



National Audit Office



REPORT

# Progress on the courts and tribunals reform programme

HM Courts & Tribunals Service

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SESSION 2022-23  
23 FEBRUARY 2023  
HC 1130



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**HM Courts & Tribunals Service**

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## **Report by the Comptroller and Auditor General**

Ordered by the House of Commons  
to be printed on 21 February 2023

This report has been prepared under Section 6 of the  
National Audit Act 1983 for presentation to the House of  
Commons in accordance with Section 9 of the Act

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**Gareth Davies**  
**Comptroller and Auditor General**  
**National Audit Office**

**16 February 2023**

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# Contents

**Key facts** 4

**Summary** 5

**Part One**

The evolution of the courts and tribunals reform programme 11

**Part Two**

Common platform 29

**Part Three**

Completing the reform programme and delivering the benefits 40

**Appendix One**

Our evidence base 51

**Appendix Two**

Details of projects included in HM Courts & Tribunals Service's (HMCTS's) reform programme 55

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## Key facts

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**£1.1bn**

spent on the reform programme at December 2022, including £286 million on the crime workstream, which includes common platform

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**£220mn**

annual savings HMCTS expects from reforms from 2025-26 onwards, 7% lower than in HMCTS's 2019 business case

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**24**

out of 44 projects completed as at November 2022

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**£1.3 billion**

HM Courts & Tribunals Service's (HMCTS's) courts and tribunals reform total programme budget, around 10% higher than when the programme was established in 2016

**£2 billion**

expected net lifetime savings of the reform programme, £310 million lower than in HMCTS's 2019 business case

**10**

out of 17 planned reforms to court and tribunal services HMCTS has partly or fully rolled out, at November 2022

**76%**

percentage of criminal courts using common platform, HMCTS's new digital case management system, at November 2022

**25%**

proportion of the programme's total gross benefits HMCTS expects common platform to deliver

**December 2023**

date when HMCTS planned to complete the reform programme. It planned to finish all projects by March 2023, with a nine-month contingency period built into the timetable. HMCTS is now considering an extension to the timetable following increased delivery risk

# Summary

**1** HM Courts & Tribunals Service (HMCTS) is an executive agency of the Ministry of Justice (MoJ) and reports jointly to the Lord Chancellor, Lord Chief Justice and to the Senior President of Tribunals. It is responsible for supporting the independent judiciary in the administration of criminal, civil and family courts and tribunals in England and Wales, and non-devolved tribunals in Scotland and Northern Ireland.

**2** In 2016, HMCTS launched an ambitious portfolio of reforms, which were later brought together to form the courts and tribunals reform programme (the programme). The programme aims to modernise the justice system by reducing complexity and providing new ways for people to engage. HMCTS intends to achieve this by introducing new technology and working practices, moving activity out of the courtroom, streamlining processes and introducing services that people can access online.

**3** We have reported on the programme twice previously. Our last report in 2019 concluded that the programme's timetable and scope remained ambitious despite HMCTS extending the programme's end date by three years to December 2023. We stressed that HMCTS would need to manage the tension in delivering reformed services quickly without risking damage to existing and future services.

**4** HMCTS's courts and tribunals reform programme is now in its final phase. The COVID-19 pandemic has increased the programme's importance as the reforms are central to the MoJ's commitment to reduce court backlogs and improve the overall resilience of the justice system. A significant part of the programme's success depends on how effectively HMCTS implements its new digital case management system for criminal courts, common platform. HMCTS expects the system to deliver a quarter of the programme's estimated gross lifetime savings.<sup>1</sup> In this report, we examine:

- HMCTS's progress since 2019 (Part One);
- whether HMCTS is rolling out common platform effectively (Part Two); and
- whether the reform programme is on course to achieve its expected benefits (Part Three).

As HMCTS has not yet completed the reform programme, we conclude on risks to the programme achieving value for money.

<sup>1</sup> We refer to the proportion of gross savings as total net savings include certain ongoing costs that are difficult to attribute to individual parts of the programme. Gross savings are likely to underestimate common platform's contribution to the programme benefits slightly as ongoing costs directly attributable to common platform are low compared with the other main workstreams such as property.

## Key findings

### Managing the programme

**5 Since we last reported, HMCTS has continued to roll out reforms within a challenging operational environment.** It has made more services available online and begun introducing new digital systems, including common platform, to criminal courts. It has also now opened all five of its Courts and Tribunals Service Centres, to provide centralised case management and administration support to courts and tribunals. The programme team adapted its plans to respond to the pandemic. For example, it introduced audio and video hearings to courts, quickly enabling virtual court hearings when buildings closed. HMCTS has now completed 55% of its reform projects, although some remain in development, for example, some reforms to civil courts (paragraphs 1.5, 1.6, 1.9 and 1.14, and Figure 3).

**6 The pandemic's effects and HMCTS's underestimation of the programme's complexity delayed projects and increased cost pressures.** HMCTS delayed several projects due to challenging operational conditions and competing priorities created by the pandemic. As we found in previous reviews, HMCTS has also continued to find that the scope and complexity of delivering several aspects of the programme were greater than it estimated despite building in contingency to the business case. In its 2021 business case, HMCTS stated that both issues created a risk to the programme's ability to deliver reform for the approved cost (paragraphs 1.8, 1.10 and 1.13, and Figure 4).

**7 Despite increasing the programme's budget by around 10% in 2021 to reduce delivery risk, HMCTS does not expect to be able to deliver the programme to its current timetable and full scope.** HMCTS aimed to reduce delivery risk and avoid further scope reductions by increasing the budget from £1.2 billion to £1.3 billion in 2021. It attributed around two-thirds of the total increase to cost underestimates in previous business cases, and 3% to the pandemic. Although it delayed many projects, HMCTS did not request another timetable extension, which increased the pressure on programme teams to work quickly. HMCTS told us that this was because it did not foresee the continued impact of the pandemic when it wrote its 2021 business case in mid-2020. It has also meant that courts have had to manage a lot of change alongside trying to reduce court backlogs following the pandemic. However, in late 2022 HMCTS began considering changes to the programme following increased delivery risk. In particular, it was concerned about the remaining timeline for the delivery of common platform in Crown Courts. HMCTS has requested some of the programme's underspend to complete the programme. While HMCTS had spent £1.1 billion of its £1.3 billion budget as at December 2022, only £120 million of its funding remained due to underspend in previous years that it could not automatically rollover. As at the end of January 2023, HMCTS was still considering proposed changes to the programme with ministers and the senior judiciary (paragraphs 1.8, 1.10, 1.11, 1.13 and 1.14, and Figure 5).



**8 The expected savings from the programme have decreased since we last reported.** The programme's expected lifetime savings are now £2 billion, £310 million (13%) less than in 2019. Expected annual savings are now £17 million (7%) lower at £220 million and forecast to start a year later, in 2025-26. The decrease is due to HMCTS's revised (lower) savings assumptions in certain programme areas, a change to the design of common platform and higher than anticipated ongoing costs. The scale and timing of savings will be further impacted if its proposals are approved (paragraph 1.15).

### Developing and implementing common platform

**9 HMCTS's and the Crown Prosecution Service's (CPS's) design of common platform as a single system proved more complex than first anticipated, leading to early project delays and financial losses.** Through the common platform project, HMCTS and CPS aimed to reduce inefficiencies across the criminal justice system by digitalising all stages from around the point of deciding whether to charge a suspect to the conclusion of a court case. To do so they planned to replace both organisations' existing systems with a single shared system. They did this despite previously recognising that this was the highest-risk option and without fully appraising all other options at the outset. The project team faced difficulties managing the project's technical requirements, causing significant delays. In 2021 the project board approved a change to a new court system for HMCTS only, which would share information with CPS's existing system via interfaces. HMCTS concluded that the design change would not change the intended outcomes for users, but it estimated that annual savings would reduce by £9 million per year (around 8%). In total, HMCTS had to write off £22.5 million of the money it spent developing the CPS functionality (paragraphs 2.3, 2.4, and 2.6 to 2.8, and Figure 6).

**10 HMCTS's rollout of common platform has been significantly delayed due to technical problems including issues that have affected some justice outcomes and burdened courts.** HMCTS used an agile approach to develop common platform, which allowed iterative design changes. But HMCTS had to pause the rollout for long periods following performance issues such as lagging and slow system responses that interfered with the live-running of courts. In September 2022 HMCTS found that the system had failed to notify partner agencies of required actions in approximately 3,000 cases, impacting justice outcomes in a small number of instances. For example, 35 people were not fitted with electronic monitoring tags when they should have been (paragraphs 2.5 and 2.10, and Figure 7).

**11 HMCTS did not get sufficient assurance that common platform was ready to be introduced to courts.** Its own testing strategy review found that it was not sufficiently focused on understanding and mitigating risks. Although agile projects must check that they meet user needs, HMCTS did not clearly articulate the standards the system would need to meet before the rollout continued. HMCTS had only partly evaluated one early adopter site before deciding to roll the system out nationally (paragraphs 2.13 to 2.16).

**12 HMCTS recognises that it must better understand and respond to user**

**concerns.** Common platform users, including court staff and judges, told us that although the system had improved since its introduction, it has created inefficiencies in courts, caused stress for court staff and undermined trust in the quality of court records. HMCTS has several avenues for user feedback and evaluated some of its early adopter sites. It has responded to some concerns, for example by adding additional functionality and providing live online support for court staff as they learn to use the system. But it has not been clear about how it tracks and responds to feedback, nor when users may expect system improvements. Staff have also raised concerns about the live support that HMCTS provides. In October 2022 HMCTS launched a new formal feedback mechanism to allow it to better respond individually to user feedback (paragraphs 2.18, 2.20 and 2.21, and Figure 8).

Completing the reform programme and delivering benefits

**13 HMCTS has a limited understanding of whether reformed services are delivering the intended efficiencies, despite developing a new unit cost approach.**

HMCTS recorded £311 million in net savings between 2014-15 and 2021-22. We previously found that HMCTS had reduced project budgets in line with expected savings, but had not validated whether reformed services were delivering the expected efficiencies. HMCTS has since developed a unit cost approach to understand this better. Unit costs reflect the costs required to resolve a case within a particular service. However, isolating the impact of reform in a complex organisation is challenging. HMCTS is not able to isolate the impact of reform versus other factors in its benefits tracking, and therefore it recognises that its efficiency savings claimed to date may be inaccurate. HMCTS's analysis covering April to June 2022 found that unit costs were 19% to 146% higher than expected across its fully or partly reformed services. Unit costs for many services are also higher than pre-reform baselines. It has done some work to understand the reasons for increased costs but lacks routine data on how efficiently reformed services are working, such as the time reformed processes take. This limits HMCTS's ability to identify solutions that could reduce costs (paragraphs 3.2 to 3.5 and Figures 10 and 11).

**14 HMCTS is improving its understanding of the impact of its reforms on users.**

HMCTS and the MoJ have worked with stakeholders to define the intended service outcomes for users and developed plans to measure them. HMCTS has also started collecting data on certain protected characteristics within several of its online services, so it can explore how different user groups are affected. Each service must now undergo an access to justice assessment, which analyses how access to the hearings, decisions and sentences vary by user groups and case type. To date HMCTS has completed four assessments, which identified issues for some user groups. For example, its assessments of probate and divorce services found that cases from ethnic minority users took longer to resolve. It has not yet amended services to address these findings but is undertaking further analysis to identify underlying causes (paragraphs 3.9 and 3.10).

**15 It is not clear whether HMCTS can achieve its expected benefits with its remaining funding.** HMCTS did not clearly specify the detailed scope and functionality of individual projects at the outset and it is not clear that it has a comprehensive view of the outstanding work needed to complete the programme. It is therefore unclear whether HMCTS can deliver outstanding functions and services with the remaining funding. Some services are not yet working as expected and HMCTS still has much work to do. For example, HMCTS found that significant proportions of its online divorce and probate cases required manual staff interventions although it classes the projects as complete. HMCTS expects common platform to generate a quarter of the reform programme's gross lifetime savings but this project still has several significant gaps in its functionality. Several courts told us that they are listing fewer cases as it is taking them longer to process cases on the system. Unit cost reporting by HMCTS also suggested that listing fewer cases could be contributing to higher unit costs than expected in courts, as staff familiarise themselves with new processes. HMCTS has yet to develop an overarching benefits realisation plan and acknowledges that achieving the intended benefits of reform relies on changing the behaviour of many staff and service users. HMCTS has always planned to make continued improvements to services after the reform programme closed. But it is not clear whether additional funding will be needed for outstanding work, which would add to the total cost of reform (paragraphs 3.8 and 3.12 to 3.14).

## **Conclusion**

**16** HMCTS is nearing the end of its reform programme. We recognise the determination and focus with which HMCTS has continued to roll out changes to services within an increasingly difficult operational environment. However, following repeated delays, HMCTS's priority has been on delivering its reforms at pace rather than embedding sustainable change. Some services it has delivered are not working as efficiently as expected at this point and while it has improved its plans to evaluate the impact of reforms on users, its understanding in this area remains limited. HMCTS must now focus on achieving the anticipated benefits of the reforms. It must get a better grasp of the outstanding improvements it needs to make across the programme and prioritise its remaining funding on those which maximise both the financial and wider benefits. Failure to do this effectively will pose a risk to the value for money of the programme.

**17** Of most concern is the case management system for criminal courts, common platform. HMCTS's design of the system was beset with problems and its implementation is having a detrimental impact on courts. While the system has undoubtedly improved since its initial rollout, remaining technical issues are creating inefficiencies and introducing risk to courts and the wider system. HMCTS must ensure that it works with users to address these issues.

## Recommendations

- 18** HMCTS is nearing the end of its reform programme. To ensure it realises the benefits of reform, HMCTS should:
- a** **get a better understanding of how efficiently reformed services are working so it can identify where improvements are needed.** HMCTS should consider how to get more routine and timely data on how efficiently reformed services are working, including where variation exists;
  - b** **develop an overarching benefits realisation plan.** It should set out:
    - the main improvements required to each service to ensure they deliver the intended scope and how it plans to prioritise changes to maximise benefits;
    - how and when it can safely make changes that will deliver benefits; and
    - how it plans to engage partners to ensure the required behaviour change is achieved;
  - c** **publish findings from its impact on access to justice assessments for each service as they are completed** and explain how it will address any issues it identifies;
  - d** **prioritise and take forward common platform improvements that will make it easier to use, and communicate these plans to users.** It should set out a prioritised list of upcoming upgrades to the system with expected completion dates, focusing on those that will relieve workload pressures or support users in assuring data quality;
  - e** **ensure that common platform users have sufficient support as it continues the rollout.** It should assess whether its current remote support model is sufficient as the number of courts on common platform increases and avoid withdrawing support from courts until it is sure that doing so will not be detrimental to court processes; and
  - f** **identify lessons learned from the reform programme** as it comes to an end and feed those lessons into both reform and wider HMCTS and MoJ programmes. This should include a detailed section on lessons learned from the design and rollout of common platform.