HM TREASURY

TREASURY MINUTES

Government responses on the Fourteenth to the Eighteenth Reports from the Committee of Public Accounts
Session 2010-11

Cm 8042 March 2011

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Treasury Minutes on the Fourteenth to the Eighteenth Reports from the Committee of Public Accounts Session 2010-11

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Fourteenth Report

Department of Health (DH); Department for Communities and Local Government (DCLG) and HM Treasury

PFI in Housing and Hospitals

Report Summary from the Committee

The Department of Health and the Department for Communities and Local Government (the Departments) are responsible for sizeable portfolios of PFI projects covering hospitals and social housing. By April 2009 there were 76 operational PFI hospitals in England and over 13,000 homes had been built or refurbished through PFI, representing a small but significant part of investment in social housing. The letting of contracts and the responsibility for managing them is devolved to NHS Trusts and local authorities. The Departments are responsible for overseeing their PFI programmes and reporting to the public and Parliament on value for money. This includes establishing the funding arrangements, approving contracts and providing support to the local projects.

As with previous Reports, the Committee again found no clear and explicit justification and evaluation for the use of PFI in terms of its value for money. However, the Committee accepts that the then Government gave the Departments no realistic alternatives to PFI as the procurement route to use for these capital programmes.

The Committee's other concerns are central government's failure to use the market leverage that comes from overseeing multiple contracts, and the lack of robust central data to support effective programme management.

Whilst PFI has delivered many new hospitals and homes which might otherwise not have been delivered, there is no clear evidence of whether PFI is any better or worse value for money than other procurement routes. There were instances where PFI may have been used where there was no evidence that it was the best procurement route. The Government should be doing more to identify the circumstances where PFI works best, capture the lessons learned from PFI procurements and apply clear criteria to future decisions over identifying the best route for particular public infrastructure investments. For instance, the Committee expects any procurement decisions on the housing projects whose future is now being reconsidered in the context of the Comprehensive Spending Review to be made using clear value for money criteria.

It is clear that the implementation of PFI projects could be improved. Many PFI housing procurements have taken very much longer and cost a great deal more, than originally planned. On hospitals, most are receiving the services expected at the point contracts were signed and are generally being well managed. There are, however, wide and unexplained variations in the cost of hospital support services, such as cleaning, catering and portering.

There are important developments in the PFI market which affect the profitability of these contracts and the Committee is concerned that government is missing a trick in failing to secure the appropriate financial advantages for the taxpayer. Specialist financial institutions have been bundling projects together. This gives them the prospect of greatly enhancing the value of their interests in the projects through economies of scale.

The Committee is very concerned that the Department of Health has not approached the major investors and contractors to negotiate a share in these efficiency gains and economies of scale. Departments should exploit the commercial weight and buying power that comes from letting substantial contracts, but at present neither central government nor the local bodies benefit from this. At a time of public spending constraints there is an obligation on government to secure better deals for the taxpayer, as government has done before when successfully securing a share of PFI refinancing gains.

A lack of good quality central data undermines the Departments' ability to monitor performance, to drive efficiency savings and effectiveness improvements, and to target support to local providers. For example, the Department of Health does not know whether services provided more cheaply in some

locations are better value for money, or alternatively poor quality, or reflect inconsistencies in the way costs are recorded.

It seems that the central team in the Department of Health is already under-resourced and unable to secure proper value for money from these contracts. It would be a false economy to have weak central teams that are unable to implement our recommendations, all of which are aimed at delivering better value for money in the long term. The issues facing housing and hospitals will also be relevant to other PFI programmes.

On the basis of two Reports by the Comptroller and Auditor General, the Committee examined the Department of Health and the Department for Communities and Local Government on their management of PFI programmes to deliver hospital support services and procure social housing.

Government responses to the Committee's conclusions and recommendations

PAC CONCLUSION AND RECOMMENDATION 1

There is no clear evidence to conclude whether PFI has been demonstrably better or worse value for money for housing and hospitals than other procurement options. In many cases local authorities and Trusts chose the PFI route because the Departments offered no realistic funding alternative.

There have, however, been long delays and cost increases affecting many early PFI housing projects, as well as wide and unexplained variations in the cost of PFI hospital support services. The Departments should prepare and publish whole-programme evaluations which assess PFI against alternative procurement routes using clear value for money criteria. The evaluations should include the merits or otherwise of including support services in the contracts.

1.1 The Government partially agrees with the Committee's recommendation.

Department of Health:

1.2 Although the Department does not propose to carry out a whole programme evaluation given the likely cost of such an exercise, it will carry out a critical review of all the information contained in the presently available post project evaluation and Gateway review reports from those PFI schemes that are already operational.

1.3 This review will help to support the pipeline of new PFI hospital deals in procurement and the existing Treasury value for money analysis completed before the department approves any PFI deal to proceed. The review will also help the Department to refresh its existing guidance on the decision whether or not to include support services in future procurements.

Department for Communities and Local Government:

1.4 As requested by current Ministers, and as an integral part of the Spending Review 2010, the Department is reviewing the value for money of the Housing PFI programme as it now stands: that is the schemes now in procurement. The Department will draw on this analysis to inform decisions on whether or not to continue to support Housing PFI projects in procurement. The analysis and conclusion will also aid the Department to advise, assist and require local authorities, as appropriate, to improve the value for money of Housing PFI projects in procurement that continue to receive Departmental funding support. The Department will make available a summary of the results of its value for money assessment, currently proposed by the end of August 2011. The published assessment will respect the confidentiality and sensitivity of commercial data.

1.5 The Department's review has focused, for practical reasons, on Housing PFI projects in procurement. The Department believes that this analysis and general guidance on procurement will be sufficient for assessing and optimising the VFM of the current housing programme. The value for money assessment is based on benchmark costs (the database referred to at the PAC hearing). If a future PFI programme were to be developed then we would apply this VFM framework in full which was based on these costs and make it available before progressing the programme.

1.6 The Department's value for money assessment has considered Housing PFI with other housing investment routes, principally Decent Homes for refurbishment work and the National Affordable Housing Programme for new-build housing. The Department is comparing and assessing the costs and value for money of a wide range of capital investment and revenue operational elements of projects through these investment routes (including housing management and other support services).

1.7 The Department is at an advanced stage of its value for money review of Housing PFI projects in procurement. Decisions by the Department are expected by the end of March 2011. The Department is clear that value for money must be the primary focus in selecting the appropriate housing investment route at programme and project level and on the continuation of funding support for individual projects in procurement. The framework developed for analysis, comparison and assessment of value for money across housing investment programmes will be maintained over the Spending Review period.

PAC CONCLUSION AND RECOMMENDATION 2

PFI housing contracts have cost considerably more than originally planned and, on average, have been let two and a half years late.

The Department for Communities and Local Government must ensure that the actions it has been taking to address previous programme failings will result in future projects being delivered to time and within cost.

2.1. The Government agrees with the Committee's recommendation.

Department for Communities and Local Government:

2.2 A Major Projects Review Group (MPRG) assessment of the sixth round of the Housing PFI programme identified a number of issues associated with previous rounds of the programme, including long procurement times and cost increases. The Department has since reviewed how both cost estimation and procurement times could be improved.

2.3 This review has involved discussion with the Treasury and Partnerships for Schools on more effective approaches to PFI project development and procurement, and identifying factors that are contributing to cost and process uncertainty, within current projects, that lead to higher procurement costs and extended procurement timescales. The Department has arrived at a set of provisional conclusions and – following consultation with the Treasury and Local Authorities – intends to revise its Housing PFI guidance to reflect these findings.

2.4 The Department is not at present supporting schemes other than those in procurement. For any future projects the Department would require, at Outline Business Case (OBC) stage, all local authority tender documents to be complete, and future derogations from the Housing PFI Standard Contract would only be permitted for value for money reasons. More robust cost benchmarking of capital and revenue costs and financial assumptions would also be required at OBC stage. As a condition of the Department's approval at OBC stage, Local Authority Chief Executives would be required to sign a Memorandum of Understanding to commit to the project as it stands, to the revised procurement processes and to the agreed target procurement timescale.

PAC CONCLUSION AND RECOMMENDATION 3

Following the Comprehensive Spending Review, the future of remaining PFI housing projects is uncertain.

In taking forward plans for delivering new and improved housing, the Department should ensure that the choice of procurement route, PFI or otherwise, is based on clear and transparent value for money criteria.

3.1 The Government agrees with the Committee's recommendation.

Department for Communities and Local Government:

3.2 The Department is currently undertaking a review of the value for money of the Housing PFI programme currently in procurement following Spending Review 2010. This value for money review has assessed this PFI programme against other housing investment routes, principally Decent Homes for refurbishment works and the National Affordable Housing Programme for new-build housing. The Department is clear that value for money must be the primary focus in the selection of the appropriate procurement option both at programme and project levels.

3.3 The framework developed by the Department for the assessment of value for money across the range of housing investment programmes will be applied over the Spending Review period,, ensuring that the choice of housing investment procurement route is subject to ongoing value for money testing.

The Department will make available a summary of its Housing PFI value for money assessment later in 2011, ensuring transparency and to help develop further operational savings.

PAC CONCLUSION AND RECOMMENDATION 4

The Department of Health, in failing to negotiate with investment funds centrally, is not using its own buying power to leverage gains for the taxpayer.

Specialist investment funds have interests in large numbers of PFI projects. One fund, Innisfree, has acquired interests in a substantial portfolio of hospital projects. The bundling together of projects by these investors gives them the prospect of taking added value from economies of scale, with no benefit to the public sector at a time of severely constrained public finances. Central negotiations with investors have proved successful in the past in securing a share of refinancing gains for the public sector. Central government is currently negotiating with major suppliers to seek better deals from a range of existing contracts. The Department of Health and other departments with PFI programmes should similarly negotiate with major PFI investors and contractors to secure better deals for the taxpayer.

4.1 The Government partially agrees with the Committee's recommendation.

Department of Health:

4.2 The Committee is right to draw attention to the voluntary Code of Conduct in respect of refinancing early PFI contracts previously negotiated by the Treasury. The Department is aware that the Treasury plans a further voluntary code of conduct with the PFI industry following its pilot project, as set out in the draft document: *Making savings in operational PFI contracts.*

4.3 The Treasury and Cabinet Office recently announced the pilot to determine how best to extract savings from NHS PFI schemes, would be the PFI project at the Queens Hospital in Romford. The Department is fully supportive of the Treasury initiative and will be working closely with the pilot project review team.

4.4 Once the pilot project is complete and the Code of Conduct negotiated, the Department will disseminate the lessons learned and support the use of the Code. It is important to note that each and every health PFI contract is held at a local level by the local trust and is not held centrally by the Department. These contracts are locally designed and negotiated to meet the needs and priorities of the local health economy, so all lessons may not be replicable across the NHS.

Department for Communities and Local Government:

4.5 The Department is not a direct procurer of PFI projects but sponsors local authority PFI projects in the housing, fire and joint service centre sectors, and as such does not have the legal right to negotiate individual local authority contracts. Local authorities are legally responsible for the procurement and management of their PFI projects including agreement of the initial commercial contract terms and for the subsequent negotiation of any changes to contracts with the contractor. Local authorities have a direct service and financial interest in ensuring the value for money procurement and ongoing delivery of their PFI contracts.

4.6 However, as the sponsor of local authority PFI projects the Department does have a legitimate interest in, and responsibility to the taxpayer for ensuring the value for money of operational PFI projects. Through its value for money review of Housing PFI projects in procurement, the Department is developing a database to enable it to advise local authorities with Housing PFI projects on both the hard and soft facilities management cost elements of their projects. The Department intends through the HCA to support local authorities upon request to improve the VFM of their operational projects.

4.7 The Department and the HCA is considering how to undertake the role and responsibilities set out by the Treasury in its January 2011 guidance, *Making Savings on Operational PFI Contracts - Draft*. This includes the provision of advice on unit costs, ensuring the sharing of best practice through PFI networking groups and advising on and approving local authority changes to existing projects that may materially alter value for money. The Department will also work with the Treasury and Infrastructure UK to share experience and facilitate operational savings on a cross-sectoral basis.

PAC CONCLUSION AND RECOMMENDATION 5

The Departments do not routinely collate sufficient accurate data on the costs and performance of their PFI contracts.

Monitoring and improving value for money depends on local projects having access to good quality information from across the programmes. Both Departments should define minimum data requirements and then take responsibility for ensuring that information collected from and distributed to local projects is complete, accurate and consistent. The Department of Health and the Foundation Trust regulator Monitor should embed these data requirements in Foundation Trusts' terms of authorisation so that they are mandatory.

5.1 The Government partially agrees with the Committee's recommendation.

Department of Health:

5.2 The Department does not propose to increase the current level of mandatory information gathering above that which it already undertakes. The Department already collects a wide variety of NHS provider costs via the Estates Return Information Collection.

5.3 Local health economy priorities and decisions dictate the precise scope of services delivered, and their quality, frequency, standard and purpose. The resulting cost of the service reflects these local issues as well as other local factors.

5.4 The reforms of the NHS will continue to encourage local prioritisation and decision making and will empower providers even further, giving them more autonomy and accountability to set in place services which are locally appropriate and not restricted by top-down management. In designing these services, organisations need to define their data and costs such that best relate to these local services. Blanket mandatory information gatherings cannot be tailored to deal with all of the variation required to set in place locally defined services. As a consequence, the problems associated with ensuring data is consistent and comparable are so great, that they do not enhance the information available to trusts and far outweigh the benefits of such an exercise.

5.5 The Department already provides a contact network and it will continue to work with trusts to create opportunities for data collection or exchange on a voluntary basis. The pilot project will, hopefully, provide data which trusts can use to challenge the cost of their PFI projects.

Department for Communities and Local Government:

5.6 Local authorities have been required to provide Housing PFI project datasets through a set of standard forms (proformas) at Outline Business Case, Pre-Preferred Bidder Final Business Case (FBC) and Preferred Bidder FBC approval stages. Datasets have also been required when particular issues arise e.g. on affordability, funding and value for money. The proformas cover all key project input and output data and assumptions including new-build capital costs, refurbishment capital costs, lifecycle capital costs, revenue operational management and maintenance costs and both capital and revenue funding and affordability. Authorities have also provided datasets for the current Spending Review 2010 review of the value for money of Housing PFI projects in procurement.

5.7 The Department has developed a framework using this data to aid the evaluation of the Housing PFI programme, to allow the Department to benchmark and assess the costs, financial assumptions and value for money of projects in procurement against its database and to help local authorities benchmark projects and improve their value for money. The database has access to the full range of data already available across the Departmental group. The analysis and conclusions reached will be used to advise, assist and require local authorities, as appropriate, to improve the value for money of Housing PFI projects in procurement that continue to receive Departmental funding support.

5.8 The Department already collects proforma datasets of Housing PFI projects that have reached financial close, in particular during the construction phase. In parallel, the Department and the HCA intend to ask local authorities to provide additional data on intended wider benefits to be realised by Housing PFI projects, e.g. in terms of regeneration. This combination of proforma datasets, wider operational project monitoring returns and the production and maintenance of benchmark costs and values should provide a coherent framework for ongoing collection and use of data.

PAC CONCLUSION AND RECOMMENDATION 6

There are no mechanisms built into generic PFI contracts to test the continued value for money of maintenance work during the contract period.

The requirement for buildings being maintained to high standards over the life of the contract is supposed to be a key benefit of PFI. Yet around 20% of hospital Trusts were not satisfied with the maintenance service. Unlike services such as catering and cleaning, maintenance is not subject to a value for money review during the contract period, so contractors do not face the threat of losing the contract if they are uncompetitive. The Treasury, in consultation with Departments, should identify how value for money tests and incentives to improve maintenance could be built into the contract.

6.1 The Government partially agrees with the Committee's recommendation.

HM Treasury:

6.2 Appropriate risk transfer is a cornerstone of the PFI model, and one element of this concerns the private sector partner taking responsibility for ensuring assets are maintained to an agreed standard for the life of the contract. The standardised PFI contract contains provisions that allow a contracting authority to:

- request a survey of the assets;
- make deductions from the unitary charge where it is demonstrated that standards are not being maintained; and
- require the private sector partner to take remedial action, improve the standard of service, and return the asset to the agreed standard where these standards are not maintained.

6.3 The transfer of maintenance risk over the life of the contract – tying the long-term maintenance of an asset to the initial construction – is one of the key intended benefits of the PFI model. However, the Treasury recognises that different contract structures may be appropriate where more flexible maintenance requirements exist. As part of the current workstream considering a broader range of infrastructure delivery models, the Treasury will consider the range of options around the ongoing provision of maintenance services over the lifetime of a contract.

6.4 The Treasury also recognises that there are some questions around the current quality of contract management, which may result in good contracts not achieving the desired outcomes. The Treasury has developed, with the NAO, a best practice model[1] for Departments which sets out behaviours to support projects during the operational phase and will continue to work with Departments to address any problems with contract management and ensure contracts are managed effectively.

6.5 Further, it is Treasury policy to recommend that all PFI projects, whether at central or local authority level, undergo a full OGC Gateway Process Review. The Treasury worked with the former Office of Government Commerce (OGC), to develop a PFI specific annex to *Gateway Process Review 5: Operations review and benefits realisation*[2]. This review aims to confirm that the benefits set out in the Business Case are being achieved and that the operational service (or facility) is running smoothly.

[1] http://www.hm-treasury.gov.uk/d/ppp_managing_complex_capital_investment_programmes.pdf
[2] http://www.ogc.gov.uk/documents/final_book_5.pdf

PAC CONCLUSION AND RECOMMENDATION 7

Local procuring authorities will be at a disadvantage compared to the private sector if the Departments do not provide sufficient central support.

Central Departments need to have adequate resources to: collect data and carry out programme evaluations; exert market leverage and identify opportunities for efficiency gains; and share good practice with the local projects and offer support to them. It would be very disappointing if the public sector as a whole lost value for money from its PFI contracts because the Departments were losing their capability through reducing the costs of central administration. The Committee looks to the Department for Communities and Local Government to deliver on its commitment to keep its support capacity at an appropriate level. The Committee also expects the Department of Health to firm up plans for the future of its PFI Unit and for Trusts to contribute to a club to procure contract management support. Trusts should confirm that they will actively engage with the club.

7.1 The Government agrees with the Committee's recommendation.

Department of Health:

7.2 Whilst the role of the Department will evolve to reflect the proposed changes to the NHS, it is acknowledged that trusts should have access to an appropriate level of central support. This central support must be useful, relevant and be value for money.

7.3 The Department already provides valuable central support and it will continue to work with trusts to help shape the central support they require in the future as projects develop and change. It is hoped that trusts will take a greater control over the PFI club over time.

Department for Communities and Local Government:

7.4 The Department re-affirms the commitment made by its Permanent Secretary to the Committee to keep its PFI support capacity at an appropriate level. The Department is mindful of its ongoing PFI responsibilities and obligations covering programme governance, management and delivery across operational projects, projects in procurement and, as arising, new projects. The Department is also mindful of the increasing importance of its role and responsibilities in respect of operational PFI projects including provision of advice to local authorities on value for money, consideration and approval of proposed material changes to projects and working with Treasury and Infrastructure UK on centrally-driven cross-sectoral value for money changes to PFI projects under consideration.

7.5 The Department is currently reviewing the resources required by the Department and its Homes and Communities Agency for the governance, management, delivery and advice on its housing, fire and joint service centre PFI programmes and projects. This review is taking into consideration the Department's Spending Review 2010 decision not to continue to support Round 6 Housing PFI pipeline projects. The review will also pay regard to the outcome of the Department's current value for money review of Housing PFI projects in procurement. The Department will continue to apply the level and quality of resources needed to effectively undertake its responsibilities and operate efficiently.

PAC CONCLUSION AND RECOMMENDATION 8

The Committee's recommendations are directed at the programmes for housing and hospital projects but are also relevant to other PFI programmes across government.

In the Government's response to this report, the Treasury should outline its plans to support all departments in maximising value for money from their PFI programmes in the current economic climate. The Committee expects the Treasury to comment specifically on the evaluation of PFI as a procurement route, on using market leverage and on the sufficiency of central data.

8.1. The Government partially agree with the Committee’s recommendation.

HM Treasury:

8.2 In February 2011 the Treasury launched a pilot project to identify the scope for achieving savings in operational PFI contracts. The contract for the Queen’s Hospital in Romford project will be scrutinised by an experienced team of commercial, legal and technical advisors to identify ways of reducing ongoing costs on behalf of the local NHS Trust. The lessons will then be used to drive savings across the full portfolio of PFI contracts.

8.3 The Treasury has also engaged with all Departments to discuss and drive forward Departmental plans to assist projects to make savings, where possible. The Treasury has always encouraged Departments to coordinate programmes of similar projects, and to ensure that projects within the same sector regularly meet to share lessons learnt. The Treasury also encourage knowledge sharing across sectors and regularly hold best practice meetings between departmental Private Finance Units to facilitate this. These forums, along with a level of central coordination, allow programmes of projects to use their scale to leverage improved terms, to improve value for money.

8.4 The Treasury recognises the value of a wide range of procurement routes and Treasury policy remains that PFI should only be pursued where it demonstrates the best value for money. Furthermore, Treasury scrutiny and approvals processes require proposed PFI projects to demonstrate that PFI offers better value for money when compared to a conventionally procured alternative, and would expect information from existing projects to feed into this analysis. The Treasury are currently working to improve the existing value for money framework, and will publish revised guidance later in 2011.

8.5 While the Treasury do maintain a level of central data, it is important to ensure that the scope of data collected does not overburden contracting authorities, and that the Centre has sufficient resource to gather this data. However, the Treasury recognises that robust and extensive centralised data will be an important tool in ensuring the improved value for money of projects moving forward. As such, the Treasury will be working with Departments to improve the data collected across all infrastructure projects, and to ensure that it can be used to benefit the full spectrum of projects.

Fifteenth Report

Department for Education (DFE)

Educating the next generation of scientists

Report Summary from the Committee

A strong supply of people with science, technology, engineering and maths skills is important for the UK to compete internationally. The starting point is a good education for children and young people in science and maths.

The Department for Education (the Department) has made impressive progress on aspects of science and maths secondary education. The numbers studying separate GCSE biology, chemistry and physics (known as 'Triple Science' when studied together) have risen by almost 150% between 2004-05 and 2009-10. There has been a rapid increase in the number of pupils taking A-level chemistry and maths, though physics has increased more slowly. Attainment has also improved as take-up has increased.

Nevertheless, there is a risk that this progress will not be maintained. Pupils' desire to continue studying science and maths depends on whether they enjoy the subjects and how well they achieve. As emphasised in the Government's White Paper *The Importance of Teaching,* good teaching is key to both enjoyment and achievement. However, there are still not enough teachers with strong subject knowledge in science and maths entering the profession. In 2009-10 there were over 115,000 entries to GCSE biology, 113,000 to chemistry and 112,000 to physics. Another 40,000 pupils entered A-level chemistry, and almost 70,000 A-level maths. If the higher numbers of pupils taking science and maths are to achieve good results, they need to be taught by teachers with the specialist knowledge to teach these subjects well.

Teaching environments are also vitally important in improving take-up and achievement in science, but there is evidence that science facilities in many schools are unsatisfactory and even unsafe. Despite this, the Department does not intend to collect information on the extent of the problem, and has abandoned targets for improving the condition of these facilities.

The Department has made progress in rationalising programmes aimed at increasing numbers of young people coming through the school system with science- and maths-related skills. While there were some 120 Department-led initiatives in 2004, the Department now focuses on funding around 30 major programmes at an annual cost of around £50 million. Evidence of these programmes' effectiveness is broadly positive, although financial pressures will mean less funding for them in future. In deciding which programmes to discontinue and which to pursue, the Department should be sure it understands the impact of different programmes, building on evaluations already carried out, so that it retains a coherent set of the most effective programmes.

In some schools, advice and guidance on science- and maths-related careers is poor. Knowledgeable and enthusiastic teachers can establish links with careers in the outside world, but they need the support of school leaders, as well as good-quality resources and activities, to improve pupils' awareness of the career opportunities that follow from studying science and maths. The Department must approach the challenge of improving school science and maths through a coherent, system-wide strategy rather than as a number of initiatives operating in isolation. This strategy will need to ensure that key success factors such as GCSE Triple Science, specialist teachers, good-quality science accommodation, quality careers advice and programmes to increase take-up and achievement are made available in a concerted fashion in all areas of the country.

As more autonomy is given to schools, the Department must develop an accountability framework that gives schools strong incentives to put all key elements in place for the benefit of their pupils. While schools will have the main responsibility for tracking their own progress, we see a continuing role for the Department in collecting sufficient information to know that the strategy is working, and to identify clearly where it is not. This will generally be the same information that schools are collecting to monitor and report their performance locally, so the question of extra bureaucracy should not arise. Once underperformance is identified, the Government will need to determine how action can be taken to tackle it, so that no pupil is denied a science and maths education that matches their abilities and ambitions.

On the basis of a Report by the Comptroller and Auditor General, the Committee took evidence from the Department on increasing take-up and achievement, improving teaching staff and facilities, and developing a more coherent strategy for school science and maths.

Government responses to the Committee’s conclusions and recommendations

PAC CONCLUSION AND RECOMMENDATION 1

There has been good progress in take-up and achievement in science and maths by children and young people up to the age of 18, but opportunities are still denied to some. Studying Triple Science at GCSE gives a better chance of success at A-level. While the numbers studying this option rose by almost 150% between 2004-05 and 2009-10, many pupils who could benefit from it are still missing out. Thirty per cent of schools were still not offering Triple Science in 2010, and National Audit Office analysis of 2009 data showed that it was less widely available in more deprived areas.

Reflecting the White Paper’s emphasis on narrowing attainment gaps between pupils from different parts of society, the Department should repeat the National Audit Office’s analysis on 2010 data to establish whether pupils in disadvantaged communities still have less access to Triple Science.

1.1. The Government partially agrees with the Committee’s recommendation.

1.2. It is true that a smaller proportion of pupils who are eligible for Free School Meals (FSM) enter Triple Science, and fewer pupils in areas with higher deprivation are entered for Triple Science. Similarly schools with higher levels of FSM pupils are less likely to have pupils entering Triple Science.

1.3 Schools in local authorities with high proportions of pupils eligible for FSM are less likely to offer Triple Science. However the proportion of schools with pupils entering Triple Science has increased markedly from 2009 to 2010 in the majority of authorities, including those with high proportions of pupils eligible for FSM. Indeed, Tower Hamlets is the most deprived local authority in the country, and yet every maintained mainstream school in this authority offered Triple Science in 2010.

1.4 The Department will produce further analysis investigating whether this means that pupils in more deprived areas did have less access to Triple Science in 2010.

PAC CONCLUSION AND RECOMMENDATION 2

Good-quality teaching is essential to increasing children’s interest, enjoyment and achievement, but progress in increasing the number of specialist physics and maths teachers has been slow. It is highly unlikely that the Department will meet its targets for numbers of such teachers, and further progress could be undermined as the Department reviews financial incentives for science and maths graduates to become teachers.

The Department should evaluate the various means by which it seeks to recruit such teachers, and focus its resources on those which are proving most effective.

2.1. The Government agrees with the Committee’s recommendation.

2.2. The Schools White Paper[3] announced the Government's intention to reform the way in which new and existing teachers are trained and developed. The White Paper sets out a number of steps we will be taking to meet our policy aims. That includes ensuring that teaching is sufficiently attractive to the country's most able young people by developing and extending routes into teaching which have proved to be attractive to this group. The Department is currently evaluating all the routes into teaching and in the light of the reforms to higher education and to student finance announced following the Browne Review, will publish for consultation shortly detailed proposals for the funding of initial teacher training from academic year 2012-13.

[3] *The Importance of Teaching*, Cm 7980, November 2010

PAC CONCLUSION AND RECOMMENDATION 3

The Department needs to reconcile its policy of greater autonomy for schools with its expectation that they will employ appropriately qualified teachers.

As part of its plans for schools to publish details of their teachers' qualifications, it should develop an indicator for schools to report the proportion of their science and maths teachers with specialist knowledge relevant to the subject they teach.

3.1. The Government agrees with the Committee's recommendation.

3.2 Information on the level and subject of all teachers' post A-level qualifications and for secondary school teachers the curriculum subject they teach forms part of the new annual School Workforce Census. From April 2011, information from the new School Workforce Census will be published on the qualifications and deployment of secondary school teachers as part of the School Workforce Statistical First Release. The data from the Census will enable the Department to provide annual analysis on the subject specialisms of the current teaching workforce, including the proportion of science and mathematics teachers with specialist knowledge relevant to the subjects they teach. This will enable the Department to monitor progress and ensure resources and initiatives are targeted appropriately.

PAC CONCLUSION AND RECOMMENDATION 4

There is evidence that some school science laboratories are poor quality and even unsafe, but the Department has no data on the extent of the problem. The Department does not collect data on the quality of school laboratories, as it wishes to reduce the administrative burden on schools. Safety of pupils is, however, of paramount importance.

The Department should work with Ofsted and others who have looked into the problem, such as the Royal Society of Chemistry, to understand the scale of the challenge faced. It should ensure that all available relevant information is used in its current review of capital spending, so that the review includes a full assessment of the urgency of this requirement alongside other demands on the capital budget.

4.1. The Government agrees with the Committee's recommendation.

4.2. It has made clear that building condition needs to be a priority in determining how Government capital is allocated for building, rebuilding and refurbishing school buildings. That prioritisation will depend on improvement in the information on school buildings and in the management of all relevant information. Improvement of information systems needs to take account of the central cost of information management and the bureaucratic burden on school and local authority staff. The balance between improvement and cost of improvement will be one of the decisions taken following the conclusion of the capital review; the review is expected to report in the spring and the implications will be considered.

PAC CONCLUSION AND RECOMMENDATION 5

There are plans for fewer top-down, centrally funded programmes in future, with decisions on participation and access devolved to individual schools. Currently, the Department funds around 30 such programmes at a cost of around £50 million a year. Some of these programmes have been evaluated and found to have a positive impact on take-up and achievement of science and maths.

In deciding which programmes to continue, the Department should ensure it has properly evaluated all major programmes to identify which are most effective, and which combination of programmes provides a coherent package of support for schools. It should maintain sufficient information to target these programmes at those areas and schools which need the most help.

5.1. The Government agrees with the Committee’s recommendation.

5.2. The Department has evaluated major programmes that have been running for some time, funded as part of the Science, Technology, Engineering and Mathematics (STEM) Programme up to March 2011. However, some centrally funded programmes have not been running long enough to have proved their effectiveness but there are usually early indications. Although individual projects can be evaluated against their key performance indicators, it can be difficult to isolate single factors responsible for increasing take-up and achievement.

5.3. Future support for science and maths will reflect the Government's priorities and reflect available evaluation evidence. They will need to be focused on areas of deprivation and particular groups that need more support, for example encouraging more girls to study physics. Whereas the STEM Programme also covered technology and engineering, the Schools White Paper signals that future focus will be on science and maths. Although there will still be some centrally funded and targeted programmes, the Department is looking to schools to take responsibility for setting their own priorities and to decide which support programmes best meet their needs.

PAC CONCLUSION AND RECOMMENDATION 6

The quality and availability of careers advice and guidance in schools is variable, and careers work is especially vulnerable to expenditure reductions because its outputs are not directly measured. Careers advice works best when it involves knowledgeable and enthusiastic teachers who establish good links with the outside world.

The Department should take account of the lessons from its Career Awareness Timeline Pilot in developing those career awareness programmes that are currently delivered nationally, and encourage schools to involve science and maths teachers in providing careers advice.

6.1. The Government agrees with the Committee’s recommendation.

6.2. The STEM careers awareness timeline pilot led by the University of Warwick, together with careers awareness work led by Sheffield Hallam University, has produced some useful practical planning and audit tools for schools. These provide prompts which help to make careers work more effective, for example by providing careers information to young people at the most appropriate times and developing better links with local employers to showcase the range of STEM careers opportunities. The Centre for Science Education at Sheffield Hallam University, in association with Babcock Power, developed a wide range of curriculum resources, and careers workforce resources, and has provided continuing professional development over the life of the project under the theme of "enthusing students, equipping professionals, supporting employers".

6.3. John Hayes MP, Minister of State for Further Education, Skills and Lifelong Learning announced the establishment of an all-age careers service on 4 November 2010. This will build on the best elements of *Connexions* and *Next Steps* bringing together guidance resources for young people and adults. Central to this will be the provision of impartial, independent careers guidance covering routes into further learning and employment.

PAC CONCLUSION AND RECOMMENDATION 7

The Department is planning to place greater reliance on public scrutiny of schools’ performance to drive further progress in take-up and achievement, and the availability of Triple Science.

While relying on local delivery and local scrutiny, the Department must still obtain the information it needs to monitor progress nationally. It should continue to collect, analyse and publish appropriate information to track take-up and achievement in science and maths. Where pupils do not have access to a good science and maths education, the Department should clearly set out a process for intervention which requires schools to address this disadvantage to their pupils.

7.1. The Government agrees with the Committee’s recommendation.

7.2 The Department will continue to collect, analyse and publish appropriate information to track take-up and achievement in science and maths.

7.3 Where lack of progression or poor attainment in core subjects suggest that improvements are needed, the Department will work with local authorities to diagnose the support that is needed to bring about rapid improvements which may include calling in expertise from a local outstanding school or other external intervention.

7.4 The Department is refocusing school inspection by the Office for Standards in Education, Children’s Services and Skills (Ofsted) on core areas relating to teaching and standards of attainment. This will mean more time spent in the classroom, observing lessons, pupils' work and the progress that they are making.

7.5 The Department has funded the Learning and Skills Network to deliver the Triple Science Support Programme (TSSP) to help schools develop a triple science curriculum. Future support is subject to the availability of funding. More broadly, there are currently a number of Government support programmes and activities in place to recruit more specialist science and mathematics teachers run by the Training and Development Agency for Schools (TDA). These include the Transition to Teaching programme and the maths, chemistry and physics accredited courses for existing teachers of maths and science who are not trained specialists in these subjects. The Government has set out its commitment to encourage more top science and maths graduates into teaching. Details have yet to be announced.

7.6 The Department also currently funds the regional network of science learning centres to deliver a range of continuing professional development opportunities for science teachers and technicians.

PAC CONCLUSION AND RECOMMENDATION 8

For public scrutiny to be effective as a lever for performance, schools need to make available sufficient, relevant information to be held to account. Users of this information, such as parents and carers, need a clear understanding of what constitutes good performance.

The Department should set out the information it expects schools to publish, and provide guidance on what good performance looks like.

8.1 The Government agrees with the Committee’s recommendation.

8.2 The Schools White Paper outlined the Government’s commitment to free schools from centralised bureaucracy and government interference, in return for greater accountability to parents and local communities. The programme of reform includes proposals to publish and share comprehensive information about the school and their performance to make it easier for parents, governors and the public to judge how well it is serving its pupils. This work will also include the simplification and modernisation of the current statutory requirements which outline the information which schools must make available for parents. The Department is currently consulting stakeholders on removing the requirement on schools to publish a prospectus annually and introduce a new requirement for schools to publish minimum specified information online.

8.3 Reformed performance tables will continue to play an important role in the accountability system. They will be sharper and more focused on the essentials of a sound education - the new English Baccalaureate demonstrating breadth across key academic subjects (English, mathematics, science, a foreign language and history or geography), and attainment in the basics of English, mathematics and two sciences. In addition, the Department is committed to making all the data they hold on schools available to the public in an easily accessible format. For example school expenditure data was recently published alongside the performance tables. The Department aims to develop a website which will allow parents easy access to a wealth of data on schools through which comparisons can be made against criteria important to the local community.

Sixteenth Report

Ministry of Justice (MOJ)

MOJ: Financial Management Report

Report Summary from the Committee

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

The Department 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. The Committee welcomes the assurances given to it by the Department's Accounting Officer that he and his team are now giving financial management the attention and priority it deserves. The Committee looks forward to seeing the evidence that these improvements really have delivered, and that is why the Committee has decided to call the Accounting Officer to give evidence again in a year's time.

It is essential that the Department 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 Department 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 Department 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 Department, 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 Department 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 Department recovered around 82% of the cost for Family Court and Civil (Magistrates' Court) business. Going forward, the Department 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 the Committee was promised when it last took evidence in 2006. The Department 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, the Committee examined the Department on strengthening accountability, improving financial management and on recovering costs and collecting fines and penalties.

Government responses to the Committee's conclusions and recommendations

PAC CONCLUSION AND RECOMMENDATION 1

The Ministry of Justice (the Department) has much to do to embed strong financial management as standard across its business but the Committee welcome the steps the Department has started to take in order to improve.

The Department should produce a report on progress to this Committee by September 2011 and the NAO will then validate the Department's assessment. The Committee will then take further evidence on its financial management at a hearing in November 2011.

1.1 The Government agrees with the Committee's conclusion and recommendation.

1.2 The Ministry of Justice (the Department) is the first Whitehall Department to use self-assessment against the NAO's model to judge progress, an indication of the seriousness with which the Department takes financial management of its resources. The journey of improvement that began soon after the Department was formed, albeit from a low base, culminated in a self-assessment prior to the Hearing that the Department had established financial management practices that were adequate in supporting the business under stable circumstances and was progressing towards those that would enable it to cope effectively in more challenging times. The NAO have subsequently been able to provide some assurance of the Department's self-assessment process.

1.3 The Department has since developed a Finance Improvement Strategy and Finance Improvement Programme to bring together plans across the Department, its agencies and arm's length bodies (ALBs) to improve the delivery of the Department's financial management over the next four years. The Strategy will support and enable the Department to meet the challenges of the forthcoming Spending Review (SR10) period and beyond, and to deliver the Department's services in new ways.

1.4 Over the next four years the Department's finance function will have an enhanced role in delivering professional finance services across the business. It will ensure that governance, structures and supporting processes underpin effective financial management across the Department. This will be supported by developing the Department's capabilities and embedding the culture change that the Department has already started.

1.5 The Finance Improvement Strategy builds on activity already being taken forward and is being delivered through a Finance Improvement Programme, overseen by the Department's Director General Finance. The Programme is managed within Corporate Finance, in partnership with Finance leads across the organisation, and with oversight by a Programme Board, including lead Finance Directors from across the business. The Department is putting in place an ongoing independent quality assurance process for the Programme. The Department will benchmark its progress against the NAO's FMMM in August 2011 and provide a progress report in time for a hearing in November 2011.

PAC CONCLUSION AND RECOMMENDATION 2

By its own admission, the Department has exercised insufficient control over its arm's length bodies, including the Legal Services Commission. The Committee does not share the Department's view that there is little scope to influence the behaviour of arm's length bodies.

The Department 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.

2.1 The Government agrees with the Committee's conclusion in relation to the Legal Services Commission (LSC) but not with its conclusions in relation to the controls over its other ALBs. The Government therefore partially agrees with the recommendation.

2.2 The relationship between the Department and its ALBs is governed by framework documents that are wholly in line with Cabinet Office guidance and supported by regular accountability meetings. The Department plans to go beyond these standards and has completed a fundamental review of all of its ALBs, enabling progress on plans to both reduce the number and strengthen the accountability and governance of the remaining bodies.

2.3 The review considered whether the ALB should continue to exist taking into account, amongst other things, changes in the policy landscape since the ALB's inception. In 2010, each ALB was considered against the Government's three tests: whether the ALB carries out a technical function (which needs external expertise to deliver), whether the ALB's function needs absolute political impartiality or is it a function which needs to be delivered independently of Ministers to establish facts. Where an ALB passed one or more of the tests, consideration was also given as to whether its current constitution was the right delivery model going forward.

2.4 From April 2011, the Department will have an ALB Governance Division with responsibility for driving up sponsorship standards across the Department, ensuring ALBs are supported by consistent governance arrangements, with clear lines of accountability, as well as periodic review and performance monitoring. The level of scrutiny will be proportionate and determined by a formal, consistent, documented risk assessment with the Principal Accounting Officer sighted on the sponsorship arrangements agreed as a result. ALBs will be expected to move onto the Departments shared service as contracts allow. Interim arrangements will be put in place to import data into the Departments finance systems for reporting purposes.

2.5 A new Framework Document for the LSC, which also extends beyond Cabinet Office guidance, was published in October 2010 clarifying decision-making processes and placing a greater focus on financial accountability, management responsibilities and how the Department and LSC should work better together. The LSC has also implemented a programme of work to address any deficiencies identified. A Financial Stewardship Committee (chaired by the Director General Finance for the Department) is overseeing the LSC's delivery of a stewardship programme to tighten financial management and controls and a permanent LSC Finance Director was appointed in December 2010 (an experienced interim having been in post prior to that).

2.6 As set out in the Consultation Paper *Proposals for the Reform of Legal Aid in England and Wales* published in November 2010, the Government believes that the replacement of the LSC with an Executive Agency of the Department will further strengthen accountability for, and control of, legal aid expenditure. It therefore intends to bring forward legislation as soon as parliamentary time allows. In the meantime, the new framework for the Department's management of the LSC, and the relationship between top management in the two organisations, will ensure a smooth transition to Executive Agency status.

PAC CONCLUSION AND RECOMMENDATION 3

It is simply not acceptable that, after two years of work, the Department 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 Department will not have this information until the end of 2011.

The Committee looks to the Department to bring forward the work it is doing to understand the cost base in the National Offender Management Service (NOMS) and HM Courts Service (HMCS). The Committee expects the Department to be explicit about how it will use this information to drive value for money, and the Committee wants to hear how the Department will develop proposals for similar analyses across the rest of its business.

3.1 The Government agrees that the Department must be explicit about how it will use this information to drive value for money and agrees that the Department must develop proposals for similar analyses across the rest of its business. However, the Government disagrees with the Committee's conclusion and that part of the recommendation to bring forward the National Offender Management Service (NOMS) and Courts costing work.

3.2 The work to specify, benchmark and cost around seventy services delivered in prisons and probation and to develop activity based costing (ABC) for the Crown Court and the Magistrates' Courts is a major undertaking, complicated by the nature of the activities covered - where staff such as prison officers spend their time undertaking multiple tasks. The results of this work are implemented as they are agreed and provide the basis for new ways to drive efficiency and inform budget processes. It is essential that the work is robust and sustainable. This Programme is already being managed as a priority by both NOMS and the Department and is being delivered as quickly as possible within the constraints of the Department's budget and competing priorities.

3.3 Specifications and costings for all prison and probation services will be completed by December 2011, as planned when the Specification, Benchmarking and Costing programme was set up. The 'big ticket' services (for example: Residential Services in prisons and Unpaid Work in probation) had already been prioritised in support of the Spending Review savings. Given the critical importance of the work on specifications and costings to the delivery of savings in NOMS, the reports on the progress of the programme are submitted to both the Transforming Justice Committee (a sub-Committee of the Departmental Board) and the Department's Finance Improvement Programme Board.

3.4 Performance scorecard indicators on the costs of specified services are being developed and tested by NOMS during 2011-12, to support actions to drive down the unit costs of these services. The PREview probation costing system was introduced during 2010 to collect expenditure on each specified service for each probation trust. The results of the first national exercise have been used since November 2010 to support planning for 2011-12, including by enabling comparisons of unit costs. The INview public prison costing system was piloted in 2010 and will be producing data for internal use during 2011-12. More generally, the Department's aim is that the average cost of a prison place will be driven down towards £25,000 (excluding overheads) by the end of the current Spending Review.

3.5 Since January 2009, the HM Court Service (HMCS) has made significant headway using 'Lean' techniques and has completed staff resource requirements for key categories of work and associated costs for Magistrates' Courts and the office administration in the Crown Court. The remaining scheduled ABC work in HMCS, (in-court staff, Crown Court) is due for completion in July 2011. Work to develop a model based on workload and cost drivers for the County Courts, completing the development of ABC in HMCS, will be complete by March 2012.

3.6 Activity based costing information is already used in HMCS as a basis for budget setting. The same information is used for benchmarking regions on specific areas of cost category, to identify efficiencies and good practice. Work is currently underway to incorporate agreed national standard cost as part of allocations for future years. On a quarterly basis, HMCS formally reviews and challenges regional spend based on run rate analysis, jurisdictional analysis, prior year comparison and a workforce planning tool.

3.7 In January 2011, the Department established a Costing Committee to agree the corporate requirements for unit cost data and oversee a programme of work on the development of systems and processes to routinely capture this data. The Department will report on progress for the November 2011 hearing.

PAC CONCLUSION AND RECOMMENDATION 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 Department 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.

The Committee looks to the Department to produce a robust business planning process and to integrate its operational modelling with the full cost information systems it is developing.

4.1 The Government accepts the recommendation, but disagrees with the Committee's conclusion.

4.2 The Department has revised and implemented a robust business planning process in line with Cabinet Office guidance and best practice. The Department has put in place an integrated modelling process, covering flows through the criminal justice system, as well as civil, family and administrative business, which allows the Department to assess the impact that savings in one area will have on others. This financial planning model allows the Department to plan for changes in performance by integrating data from the Analytical Services, Portfolio, Performance and Finance teams.

4.3 This takes account of the best available data, including unit costing exercises, as well as volume forecasts and operational views as to the extent to which potential savings can be delivered. The results are fed into the Department's governance structure to allow senior officials and Ministers to make informed decisions. This modelling was actively used during the recent Spending Review process and formed the basis of budget allocations for the spending review period.

4.4 The Department has implemented a strong governance framework which meets the Cabinet Office guidelines on Departmental Boards. The Department is confident that this will ensure accurate assessment and management of the risks involved with implementing the Spending Review Settlement. As part of this process the Department will regularly update the models developed for the Spending Review and review its delivery of spending plans.

4.5 All change programmes which deliver the Settlement report to the Transforming Justice Committee which monitors risks in individual projects as well as the overall picture. The governance framework requires the sub-committee to escalate issues to the Departmental Board where, for instance a significant over spend is forecast and resources need to be rebalanced. The Departmental Board also receives regular integrated updates on performance and finance through the Departmental Scorecard and can identify areas for concern quickly.

PAC CONCLUSION AND RECOMMENDATION 5

The Ministry of Justice was the only major Government Department not to meet the timetable for delivery of its 2009-10 accounts. The Committee are not convinced that the problems facing the Department in producing its accounts were any more severe than those facing other Government Departments.

The Department must produce its accounts on time in future.

5.1 The Government agrees with the Committee's recommendation, but has reservations about the conclusion.

5.2 The Department has the second largest estate in Government and some complicated Private Finance Initiative contracts and the work required to change the accounting treatment to meet the new IFRS accounting standards was considerable.

5.3 Unlike other Departments, production of the Department's resource accounts pre-Summer recess will always be challenging whilst there is a need to consolidate individual Probation Trusts accounts into the NOMS accounts, as required by the current Treasury approved NOMS Agency Framework document, further complicating the accounts production process. Probation Trust accounts are audited by the Audit Commission in line with the wider Local Government reporting timetable. The high value of some of the accounting entries, especially around the probation staff pension schemes, creates material risks to the Department's accounts. Specific additional reviews have been built into the Department's processes to mitigate these risks, but these further compress the timetable for the accounts' production.

5.4 A robust project management approach to the accounts production has been put in place. An internal project manager has been appointed to co-ordinate accounts production across the Department and internal resources have been identified and redeployed to support the current accounts production teams. In addition, the services of an external accountancy firm have been engaged to supplement those resources and provide technical expertise to enable the Department to lay its accounts before the Parliamentary summer recess.

5.5 The Department is also reviewing its accounts production process and structures to ensure that it has efficient processes and sufficient skilled resources in place to to meet the Clear Line of Sight timetables from 2011-12 and beyond.

PAC CONCLUSION AND RECOMMENDATION 6

The Department 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 Department has consistently recovered 120% of the service costs.

The Committee looks to the Department to set fees so as to ultimately reach 100% cost recovery in a fair and equitable manner.

6.1 The Government agrees with the Committee's conclusion and recommendation.

6.2 The Department remains committed to delivering a simpler and more sustainable fees regime, with the support of the Treasury and Parliament, that delivers full cost recovery for civil and family business and which is based on a solid understanding of the evidence and fits the planned major reforms of the justice system. The Department's aim is that by March 2015 there will be full cost recovery.

6.3 The Department has set up a working party to consider all the issues that create obstacles to full cost recovery. It is already identifying short-term successes and longer term solutions and will report back for the November 2011 hearing.

6.4 A significant amount of the shortfall in income is from fees for which agreement has not been reached to increase to full cost, particularly in family court business. The Department will await the family justice review, who are expected to report by the Autumn, that will provide a blueprint for the family courts and make recommendations about the way family business is brought to and conducted through the courts prior to changing fees in this jurisdiction. Included in the Department's Spending Review settlement are a number of policy and efficiency initiatives that will reduce the volume of cases and the cost of civil and family court business thus reducing the cost.

6.5 It is too soon to know what the precise impact of these changes will be on court fees. Successful delivery of the Department's fees strategy is therefore closely connected with plans in HMCS' civil business strategy for business centres (especially centralising back-office functions, IT, estates and other efficiencies). The benefits of a more streamlined and efficient system will be reflected in the level of fees in the medium and longer term and ensure value for money to the users of the services provided and fairness to the general taxpayer.

PAC CONCLUSION AND RECOMMENDATION 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 Department's primary measure of how effectively court fines are being collected is inadequate. The Department still relies on payment rate, despite our conclusion after our 2006 hearing that the payment rate fails to capture the amounts of outstanding arrears.

The Committee looks to the Department to introduce the promised improvements to performance measurement by September 2011.

7.1 The Government agrees with the Committee's conclusion and recommendation.

7.2 Subject to the cost and complexity of the remaining testing phase, the Department will have deployed a new set of management information reports by April 2011 to enable internal management reporting on Financial Penalty performance. The Department plans to run these reports in parallel with existing reports for a year to provide greater assurance enabling the current payment rate indicator to be replaced by April 2012. These reports will improve the quality of management information on both financial penalties and confiscation orders. This will allow the Department to make a more accurate assessment of recoverability.

7.3 Despite the recommendations being made in 2007, the development and introduction of the new indicators has encountered a number of difficulties that ultimately reflect the complexity and challenge of reporting on what are millions of financial transactions per year. For example, this complexity arises from the fact that many fines accounts are consolidated with each other but the individual history and origin of each of these separate accounts needs to be recorded. There are also challenges in recording fines that have been imposed outside of England and Wales.

7.4 The Department had to wait for the full rollout of Libra (which was completed in December 2008) to provide a software platform for the introduction of new reports. Finally, the transformation from the source system to the new reports required a particularly complex process which must be followed by extensive testing before the reports can be used. However, it should be noted that performance has undergone a significant improvement during the last financial year.

7.5 Between April and December 2010 HMCS collected £24 million more than in the same period in 2009. Furthermore, 23 of the 42 criminal justice board areas have reduced their outstanding balances during this period. This is due to a number of factors including the increased focus on early compliance, a number of 'crackdown' blitzes, a new generation of private sector enforcement contracts, the consolidation of HMCS accounting divisions and access to additional tracing data including the Department for Work and Pensions' Customer Information System. The Department is committed to this work and to provide the Committee with assurance on fine collection.

PAC CONCLUSION AND RECOMMENDATION 8

No one Department currently has overall responsibility for overseeing collection of confiscation orders. The Department 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 Department's financial statements.

Concerted efforts to improve collection rates are needed urgently and the Committee looks to the Department to take the lead, through closer working between its Accounting Officer and the Heads of its criminal justice partners.

8.1 The Government agrees with the Committee's conclusion and with the intention behind the recommendation.

8.2 The Department, like other Government Departments, wants to improve collection rates and therefore income.

8.3 The policy responsibility for asset recovery lies with the Home Office. The Ministry of Justice's role, through HMCS, is to collect and enforce low value confiscation orders (usually less than £50,000) where a receiver or restraint order is not involved and where the assets have not been hidden or are not overseas. Since 2005, HMCS has enforced approximately 84% of all confiscation orders, but this represents only 25% by value. Although 100% of the value of all orders are recorded in the Department's accounts, the Department is not responsible for the enforcement of orders that are assigned to other enforcement agencies such as the Crown Prosecution Service, which reports to the Attorney General's Office, or the Serious Fraud Office, part of the Home Office, which largely account for the other 75% by value.

8.4 In order to improve transparency and accountability, the Department is taking action to have those orders for which for which it is not accountable for enforcement assigned to other Departments. This change, if accepted by those Government Departments which are also responsible for the enforcement of confiscation orders, is unlikely to take effect before the 2011-12 financial year.

8.5 In terms of improving collection and enforcement rates, the Department, in conjunction with other Criminal Justice System agencies, is working to identify and resolve blockages in the process and to increase the ability to recover assets, including those held overseas. The forthcoming Home Office strategy on organised crime will set out in more detail how the Government will increase its ability to deprive criminals of their assets.

8.6 The large rise in confiscation orders followed the introduction of the *Proceeds of Crime Act 2002*. These often involve very large orders on hard to reach assets made against serious and organised criminals. Parliament has determined that confiscation orders can never be written off even if an offender dies, cannot be traced or has been jailed and outstanding sums accrue 8% interest annually. The payment rate for orders below £10,000 is above 90%. However, the bad debt provision is deliberately very prudent for the reasons alluded to above.

PAC CONCLUSION AND RECOMMENDATION 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.

9.1 The Government fully agrees with the Committee's recommendation and partially agrees with the Committee's conclusion.

9.2 The LSC has already made considerable progress in this area. In his report on the LSC's qualified accounts for 2009-10, the NAO acknowledged that the situation was improving: "The Commission has made progress: it now has a better understanding of the full extent of risks to the legal aid fund from fraud and error and has improved the data quality and validation of key balances within the accounts. However, the success of the Financial Stewardship Plan will depend on a sustained focus at senior levels to deliver the Plan and the cultural changes necessary to support effective financial management across the Commission's activities".

9.3 The LSC is committed to providing this sustained senior focus. For 2009-10, the LSC took significant steps to categorise and validate the errors identified, through the sampling of provider claims, and to analyse the causes of errors across all legal aid schemes. For 2010-11, as the Committee's report acknowledges, for the contracted schemes the LSC is reviewing 450 cases a quarter to establish the error rate. It is likely that the NAO will rely on this work to establish the extrapolated error rates for 2010-11. This includes a detailed analysis of the types of error. The LSC is using these analyses to target work to recover overpayments made to providers. For 2010-11, the LSC is on target to recover £11 million of overpayments.

9.4 The large majority of errors originate with legal aid providers or clients. As a result the LSC has introduced a new Provider Management Strategy designed to profile provider risk, target areas of greatest concern and improve provider performance. This strategy involves the LSC moving towards a holistic approach to intervening with providers and to target those firms making the most significant errors. In addition the LSC:

- is reviewing and improving its written guidance for providers;
- is enhancing its controls on all legal aid schemes, targeted at the main causes of error identified including, for example, strengthening the testing of eligibility on Civil Representation cases; and
- has improved its internal quality control testing to reduce potential errors made by LSC staff.

9.5 Notwithstanding this activity, the LSC is not able to give a firm date by when it will be out of qualification. It does expect the overall level of errors to reduce although many of the actions outlined above will only have an impact from 2011-12 onwards. With enhanced controls, better guidance and stronger systems, the LSC also expects the level of one-off errors made by providers to reduce but they will still occur. In addition, because of the way errors are extrapolated, small random errors can result in a high extrapolated error. For example, the total value of accuracy errors identified amounted to £48,231 - this was extrapolated to an estimated £43,600,000 of the total Fund at risk. The margin of error to avoid qualification is therefore very small.

Seventeenth Report

Department for Education (DFE)

The Academies Programme

Report Summary from the Committee

Academies are state schools which are independent of local authorities and directly accountable to the Department for Education. They were originally intended to raise educational standards and aspirations in deprived areas, often replacing schools with long histories of under-performance. From May 2010 the Programme was opened up to all schools, creating two types of academy: 'sponsored' academies, usually established to raise educational standards at under performing schools in deprived areas; and 'converters' created from other types of school, with outstanding schools permitted to convert first. By 5 January 2011, there were 407 academies: 271 sponsored and 136 converters.

This report focuses on the performance of sponsored academies; they have performed impressively to date, achieving rapid academic improvements and raising aspirations in some of the most deprived areas in the country. In many cases this has been achieved through high-quality leadership, a relentless focus on standards, and innovative approaches to learning and to the school timetable. The sponsored academies see collaboration across chains or 'clusters' of academies as the way forward which will help to further raise standards and develop future leaders.

An important feature of the sponsored model is the role of the sponsors themselves: individuals or organisations who contribute financially, directly or in kind, and who bring expertise and a new approach to the schools they run. The Committee was impressed by the evidence it took from two sponsors and welcomed their clear commitment to improving the life chances of disadvantaged children. The Committee noted that both sponsors clearly said they did not wish to participate in the new programme of 'converter' academies, as their focus was entirely on improving educational standards for children living in disadvantaged areas attending underperforming schools.

However, there are some emerging concerns to which the Department should have regard. The Committee was concerned that there are already signs of potential financial and governance instability, even at this early stage in the development of the Programme. There needs to be a strong framework with which academies must comply to ensure probity and effective governance across the Programme in the future. While the Department has issued guidance on internal controls and financial management, it has not made important elements mandatory, and many academies are not complying.

From 1 April 2010, most of the functions for funding and monitoring of academies transferred from the Department to the Young People's Learning Agency. The Department and the Agency are planning to overhaul academies' governance and accountability, with an emphasis on light-touch regulation. However, light-touch central regulation can only meet the standards for managing public money if it is accompanied by robust controls at academy level to ensure good governance and clear accountability. The Committee was also concerned that some existing sponsors had failed to fulfil the financial contributions they originally pledged to their academies. The status of some of these debts is unclear and, especially as sponsors of new academies are no longer required to make a financial contribution, there is a risk they will never be paid.

In reducing administrative overheads in the Agency, the Committee considers it imperative that the Department makes sure there is sufficient and appropriate capacity to ensure that academies provide value for money and that fraud and overpayments do not occur.

On the basis of a Report by the Comptroller and Auditor General, the Committee took evidence from the Department and the Agency on academies' performance and achievements, funding and governance, and the implications of enlarging the Academies Programme. The Committee would like to record its gratitude to the United Learning Trust (ULT), and Absolute Return for Kids (ARK), for the valuable evidence they gave the Committee as sponsors of academies.

Government responses to the Committee's conclusions and recommendations

PAC CONCLUSION AND RECOMMENDATION 1

The Committee notes the National Audit Office's value for money conclusion and welcomes the impressive progress made by the Programme of sponsored Academies to date. These Academies have improved pupils' educational achievements and life chances in some of the most deprived communities in the country. This is a credit to the Academies themselves, and to the Department. Ensuring that these benefits are realised as the Programme expands will be a challenge.

Our main concern for the future is that Academies' educational achievements should not be undermined by poor stewardship of the public funds necessary to sustain the impacts of the Programme.

1.1. The Government agrees with the Committee's recommendation.

1.2. The Department welcomes the Committee's conclusion on value for money and the recognition of the progress that the Academies Programme has made. The Department is determined to ensure that the rapid improvement in educational achievements continues in sponsored Academies. This success is in large part due to the high quality of leadership and governance of Academies and the independence they enjoy from local and central government. That is why the programme has been expanded.

1.3. The addition of schools that are already judged good and outstanding can only serve to strengthen further the quality of leadership and governance across the Academy sector. The Government sees no reason why this should lead to a diminution in the stewardship of public funds.

PAC CONCLUSION AND RECOMMENDATION 2

Ensuring that Academies can find enough outstanding school leaders is crucial to the future effectiveness of the Programme.

As it expands the Programme, the Department should work with others to help develop future school leaders. Demonstrating effective leadership should be a requirement of all established and converter Academies.

2.1. The Government agrees with the Committee's recommendation.

2.2. The quality of school leadership is a key determinant of pupils' success. As the Government makes the school system more autonomous, by expanding the Academies Programme and by providing all schools with greater freedom from government control, taking up a leadership role will become more attractive and more important.

2.3. The best schools in the country were invited to convert to Academy status first, because their proven leadership and management capacity means that they are well placed to take on greater responsibility and lead improvement work across the system, including through leading more formal federations and partnerships.

2.4. Schools working together leads to better results, which is why other schools – primary and secondary – that wish to benefit from Academy freedoms now have the opportunity to do so, providing they work in partnership with a high performing school that will help support improvement. These partnerships often support several schools to improve more rapidly – by providing leadership support, a common approach to professional development, and sharing effective practice.

2.5. One in four head teachers are set to retire in the next four years, so maintaining a supply of good quality candidates for headship is critical. The Department considers that the best schools and the best leaders should increasingly take responsibility for growing this next generation of leaders. The Department will reform the existing succession planning programme over time and will create a new national network of Teaching Schools, giving outstanding schools the role of leading the training and professional development of teachers and head teachers. As well as working with the Teaching Schools network as it develops, the Department will continue to support the identification and development of leadership talent in schools through the expansion of third sector sponsored programmes, typified by Future Leaders and Teaching Leaders.

2.6. Some of the country's most successful head teachers have been designated National or Local Leaders of Education. The National Leaders are outstanding head teachers of outstanding schools who commit to supporting other schools. Local Leaders of Education are successful head teachers who offer support to head teachers of other schools through coaching and mentoring. The Department will work with the National College for Leadership and Children's Services (the National College) to double the number of National and Local Leaders of Education by 2015. It will expect the National College to remove the accreditation from any head teachers not continuing to meet the standards. The Department will work with the National College to ensure that National Leaders of Education and Local Leaders of Education continue to be deployed effectively to create productive working partnerships.

PAC CONCLUSION AND RECOMMENDATION 3

Whilst standards have improved, too many pupils still leave primary school with poor levels of English and mathematics, making it more difficult for them to engage with the curriculum and make progress when they reach secondary school.

The Department should encourage sponsors working with Academies in deprived areas to expand into primary schools, for example by taking on responsibility for primary schools located in the same neighbourhood, so that issues of literacy and numeracy are addressed at an earlier stage. The Department should consider allowing more Academies to develop into the primary school sector.

3.1. The Government agrees with the Committee's recommendation.

3.2. Sponsors working with Academies in deprived areas will be and are being encouraged to expand into primary schools. Where primary schools are failing or seriously underperforming, be they in deprived or other areas, it is vital that in the interests of children's education there is rapid intervention to address the problem quickly.

3.3. As announced in the Schools White Paper[4] where a primary school is below the floor standard the Department will make sure that there is focused intervention and support as necessary. The Department is already working directly with the schools and local authorities concerned to make sure that there is a comprehensive plan for responding to problems such as low levels of attainment. In the most serious cases where there has been long-term underperformance, little sign of improvement and serious concern by the Office for Standards in Education, Children's Services and Skills (Ofsted), the Department will work with a local authority to develop an Academy solution for a primary school, partnering them with a strong sponsor or outstanding neighbouring school or schools.

3.4. 26 Academies already offer primary provision as well as secondary provision, and many secondary Academies also currently work with feeder primary schools both to enhance the educational provision and to ease the transition across phases. Three primary sponsored Academy projects have already been given initial ministerial approval to develop their proposals with a view to opening in September 2011, and many other such projects are in train; and 44 primary converter academies are already open. A detailed analysis of 2010 data is now underway to identify the primary schools most in need of support, with a particular focus on those with poor levels of pupil attainment, to increase the number of sponsored primary Academies projects in the future.

[4] *The Importance of Teaching,* Cm 7980, November 2010

PAC CONCLUSION AND RECOMMENDATION 4

Many Academies have inadequate financial controls and governance to assure the proper use of public money, and the Department and Agency have not been sufficiently rigorous in requiring compliance with guidance.

In developing a new financial handbook and governance framework, the Agency should make it compulsory for all Academies – sponsored and converter – to comply with basic standards of governance and financial management. This should include segregation of key roles and responsibilities, and timely submission of annual accounts.

4.1. The Government agrees with the Committee's recommendation.

4.2. The Young People's Learning Agency (YPLA) has been asked to undertake a review of its financial relationships with Academies. Stewardship of public funds is a fundamental part of this review. The review is being conducted with a working party of Academy finance directors, principals and sponsors. The NAO has already been involved in the review and will continue to be so. Most outcomes of the review will be in place for the 2011-12 academic year underpinned by a new Academies' financial handbook. The review will:

- clarify the overall accountability requirements for Academies;
- ensure accountability requirements are clearly communicated through funding agreements supported by a revised and considerably shortened and simplified financial handbook for the 2011-12 academic year;
- clarify and strengthen the assurance which Academies, YPLA and the Department can take from Academies' external auditors for the 2011-12 academic year;
- consider the need to strengthen the role of each Academy's 'accounting officer', 'responsible officer' and director of finance or equivalent for the 2011-12 academic year;
- reduce the current number of returns required from Academies – a previous requirement to submit in February 2011 two separate draft income and expenditure budgets for the academic year 2011-12 has already been withdrawn;
- enable Academies from February 2011 onwards better to self assess their own financial management and governance arrangements so they can strengthen their systems where that is needed; and
- establish from April 2011 onwards a programme of direct assurance work by YPLA to support and validate Academies' self assessments. This programme will be a risk based sample of 5% of academies every year.

4.3. YPLA and the Department are mindful that robust financial controls and governance arrangements need to be put in place, while not creating unnecessary additional burdens on Academies nor inhibiting their freedom to improve education standards. The review will result in a streamlined system of in-year financial reporting for Academies, whilst ensuring that the necessary financial controls and governance are in place. The Department and YPLA will also clarify the circumstances under which material financial and governance weakness will result in intervention in Academies.

PAC CONCLUSION AND RECOMMENDATION 5

As the Programme expands, there are increased risks to value for money and proper use of public money.

The Department needs to develop sufficient capacity and adequate arrangements to provide robust accountability and oversight of Academies' use of public funds.

5.1. The Government agrees with the Committee's recommendation.

5.2. Academies are independent and are bound as public bodies to observe their charitable trust deed and the general expectations on them to manage their finances and govern themselves well. YPLA on behalf of the Department can help clarify what Academies need to do to comply with their funding agreements.

5.3. YPLA issued on 11 February a self assessment for financial management and governance to allow Academies to be clear what they must do to ensure proper stewardship of public money and value for money. This self assessment is due to be returned for YPLA validation by 11 March. YPLA will also consider what formal annual assurance on proper and regular use of public funds should be required of academies' external auditors.

5.4. YPLA is also developing a self assessment of financial health for June 2011 which will enable academies to strengthen their systems to ensure value for money and robust data for the oversight of Academies' use of public funds.

5.5. There is no doubt that Academies are performing impressively, with significant and sustained improvement. This should be seen against the historic failure of the predecessor schools to deliver a good education for their pupils. Any assessment of the value for money of Academies must recognise the huge waste of resources that is represented by that long term failure, which is now being turned round by sponsored Academies. The Department is confident that this will continue to be the case as the programme expands to allow all schools to benefit from Academy status.

PAC CONCLUSION AND RECOMMENDATION 6

The Department has failed to collect all the financial contributions due from sponsors. The status of some of these contributions remains unclear as payment schedules are abandoned, and now that future sponsors have no such obligations.

The Department should clarify the status and recoverability of these outstanding debts, negotiate clear and realistic payment schedules with the relevant sponsors, and monitor repayment.

6.1. The Government agrees with the Committee's recommendation.

6.2. The Department and YPLA are carrying out a mapping exercise covering Academes' capital sponsorship and endowments. Where appropriate they will be in contact with Academy Trusts and sponsors to discuss any outstanding monies owed.

PAC CONCLUSION AND RECOMMENDATION 7

There is a clear difference between sponsored Academies seeking to raise educational standards in deprived areas and the new converter Academies, which already perform well academically. Neither of the sponsors we heard from were interested in running outstanding schools seeking Academy status. The fact that there are now two distinct dimensions to the Programme increases the Department's challenge in ensuring sound management and accountability.

The Department should clarify the objectives of each strand of the Programme, stating clearly how success will be measured and how Academies will be held to account for their performance.

7.1. The Government agrees with the Committee's recommendation.

7.2. Analysis of the international evidence demonstrates that world class education systems devolve as much power as possible to the front line. It also demonstrates that, alongside school autonomy, accountability for student performance is critical to driving educational improvement. Whilst Academies are accountable to the Secretary of State through their funding agreements, the Government wants all schools to be accountable to parents and the wider community. As set out in the

Schools White Paper, the Department will make much more information about schools available in standardised formats to enable parents and others to assess and compare their performance.

7.3. As part of this process of enabling parents and the wider community to hold all schools to account, the Department is:

- reforming performance tables so that they set out our high expectations that every pupil should have a broad education, a firm grip of the basics and be making progress;

- introducing a new measure of how well deprived pupils do and introduce a measure of how young people do when they leave school;

- reforming Ofsted inspection, so that inspectors spend more time in the classroom and focus on key issues of educational effectiveness, rather than the long list of issues they are currently required to consider;

- establishing a new ‘floor standard’ for primary and secondary schools, which sets an escalating minimum expectation for attainment; and

- making it easier for schools to adopt models of governance which work for them – including smaller, more focused governing bodies, which clearly hold the school to account for children’s progress.

7.4 The Department will put more information into the public domain, including information on expenditure and the amount allocated per pupil, so that it is possible to understand a school’s performance more fully than now.

7.5 Most sponsored Academies are continuing to make impressive year on year improvements, as shown by GCSE results for 2010, and overall the rate of improvement is well above the national average. Sponsorship has been key to transforming some of our most challenging schools. Sponsors have brought added drive, vision, resources and expertise, and have created a culture of raising pupils’ aspirations and expectations.

7.6 The Government recently published new floor standards for both the primary and secondary phases. Those Academies that are below the floor standards will each face different challenges, and many are already improving rapidly now that an Academy has replaced a weak school. In all cases we will ensure that there are plans in place to raise performance above the floor standard. The new Schools Commissioner will have a role to play in ensuring these plans for improvement are robust.

PAC CONCLUSION AND RECOMMENDATION 8

The Department and the Agency have struggled to administer and monitor the relatively small number of Academies to date, and must now cope with a rapid expansion across many more schools.

The Department and the Agency should regulate funding and monitoring to make the processes as efficient as possible, and regularly review their capacity to keep pace with increases in the number of Academies.

8.1 The Government agrees with the Committee’s recommendation.

8.2 The Department keeps under review the requirements of the growing number and greater diversity in the types of Academy to ensure that its capacity and that of YPLA keep pace with developments. Both the Department and YPLA have re-directed resources within their organisations to expand their capacity to fund and to monitor the performance of the increased number of Academies.

8.3 However the rise in the number of Academies should not lead to a corresponding increase in the support capacity. The Government’s policy is that the relationship between the Department, YPLA and Academies should be one characterised by a light touch, reflecting the expectation that successful schools, sponsors, federations and other groupings of Academies will support others. The extension of the opportunity to become Academies to all schools is bringing outstanding schools into the programme. By definition these require a much reduced level of support compared with those opened before September 2010, all of which replaced failing schools and therefore required more intensive support.

8.4 YPLA's financial review of Academies will also look at how the current funding and monitoring arrangements can be tightened up with a view to making them as streamlined as possible while at the same time ensuring there are suitable systems in place to safeguard public funds.

Eighteenth Report

HM Revenue and Customs (HMRC)

HMRC 2009-10 Accounts

Report Summary from the Committee

In 2009, HM Revenue and Customs' (the Department) implemented the new National Insurance and PAYE Service (NPS), the final phase of its project to modernise the collection of income tax through the Pay as You Earn (PAYE) system. The NPS brings together for the first time all of an individual's pay and tax details into a single record and offers the opportunity of increasing the accuracy of tax codes and reducing the likelihood of over and underpayments of tax.

The flawed implementation of the NPS in 2009-10 has resulted in lasting and costly losses for the Department and caused unacceptable uncertainty and inconvenience to the taxpayer. Software problems delayed the processing of 2008-09 PAYE returns until September 2010 - a year late - and data quality issues have further disrupted the issue of tax codes for 2010-11. The Department has failed to tackle a backlog of 18 million PAYE cases from 2007-08 and earlier, affecting an estimated 15 million taxpayers. The exact amounts of tax involved are not known, but estimates suggest £1.4 billion of tax was underpaid and there is £3.0 billion of overpaid tax to be refunded.

The Department failed to understand the impact of the Finance Act 2008 on the deadlines for collecting tax, and so is now unable to collect any of the estimated £650 million underpaid in 2006-07 and earlier. The Department does deploy staff according to emerging problems and priorities; but it is not clear that the Department understands enough about the absolute and relative returns on investment from staff working on different tax streams in order to make decisions which maximise net returns to the Exchequer. As a result of its mismanagement of PAYE processing, the Department has not collected tax due from some individuals and has taken too much from others, causing both uncertainty and inequity in the system.

The Department has launched a programme to stabilise the NPS by 2012. It is vital that it demonstrates the ability of the system to process PAYE promptly, accurately and efficiently and restores customer confidence. In future, it should process everyone's PAYE within twelve months of the end of the tax year. It must also make sure it maximises the net revenue it collects before the deadline expires for 2007-08 underpayments of tax, and that it achieves its aim of processing 2008-09 and 2009-10 PAYE by the end of January 2011.

Based on early successes, the Department has extended its campaign-based approach to the recovery of 90% of tax debt. It is planning further improvements in its debt management capability, but these will not be delivered until October 2011.

The Department has increased its focus on preventing fraud and error in the tax credits system and is aiming to prevent £1.4 billion of error and fraud in awards for 2010-11. It is measuring its progress against a series of targets, which it is currently meeting.

The average taxpayer has a right to assurance that the Department has done all it can to maximise returns to the Exchequer when resolving disputes over large companies' tax liabilities. While the Committee acknowledges the Department's legal duty to respect taxpayer confidentiality, the Committee expects the Department to seriously consider the scope for greater transparency over its procedures for resolving such disputes, so that public confidence in the fairness of settlements with large companies is assured.

On the basis of a Report by the Comptroller and Auditor General, the Committee took evidence from the HM Revenue and Customs on the processing of PAYE, debt management and tax credits.

Government responses to the Committee's conclusions and recommendations

PAC CONCLUSION AND RECOMMENDATION 1

The Department has failed in its duty to process Pay As You Earn (PAYE) accurately and on time.

Problems in delivering the new National Insurance and PAYE Service (NPS) system delayed the processing of PAYE for 2008-09 by a year. The Department did not tell taxpayers of the delay promptly, causing uncertainty and worry for millions of people. The Department also failed to tackle a legacy of processing backlogs going back to 2004-05. It has now run out of time to collect all the tax due before April 2007, and has not yet repaid the millions of taxpayers who paid too much PAYE in these years. As a result, it has failed to collect tax that is properly due, caused uncertainty to taxpayers and treated them inequitably.

1.1 The Government agrees with the Committee's conclusion.

1.2 The Department regrets that so many people have had to wait for their tax affairs to be resolved. In implementing the new system, before taking action to reconcile customer records for the tax years 2008-09 and 2009-10, the Department rigorously tested the functionality of the automatic process and checked test outputs back to the customer record to ensure accuracy. Although the Department could deal with individual customer requests for tax reconciliations from April 2010, the rigorous testing used for the automated process continued until late summer, so that the Department could not start full, live running until September 2010. The Department accepts that it should have advised customers about the delay in reconciling accounts for the year 2008-09 earlier, so that they were better prepared for this outcome.

1.3 The Department acknowledges that it has run out of time to work underpayment cases with tax due before April 2007. The Department has taken action to ensure that it will deal with 2007-08 cases, where tax is due and it holds the relevant information. The Department has also undertaken to deal with cases where taxpayers have paid too much tax in the years going back to 2004-05 by the end of 2012.

PAC CONCLUSION AND RECOMMENDATION 2

The Department has not delivered an acceptable standard of service to PAYE taxpayers.

The Department knew in December 2009 that up to seven million people had over or underpaid tax in 2008-09, yet it did not take steps to identify and inform the individuals involved until September 2010 when it began reconciling PAYE for2008-09 and 2009-10 combined. In January 2010, it began issuing 25 million coding notices for 2010-11, without first establishing why the number of coding notices was massively in excess of its forecast. It then stopped issuing notices when it realised belatedly the extent of errors in the tax codes. The Department must ensure that coding notices are subject to proper quality assurance before being issued, and that taxpayers are told of their individual under and overpayments as soon as practical.

2.1 The Government accepts the Committee's recommendation and has undertaken various actions and initiatives in this area.

2.2 The Department fully agrees there were issues that led to incorrect tax codes being issued for 2010-11 and has apologised to customers.

2.3 The Department also accepts the need to improve the quality of its data and outputs and is working hard to ensure these are much more accurate. It implemented a number of IT fixes and carried out clerical recovery work to cleanse the data on the National Insurance and PAYE Service (NPS) and align it better with information from employers and pension providers. Before the 2011-12 annual coding exercise, the Department carried out rigorous testing and controlled go-live exercises.

These showed a substantial improvement in the accuracy of 2011-12 Coding Notices. The Department is carefully checking the outputs from the live annual coding and these reflect that improved accuracy.

2.4 The Department acknowledges that it was late in reconciling customers' PAYE accounts for 2008-09 and has apologised to customers for the delay. The Department recognises that they will be upset at receiving an unexpected tax bill for 2008-09 and/or 2009-10. It is making payment of these amounts as painless as possible by collecting them by adjustments to PAYE deductions in 2011-12 where feasible and allowing customers to spread payments over a period of up to three years where they need to do so.

2.5 The Department is ensuring that customers' accounts for 2010-11 are brought up to date as soon as possible after the end of the tax year.

PAC CONCLUSION AND RECOMMENDATION 3

The Department failed to understand the risks of poor quality data, which undermined the effective operation of the NPS.

The Department plans to have stabilised the NPS and PAYE processing by 2012, and to have completed the 2008-09 and 2009-10 PAYE reconciliations by January 2011; but a key risk is the 10 million cases still outstanding where there are issues with data quality that require technical or manual intervention. The Committee looks to the Department to be able to clearly demonstrate that it has resolved systemic data quality issues by the end of 2011 and that NPS is delivering the benefits that it was intended to bring - including improved accuracy and speed of processing, and prompt processing of under and overpayments.

3.1 The Government partially accepts the recommendation, and will have made very substantial progress with this by the end of 2011.

3.2 Over 97% of the 2008-09 and 2009-10 reconciliations for cases where it had all the information were completed by 11 February and it expects to complete the balance by the end of March 2011. As well as its data cleansing work, the Department has undertaken a rigorous test and assurance approach prior to the key events in the PAYE calendar, including dry runs to test quality from a customer perspective. The annual coding exercise for 2011-12 has benefitted greatly from this approach and is proceeding well.

3.3 A successful annual coding exercise in early 2011, and a successful end of year reconciliation in summer 2011, will demonstrate that NPS is delivering the intended benefits.

3.4 Looking ahead, the Department recognises the strategic importance of data quality and has initiated data quality improvement work alongside the Real Time Information (RTI) Programme, which will deliver further improvements to PAYE. This data quality work is drawing on the experience of NPS and is reviewing existing data sets and PAYE processes and is involving employers and third party software developers. RTI will deliver changes over the next three years and the Department believes that it needs to continue its work on data quality alongside that programme over the same period.

PAC CONCLUSION AND RECOMMENDATION 4

To keep PAYE processing volumes manageable, the Department decided to raise the threshold for the recovery of underpayments from £50 to £300 for 2008-09 and 2009-10, foregoing £160 million in revenue.

This is inconsistent with the £50 threshold for those taxpayers underpaying in other years, and with, for example, tax credits debtors who do not automatically have debts under £300 written off. In making decisions on thresholds, the Department should consider both the narrow balance of cost and returns for a particular tax stream, but also, with a view to preserving equity between taxpayers, the broader consistency with the decisions it takes in other tax areas.

4.1 The Government partially accepts the recommendation.

4.2 The Department has a duty to treat its customers even-handedly, but always having regard to the need to deploy its finite resources in the most effective and efficient way. Tolerances have always been set at a level to balance operational cost-effectiveness with the Department's responsibility to be fair to the customers affected and the taxpaying population as a whole. Different tolerances have always been applied, depending on the circumstances. These are set by reference to the risks and constraints across different customer groups, taxes, credits and reliefs, and across different years.

PAC CONCLUSION AND RECOMMENDATION 5

The Committee does not yet know the full cost of the problems with NPS implementation.

In its response to this Committee's recommendations, the Department should provide a comprehensive statement of the costs of the NPS, including the estimated cost to the conclusion of the stabilisation programme. The statement should include the costs associated with recovering the processing of annual coding notices and end of year reconciliations exercise, and the revenue foregone as a result of the delays, and clearly set out the assumptions used in coming to these figures.

5.1 The Government agrees with the Committee's recommendation.

5.2 The costs to develop, deliver and implement NPS and recover from the IT problems will be a total of £389 million by 2014-15. Forecast NPS recovery costs up to the end of March 2011 are £20.8 million. This includes costs associated with recovering the processing of annual coding notices and end of year reconciliation exercise. The vast majority of the costs of stabilising the NPS software have been incurred and the estimated costs for 2011-12 are in the region of £250,000.

5.3 NPS will deliver substantial benefits for customers through joining up their data enabling the Department to provide a more accurate and joined up service. It also offers substantial efficiency savings for the department; totalling £532m up to 2014-15.

5.4 The estimate for revenue foregone, arising from delayed implementation of NPS, totals £320 million, and for revenue foregone arising from the impact of recovery actions totals a further £100 million. This is broken down as an estimated:

- £160 million in respect of the application of a £300 threshold to years 2008-09 and 2009-10 in order to manage the delayed reconciliation of two financial years at the same time;

- £160 million in respect of the extension of the £300 threshold to 2007-08 under-payments; and

- £100 million arising from the impact of diversion of resources to recovery work from 2006-07 underpayment case working.

5.5 The figures above are calculated to the Treasury's *Green Book,* which requires the full economic cost of an investment decision. Therefore the £389 million costs include a wide range of costs such as: IT costs; direct and indirect paybill costs; the cost of running of the NPS system up to 2014-15; apportioned overheads (for example: accommodation, existing IT and Telephony, electric); and opportunity costs (for example: training staff on the new system).

5.6 The basis of the revenue foregone calculation is that the total sum of revenue foregone, £160 million, in respect of extended threshold to £300 for 2008-09 and 2009-10, is due to the delay in implementation of NPS. The Tax Commissioners extended the threshold in order to improve the capability of HMRC to manage the scale of two years reconciliation in a single year. For consistency of treatment this threshold adjustment was extended to 2007-08 under-payments, though the final figure for 2007-08 will not be known until data analysis is complete in December 2011. The Department's ability to deliver the plan to recover £100 million of revenue from 2006-07 open cases was directly affected by the delays to NPS and the diversion of resources to annual coding recovery that prevented the planned start of 2006-07 under-payment working on 1 June 2010.

PAC CONCLUSION AND RECOMMENDATION 6

The Department re-employed its Acting Chief Information Officer on a three months contract, equivalent to £600,000 per annum, around four times his previous salary.

This was after he had been unsuccessful in the competition for the permanent post. The Department should make succession plans for the replacement of senior staff well in advance of their departure dates, particularly when such dates are plainly known in advance due to fixed term contract arrangements, as was the case here.

6.1 The Government partially agrees with the Committee's recommendation.

6.2 The Department advertised the post of Chief Information Officer in a fair and open competition. This process was presided over by a Civil Service Commissioner and the best candidate was appointed. He was contracted to give a period of six months notice to his previous employer. To mitigate the major risks facing it in terms of its implementation of NPS and renegotiation of its IT contract with Aspire, the Department followed its own procurement policies and procured the services of its Acting Chief Information Officer on a day rate which was less than the current market rate.

6.3 The Department accepts the importance of making succession plans for the replacement of senior staff. In the period since the cited case it has put in place initiatives to strengthen the calibre and management of talent pipelines and heighten the sophistication and rigour of succession planning at Senior Civil Service (SCS) level.

6.4 Last autumn the Department's Executive Committee confirmed a new operating model to support the Department's customer-centric business strategy. Through this, the Department has established the roles it needs to operate most effectively and has embarked on a rigorous leadership selection process to ensure that the right people with the right skills are in the key roles, starting at the top tiers with the most senior leaders and those roles immediately supporting them. The talent pipeline extends to high performing Grades 6&7 who aspire to the SCS, and beyond this to graduate intakes into professional programmes, particularly for tax professionals, and Fast Stream.

6.5 The initial phase of populating the Department's new operating model started at Director General level categorised as Tier 2, and is now complete. Those SCS roles directly reporting to them Tier 3, which includes Director roles, is nearly complete. This has involved the use of rigorous independent assessment, evaluation of technical and behavioural skills, and interviews in many cases. These are all set against the Department's new Leadership Selection Framework, using tools proven in industry and the Civil Service.

6.6 This is building the strength of the Department's Director General and Director talent pipeline. It is linked to rolling reviews of the Director General and Director cadre using industry tested and Cabinet Office recommended succession planning methodology, and is enabling the Department to plan future succession into board-level posts more effectively. This builds on the foundation work undertaken in Summer 2010 to map all SCS members to the Cabinet Office 9 box grid (measuring performance and potential) and a refresh of the exercise is currently underway across HMRC as a data point from which to build capability.

6.7 The next phase of populating the Department's new operating model encapsulating Deputy Director roles, has already started. This will involve the same assessment and selection rigour as applied at Director General and Director level, and the application of the same proven succession planning methodology. Through this, the Department will be on track to have in place identified lines of succession, which will in turn inform targeted development and career management of its Senior Civil Servants.

6.8 As with the case cited, on rare occasions the Department can have a senior level requirement for professional skills and expertise so unique and sector specialised that they are beyond those that exist; or can be developed at sufficient speed through internal succession planning lines; or found within the wider Civil Service; so requiring external recruitment. The Department is mindful of the time it can take to engage the right individual through an external campaign so typically plans the launch of any such campaign 6 months ahead of the date when the successful candidate needs to start. In the cited case, although this significant lapse of time had been fully planned in and incorporated, the required notice period for the successful candidate was 6 months rather than the usual 3 month norm. In these circumstances the Department therefore had no option but to mitigate the risks by retaining the current incumbent for a 3 month period.

PAC CONCLUSION AND RECOMMENDATION 7

By allowing a backlog of 18 million PAYE cases affecting 15 million people to build up, the Department has delayed the repayment of overpaid tax and put at risk the recovery of an estimated £1.4 billion of underpaid tax.

It is unacceptable that so many people have had to wait so long for their tax affairs to be resolved. If the Department had processed PAYE promptly, it should have been able to collect nearly all of the estimated £650 million underpaid tax for 2004-05 to 2006-07. The Department should now set a clear operational standard to process all PAYE cases within 12 months of the end of the tax year.

7.1 The Government partially accepts the Committee's recommendation.

7.2 The Department regrets that so many people have had to wait for their tax affairs to be resolved. The Department intends, once backlogs are clear, to move as quickly as possible to an operational standard that requires all PAYE cases to be processed within 12 months of the end of the tax year. The Department has undertaken to clear these backlogs by the end of 2012 and will then be able to fully meet that standard. The Department currently has work from years 2007-08 to 2010-11 to clear and estimate that it will be around two years before it can operate to this standard. However, with the much higher levels of automation under NPS, the Department will be able to focus resources on exceptions handling. Therefore this is a realistic target once backlogs are dealt with.

7.3 The figure of £650 million is a notional figure and the Department estimates that if it had been able to work cases for 2006-07 in April 2010, around £100 million might have been collected. Due to the implementation of NPS, April 2010 was the earliest possible date for the Department to restart working open cases.

7.4 Before the introduction of NPS, the backlog of legacy cases grew significantly year on year because of the limitations of the old Computerisation of PAYE (COP) system and changing employment patterns. The Department worked larger numbers of open cases every year, but new cases outstripped the increased resources until numbers peaked at 32 million cases in 2008. Although this total reduced to 18 million by the time of COP closedown, the delays in implementing NPS in effect meant that the option to work significant numbers of cases became impractical until April 2010. The Department plans to clear all old cases by the end of 2012.

PAC CONCLUSION AND RECOMMENDATION 8

The Department failed to foresee the consequences of the changes in the statutory deadline for recovering underpayments of tax introduced in the Finance Act 2008.

The Department was aware that the change in the deadline would prevent it collecting underpaid tax for 2004-05 and 2005-06, estimated at £150 million. However, it failed to appreciate the impact of the deadline on the 1.9 million underpayments in 2006-07 and lost the chance to recover any of the £500 million tax owed. The Department should ensure that it does not miss the deadline for collecting revenue for 2007-08 and that its assessments of future legislative changes take full account of the operational impact.

8.1 The Government accepts with the Committee's recommendation.

8.2 The Department has processes in place to assess the impact of every legislative change as it is developed so that it can identify all operational impacts at the earliest point in the development cycle. This includes the identification of all risks and issues around compliance and the assessment and collection of tax before any time limited deadlines expire.

8.3 The Ministerial decision on implementation of the time limit introduced in the Finance Act 2008 for 2004-05 and 2005-06 cases was taken on the basis that a notional value of £150 million would be lost. At the time of the decision in January 2009 the actual recoverable value would have been very much less.

8.4 It is accepted that the Department failed to carry out plans that would have recovered at least some proportion of the notional £500 million tax due for 2006-2007. Those plans were affected by delays to the introduction of NPS and by the problems with annual coding that required a switch of resources. However, had this plan been implemented the best estimate of the recoverable amount is around £100 million.

8.5 The Department has established a programme to work 2007-08 underpayment cases and has ring-fenced a significant amount of resource for these activities. The Department is on track to collect at least £180 million of these underpayments.

PAC CONCLUSION AND RECOMMENDATION 9

The Committee are not convinced by the Department's explanation of how it decides to allocate resources to maximise the collection of PAYE.

It has assessed the amount of revenue brought in by staff working in some other parts of the Department, and concludes that they would bring in less working on PAYE. But the Department has not analysed whether employing additional staff on PAYE, rather than reallocating resources from elsewhere, would bring a net gain. The Department should assess the return on investment of having additional staff collecting PAYE and structure its staffing to maximise the net revenue collected.

9.1 The Government partially accepts the Committee's conclusions and recommendation.

9.2 The creation of a stable PAYE environment under the new NPS system will avoid the loss of revenue associated with backlogs. More accurate processing in end of year reconciliation is also likely to reduce the numbers and values of over and under-payments every year so the net revenue outflow will decrease. In the short term the Department will allocate additional resource within its settlement envelope to help tackle backlogs.

9.3 The Department agrees that it needs to improve its understanding of unit costs and return on investment from all of its activities. To this end, work is under way to develop new unit cost methodology. This will enable comparative reporting by Head of Duty and the implementation of a new performance management framework that supports the development of a sustainable cost base.

9.4 The Department does not accept the case that recruitment of additional resource is the right approach to addressing the issues identified by the Committee. It is the Department's aim to ensure that the right amounts of PAYE are deducted, and that these amounts are paid at the right time. The Department set out how it planned to do this, as well as its other activities, in the Spending Review and now knows the budget, both resource and capital, for the next four years.

PAC CONCLUSION AND RECOMMENDATION 10

There is little transparency for the taxpayer over the way that tax disputes with large companies are resolved.

While the Committee recognises the Department's obligation to ensure taxpayer confidentiality, the Department should consider the scope for increasing transparency in the area of large and complex tax cases and for assuring Parliament and the public that due process in the resolution of these cases is being followed. The Committee looks to the Department to cooperate fully with a NAO review of its procedures for resolving tax disputes.

10.1 The Government agrees with the Committee's recommendation.

10.2 The Department already has in place governance arrangements for the resolution of tax disputes with large companies, and these will be published to provide greater transparency. However, Taxpayer confidentiality means that HMRC cannot provide information about individual taxpayers. The Department will also fully cooperate with a NAO review of its procedures.

PAC CONCLUSION AND RECOMMENDATION 11

The Department has a target to reduce tax credits debt by £200 million by March 2011, but this target does not distinguish between debt that is collected and debt that is written off.

The Department should set separate performance indicators for the amount of tax credit debt it collected, and for identifying and writing off debt that is no longer recoverable.

11.1 The Government partially accepts the Committee's recommendation.

11.2 The Department does not believe that it needs to introduce new, separate performance indicators to further distinguish the ways in which tax credit debt is cleared as it already has indicators in place that enable it to adequately and cost effectively manage overall debt levels, clearance rates and methods of clearance as well as for the specific sub-set of debts that relate to tax credits.

11.3 The Government's high level debt and banking priority is to maximise cash flow to the Exchequer and minimise, as far as possible, the overall debt balance and age of debt. This applies as much to tax credit debt as to debts arising from other taxes and duties. As the Committee has noted, the Department collected £67.9 billion of debt in 2009-10, £5.6 billion more than in 2008-09. The Department's accounts show that it reduced the amount of receivables outstanding by £1.6bn (5.8%) at the end of March 2010. These significant improvements were delivered despite the recession making debts more difficult to recover.

11.4 As noted by the Committee in 2009-10, the Department began to implement a revised debt management strategy based on the segmentation of debtors according to risk and previous behaviours. Tailoring and targeting its collection activities to increase the likelihood of recovery, improving the speed of collection, and reducing costs through the use of specific debt management campaigns. Its initial analysis shows that the campaigns approach has been cost effective, and it now applies this approach to around 90% of its debt portfolio. As part of this approach, a specific tax credit debt campaign is currently underway and will run throughout 2011-12.

11.5 Whilst the Department does make some internal tactical use of "debt reduction" targets it recognises their limitations and believes that an over reliance on such targets risks driving inappropriate actions and approaches to debt management and pursuit. The Department also believes that a snapshot of the outstanding level of debt at a particular moment in time has limited usefulness as a performance indicator given that debt levels are driven as much by external factors and the inflow of debt as by the department's performance in debt pursuit, management and enforcement activity.

11.6 For this reason, the Department now uses the industry standard 'roll rate' indicator as its primary strategic indicator of debt management performance. This is designed to measure the proportion of debts remaining at 30 and 90 days. The introduction and use of this indicator follows previous recommendations from both the Committee and the Accountant and Comptroller General and is in line with best practice in the wider debt industry.

11.7 2010-11 is the first year that the Department has set an actual "roll rate" target. However the indicator remains in its infancy and will be progressively expanded and developed in the light of the first year's experience.

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