



HM Courts &
Tribunals Service

Update on criminal courts in England & Wales: Autumn 2021

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Criminal court recovery progress

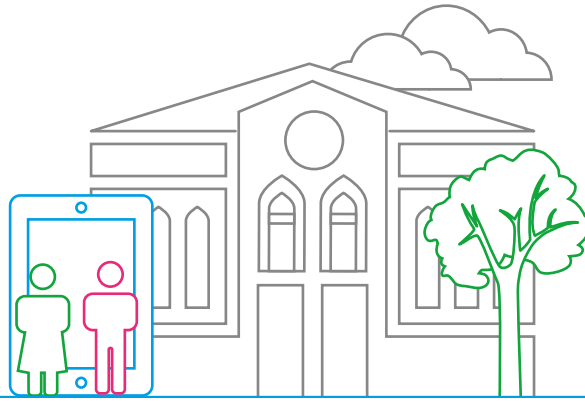
Recovery continues in the criminal courts following the initial impacts of the response to COVID-19.

Despite the recent lifting of many of the social distancing measures in place in our buildings, [some safety measures](#) – and their resulting impact on our capacity – do still remain. Pressures can be particularly acute in court custody suites – managed by HM Prisons & Probation Service (HMPPS) – which tend to be enclosed, smaller rooms and often see a higher level of different people passing through them each day, making social distancing necessary. We're working with our partners in HMPPS on a range of options to directly address this pressure.

While some hearings can often be carried out with many of the participants attending remotely – and it is always a judge or magistrate who decides whether hearings should be in-person, by video or audio – trials and bail cases usually require physical attendance at court, and this has also affected outstanding case levels.

Positively, the volume of listed trials at both the magistrates' courts and the Crown Court continues to increase, returning close to pre-COVID levels. And with no limit on sitting days this year, we're continuing to deliver new measures to increase capacity and bring down outstanding case levels.

We've also made improvements to how we capture and use criminal court data to manage performance. There's still work to be done, but we're use these data sources to monitor the use of courtrooms and resources, support the judiciary to make listing decisions, and identify and address quality issues. This data – which is published as monthly management information and official quarterly statistics – is essential to informing discussions and decisions at a regional level and at Local Criminal Justice Boards, with our partners and the judiciary.



Work in the Magistrates' Court

In the Magistrates' Court, sustained recovery is now well underway and we continue to dispose of more cases than we receive. The outstanding caseload is now around 80,000 lower than at its peak at the end of July 2020, and continues on a consistent downward trajectory. To further aid recovery, we continue to schedule additional court sessions, including Saturday courts and we ran 968 of these between August 2020 to and July 2021 alone.

Magistrates' courts are working to a five-point recovery plan, developed and published by the Senior Presiding Judge, to restore the system to pre-pandemic levels by the end of December 2021. Performance is of course not uniform, with some areas of England and Wales already back to normal operation, and others dealing with backlogs in certain categories of work. But I'm very pleased to report that, overall, the work to meet this target remains firmly on track.

But we will not allow complacency to creep in. We continue to work closely with policing colleagues and the Crown Prosecution Service to monitor anticipated cases coming into the Magistrates' Court and are focused on improving timeliness, through measures such as 'trial blitzes' where more trial courts are listed during the usual court operating hours.

The aim now in the Magistrates' Court is to continue to maintain and stabilise recovery.

Work in the Crown Court

Cases dealt with in the Crown Court remain at around pre-COVID levels, and we're listing thousands of cases each week. Our focus is now on increasing capacity and maximising use of the capacity we already have. Figures show outstanding case levels are now at around 60,000, so we know there is a long way to go – and much work ahead of us – to return them to pre-pandemic levels.

But supported by the removal of the limit on the number of days Crown Courts can sit for the 2021/22 financial year, there is a range of priority Crown Court activity now well underway. This is designed to maximise capacity, reduce outstanding case levels and safely boost recovery following the pandemic.

Much of this is dependent on physical capacity in our buildings and, following the relaxing of social distancing in August, we are working to reopen existing courtrooms in the Crown Court to increase capacity across the estate. 36 have reopened so far, with others to follow soon. This is in addition to our temporary Nightingale courts which we are keeping open where there is an operational need. These venues have been essential to minimising the impact of delays which is why I was so pleased that we have been able to extend 32 Crown Nightingale courtrooms until the end of March 2022.

The Crown Court continues to see an increase in the number of trials listed, and this has been [underpinned by a range of measures designed to help us increase our capability for large, multi-hander trials](#) that have the biggest impact on our capacity due to the numbers of people involved.

Additionally, we opened the first of two 'super courtrooms' at Manchester Crown Square in September 2021, and a second at Loughborough Magistrates' Court remains on track to follow in the autumn. These two courtrooms can safely accommodate 12 defendants in

custody and will further increase capacity for large multi-hander cases. Manchester recently began its first large trial – an 8-hander murder trial – with the super courtroom already proving its worth by reducing disruption to other courtrooms in the building.

Both super courtrooms – which are national resources, so can take on trials from anywhere across England and Wales where needed and appropriate – have trials listed into them for at least the next 12 months.

To give an idea of how consistently we're delivering multi-hander cases, let's take Monday this week (11 October 2021) as a snapshot. We had 40 3-4 hander, 18 5-6 hander, and 8 7+ hander trials listed in Crown Courts across England and Wales. That's in addition to 130 other trials in session that day.

Working with HMPPS, Prisoner Escort Custody Services (PECS) and the UK Health Security Agency (which has replaced Public Health England), we're also looking closely at how, as COVID-19 restrictions in prisons ease, we can begin to safely increase our dock capacity. And at Snaresbrook Crown Court this winter, we're adding a secure unit to accommodate an additional 12 defendants in custody when they're at court.

Finally, there have been positive steps taken in providing further support to vulnerable parties in the criminal justice system. Section 28 for vulnerable victims and witnesses in Crown Courts is operational at all court sites and provides the option to pre-record evidence in advance of a trial for vulnerable complainants of a crime, as well as witnesses, including children.

Following a recent expansion, we are now piloting the measure in 7 Crown Courts (Leeds, Liverpool, Kingston upon Thames, Durham, Isleworth, Wood Green and Harrow) for a subset of intimidated victims and witnesses including adult complainants in cases involving sexual violence and modern-day slavery. The extension was announced in July and evaluation work on the pilot has begun, which will inform decisions on wider roll out.

We've done a lot to enhance how we support our staff and those who support victims and witnesses over the past year, and much of this work is detailed in our latest Vulnerability Action Plan due for publication next week. On this note, we recently conducted a large-scale evaluation of the use of remote hearings during the pandemic to help understand and improve different users experiences of them. This involved a survey of around 4,800 users, including those using the criminal courts. We're planning to publish the findings later this year to outline and respond to the experiences of different groups including those who are considered to be vulnerable.

Resilience through reform

Reform is vital to enabling access to justice, putting the user at the heart of our services and allowing them to choose the channels that best suits their needs, with support available through our service centres. It will deliver huge benefits for some of the most vulnerable people in society, and in turn make HMCTS more efficient too.

The pandemic has not halted the HMCTS reform programme of modernisation. In fact, quite the opposite. Our reformed services have been integral to ensuring that our courts and tribunals have always remained open, serving the most vulnerable, and keeping the wheels of justice turning. The case for reform has been proven and played out in real life due to the pandemic, and it is now clearer than ever that it is critical to the long-term recovery of the system. It is not reform or recovery, but recovery through reform.

Common platform

Looking ahead, we now need to ensure that the courts system has even greater resilience. In the criminal jurisdiction this means delivery of the Common Platform – our new, digital case management system for the criminal courts – which is designed to improve the way cases are accessed, managed and processed. It provides direct, secure access to key case information for the police, HMCTS staff, the judiciary, defence practitioners and the Crown Prosecution Service, while removing unnecessary administrative work.

So far, a total of 101 courts (32 Crown Courts and 69 Magistrates' Courts) are now using Common Platform. The numbers are already big, and growing every day, with over 40,000 cases managed on Common Platform across the Crown and Magistrates' Courts since we began to roll out.

The national roll out of Common Platform will reach all criminal courts in England and Wales over the coming months, and we're preparing courts to join the programme on a site by site basis. This includes working with relevant police forces, evaluating progress at existing live sites, feeding in lessons learned, continuing to refine the support plan and adjusting the approach to roll out as necessary.

Of course, the roll out of any new system on this scale will be subject to adjustments along the way, but we're continuing to talk directly to those affected when this does happen. Sites already operating Common Platform continue to do so irrespective of any adjustments.

As each site goes live, we're using feedback from those working in our courts to help ensure the system is ready to go live in more courts. You can keep track of when courts in your local area have gone live by referring to our [full list of courts where Common Platform is now operational](#), which we keep regularly updated.

Police forces are also starting to use the system for prosecuting Single Justice Service (SJS) cases. Hampshire Police joined TV Licensing, Transport for London and the DVLA in using the SJS through Common Platform to prosecute low-level, victimless offences. So far over 230,000 cases have been dealt with in this way.

Keeping our criminal courts safe and secure

Whilst recovery in our criminal courts is vitally important, keeping those who use our buildings safe and well is of the utmost importance. Social distancing guidance was lifted in July, but the government advised that people should continue to avoid close contact where possible. This meant we were able to open up certain parts of our estate, but to ensure the continued safety of court and tribunal users, we took the decision to retain a number of safety measures.

Standard social distancing measures continue to apply in custody suites, with maximum occupancy levels still in place. Consideration is being given as to how and when some measures can be lifted, in line with both HMPPS recovery activity and UK Health Security Agency advice. However, it is likely that mitigations such as fluid resistant surgical masks (FRSMs), touchpoint cleaning and locked down phones will remain in place for the foreseeable. Any updates to measures in this area will be published on our [GOV.UK homepage](#).

Face coverings are still required throughout our buildings, subject to judicial discretion in hearing rooms, and we continue to look to you for your support in respecting that policy. Face coverings may not be quite so prevalent in wider society since July, but many in our buildings are vulnerable, and the clear public health advice is that this measure does help us reduce our risk. Enhanced personal and environmental cleaning standards, and our focus on maintaining good ventilation, have remained, while screens continue to be used across the estate, including jury deliberation rooms.

Audio and video technology – which was expanded and accelerated to form the backbone of our response and early recovery to COVID-19 – will continue to enable remote attendance, where a judge decides it is appropriate and in the interests of justice.

We continue to encourage the regular use of lateral flow tests and frequently communicate to our staff and court users the importance that anyone who has symptoms, a positive PCR or lateral flow test result, or is asked to self-isolate (even if they are fully vaccinated) must not come to our courts or tribunals.

We keep all of our safety measures under continual review, and work closely with public health experts in our efforts to align safety requirements with the operational needs associated with tackling outstanding caseloads. The coming autumn and winter months may pose additional challenge, but ever-increasing vaccine coverage is helping to decrease risk, and we have robust contingency plans in place.



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