







Departmental Overview, October 2018

Ministry of Justice

Ministry of Justice (the Ministry)

This overview summarises the work of the Ministry of Justice including what it does, how much it spends, recent and planned changes, and what to look out for across its main business areas and services.

Overview


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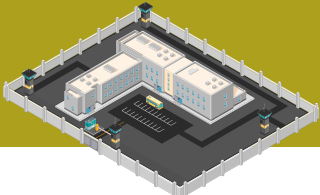
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About the Ministry of Justice

The Ministry of Justice (the Ministry) is a ministerial department supported by 37 public bodies.

It is responsible for the following areas of the criminal, civil and family justice systems in England and Wales provide:

- courts and tribunals (administered in partnership with the independent judiciary);
- prisons;
- probation; and
- services to help victims of crime, children, vulnerable people and those seeking access to justice, including legal aid.



The Ministry set out four strategic objectives in its 2018-19 Single Departmental Plan

<p>1</p> <p>Provide a prison and probation service that reforms offenders</p>	<p>2</p> <p>Deliver a modern courts and justice system</p>	<p>3</p> <p>Promote a global Britain and the rule of law</p>	<p>4</p> <p>Transform the Ministry</p>
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To measure its performance against these objectives, the Ministry has chosen the following sub-objectives

Get the basics right in prisons	Provide a fair and effective justice system	Ensure growth and readiness for leaving the European Union	Maintain a continued tight grip on departmental finances
Ensure a sustainable prison population	Improve experience of victims of crime within the criminal justice system	Maintain a domestic human rights framework that builds on our longstanding tradition of rights and liberties	Ensure a positive and engaged workforce
Tackle re-offending through a cross-government approach	Champion our world-class judiciary		Drive efficiencies and a better service
	Support better outcomes for children, families and vulnerable adults		

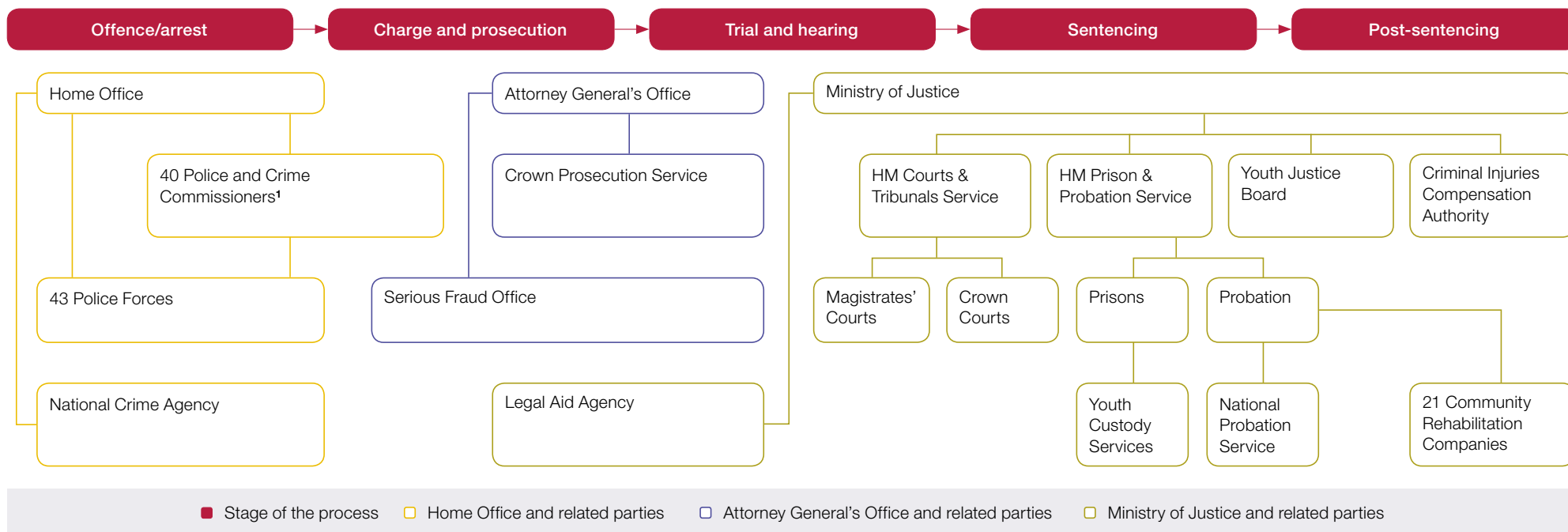
OVERVIEW

How the Ministry is structured

The Ministry delivers its objectives through a number of public bodies covering criminal, civil and family justice systems in England and Wales, notably:

- HM Courts & Tribunals Service, which is responsible for the administration of criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Scotland.
- HM Prison & Probation Service (previously NOMS), which carries out sentences given by the courts, in custody and the community, and rehabilitates people in its care through education and employment.
- The Youth Justice Board, which oversees the youth justice system in England and Wales.
- The Criminal Injuries Compensation Authority, which deals with compensation claims from people who have been physically or mentally injured because they were the victim of a violent crime in England, Scotland or Wales.
- The Legal Aid Agency, which funds civil and criminal legal aid and advice in England and Wales.
- The Parole Board, which is an independent body that carries out risk assessments on prisoners to determine whether they can be safely released into the community.
- The Children and Family Court Advisory and Support Service, which represents children in family court cases in England. This body is independent of the courts.

The Ministry of Justice works with a number of other government bodies across the criminal justice system in England and Wales



Notes

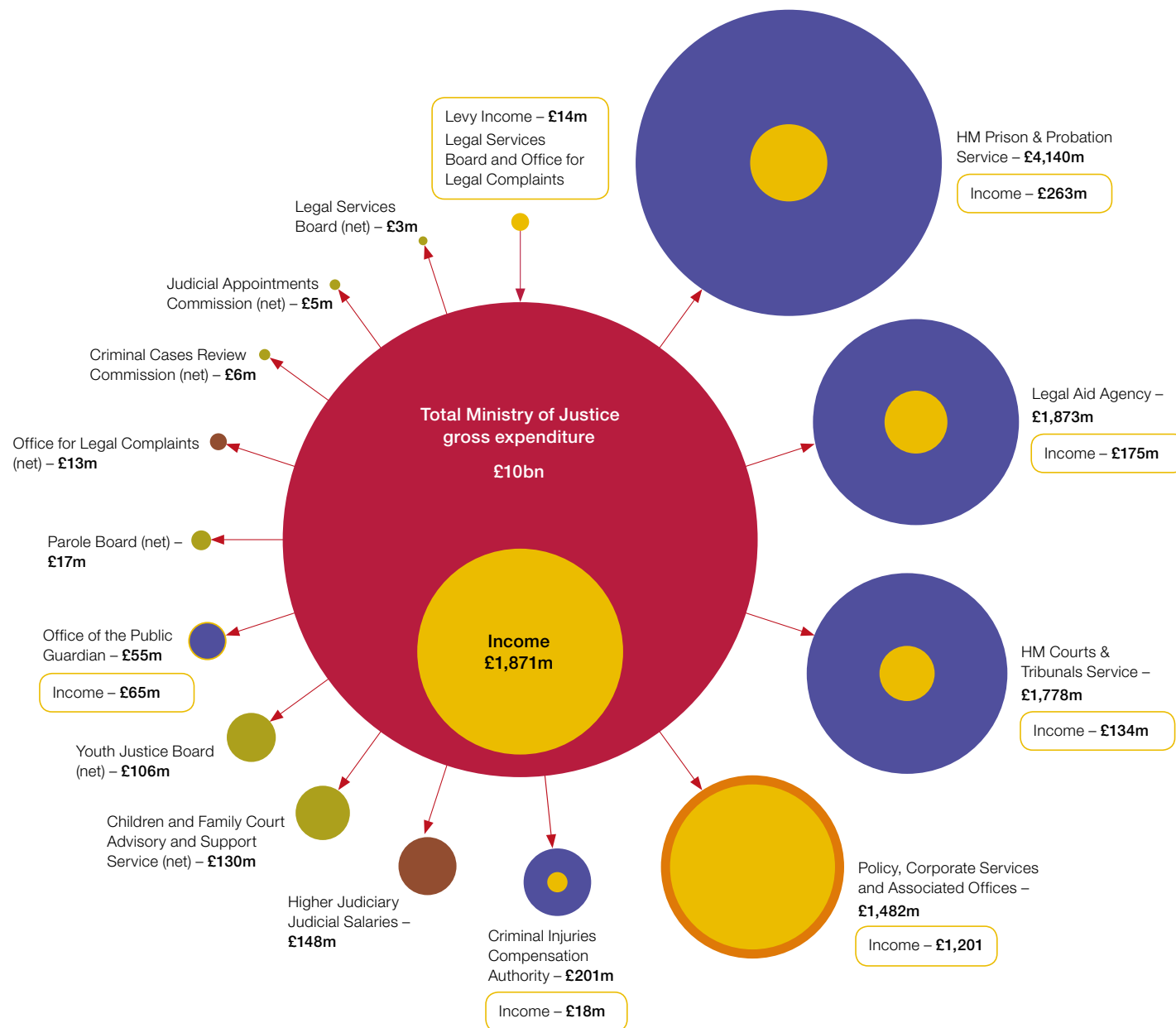
- 1 Greater Manchester Police, Metropolitan Police and the City of London Police do not have Police and Crime Commissioners. In these areas, Mayors and Metro Mayors have authority over the police.
- 2 A separate Departmental Overview is available on the Home Office.

Source: National Audit Office

OVERVIEW

Where the Ministry spends its money

The Ministry's total operating expenditure in 2017-18 was £10 billion, with income of £1.9 billion reducing the final net public expenditure to £8.1 billion.



- Total Ministry expenditure
- Income
- Central services expenditure
- Public bodies expenditure
- Executive non-departmental public bodies expenditure
- Other expenditure

Notes

- 1 Figures include spending in Departmental Expenditure Limits (DEL) and Annually Managed Expenditure (AME), voted and non-voted, for resource and capital spending.
- 2 The Ministry receives income from a combination of fees (for example, for courts processing divorce or probate claims), fines and recoveries from other government departments.
- 3 The Ministry also received levy income of £14 million in relation to the Legal Services Board and the Office for Legal Complaints.
- 4 The individual accounts of each organisation will not reconcile to the figures shown here due to adjustments made in consolidating the group account.

Major programmes and developments

The Ministry is managing a number of major programmes including:

01

The Prison Estate Transformation

Programme, which plans to provide up to 10,000 new prison places by reconfiguring the existing custodial estate and constructing a number of new prisons and smaller houseblock units within existing prisons. Whole-life costs are not yet available because the programme is awaiting approval by HM Treasury.

02

The Electronic Monitoring Programme,

which seeks to design and implement a new electronic monitoring system and service to monitor subjects wearing the devices. Whole-life costs are £581 million.

03

HM Courts & Tribunals Service Reform

Portfolio, with whole-life costs of £1.6 billion, is about modernising infrastructure and providing a flexible, modern service to court users, thereby increasing efficiency and improving service quality.

04

Probation programme, introduced in December 2017 to structure commercial negotiations on the early termination of Community Rehabilitation Companies contracts and to develop options for the future of probation services.

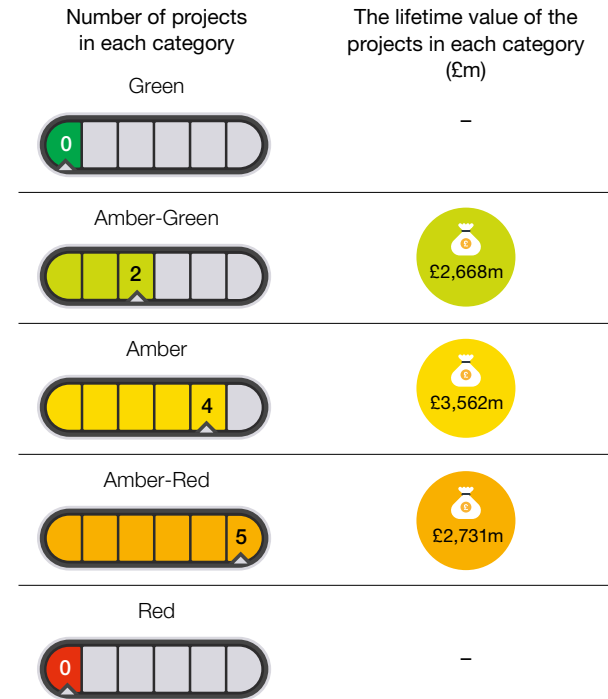
Organisational change or structural reform within the Ministry

- Creation of HM Prison & Probation Service (HMPPS) in April 2017 with full responsibility for the operational management of offenders in custody and the community, including the youth custodial estate.
- Restructuring of the Youth Justice Board to transfer responsibility for the youth custodial estate into HMPPS and responsibility for commissioning into the Ministry.
- Creation of a new government-owned facilities management company, which started operating in February 2018, to support the provision of facilities management and maintenance services to prisons following the collapse of Carillion in the same month.



Red-Amber-Green ratings and life-time value of the Ministry's projects by the Infrastructure and Projects Authority, September 2017

The Infrastructure and Projects Authority provides Delivery Confidence Assessment for all projects on the Government Major Projects Portfolio (GMPP). This is an evaluation of each project's likelihood of achieving its aims and objectives on time and on budget. It refers to a fixed point in time, using a five-point scale: Red, Amber-Red, Amber, Amber-Green and Green. The Ministry's 11 projects on the GMPP as at September 2017 were noted as follows:



9 of the 11 projects are rated Amber or Amber-Red

£6 billion (67%) of the £9 billion in whole-life costs of the projects is rated Amber or Amber-Red

Source: Ministry of Justice, Ministry of Justice Government Major Projects Portfolio data, 2017, July 2018

OVERVIEW

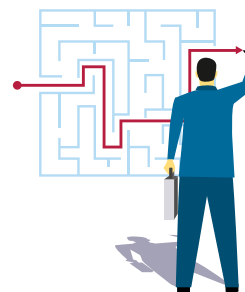
Exiting the European Union

In March 2019 the United Kingdom is set to leave the European Union (EU). The UK government has instructed departments to make the necessary arrangements for EU Exit.



The Ministry's main priorities for EU Exit set out in its Single Departmental Plan are to:

- ensure that English law and courts remain a primary choice for international businesses;
- promote UK legal services abroad, including through the GREAT campaign;
- deliver the best outcome from EU Exit negotiations – for citizens, families, businesses and the legal profession – and prepare for the UK's independent trade policy and negotiations;
- prepare the justice system for EU Exit; and
- foster innovation in the justice system, backing the UK to compete globally in taking the lead on cutting-edge opportunities.



Workstreams

In April 2018, the Department for Exiting the EU provided a summary of the workstreams underway to implement exit from the EU.

This stated that the Ministry has nine active workstreams relating to policies affected by leaving the EU. These cover understanding the impacts of EU Exit on the workload of courts and tribunals, fundamental rights issues related to EU Exit and legal services market access post-EU Exit.

It also includes the future civil judicial cooperation with the EU to enable clear rules on the handling of cross-border disputes in civil, commercial, insolvency and family law matters.

The government stated that the Ministry has developed delivery plans for a range of negotiated and contingency outcomes and is working closely with other government departments where there are issues with significant cross-cutting interest, for example with the Home Office on criminal justice cooperation and with the Department for Business, Energy & Industrial Strategy on mutual recognition of qualifications.



Funding

In March 2018, HM Treasury allocated £17.3 million to the Ministry for exiting the EU.



The Justice Select Committee described the main EU Exit challenges faced by the Ministry as:

- **continuing cooperation on criminal justice as closely as possible;**
- **maintaining access to EU regulations on inter-state commercial law** in order to protect the UK as a top-class commercial law centre;
- **enabling cross-border legal practice rights and opportunities** while working to secure an effective post-exit framework with the EU for resolving cross-border commercial, civil and family disputes; and
- **retaining efficient mechanisms to resolve family law cases involving EU member states and the UK** with mutual recognition and enforcement in family law that can be crucial in, for example, resolving child abduction cases with appropriate haste.



OVERVIEW

Managing public money

The Ministry set a target to reduce its spending by around 15% to meet its Spending Review 2015 target by 2019-20.

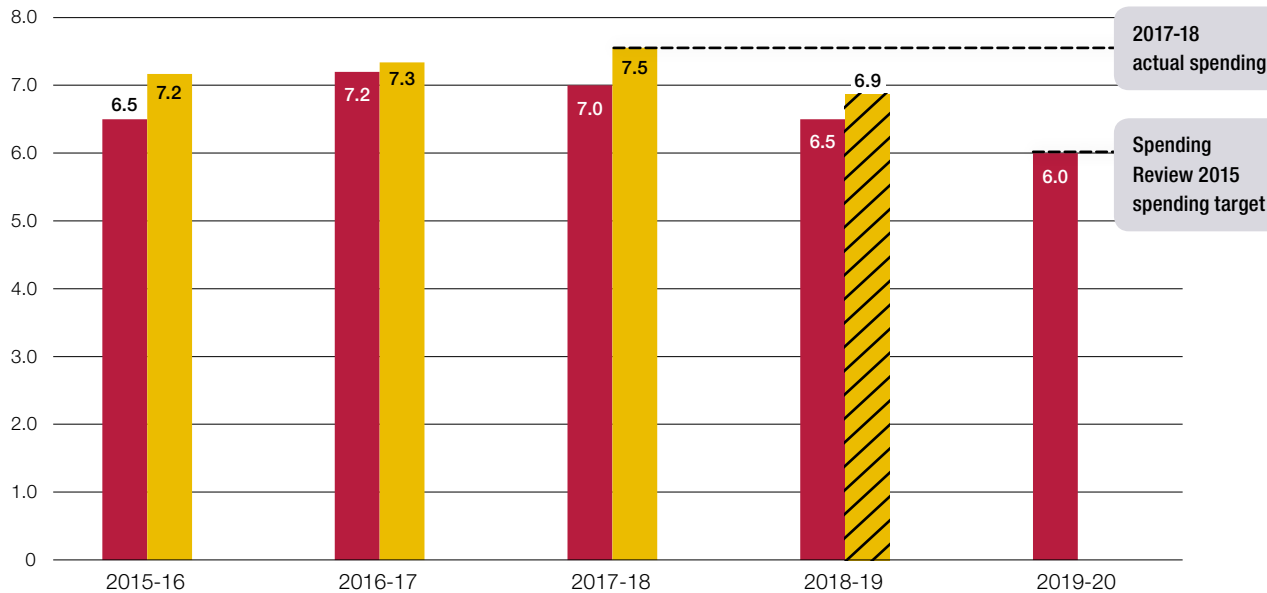


The Ministry stated that the Spending Review 2015 was based on better managing

demand and being able to raise more revenue through charging for services. Both of which have been challenging for the Ministry. Much of spending increase since 2015-16 covers spending on major reform programmes including courts, prisons and probation, which are expected to lead to significant savings.

Total departmental expenditure, compared with the Spending Review 2015 estimate, to 2019-20

Total departmental expenditure (£ billions)



- Spending Review 2015 departmental expenditure
- Total actual departmental expenditure^{1,2}
- ▨ Planned departmental expenditure^{1,2}

Notes

- 1 Total departmental expenditure in this figure is defined as expenditure falling under the Ministry's departmental expenditure limits.
- 2 Figures have been adjusted to allow for depreciation to reflect presentation of figures in the Spending Review.

Source: National Audit Office analysis of *Ministry of Justice Annual Report and Accounts 2017-18* and Ministry of Justice's settlement at the Spending Review 2015

The Ministry is £1.5 billion above meeting the target set in 2015 to reduce its expenditure by £500 million by 2019-20.



The Ministry is managing a range of cost pressures

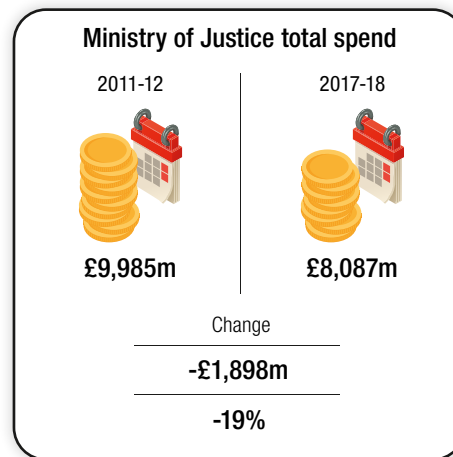
Scale of net spending changes (£m)¹

	2011-12 spend (£m)	2017-18 spend (£m)	Change (£m)	Change (%)
HM Prison & Probation Service	3,937	3,877	-60	-2
HM Courts & Tribunals Service (HMCTS)	1,763	1,643	-119	-7
Legal Aid Agency	2,450	1,699	-751	-31

Notes

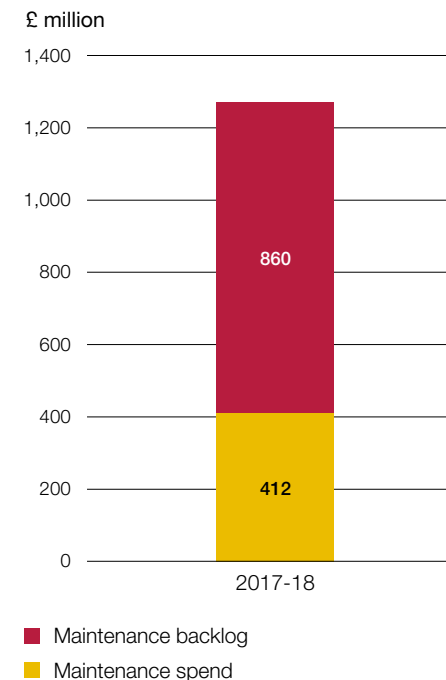
- 1 2011-12 spend adjusted to 2017-18 prices.
- 2 Ministry total net spend = Departmental Group net operating expenditure.
- 3 To allow a comparison between HMCTS spending in 2011-12 and 2017-18, fee income in 2011-12 has been excluded to reflect the move of this income to the Ministry total in 2017-18. The Ministry total spend is not affected by this adjustment.

Source: National Audit Office analysis of HM Prison & Probation Service, HM Courts & Tribunals Service and Legal Aid Agency *Annual Reports and Accounts*



Cost pressures have been building in the prison estate resulting in a maintenance backlog

There are growing maintenance backlogs in critical areas of the estate. HM Prison & Probation Service estimated it had a maintenance backlog of around £860 million in the prison estate. The Ministry spent £412 million on maintenance in 2017-18.



Source: National Audit Office analysis of *HM Prison & Probation Service* and evidence to the Justice Select Committee

Unplanned financial pressures

A maximum future potential repayment of £126.2 million resulting from an overcharging of fees.

The Ministry launched three refund schemes in 2017-18:

- Employment Tribunal and Employment Appeal Tribunal with a potential repayment of £25.7 million;
- Local Authorities for Council Tax Liability orders with a potential repayment of £18.4 million; and

- The Office of the Public Guardian with a potential repayment of £82.1 million.

£64 million paid by the Ministry to fund additional payments to Community Rehabilitation Companies (CRCs) *Investigation into changes to Community Rehabilitation contracts* (2017).

£29 million to fund a pay uplift for all public sector prison staff announced in September 2017.

In response to these and other cost pressures, the Ministry has **transferred £235 million** from planned capital spending, including money approved to build new prisons, to fill gaps in resource spending in 2017-18. In September 2018, the Ministry also announced that it would **no longer be funding the Transforming Compliance and Enforcement Programme**, which was intended to upgrade systems in HMCTS's compliance and enforcement service used to enforce court orders such as penalties and compensation.

Services are under strain – Prisons



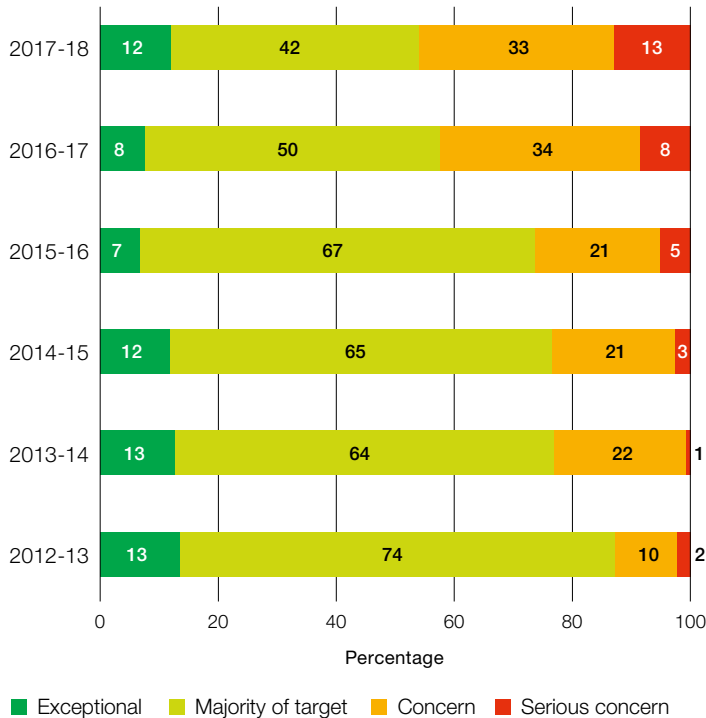
Prison numbers
 105 public sector
 13 privately managed

HM Chief Inspector of Prisons has issued four urgent notification orders so far in 2018 for HMP Nottingham, HMP Exeter, HMP Bedford and HMP Birmingham.

HMP Birmingham, managed by G4S, was issued with an 'urgent notification' in August 2018. The notification stated that "of 70 recommendations made since the previous inspection, only 14 had been achieved". The issuing of the notification led to the oversight of the prison immediately being returned to HMPPS.

Annual prison performance ratings 2012-13 to 2017-18

13% of prisons rated as having performance of serious concern in 2017-18



Note

1 Direct comparisons cannot be made between prison performance ratings in 2017-18 and those in previous years because prison performance ratings have been derived through a revised performance framework for 2017-18.

Source: National Audit Office analysis of Ministry of Justice annual prison performance ratings

56% of prisons (65 out of 118) were overcrowded in July 2018

An unannounced prison inspection in March 2018 at HMP Wandsworth noted the prison to be one of the most overcrowded in England and Wales. At the time of the inspection, it had a certified normal capacity of 861 and a maximum operational capacity of 1,452 and it held a population of 1,428.

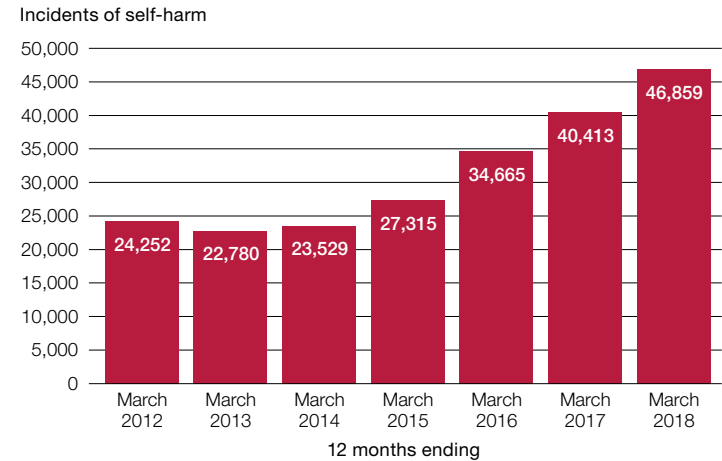
The inspection identified:

- 36% prisoners were receiving psychosocial help for substance misuse problems
- 40% prisoners stated it was easy to get illicit drugs
- 42% men were locked in cells during the working day
- 450 referrals were made to the mental health team each month

Mental health in prisons (2017) found the prison system was under considerable pressure, making it more difficult to manage prisoners' mental well-being.

Incidents of self-harm since March 2012

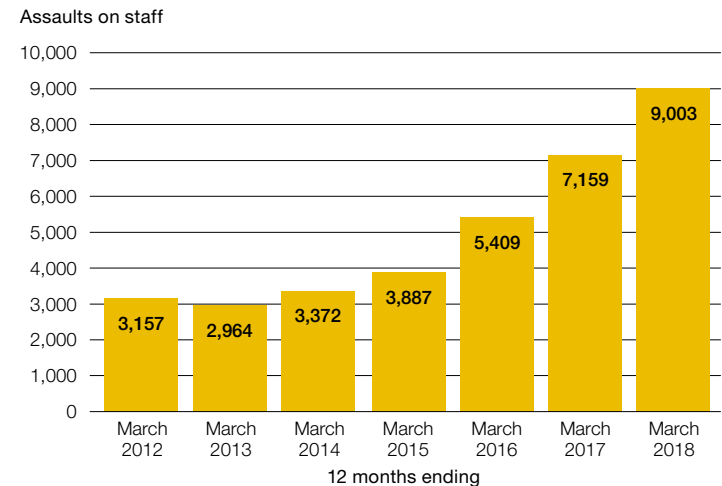
Incidents of self-harm have increased by 93% (22,607) since March 2012



Source: National Audit Office analysis of Ministry of Justice Safety in Custody Quarterly: update to March 2018

Assaults on staff since March 2012

Assaults on staff have increased by 185% (5,846) since March 2012



Source: National Audit Office analysis of Ministry of Justice Safety in Custody Quarterly: update to March 2018

Services are under strain – Probation



In June 2014, the Ministry introduced its Transforming Rehabilitation reforms, creating a public sector National Probation Service (NPS), and 21 Community Rehabilitation Companies (CRCs). Probation services are overseen by HM Prison & Probation Service (HMPPS), an executive agency of the Ministry.

Following the 2015 introduction of mandatory post-release supervision brought in by the Offender Rehabilitation Act (ORA) 2014, the number of offenders under probation supervision has risen; around 263,000 offenders are supervised each year by the NPS and CRCs.

Probation services are falling below the standard expected

The Ministry's reforms included making the supervision of low or medium risk of harm offenders the responsibility of privately owned CRCs, under contract to HMPPS. The intention was to open up probation services to new providers and encourage innovation. In December 2017, HM Chief Inspector of Probation reported that the quality of CRC work to protect the public is generally poor and needed to improve in many respects, with most CRCs struggling to deliver services.

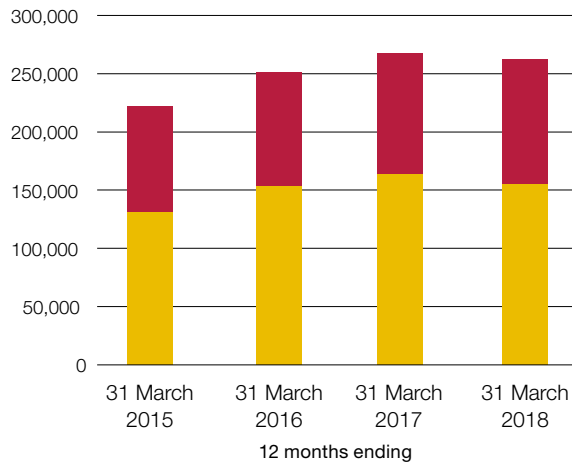
NPS performance is stronger than those of the CRCs, based on our analysis of 13 HMI Probation geographic reports published since 2015.

HMI Probation's assessment of Community Rehabilitation Companies and the National Probation Service against its assessments of effectiveness

Probation caseload since March 2015

Probation caseload has increased by 18% since March 2015

Offenders supervised in the period



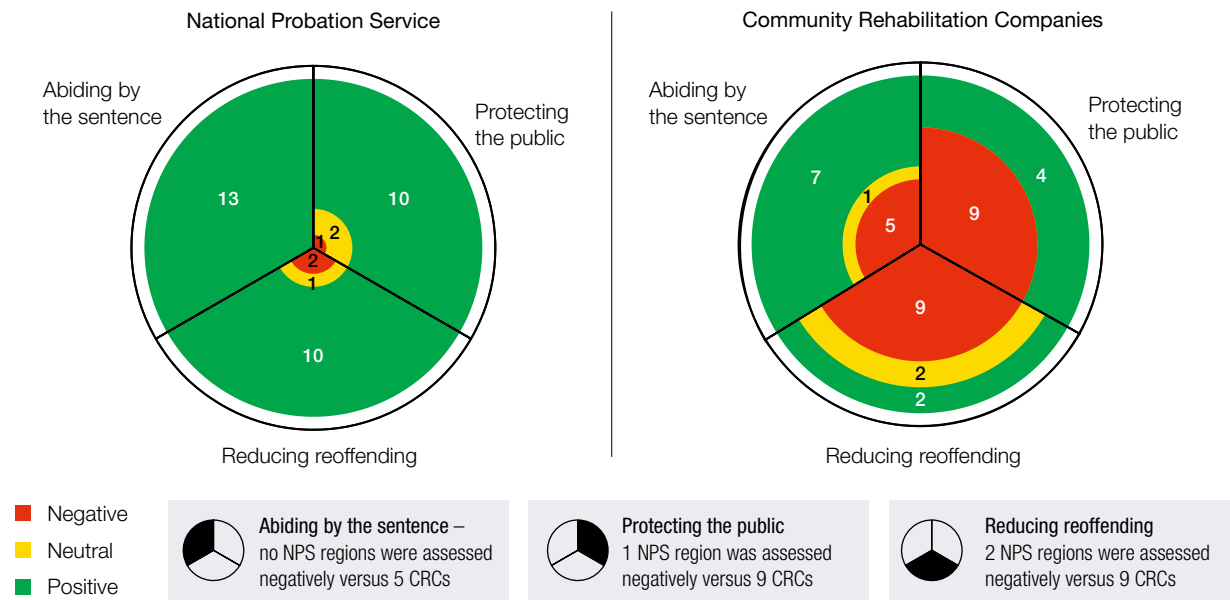
12 months ending	Total	Total NPS	Total CRC
31 March 2015	221,738	90,618	131,120
31 March 2016	251,170	97,380	153,790
31 March 2017	268,062	103,705	164,357
31 March 2018	262,758	106,819	155,939

Note

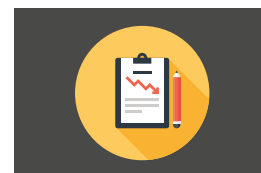
1 NPS = National Probation Service;
CRC = Community Rehabilitation Companies.

Source: National Audit Office analysis of Ministry of Justice Offender Management Statistics quarterly March 2015 to March 2018

HMI Probation geographic reports



Source: National Audit Office analysis of HM Inspectorate of Probation Geographic Reports



As at March 2017, the total forecast losses expected by CRCs from 2016-17 to 2021-22 were £443 million. In July 2018, the government announced plans to end its contracts with CRCs in 2020, two years early, and to make other changes to strengthen offenders supervision and improve confidence in the probation system.

Financial sustainability depends on successfully delivering challenging reforms

In 2016, HM Courts & Tribunals Service (HMCTS) set up a portfolio of change programmes to introduce new technology and working practices to reform and upgrade the justice system.



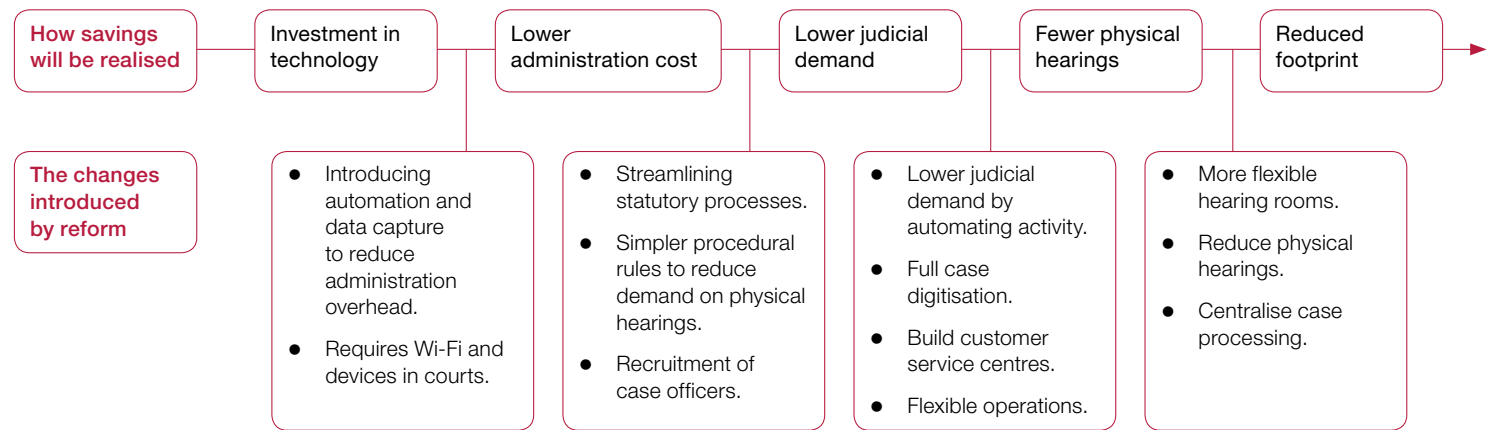
Expected savings

HM Courts & Tribunals Service expects the court reforms to deliver **total benefits of £1.22 billion by 2024-25 and to reduce annual spending by £265 million by 2023.**

Savings include reducing the workforce from 15,000 to 10,000, reducing judiciary costs, holding fewer physical hearings and running a smaller estate.

The sequence of expected benefits as the reforms are introduced

Expected benefits are interdependent and savings will be delivered incrementally as the elements of reform are implemented



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

Transforming courts and tribunals

Early progress in transforming courts and tribunals (May 2018) found that HMCTS faces a daunting challenge in delivering the scale of technological and cultural change necessary to modernise the justice system and achieve savings, and is behind where it expected to be at this stage of its ambitious reform programme.

The scale of the challenge is increasing and the programme is under significant pressure to meet what is still a demanding timetable. There are unresolved funding gaps, and trying to fit savings around spending commitments and demand pressures could undermine services.

As at May 2018, around 65% of the benefits from the HMCTS reform programme had come from not replacing staff who had left, rather than from fully implementing new ways of working or moving services online.



HM Courts & Tribunals Service workforce changes, 2012-13 to 2017-18

	2012-13 (FTE)	2017-18 (FTE)	Difference (FTE)	Change (%)
Total staff	18,269	15,875	-2,394	-13
Permanent staff	17,587	13,841	-3,746	-21
Contract and agency staff	682	2,034	1,352	198

Note

1 FTE = full-time equivalent.

Source: National Audit Office analysis of *HM Courts & Tribunals Service Annual Report and Accounts*

Delivering the planned benefits will be challenging

Efficiency in the criminal justice system (2016) set out the view that IT-enabled reform programmes are very difficult to deliver well, and the government does not have a good track record in this area.

For example, *The new generation electronic monitoring programme* (2017) faced significant delays. The Ministry expects to deploy new location monitoring tags from the end of 2018, five years later than originally planned. This was partly a result of the Ministry adopting a new high-risk and unfamiliar delivery model to support the procurement and failing to manage the consequences of this.



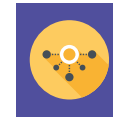
Managing dependencies

The planned reforms to courts and tribunals are complex, with many important interdependencies between the different individual projects. In particular, to be implemented fully, the reforms rely on the introduction of primary legislation. A Courts Bill was included in the legislative programme outlined in the Queen's Speech in June 2017, but as yet only a limited Judicial Functions and Staffing Bill has been introduced.

HMCTS has assessed the impact of different legislative scenarios and estimates that, in the absence of all the necessary primary legislation, the value of benefits could fall by between £72 million and £95 million each year, and funding from the sale of estate could reduce by up to £62 million.



Early progress in transforming courts and tribunals (May 2018) highlighted a number of risks that typically affect transformation programmes

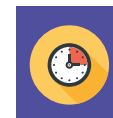


Dependence on stakeholders to achieve change

Failure to secure full commitment from delivery partners will significantly reduce the likelihood of achieving planned changes and therefore the wider benefits of the Ministry's reform programmes.

Although many of the reforms are within the control of HM Courts & Tribunals Service (HMCTS), significant elements rely on the actions of other organisations like the judiciary, police, Crown Prosecution Service (CPS) or HM Prison & Probation Service.

In its *court reform update* (July 2018), HMCTS acknowledged that the successful delivery of reform is highly dependent on having effective engagement with the public and their partners, including other government departments. It included details of its engagement with legal professionals, the public, other government departments and criminal justice partners.



Understanding and managing unintended consequences

Delivering change at pace can result in pressure to make decisions before fully understanding the wider consequences.

For example, in the 2012 reforms to civil legal aid, removing funding for civil legal aid from certain areas of law led to a 56% fall in mediation assessments as a result of reducing the scope of legal aid.

There is a risk that the changes planned in the Court reform programme will increase costs or impact on the effectiveness of other organisations where their needs are not taken into account or sufficiently coordinated.

In its *May 2018 reform update* HMCTS stated that reform should not happen all at once, requiring discussion, debate, involvement and evaluation.



What to look out for

01 Prisons



Tackling acute problems

In August 2018, the Ministry announced a £10 million fund to tackle acute problems in the ten worst performing prisons by improving training, maintenance and security. The prisons minister offered to quit if he had not turned round performance in these prisons within a year.

Improving the condition of the estate

The Ministry announced in March 2017 its plan to replace up to 10,000 old prison places with new 'fit-for-purpose' accommodation by 2020. The Ministry announced the building of additional prisons but, following the transfer of previously allocated capital funding to revenue funding, has not yet confirmed how these will be funded.

Maintaining stability in the prison service

The Ministry met its target to recruit an additional 2,500 prison officers. By the end of March 2018, it reported an additional 2,699 officers working in front-line roles compared with October 2016. Analysis has however shown that the recruitment drive means that 1 in 3 front-line prison officers has less than three years' experience compared with 1 in 8 in 2010.

In September 2018, the Ministry announced the departure of the chief executive of HM Prison & Probation Service who had led the service for nine years and will remain in post until the appointment of a replacement by April 2019.

02 Courts



Budget pressure

The three fee repayment schemes are likely to increase in scale and cost following the ministerial announcement made in July 2018. Funding these schemes will add to financial pressure.

Progress on HM Courts & Tribunals Service reform

In July 2018, the Ministry announced seven further court closures in connection with its ongoing reform programme. It also plans to open the first of its Courts and Tribunals Service Centres in Birmingham and Stoke-on-Trent in January 2019.

Judicial appointments

The Lord Chief Justice has raised concerns about the difficulties recruiting judges to the higher courts. The failure of the online Judicial Appointments Recruitment System in February 2017 also created challenges for prospective candidates.

In 2015-16 and 2016-17, the Judicial Appointments Commission stated there was low recruitment resulting in unmet needs. In 2017-18, its recruitment exercises were larger, both in the number of vacancies to be filled and in applications. This trend looks set to continue.

03 Probation



CRC contracts

In July 2018, the Ministry announced that Community Rehabilitation Companies (CRC) contracts will end two years early in 2020, with plans to design new, improved contracts with a more effective commercial framework. It also announced the launch of a consultation process on future probation contracts. This consultation includes a range of initiatives, for example how CRC and National Probation Service areas could be aligned to improve joint working with key partners, including the third sector, local authorities and police and crime commissioners.

04 Parole

Consultation and review of parole

In March 2018, the High Court overturned the Parole Board's decision to grant John Worboys' parole. Following this, the Ministry launched a consultation on the operation of the Parole Board to consider the law and policy around challenging parole decisions, the transparency of decision-making and the role of victims in the process.

05 Electronic Monitoring

The implementation of the new electronic monitoring service is more than five years late but new location monitoring tags are now due to be rolled out from late 2018.