



Ministry
of Justice

Antonia Romeo
Permanent Secretary
Ministry of Justice
9th Floor 102 Petty
France
London
SW1H 9AJ

Meg Hillier MP

Chair
Public Accounts Committee
House of Commons
London
SW1A 0AA

Date: 18 May 2021

Dear Chair,

**RESPONSE TO THE PUBLIC ACCOUNTS COMMITTEE'S 52ND REPORT OF
SESSION 2019-21: KEY CHALLENGES FACING THE MINISTRY OF JUSTICE**

The Government welcomed the Public Accounts Committee's report on the challenges facing the Ministry of Justice and we are grateful for the Committee's continued engagement. I am writing to respond to your third recommendation on plans to reduce the outstanding caseload in the court system.

We are working across the Ministry at pace to reduce outstanding caseloads and improve delivery of timely justice for those using our courts. The update attached sets out the work we are doing achieve this, ramping up our work to enable judges to safely hold as many hearings as possible over the coming year. The Lord Chancellor has been clear that he wants us to run our Crown Courts to the fullest possible extent, with no limit on sitting days, using up the entire court estate, and every available judge. In the Magistrates' Courts, HMCTS and the senior judiciary have recently published a plan setting out their ambition to restore court listing and timings to pre-pandemic levels before the end of the year.

We are also joining together with counterparts in the Home Office, the Attorney General's Office and the CPS to drive forward and oversee cross-system recovery work.

Progress in reducing outstanding cases in the courts is sensitive to a range of factors including the future path of the pandemic, and the restrictions which are needed to manage it. We are working closely, with Ministers, to tackle outstanding caseloads

across the CJS. Our projections and timeframes are necessarily limited at this stage, but we will be able to update you in the summer as our plans take account of the outcome of the social distancing review. I attach an update on our current plans and recent progress.

I hope this response provides the Committee with appropriate assurance that we have taken, and will continue to take, all steps necessary to address these important issues. We will continue to engage the Committee, and further updates will follow on the remaining recommendations.

Yours ever

AR

ANTONIA ROMEO

Recommendation 3

The Ministry should write to the Committee within one month to set out its plan, including clear projections and timeframes to reduce the backlog in the court system, particularly in criminal courts where the backlog is most acute.

We continue to review our recovery plans with our focus on improving timeliness, reducing the outstanding caseload and improving victim engagement. Our published plans for [crime](#) and [civil, family and tribunals](#) continue to be delivered, and have had an impact. In the [Magistrates' Courts](#), HMCTS and the senior judiciary have recently published a plan setting out its ambition to restore court listing and timings to pre-pandemic levels before the end of the year.

Progress so far

We allocated over £250m to recovery last financial year, making court buildings safe, rolling out new technology for remote hearings, recruiting an additional 1,600 HMCTS staff and opening the additional Nightingale courtrooms. We were one of the first countries in the world to resume jury trials and are hearing over 20,000 cases with remote technology per week, up from a standing start last March.

Despite the ongoing challenge of delivering this public service within a pandemic, this has enabled a restoration of completed cases (“disposals”) to pre-pandemic levels. This means that we have stopped the growth in outstanding cases in many jurisdictions, which is set out further below.

Current plans

We are continuing to recover across jurisdictions by maximising capacity, improving efficiency and changing policy. Projections and timeframes on levels of outstanding cases depend on the outcome of the social distancing review, and we will therefore have more details in the summer.

Across jurisdictions, maximising sitting days is key to recovery, which is why the Lord Chancellor, the Lord Chief Justice and the Senior President of Tribunals have agreed to make available a record number of total sitting days in this financial year.

- We will be running our Crown Courts to the fullest possible extent, with no limit on sitting days, using up the entire court estate, and every available judge. This will help maximise the system to safely hold as many hearings as possible over the coming year – and the impact will depend on when social distancing ends, as this will enable more rooms to be available.
- There will be additional sitting days compared to the 20/21 allocation made available in other jurisdictions, including Civil and Family Courts and the Employment Tribunal.

We are also legislating to improve efficiency and modernise processes. The Police, Crime, Sentencing and Courts Bill will allow for more virtual hearings to support the ongoing use of live links and remote hearings (using video and audio technology) and underpins the principle of open justice by facilitating access to remote observers.

In the Crown Courts, we are also continuing to explore the role of additional courts (“Nightingales”) to maximise use of those sitting days, alongside consideration of whether changes in court operating hours could be a useful tool to enable more cases to be heard more quickly.

We are looking at ways to increase efficiency across all parts of the Criminal Justice System, to speed up our processes, and make every second of court time count. The new Criminal Justice Action Group bringing together the Ministry of Justice, the Home Office and the Attorney General’s Office is driving forward this inter-agency work.

In tribunals, civil and family courts we will enable the judiciary to safely hold as many cases as possible, through maximising our use of sitting days, continuing to drive judicial recruitment with our most ambitious ever programme this financial year, and making use of fee-paid judiciary including those sitting in retirement.

In the **employment tribunals** specifically, we are working closely with the Department for Business, Energy, and Industrial Strategy on further steps to support recovery. In the **family courts**, we continue to work to boost the throughput of cases, building on steps already taken such as enhancing the role of legal advisors and encouraging the more effective triaging and tracking of cases according to type. In the **civil courts**, we remain committed to investing in the modernisation and digitisation of the civil justice system, and we are continuing to drive the modernisation of our systems through and beyond the HMCTS Reform programme to ensure the future resilience of the civil justice system.

Latest position on outstanding caseloads

- The Magistrates Court saw outstanding cases increase from 410,000 before COVID, to 525,000 last summer. This has been reducing, and now stands at 476,000. Disposals have increased significantly since last March: up from an average of 15,000 cases per week in June, to an average 24,000 February.
- The Crown Court – due to the particular operational challenges of jury trials – has been harder hit. The outstanding caseload has increased from 39,000 before COVID-19 to 57,000 now, a historic high. However, pre-COVID levels of cases completed (over 2,000 per week) have been steady since December. The growth in the outstanding caseload has slowed: it rose by 40% from March to the first week of January 2021, but only 4% between January-March 2021.
- In family courts, pre-COVID levels of disposals were restored by September and have remained broadly consistent, at around 300 cases per week in public law, and 900 cases per week in private law. This has prevented further growth in the outstanding caseload.
- In employment tribunals, pre-COVID levels of disposals of 800 per week were restored last October, and are now higher at around 1000 cases per week. The outstanding caseload, however, is now more than 40% higher than the pre-COVID baseline (50,703, compared to 35,653). It also continues to increase, as demand into the tribunal has increased: the average monthly receipts

between October-December 2020 were around 200 extra cases per month compared pre-COVID baseline of 889.

- Most of our tribunals have outstanding caseloads that are either static or already beginning to reduce. For example, the SEND tribunal acted quickly to change its ways of working, move to remote hearings, and expand its capacity. This has meant the tribunal has been able to clear the small backlog of hearings caused by pre-COVID hearing postponements with the backlog now 2,556, almost matching the pre-COVID baseline of 2,439 (and 13.9% lower than its peak of 3,304 last October). During the entire COVID period, the SEND tribunal has disposed of nearly 10% more cases than it was achieving in the pre-COVID period, and has not had to postpone a single hearing since March last year.

Ministry of Justice

May 2021