

Committee of Public Accounts

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# Crown Court backlogs

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Twelfth Report of Session 2024–25

HC 348

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# Committee of Public Accounts

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# Summary

The Ministry of Justice (MoJ) accepts that justice delayed is justice denied, but we are not convinced that it is taking the urgent action required to reduce the backlog of cases in the Crown Court. At the end of September 2024, the backlog stood at an unprecedented high of 73,105 open cases, an increase of 10% on the previous year. MoJ accepts that unless action is taken, the backlog will continue to increase for the foreseeable future, even with the courts system working at maximum capacity. We are deeply concerned about the devastating impacts the backlog has on victims of crime and their families, in particular victims of Rape and Serious Sexual Offence (RASSO) cases, who often must endure long waits for cases to begin and postponements to court hearings.

MoJ attributes the pressure on the courts system to the consequences of the recruitment of over 20,000 additional police officers since 2019, leading to more crimes being prosecuted, and to a shift in the overall caseload to more complex cases that take longer to conclude. The rate of cases being concluded is not keeping pace with the number of new cases coming in. MoJ was not prepared for the predictable increase in demand for Crown Court time, and has been unable to adapt its approach sufficiently to meet that demand. MoJ could not tell us what it expects the backlog will be in a year's time, beyond expecting it to be larger, which further undermines our confidence in their ability to plan for how the courts system may need to adapt.

MoJ acknowledges that it cannot meet present demand within the Crown Court's current capacity, but rather than implementing the fundamental changes needed now it intends to wait for the outcome of the Independent Review of the Criminal Courts (the Leveson Review). Meanwhile, MoJ is tinkering at the edges, reacting to each new issue that affects the courts, without planning for long-term solutions. We have repeatedly heard that changes in one part of the criminal justice system have consequences elsewhere, yet for two years MoJ sidestepped its role in overseeing the system when the Criminal Justice Board, which brings together partners from across the criminal justice system to set strategic direction, did not meet at all.

This Committee will also be reporting soon on the current crisis in prison capacity. The Crown Court backlog is contributing to the current high remand population, putting further strain on the capacity of already

overcrowded prisons. Reducing the backlog is vital to reducing the number of people in prison on remand, and the deep disruption to people's lives this can cause, but if the backlog continues to increase then it will further exacerbate overcrowding in prisons and the associated risks.

MoJ received £477 million in 2021 to support the criminal justice system's recovery from the pandemic, and increases in its budget (to £644 million a year by 2024–25) to expand court capacity. However, MoJ and HMCTS could not clearly explain how much has been spent on reducing the backlog or where that spending has been most effective. MoJ must improve its understanding of how to maximise impact, so it can put forward a convincing bid for the resources it needs as part of Government's current Spending Review.

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# Introduction

The Ministry of Justice (MoJ) is accountable to Parliament for the effective functioning of much of the justice system, including courts and prisons. HM Courts & Tribunals Service (HMCTS) is an executive agency of MoJ and is responsible for supporting the independent judiciary in the administration of courts and tribunals in England and Wales, and non-devolved tribunals in Scotland and Northern Ireland. Over 90% of criminal cases are dealt with in magistrates' courts, with more serious and complex cases transferring to the Crown Court.

In the October 2021 Spending Review, MoJ set a public ambition to reduce the Crown Court backlog in England and Wales from 60,000 (as it was then) to 53,000 by March 2025, securing £477 million over 2022–23 to 2024–25 to support the criminal justice system's post-pandemic recovery (including reducing the backlog). In March 2022, the previous Public Accounts Committee published its report on reducing the backlog in the criminal courts, at a time when the backlog was already a significant problem. While the backlog in magistrates' courts has abated since then, the backlog in the Crown Court has reached its highest ever level, with 73,105 outstanding cases at 30 September 2024.

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# Conclusions and recommendations

- 1. We are concerned that the Ministry of Justice (MoJ) has simply accepted that the backlog, already excessively high, will continue to grow and that it will now wait for the results of the Leveson Review before starting to plan the fundamental changes it knows are needed to bring the backlog down.** In September 2024, the backlog stood at 73,105 cases, and MoJ and HMCTS acknowledge that without fundamental change this number will continue to grow. The Crown Court is unable to keep pace with the inflow of new cases. The rate of new cases is increasing due to the recent recruitment of over 20,000 additional police officers and an increase in the proportion of complex cases in the overall caseload. MoJ is also unable to predict when things may begin to improve. MoJ is waiting for the outcome of the Independent Review of the Criminal Courts (the Leveson Review) announced in December 2024, which will not report on options for long-term reform until the late Spring 2025. MoJ has taken, and continues to take, some measures to mitigate the rising backlog, including measures implemented through the 2021 Criminal Justice Action Plan. However, for the fundamental reforms needed to arrest and reverse the current trend, MoJ seems over-reliant on the future report of the Leveson Review, which will delay the implementation of reforms by many months.

## RECOMMENDATION

- a.** In its Treasury Minute response, MoJ should set out a plan of actions it can start now to address the backlog in the Crown Courts, building on the Criminal Justice Action Plan, whilst it waits for the Leveson Review.
- b.** Alongside this, MoJ should rapidly investigate options for how it might implement the reforms that the Leveson Review is considering, so that it can move to implementation swiftly upon the review's conclusion.



- 2. Long waits for cases to start, delays and the often-last-minute postponement of cases all have a significant impact on the victims of crime, particularly for victims of Rape and Serious Sexual Offences (RASSO) and violent crimes, seriously disrupting their lives, inflicting additional distress on people who have already experienced terrible trauma, and leading many to withdraw from cases.** In the year up to June 2024, 59% of victims of adult rape cases dropped out of the justice process pre-charge, which research by the Victims' Commissioner attributes to victims' unwillingness to prolong their trauma through long court cases that may not even lead to a conviction. The proportion of cases involving sexual offences and violence has increased greatly over the last 10 years. By September 2024, there were 11,574 open sexual offence cases in the Crown Court and 3,291 adult rape cases. There are measures that MoJ can and is taking to mitigate the impact of delays, including additional investment of £41 million in victim support services and working with the judiciary on prioritising RASSO cases, but more remains to be done to alleviate the impact of the backlog on the most vulnerable victims.

#### **RECOMMENDATION**

- a.** MoJ, working with the judiciary, should try hard to reduce the number of hearings in cases of serious sexual and violent offences that are delayed or postponed on the day scheduled, as it is such circumstances that distress victims the most.
- b.** MoJ should continue to protect the additional funding it has secured for victim support, and work with organisations providing support to look for ways to enhance this vital service.

- 3. For some time now, MoJ has been failing to adequately forecast increases in the number and mix of cases being sent to the Crown Court, reducing its ability to plan how the courts system may need to adapt to meet the varying caseload.** MoJ carries out modelling to project likely numbers of new cases coming to the Crown Court, which it uses to inform its policy-making decisions. MoJ recognises that the increasing Crown Court backlog is due to the rising rate of new cases resulting from an increase in the number of police officers, and to the increasing proportion of more complex cases. Despite MoJ knowing in advance that government was planning on greatly increasing the number of police, and receiving funding specifically to meet the consequent rise in new criminal cases, it failed to adequately forecast the scale of the increase nor prepare the Crown Court for the increase in workload. It will not have helped that for two years between July 2021 and July 2023 the Criminal Justice Board, which brings together partners from across the criminal justice system to share information and plan collaboratively, did not meet. We were disappointed

to learn that MoJ expects that the rate of new cases will continue to outstrip the Crown Court's ability to hear cases system over the next year, although it would not be drawn on how high it forecasts the backlog will be in a year's time.

#### RECOMMENDATION

- a. MoJ should make better use of the data available to it to improve its approach to forecasting and understanding of future Crown Court cases.
- b. MoJ and HMCTS should use its improved forecasts to more quickly plan and implements changes to the courts system—its processes, people and infrastructure—to better meet the future caseload.

4. **The remand population is at its highest number for 50 years, and the length of time some defendants on remand wait for their cases to be heard is disrupting their lives and their families' lives, and adding to prison overcrowding.** The remand population has increased sharply in recent years, reaching 17,600 in September 2024 (20% of the prison population), the highest level in 50 years, up from 9,602 in 2019 (11% of the prison population). It is unacceptable that some people are held on remand for this length of time, particularly as some will be found not guilty. More cases in the backlog awaiting trial swells the remand population, adding to prison capacity pressures and making it even harder for HM Prison and Probation Service to manage the prison population. The NAO reported that in September 2022, 32% of the remand population had been held on remand beyond the custody time limit of 6 months, and 5% had been on remand for more than two years. We are concerned that MoJ cannot provide more up-to-date information on the number of people who have been on remand beyond their custody time limits.

#### RECOMMENDATION

- a. MoJ, led by the Lord Chancellor, should urgently discuss with the Lady Chief Justice how to reduce remand numbers to the 2019 level, which would free up 8,000 vitally needed prison places.
- b. MoJ and HMCTS should gather and publish more granular data on the remand population, to show how long people are spending on remand and how this population is changing, to better understand the impact long waits have on defendants and the outcomes of their cases, and to inform the development of services that better support those on remand and their families.

- c. MoJ and HMCTS should urgently review how the number of people on remand for over two years can be reduced to the bare minimum.

- 5. The proportion of hearings that do not take place on the day they are scheduled (ineffective trials) remains far too high, and there are causes of ineffective trials that MoJ and HMCTS could be more active in addressing now.** One in four trials do not take place on the day scheduled. There has been a marginal improvement since 2023 (the proportion of ineffective trials was then 27% compared to 25% more recently). While the improvement is welcome, the proportion of ineffective trials remains significantly higher than the pre-pandemic rate, which was consistently around 15%. The number of ineffective trials due to the unavailability of barristers or solicitors remains much higher than before the pandemic, and while the recent increase in the number of criminal barristers is welcome, we are not convinced that recent increases in legal aid fees have completely reversed the downward trend in legal professionals working in criminal law. We heard of other reasons for ineffective trials, some of which would seem to be straightforward to resolve, such as defendants on remand arriving late to court, poor case preparation, and a significant backlog of maintenance across the Crown Court estate.

#### **RECOMMENDATION**

Alongside its Treasury Minute response, MoJ should write to the Committee to set out:

- Its understanding of the causes of ineffective trials and the impact each has.
- Whether professional capacity is a significant factor affecting ineffective trials.
- What the impact has been on ineffective trial rates of changes it has made, for example, increases in legal aid fees.
- What further actions are required and by whom to address the causes of ineffective trials.

- 6. MoJ could not tell us which of the actions it funded from nearly £500 million of additional funding it received through the 2021 Spending Review had the biggest impact on reducing the backlog, nor could it quantify what it expects the cost to be of dealing with the backlog now, raising concerns over MoJ’s ability to put a convincing and costed bid to the current Spending Review.** MoJ received £477 million in the 2021 Spending Review to support recovery across the criminal justice system, including help to reduce the Crown Court backlog. MoJ received another £644 million a year by 2024–25 to expand capacity in the criminal justice system, including to manage increased numbers of new cases. The criminal justice system is complex, and the backlog in the Crown Court is affected by many factors including the rate at which new cases come in, judicial staffing levels, physical court capacity and the length of time cases take to conclude. However, with the current Spending Review and the Leveson Review, which is expected to make recommendations for fundamental reform to the judicial system, we would expect MoJ to be able to articulate more clearly how it previously used its resources to tackle the backlog. We also note that the longer it takes to hear cases, and the more they are delayed, the more expensive they become, both in terms of financial and social costs; there is therefore a clear incentive for all to fund the maximum available number of sitting days.

**RECOMMENDATION**

Alongside its Treasury Minute response, MoJ should write to the Committee to clearly set out:

- What it has spent in total since 2021 on reducing the backlog in the Crown Courts and how the additional funding was used.
- The actions and interventions that money was spent on.
- What it assesses has been the impact of that additional investment, including identifying the most cost-effective interventions.

- 7. Despite MoJ assuring us that it has rectified the processing errors that led to it publishing inaccurate Crown Court statistics, we remain concerned that other datasets within the criminal justice system may be affected by the same quality and accuracy issues.** MoJ paused publication of Crown Court caseload data between June and December 2024 because it had found errors in its published data. Investigation by MoJ and HMCTS concluded that processing errors, introduced following the roll out of Common Platform (the new digital case management system for the criminal justice system), meant that data in relation to some Crown Court cases was inaccurate. Following work to rectify the data processing issues and correct errors in its published data, MoJ and HMCTS assured us that

they now have a significant level of confidence in the accuracy of Crown Court data. Nevertheless, we remain concerned that similar errors exist in caseload data elsewhere in the criminal justice system. We are encouraged to learn that HMCTS is looking very hard at other ways that digitisation can improve the functioning of the courts, including the potential to use AI to improve the management of cases.

**RECOMMENDATION**

In its Treasury Minute response, MoJ should:

- Set out how it has assured itself that other datasets within the criminal justice system are accurate and are not affected by the same issues that reduced the accuracy of Crown Court data.
- MoJ should set out what scope it sees for further digitisation or the use of AI to enhance the efficiency of the courts and the timely administration of justice.

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# 1 The Ministry of Justice's oversight

## Introduction

1. On the basis of a report by the Comptroller and Auditor General, we took evidence from the Ministry of Justice (MoJ) and HM Courts & Tribunals Service (HMCTS) about reducing the backlog of cases in the Crown Court.<sup>1</sup>
2. We also considered written evidence from submissions from His Majesty's Inspectorate of Prisons (HMIP), bodies representing professionals working in the criminal justice system, academic and research organisations and individuals.<sup>2</sup> These submissions raised with us a variety of concerns, including:
  - the need for more resources in the courts system to increase capacity and improve the functionality of courts;
  - the need for more, and better paid, legal professionals and improvements to the court estates; and
  - the greater impact of court delays on all victims of crime, and in particular specific groups, such as the victims of rape and serious sexual offences (RASSO), prisoners on remand, children being prosecuted and the families of victims.<sup>3</sup>
3. MoJ is accountable to Parliament for the effective functioning of the courts. HMCTS is an executive agency of MoJ, and is responsible for supporting the independent judiciary in the administration of the Crown Court. The Crown Court deals with the most serious and complex offences, with over 90% of lesser criminal cases being dealt with in magistrates' courts.<sup>4</sup>
4. The previous Public Accounts Committee reported on reducing the backlog in criminal courts in 2022, finding that the backlog of cases in the Crown Court had risen from 33,290 cases in March 2019 to 59,928 cases in

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1 C&AG's Report, [Reducing the backlog in the Crown Court](#), Session 2023–24, HC 728, 24 May 2024

2 [Crown Court backlogs – Written evidence – Committees – UK Parliament](#)

3 Q 40

4 C&AG's Report, paras 1, 2

September 2021.<sup>5</sup> By December 2023 the backlog in the Crown Court stood at 67,573 cases,<sup>6</sup> and by September 2024 it had risen again to 73,105 cases.<sup>7</sup> Each of these cases represents an individual or individuals waiting for justice, sometimes for years, with significant negative repercussions for victims, defendants, and staff working in the justice system.

5. In the October 2021 Spending Review, MoJ set a public ambition to reduce the Crown Court backlog in England and Wales from 60,000 (as it was then) to 53,000 by March 2025, although by May 2024 it was apparent from MoJ's own modelling that this ambition was not achievable.<sup>8</sup> MoJ and HMCTS measure and report on the outstanding caseload (or backlog) in the Crown Court, which is determined by the respective rates of cases coming to the Crown Court and completed cases.<sup>9</sup> MoJ cannot intervene in the progress of individual cases, and court dates are allocated through a process called 'listing', which is a function of the independent judiciary.<sup>10</sup>
6. In recent years, action that MoJ has taken to manage demand in the Crown Court and to support efforts to reduce the backlog of cases have included changes to magistrates' sentencing powers, additional investment in the physical court estate and increasing legal aid fees to support staffing levels in the criminal law professions.<sup>11</sup> In the October 2021 Spending Review, MoJ received £477 million over 2022–23 to 2024–25 for the criminal justice system's recovery from COVID–19, including reducing court backlogs, and it also secured an additional £644 million a year by 2024–25 to expand capacity across courts, prisons and probation services.<sup>12</sup>

## MoJ's responsibility for the Crown Court system

7. We asked MoJ if it agreed with the statement that justice delayed is justice denied. It confirmed that it did, and highlighted that the Lord Chancellor had only recently reaffirmed her strong view that justice delayed is justice denied to the Justice Committee.<sup>13</sup> However, MoJ also told us that rate of new cases will continue to grow with case completion rates not keeping

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5 Committee of Public Accounts, [Reducing the backlog in criminal courts](#), Forty-Third Report of Session 2021–22, March 2022

6 C&AG's Report, paras 9, 1.6, 1.9

7 Ministry of Justice, [Criminal court statistics quarterly: July to September 2024](#), published 12 December 2024 (accessed 17 January 2025)

8 C&AG's Report, para 10

9 C&AG's Report, para 3

10 C&AG's Report, paras 1.3, 1.4

11 C&AG's Report, paras 2.16, 3.3, 3.6

12 C&AG's Report, paras 1.8, 3.2

13 Q 1

pace, and it was not able to say when the backlog may come down to the 2021 ambition of 53,000 cases.<sup>14</sup> HMCTS acknowledged that operating at maximum capacity in the courts system is not enough to arrest the growing caseload.<sup>15</sup> MoJ attributes the rising rate of cases to the recruitment of over 20,000 additional police officers since 2019, and to an increasing proportion of complex nature of cases coming before the Crown Court that take longer to conclude.<sup>16</sup>

**8.** MoJ has previously introduced measures to address the backlog, including those within the 2021 Criminal Justice Action Plan.<sup>17</sup> MoJ described current work to manage the Crown Court caseload, including:

- Increasing the number of sitting days to 108,500 this year.
- Supporting the physical capacity of the courts estate by maintaining Nightingale courts.
- Running recruitment rounds for circuit judges and recorders.
- Increasing magistrates' sentencing powers from six months to 12 months.<sup>18</sup>

**9.** When asked about its current ambition for the level of open Crown Court cases, MoJ said that the crucial factor in achieving a reduction in the backlog is the Independent Review of the Criminal Courts (the Leveson Review), which MoJ expects will provide a fundamental assessment of the reforms it can make in the longer term.<sup>19</sup> The Lord Chancellor commissioned this review in December 2024, asking Sir Brian Leveson to consider:

- long-term options for criminal court reform, with the aim of reducing demand on the Crown Court by retaining more cases in the lower courts (the inquiry's terms of reference include six specific reform options for the review to consider); and
- the efficiency and timeliness of processes through charge to conviction or acquittal.<sup>20</sup>

**10.** We heard of the many issues that MoJ and HMCTS know need addressing if they are to reduce the backlog, but which they are waiting for the Leveson review to report on: poor case preparation, defendants being absent or not

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14 Qq 5, 81

15 Qq 38–39

16 Q 2; C&AG's Report, para 3.2

17 C&AG's Report, para 4

18 Qq 2, 6, 61

19 Qq 5, 25

20 Ministry of Justice, [Independent Review of the Criminal Courts](#), published 12 December 2024 (accessed 17 January 2025)



arriving at court on time, the defence not being ready, advice and guidance to defendants on their pleas, capacity of solicitors and barristers, as well as reforming the fundamental structural issues within the courts system that mean new cases are outstripping the rate at which the courts can conclude cases.<sup>21</sup>

11. The Leveson Review is expected to report in two parts: firstly, in late Spring 2025 on options for long-term reform, and then not until Autumn 2025 on efficiency and timeliness.<sup>22</sup> Until those reports, MoJ told us that it expects the rate of new cases to remain greater than the Crown Court’s capacity to hear and conclude cases, and that simply more funding would not bring things back into line.<sup>23</sup> We are concerned that MoJ and HMCTS are placing too much reliance on the Leveson Review, and that the backlog will continue to grow for more years while how to implement the review’s results are considered.<sup>24</sup>

## The impact on victims

12. MoJ acknowledges that long waits in the Crown Court are bad for everyone, including defendants, victims and the system as a whole.<sup>25</sup> MoJ noted particular concern for victims of sex cases, which are very complex and often take a long time to conclude.<sup>26</sup> In September 2024, there were 11,574 open sexual offence cases in the Crown Court, and 3,291 open adult rape cases.<sup>27</sup> MoJ cited data that suggest victim attrition (where a victim withdraws from proceedings) has increased and is particularly high for adult rape cases, with 59% of victims dropping out pre-charge in June 2024. MoJ told us of a survey by the Victims’ Commissioner, which found that victims were typically aware of the backlog and its implications, making them unwilling to go into long court cases that might prolong their trauma and may not lead to a conviction.<sup>28</sup> HMCTS also acknowledged the traumatic impact that short-notice postponements and cancellations can have on victims, accepting that this can be “terrible” for all involved, but is sometimes a necessary result of the legal need to prioritise cases where the defendants are in custody.<sup>29</sup>

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21 Qq 6, 13, 45, 55, 61–64

22 Q 29

23 Q 3

24 Q 62

25 Q 53

26 Q 40

27 Ministry of Justice, [Criminal court statistics quarterly: July to September 2024](#), see Crown Court receipts, disposals and open cases tool, published 12 December 2024 (accessed 23 January 2025)

28 Qq 40–41; [Annual Victims’ Survey 2023, Victims’ Commissioner](#), 21 August 2024

29 Q 42

- 13.** Written evidence to our inquiry highlighted concerns about the impact on victims, and particularly the serious impact that the backlog can have on victims’ work, family, and mental health and wellbeing.<sup>30</sup> Academics from the Justice in COVID-19 for Sexual Abuse and Violence (JiCSAV) project noted that practitioners could provide examples of cases where victims had withdrawn from the prosecution process because of court delays.<sup>31</sup> The FDA union told us that RASSO prosecutions took, on average, over two years to come to trial.<sup>32</sup> The Rape and Sexual Assault Counselling Centre (RSACC–based in Darlington and County Durham) said in their evidence that many of the people they work with find the court process as traumatic as the crime itself, and issues caused by the backlog only compound this.<sup>33</sup>
- 14.** MoJ acknowledged that the long waits for RASSO victims is “not a particularly desirable situation” and outlined some measures in place to support these victims. These measures included:
- investing £41 million in sexual violence and domestic violence advisors, and continuing to protect funding for victims (particularly for victims of violence against women and girls);
  - supporting the independent judiciary’s work on listing and prioritisation of cases over two years old; and
  - focusing on transparency with criminal justice delivery dashboards with information at a local level on matters including victim attrition.<sup>34</sup>

## The remand population

- 15.** The remand population has grown sharply in recent years. The number of people on remand in September 2024 was 17,600, 20% of the prison population, the highest level in 50 years, up from 9,602 (11% of the prison population) in 2019.<sup>35</sup> HMCTS was unable to provide up-to-date information on the number of people on remand beyond their custody time limits, with HMCTS saying current data on this was “not fantastic”.<sup>36</sup> The NAO report found that as of 30 September 2022, 32% of the remand population had been held on remand beyond the custody time limit of 6 months, and 5% had been on remand for more than two years, which is particularly concerning when some defendants will be found not guilty.<sup>37</sup> The NAO’s

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30 [CCB0005](#)

31 [CCB0005](#)

32 [CCB0006](#)

33 [CCB0009](#)

34 Qq 41, 42, 46

35 Q 47

36 Qq 48–49

37 Q 50; C&AG’s Report, para 3.14

report found that in 2022, 35% of those remanded in custody awaiting trial did not ultimately receive a custodial sentence, including 13% who were acquitted entirely.<sup>38</sup>

16. Written evidence submitted by His Majesty’s Inspectorate of Prisons stated that the length of time that people are remanded for and the extent to which this is changing is information that is not in the public domain. The Inspectorate’s evidence also explained that “the increasing average length of time an individual is spending remanded in custody means that many require additional support. This group are at greater risk of losing their accommodation, employment and custody of their children (especially women)”.<sup>39</sup> Further written evidence submitted by academics from the Open University and Bath Spa University explained how guilty pleas, which can expediate court processes and led to reduced sentences, are an attractive option for some people on remand regardless of their own belief in their guilt or innocence, and can therefore lead to miscarriages of justice.<sup>40</sup>
17. MoJ told us that there is a direct correlation between the number of cases in the backlog and the size of the remand population awaiting trial, and that this is adding to prison capacity pressures and making it harder to manage the prison population.<sup>41</sup> The written evidence submitted by His Majesty’s Inspectorate of Prisons also notes that some people awaiting sentencing are spending so long on remand that upon sentencing they are released from court having already served the length of their sentence while on remand.<sup>42</sup>

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38 C&AG’s Report, para 3.4

39 [CCB0008](#)

40 [CCB0003](#)

41 Q 47

42 [CCB0008](#), para 13

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## 2 Understanding and managing the backlog

### Planning and adapting to increasing rates of new cases

18. MoJ attributed the increasing backlog to a “significant increase” in the rate of new cases as a result of the recruitment of over 20,000 additional police officers since 2019, and to a change in the nature of the caseload to more complex cases.<sup>43</sup> MoJ claimed that since the pandemic it has become harder to make accurate forecasts about demand in the Crown Court, although it believes its forecasts are improving.<sup>44</sup> HMCTS pointed in particular to the changing proportion of the overall caseload that is accounted for by violent crimes, which is up from 5,000 new cases per quarter in 2016, to 10,000 new cases per quarter in 2024.<sup>45</sup> However, the recruitment of additional police officers was a planned-for policy, and MoJ received funding with the explicit purpose of managing the increased demand that would inevitably arise.<sup>46</sup>
19. The NAO report found that MoJ regularly models projections of the size of the Crown Court’s outstanding caseload, and has previously used projections from this modelling to inform decision-making on policy development, resource planning and capacity requirements.<sup>47</sup> This modelling includes factors such as incoming demand, case complexity, court capacity and court efficiency.<sup>48</sup> The NAO also reported that the actual level of new cases in 2023–24 was lower than the number that MoJ had used to inform its ambition of reducing the backlog to 53,000 by March 2025, and that the increase in the projected backlog is primarily due to cases taking longer on average to conclude than had been expected.<sup>49</sup>

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43 Qq 2, 82 ; C&AG’s Report, para 3.2

44 Q 83

45 Q 77

46 Q 15

47 C&AG’s Report, para 1.11

48 C&AG’s Report, para 1.13

49 C&AG’s Report, para 1.15

20. At our evidence session in January 2025, MoJ could not tell us what it forecast the backlog would be in 12 months’ time. It told us that it would not be right to predict what the backlog will be in a year’s time, as it does not publish projections, although it said it expected that the backlog would be higher than it is now.<sup>50</sup> MoJ explained that this is because the rate of completion of cases is not keeping pace with the increased rate of new cases. It told us that it is seeking to take action, including on court efficiency, to improve that position.<sup>51</sup>
21. We repeatedly heard from MoJ that the various parts of the criminal justice system—courts, prisons, probation services and police—are connected and changes in one part of the system have consequences elsewhere.<sup>52</sup> However, for two years between July 2021 and July 2023, the Criminal Justice Board, which is convened by MoJ and brings together partners from across the criminal justice system to set strategic direction and plan collaboratively, did not meet. MoJ told us this was the decision of the Secretary of State at the time.<sup>53</sup> Importantly, the judiciary is represented on the board, whereas the criminal justice action group, which we heard a lot about from MoJ, has no judicial representation.<sup>54</sup>

## Efficiency in the court system

22. MoJ confirmed that the proportion of ineffective trials—those that do not go ahead on the planned date and are relisted for later dates—had dropped from 27% at the end of 2023 to 25% in September 2024.<sup>55</sup> MoJ acknowledged that this rate remained “far too high”, and it is much higher than the pre-pandemic rate, which the NAO’s report shows was consistently close to 15% between 2014 and 2019.<sup>56</sup> MoJ attributed the high proportion of ineffective trials to “running the system much hotter”, arguing that increasing the number of sitting days inevitably leads to an increase in ineffective trials.<sup>57</sup> MoJ confirmed that judicial capacity is no longer a constraint on the number of trials that can be listed, but we were concerned to hear that over-listing of cases has contributed to the increased proportion of ineffective trials. While it is right that a degree of over-listing occurs to ensure that court time is not wasted when cases do not go ahead for unavoidable reasons, as we have already noted there is a huge impact on victims when their

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50 Qq 78, 79

51 Q 81

52 Qq 9, 15, 25, 44, 45, 47

53 Q 33

54 Qq 32–33; C&AG’s Report, para 18

55 Q 6; C&AG’s Report, para 2.18

56 Q 6; C&AG’s Report, Figure 9

57 Q 6

cases do not proceed on the day expected. HMCTS told us that there is an assessment of listing policies under way by the judiciary, and we look forward to its report, which is due in the spring.<sup>58</sup>

- 23.** The NAO report charts a sharp increase in 2022 in the number of ineffective trials due to the unavailability of counsel, when it went up to 4,136 compared to 279 in 2021. While the impact of industrial action by the Criminal Bar Association in 2022 is clear, it is concerning that the number of trials that did not go ahead for this reason in 2023, after the industrial action had finished, remained many times that for the years before 2022.<sup>59</sup> MoJ acknowledged that the number of barristers and solicitors working on criminal cases had been in long-term decline.<sup>60</sup> It pointed to a recent upturn in the number of barristers working more than 80% of their time on criminal cases, from 2,424 in 2020–21 to 2,726 in 2023–24, which it attributed to it increasing legal aid fees following the review by Sir Christopher Bellamy.<sup>61</sup> Although MoJ acknowledged that the decrease in the number of solicitors was only “stabilising”, it pointed to the recent increase in fees for solicitors which has yet to have an effect.<sup>62</sup> Although MoJ told us that the number of trials that do not go ahead on the scheduled day because of an absence of prosecution or defence barristers is beginning to decrease, we remain concerned.<sup>63</sup>
- 24.** MoJ told us that it has spent “a significant amount of money” on maintaining the court estate over the last two years.<sup>64</sup> HMCTS told us that there is a significant maintenance backlog, but nevertheless assured us that the total capacity of Crown Court courtrooms is adequate for the current number of sitting days and is not a constraint on progressing cases through the Crown Court. It told us that only 2% of capacity is lost each year because of planned or unplanned maintenance, and, by moving cases around between courts, only 0.2% of sitting days are lost.<sup>65</sup> HMCTS stated that at present there are 16 Nightingale courtrooms—temporary courtrooms set up during Covid–19 to meet social–distancing requirements and which are typically three times as expensive to run as existing courts—still operating across seven venues. However, it told us that the remaining Nightingale courts now compensate for court closures for other reasons, for example courts that have shut because they contain RAAC concrete.<sup>66</sup> HMCTS told us of its continual efforts to shut expensive Nightingale courts

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58 Qq 6 ,42, 46

59 Qq 12, 16; C&AG’s Report, Figure 10

60 Q 18

61 Qq 17–21, 28

62 Qq 22–23

63 Q 22

64 Q 26

65 Qq 26–27, 73

66 Qq 65–68; [Letter from HMCTS to PAC](#), 22 January 2025

and use the main estate instead, but we remain concerned that Nightingale courts are still operating when up to 20% of courtrooms are not in use on a typical day.<sup>67</sup>

25. We heard from HMCTS of other reasons for ineffective trials that would appear to have simple solutions.<sup>68</sup> We heard how organisations contracted to transport prisoners fail to get all defendants from prison to court on time, incurring a financial penalty if the defendant arrives more than 15 minutes after the scheduled start of court proceedings.<sup>69</sup> Poor case preparation was also cited by MoJ as a major contributing factor to ineffective trials, and we heard from HMCTS how this was a long standing issue that had been considered by the original Leveson Review in 2015.<sup>70</sup> We heard that MoJ and HMCTS are expecting the current Leveson Review to “endorse and enhance” the principles for better case management that the 2015 review set out.<sup>71</sup>

## Ministry of Justice’s spending on the Crown Court backlog

26. In the 2021 Spending Review, MoJ received an additional £477 million to support recovery across the criminal justice system, including to help reduce the Crown Court backlog which then stood at around 60,000. MoJ also secured an additional £644 million a year by 2024–25 to expand capacity across courts, prisons and probation services.<sup>72</sup>
27. As the NAO report found, MoJ cannot put a figure on how much has been spent on addressing the backlog in the Crown Court, as actions to address the backlog are spread over different parts of the criminal justice system.<sup>73</sup> Judicial and staffing capacity, physical court capacity, the rate at which new cases come into the court and the rate at which cases conclude all affect the size of the backlog.<sup>74</sup> At our evidence session, MoJ told us that around £42 million of the £477 million from the 2021 Spending Review was spent on the criminal courts, including additional sitting days in the Crown Court. Another £65 million was spent on handling the demands of the COVID–19 pandemic and associated recovery. Of the £107 million total, £28 million was spent on Nightingale courts and £18 million on video hearings, while other funding went to other parts of the justice system such as new

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67 Qq 27, 75

68 Qq 6, 45

69 Qq 26, 45, 86; [Letter from HMCTS to PAC](#), 22 January 2025

70 Qq 6, 45

71 Qq 45, 55, 64

72 C&AG’s Report, paras 1.8, 3.2

73 C&AG’s Report, para 17

74 C&AG’s Report, paras 17, 3.2

prisons and legal aid.<sup>75</sup> MoJ also told us about how it has used funding in recent years to support criminal legal aid for barristers<sup>76</sup> and solicitors,<sup>77</sup> and to address the maintenance backlog in the courts.<sup>78</sup>

**28.** We asked witnesses for a breakdown of the £477 million received in the 2021 Spending Review, and an outline of what it achieved. We were told that it “depends on what the counterfactual is”. Without that funding, MoJ told us that the backlog would have been “even worse” and that it did “as much as it could”.<sup>79</sup> We are aware that departments will be preparing bids to the current Spending Review and that MoJ is awaiting the results of the independent Leveson Review, which is considering fundamental reforms to the criminal justice system. In this context, we asked MoJ whether it was confident that it will receive the resources it needs to implement the reforms and tackle the backlog, and in reply MoJ told us it does not want to prejudge the outcome of the Leveson Review but that it would advise against accepting recommendations from the review without the resources to deliver them.<sup>80</sup>

**29.** In evidence to the Justice Committee in November 2024, the Lady Chief Justice described how the concordat agreement with MoJ for 2024–25, agreed under the previous administration, had provided for 106,000 sitting days. She reported that in August HMCTS had then said the courts could actually sit up to a maximum capacity of 113,000 days; in light of which there had been conversations about whether the MoJ wanted to fund to maximum capacity, and the decision was taken not to do so. An additional 500 days had been found, taking the total sitting days to 106,500, but from within HMCTS’s allocation, not with additional funding. She said that the decision to limit to 106,500 had had a drastic effect, with cases that were ready to be heard not likely to come back before late 2025–26 or even 2027. She stressed that this would not be saving money, and that by deferring cases the costs would actually increase, with the CPS and barristers having to redo and refresh work done previously, in addition to the social cost of delays. The Lady Chief Justice commented that “There was an opportunity to sit to maximum capacity at 113,000 and it was not taken.”<sup>81</sup> Returning to our evidence session in January. MoJ told us that one of the key things it was doing to address the backlog was doing as much as it could, within funding

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75 Q 9

76 Q 19

77 Q 22

78 Q 73

79 Q 38

80 Q 30

81 Justice Committee, [Oral evidence: Work of the Lady Chief Justice](#), 26 November 2024, HC 421, Qq 3, 6, 21



constraints, on sitting days.<sup>82</sup> It told us that a small fluctuation in its budget emerged at the end of last year, as a result of which it was able to fund an additional 2,000 sitting days, taking the total to 108,500 for the year.<sup>83</sup>

## Accuracy of data across the criminal justice system

30. MoJ confirmed that it had identified three factors that caused it to pause publication of its Crown Court caseload data from June to December 2024. It had found that case records in Common Platform (the new digital case management system for the criminal justice system) had been adversely affected through human error, technical systems issues and data coding issues. It undertook two actions to rectify these issues: it checked how data was being input into Common Platform, and it commissioned an external review of the quality of Crown Court caseload data.<sup>84</sup> MoJ and HMCTS assured us that following these actions, they now have a significant level of confidence in Crown Court data.<sup>85</sup> HMCTS told us that it now undertakes more thorough user testing before releasing new features in Common Platform.<sup>86</sup>
31. Despite these assurances, we concur with a request from the Law Society of England and Wales in its written submission to us for confirmation from MoJ that other data and statistics across the criminal and civil courts are not similarly affected.<sup>87</sup> Exemplifying this point, in correspondence to us after the evidence session, HMCTS set out how MoJ’s data relating to the remand population are not accurate enough for MoJ to draw insights from.<sup>88</sup>
32. We were relieved to hear from HMCTS that the operation of Common Platform has “vastly improved” over the last few years, describing it as a “a good and stable system”, and that HMCTS now has confidence in the system’s reliability.<sup>89</sup> HMCTS told us that it introduced Common Platform gradually into the Crown Court to minimise the inherent risks associated with introducing a brand-new IT system. We were told by HMCTS that it is building on the foundation it has established introducing digitisation to the courts, for example looking to realise the potential of AI to improve the management of cases within the criminal justice system.<sup>90</sup>

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82 Q 2

83 Q 61

84 Q 84

85 Q 84

86 [Letter from HMCTS to PAC](#), 22 January 2025

87 [CCB0001](#), p1, para 5

88 [Letter from HMCTS to PAC](#), 22 January 2025

89 Q 84; [Letter from HMCTS to PAC](#), 22 January 2025

90 Qq 84, 85

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# Formal minutes

**Thursday 13 February 2025**

## Members present

Sir Geoffrey Clifton-Brown, in the Chair

Mr Clive Betts

Anna Dixon

Peter Fortune

Rachel Gilmour

Lloyd Hatton

## Crown Court backlogs

Draft Report (*Crown Court backlogs*), proposed by the Chair, brought up and read.

*Ordered*, That the draft Report be read a second time, paragraph by paragraph.

Paragraphs 1 to 32 read and agreed to.

Summary agreed to.

Introduction agreed to.

Conclusions and recommendations agreed to.

*Resolved*, That the Report be the Twelfth Report of the Committee to the House.

*Ordered*, That the Chair make the Report to the House.

*Ordered*, That embargoed copies of the Report be made available (Standing Order No. 134).

## Adjournment

Adjourned till Thursday 27 February at 9.30 a.m.

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# Witnesses

The following witnesses gave evidence. Transcripts can be viewed on the [inquiry publications page](#) of the Committee's website.

## Thursday 9 January 2025

**Dame Antonia Romeo DCB**, Permanent Secretary, Ministry of Justice; **Jerome Glass**, Director General, Courts and Access to Justice Policy, Ministry of Justice; **Nick Goodwin**, Chief Executive, HM Courts and Tribunals Service; **Daniel Flury**, Operations Director, HM Courts and Tribunals Service

[Q1-86](#)

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# Published written evidence

The following written evidence was received and can be viewed on the [inquiry publications page](#) of the Committee's website.

CCB numbers are generated by the evidence processing system and so may not be complete.

1	Booth, Dr Natalie (Senior Lecturer in Criminology, Bath Spa University); and Dr Isla Masson (Senior Lecturer in Criminology, The Open University)	<a href="#">CCB0003</a>
2	FDA Union	<a href="#">CCB0006</a>
3	HMI Prisons	<a href="#">CCB0008</a>
4	Hough, Dr Jennifer (Senior Lecturer in Criminal Justice and Policing, The University of Central Lancashire)	<a href="#">CCB0012</a>
5	Mayhand, Jesse	<a href="#">CCB0007</a>
6	Lancaster University; Coventry University; University of Leicester; and Warwick University	<a href="#">CCB0005</a>
7	Office of the Durham Police and Crime Commissioner	<a href="#">CCB0010</a>
8	RSACC (Rape and Sexual Assault Counselling Centre)	<a href="#">CCB0009</a>
9	The Chartered Institute of Legal Executives	<a href="#">CCB0004</a>
10	The Law Society of England and Wales	<a href="#">CCB0001</a>
11	Youth Justice Board	<a href="#">CCB0011</a>

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# List of Reports from the Committee during the current Parliament

All publications from the Committee are available on the [publications page](#) of the Committee's website.

## Session 2024–25

Number	Title	Reference
11th	Excess votes 2023-24	HC 719
10th	HS2: Update following the Northern leg cancellation	HC 357
9th	Tax evasion in the retail sector	HC 355
8th	Carbon Capture, Usage and Storage	HC 351
7th	Asylum accommodation: Home Office acquisition of former HMP Northeye	HC 361
6th	DWP Customer Service and Accounts 2023-24	HC 354
5th	NHS financial sustainability	HC 350
4th	Tackling homelessness	HC 352
3rd	HMRC Customer Service and Accounts	HC 347
2nd	Condition and maintenance of Local Roads in England	HC 349
1st	Support for children and young people with special educational needs	HC 353