

Written evidence submitted by The Law Society to the Courts and Tribunals Public Bill Committee (CTB21)

The Law Society of England and Wales is the independent professional body representing over 210,000 solicitors. We have a statutory public interest role in supporting the rule of law and improving access to justice.

Summary

- The Law Society warns that the Courts and Tribunals Bill risks undermining fairness and public trust by restricting jury trials, and instead calls for long term, system-wide investment and piloting of any major reforms. Reform and investment must be strategic, not piecemeal.
- The magistrates' court currently has its own increasing backlog of over 370,000 cases. Given a seeming lack of capacity to deal with current demand, we have grave concerns about the added pressure brought by increased numbers of serious and complex cases. The Government has not shown a convincing plan to deal with this added demand.
- Reducing the criminal court backlogs requires investment in services, infrastructure and technology, as well as reducing the number of cases coming into the system, as Sir Brian Leveson recommends in his wide-ranging independent review of the criminal courts. Instead, the Government's proposals risk fundamentally altering the balance of fairness in our criminal justice system.
- We oppose the Bill's restrictions on jury trials. The Government has yet to publish convincing modelling that their proposals' suggested time savings are realistic, and they place the fairness of the criminal justice system at risk. We support amendments seeking to remove Clauses 1 and 2. However, if those clauses are retained in the Bill, we propose amendments outlining minimum safeguards.
- We support amendments seeking to remove clauses 3, 4 and 5. However, if the clauses are to be retained, we recommend as an absolute minimum safeguard changing the criteria for judge-alone trial, allowing the decision to allocate to judge alone to be reconsidered, and limiting the sentence that can be imposed by a judge-alone court.
- We oppose the increases in magistrates' sentencing powers set out in Clause 6, particularly when combined with the restrictions on appeals from the magistrates' courts in Clause 7 which we also oppose. We have, however, suggested amendments which may be tabled as a minimum safeguard should these clauses remain.

- Clauses 1 to 7 represent radical changes to criminal procedure without convincing evidence that they will improve efficiency. Our Draft New Clause outlines a pilot of Sir Brian Leveson's proposal for a Crown Court Bench Division (with a judge and two lay magistrates), to thoroughly and independently evaluate it against the twin objectives of ensuring trials are fair and that they are effective in reducing the backlogs in both the Crown and magistrates' courts.
- We support Clause 17 on repealing the presumption of parental involvement in child arrangements cases. We have proposed an amendment requiring the Government to set out how the family courts and legal aid system will be properly resourced to give full effect to the change.

1.Introduction

1.1.The Law Society recognises the need for radical change in our criminal justice system to reduce Crown Court backlogs and properly address the problem of justice delayed by the effects of chronic underfunding and piecemeal change.

1.2.There are no quick fixes: select reforms and isolated injections of funding will not suffice. The Government must avoid implementing stand-alone measures that risk diminishing fairness and trust in the system, such as changing from jury trials to judge-alone, particularly without convincing evidence they will bring the backlog down significantly.

1.3.This requires a coordinated, whole system approach to improving efficiency and restoring confidence in our criminal justice system. The Government, judiciary and criminal justice system agencies must implement a package of reforms that will demonstrably reduce the backlogs across the system without damaging fairness, restoring our ailing public service back to health.

1.4.Most importantly, the Government must accept the call that underlies the whole of Sir Brian Leveson's Independent Review of the Criminal Courts (IRCC¹), which this Bill ought to be based on: *"Future-proofing the system will require sustained and strategic investment in services, people, infrastructure and technology."* The depth and breadth of the challenges faced require broader action.

1.5.The Government must act to reduce the overall volume of cases entering the system, to resolve persistent failures in the timely production of prisoners for court, and to modernise both court technology and physical infrastructure.

1.6.Workforce capacity also remains a critical constraint. Increasing solicitors' fees and expanding the number of legal advisers will be essential to building the necessary capacity and strengthening resilience across the system and supporting sustainable long-term recovery.

1.7.Many recommendations to effect change were published in Sir Brian's Independent Review. The Government has not responded in full to its 180 recommendations and is

¹ [Independent Review of the Criminal Courts](#)

unlikely to do so for some time. Whether the Bill will work and reduce the backlogs fairly will depend on that response.

1.8.Parliament has a right to know the Government’s intentions in relation to the whole package of reforms before being asked to consider their next steps.

1.9.Moreover, Parliament should insist on seeing detailed modelling of the likely impact of these proposals. Independent analysis from the Institute for Government noted: *“There is still a lot of uncertainty attached to the potential benefits of the Government’s proposed structural reforms. There is also a serious risk that they could backfire and cause further declines in both productivity and performance.”*²

2.Clauses 1 and 2: Determining mode of trial

2.1.The Bill proposes that relatively serious either-way cases, where magistrates accept jurisdiction because they consider their new sentencing powers of 12 months (or if Clause 6 is enacted, 18 or 24 months) to be adequate, will be heard by a magistrates’ court, with no right for the defendant to elect trial on indictment.

2.2.We oppose Clause 1 on numerous grounds. First, it remains unclear whether the suggested time savings are accurate. The Impact Assessment³ suggests that these more serious trials will be heard in four hours. It is unlikely that this is a realistic representation of trial length, and remains to be seen what analysis has been undertaken of the lengths of trials of similar offences in the Crown Court.

2.3.Quick handling of cases may be appropriate in summary-only offences and traffic matters where the stakes are likely to be lower, and the evidence is likely to be more understandable in a short amount of time. In contrast, there is likely to be a perception of unfairness if someone is convicted and sentenced to a lengthy period of custody of up to two years in a short summary trial.

2.4.Second, confidence in the magistrates’ court is currently enhanced by the fact that a defendant must consent to be tried there in more serious cases. Consent is the right basis for more serious cases to be tried within a summary process. Changing the provision for more serious offences (like possession with intent to supply, unlawful wounding, sexual assaults) will risk miscarriages of justice as more serious cases face summary trials at higher volumes, with less right to appeal. There is a real danger that issues of speed and cost will come at the expense of achieving the right outcome in the trial.

2.5.Third, the magistrates’ court currently has its own increasing backlog of over 370,000 cases⁴ This comes alongside a substantial decline in the size of the magistracy from 28,300 to approximately 14,600 in the last 20 years⁵. Latest criminal courts statistics published in December 2025 show a 17% increase in the magistrates’ court open caseload, to a peak of 373,084 cases. This raises questions about the system’s ability to absorb the additional case volume and responsibility.

² [Beyond reasonable doubt?: Reviewing proposed reforms to jury trials | Institute for Government](#)

³ Courts & Tribunals Bill IRCC [Impact Assessment](#)

⁴ [\(Criminal Courts Statistics Quarterly, July to Sept 2025, released December 2025\)](#)

⁵ [Independent Review of the Criminal Courts Part II](#)

2.6. Given a seeming lack of capacity to deal with current demand, we have grave concerns about the added pressure brought by increased numbers of serious and complex cases. The Government has not shown a convincing plan to deal with the issues this raises.

2.7. Finally, applying this change retrospectively is unfair. Defendants currently in the system will have exercised their choice under existing law to have their case heard by a jury. The Bill would reverse that choice. This could result in legal challenges to the reversals, which may create delays as these are addressed.

2.8. We support amendments seeking to remove Clauses 1 and 2. However, if those clauses are retained in the Bill, we propose amendments outlining minimum safeguards. Firstly, cases should not be sent to the Crown Court for sentence if the magistrates' court has tried the case. Secondly, these clauses should not apply retrospectively to cases already in the system, where the defendant has chosen to have a jury trial.

We propose / support the following amendments:

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[Page 1, line 4, leave out Clause 1]

Jess Brown-Fuller

[Page 4, line 16, leave out Clause 2]

Alternatively:

Page 3, line 20, at end insert:

“(d) insert the following new subsection after subsection (9):

“ (10) If the court has decided that the case is more suitable for summary trial it may not send the case to the Crown Court for sentence.””

Explanatory statement: If a summary trial is considered suitable by magistrates, and they find the defendant guilty, but then, having heard the trial consider that their sentencing powers are not in fact adequate, they should not then be able to send the case to the Crown Court for sentence.

Page 9, line 28, omit sub-clause (2)

Page 9, line 32, omit sub-clause (3)

Page 9, line 38, omit sub-clause (4)

Explanatory statement: These amendments would prevent the provisions on trial on indictment without a jury applying retrospectively to cases where the defendant has elected trial by jury before these provisions become law.

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3.Clauses 3, 4 and 5: Trial on indictment without jury

3.1.The Law Society opposes judge-only trials. We have yet to see robust evidence to suggest the time savings would be significant, and there remain significant risks to fairness.

3.2.The criterion to assign a case to a judge-only trial in Clause 3 is that the likely sentence is under three years. Sentencing guidelines and a defendant’s prior conviction are to be taken into account in making this assessment. This risks the unintended consequence of a defendant with a lengthy criminal record being more likely to have a trial by jury than a person who is considered to be of previous good character.

3.3.A key feature of trial by jury is the separation of functions between the judge, who directs on the law and rules on the admissibility of evidence, and the jury, which decides questions of fact and applies their collective view, based on the evidence presented to them, to reach a verdict. In a trial by judge alone of a relatively serious either-way offences, if a judge excludes evidence as inadmissible but then hears the case alone and convicts, this could create a perception of significant unfairness that simply does not arise in a jury trial and which will undermine confidence that there has been a fair trial.

Serious fraud cases

3.4.Removing jury trials for serious fraud cases is unlikely to have a significant effect on the backlogs but would significantly erode the fundamental principle of open justice.

3.5.Serious cases of any complexity, including serious allegations of fraud, must be presented by the prosecution in a way that is understandable, not only to the judge and jury hearing the case, but also, in line with the principle of open justice, to the public.

3.6. This is true even if they are complex or require specialist financial expertise to understand. They should be subject to effective case management to ensure they take only a reasonable length of time, if necessary, by reducing the number of charges to a manageable number.

3.7. Moreover, the issue of dishonesty in fraud cases must be judged by the standards of the ordinary person in the street. This is an assessment that juries are uniquely qualified to make.

3.8. In a democratic society, the public must be confident that justice has been done. Removing the jury from such cases risks public confidence in the justice system. We are not persuaded by arguments that these trials are uniquely difficult for a jury to understand or will be so lengthy that it is not feasible to ask jurors to hear them.

3.9.We support amendments seeking to remove clauses 3, 4 and 5. However, if the clauses are to be retained, we suggest changing the criteria for judge-alone trial, allowing the decision to allocate to judge alone to be reconsidered, and limiting the sentence that can be imposed by a judge-alone court, as an absolute minimum safeguard:

We propose / support the following amendments:	
Jess Brown-Fuller	3
[Page 5, line 12, leave out Clause 3]	

Jess Brown-Fuller	4
[Page 10, line 5, leave out Clause 4]	
Jess Brown-Fuller	5
[Page 14, line 7, leave out Clause 5]	
<i>If clause not removed:</i>	
Page 5, line 25, omit “condition” and substitute “conditions” ’	
Page 5, line 28, omit subsection (5) and substitute: :	
(5) The conditions in this subsection are met in relation to a defendant if:	
(a) the defendant, if convicted of the offence or offences for which the defendant is to be tried, would be likely to receive a sentence of imprisonment or detention of more than three years for the offence or offences (taken together). and	
(b) the defendant is, in the opinion of the court, of good character and, if convicted of the offence or offences for which the defendant is to be tried, would likely suffer significant reputational damage or their employment or professional qualifications would be adversely affected. “	
Explanatory statement: The criteria for the Crown Court to assign a case to a judge-alone or a jury trial should also include the defendant’s prior good character and the effect of a conviction, for the specific offence charged, on the defendant’s current or future employment or professional qualifications.	
Page 9, line 17, omit ‘no’ and substitute ‘a’	
Explanatory statement: A defendant should be entitled to appeal against a judge’s decision to allocate the case for trial by judge alone, whether because of likely sentence length or because the case is assessed to be complex or lengthy.	
Page 9, line 23, omit ‘Nothing in’	
Explanatory statement: If the defendant is convicted by a judge-alone court, because of an assessment that the sentence is likely to be less than three years imprisonment, the court should be limited to imposing a sentence of less than three years imprisonment.	

4.Clauses 6 and 7: Sentencing powers of magistrates’ courts and appeals from magistrates’ courts

4.1.We oppose the increases in magistrates’ sentencing powers set out in Clause 6, particularly when combined with the restrictions on appeals from the magistrates’ courts in Clause 7 which we also oppose.

4.2. Under clause 6, magistrates would have the power to impose lengthy sentences of imprisonment for serious offences such as assault occasioning actual, or grievous, bodily harm, possession with intent to supply drugs, and indecent images of children, in proceedings that are intended to be quicker than in the Crown Court. In this context, restricting a defendant's appeal routes increases the likelihood that people will receive longer custodial sentences with fewer safeguards or opportunities to rectify wrongful convictions.

4.3. Clause 7 would restrict defendants' ability to appeal magistrates' court convictions or sentences by introducing a requirement for the court's permission to appeal ('leave').

4.4. Currently, a vital safeguard allows automatic appeals. This was used in 2,487 cases in 2024. The appeal led to overturning the magistrates' decisions in 41% of convictions and 44% of sentences, which represents around 1,000 miscarriages of justice corrected through this route.

4.5. While the IRCC says that some of these conviction appeals may not be contested due to victim or witness attrition rates, we are not aware of any evidence of how many cases fall into this category, or why they are not contested for this reason.

4.6. The Law Commission recently considered and subsequently rejected a leave requirement, citing the low number of appeals, lack of evidence of abuse, and the importance of correcting wrongful outcomes⁶. Given the increase in magistrates' sentencing powers, limiting appeals would disproportionately affect often-unrepresented defendants and undermine confidence in 'juryless justice'.

4.7. This is only exacerbated by ongoing capacity pressures in the magistrates' courts.

Legal aid implications

4.8. Retaining more cases in the magistrates' court will impact the financial viability of legal aid firms, adding further pressure to an eroding sector that provides crucial representation and allows cases to be dealt with efficiently. This is despite the claim in the Impact Assessment that there will be no impact on small firms. Significantly more comprehensive modelling is required to understand how severe the impact may be.

4.9. Duty solicitor numbers have dropped from 5,546 to 3,755 between 2017 and 2025 – a reduction of 32% (1,791 solicitors) overall, or an average annual decline of 4.7%. The numbers look set to reduce even further, as criminal solicitors get older and retire with few young solicitors to replace them. The Bill's measures would compound this crisis.

4.10. The Government's Impact Assessment does not address the disparity between the magistrates' and Crown Court means tests (the threshold in the Crown Court enables more defendants to qualify for legal aid than that in the magistrates' Court).

4.11. Unless the means tests are aligned – as recommended by Sir Brian in Part 1 of his Review – the Bill's proposals to move more cases to the magistrates' courts will mean an increase in unrepresented defendants there, in cases for which they would currently get legal aid in the Crown Court. There is a significant question as to whether there will be

⁶ Law Commission consultation 268, February 2025, chapter 5

enough duty solicitors to assist this increased number of defendants in the magistrates' court.

Jess Brown-Fuller

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Page 15, line 23, leave out Clause 6

If clause not removed:

We propose the following amendments to Clause 6:

Page 15, line 36, omit '(c) 18 months' and '(d) 24 months'.

Explanatory Statement: Magistrates' sentencing powers should not be increased beyond 12 months. The summary justice procedures in the magistrates' court is intended to be less formal and more rapid than the higher court, and accordingly its sentencing power should be limited to 12 months.

Page 15, line 28, after 'regulations' insert 'made by affirmative resolution'.

Explanatory Statement: The regulation-making power allowing the Secretary of State to change the general limit on custodial sentence for an either-way offence in magistrates' courts should be by affirmative resolution only, to allow parliamentary oversight of the limit of custodial sentences.

We support the following amendment:

Jess Brown-Fuller

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Page 17, line 13, leave out Clause 7.

If clause not removed:

We propose the following amendment to Clause 7:

Page 39, line 10, at end insert:

(5) For the avoidance of doubt, grounds of appeal can raise issues of fact arising in the trial, as well as issues of law.

5. Clauses 1 – 7 should be subject to a pilot

5.1. Clauses 1 to 7 represent radical changes to criminal procedure without convincing evidence that they will improve overall efficiency. We share the Institute for Government's concern that they may in fact cause such disruption that they prove to be counter-productive, further risking the viability of our criminal courts.

5.2. We also share the concerns of victims' groups that the reforms risk "unfair outcomes that undermine justice for everyone⁷."

5.3. In addition, the costs of the new system, for example additional security for judges⁸ would be better spent on infrastructure, technology, human resource, or any of the other improvements to the existing system that the legal sector has long been calling for

5.4. If jury trials are to be limited, there should instead be a pilot of Sir Brian Leveson's proposal for a Crown Court Bench Division (with a judge and two lay magistrates) to thoroughly and independently evaluate it against the twin objectives of ensuring trials are fair and that they are effective in reducing the backlogs in both the Crown and magistrates' courts.

[Draft New Clause – Pilot for measures in Clauses 1 to 7]

To move the following new clause after Clause 7:

New Clause – Pilot of measures in Part 1

"(1) The provisions in sections 1 to 7 may not be brought into force except in accordance with this section.

(2) The Secretary of State must establish a pilot scheme ("the pilot") in six criminal justice areas experiencing the highest Crown Court backlogs, as identified by published Ministry of Justice statistics on the day this Act is passed.

(3) During the Part 1 pilot—

(a) Where one or more defendants are to be tried on indictment without a jury, the bench must contain two lay magistrates in addition to the judge;

(b) Sections 1 to 7 apply only within the pilot areas; and

(c) Sections 1 - 7 have no effect outside the pilot areas.

(4) The Secretary of State must commission an independent evaluation of the Part 1 pilot, which must assess whether—

(a) the measures in sections 1 – 7 have resulted in a reduction in the outstanding Crown Court and magistrates' court caseloads in each pilot area, when compared with pre-pilot levels; and

(b) conviction rates and sentencing outcomes within the pilot areas remain consistent with pre-pilot patterns for equivalent offences.

(5) The Secretary of State must lay the independent evaluation obtained under subsection (4) before both Houses of Parliament within six months after the end of the pilot period.

Page 35, line 19, at end insert

⁷ [Rights of Women - VAWG Sector Letter on Juries](#)

⁸ [Lady Chief Justice's annual press conference 2026 - Courts and Tribunals Judiciary](#)

“, subject to subsection (4) below.

(4) Sections 1 to 7 may not be commenced until the pilot of sections 1 to 7, as set out in [New Clause], has occurred, the independent evaluation of the pilot has taken place, and both Houses of Parliament have resolved that both tests set out for that pilot have been met.

Explanatory statement: This new clause would ensure that the changes in Part 1 (including mode of trial, judge-only trials and expanded magistrates’ sentencing powers) are first implemented only in six of the highest backlog criminal justice areas. The provision requires an independent evaluation of the pilot before these measures can be introduced nationally. The evaluation would have to assess whether the reforms (1) reduce Crown Court and magistrates’ court backlogs in the pilot areas; and (2) do not adversely affect the quality of justice, maintaining public confidence in fair conviction and sentencing outcomes, in line with pre-pilot levels. Any national commencement would require a resolution of both Houses.

6. Clauses 8-11 – Evidence provisions

6.1. Clauses 8 to 10 would enact proposals from the Law Commission’s report on Evidence in Sexual Offence Prosecutions⁹ concerning the admission of certain types of evidence in sexual offence cases. The Law Society supports these provisions, which clarify the law on the admission of evidence of complainants’ sexual history, compensation claims, and false complaints.

6.2. The proposals raised in Clause 11 have not been subject to consultation. Very similar proposals were rejected by the Law Commission and the Government has not published adequate evidence of the expected impact of changes in its impact assessment. The Government must commit to a meaningful consultation of its proposals and adequate assessment of impact before the Bill is implemented.

7. Clauses 12-16 – Protections for witnesses

7.1. The Law Society supports clauses 12 to 16 which amend the law on special measures to help witnesses give their best evidence. These follow recommendations of the Law Commission in its report on evidence in sexual offence prosecutions.

8. Clause 17 – Presumption of parental involvement

8.1. The Law Society supports the repeal of the presumption of parental involvement, recognising the strong evidence that it has not consistently protected children and has, in some cases, exposed them and their families to harm. The repeal is a necessary step to ensure that decisions about contact are grounded in the child’s safety, welfare and wishes, rather than any assumption of parental entitlement.

8.2. However, the effectiveness of this reform depends entirely on whether the family justice system has the resources to deliver it in practice. Courts need sufficient time and capacity to conduct robust risk assessments and fact-finding, and practitioners and judges must have

⁹ [Evidence in sexual offences prosecutions: a final report – Law Commission](#)

access to specialist training on domestic abuse, and particularly on coercive control. Increased investment in family legal aid, judicial capacity, and the wider court estate is therefore essential to ensure the repeal leads to safer, more consistent and genuinely child-centred outcomes.

We propose the following amendment:

Page 30, line 10, at end insert—

(3) The Lord Chancellor must, within six months of the commencement of this section, lay before both Houses of Parliament a report on the resources required to give full effect to the repeal of section 1(2A) of the Children Act 1989.

(4) The report under subsection (3) must include—

an assessment of the level of legal aid provision necessary to ensure that parties in child arrangements proceedings, particularly where allegations of domestic abuse or safeguarding concerns are raised, are able to obtain timely and effective advice and representation;

an evaluation of the capacity of the family courts, including the number of judges, court staff, and available hearing time, to undertake robust risk assessment and fact-finding processes in line with Practice Direction 12J;

plans to address any shortfalls in judicial training, including training relating to coercive control, domestic abuse dynamics, and child safeguarding; and

proposals for investment in the family court estate and technology to ensure that the repeal operates effectively and that decisions are consistently grounded in the welfare and safety of the child.

Explanatory statement: This amendment seeks to require the Government to set out how the family courts and legal aid system will be properly resourced to give full effect to the repeal of the presumption of parental involvement. Evidence shows that past safeguarding failures in child arrangements cases have stemmed not from the statutory wording alone, but from overstretched courts, insufficient time for risk assessment and fact finding, and inconsistent understanding of domestic abuse and coercive control. Without adequate legal aid, judicial capacity, and targeted training, the repeal risks becoming purely symbolic, leaving the underlying problems unchanged. Increased investment is therefore essential to ensure that the repeal delivers what it intends: safer, more consistent, and child-centred decision making across the family justice system.

9.The Government’s Impact Assessment

9.1.The Bill’s impact assessment identifies a series of key assumptions that the modelling is based upon, and risks and uncertainties arising from the modelling, but without explanation of the relationships between variables in the model that explain the predicted impacts. We

are concerned that some of these assumptions are optimistic or lack sufficient evidence to be justified, that risks may be understated, and that certain impacts are overlooked.

Time savings associated with judge-only trials

9.2.The Government’s assumption that judge-only trials will reduce total hearing time by 20% relative to jury trials relies on the Leveson Review’s analysis which was based on “a series of quantitative analyses”, “a structured elicitation workshop with operational staff from HMCTS”, and “a light-touch engagement session with judges¹⁰”. The detail of this analysis is not provided in the report or in the impact assessment, so it is difficult to scrutinise. Further evidence is needed from the MoJ to model the flow of cases in the magistrates’ court and Crown Court under the proposed reforms.

9.3.We do not agree with Sir Brian Leveson’s assertion to the Public Bill Committee that the Government’s modelling is too pessimistic. Rather, our view aligns with that of stakeholders such as the Institute for Government who warned the Committee of knock-on effects that jury reforms may have on workforce recruitment, retention and productivity, which have not been adequately factored in and may result in time lost alongside further unintended consequences.

Legal aid implications are not adequately recognised

9.4.Retaining large volumes of cases in the magistrates’ courts will result in lower remuneration for criminal legal aid solicitors, putting further pressure on already fragile legal aid firms. This is despite the claim in the impact assessment that there will be no impact on economic growth and that the reforms “do not introduce significant changes to productivity, investment incentives, or market dynamics’¹¹. Significantly more detailed modelling is required to understand how severe the impact may be.

9.5.Duty solicitor numbers have dropped from 5,546 in 2017 to 3,755 in 2025 – a reduction of 32% (1,791 solicitors) overall at an average annual decline of 4.7%. The age profile of those that are left remains a matter of concern. Law Society research based on 2024 figures indicated that only 7% were below the age of 35, while 41% were over 55. Without holistic investment and sustainability measures, the sector risks further contraction as experienced practitioners retire, with insufficient new talent entering the field. The Bill’s measures would compound, rather than alleviate, this crisis.

Magistrates’ court impacts

9.6.The impact assessment acknowledges additional demand for magistrates’ courts but suggests that 27,000 sitting days saved in the Crown Court will amount to just 8,500 additional sitting days in the magistrates’ court (p.17). This is based on the assumption that guilty plea cases will require 30 minutes and trials will require four hours. No evidence is provided in the impact assessment to substantiate these figures or explain how they were determined. The more serious trials that will be heard by magistrates for the first time under these reforms are likely to take longer.

9.7.The modelling in the impact assessment appears to assume that there will be enough magistrates, judges, legal advisers and other court staff to ensure that cases will be able to progress as and when they are ready. The impact assessment acknowledges (p.33) that “if

¹⁰ [Independent Review of the Criminal Courts Part I](#)

¹¹ [Impact Assessment: Courts and Tribunals Bill \(Structural Criminal Court Reform\)](#)

planned recruitment is not successful, there may be insufficient magistrates to deliver the additional 8,500 sitting days required.” It is not clear whether current recruitment campaigns are successfully recruiting the number of magistrates needed to ensure that the backlog does not simply grow in the magistrates’ court instead.

9.8. Similarly, the impact assessment notes that HMCTS onboarded 108 new trainee legal advisers in 2025, presumably across all jurisdictions including criminal, and is taking steps to support recruitment and retention. However, the impact assessment does not identify how many more legal advisers are needed to ensure additional magistrates can hear cases, so that the backlog does not grow in the magistrates’ court.

Gaps in modelling

9.9. The Government’s policy ‘simulation’ uses the OneCrown dataset covering all Crown Court cases from the past six years. This dataset includes variables on right to elect (RTE) – indicating either-way offences – such as offence type, plea and length of hearing. However, there is no analysis of the various elements of these cases or their complexity which would indicate why they are likely to be addressed more quickly by magistrates. For example, the time saved in different stages of the case from jury selection to processing evidence in various ways may differ from the Crown Court.

9.10. Because of this gap, we are left with the Government’s assumption that trials for either way offences currently heard in the Crown Court will require four hours on average in the magistrates’ court. But this estimate is based only on historic magistrates’ court data, not on the length or complexity of either-way offences previously heard in the Crown Court.

9.11. As such, there is still no adequate analysis or modelling to substantiate the claim that 27,000 Crown Court sitting days can be replaced with 8,500 magistrate sitting days. There remains nothing to reflect case stages, and nothing incorporating the operational and training changes needed for magistrates to take on cases and sentencing currently handled by the Crown Court.

Partner agency implementation

9.12. While not explicitly acknowledged as an assumption, the impact assessment recognises that “changes to core digital systems, including HMCTS case management systems [...] could take up to 12 months following Royal Assent, with additional time required for deployment, training and transition to business-as-usual operations” and adds that “[i]n parallel, partner agencies across the system – including HMCTS, the CPS, HMPPS and legal aid providers – will require lead-in time to ensure operational readiness.”¹²

¹² [Impact Assessment: Courts and Tribunals Bill \(Structural Criminal Court Reform\)](#)

9.13. The National Audit Office (NAO) found in its 2023 report “Progress on the courts and tribunals reform programme” that HMCTS underestimated the scope and complexity of aspects of its modernisation programme.¹³ Furthermore, the NAO found that HMCTS had not been able to deliver the programme within budget or timeframe, or to its full scope.¹⁴

March 2026

¹³ <https://www.nao.org.uk/wp-content/uploads/2023/02/progress-on-courts-and-tribunals-reform-programme-summary.pdf>

¹⁴ <https://www.nao.org.uk/wp-content/uploads/2023/02/progress-on-courts-and-tribunals-reform-programme-summary.pdf>