

Written evidence from Association of Police and Crime Commissioners

Introduction

This submission is from the APCC CJS Portfolio Lead David Lloyd, PCC for Hertfordshire. During the Covid 19 pandemic the APCC has held fortnightly CJS calls for PCCs, many of whom are chairs of their Local Criminal Justice Boards. These meetings have captured the over-whelming level of concern from PCCs about the backlog in the courts. They have also focused on actions that PCCs can take locally and nationally, working with CJS partners, to address these concerns.

The views in this submission accurately reflect the concerns of PCCs across England and Wales that have been consistently and strongly made to us by our membership.

In addition to this submission, PCCs have also been encouraged to submit evidence to the inquiry individually.

1. Executive Summary

- Despite the efforts of national and local partners, PCCs are not yet seeing evidence of any significant progress in addressing the court backlog. Over 6 months from the start of Covid 19 related restrictions, the court backlog continues to grow with many more cases coming into the system than are being dealt with. This is exacerbating the backlog that already existed before Covid.
- It is recognised that HMCTS are taking forward a raft of measures which are mitigating the extent of the backlog, and that on 7th September HMCTS [published](#) an update setting out the work being undertaken by HMCTS in the short and medium term in response to coronavirus (COVID-19); PCCs nonetheless remain concerned that, by themselves, the measures will not fundamentally address or reduce the backlog.
- As lockdown eases more cases are now entering the CJ system, while the courts, due to the understandable limitations as a result of Covid 19, cannot operate at a capacity to make in-roads into the existing backlog.
- There needs to be a frank acknowledgement that the courts are in crisis with a response that reflects this. The pre-Covid-19 level of service was already insufficient to meet demand in the Crown Court and the ambition to just return the courts to this pre-Covid position is both disappointing and unrealistic within HMCTS' current recovery strategy. PCCs believe a more radical, ambitious programme is needed – with greater flexibility and innovation at the local level - if we are serious about reducing the backlog within the timeframes set by the Ministry of Justice.

- PCCs, both as Chairs of LCJBs and in their role as convenors of local partners, remain committed to play a full and active part in delivering innovative solutions at a local level to address the court backlog. But they need to be given greater local flexibility and discretion to enable them to do this.
- HMCTS' current approach is set out in their recently published up-date. It would appear to have (understandably) a focus on maximising the court work that is least impacted by Covid 19 restrictions and can most easily be taken forward. This, however, means that increasingly the case mix of the backlog will have a disproportionate number of the most complex and serious Crown Court trial cases, as these are the most difficult aspect of the courts' work to deal with under the Covid 19 restrictions. This will in turn have significant and detrimental impact on some of our most vulnerable victims and witnesses.
- Any attempts to increase court capacity appears to be having a limited impact on criminal cases so far, and particularly in the Crown Court backlog. As yet the new Nightingale Courts do not appear to be delivering any benefit for criminal cases.
- While HMCTS have made great efforts to keep courts running and to open up more courts, the simple fact is that without a different approach the backlog will continue to grow – particularly in the Crown Court - as long as we still have restrictions in place due to Covid. We need more radical solutions to help address this.
- There has been a welcome increase in the use of technology through video remand hearings and more widely, but this will not, in itself, provide the answer to the backlog. We question whether the use of technology has been bold enough to deliver the step change needed to address the back-log and have concerns that the solutions currently being implemented are not sufficiently ambitious to deliver the transformation required.
- There are considerable concerns about the unsustainable resource impact on policing of the current delivery of CVP Video Remand Hearings that remain unresolved and are threatening its continued use. This is particularly frustrating given that a solution to this has been developed through the Government-sponsored Video Enabled Justice programme, but this has not been accepted by HMCTS.
- There is an urgent need for Government with partners to develop more radical solutions which can be implemented at pace, ready for when, in a few months' time, it becomes clear that the backlog is not reducing (or, as seems unfortunately inevitable, there is still a significant backlog of the most complex and serious trials).
- Technology is a key part of this but there is recognition that some change will need changes to primary legislation, such as consideration of temporarily changing how

jury trials are conducted or when a jury trial is required. Planning now would ensure the ability to take advantage of any opportunities to legislate in coming months.

- Without consideration of such radical measures, victims, witnesses, and defendants in the most serious cases will be waiting two, three, four years or longer for justice. That is simply unacceptable and poses a fundamental risk to public confidence in our justice system.
- There is also a pressing need for much more flexibility and genuine partnership working at a local level, which also enables much quicker and better decision making regarding the. Police and Crime Commissioners and LCJBs are told HMCTS can engage locally but have to go back to the centre all the time for decisions which then hampers their ability to move quickly. The release of backlog data and the process for identifying and agreeing potential sites for additional Nightingale Courts are illustrations of this. As LCJB Chair, PCCs were able to work with partners to identify local sites for Nightingale courts, but in most cases these suggestions were not taken up as HMCTS were unable to make decisions on court estate locally.

The impact of Covid-19 on court sitting days and the backlog of cases, including whether the one-off additional funding and 4,500 additional days provided for 2020/21 is sufficient and staffing and recruitment issues.

Level of crisis

It is difficult to over-state the severity of the impact of Covid 19 on the backlog of criminal cases in the court system. PCCs, as senior elected local CJS leaders, most of whom also chair their Local Criminal Justice Boards, have seen the impact of Covid 19 on the courts at a local level at first hand and both individually and collectively we have repeatedly and consistently raised our concerns with HMCTS and the Ministry of Justice and endeavoured both at local and national level to work with HMCTS to help address this.

All LCJB Chairs believe that we face an existential crisis in the system. There is a unanimous view that the size and scale of the backlog of court cases, and the need for formulation of coherent plans to address it, is the biggest single issue facing the Criminal Justice System for a generation.

If not addressed urgently, this crisis threatens the credibility and public confidence in the entire justice system and the public's faith in the rule of law.

While we acknowledge that HMCTS are working tirelessly in their efforts to address this, nevertheless it must be the case that the backlog will lengthen in the short and likely

medium term as the current Courts' strategy does not enable more cases to be dealt with than have entered, and continue to enter, the system. There is a concern that HMCTS are perhaps overly focused on the *number* of cases in the backlog. While there may have been some reduction in the total number of cases, those cases are mostly traffic and non-victim crime cases. This masks the true picture, to some degree, as there is a hardening of the case mix with the impact disproportionately affecting the most serious and complex Crown Court trials. While this is understandable in that it is these cases that the Covid 19 restrictions affect the most, it means that we are looking at delays of years before many cases will come to trial. The impact of this on victims, witnesses and public confidence should not be underestimated.

It has been difficult to gain a true understanding of the backlog and its make-up. CPS and HMCTS data do not reflect the same picture, but both nonetheless say that the "R" rate nationally is over 1 –more cases continue to enter the system than are being dealt with.

The position in respect of HMCTS data has now improved and on 12th June HMCTS agreed that LCJBs could have access to HMCTS Management Information data which would give them a better idea of the scale and nature of the backlog at a local level. The amount of time this has taken, however, is perhaps indicative of the initial delays from HMCTS in sharing meaningful information with PCCs and LCJBs, Indeed, the APCC had been asking for PCCs and LCJBs to have access to this type of data from HMCTS prior to Covid 19 and on several occasions since the start of the Covid 19 restrictions when access to such data became more pressing. Similarly, PCCs and LCJBs have been asking HMCTS for sight of their recovery planning, strategy and modelling under-pinning this planning for many months. These are only recently starting to be shared and are variable in their depth and therefore credibility.

Below are a small handful of examples from a few PCC areas in respect of backlog levels that are typical and illustrate how the Covid 19 backlog is playing out at a local level:

- **Hertfordshire** the backlog of cases still has not been fully realised – 1500 either way offences sitting in the Mags, some of which will be sent to the CC. This is on top of 120 indictable only offences. Data suggests serious cases are being discontinued, cases are taking longer to resolve, and more defendants are pleading not guilty than we have seen over the last three years.
- **Discontinuing cases** - Crown Court Discontinuance rate for the last quarter was 25.5% compared to an average for the 3 previous quarters of 10.4%
- Pre covid-19 Hertfordshire had 640 outstanding trial cases. Since March 2020 this figure has increased to 739. Taking current Crown Court capacity and assuming the

average trial will take 4 days to complete, it will take 8 months for 100 trials to be completed – 48 months for 600 trials, taking us in to **2024**

- **Northumbria** have had high levels of outstanding Crown Court cases, currently for the week ending 6th September this stands at 1544 outstanding cases. There was one Crown Court trial in Northumbria on the 6th September, and this was the first Crown Court trial since the end of March. This one trial was deemed a cracked trial, however.

Merseyside Crown Court - Liverpool CC has 1,345 outstanding Merseyside cases (there is a 2-week data lag due to HM courts processes), case numbers are increasing because demand currently outstrips court capacity, as an example in the past week 96 cases were sent to the CC but only 56 cases (from the overall caseload) were actioned.

- This is a complex situation though. The Crown Court is unable to deal with complex / multi-handed cases under the current circumstances and in general they are dealing with the simpler cases (such as single-handed offences with less victims, witnesses and defendants). More complex types of crime, such as sexual violence, are being disproportionately affected, along with more serious and complex cases – some of which will have a higher victim impact.
- **Northamptonshire** - a small sample of crown court delays:
 - 1st hearing 08.09.2016- Trial date 10/07/2018 hung jury, re trial set 6/04/21
 - 1st hearing 25.01.2018 - Trial date 19/04/21
 - 1st hearing 20.06.2019 - Trial date 12/04/21
 - 1st hearing 31.07.2019 – Trial date 07/04/21
 - 1st hearing 07.11.19 – Trial date 19/04/21
- Crown Court trials are currently listing to the summer of 2021.

The 4,500 additional sitting days is just one-off additional funding so will not address the long-term systemic issues at hand and will not even scratch the surface of the backlog. Whilst accepting that sitting days in Court may deal with more than a single case, the backlogs for contested matters alone would strongly indicate that 4,500 additional sitting days would have little impact at a national level. For example, the PCC for Humberside has stated that locally an additional 4,500 sitting days would be insufficient to clear the *local* Crown Court's casework backlog and would welcome the calculations of how the additional sitting days would impact his area.

In answer to a ministerial question asked on the 23rd of January 2020 the following information was provided:

The table below is comprised of unpublished management information sourced from internal reports belonging to Her Majesty's Courts & Tribunal Service (HMCTS) and provides the number of Crown Court sitting days there were in each of the last available 10 financial years:

Financial Year HMCTS "Crown Court sitting days"

<i>2009/10</i>	<i>108,536</i>
<i>2010/11</i>	<i>109,263</i>
<i>2011/12</i>	<i>106,739</i>
<i>2012/13</i>	<i>103,181</i>
<i>2013/14</i>	<i>101,724</i>
<i>2014/15</i>	<i>106,583</i>
<i>2015/16</i>	<i>109,321</i>
<i>2016/17</i>	<i>107,863</i>
<i>2017/18</i>	<i>102,818</i>
<i>2018/19</i>	<i>97,293</i>

Taking an approximate average of 100,000 sitting days per annum, if the courts did not sit for nearly six months it can be assumed, on a conservative estimate, that over 30,000 sitting days have been lost. Adding 4,500 sitting days will not make up for what was lost.

The criteria for setting court sitting days must be reviewed to take into account the need to address the current and growing backlog of hearings and also link to anticipated future demand that will come from the increased staffing in police forces and changing crime trends.

These problems pre-date Covid 19, but they have been aggravated by the unique characteristics of Covid-19 and specifically the requirement for social distancing, which makes the normal functioning of the court process so very difficult.

Pre-Covid backlog

It must be borne in mind that there was already a worryingly high backlog of Crown Court cases before Covid 19. It should also be remembered that this backlog was exacerbated by the policy decision taken in October last year to reduce Crown Court sitting days from 97,400 in 2018/19 to 82,300 in 2019/20 and the adverse impact we believe that this is now having on the Criminal Justice System. For example, in Hertfordshire the reduction in sitting days led to a 25% increase in the backlog in 1 year. While the Lord Chancellor did announce a subsequent relatively small increase in Sitting Days, this illustrates the point that there was a pre-existing Crown Court back-log that was causing real concern.

It follows that any plan that is predicated on returning to a pre-Covid 19 level of backlog in the Crown Court is fundamentally flawed, as the situation pre-Covid was deeply unsatisfactory and not deliver well for the public.

Need for local partnership working

Increased court capacity is essential to recovering from the pre- and post-Covid-19 backlog. This involves ensuring that there are sufficient buildings, with sufficient space for additional hearings, and sufficient staff – in every criminal justice agency – to service them. The two must be delivered together. There have been problems with staffing across the criminal justice system, and each time one part receives additional funding it simply moves the bottleneck elsewhere.

HMCTS need to continue their work with local CJS partners in developing and implementing solutions to address the backlog – not least as any decisions made in one part of the CJS has direct implications for all parts of the system. Decisions therefore cannot be implemented effectively if made in isolation, and so should not be made in isolation. The level of engagement with local CJS partners, including PCCs and LCJBs, from HMCTS during the Covid 19 pandemic has been very variable - in some places very positive and productive, but in others much less so. This is an issue that the APCC and PCCs individually have raised nationally and regionally with HMCTS. Part of the problem, hampering meaningful local engagement, is the fact that HMCTS, according to its own staff, has taken a highly centralised approach. This inhibits partnership working locally where HMCTS are keen to take this forward and provides cover if HMCTS locally are not looking to work with partners.

There is a need to encourage local innovation, and to then support it, not stifle it. So far, the evidence has been that HMCTS are not prepared to countenance local solutions and have often been reluctant to engage. The APCC has engaged constructively at a national level but, despite assurances, have not seen this translate to meaningful engagement on the ground. If anything, many PCCs have seen a retrenchment from HMCTS into more siloed working at a local level as the impact of the pandemic on the courts and the need to take forward recovery planning ramps up. This is not a criticism of how hard HMCTS are working; it is an observation that they need to do more to include partners, and that they will not succeed in this work unless they do.

The experience of PCCs looking to work locally with HMCTS to identify additional sites or capacity to hold court hearings has been a frustrating one and illustrates well the issues that PCCs have had in working meaningfully with HMCTS at a local level. In some cases, HMCTS have failed to engage; in other areas positive local engagement has then foundered by the centralised nature of HMCTS decision-making and the delays surrounding this.

For example, a suggestion for the use of public buildings that the Devon and Cornwall PCC proposed was flatly refused without explanation. In Hertfordshire, the Criminal Justice Board

was advised that courts could not open because self-isolating Legal Advisors could not give advice by video link. In Staffordshire there was positive early engagement with HMCTS to identify possible sites, but then nothing has been heard for over two months due to the centralised decision-making processes of HMCTS.

There have been similar experiences across the country by all agencies, not just PCCs, in trying to access HMCTS workload data. This access was necessary in order to assess the nature and extent of the backlog and therefore develop a suitable recovery plan. Data was initially refused by HMCTS, meaning that at local and regional levels Police, CPS and NPS had to triangulate their data to try and estimate HMCTS backlogs. HMCTS eventually provided access to their data through a national portal in June 2020. HMCTS did not share their recovery plans with other criminal justice agencies until July 2020. Even then, PCCs and LCJBs were told that they could not be shared with other areas, thereby prohibiting comparison, and learning across the country.

Practical experience of delay in Crown and other courts among lawyers, witnesses, victims, and defendants and whether there is appropriate access to justice

Victims & witnesses

There is a need to focus on the number of victims and witnesses in the system and impacted by the backlog, rather than solely focus on total case numbers. Of particular concern for PCCs is the impact on victims and witnesses, and more broadly, public confidence in the CJS. The provision of information for and communication to witnesses from HMCTS is failing. It is difficult at the best of times for witnesses to navigate what can seem to them an arcane and complex system, but this has been exacerbated by Covid 19. There are examples of witnesses not being given the information they need and of last-minute changes or being stood down (as has always happened but again is compounded by Covid 19).

Justice delayed is justice denied and will lead to disengagement of victims and witnesses – who already express a lack of confidence in the criminal justice system. With only a very small proportion of cases moving through the criminal justice system, victims are stuck in a limbo state awaiting trials. This is leaving them exposed not only to greater levels of trauma, but also vulnerable to disengaging with the criminal justice process. More disengaged witnesses will result in more failed hearings, with failure demand clogging up the system even further.

Data on Witness Care Unit numbers illustrates the number of victims and witnesses affected and below are a small handful of illustrative examples.

Essex the caseload of Witness Care has almost doubled; there were 23,531 witnesses in the CJS pre-Covid and 40,905 as of 13th August.

Hampshire. Average Witness Care Officer caseload 220 (pre Covid 110) and Witness Care Unit total cases 5,003 (pre Covid 2,500)

West Mercia - Pre-Covid volume: 15,182 and the volume as of 05 October 2020: 21,247. This is a 44% increase in volume of victims and witness being supported, resulting in the need to hire 3 additional witness care staff members.

Avon & Somerset – 4,135 witnesses as of 31 December 2019. Over 26,000 as of 7 October 2020.

Kent - On entering lockdown, the Kent WCU had 2,017 live cases (some cases will have multiple victims and witnesses) and as of the 6th October this had risen to 4,112, an increase of 104%.

The PCC in **Surrey** has been monitoring the increase in victim withdrawal since the pandemic through a recording category on the police system where a victim declines or withdraws their support for a criminal investigation, where a suspect has been identified. In the first three weeks following the report of a crime, many more victims (419 more) withdrew their support for the investigation within the first 10 days in the period of April-May 2020, than in the same period in 2019. Victims are making decisions to withdraw their support much more quickly during the pandemic. When comparing April-May 2019 to April-May 2020, there is an 8.5% increase in the volume of crimes recorded as Outcome 16, despite a 16% decrease in total recorded crime in these same comparative periods.

Also there is a knock on effect in that the delays and attrition rates also directly impact on victim services, commissioned by PCCs, as they are supporting more victims for longer whose needs may well be greater because of the stresses caused by the CJS process at this time, in particular the courts. Victim support services struggle to effectively manage the expectations of victims and witnesses as they are unsighted on the extent of the delays and unclear on the plans to fully reopen the court estate, which was not shared in detail at the level of individual courts until late in the recovery phase.

Below is a small sample of the impact on the number of victims being supported by PCC Commissioned services. It should also be borne in mind that as well as numbers increasing – services are seeing a greater complexity of on-going need due to the impact of Covid 19 restrictions and the lengthy delays to the CJS process takes its toll on victims.

This is particularly pronounced in respect of domestic abuse and sexual violence cases and has a consequent knock on effect of the pressures on services provided by ISVAs and IDVAs and most pertinently on the victims themselves who are often struggling to cope with the huge delays to their cases and the impact of their lives basically being “on hold”. Service providers have told PCCs that there have been significant increases in mental health issues, unhealthy coping strategies (such as self-harming) and victims attempting to take their own lives.

Devon & Cornwall - 488 referrals from police specialist DA and SV support services, compared to 205 in last year.

In **Northamptonshire**- Victim Services caseloads have increased from 100 per case worker pre COVID to 180 per case worker currently.

Below is a very small sample of cases that provide an insight into exactly what the backlog means in terms of delays for victims. The cases below are by no means unrepresentative and have been taken from hundreds that the APCC has seen from its members.

Avon & Somerset- Interfamilial Child Sexual Abuse – Grandfather on Grand Daughter – Victim first reported in 2015 when she was 12 years old. Trial has now been re-listed 3 times and is now listed for March 2021. The victim has severe PTSD now.

Lancashire - reported rape in Jan 2019, CPS made charging decision in June 2019. Plea hearing was adjourned twice. Pleaded not guilty Sep 2020 and trial date is for September 2021. Victim withdrawing from the complaint due to impact of delays.

Victim reported rape in 2018. Case was originally set for February 2020 then adjourned to August 2020, and now adjourned to May 2021. Victim has tried to take her life as she was not coping.

Staffordshire – Victim of DA due in court in April 2020. It has been adjourned to March 2021. Victim now disengaged and unhappy that this case, which she reported well over 12 months ago will take so long to come to justice.

Hertfordshire – ABH case where PTPH took place on 14/9/20. Victim notified that trial date will be 31/1/22. Victim suffers from mental health issues and PTSD.

Kent – Serious sexual assault case. The remand hearing was on 17th May 2019. Original trial date was October 2019, then April 2020. New trial date is 18th May 2021. 13 months after the vacated date and in total 2 years from the first hearing the defendant does not feel they can handle the pressure of the trial which is preventing them from getting on and re-building their life. Victim has withdrawn support, will no longer engage and case has been discontinued.

Essex - Intimidation, assault by beating, causing harassment, alarm or distress with intent case from 2018. The defendant lives in the same block as one of the victims. It was due to be heard July 2020 (bearing in mind there were already significant delays). This is now due to be in January 2021 but has now been put back into a warned list period (so probably will not be heard then). The victim who lives in the same block is disabled and cannot be moved because of her disabilities.

Vulnerable Victims

PCCs have also expressed concern that the courts are not necessarily flagging cases where there are witnesses under the age of 10 and prioritising those cases as they should be.

Prison legal visits

Availability of video equipment and staff resource to use it, particularly within the prison environment, leads to difficulties in probation and defence holding meetings to enable court appearances to go ahead.

The extent to which courts have appropriate capacity post-Covid-19, including the extent to which courtrooms are idle across England and Wales.

As referenced in the section above, there is a need to increase court capacity to deal with the backlog of cases, in the Crown Court in particular, which even if the courts reverted to pre-Covid 19 capacity, would take years to tackle (as can be seen from the data and cases provided in this submission).

The above section references some of the difficulties that PCCs have experienced (and expressed) in trying to work with HMCTS to identify where additional sites could provide extra capacity. Greater use could have been made of PCCs and Local Criminal Justice Boards in identifying local resources. It is unclear where local requests for suitable venues have been issued, and therefore challenging for PCCs and LCJBs to assist in this process. PCCs and LCJBs have good knowledge of both local resources and the requirements of a court building and are well-placed to assist with this process. There has been a lack of communication on this subject.

The APCC would stress, however, that the additional capacity created using Nightingale Courts for civil and family proceedings is not helping with the backlog in criminal courts. Indeed, it would be helpful to know what HMCTS have calculated the benefits to be as they appear to be marginal in terms of making any significant difference with the backlog. In addition, the decision-making process around the location of and criteria for developing Nightingale Courts has remained a mystery to PCCs.

In order to clear the backlog, especially in Crown Court trials, maximising and increasing court capacity will only take you so far. Any increase in physical capacity needs to be resourced and staffed accordingly (judges, HMCTS, CPS and NPS staff, legal representatives etc).

This too, however, has often been hampered with the engagement and communication from HMCTS to key local partners around local recovery planning. Limited or delayed communication from HMCTS has impaired the ability of other partners to prepare, for example for the standing up of additional trial courts.

The APCC believes that unless plans are drawn up for more radical solutions then the backlog in the Crown Court will take several years to clear – which has to be seen as unacceptable.

Options such as allowing a judge and two magistrates to try specified either way offences and reducing jury sizes need to be ready to be taken forward and taken forward quickly. We cannot afford to wait months for a legislative slot all the while the backlog in respect of the most serious cases continues to grow. While these are solutions that are not perfect and do not deliver justice in the way we would ideally wish, the alternative of delays of years and cases collapsing due to delay are worse. The Covid 19 pandemic has created an unprecedented crisis for our courts and justice system and we need a radical response to deal with it. Simply trying to increase capacity (when it was already inadequate) and use technology to under-take more of the non-trial processes, while welcome and essential will not solve this crisis in and of themselves.

Long-term solutions to reduce delay in cases coming to trial, including the move to the digital transformation of the court estate.

Partnership working

As set out early in this submission, there is a need for better and more meaningful partnership working both at a regional and local level but also in terms of the national to the local. HMCTS and the Ministry of Justice need to consult and involve all CJS partners when considering long term solutions to court backlog because of the whole system impacts on the CJS.

Technology

PCCs believe that a far greater use of technology in many more types of case and hearings is urgently needed. One of the great benefits which Covid has accelerated is innovative use of technology across the world. It clearly has the potential to revolutionise the way that we deliver justice, and we will be judged poorly if we do not grasp the opportunity.

There is a need to ensure that the most appropriate technology solutions are implemented to support the efficient operation of trials. It is essential, where possible, that technology drives enhanced coordination of court participants including witnesses to optimise court time. We are not aware that there has been a proper cost/benefit analysis of available technology options by HMCTS. HMCTS' decision to proceed with a national roll out of the

Kinly Courts Video Platform (CVP) to support Summary and Crown Court trials in the absence of a cost/benefit analysis for all CJ users' needs to be scrutinised.

CVP is a basic video conferencing platform, like Zoom or Skype, which provides virtual meeting rooms for trials within the court. CVP has not been designed to enhance the specific requirements of court users to drive efficiencies or to provide meaningful management data to determine whether 'the system' is running efficiently. Another, Government-sponsored system exists that does provide this. A review of technology options should have regard for what data can be provided by existing technology solutions which could be implemented quickly to support CJ recovery. The provision of basic data should be a fundamental requirement of that technology and not just part of a road map of a future IT strategy.

With the national roll out of CVP, it is important that we do not assume that by having rolled it out across the court estate, that is 'job done'. There are still a number of challenges being faced with CVP and ensuring there is effective feedback mechanisms to build on the technology to make it as effective as possible is critical.

In the same way that an evaluation of the impact of video technology in hearings is required, a full review of technology options should also be undertaken. This will provide the opportunity to determine if alternative bespoke technology solutions, such as GTL which has been tested in Magistrates' and Crown Courts, can provide further efficiencies which increase court capacity to respond to demand.

There is a real need for a significant enhancement of the use of technology across the prison estate, particularly the number of links available for prisoners to meet with their legal representatives or the NPS. There are significant delays for video link legal consultations of many weeks. There is a pressing need to increase capacity and capability otherwise this will continue to be yet another factor driving the court backlog.

Cost impacts on policing

Whilst it is accepted (especially in a crisis) that we need to pool all the resource, we have to ensure that the system functions as smoothly as possible. The effective outsourcing of some court functions to policing and a change to the way that courts operate does have an adverse impact on police budgets, which needs to be recognised.

Costs of running video remand courts fall to Police, but the benefits are experienced by other agencies. It is clear that there is significant cost-shunting taking place, and indeed a previous NPCC report estimates that the burden to policing is around £20m per annum for all forces.

HMCTS reliance on VRHs as the key plank of their use of technology in response to Covid 19, puts a significant strain on policing. This is a significant issue that has not been resolved and I

understand that forces have now decided to withdraw from VRHs by the end of year or sooner due to the costs and resource impacts.

These concerns have been raised by PCC-led Independent Custody Visiting schemes, whereby volunteers from local communities attend custody suites to check on the welfare of detainees. The APCC understands schemes have reported concerns for detainee wellbeing due to the extended periods of time being spent in custody awaiting hearings. Similar issues have been flagged by the NPCC business lead for custody, with several forces reporting how video remand hearings have placed additional demands on staffing and resources.

In the South East region there has been a significant programme of work underway in developing and implementing the Video Enabled Justice solution and, more recently, in working to enable the VEJ solution to be integrated with HMCTS' CVP solution as a way forward in addressing and resolving the issues outlined above.

In addition to the resourcing costs to policing, the HMCTS technological solution CVP also requires significant infrastructure investment. This all adds up to a significant cost to policing that should be borne by HMCTS given CVP has no direct benefit to policing.

There is also a need to invest in remote video evidence suites. HMCTS' expectation is that PCCs or Police forces will fund the installation and ongoing costs of the suites. The reason the suites are required is linked to the closure of a high number of local courts, resulting in the need for victims and witnesses to travel significant distances. As part of the transformation fund linked to the courts, HMCTS should invest in remote sites to offset the impact on victims and witnesses. The failure to invest in remote sites runs counter to the need to put victims at the heart of the CJS.

October 2020