

Andy Slaughter MP
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Dear Mr Slaughter,

INDEPENDENT REVIEW OF THE CRIMINAL COURTS

I hope this letter finds you well. I am writing in response to your letter dated 20 November 2025 following the oral evidence session on 11 November 2025 and my meeting with you on 17 December 2025. I start by apologising for the delay in responding; focus has been very much on the completion of Part II of the Review.

Thank you for the opportunity to provide further clarification on the matters that were raised by the Committee. I greatly value the Committee's engagement and scrutiny on this issue. You will be aware that the Government has now responded to aspects of Part I of my Review. It is not for me to respond to the political reception of the Government's position, so my responses here focus instead on my rationale for the recommendations in Part I of the Review, referring to the Government position only as necessary.

Please find below my responses to the questions set out in your letter.

1. You recommend establishing a "Crown Court Bench Division" within the Crown Court to hear either-way offences, without a jury, estimating that this would provide a 20 per cent time saving in case hearings. This figure appears to be based largely on anecdotal evidence, could you clarify what empirical basis supports the 20 per cent figure?

- In Part I, it was recognised that seeking to model precisely how much time would be saved by cases being sent to the Crown Court Bench Division (the Bench Division) is extremely difficult. For example, one must try and estimate the time saved by removing processes, such as: making allowance for the time taken by a jury to be selected and sworn; juries given instruction; and reluctant jurors or other jury complications, as well as time lost such as the ability to start a new trial while the jury is in retirement.
- The Review team considered international evidence, carried out a set of quantitative analyses, held a structured elicitation session with operational experts and a further engagement session with a small group of judges which collectively suggested a median time saving of 20%.
- Based on my experience, I believe this to be a conservative estimate and that the time-saving would be greater and, perhaps, substantially greater than 20%, not least because of the ability of the judge to ensure specific focus on the issues in the case rather than leave the advocates to deploy such issues as they wished on the basis that the jury were the arbiters of the facts. I have since had discussions with judges who are eligible to sit in the magistrates' court and Crown Court (as DJMC and Recorder). They suggest to me that the savings would be closer to 50% based on their experience of trying cases of similar gravity for the same offence.
- I recognise that the Government has made the decision to operate the Crown Court Bench Division as judge alone, rather than with magistrates, which is different to the recommendations made in Part I of my Review. This may lead to greater time savings and should be considered when reflecting any estimated impacts of the Government position.

2. What is your response to concerns within the legal profession that the proposed Crown Court Bench Division (CCBD) risks replicating the magistrates' court model, rather than offering a distinct and elevated judicial function.

- The Bench Division, as described in Part I, would not replicate the magistrates' court model. It would be a new division in the Crown Court presided over by Crown Court judges and operating under the same Criminal Procedure Rules set by Parliament and Practice Directions of the Lady Chief Justice that apply to the Crown Court. All either-way offences would be eligible to be tried in the Bench Division. There would be a presumption of a case being heard before the Bench Division where it carries a prospective custodial sentence of three years or less.
- The process in the lead up to the trial would therefore be the same, irrespective of whether the trial is heard before the Bench Division or a jury.

3. How would the establishment of the Crown Court Bench Division affect judicial resources and court capacity, considering shortages of judges and advocates?

- Introducing the Bench Division, as set out in Part I, would require targeted investment to provide additional capacity. This is why I recommended that "when it is possible (bearing in mind funding, alongside capacity across the Criminal Justice System) the allocation of sitting days in the Crown Court should be increased to 130,000 per year", to support both jury trials and the Bench Division. This level of sitting days greatly exceeds current maximum judicial and courtroom capacity and would require HMCTS to ramp up toward this goal over several years. I described this as a goal which provides a balance of "high ambition but plausible, if challenging, delivery".
- In terms of broader capacity, the Bench Division (and judge-only trials) would be able to sit more flexibly than jury trials, using a wide range of court spaces (for example, there would be no need for a jury box and not all cases with sentences below three years would need a secure dock for the defendant). The Bench Division would also make better use of existing resources through more flexible deployment of all eligible judges, although deployment is a matter for the independent judiciary. There would be maximum flexibility with Recorders in terms of sitting availability and venues. The Bench Division would free up Crown Court time as the trials will not take as long and would reserve jury trials for only the more serious cases.
- I also call for greater recruitment of District Judge (Magistrates' Courts) and their fee-paid deputies. I consider judicial capacity, and capacity of barristers and solicitors, further in Part II of the Review.
- I add that the Government's proposal does not include magistrates. On the other hand, I recommended that the lay representation provided by magistrates on the panel is important. I understand that the Ministry of Justice is undertaking substantive programmes of work to address challenges with magistrates' recruitment, irrespective of their decision to not include magistrates in the composition of the Bench Division. I discuss magistrates' recruitment further in Part II of my Review.

4. Has there been an assessment of whether expanding temporary court facilities, as used during the pandemic, could help address the backlog without structural changes like the creation of a Crown Court Bench Division?

- Temporary court facilities that were introduced during the pandemic, provided short-term relief and helped reduce the backlog when combined with additional judicial appointments.
- However, expanding temporary facilities alone would not deliver sustainable improvements, even if more court space were available; there are not sufficient sitting days funded, or enough

barristers, solicitors and staff to operate the court effectively at scale. This is why structural reform, such as establishing the Bench Division, remains necessary to deliver a long-term solution.

- As I outlined in Part I, any appropriate courtroom within the courts and tribunals estate could be used for the Bench Division so long as they had recording facilities. This would allow far greater flexibility than is currently available for jury trials.

5. Is there a risk that the proposed Crown Court Bench Division will face the same challenges currently facing the rest of the criminal justice system, such as limited funding and insufficient court capacity?

- I recognise that current funding and capacity constraints affect the entire criminal justice system as set out in Part I. My reforms cannot succeed without additional investment. Introducing the Bench Division would require targeted investment and an increase in sitting days to achieve the necessary impact.
- While the Bench Division and judge-only trials would reduce costs and allow more flexible use of court spaces, these reforms cannot succeed without additional resources. I did not, however, make the recommendation on the basis that it was cost saving: it represents a proportionate use of resources to resolve those cases in the Crown Court which are at the lower end of seriousness before the CCBD.
- Structural change must be combined with wider investment to avoid perpetuating existing challenges as well as the recommendations on efficiency that I make in Part II.

6. Juries have always been viewed as a vital component of the criminal justice system, yet they make up only 1% of all criminal trials. What impact would reducing jury trials have on the overall functioning of the criminal justice system?

- It is important first to acknowledge that juries have not always been viewed as a vital component of the criminal justice system, as is sometimes assumed. Their role has evolved over time, and the scope of offences tried by juries have changed significantly (this is set out in the section 'The Right to Elect to be Tried in the Crown Court' on page 139 of Part I).
- While jury trials account for only a small proportion of criminal cases, they consume a disproportionate amount of court time. As noted in Part I of the Review, jury trials are taking roughly twice as long compared to twenty years ago, largely due to the increasingly complex nature of cases.
- Reserving jury trials for only the most serious of cases and hearing other cases before the Bench Division would be a more proportionate approach, ensuring certain categories of cases are heard more quickly, this would improve throughput, and help reduce delays. In turn, this would lower victim and witness attrition rates and provide swifter access to justice.
- Faster throughput of cases would also likely encourage earlier guilty pleas. Many of the nearly 80,000 cases (Source: Criminal Court Statistics quarterly: July to September 2025) that currently make up the Crown Court backlog would ultimately plead guilty, but long delays are currently discouraging early resolution. Measures like the Bench Division would ensure trials are listed sooner and consistent use of *Goodyear* indications should lead to a greater number of earlier pleas, further easing pressure on the Crown Court.

7. What evidence supports the view that introducing judge-only trials, whether by election or judicial direction, would materially reduce delays given the limited number of cases likely to be affected?

- In addition to not delaying trials and encouraging earlier guilty pleas quantitative analysis (a structured elicitation workshop with operational staff), and engagement with judges have informed

the assumption that trials without a jury (and instead with a judge and two magistrates) would be heard at least 20% quicker than trials with a jury (see above for more on this).

- This estimate is considered conservative and is supported by expert engagement and analysis of time saved by removing jury-related processes, such as selection and management. Trials also run more efficiently as the judge can get to the contested issues more quickly. Even though the number of cases affected may be limited, these cases are often lengthy and resource-intensive.

8. Your Review justifies removing juries from Serious and Complex Fraud cases on the grounds that their hidden dishonesty or complexity is “outside the understanding of the general public.” However, it is traditionally the role of counsel to present complex information in a way that is understandable to a lay jury. What evidence is there to support the view that juries fail to understand serious and complex fraud cases?

- There has been concern for decades about the suitability of jury trials for serious and complex fraud cases. Previous Reviews have concluded that the complexity of these cases places them outside the general experience of most jurors.
- The understanding of the jury in these cases is one factor. In practice, counsel must explain the case slowly and simply enough aimed at the juror that counsel perceives to be the one with the least understanding, which makes already long fraud trials even longer. Fraud cases that go to trial have longer hearing times, on average, compared to other offences.
- Whether juries can understand the evidence is not the only issue. Identifying hidden dishonesty is simply one mechanism for determining the type of case that may merit judge-only trial and because juries do not give reasons for their decisions, this can be unhelpful in complex and technical cases.
- These cases keep jurors away from their daily lives for months, with many having to put their lives on hold and having their careers impacted as a result (I set out my evidence for this in the section ‘Lengthy Jury Trials’ on page 281 and ‘The Role of Juries in Fraud Trials’ on page 306 of Part I).

9. Is there empirical evidence to suggest that juries fail to understand such cases?

- While there is no direct empirical evidence from real jurors, as research involving actual jury deliberations is prohibited in England and Wales, Reviews such as the Fraud Trials Committee (1986) and the Auld Review (2001) have long highlighted the difficulties juries can face with the complexity of these cases. While some work has been done using shadow juries or with individuals who have previously served as jurors, both approaches have recognised methodological limitations.

a. How do you reconcile your recommendation with the CPS Inspectorate finding that the Jubilee Line case “cannot be relied on to support either position of the debate”?

- While I acknowledge the view of the CPS Inspectorate that the Jubilee Line case cannot be used to support either side of the debate, I still consider it illustrative of the challenges juries can face in exceptionally lengthy and complex trials. Even setting that case aside, I remain of the view that the level of complexity in some of these matters makes it difficult for juries fully to understand and assess all of the evidence. This is why I also drew on evidence from Blue Arrow case, the Polly Peck theft and the Barton and Booth fraud of elderly residents in a care home.
- A more recent example is the LIBOR case of *R v Hayes*, which involved technical evidence about the inter-bank lending rate system. The Supreme Court noted that the trial judge and multiple appellate courts had adopted differing analyses of the legal and financial issues. If five different Courts of Appeals struggled to interpret the material consistently, it highlights the real

risk that a lay jury could find such complexity even more difficult to navigate. It is also to be noted that the Supreme Court considered that there was “ample” evidence upon which the jury could have convicted: had there been a reasoned decision with findings of fact on all relevant issues, the Supreme Court could have determined, in the light of those findings, whether or not the defendant was in fact guilty.

b. Since the high-profile cases you cited, Criminal Procedure Rules and Practice Notes have introduced tighter case management. Why do these measures not solve the problems you have identified?

- Although the CrimPR, CrimPD and related protocols have strengthened case management, they have not prevented trials from running to significant lengths. Fraud trials can take many months. It is not reasonable to expect jurors to place their personal and professional lives on hold for such periods. Regardless of findings on juror comprehension, the evidence shows that jurors experience lengthy trials as an excessive and often intolerable burden, therefore the underlying problems persist despite procedural improvements.
- In addition, the CrimPR themselves have become increasingly complex and dense, which can inhibit accessibility and compliance in practice. I am addressing this in my Part II report, but they have not, yet removed the challenges posed by long, highly technical fraud trials.

c. Parliament has twice considered and rejected permitting juryless trials in cases of complex fraud. What has changed since then to justify revisiting the issue?

- Juryless trials have been considered as far back as 1986 when the Roskill Committee critically examined the operation of juries in complex fraud cases. They were the specific subject of legislation (albeit not brought into effect and later repealed).
- The impact on the lives of the jury in long and complex cases of this nature is significant, and it is clear that we need significant reform to deal with the problems in the criminal justice system. Data analysis and modelling estimates that Crown Court trials conducted by a judge sitting with magistrates but without a jury would save 20% of Crown Court sitting time. I have no doubt that trial by judge alone would save even more time than trial with two magistrates. This would enable the most serious of cases to be dealt with by a jury sooner than they currently are.

10. Does moving to juryless trials risk exacerbating racial bias, given evidence judges show disparities in sentencing?

- I have given detailed consideration to the issue of disproportionality, including engaging with the Deputy Prime Minister who undertook the Review on outcomes for black and ethnic minority communities in the justice system in 2017. More recent research from the University of Birmingham shows that the public do believe that more diverse juries are fairer, but also that juries remain extremely lacking in diversity.
- Trial by judge alone has a clear advantage that a jury trial cannot deliver; a clear reasoned explanation for the verdict reached. Judges swear in the judicial oath to act "without fear or favour, affection or ill will". They make decisions based on the facts presented in court and the law and are respected for their independence across the world. Judges are also professionally trained to be aware of biases including subconscious bias. The secrecy of the jury room and the absence of a reasoned verdict means that we can never know what bias may have influenced one or more jurors.

- I have considered the potential for disproportionate outcomes for all my recommendations. I would urge the Ministry of Justice to undertake a full equality impact test for the recommendations they have decided to implement.

11. What consideration has been given to the appointment criteria for fee-paid judges, such as Recorders, to increase judicial capacity?

- I have considered the appointment criteria for fee-paid judges such as Recorders in supporting judicial capacity. In Part I, I noted the targeted recruitment through the Judicial Appointments Commission. I encouraged His Majesty's Courts and Tribunals Service to maximise sitting days for Recorders and judges sitting in retirement, and I understand that the judiciary is also considering more flexible deployment across jurisdictions. Judicial capacity is also a matter I return to at great length in Part II of the Review.

12. What conversations have you had with the Senior Judiciary regarding changes to listing practices as part of your Review?

- I have ongoing engagement with the Lady Chief Justice and HMCTS on listing reforms to improve efficiency, and I have continued to be actively engaged with the CCIG listing working group. Listing will always continue to be a function of the independent judiciary, and they will play an important part in overseeing that for the Bench Division. Listing will be considered in Part II of the Review.

13. Can you describe the main difficulties or limitations you faced in modelling the impact of the proposed reforms?

- To model the impacts of the reforms in Part I, we had a team of analysts who were seconded from MoJ to us to support on modelling the sitting day impact and cost of recommendations.
- Firstly, given the scope of the Review and the time given to me, it would have been impossible to model all of the reforms, so we had to prioritise. I focused resource on modelling those reforms that are expected to have the biggest structural impact on the Courts (i.e. highest number of cases moving between jurisdictions).
- Like all modelling of complex systems, there are of course limitations which are noted in the Review. These include behavioural changes (e.g. changes in plea behaviour) that have not been modelled which could alter the rate at which cases move through the court; or assumptions related to time savings of recommendations (e.g. 20% time saving of the Bench Division and trial by judge alone).
- However, these estimates give a broad sense of scale of the potential impact of the reforms and helped to test different assumptions to inform my final recommendations.

14. The modelling assumes implementation by 2027/28. Did you consider feasibility for courts in practice?

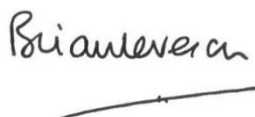
- The 2027/28 timeframe was based on the time taken for legislation to be passed and for any necessary operational changes to take place. While the schedule is ambitious, I consider it achievable in practice. The Government will have their own timelines for implementation based on the reform that they have chosen to proceed with.

15. What was the rationale for considering fundamental reform before efficiency measures?

- The Terms of Reference were drawn exceptionally widely, and I was asked to report on policy options by late Spring and on efficiency by late 2025. Although I proceeded with the efficiency strand in parallel, it was clear from the outset that efficiency measures alone would not begin to address the scale of the challenges within criminal justice or the backlog of cases.
- Fundamental reform therefore had to be considered first. The reforms proposed in Part I require primary legislation, and I provided those recommendations at the earliest possible stage in order to enable the Government to consider and introduce necessary legislation without delay. This was essential given the impact of the current system: unconscionable delays have caused real misery to victims, witnesses, and defendants alike, all of whom are unable to move on with their lives while cases remain outstanding.
- Structural reform, improved efficiency, and increased resources are all necessary if there is to be any realistic prospect of addressing the problems faced by the criminal justice system. Prioritising structural reform ahead of efficiency measures was therefore not only logical but unavoidable.

Thank you for your engagement throughout the Review and I hope that the answers I have provided to your further questions are helpful. I would be happy to appear before the JSC again to discuss my recommendations in Part II and to answer how these recommendations fit in with those in Part I.

Yours sincerely,

A handwritten signature in dark ink, reading "Brian Leveson". The signature is written in a cursive style with a long horizontal stroke at the end.

The Rt. Hon. Sir Brian Leveson