

# Forty-Third Report of Session 2021-22

## Ministry of Justice

### Reducing the backlog in criminal courts

#### Introduction from the Committee

The Ministry of Justice (the Department) is headed by the Lord Chancellor and is accountable to Parliament overall for the effective functioning of the court system. Her Majesty's Courts & Tribunals Service (HMCTS), an agency of the Department, provides the system of support, including infrastructure and resources, for administering criminal, civil and family courts and tribunals in England and Wales and non-devolved tribunals in Scotland and Northern Ireland. The judiciary, headed by the Lord Chief Justice, is constitutionally independent from government. In the year to 30 June 2021 the criminal courts dealt with 1.24 million cases, including more than 90,000 in the Crown Court where the most serious cases are heard. Cases enter the system when a defendant is charged with an offence and are allocated a court date through a process called 'listing', which is a judicial function. The Department and HMCTS cannot intervene in the progress of an individual case.

Based on a report by the National Audit Office, the Committee took evidence on Monday 13 December 2021 from the Ministry of Justice and Her Majesty's Courts and Tribunals Service. The Committee published its report on 9 March 2022. This is the government's response to the Committee's report.

#### Relevant reports

- NAO report: [Reducing the backlog in criminal courts](#) - Session 2021-22 (HC 732)
- PAC report: [Reducing the backlog in criminal courts](#) - Session 2021-22 (HC 643)

#### Government response to the Committee

***1: PAC conclusion: Unacceptable delays to justice for victims, witnesses, and defendants is unlikely to be addressed by the Department's meagre ambition to reduce the Crown Court backlog by less than 8,000 cases by March 2025.***

***1: PAC recommendation: The Department should fully explore with the judiciary what reasonable expectations can be set around how long it should take for a case to be completed in the Crown Court and write to us with its findings within the next six months.***

1.1 The government agrees with the Committee's recommendation.

#### Target implementation date: September 2022

1.2 The criminal justice system is complex with many moving parts, and delays can be caused by any of the parties involved. There are processes in place which must be followed to ensure a fair trial for all. The Ministry of Justice (the department) has published criminal justice scorecards which will allow it to increase transparency across the system and is working with the judiciary and partners across the criminal justice system to improve timeliness. The judicially-led Crown Court Improvement Group is reinvigorating Better Case Management (BCM), and the department is proceeding with the Court Reform programme to make court processes more efficient. The department is working to reduce demand in the Crown Court and improving the wider system capacity, for example, extending magistrates' sentencing powers. More widely, the Spending Review provides an extra £477 million for the Criminal

Justice System as a starting point to help to improve waiting times for victims of crime and reduce the Crown Court backlog to an estimated 53,000 cases by March 2025.

1.3 The department has previously worked with the judiciary to explore the issue of reasonable expectations for case completion times in the Crown Court. This was set out in [Better Case Management](#), a judicially-led initiative introduced in 2016, under which timeframes are set out for each stage of the process regarding preparation for trial. BCM outlines that cases are expected to take 182 days from receipt at Crown Court to start of trial (assuming a non-guilty plea), providing all parties undertake their obligations.

1.4 The department believes the timeframes set out in BCM remain a reasonable expectation, subject to there being sufficient capacity to reduce outstanding cases, and it will discuss this with the judiciary as part of the work set out above to improve timeliness.

1.5 The department will write to the Committee by October 2022 to update on progress.

**2: PAC conclusion: Victims of rape and serious sexual offences are facing unacceptable delays to justice that compound and extend their suffering and lead to too many cases collapsing.**

**2: PAC recommendation: In its Treasury Minute response, the Department should set out its plan to assess the impact of its measures to support victims of rape and serious sexual offences and its progress on recruiting ISVAs.**

2.1 The government agrees with the Committee's recommendation.

#### **Target implementation date: Summer 2024**

2.2 Since publishing the [End-to-End Rape Review Report on Findings and Actions](#) in June 2021, the government has made significant progress in delivering actions to support victims of rape and serious sexual offences. In December 2021, the government published the [first progress report](#) and ['scorecard'](#) on adult rape cases. The progress report sets out the progress made since publication and includes [key actions for the next six months](#).

2.3 On 25 March 2022, the government published the first local scorecards which will allow monitoring of both local and regional progress, generate insights into local disparities, and enable the sharing of best practice to help local criminal justice agencies drive improvement. The government will continue to use the scorecard and progress report to increase public transparency, support local collaboration and monitor progress on the ambition to more than double the number of adult rape cases reaching court by the end of this parliament.

2.4 In addition, following the commitment to increase the number of Independent Sexual and Domestic Violence Advisers funded by the Ministry of Justice from 700 to 1,000 by 2024-25, the department has started the recruitment process for these additional posts. To date, this includes working with Police and Crime Commissioners to establish an up-to-date picture of local need. The department will continue to report its progress on recruiting Independent Sexual and Domestic Violence Advisers through the Rape Review Progress Updates. The department has also recently [consulted](#) on the Victim's Bill, including reviewing what more can be done to strengthen victim advocate roles such as Independent Sexual and Domestic Violence Advisers, reviewing join-up across agencies, standards, guidance and frameworks.

**3: PAC conclusion: We are not convinced that the Department can recruit enough judges to deliver on its ambition to reduce the Crown Court backlog.**

**3: PAC recommendation: in its Treasury Minute response, the Department should set out what specific actions it will be taking to ramp up recruitment while improving diversity in the judiciary.**

3.1 The government agrees with the Committee's recommendation.

**Target implementation date: March 2024** (end of the spending review period)

3.2 Since 2017, the pool of fee paid judges in the courts has increased by 12% and the cadre of Deputy District Judges is 27% larger as laid out in the [judicial diversity statistics 2017](#) and the 2021 [statistics published on Gov.UK](#).

3.3 Recorder recruitment has met or exceeded the original vacancy request in each of the last three years and there are 30 more Deputy High Court Judges than in 2017. The healthier fee-paid pool is key to meeting the need for salaried roles (for which previous judicial experience is a requirement).

3.4 Recruiting sufficient salaried judges has been challenging. Action has been taken on remuneration: the pension reforms from April 2022 resulting in a 17% uplift in remuneration for District and 20% for Circuit Judges; and the Department has adjusted its recruitment approach (for example, reducing from 30 to 15 days the sitting experience required for those applying to be a District Judge). The increase in the judicial retirement age in March 2022 to 75 years will also enable the retention of additional judges. Alongside this, the Department and Judicial Diversity Forum will continue its action to improve judicial diversity as set out in the [Judicial Diversity Action plan](#).

3.5 To meet the needs of court recovery, recruitment for 70 Circuit Judges and 125 Recorders commences in 2022. Should there be shortfalls, these will be mitigated by:

- increasing Recorder recruitment where there are higher numbers of appointable candidates and increasing Recorder sittings. All crime Recorders can sit 80 days in 2022-2023 (rather than usual maximum of 30) and where there is a business justification, the maximum has been raised to 180 days;
- approval of District Judges (Magistrates Court) to sit in the Crown Court; and
- approving Circuit Judges to sit in retirement.

**4: PAC conclusion: We remain unconvinced that the prison system will cope with the likely increase in prisoners given the planned increase in police officers and the Department's work to reduce the backlog in criminal courts.**

**4: PAC recommendation: In its Treasury Minute response, the Department should set out how it is building resilience across the criminal justice system and, crucially, how it will ensure there are enough prison places to meet the expected demand from increased police recruitment and faster recovery in criminal courts.**

4.1 The government agrees with the Committee's recommendation.

**Recommendation implemented**

4.2 The government is committed to building as many prison places as are needed and is currently undertaking the largest prison build programme in a century - investing £3.8 billion to deliver 20,000 modern prison places by the mid-2020s. Her Majesty's Prison and Probation Service (HMPPS) has already delivered around 2,700 of these through a combination of refurbishments, installing temporary accommodation, repurposing the Morton Hall Immigration Removal Centre back into a prison and the opening of HM Prison Five Wells.

4.3 The government continues to invest in critical maintenance projects to ensure as many prison places as possible are kept online and prisoners and staff live and work in a safe environment, as well as recruiting sufficient staff to manage the increase in prison population. Prison demand is sensitive to police activity, including police recruitment, charge volumes and the overall case mix, as well as the rate of recovery in the criminal courts. MoJ continues to monitor court activity and regularly updates its modelling of court recovery to ensure planning is based on the most up-to-date picture of likely demand.

4.4 In December 2021, the department published the [Prisons Strategy White Paper](#), which sets out an ambitious vision for the prison system - one which protects the public by keeping serious offenders in a custodial setting and which also works to tackle the underlying causes of reoffending.

**5: PAC conclusion: Vulnerable users and people from ethnic minority backgrounds are potentially impacted disproportionately by efforts to tackle the Crown Court backlog, which the Department and HMCTS have not done enough to understand.**

**5: PAC recommendation: In its Treasury Minute response the Department and HMCTS should set out their plans to specifically evaluate the experience of victims, witnesses and defendants—particularly those deemed vulnerable and from ethnic minority backgrounds—in criminal courts.**

5.1 The government agrees with the Committee's recommendation.

#### **Target implementation date: Autumn 2024**

5.2 As part of the evaluation of HM Courts & Tribunals Service (HMCTS) reform, HMCTS will consider the experience of criminal court users. Field work is due to commence in line with implementation stages of the Common Platform, as it seeks to understand how reform is affecting users. Findings from the study are anticipated in Autumn 2024.

5.3 Data on criminal court users' ethnicity and vulnerability (a subset of protected characteristic data) is primarily collected by the police which is the point of entry into the criminal justice system. HMCTS now receives a regular data feed from the police with case information and some protected characteristic data that has been completed by police officers. However, the approach to data collection varies across police force areas and does not align with the most recent harmonised standards for protected characteristics which means the department currently has a partial data set by which to identify these users and evaluate their experience.

5.4 The department is reviewing the current data it receives from the police to establish and document current gaps in the data and understand what improvements and analysis can be undertaken. Any programme to improve data standards and modelling will require a cross system mobilisation involving the Home Office and the police.

5.5 The department will be working with partners across the criminal justice system including the Home Office and the CPS on a programme of work to improve data and will consider how to incorporate recommendations on vulnerabilities and ethnic minorities as part of this wider strategy. The MOJ is also a lead partner in the Better Outcomes through Linked Data (BOLD) programme, which is looking to tackle some of the most complex criminal justice system issues by linking data held across multiple government departments and agencies.

5.6 As referenced in the response to recommendation 6, the local criminal justice system scorecards for all crime and adult rape contain metrics which reflect the government's priorities for the Criminal Justice System. One of these outcomes is increasing victim

engagement and the department will monitor the relevant metrics, including exploring additional ones, to better understand the experience of victims from all backgrounds.

**6: PAC conclusion: We recognise the long overdue move towards bringing data on the criminal justice system together, although it is not clear how the Department will use this to improve performance.**

**6: PAC recommendation: In its Treasury Minute response, the Department should set out how the data it has developed and published will lead to improvements in performance and victims' experiences.**

6.1 The government agrees with the Committee's recommendation.

### **Target implementation date: Summer 2023**

6.2 The first local criminal justice system scorecards for all crime and adult rape were published in March 2022, bringing together data from across the system for the first time. The scorecards will be published on a quarterly basis to increase transparency, increase understanding of the system, and support collaboration particularly at a local level.

6.3 As part of the wider programme of work on the criminal justice system, the department has recently overhauled its governance structures to increase accountability and drive forward progress in priority areas. These groups will be responsible for ensuring the scorecard is a valuable tool which will facilitate a shared cross-system understanding of progress across the system, and support collaboration both at a national and local level.

6.4 In collecting and presenting this data in one place, the government fully recognises the operational independence of those organisations which have provided data. The transparency that the scorecards offer enables collaboration by providing a cross-system view of progress, including measures that matter to victims, such as how long it takes cases to progress.

6.5 Metrics in the scorecard are grouped in priority areas aligning with the outcomes the government commits to achieve, in partnership with criminal justice system agencies: improving timeliness, increasing victim engagement and improving quality.

6.6 The department hopes to improve victim experience and reduce the number of victims dropping out of the system. The scorecards will measure, for example, the percentage of investigations that are closed because a victim withdraws support before an investigation is completed. This will allow the department to ensure that victims are supported in the best possible way whilst they engage with the criminal justice system.

6.7 The department will use the data in the scorecard to identify and understand disparities across local and regional areas, enabling the sharing of best practice to help local criminal justice agencies drive improvements.

6.8 The scorecards represent a transformative change to the way data is used to ensure a common understanding of the criminal justice system. The department has ambitious plans to significantly improve the quality of data, and is currently developing better metrics to measure progress, especially around victim experience. The scorecards are iterative and will be improved as further insights are gained on the indicators which best reflect the whole system.