



House of Commons

Committee of Public Accounts

Ministry of Justice Financial Management

Sixteenth Report of Session 2010–11

Report, together with formal minutes, oral and written evidence

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The Committee of Public Accounts

The Committee of Public Accounts is appointed by the House of Commons to examine “the accounts showing the appropriation of the sums granted by Parliament to meet the public expenditure, and of such other accounts laid before Parliament as the committee may think fit” (Standing Order No 148).

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The following member was also a member of the committee during the parliament:

Eric Joyce (*Labour, Falkirk*)

Powers

Powers of the Committee of Public Accounts are set out in House of Commons Standing Orders, principally in SO No 148. These are available on the Internet via www.parliament.uk.

Publication

The Reports and evidence of the Committee are published by The Stationery Office by Order of the House. All publications of the Committee (including press notices) are on the Internet at <http://www.parliament.uk/pac>. A list of Reports of the Committee in the present Session is at the back of this volume.

Committee staff

The current staff of the Committee is Philip Aylett (Clerk), Lori Verwaerde (Senior Committee Assistant), Ian Blair and Michelle Garratty (Committee Assistants) and Alex Paterson (Media Officer).

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Summary

Strong and effective financial management and control are crucial to any organisation and especially so for the Ministry of Justice (the Ministry), which delivers its services through a wide range of arm's length bodies and agencies, including the courts, prisons and probation services. The Ministry's Spending Review settlement is tough, requiring a 23% reduction to its resource budget over the next four years.

The Ministry has a range of financial management processes in place but lacks a consistent approach across its business, and to date it has not integrated financial management into its policy and operational workings. Until recently it was failing to place a sufficiently strong focus on financial management. So, for instance, it was the only major government department to deliver its 2009-10 accounts late. We welcome the assurances given to us by the Ministry's Accounting Officer that he and his team are now giving financial management the attention and priority it deserves. We look forward to seeing the evidence that these improvements really have delivered, and that is why we have decided to call the Accounting Officer to give evidence again in a year's time.

It is essential that the Ministry implements its Spending Review settlement on the basis of a full understanding of the cost and value of its services, so that financial cuts are best targeted to minimise the impact on frontline services. Yet the Ministry and its arm's length bodies currently lack the detailed information they would need to do this. It is not good enough that by December 2010, the Ministry expects to have enough information on only 61% of the cost of its staff activities in its largest agency, with the remaining 39% due by December 2011. Given the size of the central resource available to the Ministry, a comprehensive understanding of the costs and value of services must be a priority.

In terms of its arm's length bodies, striking the right balance between oversight and direction is difficult, but, as other bodies across Whitehall have found, having a clear direction, the details of which are formally agreed by both parties, is essential. So too are strong leadership and a shared sense of purpose. The Ministry now needs to make full use of all the levers available to it to oversee the performance of its arm's length bodies, such as framework documents, operational reviews, and accountability meetings.

Fee recovery and fines collection have to be priority areas for improvement. In 2009-10, the Ministry recovered around 82% of the cost for Family Court and Civil (Magistrates' Court) business. Going forward, the Ministry needs to improve recovery rates where it does not currently recover the full cost of services provided. On fines collection, there was little sign of the sustained improvement we were promised when we last took evidence in 2006. The Ministry considered it had made significant improvements to the fine payment rate, which had risen to 90% over the six months to 30 September 2010. But outstanding fines and penalties over six months old rose again in 2009-10 and stood at just under £1.5 billion at 31 March 2010. Confiscation orders were a major component of this outstanding balance, with no one department taking the lead for enforcement and monitoring, resulting in a

lack of co-ordinated recovery action.

On the basis of a Report by the Comptroller and Auditor General,¹ we examined the Ministry on strengthening accountability, improving financial management and on recovering costs and collecting fines and penalties.

1 C&AG's Report, *Ministry of Justice: Financial Management Report*, HC 187, 2010-2011

Conclusions and Recommendations

- 1. The Ministry of Justice (the Ministry) has much to do to embed strong financial management as standard across its business but we welcome the steps the Ministry has started to take in order to improve.** The Ministry should produce a report on progress to this Committee by September 2011 and the NAO will then validate the Ministry's assessment. We will then take further evidence on its financial management at a hearing in November 2011.
- 2. By its own admission, the Ministry has exercised insufficient control over its arm's length bodies, including the Legal Services Commission.** We do not share the Ministry's view that there is little scope to influence the behaviour of arm's length bodies. The Ministry needs to be clearer in its funding arrangements with these bodies about what its expectation of them is, setting out, for example, clear rules of engagement and management information requirements. It should also tailor the depth and frequency of its oversight arrangements to reflect the real risks different bodies pose.
- 3. It is simply not acceptable that, after two years of work, the Ministry still does not have a detailed understanding of the costs of its staff activities in its largest executive agency.** Given the scale of the challenge it faces following the Spending Review, it is very worrying that, on current plans, the Ministry will not have this information until the end of 2011. We look to the Ministry to bring forward the work it is doing to understand the cost base in the National Offender Management Service and HM Courts Service. We expect the Ministry to be explicit about how it will use this information to drive value for money, and we want to hear how the department will develop proposals for similar analyses across the rest of its business.
- 4. Without combined financial and operational performance data and a full understanding of its costs, there remains a risk that, in implementing its Spending Review settlement, the Ministry will not achieve best value for money and will not understand properly the impact of cost reductions on frontline services.** Cost reductions should be based on a full understanding of relative costs of alternative cuts and a proper understanding of the value that will be lost, in particular so that a cut in one area does not lead to additional expenditure elsewhere. We look to the Ministry to produce a robust business planning process and to integrate its operational modelling with the full cost information systems it is developing.
- 5. The Ministry was the only major government department not to meet the timetable for delivery of its 2009-10 accounts.** We are not convinced that the problems facing the Ministry in producing its accounts were any more severe than those facing other departments. The Ministry must produce its accounts on time in future.
- 6. The Ministry has not recovered the full cost of Family and Civil (Magistrates' Court) work through the fees charged to service users.** This contrasts with Probate, where the Ministry has consistently recovered 120% of the service costs. We look to

the Ministry to set fees so as to ultimately reach 100% cost recovery in a fair and equitable manner.

- 7. There was little evidence of the sustained improvement in fine collection rates that we were promised in 2006. As at 31 March 2010, outstanding fines and confiscation orders in arrears and over six months totalled just under £1.5 billion, of which just 30% was considered recoverable.** Unpaid court fines and penalties have increased year-on-year and the Ministry's primary measure of how effectively court fines are being collected is inadequate. The Ministry still relies on payment rate, despite our conclusion after our 2006 Hearing that the payment rate fails to capture the amounts of outstanding arrears. We look to the Ministry to introduce the promised improvements to performance measurement by September 2011.
- 8. No one department currently has overall responsibility for overseeing collection of confiscation orders.** The Ministry informed us that it was only responsible for overseeing the collection of some 16% of the confiscation orders issued annually across the criminal justice system – although 100% of the value of these orders sits in the Ministry's financial statements. Concerted efforts to improve collection rates are needed urgently and we look to the Ministry to take the lead, through closer working between its Accounting Officer and the Heads of its criminal justice partners.
- 9. Qualification of its accounts has led the Legal Services Commission to strengthen its quality assurance processes but the level of error and potential fraud in payments to providers are still too high. It is unacceptable that the Commission cannot specify a date by which it expects to produce unqualified accounts.** The Commission should categorise and analyse the causes of error, and then target its resources and initiatives to reduce the level, so that its accounts are no longer qualified. The Ministry's September 2011 progress report to this Committee should include an update on the performance of the Commission.

1 Strengthening accountability

1. Financial management in the Ministry of Justice (the Ministry) has been poor from the outset.² The Ministry told us that, at the time of the machinery of Government changes in 2007, no thought had been given to financial management systems but that, since then, senior management in the Ministry had tried to strengthen the organisation's very weak financial culture.³

2. In recent months, the Ministry has launched initiatives designed to address the shortcomings in its financial management. While much of this activity is work in progress, the general direction of travel is right and the Ministry is to be congratulated on its improvements so far.⁴ There is more to do but the Ministry expects to deliver further improvement. The Ministry made a commitment to give this Committee and the National Audit Office a report in a year's time on its progress on strengthening the whole structure of financial control.⁵ In light of the acceleration in the improvements that has already taken place, we expect the Ministry to be able to demonstrate a transformation in its financial management.⁶

3. The accountability of its 53 arm's length bodies (some 350 organisations including sub-bodies) was a matter of concern for the Ministry. Two of these bodies (the National Offender Management Service and HM Courts Service) were executive agencies and most of the rest were Non-Departmental Public Bodies. The Ministry's sponsorship and policy units engaged with arm's length bodies and the Ministry told us it was satisfied with its ability to oversee the activities of its executive agencies. It gave the example of HM Courts Service, where there had been a lack of clarity over the accountability of the Chief Executive and the role of the Board; in advance of the merger of HM Courts Service with the Tribunal Service in April 2011, the Ministry has put in place a new framework document clarifying the accountability of the Chief Executive to the Ministry's Accounting Officer on financial matters, and to the Lord Chief Justice as a partner.⁷

4. On its management of Non-Departmental Public Bodies, the Ministry told us it considered that there was a mismatch between the Ministry's accountability for these bodies and the extent to which it felt it was able to exercise effective oversight. There were important lessons to be learned.⁸ Until recently, the Ministry had not had the systems in place to require bodies to notify it of emerging problems.⁹ It had not, for example, received copies of management letters and senior management had not always received feedback from audit committees.¹⁰ The Ministry played no part in selecting arm's length bodies'

2 Q 1

3 Q 3

4 Q 67

5 Qq 14 and 43

6 Q 17

7 Q 72

8 Q 73

9 Q 84

10 Q 74

chief executives and management teams.¹¹ It felt it did not have appropriate levers to enable it to intervene if things went wrong and yet it had not always used its framework agreements to best effect to specify its information requirements. The Ministry told us it had recently changed the accountability relationship with the Legal Services Commission by mutual consent to mimic the arrangements it had with its executive agencies.¹²

11 Q 79

12 Qq 82, 83 and 85

2 Improving financial management

5. The Ministry's understanding of its expenditure has improved but it still lacks in-depth analyses of its costs across all its business areas. Work has been underway since 2008 across prisons, probations and courts to itemise the cost of delivering services.¹³ Staff costs, travel and subsistence had been itemised and the Ministry now has detailed information on procurement.¹⁴ The Ministry told us that 61% of the staff costs associated with 70 lines of prison and probation service would be itemised by Christmas 2010 and 100% by the end of 2011.¹⁵

6. The Ministry was confident that the costing data it had used to inform its recent Spending Review negotiations was fit for purpose. It had costed options by combining data from the financial modelling programmes it was developing with emerging data from its ongoing costing programmes.¹⁶ The Ministry intended to use the combined data to drive down the average cost of a prison place from £40,000 to £25,000 and was targeting prisons with the highest average cost per place for closure. The Ministry acknowledged that it still did not have the data to identify the cause of cost variations between establishments providing similar services. There is a risk that the Ministry will make ill-informed cuts to services if it makes cost savings without a proper understanding of value for money.¹⁷

7. Having submitted its financial statements on schedule in previous years, the Ministry was the only Department to submit its 2009-10 resource accounts late. It blamed the delay on a change in accounting principles governing its huge prisons property portfolio, which is the second largest property portfolio in Government. The Ministry considered that its staff capability had not been up to the task, resulting in it missing the deadline by a few weeks. It had since put together a project team to deliver the resource accounts and was also considering whether to engage a private sector firm to help, as it was still not sure that it had the staff capability. The Ministry also stated that there were timing issues with probation trust accounts, which operate to local authority timetables, rather than central Government timings.¹⁸

8. The Ministry has worked with the Legal Services Commission, following the qualification of the Commission's 2008-09 accounts, to address the level of error in the Commission's financial statements. The Commission told us that it was working with the NAO to identify exactly where errors occurred and was looking at mechanisms to address the issues and stop the errors. On matters of eligibility, for example, the Commission was doing further testing and validation. It was asking for more bank account evidence from claimants, both as a deterrent and to make a better assessment about whether claimants were being completely honest when they declared their income.¹⁹ It was now carrying out a

13 Qq 18 and 57

14 Q 25

15 Qq 20-23

16 Qq 35, 56 and 57

17 Qq 39-42 and 57-61

18 Q 6, 51-54

19 Q 131

100% quality assurance on 450 files quarterly. Until it had a clearer understanding of the impact the checking and validation work underway was having on error levels, the Commission told us it could not give an assurance that it would be able to produce unqualified financial statements within a fixed period of time.²⁰

9. Overall, the Commission was satisfied that the majority of providers were not making fraudulent claims and that a lot of the errors made were genuine mistakes. It used contract management visits to providers to point out where mistakes occur and to try to change behaviour in advance of errors being made. Legal aid fee schemes were complicated and complex and the Commission told us it hopes, as part of the fundamental review of legal aid reform, to undertake some simplification of the system. The introduction of fixed fees, for example, had generated considerable savings, yet had created a far more complex system for providers and the Commission. In relation to fraud, the Commission referred cases to the police.²¹

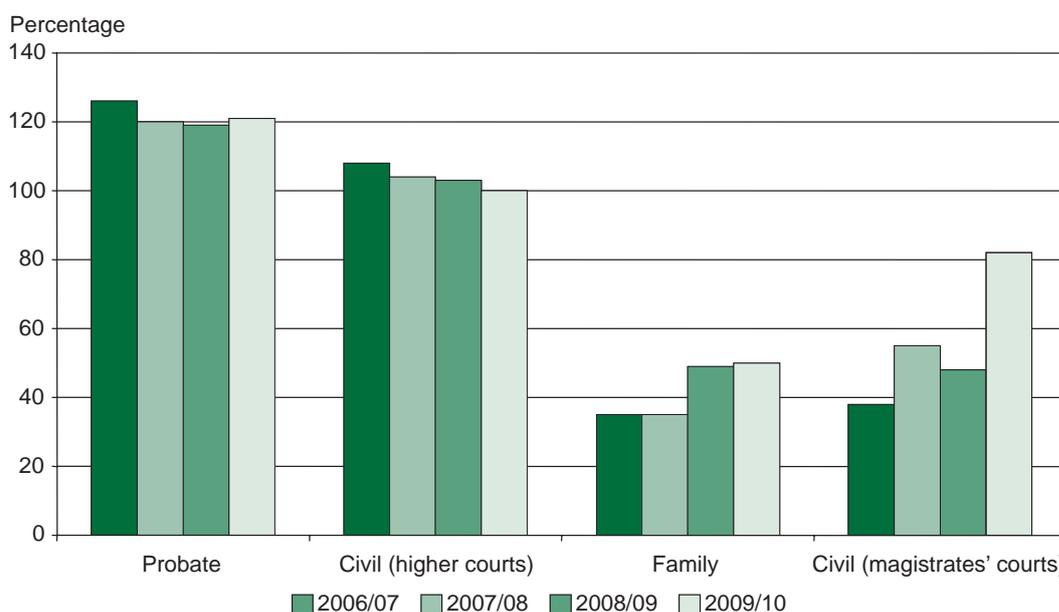
20 Qq 140-141

21 Qq 131-133, 142 and 143

3 Recovering costs and collecting fines

10. On fees, the Ministry agreed that it was not yet achieving 100% cost recovery. Fee recovery rates had increased from 79% a couple of years ago to 82% by 31 March 2010. The Ministry acknowledged that what was needed was a new fee forecast recovery strategy to be in place by April 2011 because of the Spending Review implications.²² Recovery rates were lowest in Family and Civil (Magistrates' Court) cases (Figure 1). Probate recovery rates, by comparison were consistently around 120%.²³

Figure 1: Recovery of costs from 2006-07 to 2009-10 after taking account of exemptions and remissions via fees and charges



Source: Ev 21

11. Since we last took evidence on fines and penalties in 2006, the gross amount of fines and penalties in arrears and over six months old has risen from £0.9 billion (2005-06) to some £1.5 billion as at 31 March 2010 (Figure 2).²⁴ Around half of the £1.5 billion outstanding fines and penalties in arrears over six months related to confiscation orders, some of which were notoriously difficult to collect, particularly those involving overseas properties, deported defendants, or pension funds.²⁵

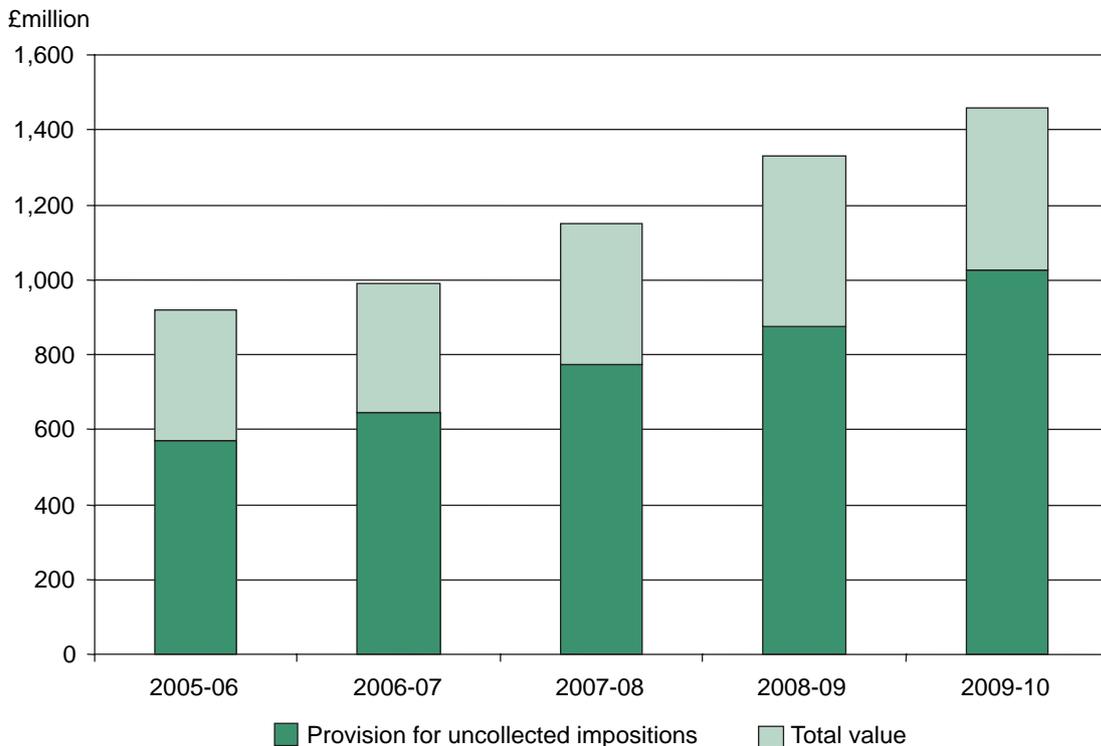
22 Qq 104 and 105

23 Qq 107 and 108, and Ev 18

24 Ev 21

25 Qq 103 and 117

Figure 2: The amount of outstanding impositions and provision for fines and confiscation orders in arrears over six months for the period from 2005-06 to 2009-10



Source: *Ev 21*

12. On fines collection, the Ministry told us that there had been a significant improvement in the payment rate in recent months, up from 78% (April to September 2009) to 90% (April to September 2010).²⁶ At our 2006 hearing on fines collection, we concluded that the payment rate was not an adequate measure of performance as it could not be compared over time. Instead we recommended five alternative measures of performance, one of which was the annual change in arrears.²⁷ The Ministry has indicated in its 2009-10 financial statements that that these measures will not be in place until 2011-2012, some five years after we recommended them.²⁸

13. The Ministry reports the total value of all confiscation orders in its financial statements, yet some 84% of orders issued were the responsibility of others, including the Crown Prosecution Service and the Serious Fraud Office. As at September 2010, HM Courts Service was responsible for just 16% (£150 million) of the £1.2 billion outstanding confiscation orders. HM Courts Service's collection rate was around 60% by value, compared to around 40% for the other bodies. In part, HM Courts Service's higher success rate reflected its responsibility for the lower value (up to £50,000) confiscation orders which were easier to collect.²⁹

26 Q 111 and Ev 18

27 Committee of Public Accounts, Tenth Report of Session 2006-07, *Fines Collection*

28 *Ministry of Justice Resource Accounts 2009-10*, HC 194, 2010-11, page 210 (<http://www.official-documents.gov.uk/document/hc1011/hc01/0194/0194.pdf>)

29 Qq 111, 112, 114, 117 and 118

4 Formal Minutes

Tuesday 18 January 2011

Members present:

Rt Hon Margaret Hodge, in the Chair

Mr Richard Bacon	Ann McGuire
Mr Stephen Barclay	Austin Mitchell
Dr Stella Creasy	Ian Swales
Chris Heaton-Harris	James Wharton
Jo Johnson	

Draft Report (*Ministry of Justice Financial Management*) proposed by the Chair, brought up and read.

Ordered, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 13 read and agreed to.

Conclusions and recommendations 1 to 9 read and agreed to.

Resolved, That the Report be the Sixteenth Report of the Committee to the House.

Ordered, That the Chair make the Report to the House.

Ordered, That embargoed copies of the Report be made available, in accordance with the provisions of Standing Order No. 134.

Written evidence was ordered to be reported to the House for printing with the Report.

[Adjourned till Wednesday 19 January at 3.00 pm]

Witnesses

Tuesday 20 November 2010

Page

Sir Suma Chakrabarti KCB, Permanent Secretary, **Ann Beasley**, Director General Finance, Ministry of Justice and **Carolyn Downs**, Chief Executive, Legal Services Commission

Ev 1

List of printed written evidence

1 Ministry of Justice

Ev 18

2 National Audit Office

Ev 21

List of Reports from the Committee during the current Parliament

The reference number of the Government's response to each Report is printed in brackets after the HC printing number.

Session 2010–11

First Report	Support to incapacity benefits claimants through Pathways to Work	HC 404
Second Report	Delivering Multi-Role Tanker Aircraft Capability	HC 425
Third Report	Tackling inequalities in life expectancy in areas with the worst health and deprivation	HC 470
Fourth Report	Progress with VFM savings and lessons for cost reduction programmes	HC 440
Fifth Report	Increasing Passenger Rail Capacity	HC 471
Sixth Report	Cafcass's response to increased demand for its services	HC 439
Seventh Report	Funding the development of renewable energy technologies	HC 538
Eighth Report	Customer First Programme: Delivery of Student Finance	HC 424
Ninth Report	Financing PFI projects in the credit crisis and the Treasury's response	HC 553
Tenth Report	Managing the defence budget and estate	HC 503
Eleventh Report	Community Care Grant	HC 573
Twelfth Report	Central government's use of consultants and interims	HC 610
Thirteenth Report	Department for International Development's bilateral support to primary education	HC 594
Fourteenth Report	PFI in Housing and Hospitals	HC 631
Fifteenth Report	Educating the next generation of scientists	HC 632
Sixteenth Report	Ministry of Justice Financial Management	HC 574

Oral evidence

Taken before the Public Accounts Committee on Tuesday 2 November 2010

Members present:

Margaret Hodge (Chair)

Mr Richard Bacon
Chris Heaton-Harris
Austin Mitchell

Ian Swales
James Wharton

Amyas Morse, Comptroller and Auditor General, **Martin Sinclair**, Assistant Auditor General, and **Paul Keane**, Director, National Audit Office, gave evidence.

Marius Gallaher, Alternate Treasury Officer of Accounts, was in attendance.

REPORT BY THE COMPTROLLER AND AUDITOR GENERAL

Ministry of Justice Financial Management Report (HC 187)

Examination of Witnesses

Witnesses: **Sir Suma Chakrabarti KCB**, Permanent Secretary and Clerk of the Crown in Chancery, Ministry of Justice, **Ann Beasley CBE**, Director General Finance, Ministry of Justice, and **Carolyn Downs**, Chief Executive, Legal Services Commission, gave evidence.

Q1 Chair: Welcome, all of you. I will start the questioning. Sir Suma, having looked at the Report and, because it goes back to July, the additional note we have received, I think that it demonstrates that financial management in the Ministry of Justice is poor. There are certain points I will pull out of it. One is that you submitted the resource accounts to Parliament after the summer recess. Yours was the last of all the Departments to submit those accounts. You first attended the audit committee only in July, after the Report was published. The Department basically runs agencies—you don't have a massive service delivery within the Department—so keeping a handle on what your agencies and non-departmental public bodies do is your core business. That makes your non-attendance at the audit committee even more questionable. You have a value for money improvement committee, but you have not thought it appropriate to attend yourself. Until now, finance has not been integrated in any mainstream way into your operations reports, your consideration of policy initiatives or any of your core business. That culminates in the problems we have had with the Legal Services Commission. The question one is left wondering, I am afraid, is this: why have you not taken your responsibilities as accounting officer more seriously?

Sir Suma Chakrabarti: Thank you very much for the welcome. I should first introduce Carolyn Downs, chief executive of the Legal Services Commission, and Ann Beasley, director general of finance. It will not surprise you to hear that I don't quite agree with that characterisation. First, the Report by the NAO represents a very good progress Report of where we were at the end of 2009. If you look at the interviews that were done, you will see that they were in October and December 2009, and the performance data in the

Report is from 2008–09, so there has been a whole 11 months of progress since then.

Q2 Chair: But you've been there since when?

Sir Suma Chakrabarti: Since December 2007.

Q3 Chair: Even when we accept that there has been a time lag since the Report was produced, you had two years in post before that.

Sir Suma Chakrabarti: That is right, and I absolutely accept that. The Report, which is very fair on this, highlights at least 13 areas of improvement for those two years. They are strewn across the Report, but they are in there. That includes the fact—something I think the Committee should alight on—that the machinery of Government was done in 2007 with absolutely no thought whatsoever to financial management systems. The new director general of finance came in in January 2008, and one of our first tasks was to try to get a financial culture up from where it was in the organisation. It was very weak indeed. That is why a lot of the time was spent in the first two years basically building that culture in the centre of the organisation—

Q4 Chair: I am sorry to interrupt you, but that description of what you did does not tally with the evidence in the Report, which you signed off. If you had wanted a financial culture, why on earth were you in a position, even two years ago—let's accept that you're trying to change things a little now—in which you didn't have finance and operations integrated? You did not have a financial view at the centre of new proposals, you did not attend the audit committee and you don't attend the value for money committee.

Sir Suma Chakrabarti: Several of those things are true, but not wholly true. In our board meetings in the

first two years, we did look at finance and operations. It is absolutely true that when we constructed the agenda they were on separate items, but it is not true that we did not think about the two together, because we did. This year we have integrated the Report, so there is just one report for finance and operations. That is absolutely correct. We had a major challenge on efficiency savings to achieve over the three years, and the Report is very fair about that. One of the things we did, therefore, was create a performance and efficiency programme, on which the Report congratulates us, quite rightly.

Q5 Chair: Except that the Report also says that the NAO is yet to audit those efficiency savings to see whether they met the value for money criteria set by the Government. Our evidence from a previous report is that across Government only a third of the real value for money savings were achieved, and I'm not sure that you'll be any different.

Sir Suma Chakrabarti: I read the transcript of that hearing with great interest. It is true that we were not one of the five Departments that that NAO looked at, but figure 6 of that report, which is imprinted on my mind, shows that we were the second best in terms of self-validation, after the Department for Environment, Food and Rural Affairs. It is true that the NAO has not had the chance to look at where we have got to. I would be very happy for it to do that. We are going to deliver £1.4 billion of efficiency savings over three years, which, I think, is the biggest efficiency savings target of any Department.

We have done a number of things to try to get the finances in order. Our starting point in 2007 was very parlous indeed. I would say that, if you had scored us in 2007–2008, using the NAO's own model, we would have got one out of five, which is just basic financial management systems. At the end of 2002, when the NAO finished its fieldwork, it told us that we were scoring two out of five, with smatterings of three. We've just done our self-assessment and it's 3.6 out of five. So the thing has been moving in the right direction throughout this period.

Q6 Chair: Well, just let me ask you again about some of the issues. Why were your resource accounts not submitted until September?

Sir Suma Chakrabarti: I'm happy to answer that. Our track record is exemplary. We have always, until this year, submitted on schedule. This year there was a particular problem because we were transferring our huge property portfolio—the second largest in Government, in prisons—from the generally accepted accounting standards to the international financial reporting standards. That was a major undertaking, and our staff capability frankly was not quite up to it and we missed it by a few weeks. That's the reason. We still submitted them, and according to the NAO they were of a higher quality than the year before. I think that quality matters even more than timeliness. We have also taken action since then to put together a project team that is going to deliver the resource accounts on time next year.

There is one caveat to that, which is the probation trust accounts. As the NAO knows very well, the

probation trust accounts operate to a local authority timetable, and that is much slower than the central Government one. So, there is always an issue of whether we can show enough evidence of probation actually having taken the action that it needs to take on its accounts to satisfy the NAO.

Q7 Chair: I don't know, but I assume that it must be true that various other Government Departments depend on local authority—

Paul Keane: Other Departments work with data provided by those outside central Government.

Q8 Chair: So I don't think that you're that different—

Sir Suma Chakrabarti: No, and we have handled it very well with the NAO over the past two years. We have looked at the drafts and said, "Is there a—

Q9 Chair: Although you are an ex-Treasury man, why did you never attend the audit committee until this Report emerged in July?

Sir Suma Chakrabarti: Actually, I have attended three audit committee meetings this year—

Q10 Chair: Three since July.

Sir Suma Chakrabarti: I think that the first one was before July, but I have attended three—the last one just last month.

Q11 Chair: I think that we were told that the first one was after the Report was out—

Paul Keane: I think the first one was in July.

Sir Suma Chakrabarti: Well, anyway, there have been three this year that I have attended, and the minutes can show that.

Q12 Chair: But, given your ex-Treasury background, you would know that the accounting officer's attendance at the audit committee is considered pretty compulsory.

Sir Suma Chakrabarti: Well, it's regarded as good practice. It's certainly true, and I have should have attended in the past—I agree with that. What we did was to delegate it, essentially, to finance. Right now, what happens is that both Ann and I attend the audit committee meetings.

Q13 Chair: It goes further. I'll tell you what I feel when I read the Report. I feel that it's a lax machine on finance. On page 7, paragraph 15 it states that "it"—the Department—"is yet to define the importance of financial management in its future development or deliver its programme improvements." On page 9, paragraph 19 states that, "Finance Directorate does not have sufficient visibility of the costs of its proposed policy initiative", and goes on to say that the directorate does not monitor costing proposals centrally. Those are pretty shocking observations. How was all that allowed?

Sir Suma Chakrabarti: They are all overtaken; they're all out of date.

Q14 Chair: Suddenly, miraculously. If, rather when, we ask to see you again in let's say 18 months' or two

2 November 2010 Ministry of Justice

years' time, are you telling me that financial oversight and—

Sir Suma Chakrabarti: I'm telling you right now that our self-assessment is 3.6 out of five. The NAO has not had time, understandably, to look at that assessment in detail. It is going to do that, and I really welcome that. I would expect us to continue that upward trajectory. So, yes, in 18 months' or two years' time—whenever you call me back—I'd expect us to have improved further. But those things that you've just mentioned have all been attended to this year.

Q15 Mr Bacon: This Report was published in July 2010; it's only three months old.

Sir Suma Chakrabarti: That's right.

Q16 Mr Bacon: And you're saying that it's now all massively out of date. You make it sound as if everything is very rosy. This is one of the worst reports I've seen for quite a while, in terms of the overall approach to knowledge of your financial position. I agree with the Chair's word: slack. Not understanding the costs of your activities, not having enough visibility of the costs of policy proposals, not having a consistent approach to financial management, which reduces efficiency and increases costs, and in the case of the Legal Services Commission not having a control system that enabled you to identify the emerging problems in time for your board to do something about them, are all very serious issues. This is a Report that was published only three months ago.

Sir Suma Chakrabarti: Yes, but it was based on work done in 2009, and we agreed it on that basis. It doesn't pick up all the actions taken this year. That work is picked up in the self-assessment. If you want to go over each of those things, we can do.

Q17 Mr Bacon: Well, I'd like to, yes. The other point is that if what you are saying is correct—and one hopes it is—presumably one would not need to wait a couple of years. If we were to look at this again at this time next year, with what you are saying of the acceleration in the improvements that has already taken place, we should be looking at a transformed picture in just 12 months, shouldn't we?

Sir Suma Chakrabarti: Well, we think we are at 3.6 out of five.

Q18 Mr Bacon: If that's true, good.

What about the costs of your activities? Paragraph 11 refers to prisons, the probation service and the courts, which are three of your main activities. What is so difficult about understanding the costs of your activities? It is something that organisations have to do to succeed. They have to understand the costs of their activities. Because you are sitting there in a relatively small centre with these large operating units that are outside the Ministry of Justice itself, as the Chair said, one of your key roles is keeping an eye on them all. What is so difficult about understanding their costs?

Sir Suma Chakrabarti: As the Report rightly says, we started in 2008 to apply a couple of models to

understand the costs. So specification and benchmarking costing was applied in prisons and probation—prisons essentially. That has been going on for two years. Already, by this Christmas, 61% of all the costs in prisons will be itemised, and we know exactly what the benchmark costs are. We are already over the past two years—

Q19 Mr Bacon: What about the other 39%?

Sir Suma Chakrabarti: 61%.

Q20 Mr Bacon: 61% are itemised. What about the other 39%?

Sir Suma Chakrabarti: The other 39% by the end of 2011.

Q21 Mr Bacon: What are these? Did you say that you will have itemised 61% by the end of 2011?

Sir Suma Chakrabarti: No, 61% by this Christmas. It will be 100% by the end of next year.

Q22 Chair: So, we're now at what?

Mr Bacon: So, 100% by the end of next year—the whole of the next 12 months to itemise all of what you spend the money on. You make it sound like that is good.

Ian Swales: And 40% of that is people according to the same paragraph.

Mr Bacon: I find it extraordinary that that should be thought to be an acceptable timetable. One could take any medium-sized engineering company in the west midlands, shall we say—I have such companies in my own constituency—that has customers, costs and income. If the finance director were to say to the chief executive, "Well, we're going to be able to tell you where we're spending our money by the end of next year," the boss wouldn't be very impressed.

Sir Suma Chakrabarti: That's not what we're saying.

Q23 Mr Bacon: What are you saying about this 39%?

Sir Suma Chakrabarti: I'll ask Ann to give more details but we have 70 essential items that we are costing. Right? And 61% of the value of the total costs will be known by this Christmas. But already—

Q24 Mr Bacon: What are the 17 items?

Sir Suma Chakrabarti: Let me finish the point because otherwise the sentence won't make sense. For the first two years, every time we have identified cost specification, we have applied it in all our commissioning, so all the contracting with the private sector, and internally within the public sector, has applied those costs. That's already in place. It is not as if we are waiting until we get to 100% and then we are going to apply the cost model. We have been applying it all the way through. The same in courts.

Q25 Mr Bacon: What are the 17 items?

Sir Suma Chakrabarti: Seventy.

Ann Beasley: The lines of service. We understand completely in terms of the spending cost on staff costs, travel and subsistence. We have incredibly detailed breakdowns now, based on the new

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procurement system, of the £3.5 billion we spend on goods and services.

Q26 Chair: That is £3.5 billion out of £10 billion?

Ann Beasley: Yes, but that's all of what we spend on goods and services.

Q27 Chair: Oh, this is just your procurement?

Ann Beasley: Absolutely. What Suma is referring to is the activity costing, where you're actually costing different types of activity. You might, for example, be costing how you carry out unpaid work in probation, or you might be costing how you carry out receptions in prisons or security—things like that. One difficulty with it is that your 40% staff costs are actually multi-tasking. If you are walking down the landing of a prison, you're improving decency, you're addressing the reoffending of prisoners and you're maintaining security. It is not like an engineering firm where a piece of activity is single-focused—producing an item. You have actually got officers spending their time doing multiple things, which makes it quite complex.

Q28 Chair: Can I just ask you a simple question? If we were to come in and do a value-for-money exercise on Wandsworth prison versus Pentonville—two big local London prisons—would you be in a position to have the data and to talk about the relative value for money of how those prisons are run?

Ann Beasley: We would know absolutely what the different prisons cost.

Q29 Chair: You obviously know that, but would you be in a position to tell us whether we are getting better value for money from how Pentonville is run compared with how Wandsworth is run?

Ann Beasley: We could give you a judgment based on different bits of evidence. The difficulty you have with prisons is that they all carry out a slightly different range of activities.

Q30 Chair: A bit like schools.

Ann Beasley: Some of them are training prisons, some of them are local prisons and some of them hold foreign national prisoners.

Q31 Chair: That was why I said Pentonville and Wandsworth. They are both big London local prisons.

Ann Beasley: Except one of them has a foreign national unit and the other one doesn't, so they are different. We could give you a judgment about which one represented value for money.

Sir Suma Chakrabarti: We could certainly tell you what the unit cost of holding a prisoner in each was. Throughout the spending review, we were commended by the Treasury, actually, for being able to cost all the options faster than any other Department because of the SBC work and the activity-based costing work. So we could tell you right now that, on average, across the prison estate, it is about £40,000 per unit. By the end of the spending review, our aim is to get that down to £25,000 across. And there are inconsistencies between different prisons, undoubtedly.

Q32 Mr Bacon: When you say lines of service, I asked before about the 17 things you are going to cost. I don't mind if you have to read them out, but what are these 17 items—

Ann Beasley: Seventy.

Q33 Mr Bacon: Seven-zero?

Ann Beasley: Yes.

Q34 Mr Bacon: So could you send us a list of them then, rather than read them all out?

Ann Beasley: We can certainly send you a list, yes.

Q35 Austin Mitchell: I don't understand, if you didn't have a proper understanding of your own costs for this—and the Report indicates that that is the case to me—how on earth you could negotiate comprehensive spending review settlements with the star chamber. If you don't know your costs, how can you negotiate?

Sir Suma Chakrabarti: You are absolutely right, and if we didn't know our costs it would have been very difficult, but because this work on understanding our costs started in 2008, by the time of the spending review, we did have a very good understanding of each policy option and what it would cost. We could, virtually overnight, cost any option the Treasury threw at us, or any option that we threw at it, so that was how it worked. That is partly because—again the Report doesn't pick this up, because it is in 2010—we created a unit among our analysts that does all our forecasts and modelling around costing. We are far better placed than the Report would have you believe, because the Report is at the end of 2009. In fact, that unit—

Q36 Chair: But you agreed this Report. It actually says—I am pleased that you've said this Sir Suma—that you will not have completed the work to understand your costs up until 2012. You're now saying to us this morning, "Actually, we'll have completed by the end of 2011."

Sir Suma Chakrabarti: The end of 2011 on specification, benchmarking and costing in prisons.

Q37 Chair: Okay. But you agreed a Report that tells us that you don't understand the underlying costs, so Austin then asked how on earth, if you don't understand the underlying costs, can you understand the implications of a 23% reduction in your budget?

Sir Suma Chakrabarti: I am saying that the only way to prove this to you would be to show you all the spending review papers, which we can't do, obviously, but we were able to cost every single option in great detail and we got commended by the Treasury for our ability to do that compared—

Q38 Chair: So does this Report not—

Sir Suma Chakrabarti: This Report was absolutely accurate to the end of 2009.

Q39 Austin Mitchell: Sorry, but the news trail makes it look as though, in those negotiations and just before them, you were casting around for expedience. We have had some announcements: massive court

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closures; sudden announcement of the possible privatisation of prison; and a sudden announcement of economies in legal aid by deep diminishing eligibility—which, I have to tell you, is causing a hell of a lot of problems with legal services in Grimsby and for the lawyers of Grimsby. All these sudden announcements make it look as though, rather than presenting an overall picture of cost reductions, you are just casting around for expedience.

Sir Suma Chakrabarti: I am sorry if you feel that way but we weren't, and we aren't. We did two serious policy reviews.

Q40 Austin Mitchell: But you are producing a lot of expedience.

Sir Suma Chakrabarti: No, we produced two very serious policy reviews for Ministers. Ministers will announce the details of those in consultation documents in the next few weeks—one on legal aid and one on sentencing. They make up a large chunk of the savings that are going to be fed through in the spending review. The other large chunk—£1 billion of savings—is on the efficiency side.

Q41 Chair: Just to come back on that, because the whole point is that if you don't understand your underlying costs, which this report says you won't properly until 2011–12, you inevitably, when you are cutting spending, cut services. So you cut legal aid, you cut access to justice, you may cut sentencing and you cut the length of time that people are in prison. That is not a value-for-money saving, which is what everybody wants to eke out of this budget reduction—that is a service cut. I have no doubt that you understand the implications of the service cut, but it is not a value-for-money saving, because you don't understand your costs.

Sir Suma Chakrabarti: Well, we do understand our costs far better than we did a year ago, and that showed in the spending review negotiations. On the policy implications, that really is for Ministers. They have taken the view that they didn't agree with the last Government's policies on sentencing.

Q42 Chair: No, this is not the question. Of course it is for Ministers and the Government to take policy decisions. The concern that this Committee has is that we all want to eke out value for money before you start making policy changes. If you don't understand your basic costs, the only way in which you can cut spending is by cutting services.

Sir Suma Chakrabarti: I would argue that £1 billion of the £2 billion shows that that is a saving. Some £1 billion in efficiency savings out of £2 billion of savings that we will achieve over the spending review shows that we are trying to drive value up first and increase value for money before we make all the policy reforms.

Ian Swales: Can I—

Sir Suma Chakrabarti: May I finish the point? We are going to make all those efficiency savings, most of them—particularly in the headquarters and in the regional tiers—up front, before the policy reforms take place towards the end of the spending review period.

Q43 Austin Mitchell: It doesn't convince me and I think our Chair's point is exactly right, but let me ask one further question.

In response to this Report, which was produced in July, so it is very recent, there are all sorts of promises of better behaviour of the kind I give whenever I am found to be deficient—which is very rare, of course, in any respect. These are just policies. You should undertake—I hope you will—to give this Committee and the National Audit Office a report in a year's time on your progress on strengthening the whole structure of financial control, because that is the key issue.

Sir Suma Chakrabarti: I absolutely agree with that and I am perfectly happy to give you a report in a year's time. I gave the NAO a report just three or four weeks ago on where we are against all these recommendations.

Q44 Austin Mitchell: There have been a lot of promises on where you are going, rather than on positive performance.

Sir Suma Chakrabarti: No, I am sorry, it includes what we have done this year.

Q45 Ian Swales: We spoke about the CSR of 2007, in which you were asked to deliver significant savings. The three years run out next April. Will you have achieved the savings that were promised?

Sir Suma Chakrabarti: Yes, and more than what was promised in CSR 2007, because this year there was an emergency Budget, which added another £325 million this year.

Q46 Ian Swales: How much will that be in total?

Sir Suma Chakrabarti: Some £1.4 billion.

Q47 Ian Swales: Right. And where are you up to now would you say?

Ann Beasley: We are on track. We expect to deliver by the end of this financial year.

Q48 Chair: What does that mean?

Sir Suma Chakrabarti: At the end of 2009–10—so the first two years of the CSR period—we had saved £648 million. This year, we were down to save £530 million plus the £325 million, so this year is a huge target for us because of the additional savings in the emergency Budget.

Q49 Ian Swales: That's right. If you saved £648 million in two years, why would we be confident that you could save another £850 million in one year?

Sir Suma Chakrabarti: Because actually the Department's capability and systems are a lot better than they were in 2007–08, and even the NAO Report acknowledges that.

Q50 Mr Bacon: If there has been an enormous improvement—you make it sound as if there has—in just the past nine or 10 months or so, why were your accounts late?

Sir Suma Chakrabarti: Well, as I said earlier, the accounts were late—

Q51 Mr Bacon: Why were they late if all the information is at your fingertips?

Sir Suma Chakrabarti: No, the accounts were late this year for a particular reason. That was the first time ever and it is regrettable. They were late because of the need to transfer from UK GAAP to IFRS, which affected the NOMS property portfolio. The property portfolio is huge: £5.5 billion. It is the second largest in Whitehall, and in fact it is probably the largest if you take away the MOD's land. That has just proved to be too much for our staff capability.

It does raise an interesting question for the future, which, again, the NAO rightly points out. If we move to this clear line of sight approach and you have to come in by mid-June—in about a year and a half—that is going to be pretty tough for us and other Departments that are reliant on accounts coming in from outside the boundary, as the Chair said. One of the things we are thinking of doing, apart from running this whole process as a project, is deciding whether we should get a private sector firm in to help us do this, because we are not sure we will have the staff capability in this area.

Q52 Ian Swales: Can I just follow up on that specific point? With a year end of March or 1 April or whatever, how long are you saying it takes now to get all those outside accounts?

Sir Suma Chakrabarti: Well, in previous years, we have always done it by the deadline of the end of July. This year was the first time we did not manage it.

Q53 Ian Swales: That's four months—have I got that right? Three months. The private sector benchmark on something like that would be about two weeks, I would think, so why would it take so long?

Ann Beasley: The particular problem in relation to probation is in respect of the pension schemes. There is something like £1.4 billion of assets in the probation pension schemes. Because of their history, most of probation is linked to local authority pension schemes, for which the reporting timetable is 30 September. The challenge is to get a valuation for the probation bit of a much broader scheme in time to ensure that there are no issues for our accounts.

Chair: But, again, that is across Government.

Q54 Ian Swales: Are you saying that you hold up the whole process for that one issue?

Ann Beasley: It could be a material issue, particularly given the movement in the values of pension schemes in the past few years. We have worked very closely with the NAO to come up with a process whereby we look for the kind of movements that there have been to reassure ourselves that we can take effectively the draft values of the pension schemes. Until the local authority timescale is aligned with the central Government timescale, this will always be an issue.

Q55 Chair: I have to say that I think this is a nonsense argument. I look to the NAO. Teachers also work on local authority pension schemes, I assume, and yet I do not get the DFE—as it is currently called—complaining about that. I assume that most of DCLG's money is local authority pension schemes,

and we do not get it from them. Amyas, can you comment on that particular point and then come in on whatever it was you wanted to say?

Amyas Morse: It is clear that there are other Departments that are dependent on local authority information. You would not argue with that, I take it.

Ann Beasley: I think it depends on how they are consolidated into the accounts.

Amyas Morse: That's a fair comment.

Q56 Chair: Maybe you should learn from the other Departments. If they can do it, why can't you?

Amyas Morse: What I wanted to ask about was the corporate forecasting event. That is really a modelling unit, isn't it?

Sir Suma Chakrabarti: We have had two major breakthroughs this year. One was in January when we created a corporate forecasting and modelling unit, and placed in it our analysts and economists. One of the weaknesses in 2007–08 was that the Department did not have analytical modelling capacity. One of the things that I have been trying to build up and that I am particularly keen on was that capacity. This year that set of people put together the unit and worked very closely with Ann's people, and basically drove the spending review 2010 negotiations.

There is one other model that is very important. Eighteen months ago, there was no modelling done of what would happen if, for example, the Home Office ran an initiative on knife crime in London. No one modelled what the impact would be on the rest of the criminal justice system. You know that, I think—you may know that from your time in this. We put together a model on behalf of the whole criminal justice system that can track impacts if a Department does something in one area. That is a major breakthrough.

Amyas Morse: My reason for asking about it is, first, that it is interesting. Also, you were saying earlier that you were able to react to different scenarios very quickly because you are modelling them, but of course you need to bear in mind that any model is entirely dependent on the assumptions you make to drive the model. Having a model does not automatically mean that you have detailed cost information to back it up; it just means that you are good at producing models on different assumptions. I am not suggesting at all that that is not worth while, but I am just saying that you need to understand that a model is only as good as what you put into it.

Sir Suma Chakrabarti: As a former modeller, yes.

Amyas Morse: Do you think that's a fair comment?

Sir Suma Chakrabarti: Of course it is—it is nothing new to me. What we have done is to create an assumptions book, in classic modelling fashion, which is going to be put out next week to everyone.

Q57 James Wharton: I don't want to dwell too much on the CSR issue, which I know we have already covered a bit, but I find it amazing that the message that I am taking so far from what you are saying is that things have improved dramatically from just after the Report, and we then find it very difficult to assess that here in the Committee. As an example, you are saying that, by Christmas, for 61% of the costs in prisons, you will be able to pick out and identify

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those cost bases individually and understand them better. I find it hard to understand how you can make an appropriate contribution and a full assessment of the impacts of CSR when, at the same time, you understand only 61% of the cost base in prisons, for example. How does that connect? How can you say that you can fully model the CSR implications when you don't understand the detail of those cost bases?

Sir Suma Chakrabarti: I'll ask Ann to give you the detailed answer on exactly how the costing spread through to the CSR, but we must not start thinking of December 2009 as the turning point—that is, that nothing had happened before then. The NAO did not say that. I don't want to read them out to you, but there are 13 examples of evolving good practice in this Report in which we are the benchmark for other Departments—at least four. It is not as if we just started then; we started this whole costing business in 2008.

Ann Beasley: I don't think anyone is saying—and the NAO Report does not say this—that we do not understand anything about our costs. The Report says that we need to understand them in greater detail, which is what the programmes that we are running will do. They will get behind the unit cost of a prison, or the unit cost of a community sentence. We know that the average cost of a prison place is £40,000 and we know that the average cost of a community order is £2,800 but, if we are to drive efficiency, we need to get below that and ask, "Why is one prison delivering it for slightly above the average and another for slightly below?" That is the work that we're doing, and we are not waiting until the end of it to use the information. We have already used the service lines that we've agreed to drive efficiency and inform budget processes.

The modelling work that Suma set up to put us in a good position for the spending review is based on the high-level unit cost analysis, so we are modelling prison sentencing reforms—how many prison places that would reduce. We know the average cost of a prison place. If we know that we are going to reduce the number of prisoners, we can, therefore, deduce the cost we're saving.

Q58 James Wharton: I'm sorry. Maybe I misheard you, but I thought we were looking at laws for driving down the cost of prison places from 40 to—what was it?—21.

Sir Suma Chakrabarti: Twenty-five.

Ann Beasley: That is what we aimed to do as part of the process. The cost of prison sentences varies extensively, not just by time served, but between prisons. We have some very small, uneconomic prisons that drive up the average cost of a prison place. As part of our savings proposals for the spending review, we expect to close our most uneconomic prisons. The first few thousand places that we close will bring down the average cost of a prison place from about £40,000 to around £25,000. We understand which prisons are more expensive and we are targeting those for closure.

Q59 James Wharton: For clarity, that saving from 40 to about 25 is entirely on the basis that by closing

certain prisons and such high-level rationalisation you can drive down the costs.

Ann Beasley: Absolutely.

James Wharton: There are no detailed assumptions about the service provided to prisoners.

Q60 Chair: That's not value for money. Let's be clear about this: the Report says "The Ministry does not...understand...the costs of its activities within its prisons, the probation service and the courts" in sufficient detail. It goes on to say that this reduces the ability "to allocate resources on the basis of the relative financial and operational performance of individual prisons, probation services and courts". That is the allegation, and it strikes me, even from your answer to James Wharton's question, that what you are saying is, "Well we know this one's a bit more expensive, so we are going to close this place." That is not a value-for-money exercise. A value-for-money exercise would eke out the extra costs, which you don't understand.

Sir Suma Chakrabarti: We understand those costs better than we did a year ago, and clearly far better than we did in 2008. We have some way to go—no one is denying that—to get the full costings, but surely it is value for money to close uneconomic prisons and uneconomic courts.

Chair: Well, you don't know. If you understood the underlying reasons for the cost differentials, you could then start making informed decisions. At the moment you are saying that this costs a bit more than that, but you have no idea why, and you are saying, "Let's take out this one because it will bring down our budget." I think that that is where the Committee's criticism will come from.

Q61 James Wharton: This is what I'm trying to understand. Let's assume that you've removed those small, uneconomic prisons and you've got the costs down. It seems to me that either you are saying that there are no cost savings or value for money to be driven out in the way that the service is currently delivered to a hypothetical prisoner in a big, efficient prison, or you haven't measured it or accounted for it, because you are not able to do so. You could get the cost even further below 25 by saying that the way we do this in prisons at the moment is wrong. Have you made any assessment at all of where you can drive out costs in those prisons that are apparently efficient?

Sir Suma Chakrabarti: I think that is a very fair point. It is absolutely right that one thing that we are trying to do with the specification, benchmark and costing is not simply to drive down the total unit cost, but to ask how much it costs to provide a meal in one prison compared with another, and how much a reception costs compared with in another prison. We are benchmarking those costs, and that is what the 70 lines we're talking about are.

Q62 James Wharton: But you haven't yet factored that into the CSR.

Sir Suma Chakrabarti: We factored it into existing contracts. We renegotiate using new information as it comes on stream.

Q63 James Wharton: As it comes on stream. What I'm saying is that there could be yet-to-be uncovered savings

Sir Suma Chakrabarti: There will be more of that.

Q64 James Wharton: There should be savings that have not yet been uncovered.

Sir Suma Chakrabarti: Absolutely.

Ann Beasley: But they are in the spending review, because we've allocated an amount of savings towards front-line efficiencies. The reason why we will deliver those front-line efficiencies is because the specifications and benchmarking will identify when somebody is running a process that is costing more than it needs to cost.

Q65 James Wharton: That's what I'm trying to establish. It seems to be a bit backwards. You're saying that we're going to save x amount from efficiency savings but, at present, you don't understand the full cost base of delivering that service or providing that prison place to an individual. You can do some of the headline things—get rid of some of the inefficient small prisons and rationalise the Prison Service at a high level. That is fine. We all understand that and, I think, we would support it, but we are talking about an individual prisoner in a good, efficient prison that will stay where it is, and you have factored in a cost saving. You said that you could shave however many thousand pounds a year off the cost of keeping that prisoner in that prison, but you don't have the information. You just said that you will have 61% of the information at Christmas about the costs in each individual prison to identify from where each of those savings is coming. At the moment, this is based on an assumption that you do not have the necessary data to back up comprehensively.

Sir Suma Chakrabarti: The 61% we are using already so, as I kept saying before, it is not that we're waiting till we get the full 100%. Every time one of those 70 specifications is agreed—benchmarked—it is applied immediately in the contracts and in service level agreements.

Q66 James Wharton: Yes, but you've already factored that saving in.

Sir Suma Chakrabarti: That's right, so it's absolutely true that we won't get the full benefit until we get to the 100%.

Q67 Chris Heaton-Harris: I have a number of points. First, I am willing to say congratulations on your improvements so far. If you're heading in this general direction, I don't want to have a go at you, and I don't think that this Committee should particularly be having a go at you for travelling along the road of the righteous and getting your house in order. I guess you will agree that had we had this Report the day after the work had been done, you would not have been very satisfied with a number of the things contained within it. I am very pleased that you've moved forward. I have a number of prisons in my constituency: Rye Hill, Onley and the youth establishment of Rainsbrook. As prisoners all now have the vote, I am very interested in how they're

doing and in them having the best conditions that they could possibly have.

Mr Bacon: Christmas hampers!

Sir Suma Chakrabarti: That is not one of the 70 specifications.

Q68 Chris Heaton-Harris: Two of those establishments are run by G4S. I have visited them both, and I am going to Onley in the not-too-distant future. How did you award those contracts on the basis of a load of costs that you didn't understand?

Sir Suma Chakrabarti: I'll ask Ann because she was director of finance in NOMS.

Ann Beasley: The contracts for those particular prisons were awarded a long time ago—

Q69 Chris Heaton-Harris: They're very good contracts and they are doing very well. I simply ask because you weren't sure about, and are only just coming to terms with, the costs.

Ann Beasley: Absolutely, and there are things that you can do in drawing up a contract for a prison and awarding it on that basis. It is a competitive process, so you have a number of bidders that you can judge it from. You also try to construct a public sector comparator so that we know the costs in similar prisons around the estate, and that gives us a benchmark. You use the costs that you have available. That is kind of what we're saying. We have a level of understanding of our unit costs that allows us to make some of the decisions. The NAO is encouraging us to improve the detail, and that is what we have embarked on, which will give us better insight. It is not that we have no insight, but that we will have better insight in the future.

Q70 Chris Heaton-Harris: I understand the answer completely—the public sector comparator and all that. However, these are very big contracts.

Ann Beasley: They are big contracts. For example, we're running five prison competitions at the moment—they are out to tender—and we have used the work that we have done so far on the specifications within prisons to inform the specifications of those competitions. We are starting to use it as the information evolves. It is not that there's nothing; it just hasn't been finalised, and it's not as good as it could be.

Q71 Chris Heaton-Harris: Drawing us back to the Report, can you see a slight concern that I have? I'm very pleased that these things are going out to companies under contract, because I'm pretty sure that they will be better run and cheaper for the taxpayer, but you didn't really understand the financial base on which you were offering the contracts. Perhaps we didn't get such brilliant value for money on the first batch of contracts that were released as we will hopefully get on the contracts in the future. Is that a fair comment?

Ann Beasley: Yes.

Sir Suma Chakrabarti: Yes. There is a view internally that accords with that.

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Q72 Chris Heaton-Harris: In another part of the Report, there is a worry about accountability structures. When I was a Member of the European Parliament, I sat on the Budgets and Budgetary Control Committees and I saw hundreds of areas of spending through agencies and what we would call NDPBs, of which you control a vast number. Could you explain to me something about the size, structure and qualifications of the staffing that police your relationship with each of those bodies? There are big ones and small ones, and I was interested in whether there was a ratio of qualified staff, in terms of finance, management and so on, to each of those, and in their reporting structure to you.

Sir Suma Chakrabarti: Yes, in broad terms, there is a sponsorship unit in the Ministry, which deals with the relationships, and its policy people were engaged with each of the bodies. I will ask Carolyn to say a bit about the LSC one, because it is quite an interesting case of how we're changing accountability. In terms of finance professionals, I think that 70% of finance staff who are in the decision support area are financially qualified. That is obviously quite important. That was a much lower percentage three years ago, so we have really tried to increase financial qualifications. The other thing that we have done—and I want to spare Ann's blushes—is in the corporate finance area. We have been trying to bring people in from the business—people who actually know it. Ann has come in from NOMS. Below her, people have come in from the Youth Justice Board and NOMS, so they have much stronger knowledge of how the businesses operate.

I am glad you are on accountability, because this is one of the things that has most troubled me—the general accountability around arm's length bodies. In the Ministry, we have 53 arm's length bodies, and if you count all the sub-bodies, that makes 350. A lot of them are going to be reformed in the Public Bodies Bill in a couple of years.

One of the things that we have found is that accountabilities were not very clear for a number of those bodies. NOMS was very clear and there wasn't a real problem. However, when we created this new Courts Service, for example, it became a joint enterprise between the judiciary and the Executive. The accountability of the chief executive was not at all clear—who the chief executive was accountable to and for what—as well as what the board did and what the chief executive did. We have just agreed a new framework document, because the Courts Service is being merged with the Tribunal Service from this April, that clarifies all that very clearly.

Q73 Chris Heaton-Harris: Including the financial structure as well?

Sir Suma Chakrabarti: Including the financial structure. It makes it very clear who the chief executive is accountable to, his relationship to me, and what he is accountable for to the Lord Chief Justice as a partner, if you like. His financial accountability is very much direct to me and, through me, to the Lord Chancellor.

In the LSC case, which is the other very interesting case, on one reading, the sponsorship and

Government's arrangements for the LSC as an Executive NDPB—it is not an agency, it is an Executive NDPB—were completely in line with Cabinet Office guidance. However, we found last year—and I will say more about this in the private session—that there were clearly problems with the accountability relationship. It just did not give the Ministry sufficient levers, frankly, when things went wrong. We have, essentially, with the changes in leadership there—although those changes had to be through consent because, again, I don't have the levers to force this through—changed the accountability relationship in a way that almost mimics an Executive agency.

Carolyn and I meet now once a month. We have meetings with her chair and with our staff every two months. Below that, there is much closer working, almost as if the LSC was already an agency. However, it isn't, and that begs a question that I think the Committee should be focused on. We have the clear line of sight project going through in 2011–12. If the LSC had stayed as an Executive NDPB—which it will not—by 2012, its accounts would be fully reflected in our accounts. However, my levers would not have changed in relation to my powers over the LSC and the Ministry's powers. I think there is a mismatch here. The Cabinet Office needs to do a piece of work, helped by the NAO, the Treasury and Departments like ours, to look at the accountability structures. We need to move more towards what we've now got for the LSC, even though it's an Executive NDPB.

Q74 Chair: I think we agree with that. It's an area that, particularly over the coming period, will become ever more important as more and more goes out. I know we're going to discuss some of this in the private session, but there is one issue that we need to pick up on in relation to the Legal Services Commission. My understanding from the NAO was that the fraud and overpayments had been carrying on for some time and the reason why the accounts weren't approved was that that had got worse. You had a member of your staff on the audit committee. I want to ask about your monitoring role. When we look at the figure on page 11 of the document showing what the Ministry of Justice is all about, we see that your job is basically to monitor what's going on in all these organisations, for which you are the accounting officer. What I fail to understand with the Legal Services Commission is why you didn't act more quickly when the trend was going in the wrong direction and that was being drawn to your attention.

Sir Suma Chakrabarti: We did act very, very quickly. I can't talk about all of this, except in the private session, but I can talk about some of it. As soon as the chief executive wrote to me, in April 2009, forecasting a near cash overspend on her budget, we put in the Ministry's people to try to work out how much the overspend was and substantiate it. It was in the summer of 2009 that we had various other reports. In terms of the NAO's own value for money report, the fieldwork was being done then, so we were getting feedback from that. There was a CIPFA rating of the financial management in the LSC. That was telling us quite a bit, and we were in discussion with the NAO,

along with the LSC, about the nature of the qualification.

All that led me and my staff to put in place a review by Ernst and Young that summer to look at the financial management practices in the LSC, and it led to the actions that I will describe in the private session later. I think it was immensely decisive. There are three bits to this. I referred earlier to one, which is that the control powers of the parent Ministry are limited. I think that's a problem. The second point is that we didn't have a system—I don't think other Departments do either—of management letters being directly copied across from the chief executive of the executive NDPB to the accounting officer. We've changed that, so we now have a system whereby these individual accounting officers have to send me their management letters. That was a major thing.

The other thing was that we simply didn't get sufficient feedback from the audit committee from the person who was attending it and from the others attending it, too. So this was never raised with me until the chief executive herself coughed up, if you like. That's a thing we've now completely changed. I wrote in December 2009 to our head of internal audit to say I insist that from now on I get all the information from all the committees. That was not a problem from the executive agencies, but it was a problem with—

Q75 Mr Bacon: You spend £484 million at the centre. As the Chair said, figure 11 puts it extremely clearly. You have around you all these other bodies, six of which spend most of the money: NOMS, the Courts Service and the Tribunals Service—which are going to merge, as you said—the LSC, the Youth Justice Board and the Criminal Injuries Compensation Authority. For the others, it is a relatively small amount. For that £484 million of expenditure at the centre, I would have thought it would be perfectly possible not just for the six big ones—seven, eight, nine, 10, 11 12—but for practically every single one of them, within that £484 million, to have employed a person at the centre whose only job was daily to ask, “How's the financial position looking? What's the financial forecasting position looking like for this body?” and to spend public money keeping an eye on that day by day so that you would know instantly.

Sir Suma Chakrabarti: Ann can describe what we do currently. As I say, the issue does not revolve around the other organisations; it was about the LSC. I'm not concerned about the financial wherewithal of NOMS, for example; I think it's actually a rather well-run organisation. The courts and tribunals are improving all the while as well, but the LSC was a problem.

Q76 Mr Bacon: You described how you meet the new chief executive, Carolyn Downs, once a month, which is good, and there's dialogue on a much more regular basis below that. I'm just making the point that for this amount of money—nearly £500 million at the centre—when your job is almost entirely a monitoring role, because you're not a service deliverer in the way these other bodies are, one would have hoped that you wouldn't have got into this.

Sir Suma Chakrabarti: There was quite a significant policy role. At the time of this, we had constitutional reform with us as well, don't forget.

Q77 Mr Bacon: I think that for £500 million, I'd probably be able to do quite a lot of policy as well. When he was Home Secretary, Charles Clarke made the point that one of the problems with the civil service these days is that the policy function in various ministries has trouble keeping up with the various high-grade think-tanks that there are around the place. There was the IPPR under the former Health Secretary, we've got Policy Exchange over the road and there are various others. The one thing they don't do is spend £500 million.

Sir Suma Chakrabarti: We can have a nice debate about that.

Q78 Mr Bacon: What I'm really asking is, for £500 million, why did you get into this mess in the first place? You are the one who raised policy, and notwithstanding the fact that you also have policy functions, it's an awful lot of money to spend on an HQ function.

Sir Suma Chakrabarti: There is no doubt that we got into a problem with the LSC. We have not got into a problem with any of our other agencies.

Q79 Chris Heaton-Harris: Can you really say that because you only knew you got into a problem with one agency because you were told by the chief executive of the agency at the time?

Sir Suma Chakrabarti: You have to understand the difference between an executive NDPB and executive agencies. If you are an executive agency, your primary accountability is to me. I employ you and so you have to tell me everything that is going on and all the systems are geared to that. So I have full sight of everything that is going on in NOMS and in the Courts Service and the Tribunals Service. In the LSC, I'm not even the employer. I don't select the chief executive. I don't select the team. This is at arm's length. That is why it was an NDPB and that is why the Government think it is wrong—in fact there is cross-party consensus—that it is an NDPB.

Q80 Chris Heaton-Harris: But you can't say that there are no problems in any of the other NDPBs, can you?

Sir Suma Chakrabarti: No. There are not problems in the financial area. There are problems over some policy issues in other areas, but not over financial management.

Q81 Chris Heaton-Harris: The report mentions that there are problems with the accountability structures within your Departments. Personally, I am not convinced that you can really make that statement in the strong way you have just made it because you surely cannot know.

Sir Suma Chakrabarti: We do know because we have full sight of all the accounts.

Q82 Chair: Chris has just passed me a note and I think it would be very helpful if we had a note from

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you on the current accountability structures between yourselves and all these agencies. Let me just make this point. In my time I have dealt with NDPBs. In your annual contract with them, or your triennial contract or whatever it is, you can lay down pretty clearly what you expect in return for the money that you give to them. So you may not be able to hire and fire, and you are kept at a distance from that, but you can be absolutely specific about what information you want and what monitoring you expect to do.

Sir Suma Chakrabarti: You can and that is where we have got to.

Q83 Mr Bacon: You are the architect for the public services agreement.

Sir Suma Chakrabarti: I was indeed. And what we have done with the LSC is essentially exactly what you have just said. We have a framework document which was agreed last month. It is now out there and it reflects exactly the rights and responsibilities in much greater detail and, frankly, through consent, greater ministerial involvement.

Q84 Chair: So would you accept that it is not the structure which was at fault, but your documents and your systems? You said in an earlier response that the person who went to the audit committee—or that sort of thing—was not working properly.

Sir Suma Chakrabarti: I'd go even beyond that. The Cabinet Office guidance gives too much latitude. That latitude has been used by some executive NDPBs to define the terms of engagement. In the case of the LSC, it was in legislation, which really limits the parent ministry's involvement and control.

Q85 Chair: Except I would argue with that. It is not in their power to do that. It is in your power in the contract you signed with them to toughen that up.

Sir Suma Chakrabarti: It was in the powers of those who put the legislation through, somewhat before any of us were around, which governs the LSC and created it. It is the framework document that existed from that time and not the framework document that any of us were involved in. That is why the three of us have moved to a new framework document, which Carolyn published in October and which is a much more intrusive relationship, but a relationship of good partners as well.

Q86 Mr Bacon: One of the—

Sir Suma Chakrabarti: Could I just address the fraud question, which you raised in relation to the LSC?

Q87 Mr Bacon: I was actually going to question you on something broader in relation to financial management. If I may do so first, we can return to the fraud perhaps. One of the update notes we have had from the NAO points to your underspend. You have consistently underspent, whether you look at the courts or NOMS or the HQ. On a cash basis, I think that it is about £300 million. There are two columns; one of them I take to be on a resource accounts basis, where it is considerably more than that. Why is it that you consistently underspend your budgets?

Sir Suma Chakrabarti: I am going to ask Ann to take you through the detail. But the broad answer is that a large part of it is actually technical changes and a smaller part is actually good housekeeping—we were trying to save money, through efficiency savings, as I said earlier to Mr Swales. So we were deliberately trying not to spend the budget, to try to save money in line with the Government's targets at the time.

Ann Beasley: On resource accounting, the significant underspend is in what were non-cash budgets. For example, in 2009–10 of the £500 million that was underspent, just under £300 million of that was accounted for by changes to provisions. For instance, the valuation that needed to be made for the magistrates courts pension transfers came in at £163 million less than had originally been provided for. Similarly, we had to revalue the prison estate. We had made a provision for a loss of value that turned out to be £100 million more than it actually needed to be. So, as we did the accounts for the end of the year, there were significant changes to the non-cash element that meant that we came in with an underspend.

Our actual achievement in terms of what was called near cash—the budgets have changed for 2010–11—was that we underspent by £11 million, which is as close as you could really get.

Sir Suma Chakrabarti: £11 million is 0.1%.

Ann Beasley: On the capital side, we are running probably one of the biggest building programmes across Government, on prison capacity. It is very difficult. We get our money allocated year by year, but building programmes do not necessarily lend themselves to being built year by year. Sometimes costs slip from one year into the next. So within our capital allocation, we have something like £500 million to build new prisons and that has moved between years. At the end of the programme, we actually expect, through competitive dialogue with some of the contractors, to deliver the programme for up to 10% less than that original value, but that is through proper negotiation with our suppliers in order to get a better price for the taxpayer.

Q88 Mr Bacon: While you are on the subject of the estate, are you expecting income from selling off the inefficient smaller prisons that are poor value for money?

Ann Beasley: Yes.

Q89 Mr Bacon: How much?

Ann Beasley: In the next spending review, we expect to raise about £300 million from selling off prisons and courts.

Mr Bacon: They are going to be converted to posh flats, are they? That will be for the person who buys them to decide, I suppose.

Q90 Austin Mitchell: If you are going to find £2 billion in savings, you will need to have much more timely and accurate information than is demonstrated by these underspends, are you not?

Sir Suma Chakrabarti: Yes. We agreed with the NAO that our information management situation needs to improve. There is no doubt about that. As I said earlier, even in the last three months, the financial

reporting to the value for money committee, to the board and to the executive board has improved out of sight compared with what we used to get a year ago. However, it needs further improvement. The commentary needs to be sharper. You know that we have these new boards now, so there is this new departmental board—we are in the vanguard on that. Ministers chair the board. As I say, we need sharper commentary to the Ministers around what decisions they need to take.

Q91 Austin Mitchell: You have all these lovely pictures of sheep nestled around a hay wain eating what you are providing. But are you not going to have to have new IT systems, as well as new financial reporting structures, within all these different agencies, if you are going to be able to control the problem?

Sir Suma Chakrabarti: What we are going to do is reported in the NAO document. By March 2013, we will be on one single HR finance and procurement system.

Q92 Austin Mitchell: Is that going to be expensive?

Sir Suma Chakrabarti: I don't know how much it's going to cost.

Ann Beasley: We call it the shared service programme. The programme cost is just over £50 million, but it will deliver savings of £28 million a year by 2014.

Q93 Chair: I was just going to ask you to give assurances, because in the Department for Transport that programme was a complete, utter and total disaster. Are you telling us that your programme is going to work okay?

Sir Suma Chakrabarti: Indeed, and we looked at the Department for Transport example. I went to see Robert Deveraux and talked to him about what happened and the lessons to be learned from that. The net present value of this project is, I think, £84 million over 10 years.

Q94 Mr Bacon: That is the value of the benefit.

Sir Suma Chakrabarti: Yes. The Treasury is very supportive of this.

Q95 Mr Bacon: What is that in real money?

Ann Beasley: That is the real money it will cost us.

Q96 Mr Bacon: The net present value is the discounted value. I am asking what it is in cash.

Ann Beasley: I do not have the figure to hand. The costs are £57 million, which we will spend over the next two years.

Q97 Mr Bacon: Over the next two years. And the savings over the next 10 years?

Ann Beasley: The savings rise to £28 million a year ongoing. That is largely staff savings. Obviously, if you run a shared service, you can operate with a much smaller staff base.

Q98 Mr Bacon: What if you use the Department for Transport's computer and it starts giving out messages in German?

Ann Beasley: When I was finance director for the Prison Service, I was responsible for implementing a shared service within that, which was one of the better ones. It has delivered savings.

Q99 Mr Bacon: It makes immense sense. The county councils are talking about it and it is an obvious thing to do. It is just that when the Committee hears the words "shared services", blood runs cold.

Ann Beasley: We have a track record of success in it. Our procurement shared service, which was the subject of a PAC hearing a year or two ago, was a very fair hearing. It has delivered on the savings that it set out to deliver.

Q100 Austin Mitchell: Can I just complete this round of questioning? We will keep our fingers crossed on that, as do you. The costs are always unpredictable. I was just wondering whether you can work out the pay-offs that arise from the economies that are being made. If you are going to close courts, you are going to have legal delays, which means more legal aid expenditure. If you do not send people to prison for sentences of less than 12 months, you will put more strain on the probation service and the situation outside. I do not know whether that is more expensive. If you cut legal aid, you are probably going to send more people to prison. Is it possible to work out all those balances?

Sir Suma Chakrabarti: Yes, and that goes back to the answer on our model. Our model can do that now, and that is what we did during the spending review. It worked out all the trade-offs, and showed the net balance.

Q101 Chris Heaton-Harris: You are identifying your costs, and this goes back to the point on probation that Mr Mitchell was making. I am slightly concerned because while you identify costs and reduce budgets, I want assurances about value. There is the probation service, but the reoffending rate is massively high. Through, bizarrely, an all-party group, I have become aware of the work that National Grid does on reoffenders. Overall, the reoffending rate is 70%, but its reoffending rate is 7% from a programme that does not cost too much more. I want your assurance that when you are looking at the finite figures on a computer screen, there is some management behind the process that looks at the value of the schemes, and indeed individuals. Cost-wise, it is better for someone to come out of prison and not reoffend than it is for them to be back inside within six or seven months.

Sir Suma Chakrabarti: Absolutely. You will see that in full in the paper that the Government are going to publish on what is being called the rehabilitation revolution. They are looking at relative value for money and different ways of dealing with reoffending. One of the concepts—Ken Clarke has said this publicly; it is not new—is the approach of getting more of the private sector, employers such as National Grid and so on, into the area. Secondly, the idea is to

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pay by results. A person will get a payment if they can keep someone on the straight and narrow for a couple of years.

Q102 Chris Heaton-Harris: Looking back at how money has been spent in the past, did you know the costs and value of all these things? I am comfortable with the direction that we are going in for the future, but I am worried that in the past it has been a bit—

Sir Suma Chakrabarti: There was a PAC sitting in 2008 on offender management programmes, and it would be fair to say that in the past, the costings against each of the programmes at the time were not that well known. You could not say for sure that one programme would have more effect than another in this locality as opposed to that locality. We have moved on since then, but we are still not at the place I'd like of being able to specify a private sector or voluntary sector provider against a public sector provider. That is to come.

Q103 James Wharton: A good point was made about the potential false economies that might be identified as one goes through such efficiency drives. I declare an interest: my mother is a magistrate and I get an ear-bashing about the collection of fines and penalties and how many are written off by the magistrates. I would like to explore that separately. I understand that just under £1.5 billion of outstanding fines and penalties are more than six months old. That was as at 31 March 2010. I do not know whether the figure has changed since. Just over £400 million of that is considered recoverable. About half of it comes from confiscation orders, of which under 20% is considered recoverable. When the Committee last considered the matter in 2006, it heard much that was similar to what we have heard today—that it is all getting better, but that the things that are making it better were not quite in the report but have just happened.

Sir Suma Chakrabarti: Shall we talk it through?

Q104 James Wharton: Yes, it would be helpful to understand how the figure is changing. I have two concerns. The first is what are you doing to improve that and how is it going? The second is what assessment has been made of the number of fines written off by magistrates because they are deemed to be unrecoverable? How much money are you losing as a result, and what are you going to do about it?

Sir Suma Chakrabarti: I shall ask Ann to deal with the detail of what we are going to do about it or are doing. We need to give some basic data to give you the picture. I shall break it down into three sections—fees, fines and confiscations.

On fees, we have a 100% cost recovery approach. In my view, we need a new strategy. It has been agreed that we need to have it by April because of the spending review implications. We need to address that even more vigorously, but in terms of improvements, we are at 82% now in terms of recovery on fees.

Q105 Chair: Is that fees or fines?

Sir Suma Chakrabarti: It is fees. It has moved up from 79% a couple of years ago to 82%. This is not

where we want it to be. We obviously want it to be near 100%. One of the issues that we are going to have to tackle, it is fair to say, is judicial attitudes towards full cost recovery. Frankly, not all judges believe in it, and that is something that we need to tackle.

Q106 Chair: May I ask a question on fees? Is it public bodies that are not paying their fees or private individuals?

Sir Suma Chakrabarti: I do not have the data with me as to the exact breakdown.

Q107 Chair: If it is a public body such the DWP or a local authority, they can jolly well pay.

Sir Suma Chakrabarti: It is more likely to be private individuals, but we can check.

Carolyn Downs: It is family law where the recovery rate is lowest.

Q108 Chair: If it is family, is it the local authorities that are not paying or the individual families?

Sir Suma Chakrabarti: Families.

Q109 Chair: So cuts in legal aid will make that even worse. That is unintended, but if you cut legal aid, which families might access at present—

Sir Suma Chakrabarti: It depends.

Carolyn Downs: It will depend on which bit of legal entitlement you cut. If you are looking in relation to public child protection issues, I would imagine that that would not be impacted whatsoever.

Q110 Chair: It would not impact? Say that again.

Carolyn Downs: I imagine that if you are looking to reduce legal aid funding, public child law would be an area that you would not be looking to impact at all, because it is a basic child protection issue.

Q111 Chair: So it will be private law issues where you will cut legal aid, but those other issues will still come to court. I know that you are trying to ensure better conciliation and so on, but I have been there before and I think that we will still end up with a load of cases in the courts but that we will not get the fees.

Sir Suma Chakrabarti: We obviously have to design a new fee forecast recovery strategy.

I go back to fines and confiscation orders, to complete the story. On fines, as at the end of September just gone, in the first six months of this financial year we collected £146 million against £162 million that were imposed—that is a 90% collection rate. If you look at the same period the year before, it was 80%. So there is quite a significant improvement going on. Confiscation orders are an interesting accountability conundrum. They sit on our books because they are court orders, but they are not all aimed at us. At the end of September, there was an outstanding balance of £1.2 billion in confiscation orders. The Courts Service is responsible for only 16% of that—£150 million—and the Courts Service collection rate is actually better than that of the other agencies, at roughly two thirds. The other agencies that have to account for the bulk of this are CPS, SFO, the Revenue and Customs prosecution people and so on,

and their collection rate averages out at about 40%. So there is a whole issue about this sitting on our books.

Q112 Chair: You are the accounting officer.

Sir Suma Chakrabarti: But I'm not accountable for collecting these fees. This is one of those interesting conundrums: who does one direct the action to? I'm not in charge of HMRC, CPS or SFO.

Q113 Chair: To be absolutely honest here, you are the accounting officer, so it is down to you to sort it out, isn't it?

Sir Suma Chakrabarti: I can write loads of letters to these people and say, "Please would you take the action that the PAC has asked you to take?"

Q114 Chair: This is not good enough.

Sir Suma Chakrabarti: It isn't good enough, is it? I agree. They are not feeling the heat of accountability in the way that I would.

Q115 James Wharton: That seems to be a running theme, the disconnect between the levers that you pull and what actually happens. I want to understand better the fines statistics that you've given me. Are you saying that within the past six months, or the period covered by this, 90% of fines imposed in magistrates courts, or whichever court, are collected? There is no discounting for if a fine is set aside by the magistrates, or if they allow it to go; some 90% of fines that are initially imposed are collected.

Ann Beasley: It's after allowing for the administrative adjustments.

Q116 James Wharton: So, if you come back to the magistrates after six months and you haven't paid your fine, and the magistrates say, "Well, we'll just let you off," or "We'll turn it into something else," that doesn't fall into these figures.

Ann Beasley: No, it would be removed as an administrative adjustment.

Q117 James Wharton: It would be quite useful to know how much is being lost because magistrates, as a matter of their own initiative, are saying, "This is not going to be collected, we're just going to write it off," to get an idea of how that would affect these figures.

Sir Suma Chakrabarti: Should we try to answer your more detailed stuff below the macro answers that I gave?

Ann Beasley: Yes. If you start with what's called the court impositions, which are the £1.4 billion that sits in our balance sheet, the largest part of that are the confiscation orders and, in fact, in the 2009–10 figures that amounted to £940 million. And that's growing, because it's been growing since the introduction of the Proceeds of Crime Act 2002, so increasing numbers of confiscation orders are awarded. Clearly, it is easier to collect the low-value confiscation orders, and so for orders under £10,000 the collection rate is something like 90%. The Courts Service is responsible for collecting confiscation orders up to about £50,000 and the collection rate there, as Suma said, is of the order of 80%. It is about 60% by value, and that shows that

the collection rate is actually in decline—it's almost in inverse proportion to the amount to be collected. The other agencies are responsible for collecting the other orders.

The orders are notoriously difficult to collect. They include orders where the property is abroad and involve things that are embedded into pension schemes and which are incredibly difficult to disentangle. One of the particular problems with confiscation orders is that when the law was set up, it was set up in such a way that a confiscation order can never be cancelled, so it is not a surprise that the outstanding balance will for ever increase, because you can't cancel the order if the person has died, if they've been deported, or if they have served a prison sentence instead of the confiscation order. There is no means by which you can cancel the order, so they will continue to increase in our books. As Suma was saying, the Ministry of Justice's ability to influence collection is limited to the proportion of orders that are under £50,000, for which the rate of collection is quite high.

Q118 Chair: But the reason you can't cancel is that we don't want a system in which crime is seen to pay. Just looking back at this great figure, all these bodies that are responsible for collecting confiscation orders or fines are accountable to you. They are either your executive agencies or your NDPBs. The Serious Fraud Office is the only one that doesn't appear. I can't understand why you don't prioritise the collection of this money in your contracts with those bodies. This is £1.4 billion or whatever that we could save without cutting services.

Sir Suma Chakrabarti: I obviously wasn't clear enough. The Courts Service is the body responsible for collecting our share of the confiscation orders, and I have just tried to explain its performance. The other bodies I mentioned are not with us. You have mentioned the SFO, but it is not with us and neither is the CPS. Moreover, Revenue and Customs is in a different Department and is not with us. So these are not entities that the MOJ controls in any sense. In terms of the largest part of the balance, we are only responsible for 16%, so 84% is outwith the Ministry of Justice boundaries, not within that flywheel.

Q119 James Wharton: May I make a request that you send some information to the Committee, just to be clear? I do not want this issue of the fines to get away. My concern is this: I do something wrong and the magistrates give me a £500 fine, but, six months down the line, neither they nor anyone else has managed to collect it from me, so I go back to the magistrates and they write it off and say, "We'll cancel your fine, because you're never going to pay it." It will not then appear in these figures. What I want to know is not how many of the fines after the write-offs are collected, but how many of the fines that are originally imposed are collected. Will you send us that information?

Sir Suma Chakrabarti: We could send a note.

Q120 Austin Mitchell: To follow the Chair's point, if only 17% of the £788 million in confiscation orders

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is likely to be collected, that means that crime pays, doesn't it?

Sir Suma Chakrabarti: I won't respond to the soundbite, but I can only repeat that the Courts Service is responsible, and is held responsible and accountable, for 16% of the confiscation orders. So we clearly need to hold the CPS, the SFO, the RCPO and others accountable for the rest.

Q121 Austin Mitchell: Why can't the Courts Service work, as the Chair suggested, more closely with the CPS and the Serious Crime Office to collect?

Sir Suma Chakrabarti: The Courts Service does work very closely with those other agencies. Speaking on their behalf, the problem for those other agencies is exactly as Ann said. They say that it is very difficult to collect these sums, because they are either overseas, related to deported defendants, or in pension funds and so on. There is a litany of reasons why it is difficult for them to collect.

Q122 Austin Mitchell: They can't all be overseas. This is just special pleading, isn't it?

Sir Suma Chakrabarti: They collect about 40% on average.

Q123 Austin Mitchell: Unless the money is collected, crime pays, and they don't want to make an effort.

Sir Suma Chakrabarti: I think you would have to address their accounting officer. I think that they are making an effort.

Q124 Chair: But you presumably meet these other Departments.

Sir Suma Chakrabarti: Yes, we do.

Chair: Okay. Another unintended consequence of this is that some fines will be written off, but with others, people will be imprisoned. If the fine isn't paid, the cost to the public purse will be way above the fine itself and we will get into a ridiculous spiral.

Q125 Austin Mitchell: I have another question arising from that. We have had a number of problems in Grimsby with fishermen's compensation in Icelandic waters where the fisherman is dead. Dependents want to get probate on the will, because they have been told there will be no payment without probate. The fees seem exorbitant. These are poor fishermen trying to get probate on a will to establish the right to compensation for fishing in Icelandic waters 25 years ago and they are being screwed. You are screwing the probates, because they are easy to collect.

Sir Suma Chakrabarti: Obviously, I haven't come prepared to discuss the probate relating to fishermen.

Q126 Austin Mitchell: But that's where you're making the money. You are not making the money on the fines.

Sir Suma Chakrabarti: I will be happy to write to you once I have established the facts.

Q127 Mr Bacon: I would like to return to the issue of the Legal Services Commission and fraud. The

issue was that the CAG identified issues that led him to qualify the accounts that had not been flagged up entirely by the Ministry's own processes, so the Ministry was unaware of it until pretty late on. May I invite the NAO to set out briefly what was involved? The relevant reference is in paragraph 3.9 of the report, which mentions, "Material irregular payments to solicitors, inaccuracies in the data held to make payments for legal aid and a lack of rigour in the review of the payments made by the Commission's internal assurance team." Will the NAO remind us what that was all about? Perhaps I could subsequently ask Carolyn Downs to tell us what is being done about it?

Paul Keane: Yes. The qualification was because of an estimated £25 million of overpayment of legal aid. About £18 million of that was where payments were made to solicitors outside statutory set limits. There was an additional £6 million where payments were made to applicants who were ineligible for legal aid.

Q128 Mr Bacon: To how many different solicitors was the £18 million that you referred to paid?

Paul Keane: We do not know the exact figures. That is an extrapolated figure; we did some testing and that is what we estimated to be the total error.

Q129 Mr Bacon: But how much was error and how much was fraud?

Paul Keane: We could not distinguish. We saw that there was overpayment, but it is impossible to judge what was fraud and what was error.

Q130 Mr Bacon: There were no criminal prosecutions arising from it.

Paul Keane: No. I think the Commission subsequently made efforts to recover those overpayments.

Carolyn Downs: I can go into that with you. As Paul has just said, when one looks at the figure of £24.7 million, it is important to understand that that is an extrapolated figure. It identifies the amount of the legal aid fund that is at risk as a result of the testing.

Q131 Mr Bacon: Can we be clear about what we mean by an extrapolated figure? You mean that it is an educated guess. The Department for Work and Pensions makes estimates on fraud based on what one would basically call an accurate opinion poll. It tests a sample of 30,000 people or so, and works out on the basis of that what it might, or should, mean for the country as a whole. You are saying that that is the same thing that you are doing.

Carolyn Downs: It is not at all dissimilar. For example, if we pull out 100 case files and payments, if five of those have an error, whether through overpayment or because someone has been given legal aid who was not eligible for it, we extrapolate the total amount of money that is spent in the fund, which brings out that figure. It is a very educated guess that can be properly justified. It shows a figure that puts the fund at risk, as opposed to being an actual figure of payments and so on.

Importantly, what are we doing about it? Work on that matter started in earnest from March this year. We are

now in a position, jointly through our work with the NAO, to identify exactly where those errors occur. Some errors occur when providers make errors in their claims to us. That accounts for in the region of 65% of the errors. Other errors are by claimants and due to eligibility—that figure is getting on for 25%. The errors that we make, or that HMCS makes on our behalf, are about 8.5%. That will show you.

Therefore, we are able to say, “That is where there are errors”, and see where there are real trends or one-off human errors. Where there are trends, we can look at what mechanisms can be put in place to try to address those issues and stop the errors. Particularly for matters of eligibility, which accounts for 30% of all errors, we are doing further testing and validation, and asking for more bank account evidence from claimants. That is first so that we add in a deterrent, and secondly to make a better assessment about whether a person is being completely honest when they declare their income. That has been put in place for eligibility.

I will go on to where we are regarding fraud and errors from providers, but it is important to say that the majority of providers are not making fraudulent claims. Our fee schemes are complicated and very different. There are add-ons, fixed fees and so on, which creates a complex system. A lot of the errors made are genuine errors. A lot of our work involves working jointly with providers and doing contract management visits with them. I went on a couple myself the other day. We sit down, go through their files and point out where the errors are, and try to change behaviour in advance of the errors being made. I am really hoping that that will have some benefits that flow through in the future. In relation to fraud, two years ago the LSC basically only had 25 referrals for fraud. This year, on clients we are looking at 382 referrals. I hope that that gives you some comfort in the fact that we are taking fraud and potential fraud much more seriously.

Q132 Mr Bacon: That is simply a level of activity being better uncovered, is it?

Carolyn Downs: It is, absolutely. And we have now referred seven cases this year to the police in relation to fraud. We had a successful prosecution earlier this year of a claimant. As I say, we have referred seven cases to the police and three have now gone from the police to the CPS, in terms of potential prosecutions going forward. One of those is of a provider. We are taking that whole issue of potential fraud seriously. But it is important to emphasise that the majority of the over-claiming and overpayments are genuine errors as opposed to fraudulent activity.

Q133 Chair: So why are you not simplifying the system?

Carolyn Downs: We hope, as part of the fundamental review of legal aid reform, to undertake some simplification of the system. One of the issues that it is important for us to remember is that means-testing for legal aid was introduced in 2006 in the magistrates court and just this year in the Crown court. That has generated savings of about £100 million in the legal aid fund and it has obviously also generated issues

about misclaiming and so on. However, the overall impact of that change has been increased access to justice and a reduced cost.

Likewise, we believe that the introduction of fixed fees, which are not terribly popular with providers, has generated savings in the region of £400 million per annum, but it has created a far more complex system for providers and indeed for ourselves to administer. Nevertheless, it has created considerable savings to the legal aid fund at a time when we have had increased demands on the fund.

Q134 Mr Bacon: I want to ask you a specific question about providers; it is about mental health lawyers. A mental health lawyer came to see me in my surgery about this problem that the MOJ is now asking providers to bid for bundles of case starts. Essentially, the nature of work that mental health lawyers do is very narrow and specific and, if you like, the client group is very narrow and very specific. We heard from Mind, who circulated a note to us prior to one hearing that we had with the director general of the Prison Service some years ago, saying that there were 5,000 people in prison who had serious mental health problems. I do not know if that is now an inaccurate figure. It was a figure that was disputed at the time—I cannot remember if it was disputed by Phil Wheatley, the director general of the Prison Service. Nevertheless, everyone knows that there are lots of people with mental health problems in prison. The contention from the mental health lawyer who came to see me, and it seemed very plausible to me based on other information that I have been told, was that the service would deteriorate, based upon work being given to people who are essentially not qualified and who were some jobbing solicitors who did not understand some of the basics of mental health law, and therefore that you might end up exacerbating the problem and with more people with mental health problems in prison for longer periods. Is that something that is on your radar? Are you across this?

Carolyn Downs: It is absolutely on my radar, in terms of the issues that have been raised by solicitors dealing with mental health law and they have particularly related to the new civil tenders that have just been undertaken, which will hopefully start on 15 November. That tender process was a non-competitive process for mental health and it precisely recognised some of those issues, about the very exact nature of the work. However, what happens with a procurement process whereby you allow new entrants into the market, which is obviously not a bad thing, is that you then have a situation in which firms bid for work and they have put those bids in on the basis that they will then employ appropriately qualified staff. But the existing providers—

Q135 Mr Bacon: If I may say so, when WS Atkins pulled out of running the education service in Suffolk, I remember remarking to myself, “Gosh, I used to represent WS Atkins. They are the people who you’d go to if you wanted an airport built in Hong Kong.” I had no idea that they were failing to run local education authority services well, although they obviously came to that conclusion. That is why they

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pulled out. A whole phalanx of people out there will bid for Government contracts on the basis that, if they get them, they will do as they have told you—they will then go and get the services required.

I used to think of Schlumbergersema as the people you went to if you want a drill bit for a North sea oil rig but, amazingly, it is the largest employer of doctors in the UK after the national health service. My concern is that you may not be sufficiently aware that it might promise all kinds of things but not necessarily back them up with the right service. It is certainly not a bad idea to draw the curtains wider and allow more people to bid for work if they have the capacity to do it. Part of your job, surely, as a manager of those contests is to ensure that the bidders are able to do the work. It is a narrow specialist area, and there are people in it who simply do not know what they are doing but who none the less are bidding for work.

Carolyn Downs: It would be unfair to say that they do not know what they are doing; the majority of people that have bid and been awarded contracts for mental health legal aid work will have had to go through a vigorous quality assurance process that insists on a level of qualifications. Indeed, the profession itself disputes that we are imposing too—

Q136 Mr Bacon: When you say “the profession”, do you mean being a member of the Law Society and a solicitor or a member of the Mental Health Lawyers Association? Obviously, the chap who came to see me was a member of the latter, and in one sense he was obviously talking his own book; but it is a narrow and specific remit in the law as a whole. Just saying that you are a qualified solicitor would not necessarily impress me in this context.

Carolyn Downs: No; in fact I was trying to get to the point and say that we have specified that we expect people to have specific experience at a certain level—even of tribunal work—in relation to mental health. That has been disputed as being too onerous and rigorous. We have a rigorous process of quality criteria that people have to pass, and new entrants to the market, who will have had experience in legal aid practice, will have to demonstrate and validate the fact that they have appropriately qualified staff. Whether those are staff that are newly acquired but have the appropriate qualifications or whether they had the staff on their books at the time of the tender is a slightly different matter, but we are not allowed to exclude new entrants from the market.

Q137 Mr Bacon: Will you say that last bit again? What is a slightly different matter?

Carolyn Downs: It is different because some people—

Q138 Mr Bacon: No; can you just repeat what you said?

Carolyn Downs: Some people will put in a bid and say, “This is the bid I’m putting in, these are the staff at the time of the contract.” Because it is a six-month lag, I would expect them to be in place. We then validate in advance of the contract starting that those employment contracts are in place for those staff to be able to deliver that quality service.

Q139 Mr Bacon: I once started a job, and on my first day was handed a pitch document for a piece of business that the firm had won, and saw my name all over it. I was slightly surprised, because it was the first that I had known about it. Do you go through a process of validation?

Carolyn Downs: We go through a rigorous process.

Q140 Chair: Although the whole process is being judicially reviewed at present.

Martin Sinclair: Given that we discussed the level of fraud and error within the Legal Services Commission, over what sort of period would you expect that to be brought down and what are your targets for achieving that?

Carolyn Downs: The position that we are in at the moment is that we now understand very well where the errors are being made and who has responsibility for those areas and for putting actions in place. It is difficult for me to sit here and give an assurance that we will come out of qualification within a fixed period, despite the issue of eligibility at a 30% error level. We need to do some serious further checking. I am pleased to say that we now check quarterly 450 files from all of our files. They are 100% quality assured as a result. We had said 20% to the previous PAC, and we have increased that to 100% quality assurance. When I am clear at what level we can get eligibility errors down to, then I would feel that I would be in a position to give you some assurances about qualification or otherwise. We are in a not dissimilar position on eligibility to the DWP and parts of HMRC. The level of checking and validation is such that we really do need better to understand exactly where we sit with the work we’ve put in place and the impact that has had before I could really—

Q141 Chair: Can I just understand that? That’s a bit worrying. We’re expecting that 2009–10 probably will be qualified, because you only started work in March, but it sounds to me that 2010–11 could also be qualified.

Carolyn Downs: I would not want to give an assurance that it won’t be. We are just about to get the results of our second quarter testing for 2010–11. That hasn’t, obviously, been validated by NAO at all, but we are looking at that at the moment. While we have, after quarter one, seen some improvement in the reduction of errors, I personally think we need a full year of putting those controls in place before we’ll really start seeing a massive shift in those error levels.

Q142 Mr Bacon: Is the principal problem that the eligibility criteria are so complicated? Is that the basic problem?

Carolyn Downs: I think the fee regime is very complicated, which creates errors. In terms of eligibility, I don’t think that that is complicated.

Q143 Mr Bacon: If it’s a clear, simple rule that can easily be understood, then somebody should clearly or easily fall on one side of it or the other, and you shouldn’t have 30%.

Sir Suma Chakrabarti: That’s exactly the problem. The rules are not clear enough, and therefore staff face

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very difficult decisions about where to place people. That's where the errors come in.

Q144 Chair: But you're setting the rules.

Sir Suma Chakrabarti: As Carolyn said, on the new legal aid reform process, one of the things Ministers have been interested in is whether the system can be simplified so it's clearer.

Chair: Right. We're going to move into private session. Thank you for giving evidence. Given where

we're at and the improvements that you say you're making, I think we would like to revisit. We would expect to revisit within a year. Hopefully, we will also see on this last point that we covered that we're moving out of qualification of accounts. That's three years in a row that you're going to have those accounts potentially qualified, which is of concern. I am being told that people have to leave and that you, Sir Suma, have to vouch for any of your officials who remain.

Written Evidence from the Ministry of Justice

ACCOUNTING OFFICER RESPONSE FOLLOWING 2nd NOVEMBER 2010 HEARING ON
FINANCIAL MANAGEMENT IN THE MINISTRY OF JUSTICE

Following the hearing on 2 November 2010 please find enclosed an Annex responding to key issues raised at the hearing where I promised a further note.

These items were:-

- The NOMS schedule of the directory of services for Specifications, Benchmarking and Costing (SBC)
- A note on the accountability structures and arrangements for Arms Length Bodies
- A note on fines collection
- A note on Probate fees
- A note on LIBRA following questions in private session

I also include a note on the unusual accounting challenge which the MoJ faces relating to Probation Trusts, where the MoJ has to consolidate local authority Probation Trusts balances into its accounts. Our research shows that other Government Departments, while they clearly transact with local authority entities, do not face this consolidation challenge which results in timing difficulties for the closure of my Department's resource accounts.

For information I also enclose some slides which give more information around the NOMS SBC programme.

Could I also take this opportunity to amplify the point that I made at the beginning of the private session that the evidence that I gave in that session should not be made public in any way? I make this request in line with the Osmotherley rules and the Cabinet Secretary's memorandum to the PAC of 21 July 2008.

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ANNEX OF SUPPORTING INFORMATION FOR THE CHAIR OF THE COMMITTEE OF PUBLIC
ACCOUNTS FOLLOWING THE PAC HEARING OF 2ND NOVEMBER 2010 ON FINANCIAL
MANAGEMENT IN THE MINISTRY OF JUSTICE

PROMISES OF FURTHER WRITTEN EVIDENCE:

1. A list of the 70 (cost-activity) items covered by Specification Benchmark and Costing programme—SBC.
2. A note on the accountability structure between the Permanent Secretary and the Department's ALBs.
3. How many of the fines, as a percentage of those originally imposed in courts, are collected?
4. A briefing on Probate Fees
5. A briefing on NOMS accounts and MoJ consolidation
6. A note on the expenditure on LIBRA

LIST OF 70 SPECIFICATIONS FOR BENCHMARK COSTING

Q32 Mr Bacon *When you say lines of service, I asked before about the 17 things you are going to cost. I don't mind if you have to read them out. but what are these 17 items-*

Ann Beasley: Seventy.

Q33 Mr Bacon: *Seven-zero?*

Ann Beasley: Yes.

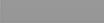
Q34 Mr Bacon: *So could you send us a list of them then, rather than read them all out?*

Ann Beasley: We can certainly send you a list, yes.

NOTE:

The schedule of services is listed on the next page. Highlighted in green are the 22 Services signed off by the beginning of October 2010.

The amber highlighted services are due to be completed by December.

NOMS DIRECTORY OF SERVICES	
 =Signed -Off by 01/10/10	 =To Be Signed-Off by mid-Dec 2010)
BAIL COURT & VICTIM WORK (OTHER THAN OFFENDER MANAGEMENT)	REGIMES
Bail accommodation service	Prisoner retail
Bail services	Physical education
Court work other than assessments & reports	Offender employment & skills
Victim liaison	Activity allocation
	Prisoner work excluding industries & employment skills
	Faith & pastoral care for prisoners
OFFENDER MANAGEMENT	
Assessment & reports pre-sentence	
Manage the sentence for a Community or Suspended Sentence Order	
<i>Manage the custodial sentence - manage the sentence pre & post release from custody</i>	
<i>Manage the custodial sentence – Categorisation & allocation for custody</i>	
<i>Manage the custodial sentence – Deliver supervision on licence</i>	
Immigration, repatriation & removal service	
Provision of specialist advice & services in custody	
Management of prisoners at risk of harm to self or others	
Incentives & earned privileges (IEP) scheme	
APPROVED PREMISES	PRISONER MOVEMENTS (OTHER THAN BY PRISON STAFF)
Public protection & regimes	Prisoner escort & custody service (PECS)
Accommodation & property management	
Catering & domestic arrangements	
INTERVENTIONS	
Unpaid work/community payback	Deliver senior attendance centre requirement
Deliver activity requirement	Deliver accredited programmes
Deliver curfew requirement	CARATS drug programme
Support delivery of drug rehabilitation requirement	Unaccredited general offender behaviour interventions
Deliver residence requirement	Unaccredited alcohol & substance abuse interventions
Support delivery of mental health treatment requirement	Unaccredited sex offender interventions
Support delivery of alcohol treatment requirement	Unaccredited violence interventions
Deliver exclusion requirement	Unaccredited personality disorder interventions
Deliver prohibited activity requirement	Unaccredited other interventions
Deliver supervision requirement	
SECURE DECENT CUSTODY	
Prisoner property services	Processing and resolution of prisoner complaints
<i>Early days & discharge – Reception in</i>	<i>Prisoner discipline – Prisoner discipline procedures</i>
<i>Early days & discharge – First night in custody</i>	<i>Prisoner discipline – Segregation of prisoners</i>
<i>Early days & discharge – Induction to custody</i>	Cell & area searching
<i>Early days & discharge – Discharge</i>	Catering
<i>Provision of secure operating environment (POSOE) 1 - Gate</i>	Manage prisoner finance
<i>POSOE 1 – Communication & control rooms</i>	Manage use of force
<i>POSOE 1 – Internal movements</i>	Incident management
<i>POSOE 2 – Management of security information & intelligence</i>	External prisoner movements
<i>POSOE 2 – Security management</i>	Provide dog & dog handler capabilities
Residential services	Visits – visits booking
Nights	Visits – Visitor centre
Provide close supervision centre	Visits – Conduct visits
Mandatory drug testing	Prisoner mail services
Compact based drug testing	Prisoner voting
Mother & baby unit	Enablers of externally funded services in prisons

Note of the accountability structures around Non Departmental Public Bodies

Q82 Chair: *Chris has just passed me a note and I think it would be very helpful if we had a note from you on the current accountability structures between yourselves and all these agencies. Let me just make this point. In my time I have dealt with NDPBs. In your annual contract \-vith them, or your triennial contract or whatever it is, you can lay down pretty clearly what you expect in return for the money that you give to them. So you may not be able to hire and fire, and you are kept at a distance from that, but you can be absolutely specific about what information you want and what monitoring you expect to do.*

Sir Suma Chakrabarti: You can and that is where we have got to.

NOTE

- The accountability structure between the Permanent Secretary and the MoJ's key Executive Agencies and ALBs is documented in the relevant framework document. Each of the framework documents is individually drawn up and appropriate to the particular body. All framework documents are in line with guidance issued by the Cabinet Office and HM Treasury.
- The Permanent Secretary meets periodically (proportionate to the size and risk of the body) with the Chair or Chief Executive of each of the large Executive Agencies (NOMS, HMCS and Tribunals Service) as well as the LSC. Directors General are tasked to provide line and performance management to a number of ALBs, including the smallest of our Executive Agencies (the Office of the Public Guardian).
- The Permanent Secretary issues annual letters of delegation to Accounting Officers in the key ALBs—these accord with the guidance in Managing Public Money
- ALBs are required to undertake active risk management. There is a system to the Departmental Board. A similar system is in place for the provision of key performance and financial information.
- Financial scrutiny of the NDPBs is embedded in the financial monitoring by the corporate finance directorate and included in the monthly management accounts report to the Value for Money Improvement Committee and then onto the Executive Management Board and the Departmental Board.

Whilst we are confident that all of the appropriate systems are in place to monitor and hold our key ALBs to account, I would repeat concerns voiced at the hearing about the lack of direct levers to intervene if an Executive NDPB is not performing and fails to respond to the MoJ's concerns. Senior appointments to Executive NDPBs are not made by the Permanent Secretary nor any MoJ official and the ultimate lever of dismissal for poor performance is not available to the Department.

NOTE ON THE FINES COLLECTION PERFORMANCE

Q119 James Wharton: *May I make a request that you send some information to the Committee, just to be clear? I do not want this issue of the fines to get away. My concern is this: I do something wrong and the magistrates give me a £500 fine, but, six months down the line, neither they nor anyone else has managed to collect it from me, so I go back to the magistrates and they write it off and say, "We'll cancel your fine, because you're never going to pay it." It will not then appear in these figures. What I want to know is not how many of the fines after the write-offs are collected, but how many of the fines that are originally imposed are collected. Will you send us that information?*

Sir Suma Chakrabarti: We could send a note.

NOTE

From April 2010 to the end of September 2010, £162,872,628 of financial penalties were imposed. In the same period £146,015,700 of financial penalties were collected and £23,536,925 were administratively cancelled. This gives a payment rate (before cancellations) of 78.3%

The payment rate (after administrative cancellations) was 89.7% over the same period.

NOTE ON PROBATE FEES

Q125 Austin Mitchell: *I have another question arising from that. We have had a number of problems in Grimsby with fishermen's compensation in Icelandic waters where the fisherman is dead. Dependants want to get probate on the will, because they have been told there "will be no payment without probate. The fees seem exorbitant. These are poor fishermen trying to get probate on a will to establish the right to compensation for fishing in Icelandic waters 25 years ago and they are being screwed. You are screwing the probates, because they are easy to collect.*

Sir Suma Chakrabarti: Obviously, I haven't come prepared to discuss the probate relating to fishermen.

Q126 Austin Mitchell: *But that's where you're making the money. You are not making the money on the fines.*

Sir Suma Chakrabarti: I will be happy to write to you once I have established the facts.

NOTE

Under the non-contentious probate fees order 2004, there are 11 fees that can be charged. These range from £5 for a photocopy/search to £90 for a personal application. On average the total fee payable by an individual would be £102.

Probate fees were last increased in 1999.

Probate fees may be remitted in accordance with the remissions policy so that those who have insufficient means are still able to access the probate service

NOTE ON CONSOLIDATION OF PROBATION TRUSTS

Q55 Chair: *I have to say that I think this is a nonsense argument. I look to the NAO. Teachers also work on local authority pension schemes, I assume, and yet J do not get the DFE-as it is currently called—complaining about that. I assume that most of DCLG's money is local authority pension schemes, and we do not get it from them. Amyas, can you comment on that particular point and then come in on whatever it was you wanted to say?*

Amyas Morse: It is clear that there are other Departments that are dependent on local authority information. You would not argue with that, J take it.

Ann Beasley: I think it depends on how they are consolidated into the accounts.

Amyas Morse: That's a fair comment.

NOTE

The Ministry of Justice is not in the same position as other Departments due to the fact that we consolidate the probation trusts into our resource accounts and their staff have pensions which are administered by the Local Government Pension Scheme (LGPS).

To our knowledge the position of Probation Trusts, which are NDPBs, being consolidated into an agency's and then a Department's accounts is unique across government.

The Probation Trusts work to the local authority accounting timetable which requires their accounts to be certified by 30 September.

We have reviewed the accounting treatment of the Teachers' Pension Scheme (England & Wales) and the National Health Service Pension Scheme and found that they have their own Estimates and they are not consolidated into the departmental resource accounts of the Departments for Education or Health. Separate resource accounts for these pension schemes are produced and audited by the NAO.

A NOTE ON THE COST OF LIBRA—THIS EXTRACT FROM THE CLOSED SESSION

Q159 Mr Bacon: *I meant to ask in the public session-it is probably one for Ann Beasley-about the Libra project that we looked at seven years ago now. At the time it was £390 million. When I asked Alex Allan, Sir Suma's predecessor, about it in 2006, it had gone up by nearly another £100 million to £487 million. I was told the other day that it is now £560 million, but I don't know if that's true. Do you know what the total cost to public funding of the Libra project is?*

Ann Beasley: I don't know that figure.

Q160 Mr Bacon: *Can you write to us?*

Ann Beasley: Certainly.

Written evidence from the National Audit Office
1. PURPOSE

1.1 The Comptroller and Auditor General's report on Financial Management in the Ministry of Justice (the Ministry) was published on 6 July 2010, using financial information from the Ministry's 2008–09 Resource Accounts. Since the Report was published, the Ministry's 2009–10 Resource Accounts were presented to Parliament on 15 September 2010. The Ministry has also been addressing the Report's conclusions and recommendations. This memorandum provides the Committee with an update on:

- the Ministry's general progress on financial management since our report was published (part 2);
- the Ministry's response to our conclusions and recommendations (part 3 and Annex 1); and
- the charts and tables in our report to show financial information for 2009–10 (part 4), where updated information was available.

2. GENERAL PROGRESS ON FINANCIAL MANAGEMENT

2.1 As part of the Ministry's response to the report it has performed a self-assessment of its financial management. The Ministry has conducted a comprehensive evaluation against the five financial management criteria used in the C&AG's report together with a review of its progress against the recommendations. The Ministry shared its analysis and supporting evidence from this work with the NAO on 14 October. In the time available, it has not been possible for the NAO to review the Ministry's self-assessment in detail but, with their co-operation, the NAO has been able to perform a preliminary review to ascertain the strength of the evidence presented. The NAO will be working with the Ministry to complete a review of the Ministry's self-assessment against the five financial management criteria.

2.2 The Ministry's self-assessment review of its progress on financial management demonstrates that the Ministry is responding positively to the C&AG's report. This suggests the Ministry is serious about taking forward a series of initiatives to further improve its financial management and reinforces the NAO's view that the direction of travel for financial management in the Ministry is positive.

3. PROGRESS ON CONCLUSIONS AND RECOMMENDATIONS

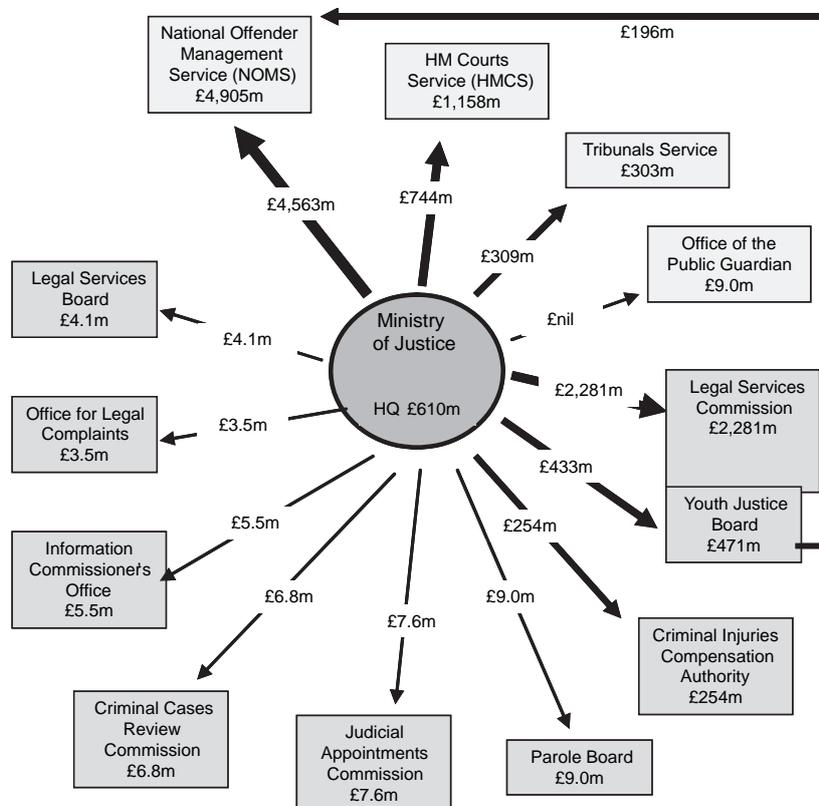
3.1 The table below provides a summary of the NAO conclusions made in July 2010, and of our view on the progress made by the Ministry. Our conclusions and recommendations are repeated in full at **Annex 1**, along with a summary of relevant actions taken by the Ministry and our assessment of progress.

<i>Conclusion</i>	<i>NAO view on progress made</i>
On delivery of the Ministry's financial management improvement initiatives	
a The Ministry has yet to commit to a clear plan for the delivery of its financial management improvement initiatives.	The Ministry has enhanced the profile of financial management and further progress will be made once the Ministry's detailed financial improvement plan is completed in October 2010. However, the Ministry missed the deadline for laying its 2009–10 resource accounts before the summer recess. These were laid before Parliament on 15 September.
On the consistency of the Ministry's financial management approach	
b The Ministry's accountability structures and delivery model affects its ability to introduce consistent financial systems and processes across its remit and ensure the timely flow of financial and operational information.	Work to align financial management across the Ministry is at an early stage Some simplification of governance structures has started and the Ministry has a plan and a timetable for its review and reform of Arm's Length Bodies. The Ministry is working towards moving all of its major bodies onto one common financial accounting and human resource system by March 2013.
c The Ministry's financial management systems did not bring the control weaknesses within the Legal Services Commission to the Board's attention in time.	The Ministry has strengthened its monitoring of the Legal Services Commission. It is not yet possible to conclude that the Ministry has addressed strategic issues relating to the oversight of the Ministry's Non-Departmental Public Bodies; the Ministry is due to complete its review in January 2011.
On the Ministry's understanding of its costs	
d The Ministry does not understand the detailed costs of the delivery of its activities across its full range of arm's length bodies and activities.	Progress is being made with initiatives to better understand costs. We have yet to see evidence that work has been accelerated since our report or of how the outputs will be used to drive future savings.
e The Ministry's Finance Directorate does not have sufficient visibility of the costs of its proposed policy initiatives reducing its ability to manage its forward policy programme within the constraints of its available resources.	We welcome the Ministry's assurances that all submissions put before Ministers now require clearance from Corporate Finance with regard to funding and costings. We have not yet been able to test a sample of submissions to confirm that the control is operating as intended.
On the Ministry's financial management systems and processes	
f The Ministry does not produce integrated operational and financial reports affecting the Board's ability to make decisions on the basis of the full range of relevant performance information.	Overall good progress is being made to improve the performance reports received by the Board. However, the Ministry does not yet report fully to the Board on its assets, liabilities and commitments and the focus of financial reporting remains (understandably) on keeping within budget/Estimate limits.

4. UPDATED FINANCIAL INFORMATION FOR 2009–10

4.1 In part 4 of this Update Memorandum we update the charts and tables in our July report to include 2009–10 financial information, which has since become available with publication of the Ministry's 2009–10 Resource Accounts.

4.2 Updated Figure 1—The Ministry's network of arm's length bodies, showing cash flows and the use of resources



Note: The Ministry contains several other small independent bodies, such as HM Inspectorate of Prisons, which are funded within the Ministry's central and administrative funding of £667m.

Key:
 ■ Central Government Departments
 □ Agencies within Ministry's Departmental Boundary
 ▭ Arm's length bodies
 → Flows of cash funding

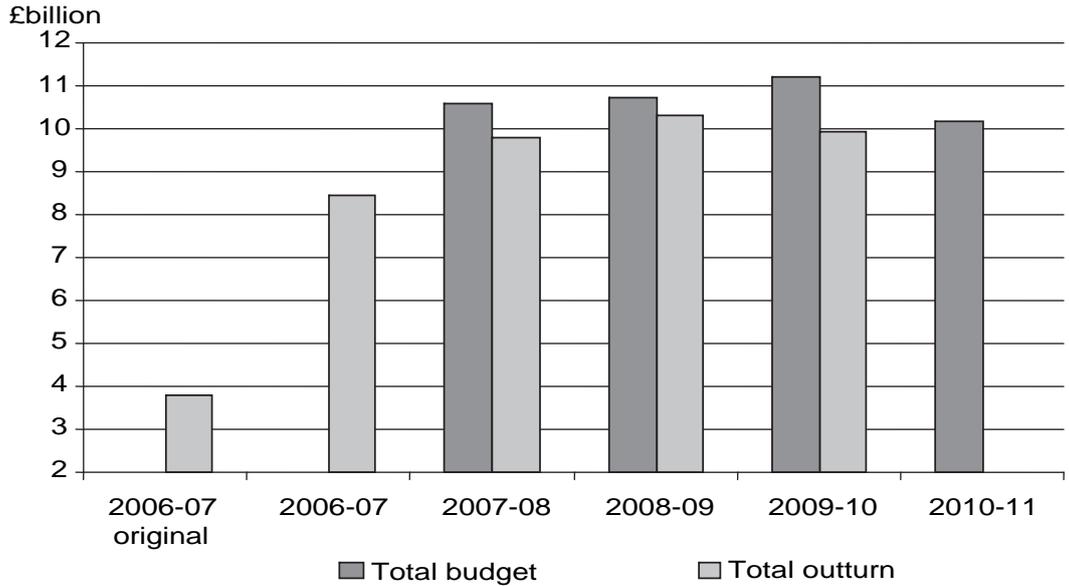
Source: Cash flows and resource requirements from the Ministry's Resource Accounts (note 3.2) and other entities' accounts for 2009–10.

4.3 Updated Figure 2—The Ministry's delivery network (Total Ministry Group Expenditure) for 2009–10 (2008–09 shown in brackets)

<i>Corporate Performance</i> <i>Note this cost has been allocated across the following activities</i>	<i>National Offender Management Service</i>	<i>Access to Justice</i>	<i>Criminal Justice (includes Office for Criminal Justice Reform)</i>	<i>Democracy, Constitution & Law</i>	<i>Wales Office</i>	<i>Scotland Office</i>
£610m (£484m)	£4,990m (£4,973m)	£4,333m (£4,546m)	£592m (£618m)	£117m (£71m)	£13,012m (£12,176m)	£26,937m (£24,870m)

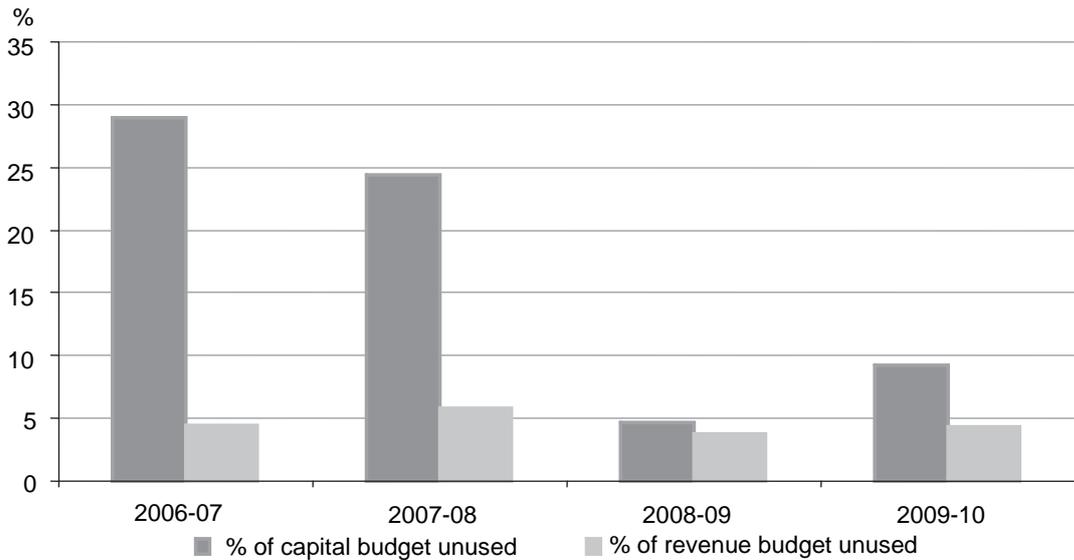
Source: Ministry of Justice Resource Accounts 2009–10 (Consolidated Statement of Operating Costs by Departmental Aims and Objectives). Note: the 2009–10 Resource Accounts include restated figures following the transition to International Financial Reporting Standards, which are £4,943m for NOMS, £4,549 million for Access to Justice, £618 million for Criminal Justice, and £71 million for Democracy Constitution and Law.

4.4 Updated Figure 4—The Ministry’s historical resource budgets and spending



Source: NAO analysis of Ministry of Justice Resource Accounts. The figures are the total of those reported in notes 3.1 (resource) and 5 (capital).

4.5 Updated Figure 5—The Ministry has consistently underspent against its budgets



Source: NAO analysis of Ministry of Justice Resource Accounts notes 3.1 (resource) and 5 (capital).

4.6 Updated Figure 6—The Ministry’s performance against its budget in 2009–10

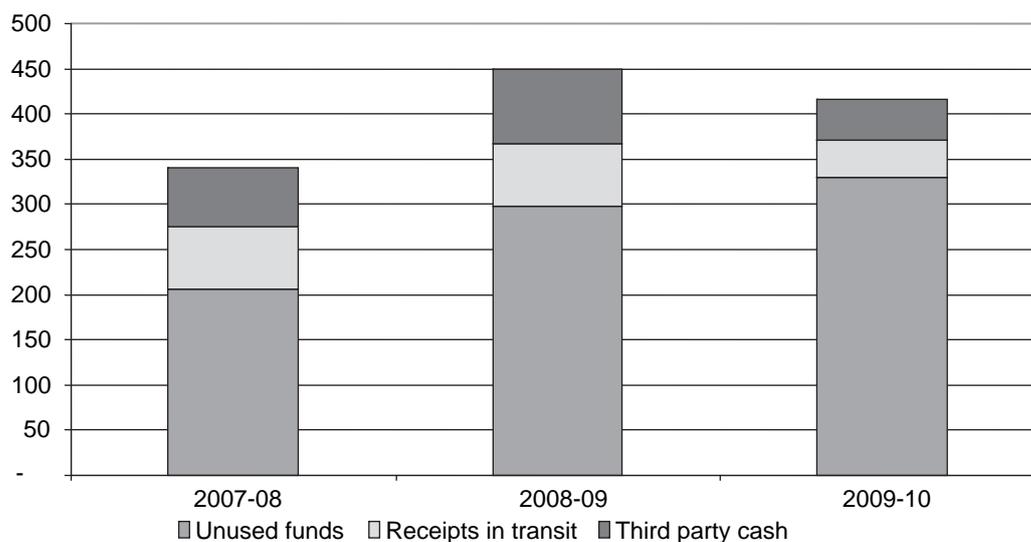
	<i>Estimate</i>	<i>Period 11 forecast</i>	<i>Year-end outturn</i>	<i>Underspend/ (overspend) against forecast</i>		<i>Underspend/(overspend) against Estimate</i>	
	<i>£m</i>	<i>£m</i>	<i>£m</i>	<i>£m</i>	<i>Percentage</i>	<i>£m</i>	<i>Percentage</i>
HQ + rest of Ministry	4,172	4,053	4,042	11	0%	130	3%
HM Courts Service	1,072	968	874	94	10%	198	18%
NOMS agency	4,394	4,297	4,197	100	2%	197	4%

	<i>Estimate</i>	<i>Period 11 forecast</i>	<i>Year-end outturn</i>	<i>Underspend/ (overspend) against forecast</i>		<i>Underspend/(overspend) against Estimate</i>	
	<i>£m</i>	<i>£m</i>	<i>£m</i>	<i>£m</i>	<i>Percentage</i>	<i>£m</i>	<i>Percentage</i>
Probation Boards and Trusts	706	719	719	0	0%	(13)	(2)%
NOMS agency total	5,100	5,016	4,916	100	2%	184	4%

Source: Forecast figures are from the Ministry's February 2010 management accounts, revised to a resource accounting basis. The estimate and outturn figures are taken from Note 3.1 in the Ministry's Resource Accounts 2009–10.

4.7 Updated Figure 8—The Ministry's cash balances

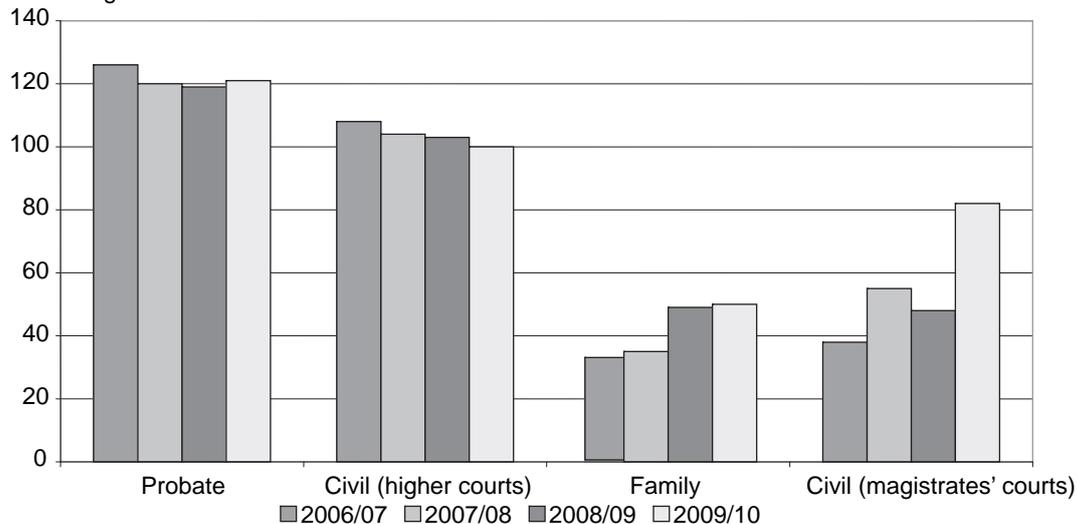
£million



Source: NAO analysis of the Ministry's Resource Accounts and financial information provided by the Ministry.

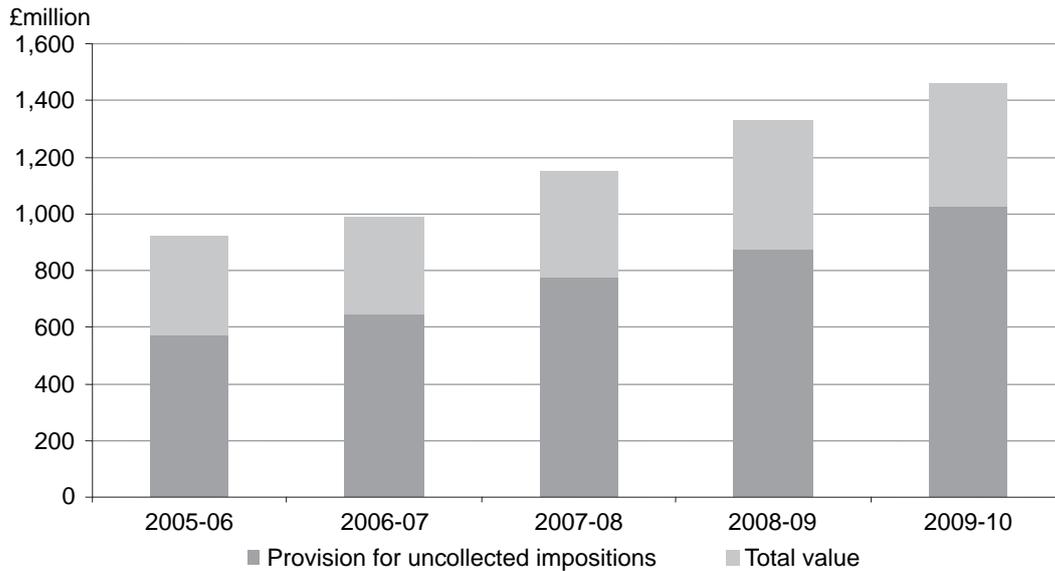
4.8 Updated Figure 9—Recovery of costs after taking account of exemptions and remissions via fees and charges

Percentage



Source: NAO analysis of HM Courts Service Accounts

4.9 Updated Figure 10—The amount of outstanding impositions and provision for fines and confiscation orders in arrears over six months is increasing



Source: NAO analysis of the Ministry of Justice Resource Accounts

4.10 Within the total outstanding impositions, the provision for outstanding confiscation orders at 31 March 2010 was £653 million (£569 million at 31 March 2009) against gross amounts outstanding of £788 million (£707 million), hence only 17% (19%) was considered fully recoverable.

National Audit Office

27 October 2010

Annex 1

This annex repeats the conclusions and recommendations in the Comptroller and Auditor General’s July 2010 report, summarises relevant actions taken by the Ministry since then, and provides an NAO assessment of the progress made.

<i>Report Conclusion and Recommendation</i>	<i>Ministry of Justice Progress</i>	<i>NAO Assessment</i>
<p>Recommendation a—The Ministry has yet to commit to a clear plan for the delivery of its financial management improvement initiatives. The Ministry should, within the next four months, articulate a strategy for the development of financial management across its span of control and set clear milestones and resource requirements for the delivery of its programme of financial management improvements.</p>	<p>The Ministry is planning to finalise its financial improvement strategy by the end of October 2010. The Ministry’s monthly Value for Money Improvement Committee (VFMIC) manages the Ministry’s in year financial position, discusses financial management improvement measures and the response to the C&AG’s Report. The Director General of Finance now reports directly to the Accounting Officer. The Ministry appointed a new Director of Finance in July 2010 and one of his roles is to lead the Ministry’s Financial Improvement Programme. The Ministry has accelerated reporting timescales for its monthly management accounts.</p>	<p>The profile of financial management has been enhanced by the changes in reporting and the creation of the new Director of Finance role. Further progress will be made once the Ministry’s detailed financial improvement plan is complete. Notwithstanding these improvements, the Ministry missed HM Treasury’s deadline for laying its 2009–10 resource accounts before the summer recess. These were laid before Parliament on 15 September.</p>

Report Conclusion and Recommendation

Ministry of Justice Progress

NAO Assessment

Recommendation b—The Ministry's accountability structures and delivery model affects its ability to introduce consistent financial systems and processes across its remit and ensure the timely flow of financial and operational information. In its review of its arm's length bodies, the Ministry should seek to streamline its financial systems and accountability structures to facilitate the introduction of consistent financial management processes.

The Ministry has established an Arm's Length Bodies Review Programme and this is ongoing, including potential streamlining of accountability structures. It has simplified some of its governance structures by abolishing the Access to Justice Group and the Group's audit committee. The Ministry is working towards moving all its major bodies onto one common financial accounting and human resource system by March 2013.

Simplification of governance structures has started and the Ministry has a plan and a timetable for its review and reform of Arm's Length Bodies. Work to align financial management across the Ministry is at an early stage.

Recommendation c—The Ministry's financial management systems did not bring the control weaknesses within the Legal Services Commission to the Board's attention in time. To improve its control framework for its Non-Departmental Public Bodies and ensure the Accounting Officer is able to gain sufficient assurance over their financial and operational risks, the Ministry should:

- clarify its monitoring remit with its Non-Departmental Public Bodies;
- determine the circumstances in which it would intervene to strengthen their control environment; and
- clarify the role of its Internal Audit function in relation to its arm's length bodies.

The Ministry has taken steps to strengthen its monitoring of the Legal Services Commission. It has put in place a fortnightly stewardship update process where the Legal Services Commission reports to a meeting chaired by the Ministry's Director General of Finance. The Ministry's relationship with, and future monitoring of, its Non-Departmental Public Bodies is one of the considerations in its ongoing Arm's Length Body Review Programme (due to report in January 2011). This needs to be in line with Cabinet Office guidance on the oversight of executive agencies and NDPBs. The Ministry has clarified the access rights of its Head of Internal Audit in relation to its arm's length bodies.

On the basis of the supporting evidence provided to the NAO, it is not possible to conclude that the Ministry has addressed the higher level strategic monitoring aspects captured in the recommendation. The Ministry has agreed to abolish certain bodies, including the Youth Justice Board. The Ministry's Arm's Length Body Review Programme is ongoing. Other than to note the Ministry's more active monitoring of the Legal Services Commission, we are unable to conclude on the progress that has been made.

Recommendation d—The Ministry does not understand the detailed costs of the delivery of its activities across its full range of arm's length bodies and activities. To drive long term and sustainable efficiencies, and to enable it to make informed decisions on relative operational performance, the Ministry should, where resources permit, look to accelerate its Specification, Benchmarking and Costing programme in the National Offender Management Service, and activity-based costing work in HM Courts Service. It should also plan how it will use the outputs from these programmes to drive cost savings and should seek to expand these programmes to the Ministry's other delivery bodies.

We understand from the Ministry that it established a corporate forecasting unit in January 2010 to develop a suite of forecasting tools and resource planning models for use throughout the Ministry. The Specification, Benchmarking and Costing work that commenced within the NOMS Agency in 2008 is progressing. This work covers 74 services and so far specifications have been published covering 13 services. Within HM Courts Service, the results of activity based costing exercises within the magistrates' courts are out for consultation. We were informed that similar work looking at back office functions within Crown Courts is nearing completion and HMCS are looking to finalise this and work on frontline activities by the end of 2010–11.

Progress is being made, but we have yet to see evidence that this work has been accelerated, if the planned completion date of April 2012 has been brought forward or plans of how the outputs will be used to drive future savings.

<i>Report Conclusion and Recommendation</i>	<i>Ministry of Justice Progress</i>	<i>NAO Assessment</i>
<p>Recommendation e- The Ministry's Finance Directorate does not have sufficient visibility of the costs of its proposed policy initiatives reducing its ability to manage its forward policy programme within the constraints of its available resources. The Ministry's Finance Directorate takes assurance from its Policy Committee and economists embedded in local policy areas for the costs of proposed policy. However, the Ministry should ensure that its Finance Directorate is able to monitor the likely costs of policy proposals centrally.</p>	<p>We understand from the Ministry that from July 2010 all submissions put before Ministers now require clearance from MoJ Corporate Finance with regard to funding and costings. Further, the Ministry has now developed a standardised method of modelling the financial impacts of policies.</p>	<p>We welcome the Ministry's assurances. The Ministry has provided the NAO with the schedule of individual submissions. We have not yet been able to test a sample of submissions to confirm that the control is operating as intended, and therefore to conclude on whether this recommendation has been cleared at this time.</p>
<p>Recommendation f—The Ministry does not produce integrated operational and financial reports affecting the Board's ability to make decisions on the basis of the full range of relevant performance information. The Ministry should build on the recent improvements it has made to its financial monitoring processes by:</p> <ul style="list-style-type: none"> — producing a combined report for the Board including: all relevant financial information (covering income and expenditure, financial commitments, assets, liabilities, cash flows and staff numbers); operational performance and risk data; and — providing a clear commentary in the report describing the data, the potential implications and the decisions that are required by the Board. 	<p>At the level below the Board the Ministry has made progress in strengthening and expanding the breadth and detail of the financial information reported to the leaders of finance within the Ministry (via the Value for Money Improvement Committee, which is chaired by the Director General of Finance).</p> <p>A combined operational and financial "Interim performance report" was produced in July and Sept 2010. This shows that combined reports are starting to be produced. The Ministry intends to have full balance sheet reporting in place from November 2010. Monthly management accounts and related reports now include the Ministry's utilisation of its "cash allocation". This information appears to have already been collated by the cash management team for HM Treasury reporting purposes and, following the NAO recommendations, is now included in monthly financial update to the VFM Improvement Committee. In the time available, the NAO has not been able to assess the robustness of this information, whether it will help identify risks or how management will use it.</p>	<p>Other than cash, the Ministry does not yet report on its assets, liabilities and commitments and the focus of reporting remains (understandably) on keeping within budget/Estimate limits. Overall good progress is being made but further work is required in order to clear this recommendation.</p>

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