

Written evidence submitted by London Mayor's Office for Policing and Crime (MOPAC)

Reducing the backlog in criminal courts

As the Deputy Mayor for Policing and Crime in London, I am responsible for delivery of the Mayors Police and Crime Plan, oversight of the Metropolitan Police Service and driving effective criminal justice and crime reduction services across London. It will be no surprise that the backlog of cases in the criminal courts has been a major concern for the Mayor and I over the last 18 months. We work closely alongside the Victims Commissioner for London, Claire Waxman, who has heard first-hand from many victims the impact court delays are having on their ability to cope and recover from crime.

There is no doubt that London is acutely affected by the backlogs. Regional data published by the MoJ shows that for the Crown Court, outstanding cases have risen significantly. At the end of June 2021¹ there were 16,021 outstanding cases in London Crown Courts, and these continue to rise. These levels of outstanding cases are 72% higher than pre pandemic and are markedly above the national average increase of 48% over the same period.

My concerns are heightened for cases involving vulnerable and intimidated witnesses. Victims of sexual offences for example face significant delays along their justice journey and attrition is common. Recent statistics² for London show that the average length from Crown Court receipt to completion for these victims is increasing, to an average of over 10 months. This length of time is 60% longer than the same period in 2020 and the highest recorded over the time series. It is also the longest duration nationally. Combined with lengthy waits for charging decisions and other hearings, the Victims Commissioner frequently hears from victims of serious sexual offences who have been waiting multiple years for justice.

The challenges created by the backlogs are exacerbated by Custody Time Limits (CTLs) approaching expiry. Timescales were extended during the early stages of the pandemic but reverted to the original limits before summer. This has led to a situation whereby a 'double dose' of CTLs are due to expire over the next few months. This is a significant concern, and whilst CPS/MPS colleagues have established mechanisms to ensure that all lines of inquiry and actions are being progressed for these cases, there are real concerns about the ability to deal with these cases in sufficient time. Safeguards need to be put in place to ensure dangerous offenders are not released back into the community as a result.

Another exacerbating factor I am told, is that London has one of the highest rates in the UK for defendants electing to have their case heard in the Crown Court. In the current climate, a guilty defendant has little to lose and much to gain from exploiting systemic delays to increase the likelihood that the victim will withdraw from the process. Government should consider the level of "either way" cases which could be dealt with by the Magistrates Courts

¹ [National statistics overview: Criminal court statistics quarterly: April to June 2021 - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/statistics/national-statistics-overview-criminal-court-statistics-quarterly-april-to-june-2021)

² As above

instead, without impacting on procedural fairness and the rights of victims and defendants alike.

Whilst I have been pleased to see six Nightingale sites opened in London to tackle criminal work and the removal of the cap on judicial sitting days, more radical action is clearly needed to address the backlogs. Partners in London tell me that there is still an underutilisation of the current court space due to lack of resources, and a significant constraining factor is Judicial resource. We urgently need to see an increase in resources and staff to maximise the efficiency of the existing court capacity, and action is needed to prevent the upcoming holiday period from leading to a dip in efficiency of the courts. Moving cases to be heard out of London, which I understand is being considered in some cases should only be approved sparingly given the potential detrimental impact for victims and witnesses. The onus should be on the Judiciary to provide sufficient resource in London, rather than asking victims yet again to flex to the demands of the justice system, by asking them to travel further than usual.

There also needs to be a review of the impact of the Nightingale courts which sets out the additional capacity needed moving forward and a clear commitment to longer term funding for those sites.

Within this review, it would be beneficial to have clarity about the objective of each of the Nightingale courts. They are currently focusing on clearing a high volume of less complex cases, but in London we are starting to see them handling more complex offences such as sexual assault and rape. In these instances, the vulnerability of the witnesses and the likelihood of victim withdrawal were deemed the priority. There is clearly a balance that needs to be struck between prioritising volume vs. vulnerability. Ideally, London would see new, dedicated Nightingale provision to handle sexual offences cases where waiting times are exacerbating trauma and risking higher victim withdrawal.

This provision would also be valuable in the context of the Government's Rape Review, which is driving to increase rape prosecutions. In London, we know there are many cases in the system awaiting a charging decision - even a small proportion of such cases progressing to trial could cripple the current system.

The disproportionate impact of the backlogs in London should be taken into account when making decisions regarding future Nightingale capacity, including proper consideration to the opening of a Super Court in London in order to progress complex cases involving multiple defendants.

In addition, government must continue to ensure resources are given to specialist support services for victims, including long-term funding to provide every victim with an Independent Sexual Violence Advocate in order to help them through these long delays and keep them engaged in getting the justice they deserve.

Thank you for taking the time to consider this evidence and I look forward to hearing the committee meeting in due course.

Yours sincerely,

Sophie Linden
Deputy Mayor for Policing and Crime

Case study: A victim went to the [REDACTED] in April 2019, having reported a rape. The suspect was charged in July 2020 and a trial date was set for a year's time in June 2021. It was then de-listed and relisted for May 2022 and the victim and her advocate were given no reason for this. Her wait for court will be close to two years and she is extremely distressed by the news she will have to wait another year. She is struggling to cope with the idea that the case will continue to impact her life for even longer and it has made it much harder for her to cope with her trauma. There is a serious risk she will withdraw from the criminal justice process because of this additional wait time.

Case study: A victim had her medical examination at the [REDACTED] in August 2017, having reported a rape. There were severe delays throughout the Police investigation and the case was finally charged in April 2021. The trial date was set for May 2022, which will be almost 5 years since she first reports. While the courts are not responsible for delays pre-charge, the context of a case should be considered when making listing decisions. The victims has managed to maintain her support of the criminal justice process so far, but she is struggling to cope with the one year wait for the trial date. She feels that this additional wait will heavily impact her mental well-being and will further compound her existing trauma. There is now a significant risk she will withdraw from the criminal justice process, in favour of focusing on her recovery.

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