

Written evidence from Association of Police and Crime Commissioners (APCC)

The APCC represents the views of Police and Crime Commissioners (PCCs) in England and Wales. This submission is from APCC Criminal Justice System Portfolio Lead David Lloyd, PCC for Hertfordshire, and Deputy Lead, Emily Spurrell, PCC for Merseyside. In addition to this submission, PCCs have been encouraged to submit evidence to the inquiry individually giving examples of local best practice and challenges presented by the backlog.

During the Covid pandemic, the Justice Select Committee undertook an inquiry into the impact on Covid-19 to which the APCC provided written evidence. We have attached this at Annex A as many of the issues raised there still apply.

We would be willing to appear before the committee to give verbal evidence on this issue.

Court backlog

The Crown Court backlog remains very high. Indeed, as of September 2021, it stood at 59,730. At this time, receipts were above disposals however, given the vastness of the workload this is just a small victory. Backlog in the Crown Court has been a challenge for a significant time, prior to Covid the backlog stood at 31,406 (March 2019).¹ It is clear that the Ministry of Justice (MoJ) has accepted the large backlog for some time despite many in the sector, including PCCs, raising concerns over a long period of time.

Though we welcome the investment to courts in the Spending Review, there is still much practical improvement needed in terms of increased and improved infrastructure, particularly in areas which are struggling. Nightingale Courts marginally increased capacity and this was partly down to the obscure way in which sites were chosen. PCCs expressed willingness to work with HMCTS to identify and secure sites but were turned down. Though some areas have recovered to pre-covid backlog level others are in need of increased court space to process cases, particularly those areas with a more complex caseload.

We also note that other partners have picked up financial implications to support backlog reduction including police. For example, resource to assist video remand hearings, and the potential for increased usage of OOD options which will require funding to support programmes of rehabilitation. This kind of 'cost shunting' is not readily acknowledged by the MoJ but causes implication for delivery across the system.

We know the Government plans to publish Scorecards on CJS performance which will include addressing the backlog. These will also be published at a local level. We welcome greater transparency around performance – both nationally and locally, and support the sharing of more data. We have for some time made the case that data across the CJS should be shared at the Local CJB level to ensure all parts of the system can understand performance and hold each other to account.

¹ HMCTS Management information, [HMCTS management information - GOV.UK \(www.gov.uk\)](https://www.gov.uk/government/collections/hmcts-management-information)

It is key though that when performance is shared, this is done so not to punish but rather to understand where system failings are taking place and enable all partners to come together to deliver improvements and share best practice.

Local partnerships working and data sharing

We recently responded to the PCC review part two consultation with recommendations which highlighted the need for improved accountability in local partnerships.

The majority of PCCs chair their Local Criminal Justice Board (LCJBs), through this role they bring operational and strategic decision makers to the table to discuss performance. These boards proved critical in responding to the pandemic by bringing partners together. It is imperative that PCC are able to hold the system to account for performance through such forums.

Similarly, though locally, through the LCJB there has often been effective communication, there is a disconnect between national and local decision making. There is still a pressing need to allow and encourage greater flexibility and innovation at the local level through offices such as the PCC.

Building upon concerns raised in Annex A, the data sharing picture, though improved is still patchy and not good enough. Data is often inconsistently marshalled and shared limiting the ability of PCCs and other partners to see 'real time data' that would capture 'the big picture' in their areas and set priorities and commission services accordingly. Data sharing with PCCs and CJS partners (including the CPS, Her Majesty's Courts and Tribunal Service (HMCTS) and National Probation Service) is of particular concern with PCCs currently limited in their ability to constructively challenge and support these provisions on behalf of the public. National data from the CJS is often very difficult for PCCs to obtain and when provided is sometimes considerably out of date. There are gaps with regards to benchmarking and timely publication of national datasets which are hard for PCCs to influence.

Where local data sharing is good this is often reliant on personal relationships and ad-hoc arrangements and would benefit from standardisation. Many barriers to data sharing are seen as cultural or attitudinal rather than legal with a lack of a clear expectation that data will be shared established from parent ministries and departments of central government.

This contributed to an inability to fully comprehend the issues around the backlog or to hold the system accountable.

We have recommended that LCJB be placed on a statutory footing and that the Government should produce a national standard of expectation with regards to data sharing between CJS agencies and PCCs supported by a national framework to enable meaningful comparison and performance management. Both recommendations would aid in understanding the backlog at a local level and in driving forward performance.

We would be happy to share a full version of these recommendations to the committee.

Public confidence, and victims and witness care

Public confidence in the system has been shaken dramatically by a number of significant events including the murder and handling of the case of Sarah Everard and recent HMICFRS reports highlighting the exceptionally low rape prosecutions and charge rate. Most recently the ONS published its national statistics on domestic abuse, demonstrating that though reporting to police is going up, the downward trend in charging continues.

If there are issues in the system before case even come to court, the backlog is compounding the challenge of keeping victim and witnesses engaged in the process. The backlog is a huge issue, however, for those in the system we must consider that it is not about the numbers but the time taken to reach their cases. Tackling the number of cases going to court has been the primary concern with issues around victims and witness given secondary consideration.

Timeliness is a critical issue. Vulnerable people are dropping out of the system due to the amount of time cases are taking to list and come to trial. This has a significant impact on the lives of both victims and defendants. Victims are finding themselves waiting significant lengths of time to see justice, 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.

We cannot underestimate the impact of the backlog on public confidence. The justice system would not work without the support of the public, they must have confidence that the system delivers justice in a timely and effective manner; we cannot currently claim to do so. The system is currently failing some of our most vulnerable citizens.

A further concern is the impact of the intensification of the focus on DA and VAWG offences. A criminal justice aim to increase outcomes for victims of these offences will lead to increase charges. Courts are operating at current capacity and an increase in receipts can easily see backlogs begin to rise. Victims and witnesses to these crimes must both be encouraged to report these crimes and confident that the system will handle their case in a timely manner. Currently we are not satisfied that we can give that assurance to our communities.

Non Covid related issues

Court backlog was a recognized problem before Covid-19 and it would be disingenuous to lay the current issues on the pandemic.

Previous decisions to cut sitting days, now reversed under the Beating Crime Plan which has removed the limit, significantly contributed to the ability to progress cases. See Annex A

A more recent challenge are the Director's Guidance for Charging 6th Edition and Attorney General's guidelines. Though an issue with policing and CPS this is causing a backlog in the system prior to the courts. We would be happy to provide further details of our concerns here in a follow up if the committee feels this is relevant to their inquiry.

Annex A: Evidence submitted to Justice Select Committee in 2020

Shared with the secretariat via email and can be accessed:

<https://committees.parliament.uk/writtenevidence/12777/pdf/>

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