



Ministry of Justice

October 2016



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The National Audit Office (NAO) scrutinises public spending for Parliament and is independent of government. The Comptroller and Auditor General (C&AG), Sir Amyas Morse KCB, is an Officer of the House of Commons and leads the NAO. The C&AG certifies the accounts of all government departments and many other public sector bodies. He has statutory authority to examine and report to Parliament on whether departments and the bodies they fund have used their resources efficiently, effectively, and with economy. Our studies evaluate the value for money of public spending, nationally and locally. Our recommendations and reports on good practice help government improve public services, and our work led to audited savings of £1.21 billion in 2015.

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Executive summary

This departmental overview looks at the Ministry of Justice (MoJ) and summarises its performance during the year ended March 2016, together with our recent reports on it. The content of the report has been shared with the Ministry to ensure that the evidence presented is factually accurate.

Part One sets out some facts about the Ministry and how it has used its resources.

- MoJ gross expenditure was £9.6 billion in 2015-16, with income of £1.83 billion reducing the final net public expenditure to £7.73 billion.
- In 2015-16, the MoJ requested an additional £427 million of funding through the Supplementary Estimate.¹ The final outturn was a £93 million underspend against the Supplementary Estimate.
- The 2015 Spending Review requires the MoJ to achieve savings of 15% by 2019-20 and halve its administrative budget by 2019-20.

¹ Resource DEL.

Part Two sets out our findings from our work on the Ministry.

- Through his audit of the MoJ annual report and accounts the C&AG gave an unqualified audit opinion without modification.
- In January 2016 the C&AG qualified his regularity opinion on the 2014-15 accounts of the Office for Legal Complaints, for the second consecutive year.
- The C&AG reported on the calculation of financial loss awards for victims of violent crime by the Criminal Injuries Compensation Authority. Errors found included both overpayments (irregular expenditure) and underpayments (leading to victims missing out on money they are entitled to).
- Although the way cases are managed has improved, the NAO's report on *Efficiency in the criminal justice system* found that the criminal justice system is not currently delivering value for money.
- The NAO's *Transforming Rehabilitation* report found that reforms by the MoJ to transform the rehabilitation of offenders have successfully restructured the probation landscape within ministerial timescales and without major disruption to services, but operational problems and risks to further service transformation need to be resolved.

Part Three looks ahead to the coming year.

- A changing team of senior officials will need to implement the priorities of the new Secretary of State for Justice and the new ministerial team, along with other change programmes already in progress.
- A large number of major projects are being delivered against a backdrop of significant financial restraint and an agreed 50% reduction in spending to its administrative budget over the spending review period.

Responsibilities

The MoJ is responsible for establishing and implementing government policy for the criminal, civil and family justice systems for England and Wales. The MoJ is responsible for provision of legal aid, administration of justice through courts and tribunals, and detention and rehabilitation of offenders.

The Ministry's objectives:

- 1 Improve public safety and reduce reoffending by reforming prisons, probation and youth justice.
- 2 Build a One Nation justice system making access to justice swifter and more certain for all citizens whatever their background.
- 3 Uphold the rule of law, defend the independence of the judiciary, safeguard essential liberties and restore historic freedoms.
- 4 Delivering efficiently in MoJ: ensure the best possible service for citizens by making the department more efficient and more open, with policy driven by evidence.

Source: Ministry of Justice, *Single Departmental Plan 2015–2020*, February 2016



3.9m cases

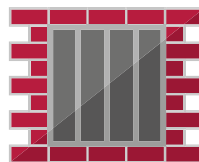
handled each year across **450** court buildings in England and Wales and tribunal buildings in Scotland



Around

2.5m legal aid applications

received by the Legal Aid Agency



121 prisons

holding more than

85,000 offenders

each week in 2015



Source: Ministry of Justice, *Annual Report and Accounts 2015-16*

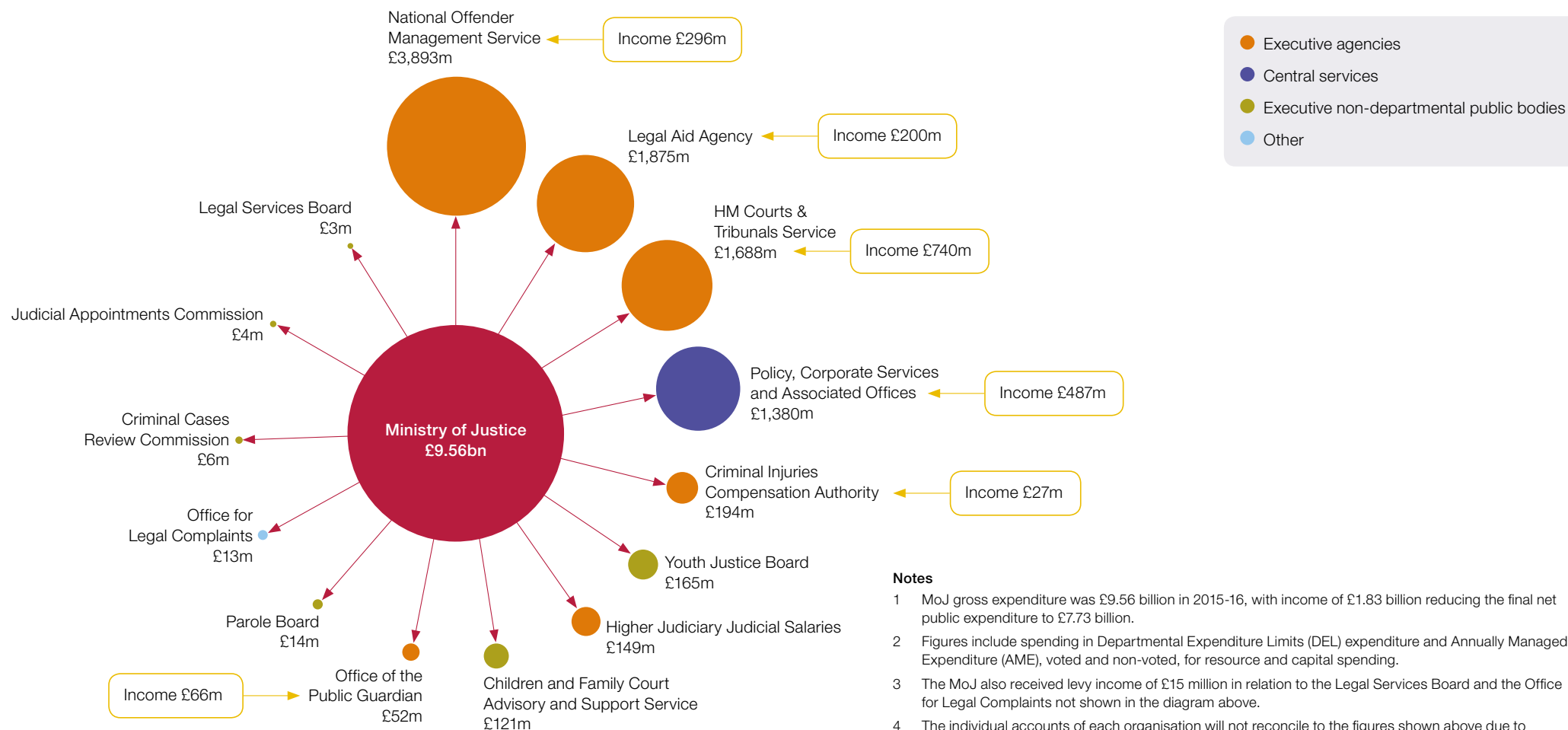
Responsibilities

Where the Ministry spends its money (2015-16)

Expenditure against budget

The Spending Review settlement

Where the Ministry spends its money (2015-16)



Source: Ministry of Justice, *Annual Report and Accounts 2015-16*, Session 2016-17, HC 343, July 2016, Analysis of net resource and net capital outturn by section

Responsibilities

Where the Ministry spends its money (2015-16)

Expenditure against budget

The Spending Review settlement

Expenditure against budget

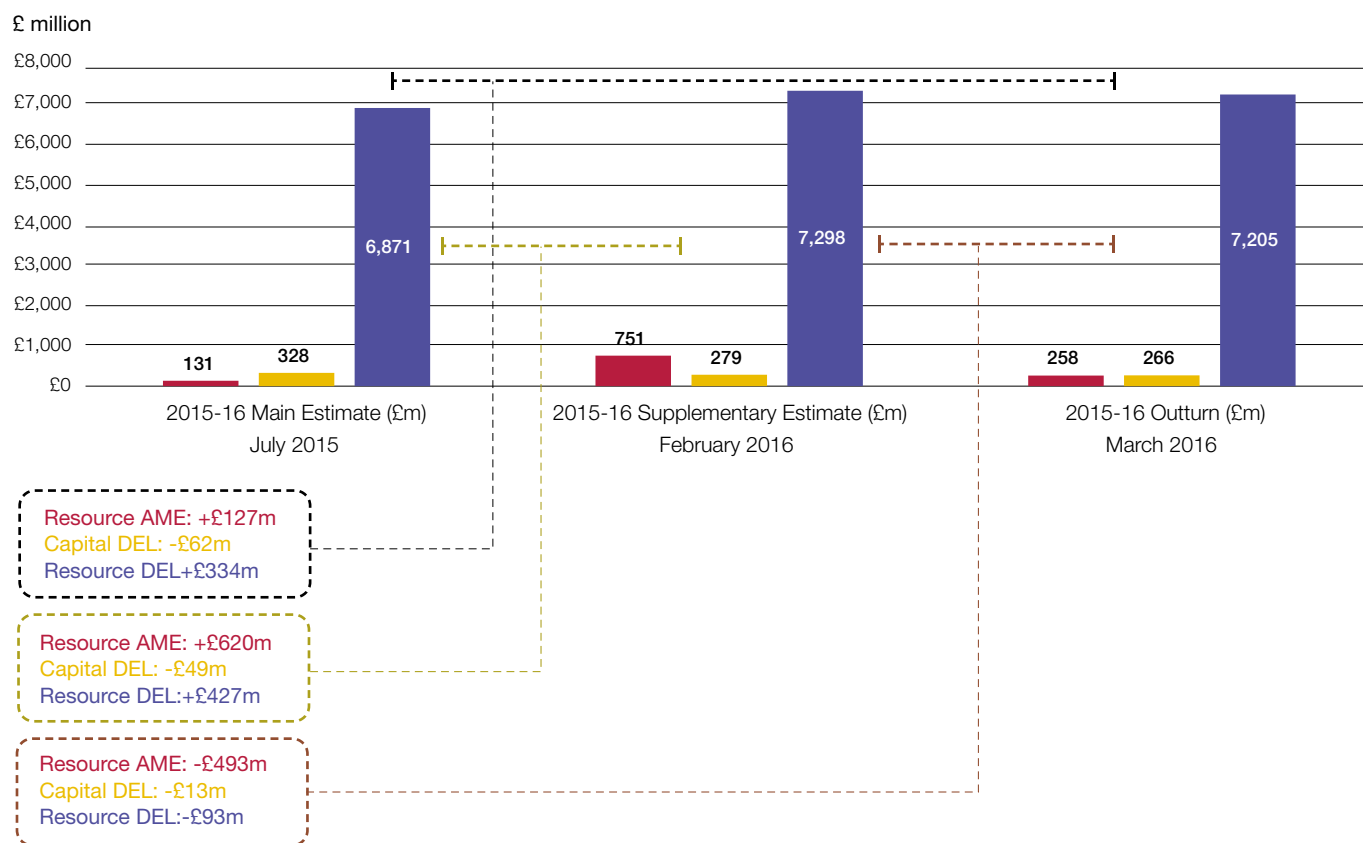
The Ministry gains the majority of its funding through Parliament rather than generated income.

The MoJ requests funding through Parliament voted in the Main Estimate. If the MoJ needs to amend the funding it requires, this is through the Supplementary Estimate just before the financial year end. The actual expenditure, 'outturn', is shown in the annual report and accounts.

In 2015-16, the MoJ requested an additional £427 million of Resource DEL funding through the Supplementary Estimate (Figure 1). This was due to civil court fee income not reaching expected levels and an increase in both court sitting days (8%) and the prison numbers (2%) not originally forecast. From October 2015, the MoJ limited the reserve funding needed through the implementation of emergency spending controls and stopping and deferring spend. The final outturn was a £93m underspend against the Supplementary Estimate due mainly to a reduction in asset depreciation costs.

The MoJ reduced its capital expenditure in the Main Estimate by delaying some of its capital projects. Resource AME expenditure is volatile and relates primarily to non-cash items. The supplementary provision was increased to cover the reduction in value of court buildings after the announcement of closure of 86 courts and provision for voluntary redundancy and criminal injuries. At the year-end many of the provisions forecast were not required.

Figure 1
Expenditure against Budget



DEL: the Departmental Expenditure Limit can be spent on the running of services that departments oversee, such as prisons and courts, and the everyday cost of resources such as staff.

AME: Annually Managed Expenditure is spent on programmes which are demand-led, such as pensions, and so more difficult to explain or control.

CAP: Long term investment expenditure, for example on buildings, software licences or financial instruments.

Responsibilities

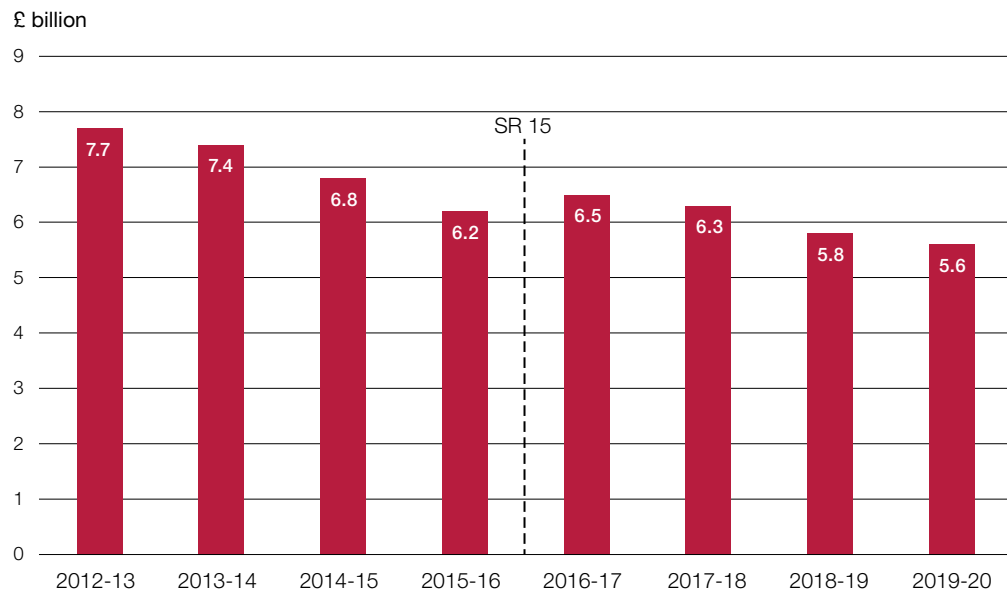
Expenditure against budget

Where the Ministry spends its money (2015-16)

The Spending Review settlement

The Spending Review settlement

Ministry of Justice budget

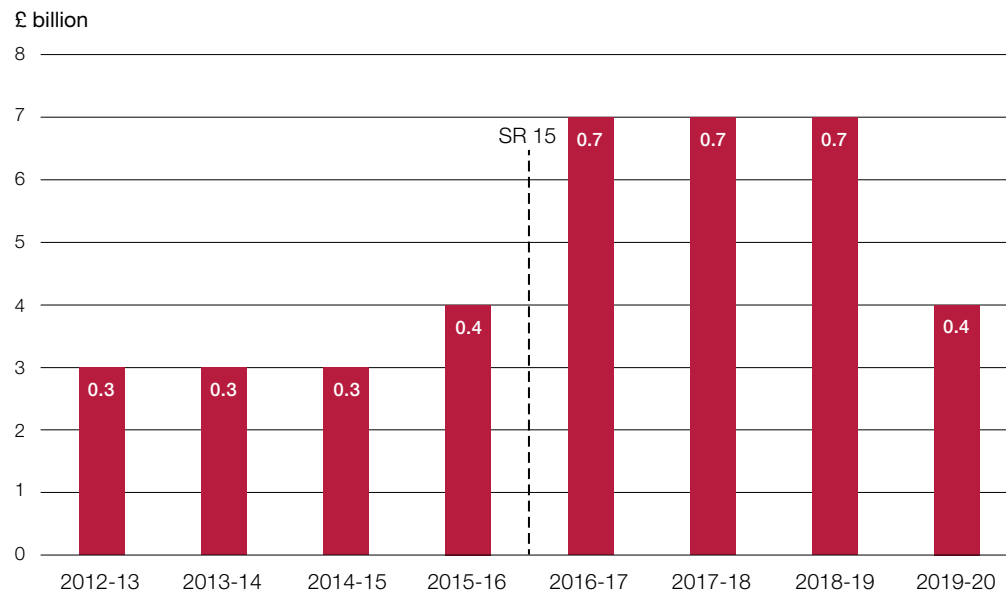


The 2015 Spending Review set out the details of departments' budgets.

For the Ministry this means:

- Achieving savings of 15% by 2019-20 against its 2015-16 spending review baseline.
- Halving the administrative budget by 2019-20. In 2015-16 administrative costs were £570 million.
- The 2015 review follows spending reviews in 2010 and 2013 which cut MoJ expenditure by 23% in real terms between 2010-11 and 2014-15 and 10% in real terms between 2014-15 and 2015-16 respectively.

Ministry of Justice capital budget



The Ministry's settlement included:

- Investing £1.3 billion to modernise and reform the prison estate, which aims to lead to £80 million of savings a year once complete.
- Investing more than £700 million in order to digitise and modernise courts, which as at November 2015 aimed to save £200 million a year from 2019-20.

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C&AG opinions on the accounts

Income and expenditure

Assets and liabilities

Governance and accountability

C&AG opinions on the accounts

The C&AG gives an opinion that the financial statements are ‘true and fair’ and ‘regular’ for the Ministry’s annual report and accounts and its arms-length bodies. An unqualified or clear opinion means that the C&AG has found the financial statements materially true and fair and regular.

Unqualified with C&AG report – Criminal Injuries Compensation Authority (CICA)

While giving the accounts of the CICA an unqualified audit opinion, the C&AG also reported on the calculation of financial loss awards for victims of violent crime. Errors found included both overpayments (irregular expenditure) and underpayments (leading to victims missing out on money they are entitled to). Five over- and underpayments were found, the largest of which was a £69,023 overpayment. Full details of the errors were detailed in the governance statement of CICA.

While recognising the complexity of the calculations involved, the C&AG set out his concerns regarding the quality review arrangements, which were not effective in picking up these errors, and the impact that such errors would have on individual victims.

Regularity qualification – Office for Legal Complaints

In January 2016 the C&AG qualified his regularity opinion on the 2014-15 accounts of the Office for Legal Complaints (OLC) for the second consecutive year. The qualification was due to payments to staff which were considered to be novel and contentious – in 2014-15 these amounted to £243,680. These payments related to a total remuneration supplement to senior staff and a flexible benefit scheme for all staff.

The 2015-16 accounts have not yet been certified by the C&AG. In response to the 2013-14 qualification, the OLC undertook a review of governance and financial controls, which was completed in December 2015. The review found that the OLC had put in place a number of sound building blocks for governance and management control and noted that there had been improvements following recent changes in senior management and at board level. However, the review also highlighted several areas where further improvements in governance and control at OLC could be made. It now has an action plan in place to address the recommendations of the review.

Unqualified Opinion

Ministry of Justice
 HM Courts and Tribunals Service
 National Offender Management Service
 Legal Aid Agency
 Office of the Public Guardian
 6 NDPBs¹

Note

- ¹ Non-departmental public bodies. Includes Children and Family Court Advisory and Support Service, Criminal Cases Review Commission, Judicial Appointments Commission, Legal Services Board, Parole Board and Youth Justice Board for England and Wales.

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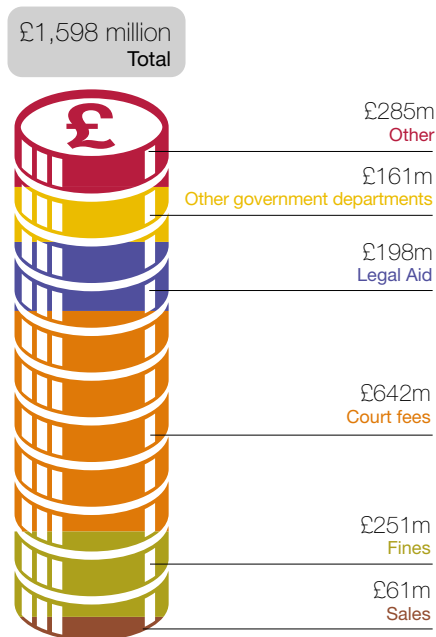
Income and expenditure

Assets and liabilities

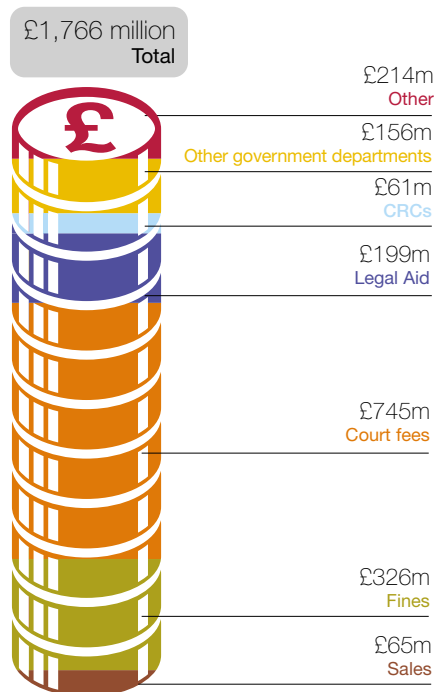
Governance and accountability

Income and expenditure

MoJ income 2014-15 (£m)



MoJ income 2015-16 (£m)



Source: Ministry of Justice, Annual report and accounts (financial statement p79-123), 2015-16

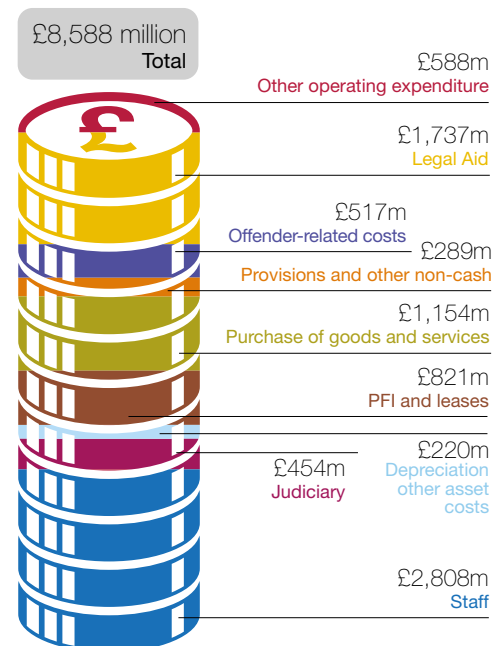
Total rise in income of 11%

The MoJ agreed with HM Treasury it could retain income from fines in 2015-16 up to a maximum of £340 million. Previously, the MoJ was permitted to retain less fine income with the excess being surrendered to HM Treasury.

Civil court fees were increased in March 2015 leading to higher income although not as much as forecast.

In 2015-16 the MoJ received income for renting buildings and providing IT services to 21 community rehabilitation companies (CRCs), which had transferred to private sector owners in February 2015.

MoJ expenditure 2014-15 (£m)



Source: Ministry of Justice, Annual report and accounts (financial statement p79-123), 2015-16

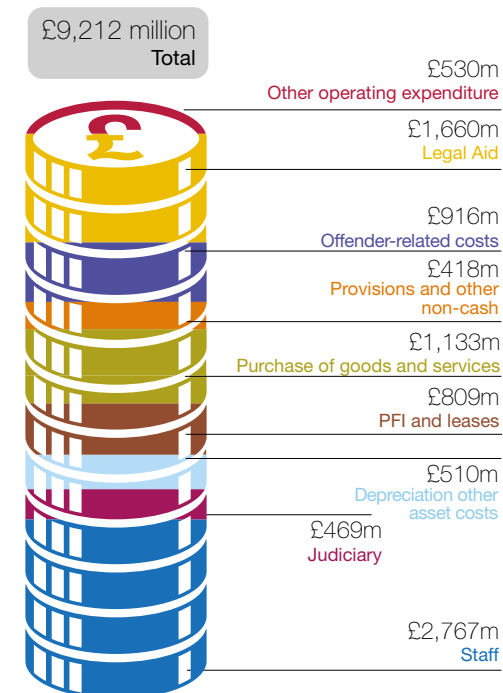
Total rise in expenditure 7%

Depreciation and asset costs increased due to the reduction in value of 86 courts and Holloway prison of £187 million after the announcement that they would close.

Legal aid reduced by 4.4%. Fewer people now receive legal aid and average cost continues to reduce.

Offender management costs increased due to the contracting out of certain probation services to CRCs under private ownership from February 2015. Previously, those probation services were delivered by entities within the Ministry group.

MoJ expenditure 2015-16 (£m)



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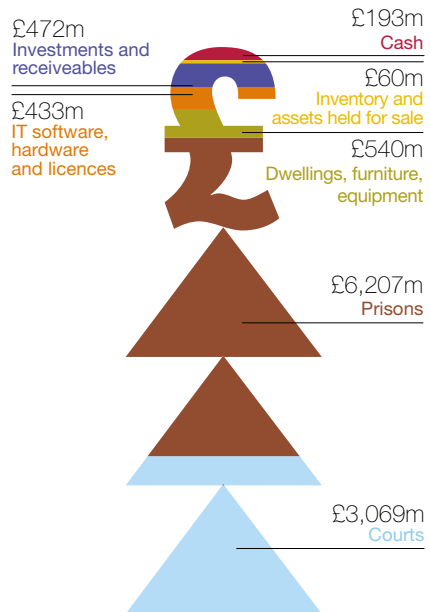
Assets and liabilities

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Assets and liabilities

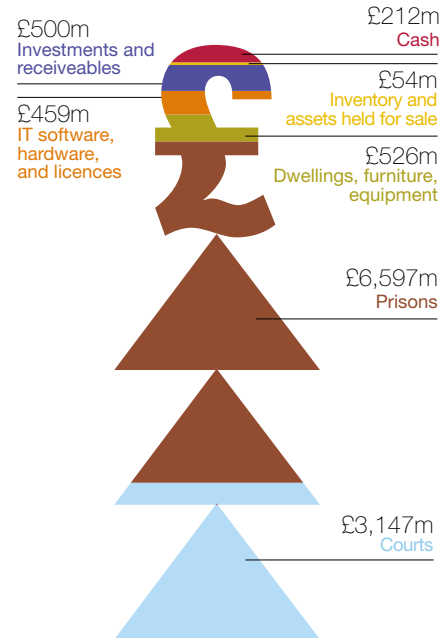
MoJ assets 2014-15 (£m)

£10,973 million
Total



MoJ assets 2015-16 (£m)

£11,495 million
Total



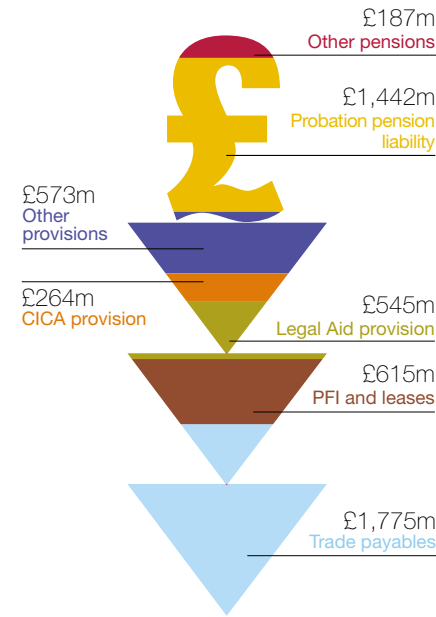
Source: Ministry of Justice, Annual report and accounts (financial statement p79-123), 2015-16

Asset base increased by 5%

The majority of the increase is due to revaluation of the court and prison estate. Land and buildings are revalued using an estimated replacement value as these are specialist assets.

MoJ liabilities 2014-15 (£m)

£5,401 million
Total



Source: Ministry of Justice, Annual report and accounts (financial statement p79-123), 2015-16

Liabilities have reduced by 4%

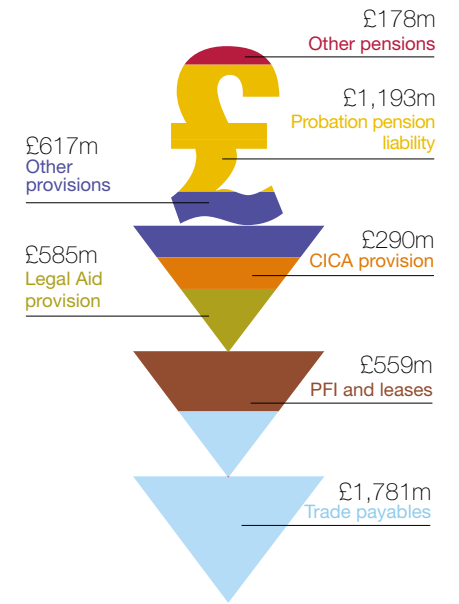
The decrease in the probation pension liability was due to changes in the financial assumptions used to determine the long-term value of the pensions payable to current and former probation staff.

There have been increases in both the CICA (10%) and legal aid provisions (7%). The increase in the CICA provision is due to the increase in the backlog of cases.

PFI and lease liabilities have reduced as very few new leases or PFI agreements have been entered into as the previous agreements unwind.

MoJ liabilities 2015-16 (£m)

£5,203 million
Total



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Losses and special payments

In 2015-16 **losses and special payments** across the Ministry group totalled £36 million in losses and £60 million in special payments. The most significant of the losses and payments were due to changes in policy or the management of contracts.

Policy changes

- A loss of £0.6 million following the announcement of the abandonment of the **criminal legal aid tender**.
- A loss of £9.0 million relating to the cancellation of a project to outsource criminal court compliance and **enforcement services** to a third party.
- A loss of £4.8 million in respect of a project that is no longer going ahead to build a **secure college for youth offenders**.

Contract management

- Total of £9.1 million losses and fruitless payments in relation to the termination of the contract for a third party to develop bespoke tags for **electronic monitoring** of offenders.
- Compensation payments totalling £23.1 million due to **contracted service providers**.

Governance

The governance statement outlines the MoJ's effort to improve **contract management** from 2014-15 especially following problems with the electronic monitoring contracts. The governance statement sets out agreed improvements in governance, integration, capability, visibility and information. However, it says that further work is required to ensure that the improvements are applied consistently across the largest contracts in the Ministry. The governance statement outlines some of the ongoing challenges and complexities around contract management causing delays in the Future IT Sourcing Programme (FITS) and the new electronic monitoring contract.

Off-payroll contracts – HM Treasury requires departments to seek formal assurances for highly paid staff that are off-payroll around their tax affairs to ensure that they are paying the right amount of tax. The governance statement details that one contractor did not provide the required assurances within HM Courts and Tribunals Service (HMCTS). HMCTS have now taken further steps strengthening controls at the point of procurement for off-payroll services.

Leadership

The remuneration and staff report outlines changes in the leadership of the MoJ. The Permanent Secretary, Dame Ursula Brennan, was replaced by Richard Heaton in August 2015 and Ann Beasley (Director General, Finance) left the board on 31 March 2016. Mike Driver was appointed Chief Financial Officer on 1 April 2016. In addition, the Chief Executive of the HMCTS, Natalie Ceeney, left on 31 May 2016 and was succeeded by Kevin Sadler as Interim Chief Executive Officer.

There have also been changes in ministers. Lord Chancellor and Secretary of State for Justice, Rt Hon Michael Gove MP, succeeded Rt Hon Chris Grayling MP on 15 May 2015. He was replaced by Rt Hon Elizabeth Truss MP on 14 July 2016.

Source: Ministry of Justice, *Annual Report and Accounts*

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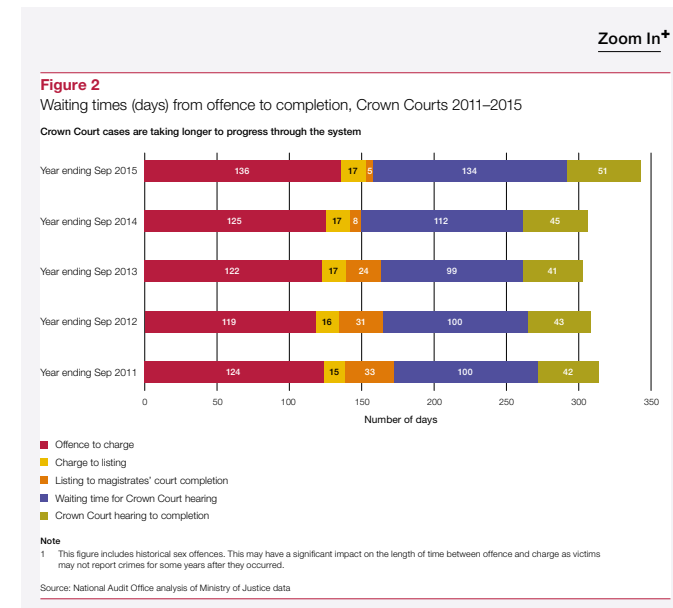
Efficiency in the criminal justice system: March 2016

This study looked at efficiency throughout the criminal justice system in England and Wales, from the point at which a defendant is charged, to the point at which a court case concludes. It considered the extent and impact of inefficiencies in the system, including cost, time and the quality of the justice system, and victims and witnesses' experience.

We found:

- Although the way cases are managed has improved, the criminal justice system is not currently delivering value for money.
- Backlogs in the Crown Court increased by 34% between March 2013 and September 2015, and waiting time for a Crown Court hearing increased from 99 days to 134 over the same period (see Figure 2).
- **Two-thirds** of cases still do not progress as planned, and there is significant regional variation in the performance of the system. A victim of crime in North Wales has a **7 in 10** chance that the trial will go ahead at Crown Court on the day it is scheduled, but in Greater Manchester the figure is only **2 in 10**.

- Individuals and organisations do not get things right first time and mistakes are often not identified until too late. In 2015 inspectors found that **18.2%** of police charging decisions were incorrect. The Crown Prosecution Service should pick up such decisions before court, but did not review **38%** of cases before court.
- The system as a whole is inefficient because its individual parts have strong incentives to work in ways that create cost elsewhere. For example, staff “overbook” courts so that there are back-ups when a trial cannot proceed.
- The Ministry and Crown Prosecution Service (CPS) are leading an ambitious reform programme which includes enabling more efficient digital working and the roll-out of a single digital case management system accessible by all parties. This will provide the tools for a more efficient, less paper-based system, but it is not sufficient on its own.



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Efficiency in the criminal justice system: March 2016 *continued*

Examples of inefficiencies across the system

Incorrect or poorly informed charging decision

Charging decisions are not always correct. In 2014-15 a [Criminal Justice Joint Inspectorates review](#) found that 9.2% of CPS and 18.2% of police decisions to charge people with offences were incorrect.

Police and CPS do not always exchange good-quality, timely advice. The Criminal Justice Joint Inspectorates have found that only 82.5% of cases met the target of 21 to 28 days to provide advice for the most serious offences. A [Criminal Justice Joint Inspectorates report](#) also found that 68% of the additional information sections of case files, which includes sensitive areas such as special measures for victims, were classified as adequate.

Inadequate preparation of cases before the trial

Police do not always prepare a file of evidence to the required quality. The Criminal Justice Joint Inspectorates found that around **89.7%** of initial police files sampled complied with the National File Standard, and in a November 2015 review, the summary of evidence submitted by the police was classed as adequate in only **72%** of files.

CPS does not always meet requirements to disclose evidence. HM Crown Prosecution Service Inspectorate's (HMCPSP) internal casework information shows that in 2014-15 the prosecution did not comply adequately with its initial disclosure obligations in 51% of sampled files.

Parties do not always communicate effectively with witnesses. In 2016 HMCPSP found that policy guidance on the treatment of witnesses was fully met in around half of cases (51%) and there was timely communication with witnesses in around half of cases sampled (57%).

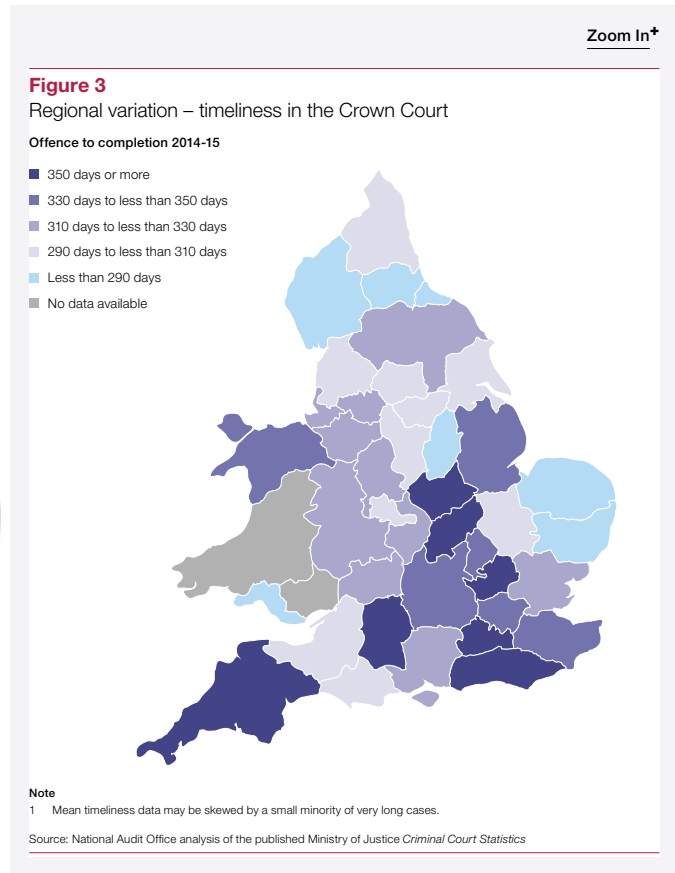
Inefficiencies which arise when a case comes to court

Cases may not be heard in the most appropriate setting. 'Either way' cases are those which may be heard in either the Crown Court or magistrates' court. Between 2013-14 and 2014-15 the proportion of these cases allocated to the Crown Courts increased, from 12% to 14%, at a cost of £5.5 million.

Defendants may not appear in court. In 2014-15, around 3% of Crown Court cases (1,200 cases) had to be rescheduled because the defendant was not present.

More cases are listed than courts have capacity to hear. Court listing was the single most common reason that a case had to be rescheduled last year, accounting for 21% of ineffective trials in the Crown Court and 20% in the magistrates' court.

Technology and facilities may not function as intended. In 2014, 13 cases in the Crown Court and 275 in the magistrates' court (0.2%) were postponed because of problems with technology.



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Transforming Rehabilitation: April 2016

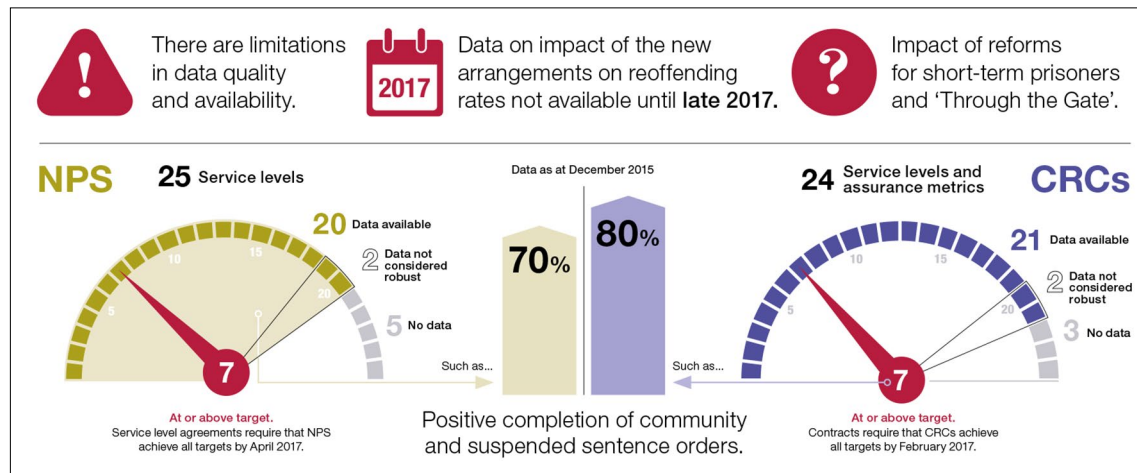
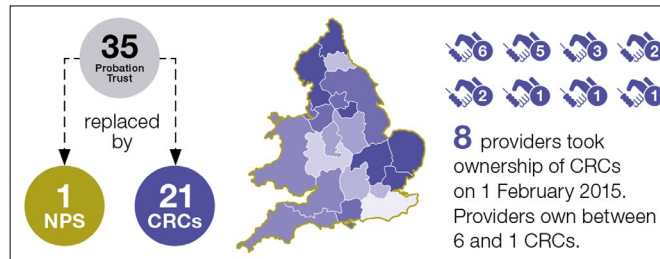
This study examined the Ministry of Justice's Transforming Rehabilitation programme. Transforming Rehabilitation set up a new National Probation Service (NPS) to focus on high-risk offenders, and in February 2015 transferred to the private sector 21 CRCs supervising low- and medium-risk offenders on probation.

This programme also extended offender supervision to those released from short prison sentences of less than 12 months. The study did not assess the outcomes in terms of reduced reoffending as it is too early to do so, but it highlighted leading indicators likely to be associated with future reoffending.

We found:

- Services were sustained throughout a period of major change, with users reporting that services had stayed the same or improved.
- The reforms established new organisations with different incentives, creating unsurprising frictions between CRC and NPS staff at working level, which will take time to work through.
- CRC and NPS staff considered that high workloads had reduced supervision and training that they received and the service they provide.

- The various ICT systems used in probation casework create severe inefficiencies.
- The performance of CRCs and the NPS remains unclear given limitations around data quality and availability.



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Transforming Rehabilitation: April 2016 *continued*

We found (continued):

- The MoJ did well to sustain competition between bidders and conclude deals for all 21 CRCs within the cost limits and timescales set by ministers, but the procurement of these services has left some difficult issues to manage.
- CRC business volumes are much lower than the MoJ modelled during the procurement, which, if translated into reduced income, would affect the ability of some CRCs to transform their businesses by investing in new ways of working.
- CRCs are paid primarily for completing specified activities with offenders rather than for reducing reoffending. It is critical that these fees for activities better incentivise CRCs to adopt innovative approaches to reduce reoffending, and not just established practice.
- The NPS has higher than predicted caseloads and faces a difficult further period of change if it is to play a fully effective role in the transformed and national probation service.
- Arrangements to resettle offenders 'Through the Gate', in which CRCs assess the initial needs of all offenders in custody, provide them with resettlement services in preparation for release and, where appropriate, meet them on release and work with them in the community, are still in their early stages.



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Investigation into Just Solutions International: January 2016

Background

Just Solutions International (JSi) was the commercial arm of the National Offender Management Service (NOMS), which from 2012 aimed to help improve justice systems across the world by selling products and consultancy services. The target market was primarily overseas governments originally facilitated through the Foreign & Commonwealth Office (FCO) then directly with overseas governments from 2014. JSi aimed to make a commercial return on work contracted from overseas governments.

What we found:

- JSi was established as a brand within the NOMS Commercial Development Group (CDG) after the NOMS board rejected a proposal to establish JSi as a company as it did not want to divert commercial staff who were needed on other projects; did not have the capacity to invest the necessary funding upfront; and felt that it was not necessary to create a separate company at that point in time.
- In establishing JSi NOMS followed the current guidance from HM Treasury, the National Archives and the Cabinet Office where this guidance was available.
- The **total income** generated by JSi **was less than £1 million**. The main contracts delivered by NOMS, under the JSi brand, between 2012 and 2015 were training Royal Oman Police officers (£255,000), consultancy on prison design in Libya (£128,000) and contracts in Nigeria (£130,000), Australia (£89,000) and the Seychelles (£34,000).
- The cost of setting up JSi exceeded the income generated by completed contracts. The NAO estimates that JSi's costs were approximately **£2.1 million** from 2012 until its closure, including £239,000 on consultancy services. Therefore JSi made a **net loss of approximately £1.1 million** in this period. This is due, in part, to the decision to withdraw from prospective arrangements with Saudi Arabia and Oman. We also note that had JSi not been created, NOMS would have committed funding to support wider international engagement with countries to support FCO and wider government objectives.
- In September 2015 the Secretary of State for Justice closed JSi and decided not to pursue any commercial activities in Oman. In October 2015 JSi withdrew from the bid for work with Saudi Arabia.
- JSi is now closed and NOMS does not plan to perform further work for overseas governments on a commercial basis.



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Departments' oversight of arm's-length bodies: July 2016

The MoJ was one of four government departments examined in [this comparative study](#). Across government, we found that there is no collective understanding of what type of oversight is appropriate and cost effective for different types of arm's-length bodies (ALBs), and the landscape remains confused and incoherent, which hampers a coherent approach to overseeing ALBs that is consistent with their purpose. The one consistent feature is the extent to which oversight is focusing on compliance and control, as opposed to achieving greater value from the relationship. ALBs reported an increase in oversight in relation to financial matters and appointments rather than areas such as quality of services delivered or skills and capability of ALB staff (see Figure 4).

Figure 4
Areas of greatest and least change in oversight

Percentage of ALBs reporting an increase in oversight in relation to the following areas in the past 18 months

Areas	Total survey population n=107 (%)	Department for Business, Innovation & Skills n=33 (%)	Department for Culture, Media & Sport n=30 (%)	Department for Environment, Food & Rural Affairs n=25 (%)	Ministry of Justice n=19 (%)
Spending	49 ●	48 ●	37 ●	44 ●	74 ●
Financial management	46 ●	39 ●	50 ●	36 ●	63 ●
Making public appointments, including non-executive appointments	44 ●	42 ●	67 ●	32 ●	26 ●
Reduction of costs	40 ●	42 ●	23 ●	32 ●	74 ●
Governance arrangements	40 ●	58 ●	23 ●	28 ●	53 ●
Application of Cabinet Office spending controls	34 ●	36 ●	20 ●	24 ●	63 ●
Collaboration with other organisations	32 ●	48 ●	30 ●	24 ●	16 ●
Capital projects	29 ●	30 ●	40 ●	20 ●	21 ●
Procurement	27 ●	48 ●	10 ●	18 ●	32 ●
Accountability	24 ●	36 ●	13 ●	12 ●	37 ●
Objective-setting and reporting on your organisation's performance	24 ●	36 ●	20 ●	20 ●	16 ●
Range of services delivered	16 ●	18 ●	17 ●	8 ●	21 ●
Risk management	13 ●	15 ●	7 ●	8 ●	26 ●
Transparency	13 ●	9 ●	10 ●	24 ●	11 ●
Quality of services delivered	7 ●	15 ●	3 ●	4 ●	5 ●
Skills and capability of your organisation's staff	5 ●	3 ●	7 ●	0 ●	11 ●

- The five areas with the greatest percentage of ALBs reporting an increase.
- The five areas with the lowest percentage of ALBs reporting an increase.

Note

1 n= the number of ALB survey responses for this question.

Source: National Audit Office survey of arm's-length bodies

Findings from our financial audits

Findings from our value-for-money audits

Efficiency in the criminal justice system

Transforming Rehabilitation

Investigation into Just Solutions International

Departments' oversight of arm's-length bodies

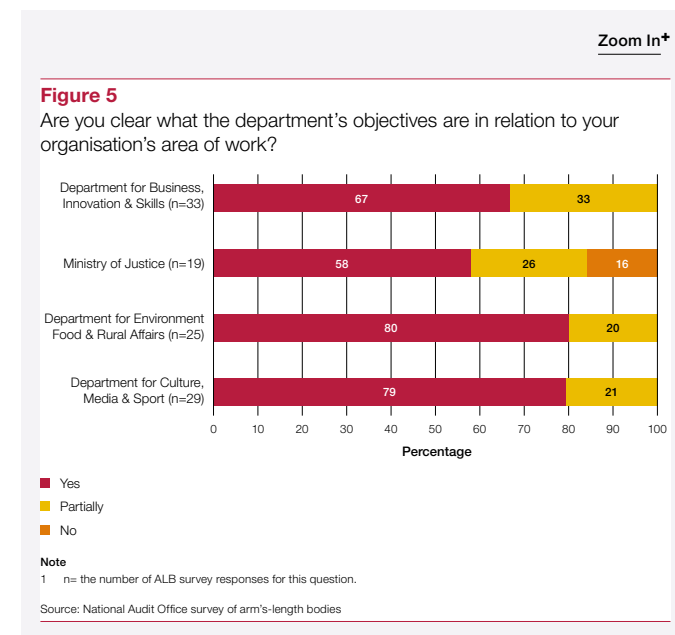
Confiscation orders: progress review

Cabinet Office's progress report on commercial capacity

Departments' oversight of arm's-length bodies: July 2016 *continued*

Specific points relating to the Ministry included:

- Apart from the MoJ's largest executive agencies (NOMS, HMCTS and LAA), oversight arrangements for Ministry ALBs are determined using the MoJ's sponsorship model, overseen by its **ALB Governance Division**. The MoJ uses a structured risk-based approach, informed by an overall assessment of risk in each of its ALBs. The level of oversight is determined through an annual impact assessment, to provide assurance to the principal accounting officer that the arrangements in place reflect both the needs of the individual ALB and the MoJ.
- Emergency spending controls** introduced in October 2015 required ALBs to submit detailed weekly returns on spending, consuming significant senior management time and implying a lack of trust in existing ALB governance arrangements.
- Forty-two per cent** of the MoJ's ALBs were partially or not clear what the departments' objectives were in relation to their area of work. Only 53% of the Ministry's ALBs had been helped to understand the department's strategic direction in the last 18 months.
- The MoJ's close day-to-day oversight of HMCTS did not reflect the relationship described in its **framework document**, which caused confusion about the respective roles and responsibility of HMCTS and the Ministry. The MoJ subsequently reviewed its level of control in relation to HMCTS and its delegated authority and MoJ and HMCTS agreed to implement a number of changes.
- The MoJ did not have an **accountability system statement**. The NAO and Committee of Public Accounts have previously recommended that all departments have an accountability system statement in place setting out all accountability relationships, including between the department and its ALBs.



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Confiscation orders: progress review

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Confiscation Orders: progress review March 2016

In 2013 the NAO reported in [Criminal Justice System: Confiscation Orders](#) on the government's administration of **confiscation orders**, concluding that the process was not working well enough and did not provide value for money.

The [2016 NAO study](#) reviewed the progress the criminal justice bodies had made in reforming the confiscation orders system since early 2014.

Confiscation orders are the main way through which the government carries out its policy to deprive criminals of the proceeds of their crimes. Many bodies across the criminal justice system are involved in its administration, including for example the police, the CPS and HMCTS.

The 2016 study found that:

- The criminal justice bodies have made some progress against most of the Committee of Public Accounts' recommendations and increased the amounts confiscated. But on only one recommendation have they made the progress the Committee expected.

- More could be done to reduce confiscation order debt, which has risen by **£158 million** to **£1.61 billion** in the last two years. Much of the debt now relates to orders which are at least five years old and HMCTS assessed that only **£203 million** of this total debt can be realistically collected.
- There are, however, fewer financial investigators, which has reduced the capacity needed to help recover high-value orders, and the use of restraint orders to freeze an offender's assets has also fallen by 12%. Both are key to successful enforcement.
- There is also the potential for more collection, for example through greater involvement of the FCO to find and repatriate assets transferred overseas or changes in the law to stop criminals hiding illicit assets under other people's names.

Events since the report

The Committee of Public Accounts concluded in its June 2016 report that it was disappointed at the lack of progress made, with many weaknesses previously identified remaining, such as unclear objectives, ineffective incentives and poor performance information.

The Law Commission is currently consulting on whether to review the law governing confiscation orders. It considers that the current law is failing in practice to achieve its purpose of stripping wrongfully acquired assets from those convicted of acquisitive crime.

£155 million

collected by enforcement agencies from confiscation orders in 2014-15 (£133 million in 2012-13)

£1.61 billion

total debt outstanding from confiscation orders at September 2015 (£1.46 billion at September 2013)

£203 million

HMCTS estimate of realistically collectable debt – 2014-15 Trust Statement (£177 million in 2012-13)

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Cabinet Office's progress report on commercial capacity

In July 2013 the MoJ announced that it had found significant overbilling in its electronic monitoring contracts with G4S and Serco dating back to 2005. The MoJ subsequently commissioned further reviews of its other contracts and the Cabinet Office did the same for the major G4S and Serco contracts across government. The reviews found widespread problems in administering government contracts including poor governance, record-keeping and capacity issues.

Commercial capability remained government's number one priority for the civil service in 2015-16. The Cabinet Office led a programme of Commercial Capability Reviews across major departments, which were completed in spring 2015 with monthly updates since. The Cabinet Office summarised the common themes across the reviews in its [progress report](#) to the Committee of Public Accounts in December 2015. These are summarised in the figure (right).

The Cabinet Office's progress report also set out how departments would be producing commercial 'blueprints' in 2016. These will set out the commercial capabilities and structures departments need, and plans for delivering that capability. They are expected to be endorsed by Department boards.

Government's response to the [Committee of Public Accounts report](#) announced the establishment of the Government Commercial Organisation, which will be a single employer for senior commercial staff across government. Staff are transferring in 2016.

Common themes from 2015 Commercial Capability Reviews

The need to increase the number of senior experienced commercial staff and reduce the need for less skilled junior staff.

The need to reduce the high vacancy levels in key commercial functions, through increasing the appeal of the commercial profession in government.

Ensuring clear lines of accountability for commercial decision-making in all Departments, to board and Permanent Secretary level.

Improving the commercial skills and awareness of non-specialist policy officials, particularly in contract management settings.

Re-focusing of commercial capability away from the procurement process and redirecting commercial resource towards crucial market-shaping and contract management activities.

Improved coordination of commercial resources across government to direct commercial expertise towards high-risk and high-demand programmes.

Source: Cabinet Office, written evidence to Committee of Public Accounts, December 2015

The justice sector: What to look out for in 2016-17

The Ministry of Justice

- As a result of staff turnover a changing team of senior officials will need to implement the priorities of the new Secretary of State for Justice and the new ministerial team, along with other change programmes already in progress.
- A large number of major projects (see the Ministry's major projects section) are being delivered against a backdrop of significant financial restraint and an agreed 50% reduction in spending to its administrative budget over the spending review period. To facilitate this, the MoJ is undertaking a fundamental review of the way in which it operates, involving significant restructure and reducing its reliance on expensive central London property.
- The vote to leave the EU may also have significant implications for the MoJ, although these are not yet clear. Areas likely to be affected include prison transfer agreements with EU countries, and arrangements for dealing with those family law cases which have international dimensions.

Supervision of offenders in the community

- The MoJ will be bedding in the Transforming Rehabilitation reforms, including resolving issues raised in the [April 2016 NAO study](#).
- Pilots are in place to extend the use of GPS-enabled tags for offenders, and the MoJ also plans to complete the procurement of a new national tagging service by 2017.

The Prison Service

- The Prison Service is designing and implementing reforms to the way that prisons are governed. A white paper was expected before the end of 2016, but following a review by Dame Sally Coates the government has already undertaken to allow governors to choose their own education providers.
- Six new 'Reform Prisons' where governors will be given more freedom over budgets, staffing and their relationships with business and charities were announced in the May 2016 Queen's Speech.

- The Prison Service is modernising the prison estate through £1.3 billion of capital investment over the next five years, via a programme of new builds, renovations and disposing of buildings. Disposed buildings are to be replaced with 10,000 new prisoner places. The current prison population is some 85,000.
- The Prison Service is tackling levels of violence and substance abuse in prisons, in part through investment in new technology for detection of narcotics and mobile phones.

Youth justice

- In September 2015 Charlie Taylor was asked to lead a departmental review of the youth justice system. Following interim findings in February 2016, which placed education and devolution at the heart of a proposed new approach, ministers requested him to examine the way young offenders are dealt with in court, and the sentences available to tackle their offending. A final report was scheduled for July 2016. The MoJ plans "concrete proposals" in the autumn.

The justice sector: What to look out for in 2016-17 *continued*

Courts reform

- Since the 2011 Spending Review, about 140 courts the MoJ considered under-used and outdated have shut. Another 86 courts across England and Wales will be closed in phases up until September 2017.
- As part of the Spending Review, HMCTS secured more than £700 million in new funding to help fundamentally transform the way that courts and tribunals operate, developing a service that meets the expectations of citizens in a digital age. It expects digital transformation, like the new digital case system in the Crown Court, to save taxpayers more than £200 million a year from 2019-20.
- The 'Common Platform' is a programme to develop a single case management system for the CPS and the Courts. An integrated digital case file would reduce paperwork, moving as much as possible of the process online, with the aim of achieving a fully digital system. Case files begin when the police gather evidence, and all parties in prosecutions (CPS, judiciary, defence and courts) would have access to records.

- The previous HMCTS CEO, Natalie Ceeney, resigned in May 2016 and was replaced by interim CEO Kevin Sadler. On 3 October 2016, HMCTS announced the appointment of Susan Acland-Hood to fill the post of HMCTS Chief Executive with effect from 21 November.

Criminal Legal Aid reform

- A challenge remains for the LAA and the MoJ to find ways to save costs and restore public confidence in the legal aid system following changes to criminal legal aid, while protecting the right of vulnerable individuals to receive expert legal assistance.

Review of extremism in prisons

- Managing the threat from extremism and radicalisation is one of the government's priorities as part of tackling the wider counter-terrorism agenda. A review into Islamist extremism in prisons was published in August 2016, which found that Islamist extremism is a growing problem within prisons and a central, comprehensive and coordinated strategy is required to monitor and counter it.

The government's response included the creation of a new Security, Order and Counter-Terrorism Directorate. The Directorate will lead on the development and delivery of a plan for countering Islamist extremism in prisons and probation as part of the government's wider counter-terrorism and counter-extremism agendas, as well as prison safety and reform plans.

Bill of Rights

- The MoJ plans to bring forward proposals for a Bill of Rights, which will replace the Human Rights Act. The Ministry's Single Departmental Plan states that this will make clear where the balance should lie between Strasbourg and British courts and commits to fully consult on its proposals before introducing legislation.

Project and programme delivery

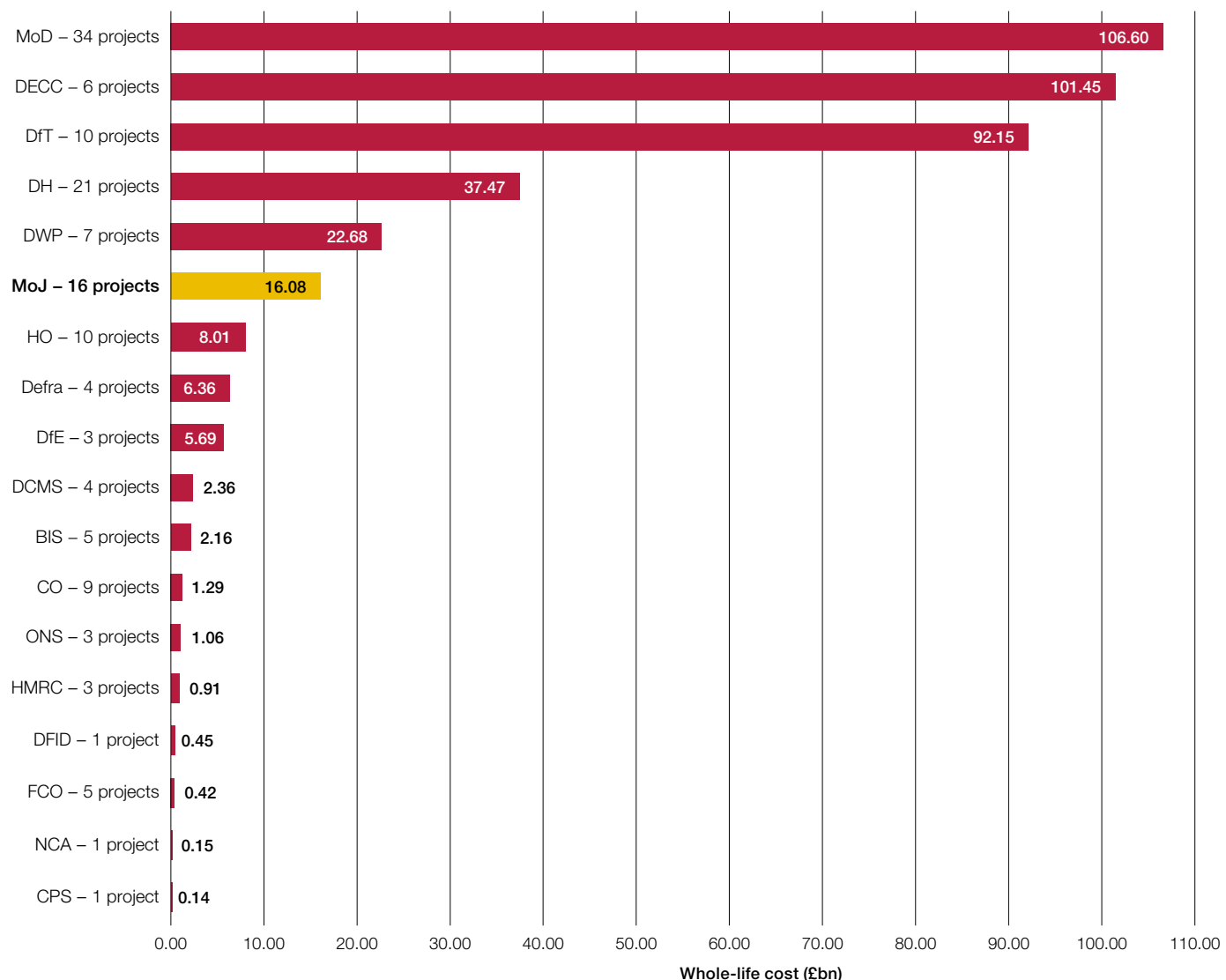
Major projects in government

Many of departments' objectives are implemented through projects. In September 2015, the government's Major Projects Portfolio, which includes the biggest and riskiest projects, comprised 143 projects with estimated whole-life costs of £405 billion. Of these, 100 are due to be delivered in this Parliament but four have durations of more than 25 years. Some span several departments or seek to meet multiple objectives. Three departments – **MoD**, **DECC** and **DfT** – accounted for 74% of the portfolio by value.

The main delivery challenge for the MoJ in this context is in sustaining sufficient capacity to deliver the third biggest portfolio in number and the sixth biggest in value. Another key challenge is the need to work effectively with autonomous partners, such as the judiciary, the police and rehabilitation companies, to deliver successful projects that meet the needs of the justice system.

Note

1 MoD = Ministry of Defence; DECC = Department of Energy & Climate Change; DfT = Department for Transport; DH = Department of Health; DWP = Department for Work & Pensions; MoJ = Ministry of Justice; HO = Home Office; Defra = Department for Environment, Food & Rural Affairs; DfE = Department for Education; DCMS = Department for Culture, Media & Sport; BIS = Department for Business, Innovation & Skills; CO = Cabinet Office; ONS = Office for National Statistics; HMRC = HM Revenue & Customs; DFID = Department for International Development; FCO = Foreign & Commonwealth Office; NCA = National Crime Agency; CPS = Crown Prosecution Service.



Project and programme delivery *continued*

Recurring themes across government

The government has not had a record of accomplishment in delivering major projects. The lack of clear, consistent data with which to measure a project's performance makes it difficult to say whether performance is improving. Data on costs and benefits are often poor or absent and over-optimism is not uncommon. Coordinated and controlled management of multiple projects as a portfolio to achieve a set of objectives both within departments and across government is lacking, with no central oversight around prioritisation between departments. Poor early planning has put projects at risk through inadequate options appraisals and ineffective piloting and testing. Skills shortages in project and programme management, digital and commercial, combined with a lack of capacity to undertake a growing number of projects remains a challenge. Persistently high turnover of senior responsible owners (SROs) and the heavy workloads for SROs raises concerns over how best to ensure accountability for how taxpayers' money is spent. Many responsibilities have been devolved to local bodies and there is increased cross-departmental working that could result in unclear lines of accountability for taxpayers' money.

Most recently in the MoJ, our report on Transforming Rehabilitation identified a lack of robust data to show whether the reforms are working. The sheer scale of this one programme clearly strained the capacity of the MoJ during the procurement stage.

Main challenges for this Parliament

The main challenges for departments and the centre of government (HM Treasury and the Cabinet Office) during this Parliament are to:

- 1 encourage departments not to make firm commitments on cost and timescales for delivery before their plans have been properly tested;
- 2 develop an effective mechanism whereby the centre of government can prioritise all major projects according to strategic importance, and capability is deployed to priority areas; and
- 3 make sure departments and the centre of government put in place systems and data which allow proper performance measurement of projects and their corresponding portfolio.

The Infrastructure and Projects Authority's [Annual Report for 2015-16](#) showed that among government departments the MoJ had the third highest number of projects rated at Amber or below, behind the Department of Health and Ministry of Defence departments.¹

The MoJ's projects are shown on the next page.

¹ Infrastructure and Projects Authority, Annual Report on Major Projects 2015-16, July 2016.

















The justice sector: What to look for in 2016-17

Project and programme delivery

The Ministry's major projects

The Ministry's major projects

Government departments publish information about their projects within the Government Major Projects Portfolio (GMPP). The latest data from September 2015 show the status of 16 major Ministry projects. The Infrastructure and Projects Authority (IPA) rates the likelihood of success.

Project	IPA rating ¹	Description
CJS Efficiency Programme		The Criminal Justice System (CJS) Efficiency Programme aims to introduce digital working throughout the criminal justice system, in particular to deliver the 'digital courtroom'.
Common Platform		The Common Platform (CP) Programme aims to deliver a technology platform which supports business transformation across the CPS and HMCTS.
Legal Aid Crime Change		The Legal Aid Crime Change (LACC) Programme aims to process all criminal Legal Aid in a paperless and electronic environment.
Electronic Monitoring		The Electronic Monitoring (EM) Programme aims to procure an improved electronic tagging system that exploits the latest technology.
Future IT Sourcing Programme (FITS)		The Future Information Technology Sourcing (FITS) programme aims to deliver at least £95m per annum reduction in MoJ ICT operating costs through the design and implementation of a new ICT operating model.
HMCTS Compliance & Enforcement Services Project		The Compliance & Enforcement Services Project (CESP) aims to deliver the Criminal Compliance & Enforcement Blueprint and reform the compliance and enforcement activity within HMCTS.
HMCTS Reform Programme		The aims of HMCTS Reform Programme is to: modernise the infrastructure and deliver a better and more flexible service to court users; modernise and transform courts and tribunal service to increase efficiency, improve service quality and reduce the cost to the taxpayer.
Integrated Delivery Programme		The Integrated Delivery Programme (IDP) aims to improve financial control and service for providers and clients by replacing an ageing case management system.
Legal Aid Transformation Programme		The Legal Aid Transformation (LAT) Programme aims to reduce the cost of Legal Aid through providing a more efficient service, so as to improve public confidence in the system.
MoJ Shared Services Evolve Programme		The aim of the MoJ Shared Services Evolve (SS Evolve) Programme is to deliver transformation in the approach to the provision of back office services in MoJ.
North Wales Prison Programme		The New Prison Wales Programme's aim is to build a new prison in Wrexham, North Wales, that will be operational in 2017.
NOMS ICTS Services Programme		The NOMS ICT Services (NICTS) Programme aims to address the provision of ICT services under the Quantum contract, which expired at the end of 2012. The new ICT Services contract will sustain the NOMS until the forthcoming Future IT Sourcing contracts are in place and are ready for applicable services to be transitioned.
Prison Unit Cost Programme		The Prison Unit Cost Programme (PUCP) aims to maximise the delivery of savings from public sector prisons over the three years (to March 2016) by reducing operating costs and supporting the safety, security and decency of public prisons within the agreed specifications.
Transforming Rehabilitation Programme		The Transforming Rehabilitation (TR) Programme aims to extend statutory rehabilitation in the community to short-sentenced offenders; opening up rehabilitation services to a more diverse market of private and voluntary sector providers incentivised to innovate, through payment by results, to reduce re-offending.
Transforming Prisoner Telephony		The Transforming Prisoner Telephony (TPT) Programme aims to secure continuity of the current telephony service by negotiating a suitable extension, exit and transition arrangement with BT; procure and roll out a new data and cabling network and award a new service concession to providing in-cell prisoner telephony and potentially a range of basic self-service functionality.
Secure Training Centre Retendering Project		The Secure Training Centre (STC) Programme aims to retender and mobilise two STC contracts. These are sites of about 80 places each which accommodate 12-17 year old boys and girls (including mothers with babies) remanded or sentenced to custody who, because of their complex needs and risks to self and others, are unsuitable for placement in other parts of the youth secure estate.

Note

¹ IPA rating: The IPA's assessment at a fixed point in time of a project's likelihood of achieving its aims and objectives on time and on budget, using a five-point rating scale.

Source: Ministry of Justice, Government Major Project Portfolio data, September 2015

Arm's-length bodies, executive agencies and executive non-departmental public bodies

Children and Family Court Advisory and Support Service

Non-departmental public body (NDPB) established in April 2001 to safeguard and promote the welfare of children involved in family court proceedings.

Criminal Cases Review Commission

An independent, executive non-departmental public body that the MoJ sponsors, which reviews possible miscarriages of justice in the criminal courts of England, Wales and Northern Ireland and refers appropriate cases to the appeal courts.

Criminal Injuries Compensation Authority

An executive agency that the MoJ sponsors, which deals with compensation claims from people who are victims of violent crimes in England, Scotland or Wales, and have been physically or mentally injured.

HM Courts and Tribunal Service

Administers the criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Scotland and Northern Ireland.

Judicial Appointments Commission

An independent commission that selects candidates for judicial office in courts and tribunals in England and Wales, and for some tribunals whose jurisdiction extends to Scotland or Northern Ireland.

Legal Aid Agency

An executive agency that the MoJ sponsors to provide civil and criminal Legal Aid and advice in England and Wales.

Legal Services Board

An independent body that oversees the regulation of lawyers in England and Wales. It ensures that regulation in the legal services sector is carried out in the public interest.

National Offender Management Service

Manages public sector prisons and oversees probation services in England and Wales. Also manages contracts for private sector prisons and services such as the Prisoner Escort Service and electronic tagging.

Office for Legal Complaints

The Office for Legal Complaints appoints the Legal Ombudsman for England and Wales, which ensures there is an independent ombudsman service to resolve complaints about legal services in England and Wales.

Office of the Public Guardian

An executive agency that the MoJ sponsors, which protects people in England and Wales who may not have the mental capacity to make certain decisions themselves, such as about their health and finance.

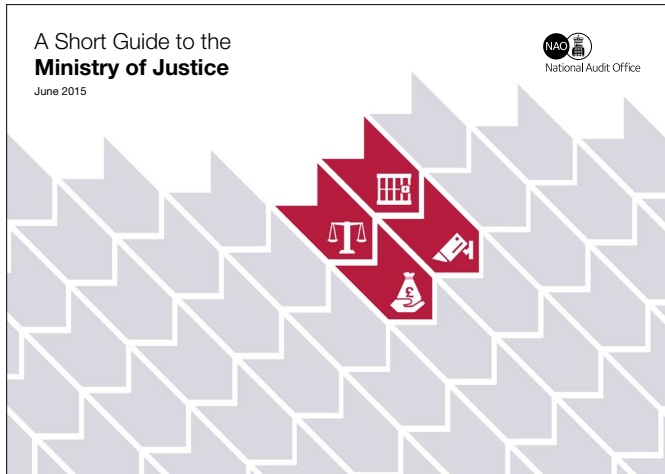
Parole Board

An independent, executive non-departmental public body that the MoJ sponsors. It carries out risk assessments on prisoners to determine whether they can be safely released into the community.

Youth Justice Board

An executive non-departmental public body that the MoJ sponsors, which oversees the youth justice system in England and Wales.

Relevant National Audit Office publications in 2015-16



[A Short Guide to the Ministry of Justice](#)
National Audit Office, June 2015

[Department's oversight of arm's-length bodies: a comparative study, NAO, \(July 2016\)](#)

[Transforming Rehabilitation, NAO, \(April 2016\)](#)

[Efficiency in the criminal justice system, NAO, \(March 2016\)](#)

[Investigation into Just Solutions International, NAO, \(January 2016\)](#)

Other relevant published material

[Yarl's Wood Immigration Removal Centre \(July 2016\)](#)

[Confiscation orders: Progress review \(March 2016\)](#)

Cross-government published material

[Government's management of its performance: progress with single departmental plans \(July 2016\)](#)

[Spending Review 2015 \(July 2016\)](#)

[Disposal of public land for new homes: a progress report \(July 2016\)](#)

[The Business Impact Target: cutting the cost of regulation \(June 2016\)](#)

[Shared service centres \(May 2016\)](#)

[Government Commercial and Contracting: an overview of the NAO's work \(May 2016\)](#)

[Government's spending with small and medium-sized enterprises \(March 2016\)](#)

[Accountability to Parliament for taxpayers' money \(February 2016\)](#)

[Fraud Landscape Review \(February 2016\)](#)

[Use of consultants and temporary staff \(January 2016\)](#)

[Delivering major projects in government: a briefing for the Committee of Public Accounts \(January 2016\)](#)

[Companies in government \(December 2015\)](#)

[Principles paper: Managing provider failure \(July 2015\)](#)

[Open-book accounting and supply-chain assurance \(July 2015\)](#)

[Equality, diversity and inclusion in the civil service \(June 2015\)](#)

[Outcome-based payment schemes: government's use of payment by results \(June 2015\)](#)

[Central government staff costs \(June 2015\)](#)

Staff attitudes and engagement

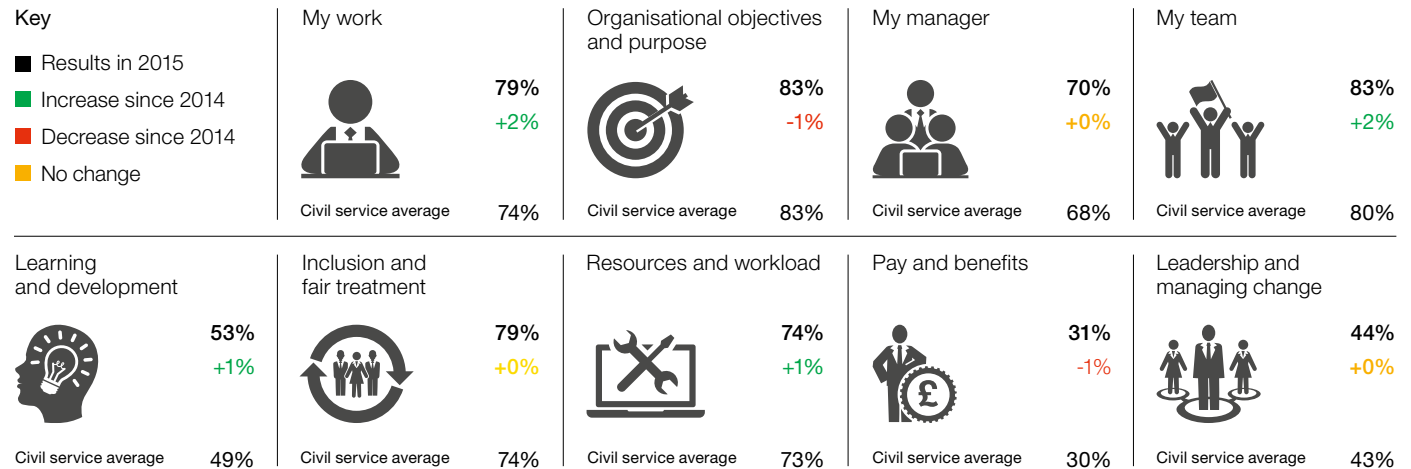
The government has conducted its [Civil Service People Survey](#) annually for the past five years. The most recent survey was carried out during October 2015.

The central MoJ scored equal to or above the civil service average for all nine of the key themes within the survey. Its scores have increased in four categories since 2014.

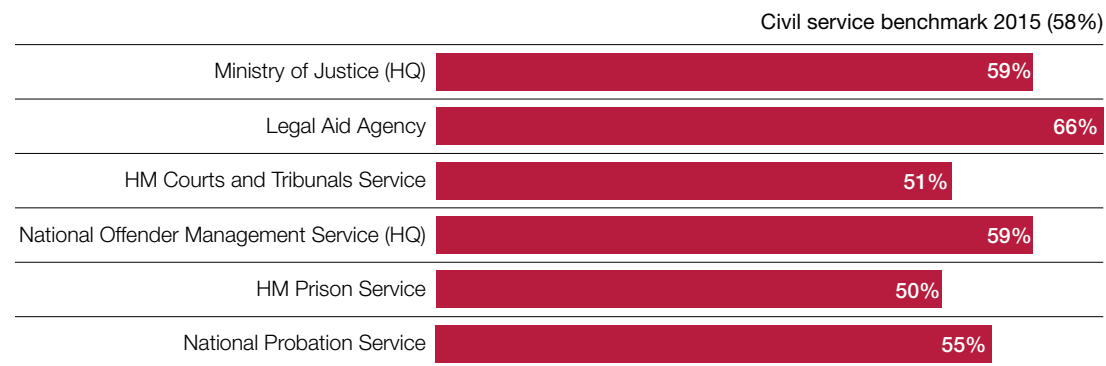
The main measure of the staff survey is the employee engagement index, which measures emotional responses to working for the organisation.

HMCTS, HM Prison Service and the National Probation Service scored less than the civil service average for employee engagement (58%).

Attitudes of staff in 2015 compared with 2014 – Ministry of Justice



Engagement index 2015



Sources: Civil Service People Survey 2014 and 2015