



National Audit Office

Report

by the Comptroller
and Auditor General

HM Courts & Tribunals Service

Transforming courts and tribunals – a progress update

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National Audit Office

HM Courts & Tribunals Service

Transforming courts and tribunals – a progress update

Report by the Comptroller and Auditor General

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Gareth Davies
Comptroller and Auditor General
National Audit Office

6 September 2019

This report follows up on how HM Courts & Tribunals Service (HMCTS) has completed the second phase of its reform programme, which ended in January 2019. We provide an update on the progress made and take a closer look at the property reform programme, which aims to reduce the courts estate.

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Key facts

£540m

Reported spend on reform by the end of March 2019 by HM Courts & Tribunals Service (HMCTS)

127

Courts and tribunals closed since the start of reform, with a further 12 still due to close

£124m

Reported proceeds by the end of March 2019 from property sales

| | |
|----------------------|--|
| £172 million | reduction in lifetime savings (to 2028-29) due to scope and timing changes in the latest business case, published in early 2019 |
| £244 million | annual expected savings from reforms from 2024-25 onwards |
| 16,129 | full time equivalent (FTE) staff employed by HMCTS, of which around 2,000 are contractors in 2018-19. This is 91 fewer staff in total than 2017-18 |
| 78% | of milestones due for this stage that were completed by January 2019 |
| December 2023 | date by which HMCTS expects to complete reform, following a one-year extension to the timetable. HMCTS had previously extended the timetable from four to six years following scrutiny before the programme formally began in 2016 |

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.

Part One

An update on progress with reform

The reform programme

1.1 In 2016, HM Courts & Tribunals Service (HMCTS) set up a portfolio of change programmes to introduce new technology and working practices to modernise and upgrade the justice system. By 2024, it expects to employ 5,000 fewer staff, reduce the number of cases held in physical courtrooms, and reduce annual spending by £244 million. Savings will come from lower administrative and judicial costs, fewer physical hearings and running a smaller estate. HMCTS expects the reformed system to work better for all those involved, use court time more proportionately and make processes more accessible to users.

1.2 Through its reforms, HMCTS aims to make changes across criminal, civil and family courts and tribunals supported by changes to the infrastructure and workforce. Broadly, these focus on using technology to simplify procedures, improve efficiency and speed up decision-making. HMCTS is also reducing and modernising its court and tribunal estate and creating cross-jurisdictional hearing centres and national service centres to assist the public, judges and lawyers by dealing with user queries more effectively and supporting the work of local courts and tribunals (**Figure 1**).

Overview of progress

1.3 We last reported on progress after the first stage of the reforms completed in September 2017. The second stage ('interim state 2') ran from October 2017 to January 2019. This stage focused on delivering a number of reformed civil, family and tribunal services to the public, building technology to support new ways of working, such as video hearings and listing, and opening the first courts and tribunals service centres.²

² Listing is the process in which a case is given a date and time for a court hearing.

Figure 1

The structure and goals of the HM Courts & Tribunals Service (HMCTS) reform programme

The reform programme covers crime, civil, family and tribunals and several cross-cutting projects

The HMCTS reform programme

The aim of the reform programme is to modernise and upgrade the justice system so that it works better for everyone, from judges and legal professionals to witnesses, litigants and vulnerable victims of crime

Crime

Aims to provide smarter, more joined-up and streamlined processes to enable participants in the criminal justice system to work from the same information with more consistent practices.

Projects include:

- Single justice service (SJS) – online administration and digital case management system for summary offences.¹
- Video remand hearings for defendants held in custody.
- Improvements to technology and environment for court hearings.
- Common platform – digital case-handling for HMCTS, the Crown Prosecution Service and the police from arrest through to court. This also includes online plea and allocation, case progression and youth reforms.

Civil, Family and Tribunal

Aims to simplify procedures and introduce a range of digital services to support the resolution of civil, family and tribunal cases fairly and quickly, and provide new routes to access services online.

Tribunals projects include:

- Social security and child support appeals.
- Immigration and asylum chamber work to enable online and video resolution.
- Wider tribunal reforms including employment tribunal systems.

Family projects include:

- Online divorce.
- Online probate.
- Family public law and adoption case application and management online.
- Private family law – initiate and manage cases online.

Civil projects include:

- Online civil money claims.
- The Royal Courts of Justice digital case management system.
- Civil enforcement and possession process and system changes.

Cross-cutting projects and services

Aims to deliver structural and operational changes and improve systems and processes across jurisdictions, to support modern ways of working. These are grouped in three categories.

Capabilities

- Courts and tribunals service centres²
- Assisted digital support services
- People and cultural transformation – manage workforce reductions and build staff capabilities to work in new ways

Settings

- Estates reform – reduce size of estate and upgrade to modern facilities
- Flexible operating hours
- Scheduling and listing³

Technology

- Video hearings
- Common digital capabilities
- Upgrading Wi-Fi and IT infrastructure

Notes

- 1 The single justice service (SJS) brings together all the services delivered by a magistrates' court which can be handled by a single magistrate. This covers certain non-imprisonable and victimless offences such as speeding where the defendant has pleaded guilty or failed to respond.
- 2 Courts and tribunals service centres will assist the public, judges and lawyers by dealing with user queries more effectively and supporting the work of local courts and tribunals.
- 3 Scheduling and listing are the processes by which cases are allocated in court.
- 4 More information on the projects in the scope of reform can be found in HMCTS's reform update, available at: <https://www.gov.uk/guidance/hmcts-reform-programme-reform-update>

1.4 HMCTS has taken positive steps to respond to areas of risk highlighted in our previous recommendations. It has developed its approach to stakeholder engagement with a new strategy and has improved transparency by publishing more information on reform projects and progress. It recently ran a survey of its stakeholders to assess perceptions. Results show 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 felt that HMCTS still lacked transparency. Work is also underway with government partners to better understand the impact of reform changes on the wider system by building an analytical model to test the financial impact of changes. The business case still does not quantify the costs and benefits for other government organisations but does describe some of the likely impact on partner bodies and some wider benefits to users.

Performance against plans

1.5 Since we last reported, HMCTS has developed how it monitors progress in delivering reform. HMCTS tracks monthly progress using milestones at programme and project level. It also sets planned ‘strategic outcomes’ for each stage. These are now better defined, with clearer links to projects or programmes within the reform programme, although they could still be more specific and measurable. They include quantitative indicators such as the proportion of users moved online and the number of full-time equivalent posts removed.

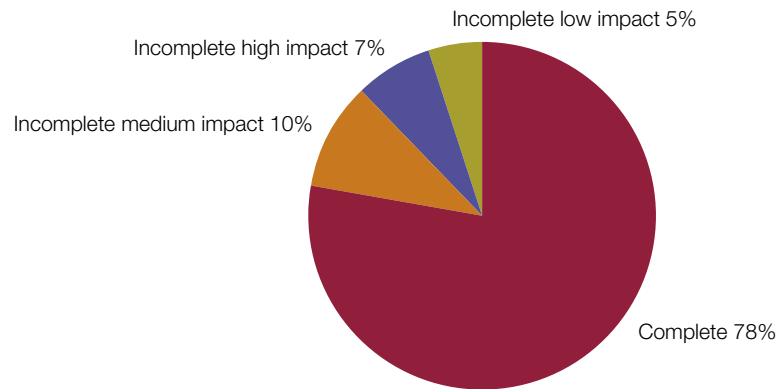
1.6 It is, however, still difficult to understand overall progress within the portfolio. Most monthly HMCTS board reporting focuses on individual programmes, with references to the number of milestones achieved and outstanding. However, the relative significance and impact of the unmet milestones on the overall timetable are unclear and reports do not give a high-level view of progress using indicators such as spending against budget, savings achieved, proportion of work complete or measures of user feedback. HMCTS revised its approach to monitoring progress in June 2019 and introduced new measures to its portfolio reporting that incorporate wider measures of progress. It also plans to use critical path milestones to better present and manage progress.

1.7 HMCTS’s management information shows that at the end of interim state 2, it is behind where it planned to be, reporting 78% completed milestones and 54% fully completed strategic outcomes. It had made some progress towards completing a further 26% of its strategic outcomes (23% partially complete, 3% substantially incomplete) and had not completed the remaining 20% (**Figures 2 and 3**). When we previously reported, we also found that HMCTS had made less progress than it had expected to by that time. **Figure 4** on pages 14 and 15 describes performance by programme area in more detail.

Figure 2

Progress of HM Courts & Tribunals Service (HMCTS) reform by milestone

HMCTS had completed 78% of milestones at the end of January 2019



Note

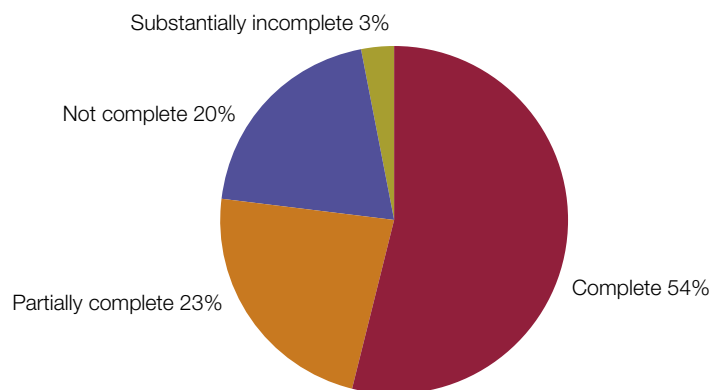
1 The ratings in this table are based on HMCTS's assessment of the degree of completion against its milestones.

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

Figure 3

Progress of HM Courts & Tribunals Service (HMCTS) reform by strategic outcome

HMCTS had completed 54% of strategic outcomes at the end of January 2019



Note

1 The ratings in this table are based on HMCTS's assessment of the degree of completion against its strategic outcomes.

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

Figure 4 Summary of performance of HM Courts & Tribunals Service (HMCTS) reform programme areas at the end of January 2019

Performance is varied across the different programme areas. Completed milestones range from 61% to 100%

| Area | Crime | Civil, family, tribunals | Estates reform | Infrastructure and enabling work | People | Courts and Tribunals Service Centres | Management |
|---|---|--|---|--|--|--|--|
| HMCTS overall programme rating at January 2019 ^{1,2} | ● Amber/Red Relates to challenges in delivery pace and delays in resourcing. | ● Amber | ● Amber | ● Amber | ● Amber/Red Relates to trade union dispute and risks around service centres | ● Amber/Green | n/a |
| Milestones complete | 100% | 67% | 61% | 66% | 88% | 100% | 100% |
| Spend and savings 2014-15 to 2018-19 | Spend £169 million Savings £33 million | Spend £59 million Savings £34 million | Spend £90 million Savings £98 million | Spend £40 million Savings n/a ³ | Spend £15 million Savings n/a ³ | Spend £20 million Savings £0 | Spend n/a Savings n/a |
| Key points | <p>Successes</p> <p>Part of the common platform is being piloted in Liverpool.⁴</p> <p>Single justice service (SJS) used for Transport for London cases and adding TV licensing cases.⁵</p> <p>Video remand hearing pilot in progress.</p> <p>Issues</p> <p>Delay in probate system due to data migration problems.</p> <p>Social security appeals behind due to inability to agree terms with the Department for Work & Pensions.</p> <p>Civil enforcement service rescheduled.</p> <p>Projects were not using common components as planned.</p> | <p>Successes</p> <p>Civil money claims, divorce, probate and social security appeals in national public use.</p> <p>Latter three services transferred to service centres on time, but only partially.</p> <p>Issues</p> <p>Delay in probate system due to data migration problems.</p> <p>Social security appeals behind due to inability to agree terms with the Department for Work & Pensions.</p> <p>Civil enforcement service rescheduled.</p> <p>Projects were not using common components as planned.</p> | <p>Successes</p> <p>First stage of estates reform due to complete by October 2019.</p> <p>Second stage is in progress with seven courts announced for closure.</p> <p>Issues</p> <p>As at January 2019, delayed response to estates strategy consultation (published in May 2019).</p> <p>Some closures delayed due to extent of work required to get receiving courts ready.</p> | <p>Successes</p> <p>Video hearings and flexible operating hours pilots in progress.</p> <p>Completed roll-out of Wi-Fi to all civil and family courts and tribunals with criminal courts progressing.</p> <p>Issues</p> <p>Scheduling and listing project delayed to 2020 with impact on other projects.⁶</p> <p>Bulk scanning and printing integrated with some services but is slower than expected.⁷</p> <p>Roll-out of audio-visual screens pushed into 2019-20.</p> | <p>Successes</p> <p>Recruitment and training of staff for new roles in service centres.</p> <p>Started redeployment of staff.</p> <p>Issues</p> <p>Staff exits deferred until next stage.</p> <p>Ongoing dispute with trade union around proposed staff reduction plans.</p> | <p>Successes</p> <p>The first two service centres in Stoke and Birmingham went live on 28 January 2019.</p> <p>Issues</p> <p>Technology for probate was not ready so centres did not operate at full capacity (73 staff in post instead of 266).</p> <p>Telephone payments not yet complete.</p> | <p>Successes</p> <p>New project to develop detailed approach to running reformed courts and regional tier.</p> <p>New transition directorate created late 2018.</p> <p>Issues</p> <p>Various projects to improve management information and performance reporting, assurance approach, evaluation, benefits and commercial function.</p> |

Figure 4 continued**Summary of performance at the end of January 2019 for HM Courts & Tribunals (HMCTS) reform programme areas****Notes**

- 1 This HMCTS assessment of performance is based on delivery, cost, benefits, people and dependencies. It is not directly linked to the completion of milestones.
- 2 HMCTS defines: Amber/Red as 'Successful outcome versus plan is in doubt, with major risks or issues apparent in a number of key areas. Urgent action is needed to ensure these are addressed, and to assess whether recovery is feasible'; Amber as 'Successful outcome versus plan appears feasible. Significant issues already exist that require management attention but appear resolvable at this stage if addressed promptly'; and Amber/Green as 'Successful outcome versus plan appears probable; however, constant attention will be needed to ensure risks do not materialise into major issues'.
- 3 HMCTS employed 16,129 full-time equivalent staff in 2018-19 (91 fewer than in 2017-18), of which 2,000 were contractors.
- 4 The common platform is a digital criminal justice case management system to share information between HMCTS, the Crown Prosecution Service, legal professionals and the police.
- 5 The single justice service (SJS) brings together all the services delivered by a magistrates' court which can be handled by a single magistrate. This covers certain non-imprisonable and victimless offences such as speeding where the defendant has pleaded guilty or failed to respond.
- 6 Scheduling and listing are the processes by which cases are allocated in court.
- 7 The bulk scanning and printing project aims to reduce the reliance on paper documents in courts and tribunals.
- 8 This figure reports performance at January 2019. More up to date information is now available but we have opted to report status at that point.

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

1.8 Although it had not completed all it had planned, HMCTS had met some significant milestones at the end of interim state 2:

- It opened its first two courts and tribunals service centres in Stoke and Birmingham. This is the first step in a move from a dispersed operating model, where court staff handled administration and queries locally, to a more centralised, digitally supported approach. In practical terms, HMCTS had to find and fit-out two sites with new technology, train and transfer 73 court staff into new roles and partially transfer phone, paper and online processing for three services into the new centres.
- It rolled out and scaled up the first tranche of reformed civil, family and tribunal services to the public. Services that people could previously only access via paper-based forms are now available online and are processed faster, with reduced rejection rates. Around 94,000 people had used online services for divorce, probate, civil claims and social security appeals up to January 2019. User satisfaction for these services averages 84%. More people have used these services since the end of January 2019.

1.9 But parts of the programme that HMCTS could not deliver by the end of interim state 2 include:

- national roll-out of all new services to the courts and tribunals service centres. Some services were delayed; specifically, probate, divorce and social security and child support services were not ready for full transfer due to technological problems. This meant that people were not able to move through the entire process online and could not access some services like webchat and telephone payments. Some services were also delayed by HMCTS being unable to agree terms with government partners (for example, Department for Work & Pensions). These are now due to deliver later in 2019; and
- delivery of important infrastructure and enabling projects that underpin reformed services was delayed. The tool for scheduling and listing cases has been significantly delayed, from 2019 to December 2020, so was not ready to integrate with civil, family and crime projects. This delay has impacted on HMCTS's ability to complete other projects and deliver savings. The bulk scanning tool, which is expected to reduce the reliance on paper documents in courts and tribunals and was originally expected in interim state 1, was also not fully delivered.

1.10 The ultimate impact of the delays was that HMCTS failed to meet its targets to reduce the number of hearings in physical courtrooms and the number of people it employs. It set out to remove 102 full-time equivalent posts across four services but reported that it had removed only 35 by the end of January 2019. This is despite the target being revised down from 1,035 full-time equivalent posts. On hearing reductions, HMCTS did not record any progress, as the projects to support online resolution, video hearings and digital case management are late. The impact of these delays on future court closures is covered in Part Three.

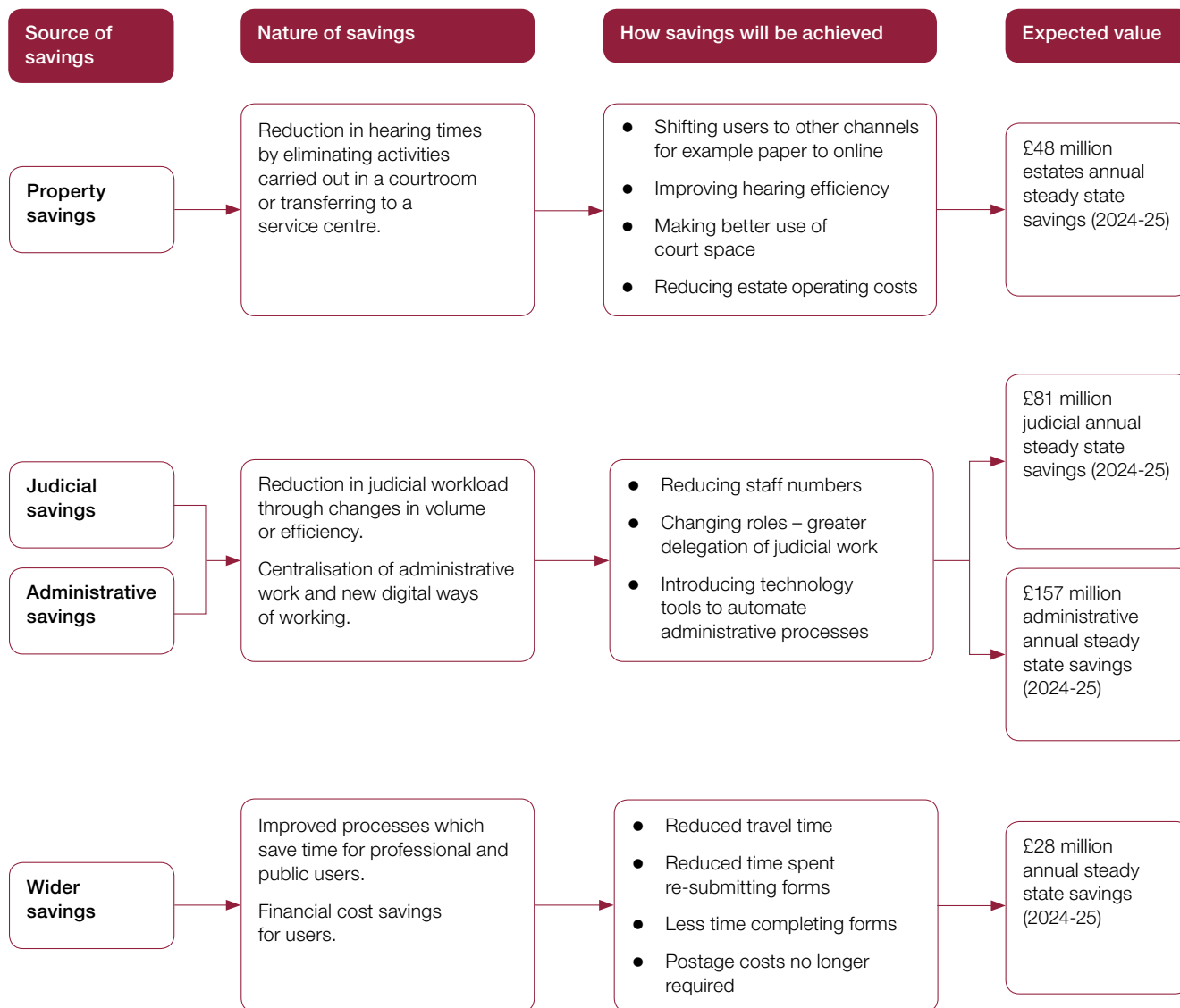
Savings

1.11 One of the principal objectives of reform is enabling financial savings. However, HMCTS's approach to tracking and validating savings is still developing. HMCTS currently uses financial models to estimate the expected savings against four main categories – property, judicial, administrative and wider savings (**Figure 5**).

Figure 5

The nature and value of expected reform programme savings for HM Courts & Tribunals Service

There are four main sources of savings from the reform programme ranging in value from £28 million to £157 million in annual savings by 2024-25



Note

1 This figure presents the main sources of savings by value in HM Courts & Tribunal Service's latest business case. This business case includes other categories of savings, which are not included here.

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

1.12 HMCTS reports that it has made net savings to date of £133 million (**Figure 6**).

It has made financial savings mainly by digitising processes and reducing the number of properties it operates. Property savings are relatively straightforward to measure, as they relate directly to rent or utility payments that are no longer paid. However, savings related to process efficiencies are more difficult to calculate; and, along with those related to reducing staff, are more difficult to attribute to reform. HMCTS has had to find a way to measure how parts of people's roles have changed as new services and working practices are introduced.

1.13 HMCTS can track certain savings, such as those related to property costs.

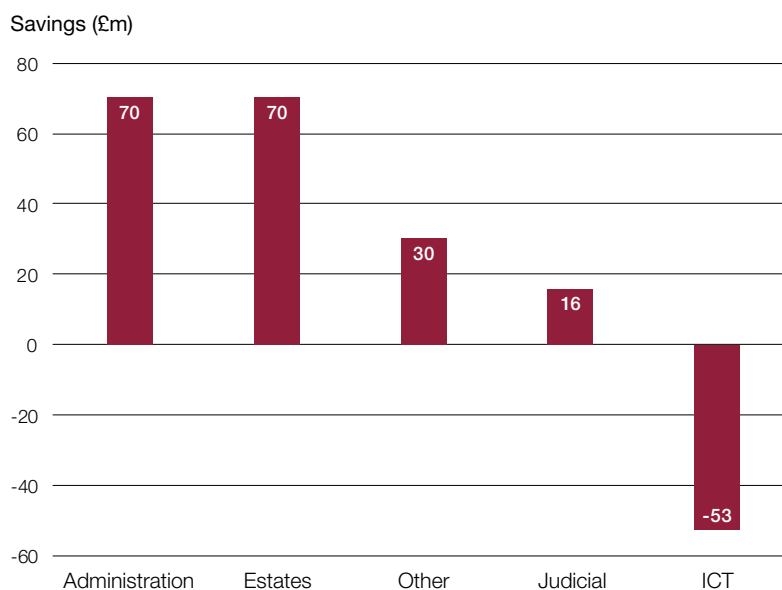
However, it told us it relies on a series of analytical models and assumptions to predict some expected savings as projects meet milestones and deliver planned capability. HMCTS provides incentives for teams to deliver savings by deducting expected savings from project budgets at the start of the year. Broadly, if teams deliver within this reduced budget, then HMCTS considers that the savings were achieved. It told us it has arrangements in place to check that savings were delivered and to manage the risk of reduced spending impacting on operations. We explored the evidence base for the savings claimed and found that it was not clear how they had been validated. Specifically, HMCTS does not always check if specific savings have occurred in the way it expected. This makes it hard to link savings directly to reform. For example, it did not count the actual change in the number of full-time equivalent staff for individual projects or changes in judicial workload. We found a similar lack of validation in its reporting of what it had delivered against strategic outcomes. HMCTS was not able to provide an accurate audit trail of how it calculated the achievements reported in every case.

1.14 HMCTS recognises that its approach to tracking and validating savings needs improvement and has taken steps to develop a more robust, evidence-based approach. A new transition directorate will track and validate savings from staff cuts (paragraph 1.22). There is work under way to improve the way in which judicial savings are measured.

Figure 6

The source of savings claimed to date through the reform programme by HM Courts & Tribunals Service

The majority of savings are from estates and administration



Note

1 ICT numbers are new costs incurred as reform projects are implemented. They mainly relate to the running costs of new IT systems.

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

Spend against budget

1.15 HMCTS reports that it has spent less than expected at this point mainly because the delays in completing projects have meant that fewer staff than expected have left, requiring fewer redundancy payments. To date, HMCTS reports it has spent £540 million, which is within budget. For 2018-19, it underspent by £27 million, most of which related to deferred staff exit costs, delays in procuring and developing infrastructure projects and technology, and slippage in enabling works within the estate. This was offset by going over budget on technology and delivery partner costs.

Revised plans for reform following the new business case

1.16 HM Treasury requires HMCTS to update its business case at each interim state as a condition of receiving ongoing funding. HMCTS issued the fifth version of the reform business case in early 2019. The fifth business case took on board lessons learned since the previous version and re-assessed planned costs and savings. The main changes were to:

- **extend the previous timetable by nine months to December 2023.** This was in response to our previous recommendations and those of the Committee of Public Accounts, as well as progress made.^{3,4} HMCTS had previously extended the timetable from four years to six years following scrutiny before the programme formally began in 2016. It now plans to complete the reform programme in seven years. The additional year accommodates changes in the sequencing of projects within the civil, family and tribunals programme. HMCTS set out to develop common technology components that could be used across multiple projects. However, it found that overly bespoke technology was being created for individual projects, which could not easily be reused. It extended the timetable, in part to re-focus development on these common components which can be used across projects so that they can be delivered more quickly in future;
- **integrate the crime programme into the reform programme.** When we previously reported, there were three separate business cases covering the reform and crime (common platform) programmes and the transforming compliance and enforcement programme (TCEP).^{5,6} These each reported programme costs and savings over different 10-year periods.⁷ The current business case brings together the previous reform and crime business cases, except for the costs and savings accruing to the Crown Prosecution Service (CPS), which HMCTS has presented separately in an appendix. HMCTS also removed the Court of Protection project from the reform programme because it was deemed to be not financially worthwhile as the predicted costs exceeded savings.⁸ HMCTS now reports programme costs and savings over 15 years from 2014-15 to 2028-29;
- **cancel TCEP and remove it from the wider reform portfolio.** TCEP would have generated significant value. It was expected to produce savings of £128 million from 2015-16 to 2025-26 for costs of £58 million. HMCTS told us the decision was difficult, but that descopeing other elements would have had a larger impact on the rest of the portfolio. It has excluded costs and savings from TCEP from the latest reform programme business case; and
- **reduce the number of future court disposals and delay remaining closures.** This is to allow more time for reductions in the number of hearings to take place (Part Three).

3 Comptroller and Auditor General, *Early progress in transforming courts and tribunals*, Session 2017–2019, HC 1001, National Audit Office, May 2018.

4 HC Committee of Public Accounts, *Transforming courts and tribunals*, Fifty-sixth Report of Session 2017–2019, HC 976, July 2018.

5 The common platform programme was set up to develop shared processes and a digital criminal justice case management system to share information between HMCTS, the CPS and the police.

6 TCEP aimed to upgrade systems in HMCTS's National Compliance and Enforcement Service, used to enforce court orders such as penalties and compensation.

7 2015-16 to 2024-25 for the reform programme; 2014-15 to 2023-24 for the crime programme; and 2016-17 for TCEP.

8 The Court of Protection project intended to enable people using the Court of Protection to initiate and manage their cases online.

1.17 The decision to rescope the portfolio and extend the timeframe has not affected the broad objectives of reform. However, it has had an impact on the long-term costs and expected savings. In summary:

- Implementation costs increased by £64 million, which HMCTS funded by drawing on planned contingency, meaning it has kept within its allocated budget. This is after HMCTS had restated the costs in the previous business case, increasing them by £80 million, and removing the costs of TCEP (see **Figure 7** overleaf).⁹ HMCTS has £97 million of contingency remaining, compared with £161 million when we previously reported.
- Overall lifetime savings (to 2028-29) have fallen by £172 million to £2,112 million when considered on a like-for-like basis (**Figure 8** on page 23). This is because HMCTS has removed the savings attributable to TCEP and reassessed the savings of the reform programme, which have increased slightly.
- Steady state savings have fallen by £21 million to £244 million each year and are now due a year later, from 2024-25 (Figure 8).

1.18 For the first time, HMCTS has attempted to put a number on the wider economic benefits of reform in its business case. These are savings to the public or users of the justice system. HMCTS identified a long list of potential savings and quantified four: reduced travel time from not having to attend court; time saved by completing forms online; time saved from fewer errors; and costs saved from not having to post forms. It estimates these would save at least £28 million per year from 2024 although we have not validated this.

1.19 HMCTS calculated the net present value (NPV) of the programme on a different basis which means it is not possible to compare it with the previous business case. The NPV represents the difference between the present value of the benefits and costs of the programme. When we previously reported, HMCTS calculated the NPV of the three programmes (reform, crime and TCEP) separately and over different periods.¹⁰

1.20 In the most recent business case, HMCTS has calculated a single NPV of £1,261 million. This includes savings through to 2028-29, and excludes costs and savings made before April 2019 and the costs and savings of TCEP. This is in line with HM Treasury guidance. HMCTS also now includes wider economic benefits in its NPV calculation which were not previously included. The business case also considers the impact of risk on the projected NPV through a range of scenarios. This includes quantifying the possible impact of delays in passing legislation, economic events that affect property sales and delays in achieving savings. HMCTS calculated the combined impact of all scenarios was to reduce the overall NPV by between £444 million and £1,035 million.

⁹ The £80 million restatement related to reform spending which HMCTS funded from its non-reform maintenance budget and incorrectly excluded from the previous version of the business case.

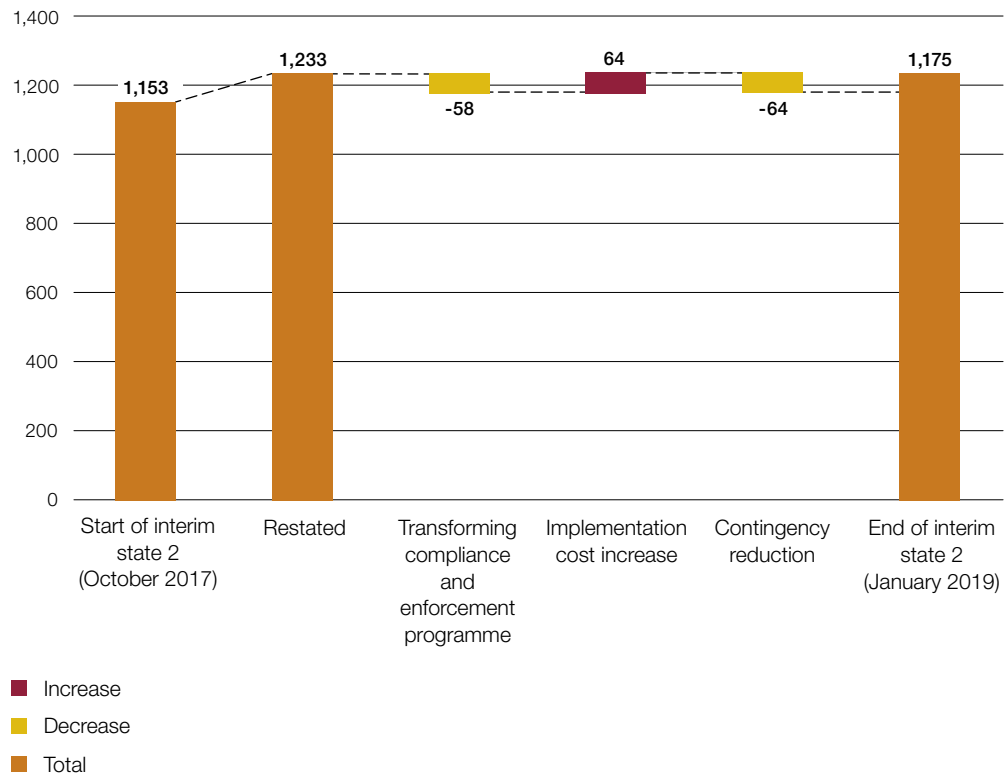
¹⁰ Reform programme NPV of £941 million for the years 2015-16 to 2024-25; crime (common platform) programme NPV of -£116 million for the years 2014-15 to 2023-24; and TCEP NPV of £381 million for the years 2016-17 to 2025-26.

Figure 7

Changes in the cost of the reform portfolio since the start of interim state 2

Various factors contributed to the movement in cost

Change in programme costs (£ million)



Notes

- 1 Costs at the start of interim state 2 included those in the reform programme, the common platform programme and transforming compliance and enforcement programme business cases.
- 2 HM Courts & Tribunals Service (HMCTS) restated the reform programme costs by £80 million. This related to reform spending which HMCTS funded from its non-reform maintenance budget and incorrectly excluded from the previous version of the business case.
- 3 The £64 million increase in implementation costs consists of an additional £83 million, including rises in technology and property costs, offset by staff cost decreases of £19 million because of lower forecast exit costs.
- 4 Costs at the end of interim state 2 include HMCTS costs of £1,168 million and Crown Prosecution Service costs of £7 million.

Source: HM Courts & Tribunals Service business cases

Figure 8

Changes in the savings expected from the reform portfolio since the start of interim state 2¹

Total lifetime and steady state savings have decreased

| | Overall lifetime savings (£m) | Steady state savings (£m) |
|--|----------------------------------|------------------------------|
| Reform and crime programmes | 2,096 ² | 245 ³ |
| Transforming compliance and enforcement programme (TCEP) | 188 ⁴ | 20 |
| Total at the start of interim state 2 | 2,284 | 265 |
| Total at the end of interim state 2 | 2,112 ⁵ | 244 ⁶ |
| Change | -172 | -21 |

Notes

- 1 Interim state 2 ran from October 2017 to January 2019.
- 2 HM Courts & Tribunals Service (HMCTS) has reported combined reform and crime programme figures in its latest business case, published in early 2019. These programmes previously had separate business cases.
- 3 Reform programme steady state savings of £200 million and crime programme steady state savings of £45 million.
- 4 The TCEP business case reported overall savings of £128 million until 2025-26. To present savings on a consistent basis, we have added steady state savings of £20 million each year for 2026-27 to 2028-29.
- 5 The previous version of the crime programme business case included savings attributable to the Crown Prosecution Service (CPS). To present savings on a consistent basis, we have therefore increased the value of savings in the latest business case to include those attributable to the CPS, which HMCTS has presented separately in an appendix. This figure includes HMCTS savings of £2,056 million and CPS savings of £56 million, which is £21 million of overall savings to 2023-24 and steady state savings of £7 million each year for 2024-25 to 2028-29.
- 6 HMCTS reform savings of £237 million a year which it expects in 2024-25; and CPS steady state savings of £7 million a year which HMCTS expects in 2021-22. HMCTS previously expected reform steady state savings to come in 2023-24.
- 7 Figures are quoted in nominal prices, have not been discounted and include an allowance for over-optimism.

Source: HM Courts & Tribunals Service business cases

Future developments

1.21 HMCTS is now approximately halfway through transforming the courts and tribunals system. It is focusing on scaling up the delivery of new services and systems to a larger number of users. The next stage of reform runs from February 2019 to May 2020. It involves increasing the pace and volume of project delivery, with multiple services developing in parallel and corresponding changes to HMCTS's operating model and structure. These changes will also mean more significant cuts in staff numbers. For example, HMCTS's business case shows a saving of £17.4 million from employing fewer staff, reducing the number by around 1,175 (full-time equivalent) by the end of March 2020, although it does not expect to achieve these targets. The main deliverables during interim state 3 are to:

- continue with its restructure by transitioning staff into remaining service centres and implementing a new regional management structure;
- complete existing projects in the civil, family and tribunal jurisdiction, move work into the service centres and start reforming public family law, adoption, immigration and asylum and employment tribunals;
- expand the functionality of the common platform system and begin to roll out the first iteration nationally to crown and magistrates' courts. Nationwide roll-out is expected during 2020;
- complete various IT infrastructure projects and progress enabling projects, such as bulk scanning and printing, scheduling and listing and video hearings; and
- consult on the next round of court closures and continue to sell sites that were previously identified for disposal.

1.22 To recognise the shift from design into delivery, HMCTS established a transition board in late 2018 to manage the transition of new services to operations. This board will be responsible for:

- deciding when services can be launched taking into account legacy processes, the timing of other releases and wider operational factors;
- monitoring and supporting roll-out through business change; and
- tracking certain benefits such as savings from headcount reductions.

Part Two

Reforming the court and tribunal estate

The estates reform programme

Background

2.1 HM Courts & Tribunals Service (HMCTS) spends around £400 million a year running its estate. Recognising that many of its sites are in poor condition, unfit for modern ways of working and underutilised, in 2015 HMCTS introduced a programme to consolidate its estate. This focused on sites in good condition with modern facilities, situated in important locations to better match capacity to demand. The estates reform programme forms part of HMCTS's reform programme, with all proceeds from property sales retained to fund reform projects. Property receipts are a significant source of funding, contributing more than 22% of the total cost of wider reforms.

2.2 The estates reform programme is taking place in two phases. The first is to dispose of sites where there is capacity for work to be heard elsewhere. The second phase largely depends on moving cases out of court and improving efficiency, and on the successful delivery of other reform projects. HMCTS brought forward six sites into the estates reform programme which it had closed before 2015. The numbers in this section include these six sites.

Progress with estates reform

2.3 At the start of estates reform, the HMCTS estate included 468 courts and tribunals in England and Wales.¹¹ HMCTS had previously announced the closure of 142 courts between 2010 and 2014 under the court estates reform programme. One of these remained unsold at the end of 2018-19.

¹¹ This includes six sites closed before 2015. HMCTS also manages more than 30 other sites including non-devolved tribunals in Scotland, administrative sites such as offices, and land purchased with the intention of developing it.

2.4 Since the start of estates reform, HMCTS has proposed the closure of 156 courts and tribunals, 33% of its total estate (**Figure 9**). Of these, it has gone on to close 127. HMCTS has publicly consulted on its plans to close 103 and has ‘integrated’ the work of the other 53.^{12,13} This means it transferred the work from one HMCTS site to another in the same city, town or London borough. HMCTS does not consult on proposals to integrate as it considers that integrations have only a limited impact on services. **Figure 10** on page 28 maps the change in the HMCTS estate since the start of reform.

Proceeds, costs and savings

2.5 In total, HMCTS forecasts that its site closures will:

- bring in sales proceeds of £258 million;
- cost £233 million; and
- achieve total lifetime savings of £724 million, with annual steady state savings of £64 million from 2024-25.

2.6 By the end of March 2019, HMCTS reported that it was broadly on track with sales proceeds, having made £124 million against a target of £128 million by disposing of 114 courts and tribunals.¹⁴ Overall, it was slightly behind target due to fewer than expected sales, however, it sold many individual sites at a higher price than it originally estimated. HMCTS has closed another 13 courts and tribunals which it has not yet sold.¹⁵ It also plans to dispose of a further 12 from the first and second stages of reform which are still open. We discuss plans for future estates reform in Part Three.

2.7 HMCTS also reported that it had spent £90 million on estates reform by the end of March 2019, £6 million less than forecast. These include the costs to improve court buildings in the estate and to exit sites that have closed, including costs to market and sell properties. The underspend is due to HMCTS making fewer property sales than expected. It has reported that it has slightly underperformed by delivering savings of £97 million against a forecast of £98 million, again because of making fewer property sales than expected.

The process for closing sites

2.8 In selecting sites to close, HMCTS follows a thorough process with multiple levels of governance. Integrations follow a simplified governance process (**Figure 11** on page 29).

¹² The 156 sites proposed for closure and 127 closed sites include six sites closed before 2015. Two of these were subject to consultation and four were closed following an integration.

¹³ HMCTS also consulted on plans to close Hammersmith County Court. As this was co-located with Hammersmith Magistrates’ Court, we have excluded it from this list to avoid double counting. HMCTS also consulted on the closure of one administrative site.

¹⁴ £1 million of the £124 million sales proceeds came from sites closed before 2015. Five of the 114 disposed courts and tribunals were closed before 2015.

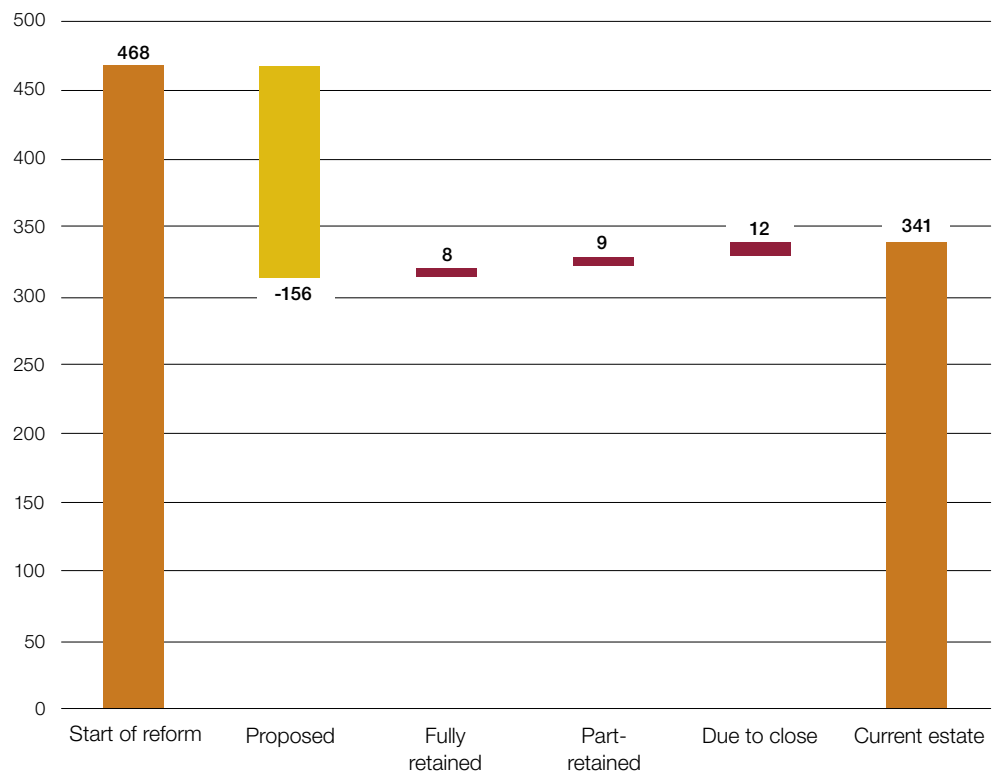
¹⁵ This includes one site closed before 2015.

Figure 9

Courts and tribunals in England and Wales managed by HM Courts & Tribunals Service (HMCTS)

The total number of courts and tribunals has reduced since the start of the estates reform programme in 2015

Number of courts and tribunals in the HMCTS estate



- Increase
- Decrease
- Total

Notes

- 1 The 468 sites at the start of reform and 156 proposed for closure include six sites closed before 2015.
- 2 Sites proposed for closure include 103 consultations since the start of reform. This excludes Hammersmith County Court which was co-located with Hammersmith Magistrates' Court, to avoid double counting, and one administrative site.
- 3 Of the eight sites that HMCTS fully retained: five were retained following consultation responses; two were retained following an integration; and one was subject to consultation, but the proposal was withdrawn by HMCTS as it did not represent value for money.
- 4 Part-retained are those where HMCTS decided to stop certain types of work undertaken at that site but retained the building for other work.
- 5 Sites that are due to close are those where HMCTS has decided to sell but the building is currently still in use.

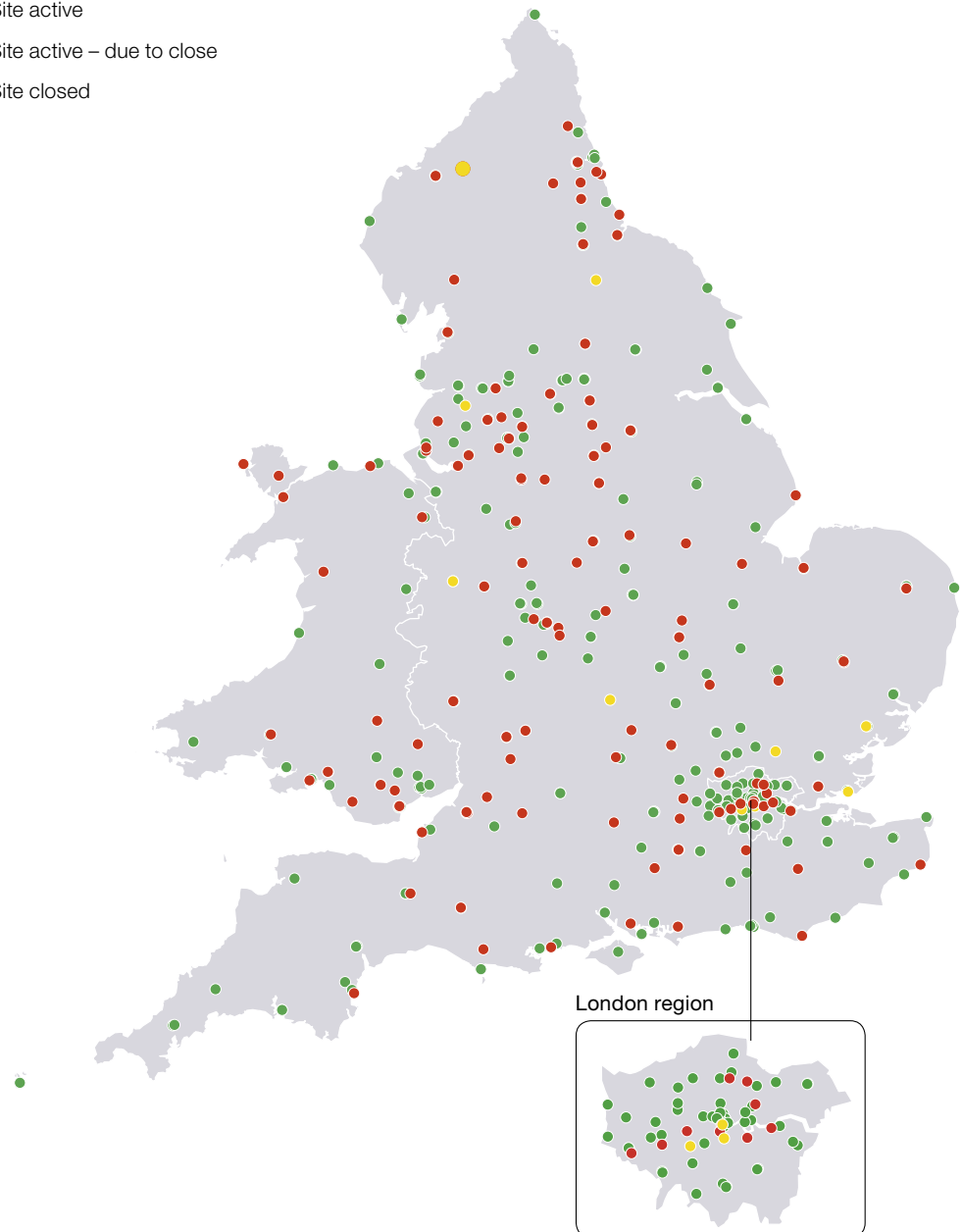
Source: National Audit Office analysis of HM Courts & Tribunals Service data on courts and tribunals and consultation documents

Figure 10

The HM Courts & Tribunals Service (HMCTS) estate in England and Wales, as at March 2019

There are currently 341 active courts and tribunals in the estate

- Site active
- Site active – due to close
- Site closed



Notes

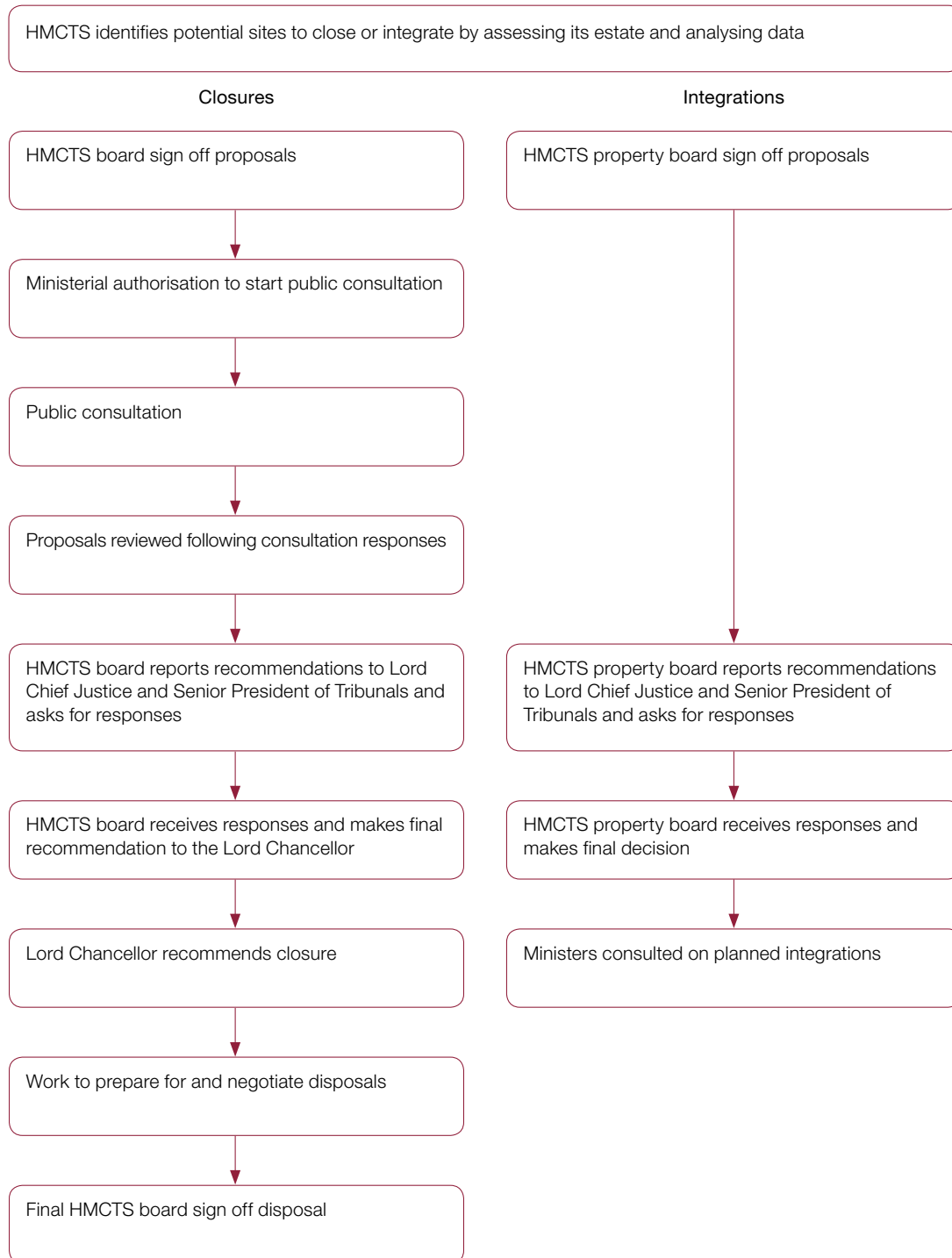
- 1 The map includes all courts and tribunals in the HMCTS estate in the scope of the estates reform programme. It does not include administrative sites such as offices, land held for development or services which only exist online. It includes six sites closed before 2015.
- 2 There are five closed sites and one site, which is active but due to close, which do not have a valid postcode. These six sites are not marked on the map but are included in the totals given.

Source: National Audit Office analysis of HM Courts & Tribunals Service's estates data

Figure 11

HM Courts & Tribunals Service's (HMCTS's) process for selecting and approving sites to close

Closures involve public consultation and additional sign-offs when compared with integrations



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

Identifying sites for closure

2.9 HMCTS has assessed all closures to date against three key principles:

- **Access to justice**, which is the principle that has created the most concern for stakeholders. Although HMCTS does not have a formal definition, it has stated that “everyone who needs to access the court and tribunal estate should be able to do so”.¹⁶ In practice it considers: estimated journey times; issues associated with rural access and alternative solutions to mitigate any challenges; the needs of victims, witnesses and those who are vulnerable; and the requirements of other agencies in the justice system.
- **Value for money** includes reducing the costs associated with running the estate and maximising sales receipts. HMCTS considers the site’s value and expected costs to sell, as well as the building’s operational costs and maintenance backlog.
- **Operational efficiency** includes focusing on sites that have, or could easily be upgraded to have, better facilities, especially larger sites that are capable of being used more flexibly. HMCTS considers the closing site’s capacity, the number of courtrooms it has, its age, condition and facilities. HMCTS also considers the capacity of surrounding sites to accommodate the work based on current volumes but does not consider forecast changes in demand in all closures.

2.10 While HMCTS has defined access to justice broadly in public, to date it has focused its assessment on the impact on users’ travel time if it closes a site. It developed models to analyse the effect of closing sites on travel time, which it used to confirm whether it should proceed with a consultation on closure. The models calculated the time taken for a person to reach the nearest court or courts before and after a proposed closure. HMCTS used different models for the first and second stages of estates reform:

- For closures in the first stage, it consulted on regional packages of proposals. HMCTS estimated the time users would take to reach the assumed next closest site by 10 am starting at a central point in multiple local areas.¹⁷ This approach had limitations, relating to the start and end points of journeys, which in some cases were unlikely to reflect the journeys users would have to make. In stage one, HMCTS also estimated the cost of journeys using some basic assumptions.
- For closures in the second stage, HMCTS estimated the average time to travel to the closest 10 sites for each jurisdiction. It also calculated this based on an 8 am departure from a central point in multiple local areas, which were slightly larger than those areas it used in the first stage.¹⁸ HMCTS did not assess the cost of journeys for these closures in the same way as in the first stage. In some stage two consultation responses, it provided estimated costs for a small number of example journeys.

¹⁶ HM Courts and Tribunals Service, *Response to Fit for the Future: transforming the Courts and Tribunals Estate consultation*, available at: <https://www.gov.uk/government/consultations/fit-for-the-future-transforming-the-court-and-tribunal-estate>

¹⁷ For stage one closures, HMCTS measured journeys from geographical areas with a population of between 1,000 and 3,000 people.

¹⁸ For stage two closures, HMCTS measured journeys from geographical areas with a population of between 5,000 and 15,000 people.

Public consultation

2.11 HMCTS has developed its approach to consulting the public during the estates reform programme, although stakeholders continue to have concerns (Part Three). Consultation documents for the first stage asked for views on proposals and how HMCTS could ensure ongoing access to justice. Consultations under the second stage included more site-specific questions, including views on a range of options for reallocating work from each proposed closure.

2.12 HMCTS published responses to all its public consultations. **Figure 12** shows that of the 105 sites on which it has consulted as part of estates reform, HMCTS closed 73 without changes. It changed several proposals following responses to its consultations, including:

- changing the sites that would receive the work after closure (16 sites); and
- committing to providing alternative provisions locally before closing (10 sites).

Figure 12

Outcomes of HM Courts & Tribunals Service's (HMCTS's) consultations on court closures

Seventy-three of 105 consultations resulted in closures in line with the original proposal

| Estates reform programme stage | Total sites in consultation | Sites closed per the consultation proposal | Sites closed with a change in receiving site | Sites closed subject to alternative provision | Sites retained |
|--------------------------------|-----------------------------|--|--|---|----------------|
| 1 | 91 | 64 | 14 | 8 | 5 |
| 2 | 8 | 4 | 2 | 1 | 1 ² |
| Other ³ | 6 | 5 | 0 | 1 | 0 |
| Total | 105 | 73 | 16 | 10 | 6 |

Notes

- 1 The 105 sites in the scope of consultation include Hammersmith County Court which was co-located with Hammersmith Magistrates' Court. It has been included in this table but excluded from other datasets to avoid double counting. This also includes two sites that HMCTS had closed before 2015 and one administrative site.
- 2 HMCTS decided to retain Cambridge Magistrates' Court for value-for-money reasons independent of the consultation.
- 3 'Other' sites are Camberwell Green Magistrates' Court, Hammersmith Magistrates' Court and four brought forward from previous consultations.

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

Closure and sale

2.13 Of the 114 sites disposed of since the start of reform, HMCTS sold 27 (24%), transferred 33 (29%) to other government bodies and exited the lease of the remaining 54 (47%).¹⁹ HMCTS made these decisions based on the nature and location of individual sites. For example, it is more likely to sell high-value sites, such as those in London, as these receipts are critical to achieving the overall target for sales proceeds. However, it also considers other government priorities, such as creating affordable housing, the ease of disposal and potential cost savings. During the first stage of the estates reform programme, HMCTS transferred a batch of sites to the Homes and Communities Agency (now Homes England), reducing the costs it would have incurred if it had marketed each site individually.

2.14 HMCTS has sought to maximise the sales proceeds it receives from sites. It has routinely included clauses that guarantee additional proceeds contingent on future events, such as the buyer receiving planning permission. In transferring sites to Homes England, HMCTS is entitled to 70% of any additional net profit made when Homes England sells the site on, in addition to the initial transfer value. To date, HMCTS has not yet received any of the additional profits that have been made from such sites. Homes England told us it expects payments to be made in late 2019.

2.15 HMCTS responded to our concerns that it did not have adequate arrangements to protect heritage buildings and engaged with Historic England during the second stage of its estates reform programme. Following our sustainability overview on the Ministry of Justice, HMCTS committed to engage with the Government Historic Estates Unit when selling sites.²⁰ It will now undertake heritage assessments before a sale and contracts stipulate that buyers of high-profile heritage sites are expected to be good custodians of the property, although this may prove hard for HMCTS to enforce.

¹⁹ Of the 114 sites disposed since the start of reform, HMCTS closed five before 2015. Three of these were sold and the lease expired on the other two.

²⁰ National Audit Office, *Ministry of Justice: Environmental sustainability overview*, November 2017, available at: www.nao.org.uk/report/ministry-of-justice-environmental-sustainability-overview-2017/

Part Three

Future plans for estates reform

HM Courts & Tribunals Service's (HMCTS's) approach to closures

Stakeholder consultation

3.1 Following the first stage of closures, HMCTS sought feedback from stakeholders on its approach. In January 2018, it ran a consultation – *Fit for the Future* – to inform its future strategy.²¹ HMCTS sought views on how it assesses sites for closure and how it should engage with stakeholders in future consultations.

3.2 HMCTS received 249 responses from the judiciary, magistrates, legal representative groups, staff and trade unions, professional court users and members of the public. Stakeholders were supportive of some aspects but considered that HMCTS could be more transparent. A range of other concerns and HMCTS's responses are summarised in **Figure 13** overleaf.

3.3 In May 2018, HMCTS commissioned an independent review of the analysis underpinning its decisions to close sites. This included reviewing a number of the models used by HMCTS to understand court capacity and usage. It also highlighted factors to consider when using this information to make decisions about closing courts. The review found that the models were accurate but that HMCTS could do more to determine what was an appropriate level of use of a site when considering closures. It highlighted that very high use is not necessarily desirable or cost-effective, and that this could differ across the estate.

Changes to the approach

3.4 Following the consultation and independent review, HMCTS has re-examined how it assesses sites for closure, with a focus on access to justice. It has also reassessed the number of sites it plans to close in total, the expected sales proceeds and when it expects these closures to happen.

²¹ HM Courts and Tribunals Service, *Response to Fit for the Future: transforming the Courts and Tribunals Estate consultation*, available at: <https://www.gov.uk/government/consultations/fit-for-the-future-transforming-the-court-and-tribunal-estate>

Figure 13

How HM Courts & Tribunals Service (HMCTS) has responded to concerns raised by stakeholders

HMCTS has made changes in response to most of the concerns

| Theme and HMCTS proposal | Example of concerns raised by stakeholders | HMCTS's response |
|--|---|---|
| <p>Access to justice¹</p> <p>Nearly all court users should be able to attend court and return the same day by public transport</p> | <p>The benchmark was not specific enough. It should also consider journey difficulty and cost, the type of court and its opening hours and the needs of vulnerable people.</p> | <p>Updated principle to reflect that all journey times should be reasonable, and that different users have different needs.</p> <p>Benchmark made more specific – an overwhelming majority of users able to leave home no earlier than 7.30 am and return by 7.30 pm using public transport if necessary.</p> <p>Committed to considering other factors on a court-by-court basis and recognising users' needs.</p> |
| <p>Value for money²</p> <p>Assessing the capacity and usage of courts and tribunals</p> | <p>Concern that information on capacity might not reflect reality. Also concern that calculations did not consider judicial as well as physical capacity, and scepticism about whether video hearings would in fact reduce demand.</p> | <p>HMCTS considered that the criteria were sufficient, and no changes were required.</p> |
| <p>Operational efficiency³</p> <p>Improving the design of court and tribunal buildings</p> | <p>Points around authority, safety and security as well as the need to maintain accessibility for all users. Other responses highlighted the importance of protecting and maintaining historic buildings.</p> | <p>HMCTS thought that many points raised were covered in its design guide but committed to including preservation of historic buildings in its estates principles.⁴</p> |
| <p>Assessing future closures⁵</p> <p>The process for assessing closures and transparency of decisions and the approach to future consultations</p> | <p>Respondents highlighted a lack of transparency and requested that no more closures went ahead until HMCTS completed further evaluation.</p> <p>Some respondents thought decisions were already made when consultations went ahead. Others stressed the need for more locally led consultation, and to include wider local context.</p> | <p>HMCTS committed to not opening a consultation or closing sites until sufficient supporting evidence was available. It also committed to consulting as early as possible and providing as much local context as possible.</p> |

Notes

- 1 Access to justice addressed in questions 1 to 3 of the consultation.
- 2 Value for money addressed in question 4 of the consultation.
- 3 Operational efficiency addressed in questions 5 and 6 of the consultation.
- 4 The design guide provides the standards for refurbishment and redevelopment of existing and future court and tribunal buildings and facilities within the HMCTS estate. It was published in May 2019. Available at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/790777/Court_and_Tribunal_Design_Guide_-_Public_v1.1_-_webOptimised.pdf
- 5 Assessing future closures addressed in questions 7 to 9 of the consultation.

Source: National Audit Office analysis of HM Courts & Tribunals Service response to *Fit for the Future* consultation responses from stakeholders

3.5 HMCTS has developed a new set of evaluative criteria that it will use internally to identify sites to propose to ministers for public consultation. HMCTS considers that this will make its process more repeatable. These criteria align with HMCTS's three key principles as set out in the revised *Fit for the Future* strategy (**Figure 14**). HMCTS has not defined the relative importance of each consideration, nor how it will bring together its assessments against all six criteria to inform proposals. It told us that in practice decisions will be made on a case-by-case basis, taking into account all of the criteria.

3.6 HMCTS has moved away from relying on the level of use of a site in assessing whether a court should be closed. When HMCTS has considered closures previously, the level of use has been a significant factor. HMCTS now recognises that there may be reasons why low use is acceptable, such as a site being situated in a rural area with few alternative options. HMCTS has said that it will continue to consider use at later stages of its evaluation. It told us it is also looking into other possible measures of efficiency and is attempting to find a way to account for demand.

Figure 14

New criteria to inform proposals for consultations on site closures

The new criteria aim to make consultation proposals more repeatable

| Key principle | Consideration | Definition | Example factors for consideration |
|------------------------|------------------------------|--|--|
| Access to justice | Location | Whether a site is situated close to demand and good transport links | Whether sites are situated in a key strategic location ¹ |
| | Travel time | Whether there will be a significant impact on court users' travel time should the building close | How long it would take users to reach court before and after closure |
| Value for money | Cost | The cost of keeping the site open | How much is spent on renting leased sites |
| | Condition | Whether the overall condition of the property is satisfactory, based on the outcomes of a survey | The amount of the site's maintenance backlog |
| Operational efficiency | Fit for purpose ² | Whether the facilities in the court or tribunal are adequate and sufficient | HM Courts & Tribunals Service (HMCTS) will consider court facilities on a site-by-site basis |
| | Scale | Whether the building is big enough to deal with additional work in the future | The number of hearing rooms in each building |

Notes

- 1 HMCTS defines key strategic locations as being in major towns and cities that have good transport links and which serve large populations.
- 2 Some of the deciding factors that will be used to assess whether a building is fit for purpose are: the ease with which people can navigate the building; access for users with mobility issues; the number and type of rooms for the workload; the level of security infrastructure; and the level of separation of parties.
- 3 HMCTS expects to assess individual sites against all these criteria and use this overall assessment to identify sites that should be investigated for closure. It will also continue to consider the value for money of individual closures.

Source: National Audit Office analysis of HM Courts & Tribunals Service evaluative criteria

Access to justice

3.7 For future closures, HMCTS has developed a new model to estimate the change in journey times for users if a site is selected for closure. This model estimates the proportion of the population who are likely to be affected by increased journey times. The outputs from this new model can be used to estimate whether a user would be able to leave home no earlier than 7.30 am and return by 7.30 pm using public transport if necessary.

3.8 HMCTS's new approach to estimating the impact of closures on access to justice does not address wider concerns raised by stakeholders. These include the cost of longer journeys, the practicality of travelling by public transport rather than by car and the disproportionate impact that closures may have on more vulnerable groups. HMCTS's response to its *Fit for the Future* consultation indicates that it will consider these concerns on a site-by-site basis when determining whether a journey is reasonable; however, it is currently not clear how it plans to do this.

Closures and sales proceeds

3.9 HMCTS has scaled back and delayed its plans to close further sites. It undertook a review of potential future closures to ensure they still represented value for money. Consequently, it reduced the indicative number of future disposals from 96 to 77 sites; total planned sales proceeds will fall from £153 million to £130 million. Future closures depend on the extent to which HMCTS can reduce demand by moving hearings out of court and improving efficiency. But delays with other reform projects mean it is not yet able to evidence a decrease in demand for physical court space. HMCTS therefore opted to re-assess when it would make future closures. It previously expected to complete all property disposals by 2021-22 but now expects this to happen by 2025-26 (**Figure 15**). HMCTS has also committed to having clear evidence that reductions in physical hearings are happening before it decides to close any further sites.

Understanding the impact of closures to date

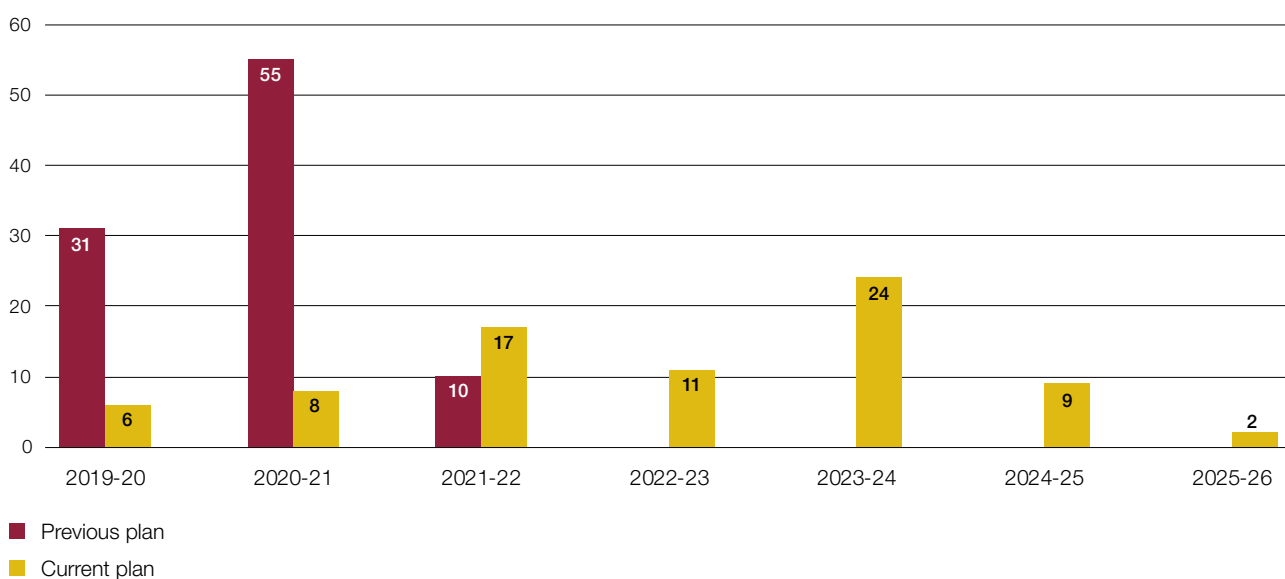
3.10 Many stakeholders are concerned that closures are potentially damaging justice outcomes or impeding access to justice. There is limited public research in this area but HMCTS reviews trends in operational performance each month as part of routine monitoring at regional and board level, for example the outstanding caseload across jurisdictions and the level of ineffective trials. This information is not shared externally. HMCTS believes it would pick up sudden changes in performance resulting from closures through this route. It is not clear the extent to which HMCTS's monitoring would highlight changes in the experiences of court users. In 2019, HMCTS undertook analysis to examine the change in 'access' between December 2010 and January 2019. It compared the proportion of the population who would be able to reach court by 9.30 am, leaving no earlier than 7.30 am, and returning home by 7.30 pm, by public transport if necessary. This found negligible changes across jurisdictions. This was a one-off piece of analysis and not part of any routine monitoring of impact.

Figure 15

Changes to expected future site disposals to be undertaken by HM Courts & Tribunals Service (HMCTS) as part of the estates reform programme

HMCTS expects to complete its programme of closures in 2025-26

Number of properties disposed

**Note**

1 Under its previous plan, HMCTS expected to close 96 further sites between 2019-20 and 2021-22. Its current plan shows an expected 77 closures between 2019-20 and 2025-26.

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

Monitoring and evaluation

3.11 HMCTS monitors the impacts of reform indirectly by monitoring performance at the organisational level (paragraph 3.10), and at project/service level. It uses jurisdiction boards, co-led with the judiciary to consider performance. For new services, HMCTS has established service boards to check whether a service performs as expected. It is using new service standards and new performance dashboards.

3.12 To more directly assess the impact of reforms, HMCTS has commissioned evaluations of a few high-profile initiatives. Overall evaluation of reform will be conducted by the Ministry of Justice, so HMCTS did not develop plans to evaluate the overall success of reform from the start and there was no dedicated funding or strategy to guide its approach. In early 2019, HMCTS proposed creating an evaluation plan supported by better monitoring of outcomes for different groups. It also proposed developing clearer definitions of its core objectives ('proportionate', 'openness' and 'access to justice') and is developing its performance measurement framework.

3.13 The Ministry of Justice told us that it plans to do an overarching evaluation of reform to ensure an appropriate level of independence from the delivery of the programme. Broadly, it aims to examine three themes around access to justice, costs to court users and fairness, drawing on a range of methodologies. It expects to produce an interim report in 2021-22, with a final evaluation report in 2024-25. The extent to which learning from this evaluation will be able to influence the implementation of the reform portfolio is unclear.

Appendix One

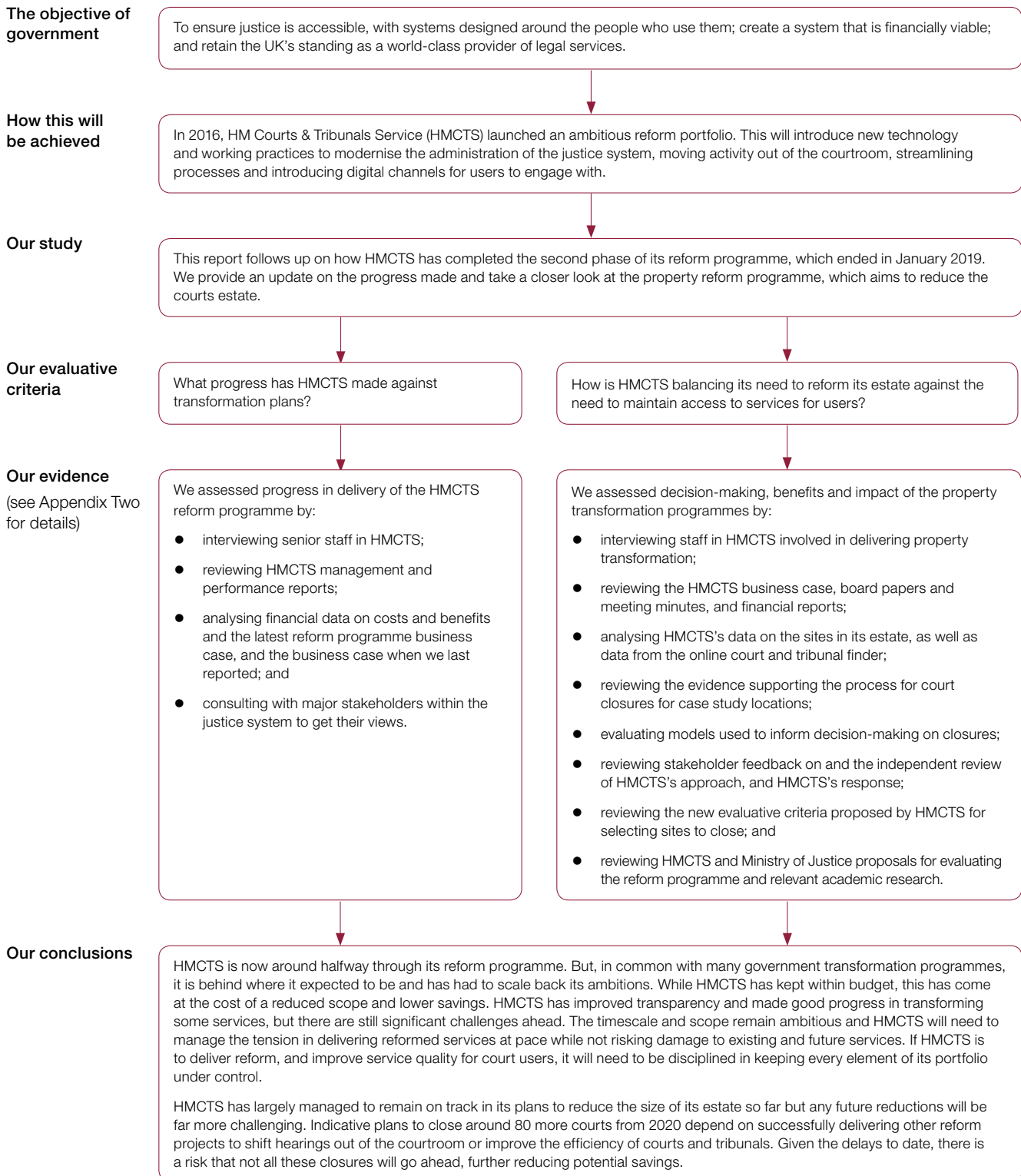
Our audit approach

1 This report follows up on how HM Courts & Tribunals Service (HMCTS) has completed the second stage of its reform, 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).

2 This study is the second in a programme of work to examine and report on the progress of the HMCTS reform programme. It follows on from our first report on early progress published in May 2018. These reports provide a baseline for future analysis of value for money and will allow us to measure progress objectively.

3 Our audit approach is summarised in **Figure 16** overleaf. Our evidence base is described in Appendix Two.

Figure 16
Our audit approach



Appendix Two

Our evidence base

1 Our conclusions on the progress of the HM Courts & Tribunals Service (HMCTS) reform programme and associated estates reform programme were reached following analysis of evidence collected between March and July 2019.

2 We reviewed the progress HMCTS has made against its reform plans

- We interviewed a range of senior staff from across HMCTS involved with the delivery of the reform programme. We also met with staff in HMCTS's finance team to understand changes between versions of the business case and the approach to identifying and measuring benefits.
- We reviewed HMCTS's internal management and performance reports to: understand its performance at the end of interim state 2; analyse how it tracks performance across the portfolio; and understand what it is reporting. We asked for evidence to support the reported performance against strategic outcomes but HMCTS was not able to provide comprehensive supporting evidence in all cases.
- We analysed HMCTS's latest reform programme business case (version 5) and the business cases that were in place when we previously reported on the programme (reform business case version 4, common platform programme and transforming compliance and enforcement programme, TCEP). These three business cases each reported programme costs and benefits over different 10-year periods. The current business case brings together the previous reform and crime business cases, except for the costs and savings accruing to the Crown Prosecution Service (CPS), which HMCTS has presented separately in an appendix. It also does not include costs and savings from TCEP. Version 5 reports programme costs and benefits over 15 years from 2014-15 to 2028-29. We used data from these business cases and other financial reports to:
 - understand what HMCTS is reporting about the costs and savings of the reform programme to date. For cost figures, we have taken data from business cases and financial reports and have not agreed these back to underlying financial data (for example, HMCTS's accounting system). For savings figures, we asked for evidence to support the savings claimed but were not provided with sufficient evidence to take assurance over the numbers. We have therefore reported the values recognised by HMCTS but made it clear that we have not audited the numbers;

- compare the costs and savings against what we previously reported. To report them on a like-for-like basis, we have: increased the value for overall savings in previous versions of the business case by adding in steady state savings for the additional years (2025-26 onwards for reform, 2024-25 onwards for crime and 2026-27 onwards for TCEP); and increased the value for all business case version 5 numbers to include costs and savings attributable to the CPS; and
- compare the net present value of the programme now compared with when we previously reported and the reasons behind the changes.
- To gain assurance over the robustness of our analysis, we sought assistance from our internal economics experts. They provided advice on our analysis and reviewed the latest version of the business case against a good practice framework.
- We consulted with major stakeholders within the justice system to ascertain their views on HMCTS's reform programme. This included: senior members of the judiciary; the Bar Council; the Magistrates' Association; the Law Society; and the Chartered Institute of Legal Executives to ensure that we collected a wide range of opinions from all those involved.

3 We analysed how HMCTS is balancing its need to reform its estate against the need to maintain access to justice for users

- We interviewed a range of staff across the estates reform team in HMCTS to understand progress with court and tribunal disposals, the disposal process and the nature of the costs and savings. We interviewed staff responsible for HMCTS's operational monitoring to understand the work undertaken following a site closure. We also followed up on our previous recommendation about the management of heritage assets when making disposals.
- We reviewed the latest reform programme business case, board papers and meeting minutes to understand the rationale for estates reform and changes in the forecasts for future disposals. We reviewed internal financial reports to understand what HMCTS is reporting about the costs and savings as well as sales proceeds. We have not agreed these back to underlying financial data (for example, HMCTS's accounting system).
- We analysed HMCTS data on the sites within its estate to reconcile the number of sites in the estate at the start of reform compared with the end of March 2019, as well as the nature of the buildings and the arrangements under which HMCTS holds them. To ensure completeness we have reviewed HMCTS's listing against the online court and tribunal finder and identified a number of discrepancies. We worked with HMCTS to gain assurance over the number of sites currently in the estate. We produced a map of sites, which was reviewed by our internal experts.

- We analysed estates management information and reviewed governance processes, board papers and meeting minutes to examine the decision-making process and evidence surrounding court closures. We reviewed the new evaluative criteria which HMCTS plans to use to identify courts to propose for consultation on closure. We reviewed published consultation papers and responses and HMCTS's analysis of responses to understand the changes made to closure decisions following consultation. We also reviewed in detail the evidence used to inform two closures undertaken in the first stage of the estates reform programme.
- We reviewed the models used by HMCTS to inform decision-making on selecting courts to propose for consultation on closure. This included reviewing travel time models (both those used in previous court closures and the model HMCTS will use for future closures) in accordance with the National Audit Office framework for reviewing models. This involved reviewing the model assumptions, development, data, assurance and outputs, and reviewing in detail the technical logic and workings of the model. It was reviewed by our internal experts.
- We reviewed HMCTS commitments to estates reform in its published response to its *Fit for the Future* consultation. We analysed a sample of stakeholder responses to this consultation. We also reviewed the published responses to the Justice Select Committee's Court and Tribunals reform inquiry to understand the concerns being raised by stakeholders. We reviewed the independent review of the analysis underpinning HMCTS's decisions to close sites to understand the recommendations made about improvements it could make to its approach.
- We reviewed Ministry of Justice and HMCTS evaluation proposals and documentation for the reform programme, as well as relevant academic research.

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