



The Bar Council

Justice short changed: Public funding of the justice system in England and Wales, 2009/10 to 2022/23

Report commissioned by the Bar Council
Professor Martin Chalkley MA PhD and Alice Chalkley MA LLM
September 2024

Contents

Foreword from the Chair of the Bar	3
Key findings	4
Introduction	5
Methods	6
Justice spending	8
The overall picture	8
Spending components.....	11
Context	14
The UK economy and government spending 2009/10 to 2022/23	14
Components of government spending.....	16
Justice spending in the context of the economy.....	17
Commentary.....	19
Annexes.....	21
1. Sources.....	21
2. Ministry of Justice spending categories and RDEL 2022/23	21
3. Glossary.....	23



Foreword from the Chair of the Bar

The Bar Council has long argued that the justice system should be treated as a fundamental public service that requires adequate funding by the government. Just like health and education, justice is at the centre of everyday life. Just like business and trade, the legal services sector brings resources into the UK economy, is a great employer and makes a very considerable tax contribution.

Access to justice and the rule of law are key pillars of a democracy and a properly functioning society. So why have governments left justice so short changed?

Despite the 2009 recession, 2020's global Covid-19 pandemic and the war in Ukraine, the UK economy as a whole grew by 11.5% over the period 2009/10 to 2022/23. The revenue generated by legal activity grew by around 60% over the last decade to £43.7bn in 2021/22.¹ Alongside this growth, government spending increased by 10.1% in real per person terms.

By contrast, however, public funding for justice in England and Wales got a raw deal. Public spending on justice fell in real per person terms by 22.4%. By failing to keep pace with the economy, by 2022/23 justice spending was £3.5bn behind where it should have been.

As the authors of the report point out: "By any measure there has been a very substantial reduction in the public funding of justice in England and Wales. That can be expected to have had a substantial impact on both the volume and quality of service that the system delivers."

None of this will come as a surprise to all those who work within the justice system. Crumbling court buildings with leaky roofs have become a visible symbol of a sector in decline. Barristers and solicitors in publicly funded practice have taken the difficult decision to leave publicly funded work as fees have stagnated against the increasing cost of living. The swingeing cuts to legal aid play out in courtrooms as litigants in person struggle to represent themselves. All of this becomes the news headlines of court backlogs and delays.

It is striking that this has happened while at the same time the legal services sector has hugely increased its contribution to the national tax take. CityUK calculates that the total tax contribution to UK public finances of legal and accounting activities in 2020 was £20.5bn, up by 5.4% over two years.² The tax generated by the work of those within the legal services sector more than subsidises the entire cost of provision of the justice system by the state.

Where investment has been made in justice – such as the court reform programme designed to digitise and modernise proceedings – the sums have been a drop in the ocean and the benefits are not yet fully realised.

We know the scale of the problem and that, without a change in direction, things will only get worse. So, what is the remedy? The authors of this report pose the question of how public spending on justice should be determined and they make a strong case for spending to grow in line with economic growth.

We argue elsewhere that justice should also be regarded and treated as a vital public service where the government can spend to save. Research shows³ that the Treasury saves three times what it spends on early legal advice.

To keep cutting justice spending in real terms is a false economy. When justice is short changed, every citizen seeking to vindicate their rights is short changed. We hope the new government recognises this.

Sam Townend KC
Chair of the Bar Council 2024

References

1. CityUK (2023), Legal excellence, internationally renowned: UK legal services 2023. Access via: <https://www.thecityuk.com/our-work/uk-legal-services-2023/>, page 12.
2. Ibid, page 6
3. Pragmatix (2024), 'The value of justice for all'. Access via: <https://www.barcouncil.org.uk/resource/government-saves-three-times-what-it-spends-on-early-legal-advice-finds-new-report-pr.html>



Key findings

- Public funding for justice in England and Wales has declined by 22.4% in real per person terms from 2009/10 to 2022/23.
- Over this period the UK economy grew by 11.5% and overall government spending increased by 10.1% in real per person terms.
- Funding for justice is 30.4% below where it would be if it had kept pace with the UK's inflation, population growth and the economy.
- Funding for justice in 2022/23 was £181 per person – around 0.5% of GDP; it is less than was spent on defence (£820 per person), education (£1,550 per person) or transport (£640 per person). It is on a par with spending on overseas aid.
- The failure of justice spending to keep pace with the growth in the economy has led to an annual shortfall in spending of £79 per person.
- In order for justice spending to have been constant in real per person terms, an additional £2bn would have been needed to be spent in 2022/23. Within this period, total government spending was £1,154.9bn.
- For justice to have kept pace with the economy, an additional £3.5bn would have needed to be spent in 2022/23.



Introduction

This report provides an update and extension to **‘Small change for justice’** which was published in 2020 and covered data from 2009/10 to 2018/19. As there, the purpose here is to provide an overview of public funding of the justice system in England and Wales.

For this report we consider the period from 2009/10 to 2022/23 and focus on a unified measure of funding – the ‘real per person expenditure’ of the government. We place the numbers relating to the justice system into the contexts of other areas of government expenditure and of the position of the economy as a whole. We show that in spite of a growing

economy and a growing public sector, justice spending has shrunk over this period.

There is no reason to alter our previous statement that, “Providing a justice system and fair access to it are fundamental functions of the state. These functions are necessary for an effective society and economy.” The justice system can be regarded as a vital part of society’s infrastructure and the extent to which it is funded provides an indication of whether the government is augmenting or diminishing it.

Methods

Figures relating to the economy as a whole, or the government's role within it, can easily obscure important insight; the numbers are so large as to sometimes dazzle, and are subject to variation over time due to the impact of changing prices (inflation) and the changing size of the population. It is therefore inherently easy to be mistaken as to what is happening.

To counter this we adopt the approach of adjusting headline figures to account for both inflation and the changing size of population, and report on the basis of real per person expenditure. The figures for spending on justice, or other areas, that we report have a straightforward interpretation; they are the average of how much is being spent for each person⁴ in England and Wales, having accounted for changing prices.

The sources of the data we use are government publications or summaries that are based on those publications. For the key institutions of justice – the Ministry of Justice (MoJ), the Crown Prosecution Service (CPS) and the Serious Fraud Office (SFO) we utilise their annual reports and the 'core' financial tables that are appended to those. For other aspects of government funding, we have used the **Institute of Fiscal Studies IFS TaxLAB** which provides a compendium of both data and sources. Where necessary we have referred back to these sources, in particular, **HM Treasury Public Expenditure Statistical Analyses 2023**. Data are reported on the basis of financial years as this is how they are compiled for government publications.

We report expenditure on the justice system in terms of **Resource Departmental Expenditure Limits (RDEL)**. This reflects

Box 1: Measuring a government department's spending

In the main text we make reference to various elements of a government department's spending as reported in their accounts. A key concept in controlling government spending is to place a limit on how much a department can spend – this is the Departmental Expenditure Limit (DEL), and it is divided between Resource DEL (RDEL) and Capital DEL (CDEL).

DEL corresponds to departmental spending that can be planned over a number of years. Expenditure which cannot be planned is called Annually Managed Expenditure (AME). AME can also have Resource and Capital (RAME and CAME) components, although the latter is quite rare. An example of AME is the spending the NHS incurs in respect of litigation for clinical negligence – this cannot be planned or budgeted for in advance.

A comprehensive measure of a department's spending is therefore RDEL + CDEL + RAME + CAME. However, for many departments one or two components dominate and so the others can be safely ignored. That is the case for the MoJ, CPS and SFO which are considered RDEL-dominated departments.⁵

money that is spent on day-to-day resources to deliver services and manage the justice system.

The other major component of government spending is on infrastructure – building and facilities, such as computers etc – and is reported in Capital Departmental Expenditure Limits (CDEL). CDEL figures do not correspond to current service delivery and tend to be ‘lumpy’, especially at the level of particular components of the justice system. Long periods of little or no capital expenditure can be followed by a period of very large expenditure. The CDEL expenditures can also be negative, if buildings or equipment are sold in large quantities. Taken together this distorts the time profile of resources.

In terms of the big picture, including CDEL in addition to RDEL makes very little difference but on a year-to-year basis for relatively small spending components they can cause some erratic figures. We also omit Annually Managed Expenditure (AME), which reflects idiosyncratic or one-off items rather than planned delivery of services. These items have been a very small part (typically less than 1%) of the Ministry of Justice or Crown Prosecution Service expenditures and can be interpreted as some statistical noise which we filter out.

References

4. We adjust for the total population (all ages) of England and Wales, as is standard practice in reporting per person figures.
5. More detail on this can be found in the summary from the Institute for Government <https://www.instituteforgovernment.org.uk/explainer/departmental-budgets>



Justice spending

The overall picture

Oversight of the provision of a justice system in England and Wales largely rests with the Ministry of Justice (MoJ). The provision of courts, prison services and Legal Aid are all under the remit of the MoJ. The Crown Prosecution Service (CPS) is the main body responsible for criminal prosecutions and so is a second major element of the justice system.

In our previous report we considered the austerity measures that had applied to MoJ and CPS from 2008/09 and the implications for real per person spending. At that time there had been a 29% reduction in spending per person in real terms between 2009/10 and 2018/19.

In this report we add the Serious Fraud Office (SFO) as it is an important and growing part of the prosecution system. Together with the HM Procurator General and Treasury Solicitor, the CPS and SFO constitute the collective Law Officers' Departments as reported in government spending.⁶ We do not report figures for the Treasury Solicitor's Department as it is primarily concerned with providing legal services for the government, not the public. Its RDEL was £12.6m in 2022/23 and it is therefore very small relative to CPS, SFO or MoJ.

Unlike in the previous report, we do not include an analysis of how police spending has been impacted over

Table 1. Total cash spending on justice in £ billion

Financial year	Prisons and Probation	Courts and Tribunals	Legal Aid Agency	CPS and SFO	Other (see Annex 2a for breakdown)	Total justice spending
2009/10	4.17	1.07	2.18	0.7	1.54	9.66
2010/11	4.06	1.09	2.32	0.66	1.5	9.63
2011/12	3.49	1.09	2.18	0.61	2.14	9.51
2012/13	3.53	1.2	2.04	0.59	1.83	9.19
2013/14	3.58	1.03	1.97	0.6	1.53	8.71
2014/15	3.48	0.94	1.74	0.56	1.57	8.29
2015/16	3.66	0.83	1.61	0.55	1.24	7.89
2016/17	3.72	1.57	1.64	0.54	0.48	7.95
2017/18	3.71	1.58	1.68	0.56	0.66	8.19
2018/19	4.02	1.66	1.72	0.56	0.64	8.6
2019/20	4.17	1.83	1.75	0.62	0.55	8.92
2020/21	4.6	1.87	1.55	0.63	1.15	9.8
2021/22	4.24	2.04	1.79	0.7	1.3	10.07
2022/23	4.64	2.12	1.91	0.77	1.43	10.87
% Change	11.27	98.13	-12.39	10	-94.46	12.55

Table 2. Cash, real, and real per person spending on the justice system 2009/10 to 2022/23

Financial year	Cash total justice spend £ billion	Real total justice spend £ billion at 2022/23 prices	Real per person total justice spend £ at 2022/23 prices
2009/10	9.66	12.85	232.67
2010/11	9.63	12.57	225.70
2011/12	9.51	12.21	217.33
2012/13	9.19	11.57	204.57
2013/14	8.71	10.76	189.03
2014/15	8.29	10.12	176.31
2015/16	7.89	9.57	165.31
2016/17	7.95	9.43	161.49
2017/18	8.19	9.56	162.66
2018/19	8.60	9.82	166.18
2019/20	8.92	9.97	167.73
2020/21	9.80	10.38	173.79
2021/22	10.07	10.76	180.45
2022/23	10.87	10.87	180.59
Change	12.55%	-15.41%	-22.38%

the period from 2009/10 to 2022/23. The reason is that policing is a part of government spending categorised as Public Order Safety (a category which includes fire services, for example) and is accounted for in a different way than the justice spending that we are considering. A full exploration of how police spending might be attributed to justice is beyond the remit of this report.

The period since we last reported has been a turbulent one. The financial crisis of 2008 led to recession starting in 2009 and exerted a negative impact in subsequent years. Following the vote to leave the EU in 2016 there have been pressures on trading arrangements and further shocks to economic activity. The Covid-19 pandemic and conflict in Ukraine have subsequently had serious implications for world trade and hence economic activity.

The period since 2018/19 has been one of substantial economic challenges. Nevertheless, over that period there has been an increase in cash funding for both the MoJ and CPS plus SFO. Table 1 shows overall spending on some areas of justice. However, cash funding needs to be adjusted for the effects of inflation and population change. The relevant overall figures are set out in Table 2.

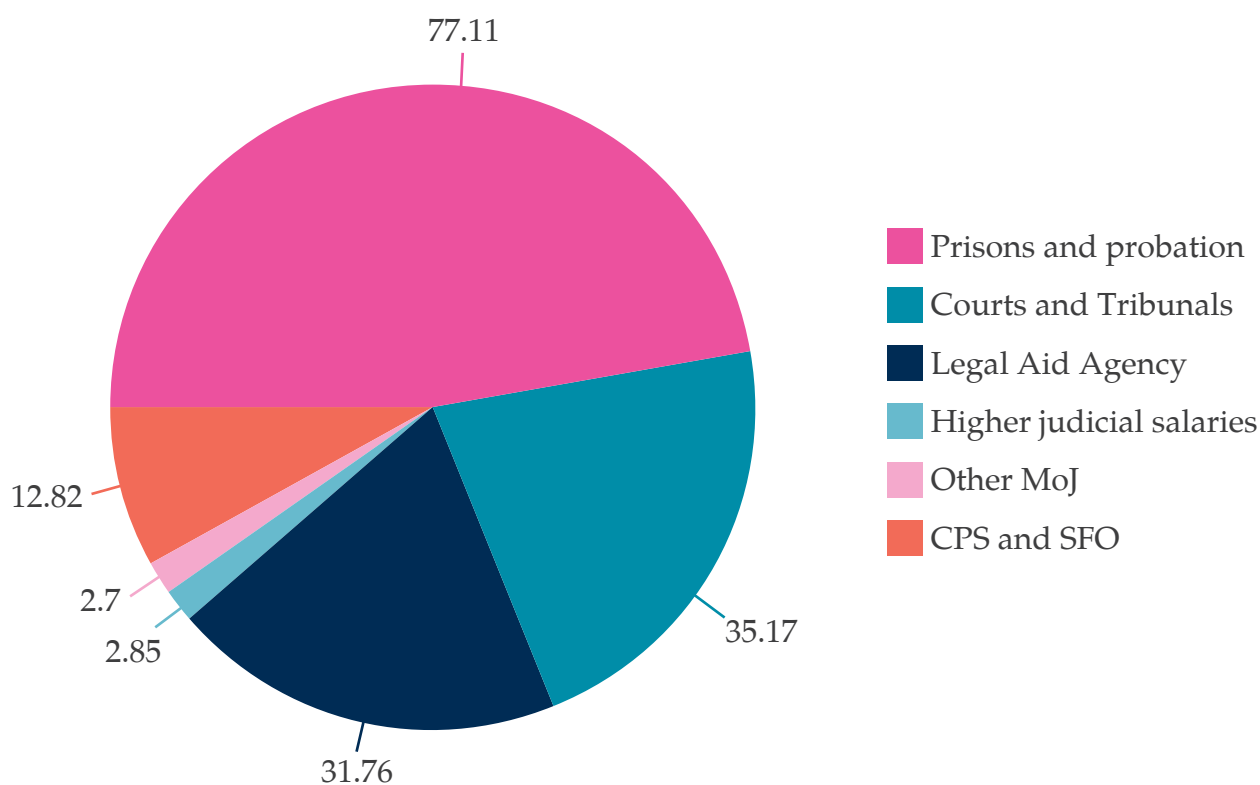
The growth in cash spending (column 1) on justice between 2009/10 and 2022/23 was 12.6%, but once the effects of inflation are factored in (column 2) this equates to a cut of 15.4%. Adding in the impact of population growth (column 3) we can see that funding for justice has fallen by 22.4%.

In 2022/23 spending on justice amounted to £10.9bn, equivalent to £181 per person.

Table 3. Real per person spending by MoJ, CPS and SFO 2009/10 to 2022/23

Financial year	Ministry of Justice	CPS and SFO	Total Justice Spending
£ at 2022/23 prices			
2009/10	215.87	16.8	232.67
2010/11	210.23	15.48	225.71
2011/12	203.28	14.05	217.33
2012/13	191.32	13.25	204.57
2013/14	176.03	12.99	189.02
2014/15	164.36	11.94	176.3
2015/16	153.87	11.45	165.32
2016/17	150.48	11.01	161.49
2017/18	151.5	11.16	162.66
2018/19	155.37	10.81	166.18
2019/20	156.06	11.67	167.73
2020/21	162.58	11.22	173.8
2021/22	167.96	12.49	180.45
2022/23	167.78	12.82	180.6
Change	-22.28%	-23.69%	-22.38%

Chart 1. Per person spending on different parts of the justice system in 2022/23 (£)



The figures for real per person spending by MoJ and CPS plus SFO are set out in Table 3.

As Table 3 shows, spending on justice has eroded for both the MoJ and CPS/SFO substantially over time. As will become apparent later, this is one of the largest falls in real per person spending across government spending areas.⁷

Spending components

The overall justice budget is made up of a number of elements as detailed in the MoJ and CPS reports. The relative size of main components and their percentages in 2022/23 is shown in Chart 1.

The **‘Small change for justice’** report provides a more detailed breakdown of

spending components (which are also set out in Annex 2), but here we focus on four key headings corresponding to spending on prisons, courts, Legal Aid and the CPS and SFO – the four largest segments in Chart 1.

The per person spending figures are given in Table 4. Together these components make up 87% of total justice spending.

Chart 2 shows the percentage change of the various parts of justice spending by placing them at the same starting point in 2009/10 and tracking how they have risen or fallen up to 2022/23.

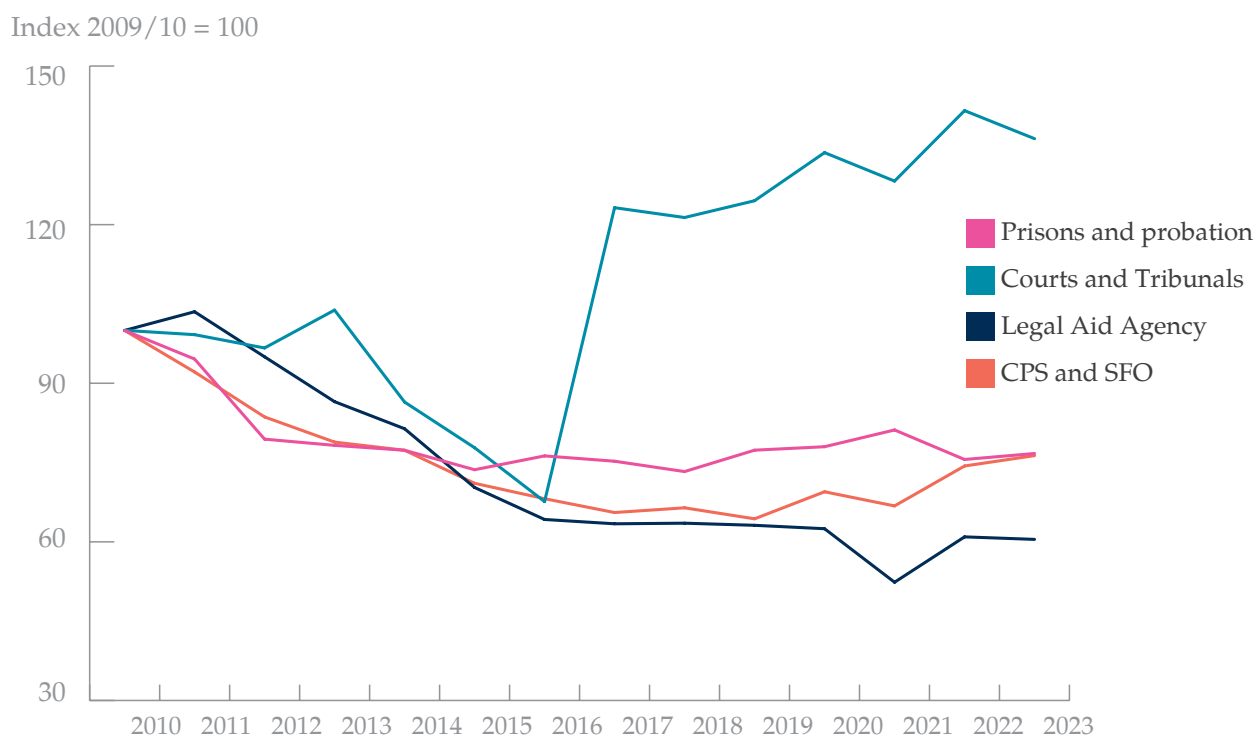
The different components of spending have fared differently over time. The largest percentage cut has been in Legal

Table 4. Real spending per person on different parts of the justice system 2009/10 to 2022/23

Financial year	Prisons and Probation	Courts and Tribunals	Legal Aid Agency	CPS and SFO
2009/10	100.53	25.81	52.53	16.8
2010/11	95.09	25.6	54.39	15.48
2011/12	79.84	24.95	49.91	14.05
2012/13	78.66	26.8	45.45	13.25
2013/14	77.73	22.31	42.76	12.99
2014/15	74.02	20.08	36.92	11.94
2015/16	76.65	17.45	33.74	11.45
2016/17	75.64	31.8	33.31	11.01
2017/18	73.67	31.32	33.37	11.16
2018/19	77.74	32.14	33.16	10.81
2019/20	78.4	34.49	32.82	11.67
2020/21	81.59	33.1	27.5	11.22
2021/22	75.97	36.54	32.01	12.49
2022/23	77.11	35.17	31.76	12.82
Change	-23.30%	36.27%	-39.54%	-23.69%

Note: The corresponding figures in terms of total cash and total real expenditures are set out in Annex 2

Chart 2. The evolution of spending on different parts of the justice system from 2009/10 to 2022/23 assuming a common starting point in 2009/10 = 100



Box 2: The different position of courts and tribunals

Most aspects of the justice system that we are documenting are exclusively publicly funded. Whilst the Legal Aid Agency recovers some of its costs from the losing side in cases that it funds, it does not charge for its services; neither do prisons, nor the CPS.

The courts are different in that they receive the fees that they charge users, and they provide a lot of services for the private economy. Courts and tribunals also have a large physical presence in terms of buildings. Not all of these are owned – some are rented or are subject to private finance initiatives – but they nevertheless form a very important part of what constitutes the capacity to deliver services.⁹

All of this means that interpreting accounts of the courts and tribunals services is difficult and that the Resource Departmental Expenditure Limit (RDEL) measure we have used to assess ‘funding’ does not tell the whole story. We have included figures in this report in a consistent manner with other elements of the justice system but regard the position of courts and tribunals to warrant a more detailed analysis.



Aid (down 40% in real per person terms),⁸ whilst prisons and the CPS have fallen by 23.3% and 23.7% respectively.

Chart 2 shows the percentage change of the various parts of justice spending by placing them at the same starting point in 2009/10 and tracking how they have risen or fallen up to 2022/23.

Legal Aid, prisons and the CPS have all exhibited the same uniform downward trajectory. CPS funding has shown a modest recovery from 2019 but in real per person terms it is still 23% below 2009/10.

Courts and tribunals were on a similar trajectory until 2016, but as can be seen, there is then a large increase in spending. This coincides with a large raft of changes: the **Court Reform Programme**. The overall cost of this programme is around £1.3bn¹⁰ and it is expected to be complete in 2024/25, although there are still uncertainties both about the final timing and ultimate scope of the changes, as detailed in the **National Audit Office's latest update (February 2023)**.

References

6. See Annex B of Public Expenditure Statistical Analysis 2023 for the definition and grouping of departments for the purposes of analysing government expenditure https://assets.publishing.service.gov.uk/media/64b69e320ea2cb001315e4f6/E02929310_HMT_PESA_2023_Accessible.pdf
7. As stated in the methods section these figures are for RDEL. If we add in capital expenditures (CDEL) and account for depreciation as is the standard for government reporting, then the real per person total expenditures are £188.81 in 2022/23 and £241.68 in 2009/10. The change is -22%.
8. During this period the Legal Aid, Sentencing and Punishment of Offenders Act 2012 (LASPO) came into effect. As a result of this, many areas of civil law became out of scope for Legal Aid.
9. It has been reported that between 2010 and 2020, 164 magistrates' courts were closed throughout England and Wales. This constitutes a 51% reduction. <https://commonslibrary.parliament.uk/constituency-data-magistrates-court-closures/>
10. The RDEL figures we report do not include capital spending and so do not incorporate the headline £1.3bn investment figure. Nevertheless, whilst the work to implement reform is ongoing, the figures for spending on courts and tribunals are likely to be uplifted. One of the conditions for funding court reform was a projected saving of more than £200m per year once implemented.

Context

The UK economy and government spending 2009/10 to 2022/23

Despite the significant cuts to justice spending detailed above, the UK economy grew in real per person terms from 2009/10 to 2022/23. Along with that growth in the economy there was growth – in real per person terms – in government expenditure.

Starting with the figures in cash terms, Table 5 gives the figures in billions of pounds for UK GDP and for a commonly used measure of overall government spending: total managed expenditure.

The growth in percentage terms of these cash figures is around 60% for both measures, so there has been substantial

growth on that basis. Adjusting for population and inflation, Table 6 provides the figures in real per person terms.

The magnitude of these numbers is worth noting. The total value of goods and services produced in the UK in 2022/23 amounted to £37,210 per person. At the same prices as prevail today, output in 2009/10 would have been £33,360 per person. Of those totals, government spending accounted for approximately 46% of GDP in both years; £17,020 and £15,460 respectively. The trend in these headline figures over the whole period is shown in Chart 3.

The impact of the Covid-19 lockdowns can be clearly seen in terms of the dip

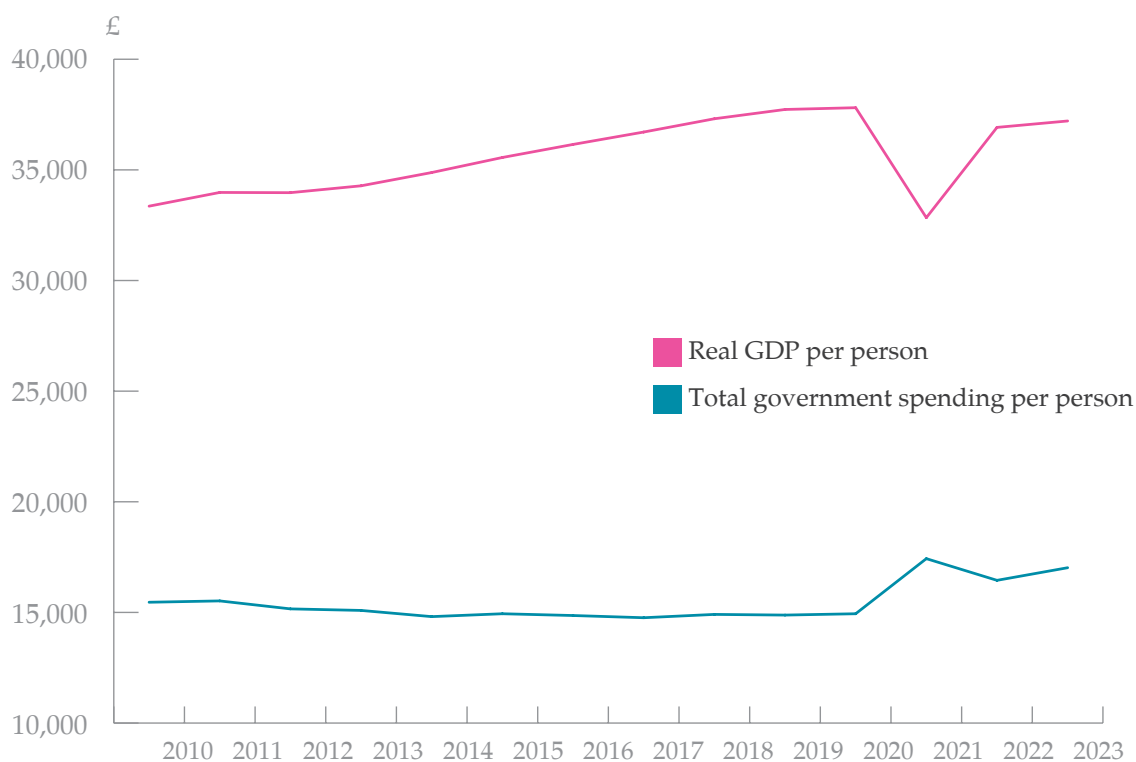
Table 5. GDP and total government managed expenditure 2009/10 to 2022/23

Financial year	Total managed expenditure	GDP
£ billion		
2009/10	723.5	1561.3
2010/11	744.8	1630.5
2011/12	745.9	1671.4
2012/13	760.4	1727
2013/14	767	1806.1
2014/15	788.1	1875.9
2015/16	796.5	1937.6
2016/17	813.3	2022.9
2017/18	840.5	2102.9
2018/19	858.4	2177.2
2019/20	888.7	2249.4
2020/21	1106.7	2085.2
2021/22	1041.5	2337.9
2022/23	1154.9	2525.5
Change	59.63%	61.76%

Table 6. Real GDP per person and total government expenditure per person 2009/10 to 2022/23 in £ (2023 prices)

Financial year	Real GDP per person	Total government spending per person
2009/10	33,360	15,460
2010/11	33,980	15,520
2011/12	33,970	15,160
2012/13	34,280	15,090
2013/14	34,880	14,810
2014/15	35,560	14,940
2015/16	36,150	14,860
2016/17	36,710	14,760
2017/18	37,310	14,910
2018/19	37,730	14,880
2019/20	37,810	14,940
2020/21	32,840	17,430
2021/22	36,920	16,450
2022/23	37,210	17,020
Change	11.54%	10.09%

Chart 3. Real GDP per person and total government spending per person from 2009/10 to 2022/23



in output and corresponding peak in government spending to support the economy.

The overall trend in real GDP per person is upwards whereas prior to Covid-19 government spending per person was approximately constant. Over the whole period, both measures exhibited a total growth, 11.54% for real GDP and 10.09% for real total government spending.

Over this whole period the UK has become better off, and the UK government has spent more per person. This is a useful baseline to work from. If everything moved in line with the economy and the government's share of the economy, we should expect figures for 2022/23 to be around 10-11% higher than those in 2009/10 in real, per person terms.

Components of government spending

The different roles that the government plays in the economy can be summarised under a number of spending headings. We will focus on those headings that correspond to the provision of services for the population. Some of the most commonly looked at – and largest items – are social security (includes pensions), health, education, defence, public order and safety, and transport. These are the 'big ticket' items and there are numerous other headings covering things like debt interest, overseas aid, long term care etc.

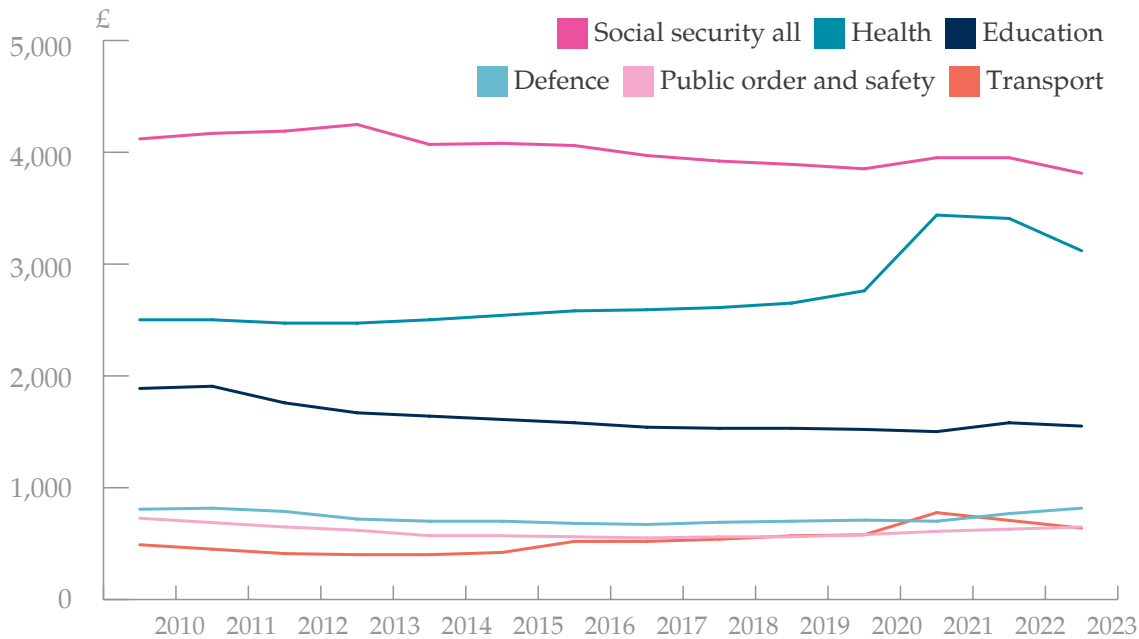
The real per person spending on the big-ticket items is set out in Table 7.

The magnitude of the numbers is again worth noting. Whereas social security and health account for over £3,000 per person

Table 7. Real per person government spending on key categories of services from 2009/10 to 2022/23

Financial year	Social security	Health	Education	Defence	Public order and safety	Transport
£ at 2022/23 prices						
2009/10	4,120	2,500	1,890	810	730	490
2010/11	4,170	2,500	1,910	820	690	450
2011/12	4,190	2,470	1,760	790	650	410
2012/13	4,250	2,470	1,670	720	620	400
2013/14	4,070	2,500	1,640	700	570	400
2014/15	4,080	2,540	1,610	700	570	420
2015/16	4,060	2,580	1,580	680	560	520
2016/17	3,970	2,590	1,540	670	550	520
2017/18	3,920	2,610	1,530	690	560	540
2018/19	3,890	2,650	1,530	700	560	570
2019/20	3,850	2,760	1,520	710	580	580
2020/21	3,950	3,440	1,500	700	610	780
2021/22	3,950	3,410	1,580	770	630	710
2022/23	3,810	3,120	1,550	820	650	640
Change	-7.52%	24.80%	-17.99%	1.23%	-10.96%	30.61%

Chart 4. Real per person government spending on different categories of services 2009/10 to 2022/23



in 2022/23, education is half that, and the other categories are all less than £1,000.

But these are still large compared to the figure of less than £200 per person for justice spending that we see in Table 3. Over time the pattern of expenditure across these headings changes, as shown in Chart 4.

The impact of Covid-19 lockdown support can be clearly seen in respect of health, and, to a smaller degree, for social security. The overall growth (or contraction) in expenditure on these different services, is set out in the bottom row of Table 7.

The largest increases over the period 2009/10 to 2022/23 are in health and transport and the largest decrease is in education. As noted above, if all of these had kept pace with the economy as a whole and with government spending in total, we should expect to see approximately 10% everywhere in that bottom row of Table 7.

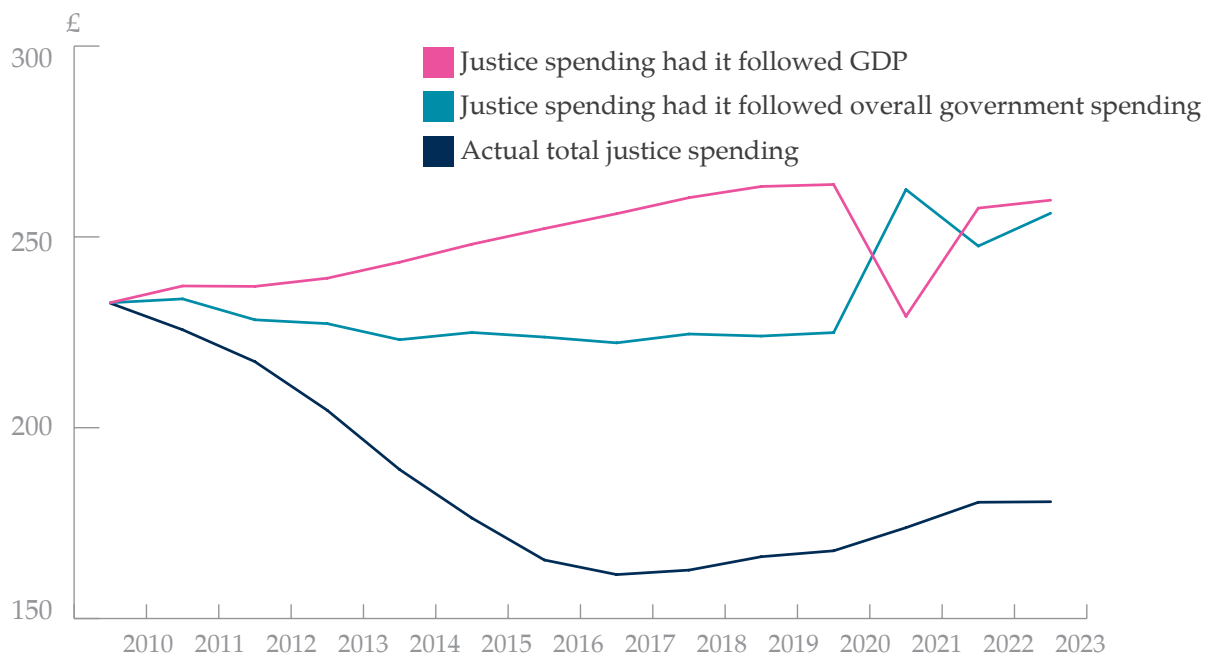
Justice spending does not appear as a separate category in this broad functional categorisation of services. Within public order and safety there are justice-related items, specifically related to courts. But the category is broad, and the largest elements are most closely associated with (and under the control of) the Home Office rather than the Ministry of Justice.

The largest item is police, but the category also includes the fire service etc. Hence, the justice system is in part reflected in the public order and safety category, which has experienced a 12% cut in real per person expenditure over this period. The detailed picture in respect of justice was set out earlier in this report.

Justice spending in the context of the economy

The figures for the economy and government can be compared with those for justice spending. In 2022/23 total justice spending was slightly over £180 per person; that was less than one third of

Chart 5. Real per person justice spending and what it would have been had it followed GDP or total government spending 2009/10 to 2022/23



what the government spent on transport in that year and less than one quarter of what it spent on defence. Compared with the very big spending areas of health, education and social security, justice spending is small change. In terms of other areas, it also appears very modest.

The decline in justice spending is also out of line with the performance of the economy and government spending. To illustrate this, Chart 5 shows the pattern for total justice spending (the navy line) and also indicates the path that spending would have taken if justice spending had been targeted to keep pace with the economy overall (the pink line) or government spending (the teal line).

The gap between the navy line (total justice spending) and these other lines gives an indication of the extent to which spending on justice has fallen short. As compared with the current £180.6 per person, justice spending would be at more than £259.6 per person had it kept pace

with the economy. This is a shortfall of £79 per person, leaving justice spending 30.4% below where it would need to be to have kept pace with inflation, population growth and the economy as a whole.

In terms of overall expenditure, we can refer back to Table 1. For justice spending to have been maintained at its 2009/10 level in real terms would require it to have had £12.85bn spent in 2022/23. That would be £1.98bn more than was actually spent. However, if justice spending were to have kept pace with the economy (which experienced 11.54% real growth over the period), the target spend for justice would be £14.33bn in 2022/23. That is £3.46bn more than was actually spent.



Commentary

Public funding for the justice system in England and Wales has declined substantially since 2009/10. Recent headline increases in cash spending cannot overcome the fact that real spending per person is now 22% below its 2009/10 value.

In the meantime, the economy, and along with it government spending, has grown by approximately 10%. The extent to which spending on the justice system has failed to keep pace with prices, the population and the economy is therefore a little over 30%.

The position of 'front-line' services to deliver legal assistance for those whose rights have been impinged or who are facing the power of the state through criminal prosecutions or child custody

proceedings or who are the victims of crime seeking closure is worse than the overall figure suggests. A large amount of the additional cash spending on the justice system since 2016 has been focused on the courts and constitutes investment in systems and processes, not help or 'justice' for those currently in need of it.

If we focus on Legal Aid, the CPS and the Prison Service then the reduction in real spending per person is nearer 30% and the funding gap, in respect of the economy, is then 40%.

By any measure there has been a very substantial reduction in the public funding of justice in England and Wales. That can be expected to have had a substantial impact on both the volume and quality of service that the system



delivers. We hope to address the question of the extent to which the services of the justice system have been degraded in a future report.

A question that naturally arises is whether the decline in justice spending has been planned and justified and, if so, on what basis. The suspicion from many of those who are a part of the system is that justice has been short changed because it is treated as a residual component of spending.

There is a serious question for public debate going forward: how should public spending on justice be determined? For some public services – such as social security and health – it appears that funding is demand driven. For other areas, there is a commitment to maintain funding in line with overall economic activity, i.e. to fix spending in terms of a proportion of GDP. This is the case with defence (where the **commitment to NATO** is to spend 2% of GDP) and has

recently been adopted, but then relaxed, for overseas aid, from 0.7% to 0.5%. It is worth noting that current spending on justice is currently 0.5% of GDP, having declined from approximately 0.7% of GDP in 2009/10.

There is a case to be made for treating spending on the justice system in this way. The services of the justice system support the economy, by providing security of property rights and institutional arrangements for resolving disputes that arise. It is reasonable to expect the justice system to grow to meet the increasing requirements that come from economic growth. That suggests that the default position could be for funding for justice to grow in line with real GDP per person and that deviations from that default should be justified and evidence based. This seems far from what we have observed.

Annexes

1. Sources

Crown Prosecution Service Annual Report and Accounts 2022/2023

<https://www.cps.gov.uk/annual-report-accounts-2022-23>

Institute for Fiscal Studies: What does the government spend money on?

<https://ifs.org.uk/taxlab/taxlab-key-questions/what-does-government-spend-money>

Ministry of Justice Annual Report and Accounts 2022/2023

<https://www.gov.uk/government/publications/ministry-of-justice-annual-report-and-accounts-2022-23>

Serious Fraud Office Annual Report and Accounts 2022/2023

<https://www.sfo.gov.uk/2023/07/18/annual-report-accounts-2022-23/>

Bar Council, Small change for justice 2020

<https://www.barcouncil.org.uk/resource/small-change-for-justice-report-2020-pdf.html>

2a. Ministry of Justice spending categories and RDEL 2022/23

Area of expenditure	£ thousand in 2022/23	Share of total RDEL
Policy, Corporate Services and Associated Offices	810,027	8.02%
HM Prison and Probation Service	4,642,263	45.96%
HM Courts and Tribunals Service	2,117,191	20.96%
Legal Aid Agency	1,912,249	18.93%
Criminal Injuries Compensation Authority	167,391	1.66%
Office of the Public Guardian	-8,338	-0.08%
Children and Family Court Advisory and Support Service (net)	143,070	1.42%
Criminal Cases Review Commission (net)	7,361	0.07%
Judicial Appointments Commission (net)	8,777	0.09%
Legal Services Board (LSB) (net)	4,255	0.04%
Office of Legal Complaints (OLC) (net)	15,056	0.15%
Parole Board (net)	23,139	0.23%
Youth Justice Board (net)	100,884	1.00%
Independent Monitoring Authority for the Citizens' Rights Agreements (net)	4,826	0.05%
Oasis Restore Trust	-	-
Government Facility Services Limited	-162	0.00%
Higher Judiciary Judicial Salaries	171,601	1.70%
OLC/LSB Levy CFER	-19,390	-0.19%
Total RDEL	10,100,200	100.00%



2b. Total real spending on different parts of the justice system in £ billion 2023

Financial year	Prisons and Probation	Courts and Tribunals	Legal Aid Agency	CPS and SFO
2009/10	5.55	1.43	2.9	0.93
2010/11	5.3	1.43	3.03	0.86
2011/12	4.48	1.4	2.8	0.79
2012/13	4.45	1.52	2.57	0.75
2013/14	4.43	1.27	2.44	0.74
2014/15	4.25	1.15	2.12	0.69
2015/16	4.44	1.01	1.95	0.66
2016/17	4.42	1.86	1.94	0.64
2017/18	4.33	1.84	1.96	0.66
2018/19	4.6	1.9	1.96	0.64
2019/20	4.66	2.05	1.95	0.69
2020/21	4.87	1.98	1.64	0.67
2021/22	4.53	2.18	1.91	0.75
2022/23	4.64	2.12	1.91	0.77
% Change	-16.4	48.25	-34.14	-17.2

3. Glossary

DEL	Departmental expenditure limit	The agreed limit on the total spending of a government department or government-funded body.
RDEL	Resource departmental expenditure limit	An agreed limit on a department for its spending on goods and services that can reasonably be planned and controlled.
CDEL	Capital departmental expenditure limit	An agreed limit on a department for its spending on equipment and capital goods.
AME	Annual managed expenditure	Expenditure that cannot be 'reasonably controlled' over a three-year period due to being outside of the department's discretion.
RAME	Resource annual managed expenditure	The part of the AME to cover goods and services.
CAME	Capital annual managed expenditure	The part of AME to cover equipment and capital goods.
CPS	Crown Prosecution Service	The major criminal prosecution authority for England and Wales. Constituted so as to be independent of the government or police.
SFO	Serious Fraud Office	A specialist investigating and prosecuting authority for serious fraud and corruption.
MoJ	Ministry of Justice	The main government department responsible for criminal justice, prison and probation services, civil courts, tribunals and family law hearings, safeguarding victims and regulating legal services in England and Wales.
GDP	Gross Domestic Product	A measure of the overall output of an economy. The total value of goods and services produced over a given time period which is a financial year in this report.
Real		A term used to denote expenditures that have been adjusted for inflation by dividing them by the price level referenced to a base year. In this report the base year is 2022/23 and the resulting real expenditures are described as being 'at 2022/23 prices'.
Per person		A total quantity of expenditure divided by the number of people (adults and children) in the population.
GDP deflator		A measure of general inflation in the domestic economy. The value in the base year is usually set to 100 so that a real value is calculated by dividing by the deflator and multiplying by 100.



The Bar Council

www.barcouncil.org.uk

✕ @thebarcouncil