COURTWATCH
LONDON

Beyond reasonable delay: efficiency in London magistrates' courts

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Foreword

Magistrates' courts are the unsung workhorse of the English and Welsh criminal justice system, swiftly resolving in excess of a million cases each year compared to the approximately 80,000 cases handled by Crown Courts. They're (wrongly) seen as dealing with minor or trivial matters. But anyone who has visited a magistrates' court quickly realises the very real impact of bewildering court proceedings on attendees, and that magistrates frequently pass sentences that have significant impacts on the lives of defendants who appear there, and on their families.

The prevailing yet fallacious rhetoric of delivering quick and easy justice in magistrates' courts makes them vulnerable to demands to process cases more quickly. The twenty-first century has seen ever more pressure being placed on these courts to improve their efficiency while also being required to manage caseloads in the context of numerous court closures, structural reform, and declining numbers of sitting magistrates. Trying to maintain a just process in such circumstances can be challenging. A defence lawyer I interviewed a few years ago spoke of how demands to increase speed in the criminal justice system undermine fairness: "they often forget that there's a 'J' in [CJS] and what that stands for [...] they're so obsessed with this bureaucratic machine and moving it on."[1] It seems likely that such challenges will increase in light of the Lord Chancellor's proposed far-reaching changes to offence classification that will remove the right to jury trial for more offences, and significantly increase the sentencing powers of magistrates.

At such a critical juncture for our criminal justice system, this report collates evidence about what actually happens in magistrates' courts on a daily basis. Delays were considered to be widespread. Reasons for such delay were diverse, from absent parties, to insufficient case information and IT issues. Unsurprisingly, these issues had significant impacts on parties in court; stress and anxiety, outcomes postponed, wasted time, low morale, and – ultimately – lost confidence in the justice system.

Despite this, it was clear to courtwatchers that simply increasing speed is not the solution. While justice delayed might be considered justice denied, unfettered conveyor-belt approaches to magistrates' court cases risks placing the rights of all parties in jeopardy. The single justice procedure, which involves an expedited process for taking pleas by post and sentencing accordingly, is a prime example of what can go wrong when speed takes precedence above due process. There have been some significant single justice procedure errors, such as those resulting in the quashing of over 70,000 convictions for train fare evasion, as well as the Ministry of Justice itself being fined under the process.

1 Welsh, L (2022) Access to Justice in Magistrates' Courts. Bloomsbury Hart. p.72.

Courtwatchers noted the benefits of slowing proceedings to examine process and outcomes, or to seek further specialist input. Speed for speed's sake was also felt to undermine trust and confidence in the criminal justice system, with concerns that over-efficiency jeopardised fairness for both victims and defendants. One courtwatcher commented that "it felt like another conveyor-belt day, with people being rushed through their hearings [...] I wish the courts had more time to engage with each defendant..."

There is a wealth of evidence to support the views of these courtwatchers. Studies suggest that many people appearing in magistrates' courts as defendants, victims, and witnesses are unable to properly understand – and therefore participate in – what happens in these courts. These issues are especially significant when increasing numbers of defendants are facing the risk of a prison sentence without legal representation: 48% of such defendants in 2023, according to the Centre for Public Data. There exists, therefore, a need to finely balance a system which is not wasteful of its resources yet maintains fairness and just outcomes. Courtwatchers were commendably clear that while there is scope to improve issues such as communication and IT failures, efficiency must not override fair hearing rights. These are sentiments which many of us who have worked in or with the criminal justice system can wholeheartedly support. It is the people working in our magistrates' courts who keep the system going, but they cannot do so without structural support.

Against that background, there is a pressing need to consider how magistrates' courts can deliver timely outcomes without sacrificing the rights of those involved. This robust, timely, and important work reminds us that reform must be grounded in both human impact and systemic necessity. Efficiency in this context is not about speed alone, but about ensuring that every stage of the process works towards a just outcome.

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Executive summary

What is causing delay in the magistrates' courts? We all want our public services to run efficiently and effectively; to make the best use of time and resources, while delivering a high-quality service for citizens. The criminal courts backlog shows few signs of shrinking, so there is an urgent need to make the courts more efficient.

This report focuses on the reasons for delay through the eyes of volunteer members of the public who observed London's magistrates' courts, and the impact of these delays on the courts, defendants, witnesses and observers themselves.

In our first round of courtwatching in 2023, public observers were surprised by how inefficient the court system appeared. Long periods of waiting for hearings to start; frantic discussions amongst court professionals trying to work out who was where and what was happening; defendants and witnesses waiting several hours for hearings to start without any update. Courtwatchers' interest in efficiency inspired the focus of the second round of the project.

Efficiency means making effective use of time and resources. Inefficiency, conversely, is where this doesn't happen, and time and resources are wasted. Courtwatchers saw many ways court inefficiency led to delays. Poor preparation for hearings and scant communication with relevant parties, especially defendants, meant hearings were often delayed on the day or adjourned to a different date. Time was wasted waiting for defendants to be transported from custody, sorting technology issues, or dealing with cases that could have been better resolved out of court.

Not all delays are a product of inefficiency. A well-functioning court system would still pause a hearing to allow magistrates to deliberate privately on the most appropriate sentence. It would also allow time for lawyers to prepare properly for a trial, or the probation service to produce a pre-sentence report. Courtwatchers want these pauses in the process to remain protected.

Courtwatchers also wanted to see defendants supported to participate effectively. They were happy for the start of a hearing to be delayed so that a defence lawyer could be found rather than leaving a defendant to represent themselves. Or a case adjourned to another day when an interpreter could (in theory) be arranged. None of our courtwatchers thought any of these fair trial rights should be steamrolled in the name of speed. But they did question whether a more efficient system would have addressed these issues earlier on rather than waiting for the day, when an adjournment couldn't be avoided.

This report concludes with recommendations (most taken from courtwatcher observations) on how to make the magistrates' courts run more efficiently, without jeopardising defendants' fair trial rights.

“What a waste of time for everybody involved!”

One courtwatcher observed the trial of a 26-year-old man charged with criminal damage of a hotel’s computer monitor and tablet, and assault of an emergency worker.

The trial was scheduled to start that morning but had not yet begun when the courtwatcher arrived at 2pm. At this point, the defence lawyer asked the magistrates to issue reporting restrictions. After a delay to consider the request, the bench refused because the lawyer had not submitted the written request earlier than the day beforehand.

The defence lawyer then asked for an adjournment as he had been unable to gain access to medical records. He argued that as the defendant was a victim of torture, and his state of mind was a key issue in this case, an expert report was needed. The magistrates denied this request too (after another pause to deliberate), arguing that an adjournment had been granted at the previous hearing for this reason, but the defence had failed to produce the report.

“After that, there was another interruption, as the interpreter said he was told the trial would be in the morning and that he had to leave now. The court staff unsuccessfully tried to find another interpreter in the building, and convinced the interpreter to stay. He complained that he had initially offered the court to stay for the whole day, but the court had refused to pay an overnight stay for him in London, which is why he could not stay later than 4:30pm. When the trial eventually began, it was already 3pm.

“Soon after, the court was ready to call in the first witness for the trial, but the list caller was missing, so someone else had to go and look for her, which took a very long time.

“Later on, the prosecutor offered to show video evidence of the incident. The defence lawyer argued that the video was inadmissible because he hadn’t watched it, and there was another delay while the magistrates rose to discuss the matter. After they denied the defence lawyer’s request (arguing that he should have watched it because the prosecutor had shared the video with him), the magistrates did give him time to review the footage with his client, which caused another delay.

“When the defence and his client returned, the list caller was missing again, and other court staff tried to turn on the screens in the room unsuccessfully, causing yet another delay.

“Shortly after that, the magistrates asked everyone in the courtroom to leave so that they could quickly deal with a spill-over case from another courtroom.

“Because of all the delays, the trial was not over by the time the interpreter had to leave, and the court had to find a new date to continue the trial, which would not be for another two months.

> "The magistrates called in two witnesses – two police officers, who had been waiting to give their testimony since the morning – and explained that they would have to return two months from now. The magistrate apologised, acknowledging that the court had wasted their day, as it already had months ago, when the trial was adjourned.
>
> "What a waste of time and resources for everyone involved! I have never quite observed anything so inefficient."

Introduction

Context

The story of attempts by the government to make magistrates' courts more efficient is a long one. Lord Justice Auld wrote his Review of the Criminal Courts in 2001, leading to the centralisation of magistrates' courts, which had previously been locally run. In 2006 the government launched the 'speedy, summary justice' initiative, the aim of which was to reduce delay. One ambition was to have cases concluded within a maximum of six weeks from the first hearing for summary trials, another to reduce the number of hearings per case to less than three. Despite continuing interest in court efficiency, the Inspectorate of Courts Administration (started in 2003) was abolished in 2010.

A new initiative, 'Transforming summary justice,' was launched in 2013 and Sir Brian Leveson was asked to do a speedy Review of Efficiency in Criminal Proceedings. This was published in 2015 and influenced the launch of HMCTS' (His Majesty's Courts and Tribunals Service) digital court reform programme. A major justification of this £1.3 billion programme was to improve efficiency across all courts including magistrates'. HMCTS brought in a new digital case file system - the Common Platform, and planned for a significant increase in video hearings, which only really happened during the pandemic. The digital court reform programme officially ended in March 2025.

Despite all these initiatives, the magistrates' courts are perhaps more inefficient than ever. At the end of September 2025 the magistrates' court backlog stood at 373,084 cases, a record high. On average it currently takes 209 days for a case to make its way from offence to case completion in the magistrates' court. The Institute for Government has analysed these delays (as much as they can with poor data): "at the heart of this problem is poor productivity: magistrates' courts and the Crown Court are processing fewer cases per day than before the pandemic, even though average case complexity has fallen since 2016." Contributing to the problem is reduced spending on criminal legal aid and on permanent court staff.

The seemingly ever-growing backlog, and concerns around its impact on the delivery of justice, led to the government asking Sir Brian Leveson again to review efficiency in criminal courts. He started in December 2024 and published the first of two reports in July 2025. The criminal courts review was tasked with finding solutions to the current backlog, by reforming the justice system to make the courts "operate as efficiently as possible." Part 1 suggested a raft of changes to relieve pressure, including: resolving more crimes without going to court (via cautions, conditional cautions and other out of court resolutions), limiting a defendant's right to choose for their case to be heard in the Crown Court for lower-level either-way offences

(offences that can be heard in either the Crown or magistrates' court) and reclassifying some either-way offences to summary only, meaning they could only be heard in the magistrates' court. The government has tentatively committed to some of those changes, including removing the right of defendants to elect for a jury trial. More changes may come following part 2 of the review, due in 2026, which will focus specifically on how to improve efficiency in the Crown and magistrates' courts.

About CourtWatch London

CourtWatch London is a mass court observation programme, where public volunteers observe adult criminal magistrates' courts hearings and report what they see. The programme is run by Transform Justice and aims to:

- Build public awareness, interest and ownership of our magistrates' courts by training and supporting volunteers to visit courts, observe criminal hearings, and report what they see.
- Support Transform Justice's advocacy for a fairer, more effective, more compassionate criminal justice system by gathering evidence on what is happening in magistrates' courts, and public views on what they see there.

The first round of CourtWatch London, in 2023, focused on three London magistrates' courts. This second round expands the project out to all 15 London magistrates' courts.

Methodology

Courtwatchers were recruited through social media, council volunteer websites, local press, and e-newsletters. Volunteers completed a two-part training programme and were given a booklet of blank observation forms to take with them on court visits. They filled out an observation form per hearing, where possible, and a separate short form per visit about court openness and accessibility. Volunteers sent Transform Justice their notes afterwards via an online form.

The hearing observation form comprised a series of closed questions capturing details about the hearing, the defendant, the outcome, any delays or adjournments, and courtroom audibility, visibility and technology. We also provided space for open text comments on the outcome, reasons for any delays, defendant treatment, and any other overall reflections. Courtwatchers were asked to record some demographic information about the defendant including age group, gender, ethnicity and whether English was their first language. Except for the defendant's date of birth which is stated at the start of each hearing, this data is based on the courtwatchers' perceptions.

Trained courtwatchers were free to visit any London magistrates' court at a time that suited them. We encouraged volunteers to focus on cases brought by the Crown Prosecution Service although courtwatchers were free to observe and report on other cases such as motoring

offences and breach hearings. Courtwatchers observed cases heard by magistrates (trained – but not legally trained – volunteers sitting as a panel of two or three) and by district judges (who are legally trained and sit alone). The courtwatching phase ran from 5 February 2025 to 31 July 2025. We kept in touch with courtwatchers through an email inbox, a WhatsApp community, fortnightly online check-ins and weekly update emails.

Courtwatchers received guidance on notetaking during training and via an online volunteer guidance document. We also circulated additional note-taking guidance one month into the courtwatching period, based on a review of early data and feedback and questions from volunteers.

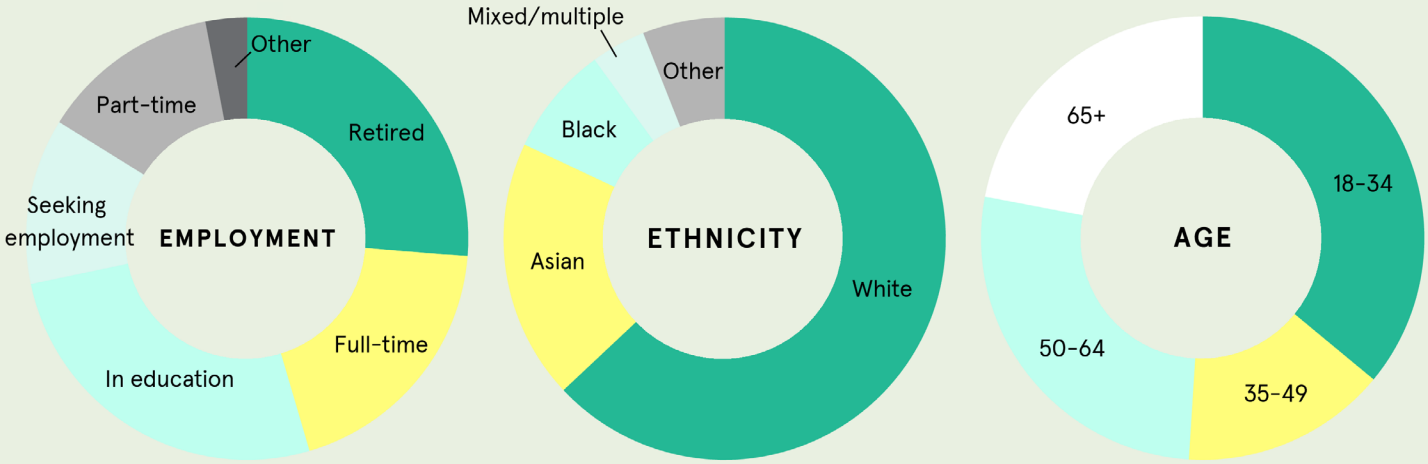
Courtwatchers observed over 2,300 hearings generating a large amount of both quantitative and qualitative data. We used an analysis software called Dedoose to code the qualitative data using a theme-based coding framework. Quantitative data was cleaned and analysed in Excel. Quotes in this report are taken from the data submitted in courtwatcher observation forms.

A draft version of this report and recommendations were discussed at an in-person roundtable discussion in November, attended by 18 policymakers and stakeholders. Discussions and feedback from this meeting informed the finalisation of this report.

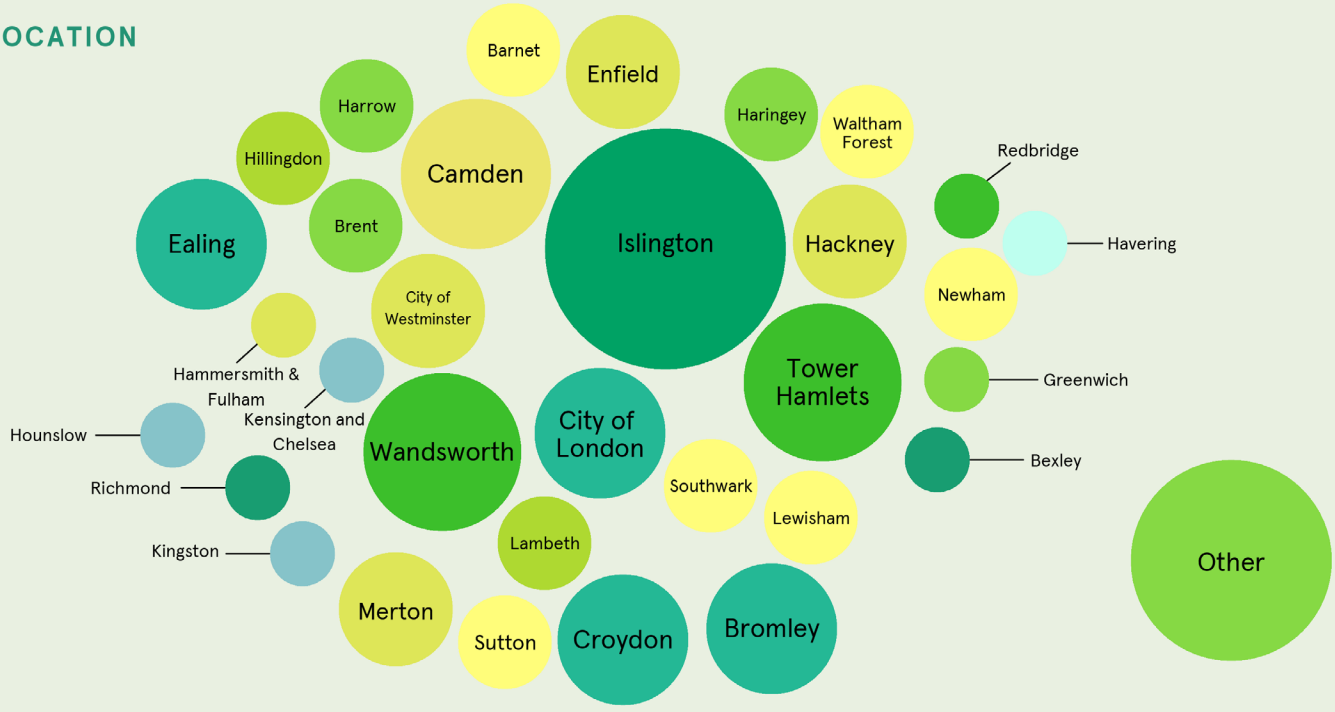
About the courtwatchers

Our 174 courtwatchers represented a diverse range of Londoners, drawn to courtwatching for wide-ranging reasons. Many were simply looking for an interesting volunteering role and liked the sound of learning something new. Some were motivated by a specific interest in the law or the justice system, stemming for example from their studies or work, and were hoping to gain some first-hand insight into what the court system was like: *"Excellent opportunity to understand more about the magistrate system from a very limited base."* Others had been affected by the justice system and wanted to give their time to make our courts better: *"Had a terrible experience in family court, then became a volunteer with prisons and saw a lot of injustice. Hope to make a change?"* Some had a wider interest in social justice and felt the volunteer role aligned with their desire to make positive change in the world.

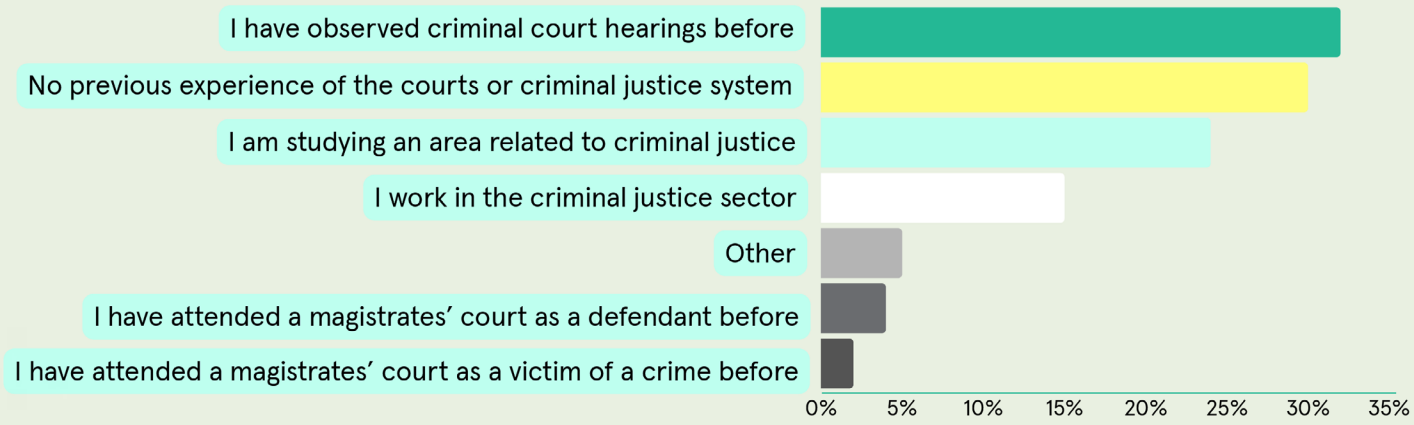
FIGURE 1: who are our courtwatchers?



LOCATION



COURTS AND CRIMINAL EXPERIENCE



Acknowledgements

This report would not have been possible without the 174 courtwatchers who volunteered to attend magistrates' courts and took the time to send us their detailed, thoughtful observations. Thank you to all our volunteers, and special thanks to Namiqa Bhatti, Michelle Esezobor and Isabella Hucknall for appearing in our court photographs. Thank you to the members of the project's advisory group, listed in appendix 1, for their engagement and support throughout the project, including those who hosted or supported our volunteer training sessions. Thanks to Dr Shaun S. Yates and the London Metropolitan University students who tested an early version of the observation form, and to Mark Yin for his support processing and analysing the vast amount of observation data. Finally, thank you to the magistrates' court staff for accommodating our courtwatchers during their visits, and to the courts service for allowing us to take photographs in magistrates' courts to use in this report.

This project and the production of this report has been kindly supported by The Crucible Foundation.

"A lot of money is being wasted": impacts of court delays

We asked courtwatchers to capture data on prevalence and reasons for delays or adjournments. We didn't ask them to distinguish between delays or adjournments and so they, and sometimes we, use the terms interchangeably. The data covers both 'on-the-day' delays – where the start of a hearing is pushed back, or a hearing is paused for a short time, and longer delays where the hearing might be adjourned and postponed for another day, week or month. The result of many delays and adjournments is that it currently takes a long time for a case to be resolved in the magistrates' courts (around 6 months in 2025).

Short delays caused frustration amongst defendants, court professionals and witnesses who had to wait around for the hearing to go ahead. Longer delays created problems because it required everyone needed for the hearing to come back again another time. It also meant the case took longer to be resolved, leaving victims waiting and defendants unable to move on with their lives.

"Bordering on abuse": impacts on defendants

> "The defendant appeared visibly distressed and anxious throughout the morning, repeatedly entering the courtroom to ask the court lister when her case would be heard. Her case had been scheduled for 10 a.m., yet by the time of her inquiries, she had been waiting for several hours."
>
> "This offence took place almost four years ago! It seems ridiculous that it should have taken this long to get to court, and no explanation was given for this. It seems wrong that the defendant has had this quite minor crime hanging over her head for so long."

All morning hearings in the magistrates' courts are scheduled for 10am, while all afternoon hearings are scheduled for 2pm. A kinder approach would be to allocate a time slot to each person, but it is easier for the court to ask everyone to turn up at the start of the session so that they can proceed with whichever case is ready. This means defendants were inevitably left waiting around for their turn. Some waiting is expected, but continued delays throughout the day caused stress for defendants.

Long adjournments between hearings also caused anxiety: "[the defendant] was extremely distressed, he stated that this case is difficult for him and he is close to meltdown, and asked

for a shorter adjournment." In some cases such adjournments impacted defendants' health ("defendant asked for shorter adjournment, because he has high blood pressure and is anxious which increase[s] his blood pressure"), or their finances, when defendants had to take many days off work due to their case being rescheduled.

Courtwatchers felt that lengthy adjournments were also postponing potential rehabilitation as defendants had to wait longer to receive support: "if the defendant is committing these crimes because of an addiction, she may commit an offence again before June [date of next hearing] as she won't have had any help with her addiction. The legal system does not work fast enough to help people with addictions."

Courtwatchers worried that long delays were impacting the delivery of justice overall: "sentencing someone for a crime 2 years after it has happened (especially if it's a minor crime) seems really inefficient, and not a good way to ensure accountability or justice."

Delays also meant children turned 18 while awaiting a court date, and so were not tried in the Youth Court, but in the more punitive adult court. This concerned both courtwatchers and magistrates: in one case "the chair said, 'it makes me very uncomfortable - we should treat our youth with more respect than that.'"

"A dog's dinner"

A courtwatcher observed a case featuring a 16-year-old who had been charged with possession of a knife in 2023. Due to delays, their case was being heard in the adult magistrates' court in February 2025, as the defendant had now turned 18:

"I was quite shocked by the way this case had been handled up until today. The very long delay between the defendant's first scheduled appearance (September 2023) and the new date (today) meant that he had turned 18 and was now being tried in adult court despite committing the offence as a child. This seemed very unfair.

In addition, it meant that the defendant had not properly been put in touch with the right services/rehabilitation plan/actually gone to trial so the charge was still hanging over him, and he had not received any help or support. I reflected that this meant opportunities had been missed to intervene, and he may still be carrying a knife. Besides being young, the legal adviser told me that he was 'of no fixed address'. He seemed particularly vulnerable.

The legal advisor also seemed to think the handling of the case was poor, calling it "a dog's dinner" and describing the long delay for the defendant as "bordering on abuse."

"Justice delayed is justice denied": impacts on victims and witnesses

Victims were also affected by delays and court inefficiency. Delays to cases concluding meant that victims had to wait a long time for an outcome. One courtwatcher observed an application for a stalking protection order that had been delayed for five months. When there was yet another adjournment, the courtwatcher reflected: "not only was it a waste of the court's time, but I was very aware that there was an (alleged) stalking victim whose right to protection was being delayed." Courtwatchers felt that victims waited too long: "it seems that this process cannot benefit victims, as they are put in a position where they feel actively neglected by the system... Justice delayed is justice denied in action." Courtwatchers noticed victims, defendants and other witnesses struggling to recall key information from years back, and were concerned this made trials less fair:

> "'It was a long time ago' could've been the headline for this trial... The fact that the defendant 'did not recall' being told that the individual he allegedly assaulted was a police officer is somewhat unsurprising in light of this fact [incident was three years ago], highlighting the detrimental impact delays have on fair justice processes."
>
> "When the witness was called in, it became clear that she was struggling with her memory. The offence had taken place over a year ago now..." (criminal damage, assault of an emergency worker)

Witnesses could spend hours waiting in the courthouse for their case to be heard. Sometimes, due to delays, their case ended up not being heard at all: "there were four police officers there as witnesses. I overheard them say they had turned up for court a few times and been messed about each time. One officer had been on duty since 2.00am and came straight to court."

"Courtroom fatigue was noticeable": impact on court morale

Courtwatchers noted that dealing with repeated delays, adjournments and the growing court backlog was also stressful and frustrating for court staff, magistrates, judges and advocates. Days were spent either frantically figuring out who or what was missing so a hearing could continue, or waiting around for proceedings to start. Prosecutors and defence lawyers were under pressure to proceed with cases despite not being completely on top of the facts. Courts would stay open late to get through cases and morale amongst staff seemed low.

> "[The prosecutor] has already made several comments about how everything is moving so slowly, so it is clear that he is low on patience and is not impressed about the state of affairs. People sound fed up."
>
> "Overheard in the waiting room a solicitor saying 'this court is doing my head in, no one seems to communicate.'"

"A sleepy morning for justice": impact on courtwatchers' perceptions of the justice system

> "This court system is truly semi organised chaos, with long periods of people sitting around waiting, incomplete lists, courts seem to swap defendants between them. It's a mish mash of paper and computer based stuff. It's a miracle anything ever gets completed in them. The staff and magistrates are invariably patient, respectful to defendants, but it's a really inefficient system. If the NHS ran like the courts we'd all be dead!"

Courtwatchers were shocked at what they perceived as poor organisation in the magistrates' courts: "I was getting frustrated, the defendants were getting frustrated, and even overheard one of the prosecutors complaining that the 'admin at this court is getting worse and worse.' The whole system just seems so inefficient."

Inefficiency and delays to hearings meant that courts struggled to get through hearings effectively: "only 3 cases were seen. From the impression I got when I walked in, not much had happened before then. A sleepy morning for justice... hardly the efficiency and gravitas one expects from the British justice system."

Courtwatchers also repeatedly described what they were observing as "chaotic." Missing defendants and lawyers, confusion about what case was being heard next and cases being moved between courtrooms all led to a sense of chaos in the courts ("the WHOLE afternoon was chaotic"). Witnessing such disorganisation and inefficiency affected courtwatchers' views on the courts and justice system: "the law can become a farce."

"Another conveyor-belt day": hearing cases too fast

Courtwatchers were concerned by the impacts of an inefficient court system. But this did not necessarily mean they wanted proceedings in the court to be swifter.

Courtwatchers appreciated judges or magistrates who slowed down to clearly explain the court process to unrepresented defendants (see page 33); deliberate properly on remand or sentencing decisions; or to adjourn and wait for more information about the defendant (e.g. from probation) so that they could make a more informed decision.

> "The magistrates took a break to deliberate before reaching a decision... They did not rush their judgment in a manner that could lead to an unfair outcome."
>
> "The time that the magistrates spent deliberating the outcome, and the way they communicated clearly and respectfully with the defendant made me feel that the outcome was fair... Even if it is a heavy sentence, it gives me confidence in the judiciary."

Courtwatchers were critical of magistrates or judges dealing with cases too quickly: "to me, it felt like another conveyor-belt day, with people being rushed through their hearings, which sometimes lasted only around 10 minutes. I wish the courts had more time to engage with each defendant, rather than sentence them or move their case on after only spending a few minutes with them." They worried that hurrying through hearings showed a lack of compassion for defendants.

> "When the defence tried to talk about the defendant's mental health issues, the magistrate interrupted him by saying 'let's not even get into it', in a tone that I perceived as rushed and dismissive."
>
> "Waiting for the defendant to be brought up to the courtroom took longer than the actual hearing. I was surprised by how quickly it was over. His mother and partner sat with me in the public gallery, crying about what had just happened, but no one in the courtroom seemed to grapple with the gravity of what had just happened to this family, a fate that was decided within a few minutes." (Drug possession with intent to supply, defendant remanded and case moved to Crown Court)

Courtwatchers were also concerned that rushing through hearings meant victims were overlooked: "when the prosecutor was reading out the victim statement, the magistrate interrupted him halfway through and asked him to move on, which seemed rather

disrespectful to me. It’s as if the victim, who should be at the centre of this trial, did not even matter.”

Courtwatchers saw the value in the courts slowing down to ensure meaningful justice for victims and a fair, considered outcome for defendants. But they also witnessed many delays and adjournments arising from inefficiencies in the court system.

Why are magistrates' court hearings delayed or adjourned?

Of the over 2,335 hearings observed by courtwatchers, over a third (37%) resulted in a delay or adjournment.

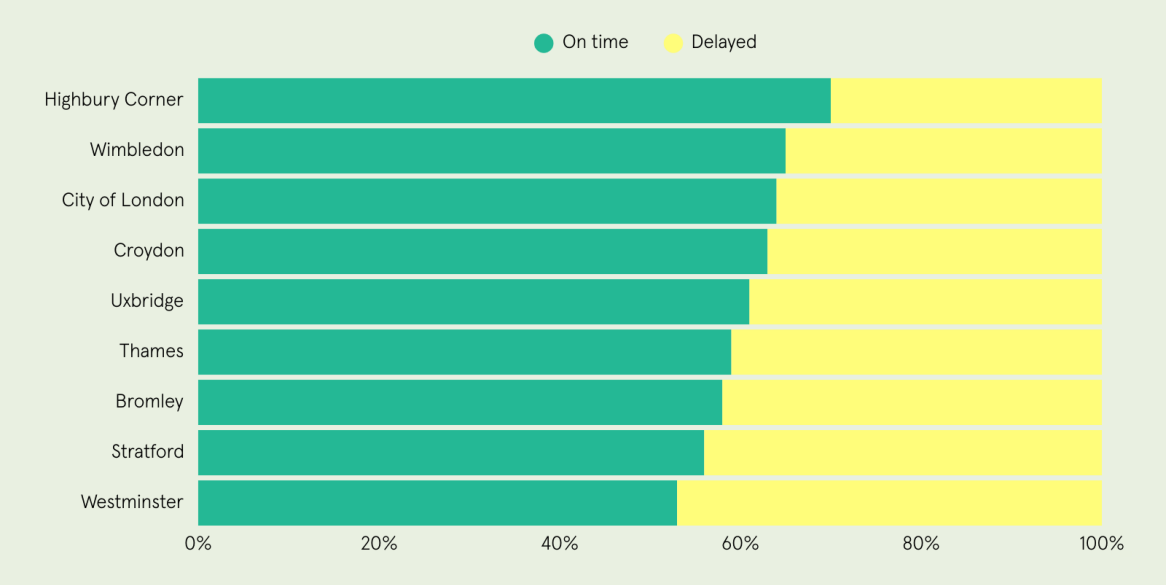
This ranged from a 20-minute delay waiting for a lawyer to arrive, to a one-month adjournment for a pre-sentence report. The main reasons for these delays or adjournments were:

- Awaiting pre-sentence report from probation - 18%
- Defendant (who was not in custody) missing - 17%
- Need other info from probation - 12%
- Missing evidence - 11%
- Magistrates deliberating - 8%
- Defence lawyer not present - 8%
- Defence lawyer not ready - 7%
- Interpreter not present - 5%
- IT/technology issue - 4%
- Moved to another court - 4%
- Defendant missing (due to delayed transport from custody) - 3%
- CPS absent or not ready - 3%
- Previous matter ran over - 2%
- Other reasons - 8 %

Some courts had more delays than others. The chart on page 18 shows the proportion of delayed or adjourned hearings in the most frequently observed courts (those with over 100

observed hearings). Courts with the highest proportion of delayed hearings were Westminster and Stratford, and the ones with the least were Highbury Corner and Wimbledon.

FIGURE 2: Percentage of hearings on time or delayed



Some reasons for delay and adjournments are expected, such as an adjournment to request a pre-sentence report from probation. But some arose from inefficiencies in the court system and instead hindered court proceedings. Courtwatchers' observations highlight areas where delay, adjournment and court inefficiency could be dealt with by pretty common-sense solutions. Addressing these issues would make the court system run smoothly without compromising justice and fairness.

"A waste of court time": issues with case preparation

Many delays were caused by a lack of preparation - pre-sentence reports not ready in time for sentencing hearings, evidence not being shared beforehand, and defendants or interpreters not turning up when needed. The hearing would start, but then court time, including the magistrates' or judge's time, would be wasted working out who or what was missing. Typically the hearing would then be adjourned so that the necessary person, report or evidence could be produced. Courtwatchers suggested such adjournments could be avoided through checking that everything and everyone was ready for the hearing prior to it starting.

"The wheels need to start turning": timely preparation of pre-sentence reports

The failure to produce pre-sentence reports on time resulted in sentencing hearings being postponed for days, weeks or even months. A judge or magistrate can ask the probation service to prepare a pre-sentence report for a defendant after conviction but before sentencing. The report provides a detailed picture of the defendant and their circumstances, and advises the most appropriate sentence. There are different types of pre-sentence reports. A fast track report is conducted and written on the same day as the verdict, so that a sentence can be decided while the defendant is still in court. If there are factors that require more detailed investigation an in-depth report is requested, which should take up to three weeks for probation to produce, and a separate sentencing hearing is scheduled. Probation officers also organise other assessments of defendants such as mental health, drug and alcohol use or risk assessments. These assessments can help ensure sentences are fair and, where possible, support rehabilitation.

Courtwatchers were pleased to see judges or magistrates adjourn a hearing to request a pre-sentence report: "I thought it was a good sign that the magistrates often chose not to sentence someone until they had a better understanding of what was going on for them." But many delays and adjournments were due to probation not producing requested reports on time. Often probation had not even interviewed the defendant by the time of the scheduled sentencing hearing, let alone written up the pre-sentence report.

> "Judge unimpressed that she still hadn't been interviewed by probation 'the wheels need to start turning'"

> "Probation had failed to arrange an appointment, remanded to 24th June [from 23rd April]... What a waste of time!"
>
> "A pre-sentence report had been previously requested and refused by the probation service, on the basis that they had no capacity... The judge was keen to set a date for sentencing, but again needed to wait for a PSR [pre-sentence report]. A representative of the probation service gave 15th May as the earliest date [hearing date was 2nd April]. The judge was unhappy about this, especially as the PSR had been refused before."

Courtwatchers had suggestions: "I do wonder if there could be a system to check whether the pre-sentence report is ready a day or so before a hearing to save everybody's time." Probation often requested one to three months to prepare a pre-sentence report (way longer than the 15 working days reports are supposed to take). Courtwatchers felt this wastoo long. In a few hearings courtwatchers saw fast track reports being used, which they liked: "they [the magistrates] required a pre-sentence report as this crime was in a domestic setting [assault by beating of brother]. However, they wanted to complete this case today as the defendant was struggling to cope with the stress of the case. So court was adjourned and the defendant met the probation officer at 11 who completed the report and the case continued at 12:30 and was finished before lunch! This was very impressive and allowed the defendant to go home and see his elderly mother who he had not been able to see for six months."

Overall, courtwatchers were pleased when judges or magistrates requested pre-sentence reports as it showed they wanted more information before sentencing. But courtwatchers felt the actual process of producing the report should be more efficient.

Full disclosure: sharing all the evidence

> "I have not been totally impressed by the organisation of CPS prosecutors to date, but this case was astounding. The primary issue was so often what CPS had done wrong, rather than what the defendant was there for. It must have been bizarre for the defendant to watch discussions about evidence and disclosure dominate his own trial."

Sharing evidence with all relevant parties before a hearing (also termed disclosure) is a key step in preparing for a hearing. Courtwatchers found that a lack of disclosure repeatedly caused delays (11%). Before a defendant's first court appearance, the police must provide the prosecution with a summary of the case including details about the offence, evidence, and admissions. It is primarily the prosecutor's responsibility to ensure that all relevant evidence and materials are disclosed to the defence in accordance with the Criminal Procedure and Investigations Act 1996 and the Criminal Procedure Rules. Courtwatchers saw instances where either the CPS, defence lawyer or police had not provided information or evidence, causing delay or an adjournment.

> "Assaulting emergency worker... Awaiting CCTV and body worn footage to be supplied by CPS... CPS given (from Monday) until Friday 4:00 pm to produce evidence."

> "There was not a full history of her previous convictions (prosecutor was unsure if they had an up to date account of this) and mental health records for the magistrates to be able to sentence her. So they adjourned sentencing to acquire the relevant information."

Whether these issues arose from a failure of the police to provide the necessary information to the CPS, and/or the CPS not chasing it up in time, courtwatchers found it frustrating: "CPS did not have the details to continue with the hearing, no witness statements and not clear as to whether the victim is willing to make a statement... the judge stated she was "not impressed" at the CPS' lack of preparation... This was a waste of court time."

Lost in translation: ensuring an interpreter is booked

Hearings were sometimes delayed or adjourned due to interpreters not being in court when needed. Every defendant who cannot understand or speak the language used in court has a right to an interpreter, which should be arranged by the police or the court in advance. Among defendants where English was not their first language, courtwatchers judged that half needed an interpreter (49%) while only around third (35%) actually received one. Although it was not one of the primary causes of delay or adjournment (5%), a lack of interpreter had a big impact and sometimes resulted in multiple adjournments: "there should have been a Polish interpreter - who apparently hadn't been booked... this is the second trial date because there was no interpreter at the first trial."

Sometimes interpreters were requested but did not turn up. In other cases, an interpreter was not even asked for, although this was sometimes because the police had not notified the courts that one was required. One courtwatcher observed a sentencing hearing for dangerous driving adjourned due to the lack of a Tamil interpreter: "to have 4 or 5 adjournments because of lack of an interpreter is terrible! It must be awful for the defendant to have the sentencing hanging over him." The Big Word company is currently contracted by the Ministry of Justice to provide interpreting services in court, but on many occasions failed to do so. Sometimes, delays were due to an interpreter for a specific language being held up in another case or court e.g. an hour's delay for a Polish interpreter to travel from another court. This suggests that too few interpreters are available to service London magistrates' courts.

> "Romanian interpreter at Westminster but tied up in another court... Waited for some time to try to secure another interpreter but no success."

In some hearings, the court staff managed to find an interpreter via videolink and, despite having concerns, courtwatchers reported it normally worked well. Or, in a couple of cases, a family member stepped in: "I appreciated them letting him remain in the main courtroom while the family member stood behind to interpret and [tell] him what was happening." While a nifty in-the-moment solution, this is against CPS guidance, which requires all court interpreters to be registered to a national body to ensure good quality and standards. Having to resort to using family members as interpreters is both a symptom and sign of the current problems with interpreter services in the courts.

Ready for action: lawyers prepared for court

> "Lawyer seemed unprepared, was not clear about the charges. Had a chat with the defendant on the video link, but seems like this could have been done before."

Lawyers who were not prepared for a hearing led to delayed start times. Defence lawyers not being ready contributed to 7% of delays. Typically the defence lawyer needed more time to read evidence or speak to their client: "defence lawyer not ready... Bench doing him a favour by adjourning. Docs are on the common platform, but defence lawyer had not looked at them." In cases where either the defence lawyer or the defendant was appearing via video link, long delays often arose as everyone in the courtroom had to leave it so the defence lawyer could speak to their client privately. On one occasion, a defence lawyer did not know that their client was not mentally well enough to attend court until the defendant didn't show up. The courtwatcher observing thought this should have been checked: "feel lack of communication between solicitor and defendant and court wastes court time as this should not have been on court list if defendant unable/unfit to attend."

The criminal legal aid sector has been underfunded by the government for many years (spending is down by over a third since 2011 despite post-pandemic increases), leading to many criminal legal aid firms closing. Firms that remain tend to be overstretched - doing a lot with very little - which could be a reason defence lawyers were not always ready for court. Defence lawyers at our roundtable also explained that it was not always possible to discuss the case with the prosecution before the hearing was due to start, because prosecutors were so busy dealing with many different cases. One suggestion was to allow defence lawyers into courts earlier (they are not currently allowed in before 9am), for them to discuss their case with prosecutors before the latter become too swamped with other meetings and paperwork. Prosecutors are already allowed into the court before 9am.

Defence lawyers should also be notified by the police earlier if their arrested client has been charged and remanded (detained for court the next day), and if so, which court they are due to be heard in. This would help lawyers get to the court in time the next morning to discuss with other court colleagues. A system is currently being trialled in the West Midlands whereby the police notify every defence lawyer about the outcome following arrest and if their client will be appearing in court the next day. These emails are sent manually but the process could be automated.

Prosecutors not being ready also caused delays (3%). Sometimes this was due to a shortage of prosecutors in the court, resulting in a delayed start to the hearing. Prosecutors could end up covering cases at the last minute: "the prosecutor had been on standby and so only just saw the case this morning. The magistrates gave her a little extra time to look through the case notes before continuing." Stakeholders attending our roundtable also mentioned two other barriers to prosecutors not being ready for hearings in time. One was that in London, prosecutors are not allocated to a case until a not guilty plea has been entered. This means that for many cases, they have no way to prepare in advance. Another issue was a lack of senior prosecutors in court. Cases are mostly handled by junior CPS lawyers who aren't empowered to make key decisions to keep a case moving forward (e.g. to change the charge). Hearings have to be paused while the junior CPS lawyer consults a senior colleague.

Do the courts need their own surgeon's checklist?

> "Some were held in the cells for hours only for their cases to be adjourned due to the absence of evidence or an interpreter etc. Why was this not established prior to them attending court and thus saving court time?"

Delays and adjournments occurred because people, evidence or reports were not present or ready and overall poor preparation for hearings. Courtwatchers felt an easy way to address this was to check that everything was ready before a hearing and that everyone would be attending. Similar to a surgeon's checklist - a tool doctors and nurses use before a surgery to improve communication and ensure everything necessary is ready - a member of court staff could run through a checklist the day before a hearing. The checklist could include:

- Has all evidence been shared with all parties?
- Has an interpreter been requested and, if so, booked?
- Has the interpreter confirmed they will be attending the hearing?
- Are the prosecutor and defence lawyer ready for the hearing?
- Is the pre-sentence report ready?
- Has the defendant been reminded to turn up?
- Has the prison arranged transport or a video link for the defendant?

Some of these questions could be answered by the checklister perusing the Common Platform. Others may require the court staff member to contact relevant agencies by phone or email. The process would take a bit of time, but this would be more efficient than going ahead with the hearing the next day only to realise then that something or someone was missing. Issues that aren't discovered until the hearing itself can still sometimes be resolved on the day, but this wastes the valuable time of everyone in the court while it gets sorted out. Once a hearing is underway, courts are also under pressure to keep cases moving forward, which may lead to decisions that are not always in the interest of fairness and justice. If the checklist identifies the day before that something is not ready, the prompt gives the agencies an opportunity to act. In cases where it is clear that whatever is missing will not be ready in time, the staff member could then (if given appropriate powers) relist the case to a later date and communicate this to all involved.

This process wouldn't be possible for all cases - for example it is not possible to prepare this way for 'overnight hearings', where the defendant is arrested and held by the police overnight to appear in court the next day. But many hearings are scheduled days or weeks in advance, and in theory everyone knows they are happening, so it should be feasible to check the day beforehand that everything is ready.

Checklists in one form or another are already used to good effect elsewhere in the justice system. In the Crown Court, parties have to confirm in writing in advance that they are ready to go to trial. The parole board introduced a checklist for parole hearings (see box below). Defence lawyers representing clients in extradition hearings have to complete a checklist confirming to the judge they have all the information necessary for the hearing to proceed. If the checklist shows something is missing, the judge won't hear the case.

Prosecutors and defence lawyers are already required to prepare appropriately, as set out in the Criminal Procedure Rules, but these rules are not always complied with. A checklist in the magistrates' courts would flag problems in advance and help prevent hearings being delayed or adjourned on the day, wasting valuable court time. It would also provide a mechanism to gather data on the common reasons for delays, providing an opportunity for learning and improvement.

We also heard at our roundtable that some London courts have introduced an in-person briefing each morning which brings together the prosecution, legal advisor and probation officer in a courtroom to see what is on the courtlist, what can be bailed and what is ready to be heard. Defence lawyers could potentially also attend these briefings, if they had prior knowledge that their client's cases were to be heard that day.

Checklists in action: parole hearings

Adjournment of parole hearings either on the day, or ahead of the day, is a big problem for the efficiency of the parole process. Parole hearings are managed by the Parole Board and are held to decide who can be released from prison. About a third of listed oral parole hearings were adjourned or deferred: because of incomplete paperwork, new information being required or key witnesses not turning up.

To reduce the likelihood of adjournment on the day, parole board case managers have started checking cases ten days ahead of a listed hearing to see if all the requests from the panel chair have been complied with and key reports provided. If they are not there, the case manager will then chase and refer anything missing to the panel chair so they can decide whether to go ahead with the hearing or not. The case manager also checks that witnesses can still attend, and that the prison can facilitate the hearing (including setting up and sharing a video link with everyone, if required).

The checklist sparked talks with the prison service on how to help their witnesses be more prepared i.e. checking that prison staff were ready to attend, that nothing had changed since they made their reports that would mean the hearing wouldn't be effective, and that prisoners had been given all the information in good time. This has led to a lower adjournment rate for parole hearings involving those prisons.

"Judges let them get away with too much": Culture in the courtroom

> "So much waiting around and wastage of time, resources, cases adjourned as CPS disorganised, had not served in time, were not aware of their own case, moaned and complained. Why are legal people never told off, better organised and judges let them get away with too much!"

Are magistrates' courts too ready to delay hearings when professionals aren't ready? Some of our roundtable attendees said possibly yes, at least in London. We heard that Welsh courts, for example, are stricter about granting adjournments and more likely to have the case proceed anyway (even if it then results in the case being withdrawn). This incentivises professionals to be ready on time. The senior presiding judge for Liverpool Crown Court circulated a memo to all court professionals setting out expectations regarding court procedures and established a criminal court improvement group. This has prompted more concerted efforts to improve practice to avoid delays. In North America, more radical policies have been adopted. The Bronx criminal court in New York City drops charges and releases the defendant if the police and prosecution are not ready for the first appearance. Canada has introduced to its national charter the right to a trial within a reasonable time, accompanied by trial time limits after which the case is dropped (see box). It is worth considering the role of court culture and leadership in setting expectations, ensuring compliance, and incentivising improvements.

Trial within a reasonable time: changing court culture in Canada

In 2017, Canada took a bold step to tackle delays and inefficiencies in its criminal courts. It introduced strict time limits for criminal trials; 18 months for lower-level offences and 30 months for more serious ones. Trials exceeding these time limits due to delays caused by the prosecution or the court are dismissed (delays caused, or agreed to, by the defence don't count towards the time limit). The change came following a Supreme Court ruling (R v. Jordan 2016) which aimed to fix a "culture of complacency" in the justice system which saw long court delays as regrettable but unavoidable.

The change was not without its controversy, and the impact has been mixed. Proponents argue that the new time limits were necessary to shift the incentive onto the courts and prosecution service to address court delays. Several jurisdictions reported it leading to improved case management. It also prompted the government to appoint more judges, courts to modernise scheduling, and the police and crown prosecution to streamline its disclosure practices.

But some contend that the thousands of case dismissals resulting from the new time limits are too great a sacrifice for victims and society, and creates a public perception of impunity. Some argue that the time limits won't work because they do not address systemic reasons behind the delays such as lack of courtrooms and backlogs worsened by COVID-19.

Blunt instrument it may be, but Canada felt radical steps were needed to jolt the court system (and wider government) into action. Many of our courtwatchers were appalled by the inefficiencies and long delays they observed in our magistrates' courts. If we want to increase public confidence in our justice system, bold steps to tackle court culture around delays might be what's needed.

Recommendations:

1 HMCTS should introduce a court checklist - similar to a surgeon's checklist - to ensure that everything and everyone is ready as possible before a case is heard in court. A member of court staff should be responsible for completing the checklist for each hearing, and be given the powers to recommend an adjournment if it is not and will not be ready.

2 The probation service should require probation officers to notify the courts in advance if any report is not ready.

3 Increase the use of fast track pre-sentence reports (when appropriate) by updating guidance to magistrates and district judges and reviewing the probation service's court resourcing and processes.

4 Improve communication between the police, courts, CPS and defence lawyers to ensure evidence is ready and information available before a hearing.

- A Courts and CPS should roll out morning briefings which convene the legal advisor, prosecutor and probation officer in each courtroom before hearings start to see what is on the list, what can be bailed and what is ready to be heard.
- B The police should introduce a system for notifying defence lawyers if their client has been remanded by police and what court they are due to be heard in. This will help defence lawyers get to the court by 9.30am to take part in the morning briefing with other court colleagues. A system to inform lawyers is currently being trialled by West Midlands police.
- C Courts should allow defence lawyers into courthouses before 9am so that they can confer with prosecutors before hearings begin.

5 HMCTS and the police should improve the provision of interpreters by conducting monthly reviews of hearings in which an interpreter failed to attend, to understand what went wrong, identify learning and take action.

6 The MOJ should assess the performance of interpreter contractors and penalise non-compliance with the contract.

7 HMCTS should create a better feedback loop from court staff and relevant professionals about how to improve organisation and efficiency. One of the ways this could be done is by reviving court user groups. These groups of court stakeholders used to meet regularly to discuss the workings of the court, feed back on operational issues and implement improvements to court procedures.

8 The MOJ should explore ways to change adjournment culture, considering the impact of Canada's introduction of criminal trial time limits, and exploring how similar policies could help address court inefficiencies in England and Wales.

"The defendant didn't turn up": improving communication with defendants

> "The case was being further delayed because magistrates were not clear of the status of other offences... I got the impression that the defendant was stuck in the complexity of process with multiple offences and different courts and was failing to surrender when asked... She has received multiple court dates. I could see why she was feeling confused and frustrated given the lack of clarity in the courtroom on the current state of play."

Defendants not turning up to their hearing, either those meant to arrive under their own steam or those requiring transport from prison or police custody, was a key reason (17%) for delays and adjournments. While courtwatchers observed the impact of defendants not turning up for court, it was harder for them to know why they did not attend. Defendants can be told about their court date in person by the police, by their defence solicitor or in court if their hearing is adjourned to another date. Or they may receive a notice in the post. Courtwatchers thought that more could be done to work out why so many defendants didn't turn up: "no one in the court seemed surprised that 4 out of 5 defendants were no-shows. I was a bit surprised that this seemed rather routine. If the court cannot ensure that defendants come to their hearings, it might be a good idea to better understand why defendants don't come, what obstacles they face, and how to address these obstacles in the future."

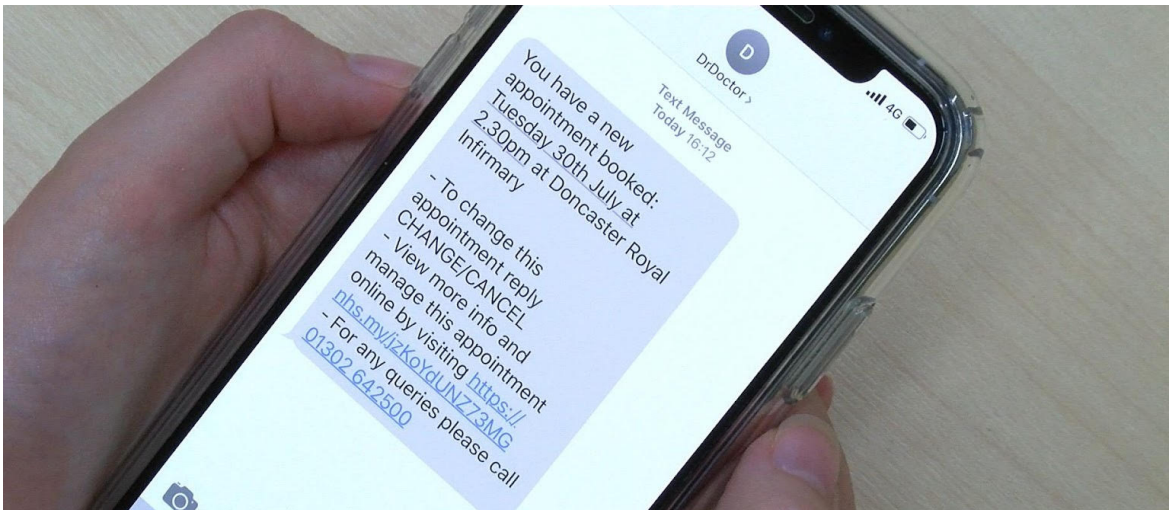
Courtwatchers were surprised at how casual the courts were in telling defendants about their future hearing: "they gave the defendant a date and time for the next hearing, but no one checked with him/confirmed with him how he'd remember this...he wasn't told or asked to write it down - or given it written down. There may be a protocol that ensures this happens but I'm unaware of it - and presumably, so is the defendant...?" Dr Shaun S. Yates has suggested that all defendants be given paper 'end of day receipts' summarising what happened at court and the time, date and location of the next hearing.

A common reason for defendants not turning up was that they had not received a postal requisition - a letter that notifies a person that they have been charged with a criminal offence and must attend court on a specified date and time. In some cases the requisitions were sent to the wrong address:

> "Defendant is NFA [no fixed abode/homeless] and [has] no telephone number so his lawyer wasn't able to talk to him. Court sent date of trial to his correspondence address but no one knows if he got the letter..."
>
> "When discussing one defendant who had contacted probation this morning saying he'd had a bike accident, the magistrate joked that at least this meant he had actually received the court summons papers!"
>
> "Yet another case which couldn't go ahead today. In many cases, the defendant had been sent a postal requisition but hadn't turned up - or, in this case, redirected post meant the postal requisition hadn't arrived in time for the defendant to prepare."

This courtwatcher felt that a simple solution to defendants not attending their hearings was to remind them with a text, phone call and/or email. This would give defendants information about their court date and time, but also provide them with reminders as the court date approaches. Many defendants face disadvantages that make it hard for them to engage with the court process, such as homelessness, mental health issues or drug use issues. Other defendants do not speak English as a first language, while others can simply feel overwhelmed in court and struggle to remember information they were told. Defendants should be given accessible reminders about their court date.

The NHS uses a similar approach to remind patients about upcoming appointments: patients receive text reminders, and can also check appointments on the NHS app. Text reminders are already used in some American courts with great success - in Colorado, using a text reminder service increased appearance rates of defendants by 15%. American non-profit ideas42 has made a guide for introducing text reminders for court hearings, which uses behavioural science to back up its suggestions. A similar scheme has been piloted by the police in Hertfordshire, Bedfordshire and Cambridgeshire, winning a national award. The Hertfordshire pilot started in 2022, which begs the question: why hasn't this scheme been rolled out nationally? A reminder service could be implemented by both the police and magistrates' courts to ensure defendants receive timely text, WhatsApp or email reminders before a court appearance. An app like the NHS app could also allow defendants to have all their hearing information easily at hand.



Improving communication with defendants about their hearing could also prevent them receiving no-bail warrants for non-attendance in court. When a court issues a no-bail warrant police have to arrest the defendant and detain them in custody until they can be taken to court. Courtwatchers often felt defendants had fair reasons for not attending court and were held in police custody unnecessarily: "defendant was picked up on a warrant as he failed to attend court on a previous occasion. He stated he had phoned the court and let them know that his wife has got cancer. The magistrate declared that this was the second warrant, and the defendant replied he never got the first warrant." Transporting defendants from police custody to court also causes delays to hearings (see page 31).

Flat 1 or flat 2?

"The hearing began with the magistrate stating that the defendant was due in court yesterday but he had not appeared. A warrant was issued, hence his appearance in court today. The defendant explained that he had not known that he had been summoned to court. He was cautioned on the road at the time of the offence and has had no communication about it since...The lead magistrate asked the court staff to check the defendants address in the system and found that it had been recorded incorrectly as 'Flat 2' rather than 'Flat 1', hence he had not received any letters because they had been sent to the wrong address."

Improving communication with defendants about their court date and sending them timely reminders will mean more defendants attend their hearings. This will reduce the number of adjournments due to defendants not turning up and reduce the use of no-bail warrants, saving court resources in the long run.

Recommendation:

9 Improve court communication with defendants:

- A HMCTS should ensure postal requisitions are sent to the correct address, and put a system in place to confirm they are received.
- B HMCTS and the police should implement a system to remind defendants of court dates using multiple communication channels including email, text, phone call, WhatsApp and/or letter.
- C HMCTS should give defendants accessible information on the day (for many a written receipt would suffice) about their future court dates, any bail requirements and next steps.

"We are going to be here forever": overuse of police cells and custodial remand

Courts were sometimes kept waiting due to problems transporting defendants from police and prison custody. Defendants can be charged by the police and detained, or remanded to police custody until their initial court appearance. Though all defendants have a right to bail, the police can still remand for some reasons, such as if they doubt the defendant's name or address, have reason to believe the defendant will not turn up to court or think detention is necessary to prevent further offences.

If remanded to police custody, a defendant must have a hearing at a magistrates' court on the next available day. Similarly, when defendants are detained in police custody under a no-bail warrant, they must be taken to court as soon as possible and within 24 hours of arrest. Both situations put pressure on the courts to have everything ready in time for the hearing.

Defendants can be remanded to prison (also known as custodial remand) by the courts while they await their trial or sentence. The criteria for the courts to remand an adult to prison is similar to those used by the police, but the court can also remand if they strongly doubt a defendant's ability to comply with bail conditions, such as not going into a certain area, especially when they have failed to comply previously. For more information on how bail and remand decisions are reached, read our reports on police custody and custodial remand.

Defendants subject to no-bail warrants, police remand and custodial remand need to be transported in secure vans from police custody or prison to court for their hearing. This service is subcontracted by the government to private companies. Slow or no transportation from police custody or prison was not a common reason for delays (3% of all delays). However, when this was the case, it tended to result in very long delays to the start of hearings: one courtwatcher overheard a court clerk commenting "we are going to be here forever" while waiting for defendants to arrive via secure transport.

> Serco were responsible for bringing 10 prisoners from Acton police station [to Ealing magistrates - 2 mile journey] but they were delayed and it seems this is an ongoing problem with delays by Serco in bringing the overnight prisoners from the police station to the court. We were waiting for 2 hours... [Later] It felt all so rushed maybe because of delays.

> Serco late in bringing people from custody to court—usher told me it was a miracle if they were there by 10am, and should be there by 9am.
>
> Talking about defendants, the District Judge asks the court: "They are all coming from the police station – does anyone know what the problem is?" Someone in the court replies, "It's a single van, Sir. It's going back and forth."

Reducing the unnecessary use of police and prison remand would reduce the number of defendants requiring state transportation to court. This would in turn reduce delays to hearings caused by poor transportation of defendants. It would also save court time and money: keeping defendants in court cells, monitoring them, bringing them up for their hearings and organising their release from the cells all use up precious resources. A recent internal review found that 60% of defendants remanded by the police in London went on to be released by the courts the next day, often without challenge from the CPS.

Sometimes defendants in prison would not attend their hearing at all - either in person or via videolink - which meant their hearing was adjourned. There appeared to be poor communication between the prisons and the courts about when defendants needed to appear for their hearings: "Pentonville failed to produce [the defendant] for this trial despite several requests. The bench therefore adjourned the hearing while contact was attempted with Pentonville. After they left, the legal advisor and both CPS and defence lawyer agreed it was 'really bad and getting worse, the way Pentonville ignore emails from the court or sometimes say a defendant has refused to appear when it's known that they've been keen to proceed.'" Issues with the use of videolinks from prison also caused adjournments; prisons sometimes did not book videolinks for the defendant, despite being requested, or didn't have the facilities to accommodate a videolink appearance. Technical issues in the courts meant that even when the defendant was present for the videolink, it didn't always work, causing delays to the hearing (see page 36).

One proposed solution is to improve the design of and compliance with contracts, to ensure that defendants on remand or in police custody are taken to their hearings on time. We also recommend reducing the unnecessary use of police custody and remand to prison, including through reduced use of warrants-without-bail when defendants do not show up. The courts already show some leeway here. For example, a defendant with mental health and drug problems was due in court to ask to end his unpaid work order: "it was decided not to issue a warrant, but to give the defendant a chance to provide more information. This seemed like a fair decision."

Recommendation:

10 Reduce the unnecessary use of police and court remand and re-emphaise the legal presumption that defendants should be granted bail. This would reduce delays resulting from defendants being transported from custody and from court professionals such as interpreters not being available at short notice. It would also save resources used in bureaucracy and staffing of court cells.

"Trying their best to navigate the complex legal system": unrepresented defendants

Defendants who did not have legal representation (did not have a lawyer) resulted in slower hearings or in adjournments, which were ordered so they could receive legal advice. Of hearings observed, the defendant was not legally represented in 23% of cases. It was not always clear to courtwatchers why . Sometimes it was by choice, sometimes due to lack of finances or understanding of legal aid, and in some cases because the defendant's lawyer had not attended the hearing. Legal aid is means tested and in practice you can't usually get legal aid in the magistrates' court unless you are accused of an imprisonable offence. In imprisonable cases, legal representation for the first hearing is not means tested, but representation for any subsequent hearing is.

In many cases where a defendant was not represented, the magistrate or judge adjourned the hearing so the defendant could seek representation. Courtwatchers were supportive of this even though it caused delay, and were concerned when hearings went ahead.

> "The judge demonstrated kindness and leniency towards the defendant [by adjourning the hearing so the defendant could find a lawyer], who unfortunately did not have legal representation. This absence may have impacted the defendant's ability to receive a fair trial."

> "The defendant 'chose' to self-represent... There was clearly something wrong with him - he was unable to stand up, he seemed mentally disturbed... He clearly needed help, and didn't seem to be of full capacity to justify him representing himself. I wish the judge had stepped in and delayed the hearing until the defendant could receive help, but it was a busy afternoon, and he seemed more interested in getting through all the hearings."

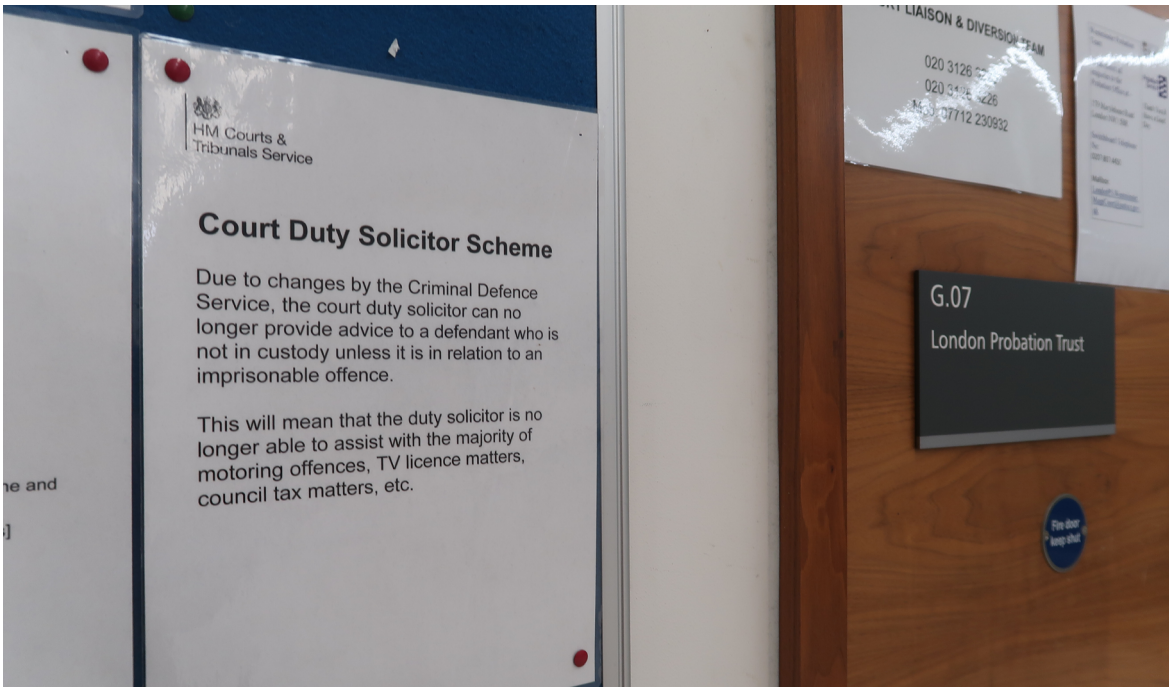
It is good that magistrates and judges try to persuade defendants to seek legal representation. However there is only so much time a sitting court can dedicate to explaining to defendants what a duty solicitor is, why it might be in their interests to use them, and how to do so (a duty solicitor is a criminal defence lawyer present at the court who can provide free legal advice to eligible defendants). Defendants are also unlikely to be in a state of mind to take on board advice and make decisions about legal representation during a court hearing, when they already feel uncomfortable and nervous. It would be more efficient for the courts, and

effective for defendants, if they could discuss legal representation with someone outside the courtroom, before the hearing takes place. Court information desks do refer defendants to the duty solicitor but do not have time nor expertise to discuss the value of legal advice. We recommend having a navigator available in the courthouse, similar to the help desk but trained to explain what legal representation is and why it might be useful, so that the defendant can make an informed decision before the hearing starts.

In cases where the hearing went forward without a defence lawyer, the lack of legal representation still slowed things down, as magistrates, judges and legal advisors were careful to explain everything clearly to the defendant. Courtwatchers noticed the change of pace: "comparing this case to the first hearing of the day, it is evident that having a lawyer changes the dynamics in the courtroom as it is assumed that a solicitor will have explained certain things to you. It definitely saves the court time." But courtwatchers understood the importance of slowing things down and were upset when this didn't happen: "In other hearings I have observed where the defendant is representing themselves, the lead magistrate has taken care to ensure the defendant understands the proceedings and has sufficient time to speak and answer questions. I was disappointed to find that this was not replicated in this hearing."

Cases where initially unrepresented defendants ended up being supported by the duty solicitor normally resulted in delay. The duty solicitor needed time to access the defendant's files on the Common Platform and to give them advice. The shortage of duty solicitors (overall numbers have shrunk by more than a quarter between 2017 to present) also impacted hearings: "this case was delayed by well over an hour because there was no duty solicitor available. The court staff were running around trying to find one."

Ensuring more defendants have legal representation could prevent these delays, and improve court efficiency by saving court time and resources in the long run.



Recommendations:

11 Increase take-up of legal aid by eligible defendants (ideally before the day of their court hearing).

A The police should encourage those in custody to access legal advice and provide accessible information about accessing legal aid for court when charging (in person or via postal requisition).

B Place a navigator in each courthouse to support unrepresented defendants to access the duty solicitor before they enter court and provide advice about accessing legal aid for future hearings. They could also chase up lawyers that defendants thought they had contracted but who had not turned up. These navigators could be provided by the Legal Aid Agency, courts' service, Ministry of Justice or via the voluntary sector. They would not need to be legally qualified and would not provide legal advice.

C The Legal Aid Agency should ensure that the number of duty lawyers is sufficient for caseload.

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13 The judiciary and HMCTS should redesign the court process for lower level offences which are not eligible for legal aid, to support unrepresented defendants to effectively participate in their hearings and to access fair trial rights. For details refer to recommendations in our report Justice denied? The experience of unrepresented defendants in the criminal courts.

"Court system down": IT and technology issues

IT issues were a minor reason for delays and adjournments (accounting for 4% of delays or adjournments). The main issue was the Common Platform - a digital case file system. Either the system was not working, was very slow, or the correct judge, magistrate or advocate had not been added to the hearing in question, meaning they could not access it. Or in a few cases, files had been wrongly saved: "it was disappointing to see delays and issues arising at this hearing due to the case being on the old Libra system, rather than Common Platform. Watching the frustrations of this being played out between the legal advisor and the prosecutor in front of the defendant didn't put the court system in the best light."

Videolinks or video screens which didn't work and thus caused delay were less common, but still a problem: "an hour was lost on the first day due to technical problems...The first prosecution witness was due to give evidence by videolink and this wasn't working in the court room we were in." Wifi issues also slowed down proceedings:

> "The prosecutor had some trouble presenting the photo of the victim's injuries to the court. It was on his phone and took some time to download before he could connect the phone to the video screen. This seems to be a common issue in Croydon Magistrates Court, where poor wi-fi connectivity often makes it difficult for evidence in the form of photos, videos and documents to be shown on the video screens."
>
> "The judge acknowledged that wi-fi coverage is poor in the building and suggested the defendant leave the court room to download the documents [evidence: insurance policy, emails with insurance company, proof of payments] where the wi-fi signal may be stronger, such as on the upper floors of the building. The defendant left the room several times to connect to the wi-fi and was eventually able to provide the evidence required to the prosecutor and judge, who read the documents on the defendant's phone."

Courtwatchers felt there were simple fixes: "the prosecution lawyer [was] initially unable to connect their laptop to display the photograph of the wound. There were no instructions in the room, and the list caller was not able to help. Eventually a list caller from another room came to fix this...There didn't seem to be dedicated IT support, just colleagues with other jobs who had a better understanding. Even a laminated sheet with instructions would have helped."

Recommendations:

14 HMCTS should have someone with IT expertise present in the courthouse and have access to speedy remote IT support, to be able to assist with IT and technology problems.

15 HMCTS should design and install better technology in courts where required.

16 HMCTS and the judiciary should reduce use of video links where possible given evidence that their use slows down proceedings and impedes effective participation.

"Huge bureaucracy and another time waster": cases that shouldn't be in court

> "I found this [shop-lifting] case very upsetting and wished it had not been brought to court. I felt that Sainsbury's, who got the stuff back, should have sent her off with a threat rather than bring it to court."

Would magistrates' courts be more efficient if they had fewer cases to deal with? Courtwatchers observed cases which they felt didn't need to be prosecuted. Dealing with these out of court could have freed up time for everyone to properly prepare for the rest.

Courtwatchers questioned if cases for low-level offences needed to be resolved in court: "dealing with cannabis possession amounted to 50% cases witnessed today. Can't they [the police] give a fixed penalty notice?" Especially when the hearings ultimately resulted in a fine: "I feel that this matter (speeding) could have been dealt with in another and more efficient way...huge bureaucracy! and another time waster." They felt such cases were using up precious court time and resources: "it seems a waste of public funds to move the entire justice system for shoplifting of toilet paper."

When the offence in question had a clear social root, such as addiction or mental health issues, courtwatchers did not always see the benefit of a court case or how it would help with rehabilitation.

> "It all felt a bit pointless/tick box. How is the man to get help for drug addiction under his own steam... It feels like not the best use of court funds and time." (Theft of wine and laundry pods from Tesco, value under £200)

Courtwatchers were particularly frustrated by cases that were ultimately dismissed or withdrawn.

> "ridiculous and dismissed... criminal damage - crack on window pane. It was [a] small value, for me it's ridiculous that it took almost one year to resolve... This all adds to ubiquitous delay in court."

> "The defendant was in court for like 30 seconds. The prosecution withdrew the charges and the magistrate simply said 'it's your lucky day, you can leave.'"

Of all hearings observed, 1% were withdrawn or dismissed, 5% ended in an absolute or conditional discharge and 3% were acquitted (found not guilty). Resolving more cases out of court could reduce demand on the magistrates, freeing up time and resources to effectively prepare and deal with other cases. We've done a lot of work around the benefits of resolving more crimes out of court, read more here.

Recommendations:

17 The Government should implement the Independent Criminal Courts Review's recommendation of diverting more cases from prosecution altogether, thereby increasing the capacity of the magistrates' court. Diversion should preferably be done by the police pre-court, but the courts should also increase the number of charged cases referred back for diversion.

Conclusion

Courtwatchers were surprised by inefficiency in the magistrates' court; they noticed many ways that the courts failed to make the best use of their time and resources, which caused delays and adjournments. Indeed, courtwatcher observations highlighted that delay in the magistrates' courts was far too common an occurrence, with over a third of hearings observed delayed or adjourned.

Courtwatchers were especially exasperated by delays they felt could be avoided through better preparation, organisation and communication, such as: checking all technology works in a courtroom before a hearing, providing defendants with an email or text reminder for their hearing, and good communication between all parties involved in a hearing (defendant, defence lawyer, prosecutor, prison, police and the courts) to ensure all necessary evidence, reports and people would be provided in advance. Good preparation and communication prior to a hearing means the court could get the hearing 'right the first time' and prevent delays down the line.

The use of no-bail warrants, police and prison remand caused delays to the start of hearings as transportation of defendants from police custody and prison was slow or sometimes non-existent. Reducing the unnecessary use of remand to both police custody and prison could have a knock on effect of preventing delays in the magistrates' courts and allow court time to be used more effectively than dealing with unnecessary remand cases. It would also save court time and resources used in secure transportation of defendants, and supervision in court cells. Similarly, resolving more low-level cases out of court would reduce demand on the court, freeing up time to better prepare and deal with more serious cases.

Courtwatchers found inefficiency and delays frustrating to witness but did not always want court proceedings to be swifter. Courtwatchers were not impressed by magistrates or judges rushing hearings in the name of efficiency. They wanted the courts to take their time to explain things to the defendant, consider each case carefully and ensure the defendant has a fair hearing. Our courtwatcher observations highlight there are some simple solutions to problems of delay and inefficiency in the magistrates' courts that do not broach defendants' right to a fair and considered hearing.

Recommendations

Improving case preparation

1 HMCTS should introduce a court checklist - similar to a surgeon's checklist - to ensure that everything and everyone is ready as possible before a case is heard in court. A member of court staff should be responsible for completing the checklist for each hearing, and be given the powers to recommend an adjournment if it is not and will not be ready.

2 The probation service should require probation officers to notify the courts in advance if any report is not ready.

3 Increase the use of fast track pre-sentence reports (when appropriate) by updating guidance to magistrates and district judges and reviewing the probation service's court resourcing and processes.

4 Improve communication between the police, courts, CPS and defence lawyers to ensure evidence is ready and information available before a hearing.

- A Courts and CPS should roll out morning briefings which convene the legal advisor, prosecutor and probation officer in each courtroom before hearings start to see what is on the list, what can be bailed and what is ready to be heard.
- B The police should introduce a system for notifying defence lawyers if their client has been remanded by police and what court they are due to be heard in. This will help defence lawyers get to the court by 9.30am to take part in the morning briefing with other court colleagues. A system to inform lawyers is currently being trialled by West Midlands police.
- C Courts should allow defence lawyers into courthouses before 9am so that they can confer with prosecutors before hearings begin.

5 HMCTS and the police should improve the provision of interpreters by conducting monthly reviews of hearings in which an interpreter failed to attend, to understand what went wrong, identify learning and take action.

6 The MOJ should assess the performance of interpreter contractors and penalise non-compliance with the contract.

7 HMCTS should create a better feedback loop from court staff and relevant professionals about how to improve organisation and efficiency. One of the ways this could be done is by reviving court user groups. These groups of court stakeholders used to meet regularly to discuss the workings of the court, feed back on operational issues and implement improvements to court procedures.

8 The MOJ should explore ways to change adjournment culture, considering the impact of Canada's introduction of criminal trial time limits, and exploring how similar policies could help address court inefficiencies in England and Wales.

Facilitating better communication with defendants

9 Improve court communication with defendants:

- A HMCTS should ensure postal requisitions are sent to the correct address, and put a system in place to confirm they are received.
- B HMCTS and the police should implement a system to remind defendants of court dates using multiple communication channels including email, text, phone call, WhatsApp and/or letter.
- C HMCTS should give defendants accessible information on the day (for many a written receipt would suffice) about their future court dates, any bail requirements and next steps.

Preventing delays caused by secure transport

10 Reduce the unnecessary use of police and court remand and re-emphaise the legal presumption that defendants should be granted bail. This would reduce delays resulting from defendants being transported from custody and from court professionals such as interpreters not being available at short notice. It would also save resources used in bureaucracy and staffing of court cells.

Supporting unrepresented defendants

11 Increase take-up of legal aid by eligible defendants (ideally before the day of their court hearing).

- A The police should encourage those in custody to access legal advice and provide accessible information about accessing legal aid for court when charging (in person or via postal requisition).
- B Place a navigator in each courthouse to support unrepresented defendants to access the duty solicitor before they enter court and provide advice about accessing legal

aid for future hearings. They could also chase up lawyers that defendants thought they had contracted but who had not turned up. These navigators could be provided by the Legal Aid Agency, courts' service, Ministry of Justice or via the voluntary sector. They would not need to be legally qualified and would not provide legal advice.

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Creating better IT and technology systems and support

14 HMCTS should have someone with IT expertise present in the courthouse and have access to speedy remote IT support, to be able to assist with IT and technology problems.

15 HMCTS should design and install better technology in courts where required.

16 HMCTS and the judiciary should reduce use of video links where possible given evidence that their use slows down proceedings and impedes effective participation.

Diverting cases that don't need be in court

17 The Government should implement the Independent Criminal Courts Review's recommendation of diverting more cases from prosecution altogether, thereby increasing the capacity of the magistrates' court. Diversion should preferably be done by the police pre-court, but the courts should also increase the number of charged cases referred back for diversion.

Appendices

Appendix 1: CourtWatch London project advisory group

The primary role of the advisory group was to advise, challenge and support Transform Justice for the purpose of making the project as effective as possible. Their involvement in the advisory group does not necessarily indicate endorsement of all the report's recommendations.

Advisory group members

- Becky Clarke, Manchester Metropolitan University
- Dhillon Shenoy, CourtWatch London volunteer
- Emma Snell, JUSTICE
- Professor Jessica Jacobson, Institute for Crime and Justice Policy Research
- Dr Lucy Welsh, University of Sussex
- Naima Sakande (chair), Reprieve
- Natalia Schiffrin, magistrate
- Dr Sally Reardon, University of the West of England Bristol
- Dr Shaun S. Yates, London Metropolitan University
- Tejal-Roma Williams, City Law School
- Dr Thomas Smith, University of the West of England Bristol

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