



HER MAJESTY'S  
COURTS SERVICE  
**hmcs**

# Her Majesty's Courts Service Framework Document

APRIL 2008





# **Her Majesty's Courts Service Framework Document**

Presented to Parliament by the Lord Chancellor  
and Secretary of State for Justice

April 2008

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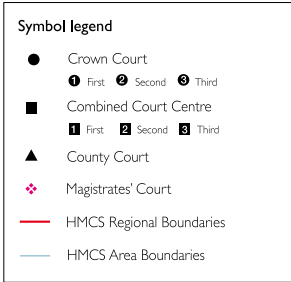
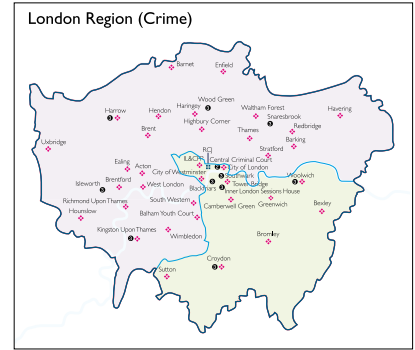
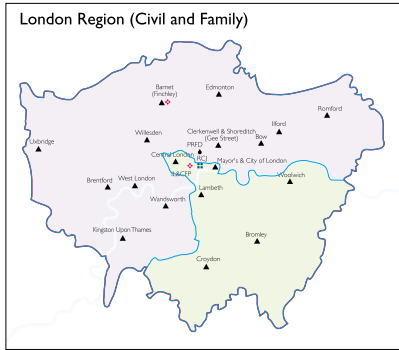
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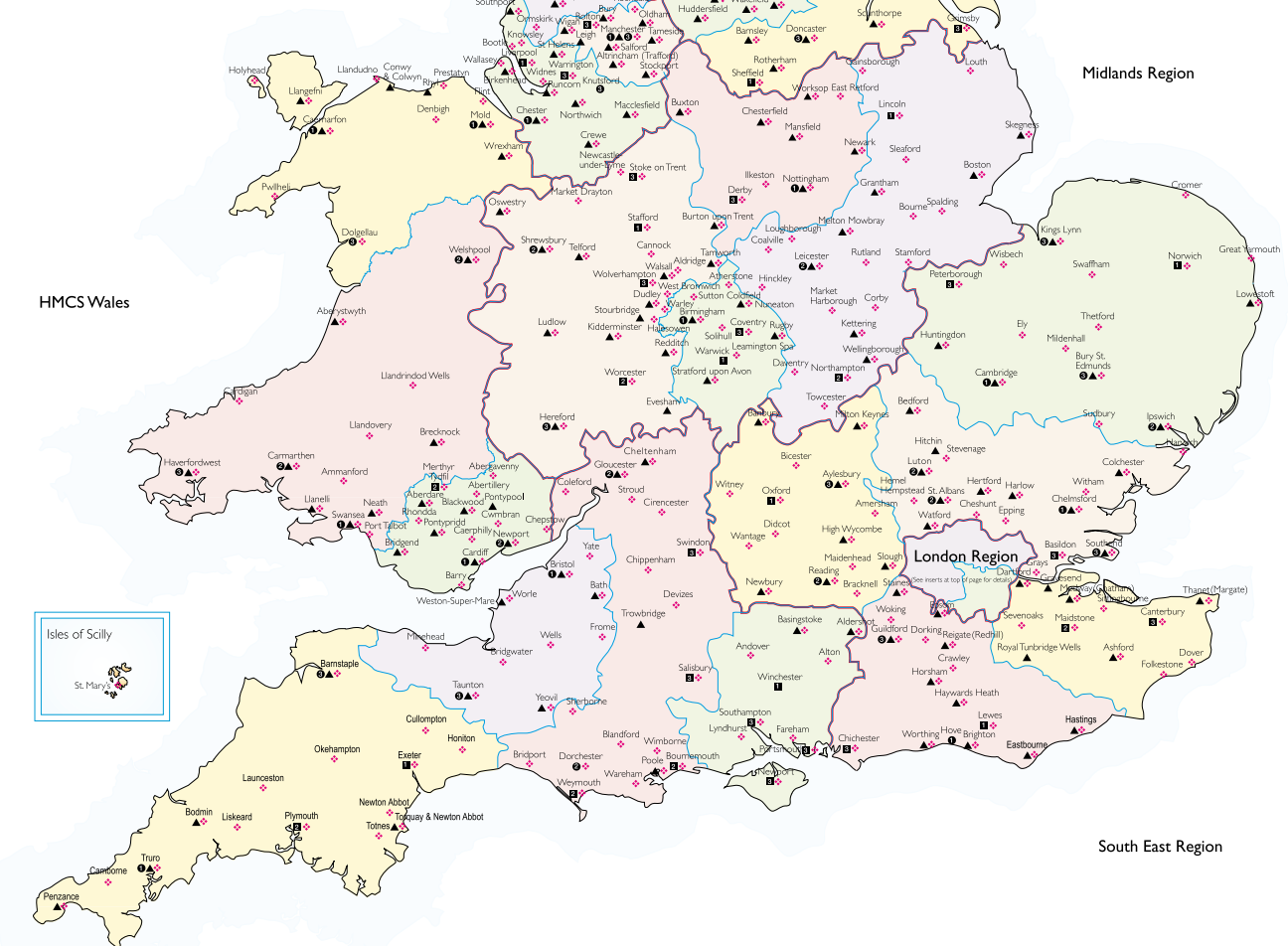
## I INTRODUCTION

- 1.1 This Framework Document sets out the terms of an agreement reached by the Lord Chancellor and the Lord Chief Justice on a partnership between them in relation to the effective governance, financing and operation of Her Majesty's Courts Service (HMCS) with a view to preserving the due and independent administration of justice. The principles of the partnership between them set out in this Framework Document govern relations between HMCS on the one hand and the Lord Chancellor and the judiciary on the other.
- 1.2 HMCS, which is an agency within the Ministry of Justice, manages the system of support for the carrying on of the business of the courts, including infrastructure and resources. HMCS provides the support necessary to enable the judiciary and magistracy to exercise their judicial functions independently. 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.
- 1.3 The HMCS Board provides leadership and broad direction to HMCS and holds the Chief Executive and executive team to account for the performance of the agency.
- 1.4 The Chief Executive is responsible for the day-to-day running of HMCS. HMCS is organised into six regions, each headed by a Regional Director, and Wales. These are subdivided into 25 areas, each of which is headed by an Area Director. Under each Area Director, courts or groups of courts are headed by court managers.
- 1.5 HMCS provides support to the Court of Appeal, the High Court of England and Wales, the Crown Court, the county courts, and the magistrates' courts. HMCS is a key arm of public service delivery, working to ensure access to justice for all court users and others who rely on its services.

## Her Majesty's Courts Service Estate by Region and Area



As at 27 July 2007





## 2 AIM AND OBJECTIVES

2.1 The Lord Chancellor and the Lord Chief Justice agree the aim and objectives for HMCS. They have set the following:

### Aim

2.2 All citizens, according to their different needs, are entitled to timely access to justice, whether as victims of crime, defendants accused of crimes, consumers in debt, children at risk of harm or business people involved in commercial disputes.

### Objectives

- 2.3
- Promotion of a modern, fair, effective and efficient justice system that is available to all and responsive to the needs of the communities it serves.
  - Support of an independent judiciary in the administration of justice.
  - Achievement of 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.
  - Greater confidence in, and respect for, the system of justice.
  - Achievement of excellence as an employer.
- 2.4 The Lord Chancellor and the Lord Chief Justice agree further measures to support the achievement of this aim and these objectives, which are published in the strategic and business plans for HMCS.

### **3 THE LORD CHANCELLOR, THE LORD CHIEF JUSTICE AND THE COURTS**

- 3.1 The Lord Chancellor is the government minister responsible to Parliament for the courts and the justice system. His accountability to Parliament includes ensuring that there is an efficient and effective system to support the carrying on of the business of the courts, resourcing the courts adequately, and ensuring that the judiciary is supported in undertaking its function to deliver justice independently.
- 3.2 The Lord Chief Justice is the head of the judiciary of England and Wales. His responsibilities include judicial deployment, the provision of welfare, training and guidance to the judiciary, and representing the views of the judiciary to the Lord Chancellor and ministers of the Crown.

## **4 THE MINISTRY OF JUSTICE**

- 4.1 The Lord Chancellor has designated a minister to support him in fulfilling his responsibilities in relation to the courts. The HMCS Board consults and advises the minister as appropriate.
- 4.2 The Permanent Secretary, as permanent head of the Ministry of Justice (the Department), is the Department's principal adviser to ministers on matters affecting the Department as a whole, including policy, resource allocation, expenditure and performance against the aims and objectives of the Department.
- 4.3 The Permanent Secretary is the Principal Accounting Officer and is responsible for ensuring a high standard of financial management in the Department. He designates the Chief Executive as Agency Accounting Officer for HMCS.
- 4.4 The Permanent Secretary is supported by the Access to Justice Director General, who leads within the Department on inter-agency and cross-governmental working to deliver fair and simple routes to justice. He advises ministers, the Department, HMCS and others involved on such matters and is responsible for ensuring that the HMCS Board is aware and is able to take account of them. He is a member of the Department's Corporate Management Board.

## 5 THE BOARD

- 5.1 The Lord Chancellor and the Lord Chief Justice have agreed to place the leadership and broad direction of HMCS in the hands of the Board.
- 5.2 The Lord Chancellor and the Lord Chief Justice do not intervene, whether directly or indirectly, in the day-to-day operational decision making of HMCS. The Board consults them on the handling of operational matters which could give rise to substantial public, parliamentary, judicial or ministerial concern. The Lord Chancellor or the Lord Chief Justice may also raise such matters directly with the Board and ask it to advise on or take forward a solution. On urgent matters, the Chief Executive, in consultation with the Chair, the Permanent Secretary (or his delegate) and the Senior Presiding Judge, acts on behalf of the Board. The Board responds to requests for information and assistance from either the Lord Chancellor or the Lord Chief Justice or others acting on their behalf.

### The duties of the Board

- 5.3 The Board is responsible for the leadership and broad direction of HMCS necessary to achieve the aim and objectives agreed by the Lord Chancellor and the Lord Chief Justice. The members of the Board work together to fulfil the functions of the Board, and, in so doing, each of them is committed to ensuring that the Board has high-quality, impartial, transparent, independent, and honest advice on all areas of its responsibilities.
- 5.4 The Board has specific functions in relation to finance, planning, performance and policy in HMCS, which are set out in the respective chapters of this Framework Document. The Board has strategic responsibilities, including:
- the general direction of HMCS;
  - communicating the aim and objectives of HMCS;
  - ensuring that a strong working relationship is established between the staff of HMCS and the judiciary at all levels;
  - improving services and operations to meet the needs of all who use the courts;
  - performance management;
  - corporate governance;
  - assuring that HMCS has an efficient and cost-effective operational structure;
  - assuring that the planning and financial management of HMCS are carried out efficiently and effectively; and
  - protecting and enhancing public confidence in HMCS.

## **The members of the Board**

- 5.5 The Board comprises an independent non-executive Chair, three representatives of the judiciary, a representative of the Department, the Chief Executive, the three other HMCS executives, and two non-executives. The Lord Chancellor and the Lord Chief Justice or their delegates approve the appointment of all Board members, save those holding ex officio positions.

## **The Chair**

- 5.6 The primary duty of the Chair is to chair and lead the Board in the successful performance of its functions. The Chair may also represent HMCS in discussions and building relationships with the Department, the judiciary, other departments and other interested parties. The Chair has direct access to the Lord Chancellor, the Lord Chief Justice and other departmental ministers.
- 5.7 The appointment is based on a recommendation from a selection panel that includes a person nominated by the Permanent Secretary, a senior judge nominated by the Lord Chief Justice and an independent person approved by the Lord Chancellor and the Lord Chief Justice. No person who is a serving judicial office holder or serving civil servant can seek appointment as Chair. The terms and conditions of the appointment are agreed between the Lord Chief Justice and the Lord Chancellor, or their nominees.

## **The Ministry of Justice member**

- 5.8 The Ministry of Justice member is the representative of the Lord Chancellor and the Department and keeps the HMCS Board informed of their views on HMCS and its operations.
- 5.9 In the event that the representative appointed to the Board is unable to attend a meeting of the Board, the Permanent Secretary may appoint an alternate by notice to the Chair.
- 5.10 The Ministry of Justice member is nominated by the Permanent Secretary.

## **The judicial members**

- 5.11 The Senior Presiding Judge for England and Wales and two other members of the judiciary are nominated by the Lord Chief Justice. They are the representatives of the Lord Chief Justice and the judiciary and keep the HMCS Board informed of the views of the Lord Chief Justice and the judiciary on HMCS and its operations.

## **The executive members**

- 5.12 The Chief Executive, the Chief Financial Officer and two other executive directors, all of whom are civil servants, are members of the Board. The Chief Executive has wider roles and responsibilities as set out in Chapter 6.
- 5.13 The two other executive directors are nominated by the Chief Executive.

- 5.14 The appointment of the Chief Executive is conducted in line with Cabinet Office guidelines for a Senior Leadership Committee (SLC) level appointment and with a selection panel that includes a senior judge. Candidates for appointment to the position of Chief Executive may meet the Lord Chief Justice or his nominee. Because it is an SLC-level post, the appointment is approved by the Lord Chancellor and the Prime Minister.
- 5.15 The Chief Executive's remuneration is agreed in accordance with the performance and award arrangements for members of the Senior Civil Service (SCS) Pay Band 3.
- 5.16 Evidence of the performance of the Chief Executive is provided by, among others, the Chair and at least one judicial member of the Board, in accordance with SCS performance assessment.

### **Non-executive members**

- 5.17 The two non-executive members of the Board provide an independent perspective and expertise to the HMCS Board. One of them is the Chair of the Audit Committee.
- 5.18 The appointments are based on a recommendation from a panel including the Chair (once appointed), a senior judge nominated by the Lord Chief Justice and a person nominated by the Permanent Secretary. Their terms of appointment are agreed between the Lord Chancellor and the Lord Chief Justice or their nominees.

### **Meetings of the Board**

- 5.19 The Board meets at least 10 times a year, or otherwise as it agrees.
- 5.20 The quorum of the Board is five, including at least one judicial member, one non-executive, the Chief Executive or his nominee, and the Ministry of Justice member.
- 5.21 The Board endeavours to reach agreement by consensus under the guidance of the Chair. Where the Board cannot reach agreement by consensus on matters of significance, it refers the issue to the Lord Chancellor and the Lord Chief Justice for a decision.
- 5.22 In the absence of the Chair from a meeting, one of the non-executive directors is appointed by the Board to chair the meeting.
- 5.23 Committees and sub-committees of the Board may be created by the Board under terms of reference agreed by it.

### **Accountability of the Board and removal of members**

- 5.24 The Board reports to the Lord Chancellor and the Lord Chief Justice on the performance of its functions and on all matters that it sees fit, in addition to any other matters on which it is asked to report.
- 5.25 The judicial members are accountable to the Lord Chief Justice in respect of their conduct as members of the Board and may be removed subject to a process agreed between the Lord Chancellor and the Lord Chief Justice. Removal from the Board will not impact on the member's judicial appointment.

- 5.26 The other members of the Board are accountable to the Lord Chancellor for their conduct as board members. The Lord Chancellor may remove these members from the Board subject to a process agreed between the Lord Chancellor and the Lord Chief Justice and consistent with any appropriate Civil Service requirements.
- 5.27 A loss of the confidence of either the Lord Chancellor or the Lord Chief Justice in a member of the Board may be a factor in invoking such processes.

## 6 THE CHIEF EXECUTIVE

- 6.1 The Chief Executive is responsible for the day-to-day operation of HMCS and the leadership of its staff. He works under the general direction of the Board and in accordance with this Framework Document. The Chief Executive is held to account by the Board, in particular for the delivery of the HMCS budget and plans and the efficient and effective delivery of HMCS business.
- 6.2 The Chief Executive is ultimately accountable to the Lord Chancellor and owes a duty to him and the Lord Chief Justice for the effective and efficient operation of the courts. He is accountable to the Permanent Secretary, or his delegate, for his personal performance. He is designated as Agency Accounting Officer by the Principal Accounting Officer and is accountable to that person and to Parliament for those responsibilities.
- 6.3 The Chief Executive's responsibilities include:
- the efficient and cost-effective day-to-day management of HMCS;
  - providing effective leadership to the staff of HMCS;
  - ensuring that the Board is provided with high-quality, impartial, transparent, independent and honest advice on all areas of its responsibilities;
  - consulting the Board on the broad operational structure of HMCS;
  - the performance of HMCS staff;
  - advising the Board on sound risk management; and
  - representing HMCS on government boards and committees in accordance with the general directions of the Board.
- 6.4 The Chief Executive has direct access to the Lord Chancellor, the Lord Chief Justice and other departmental ministers.



## **7 THE JOINT DUTY**

- 7.1 All staff of HMCS owe a joint duty both to the Lord Chancellor and to the Lord Chief Justice for the efficient and effective operation of the courts.
- 7.2 The extent to which staff fulfil this joint duty is reflected in the annual appraisal reports of all HMCS senior civil servants and those in the courts who work most closely with the judiciary, particularly the court managers, listing officers and legal advisers.
- 7.3 Staff are subject to the direction of the judiciary when they are supporting the judiciary in the conduct of the business of the courts in matters such as listing, case allocation and case management in accordance with existing Crown, county and magistrates' courts processes.
- 7.4 Existing line management arrangements and terms and conditions are not affected by this Framework Document.

### **Regional and local arrangements**

- 7.5 Arrangements at the Royal Courts of Justice, regional, area and local levels include participation in the administration of HMCS by the Presiding Judges (or by judges, justices, Justices' Clerks or legal advisers nominated by the Lord Chief Justice or by the Presiding Judges). This involvement requires discussion of significant issues such as budgets, the estate and important appointments. Such arrangements are put into effect in accordance with the general directions of the Board.

## **8 ACCOUNTABILITY TO PARLIAMENT**

### **Parliamentary committees**

- 8.1 The Chief Executive and the Permanent Secretary or his delegate may be asked to appear before the Committee for Public Accounts concerning their respective Accounting Officer responsibilities.
- 8.2 The Lord Chancellor and the Lord Chief Justice discuss invitations received from other parliamentary committees relating to HMCS and decide, in consultation with those committees as necessary, who is most appropriate to attend consistent with their responsibilities.

### **Parliamentary Commissioner for Administration**

- 8.3 The administrative work of HMCS is subject to the jurisdiction of the Parliamentary Commissioner for Administration (PCA). Under section 110(2) Courts and Legal Services Act 1990, work done by HMCS at the direction or on the authority (whether express or implied) of a judge or a person acting in a judicial capacity is not, however, subject to the PCA's jurisdiction.
- 8.4 The Permanent Secretary is the Principal Officer of the Department for the purposes of PCA referrals, but he delegates responsibility for reporting and replying on matters concerning HMCS to the Chief Executive.
- 8.5 The Chief Executive of HMCS reports PCA referrals that raise significant issues to the Board and keeps it informed about the action being taken.

### **Parliamentary questions and parliamentary correspondence**

- 8.6 The Lord Chancellor and other members of the departmental ministerial team normally respond personally to parliamentary questions or correspondence addressed to them by a Member of Parliament (MP) or peer.
- 8.7 If the question or correspondence relates to the day-to-day operation of HMCS, the executive directors may be consulted on the response. In providing information or assisting in responses, HMCS staff act in accordance with their joint duty.
- 8.8 The Chief Executive, and other members of HMCS staff, may receive correspondence direct from an MP or peer on matters concerning the day-to-day operation of, or services provided by, HMCS. They will respond to such correspondence directly in a manner consistent with their joint duty, raising any issues of significance with the HMCS Board.
- 8.9 If the question or correspondence relates to matters solely within the responsibility of the Lord Chief Justice, it is referred to the Lord Chief Justice in accordance with the written memorandum between the Lord Chancellor and the Lord Chief Justice.

- 8.10 If correspondence or a question relates to a complaint about the conduct of a judicial office holder, the Lord Chancellor normally responds personally as the minister accountable to Parliament for the judicial discipline system. If the Lord Chancellor's reply to such correspondence includes information about disciplinary action to be taken against that judicial office holder, or about the investigation of a complaint, the reply is approved by the Lord Chief Justice, as he is jointly responsible for the discipline system.

## **9 FINANCE, RESOURCE ALLOCATION AND PLANS**

- 9.1 There are three stages in the settling of the financial resources for HMCS:
- HM Treasury (HMT) allocates resources to the Department through the settlement agreed consequent upon the Public Expenditure Allocation (PEA).
  - The Lord Chancellor makes an allocation to HMCS from this settlement in accordance with his duty under section 1 Courts Act 2003 and his oath of office under section 17 Constitutional Reform Act 2005.
  - The Lord Chancellor and the Lord Chief Justice agree the budgets and plans which set out how this allocation will be spent.
- 9.2 No change may be made to the allocations to HMCS or its budgets or plans other than in accordance with the principles set out below.

### **The Public Expenditure Allocation and the allocation to HMCS**

- 9.3 The PEA process is conducted as follows:
- HMCS staff prepare a bid for resources for consideration by the Board; when the Board approves the bid, it is submitted to the Department.
  - The Department scrutinises and negotiates the bid with the HMCS Board representative(s).
  - The Lord Chancellor and the Lord Chief Justice consider and, where possible, agree the elements of the Department's PEA bid which relate to HMCS.
  - The Lord Chief Justice writes to the Lord Chancellor representing the views of the judiciary on these elements, and the Lord Chancellor encloses this letter with his bid to HMT.
  - The Lord Chancellor and the Department's officials (with the support and involvement of HMCS officials and judges as necessary) negotiate with HMT until the departmental settlement is reached.
  - The Lord Chancellor conveys the final departmental settlement to the HMCS Board and to the Lord Chief Justice, along with any response from HMT to the Lord Chief Justice's letter.
- 9.4 The process for the allocation of resources from the Department to HMCS is conducted as follows:
- The allocation for HMCS for the spending review period is negotiated as necessary between the HMCS Board representative(s) and the Department.
  - The Lord Chancellor and the Lord Chief Justice consider this allocation.
  - The Lord Chancellor decides the allocation.

- If the Lord Chief Justice has concerns about the allocation to HMCS, he may record his position in writing to the Lord Chancellor and, if he so wishes, to Parliament.

### Annual reviews

- 9.5 Following the PEA settlement, the budgetary allocation is reviewed and, if necessary, negotiated annually between the HMCS Board representative(s) and the Department in accordance with the principles set out above.

### In-year reviews

- 9.6 The budgetary allocation is reviewed, and if necessary, negotiated in-year between the HMCS Board representative(s) and the Department in accordance with the process set out in paragraph 9.4 above.

### The development of the HMCS budget and plans

- 9.7 The Board initiates and develops the budget and plans for HMCS. The plans include any performance standards agreed for HMCS through the process set out in Chapter 10. The Board finalises the budget and plans following the financial allocation.
- 9.8 In doing so, the Board works with the Department, the judiciary and other organisations, and within the aim and objectives agreed by the Lord Chancellor and the Lord Chief Justice.
- 9.9 The strategy for HMCS for each spending review period is published in a strategic plan that includes:
- the aim and objectives for HMCS, including Public Service Agreement (PSA) and performance standards;
  - how it plans to meet these objectives and standards;
  - supporting proposals to improve the operation of the court system;
  - the capital programme, including new buildings, major repairs and information technology (IT) development; and
  - the operating assumptions (including available resources and shared services) on which the strategies are based.
- 9.10 The detailed activities for HMCS in the forthcoming financial year are published in an annual business plan. The plan includes:
- the priorities and work programme for the year as derived from the strategic plan;
  - PSA and HMCS performance standards against which HMCS will measure its performance and achievements; and
  - the operating assumptions and budget on which the plan is based.

- 9.11 The Lord Chancellor and the Lord Chief Justice approve the budget and plans for HMCS.

### **Financial management**

- 9.12 Reports on HMCS financial performance are submitted regularly to the Board in line with its responsibilities. These reports are provided at such times, and in such manner, as the Board determines.
- 9.13 Reports on HMCS financial performance are supplied to the Department at such times, and in such manner, as the Department reasonably requires. In the event of any significant concerns being raised, these are drawn to the attention of the Board.

### **Financial delegations**

- 9.14 The Principal Accounting Officer makes delegations to the Chief Executive, which he may revise from time to time. The delegations and any changes are reported to the Board.
- 9.15 Subject to standard government supply procedures and the financial delegation authority, the Chief Executive has authority to approve all expenditure within the Departmental Expenditure Limit and the delegated authority which is consistent with the strategic and business plans for HMCS.
- 9.16 The Chief Executive is accountable for expenditure on the operation of HMCS in delivering its services and for the income it receives for those services. The Chief Executive must be satisfied that expenditure on services provided to HMCS by the Department (and which are not therefore within the agency) have effective management systems, including financial monitoring and control systems.
- 9.17 The Chief Executive, as the Agency Accounting Officer, has the right to approve all items of expenditure, use receipts, let contracts, write off losses and make special payments which are within the provision of this Framework Document and consistent with the strategic and business plans. Responsibility for expenditure is at the relevant delegated level in HMCS, consistent with the needs of financial control and propriety.
- 9.18 The Chief Executive has responsibility for ensuring that HMCS can account for its assets.
- 9.19 The Chief Executive follows the guidance on the treatment of losses and special payments set out in *Managing Public Money* and the *Ministry of Justice Finance Manual*. All claims of a value exceeding these limits should be referred to the Department.
- 9.20 HMCS capital and change programmes have in place effective governance arrangements agreed by the HMCS Board and the Department through which expenditure on those programmes is managed.

## Internal delegations

- 9.21 The Chief Executive delegates to other HMCS officers authority to purchase goods and services (including manpower), pay invoices and use receipts, as far as considered necessary, within the needs for financial control and propriety.
- 9.22 Funding is allocated as formal budgets to the heads of the units concerned, who are personally responsible for ensuring that their expenditure is consistent with the policies of HMCS and the ambit of the Department's vote from Parliament. Delegated authorities are clearly defined in a finance manual or equivalent instructions, and are consistent with the rules of *Managing Public Money* and the internal accounting policies laid down by the Chief Executive.

## Court fees

- 9.23 Fees are set in accordance with section 92 Courts Act 2003, with the consent of HMT.

## General accounting rules

- 9.24 HMCS is subject to the rules and policies laid down by HMT in *Managing Public Money*, *Financial Reporting Manual* and other accounting instructions that are issued from time to time.

## Annual Report and Accounts

- 9.25 The Chief Executive, as Accounting Officer, is responsible for producing and signing an audited Annual Report and Accounts on the performance of HMCS during the previous financial year.
- 9.26 The Chief Executive obtains the approval of the HMCS Board to the Annual Report and Accounts, which include:
- a review of the agency's activities during the year;
  - performance against the annual business plan;
  - a true and fair view of the agency's financial position;
  - the agency's Statement on Internal Control; and
  - any additional information the Lord Chancellor and the Lord Chief Justice may require.
- 9.27 The Annual Report includes a set of annual financial accounts prepared on an accruals basis. The accounts are produced in accordance with a direction issued by HMT under section 7 Government Resources and Accounts Act 2000 and are audited by the Comptroller and Auditor General. The Lord Chancellor lays the Annual Report before Parliament.

- 9.28 Information on performance against central government financial performance measures and HMCS financial performance standards is included in the notes to the accounts. Information relating to such measures is within the scope of the Comptroller and Auditor General's audit. Information on performance against non-financial performance measures is recorded in the Annual Report.
- 9.29 HMCS publishes its Annual Report before the start of summer recess in the financial year following the year to which it relates.



## 10 PERFORMANCE STANDARDS

### Public Service Agreements and other central government measures

- 10.1 The process for setting PSAs and other performance standards or objectives is normally conducted at the same time as the PEA, although occasionally measures may be agreed at other times.
- 10.2 The process for setting PSAs and other central government measures is conducted as follows:
- The HMCS executive team works with the judiciary, the Department and other government departmental officials on any PSAs or other central government measures proposed which may impact on HMCS.
  - The HMCS Board considers proposals from the executive team, together with information on the resources and the plans required to deliver the proposed measures.
  - The HMCS Board then considers what advice it should give to the Lord Chancellor and the Lord Chief Justice on the proposed PSAs or other central government measures, including their practicality, achievability and consequences.
  - The Lord Chancellor and the Lord Chief Justice consider and discuss the advice and identify the issues which arise; the Lord Chief Justice may set out in a letter any matters in relation to the proposals about which he has a concern.
  - The Lord Chancellor and the Department's officials (with the support and involvement of the HMCS and the judiciary as necessary) negotiate with HMT and other government departments until an agreement is reached; any letter from the Lord Chief Justice is placed before the relevant ministers.
  - PSAs or other central government measures that impact upon the judiciary only bind the judiciary when the Lord Chief Justice has expressly agreed that they do so. No such PSA or other central government measure fetters the exercise of judicial discretion or the interests of justice in any individual case.
  - The Lord Chancellor conveys to the Lord Chief Justice the agreement reached along with any specific points in response to the Lord Chief Justice's letter.
  - If the Lord Chief Justice has concerns about the PSAs or other central government measures agreed in relation to HMCS, he may record his position in writing to the Lord Chancellor and, if he so wishes, to Parliament.

### HMCS performance standards

- 10.3 As part of developing the plans and budgets for HMCS, the Board may develop supporting performance standards for HMCS designed to meet the aim and objectives agreed between the Lord Chancellor and the Lord Chief Justice. Such performance standards may include 'end-to-end' standards, such as the time taken from when proceedings are commenced to when they finish. Such a standard

covers the period when judicial activity may impact on the achievement of the standard; the standard will apply to this period or activity, save in any case where it is inconsistent with the interests of justice to do so.

- 10.4 These performance standards are approved by the Lord Chancellor and the Lord Chief Justice.

### **Performance management**

- 10.5 Reports on HMCS performance are submitted to the Board in line with its responsibilities. These reports are provided at such times, and in such manner, as the Board determines. The Chief Executive draws to the attention of the Board any concerns he may have, together with his advice as to the steps that should be taken.
- 10.6 Reports on HMCS performance are supplied to the Department at such times, and in such manner, as are reasonably required by the Department. In the event of any significant concerns being raised, these are drawn to the attention of the Board.
- 10.7 The HMCS Board reports to the Lord Chancellor and the Lord Chief Justice on performance on a quarterly basis. If performance in any area of HMCS business becomes a cause for significant concern, an immediate report is submitted to the Lord Chancellor and the Lord Chief Justice. If the Lord Chancellor or the Lord Chief Justice has any concerns, these are raised with the Board.
- 10.8 The Chair of the HMCS Board, together with the Senior Presiding Judge, the HMCS Chief Executive, the Permanent Secretary or his delegate, may attend discussions with the Lord Chancellor or the Lord Chief Justice about the performance of HMCS.
- 10.9 The Lord Chief Justice is responsible for all matters relating to judicial performance management. Where the HMCS Board considers a matter raises such issues, it will refer them to the Board's judicial members for action.

## **II POLICY**

### **Policy development either within HMCS or within the Department**

- 11.1 Under the general direction of the Board, HMCS develops and implements policy which is about operational guidance to the courts. It consults and works with the judiciary and others in the criminal, family and civil justice systems, where necessary, and with the concurrence of the Department where appropriate.
- 11.2 The Department consults HMCS on all policy and legislative proposals which it is developing that may have an operational impact on the courts. Where such proposals raise significant issues, they are reported to the Board.
- 11.3 Mechanisms shall be agreed between the Lord Chancellor and the Lord Chief Justice as to how to deal with particular policy developments that may not fall clearly within the ambit of paragraphs 11.1 or 11.2.

### **Policy development outside the Department**

- 11.4 The Department consults HMCS on all policy and legislative proposals being developed by other government departments on which it is consulted and which may have an operational impact on the courts. The Department ensures that HMCS advice is reflected in its departmental response. Where such proposals raise significant issues, they are reported to the Board.
- 11.5 The provisions in this chapter do not affect the operation of the convention under which the Government may consult the judiciary on legislative proposals.

## 12 AUDIT AND INSPECTION

### Internal audit

- 12.1 The Chief Executive is responsible for making arrangements for the provision of internal audit services within HMCS. The Department's Internal Audit Division or other auditors may be used, provided that the service is delivered according to the standards and best practice set by HMT and, in particular, in adherence to the Government Internal Audit Standards.
- 12.2 The Department's Internal Audit Division has a right of access to HMCS in support of the Permanent Secretary's responsibilities as Principal Accounting Officer.

### The Audit Committee

- 12.3 The Audit Committee is a sub-committee of the Board appointed by the Board according to standards and best practice set by HMT to support the Chief Executive as Agency Accounting Officer.
- 12.4 The Audit Committee is chaired by a non-executive director. It advises on HMCS corporate governance, risk and control systems and is supported by Regional Audit Committees in each of the six regions and in Wales.
- 12.5 The Audit Committee advises the HMCS Board and Agency Accounting Officer on:
- strategic processes for risk management, control and governance;
  - accounting policies and the accounts of the organisation;
  - planned activity and the results of both internal and external audit;
  - the adequacy of the management response to issues identified by audit activity;
  - assurances relating to the corporate governance requirements for the organisation;
  - where appropriate, proposals for tendering for internal audit services or for the purchase of non-audit services from contractors who provide audit services;
  - the delivery of services to HMCS, as well as on the impact on the operation of HMCS of any programmes or projects being undertaken either jointly with, or external to, HMCS (i.e. by the Department or any other organisation); and
  - the outcome of investigations on any matter brought to its attention within the scope of its duties.
- 12.6 The Chair of the HMCS Audit Committee ensures that effective arrangements for communication with the Department's Corporate Audit Committee are maintained.

## External audit

- 12.7 The Comptroller and Auditor General audits HMCS expenditure and income, examines their regularity and propriety and certifies and reports on HMCS's Statement of Accounts.
- 12.8 The Comptroller and Auditor General sends copies of all management letters and correspondence relating to those letters to the HMCS Director of Resources, who draws issues of significance to the attention of the Board.
- 12.9 The Comptroller and Auditor General has access to HMCS's books and records by virtue of the National Audit Act 1983 for the purposes of carrying out examinations into the economy, efficiency and effectiveness with which HMCS has used its resources and discharged its functions.

## HM Inspectorate of Court Administration

- 12.10 Under sections 58 – 61 Courts Act 2003, HM Inspectorate of Court Administration (HMICA) inspects and reports to the Lord Chancellor on the services provided to the magistrates' courts, Crown Court and county courts.
- 12.11 The reports provided to the Lord Chancellor are shared with the Lord Chief Justice and the HMCS Board.
- 12.12 HMCS will report on any matters set out in any HMICA report which may give rise to significant concern on the part of the Lord Chancellor or the Lord Chief Justice.

## **13 SHARED SERVICES**

- 13.1 The Department may provide services to HMCS. Such services are provided at a local and regional level within a national framework.
- 13.2 Some support functions are provided by HMCS; others are provided by the Department.
- 13.3 In the latter cases, there are agreements made between the HMCS Board (or its representatives) and the Department.

### **Estates**

- 13.4 The Department provides facilities for HMCS headquarters from within its corporate estate.
- 13.5 HMCS separately controls a significant estate provided for court accommodation.
- 13.6 The management of the HMCS estate forms a key element of the business and strategic plans for HMCS.
- 13.7 In developing the provisions in such plans, the HMCS Board collaborates with the Board of the Tribunals Service and other agencies with the objective of achieving the best use of resources and delivering services that meet the needs of the justice system.
- 13.8 The HMCS Board is represented in discussions at a departmental level by the Chief Executive. The HMCS Board may ask for advice from a representative of the Department on the wider departmental estate strategy when considering related issues.

### **Decisions on the estate reserved to the Lord Chancellor**

- 13.9 The Lord Chancellor has specific statutory duties under the Supreme Court Act 1981, the County Courts Act 1984 and the Courts Act 2003 in relation to the location and closure of courts.
- 13.10 In line with his ministerial and parliamentary accountability, the Lord Chancellor pays particular attention to the estates elements of HMCS plans and takes the final decision in individual cases raising issues on the location and closure of courts.
- 13.11 The Lord Chancellor takes these decisions after the appropriate public and judicial consultation and on advice approved by the HMCS Board.

### **Human resources**

- 13.12 The Department works in partnership with HMCS managers to deliver human resource (HR) services.
- 13.13 A Memorandum of Understanding sets out the details of how the arrangements work and the obligations as to efficient and effective delivery of the HR services. Where expectations are not met, the Chief Executive and the Department's HR Group Director General discuss and agree action.

13.14 The Department consults the Chief Executive, along with the other department business heads, to set common HR policy in the following areas:

- conduct and discipline and grievance procedures;
- reward management, including pay, grading and benefits;
- managing organisational change;
- managing attendance;
- employee relations;
- learning and development; and
- workplace support.

13.15 The Chief Executive has authority delegated from the Permanent Secretary for the creation and management of posts beneath SCS level.

13.16 The Chief Executive ensures that the necessary arrangements are in place for consultation with the Departmental Trade Union Side at a national level and with the Regional and Area Consultative Committees at a local level.

### **Information technology services**

13.17 Infrastructure, including desktop and mobile computing as well as support for business applications, is provided to HMCS by the Department.

13.18 There are Service Level Agreements in place between the Department and IT suppliers, and a Memorandum of Understanding between the Department and HMCS sets out shared expectations regarding service provision and performance standards.

13.19 In developing the plans for IT, HMCS collaborates with the Tribunals Service and other agencies with the objective of achieving agreement on arrangements for the common management and use of IT.

## 14 RELATIONSHIPS WITH OTHER ORGANISATIONS

14.1 HMCS works in a co-operative and consultative manner with all bodies, including other government departments, that have an interest in its work and with which HMCS can engage to deliver an efficient and effective service that is accessible to, and valued by, its users. These bodies include the following:

- **Courts Boards**

Courts Boards have statutory functions to provide scrutiny, review and recommendations under sections 4 and 5 Courts Act 2003. The Chief Executive ensures that appropriate arrangements are in place to take account of their recommendations.

- **Court users**

HMCS ensures that there are appropriate arrangements in place to ensure that the views of users are taken into account, through Court User Committees, customer surveys and such further measures as HMCS takes forward to secure corporate achievement of the Charter Mark standard.

HMCS is committed to ensuring that any complaints receive constructive responses in line with the published complaints procedure.

- **Judicial Appointments Commission**

The Judicial Appointments Commission (JAC) is responsible for the independent selection of judicial office holders.

HMCS advises on judicial resource requirements and works with the JAC, the Ministry of Justice and the Judicial Office of England and Wales to improve and streamline the processes for the appointment of judicial office holders.

- **Local Criminal Justice Boards and the National Criminal Justice Board**

Local Criminal Justice Boards (LCJBs) bring together criminal justice agencies to examine and co-ordinate activity to deliver agreed objectives across the criminal justice system. HMCS is represented on LCJBs by its Area Directors.

The Chief Executive, and other representatives of the HMCS Board as may be agreed, attend the National Criminal Justice Board, which provides leadership and support to the LCJBs.

- **Judicial Office of England and Wales**

HMCS works with the Judicial Office of England and Wales to ensure the best possible advice and support to the judiciary.



- **Civil and Family Justice Councils**

The Civil Justice Council (CJC) is an advisory body with responsibility for overseeing and co-ordinating the modernisation of the civil justice system. Representatives of HMCS attend and advise the CJC as appropriate.

The Family Justice Council (FJC) promotes an inter-disciplinary approach to the needs of family justice, monitors the effectiveness of the system and advises on any necessary reforms. Representatives of HMCS attend and advise the FJC as appropriate.

- **The Rules Committees**

The Civil, Family and Criminal Procedure Rules Committees seek to ensure that their respective justice systems are accessible, fair and efficient through setting appropriate procedural rules. HMCS supports each of these committees.

- **The Legal Services Commission**

HMCS works with the Legal Services Commission in the administration of means-tested legal aid in the magistrates' courts and the processing and validation of fee claims in the higher criminal courts.

## 15 REVIEW, TERMINATION AND INTERPRETATION

- 15.1 This Framework Document will be reviewed formally every three years under arrangements agreed between the Lord Chancellor and the Lord Chief Justice.
- 15.2 This Framework Document may be reviewed at any other time if either the Lord Chancellor or the Lord Chief Justice so wish on the basis of arrangements that the Lord Chancellor and the Lord Chief Justice will agree at that time.
- 15.3 Any amendments to this Framework Document must be agreed by the Lord Chancellor and the Lord Chief Justice, and by an HMT minister.
- 15.4 Any departure from the provisions of this Framework Document must be agreed in writing on a case-by-case basis between the Lord Chancellor and the Lord Chief Justice, or their delegates, and an HMT minister if appropriate.
- 15.5 If, after discussion and negotiation, the Lord Chancellor and the Lord Chief Justice are unable to agree on a matter that requires their joint approval under the provisions of this Framework Document, the Lord Chancellor will be entitled to make whatever decision about that specific matter he considers appropriate in order that he might meet his statutory duty under section 1 Courts Act 2003. By doing so, he automatically initiates a review under paragraph 15.2 above. The Lord Chancellor and the Lord Chief Justice would then agree whether their partnership should continue and, if so, on what basis both during the review and subsequently. If the Lord Chancellor and the Lord Chief Justice are unable so to agree, the partnership will be terminated.
- 15.6 The Lord Chief Justice is entitled to terminate the partnership if he concludes that it is no longer compatible with his constitutional position or the independence of the judiciary. By doing so, he likewise automatically initiates a review under paragraph 15.2 above.
- 15.7 If the partnership is terminated for whatever reason, the governance of HMCS will revert to a conventional agency model reporting directly to the Lord Chancellor unless and until a new model is agreed between the Lord Chancellor and Lord Chief Justice or a different legislative framework is put in place. Any detailed arrangements consequent upon the termination of the partnership will be dealt with in the review.
- 15.8 The Lord Chancellor and the Lord Chief Justice will, as soon as reasonably practicable, notify both Houses of Parliament if the partnership is terminated or if there are amendments to this Framework Document.
- 15.9 Copies of this Framework Document and any subsequent amendments will be laid before both Houses of Parliament. Copies are available on HMCS and judicial websites.
- 15.10 Any questions concerning the interpretation of this Framework Document will be resolved if possible by agreement between the Chair of the HMCS Board, the Senior Presiding Judge, the Chief Executive and the representative of the Department, and, in default of agreement, will be referred for decision to the Lord Chancellor and the Lord Chief Justice.





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