25



Note

1 Cumulative benefits and costs from Reform Programme, Common Platform Programme and Transforming Compliance and Enforcement Programme business cases.

Source: HM Courts & Tribunals Service and National Audit Office analysis of HM Courts & Tribunals Service data

1.16 HMCTS also expects the reforms to deliver wider benefits for court users, although it has not quantified these. Our 2016 report *Efficiency in the criminal justice system* found that, although the reforms would provide the tools for a more efficient, less paper-based system, it did not address the behaviours that can lead to inefficiency, for example where individuals or organisations were not getting things right first time.⁷ HMCTS considers that focusing more on the needs of court users in the reforms will improve how effectively the system functions, leading to fewer complaints from users. Examples of wider benefits identified by HMCTS include:

- lower travel costs for court users;
- fewer ineffective and cancelled trials as a result of better information-sharing and automation of case processing; and
- wider access to justice through the increased use of online services.

1.17 HMCTS recognised the potential for over-optimism in its assumptions about planned costs and benefits. It applied an adjustment of around 15% to reduce benefits and increase costs across programmes. It has also undertaken sensitivity analysis to test the impact of a number of scenarios involving increases in costs and delays or acceleration of the delivery timetables. For example it has:

- estimated that the impact of an increase in contractor costs of 10% combined with delays in the speed of delivery could further reduce the Net Present Value (NPV) of the Common Platform Programme by up to £271 million; and
- estimated that the impact of a combination of scenarios such as movements in the property market and delays in projects could reduce the NPV of the Reform Programme by £302 million.

Challenges in delivering the change portfolio

1.18 HMCTS faces a number of challenges in delivering the change portfolio:

- the scope is **wide** and the timetable is **ambitious**;
- it **relies on other organisations** to deliver aspects of the reforms; and
- there is uncertainty about when the necessary **legislation** will be introduced.

Ambition and complexity

1.19 The reforms are ambitious. A third-party review of the programme in 2016 found that, compared with other global programmes, HMCTS's plans had the shortest delivery timetable and largest planned coverage, and the scale of the changes proposed had never been delivered elsewhere.

1.20 The reforms are complex, with changes planned in every area of HMCTS's activities. In addition, there are many important interdependencies between the different individual projects that make up the three major programmes in the change portfolio. For example, to rationalise its estate, HMCTS needs to reduce the number of physical hearings and hold more virtual hearings. This requires changes to processes and technology.

⁷ See footnote 3.

Reliance on others to deliver the reforms

Delivery partners

1.21 Reform affects multiple departments, agencies, public bodies and individuals within the justice system, and elsewhere in government. To deliver some elements of the reforms, HMCTS is reliant on many of these bodies making changes to their ways of working, for example investing in new IT (**Figure 5** overleaf). In some cases, the costs and benefits of change may fall on different parts of the system. For example increased use of video links could mean that Her Majesty's Prison & Probation Service will save money from not transporting prisoners but could face increased costs as more prison officers will be required to accompany prisoners giving video evidence. HMCTS established a criminal justice system working group in 2017, to gain a better understanding of the costs and benefits to partners of implementing the reforms. This work is still at an early stage.

1.22 The judiciary is a key partner, as the planned reforms are expected to lead to significant changes to the way they work. For example, delegating routine tasks to case officers and making more use of technology should free up judicial time and mean the judiciary can operate more flexibly across different courts and tribunals. The judiciary is constitutionally independent from government, and cannot be directed to act in a certain way. Judges must be fully persuaded of the benefits of reforms in order for these to happen as planned. Legal professionals will also be significantly affected.

1.23 HMCTS is also working with multiple external suppliers to provide a range of services and products that it is unable to provide itself. As at November 2017, it estimated total commissioning costs of £138.5 million, across 39 contracts within the Reform Programme. The largest contract is £30 million for a two-year contract with its delivery partner PwC. The Common Platform Programme opted to develop the system in-house by bringing in IT contractors. The contract spend was £68 million on 12 contracts in 2017. The largest was on digital professional services to design, build and test the technology (£54 million). These contracts are due for renewal at the end of 2017-18 with an estimated value of £40 million over next two years.

User behaviour

1.24 Achieving many of the planned efficiency savings will require HMCTS to move services online. However, this depends on users changing their behaviour, and HMCTS has little direct control over this. In its estimates of the programme's benefits, HMCTS has made a number of assumptions about 'digital take-up'. For example, it assumes that most services should achieve 70% digital take-up within five years (with some achieving over 90%). This is based on average take-up rates from other public services adapted to each service, but user behaviour is hard to predict and difficult to test. Those who use the courts do so only rarely. In many cases, they have had no prior contact with the justice system and do not engage with it out of choice.

Figure 5

The impact of the reforms to the justice system and extent of change on delivery partners

Delivery partners will need to change the way they work

Delivery partners	How the reforms will affect their operations	Extent of change the partners will need to implement
Crown Prosecution Service (CPS)	All cases will be progressed and managed virtually outside the courtroom and automated where possible. This will reduce advocacy costs and allow resources to be deployed more flexibly.	Changes to current processes and IT capability, which will have cost and staffing implications.
Police	Cases will be managed online, which will reduce the administrative burden on staff. Virtual remand and sentencing hearings made from police stations could reduce the number of adult defendants remanded in police cells overnight, potentially reducing custody costs. Providing evidence at trial via a virtual link may reduce the need for officers to appear in court.	Significant investment is required to make relevant changes to work practices, IT infrastructure and estates. Alignment with 'Digital First' project. All 43 forces need to have a new system in place which is still being rolled out.
Her Majesty's Prison & Probation Service (HMPPS)	Increasing courts' operating hours will add to costs for escorting prisoners to and from video conferencing rooms, and keeping prison receptions open longer for those appearing in person. Virtual remand hearings from police stations may reduce custody costs but could also require more frequent collections by prisoner escort services, which will increase HMPPS costs.	Change to requirements and cost of Prisoner Escort Custody Services contract. Changes in business processes and IT investment.
Legal Aid Agency (LAA)	Online and streamlined processes may reduce lawyers' workloads. Reduced travelling and waiting time in courts.	Investment in technology, changes to fee structures and contracts, changes to working practices.
Department for Work & Pensions (DWP)	Automation of administrative functions to enable swifter processes for social security and child support tribunals. Use of digital case files will allow a proportion of cases to be decided online, reducing costs of sending representation for a courtroom hearing.	Work to support delivery of the tribunals' user technology and align DWP's internal processes with those of HM Courts & Tribunals Service (HMCTS).
HM Revenue & Customs (HMRC)	HMCTS is working with HMRC to pilot electronic hearings and the sharing of HMRC evidence electronically.	Align current processes with HMCTS's newly digitised services.
Children and Family Court Advisory and Support Service	Shared processes. Accessing and sharing case data electronically aims to speed up turnaround of cases and reduce duplication of data and effort.	Adapt ways of working to be able to deliver reforms to family law.
Home Office	Future plans for Wi-Fi and screens in courtrooms so evidence can be viewed digitally. Digital transcripts could be made available to parties in the hearing room.	Ensuring technological developments in the Immigration Platform Technology programme are aligned with the Reform Programme.
Youth Justice Board and youth offending teams	Not yet specified.	Virtual hearings could impact on the current working practices of youth offending teams.

Source: National Audit Office review of HM Courts & Tribunals Service Reform Programme 2017 business case

Legislation

1.25 To be fully implemented the reforms depend on the introduction of new legislation, but this is one area in which HMCTS's control is limited. For example, the legislation will enable courts to use virtual hearings in a wider range of situations than is currently possible, and it will authorise staff to perform delegated judicial functions. The Prisons and Courts Bill was introduced to Parliament in February 2017, but stopped in April following announcement of the June election. A revised Courts Bill was included in the legislative programme outlined in the Queen's Speech in June 2017, but as yet no date has been set for it to be considered by Parliament.⁸

1.26 HMCTS believes it can deliver the reforms without legislation but this will require significant work-arounds and potentially signal a lack of commitment to the changes. This could delay the programme or reduce benefits. For example, not having primary legislation will require that certain planned changes will need to be enacted through Procedure Rules Committees, which are led by the judiciary. HMCTS has assessed the impact of legislative scenarios and estimates that, in the absence of primary legislation, the value of benefits could fall by between £72 million and £95 million each year, and funding from the sale of estates could reduce by up to £62 million. 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.

⁸ Cabinet Office, Queen's Speech 2017: *what it means for you*, policy paper, section 3.5, 21 June 2017.

Part Two

Overview of progress

2.1 HM Courts & Tribunals Service (HMCTS) is approximately two years into a six-year transformation plan. The plan comprises three major ‘tranches’ made up of projects to reform a range of services such as divorce and probate. Each project aims to redesign an end-to-end service. For example, projects aim to digitise processes such as filling in application forms and making payments, so that these tasks can be completed online.

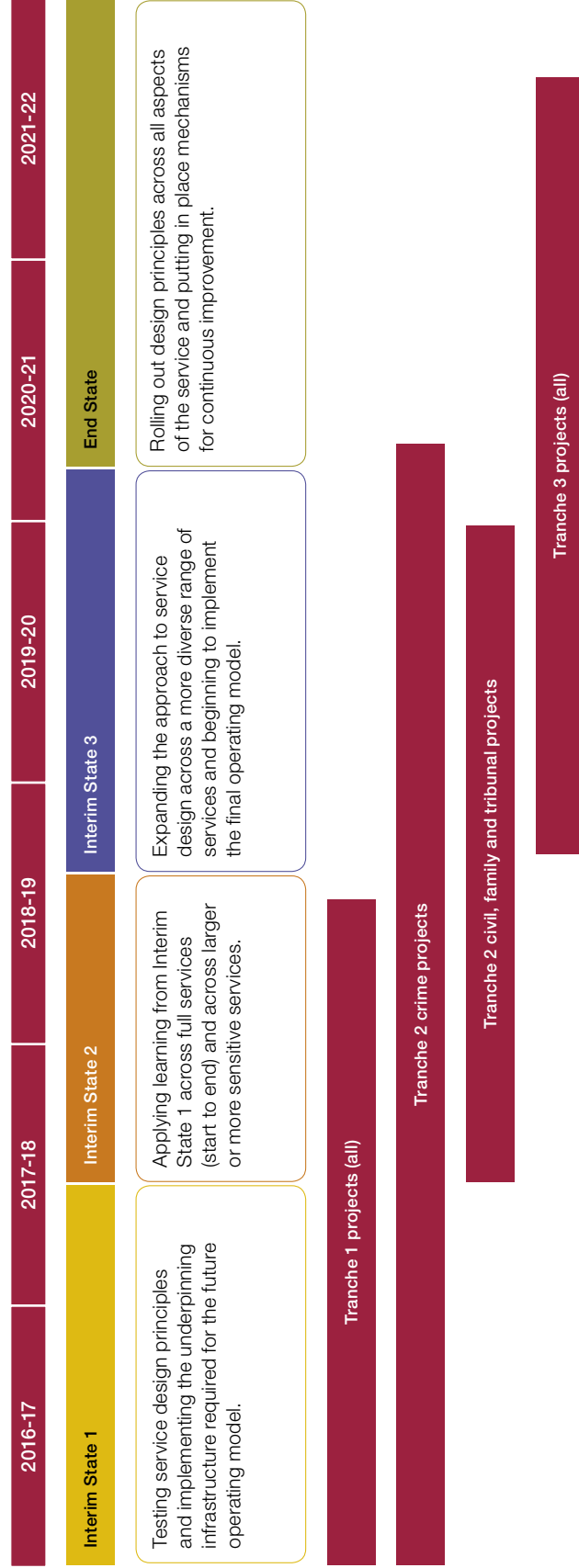
2.2 HMCTS has adopted an ‘agile’ approach, whereby products are developed and revised on an ongoing basis in response to user feedback. It considers that this approach means there are opportunities to test, refine and improve each change, rather than bringing everything together at a single point at the end. It is developing common components that can be reused in different projects, with appropriate modifications. For example, in order to digitise various processes across the justice system, HMCTS will begin by delivering an online payment system. It will then move to a tool to enable users to upload documents. Only when it is satisfied that these elements are working will it introduce additional functions such as notifications, tracking and evidence-sharing.

2.3 These projects will be delivered across four ‘interim states’ (**Figure 6**). The first, known as Interim State One, was completed in September 2017. The second and third will follow at 16-month intervals. The reforms are all due to complete by March 2022, and HMCTS expects the changes will be fully embedded by March 2023.

2.4 HMCTS has structured the change portfolio around six ‘pillars’, supported by five central management teams. A portfolio delivery team acts as a central project management office. It is responsible for overseeing planning, delivery, coordinating performance information and ensuring that the various project and programme teams follow the same approach. It monitors and reports progress in two ways, using:

- milestones to track progress against the integrated project plan; and
- ‘design statements’ which consist of descriptive outcomes linked to the ‘target operating model’.

Figure 6
 The implementation stages for the reforms to the justice system from 2016 until completion
 Delivery is split into a series of 'interim states' and project tranches



Note

1 The 'tranches' consist of a group of projects to reform a range of services such as divorce and probate. Each project aims to redesign an end-to-end service.

Source: National Audit Office review of HM Courts & Tribunals Service papers

2.5 A recent external review recommended that these design statements be made more 'SMART' and HMCTS itself has recognised that they were not an effective way to monitor performance. The statements do not have equal weighting in terms of impact or difficulty, combine both qualitative and quantitative measures and are not linked to projects or programmes within the portfolio. HMCTS is revising its approach to performance monitoring and aims to start a new approach in 2018.

2.6 HMCTS completed the first of its four interim states in September 2017. This first stage focused on putting in place the supporting structures for the future operating model and starting to develop and test new services.

2.7 Overall, performance was mixed with some areas of the portfolio performing well, and others less so. Broadly HMCTS is behind where it planned to be. At the end of the first stage, HMCTS reported that it had fully completed 62% of planned outcomes and partially completed 25%, 11% significantly incomplete and 2% (one outcome) was 'materially incomplete', having an adverse impact on readiness for the next stage. **Figure 7** on pages 28 and 29 breaks down performance by each of the main programmes.

2.8 The outcome considered 'materially incomplete' relates to HMCTS's plans to have a national system to handle bulk document scanning and printing by September 2017. However, delays to procurement and contract award have pushed signing the contract to spring 2018. This impacted on two projects – Social Security and Child Support (SSCS) and probate – which initially required the system from January 2018 though both projects have since moved later, to June 2018.

Stakeholder engagement

2.9 HMCTS has consulted with stakeholders and has established a range of governance and engagement groups for its projects. Decision-making boards include senior judges, and there is a cross-system Criminal Justice System Integration Board which includes key players from the criminal justice field. There are also working groups for the main groups of users, such as legal professionals and victims and witnesses.

We found the following:

- **Judiciary**

In the early phases of the programme, HMCTS engaged well with the senior judiciary, who are positive about reforms. This continued when the new senior judicial appointments were made in October 2017. Senior judges are involved in the reform projects, working groups and are represented on the Portfolio Board to ensure there is judicial input into the design of reformed services. The support of senior judges is essential in communicating with the wider judiciary. However, so far, there has been little wider engagement. There are challenges around managing expectations and ensuring that judges are bought into the changes. Prior to his appointment, the Lord Chief Justice requested support to improve communication and the involvement of the judiciary in the reforms. Methods Business and Digital Technology Ltd, with Accenture as a subcontractor, were appointed to carry out this work, which is paid for from the reform budget, under the direction of the senior judiciary.

- **Key delivery partners**

The police, CPS and prisons need to invest in new technology that is compatible with HMCTS systems. HMCTS has built relationships with senior leaders to communicate and influence behaviour, but there are ongoing challenges in ensuring that all parties align their projects and establish how costs will be shared.

- **Legal professionals**

HMCTS has faced challenges in persuading legal professionals of the benefits of some of the changes and involving them in service design. It faced large opposition to the proposal to extend court working hours, which led to the delay in rolling out pilots.

Spend against budget

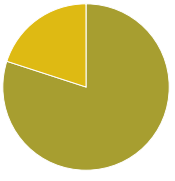
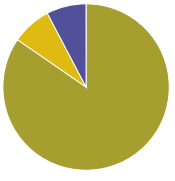
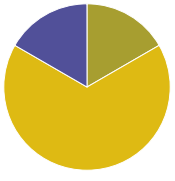
2.10 At the end of September, HMCTS had underspent against its budget but delivered more benefits than expected. Specifically:

- HMCTS spent £276.7 million across its portfolio against profiled funding of £410 million. This underspend arose from projects being deferred (either as a result of delays or from the two-year extension to the overall time frame). HMCTS expects to be able to carry forward the £133.3 million underspend to use in future years.
- On benefits, the Reform Programme delivered a total of £65 million in savings, far exceeding its predicted level of £17 million. Around two-thirds of the savings came from reduced staff costs from natural attrition, in other words, not replacing staff who leave if their jobs will eventually go as part of the reforms. Other savings came from earlier projects in civil, family and tribunals and from estate savings from the first phase of court closures. The Common Platform Programme has delivered benefits of around £8 million up to the end of 2016-17.

Figure 7

Performance summary by area across the change portfolio at the end of September 2017

Performance has varied across the various parts of the portfolio

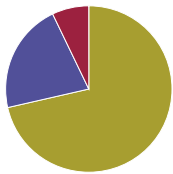
Area of the portfolio	Crime	Civil, family and tribunals	Property
HM Courts & Tribunals Service rating	Amber/Red	Amber	Amber/Green
Percentage complete	 <ul style="list-style-type: none"> Complete, 4 (80%) Partial, 1 (20%) Significantly incomplete, 0 Materially incomplete, 0 	 <ul style="list-style-type: none"> Complete, 11 (85%) Partial, 1 (8%) Significantly incomplete, 1 (8%) Materially incomplete, 0 	 <ul style="list-style-type: none"> Complete, 1 (17%) Partial, 4 (67%) Significantly incomplete, 1 (17%) Materially incomplete, 0
Key points	<p>The Common Platform Programme started to deliver early products, but most were delayed from 2016-17. For example:</p> <ul style="list-style-type: none"> ● Digital Mark-Up – legal advisers can record the case outcome directly in court rather than longhand after the session. National roll-out started in September 2017. ● An automated case management system for Transport for London fare evasion cases. This includes enabling people to submit pleas online. The system processes 350 cases a week. Capacity to process TV licensing and Driver & Vehicle Licensing Agency cases has been delayed. ● An early version of information-sharing (called C2i) between the Crown Prosecution Service (CPS) and the police is being piloted. It has been delayed from September 2016. 	<p>Several services (divorce, probate, help with fees and civil money claims) were tested online with real users and early feedback was positive. HMCTS also trialled an option for some users to track their case online and receive real-time text alerts. The online tax appeals service had 2,300 users and 700 appeals were made.</p>	<p>HMCTS exited 108 courts. Although this was slightly fewer than planned, it generated £46 million, which was £15 million more than expected.</p>

Notes

- 1 Management has no rating as HMCTS did not assess this as a separate category.
- 2 Note numbers do not sum due to rounding.

Infrastructure and operations

Amber

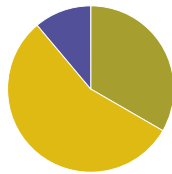


- Complete, 10 (71%)
- Partial, 0
- Significantly incomplete, 3 (21%)
- Materially incomplete, 1 (7%)

Started to modernise its phone systems to handle more calls and provide better support. Tools are available in hearings to access and share case documents. However, the roll-out of Wi-Fi to civil, family courts and tribunals has been delayed, and is now expected around April 2018. Pilots to test extended hours, multi-jurisdictional centres and face-to-face support were delayed, as was the capability to scan and print documents in bulk.

People

Amber



- Complete, 3 (33%)
- Partial, 5 (56%)
- Significantly incomplete, 1 (11%)
- Materially incomplete, 0

Staff with new skills are being recruited, and new roles created and trialled. For example, case officers and customer support staff. Training and processes are being revised to align with new functions. There have been delays in bringing in specialist resources.

Transforming Compliance and Enforcement Programme

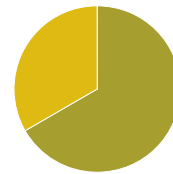
Amber

N/A

Delivery is now one year later than planned due to delays in procuring a financial system and the fact that HMCTS is not able to use an off-the-shelf debt management system as planned.

Management

N/A



- Complete, 4 (67%)
- Partial, 2 (33%)
- Significantly incomplete, 0
- Materially incomplete, 0

Some services are now managed nationally, rather than locally or regionally, and new key performance indicators have been developed. There is still work to do on stakeholder engagement and management information.

Evolution of the business case

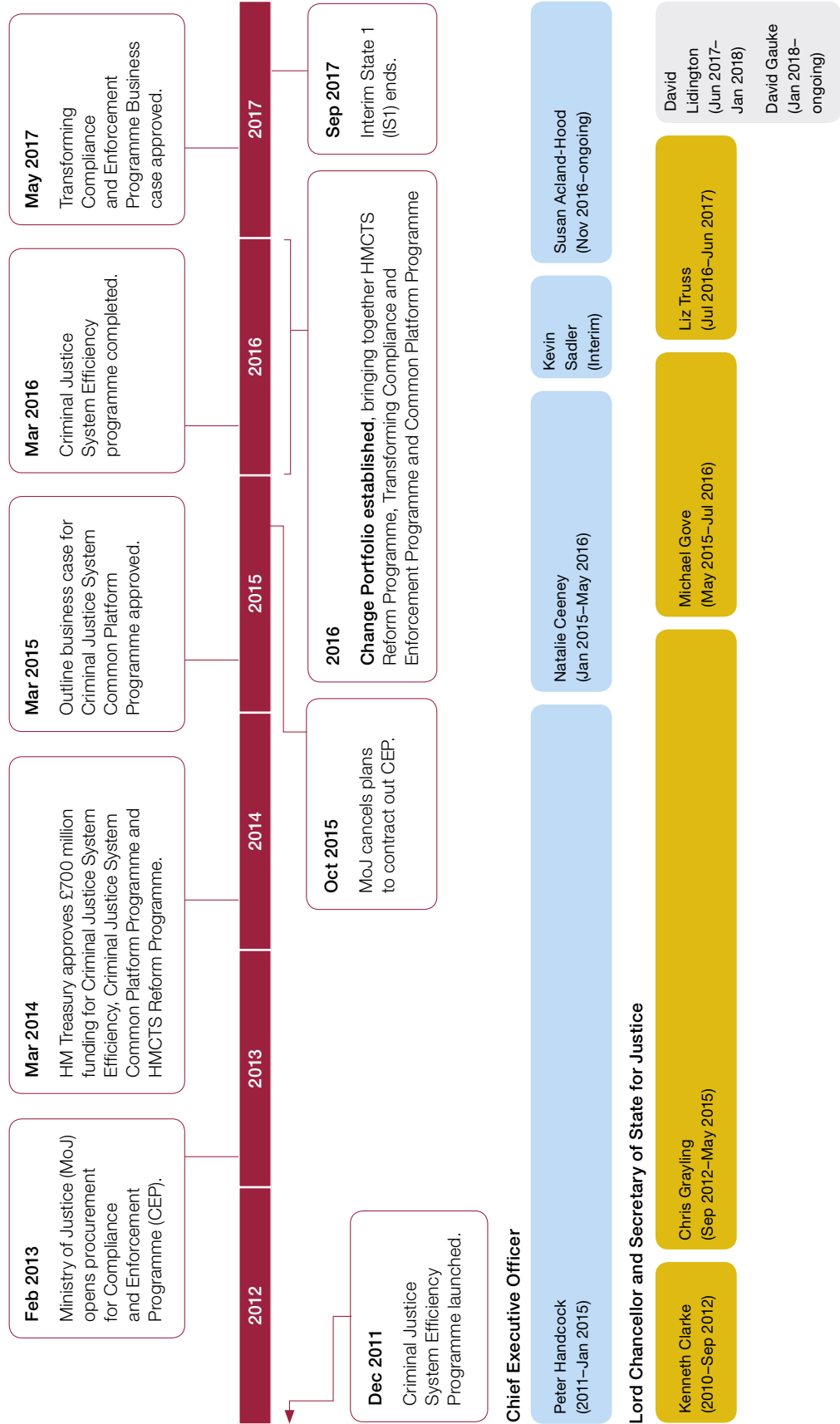
2.11 HMCTS first sought funding for a collection of change programmes in 2014. Since then, there have been changes in leadership and in decisions about how to manage the package of programmes. The business cases for the Reform Programme and the Common Platform Programme were originally approved in 2015. In 2016, these projects were brought together with the Transforming Compliance and Enforcement Programme (TCEP) to form the change portfolio (**Figure 8**).

2.12 HM Treasury requires HMCTS to update its business cases (for Reform and Common Platform) at each interim state as a condition of receiving ongoing funding. Since the business cases were approved in 2015, HMCTS has revised them twice, resulting in changes to the timing and scope of the portfolio. For example:

- In November 2016, the timetable for delivering the Reform Programme was extended from four to six years following an independent review that highlighted the programme's ambition. The two-year extension added an additional final stage, but no new funding was made available.
- The Common Platform was originally due to complete in July 2018, but suffered from significant delays in development and delivery. This was mainly due to challenges associated with managing dependencies across three organisations (the police, CPS and HMCTS), the complexity of the technology and creating a new in-house team to develop the software. In 2017, HMCTS opted to reduce the project to 'prioritised essential scope' and delay completion to June 2020 to stay within the budget. It also integrated management of the Common Platform with other parts of the portfolio.
- In November 2017, HMCTS added a new civil enforcement project costing £8 million into the Reform Programme, which adds £8 million to the steady state savings. It widened the portfolio to include the criminal justice system efficiency programme, which began in 2015, and seven other smaller change projects, which are now mainly complete. Inclusion of these in the portfolio adds £6 million of steady state benefits from 2023-24 onwards and unused funding of £12 million.

Figure 8 Events leading to the development of HM Courts & Tribunals Service's (HMCTS) change portfolio

The change portfolio has evolved over the last six years, bringing together various projects to support reform



Source: National Audit Office review of HM Courts & Tribunals Service documents

2.13 These changes to the timing and scope have impacted on the expected costs and benefits: overall costs have increased and benefits have reduced (**Figure 9**). Between 2015 to 2017:

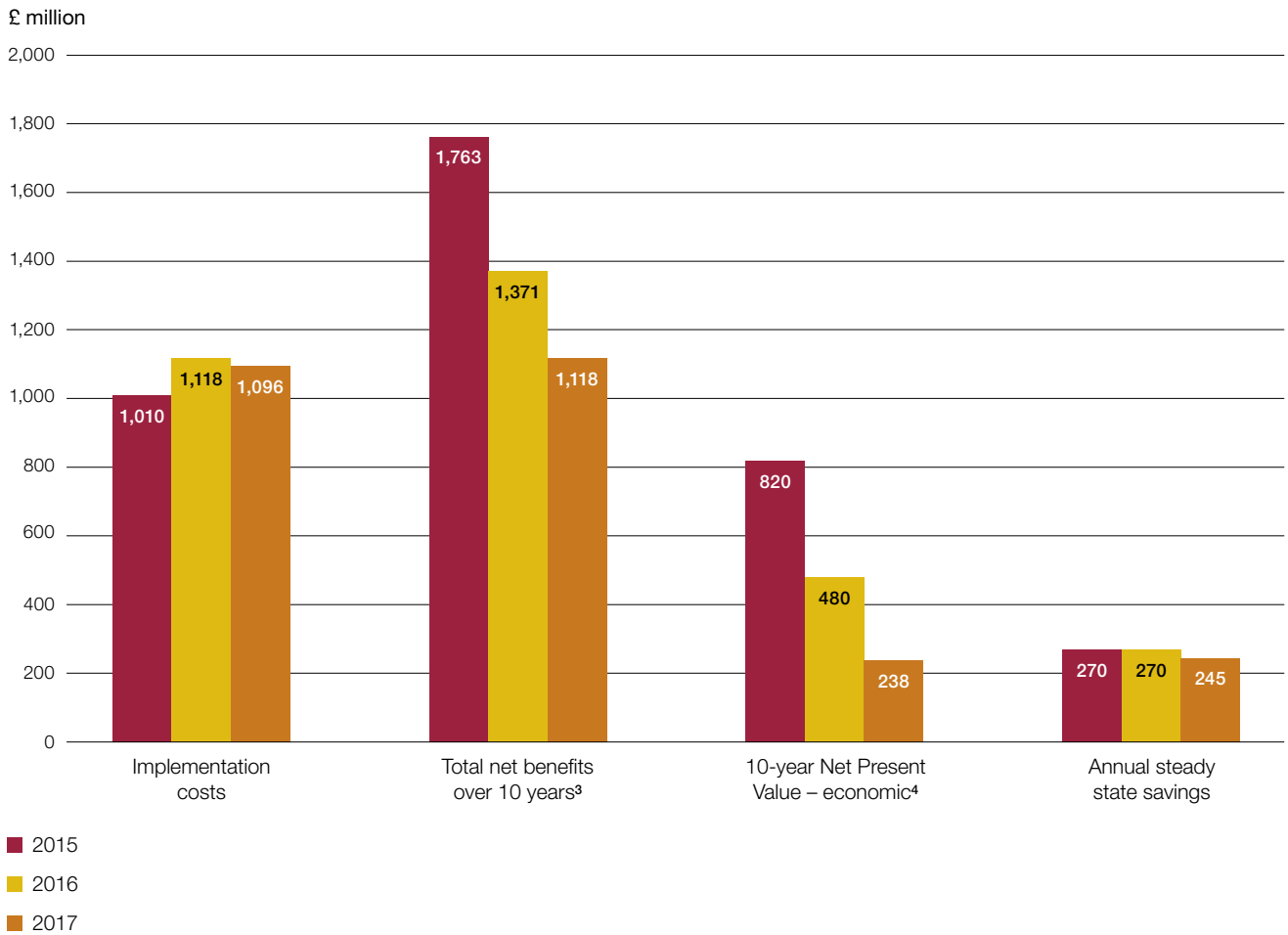
- the 10-year economic case has reduced from a Net Present Value of:
 - £770 million to £354 million for HMCTS Reform; and
 - £50 million to minus £116 million for Common Platform.
- Annual steady-state benefits for the change portfolio were delayed two years until 2023-24, and overall benefits reduced by 9% from £270 million to £245 million a year.

2.14 As a consequence of the changes to the portfolio, HMCTS estimates that there will be a £61 million funding gap over the 10-year period from 2014-15 (**Figure 10** on page 34). This assumes that HMCTS can carry over all underspends from 2014-15 onwards. However, with a possible spending review expected around 2020, this is uncertain. If HMCTS cannot carry the unused funding forward, the funding gap could be as high as £177 million.

Figure 9

HM Courts & Tribunals Service (HMCTS) Reform and Common Platform Programme costs and benefits over time

While costs have remained largely static, the value of benefits has decreased over time



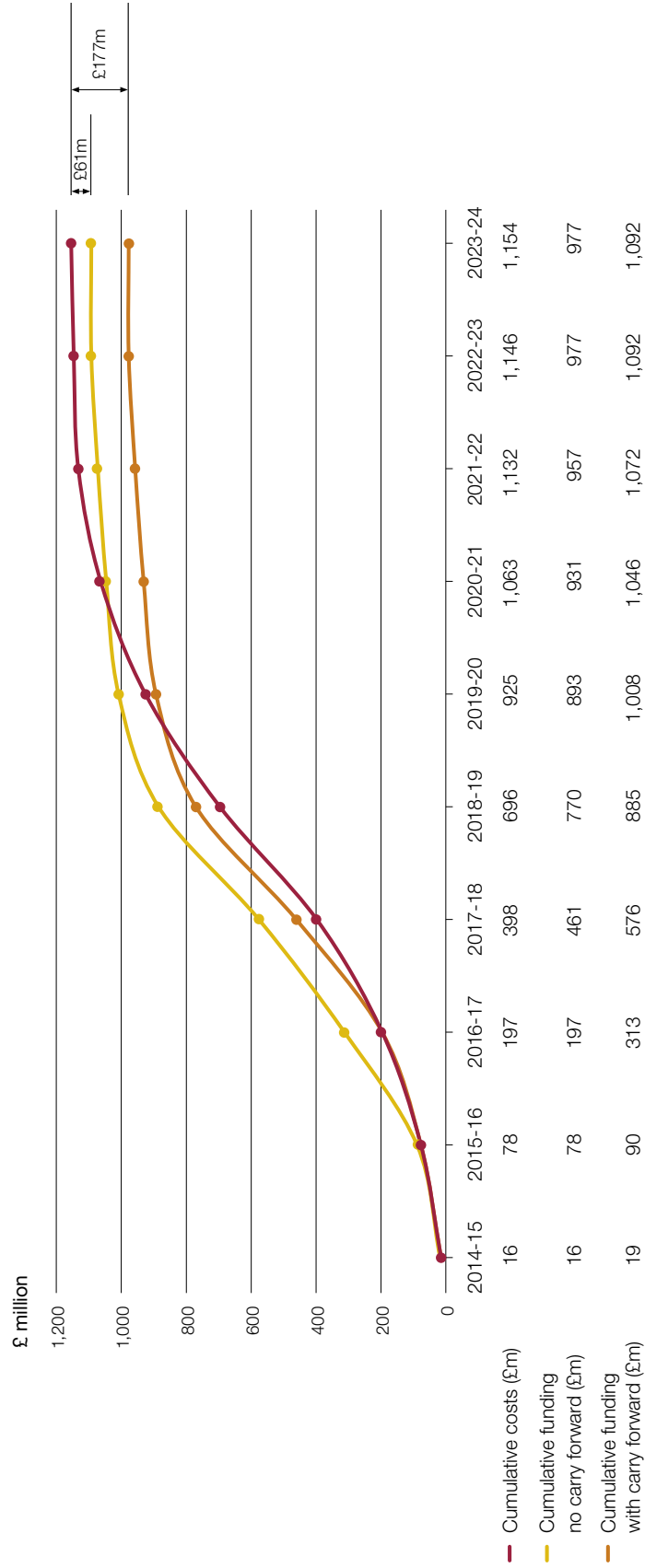
Notes

- 1 Includes HMCTS Reform and Common Platform only. Excludes other programmes within the portfolio.
- 2 All figures are nominal except for the economic Net Present Value, which is in real terms.
- 3 The total net benefits figures relate to the same 10-year period 2015-16 to 2024-25.
- 4 The 10-year periods for Net Present Value differ for each programme. HMCTS Reform is from 2015-16 to 2024-25. Common Platform is from 2014-15 to 2023-24.

Source: HM Courts & Tribunals Service Reform and Common Platform business cases

Figure 10
Funding and spending trend in delivering the reforms to the justice system

There is a funding gap from 2020-21 of at least £61 million



Note

1 Carry forward is where funding not used in previous years is made available for future spending.

Source: HM Courts & Tribunals Service Reform Programme, Common Platform Programme and Transforming Compliance and Enforcement Programme business cases

Part Three

Forward plan and risks

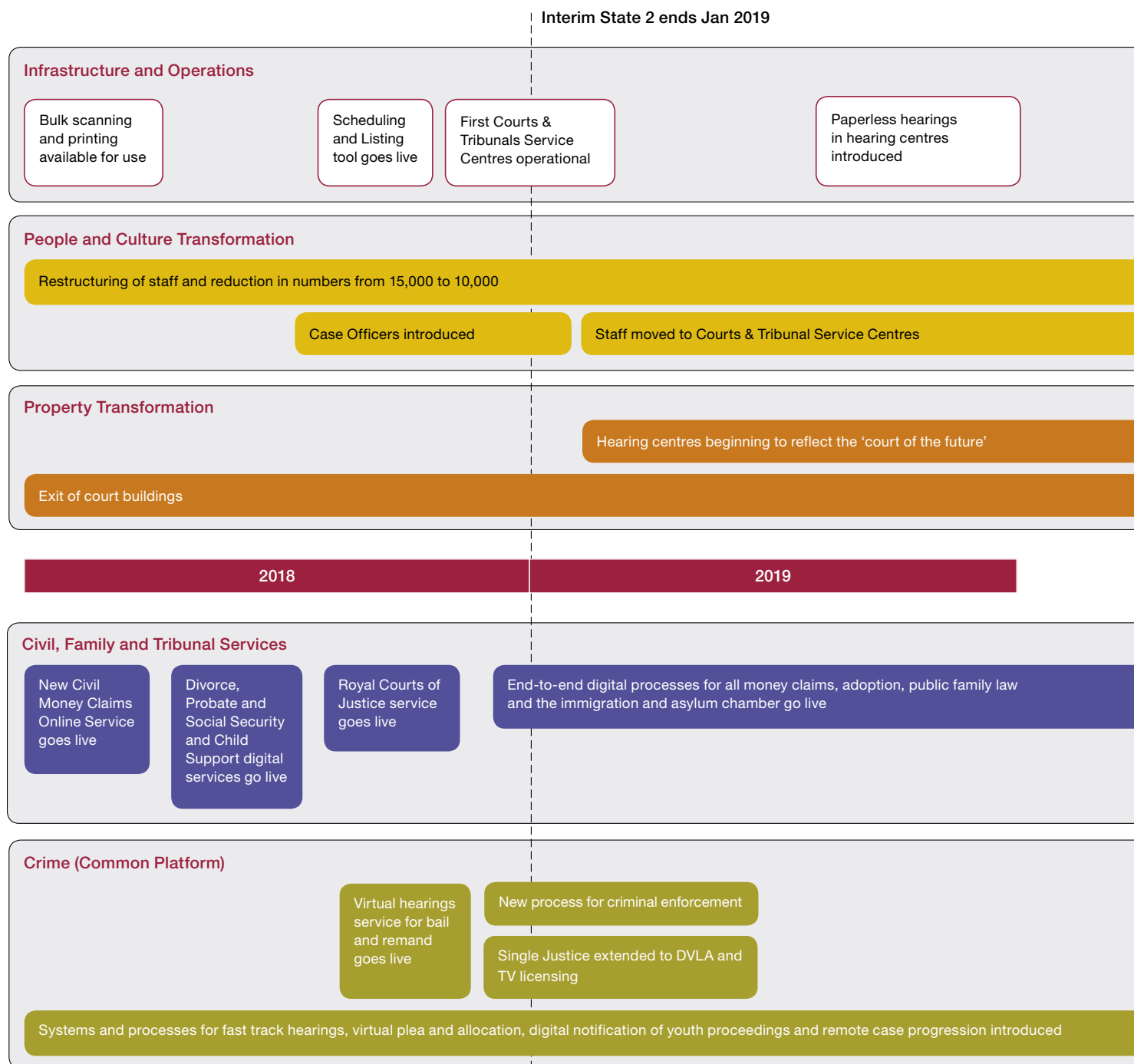
The next stages

3.1 HM Courts & Tribunals Service (HMCTS) has a lot to achieve in the remainder of the programme as new services are rolled out to many more users and start to have a greater impact on citizens, professionals and judges (**Figure 11** on pages 36 and 37). During the next stage of the reforms, HMCTS will focus on: establishing the new courts and tribunals service centres; testing how virtual hearings will work in practice; offering wider court opening hours; and reorganising its staff to better support court users. During Interim State 2, due to complete in January 2019, HMCTS plans to:

- a** **Build on the projects started during Interim State 1**, developing the functionality further, and extending their reach to new areas. For example, it will extend the online system already used by Transport for London for dealing with penalties for fare evasion, to TV Licensing fines and vehicle offences. It will also make the systems for probate and uncontested divorce available to more users. It will widen the Common Platform Programme, which has been piloted in a limited area, to more courtrooms and to cover more cases, and will extend its pilot on using courtrooms more flexibly.
- b** **Introduce a range of new projects across all jurisdictions**, which will bring more services online. These include the management of civil money claims, and the adoption process for both public and private law cases. The projects will also provide the technology to support digital working, for example they will include work on a new 'core case management' system for the civil courts, and a project to support the submission and sharing of evidence electronically in public family law. HMCTS will also start a project to improve the scheduling and listing processes by providing the judiciary with better information.
- c** **Make further changes to the supporting infrastructure**, including upgrading and improving existing buildings in line with an updated 'design guide' and continuing to rationalise the court estate. HMCTS will also start to reduce and restructure its workforce and operations by creating the national courts and tribunals service centres (paragraph 1.11). The first are expected to open in Birmingham and Stoke-on-Trent by January 2019.

Figure 11

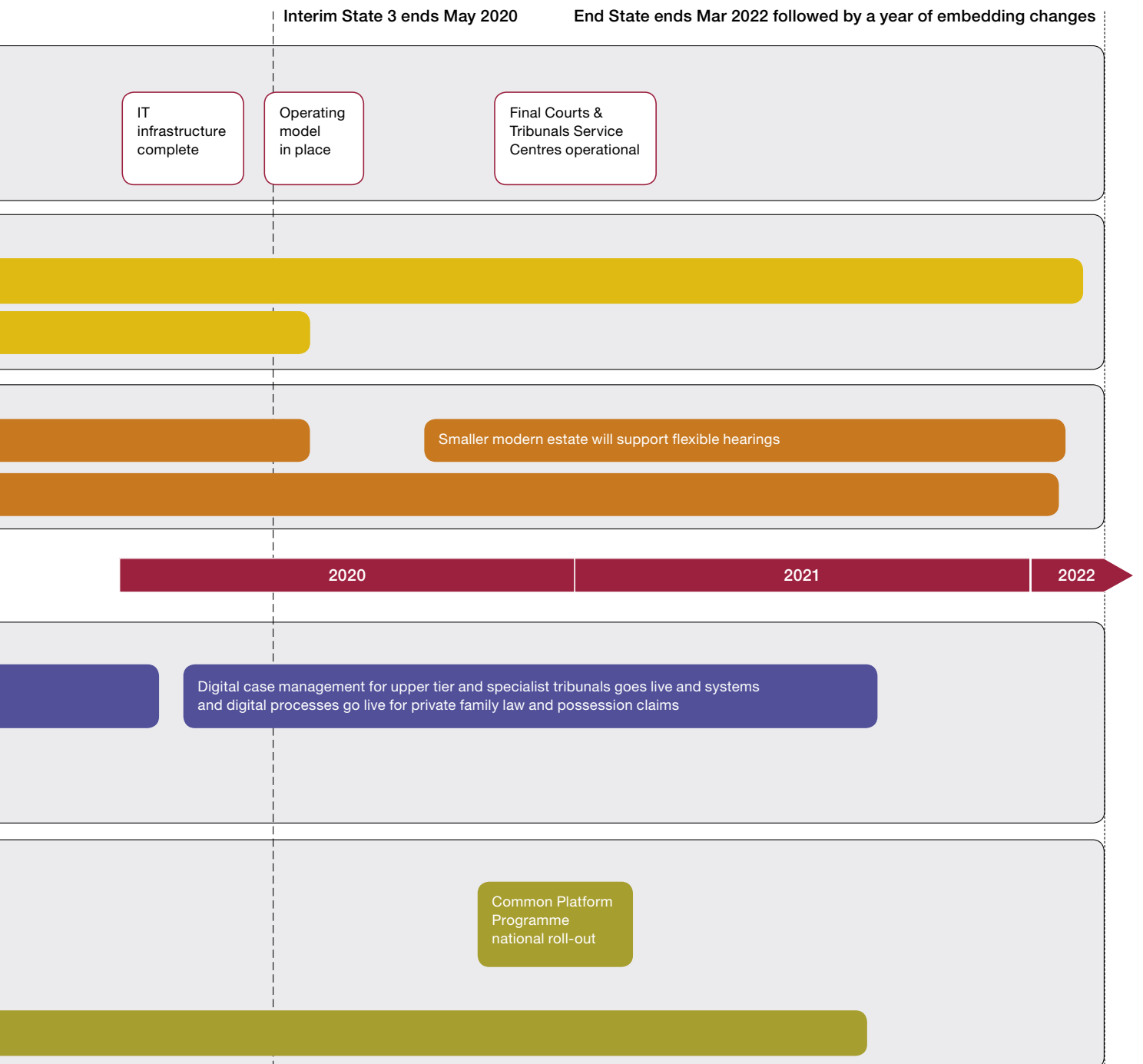
Timeline of main deliverables under the reforms to the justice system from 2018 to 2022 by change portfolio area



Note

1 Interim State 1 ended in September 2017 and Interim State 2 began straight after.

Source: National Audit Office review of HM Courts & Tribunals Service documents



The risks to delivery

External assurance reviews

3.2 The next phase of the change portfolio presents a significant challenge. The most recent review of the portfolio by the Infrastructure and Projects Authority took place in October 2017. This review found that successful delivery of the programme is still in doubt with major risks or issues apparent in a number of key areas. It recognised, however, that HMCTS had taken actions to address risks and issues identified in previous assurance reviews, and had improved how it manages the programme. In some areas, actions are still in progress (**Figure 12**).

Common issues across transformation programmes

3.3 The government does not have a good track record of delivering large-scale service transformation to plan. As part of this work, we sought to identify and apply lessons from our reviews of other transformation programmes in government to highlight the most significant risks to achieving the intended outcomes. These risks are heightened by the pressure to deliver the planned reforms within a short timetable.

Dependence on stakeholders to achieve planned change

3.4 Although much of the reforms are within HMCTS's control, significant elements rely on the actions of other organisations like the judiciary, police, Crown Prosecution Service (CPS) or Her Majesty's Prison & Probation Service. Failure to secure full commitment from all these delivery partners will significantly reduce the likelihood of achieving the planned changes and therefore the wider benefits. Delivering the programme successfully depends on HMCTS's ability to convince stakeholders to change their working practices and make complementary investments in technology at the right time. The challenge is made greater by the limited influence HMCTS has over stakeholders.

3.5 Assurance reviews and our own work have highlighted that stakeholders do not fully understand how reformed services will work and how all the initiatives are going to come together. There is also limited information available to them on what has already been delivered and the projects that are currently in progress. Lack of clarity about operating models can contribute to delays and programme failings. For example, in the early years of Universal Credit several reviewers raised concerns about the absence of a complete target operating model or blueprint for the programme. We noted that this was necessary for the Department to manage priorities in a large and complicated programme, help establish a consistent basis for decisions about the design of services, and assess progress against objectives. In 2014, the Department for Work & Pensions developed more detailed target operating models which have since helped it coordinate work on the Universal Credit programme.⁹

⁹ Comptroller and Auditor General, *Universal Credit: progress update*, Session 2014-15, HC 786, National Audit Office, November 2014.

Figure 12

Actions taken by HM Courts & Tribunals Service (HMCTS) in response to external reviews

Issues identified in assurance reviews	HMCTS actions taken or in progress
Strategic direction and design	
<ul style="list-style-type: none"> ● The target operating model lacks detail, and it is unclear how it links to the planned outcomes. ● The portfolio lacks a 'golden thread', linking the planned changes to business need. 	<ul style="list-style-type: none"> ● Undertaking a design review of projects, which it intends to include in a revised target operating model by the end of January 2018. ● Developing a detailed plan, which will map outcomes for the next stage to the target operating model.
Governance	
<ul style="list-style-type: none"> ● Roles and responsibilities lack clarity and decision-making is not timely. 	<ul style="list-style-type: none"> ● Restructured governance groups and processes.
Portfolio management	
<ul style="list-style-type: none"> ● The portfolio lacks coherence, and dependencies are not managed at portfolio level. 	<ul style="list-style-type: none"> ● Introduction of portfolio dependency logs to improve visibility of interdependencies. ● Integrated Common Platform Programme into the portfolio as part of the new 'crime' programme.
Management Information	
<ul style="list-style-type: none"> ● Progress indicators are not 'SMART'. 	<ul style="list-style-type: none"> ● Making changes to performance measures and reporting, including new performance dashboards.
Capacity	
<ul style="list-style-type: none"> ● Shortage of resources, particularly in ICT, commercial, project and change management, and concerns about continuity. 	<ul style="list-style-type: none"> ● Brought in PwC as a delivery partner in September 2017. ● Streamlining civil service vetting process.
Delivery	
<ul style="list-style-type: none"> ● Concerns that Common Platform Programme is being delivered too slowly. ● More work needed to build support from stakeholders. 	<ul style="list-style-type: none"> ● Revised delivery structure, and integrated Common Platform Programme into new 'crime' programme. ● Worked with the Judicial Office to appoint Methods Business and Digital Technology Ltd (with Accenture as subcontractor) to support judicial engagement and HMCTS plans to hold roadshows with legal professionals.
External dependencies	
<ul style="list-style-type: none"> ● Process for making decisions that affect other departments needs to be clearer, including estimates of costs and benefits. 	<ul style="list-style-type: none"> ● Work on estimates is in progress.

Source: National Audit Office review of Infrastructure and Project Authority and Major Projects Review Group and HM Courts & Tribunals Service actions log

3.6 Stakeholder engagement has been made more challenging by high turnover of senior stakeholders, including within the senior judiciary, the CPS and responsible ministers. Such turnover is to be expected in a multi-year transformation programme. What is less clear is the extent to which the additional effort necessary to rebuild and maintain relationships has been factored into the already tight programme timetable. Leaving sufficient space for meaningful engagement is critical. In the e-borders programme, the Home Office made unrealistic assumptions about programme delivery without recognising the importance of managing a diverse range of stakeholders. These difficulties affected progress in rolling out e-borders from the outset.¹⁰

Understanding and managing unintended consequences

3.7 Delivering change of this scale at such a pace means that HMCTS is under pressure to make decisions before it fully understand the wider consequences. In other change programmes this has led to unintended consequences for other parts of the system. For example, in the 2012 reforms to civil legal aid, the Ministry of Justice (the Ministry) expected that removing funding for civil legal aid from certain areas of law would divert people away from courts and into mediation, a far less expensive way to resolve disputes. In fact, the reforms led to a 56% fall in mediation assessments because, by reducing the scope of legal aid, the Ministry had reduced the number of consultations with solicitors and therefore referrals into mediation.¹¹

3.8 In the case of the planned reforms to courts and tribunals, there is a risk that the changes will increase costs or impact on the effectiveness of other organisations where their needs are not taken into account or sufficiently coordinated. For example, the Common Platform aims to provide a case management system for the police, CPS and courts, replacing a range of legacy systems. This will require a thorough understanding of the existing data requirements and workflows of all organisations and the capacity to alter these as new technology is introduced. The planned increase in virtual hearings is another example of such a change. While virtual hearings could reduce transport costs and increase flexibility, they could also increase the burden on prison officers in facilitating the attendance of prisoners through video links.

3.9 There is also a risk that the drive for efficiency could be seen to compromise the perception of an independent, fair justice system. Stakeholders have raised concerns about the potential for virtual hearings to affect both how engaged defendants are and consequently how they are perceived by juries and sentencers. There is some limited research from 2010 suggesting that defendants appearing in court on video links were more likely to receive prison sentences than those attending in person.¹² HMCTS is planning to evaluate its pilot of virtual hearings in March 2018.¹³ It is important that the possible consequences of changes are explored and understood before they are implemented on a larger scale.

10 Comptroller and Auditor General, *E-borders and successor programmes*, paragraphs 2.7 to 2.14, Session 2015-16, HC 608, National Audit Office, December 2015.

11 Comptroller and Auditor General, *Implementing reforms to civil legal aid*, paragraph 2.8, Session 2014-15, HC 784, National Audit Office, November 2014.

12 Ministry of Justice, *Virtual court pilot outcome evaluation*, Ministry of Justice research series 21/10, December 2010.

13 The intention is for virtual hearings to have all participants online rather than just the defendant.

Over-optimism in benefits

3.10 Service transformation programmes can suffer from overly ambitious savings assumptions. The benefits from such programmes are often uncertain and highly dependent on how change is implemented. Around 65% of the benefits recognised from the Reform Programme to date have come from not replacing staff who have left, rather than from fully implementing new ways of working or moving activity online. More than 1,500 staff had left by September 2017 and positions are not being filled if the roles will ultimately go as part of the reforms. This has resulted in some gaps and risks putting pressure on HMCTS's ability to maintain current services.

3.11 HMCTS has applied a 15% reduction across its estimates of benefits to try and address the risk of over-optimism in its assumptions (paragraph 1.17). As individual projects are implemented, HMCTS will be better able to test whether this adjustment is sufficient, as experience on one project suggests it may not be. The Digital Mark-Up project enables the results of hearings to be recorded digitally during the session, as opposed to being entered onto a system afterwards. During the pilot of this project, HMCTS found that the range of cases that can be handled in this way is smaller than expected. It reviewed the benefits following feedback from live testing and reduced its expectations by a third, from planned benefits of 75% of existing resources to 50%.

3.12 Some future benefits rely on assumptions about the speed with which users will switch to online services. HMCTS has assumed that at least 70% of users will move to online services within five years (paragraph 1.24). Experience suggests that such estimates can tend to be over-optimistic. For example, in 2016-17, we found that HM Revenue & Customs (HMRC) work to shift customers to online services had not reduced customer demand for telephone contact to the levels expected, affecting the efficiency savings it was able to deliver.¹⁴ HMCTS also faces some particular challenges in trying to anticipate the behaviour of the population it serves; those who use the courts do so only rarely. In many cases they have had no prior contact with the justice system and do not engage with it out of choice.

¹⁴ Comptroller and Auditor General, *HM Revenue & Customs 2016-17 Accounts, Report by the Comptroller and Auditor General*, paragraph 2.31, National Audit Office, July 2017.

Appendix One

Our audit approach

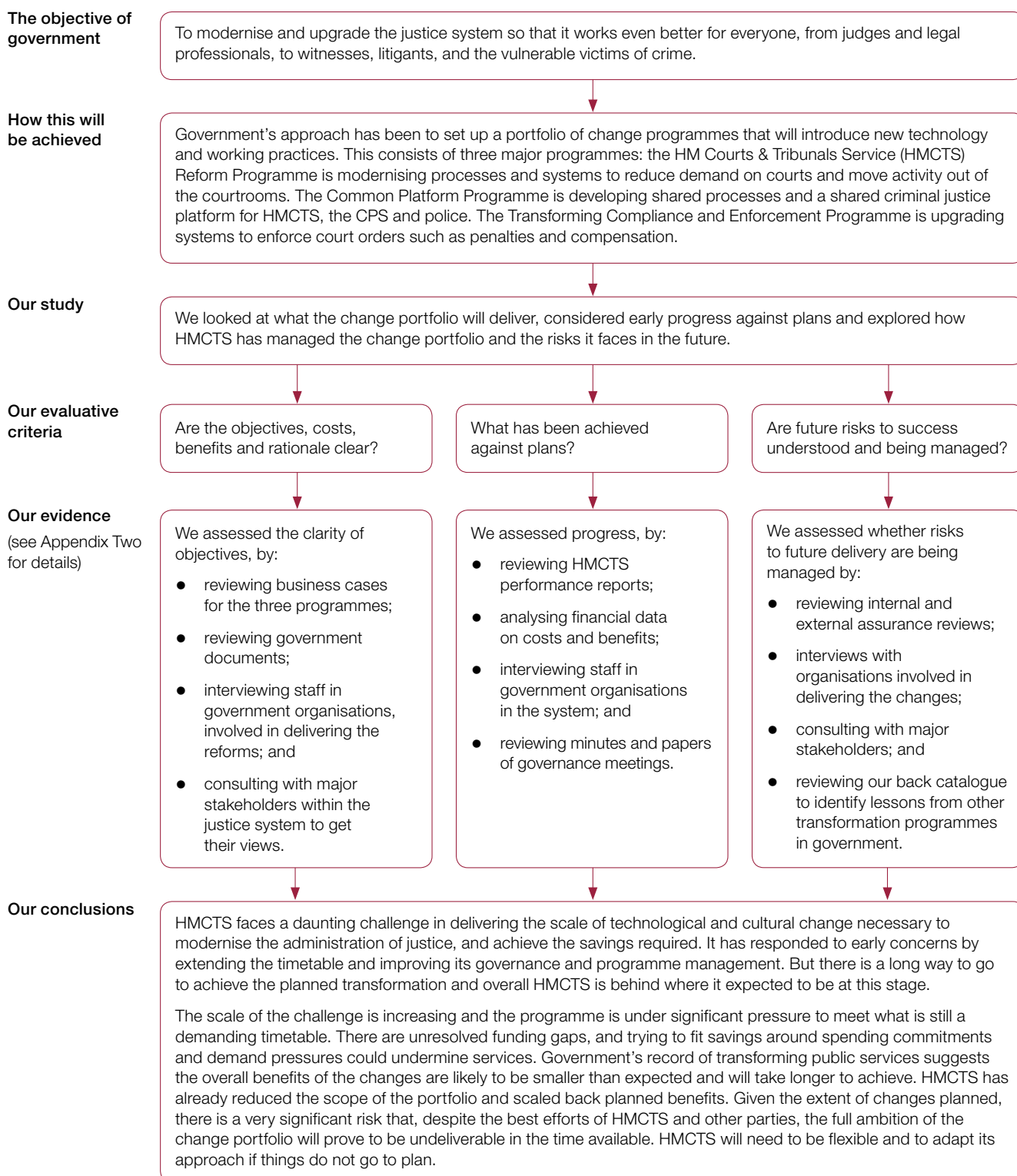
1 This study examined the reforms to the justice system led by HM Courts & Tribunals Service (HMCTS). We sought to establish whether government is well placed to deliver the changes by examining whether:

- the objectives, costs, benefits and rationale for the reforms are clear;
- work on the change portfolio is progressing to plan; and
- HMCTS and partners are aware of, and managing, the risks to delivering the portfolio successfully.

2 This study is the first in a programme of work to examine and report on progress and risks at an early stage. It provides a baseline for future analysis of value for money, and will allow us to measure progress objectively.

Figure 13

Our audit approach



Appendix Two

Our evidence base

1 We interviewed a range of senior staff from across various teams in HM Courts & Tribunals Service's (HMCTS) change portfolio. This included an interview with PwC, its delivery partner.

2 We analysed HMCTS's business cases for the Reform Programme, the Common Platform Programme and Transforming Criminal Enforcement Programme. Our review focused on collating and comparing financial data on costs and benefits (Part Two).

3 We obtained internal management reports from HMCTS to see how it tracked and reported performance and reviewed external assurance reports from the Infrastructure and Projects Authority and Major Projects Review Group.

4 We visited four courts and a call centre to see the new services in action. These courts were primarily chosen as they were piloting new digital services such as Digital Mark-Up, divorce and Automated Track Change Management for Transport for London prosecutions. These visits allowed us to engage with the local stakeholders who oversee the implementation of the system on the front line. These stakeholders included, but were not limited to, senior HMCTS staff, magistrates and operations and delivery managers. The courts we visited were:

- Warrington combined court;
- Nottingham divorce centre and Loughborough contact centre;
- Lavender Hill Magistrates' Court; and
- Wimbledon Magistrates' Court.

5 We consulted with major stakeholders in the justice system, including interviewing senior members of the judiciary; the Criminal Prosecution Service (CPS); the police; Bar Council; Magistrates Association, Law Society and Chartered Institute of Legal Executives to ensure that we collected a wide range of opinions from all those involved.

6 We attended a range of change portfolio governance groups as observers including:

- the Criminal Justice System Integration Board;
- the Portfolio Board;
- the Design Authority;
- a victims and witnesses engagement group; and
- a stakeholder event promoting the new digital products.

7 We consulted with our internal experts from the programme delivery and digital community of practice and our analysis and methods network.

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