



Ministry  
of Justice

**Mike Freer MP**  
Minister for Courts and  
Legal Services

Sir Robert Neill KC (Hon) MP  
Justice Committee  
House of Commons  
Palace of Westminster  
Westminster  
SW1A 0AA

8 April 2024

Dear Sir Bob,

### **MAGISTRATES' COURT SENTENCING POWERS**

Thank you for your letter dated 26 March 2024 setting out your concerns regarding the Government's decision not to increase magistrates' court sentencing powers (MSPs) again.

I would like to again reassure the Committee that changing MSPs back to historic limits was in no way a reflection on the use of the extended powers: the Government places immense value on the continuing and outstanding contribution of Magistrates to the justice system.

As the Committee is aware, the adult male prison estate has been under acute pressure for some time, including a surge in the remand population as well as a significantly higher number on recall. While increased MSPs are not the only factor behind the pressure on prisons, data indicates that increased MSPs negatively impact short term prison pressures and, while the situation remains acute, the Government must ensure a cohesive, cross-system response and has therefore taken the decision not to increase MSPs again at this time.

I note your concern about the outstanding caseload at the Crown Court. The Government is working hard to reduce the outstanding caseload and deliver swift justice in close collaboration with the judiciary and other partners to improve the experience of court users. All parts of the justice system will continue to work together to deliver justice for victims as quickly as possible and the Government is grateful to the judiciary for their continued support in working through the challenges the criminal justice system currently faces. The Crown Court hears only a small percentage of cases compared to the magistrates' court, where more than 90% of criminal cases are dealt with.

At the Crown Court, we remain committed to our public ambition of a caseload of 53,000 cases or fewer by March 2025 and have introduced a raft of measures to achieve this aim. We sat over 100,000 sitting days last financial year and are on track to sit around 107,000 days by the end of 2023/24. Thanks to our investment in judicial recruitment, we expect to recruit more than 1,000 judges across all jurisdictions by the end of this financial year. We are also investing in the continued use of 20 Nightingale courtrooms into the 2024/25 financial year, to allow the courts to work at full capacity.

As a result, judges are disposing of more cases and court timeliness is improving. In the Crown Court, the latest data also shows that cases progressed through the Crown Court more quickly throughout 2023, with the median time from receipt to completion reducing from 167 days in the first quarter of 2023, to 125

days in the last quarter. From Q1 2023 to Q3 2023, the volume of disposals has increased by 3%, from 25,081 to 25,527 disposals at the end of September 2023. Disposals stabilised towards the end of 2023 but across the year were the highest since 2019.

As well as the information above, I am happy to provide the Committee with responses to its questions arising from the Government's decision not to increase MSPs at this time.

1. When does the Government next intend to review whether to increase MSPs?

The Government will continue to monitor efficiency in the criminal justice system, including prison capacity issues and the Crown Court outstanding caseload, with a view to reinstating the powers in due course, as long as this is supported by evidence.

2. To what extent did the increase of MSPs reduce the number of outstanding cases in the Crown Court?

The Crown Court outstanding caseload had been expected to reduce as a result of the reduction in receipts from magistrates' courts caused by the implementation of increased MSPs. However, other significant factors, in particular the disruptive action by the Criminal Bar Association (CBA), mean that isolating the specific impact of MSPs during that time has not been possible. Contrary to expectations, the overall outstanding caseload for the Crown Court increased during the period of increased MSPs, with much of the increase occurring during the CBA strike period.

However, data on the number of cases diverted from the Crown Court to magistrates' courts during the period of increased MSPs, and the subsequent time saved in the Crown Court, supports the assumption that increasing MSPs would have a positive effect on the outstanding caseload. In addition, considering the cases most significantly impacted by MSPs, there was a reduction of 10.4% (c.970 cases) in the outstanding cases committed 'for sentence' in the Crown Court in the period between the strike ending (October, i.e. end Sep 2022 cases) and the MSPs decrease (end of March 2023), which may help to illustrate the potential scale of impact.

3. What is the positive evidential basis for increasing MSPs to 12 months?

The policy objective for increasing MSPs to 12 months was to improve efficiency in the criminal courts by enabling more sentencing hearings to be heard in the magistrates' courts, freeing up space in the Crown Court. This supports delivery of swifter access to justice and assists court recovery by speeding up case completion.

As detailed above, it is not possible to isolate the quantitative impact that increased MSPs had on the outstanding caseload in the Crown Court, due to many other factors present in the justice system during the time MSPs were increased, such as the CBA disruptive action and the measures taken to aid Crown Court recovery. Whilst there is data that supports the assumption that increased MSPs improves efficiency in the criminal courts, data also indicates that increased MSPs has a negative, short-term impact on the prison population.

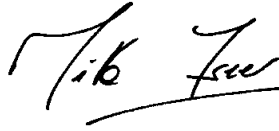
4. When will the Lord Chancellor be providing the proposed first annual statement on prison capacity?

The Lord Chancellor is currently considering the timing for the first annual statement this year and we will update the Committee in due course.

5. When will the Sentencing Bill be returning to the Commons for its Committee stage?

The Sentencing Bill will return to the House of Commons for its Committee Stage when Parliamentary time allows. Business of the House will be announced in the usual way, by a Business Statement from the Leader of the House of Commons.

I hope this response provides sufficient information to alleviate your concerns regarding the Government's decision to not increase MSPs at this time.

A handwritten signature in black ink, appearing to read 'Mike Freer', with a stylized flourish underneath.

**MIKE FREER MP**