

The Courts and Tribunals Bill - or – “Courts Modernisation Bill”

What are the proposals in the Bill?

Clauses 1 and 2 - Abolition of the right to elect trial by jury

These **remove the right to elect trial by jury** from defendants charged with an ‘either way’ offence. This includes many violent and sexual offences, serious public order offences, criminal damage, fraud, burglary and theft, and means such offences would be tried by magistrates.

Clauses 3 to 5 - Creation of Judge-only trials

These introduce a new system of **judge-only trials** for cases where the likely sentence is predicted to be up to 3 years imprisonment and for certain complex cases such as fraud. The Government estimates that 25% of cases currently tried with a jury would be tried in judge-only courts. This would include serious violence, and sexual offences, including some involving children or domestic abuse.

It should be noted that MoJ statistics show that black judges make up only 1% of the overall judiciary¹, and that there is widely accepted evidence of racial bias in the criminal justice system². According to the Lammy review of 2017, juries are one aspect of the CJS not affected by racial bias.

Clause 6 - Increasing Magistrates’ powers of sentence

This gives the Government the power to **increase Magistrates’ powers to sentence to up to 2 years’ imprisonment**. This (with Clause 1) means that defendants charged with an either-way offence would be tried by magistrates, unless the likely sentence on conviction was more than 2 years imprisonment. The Government estimates that 25% of cases currently tried with a jury would remain in the Magistrates’ Court, to be tried (in most cases) by ‘lay’ magistrates.

The vast majority³ of magistrates are volunteers. They provide a valuable service, but they are not legally trained and not familiar with complex legal work. They sit part time, and only for very short periods. The percentage of black magistrates is similar to black judges, so very low. The perception of racial bias extremely high⁴.

Clause 7 - Removal of automatic right of appeal

This **removes the automatic right to appeal** from the Magistrates’ Court to the Crown Court.

¹ Ministry of Justice Official Statistics: Diversity of the judiciary: Legal professions, new appointments and current post-holders - 2025 Statistics, <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2025-statistics/diversity-of-the-judiciary-legal-professions-new-appointments-and-current-post-holders-2025-statistics--2>

² Racial Bias and the Bench: A response to the Judicial Diversity and Inclusion Strategy (2020-25), <https://documents.manchester.ac.uk/display.aspx?DocID=64125>

³ The Magistrates’ Courts judiciary comprises about 12,000 ‘lay’ magistrates, 150 full time District Judges and 150 part time District Judges.

⁴ *Ibid.*

In 2025 40% of appeals against conviction and 48% of appeals against sentence were successful, which shows that there is a high rate of mistakes being made in the Magistrates' Court. The right to appeal is therefore an important and effective safeguard to wrongful conviction and sentencing. Clause 7 will remove this safeguard, replacing it with a more expensive system requiring a Crown Court Judge to review the case on paper and decide whether to give permission to appeal before an appeal is heard. It is unclear whether the judge's decision can then be challenged.

Clauses 8 to 16 - Changes to Rules of Evidence in Criminal Proceedings

These widen the restrictions on inappropriate cross-examination in cases of sexual assault and also increase the range of special measures to assist vulnerable witnesses. **The Criminal Bar Association, Bar Council and Leaders of the Circuits have not opposed these and have proposed amendments that would make these even stronger, for example by setting up dedicated domestic and sexual abuse courts. These proposals have been rejected by the Government.**

What do the legal professions say about these proposals?

The **Criminal Bar Association**, the **Bar Council**, **Circuit Leaders**, the **Law Society**, the **Criminal Law Solicitors Association** and the **London Criminal Courts Solicitors Association** are united in their response to the Bill.

We oppose Clauses 1 to 7 of the Bill. The proposals to restrict trial by jury are untested, unnecessary, will remove important civil liberties, create injustice and disproportionately affect minority communities. It is not Juries that cause delays and they are not responsible for the backlog, or the fact that some cases are now being heard in 2030. Nor are they responsible for difficulties vulnerable witnesses face in any criminal trial.

We have supported Clauses 8 to 16, concerning changes to rules of evidence in respect of how victims and witnesses are treated in court. We have proposed that the Government should proceed with this part of the legislation to give effect to the promise in the Labour manifesto to fast-track rape cases by **creating specialist rape courts within the existing Crown Court system.**

We have also proposed that a large number of minor offences could be re-classified as 'summary only' offences which can be tried in the Magistrates' Courts. This would take some of the pressure off the Crown Court.

Our proposals, including those to further improve the situation for victims and witnesses, have been rejected.

THE KEY POINTS

1. Juries are not the problem

The shocking backlogs in the criminal courts **were not caused by juries**. Both Sir Brian Leveson and Sarah Sackman MP have accepted this during the debates on these reforms.

The principal cause of the backlog was budgetary decisions to cap / restrict the number of days a court could sit in the year. Courts were kept closed to save money, and the queue grew longer. Government first cut sitting days in Autumn 2024 to 106,000, raising it only incrementally after vocal opposition led by the CBA. In Autumn 2025, the Government raised the cap to 111,250 days. It was later removed altogether with effect from April 2026. Since its removal, the backlog has started to reduce.

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We are already seeing the effect of this in individual Crown Courts across the country where backlogs have recently been brought down⁵ with significant effect.

2. The Government's claim that these proposals will help to tackle Violence against Women and Girls (VAWG) and make things better for Victims is simply not correct.

At the beginning of this process, the Government said that the proposals were a means of bringing swifter justice to victims. It is not surprising that this led to them getting support from a number of victims' groups and advocates against VAWG.

However, the reality is that Clauses 1 to 7 have nothing to do with improving the experience of VAWG victims in the criminal justice system. They are a cost-saving measure which has been pushed within Whitehall for decades, but rejected by previous governments of all denominations.

Cases of rape and other more serious sexual assaults do not fall within the scope of these proposals, because they involve indictable-only offences. Whilst there has been support for the measures from some groups, many victim advocates have voiced their concern about Judge-only trials. Judges are predominantly male (61%) and white (89%). 68% of Judges are between 50 and 75 years of age. Magistrates are even older (81% are above the age of 50). They come from a narrow, predominantly middle-class backgrounds (69% are former barristers, and 30% former solicitors). **Many victims have said that they would prefer to have their case decided by a jury which includes people like them, from backgrounds like them⁶.**

Some of the Violence Against Women and Girls sector have called for the preservation of access to jury trials⁷, stating *"we have been taken aback by the government's blanket assertion that this set of proposals are in the best interests of victims and survivors of violence against women and girls*

⁵ Courts data casts doubt on need for jury reforms, Jonathan Ames, The Times, 6th May 2026, <https://www.thetimes.com/uk/law/article/courts-data-casts-doubt-on-need-for-jury-reforms-sjqd93pw>

⁶ <https://www.gov.uk/government/statistics/diversity-of-the-judiciary-2025-statistics>

⁷ VAWG sector letter to Justice Secretary calls for re-think on jury trials – Rights of Women, 17th March 2026, <https://www.rightsofwomen.org.uk/vawg-sector-letter-to-justice-secretary-on-jury-trials/>

(VAWG), *without any serious consultation with VAWG organisations*". Other groups have complained that the Government has '*weaponised*' the victims' cause to sell cost-cutting measures.

The measures that will really help to make things better for Victims are contained in Clauses 8 to 16 – which we do not oppose, and in fact wish to make even stronger.

3. **The alternative proposal on VAWG: Specialist Rape Courts**

Cases of rape and sexual assault take a long time to come to trial because most of the defendants in such cases are on bail. However, in other cases where a defendant is in custody, statutory limits on the amount of time they can be kept in prison apply. As a result, those other cases (where defendants are in custody) have to be heard first, so rape trials get pushed to the back of the queue.

The Labour Manifesto in 2024 promised: "*Labour will fast-track rape cases, with specialist courts at every Crown Court location in England and Wales.*"

At the Committee Stage, the CBA, Bar Council and Circuit Leaders suggested amendments which would have legislated to require specialist rape courts, including giving priority to these serious cases - **but our suggestions were opposed by the Government.**

It may be that some of these matters will be dealt with through other means, such as listing protocols being put into place, but this needs work.

4. **Curtailing jury trial will prejudice black and ethnic minority complainants and defendants**

The Government's proposals will undermine fairness and produce discriminatory outcomes, especially for Black and ethnic minority defendants. **There is substantial evidence of institutional racism within the justice system presided over by judges.** The Lammy review of 2017 found that juries are one aspect of the CJS not affected by racial bias. The Racial Bias and the Bench survey found that a large majority of legal professionals perceive such bias to influence decisions and outcomes, coupled with Government data indicating disproportionate remand rates and sentencing outcomes⁸.

Juries are more representative of society and therefore a crucial safeguard against such racial bias, whereas the judiciary remains insufficiently diverse and has failed to acknowledge or adequately address racism. Indeed, the impact of racial bias and institutional racism has not even been mentioned in the Leveson Review. Rather, Sir Brian wrongly stated that there is no evidence judges are racially biased.⁹

The judicial appointments process entrenches inequality (particularly "secret soundings"). Reliance on training alone is ineffective [see Harriet Harman Review]. Reform should focus on an acknowledgement of institutional racism, adopting the ten recommendations in RBB and maintaining the central role of juries in the criminal justice system.

5. **Moving cases to the Magistrates Court is not the solution: It won't work**

⁸ Racial Bias and the Bench <https://www.ethnicity.ac.uk/research/associated-projects/judiciary/>

⁹ '38. ... *there is no evidence that professional judges alone making decisions in criminal cases produce decisions with disproportionate outcomes.*' [P291]

The combined effect of Clauses 1 and 6 will be that cases where the likely sentence is up to 2 years imprisonment will be kept in the Magistrates' Court for their trial. The Government's estimate is that 25% of jury trials will be tried in the Magistrates' Court. This is approximately 12,000 cases per year.

Magistrates' Courts do play an essential role in the criminal justice system, dealing with minor offences. They used to deal only with cases with a maximum sentence of 6 months imprisonment. That limit was increased to 12 months in 2022. It then had to be reduced because too many magistrates were not using their powers properly and were sending too many people to prison. It was increased again in 2024. The effect of the Bill will be to put longer, more serious and more complicated cases into the Magistrates' Court.

The Magistrates' Courts are already unable to cope with the existing case flow. Retaining even more serious cases in the Magistrates will make a bad situation many times worse. In 2025, nearly **7,500 Crown Court trials**, and **20,500 Magistrates Court trials** were **cancelled** on the first day of trial - the main factors being over-listing, a lack of judges or magistrates, legal advisors, lawyers, interpreters, and the ongoing failure of the Prison Escort Services [PECS] to deliver prisoners to court on time or at all. **Not because of juries.**

The UK is not Canada. The system there is different. In Canada all judges are professional. In England and Wales, magistrates are both lay (amateur) and professional.

Here lay magistrates are part-time, unpaid volunteers. This is undoubtedly a cost saving, but as a result they can only rarely sit for more than a few days. Cases are often delayed because a case overruns, or the magistrates need additional time to decide their verdict. As a result, the case has to be adjourned to a time when they can all reconvene. This can take months. In a recent example reported to the CBA, a victim was halfway through her evidence when the case had to be adjourned, and because of the magistrates' diaries her cross-examination will not take place for over a month. During that time, in accordance with the rules of evidence, she cannot speak about her experience to anyone and is living in limbo.

The Government's mathematics does not add up. Their Impact Assessment says that this change will remove 24,000 sitting days of work from the Crown Court to the Magistrates' Courts, where the same work will be completed in 8,500 days. In other words, it assumes, without any basis in evidence, that the amateur magistrates will complete their work nearly three times more quickly than professional judges in the Crown Court. Either the assumptions are wrong, or it means that the quality of decision-making will deteriorate.

The backlog in the Magistrates' Court is also at an all-time high. On the latest available figures, it was 379,437 cases (at the end of December 2025).

The Chairman of the Magistrates Courts Association has said that they currently do not have enough magistrates to take on the extra burden of the more serious, more complex cases which will be reallocated¹⁰. The Government is relying on a drive to recruit new Magistrates, who will be given fast-track training. The success of this program is yet to be seen, but these magistrates will need to be trained, and spaces in already overburdened courts will need to be found for them to sit – all of which comes at a significant cost.

In giving evidence before the Justice Select Committee, **David Ford** said – *“even though the magistracy is already the most diverse section of the judiciary, we want it to be more diverse and particularly for there to be younger employed magistrates. We want to bring the magistracy into being*

¹⁰ Evidence of David Ford JP to Justice Select Committee, 13.01.2026 (Q43).
<https://committees.parliament.uk/oralevidence/16995/pdf/>

even more representative of society, but that come with challenges. It needs employers to be willing. There is an awful lot that is needed there. It is not just about recruiting people; it is about shortening the process, because it has taken up to two years from the time you register an interest to the time you are sitting.... I totally agree with the panel members: we need the infrastructure, we need the legal advisers, we need the ushers and we need probation—we need everything. This will only work if everything is concurrent; it will not work if we just go and get 4,000 magistrates tomorrow”¹¹.

Legal Aid rules mean that the Government proposals are likely to lead to more unrepresented defendants in the Magistrates’ court. This will lead to slower hearings, and adjournments for legal advice.

6. The Government’s proposals will NOT work, and will NOT reduce Court delays

When this Bill was first announced, the Government said that it would bring ‘swifter justice for victims’. This is simply not correct.

Independent analysis by the Institute for Government shows that the effect of Judge-only trials on Crown Court business would save, at most, 1% to 2% of court time¹². In other words, a victim who is currently waiting a year for their case to be heard might see the case brought forward by a few days. And, as the IFG has also pointed out, if the Government do make these radical procedural changes, the delays that it will cause will cancel out any possible gains.

We note that **the Government’s analysis also does not address the costs involved** in making the proposed changes, which are likely to be extensive, or the impact on the judges, barristers, solicitors and staff who work within these courts.

7. Other measures are already working and bringing the backlog down

The Government’s Impact Assessment predicts dramatic increases in the backlog “if we do nothing”. **But we are not doing nothing.** Radical action has already been taken by Lead Judges and by the MoJ.

The system suffers from chronic inefficiencies. If these are removed, the backlog will shrink dramatically.

Removing the cap of Crown Court sitting days has really helped and has begun to reduce the backlog. Changes in the Sentencing Act 2025 have increased the use of non-custodial sentences, which has resulted in more and earlier guilty pleas, which has also started to have an impact on reducing the backlogs.

Individual Crown Courts have already taken active steps to reduce the backlogs by other means, such as by using ‘blitz’ courts to target cases that are likely to result in guilty pleas, such as domestic violence and lesser thefts. Such schemes are being rolled out nationally and are proving highly successful.

Backlogs are coming down across large parts of the country. The latest MoJ figures (Q4 2025) show the number of outstanding cases fell over the final three months of 2025 in the North West, South

¹¹ <https://committees.parliament.uk/oralevidence/16995/html/>

¹² Beyond reasonable doubt?: Reviewing proposed reforms to jury trials, Cassia Rowland, 9th March 2026, <https://www.instituteforgovernment.org.uk/publication/reviewing-proposed-reforms-jury-trials>

East and in Wales. In other regions, there are examples of courts where the backlog fell from Q1 to Q4 2025. Some examples:

- The Old Bailey - down 20%,
- Cambridge - down 15%,
- Durham - down 7%,
- Grimsby - down 13%,
- Ipswich - down 13%,
- Southampton - down 9%.

There have been other meaningful falls in backlogs across a number of Crown Courts across different parts of the country during 2025.

The improvements are also reflected in **falling figures for prisoners on remand (i.e. in custody waiting for their trial and those convicted but as yet unsentenced)**. Between August 2025 and March 2026 (latest available data point) the remand population fell by 1,922 (down 10.7%). A single remand prisoner costs around £55k per year.

The **CEO of HMCTS** told Parliament at the end of April 2026 that since the cap on sitting days had been lifted that month, case disposal rates were occurring around 6% more than his government department had forecast. Meanwhile new cases arriving into the Crown Court (receipts) fell in 2025 compared to 2024 and in the final quarter of 2025 declined as much as 3% compared to the prior quarter, from 30,338 to 29,482, a quarterly reduction of 856.

8. The proposed changes in Clauses 1-7 are not ‘minor’

The Government estimates that the changes will remove the right to trial by jury from about **50% of current Crown Court cases**.

The crimes that would be included are either-way offences with a likely sentence of up to 3 years imprisonment. **These are not minor** - they include serious theft, fraud, wounding, burglary, and some sexual offences, including ones involving children and domestic abuse.

A sentence of 3 years imprisonment is not minor. It is life-changing for any member of the British public.

The changes are perverse because they are **prejudiced against people who don’t have any previous convictions**. Under the Bill, the sole test of whether a case qualifies for trial by jury is the likely sentence. Because previous convictions are an aggravating feature which results in a longer sentence, a defendant with a criminal record is more likely to face a predicted sentence of 3 years or more, whereas a person of good character is more likely to receive a reduced sentence of less than 3 years. That means that a person with no previous convictions would be tried by a judge alone, while a person with previous convictions who is accused of an identical offence would be tried by a jury. That is perverse.

9. Juries are an essential part of Criminal Justice

Juries are a prime example of the democratic process in action. They provide the democratic element to the criminal justice system. They stand between the state and the citizen. Study after study has shown that the public has more confidence in the verdicts of juries than other forms of decision making.

Juries are the only part of the criminal justice system that is truly without bias. The collective wisdom of twelve people from diverse backgrounds, with a range of human experience and points of view to draw upon, discussing the case between them produces a better quality of decision than a single person deciding the case alone. Jurors also provide oversight and a check and balance upon each other, making their verdicts truly fair.

Juries provide a safeguard to Judges. They insulate Judges from controversial decisions. As former senior judge **Geoffrey Rivlin KC** has pointed out, if Judges are deciding cases alone people will start keeping count of the way they decide the cases before them¹³. Parties will begin ‘Judge-shopping’ to try to find a Judge who is perceived to favour prosecution or defence. Judges are not protected, they are easily identifiable, and may become targets for blackmail, threats, attack and violence. This has been seen recently in immigration and family cases.

10. **If not this, then what?**

The CBA, the Bar Council and other professional groups have proposed a number of other measures which we say will be more effective in reducing the backlog. Some are already being put into place and they ARE working. These include taking Sir Brian Leveson’s advice on Efficiency measures, and following the recommendations of those who work within the courts, such as:

- **Use of specialist courts, for rape, sexual and domestic abuse cases.**
- **Fully implementing the removal of the cap on sitting days.** The latest figures show that changes already made are bringing the backlog under control.
- **Use of ‘blitz courts.** Resident Judges are starting to do this, and it is working. Help them.
- Using the money that is being thrown at these proposals to **fix the broken court infrastructure** instead. Considerable delays are caused in courts across the country by leaking roofs, falling ceilings, broken plumbing, air-conditioning, lifts, technology and more. Fix them so they can operate at full capacity.
- **Get prisoners to Court on time.** There are delays daily across the country because of the prison delivery service, which often fails to deliver defendants to court in time to start their trials. This leaves court rooms empty for long periods of time while judges, barristers, victims, witnesses and defendants are waiting¹⁴.
- **Reclassify minor offences** as summary only (i.e. to be heard in the magistrates’ court), thereby making the best use of our voluntary magistrates and removing some of burden from Crown Court.
- **Increase the incentives for guilty pleas.** An increase to 40% discount on sentences will make a substantial difference.
- **Divert some lesser cases from prosecution altogether.** Make greater use of alternative means of disposal.

¹³ Submissions to the Justice Committee by His Honour Geoffrey Rivlin KC, January 2026, <https://committees.parliament.uk/writtenevidence/161374/pdf/>

¹⁴ Prisoner transport is ‘significant’ cause of court delays, Catherine Baksi, The Times, <https://www.thetimes.com/uk/law/article/prisoner-transport-significant-cause-of-court-delays-sr5f3sptd>