



Justice Committee

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Rt Hon Robert Buckland QC MP
Lord Chancellor & Secretary of State for Justice
Ministry of Justice
102 Petty France
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16 December 2020

Dear Lord Chancellor

Thank you for giving evidence to the Committee on 1 December. I am writing on behalf of the Committee to follow up on a number of issues raised in the session.

Crown Court recovery

On 1 December we asked you when the number of outstanding cases in the Crown Court was projected to return to the pre-Covid-19 baseline of 39,311. We are concerned that while there is clearly progress being made, the current rate of recovery is short of what was projected in the Criminal Recovery Plan published in September.

[COVID-19: Update on the HMCTS response for criminal courts in England & Wales](#) sets out on page 7 that the recovery plan would mean that in October 266 jury trials would be disposed of each week, and that in November the number would be 333 jury trials per week. The latest weekly management information from HMCTS shows that in October and November the number of jury trials disposed each week was some way short of 266 jury trials each week and that instead the average was that 180 jury trials were being disposed of each week in October and 200 in November. Could the Lord Chancellor explain why the number of jury trials disposed of each week in October and November was short of the projection made in the recovery plan?

The same report outlines, on page 10, that HMCTS has used a model created “to estimate capacity and throughput of work under different scenarios and assumptions”. The Committee would like to know whether HMCTS would be able to publish their latest model, which takes account of the funding secured from the Treasury in the spending review, and which shows when the number of outstanding cases in the Crown Court is projected to return to the pre-Covid-19 baseline of 39,311. The publication of this model and the identification of a target date for the return of the pre-Covid-19 baseline would allow the Committee to assess whether funding secured and the existing plan to expand the capacity of the Crown Court are sufficient.

The Committee would also like to know whether the prediction of Ms Gemma Hewison, Director of Strategy and Change at HMCTS, which was referred to in *Lucima v CCC* and *DPP v Woolwich* [2020] EWHC 3243, that the outstanding jury trial caseload could only be reduced to pre-Covid levels by March 2023, remains valid?

Video remand hearings

On video remand hearings, the Lord Chief Justice on 10 November told the Committee that he regretted the decision of police forces in England and Wales to stop facilitating video remand hearings from police stations at the end of the year. The Lord Chief Justice's written evidence to the Committee said that the decision "will disrupt the operation of the Magistrates' Courts and reduce the throughput of work".

The Committee would like to draw the Lord Chancellor's attention to the Committee's 2019 report, [Court and Tribunal reforms](#):

We recommend that HMCTS does not introduce fully video remand hearings before robust piloting and evaluation have been carried out, alongside sufficient investment in video equipment and reliable WiFi.

The broader point is that it was predictable that the challenge of coordinating these hearings between the various participants in the criminal justice system is difficult. It is regrettable that this breakdown in the operation of these hearings should occur during such a difficult period for the criminal justice system.

In your evidence on 1 December, you described video remand hearings as "a singular success story" of the justice system's response to the covid-19 pandemic. However, you also identified the current legislative framework, which limited what could be done by prison escort custody officers as opposed to by police officers, as being the root of the problem that the Lord Chief Justice raised with us. You told us that the Government intended to introduce legislation in the new year to enable prison escort custody officers to exercise the relevant custodial functions. It was also explained that officials in the Ministry of Justice and the Home Office were working on a practical solution in the meantime and that you would keep the Committee up to date on progress. In that spirit could the Government supply more information on what is being done to remedy this problem? Does the Government plan on using primary or secondary legislation to implement this change to the relevant statutory framework? Seeing as the Government has such limited time to develop a solution that can put in place after the police stop providing this service, could the Government commit to providing details on the interim solution to the Committee before the end of the year?

Technology and the Criminal Justice System

During the session, you rightly praised the role technology has played in expanding Crown Court capacity during the pandemic. The Committee is pleased to see that the roll out of the technology to allow vulnerable victims and witnesses to pre-record their cross-examination has been completed. However, the Committee would like to ask for more information on the proposals in the Sentencing White Paper to allow defendants to enter pleas and elect for jury trial online.

The Justice Committee's report [Court and Tribunal reforms](#), published in September 2019, raised concerns about the prospect of enabling online pleas:

There are clear risks to fairness in inviting unrepresented defendants to enter pleas online in criminal cases. We recommend that this facility, should it be introduced, be restricted to defendants who have obtained legal advice and that the legal aid rules be changed to allow access to advice in all such cases.

The Committee would like to know if the Government is planning to legislate to introduce online pleas, and if so whether it would be restricted to defendants that have obtained legal advice?

Yours sincerely

A handwritten signature in black ink, appearing to read 'R. Neill', with a large loop at the start and a long horizontal stroke at the end.

Sir Robert Neill MP
Chair
Justice Committee