

COMPREHENSIVE SPENDING REVIEW

STEERING GROUP REPORT

Court and Case Costs and Criminal Justice Process

Introduction

- The Comprehensive Spending Review (CSR) is a response to the structural deficit forecast from 2011 and the need to at least match savings in the public sector with any proposals to increase taxation. The CSR is therefore targeted at delivering £50 million (10% of gross revenue spend) by 2013 from the expenditure levels approved in the 2010 Annual Business Plan.
- Court and Case Cost expenditure has been rising year on year with expenditure in 2009 reaching £12.22 million. Previous reviews have made recommendations for controlling this expenditure with limited success. It was therefore agreed to review the current arrangement for controlling this expenditure alongside a general mapping of the end to end Criminal Justice process to identify areas of potential inefficiency and cost savings.

The Steering Group

- The review was overseen by a steering group (full terms of reference attached at **Appendix B**). Membership of the steering group is:
 - Philip Taylor (independent Chairman)
 - Bill Ogley (Chief Executive of the States)
 - Mario Lundy (independent Chief Officer)
 - Steven Austin-Vautier (Chief Officer, Home Affairs)
 - David Warcup (Chief of Police)

The Review

- The review was undertaken by external consultants TQMI in partnership with Tribal and their full report is attached to this report at **Appendix C**. The consultants interviewed a wide range of stakeholders – internal and external - involved in the CJP and with responsibility for expenditure resulting in C&CC.
- The review had a number of findings relating to:
 - improving financial management, in particular budgeting and financial governance;
 - Streamlining processes with the Criminal Justice Process
 - Procurement issues relating to professional services
- Each of these issues was considered by a workshop of key stakeholders which agreed to take responsibility for actions that could:

- Deliver potential savings of at least £1.2 million per annum (based on 2009 expenditure)
- Set up a Justice System Board to maintain oversight and improve efficiency/cost effectiveness and performance of the overall Justice system. T
- Put in place a financial and budgetary framework that would improve financial planning and control, and make departments fully responsible for C&CC funding except for exceptional high cost cases.
- Implement a sound procurement process for contracting professional services
- Simplifying processes and reducing bureaucracy e.g. parking fines, speeding fines, interface with the Parishes/Honorary Police.
- Recover some C&CC costs

Conclusions

- The current system is flawed in that it does not demand accountability from individuals for incurring expenditure.
- The financial management arrangements are not fit for purpose.
- The work carried out has identified that there are savings to be gained.
- The consultants and the Workshop group have identified and committed to working towards delivering in excess of £1.2m in savings which meets the overall target of 10% savings (**Appendix A**).
- The introduction of a systematic budgeting process, end to end performance management of the Criminal Justice System and the introduction of sound procurement practices will continue to highlight and drive out further cost savings.
- We believe that there are more savings to be realised with further work and the will to modernise processes further e.g. potential to amend the Law relating to 'Reserve Pleas'. This in itself will lead to further savings which will be identified and could be incorporated in 2012/13 budgets where appropriate.
- Additional savings of £500k p.a. may also accrue by 2013 as a result of the recent judgment (subject to Appeal) relating to legal costs in family cases.
- Some of the savings will require Law changes that will need approval by the States. This should not be seen as an insurmountable obstacle.
- A number of the proposals will require changes and the commitment of other agencies which will call for close coordination and communication if improvements and savings are to be achieved. However, given the commitment shown by stakeholders and provided this commitment and momentum is maintained there is a real opportunity for well-managed change that will deliver a more efficient and effective Criminal Justice Process along with substantial savings.
- The steering group believes that the proposals set out in the report improve the efficiency of the Criminal Justice Process, and sets out a

structure that will continue to deliver benefits through greater efficiency and better use of resources.

Next Steps

- Stakeholders have already accepted responsibility for delivering savings and greater efficiency. We now recommend that a group be formed to oversee the implementation of each of the commitments and produce in short order an implementation plan detailing actions responsibility and timescales.

Potential Savings Identified

	Opportunity	How would these potential savings arise?	Indicative savings £	
			Efficiency	Cashable
(1)	Investigate changing level at which Magistrates can deal with cases (i.e. increase the current 1 year custodial and £5k fine) and thereby reduce use of Advocates. The current levels are lower than in many other jurisdictions e.g. Guernsey	Less requirement for use of external Crown Advocates. Cases are dealt with at less cost in the Magistrates Court rather than the Royal Court		500,000
(2)	Reduce extra (£600) charges for reports done by public servants	Provide reports produced as part of employment contract rather than as a private individual		30,000
(3)	Increase internal capability to handle cases and consequences	e.g. The difference between employing NSPCC and local guardians in family cases		Min 25,000
(4)	Increase uniformed responsibility to include charging automatic speeding fines. This will require a re-draft of Article 89 of Road Traffic Law	Saving in Police time	25,000	
(5)	Introduce an 'abbreviated route' for offences that are highly likely to result in a warning at the Parish Hall.	Saves Police time producing a full case file	89,000	23,000
(6)	Introduce procurement systems for Forensic Accountants	Reduce professional charges by 10% in the short term		44,000
(7)	Establish alternatives to Police detaining people with alcohol and drug problems as causes overtime – e.g. use H&SS where there is a health issue to keep offenders out of the CJP.	Less Police overtime		tbc
(8)	Set performance measures for each part of the Criminal Justice Process/build a performance regime around the CJP	Focus on shortening timescale for processing cases	tbc	
(9)	Recruit additional Legal Advisor for internal legal advice for the Police	Assess whether the cost of internal resource is less than the cost of using external suppliers or reduces external cost	tbc	
(11)	Establish estimating and procurement systems for high Court and Case Cost items e.g. External Crown Advocates	Reduce professional charges by 10%		380,000
(13)	Conduct a procurement review of Force Medical Examiner contract and examine other options to provide service (fees currently £376k)	Re-negotiate the current contract and investigate alternative options for providing medical support for people taken into custody		100,000
(14)	Consider interpreter contract with appropriate provider or Police recruit new staff with interpreter capability for key offender nationalities	Reduce costs through negotiating with a single provider		6,000
(15)	Consider what other C&CC can be recovered e.g. medical examination costs	Cost recovery from offender		100,000
(16)	Simplify parking fine system (currently Traffic Wardens, Parish Wardens + other bodies)	Less requirement/time in Court/Parish Hall will require less resource	tbc	
Totals			114,000	1,208,000

Note: Additional potential for savings:

1. There is also potential to amend the Law relating to Reserve Pleas which, if accepted, could deliver significant savings
2. There is also a potential to reduce legal costs in family cases

STEERING GROUPS FOR CSR MAJOR REVIEWS

Responsibilities

The Steering Groups for the major reviews have a governance structure approved by the Council of Ministers and attached at Appendix A. These Steering Groups will have two prime responsibilities:

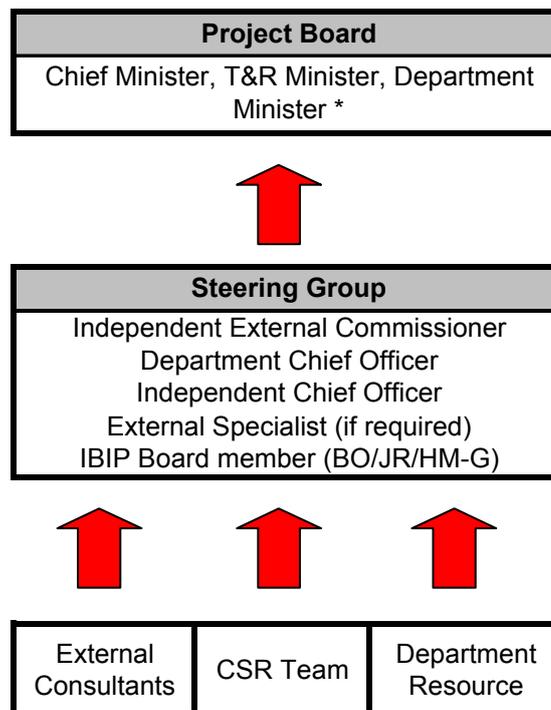
1. To steer each major review and ensure the Terms of Reference for each review are delivered on time and within budget.
2. To provide an independent challenge and review on the relevant department's services and operations, using the attached matrix of questions as a starting point, including:
 - (a) Financial overview:
 - The allocation of budgets across service areas
 - The level and nature of overheads
 - (b) Organisational and management structure and opportunities for reform
 - (c) Alternative service delivery options
 - (d) User pays/charging options
3. To present a report to the Ministerial Board setting out how savings could be achieved, identifying those which would be as a result of efficiency; major restructuring without reducing outcomes; and those which would result in reductions in outcome. For each option it should identify the service and public implications, together with an indication of what would be necessary to implement the option.

MAJOR REVIEWS – GOVERNANCE STRUCTURE

The Council of Ministers has approved the following governance structure for the major reviews being undertaken as part of the CSR.

The following diagram shows the proposed governance structure:

MAJOR REVIEWS - GOVERNANCE STRUCTURE



** For the Terms and Conditions Review, the Project Board will be the SEB*

The following comments further explain the process:

1. The Project Board will agree the Terms of Reference of the review and receive the final report from the Steering Group.
2. The Steering Group will meet regularly throughout the project and ensure the Terms of Reference are delivered.
3. It is envisaged that either the independent external reviewer or the independent chief officer would be the Chairman of the Steering Group.
4. The main work of the reviews will be undertaken by external consultants appointed by the Steering Group or internally with external peer review. It should be recognised, however, that some support both from the CSR team and the relevant department will be necessary. In addition, there will be a requirement for a Project Manager to be identified to manage the review which, ideally, will be someone from within the department.

APPENDIX C

T R I B A L

CONFIDENTIAL

Court and Case Costs and Criminal Justice review

Report of findings

03 September 2010

States of Jersey



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Executive Summary

Increasing expenditure on Court and Case Costs has been a concern for a number of years. During this period a number of reviews have been undertaken with limited success in addressing the underlying issues. We have taken a different approach by reviewing Court and Case Costs alongside the mapping the Criminal Justice Process as a whole to identify areas causing inefficiency and make recommendations for savings.

Information was gathered over a two month period through interviews and research to establish the issues that needed to be addressed and the nature and size of the costs involved.

The main findings from this work fell into three categories:

- 1) Problems with Financial Management, in particular the budgeting process.
- 2) Lack of Performance Management of the Criminal Justice Process itself.
- 3) An absence of Procurement disciplines and practice.

We should say at this point that we found good practice across the Criminal Justice Process as a whole. In general, the departments involved followed agreed processes and exercised their responsibilities within what we believe is an inadequate system.

The work identified changes to current practices where cost saving opportunities could be achieved. Using these findings, it was then possible to go on to develop suggestions for improvement.

The information gathered under the categories set out above - both issues and proposals - was presented to a high level workshop attended by key stakeholders responsible for the Criminal Justice Process on the 18th August .

The proposals were accepted by the workshop members, along with other suggestions for improvement, and actions for improvement agreed.

The improvements agreed as a result of this work were:

- 1) The proposed abolition of Court and Case Costs as a separate entity and the introduction of a new budgeting system using best estimates from departments, the performance against which would be monitored by a management group and led by the Treasury.
- 2) A Justice Strategy body to be set up to establish the vision and strategy and monitor the efficiency of the Criminal Justice Process.
- 3) The Corporate Procurement Department will be asked to provide advice to each department on correct procedures for acquiring external services.
- 4) Project leads for six improvement projects have been identified. These projects are expected to save in the region of £1.25million over the next 2

to 3 years. This figure was agreed as feasible after the workshop held with stakeholders.

These actions have responsibilities attached and small teams will be set up to address them and ensure the expected improvements will be achieved. The project teams will report into the CSR Steering Group which will continue to monitor progress. These projects are just the initial priority actions resulting from this work. The mechanism has now been proposed whereby further improvements can be achieved throughout the Criminal Justice Process.

1.1. Introduction

Court and Case Costs have been increasing year on year, exceeding their budgets on a regular basis. Since 2003, a number of reviews have been undertaken and reports with recommendations produced that have attempted to address this issue, but with little effect.

Court and Case Costs are just part of the expenditure arising from the Criminal Justice Process. It was therefore felt that, in order to improve efficiency and reduce costs, it was necessary to map this process to identify any “pinch points” in it where inefficiencies existed and potential for improvement lay.

It was considered timely to address both these issues under the current Comprehensive Spending Review initiative.

1.2. Terms of Reference and Methodology

The work was originally planned as two separate work-streams, but it soon became clear that there was a considerable amount of overlap i.e. the investigative work to establish the drivers for Court and Case Costs required a review of the Criminal Justice Process which drives the expenditure charged to the narrower area of Court and Case Costs.

The two work-streams were therefore undertaken in parallel to inform each other. To ensure that both terms of reference have been properly addressed, this report has been structured to include a section on both Court and Case Costs and the Criminal Justice Process and attempts to explain the link and avoid duplication.

1.2.1. Terms of Reference

The two work-streams had separate but complementary terms of reference.

The terms of reference for the Court and Case Costs review were:

- Identify the cost drivers for Court and Case Costs
- Identify areas for improvement
- Design future process
- Develop action plan to make changes required
- Review procurement and controls of external services.
- Benchmark with similar services

The terms of reference for the review of Criminal Justice System Processes were:

- Map the Criminal Justice Process

- Identify and categorise the pressure points and issues
- Assess the potential for improvement/savings
- Provide facilitation

1.2.2. Methodology

The components of the review as described in section 1.2.1 above, have been produced within the context of, and in reference to, the States of Jersey operational environment. Established best practice with regard to public sector financial management and procurement and the organisation and management of criminal justice systems was considered and referred to throughout this review.

The review was conducted in a consultative and collaborative manner, and indeed could not have been completed without the considerable input and assistance of States of Jersey staff.

Project delivery was run in accordance with the PRINCE 2 project management methodology.

The consultants interviewed over 30 people in various roles within the Criminal Justice System (see Appendix 1 for the list of interviewees). These interviews established how the current system (including Court and Case Costs) works and enabled the process maps shown at Appendices 2 to 5 to be produced. This process also enabled issues to be identified.

Further financial analysis work was carried out to establish the full cost base attached to Court and Case Cost and to clarify the nature and type of costs involved. Cost were mapped and classified both by object (e.g. legal fees or travel) and purpose (e.g. drugs or fraud).

On examining reports and recommendations from previous reviews (see foot note¹) it became immediately obvious that, with some exceptions, the main issue has been the lack of implementation of the major recommendations made by previous reviews and, that just providing another report would probably have a minimal effect. At this point the proposal was made by the consultants that a workshop should be held involving all the key stakeholders and at which the proposals would be presented and commitment to action gained from all parties. This was agreed and the workshop was held on 18th August 2010.

¹ Review of Financial Arrangements for Court and Case Costs 2003; Independent Investigation into Court and Case Costs, NAO 2005; Special Audit Report 2009; Internal Audit report 2009

The workshop was attended by:

Attendee	Position	Department
Tim Le Cocq	HM Attorney General	Law Officers
John Edmonds	Director, Criminal Division	Law Officers
Tim Allen	Chief Clerk	Law Officers
Paul Matthews	Deputy Judicial Greffier	Judicial Greffe
James Lambert	Director of Services	Judicial Greffe/Viscounts
Carolyn Le Sueur	Finance Manager	Viscounts
David Warcup	Acting Chief Officer	States of Jersey Police
Steven Austin-Vautier	Chief Officer	Home Affairs
Mike Robinson	Head of Service	Customs & Immigration
Brian Heath	Chief Probation Officer	Probation
Bill Ogley	Chief Executive of the States	Chief Minister's
Jason Turner	Deputy Treasurer of the States	States Treasury
Philip Taylor	Independent Chair of the review steering group	n/a

The workshop covered the following:

- Presentation of Court & Case Costs financial and procurement issues; possible improvements; debate and analysis of these and agreement on actions to address the issues.
- Presentation of potential cost savings associated with Court & Case Costs and debate and proposals to take these forward.
- Presentation of other Criminal Justice Process issues and proposals for further improvements.

2. Court and Case Costs

2.1. Key Findings

Expenditure recorded as Court and Case Costs (C&CC) is currently incurred by six departments across the States; Law Officers, Judicial Greffe, Viscounts, Bailiff, Customs and Police.

There is no single definition or test criteria used to designate an item of expenditure as a C&CC. However, our investigations suggest that they can generally be described as those costs which relate to the detection, investigation, processing and disposal of cases which progress through the court system that are not associated with existing or pre-planned internal resources.

The following table illustrates the variety of C&CC expenditure that was incurred across the six departments in 2009.

Court and Case Costs Expenditure 2009 (£s)

Expenditure Type	Police	Law Offices	Judicial Greffe	Viscount	Customs	Bailiff	Total
Employee Pay							0
Employee overtime	511,111				116,441		627,552
Agency Temps	416,961		188,000				604,961
Contract Staff			156,000				156,000
Hired Services	181,424			92,000	30,310		303,734
Forensic Fees	78,269				49,564		127,833
Medical Fees	376,527		83,000		7,282		466,809
Legal fees			2,312,000	249,000		537,715	3,098,715
Crown Advocates fees		2,582,152					2,582,152
English Counsel fees		719,763					719,763
Accountants fees		373,928	110,000				483,928
Translation/ interpreter	32,145	8,325	24,000		3,461		67,931
Witness costs		69,315					69,315
Travel	57,013	89,741	19,000	1,000	15,088	26,844	208,686
Hotel and accommodation	165,220		15,000	12,000	1,272	45,084	238,576
Subsistence	9,937				808	20,738	31,483
Legal Aid - civil disbursements			1,801,000				1,801,000
General - other admin costs			272,000	6,000	99	3,722	281,821
Other	119,561	180,040	144,000	18,000	297	23,897	485,796
Income		-137,681					-137,681
Total	1,948,168	3,885,583	5,124,000	378,000	224,622	658,000	12,218,373

The key drivers for this expenditure are the number, length and complexity of the cases that progress through the court system. Also, as C&CC costs primarily relate to externally provided services, the supply mix and unit price of services procured will significantly impact on the level of C&CC expenditure.

2.1.1. Budgetary and Financial Governance

Currently, the six departments that incur expenditure recorded as Court and Case Costs (C&CC) are allocated a C&CC budget that sits within, and is a component element of, their departmental cash limit (net revenue expenditure budget).

These budgets are set on an historical basis (i.e. prepared in reference to past budget levels rather than future resource requirements) and are ring-fenced within each department.

The Treasury review the forecast financial position of C&CC budgets as part of the in year financial monitoring and reporting process. In recent years additional funds have been made available from:

- the COCF to meet any overspends relating to non-drugs and non-terrorism criminal (not civil) cases,
- underspends in other Departments.

This review has highlighted and confirmed a number of issues around how C&CC budgets and expenditure are managed and controlled.

Designation and classification of C&CC expenditure

As mentioned above, there is no fully agreed and consistently applied definition of Court and Case costs. There is no central policy on what may or may not be charged to C&CC budgets and there are no criteria against which expenditure items can be objectively assessed to determine their eligibility as a C&CC. Therefore, it has become a matter of local (departmental) policy to decide which items they charge to C&CC budgets.

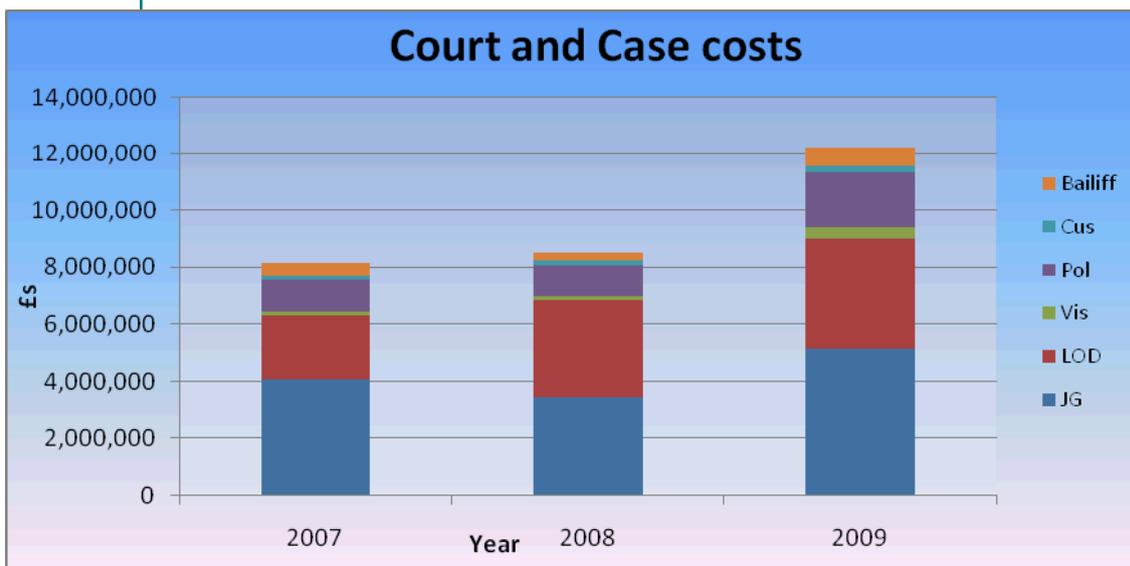
As a result of this, the mix of items charged to C&CC budgets has changed over time creating a misalignment with budgets that were prepared historically on a different basis. Also, expenditure items that might not be immediately associated with the court process may be charged to C&CC budgets, such as towing charges within the Police C&CC expenditure.

Planning and forecasting

The C&CC budgets allocated to departments are not prepared according to recognised best practice. There is no defined budgeting process for C&CC which systematically reviews and captures an evidence based assessment of future resource requirements. As a result known trends, likely demand levels, local resource constraints and supplier prices are not factored into or reflected in the budgets allocated to departments. For example, recent legislative changes around child protection cases have resulted in an increased

requirement for legal representation for each individual party involved in a case. This change has not been recognised in C&CC budgets.

The allocation of budgets divorced from the extant operational environment has resulted in departmental budgets that have been structurally deficient for



a number of years.

The following chart shows how C&CC expenditure has increased between 2007 and 2009 and the relative split between departments. These increases have coincided with a relative increase in the complex and highly sensitive cases being dealt with by the judiciary. This has not been reflected in C&CC budgets.

Controls and accountability

Whilst there is a level of challenge and questioning from the Treasury in terms of funding increased levels of spend - for example, Home Affairs were required to meet some costs from underspends elsewhere in the department - deficits due to overspends of C&CC budgets are generally met by the Treasury. This means that departments are willing to incur expenditure that causes them to exceed their allocated budget without any existing budgetary authority. This renders their local C&CC budget redundant as a means of control. Additionally, such a budgetary arrangement is not conducive to the good control of expenditure.

There is no evidence of a formal budget control and performance review process. Departments submit periodic reports to Treasury which detail their forecast C&CC expenditure and the extent of any variances from budget. They receive little feedback from Treasury and are not subject to any kind of robust challenge as to the validity, or otherwise, of their forecasts.

Decisions can be made within one department that have a direct impact on C&CC expenditure in another. Budgets should sit with those that are able to control them to ensure that there are clear lines of accountability for the decision that are made.

Budgets for C&CC sit across a number of States departments, each managed and controlled separately. As such, no single overall budget controller for Court & Case Costs exists, therefore any proposal around the management and operation of C&CC budgets will need to appropriately reflect this.

Funding and risk

In recent years Court and Case Cost expenditure has continually overspent the budgets allocated. Some of these overspends have been underwritten by the Criminal Offences Confiscation Fund (COCF) where they have met the COCF criteria. The COCF is not a guaranteed source of funding as it is dependent upon successful prosecutions and asset seizures.

To use the COCF to underpin C&CC expenditure introduces systematic risk to the States funding model. C&CC essentially becomes planned unfunded expenditure (where funding for known future expenditure has not been secured).

Summary

A budget should reflect plans based on the best available estimate of activity and costs. It should act as a means of control and facilitate performance monitoring and management. As a budgetary control regime C&CC has failed to achieve any of this.

C&CC as a budget label has created the *perception* that departments are grossly overspending, whilst in reality the budgets were insufficient. However, due to any absence of rigour in the budgeting process a true assessment of departmental performance is not possible.

2.1.2. Performance Management

Currently each department is responsible for achievement of budget and performance in terms of efficient use of resources. No individual or group of individuals are responsible for setting the strategy and targets against which the effectiveness and efficiency of the end to end CJS can be evaluated. Subsequently each department pursue their own individual plans which collectively may not be in the best interests of the state.

Specific issues raised were:

- The Attorney General can give instructions to the Police which may incur significant expenditure from the Police budget. The Chief of Police has to account for this expenditure to the Home Affairs Chief Officer who is the Accounting Officer, not the Attorney General.
- There is no single performance management framework for the whole end to end process and also no operational business measures against which to monitor service value and performance.
- No one individual or group (forum) is responsible for end to end system efficiency and improvement.
- Individual departments are responsible for their own delivery plans (business plans) and spend.

- A Criminal Justice Policy is available and is in the early stages of implementation.
- The system crosses non-ministerial (Judicial) and Ministerial departments.

2.1.3. Procurement

The majority of expenditure recorded as Court and Case Costs currently relates to goods or services provided by external (non –States) suppliers. As such how these services are acquired will have an impact on both the cost and efficacy of C&CC and the criminal justice system as a whole. Procurement considers value analysis, the sourcing and specification of goods and services, as well as the letting and negotiation of contracts.

Within the States, there is a perception that procurement relates to traditional or low value commodity items such as stationary and office furniture. However, the rigour and discipline introduced by an effective procurement process will be equally, if not more, applicable to the types of services acquired under C&CC. These include (but not limited to) legal advisors, advocates, doctors, forensic accountants and travel and accommodation costs.

This review has highlighted a number of issues related to how C&CC services are acquired.

Value for Money

Departments cannot demonstrate value for money in purchasing decisions. Due to the lack of rigour and transparency around buying decisions departments cannot demonstrate whether they are getting the most for their money. There is, of course, no presumption that all buying decisions represent poor value. However, by failing to follow and document a clear, consistent and transparent buying process departments do not have the underlying information that would allow them to monitor the effectiveness of their buying decisions and improve performance going forward.

Cost to value assessments are not conducted and /or documented before services are procured. A value assessment considers if a particular piece of expenditure is actually required to achieve the desired outcomes, if required can less of it be done and is the outcome worth the required level of expenditure.

Adherence to existing procurement policy

Financial Direction 5.7, Purchasing of Goods and Services, is not adhered to across all departments consistently. This financial direction provides clear requirements as to how goods and services are to be procured to ensure best value is achieved for the States. It includes things like the use of corporate contracts, the need to obtain a minimum number of written quotes and when full tenders are required

In relation to the above, a number of contracts and engagements for C&CC services have been let or rolled forward without due competition. Although

departments may presume they are getting the best deal, they cannot be certain until the presumption is tested by way of a competitive process.

Corporate procurement expertise is underutilised. The central procurement function is going through a development programme, meaning that the limited capacity that was previously available is being developed to meet the need of the business.

Service specification

Due to the lack of rigour around the procurement process in operation across the C&CC departments services and delivery parameters are not sufficiently robust across the board. This means that suppliers are afforded too much flexibility with regards to the time, quality and ultimate cost of the services being provided.

Collaborate buying

Services are not bought collaboratively across departments and suppliers. Opportunities exist to take advantage of the economies that result from purchasing goods and services on a larger scale. For example, this could mean buying a similar service under one contract for use across a number of departments or buying a year's worth of a service under one contract instead of going to market on a case by case basis.

2.2. Court and Case Costs: Opportunities for improved efficiency and savings

From the interviews carried out there were many suggestions made by the interviewees on how issues could be resolved and improved and these form the bulk of the list of opportunities listed below. Previous reports also highlighted areas that could be improved and in many cases these had not been followed through. The consultants were also able to include opportunities on the basis of experience elsewhere.

The issues raised in the workshop and listed in Section 3 - Key Findings - were examined by the workshop participants. The format of this workshop included presentations of findings and suggested improvements which were then debated by the key stakeholders in small groups in order to obtain consensus for action. A summary of the workshop agenda and output is contained at Appendix 2 The potential improvements considered are listed below.

2.2.1. Budgetary and Financial Governance

The following bullets summarise the key actions required to address the weakness identified in the financial and budgetary control framework;

- Remove the budgetary label of 'Court & Case Costs'. This is an artificial separation which does not allow for any additional control. It does not promote accountability or the effective management of resources.

Expenditure that was previously classified as C&CC should become part of the normal operational budgets of the departments.²

- Establish robust operational budgets for each department that include all regularised activity that was previously classified as Court & Case Costs. This budget should be evidence based and be constructed around future resources requirements. Departments will be required to manage against these new budgets and must be held fully accountable for financial performance.
- Treasury to review and challenge all operational budget submissions and variances as they emerge each reporting period (around key criteria of cost drivers, robustness of forecast and value for money of purchases). Treasury should also provide visible budgeting support to ensure that departments are able to operate in the more robust and challenging environment.
- Treasury should maintain a central contingency fund for exceptional calls on budgets.
- Exceptional items to be defined in terms of the entirety of Departmental budgets rather than historic Court & Case Costs budgets. So, a particular case would need to lead to a material overspend of the *entire* departmental budget before it could be deemed to be an exceptional item and warrant a call on the central contingency.
- Cease funding elements of Court & Case Costs from the Criminal Offences Confiscation Fund and ensure that all departmental activity is supported by appropriately secured funding.

2.2.2. Performance Management

In order to optimise the CJS cycle time and minimise bureaucratic process steps the following improvement opportunities were put forward.

- Assign responsibility for setting and monitoring performance against budget, activity targets and process
 - Court & Case Costs or whole Criminal Justice process.
- Define responsibility for end to end Criminal Justice Strategy and objectives.
 - Incorporate existing Criminal Justice Policy.
- Set up a “body” to oversee efficiency of the Criminal Justice Process.

2.2.3. Procurement

The following bullets summarise the key actions required to address the weaknesses identified in the way departments acquire services from external suppliers;

² Note: Arrangements will need to be put in place to ensure that costs ordered by the Court comply with Article 4 of the Costs in Criminal Cases (Jersey) Law 1961 whereby costs are paid from public funds not the departmental budget

- Each department to identify and assign a designated departmental procurement lead
- Review all existing contracts for Value for Money (the relationship between the outcome achieved and the cost). This should be prioritised according to contract value, duration and renewal date.
- All departments to conduct a review of all existing and all future contracts over a designated contract value and ensure that a proper contract process is applied to deliver value for money. This should be done with the support of corporate procurement in line with development of their 'Procure 2 Pay' programme.
- Link the authority to incur expenditure to evidence of compliance with extant procurement policy (FD 5.7 as amended). Initially, this would be enforced locally by departmental procurement leads until it could be 'hard coded' into the finance systems.
- Value assessments are to be conducted and documented as part of purchasing file for all new contracts.
- Ensure that time, quality, supply mix, delivery and price parameters are specified as part of the letter of engagement.
- Any variance from supply parameters must be appropriately justified by the supplier and documented before further expenditure is authorised.
- Investigate and pursue collaborative buying opportunities.

2.2.4. Savings

A number of specific cost saving opportunities have been identified in relation to the improvements identified above. Additionally, further opportunities to achieve cost savings were identified during the review of C&CC processes and operations.

The following table summarises the savings identified. These savings opportunities have been validated with the relevant States staff and are deemed to deliverable. The value of the savings are indicative and will need to be refined should the opportunities be pursued.

Table 1: Potential savings identified

	Opportunity	How would these potential savings arise?	Indicative savings £	
			Efficiency	Cashable
(1)	Investigate changing level at which Magistrates can deal with cases (i.e. increase the current 1 year custodial and £5k fine) and thereby reduce use of Advocates. The current levels are lower than in many other jurisdictions e.g. Guernsey	Less requirement for use of external Crown Advocates. Cases are dealt with at less cost in the Magistrates Court rather than the Royal Court		500,000
(2)	Reduce extra (£600) charges for reports done by public servants	Provide reports produced as part of employment contract rather than as a private individual		30,000
(3)	Increase internal capability to handle cases and consequences	e.g. The difference between employing NSPCC and local guardians in family cases		Min 25,000
(4)	Increase uniformed responsibility to include charging automatic speeding fines. This will require a re-draft of Article 89 of Road Traffic Law	Saving in Police time	25,000	
(5)	Introduce an 'abbreviated route' for offences that are highly likely to result in a warning at the Parish Hall.	Saves Police time producing a full case file	89,000	23,000
(6)	Introduce procurement systems for Forensic Accountants	Reduce professional charges by 10% in the short term		44,000
(7)	Establish alternatives to Police detaining people with alcohol and drug problems as causes overtime – e.g. use H&SS where there is a health issue to keep offenders out of the CJP.	Less Police overtime		tbc
(8)	Set performance measures for each part of the Criminal Justice Process/build a performance regime around the CJP	Focus on shortening timescale for processing cases	tbc	
(9)	Recruit additional Legal Advisor for internal legal advice for the Police	Assess whether the cost of internal resource is less than the cost of using external suppliers or reduces external cost	tbc	
(11)	Establish estimating and procurement systems for high Court and Case Cost items e.g. External Crown Advocates	Reduce professional charges by 10%		380,000
(13)	Conduct a procurement review of Force Medical Examiner contract and examine other options to provide service (fees currently £376k)	Re-negotiate the current contract and investigate alternative options for providing medical support for people taken into custody		100,000
(14)	Consider interpreter contract with appropriate provider or Police recruit new staff with interpreter capability for key offender nationalities	Reduce costs through negotiating with a single provider		6,000
(15)	Consider what other C&CC can be recovered e.g. medical examination costs	Cost recovery from offender		100,000
(16)	Simplify parking fine system (currently Traffic Wardens, Parish Wardens + other bodies)	Less requirement/time in Court/Parish Hall will require less resource	tbc	
Totals			114,000	1,208,000

Note: There is also potential to amend the Law relating to Reserve Pleas which, if accepted, could deliver significant savings

The potential savings identified in Table 1 above are based on 2009 expenditure data as recorded in the States financial system, JD Edwards. All savings are net and given as an annual figure that will reoccur for each year of the CSR period, depending on the year of implementation. All assumptions used to calculate the figures, as documented in Appendix 3, were supplied or validated by States staff. It should be noted that a number of the savings calculations were revised as a result of the workshop.

The marginal cost of delivering these changes is deemed to be zero and as such there is no budgetary cost impact. The economic cost of delivering the changes will be assessed and quantified by the project teams which will be formed to deliver the changes. However economic cost has been estimated to be negligible as the nature and scope of the activities required to affect the changes are, in most cases, consistent with existing operational and policy roles.

In the workshop itself, the issues were debated in two groups and consensus achieved on the way to take things forward.

2.2.5. Other opportunities identified by the Workshop

There were several other opportunities identified at the workshop which should be highlighted here:

- There should be further investigation of potential savings under the Children's Law – According to stakeholders, it is likely, by effecting a change to the law, the savings could be 'substantial'. These have not yet been quantified and did not form part of this assignment.
- The general opinion at the workshop was that it would be fairly easy to 'impose' a 10% reduction in Crown Advocate and Accountants fees. This would provide substantial savings. This savings has been incorporated into the savings calculations in Table 1. The possibility of doing the same for Legal Aid fees was discussed but was not pursued as Legal Aid is the subject of a current review by the Controller and Auditor General. Lawyers and accountants are used to clients taking such universal action on the basis that they should share the pain that their clients are suffering.

2.3. Next Steps: Agreed Actions

After examining the proposed opportunities the agreed actions at the workshop were as follows:

2.3.1. Financial Management

1. Examine abolition of separate Court & Case Costs budgeting and reporting process and exceptional case procedures taking into account:
 - Best estimate to be made by departments.
 - Contingency fund to be set up to deal with large, costly cases.

- Guard against political interference.
- Set up possible management group to monitor costs.
- Acceptable Risk Management on case progression (avoiding accusations of abuse of process).
- Need agreed criteria for being able to access contingency funds.
- 2011 budgets to be agreed and set - Treasurer lead.
- Adopt a 3 year budgeting cycle.

Action by: Law Officers' Dept (TA), Judicial Greffe (JL), Treasury (JT)

2. Address COCF issue

Action by: Law Officers' Dept, Judicial Greffe

2.3.2. Performance Management

1. Set up CJS strategy body. Set up a Justice System Board (Criminal, Civil, Public, Appeals) remit to include monitoring efficiency of Courts. This includes improving efficiency/cost effectiveness, trial management and case management.
2. Set vision/strategy and agree outcomes and measures.
3. Continue with major case review meetings with the addition of involving the Treasury, as a separate issue.

Action by: Representatives from all elements of CJP & Treasury – chaired by the Bailiff

2.3.3. Procurement

1. Carry out review with Procurement Team - Contact name from each dept to be given to central corporate procurement.
2. Examine the need a focal procurement point (to avoid everyone learning "procurement").
3. Tendering process for lawyers being worked on in LOD.
4. Could be extended to include Forensic Accountancy.

It should be noted that the appointment of an Accounting Officer within the Police Force is being examined by the Minister.

Action by: All

2.3.4. Agreed Priority Action Improvement Opportunities from Table resulting in cost savings

These figures were agreed after the workshop held with stakeholders. Responsibility for taking forward each of these actions has been accepted by named individuals.

Table 1 ref	Action:	Savings	Action by
(1)	Change level at which Magistrates can deal with cases (i.e. up the 1 year custodial and £5k fine) and thereby reduce use of advocates. <i>(This package of work should also include other reforms. (Defence, STTS, Reserve pleas, Right of silence etc).</i>	£500,000 cashable savings	Attorney General
(2)	Reduce extra (£600) charges for reports done by public servants.	£30,000 cashable	Judicial Greffe (PM)
(3)	Increase internal capability to handle cases and consequences (e.g. employment of guardians in family cases).	£tbc cashable savings	Judicial Greffe (PM/ Probation (BH)
(4) & (5)	Increase uniformed responsibility to include charging automatic speeding fines. Consider re-draft of Article 89 of Road Traffic Law to allow speeding fines by post. Introduce an “abbreviated route” for offences that are highly likely to result in a warning. Saves police time producing a full case file (1500). This would need discussion with the Honorary Police and Parishes	Min £23,000 cashable savings + £114,000 efficiency savings	Acting Chief Officer, States of Jersey Police (DW)
(6) & (11)	Introduce procurement systems for Forensic Accountants Establish estimating and/procurement systems for high Court and Case Cost items e.g. Advocates.	£424,000 cashable savings	Law Officers (TA)
(13)	Establish medical assessment capability Police contract or employee to address alcohol, drugs and psychiatric and other key issues relating in £ - Review in train £376k fees paid.	£100,000 cashable savings	Acting Chief Officer, States of Jersey Police

Table 1 ref	Action:	Savings	Action by
			(DW)
(15)	Consider what other C&CC can be recovered e.g. medical examination costs.	£100,000 cashable savings	Attorney General

3. Criminal Justice Process Mapping

3.1. Review of Criminal Justice System Process

The Process issues around the criminal justice system are recognised as causing inefficiency and increased costs. The task relating to this aspect of the work was to map the CJS and identify “Pinch Points” for improvement.

The review of the criminal justice system process is recognised as a major undertaking under over the longer term and will involve the legal and other departments.

The review will also highlight and provide information to other related reviews e.g. Court and Case Costs and Review of Law Enforcement.

The joint TQMI / Tribal team worked with CSR Team Officers and key stakeholders to understand and map the Jersey Criminal Justice Process. This work also overlapped with the Court and Case Costs review and highlighted a number of issues discussed, confirmed and actioned at the Court and Case Workshop on the 18th August 2010.

3.2. Review of CJS Process Opportunities

Key outputs of the Court and Case Cost workshop in terms of:

- 1) Budgetary and Financial Governance and
- 2) Performance Management

will now enable the generation of a Vision and overarching Criminal Justice Strategy and enable the resource (capacity) to plan improvements associated with the “Pinch Points” identified during the process mapping.

The pinch points should be reviewed by the Steering group in order to select priorities for improvement. Once identified, project teams will be selected and go on to produce detailed project proposals specifying scope, time scales, responsibilities and actions necessary to deliver effectively resourced and planned improvement activity.

3.3. Mapping Process

The Criminal Justice Process was mapped from receipt of notification of incidents and potential crimes by the States Police, through to the completion of Magistrates and Royal Court Sentencing. The scope of the process diagram maps produced was agreed at the outset.

The process maps produced are complex and have therefore not been reproduced in this report but are available to inform future work.

Key to efficiency, and in many cases financial savings, associated with case and file processing is to ensure more work is carried out right first time as close as practical to the left hand side of the process, minimising unnecessary duplication, rework and resource.

The process demonstrates how routine crime is managed and how more complex series, serious and Financial and desastres work which is more resource intensive impacts on costs. The categorisation is consistent with the court and case cost spend outlined in the 18th August Review Workshop.

The maps also provide:

- an overview of the activity and performance of key departments within the Criminal Justice System and is based on 2009 cases, files, and potential offenders entering and exiting the system.
- detail of the CJS process in more detail, focusing on the journey of an offender and their information as they pass through the key parts of the process. Note the mapping focused predominantly on criminal and court and case cost drivers as opposed to civil matters and also does not address the detail of customs, probation, prison and offender support services. Further work could be completed in these areas at the request of the steering group where investments or savings may be required as a result of strategy and policy changes emerging from the Governance, budget and performance changes agreed at the Court and Case Cost review Workshop, 18th August are completed.

3.4. 'Pinch Points'

The process work carried out in conjunction with the Court and Case Cost review identified a number of "Pinch Points" several of which were selected as areas for improvement in the Court and Case Cost Review Workshop.

Improvement opportunities to consider include:

- 1) Change the sentencing powers of Magistrates Court to 2 years and £10,000 to reduce the volume of cases referred to the Royal Court.
- 2) Improve completeness and quality of police case files prior to presentation to Law Officers' Department.
- 3) Develop a simplified (summary) charge sheet for low level offences likely to lead to caution at Parish Hall - reduces police time in file preparation.
- 4) Build upon early intervention work performed by Probation to improve outcomes for children in the Justice System - drugs, alcohol and anti social behaviour.
- 5) Increase the use of unrestricted transfer of prisoners in order to move UK (and other EU) prisoners to their country of origin.

- 6) Examine possible changes to the current law and systems to reduce the number of cases sent to court for parking, not wearing a seat belt and using mobile phones whilst driving. This may involve changing the way Centeniers and States Police operate.

Additional “Pinch Points” not included in the Court and Case Cost (Section 2) which require consideration are:

- 7) The move to increase Community Service Orders up to 480 hours from 240, has shown the Court’s determination to use community service wherever possible (as an alternative to more or less than 3 years imprisonment as opposed to 18 months)
- 8) Apply and extend the learning and practices adopted by the Police and Law Officers’ “Gold Group” to plan monitor and control non routine / high cost case investigation and prosecution costs.
- 9) Re-evaluate the process when the outcomes and recommendations of the Controller and Auditor General’s Legal Aid Review are available.
- 10) Set targets and establish measures for key parts of the CJS to limit time on remand.

In order to address the above and quantify efficiency and cashable savings we recommend key stakeholders review the process maps and work together in cross functional teams to verify the practicalities and benefits of establishing structured improvement projects. This activity should be carried out initially under the governance of the existing Court and Case Costs - CSR Steering Group, but it may be more effective to transfer this governance role to the CJS Strategy body when it has been formed.

Using the process maps might help the Solicitor General (or strategy team) to look at the effectiveness and potential efficiency measures of the Criminal Justice Process and use these to identify where to drill down in more detail to engage project teams to quickly understand the issues and potential for improvement. The maps can also be used to walk through and verify the selected hot spots and collect data to confirm improvement potential.

The Solicitor General may be best placed to drive progress of the strategy group integrating with the structural, budget and efficiency savings driven by the Court & Case Cost Review.

3.5. Conclusions

The work carried out under both these workstreams has identified that there are savings to be gained. The consultants and the Workshop group have identified and committed to deliver in excess of £1.2m in savings. It is believed that there is more to be had with further work. The introduction of a systematic budgeting process, end to end performance management of the Criminal Justice System and the introduction of sound procurement practices will continue to highlight and drive out further cost savings.

There are some risks and difficulties associated with the proposed improvement plan. A number of the proposals will require changes and the commitment of other agencies and will call for close co-ordination and communication if improvements and savings are to be achieved.. However, given the commitment shown by stakeholders and provided this commitment and momentum is maintained there is a real opportunity for well-managed change that will deliver a more efficient and effective Criminal Justice Process along with substantial savings.

Appendices

This section provides additional information to support the main report

Appendices

Appendix 1: List of people interviewed

- Tim Allen (Chief Clerk, Law Officers' Department)
- Steven Austin-Vautier (Chief Officer, Home Affairs)
- Carmel De Sousa (Finance Manager, Customs and Immigration)
- Sue Du Feu (JLIB)
- John Edmonds (Director, Criminal Division, Law Officers' Department)
- David Filipponi (Chief Officer, Bailiff's Chambers)
- Julian Gollop (Advocate)
- Terry Govel (Centenier)
- Peter Harris (Advocate)
- Caroline Hastings (Director of Strategic Procurement, Resources Department)
- Brian Heath (Chief Probation Officer)
- Ann Homer (Finance Director, States Treasury)
- James Lambert (Director of Services, Judicial Greffe/Viscounts Departments)
- Malcolm L'Amy (Centenier - St Peter)
- Tim Le Cocq (HM Attorney General)
- David Le Heuze (Magistrates Court Greffier)
- Senator Ian Le Marquand (Minister for Home Affairs)
- Steve Le Marquand (Director, Law Enforcement, Customs & Immigration)
- Carolyn Le Sueur (Finance Manager, Viscount's Department)
- Michel Le Troquier (States of Jersey Police)
- Paul Matthews (Deputy Judicial Greffier)
- Hugh McGarel-Groves (Interim Treasurer of the States)
- Catherine McMinigle (Finance Manager, Law Officers' Department)
- Liz Middleton (Finance Director, Home Affairs)
- Helen Miles, Head of Criminal Justice and Administration, States of Jersey Police
- Bill Millar (Prison Governor)
- Laurence O'Donnell (Police Legal Advisor)
- Bill Ogley (Chief Executive of the States)
- Danny O'Kane (Senior Finance Manager, States Treasury)
- Kevin Pinglaux (Finance Manager, Home Affairs)
- Mike Robinson (Chief Officer, Customs and Immigration)

- Danny Scaife (Centenier)
- Bridget Shaw (Magistrate)
- Philip Taylor (Independent Chairman, CSR Steering Group for Court and Case Costs and the Criminal Justice Process)
- Jason Turner (Deputy Treasurer of the States)
- David Warcup (Acting Chief of Police)

Appendix 2: Workshop agenda and summary output

Court & Case Costs/ Criminal Justice Process Workshop - Agenda

Session 1-Present findings

- Issues raised in terms of problems with C&CC budgeting and Procurement
- Proposed improvements

Task A

- Opinion of C&CC budget issues and proposals
- Discussion on Procurement issues and proposals
- Consensus on why little has been done on the issues that were highlighted in previous reports
- Agree main changes needed-Record issues/debating points for future clarification and action (especially structure)

Session 2 - Present possible improvements to save costs

- Long term –major structural action needed
- Possible quick fixes
- Quantified savings where possible

Task B

- Review possible suggestions (and add more if relevant)
- Which issues should be the first projects?
- Who should lead them?
- What are the main barriers to achieving these?
- Agreement on which projects go forward and approximate timescales

Session 3

- Presentation of other non C&CC proposed improvements
- Consolidate actions from Tasks A and B and develop an action plan/programme to be monitored by the Steering Group.

Workshop Output

Aims

- Share observations and findings from our interviews associated with the C&CC Review.
- Agree issues and prioritise potential areas for improvement.
- Establish initial plans to action selected priority improvements.

- Discuss and agree how responsibilities for improvement and governance will monitor and drive agreed improvements.
- Discuss the end to end CJS mapping process and highlight non C&CC pinch points for improvement.
- Round the table consensus that all these aims were met with the exception of the fifth bullet where more work is required on the CJS mapping process

Group discussion on Task A outputs resulted in agreement on all actions presented by both Groups and that reasons for non-implementation in the past have now been effectively removed (providing the agreed actions have been carried out).

Agreed actions are outline in Sections 2 and 3 of this report.

Plenary discussion on possible barriers to success on these improvement projects identified:

- Political inertia
- Ethical arguments on cost recovery
- Objections from those adversely affected inc. other states departments
- Magistrates change
- Outcome of judicial review
- Bailiffs view

Summary

The general agreement was that the Workshop had been effective in gaining consensus on action and met the aims of the day i.e.:

- Share observations and findings from our interviews associated with the C&CC Review.
- Agree issues and prioritise potential areas for improvement.
- Establish initial plans to action selected priority improvements.
- Discuss and agree how responsibilities for improvement and governance will monitor and drive agreed improvements.
- Discuss the end to end CJS mapping process and highlight non C&CC pinch points for improvement.
- It was agreed that the Steering Group's role will now be to ensure that the agreed actions as listed are carried out.