

Performance Measurement in the UK Justice Sector

We have a long and proud legal history in England and Wales (Scotland and Northern Ireland have a similar history but separate courts systems). Our common law system dates back to the Norman Conquest in the 11th century and our ceremonial legal dress has changed little in the last 200 years. But we operate a modern legal system that needs to meet the needs of 21st century Britain.

The courts are divided between those with civil and family jurisdiction and those with criminal jurisdiction.

The county courts are the court of first instance for minor civil and family matters (small claims, divorce, bankruptcy, low value personal injury, children's custody cases).

The High Court is primarily the court of first instance for major civil and family matters (large value and complex money and personal injury claims, defamation, very complex family matters).

The Crown Court is primarily the court of first instance that deals with serious criminal matters (murder, rape, serious fraud, serious offences against the person).

The magistrates' courts are the courts of first instance dealing with minor criminal matters (traffic offences, minor theft, minor assault and other anti social behaviour). The magistrates' courts also have jurisdiction for public law family cases – primarily revolving around children where the state wants to intervene in the care provided to the child.

The Court of Appeal is, as the name suggests, a court of appeal. Above that the final court of appeal is the Supreme Court of the UK (which is not administered by HMCS). The Supreme Court opened in the summer of this year replacing its predecessor the Judicial Committee of the House of Lords.

Leadership

Let me begin by setting out some of the significant developments in the leadership model of the courts service – I'm aware of the time constraints so will stick to the last 10 years or so.

An independent judiciary is a key cornerstone of our system, however, full and formal separation of executive and judicial powers was only achieved after the passing of the 2003 Constitutional Reform Act. Until that point the Lord Chancellor was a Cabinet Minister, the Speaker of the House of Lords and the Head of the Judiciary. Those roles have now been separated; the Lord Chancellor is now only a Cabinet Minister – and currently also holds the post of Secretary of State for Justice – and the role of Head of the Judiciary has passed to the Lord Chief Justice and there is a new Speaker of the House of Lords. The roles of the Lord Chief Justice and of the Lord Chancellor in relation to the operation of the courts are set out in legislation and in a Concordat between the two parties.

In 2005 a new agency was formed – Her Majesty's Courts Service (HMCS). The agency was sponsored by the then Department for Constitutional Affairs (now subsumed within the Ministry of Justice), headed by the Lord Chancellor and brought together the administration of the Court of Appeal, the High Court, the Crown Court, county courts and magistrates' courts.

Not to stand still, in 2008 the governance of HMCS changed. A new framework was produced with the view to preserving the independent and due

administration of justice. The framework saw HMCS reporting jointly to the Lord Chancellor and the Lord Chief Justice – they placed the leadership and broad direction of HMCS in the hands of the HMCS Board. The Board comprises an independent Non-Executive Chair, three representatives of the judiciary, a representative of the Ministry of Justice, the Chief Executive of HMCS, three other HMCS executives and two non-executives. The Chief Executive is responsible for the day-to-day running of HMCS and works under the general direction of the Board. All staff in HMCS owe a joint duty to the Lord Chancellor and the Lord Chief Justice for the efficient and effective operation of the courts.

The framework document was produced at the same time that the Ministry of Justice was created. Previously the courts were part of the Lord Chancellor's Department and later the Department for Constitutional Affairs and offender management and criminal law policy was housed within the Home Office with policing, counter terrorism and immigration and boarder control. Now the Ministry of Justice brings together in one Department under the leadership of a single Secretary of State all policy and delivery of criminal, civil and family justice as well as constitutional reform and electoral policy.

Bringing together in one place all the justice policy has enabled us to look afresh at the end-to-end service that we provide. We are just beginning a programme of work that has a number of strands including looking at how people can be diverted away from our services where there are more suitable alternatives, getting all the criminal justice agencies to work together better and making better use of and rationalising our resources including our estate, our IT and sharing other back office functions.

Aims and objectives

HMCS' goal is that all citizens according to their differing needs are entitled to access to justice, whether as victims of crime, defendants accused of crimes, consumers in debt, children in need of care, or business people in commercial disputes. Our aim is to ensure that access is provided as quickly as possible and at the lowest cost consistent with open justice and that citizens have greater confidence in, and respect for, the system of justice.

We have the following objectives:

- Promote a modern, fair, effective and efficient justice system that is available to all and responsive to the needs of the communities it serves.
- Support an independent judiciary in the administration of justice.
- Achieve best value for money.
- Continuous improvement of performance and efficiency across all aspects of the courts' work having regard to the contribution the judiciary can appropriately make.
- Collaboration with a range of justice organisations and agencies, including the legal professions, to improve the service provided for local communities.

- ensure greater confidence in, and respect for, the system of justice.
- Achieve excellence as an employer.

On an annual basis HMCS publishes a business plan setting out what it intends to do for the coming financial year and an annual report setting out its performance in the previous year and the statement of accounts.

Budget allocation

HM Treasury conducts a Comprehensive Spending Review (CSR) about every three years for each Department of State – for HMCS the Ministry of Justice receives an overall budget for all its activities. As a result of the CSR a budget is set for the next spending period and Public Service Agreements (PSAs) are agreed. The budget is linked to the standards that the Departments agree to meet. The budget is allocated on an annual basis and both the budget and PSAs are agreed by Parliament.

On an annual basis the Ministry of Justice grants an allocation to HMCS. The amount granted takes account of the anticipated fees income – we aim for full cost recovery against our civil and private family work. The allocation is an agreement as to the amount that HMCS requires to continue to run its business – as measured against key performance indicators – and what is affordable given the overall MoJ allocation.

HMCS is increasingly using activity based costing tools to calculate its funding requirements – applying the unit costs for activity to the predicted workload. An ABC model has been developed this year for the magistrates' courts – previously we had very little information on which to base funding requirements for those courts. Given the success of the development of the

model we are moving on to the Crown and county courts which are currently using allocation models that have been in existence for a number of years.

The framework agreement sets out an open and transparent means of settling the budget for HMCS which includes greater judicial engagement in the resourcing of the courts through the HMCS Board. The process includes:

- the HMCS Board having responsibilities for considering and approving HMCS resource bids and for developing the budget and plans for the operation of the courts; and
- greater clarity in the role of the Lord Chief Justice when representing the views of the judiciary on the provision and allocation of resources which will enable him to communicate the views of the judiciary to the Chancellor of the Exchequer, as well as the Lord Chancellor, when the Government is settling Spending Review negotiations.

On receiving the allocation from the MoJ HMCS allocates funding to each of its regions for service delivery and to the other areas shown in the table.

Key Performance Indicators

HMCS has 10 key performance indicators, split between its jurisdictions. The KPIs are:

1. To commence 78% of cases within the following time scales in the Crown Court:
 - defendants' cases that are sent for trial within 26 weeks of sending
 - defendants' committal for trial cases within 16 weeks of committal

- appeals within 14 weeks of the appeal being lodged
 - committals for sentence within 10 weeks of committal.
2. To speed up criminal cases in the magistrates' courts so that, for charged cases, the average time from charge to disposal is less than six weeks. I will talk more about this in a moment.
 3. Time taken to produce and send court results to the police:
 - 95% of court registers produced and dispatched within three working days
 - 100% of court registers produced and dispatched within six working days.
 4. To achieve an 85% payment rate for financial penalties in the magistrates' courts.
 5. For 60% of all breached community penalties to be resolved within 25 working days of the relevant failure to comply.
 6. To increase the proportion of defended small claims that are completed otherwise than by court hearing to 65%.
 7. To increase the proportion of defended small claims that are completed (from receipt to final hearing) within 30 weeks to at least 70%.
 8. To increase the amount of civil work initiated online – 65% of eligible possession claims through Possession Claim Online and 75% of specified money claims through Money Claim Online and via the Claims Production Centre.

9. To ensure that 48% of care and supervision cases in the county court and 56% in the magistrates' court are completed within 40 weeks.

10. To maintain the 'very satisfied' element of the HMCS court user satisfaction survey at or above the 2007-08 baseline of 41%.

So those are the elements of our performance that we report against at the highest level. Beneath them is a suite of supporting indicators and at a layer even further down are a variety of other management information that we keep track of to ensure that our business is operating effectively.

Management information includes a whole host of different elements – from recording how many trials do not take place when they should for example due to either party or the court not being ready or the defendant pleading guilty at the last moment; to the volume of cases that are dealt with in a given month; to how well jurors are utilised; to how quickly a variety of different processes are completed. We also record financial information and information on our staff.

How we measure performance

Since the creation of HMCS we have made improvements in how much of what we measure is collected automatically through the computer systems that are used to process the work.

In the magistrates courts we have recently introduced a new IT system called Libra. Before Libra's introduction there were a variety of different computing systems across magistrates' courts. With its introduction we have been better able to record and compare performance across England and Wales. Similarly we are in the process of improving the IT system in the court courts and the Crown Court.

Data whether obtained automatically through IT systems or entered manually is collated on a separate IT system called OPT. OPT is a web based application that allows local managers to enter and verify data; the system then collates the data so that any user can view the data at national or court level or any administrative area or region.

Each month reports are produced that show performance against the key performance indicators and a selection of other management information. These reports are circulated widely within the organisation and form the basis for performance discussions at all levels within the organisation.

Performance is managed by a small central team in headquarters and through a network of performance managers – one for each of the regions that HMCS operates in. The role of these performance specialists is to provide analysis of the performance data that is produced, share good practice across the whole organisations and identify and improve areas of weakness. Regional Directors are responsible for the delivery of service within their region and regularly meet with the Chief Executive to discuss how their region is performing.

Significant achievements

I thought it might be interesting to pull out a couple of areas where targets with programmes of work surrounding them can really focus minds and drive up performance.

Persistent Young Offenders

The Persistent Young Offender pledge to halve the average time from arrest to sentence was one of the Government's key manifesto commitments in 1997. The pledge was the first cross-criminal justice system target, and was an excellent catalyst in bringing criminal justice agencies together to ensure that PYOs are dealt with expeditiously. In 1997 the average time from arrest to

sentence for persistent young offenders was 142 days. Through focused work we were able to better our pledge to halve the average time from arrest to sentence to 71 days and in 2007 we achieved 65 days. From December 2008, having achieved the pledge, the target was removed and the CJS moved their focus to other priorities.

CJSSS – Criminal Justice Simple, Speedy, Summary

As I mentioned in my introduction magistrates' courts deal with low level crime and on the whole cases tend not to be complex. Traditionally the throughput of cases varied significantly from court to court and it took, on average nearly 9 weeks for a case to progress from arrest to sentence. Cases tended to go to court and be adjourned with little or no progress a number of times – on average each case went to court 3 times. CJSSS was another cross CJS programme sponsored by the then Lord Chancellor and supported strongly by the Senior Presiding Judge. The target that I mentioned as KPI 2 - To speed up criminal cases in the magistrates' courts so that, for charged cases, the average time from charge to disposal is less than six weeks – was set. We have made good progress and have reduced the time by 20%, currently achieving an average of around 7 weeks and have also reduced the number of hearings by 20% to an average of 2.3 hearings per case. We continue to work on further improving performance to achieve the target.

Future plans

A number of public sector organisations, including HMCS, are adopting Lean methods of working. Lean was initiated by Toyota in Japan in the 1940s – there is a wealth of literature on Lean so I won't go into too much detail about the theory but will speak briefly about the changes it is making to the way in which we monitor and manage performance. I will also mention now the steps

that we are taking to ensure that HMCS has more uniform and better productivity, efficiency and effectiveness.

Lean is transforming the way in which HMCS manages its business – at all levels of the organisation we are being more open about how we are performing and all staff are actively looking for opportunities for continuous improvement.

We are becoming increasingly aware of the needs of the customers and are more and more frequently asking our users for what they want. We are looking to focus more on measuring quality – currently most of our measures focus on timeliness, partly because its easier for us to measure and partly because it is one of the key things that matter to our users.

I have already mentioned the activity based costing models that we are developing – that is the first step in ensuring that HMCS is as productive as possible, ensuring that our efforts are expended on the activity that adds value and ensuring that everyone involved in the justice system is working together effectively.

Summary

- HMCS has a clear governance structure and leadership is provided at a high level by the Lord Chancellor and Secretary of State for Justice and the Lord Chief Justice through the HMCS Board and on a day-to-day basis by the Chief Executive and her executive team.
- The Board has articulated the goal for HMCS and its key objectives. These are published annually along with the key activities that the organisation will undertake, the agreed key performance indicators and the budget that has been agreed in the Business Plan.

- The budget allocation is based on estimates of the needs of the business based on unit cost and predicted workloads and the overall affordability based on the wider Ministry of Justice and Government position. The judiciary, through the HMCS Board are involved in agreeing the bid.
- As far as possible we collect data on performance through automated systems and collate them on a web based allocation that is available to all staff – data is available from national level right down to individual courts.
- A small group of people provide analysis of the performance data – performance improvement is the responsibility of operational managers within the business.
- We are looking to introduce more Lean ways of working – focusing on what the customer wants and on quality.
- We need to ensure we have the appropriate focus on improving productivity and efficiency.

Conclusion

To conclude I want to go back to where I started – we have been doing this for a long time in England and Wales but we are a relatively new organisation operating within a new governance structure. We're still learning, we're still improving and we probably still will be in a hundred years time.