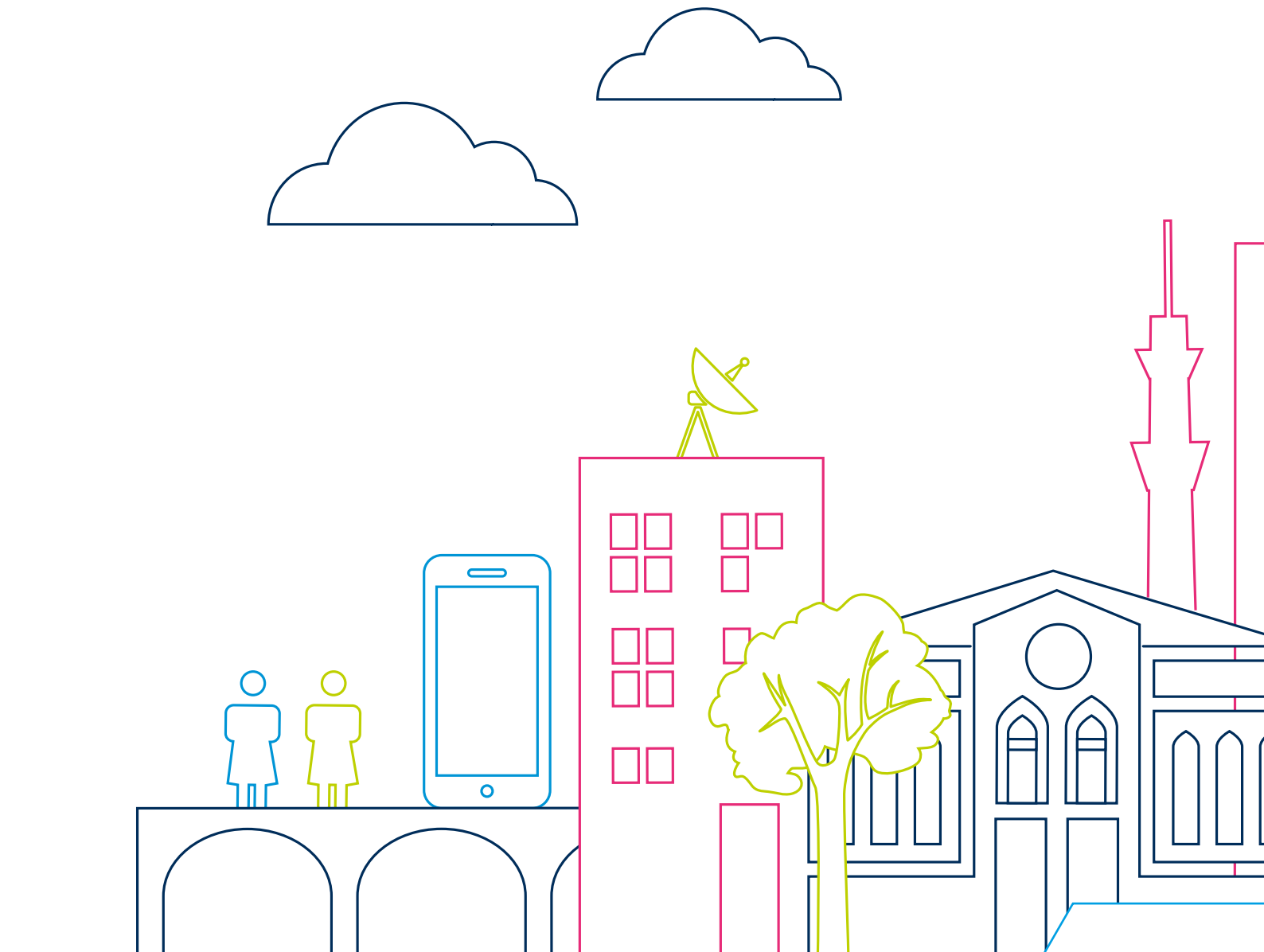




HM Courts &
Tribunals Service

COVID-19: Update on the HMCTS response for criminal courts in England & Wales

September 2020





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HM Courts &
Tribunals Service

COVID-19: Update on the HMCTS response for criminal courts in England & Wales

September 2020

Foreword from the Lord Chancellor and Lord Chief Justice



The Rt Hon Robert Buckland QC MP
Lord Chancellor and Secretary of State for Justice



The Rt. Hon. The Lord Burnett of Maldon
Lord Chief Justice of England and Wales

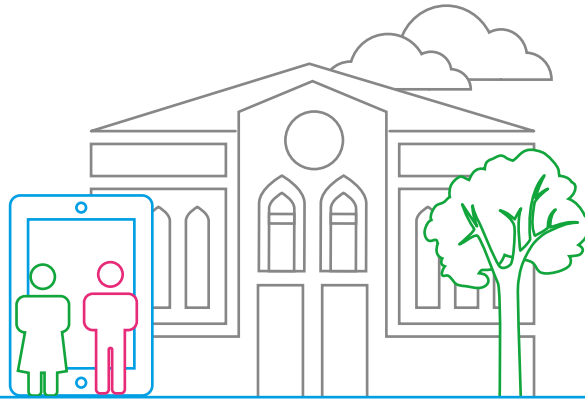
COVID-19 has been the biggest peacetime challenge facing our justice system. The government and independent judiciary have a single but shared objective: to deliver access to justice, in a safe environment.

Thanks to the hard work and dedication of those across the whole justice system during the toughest times of lockdown, we have kept our criminal court system running. We have prioritised the most important and urgent cases and used innovative ways to enable justice through technology, enabling many more remote hearings. Over 30,000 hearings have been conducted using our new Cloud Video Platform across Crown and magistrates' courts. We have already safely resumed jury trials in more than three quarters of our Crown Court buildings, with more than 900 jury trials being listed since we reintroduced them in May. We are on track to have opened 250 rooms suitable to hear jury trials by the end of October.

In the magistrates' courts, we are currently disposing of more cases per week of our critical non Single Justice Procedure work than we are receiving so we are starting to make inroads into the outstanding cases.

To support this, we have already opened ten Nightingale courts providing 16 additional rooms that will either be used for non-custodial crime hearings or to enable civil and family hearings freeing up other court rooms across the estate for criminal work. We have plans underway to open eight more courts in September and October, which will enable a further 14 additional courtrooms.

There is still a great deal of ground to recover and we are doing everything that we can to hear more cases safely and as quickly as possible.



This document sets out progress both to date and to come on our four pillars of recovery:

1. **Maximising the use of HMCTS’ existing estate**, for instance through introducing screens to separate members of the jury to enable safe use of more courtrooms.
2. Providing **additional capacity through Nightingale courts**.
3. Using technology and providing support to use so that we can continue to enable **remote or video hearings** where appropriate.
4. Considering **adopting different operating hours** as part of maximising HMCTS’ own estate. Magistrates’ courts are already responding flexibly at a local level, and a number of Crown Court buildings are now testing and refining a potential blended COVID Operating Hours model.

It is important to note that COVID Operating Hours would be a time-limited measure and whilst they would mean that our buildings will be open for longer, no one party would be required to attend court for longer.

HMCTS modelling demonstrates that as we aim to recover to pre-COVID caseload levels, we need to look at all solutions, however challenging. Driving forward with our actions will ensure that more victims, witnesses, and defendants have their cases heard within a reasonable timeframe. We must not lose sight of what we are trying to achieve: access to justice for all.

The pandemic and its necessary countermeasures are an unprecedented challenge to the courts and tribunals – this merits an unprecedented response. In addition to the £142m announced on 30 June to speed up technological improvements in the court service and modernise courtrooms and improve our buildings, the Government is investing £80m additional funding reflecting the increased running costs of the courts and tribunals during COVID, the need to hire 1,600 additional staff to support the recovery measures, adaptations to our courtrooms to enable more of them to be used, and funding for additional capacity through Nightingale courts.



1. Introduction

- 1.1 HM Courts & Tribunals Service (HMCTS) is an agency of the Ministry of Justice. It operates on the basis of a partnership between the Lord Chancellor, the Lord Chief Justice, and the Senior President of Tribunals.
- 1.2 On 1 July 2020, HMCTS [published an update](#) setting out the work being undertaken in the short and medium terms in response to coronavirus (COVID-19).
- 1.3 This document provides an update on HMCTS' response to COVID-19 in the criminal courts in England and Wales (magistrates' and Crown Courts). We will publish more information on other jurisdictions in the coming weeks.

2. The challenge of COVID-19 in the criminal courts - our emergency response

- 2.1 The COVID-19 pandemic has imposed unprecedented challenges on the criminal justice system. It required rapid changes to ensure urgent work continued and we will need to consider more radical measures to recover.
- 2.2 During March and April, we focused on our emergency response to the pandemic. The actions we took enabled the continued operation of the criminal justice system (CJS), albeit at a vastly reduced scale, whilst ensuring the safety of court users, judges and staff.
- 2.3 Where other jurisdictions internationally closed down altogether or functioned on a very limited basis, and are still doing so, ours remained open because we were able to build on the reform programme already underway – with unprecedented innovation that enabled hearings to continue to take place either in person or remotely.
- 2.4 We supported judicial decisions about prioritisation of cases and case-types to make sure the most urgent and important cases could be heard. Priority was given to hearings related to custody time limits, decisions on detention and bail, and urgent applications for matters such as terrorism and domestic violence. Wherever possible, we have also given priority throughout the pandemic to serious and time-sensitive youth cases (for example, where delay might mean a relevant age-threshold was crossed).
- 2.5 Some 157 priority court buildings were selected to be kept open for essential face-to-face hearings. Other court buildings were closed to the public, however, 124 of these were kept open for judges, staff and representatives of agencies needed to support video and telephone hearings and progress cases without hearings ('staffed courts').
- 2.6 We rapidly expanded audio and video technology capability, enabling judges and magistrates to conduct many more remote hearings so cases could be heard. We accelerated the roll out of the Cloud Video Platform (CVP), which is now in place in all open magistrates' and Crown Courts, except where existing equipment needs to be replaced. The technology has been used in over 12,000 Crown Court hearings and more than 20,000 overnight remand cases heard by magistrates.
- 2.7 All frontline HMCTS staff and contractors were deemed essential workers. We worked quickly to ensure all staff and contractors, particularly those in vulnerable categories had access to the right information and support. Additional laptops have been procured to enable more of our staff to work from home when this is possible, in line with government guidance. Rota working has been implemented across sites where necessary, so that staff can socially distance while at work.
- 2.8 We also continued to engage and work collaboratively with stakeholders and CJS partners throughout our emergency response phase, moving forums online. This was vital to ensure the system continued to operate coherently and decisions taken by HMCTS were informed by the needs and constraints of our partners, and vice versa. We have continued to work closely with all our stakeholders and partners as we have moved into recovery.
- 2.9 The impact of COVID-19 on the criminal courts, despite the implementation of the emergency response measures described above, has been stark. Social distancing has had a significant impact on criminal cases. While preliminary hearings can often be carried out with many of the participants attending remotely, trials and sentencing hearings usually require physical attendance at court.¹
- 2.10 Social distancing measures, required to ensure the safety of court users, judges and staff, mean that fewer courtrooms can be used than in pre-COVID times. In addition, the need to adhere to social distancing measures within the wider court building can result in it taking longer for participants and observers to move into and out of courtrooms, reducing the number of hearings that can take place during the sitting day or in parallel at any one time.

¹ However, in many circumstances defendants in custody attend sentencing hearings via video link.

2.11 A key priority has been to enable court users to attend hearings safely. To support this the judiciary led the delivery of a number of measures:

- enabling Single Justice Procedure (SJP) work to be completed remotely
- arranging for preparatory hearings to take place via video;
- triaging cases in advance of the hearing to identify those suitable to be heard via video.

2.12 The most significant practical challenge was, and remains, facilitating jury trials. As a result of the social distancing guidance, many of our courtrooms were simply not large enough to accommodate the jury and all court users safely. A judicially-led Jury Trials Working Group was established with partners across the CJS. This group created a comprehensive checklist to be used by HMCTS to establish the fitness of a Crown Court to safely conduct jury trials. This enabled us to rapidly restart jury trials where space allowed, with the Old Bailey re-starting a part-heard trial in the week commencing 11 May 2020. New jury trials re-started on 18 May in Bristol, Cardiff, the Old Bailey and Manchester (Minshull Street).

3. Commencing recovery in the criminal courts

3.1 During May we started to move out of the emergency response phase and into recovery. Since moving into recovery, we have been working closely with the judiciary and our CJS partners to increase the volume and type of hearings conducted, thereby increasing the number of cases that reach a conclusion (disposal).

3.2 We have now increased our physical capacity to hold hearings by:

- re-opening almost all court buildings²
- completing the roll-out of CVP to all open criminal courts
- recommencing jury trials
- implementing a range of process changes to support the efficiency of our court proceedings.

3.3 As a result of the steps taken, the judiciary are now:

- hearing, and dealing with, all non-trial work in Crown Courts
- hearing jury trials across 68 of our 81 Crown Court buildings in 110 jury trial courtrooms
- hearing all types of work within the magistrates' courts.

3.4 The judiciary have also directed the following changes to increase the efficiency of court proceedings, which we have taken forward for implementation.

Advance preparation of Pre-Sentence Reports (PSRs)

3.5 In the Crown and magistrates' courts, PSRs can now be prepared in advance by the Probation Service, where the defendant is represented, his or her representative has indicated to the court that the plea will be guilty, and they believe the court will require a PSR. This will improve the efficiency of the end-to-end process as it will reduce the number of hearings required to be listed and therefore the length of time to disposal.

3.6 Implementation of this measure has been agreed with HM Prison & Probation Service.

Roll out of Section 28 (pre-recorded cross examination)

3.7 We have accelerated the work to increase the availability of the Section.28 service to support vulnerable victims giving evidence in court.

3.8 Section 28 is one of a series of special measures introduced by the Youth Justice and Criminal Evidence Act 1999. It allows for pre-recorded cross examination of victims and witnesses to take place before trial. The recording is then played back during the trial and the victim is not required to attend the trial in person.

3.9 Accelerating the roll-out of this special measure is an important part of our recovery of the criminal jurisdiction as it allows victims to give their evidence closer to the time of the alleged offence and reduces the amount of time they must wait to give evidence.

3.10 Before the pandemic, Section 28 was already in place in 18 Crown Courts with at least one Crown Court in every HMCTS region. Section 28 was introduced into a further 16 courts in August with all remaining Crown Courts starting the service by the end of the year.

3.11 Cases can only be heard successfully when all parties, including victims and witnesses, are able to engage. To help victims and witnesses to access the support that they need the Ministry of Justice is co-ordinating cross-government work to make victims aware of their rights and the support available, and ensuring that support services are able to meet demand, particularly as lockdown restrictions ease.

2 There are a small number of criminal courts that do not have a reopening date due to social distancing measures or other maintenance issues.

4. The ongoing challenge and our recovery measures

4.1 The combined efforts of HMCTS staff, the judiciary, our CJS partners and legal professionals has meant we have already made significant progress. We are already starting to make inroads into the magistrates’ court backlog of critical non-Single Justice Procedure cases. In the Crown Court, non-trial work has continued throughout, but with the work to adapt and open more courtrooms to enable jury trials we are now on track to have 250 jury trial rooms open by the end of October.

4.2 Despite all of the work to date, social distancing guidance is still significantly limiting our ability to hear cases at pre-COVID levels. Where possible the judiciary have conducted hearings using remote technology to enable cases to be heard. However, for other types of hearings - specifically trials in both magistrates’ and Crown Courts - the outstanding caseload continues to grow as receipts into the system return to pre-COVID levels.

4.3 Figure 1 below, shows the increase in the magistrates’ courts outstanding caseload since the start of the pandemic:

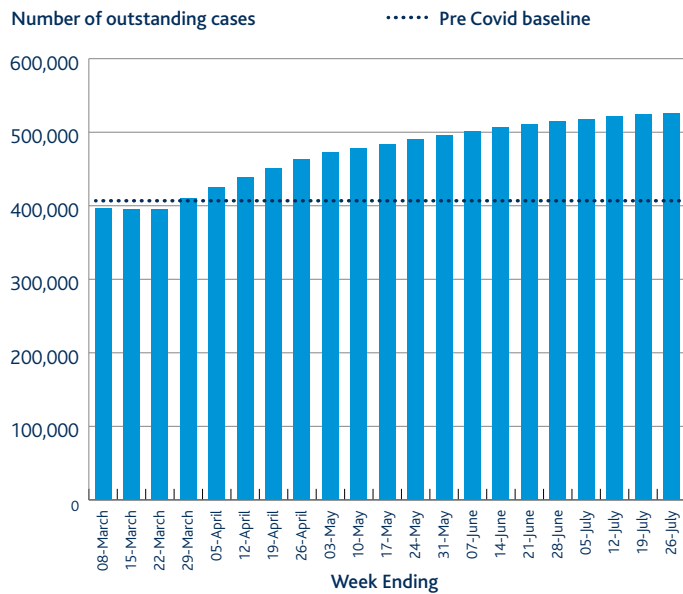


Fig.1: Outstanding caseload for all cases in the magistrates’ courts to week ending 26 July 2020³

4.4 The magistrates’ court outstanding caseload figures include civil and enforcement cases in addition to criminal. The outstanding caseload for criminal cases in the magistrates’ court also includes a large volume of unscheduled cases, such as outstanding arrest warrants. We would normally expect to dispose of one million cases per year in the magistrates’ courts excluding Single Justice Procedure cases. The backlog in magistrates’ courts is now no longer increasing and work to date is starting to reduce that backlog on a weekly basis.

4.5 Figure 2 shows the outstanding caseload for the Crown Court, for all categories of case including, but not limited to, cases for trial, committals for sentence and appeals. We would normally expect to dispose of 100,000 – 110,000 Crown Court cases per year dependent on sitting days. Despite the overall outstanding caseload staying broadly flat, the age, complexity and proportion of cases awaiting trial is increasing. There will also be an increase in the outstanding Crown Court caseload as cases start to flow through from the magistrates’ court.

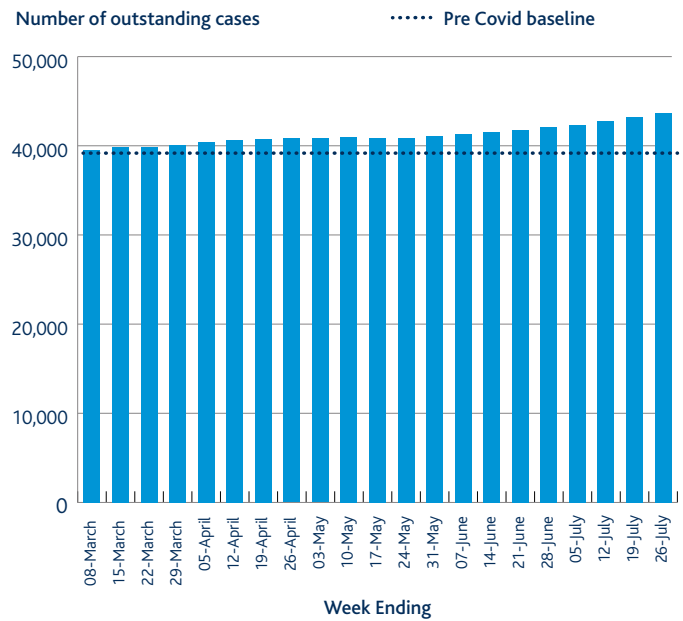


Fig.2: Outstanding caseload for all cases in the Crown Courts to week ending 26 July 2020⁴

4.6 Recovering criminal caseloads to pre-COVID levels as quickly as is possible is imperative to the public interest, and failure to do so will adversely impact all court users (victims, witnesses and defendants, particularly those in custody awaiting trial), our CJS partners, and the legal professions. Together with the judiciary, we are committed to working with all of those affected to ensure this does not happen.

3 <https://www.gov.uk/government/statistical-data-sets/hmcts-weekly-management-information-during-coronavirus-march-to-july-2020>

4 Ibid

- 4.7 It is therefore vital that we consider all options to support recovery and to provide additional resilience for the future.
- 4.8 Our recovery plan currently has four key pillars:
- Maximising the use of our existing estate.
 - Continuing to use technology to support remote or video hearings in line with judicial direction.
 - Providing additional capacity through Nightingale courts.
 - Considering maximising the use of our existing estate through opening our buildings for longer during COVID-19 (COVID-19 Operating Hours)
- 4.9 Alongside these measures to progress our court capacity, we are looking to the future to ensure we are prepared with contingency measures if we face further restrictions that reduce the capacity of our courts. The Ministry of Justice is therefore also temporarily extending the length of time that suspects can be held on remand before trial by two months, extending this from six months to eight months. This COVID-specific legislation will apply to those entering the system from October, and will last for a temporary period of nine months. Bail is refused on a case-by-case basis where there is perceived to be a risk of the defendant committing further offences, interfering with witnesses, or failing to attend court.

5. Maximising the use of our existing estate

- 5.1 It is absolutely key that we use our existing estate as fully as possible and to maximise the number of hearings that can take place whilst continuing to maintain the safety of all court users.
- 5.2 Where participants are required to attend court in person, we have put in arrangements, in line with public health guidance, to help us maintain their safety in our court and tribunal buildings. These arrangements vary for the different buildings, depending on layout, but include:
- advising when people can enter or leave courtrooms, to avoid cross-traffic at the doors and to restrict the number of people in court in the public galleries at any point in time
 - placing signage and floor-markings to create one-way systems to assist people to keep their distance
 - increased building and touchpoint cleaning
 - careful supervision of courtroom entrances and exits, as well as marshalling through the court buildings
 - staggering start and finish times for hearings
 - since Monday 27 July, the requirement that people wear face coverings in our buildings.

- 5.3 We have employed professional 'space planners' who are supporting operational teams to assess the court building space and to maximise the capacity through layout changes and minor works, such as removing free-standing furniture and carrying out works to address fixed furniture.
- 5.4 Through the Jury Trial Working Group, we have put in place a number of arrangements to accommodate jury trials wherever possible. The space needed to accommodate jury deliberation, and the media and public, is significant and, in some cases, up to two additional courtrooms have been needed to facilitate a single jury trial.
- 5.5 As a result, in July we only had 73 usable courtrooms for jury trials (from over 450 Crown courtrooms available), across 62 Crown Court buildings, at any one time, due to the need for primary trial courts and suitable overspill rooms for jury deliberation, as well as allocating courts for non-trial work.
- 5.6 We are identifying locations across the HMCTS estate where introducing portable and modular buildings onto the site will enable the safe use of additional courtrooms. At present these portable buildings are likely to be predominantly used as jury rooms and public waiting rooms.
- 5.7 We also explored how we might safely implement social distancing based on one metre with additional safeguards, rather than based on two metres alone. Whilst we are requiring people to wear face coverings in our buildings, current public health advice suggests that for extended periods of time additional measures are required to adequately protect individual jurors while in the courtroom or in deliberation. We piloted the use of plexiglass screens at Leeds Crown Court to segregate members of the jury thereby enabling a move to 1m+ social distancing. Figure 3 illustrates how the screens are used in a jury box.

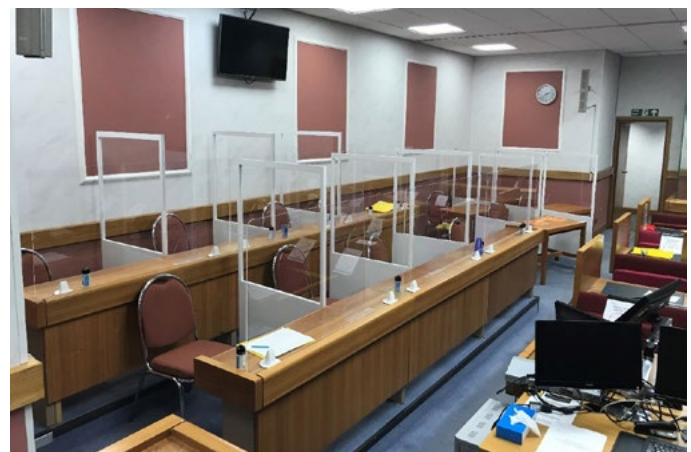


Fig.3: Use of screens in a Crown Court jury box

5.8 Following the success of the pilot, with public health officials supporting this approach, we are now introducing these screens wherever they can enable an increase in the number of courtrooms that can be used.

5.9 Early estimates show that 1m+ social distancing parameters will significantly increase the number of courtrooms we can use for jury trials.

5.10 Introducing these measures will result in 250 jury rooms being open by the end of October, leading to over 300 concurrent jury trials being heard. Operational teams are working through local plans to ensure that they can effectively manage the increased number of people within our buildings safely, so we expect the number of concurrent trials to steadily increase. Our trajectory for reaching this is shown in Figure 4, alongside the baseline average number of jury trials disposed of per week⁵ (340) in quarter four 2019:

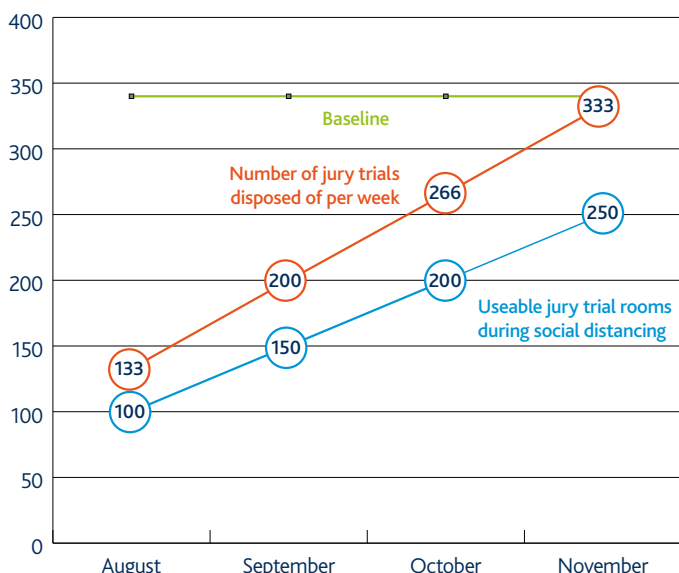


Fig.4: Trajectory for increasing numbers of jury trials disposed of per week through maximising use of existing estate during COVID-19

5.11 We are already ahead of this trajectory, with 110 jury trial rooms in use as of 1 September.

5.12 In the magistrates' courts, 1m+ social distancing will enable us to move to using 561 rooms by December 2020, which would result in approximately 18,800 disposals per week for non-SJP cases. This compares to a pre-COVID-19 baseline level of 18,400 disposals.

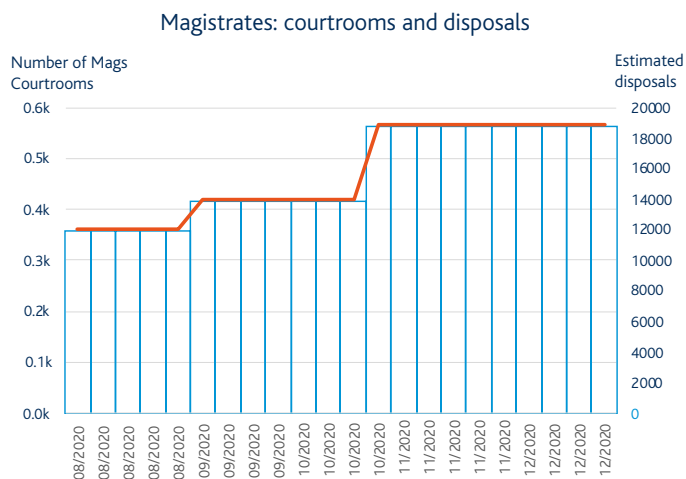


Fig.5: Trajectory for increasing numbers of non-SJP disposals per week in the magistrates' courts through maximising use of existing estate

5.13 Under judicial direction, operational teams are also considering different listing patterns and approaches to ensure that we use the courtrooms as fully as possible.

5.14 Each multi-handed trial will require individual assessment and to assist with this, we have produced a tracker that sets out for each Crown Court site, which courts are currently assessed as suitable for holding a jury trial, the capability of the court to hold a multi-hander trial, and what may need to be in place in order for that court to be used for that size trial. Details on cell capacity and maximum seat numbers within the docks have also been included. Whilst no courts are currently assessed as suitable for holding multi-hander trials of seven or more defendants, assessments and alterations continue to be worked through, as well as alternative options for the arrangement of these trials.

5.15 Despite all the above measures, there are some courtrooms, both in magistrates' and Crown Courts, that cannot be used due to specific layout problems, because the capacity of the court building itself or the movement of people within the space cannot be safely accommodated. In the Crown Courts, wherever it is safe to do so, courtrooms that are unsuitable for jury trials will be used for non-trial work, such as preliminary or sentencing hearings.

5 Includes effective and 'cracked' trials. A 'cracked' trial is defined as a trial that does not go ahead on the day as an outcome is reached and so does not need to be re-scheduled. This occurs when an acceptable plea is offered by the defendant or the prosecution offers no evidence against the defendant.

6. Continuing the use of technology to support remote or video hearings

- 6.1 As described previously, we have already rapidly increased our capacity for participants to join hearings remotely. We are continuing to provide additional processes and guidance for participants in those hearing types deemed suitable by the judiciary for use of video. We are also recruiting additional staff to support these hearings. This will enable us to ensure hearings using video are as efficient and effective as possible, and will allow us to increase our resilience to effectively respond to the unpredictable nature of the pandemic.
- 6.2 Through the Technology Enabled Justice Group, which includes representatives from across the CJS, we continue to explore the use of video for additional hearing types as agreed with the judiciary.

7. Providing additional capacity through Nightingale courts

- 7.1 We are identifying buildings that we can use to provide additional courtrooms and facilities. These will be a variety of building types, from former courts to local authority and other public buildings, as well as some commercial hires such as conference venues.
- 7.2 We currently have agreement from the Lord Chancellor and Lord Chief Justice for the use of ten locations across England and Wales which were announced on 19 July.
- Five courtrooms across three of the initial tranche sites identified will be used to hear non-custodial criminal cases and these at Prospero House in London, Swansea Council Chambers and Bishop's Palace, Peterborough, all became operational during August.
 - In addition, we expect the initial ten sites to provide at least another 11 additional hearing rooms, into which we propose to move civil and family work to free up existing estate for Crown Court trials.
- 7.3 We will open another eight Nightingale courts in September and October, which will provide an additional 14 rooms, again to enable civil and family work freeing up capacity within the existing estate for criminal work.
- 7.4 We recognise that providing Nightingale courts that could hear custodial criminal cases will be prohibitively expensive due to the need to provide secure docks and cell facilities. With guidance from the judiciary, we have identified the types and volumes of cases that could be safely heard in Nightingale courts and are investigating further potential sites. The decision on the suitability of listing a particular case, or cases, for trial in a Nightingale court remains a judicial decision.

- 7.5 Subject to considerations around viability and value for money, a second tranche of Nightingale courtrooms is planned for implementation from October 2020.

8. Further maximising our existing estate by opening our buildings for longer

- 8.1 A judicially-led working group is developing options for the temporary implementation of staggered or alternate operating hours in the magistrates' and Crown Courts, called COVID Operating Hours (COH). The membership of the working group comprises representatives of CJS agencies, the judiciary and magistracy, the Ministry of Justice, the Victims' Commissioner, Witness Service and the legal professions.
- 8.2 The premise is that our buildings can be open for longer, allowing for additional court sessions at different times of day, not that any party would be required to attend court for longer.
- 8.3 There are numerous practical, diversity-related, operational and other considerations that may restrict the way in which additional hours are used in both Crown and magistrates' courts. We recognise that changing operating hours will impact court users and it is critical that we consider the differing impacts especially for vulnerable court users and those with caring responsibilities.
- 8.4 For the magistrates' courts, the working group has identified a number of potential options for implementation locally, which include operating three sessions per day Monday to Friday, resulting in an additional 15 hours per week.
- 8.5 Some of our magistrates' courts already hold regular Saturday sittings dealing with defendants in custody, and 20 additional Saturday court sessions have been set up in London, South East, North West, Wales and the South West to deal with further types of cases, such as excess alcohol. We extended that to 69 court sessions in all regions in England and Wales throughout August.
- 8.6 For the Crown Court, the working group is looking at proposals to change when it sits, for example, earlier / later in the day, and changes to how days are structured.
- 8.7 The proposal that has been explored by the working group involves a minimum of two courtrooms operating jury trials in the same court centre. In one courtroom, two lists will operate: one in the morning and a second list in the afternoon, Monday to Friday. The morning session will run from 9am to 1pm, and the afternoon session will run from 2pm to 6pm. No one individual will be expected to participate in both the morning and afternoon sessions.

8.8 Alongside this, a 'standard hours' court will operate. This will ensure that if, for any reason, a case is unsuitable for the earlier or later session court, it can still be listed in the usual way. This is proposed to address some concerns that the first option will not be suitable for certain cases, defendants (such as youth or female defendants in custody due to extended travel times) or victims.

8.9 This 'blended option', as illustrated by Figure 6, provides the flexibility needed to tackle all case types.

COVID-19 Operating Hours: Pilot model for Crown Court

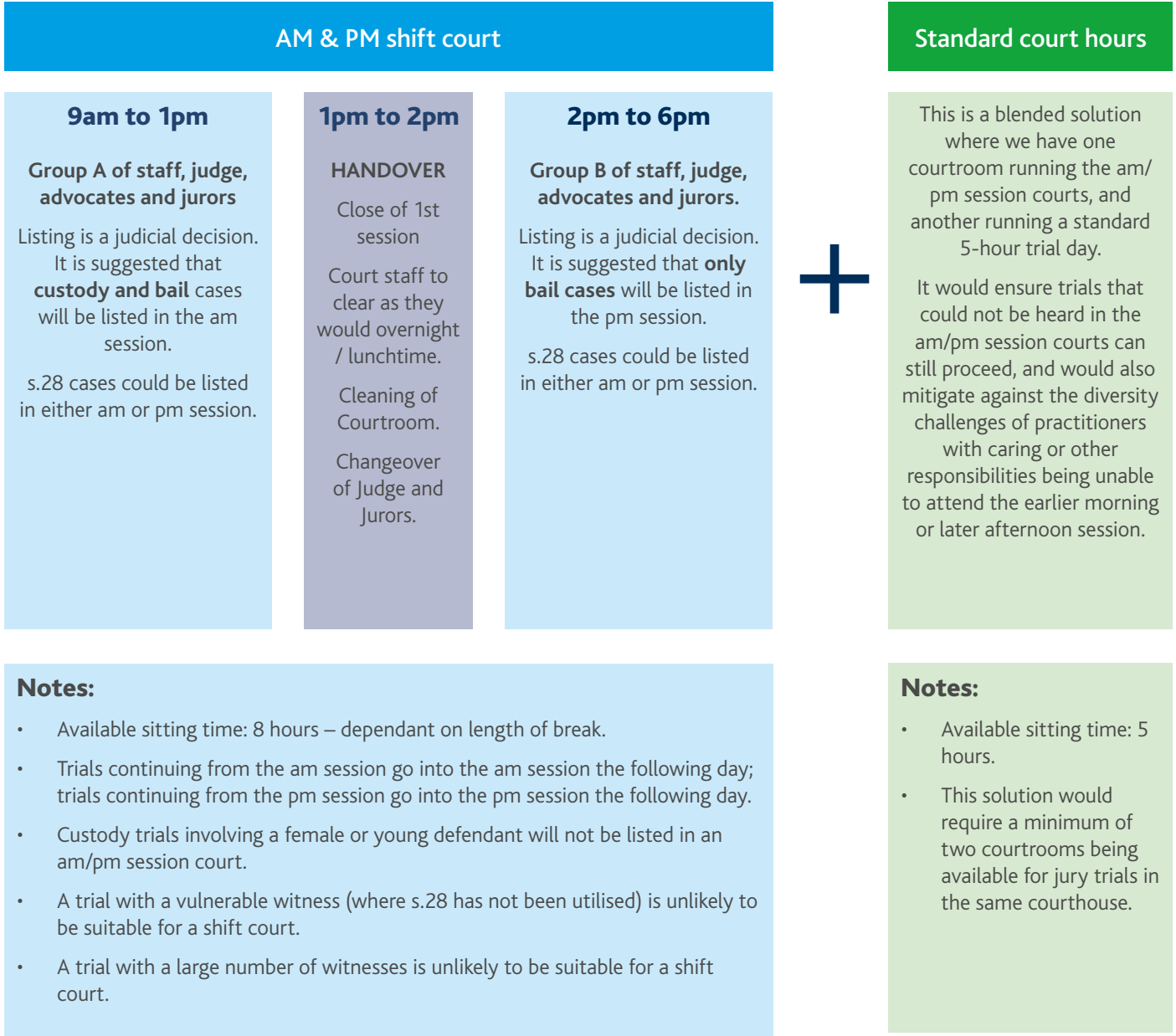


Fig.6: COVID-19 Operating Hours pilot model for Crown Court jury trials

- 8.10 We have identified one Crown Court location per region to test and refine the 'blended option' proposal. Liverpool Crown Court was the first to start to test the proposal from the week commencing 17 August, for a minimum of one month.
- 8.11 No decisions on further implementation have been taken and we will monitor the pilots throughout and evaluate them all by the end of October.
- 8.12 We recognise that the backlog and types of cases, as well as other local circumstances, mean that this is unlikely to be a 'one-size-fits-all' model. We will consider providing a range of options that courts can implement to enable them to return to pre-COVID work levels and to reduce their outstanding caseloads as quickly as possible. The modelling indicates that COH will be needed in the majority of courts, if we are to recover in reasonable time, to support recovery and tackle the outstanding caseload.

9. Listing

- 9.1 Listing of hearings is the responsibility of the judiciary who establish the framework within which HMCTS staff arrange the lists in the Crown Court and, in respect of many cases, make individual decisions about when a case is to be heard. The judiciary is committed to maximising the use of the available court capacity whilst balancing the interests of all those involved.
- 9.2 It is inevitable that some cases listed for trial do not take place. That may be, for example, because of a late guilty plea or the unexpected lack of availability of witnesses. Listing officers and judges will continue to cater for that eventuality by listing additional work where possible, although that will result from time to time in cases not being reached.
- 9.3 They will also continue to develop options for the temporary implementation of staggered or alternate operating hours both to increase the throughput of work and also to reduce interaction between those attending court buildings in the public spaces.
- 9.4 HMCTS will provide all the information necessary on the availability of new and reopened court capacity to support the aim of maximum use of the estate and ensure that the necessary staffing and IT support are in place for cases to be heard.

10. Modelling the recovery

- 10.1 To enable us to make the right decisions, we have created a model to estimate capacity and throughput of work under different scenarios and assumptions. The model can show the impact that moving to 1m+ social distancing (with the estate modifications described above in Section 5), COVID Operating Hours and Nightingale courts would have on reducing the outstanding caseload, and the pace at which they could do so.
- 10.2 We are acutely aware that successful implementation of the levers identified will be dependent on a number of different factors.
- 10.3 These include staff capacity, the availability of the legal professions, CJS agencies, support services, judicial capacity, sufficient courtrooms, changes to processes and court user engagement.
- 10.4 Crown Courts are already successfully dealing with non-trial work. However, social distancing still impacts the number of courtrooms we can enable for jury trials.
- 10.5 The model allows us to understand the impact different combinations of levers could have on the outstanding trial caseload created by the pandemic in England & Wales. It has confirmed that we need to test COVID Operating Hours to help us assess whether or not to implement these across our estate to accelerate our recovery.
- 10.6 Overall the modelling shows that the more we can maximise each of the levers, the sooner we will recover.
- 10.7 We have taken a similar approach to modelling recovery in the magistrates' courts.
- 10.8 Implementation of the levers as soon as practicable will allow us to control the growth of the outstanding caseload and increase disposals overall, and then to start to reduce the backlog. The unpredictable nature of the pandemic means that we need to maximise the opportunities we have to reduce the outstanding caseload to pre-COVID levels as soon as possible.
- 10.9 We will continue to update and share our modelling with our CJS partners, including the legal professions as we move through recovery. This will include assessing performance against the model.

11. Delivery approach

- 11.1 We have already delivered a number of recovery measures, with jury trials resuming during the toughest period of lockdown, and the use of video hearings increasing significantly during the period. Through the additional funding granted to HMCTS, we are working at pace to enable more courtrooms to be used and to hire additional staff to support the recovery effort.
- 11.2 This shows we are committed to driving forward recovery. Failing to implement these recovery measures will significantly delay recovery and have a negative effect on the delivery of justice. The longer it takes to bring a case to conclusion, the more difficult it becomes to secure witness attendance; victims are left unable to move on with their lives; defendants' cases are not heard; and the public cannot see justice being done.
- 11.3 Our approach to delivery recognises that each court and region is different and will have different local circumstances and different cases within the outstanding caseload.
- 11.4 Whilst we have one overarching national approach as set out in the wider courts recovery plan and described in this update, working closely with our CJS partners to ensure consistency, we will support local autonomy over decision-making.
- 11.5 The pandemic has already had a significant impact on the whole of the CJS. We need to continue to work across the system with all agencies and partners to minimise the impact on justice into the future.

12. Completing our recovery and looking to the future

- 12.1 As outlined in the overview of HMCTS' response to COVID-19, recovery is not the end of the journey. We will also make sure that we learn lessons from what has happened in our response to the COVID-19 pandemic in order to build in additional resilience to our operating model.
- 12.2 The COVID-19 pandemic has reinforced the importance of reform and modernisation of the court system, as those services which have already been modernised proved more resilient to the challenges we currently face, for example, digital working in the Crown Court. Our reform programme is continuing at pace with the introduction of our new criminal case management system in Q4 of this year. The Common Platform will enable HMCTS, CPS, defence and the judiciary to access the information they need and to progress cases more efficiently through the system.

- 12.3 We are also looking to the future - the unprecedented nature of this public health emergency has required us to adopt new ways of working without the preparation that would normally take place, and under conditions that have not previously been tested. We need to continue to ensure that technology recently introduced or expanded works effectively for all participants in court proceedings. It is clear that some changes will be time-limited and will stop with the end of the pandemic, while others may be useful in the longer term.
- 12.4 We will:
- Listen to feedback from our staff, users and the legal professions to improve the way we work in the short term, and gather data and other evidence to support continuous improvement.
 - With the judiciary, review the measures we put in place to respond to COVID-19, to identify which should be adopted and/or adapted in the longer-term. Final decisions will be made by the Lord Chancellor and Lord Chief Justice in line with their statutory responsibilities for the effective governance, financing and operation of HMCTS.
- 12.5 We need to build on the lessons learnt during the pandemic and use them to inform the next phases of modernisation, building on the existing principles and plans, and making best use of the incredible work done to keep the courts operating, in order to ensure our future resilience and to deliver access to justice in the public interest.



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