



House of Commons
Justice Committee

**Court capacity:
Government Response
to the Committee's
Sixth Report of Session
2021–22**

**First Special Report of
Session 2022–23**

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Justice Committee

The Justice Committee is appointed by the House of Commons to examine the expenditure, administration and policy of the Ministry of Justice and its associated public bodies (including the work of staff provided for the administrative work of courts and tribunals, but excluding consideration of individual cases and appointments, and excluding the work of the Scotland and Wales Offices and of the Advocate General for Scotland); and administration and expenditure of the Attorney General's Office, the Treasury Solicitor's Department, the Crown Prosecution Service and the Serious Fraud Office (but excluding individual cases and appointments and advice given within government by Law Officers).

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Publication

Committee reports are published on the Committee's website at www.parliament.uk/justicecttee and in print by Order of the House.

Committee staff

The current staff of the Committee are Chloë Cockett (Senior Committee Specialist), Robert Cope (Clerk), Philip Jones (Second Clerk), Anna Kennedy O'Brien (Committee Specialist), Su Panchanathan (Committee Operations Officer), George Perry (Committee Media Officer), Owen Sheppard (Committee Media Officer), Jack Simson Caird (Assistant Counsel), Georgina Sturge (Senior Library Clerk), and Melissa Walker (Committee Operations Manager).

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First Special Report

The Justice Committee published its Sixth Report of Session 2021–22, [Court capacity](#) (HC 69), on 27 April 2022. The Government's Response and a covering letter were received on 27 June 2022 and are appended below.

Appendix: Government Response

Letter from Rt Hon Dominic Raab MP, Deputy Prime Minister, Lord Chancellor and Secretary of State for Justice

Dear Sir Bob,

The Government welcomes the Justice Select Committee's report on Court Capacity. We are grateful to everyone who contributed to the inquiry by sharing their evidence and expertise with you, as well as the Committee for your continued engagement with us.

The Committee rightly recognises that our decisive action kept justice moving during the Covid-19 pandemic, and we are committed to the recovery of the courts system.

The issues raised are of great importance, and as such we have carefully considered the recommendations made by the Committee and our response is attached (Annex A). The MoJ and HMCTS will continue to work alongside the judiciary to ensure that courts continue working at full capacity, delivering swifter justice for victims and reducing the outstanding caseload.

Yours sincerely

Rt Hon Dominic Raab MP

Government Response

Enhancing Court Capacity—Physical Capacity

1. Recommendation

The Government should develop and deliver a comprehensive plan to improve the quality of the court estate, which is funded on a multi-year basis. The plan should identify solutions for delivering essential maintenance without reducing physical capacity. It should also set out a long-term strategy for improving the court estate so that it provides a proper and acceptable environment for all its users. The Government has shown through the use of Nightingale Courts that temporary courtrooms can be made operational if required and, if necessary, this model should be used to enable permanent buildings to undergo essential work. (Paragraph 15)

Response

We recognise that maintenance works are needed across our Estate. The recent Spending Review settlement provides multi-year funding to enable a medium-term maintenance

programme to be implemented. We have a planned pipeline of future works to improve the resilience and quality of the court estate, and this is kept under regular review. Our strategy is to continue to seek further funding to improve the overall condition of the court and tribunal estate and reduce the risk of building failure.

Our investment is prioritised towards courts and jurisdictions where it is needed most, by making sure that buildings are safe, secure, meet statutory requirements and protect continuity of service.

Preventive maintenance is undertaken by our FM providers, to make sure that faults are quickly rectified and to provide early warning where equipment is beyond economic repair. Where improvement works or repairs cannot be undertaken without serious impact on hearings, we will consider alternative solutions, including the use of spare capacity in our core estate, the use of remote technology, and the use of temporary venues if there is a value-for-money case.

Enhancing Court Capacity—Digital Capacity

2. Recommendation

We recommend that the Ministry of Justice publish an update on the progress made on each project within the HMCTS court reform programme and, in particular, the date by which the programme is expected to complete and its anticipated final cost. (Paragraph 17)

Response

We are investing £1.3 billion to transform the justice system, including introducing 21st Century technology and online services to increase access to justice and improve efficiency.

The programme is continuing to reform the remaining services and is on track to complete by December 2023 as planned. HMCTS will continue to publish information about the services that are being reformed on their website.

The NAO have included the Court Reform programme in its pipeline of work, and this is expected to publish in Winter 22/23. This study builds on the NAO's past work on HMCTS's reform programme, including Early progress in transforming courts and tribunals and Transforming courts and tribunals: a progress update. It will examine HMCTS's progress in implementing its reform programme, including following up on previous NAO recommendations.

3. Recommendation

The Ministry of Justice must ensure that it ring-fences funding from Spending Review 2021 to expedite work to deliver on its commitments to improve data, as well as allocating funding for this work as part of Spending Review 2022. In so doing, the MoJ should publish a detailed timetable for implementation to ensure it is accountable for progress. (Paragraph 24)

Response

Over the next year, £3 million has been allocated within MoJ to fund data improvement across the Department with increasing amounts for 2023–25. This programme will focus on transforming the management of our data, building our data capability and changing the way users engage with our information. These activities will drive up our data quality and make it easier to access, use and share data across the system.

In line with its published data strategy, HMCTS has also been investing in its data function. This including a £1 million annual uplift to the running costs of the team and £16 million investment over the financial years 2020/21 to 2022/23. This investment funding is being used to modernise our data infrastructure and data processes, develop new measures and reporting using the new information from our Reformed systems, safely improve access to our data for use by internal and external analysts and improve our capability as an organisation to use data to improve performance.

In addition, the MOJ and Home Office have together allocated £16 million over the 3 years of the SR for a CJS Data Improvement Programme to transform the way data is used and governed across the criminal justice system. CPS and the Attorney General's Office will also be key partners.

The programmes of data improvement in the MoJ and CJS aligns with the Better Outcomes through Linked Data Programme (BOLD) to maximise benefits around data sharing and linking.

The Better Outcomes through Linked Data Programme (BOLD) - the MoJ are leading, in partnership with DHSC, DLUHC and Public Health Wales, on the BOLD Programme. BOLD is a 3-year £20 million Shared Outcomes Fund project that seeks to share and link up to 25 national and 3 local datasets across social policy departments in order to provide decision-makers with timely joined up evidence and insights in 4 areas (Victims of Crime; Reducing Reoffending; Substance Misuse; and Homelessness). Practical applications of this will include tracking education and employment outcomes for prison leavers, better understanding attrition between referral and take up of Community Sentence Treatment Requirements (CSTRs) and understanding what combinations of third sector support services best support victims to cope and recover. BOLD will also redesign the department's model of sharing data so that future data sharing is timelier and more transparent.

Enhancing Court Capacity—Judicial capacity and HMCTS staff capacity

4. Recommendation

The Government, the Judiciary and the Judicial Appointments Commission should work closely together to address the challenges in recruiting judges in those areas where there is the greatest need for increased capacity. In relation to the pay of HMCTS staff, the Government needs to ensure that pay levels keep up with those for equivalent roles in other departments. (Paragraph 29)

Response

The Ministry of Justice works closely with the judiciary and the JAC to identify the judicial recruitment need and to fill those vacancies. That is reflected in the recruitment which commenced in 2021/22 for up to 1000 judges and tribunal members and the 2022/23 programme for up to 1100 vacancies. Meeting the needs of our courts and tribunals relies

on both salaried and fee-paid (part-time) judges. A healthy fee-paid pool is key to meeting the need for salaried roles (which for most, previous judicial experience is a requirement). 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. Recorder recruitment (i.e., fee paid Circuit Judges) 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.

Recruiting sufficient salaried judges has been challenging, but the MoJ has been proactive in overcoming these challenges. Action has been taken on remuneration: for example, the pension reforms from April 2022 resulting in a 17% uplift in remuneration for District Judges and 20% for Circuit Judges; and the MoJ 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.

To meet the needs of court recovery, recruitment for 80 Circuit Judges and 125 Recorders will commence during 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.
- allowing crime Recorders to sit up to 80 days in 2022–2023 (rather than the 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.
- deploying judges from the National Recorder Pool to sit in London and on the Midland circuit even if there are vacancies on their home circuit, in order to boost flexibility.
- approving some Circuit Judges to sit ‘off circuit’ – that is in other circuits in regions with the greatest pressures, on a voluntary short-term basis. Current focus is London and the Midlands.

MoJ is in the middle of a multi-year pay agreement, to which HMCTS is party. The agreement is a major step in tackling long standing issues around pay and reward and improving pay significantly across HMCTS. It means the department will offer more competitive pay in line with other government departments which, alongside rewarding work, self development and inclusive culture, will help HMCTS hire and retain the best people and better reward efforts in keeping the public safe and serving justice. The third year of that three year deal will be paid in August 2022 at which point HMCTS return to the annual civil service pay remit process. MoJ are developing a reward strategy to determine the longer term approach to pay, part of which will be to ensure that it will remain competitive alongside other government departments.

Enhancing Court Capacity—Evaluating court capacity

5. Recommendation

A Courts' Inspectorate, which is independent from Government, could make a substantial difference to the accountability and transparency of the justice system. It could use inspections and the promised improvements to the quality of the data to make recommendations that can inform policy and guidance in both criminal and civil justice. An inspectorate could also help to monitor the use of technology in the courts. Accordingly, we recommend that the Government re-establish a Courts' Inspectorate with updated and broadened terms of reference. (Paragraph 35)

Response

We recognise the importance in having a transparent and accessible courts and tribunals system.

The work of the courts and tribunals is scrutinised by numerous parliamentary committees and inspectorate reports, with HMCTS being governed under a clear constitutional framework that is overseen by Ministers and the senior judiciary. We have assurance provided by expert bodies looking at the courts and their administration, which crucially do not cut across the important constitutional principles of judicial independence, safeguarding rather than undermining the principle of the rule of law. The criminal courts are already subject to an inspection regime that reflects the unique constitutional position of the courts, including the Criminal Justice Joint Inspection and Her Majesty's Inspectorate of Probation.

The work of HMCTS is overseen by the Board, which includes non-executive and judicial members, headed by an independent chair. Additionally, the HMCTS Annual Report that covers performance and accountability and published annually is scrutinised by an Independent Board and audited by the National Audit Office.

We have published the CJS Delivery Data Dashboard (formerly called CJS Scorecard) which bring together data from across the system on key priority areas to increase transparency. HMCTS also publishes monthly Management Information on workload and timeliness for criminal, civil and family courts and tribunals. During the pandemic the weekly use of remote hearing technologies to facilitate court and tribunal hearings was also published.

In 2010, the MoJ took the decision to abolish Her Majesty's Inspectorate of Court Administration (HMICA). This reflected various developments since the Inspectorate was established, including the establishing of a single, unified executive agency (Her Majesty's Courts and Tribunals Service [HMCTS]); and the greater transparent, independent and effective framework of scrutiny and audit around it. Combined with high levels of parliamentary scrutiny, this significantly reduced the need for (and benefit of) independent inspection of court administration systems. A decision was made at the time that continuing to fund the body was unjustified, and it was closed at the end of December 2010.

To re-establish a Court's inspectorate would require significant long-term resourcing which we are not currently set up to deliver. Available resource is being targeted on our priority areas, including reducing the outstanding caseload to deliver swifter justice.

We have committed to further considering, alongside other ministerial priorities, the Justice Committee's recommendation (in the context of its Coroner Service Inquiry) of creating a Coroner Service Inspectorate. In doing so, we will take into account the

affordability of establishing a new public body and ongoing running costs. As well as funding such a body, to establish the inspectorate would require the passing of primary legislation.

The Criminal Courts—The Crown Court

6. Recommendation

The recovery in the Crown Court will depend on the ability of the courts to dispose of a significantly higher average number of trials each month. While we recognise the difficulties of setting prescriptive targets, the Government should set out the number of Crown Court trials that will need to be disposed of each month in order to deliver the reduction in the number of outstanding cases to reach its target of 53,000 by March 2025, and complement this with a detailed roadmap for achieving this. (Paragraph 43)

Response

While trial disposals take up the majority of Crown Court time, they only represent a minority of total disposals – the total figure includes cases for trial where the defendant pleads guilty or the case is dropped by the prosecution, committals for sentence from the magistrates' courts, and appeals against magistrates' decisions. The balance of types of cases in the outstanding caseload has changed over the last two years, as some jury trials were particularly difficult to schedule. This change in case mix will therefore change the time taken to dispose of the same number of cases, as jury trials take more hearing time to dispose of than other types of cases. Over the next three financial years, we are investing an extra £477 million for the Criminal Justice system to help improve waiting times for victims of crime and reduce the Crown Court backlog to an estimated 53,000 cases by March 2025. Our plan of action includes removing the limit on Crown Court sitting days in 2021/22, expanding our plans for judicial recruitment to secure enough capacity to sit at the required levels in 2022/2023 and beyond, and extending magistrates' court sentencing powers from maximum 6 to 12 months' imprisonment for a single Triable Either Way offence to allow us to bring criminals to justice more quickly and relieve some of the strain on the Crown Court. These measures will allow us to reduce the backlog more quickly, ensuring offenders are brought to justice faster and reducing waiting times for victims and witnesses.

7. Recommendation

The current situation on timeliness in the Crown Court is causing significant injustice. The pandemic has made the situation worse, but the factors responsible for increased delays over the past decade are deep-rooted. A long-term approach to investment in the capacity of the Crown Court and the wider criminal justice system is required to improve the situation on timeliness. (Paragraph 50)

Response

The department recognises the impact that delays to justice, exacerbated by the Covid-19 pandemic, have on victims, witnesses and defendants.

We invested a quarter of a billion pounds to support recovery in the 2020/21 financial year. Between July 2020 and July 2021, we also opened a maximum of 60 Nightingale courtrooms

at any one time to boost capacity and help tackle the delays caused by the pandemic. We have extended 30 Nightingale courtrooms including 22 Crown courtrooms beyond March 2022, dependant on local need. We now have around 500 Crown courtrooms available for hearings and trials which is higher than pre-pandemic levels.

As part of the Spending Review, we are providing 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.

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. Expectations on timeliness were set out in Better Case Management (BCM), a judicially-led initiative introduced in 2016 which aims for robust case management, a reduced number of hearings, maximum participation and engagement from every participant within the system, and efficient compliance with the Criminal Procedure Rules and Practice and Court Directions.

The department has published the CJS Delivery Data Dashboard (formerly called CJS Scorecards) which increase transparency across the system, and we are working with the judiciary and partners across the criminal justice system to improve timeliness. The judicially-led Crown Court Improvement Group is reinvigorating BCM, and the department is proceeding with the Court Reform programme to make court processes more efficient. The department is also ensuring capacity across the system and working to reduce demand in the Crown Court, for example, by extending magistrates' sentencing powers.

The Criminal Courts—Timeliness in the Crown Court

8. Recommendation

The Committee welcomes the publication of criminal justice scorecards. We recommend that the Government builds on these scorecards by setting itself targets to improve timeliness across the criminal justice system. The Government should also set timeliness targets for the average time taken from offence recorded to ultimate conclusion for specific offences, such as rape. (Paragraph 52)

Response

The department has previously worked with the judiciary to consider reasonable expectations for case completion times in the Crown Court. This resulted in the development of Better Case Management (BCM) framework, 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. The department believes the timeframes set out in BCM remain a reasonable expectation.

The CJS Delivery Data Dashboard (formerly called CJS Scorecards) shows timeliness at different stages of the system such as the investigating or charging stage to better understand where in the justice process delays are occurring, down to Local Criminal Justice Board level. For example, the local data dashboard monitors how long it takes

between a case arriving at the Crown Court and the case completing. We are committed to continuing to improve the dashboard with each publication cycle which includes making sure we are monitoring the right metrics that give the fairest reflection of timeliness across the system.

The Criminal Courts—Sitting Days in the Crown Court

9. Recommendation

Whilst we welcome the opportunity to view the MoJ's forecasting models, we recommend that the Government routinely publishes its models and publishes a detailed recovery plan that sets out how it plans to meet its target of reducing the number of outstanding cases to 53,000 by March 2025. We believe that this target is not ambitious enough to build the capacity of the Crown Court in the long-term. Reducing delays in the long-term will require a sustained increase in the resourcing of the Crown Court. The Government should therefore also set targets for increasing the physical, judicial and staff capacity of the Crown Court in order to be able to deliver at least 110,000 sitting days a year for the next five years. (Paragraph 56)

Response

Our plans for Crown Court recovery this year are based on running the system at the maximum possible level, given the constraints of physical and judicial capacity. Future years are subject to Spending Reviews and subsequent Concordat process.

We have removed the limit on Crown Court sitting days in 2022/23, ensuring there is no funding constraint on Crown Court recovery.

Over 60 Crown courtrooms previously unavailable due to the pandemic have been reopened and 22 Nightingale Crown courtrooms have been extended beyond March 2022. This means around 500 Crown courtrooms are now available for hearings and trials—higher than pre-pandemic levels.

We are expanding our plans for judicial recruitment and are making use of fee-paid judges, including those sitting in retirement – for the second year in a row, we have increased the maximum number of sitting days for all crime Recorders from 30 to 80 days. We have also legislated to raise the statutory mandatory retirement age (MRA) from 70 to 75 for judicial office holders.

We believe this is an ambitious plan that will reduce the outstanding caseload in the Crown Court in the fastest way possible and allow us to meet the demand resulting from having more police on our streets. A reduction in the caseload to 53,000 will represent significant progress towards driving down waiting times for victims of crime. It is also worth highlighting that there will always be outstanding cases as these figures include cases that are being prepared to be heard in the courts.

Decisions about the allocation of sitting days are decided at future Spending Reviews and through the annual Concordat process between the Ministry of Justice and the Judiciary.

The Criminal Courts—Judicial Capacity in the Crown Court

10. Recommendation

We share the view of the judiciary and the MoJ that judicial capacity is, at present, the most pressing constraint in the courts system. We welcome the Government's plans to recruit more judges. The Government should learn the lesson from past decisions that have led to a reduction in judicial capacity. Increasing the number of judges is a difficult task which requires a long-term approach and a sustained focus. The MoJ should produce a detailed plan on how it intends to increase the number of judges in the Crown Court in the long-term. (Paragraph 59)

Response

MoJ has a shared objective with the judiciary and the Judicial Appointments Commission to ensure that judicial recruitment is planned in a way that meets both long-term and more immediate needs. This is why a 5-year rolling recruitment programme has been agreed to recruit to those judicial offices where there is the greatest need for regular (annual to biennial) recruitment. As explained in the response to Recommendation (9), every effort is being made to maximise Circuit Judge and Recorder capacity. Long-term resourcing plans will benefit from action to make judicial office attractive through providing efficient administrative support and a well-maintained court and tribunal estate. That is why £1.3bn has been invested in HMCTS reform on the large-scale modernisation of our processes, digital systems and our buildings, which includes greater use of case officers ensuring that judges can spend their time on judge level activity; and over £280m over the last two years has been invested in maintenance of our estate.

A thriving legal sector is also key to ensuring future judicial resourcing needs can be met. The Government's proposals, currently under consultation, to reform the criminal legal aid system, by providing a 15% uplift for most schemes and longer term investment, including reform of the Litigators' Graduated Fee Scheme (LGFS), will ensure continued high standards of representation before our courts, and sustainable cWe will also support the next generation of criminal lawyers by making up to £2.5 million available for training grants for solicitors.

The Government is also looking at increasing the opportunities for CILEX professionals across the justice system – including making it easier for them to become duty solicitors to increase the sustainability and stability of the provider base. This could provide a further pipeline into the judiciary.

The Criminal Courts—Physical Capacity in the Crown Court

11. Recommendation

We welcome the Government's announcement of the lease extension for a number of the Nightingale Courts. The Government should now set out its policy on the future use of supplementary venues to support the work of the Crown Court. It should also produce a comprehensive evaluation of the Nightingale Courts, and ensure that the lessons learned from their establishment and operation are taken forward. (Paragraph 62)

Response

Nightingale courts have been essential throughout the pandemic, providing much needed temporary capacity while social distancing measures were in place, ensuring delivery of justice continued. We have extended the use of 13 Nightingale court venues, providing 30 hearing rooms to support the Government's target of reducing Crown case backlogs to 53,000 by 2024/25. We also set up a temporary venue to hold a large trial taking place in Walsall, that is expected to sit over a period of more than a year, avoiding disruption in the nearby Crown Court. We continue to evaluate the Nightingale court programme and will assess the need for temporary venues based on operational requirements. The Nightingale court programme has proven our ability to create suitable temporary court capacity at short notice to meet operational demand. We have already gathered and applied a range of important lessons that we have learnt from the Nightingale court programme. We commit to providing a comprehensive evaluation of the Nightingale court programme by the end of the 2022/23 financial year.

12. Recommendation

The Committee welcomes the creation of super-courtrooms and commends HMCTS for their work in getting them up and running during the pandemic. The Government should set out how many more super-courtrooms will be provided by 2025. (Paragraph 64)

Response

Since the start of the pandemic, we have significantly increased our capacity in criminal courts to conduct hearings with multiple defendants. This has included works to increase defendant capacity, including modifying 71 courtrooms to hold large multi-hander trials, and opening super courtrooms at Manchester and Loughborough, capable of holding hearings with up to 12 defendants. We will continue to keep our estate under review to ensure it meets our operational requirements.

The Criminal Courts—Technological Capacity in the Crown Court

13. Recommendation

The rollout and expansion of section 28 of the Youth Justice and Criminal Evidence Act 1999, which allows pre-recording of evidence and cross-examination for children and vulnerable witnesses, is an important step in improving the experience of these witnesses in the criminal justice system. However, it is vital that a thorough review of the practical and procedural implications of the use of section 28 is undertaken before there is any further expansion of its use. (Paragraph 69)

Response

It is important that we prioritise making section 28 available to support complainants of rape and serious sexual offences as quickly as possible. The Ministry of Justice continues to monitor data from the courts and discuss regularly with the judiciary and operational partners as we proceed with the rollout of section 28 for victims of sexual and modern slavery offences in all Crown Courts. As part of this monitoring activity, we are considering the effects on court recovery.

We are also undertaking a process evaluation with victims and criminal justice practitioners who have used this provision, interim findings from which will help to inform rollout. We aim to publish the results of this in the autumn.

The Criminal Courts—Listing in the Crown Court

14. Recommendation

There is more that can be done to make listing more transparent and effective, for example by distinguishing between listing decisions based on court capacity and those based on case progression. The development of local justice scorecards will help to identify where delays are particularly acute. In terms of effectiveness, national level guidance on listing certain types of cases, such as that produced by the Lord Chief Justice on remote attendance, would be valuable. The Government should make a contribution to improving listing through policy initiatives, such as the establishment of specialist rape courts and guidance on the use of section 28 evidence. (Paragraph 74)

Response

Listing

The allocation and listing of individual cases is a judicial responsibility. This long-standing, constitutional principle was reflected in the 2004 Concordat setting out the respective responsibilities of the Lord Chancellor and the Lord Chief Justice, which states that ‘judges are responsible for deciding on the assignment of cases to particular courts and the listing of those cases before particular judges, working with [HMCTS]’.

The government does, though, continue to support the judiciary in efforts to improve the effectiveness of listing practice. Examples include the Lord Chief Justice’s guidance on remote attendance, and the work of the Crown Court Improvement Group – under the leadership of the senior judiciary – that focuses on reducing the number of ineffective trials. HMCTS also works to make sure that court listing officers are provided with up-to-date training and guidance, and that good practice is shared.

Policy initiatives

Where government policy initiatives may have implications for listing or case management, the government will discuss outline proposals with the senior judiciary to understand potential operational implications. This engagement is in keeping with the spirit of the partnership arrangements in place for the running of the courts (as captured in the HMCTS Framework Document).

For example, Ministry of Justice officials are working closely with the judiciary, police and the Crown Prosecution Service to make pre-recorded cross-examination (known as section 28) available for sexual and modern slavery complainants in all Crown Courts as soon as practicable. The Lord Chief Justice then took account of this work when preparing a revised practice direction, issued in March 2022, governing the use of section 28, including the listing of such cases.

Work is currently under way with the senior judiciary to develop proposals for setting up enhanced court provision for victims of sexual violence. Further detail will be available in due course.

The Criminal Courts—The magistrates' courts: video hearings

15. Recommendation

The use of video remand hearings in magistrates' courts highlights the importance of coordination across the criminal justice system on the use technology within the criminal courts. In the long-term, the MoJ should use research on remote hearings, such as the Evaluation of remote hearings during the Covid-19 pandemic, to develop guidance and policies on when video hearings should be used in the magistrates' courts. (Paragraph 78)

Response

We have committed to evaluating the impact of remote hearings as part of HMCTS' Reform program and will take the learning and evaluation flowing from the use remote hearings during the Pandemic to help inform both remote hearing policy and how best video can be utilised across the criminal justice system.

The Criminal Courts—Judicial capacity in the magistrates' courts

16. Recommendation

The Committee welcomes the Government's launch of a major campaign to recruit magistrates. The Government should also consider whether it would be possible, as the Committee recommended in 2016, to streamline the recruitment process, so that applications are processed within six months. (Paragraph 80)

Response

A key objective of the Government's over £1 million investment into the recruitment of new magistrates is to streamline the recruitment process, reducing the length of time from application to appointment. As a result, a revised, online, recruitment process has been introduced to ensure applying to the magistracy is more efficient but, remains robust and challenging to identify the best candidates. Changes to the process to recruit magistrates will be kept under review, including impacts on application times.

The Criminal Courts—Increasing the power of magistrates

17. Recommendation

The Committee supports the decision to increase the sentencing power of magistrates. The Government should conduct a review of the change 12 months after it has come into force and evaluate its effect on the workload of the Crown Court. (Paragraph 83)

Response

Increasing magistrates' court sentencing powers will deliver swifter access to justice and further assist court recovery. The policy aims to improve efficiency in the criminal courts, reduce the backlog in the Crown Court and speed up case completion by retaining

more cases in magistrates' courts. Increasing powers in this way will move up to 8,000 sentencing hearings from the Crown Court to the magistrates' court, resulting in a one-off reduction in the Crown Court backlog of about 1,700 cases. Then, because those 8,000 cases no longer have to be heard in the Crown Court, the policy will free up approximately 1,700 Crown Court sitting days a year for other work, which could allow an extra 500 jury trials per year to take place.

To understand the impact that the extension of magistrates' courts sentencing powers has on the Crown Court system, we are monitoring and assessing relevant court and prison data on a monthly basis, which will give the best chance of identifying impacts of the policy as quickly as possible. We also supplemented this change by legislating in the Judicial Review and Courts Act for a power to vary the limit on the length of sentence that the magistrates' court may give to either 6 months or 12 months in the future. This power will ensure we have maximum flexibility in the future to respond to changing circumstances.

The Criminal Courts—Royal Commission on the criminal justice system

18. Recommendation

The evidence to this inquiry has shown that the criminal courts are going through a period of significant change and the question of the role of technology in the courts is particularly pressing. The Government should proceed with its manifesto commitment to establish a Royal Commission on the criminal justice processes. (Paragraph 85)

Response

Although the Government recognises the opportunity that the Royal Commission presents to look at structural questions in the system, we are now taking the time to consider where a Royal Commission will add the most value to the substantial cross-departmental work already underway.

We are already delivering significant programmes of work to ensure all component parts of the system work together to deliver swifter justice. We have published the CJS Delivery Data Dashboard (formerly called the CJS Scorecard) which is a vital step in improving transparency and increasing understanding of the CJS. Under the HMCTS Court Reform programme, we have been modernising our services since 2016 to improve efficiency and provide new, user-friendly digital services. We have introduced the Common Platform system in the criminal courts which ensures the courts, the CPS, and police all have access to the same case information, and it is now live in 50% of Criminal cases. We have introduced measures for a number of reforms to the courts system through the Judicial Review and Courts Act and expanded measures for video and audio hearings in courts through the Police, Crime, Sentencing and Courts Act. Technology in the courts was the solution to keep justice moving during the pandemic and remote hearings have played an integral part in our continued recovery of the courts, with the Video Hearing Service, designed in partnership between HMCTS and the judiciary, now being rolled out to replace the Cloud Video Platform.

Civil and Family Courts—Family Court

19. Recommendation

The Committee welcomes the Deputy Prime Minister's willingness to consider bold solutions in family justice. It is an area of the justice system that needs the Government's full attention. Just as with the criminal justice system, it is vital that the ministers responsible for family justice work across Government, for example with the Minister for Children and Families, to develop policies that can help improve the support for separating couples and their children. (Paragraph 95)

Response

The Government agrees that strong inter-departmental working is crucial to effectively supporting separating couples and their children. The Ministers for Family Justice (MoJ) and Children and Families (DFE) jointly chair the Family Justice Board, which regularly meets to discuss, develop and ensure the implementation of cross-system reforms within the family justice system. The Board is also attended by key operational agencies and the President of the Family Division attends as an observer.

We are also working closely across departments to ensure that earlier support and intervention is available for separating couples and their children. In the recent spending review, the Chancellor announced £82 million for a network of Family Hubs in 75 local authorities to integrate family services and strengthen relationship support. The Ministry of Justice is working closely with DfE to ensure that Family Hubs signpost separating parents to out of court options such as mediation and to explore other ways that the family hubs network can improve support for separating parents/carers and their children.

DWP operates a Reducing Parental Conflict scheme that supports parents to reduce conflict that is below the threshold of domestic abuse. DWP have published reports on the programme and some interventions show promising results, particularly in embedding parental conflict support into wider services for children. The programme has been delivered through local authorities and the Ministry of Justice will be working with DWP regional integration leads to raise awareness of mediation vouchers and other support for parents/carers and children such as mediation and parenting courses.

20. Recommendation

We are concerned by the growing number of cases in the Family Court. The Government should develop a Family Justice action plan to address this problem. The action plan should set out how the Government will expand the capacity of the family justice system to deal with the growing number of private family law cases. It should also set a target for reducing the number of outstanding cases by 2025, and for improving the timeliness of cases in the Family Court. (Paragraph 98)

Response

In November 2020, we published an overview of the HMCTS recovery plan for the civil and family courts and tribunals. This summarised the progress that had already been made in the family courts, as well as outlining plans and targets for further work to drive increased capacity and efficiency. This including sitting the highest possible number of sitting days.

The core principles set out in the November 2020 plan of maximising sitting day levels and improving the number of cases completed to manage the volume of outstanding cases continue to be at the heart of our recovery planning, and we review our progress against these ambitions on an ongoing basis. We sat to our highest ever level in the financial year 2021/22, reaching 105,944 judicial sitting days. We have also undertaken one of our most ambitious programmes of judicial recruitment ever and have made greater use of part-time judges by lifting the number of days fee-paid judges can sit from 30 days to 80. As a result, average monthly disposals in 2021 were 200 more than they were in 2020 for public family law and 1,100 more for private family law. As noted in the HMCTS Annual Report for 2020 to 2021, we have made extensive use of remote audio and video hearings as well as supporting the judiciary in prioritising and triaging cases.

In the financial year 2020/21, we invested £250 million to support recovery in the courts which included £76 million to increase our capacity to hear cases in the civil and family courts, and tribunals. Over the next three financial years, we are investing a further £324 million to increase capacity in the in the civil, family and tribunal jurisdictions to continue tackling backlogs and improve timeliness. In March 2021 we launched the Family Mediation Voucher Scheme which is discussed in further detail in the response to Recommendation 21.

In addition, the Family Justice Board have highlighted the need for the Board to focus on its top priorities and purpose in aiding the sector in system improvements, and have identified six immediate to medium term priorities:

Private Law

- (1) For Government and all partners to understand and influence wider societal views on separation and the use of the courts;
- (2) Increasing efficiencies in the private law process;
- (3) Better support for local areas to scrutinise their performance challenges and share best practice.

Public Law

- (1) Identifying ways to address cases that are in the system the longest and understanding the impact of adjournments on case duration;
- (2) Understanding the high number of emergency/short notice applications and the increase on previous year(s);
- (3) Improving practice at the pre-proceedings stage.

Immediate areas of focus will be on the first priorities, reducing demand in private family law and Identifying ways to address cases that are in the system the longest and understanding the impact of adjournments on case duration.

Civil and Family Courts—Family Court: mediation

21. Recommendation

The Government's Mediation Voucher Scheme is a welcome development for the capacity of the Family Court. The initial results, with 400 vouchers being used and with 77 percent of cases reaching full or partial agreements, are promising. While we recognise the value of piloting such approaches, we would encourage the Government to find solutions that can match the scale of the challenge facing the Family Court. We agree with Resolution that the Government needs to ensure that there are a range of options available to separating families. (Paragraph 101)

Response

This Government is committed to ensuring the family courts are available to those who need it most. Where it is appropriate and safe to do so, the Government wants to support parents/carers so that they can resolve their issues earlier and without coming to court.

The government has committed a further £5.1 million to continue the Mediation voucher scheme during financial year 2022/23. This will deliver around 10,400 vouchers. The scheme provides a contribution of up to £500 for the costs of mediation to separating families with a dispute over child arrangements. The aim is to encourage as many families as possible to explore mediation as an alternative to court and reduce the growing number of outstanding private law cases. The Family Mediation Council, who administer the scheme, report that 8,625 families have taken up mediation vouchers as of 22 May.

We agree that more needs to be done to meet the scale of the challenge. We are developing an ambitious programme of reform which will include a range of measures to help families reach an agreement without the need for court. This includes work to increase the number of parents attending the Separated Parent's Information Programme (SPIP) earlier in the court process. This programme helps to reduce conflict between separating parties and ensures they are focused on the best interests of the child

Civil and Family Courts—County Court

22. Recommendation

We welcome the Government's ambition to improve the use of digital technology in the County Courts. We would ask the Government to confirm the timeline for the rollout of Core Case Data. Once the data is available, the Government should also publish local civil justice scorecards to enhance the transparency of timeliness in the civil and family courts. (Paragraph 110)

Response

The civil reform project is due to run until March 2023. Within that time, we expect to deliver an end to end reformed service for civil money claims – this service will use Core Case Data (CCD), a case management system designed to support our reformed services in Civil, Family and Tribunals, to provide the ability to issue, respond and progress money

claims and damages claims to a final hearing. The reform of both possession claims, and enforcement applications has also recently commenced and HMCTS is currently considering how best to reform these services using CCD.

Civil and Family Courts—Judicial Resources in the Civil and Family Courts

23. Recommendation

The County Court is vital to access to justice in England and Wales. The public relies on it to resolve disputes and vindicate their rights. As such, the significant increase in delays in certain cases in the County Court is concerning. It is imperative that the Government provides the resources to ensure that the County Court has the capacity to deal with cases in a timely fashion. The Government should set out what steps it is taking to reduce delays in the County Court and to improve the judicial, physical, digital and staff capacity of the County Court. (Paragraph 111)

Response

The civil courts play a crucial role in ensuring citizens have access to justice and in supporting the economy. Despite the impact of the pandemic our timeliness figures in civil courts remained stable over 2021. However, we are working to improve timeliness, across all tracks for claims that progress to a hearing. We took swift action in response to the pandemic, including introducing Covid-secure courtrooms and remote hearings. We will maximise the number of sitting days utilised across the jurisdiction, ensuring the administrative and staffing support required for those sitting days is in place, and will continue to deliver efficiencies through our Reform programme which will improve the user experience and remove some administrative tasks enabling cases to reach hearing readiness sooner. The Spending Review settlement includes a further £324 million over the next 3 years to improve timeliness in civil and family courts and tribunals.

Due to timeliness metrics being recorded at the conclusion of a case, it will take time for improvements in timeliness to become evident in data. Following the Call for Evidence on Dispute Resolution, the Ministry of Justice is also exploring proposals to promote the early and consensual resolution of disputes where appropriate, ensuring that court resources are focussed on cases that require a judgment.