

Courts and Tribunals Bill: The CBA's Position

The CBA supports retention of existing rights to trial by jury.

- Juries reflect our modern society. Judges do not.
- Juries are a safeguard against prejudice. Power is not concentrated in the hands of one person. The process of deliberation ensures that bias is exposed.
- The public have greater confidence in the verdicts of juries.
- This proposal has been mis-sold on the promise of 'swifter justice for victims'. Even on the figures in the Impact Assessment, the overall time saving on Crown Court workload is about 3.5% (the IFG says 1% to 2%). That means rape complainants/victims, who are currently waiting a year for their case to be heard, might see delays brought down by about a week.
- The cases in scope are not minor offences. These are cases where the likely sentence is 18 months to 3 years imprisonment. That is life changing.

The CBA supports retention of the 12 month maximum prison sentence in Magistrates' Courts.

- Increasing maximum sentences to 18 or 24 months means that Magistrates' Courts will be trying more serious, more complex cases. There is a risk of injustice.
- The trial procedure in the Magistrates' Court is designed as a summary process to try minor offences. The Impact Assessment shows that the Government assumes that each of these more serious, more complex cases will be tried within just 4 hours. Either that is rough justice, or the Impact Assessment is wrong.
- Entitlement to legal aid in the Magistrates' Court is more limited. Defendants in serious cases will be unrepresented, leading to slower trials. Victims and witnesses will be cross-examined by the alleged perpetrator.
- The Impact Assessment is grossly over-optimistic. It assumes that work which currently occupies 24,000 sitting days in the Crown Court (heard by professional judges) can be transferred to the Magistrates Court and processed within 8,500 days.
- The Impact Assessment highlights a real risk that Magistrates' Court capacity cannot be increased even by 8,500 days. We are shifting the problem to another court, not solving it.

The CBA supports retention of the automatic right of appeal against conviction from the Magistrates Court.

- The right of appeal is an essential safeguard. 42% of appeals are successful.
- The proposed new scheme is more burdensome and complex, with multiple stages and multiple hearings. The existing scheme is swifter and works perfectly well.

If not this then what?

The measures which will truly bring down the backlog are: increased sitting days; 'blitz' courts; robust triage and case review; increased credit for guilty pleas; increasing the hours-per-day sitting time by fixing broken technology and the flawed prisoner transport system. The CBA strongly supports those reforms.

For an in-depth discussion, [see our 'Nutshell Guide' to the Bill here.](#)