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Beyond reasonable doubt?

Reviewing proposed reforms to jury trials

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Introduction

After much discussion and debate, the government has published the Courts and Tribunals Bill, which aims to address the ever-growing case backlog in the crown court. Ministers argue that these measures will reduce demand on the crown court by almost 20% by 2028/29, and that the whole package is critical to starting to bring the backlog down by the end of this parliament.

There is a case for doing everything possible to reduce the backlog, as soon as possible. But 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.

The reforms remove various legal safeguards for defendants, including the right to choose a jury trial and the automatic right of appeal from magistrates' courts. The government is arguing that these are necessary changes, but they have big implications that go beyond a minor redrawing of the jurisdictional boundaries between courts.

It is essential that both houses of parliament have time to properly scrutinise the reform package as a whole.

The bill's principal effect would be to dramatically expand the kinds of offences that are tried without a jury

There are several different reforms in the bill, but the primary effect is to reduce demand on the crown court by increasing the number of cases that are tried without a jury, raising magistrates' sentencing powers and restricting the right of appeal from magistrates' courts. The specific measures include:

- removing the right of defendants' charged with an 'either-way' offence to choose to be tried in the crown court, by a jury
- increasing magistrates' sentencing powers from 12 months to 18 months, with the potential to further increase this to 24 months
- establishing a Crown Court Bench Division, a new branch of the crown court where a single judge will hear either-way cases expected to attract a sentence of up to three year
- introducing the option for judge-alone trials for certain fraud and financial crime cases
- removing the automatic right of appeal against conviction or sentence for cases heard in a magistrates' court and introducing a requirement for permission to appeal, limited to points of law (rather than findings about the facts of the case).

The government estimates that, if enacted, the changes would mean around a third of trials that would have taken place in the crown court will happen in magistrates' courts instead; and around a quarter of those still in the crown court will be heard by a judge sitting alone in the Crown Court Bench Division.

The government's projected savings are still uncertain

In January, we estimated that the government's plans to reduce jury trials would [save less than 10% of crown court time](#). That analysis looked specifically at the likely impact of halving the number of jury trials, but the government has since published the bill setting out its plans in detail, along with an impact assessment for all of the different reforms. The government's approach to modelling the impact of the reforms is sound and the projected impact is broadly in line with our analysis.* But it relies on several assumptions – some of which are highly uncertain.

* The remaining differences between our original estimate and the MoJ projection are due to changes in the profile of projected demand.

Estimated change in court demand as a result of court reform proposals, IfG estimate and MoJ projection

IfG

	IfG initial estimate	MoJ central projection
Total time saved in the crown court	Jury trials: -10-15% Guilty pleas: -2-3%	-19%
<i>Of which: time saved by Crown Court Bench Division</i>	-1.5-2.5%	-3.5%
Additional time required in magistrates' courts	+3-6%	+6%
Net effect	-9-13%*	-13%

Source: Institute for Government analysis of MoJ, 'Courts and Tribunals Bill (Structural Criminal Court Reform) impact assessment', 2026, and other sources. • Notes: *Our headline figure of 7-10% of time saved was specifically for reforms to jury trials and did not include time saved on guilty pleas. Our estimate also did not include changes to appeals or introducing judge-alone trials for fraud. All figures given as a proportion of projected crown court demand without reforms.



The most consequential of these relate to the number of cases that will stay in magistrates' courts. The Ministry of Justice's (MoJ) impact assessment assumes that 85–95% of trials with an expected sentence under two years will be heard by magistrates, rather than being sent to the crown court as they are now. This is based on the proportion of sentences under six months previously handed out by magistrates, when that was the maximum sentence they could impose.

But there are reasons to doubt that that magistrates will in fact hear such a high proportion of the cases they will now be entitled to hear. The cases expected to get a sentence of 1–2 years are by definition more serious and magistrates have much less experience with these cases, making projections about likely sentences – and so in which court future cases may be heard – extremely difficult. Indeed, since magistrates' court sentencing powers increased to 12 months, in late 2024, only around 30% of sentences of 6–12 months were handed out by magistrates.* If a large majority of cases likely to get a sentence of 1–2 years continue to be sent to the crown court for trial, the time savings are likely to fall short of the MoJ estimate.

Overall savings also rely on magistrates' courts hearing cases much more quickly than the crown court. The average trial in magistrates' courts is estimated to take just four hours – less than half the time the median either-way trial currently takes in the crown court. Guilty plea cases and committals for sentence are allowed just 30 minutes, again half to a third of the time these cases take in the crown court.

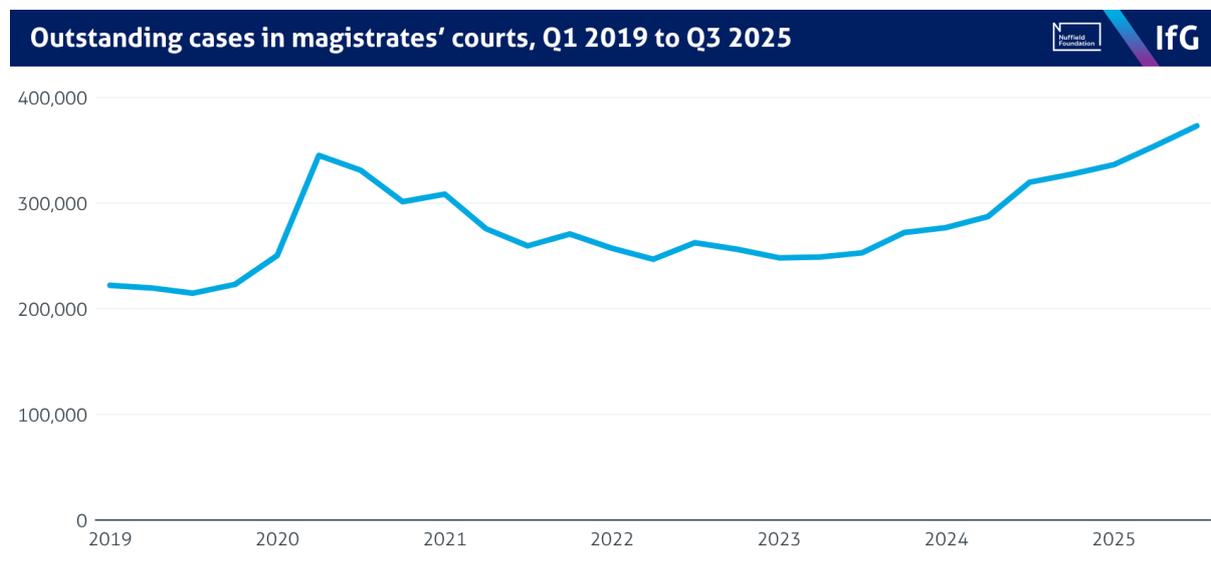
Magistrates' court trials are generally more straightforward and so likely to be quicker, in many cases. However, because of the very low income threshold to qualify for legal aid in magistrates' courts many more defendants are likely to be

* Some of those cases would have been started before their sentencing powers changed.

unrepresented. This is likely to drag out hearings.¹ Even minor increases to the time estimates for these hearings could lower the overall savings: for every additional hour in the average length of a trial, we estimate savings would fall by more than a percentage point.

Magistrates' courts will struggle to absorb such a large increase in demand

A more fundamental problem is that magistrates' courts may be just as unable to deal with this demand as the crown court is. Magistrates' courts are already facing a rapidly growing backlog that has now outstripped the worst point of the pandemic, with no signs of slowing down. The government does not publish estimates for incoming workload in magistrates' courts, but these reforms would substantially increase it – likely by 10–15%.^{*}



Source: Institute for Government analysis MoJ, 'Criminal court statistics quarterly: July to September 2025'. • Notes: Magistrates' court outstanding cases figures have been revised substantially and comparable figures are not available before Q1 2019.



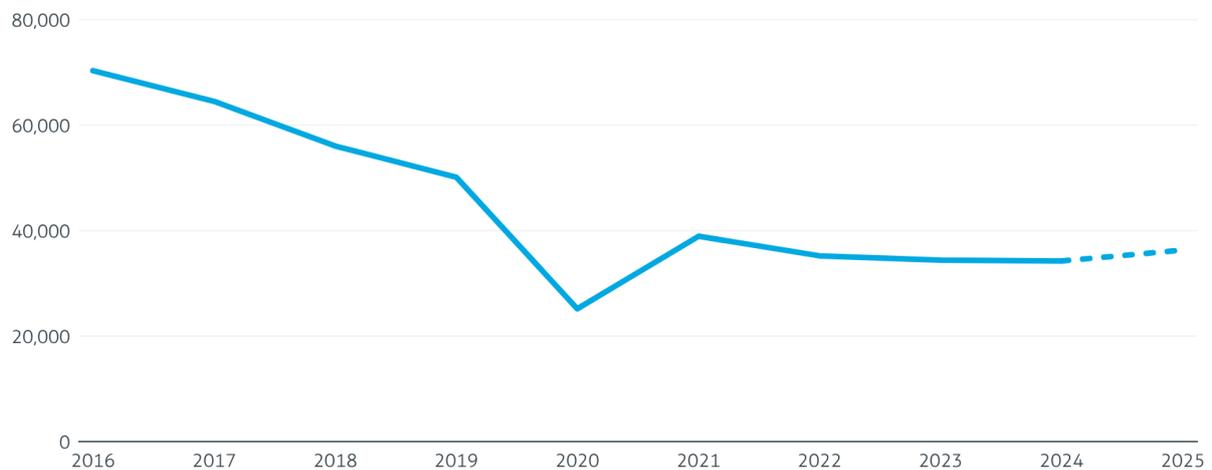
The number of cases being closed, meanwhile, has dropped over the last year and remains well below pre-pandemic levels. We examined the causes of poor court productivity in detail in our [Public Services Performance Tracker 2025](#) – which range from shortages of legal professionals and poor court administration to crumbling infrastructure. Recent reports by Transform Justice, based on thousands of magistrates' court hearings observed by trained volunteers, set out a litany of delays and wasted time.^{2,3}

^{*} 25,000 additional indictable cases would be 9% increase in demand relative to 2024, while 5,500 additional trials would be a 15% increase in trials specifically.

The number of trials conducted (excluding guilty plea cases and cases decided without a hearing) has fallen especially sharply. The MoJ estimates that around a fifth of cases newly kept in magistrates' courts will be trials (5,500).

Magistrates' court trials, actual and forecast, 2010–25

IfG



Source: Institute for Government analysis of MoJ, 'Criminal court statistics quarterly: July to September 2025' (trial effectiveness tool).



This raises serious concerns about the ability of magistrates' courts to absorb such a large portion of crown court work. This could result in various negative consequences. The backlog in magistrates' courts may climb even more sharply. Magistrates' may decline to try these cases and continue to pass them on to the crown court for trial to manage their own caseloads, reducing the benefit to the crown court. Or, most concerning, pressure to move through cases quickly could increase the risk of 'rough justice' and serious mistakes being made.

Large-scale structural reform is likely to impede attempts to improve productivity

The government's position is that the situation in the crown court is so dire that it must pull all the levers available: increased investment, productivity improvements and structural reform. But in practice the capacity of any system to absorb change is limited. Large change programmes, particularly structural reforms, soak up workforce and leadership time and attention, and often cause substantial disruption and performance declines in the short-term.^{4,5}

Major reforms like setting up the Crown Court Bench Division and substantially shifting the nature of magistrates' court work will inevitably take time to bed in and distract from attempts to drive up productivity in the short to medium term.

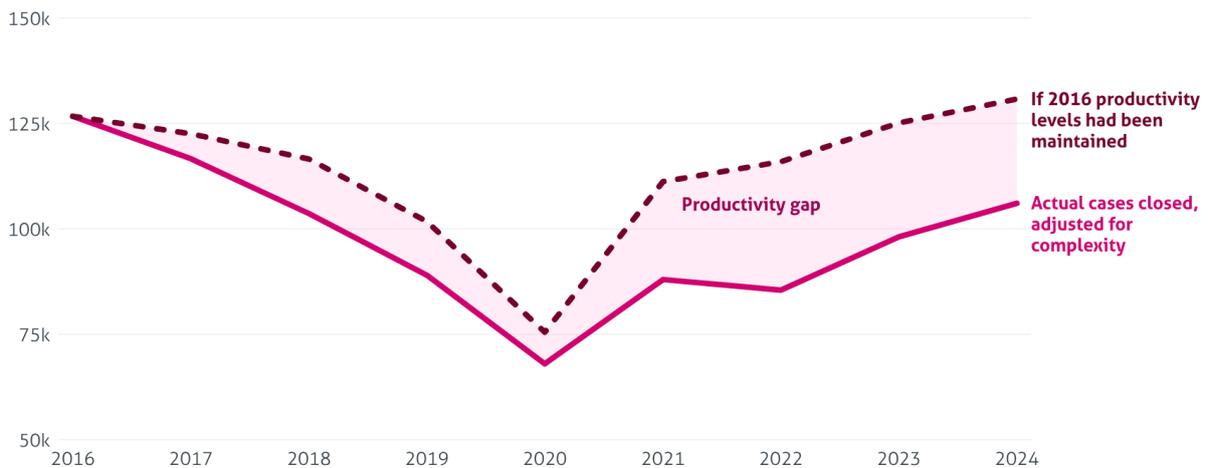
Shortages of [admin staff and a high rate of agency staff](#) in the courts and tribunals service are likely to exacerbate this.

Some of the reforms are also likely to be actively counterproductive when it comes to improving productivity. Restrictions on jury trials and appeals, in particular, are fiercely opposed by the criminal legal professions. The shortage of criminal lawyers is a [crucial source of productivity problems](#) in the criminal courts at the moment, with 4% of all scheduled crown court trials in 2024 rescheduled on the day because the prosecution or defence lawyer was absent.⁶ Reducing demand on the crown court should in theory help to address this, by freeing up time for lawyers to take on more cases.

But lawyers may be reluctant to simply replace crown court cases with magistrates' court cases, which pay less and whose lack of a jury makes them less appealing, professionally. If fewer defendants are eligible for legal aid, this will shrink public funding for criminal law. Many also have a principled objection to trials for more serious offences without a jury, especially with a more limited right of appeal.⁷ Some may reduce or even abandon their criminal practice to move into other areas of law, which are typically better paid, and criminal law may also become less appealing for new pupils and trainees.⁸

All this risks exacerbating existing workforce shortages. The Criminal Law Solicitors' Association has raised the possibility of strike action in protest against the reforms, which would cause the backlogs in both crown and magistrates' courts to spiral rapidly.⁹

The heart of the problem in the crown court is poor productivity, more than the scale of demand. Demand has risen rapidly since 2022, but that followed many years of flat or declining demand. Adjusting for changes in case complexity, the number of cases coming into the crown court in 2024 was roughly the same as in 2016. Given the choice, getting to grips with this productivity problem is likely to offer [faster and more substantial improvement](#) than the proposed structural reforms.



Source: Institute for Government analysis of MoJ, 'Criminal court statistics quarterly: April to June 2025' (trial effectiveness tool) and HMCTS, 'Crown Court Sitting days by financial year from April 2015 to March 2025', May 2025. • Notes: Modelled value is based on maintaining the 2016 level of complexity-adjusted cases closed per sitting day and applying that to the actual number of sitting days in subsequent years. Complexity adjustment accounts for the type of case and offence group; see 'Performance Tracker 2025: Criminal justice system methodology' for details.



These are major changes and risk tilting the system too far towards speed over fairness

In pursuing these reforms, the government faces a trade-off between swifter access to justice and more robust justice and defendants' rights. As Sir Brian Leveson acknowledged in his review of the criminal courts, jury trials are widely considered the 'gold standard'¹⁰ and the justice secretary has emphasised his ongoing commitment to jury trials as a "cornerstone of our justice system".¹¹ Currently, any adult* facing more than six months in prison has a right to a jury trial if they want to exercise it, though most do not do so.

Almost all of them will lose that, and instead face the faster and potentially rougher justice of magistrates' courts.¹² In magistrates' courts, the verdict is decided on by one, two or three people, rather than 12, after a much shorter trial in which most defendants' have more limited access to legal advice. It is hard to argue that this offers an equally robust form of justice as a jury trial in the crown court.

* Children who appear before the youth court cannot elect for a jury trial. See Youth Justice Legal Centre, 'Government Responds to Leveson – What's Changing for Children in the Criminal Justice System?', 10 December 2025, retrieved 8 March 2026 from <https://yjlc.uk/resources/legal-updates/government-responds-leveson-whats-changing-children-criminal-justice-system>

The stakes will also be higher – given magistrates’ increased sentencing powers and defendants’ much restricted right to appeal. The government is right to point out the severity of the situation and take action, but must also recognise the risks to the quality of justice on both sides.

There are alternative measures the government could pursue

Sir Brian Leveson has defended his proposals for structural reform by arguing, “If not this, then what?”. The justice secretary and courts minister have likewise been at pains to present these reforms as both the only option to prevent the collapse of criminal courts, and as an indivisible package that can only be adopted wholesale, rather than in parts. Both these propositions can be contested.

The government is making particular policy choices – many of the same goals could be achieved by other means. For example, instead of increasing magistrates’ court sentencing powers, more cases could be kept in magistrates’ courts by reducing their maximum penalty or reclassifying them as ‘summary offences’, only eligible for trial in magistrates’ courts. This was one of Sir Brian Leveson’s recommendations that the government has not pursued, and would affect a similar group of cases to the other proposed changes. But it would mitigate against the risk from ‘rough justice’ in magistrates’ courts because the potential sentences would be shorter.

Similarly, defendants could be discouraged from electing for a crown court trial by increasing the discount for guilty pleas entered in magistrates’ courts from 33% to 40%, again in line with Leveson’s recommendation. And adopting different listing practices – such as prioritising cases likely to result in a last-minute guilty plea, as is done in Liverpool – may be just as effective at encouraging earlier guilty pleas as a Crown Court Bench Division.

The government could also adopt some of these reforms without pushing forwards with the whole package. Removing defendants’ right to elect for a crown court trial *without* increasing magistrates’ court sentencing powers would have a substantially smaller effect than doing both together. But it would still reduce demand on the crown court, likely by around 10%.^{*} Equally, introducing these measures without

^{*} Triable-either-way offences currently account for about a third of crown court time. The MoJ estimates that defendants who elect for crown court trial make up about 30% of these, and that average hearing hours for these cases are close to the average for all triable-either-way offences. Removing all of these from the crown court caseload would save around 10-12% of time in the crown court. This does not account for the increase in demand in magistrates’ courts; the net effect accounting for that would be around a 5–7% saving.

abolishing the automatic right of appeal from magistrates' courts would mean they saved slightly less time.

Even if a large proportion of cases newly dealt with in magistrates' courts appealed, that would only slightly reduce overall time savings, while preserving a significant check on potential miscarriages of justice.

A balance must be struck between swift and fair justice

The scale of the problem in the criminal courts is immense, and the government is right to consider a wide range of potential solutions. For victims, defendants and their families, the delays in the courts can be devastating. But the need for swifter justice must be balanced with the need for fair justice. An 18-month or two-year prison sentence is life-changing, and it is crucial that the court system is set up and resourced both to deliver the right outcomes for individual cases, and to maintain public confidence in the system.

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