JUSTICE

Courts and Tribunals Bill

JUSTICE Briefing – June 2026

Background

- The Bill is introduced as one part of the **Government's response to the outstanding caseload in the Crown Court** which continues to grow and currently stands at almost 80,000 cases.
- The Bill follows Sir Brian Leveson's Independent Review of the Criminal Courts (the "**Review**"). **Sir Brian Leveson recommended getting rid of jury trials for cases with a likely sentence of three years or less and replacing them with trial by a judge and two magistrates.** The Government has not yet responded to the Review.
- Amongst other measures, the Bill would:
  - **Remove the right of defendants to elect** for Crown Court trial in triable by either way cases. Triable either-way offences are offences that can be heard in either the Magistrates' Courts or the Crown Court.
  - **Replace the automatic right to appeal to the Crown Court from the magistrates' court** in criminal proceedings with a permission stage - and replacing the full re-hearing in the Crown Court with a hearing on issues only for which leave to appeal has been granted.
  - **Introduce powers to extend the magistrates' court sentencing powers** from the current 12 months, to either 18 or 24 months by way of secondary legislation.
  - **Restrict jury trials by introducing judge only trials for:**
    - triable either-way cases likely to receive a custodial sentence of three years or less by judge alone.
    - technical and lengthy fraud and financial cases**.**

Concerns

- Removing the right to elect combined with increasing the maximum sentencing powers of Magistrates' **is likely to see more triable either-way cases retained in the Magistrates' Court**. This risks:
  - Placing critical allocation decisions on Magistrates' Courts at a time when they are **structurally ill-equipped.**
  - An increased proportion of **unrepresented defendants**, because the eligibility threshold for receiving representation by a publicly funded lawyer in the Magistrates' Courts is an annual income of below £22,325, significantly lower than the Crown Court threshold of £37,500.
  - A **disproportionate impact on ethnic minority communities** who are more likely to elect for trial at the Crown Court.
- Removing the automatic right of appeal from the magistrates' court **removes a key safety valve**, especially given the appeals success rate (40% against convictions, 47% against sentences.)
- **Restricting jury trials risks:**
  - Undermining **one of the most trusted parts of the criminal justice system** at a time where public trust and confidence in the system is fragile.

    - Removing a **constitutional check on state power,** weakening both robust testing of prosecutions and the participation of the public in the administration of justice which increases the **risk of miscarriages of justice**.
    - The three-year threshold for jury trials is likely to lead to outcomes that are seen as unfair to both those within the system and the public. It means that **repeat offenders are more likely to qualify for a jury trial because their previous convictions would push the likely sentence above three years, while first-time offenders committing the same offence may be denied a jury trial.**
    - Further **failing victims and marginalised communities** as juries better reflect society than judges and magistrates, risking undermining confidence which is already very low.
    - Exposing the judiciary to **undue politicisation.**
- **Cases that could be heard without a jury** could include sexual offences, sexual abuse of children, stalking, fraud offences, violence against the person offences and theft offences. Most of the postmasters wrongly convicted in the Horizon scandal received a sentence under three years.
- **Retrospective application** will be seen as deeply unfair by those affected and by the wider public.
- **Curtailing jury trials will not fix the backlog.**

What will resolve the backlog?

- **Increasing sitting days.** Since lifting the cap on sitting days, the backlog has tangibly improved. In May, Nick Goodwin, Chief Executive of HMCTS, described the disposal rate as 6% higher than forecasted due to more sittings and a higher disposal rate. The Crown Court estate should be funded to sit at its full capacity of 113,000 days.
- **Utilise available court space.** Available courtroom space should be fully used, through improved listing, ensuring availability of staff, and resolving maintenance and operational issues, before resorting to structural changes to jury trial. The Lady Chief Justice highlighted that courts are not operating at capacity, including in Bristol where "40% of courtrooms are not open on any given week". This is evident from tracking the utilisation of courtrooms through 'Court Stats'. In May 2026, on working days, on average, 14% of courtrooms were sitting empty.
- **Remove cases from the backlog.** Cases that are no longer in the public interest to prosecute should be actively removed from the list. The Bar Council points to successful backlog reduction where there has been "pro-active management of cases between police, CPS and judge", including in the Southwest during Covid and in Woolwich, Liverpool and Preston Crown Courts.
- **Improve court infrastructure.** While the Government has recognised the need to invest in the fabric of the court estate, sustained and sufficient funding is required to address persistent issues. Investment is needed to prevent adjournments caused by floods and technology failures and to improve outdated secure docks that impede communication with counsel and slow proceedings.
- **Resolve delays caused by prison transport.** The National Audit Office identified witness and defendant availability as the main reason for ineffective trials; the failure of prison transport services to ensure defendants arrive at court is one of the reasons for defendant unavailability. Contracting and operational changes are needed so defendants in custody are produced on time.
- **Improve early engagement and case management.** Fuller initial prosecution case papers at first appearance, meaningful pre-trial preparation hearings, and stricter compliance with the Better Case Management principles would narrow issues earlier and reduce ineffective trial rates. For example, lessons can be learnt from Scotland's summary case management project.

- **Increased use in Goodyear directions.** This is common practice in Liverpool and allows defendants to make informed decisions sooner so that unnecessary trials can be avoided.
- **Increased use of out of court resolutions.** Suitable cases should be diverted out of the Crown Court altogether through greater use of out-of-court resolutions.
- **Invest in legal aid and the criminal legal workforce.** Early case preparation will only be effective if lawyers are available and properly funded. The Institute for Government found that in the crown court, more than 10% of scheduled trials in 2024 were rescheduled on the day due to lawyer absence, or one side not being ready or increasing the estimated time needed for the trial. Urgent implementation of the announced legal aid increase would help recover barristers into criminal practice and reduce adjournments caused by lack of counsel or by defendants appearing unrepresented.
- **Reclassify certain offences to summary only.** Suitable offences can be reclassified from either-way to summary only on an evidence-based basis to ease pressure on the Crown Court.
- **Implement Sir Brian Leveson's efficiency recommendations first.** There are several measures recommended by Sir Brian Leveson, highlighted above, for example, proposals to improve Prison Escort and Custody Services, better cross-system data sharing, use of Out of Court Resolutions, and bolstering the criminal legal workforce, which can happen much more quickly than curtailing jury trials and will likely have a more significant impact.

Judicial Concerns

- **HH Geoffrey Rivlin KC**. The former Resident Judge at Southwark Crown Court warned that judge-alone trials are "calculated to throw a harsh spotlight on individual judges", risking "a lack of confidence – first in the judiciary and then the system as a whole."
- **Lord Thomas of Cwmgiedd.** The former Lord Chief Justice states that juries are "a hallmark of our system of justice" and that "there is nothing I have seen that can possibly be taken as an excuse for dismantling that constitutional principle", adding that the causes of the backlog are "each capable of remedy."
- **Lady Chief Justice.** Expresses 'grave security concerns' for judges arising from the proposals to curtail jury trials through the use of judge-only trials.
- **During the Senior Salaries Review Board** the senior judiciary flagged "a declining trend in the assessed quality of judicial appointments for all roles below the High Court... a warning sign that the talent pipeline to senior judicial office is at risk of erosion" and warned that judge-only trials would require "enhanced security for judges both inside and outside court."
- **22 retired judges**, amongst thousands of lawyers, called on the government to drop plan to abolish some jury trials.