



National Audit Office

Report

by the Comptroller
and Auditor General

HM Courts & Tribunals Service

Transforming courts and tribunals – a progress update

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. In 2018-19, HMCTS employed around 16,100 staff, operated 341 courts and tribunals that heard 4.4 million cases, and spent £1.2 billion.

2 In 2016, HMCTS launched an ambitious portfolio of reforms that aimed to modernise the justice system, reduce complexity and provide new ways for people to engage. This included the reform programme, the crime (common platform) programme and the transforming compliance and enforcement programme (TCEP). HMCTS intends to achieve its aims by introducing new technology and working practices to modernise the administration of justice, moving activity out of the courtroom, streamlining processes and introducing digital channels for people to access services.

3 In May 2018, we published a report setting out the objectives, early performance and risks of the reform programme. We concluded that HMCTS faced a daunting challenge to deliver the scale of change necessary and that there was a very significant risk that the full reform programme would prove to be undeliverable in the time available.

4 This report describes progress following the second stage of its reform programme, which ended in January 2019. We provide an update on the progress made (Part One) and take a closer look at the estates reform programme, which aims to reduce the size of the court estate (Parts Two and Three). Given the project is at an early stage, we have not concluded on value for money. Instead, we highlight factors that will be relevant for HMCTS's future achievement of overall value for money.

Key findings

Progress against plans

5 **People can now access services through simpler online routes because of the reforms delivered to date.** HMCTS is about halfway through its reform timetable and has started to change how it runs its services. It has made progress in rolling out some reformed services and bringing divorce, civil money claims and probate services fully or partly online, with simplified forms and faster processing. It also established its first two courts and tribunals service centres, which have centralised and standardised support for the new civil, family and tribunal services (paragraphs 1.8 and 1.21).

6 But some planned services are not yet fully available to the public because HMCTS has made less progress than it had expected to by this stage. Our previous report noted that HMCTS was behind schedule and this is still the case. By its own assessment, HMCTS has completed 78% of its milestones for the second stage and 54% of its planned outcomes. It had made some progress towards completing a further 26% of these outcomes and had not completed 20%. HMCTS has spent £540 million by the end of March 2019 (paragraphs 1.7, 1.9 and 1.15, and Figures 2, 3 and 4).

7 HMCTS has acted on concerns raised in our previous report. It has responded to our previous recommendations and those from the Committee of Public Accounts by strengthening its approach to stakeholder engagement and improving transparency by publishing more information on progress. A recent stakeholder survey found that 40% of respondents thought that the information they receive from HMCTS enhances their understanding of reform, with 70% of those who attended a reform event having found it useful. However, 42% of respondents still feel that HMCTS is not open or transparent. It is also working with other organisations to better understand the impact of reform on the wider justice system (paragraphs 1.4 and 1.16).

8 HMCTS has again had to reduce the scope of the reform portfolio and extend the timetable, which has decreased risk but also cut expected savings. In early 2019, HMCTS revised its reform programme business case, integrating the crime (common platform) programme. In response to calls to be more realistic, it extended the reform programme to December 2023 so is now due to complete in seven years. HMCTS had previously extended the timetable from four to six years following scrutiny before the programme formally began in 2016. HMCTS also reduced the scope of the wider reform portfolio by cancelling two projects. While these changes do not affect the broad objectives of reform, they do impact planned benefits: lifetime savings for the portfolio (to 2028-29) have decreased by £172 million to £2,112 million, with annual steady state savings now £21 million lower per year at £244 million and coming a year later in 2024-25. Overall portfolio costs have reduced by £58 million following the removal of TCEP and HMCTS is keeping within its allocated budget for reform, using contingency funding to address new cost pressures of £64 million. These pressures are partly because HMCTS's forecasts are now more realistic, and partly because the delays mean some projects will take longer to finish (paragraphs 1.16 and 1.17, and Figures 7 and 8).

9 The total savings claimed by HMCTS may not all directly result from reformed services. HMCTS recorded a total of £133 million in net savings between April 2016 and March 2019. This is a combination of cash savings from closing courts and estimates of administrative and judicial savings. HMCTS can track certain savings, such as those related to property costs. However, its approach to measuring other savings relied on analytical models predicting theoretical savings arising from process changes. It provides incentives for projects to deliver planned savings by removing the equivalent amount from budgets at the start of the year and considers that savings have been achieved if the project delivers to budget. However, HMCTS does not check

whether all these savings materialised in the way it expected so they cannot all be directly traced to changes delivered through reform. HMCTS has acknowledged that its approach to monitoring savings is still developing and is putting in place a more rigorous approach (paragraphs 1.11 to 1.14, and Figures 5 and 6).

Reforming the court and tribunal estate

10 HMCTS has closed 127 courts and tribunals in England and Wales and reported sales proceeds of £124 million since the start of estates reform in 2015, which is broadly on track against plans.¹ Its rationale for reducing the estate is to make better use of good-quality sites in key locations and match the planned fall in demand for physical hearings resulting from reform. By reducing its footprint, HMCTS expects to reduce operational costs and generate income from sales to fund reform. Of the 127 courts and tribunals that it has closed, HMCTS has disposed of 114. Sale proceeds are expected to provide more than 22% of total reform funding. The bulk of this will come from a small number of high-value sites in central London. Failure to achieve all these sales could have a significant impact on funding of the reform programme (paragraphs 2.1 to 2.7 and 2.13, and Figures 9 and 10).

11 HMCTS has scaled back its plans for future court closures. HMCTS plans to further reduce the size of its estate but has revised its estimate of the number of future disposals it expects to make from 96 to 77 following a value-for-money assessment. The delays in completing projects, which aim to reduce demand for physical hearings and therefore free up court capacity, have also meant that HMCTS cannot proceed with its original timetable. It has now opted to delay future court disposals until later in the programme. HMCTS recognised that it did not have sufficient evidence to assess changes in demand resulting from reform and is now creating indicators that attempt to measure this. This information will be essential in providing a sound basis for future closures (paragraphs 3.6 and 3.9, and Figure 15).

12 HMCTS has reconsidered its approach to future closures following stakeholder feedback and needs to be clear on how it will apply it in practice. In selecting sites to close, it follows a structured process that involves multiple levels of challenge, consultation, ministerial and judicial sign-off. But stakeholders have raised concerns about a lack of transparency in what informs closure decisions, particularly in HMCTS's assessment of 'access to justice', which relies on measuring travel time. In 2019, HMCTS revised its approach to assessing travel time and, alongside this, published a new estates strategy – *Fit for the Future*. HMCTS also set out new criteria to inform closures and sought to make the process more repeatable. However, it has not yet determined how these criteria will be balanced against each other in selecting sites to propose to ministers for public consultation. HMCTS will need to make this clear before it uses these new criteria (paragraphs 2.8, 2.10, 3.1 to 3.8, and Figures 11, 13 and 14).

¹ Six of the 127 sites were closed before 2015 but disposed after, contributing £1 million of the total £124 million sales proceeds. HMCTS brought forward these sites into the scope of the estates reform programme.

Future approach

13 HMCTS needs to better understand the impact of its reforms, including how they are affecting users of the justice system. To assess the impact of reforms, HMCTS has relied on routine monitoring of factors like outstanding caseload and ineffective trial rates and some externally commissioned evaluations of specific, high-profile initiatives. It has not published data on what indicators it uses to understand how the experiences of court users have changed, although it is currently reviewing both its approach to evaluating reform and its wider performance management framework. The Ministry of Justice also has long-term plans to evaluate reform including the impact on access to justice and costs to court users. It is still determining the scope of this work, so the extent to which it will cover the impact of court closures on those who use them, and whether learning will be able to influence the implementation of the reform programme, is not yet clear (paragraphs 3.10 to 3.13).

14 As it enters the third stage of reform, HMCTS must move from designing new services to scaling up implementation and integrating projects across its portfolio. It has started rolling out a small number of reformed services, often alongside pre-existing systems and operations. As more services reach this stage, HMCTS has recognised that it needs new structures to better manage their implementation and integration, while ensuring that other services are not unduly affected. To support this aim, it created a transition board in late 2018, which is responsible for managing the shift to new services and tracking the delivery of savings from headcount reductions. HMCTS is also improving its performance monitoring to try to provide a better view of portfolio progress and help manage interdependencies (paragraphs 1.21 and 1.22).

Conclusion

15 HMCTS is now around halfway through its reform programme. But, in common with many government transformation programmes, it is behind where it expected to be and has had to scale back its ambitions. While HMCTS has kept within budget, this has come at the cost of a reduced scope and lower savings. HMCTS has improved transparency and made good progress in transforming some services, but there are still significant challenges ahead. The timescale and scope remain ambitious and HMCTS will need to manage the tension in delivering reformed services at pace while not risking damage to existing and future services. If HMCTS is to deliver reform, and improve service quality for court users, it will need to be disciplined in keeping every element of its portfolio under control.

16 HMCTS has largely managed to remain on track in its plans to reduce the size of its estate so far but any future reductions will be far more challenging. Indicative plans to close around 80 more courts from 2020 depend on successfully delivering other reform projects to shift hearings out of the courtroom or improve the efficiency of courts and tribunals. Given the delays to date, there is a risk that not all these closures will go ahead, further reducing potential savings.

Recommendations

17 HMCTS is at a critical stage, with multiple interdependent services rolling out that are expected to enable large-scale workforce reductions and further estate sales. These recommendations are intended to support HMCTS in delivering planned changes in a responsible way.

- a** **HMCTS must maintain a strong grip on progress to maximise the benefits from its substantial investment in reform.** HMCTS should strengthen its portfolio and programme monitoring before the end of interim state 3 to provide early warning when things are going off track; be clear about the impact on the critical path; and allow it to take decisive corrective action. Reporting needs to give a more holistic, high-level view of progress towards the next key interim state (or end state) and use a broader range of indicators that integrate both financial and performance information.
- b** **HMCTS should improve how it measures the benefits of reform, more clearly demonstrating where savings are coming from.** We previously recommended that HMCTS should not bank savings before new systems and working practices were fully embedded. There will be more headcount reductions in the next stage of reform, making this more pressing. HMCTS needs to:
 - provide assurance that headcount reductions are linked to operational improvements;
 - take account of changes in demand; and
 - ensure cuts do not come at the expense of service quality.
- c** **HMCTS should better demonstrate how it is monitoring the impact of its reforms on users of the justice system.** It should:
 - publish the operational data it uses to monitor the impact of court closures; and
 - put in place structures to ensure learning about how services are impacting those using them is captured and fed into the development of new services.
- d** **HMCTS should provide more clarity on how, in practice, it will meet the commitments set out in its *Fit for the Future* response.** Specifically, before considering future closures it should:
 - improve transparency of the rationale for future closure proposals;
 - set out what other sources of information it will use to assess ‘access to justice’ alongside travel time; and
 - provide evidence that reform has reduced demand for physical hearings.